
ACQUISITION AND REDEVELOPMENT AGREEMENT

By and Between

**THE BOROUGH OF DUNELLEN, NEW JERSEY,
as the Redevelopment Entity**

and

**DUNELLEN RESCUE SQUAD, INC.
as Redeveloper**

Dated as of August 29, 2023

THIS ACQUISITION AND REDEVELOPMENT AGREEMENT (referred to herein as the “Agreement” or “Redevelopment Agreement”), dated as of August 29, 2023 (the “Effective Date”), by and between the **BOROUGH OF DUNELLEN**, a municipal corporation of the State of New Jersey with offices at 355 North Avenue, Dunellen, New Jersey 08812, acting in the capacity of a redevelopment entity, and its respective successors and assigns (the “Borough”), and **DUNELLEN RESCUE SQUAD, INC.**, a New Jersey not for profit corporation, with offices at 415 North Avenue, Dunellen, New Jersey 08812 (the “Redeveloper”; each a “Party” and, together with Borough, the “Parties”).

W I T N E S S E T H

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

WHEREAS, the municipal council of the Borough (“Borough Council”) directed the Borough planning board (“Planning Board”) to investigate whether certain properties within the Borough’s downtown area (the “Study Area”) constituted an “area in need of redevelopment” as defined in the Redevelopment Law; and

WHEREAS, Borough Council on May 5, 2003, adopted a resolution designating certain properties within the Borough as areas in need of redevelopment in accordance with the Redevelopment Law (“Redevelopment Area”); and

WHEREAS, Borough Council on August 9, 2004, adopted an ordinance approving and adopting the Dunellen Downtown Redevelopment Plan Phase I, which was thereafter amended, most recently on July 3, 2023 pursuant to Ordinance #2023-20 (as amended, the “Redevelopment Plan”) in accordance with the Redevelopment Law; and

WHEREAS, pursuant to this Agreement, Redeveloper has the right to acquire certain real property within the Redevelopment Area known and identified on the official tax maps of the Borough as Block 49, Lot 29, more commonly known as 635 Bound Brook Road (the “Property”); and

WHEREAS, the Parties acknowledge that the Property is environmentally contaminated and as a condition of sale, Borough has agreed to remediate the Property; and

WHEREAS, Redeveloper proposes to construct a three-story building, including but not limited to, garage bays, decontamination area, bathrooms, oxygen tank fill area, supply storage, classroom space, offices, kitchen area, and long-term bunk units (the “Project”) on the Property; and

WHEREAS, pursuant to the Redevelopment Law, Borough in its capacity as the redevelopment entity, with full authority to exercise the powers contained in the Redevelopment Law, desires to facilitate and implement the Project in accordance with the Redevelopment Plan, as may be amended from time to time; and

WHEREAS, Redeveloper has made application to be designated as the redeveloper for the Property, and Redeveloper has provided information consisting of documentation evidencing financial responsibility and capability with respect to the Project, estimated total development costs, and estimated time schedule for commencement and completion of construction; and

WHEREAS, in order to implement the development, financing, construction, operation and management of the Project, Borough has determined to enter into this Agreement with Redeveloper, which specifies the rights and responsibilities of Borough, designates Redeveloper as redeveloper of the Property and specifies the rights and responsibilities of Redeveloper with respect to the Project; and

NOW, THEREFORE, for and in consideration of the premises and of the mutual representations, covenants and agreements herein set forth, the Parties, each binding itself, its successors and assigns, do mutually promise, covenant and agree as follows:

ARTICLE I DEFINITIONS AND INTERPRETATION

Section 1.1 Governing Law. This Agreement shall be governed by applicable provisions of (a) the Redevelopment Law and such other statutes as may be the sources of relevant authority, and (b) all other Applicable Laws.

Section 1.2 Definitions. Words that are capitalized, and which are not the first word of a sentence, are defined terms. Unless specifically provided otherwise or the context otherwise requires, the following terms when used in this Agreement shall have the following meanings:

“**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, whether through the ownership of voting securities, or by contract or otherwise.

“**Agreement**” or “**Redevelopment Agreement**” has the meaning ascribed thereto in the preamble.

“**Applicable Law(s)**” shall mean all federal, State and local laws, statutes, ordinances, approvals, rules, regulations, common law, resolutions and requirements applicable hereto including, but not limited to, the Redevelopment Law, the Land Use Law, relevant construction codes including construction codes governing access for people with disabilities, and such zoning, sanitary and safety ordinances, laws and such rules and regulations thereunder, including all applicable federal and State labor standards and all Environmental Laws.

“**Approved Concept Plan**” shall mean the concept plan for the Project approved by Borough.

“**Borough**” has the meaning ascribed thereto in the preamble.

“**Borough Costs**” has the meaning ascribed thereto in Section 4.1(b).

“**Borough Council**” has the meaning ascribed thereto in the recitals.

“**Borough Indemnified Parties**” has the meaning ascribed thereto in Section 11.1(a).

“**Borough Representative**” has the meaning ascribed thereto in Section 2.3(a).

“**Bulk Sales Act**” has the meaning ascribed thereto in Section 7.2(j).

“**Certificate of Completion**” shall mean a certificate in the form attached hereto as **Exhibit A**, issued by Borough pursuant to Section 2.2.

“**Certificate Denial Statement**” has the meaning ascribed thereto in Section 2.2(e).

“**Certificate of No Default**” has the meaning ascribed thereto in Section 2.7.

“**Certificate of Occupancy**” shall mean a temporary or permanent certificate of occupancy as defined in the applicable provisions of the Uniform Construction Code, issued by the Borough building department.

“**Claims**” shall mean any and all liabilities (statutory or otherwise), obligations, claims, damages (including condemnation damages and abandonment damages by third parties other than Borough), causes of action, proceedings, costs and expenses (including, without limitation, reasonable attorneys’ fees, disbursements and court costs), losses and injuries.

“**Closing Date**” has the meaning ascribed thereto in Section 7.2(c).

“**Commence**” or “**Commencement**” shall mean the mobilization of a construction force and/or machinery for the remediation of environmental conditions, demolition of existing improvements and/or for construction of the Project.

“**Complete**” or “**Completion**” shall mean with respect to the Project, the date that the Project may, in all material respects, be used and operated for its intended purpose and Borough has received a written certificate from Redeveloper affirming that the Project is complete in a manner consistent with the Redevelopment Plan, all Governmental Approvals and all Applicable Laws.

“**Completion Date**” shall mean the date set forth on **Exhibit C** for completion of construction of the Project.

“**Declaration**” has the meaning ascribed thereto in Section 6.3.

“**Deed**” has the meaning ascribed thereto in Section 7.2(d).

“**Default Notice**” has the meaning ascribed thereto in Section 13.1(a).

“**Effective Date**” has the meaning ascribed thereto in the preamble.

“**Environmental Laws**” shall mean any and all applicable present or future laws and decisional law, statutes, rules, regulations, codes, orders, decrees, directives, policies, technical guidance, judgments and executive orders, federal, state or local related to the protection of human health or the environment and environmental conditions, including but not limited to the Compensation Environmental Response Compensation and Liability Act, 40 U.S.C. 9601 *et seq.*, the Toxic Substances Control Act, 15 U.S.C. §§2601-2629, the New Jersey Spill Compensation and Control Act, *N.J.S.A. 58:10-23.11 et seq.*, the Industrial Site Recovery Act, *N.J.S.A. 13:1K-6 et seq.*, the New Jersey Water Pollution Control Act, *N.J.S.A. 58:10A-1 et seq.*, the Site Remediation Reform Act, *N.J.S.A. 58:10C-1 et seq.*, the New Jersey Environmental Rights Act, *N.J.S.A. 2A:35A-1 et seq.* and the Brownfield and Contaminated Site Remediation Act, *N.J.S.A. 58:10B-1 et seq.*, together with any amendments thereto, regulations promulgated thereunder and all substitutions thereof, and any successor legislation and regulations promulgated under any or all of the foregoing, whether now existing or hereafter enacted or promulgated.

“**Escrow Account**” has the meaning ascribed thereto in Section 4.1(b).

“**Event of Default**” has the meaning ascribed thereto in Section 13.1.

“**Force Majeure**” has the meaning ascribed thereto in Section 13.3.

“**Foreclosure**” has the meaning ascribed thereto in Section 4.3(c).

“**Gap Period**” has the meaning ascribed thereto in Section 2.10(a).

“**Garage**” has the meaning ascribed thereto to Section 2.10(b).

“**Governmental Applications**” shall mean the applications, including all plans, drawings, documentation and presentations necessary and appropriate in support thereof, for the purpose of obtaining any and all Governmental Approvals.

“**Governmental Approvals**” shall mean all government approvals by a Governmental Body having jurisdiction thereof issued as a result of or in reliance on Governmental Applications, including: with respect to the development of the Project, an approved site plan submitted to, and approved by, the Planning Board in accordance with the Land Use Law, as amended from time to time; approvals for all Infrastructure Improvements, Project Improvements, NJDOT improvements; building permits; sewerage capacity approvals; and any and all other necessary governmental permits, licenses, grants, consents and approvals.

“Governmental Body” means any federal, State, county or local government, department, commission, authority, court or tribunal and any designee or successor thereto, exercising executive, legislative, judicial or administrative functions of or pertaining to government, including without limitation, Borough, State and public entities with jurisdiction over Environmental Laws.

“Groundwater Monitoring” has the meaning ascribed thereto in Section 8.1.

“Hamilton Sale Lot” has the meaning ascribed thereto in Section 2.10(a).

“Hamilton Street” has the meaning ascribed thereto in Section 2.10(a).

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

“HDSRF” has the meaning ascribed thereto in Section 8.1 hereof.

“Holder” has the meaning ascribed thereto in Section 4.3(a) hereof.

“Holder Failure” has the meaning ascribed thereto in Section 4.3(d) hereof.

“Indemnified Claim” has the meaning ascribed thereto in Section 11.1(a) hereof.

“Infrastructure Improvements” shall mean the preparation and installation (i) on, in, under and to the Property of site work, building foundations and other on-site improvements and (ii) off-site or off-tract improvements required to implement the Project, including but not limited to, the Streetscape Improvements, consistent with the requirements of Governmental Approvals, this Redevelopment Agreement, the Redevelopment Plan and Applicable Laws.

“Initial Funds” has the meaning ascribed thereto in Section 4.1(b).

“Land Use Law” shall mean the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1 *et seq.*, as amended from time to time.

“License Agreement” has the meaning ascribed thereto in Section 2.10(b).

“Licensed Areas” has the meaning ascribed thereto in Section 2.10(b).

“Licensed Property” has the meaning ascribed thereto in Section 2.10(b).

“**Licensed Site Remediation Professional**” or “**LSRP**” shall mean an individual that has been issued a license pursuant to N.J.S.A. 58:10C-1 *et seq.*

“**Material Adverse Change**” shall mean any change, effect, development, or circumstance that is materially adverse to maintenance of the Project Schedule appended hereto as **Exhibit C**.

“**Milestones**” has the meaning ascribed thereto in Section 2.2(c).

“**NJDEP**” shall mean the New Jersey Department of Environmental Protection.

“**NJDOT**” shall mean the New Jersey Department of Transportation.

“**Offer Notice**” has the meaning ascribed thereto in Section 7.5(b).

“**Outside Parking Area**” has the meaning ascribed thereto in Section 2.10(b).

“**Parties**” has the meaning ascribed thereto in the preamble.

“**Party**” has the meaning ascribed thereto in the preamble.

“**Permitted Exceptions**” has the meaning ascribed thereto in Section 7.2(d).

“**Permitted Transfers**” has the meaning ascribed thereto in Section 12.2.

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

“**Planning Board**” has the meaning ascribed thereto in the recitals.

“**Preliminary Site Plan**” has the meaning ascribed thereto in Section 3.2.

“**Progress Report**” has the meaning ascribed thereto in Section 2.3(b).

“**Project**” has the meaning ascribed thereto in the recitals.

“**Project Costs**” has the meaning ascribed thereto in Section 4.1(a).

“**Project Improvements**” means all buildings, structures, improvements and amenities necessary for the implementation and completion of the Project as conceptually described and depicted in the Approved Concept Plan, and any additional work incidental thereto, all of which shall be consistent with the Redevelopment Plan and any approved site plan, including to the extent applicable, the Infrastructure Improvements.

“**Project Schedule**” shall mean the schedule for obtaining required permits and approval for the development, construction and Completion of the Project as the same may be amended or modified from time to time by the Parties. The Project Schedule is attached hereto as **Exhibit C**.

“**Property**” has the meaning ascribed thereto in the recitals.

“**Purchase Price**” has the meaning ascribed thereto in Section 7.2(a).

“**Redeveloper**” has the meaning ascribed thereto in the preamble.

“**Redeveloper’s Due Diligence**” has the meaning ascribed thereto in Section 7.2(b).

“**Redevelopment Area**” has the meaning ascribed thereto in the recitals.

“**Redevelopment Law**” has the meaning ascribed thereto in the recitals.

“**Redevelopment Plan**” has the meaning ascribed thereto in the recitals.

“**Redevelopment Plan Amendment**” has the meaning ascribed thereto in Section 2.11.

“**Remediation**” shall mean the performance and completion of all investigations, remediation and management required by a Governmental Body for all Hazardous Substances, known or unknown, on, under or migrating to or from the Property, and the construction of the remedial systems, all in compliance with Applicable Law and Governmental Approvals, and in accordance with Environmental Laws, to address environmental contamination or environmental damage on the Property necessary to achieve an unrestricted use standard in accordance with Article VIII hereof. .

“**Response Action Outcome**” or “**RAO**” shall have the meaning given to such term under Environmental Laws.

“**Right of First Refusal**” has the meaning ascribed thereto in Section 7.5(a).

“**Seller’s Pre-Closing Environmental Certification**” has the meaning ascribed thereto in Section 8.4.

“**Soils RAO**” has the meaning ascribed thereto in Section 8.1.

“**State**” shall mean the State of New Jersey.

“**Study Area**” has the meaning ascribed thereto in the recitals.

“**Streetscape Improvements**” shall mean those improvements required under the Redevelopment Plan and any applicable Planning Board approval for the beautification of the streetscape that is located within the NJDOT-owned right-of-way along the boundaries of the Property.

“**Third Party Approvals**” shall mean those approvals granted by a third party that is not a Governmental Body, which approvals are necessary in connection with the implementation of the Project and which includes, but is not limited, to the receipt of any consents or approvals required of any property owners.

“**Title Commitment**” has the meaning ascribed thereto in Section 7.2(d).

“**Title Company**” has the meaning ascribed thereto in Section 7.2(d).

“**Transfer**” as used in Article XII shall mean any sale, conveyance, lien, pledge, hypothecation, transfer, lease or assignment, whether by law or otherwise, of, on, in or affecting (i) all or part of the Property (including any legal or beneficial direct or indirect interest therein), or (ii) any direct or indirect interest in Redeveloper.

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

“**United States Bankruptcy Code**” means the United States Bankruptcy Code, 11 *U.S.C.* 1 *et seq.*, and the accompanying regulations.

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

(a) The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms, as used in this Agreement, refer to this Agreement, and the term “hereafter” means after the Effective Date, and the term “heretofore” means before the Effective Date.

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

(c) Unless otherwise noted, the terms “include,” “includes” and “including” when used in this Agreement shall be deemed to be followed by the phrase “without limitation.”

(d) The terms “agree,” “agreements,” “approval” and “consent” when used in this Agreement shall be deemed to be followed by the phrase “which shall not be unreasonably withheld, conditioned or unduly delayed,” except or unless the context or the express terms of this Redevelopment Agreement may otherwise provide, specify or dictate.

(e) Any headings preceding the text of the several Articles and Sections of this Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect. Any references to Articles and Sections in this Agreement shall be deemed to be references to the Articles and Sections in this Agreement except or unless the context or express terms of this Agreement may otherwise provide, specify or dictate.

(f) Unless otherwise indicated, all approvals, consents and acceptances required to be given or made by any person or party hereunder shall not be unreasonably withheld, conditioned, or delayed, and where withheld, a statement in reasonable detail shall be provided setting forth the reason for withholding of consent, approval or acceptance.

(g) All notices to be given hereunder and responses thereto shall be given, unless a certain number of days is specified, within a reasonable time, which shall not be less than ten (10) days nor more than thirty (30) days, unless the context dictates otherwise.

(h) All exhibits referred to in this Agreement and attached hereto are incorporated herein and made a part hereof.

(i) Each right or obligation of a Party to review or approve any actions, plans, specifications, or other obligations hereunder shall be made by a natural person with legal authority to conduct such review or grant such approvals. Any review contemplated by this Agreement shall be made in a prompt and timely manner.

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

(k) Any reference to Applicable Laws or any Applicable Law shall be read to mean as the Applicable Law is amended from time to time except where Redeveloper’s obligation to comply was satisfied prior to the amendment.

(l) The recitals contain statements of fact and/or expressions of intention and are incorporated into and made part of the substance of this Agreement.

ARTICLE II IMPLEMENTATION OF THE PROJECT

Section 2.1 Description of the Project. (a) Subject to the terms and conditions in this Agreement, Redeveloper agrees, at its sole cost and expense (except to the extent financed, reimbursed by, or paid by third parties other than Borough in the ordinary course of business in connection with the development of the Project), to implement and complete the redevelopment of the Property which shall consist of the following, as applicable: (i) construction of the Project on the Property; (ii) procurement of all applicable and unappealable Governmental Approvals for all Project Improvements; and (iii) financing, design, construction and Completion of all Project Improvements. All activities performed under this Agreement shall be provided in accordance with the level of skill and care ordinarily exercised by developers of first class developments of the same type and nature as the Project.

(b) The Project shall in all material respects be developed consistent with this Agreement, the Redevelopment Plan and Applicable Law.

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

Section 2.2 Project Schedule. (a) The Project Schedule shall control the Commencement, progress and Completion of the Project. The Parties agree and acknowledge that adherence to the Project Schedule is of the essence, subject to the terms of this Agreement, including but not limited to Section 2.4.

(b) Upon Completion of the Project, Redeveloper shall apply to the appropriate Governmental Body for a Certificate of Occupancy for the Project.

(c) For each task listed in the Project Schedule to be performed by Redeveloper, Redeveloper shall have a one-time right to extend the corresponding completion date for a period not to exceed one hundred twenty (120) days by providing Borough with written notice of such extension stating: (i) the reason for the failure or anticipated failure to meet the applicable completion date (ii) Redeveloper's proposed method for correcting such failure, (iii) Redeveloper's proposal for revising the applicable completion date, and (iv) the method or methods by which Redeveloper proposes to achieve subsequent tasks by the relevant completion date. Notwithstanding the foregoing, cumulative extensions as described in this Section 2.2(c), shall in no event be permitted to extend beyond three (3) years.

(d) If Redeveloper has performed all of its duties and obligations under this Agreement and Completed the Project in its entirety, Borough shall, as applicable, within thirty (30) days of the issuance of a Certificate of Occupancy for the Project and receipt of a written request from Redeveloper, issue a Certificate of Completion. The Certificate of Completion shall constitute a recordable, conclusive determination of the satisfaction and termination of the agreements and covenants in this Agreement, the Redevelopment Plan and Applicable Laws, with respect to the obligations of Redeveloper to construct the Project, as applicable.

(e) In the event Borough does not issue any such Certificate of Completion, as applicable, within thirty (30) days after submission of written request by Redeveloper, Borough shall provide Redeveloper with a written statement setting forth in detail the reasons why it believes that Redeveloper has failed to Complete the Project in accordance with the provisions of this Agreement, the Redevelopment Plan and Applicable Laws and what measures or acts Borough deems will be necessary in its reasonable opinion in order for Redeveloper to be entitled to the applicable Certificate of Completion (the "Certificate Denial Statement"). Redeveloper may rely on the Certificate Denial Statement in determining what action it must take in order to achieve the requested Certificate of Completion, as applicable. In the event of a dispute over issuance of a Certificate of Completion, the Parties shall cooperate in good faith to resolve such dispute and, thereafter, either Party may take such legal action as it deems appropriate.

(f) Upon the issuance of the Certificate of Completion, the conditions determined to exist at the time the Redevelopment Area was determined to be an area in need of redevelopment shall be deemed to no longer exist with respect to the Property. Unless otherwise provided, the

Property and the Project shall no longer be subject to any covenant herein encumbering the Redevelopment Area.

Section 2.3 Project Oversight. (a) Redeveloper agrees to hold at least one (1) regular progress meeting per month with designated representatives of the Borough (each a “Borough Representative,” a complete list of whom is attached as **Exhibit D**) upon Borough’s reasonable request to review the progress under the Project Schedule. To the extent practicable, the meetings shall be held within five (5) Business Days of Redeveloper’s receipt of Borough’s request for such a meeting, at such office as is maintained by Redeveloper in the Borough, as designated by Redeveloper, or at the Property.

(b) Redeveloper shall submit to Borough detailed quarterly written progress reports (or more frequently, if reasonably requested by Borough, but not to exceed two (2) requests per quarter) which shall include a description of activities completed, the activities to be undertaken prior to the next Progress Report, the status of all Governmental Approvals, an explanation of each activity, if any, which is showing delay, a description of problem areas, current and anticipated delaying factors and their estimated impact on performance of other activities and Completion Dates in the Project Schedule, an explanation of corrective action taken or proposed and such other information as may be reasonably requested by Borough (collectively, the “Progress Report”).

(c) Following conveyance of the Property to Redeveloper, Borough and Borough Representatives reserve the right to enter upon the Property, upon at least forty-eight (48) hours’ notice to Redeveloper and during business hours, to visually inspect the site for informational purposes and observe construction activities, subject to Borough’s acknowledgement that the Property will be an active construction site, and Redeveloper shall not be liable or responsible to Borough, Borough Representatives, or their respective employees, agents or invitees for damages arising from injury to person or property sustained in connection with such inspections except to the extent that Redeveloper violates the standard of due care owed to invitees. Any persons present at the Property pursuant to the foregoing sentence will comply with all applicable reasonable health and safety rules established by Redeveloper for personnel present on the Property. Such inspections and observations shall not relieve Redeveloper from its obligation to implement the Project in accordance with this Agreement. In no event shall Borough’s inspection of the Project under this Section 2.3(c) be deemed acceptance of the work or deemed to waive any right Borough has under this Agreement. Representatives of any Governmental Body with permitting jurisdiction over the Project or the Property shall be permitted to enter the Property at any time.

Section 2.4 Tolling. (a) Redeveloper shall diligently adhere to the Project Schedule and the provisions set forth in this Article II, provided that such obligations shall be extended on a day for day basis for each day that Redeveloper’s performance hereunder is delayed by (i) an act or omission by one Party or a third party that has a material adverse effect on Redeveloper’s ability to perform any obligation, requirement, commitment, or responsibility prescribed under this Agreement; (ii) the occurrence of an event of Force Majeure; (iii) any extension granted by either Party to the other Party, to extend any proposed date in this Agreement; (iv) the denial of any Governmental Approval by the Governmental Agency with jurisdiction thereover; (v) if an appeal is filed as to any Governmental Approval, the Project Schedule timing shall be tolled as set forth in this Section 2.4; or (vi) any reasonable request by one Party to the other to extend the time for

performance of any obligation, requirement, commitment or responsibility arising pursuant to this Agreement. If a delay only affects a portion of the Project, the extension granted hereunder shall only apply to the obligations with respect to that portion of the Project.

(b) In the event either Party is delayed or rendered unable to perform due to Force Majeure, the affected Party shall give written notice thereof and its expected duration to the other Party promptly after the occurrence of the Force Majeure event; and, thereafter, the obligations of the affected Party shall be tolled in accordance with Section 2.4(a). The affected Party shall promptly take commercially reasonable steps to remedy or mitigate the effects of the Force Majeure event, but such obligation shall not require the settlement of strikes or labor controversies on terms unfavorable to the affected Party.

(c) Cumulative delays resulting from any extension, as described in Section 2.4(a), not resulting from the act or omission by Borough, shall in no event be permitted to extend beyond three (3) years.

Section 2.5 Infrastructure Improvements.

(a) Redeveloper will design and construct the Infrastructure Improvements in a good and workmanlike manner and in substantial accordance with all Applicable Laws. The Infrastructure Improvements shall be included in Redeveloper's application for site plan approval for the Project. Redeveloper acknowledges the presence of certain existing utility structures, including but not limited to electric power transmission lines, sewer transmission conduits or pipes, water lines or pipes, storm sewers, telephone transmission lines, television cable lines and other utilities, and agrees to undertake the appropriate measures to negotiate with, acquire, relocate or otherwise address the existence of these utilities and easements therefor, in order to complete the Project as provided by this Agreement. Site plan approval may be conditioned upon other on-site, off-site and/or off-tract improvements specific to the Project, consistent with the authority of the Planning Board and consistent with the Land Use Law, as amended from time to time. If site plan approval is so conditioned, Redeveloper shall exercise commercially reasonable efforts to ensure the effective coordination of such improvements and shall cooperate with Borough in all respects to ensure that the implementation of the Project does not unreasonably interfere with the operation of the existing utilities and infrastructure. Redeveloper agrees to provide the Performance and Maintenance Bonds as required by the Planning Board, consistent with the authority of the Planning Board under the Land Use Law.

(b) With respect to the Streetscape Improvements, in addition to the obligations set forth in subparagraph (a), Redeveloper shall use its best efforts to obtain the approval of NJDOT to install same in the NJDOT right-of way, and Redeveloper shall retain all responsibility for maintenance of the Streetscape Improvements, all at Redeveloper's sole cost and expense. To the extent that NJDOT may seek to impose any requirements on Borough with respect to the Streetscape Improvements, Redeveloper shall assume such responsibilities, and such assumption shall be set forth in the Declaration in terms acceptable to Borough, or, as may be necessary, in an amendment thereto, to run with the land in perpetuity. In the event that NJDOT does not approve some or all of the Streetscape Improvements, the Parties shall cooperate to propose alternate or modified Streetscape Approvals (as may be suggested by NJDOT) or streetscape approvals outside of NJDOT jurisdiction. As an alternative to the preceding sentence, Borough may require

Redeveloper to make a development contribution to Borough in the amount equal to the cost of any Streetscape Improvement element not approved by NJDOT.

Section 2.6 Prohibition Against Suspension, Discontinuance or Termination.

Subject to the terms of this Agreement, Redeveloper shall not suspend or discontinue its performance of its obligations under this Agreement for a period exceeding sixty (60) consecutive days or terminate this Agreement (other than in the manner provided for herein) for any reason except to the extent permitted by Section 2.4, but only to the extent and for the period of time permitted by Section 2.4, unless otherwise agreed to in writing by Borough.

Section 2.7 Certificate of No Default. Within thirty (30) days of a request by Borough or Redeveloper, the other Party shall deliver to the requesting Party a certificate to the effect that it is not aware of any condition, event or act which constitutes a violation of this Agreement or which would constitute an Event of Default hereunder and to its act and knowledge no condition, event or act exists which, with notice or lapse of time, or both, would constitute such a violation, or Event of Default, or if any such condition, event or act exists, specifying the same (the "Certificate of No Default").

Section 2.8 Cooperation. The Parties shall fully cooperate with each other as necessary and desirable to accomplish the Project, including entering into additional agreements that may be required, provided, however, that such actions shall not result in a material increase in Borough's and Redeveloper's respective obligations hereunder or material decrease in Borough's and Redeveloper's respective rights hereunder. Borough specifically agrees to cooperate with Redeveloper to effect changes to the Redevelopment Plan consistent with the instructions of the Redevelopment Plan and this Agreement.

Section 2.9 Intentionally Omitted

Section 2.10 Temporary Relocation.

(a) Redeveloper, as seller, and Hamilton Street Development LLC ("Hamilton Street"), as buyer, have negotiated the terms of an agreement for the purchase and sale of Block 66, Lot 14, more commonly known as 415 North Ave, Redeveloper's current address (the "Hamilton Sale Lot"). Redeveloper shall temporarily relocate its operations between (i) the date that Redeveloper is required to vacate the Hamilton Sale Lot, with notice to be provided by Redeveloper to Borough no later than forty-five (45) days prior to such vacation and (ii) the earlier of (1) the date of Completion or (2) thirty (30) days following the date on which Borough provides notice to Redeveloper of its failure to satisfy its obligations under the Project Schedule in accordance with Section 2.2 and **Exhibit C**, subject to Section 2.4 (the "Gap Period").

(b) During the Gap Period, Borough shall grant a license in the form annexed hereto as **Exhibit F** (the "License Agreement") to Redeveloper to occupy and use, for a nominal fee (i) a portion of Borough's Department of Public Works property or Fire Department property, in Borough's discretion, of sufficient size to accommodate a Borough-owned garage structure of sufficient size to accommodate at least two (2) vehicles used by Redeveloper in its ordinary course of business (the "Garage"), with the Borough to bring standard electric service to the Garage; and

(ii) a parking area outside the Garage to accommodate a vehicle used by Redeveloper with standard electric and water hookups (the “Outside Parking Area”, together with the Garage, the “Licensed Property”); and (iii) if necessary, portion(s) of its property necessary for granting Redeveloper access to and from the Licensed Property (together with the Licensed Property, the “Licensed Areas”). In the event that, from time to time, there is insufficient space in the Garage to use for Redeveloper’s business-related meetings, the Borough shall provide an alternate location, mutually acceptable to both Parties, to Redeveloper and Redeveloper’s personnel for such instance. On or about the date of the License Agreement, Redeveloper agrees to enter into a Memorandum of Understanding with Borough’s Department of Public Works or Fire Department, as applicable, to govern the shared occupancy of the Licensed Property.

(c) Redeveloper has inspected and shall accept the Licensed Areas in an “as-is” condition. In no event shall Borough be responsible for any costs associated with improvements, modifications and/or alterations made by Redeveloper or determined to be necessary by Redeveloper to or in connection with the Licensed Areas. Alternatively, if Redeveloper does not occupy the Licensed Areas or vacates the Licensed Areas during the Gap Period, Redeveloper shall be solely responsible for identifying an alternate location for its equipment and personnel during the Gap Period, at its sole cost and expense.

(d) The License Agreement is not to be construed in any way as an interest other than a license for the use of the Licensed Areas in accordance with the terms thereof and will not be deemed to grant to Redeveloper a leasehold or other real property interest in the Licensed Areas or any other portion(s) of the property on which the Licensed Areas are located. Borough is not responsible for costs incurred by Redeveloper related to the Gap Period.

Section 2.11 Amendment to Redevelopment Plan. Borough hereby agrees, within seventy-five (75) days of the amendment to Redevelopment Agreement pursuant to Section 3.3, to diligently and in good faith consider an amendment to the Redevelopment Plan as required to permit the Project to proceed as-of right (the “Redevelopment Plan Amendment”). Such amendment of the Redevelopment Plan by Borough is a condition precedent to Redeveloper’s obligations under this Agreement. If Borough, in its sole discretion, determines that the requested variations are not consistent with the intent and purpose of the Redevelopment Plan, Borough shall have the right to terminate this Agreement by providing written notice of such termination to Redeveloper. Upon the proper issuance of such notice, this Agreement shall be terminated and no further action shall be required thereafter by the Parties.

ARTICLE III PROJECT APPROVALS

Section 3.1 Governmental Approvals and Third Party Approvals. (a) Redeveloper shall use commercially reasonable efforts to secure, or cause to be secured, any and all Governmental Approvals and Third Party Approvals for the Project in order to cause Commencement and Completion of the Project in accordance with the Project Schedule and the provisions of Section 2.2.

(b) Borough agrees to reasonably cooperate with Redeveloper and use reasonable efforts to support any application for and to obtain any Governmental Approvals and Third Party Approvals that are consistent with the terms of this Agreement, the Redevelopment Plan and Applicable Laws and the Approved Concept Plan, and at the request of Redeveloper to execute any documents required to obtain such approvals, provided that, nothing in this Section shall be deemed: (i) to constitute an approval of all or any portion of the Project for which Governmental Applications have been submitted or are required; or (ii) a waiver of the ability of the Planning Board or any other Governmental Body having jurisdiction thereof from exercising its statutorily authorized responsibilities with respect to the Governmental Applications or Governmental Approvals required by Applicable Law. Redeveloper shall update the list of all Governmental Approvals as part of the Progress Reports, if and as appropriate during the Project and provide copies to Borough. All Governmental Applications shall be consistent with the Approved Concept Plan. Redeveloper shall provide Borough with copies of all other Governmental Applications promptly upon submission of same. Further, Redeveloper shall provide Borough with copies of all hearing notices promptly upon receipt of same and shall promptly inform Borough of the results of such hearings and Governmental Applications.

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

(d) Redeveloper shall have the right but not the obligation to contest any unsatisfactory requirement or condition with respect to the Project imposed on Redeveloper as a condition to a Governmental Approval, and in such event the Project Schedule timing shall be tolled as set forth in Section 2.4. Redeveloper shall comply with any such requirement or condition if Redeveloper is unsuccessful in contesting same and the requirement or condition will not have a material adverse financial or operational impact on Redeveloper in connection with the Project, as determined by Redeveloper in the exercise of its reasonable business judgment. If Redeveloper is unsuccessful in contesting any unsatisfactory requirement or condition or Redeveloper determines that such condition will have a material adverse financial or operational impact on Redeveloper in connection with the Project, in the exercise of Redeveloper’s reasonable business judgment, Redeveloper may terminate this Redevelopment Agreement pursuant to Section 13.2(c) of this Agreement.

(e) In the event that Redeveloper’s application for any Governmental Approval is denied or contains conditions unacceptable to Redeveloper or any Person brings an action that contests or challenges the grant of any Governmental Approval, and in such event the Project Schedule timing shall be tolled as set forth in Section 2.4, then Redeveloper shall have the right in its sole discretion to (i) modify and resubmit such application, if applicable, in order to secure such Governmental Approval, provided that such modification is consistent with this Redevelopment Agreement and the Redevelopment Plan, and does not result in a material change to the Project as contemplated herein, or (ii) appeal or defend against such action, or (iii) terminate this Agreement by providing written notice to Borough in accordance with the provisions of Section 13.2(c) of this Agreement.

Section 3.2 Borough Approval. Prior to Redeveloper’s submission of an application to the Planning Board for preliminary site plan approval (a “Preliminary Site Plan”) for the construction of the Project, Redeveloper shall submit the proposed site plan to Borough for a determination as to whether the proposed site plan is consistent with the Approved Concept Plan and the Redevelopment Plan. Borough agrees to rely upon the Planning Board’s review of all development applications, but Borough reserves the right to provide its recommendations to the Planning Board for consideration by the Planning Board in connection with Redeveloper’s site plan applications. Redeveloper shall provide initial construction drawings to Borough prior to issuance of a building permit for the Project. Upon Completion, Redeveloper shall provide as-built drawings for the Project to Borough.

Section 3.3 Approved Concept Plan. The Redeveloper shall diligently and in good faith, prepare a conceptual design and elevations for the Project and submit same to Borough for its review and comment within forty-five (45) days of the Effective Date. The agreed-upon version of such plans shall be deemed the Approved Concept Plan, and within thirty (30) days of the completion of the Approved Concept Plan, the Parties shall enter into an amendment to this Agreement incorporating the Approved Concept Plan as an exhibit thereto. If Redeveloper fails to satisfy its obligations as required under this Section 3.3, or the Parties are unable to reach agreement on the Approved Concept Plan within forty-five (45) days following Redeveloper’s initial submission to Borough, this Agreement may be terminated by either Party. Notwithstanding the aforementioned and Section 2.2(c) herein, the Mayor of the Borough may grant extensions in connection with Redeveloper’s obligations in this Section 3.3 in its sole and absolute discretion.

ARTICLE IV FINANCING OF THE PROJECT

Section 4.1 Redeveloper Financial Commitment. (a) Project Costs. All costs of implementing and Completing the Project, including but not limited to the cost of obtaining all Governmental Approvals, the cost of the acquisition of the Property (the \$1.00 purchase price being acknowledged), the cost of designing and constructing (including the costs of any construction observation services) all Project Improvements, all financing costs, and Borough Costs excluding the Initial Funds, as defined hereinafter (collectively, the “Project Costs”), shall be borne by Redeveloper (except to the extent financed, reimbursed by, or paid by third parties in the ordinary course of business, other than Borough).

(b) Payment of Borough Costs.

(i) Borough shall pay up to Ten Thousand and 00/100 Dollars (\$10,000.00) (the “Initial Funds”) for all reasonable out-of-pocket costs incurred by Borough in connection with the redevelopment of the Property (including prior to the execution of this Agreement) (the “Borough Costs”). Borough Costs shall include, but not be limited to, any reasonable fees and costs of any professional consultant, contractor or vendor retained by Borough including attorneys, engineers, technical consultants, environmental consultants, planners and financial consultants, among others, and all out-of-pocket costs and expenses of Borough, which are incidentally necessary for Borough to meet its obligations as it pertains to the Project.

(ii) Within three (3) business days of the Effective Date, Redeveloper shall deposit Ten Thousand and 00/100 Dollars (\$10,000.00) in a separate account maintained by Borough to be drawn down by Borough (“Escrow Account”) when the Initial Funds are depleted to pay Borough Costs. Thereinafter, if, when and as often as may occur, the balance of the Escrow Account is drawn down to or below One Thousand Five Hundred Dollars (\$1,500.00), within five (5) days of Borough’s written request, Redeveloper will replenish the Escrow Account to Ten Thousand and 00/100 Dollars (\$10,000.00). Simultaneously with such replenishment request, Borough shall use good faith efforts to provide Redeveloper with a reasonable estimate of Borough’s remaining costs to be paid.

(iii) Funds in the Escrow Account will be applied to the payment or reimbursement of Borough Costs as provided in this Redevelopment Agreement. Borough shall provide Redeveloper with invoices setting forth the costs incurred by Borough drawn down against the Escrow Account. Any dispute concerning payment of Borough Costs shall be resolved in accordance with the procedures set forth in N.J.S.A. 40:55D-53.2a. Upon the issuance of the Certificate of Completion of the Project, or upon termination of this Redevelopment Agreement, any money remaining in the Escrow Account, in excess of the Initial Funds, shall be disbursed to Redeveloper, except that Borough may retain an amount sufficient to cover any remaining Borough Costs.

Section 4.2 Governmental Approval Fees. Redeveloper shall pay all fees for (i) applications and/or permits required by Borough (in accordance with standard fees provided in the Borough’s municipal code) unless legally permitted to be waived by Borough and (ii) any other Governmental Body for the construction and development of the Project in accordance with Applicable Laws or for which Borough is required to reimburse other Governmental Bodies or for which Borough pays to the County of Middlesex or the State of New Jersey.

Section 4.3 Mortgage Financing.

(a) Holder. Redeveloper, or its successor in interest, shall notify Borough in advance of any financing secured by a mortgage or other lien instrument which it proposes to enter into with respect to the Property and/or Project Improvements, or any part thereof (the mortgagee thereunder, a “Holder,” it being hereby expressly acknowledged that under no circumstances shall an Affiliate of Redeveloper be deemed a Holder hereunder) and, in any event, Redeveloper shall promptly notify Borough of any encumbrance or lien (other than liens for governmental impositions) that has been created on or attached to any portion of the Property and/or the Project Improvements, whether by voluntary act of Redeveloper or otherwise, upon obtaining knowledge or notice of same. Redeveloper shall provide Borough with written notice that Redeveloper has obtained financing for the Project within fifteen (15) days after Redeveloper’s acceptance of the financing commitment.

(b) Forbearance. If any Holder seeks to effect a Foreclosure (as defined here) as a result of a default by Redeveloper under any agreements executed by Redeveloper, Borough agrees to forbear from the enforcement of any remedies provided under this Redevelopment Agreement that it may have against Redeveloper in order to permit such Holder to assume the obligations of Redeveloper under this Redevelopment Agreement, provided, however, that Borough shall not be obligated to forbear from the exercise of any remedies available to it against Redeveloper or the

Property or Project hereunder if such forbearance will result (or may result, in the reasonable judgment of Borough) in a waiver of Borough's rights under this Redevelopment Agreement or a material and adverse effect on Borough's rights or performance obligations hereunder or any material increase in Borough's financial obligations hereunder.

(c) No Guarantee of Construction or Completion by Holder.

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

ii. If a Holder forecloses its mortgage secured by the Property or Project Improvements, or takes title (in its name or the name of an Affiliate) to the Property or Project Improvements by deed-in-lieu of foreclosure or similar transaction (collectively, a "Foreclosure"), the Holder or its Affiliate shall have the option to either (i) sell the Property or Project Improvements, as applicable and subject to Borough's Right of First Refusal described in Section 7.5, to a responsible Person reasonably acceptable to Borough, which Person shall expressly assume the obligations of Redeveloper under this Redevelopment Agreement, and/or (ii) itself, or its Affiliate, expressly assume the obligations of Redeveloper under this Redevelopment Agreement. In the event of a Foreclosure and provided the Holder or the purchaser is in compliance with this Redevelopment Agreement, Borough shall not seek to enforce against the Holder or purchaser of such parcel any of the remedies available to Borough pursuant to the terms of this Redevelopment Agreement available in connection with the events preceding the Foreclosure. The Holder, or the entity assuming the obligations of Redeveloper as to the parcel affected by such Foreclosure or sale, in that event must agree to Complete the Project Improvements as per this Redevelopment Agreement, but subject to reasonable extensions, and shall submit evidence reasonably satisfactory to Borough that it has the qualifications and financial ability to perform such obligations. Any such Holder, or other entity assuming such obligations of Redeveloper, properly Completing the Project Improvements shall be entitled, upon written request made to Borough, to Certificates of Completion. Nothing in this Redevelopment Agreement shall be construed or deemed to permit or to authorize any Holder, or such other entity assuming such obligations of Redeveloper, to devote the Property, or any part thereof, to any uses, or to construct any improvements thereon, other than those uses or improvements provided for or authorized by this Redevelopment Agreement. The Holder or such other entity that assumes the obligations of Redeveloper shall be entitled to develop the Property or Project Improvements in accordance herewith.

(d) Borough's Option to Pay Mortgage Debt or Purchase Land. In any case where, subsequent to an Event of Default by Redeveloper under this Agreement and/or Foreclosure, the Holder:

i. has, but does not exercise, the option to construct or Complete the Project or part thereof covered by its mortgage or to which it has obtained title, and such failure continues for a period of ninety (90) calendar days after the Holder has been notified or informed of the Event of Default; or

ii. undertakes construction or Completion of the Project but does not Complete such work within a reasonable period, and such default shall not have been cured within ninety (90) calendar days after written demand by Borough to do so unless such work cannot be reasonably completed in such time frame but the Holder is diligently and continuously undertaking construction and completion then Borough will extend such time frames accordingly ((i) and (ii) each a "Holder Failure"); then Borough, or its designee, shall have the option of paying to the Holder the amount of the mortgage debt including all accrued and unpaid interest and obtaining an assignment of the mortgage and the debt secured thereby, or, in the event ownership of the Project Improvements and Property (or part thereof) has vested in such Holder by way of the Foreclosure, Borough, or its designee, shall be entitled, at its option, to a conveyance to it of the Project Improvements and Property or part thereof (as the case may be) upon payment to such Holder of an amount equal to the sum of: (a) the mortgage debt inclusive of all costs and expenses Holder was so entitled under the mortgage documents, at the time of the Foreclosure (less all appropriate credits, including those resulting from collection and application of rentals and other income received during Foreclosure proceedings); (b) all expenses with respect to the Foreclosure, including reasonable attorney's fees and expenses; (c) the net expense, if any (exclusive of general overhead), incurred by such Holder in and as a direct result of the subsequent management of the mortgaged property; (d) the costs incurred by such Holder in making any Project Improvements; and (e) an amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the mortgage debt and such debt had continued in existence. Every mortgage instrument made prior to completion of the Project with respect to any phase of development of the Project by Redeveloper shall provide for the foregoing.

(e) Cooperation with Holder. Borough shall reasonably cooperate with a Holder to modify the provisions of this Agreement if reasonably requested by Holder or a proposed Holder; provided, however, that such modifications shall not substantially reduce the rights or increase the responsibilities of Borough hereunder.

ARTICLE V GENERAL REPRESENTATIONS AND WARRANTIES

Section 5.1 Representations and Warranties of Redeveloper. Redeveloper hereby makes the following representations and warranties, understanding that Borough has relied upon the same as a material element in entering into this Agreement:

(a) Redeveloper is a not for profit corporation, duly organized and validly existing in good standing under the laws of the State of New Jersey and is authorized to do business in the State of New Jersey.

(b) Redeveloper has the legal right, power and authority to enter into this Agreement and the instruments and documents referenced herein to which Redeveloper is party, to

consummate transactions contemplated hereby, to take any steps or actions contemplated hereby, and to perform the obligations hereunder.

(c) All necessary consents have been duly adopted to authorize the execution and delivery of this Agreement and to authorize and direct the persons executing this Agreement to do so for and on Redeveloper's behalf, and this Agreement constitutes a valid and legally binding obligation of Redeveloper, enforceable in accordance with its terms.

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

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

(f) Redeveloper has received no actual notice asserting any noncompliance in any material respect by Redeveloper with any Applicable Law with respect to the transactions contemplated in and by this Agreement, which would have a material adverse effect on Redeveloper's ability to perform its obligations in connection with this Agreement. Redeveloper is not in default with respect to any judgment, order, injunction or decree of any court, administrative agency, Borough, or other Governmental Body which is in any respect material to the transactions contemplated hereby.

(g) To the best of Redeveloper's knowledge, there is no action, proceeding or investigation now pending or threatened, nor has Redeveloper received notice of any such action, proceeding or investigation, which (i) questions the authority of Redeveloper to enter into this Agreement or any action or act taken or to be taken by Redeveloper pursuant to this Agreement; or (ii) is likely to result in a Material Adverse Change in Redeveloper's property, assets, liabilities or condition which will impair its ability to perform its obligations pursuant to the terms of this Agreement.

(h) Redeveloper's execution and delivery of this Agreement and its performance hereunder will not constitute a violation of or conflict with any of Redeveloper's organizational documents or of any agreement, mortgage, indenture, instrument or judgment, to which Redeveloper is a party or by which it is bound or affected.

(i) Redeveloper agrees that the cost and financing of the Project is the responsibility of Redeveloper, pursuant to and as set forth in this Redevelopment Agreement and any other agreements between the Parties. Borough shall not be responsible for any cost whatsoever in respect to same.

(j) Redeveloper is financially capable (subject to the procurement of financing) and technically capable (with the assistance of its consultants) of developing, designing, financing,

constructing, operating, and maintaining the Project in conformance with the requirements of this Agreement, the Redevelopment Plan, Governmental Approvals and Applicable Laws.

(k) Redeveloper has not been convicted in a criminal proceeding, and is not a named subject in a pending criminal proceeding (excluding traffic violations or other similar minor offenses).

(l) Redeveloper is not a party to or beneficiary of any contract or agreement with Borough which has been terminated due to a default by such entity or which is currently the subject of a dispute in which Borough alleges such default, nor is such entity an adverse party in any currently pending litigation involving Borough.

(m) Redeveloper has not been found in any civil or criminal action in or by any court or Governmental Body of competent jurisdiction to have violated any federal or State law or regulation relating to the sale of securities or commodities or been enjoined from engaging in any trade or business for any reason other than the violation of a contractual non-competition provision.

(n) Redeveloper does not have actual knowledge of any physical or legal condition of the Property, including, but not limited to, environmental contamination, provided same is Remediated by Borough, that would prevent Redeveloper from timely Completing the Project.

Section 5.2 Representations and Warranties by Borough. Borough hereby makes the following representations and warranties, understanding that Redeveloper has relied thereon as a material element in entering into this Agreement:

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

(b) (i) All requisite consents have been obtained in connection with the entering into of this Agreement and the instruments and documents referenced herein to which Borough is party, (ii) the consummation of the transaction contemplated hereby, and to the best of Borough's knowledge and belief, are permitted and/or authorized by all Applicable Laws, and (iii) after due inquiry, to the actual knowledge of Borough, there are no writs, injunctions, orders or decrees of any court or governmental body that would be violated by Borough entering into or performing its obligations under this Agreement.

(c) This Agreement is duly executed by Borough, and is valid and legally binding upon Borough and enforceable in accordance with its terms on the basis of laws presently in effect and the execution and delivery hereof shall not, with due notice or the passage of time, constitute a default under or violate the terms of any indenture, agreement or other instrument to which Borough is a party.

(d) Borough represents that, to its actual knowledge, there is no action, proceeding or investigation now pending or threatened in writing, nor any basis therefore, known or believed to

exist which questions the validity of this Agreement or any action or act taken or to be taken by Borough concerning the subject matter of or pursuant to this Agreement.

Section 5.3 Mutual Representations. In the event that any contractual provisions that are expressly required by Applicable Law have been omitted, then Borough and Redeveloper agree that this Redevelopment Agreement shall be deemed to incorporate all such clauses by reference and such requirements shall become a part of this Redevelopment Agreement. If such incorporation occurs and results in a change in the obligations or benefits of one of the Parties, Borough and Redeveloper agree to act in good faith to mitigate such changes in position in order to conform as nearly as possible to the terms of this Agreement at the time of execution. In the event, despite the efforts of the Parties to mitigate, such change results in a material adverse financial impact on either Party, either Party may terminate this Redevelopment Agreement by providing written notice to the other Party within thirty (30) days of the discovery of the deemed incorporation of any such clause.

ARTICLE VI COVENANTS AND RESTRICTIONS

Section 6.1 Redeveloper Covenants. Redeveloper covenants and agrees that:

(a) Redeveloper shall design, construct, and complete the Project in compliance with the Redevelopment Plan, Governmental Approvals, Applicable Laws and this Redevelopment Agreement.

(b) Subject to the terms of this Agreement, including, without limitation, Section 13.3, Redeveloper shall undertake with due diligence (i) the financing of the Project, (ii) construction and development of the Project, and (iii) to begin and complete each item in the Project Schedule on or prior to the date set forth in the Project Schedule (and for those items for which commencement dates only are given, such items shall be completed in a commercially reasonable period). All activities performed under this Redevelopment Agreement shall be performed in accordance with the level of skill and care ordinarily exercised by developers of first-class developments of the same type and nature as the Project.

(c) Upon transfer of title or of a leasehold interest in the Property in excess of five years (cumulatively) by Redeveloper, including following issuance of a Certificate of Completion, Redeveloper shall reimburse to Borough the amount expended by Borough on the Remediation.

(d) Redeveloper shall not seek any material changes that would cause the Project to become nonconforming under the Redevelopment Plan, without first obtaining the consent of Borough, to be granted in its sole discretion, and the Planning Board, if required.

(e) Redeveloper shall use diligent efforts to obtain all Governmental Approvals and Third Party Approvals requisite to the construction, development, use and occupancy of the Project, if any, including evidence reasonably satisfactory to Borough that the Project is in compliance with all Applicable Laws, including Environmental Laws.

(f) Subject to the terms of this Agreement, including but without limitation the provisions of Sections 2.4 and 2.6 of this Agreement, Redeveloper shall not suspend or discontinue the performance of its obligations under this Redevelopment Agreement (other than in the manner provided for herein) for any reason, including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, commercial frustration of purpose, or any damage to or destruction of the Project.

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

(h) Until a Certificate of Completion has been issued for the Project, and subject to any additional restrictions on conveyance, Redeveloper cannot sell, convey, lease, or otherwise transfer all or any portion of the Project without consent from Borough, except as otherwise permitted by this Agreement (including as set forth in Article XII).

(i) Redeveloper shall comply with all Applicable Laws that prevent discrimination against any person, or group of persons, on the basis of age, race, color, religion, creed, national origin, ancestry, physical handicap, familial status, sex, or sexual orientation in the sale, lease, sublease, rental, transfer, use, or occupancy of any Property in the Redevelopment Area, or any part thereof.

(j) Without duty of inquiry, Redeveloper shall not knowingly employ, hire or otherwise involve in the Project any Person that has previously been disbarred, suspended or otherwise ruled unable to participate in the process of bidding for, and being awarded, public contracts.

(k) Redeveloper shall promptly notify Borough of any material adverse change in its financial condition from the information provided to Borough by Redeveloper indicating Redeveloper's financial capability to develop, finance and construct the Project in furtherance of Borough's consideration in designating Dunellen Rescue Squad, Inc. as Redeveloper.

(l) Redeveloper shall make all payments in satisfaction of Redeveloper's financial obligations as set forth in this Redevelopment Agreement, including, but not limited to, payment of Borough Costs excluding the Initial Funds.

(m) For a period of fifty (50) years following Completion, Redeveloper shall not use the Property, Project Improvements, or any part thereof, for any use materially different from that presently engaged in by Redeveloper, in its capacity as a provider of emergency medical transportation and rescue services. Borough, in its reasonable discretion, shall determine whether a change, if any, in Redeveloper's use of the Property constitutes a "material change" from Redeveloper's current activity. Notwithstanding the foregoing, Redeveloper may rent space within the Project for a period not to exceed three (3) days for use as an event venue provided such occupancy occurs following the issuance of a Certificate of Occupancy as to the Project.

(n) Notwithstanding the foregoing, in the event of dissolution of Redeveloper, the Property and all improvements shall be distributed to a similar use not-for-profit entity in

accordance with Applicable Laws subject to Borough's Right of First Refusal as described in Section 7.5.

Section 6.2 Borough Covenants. Borough hereby covenants and agrees that:

(a) Borough shall cooperate with Redeveloper to ensure that (i) all Governmental Approvals, and, (ii) at no cost to Borough, additional financing sources, if necessary, are obtained for the Project, such cooperation to include consideration of an amendment to the Redevelopment Plan as necessary to implement the Project.

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

(c) Borough agrees that its respective officials will respond to any land use, environmental, infrastructure or building permit application filing and any related inspections requested by or on behalf of Redeveloper within reasonable time periods so as not to cause any undue delay in the processing of such application filings and inspection requests.

(d) Borough shall complete the environmental remediation of the Property at Borough's sole cost and expense in accordance with Section 8.1.

Section 6.3 Declaration of Covenants and Restrictions. Simultaneous with Redeveloper's acquisition of title to the Property, Redeveloper shall execute and record a Declaration of Covenants and Restrictions, approved by Borough (the "Declaration"), imposing Redeveloper's covenants on the Property, together with such other matters indicated in this Redevelopment Agreement as to be included in the Declaration, and the provisions hereof relating to Transfers, all as may be limited by the rights of a Holder granted hereunder in substantially the form attached hereto as **Exhibit E**. Redeveloper confirms that there exist no liens, including mortgages or deeds of trust, recorded against the Property as of the Effective Date, and Redeveloper agrees that none will be recorded prior to the recording of the Declaration.

Section 6.4 Effect and Duration of Covenants. It is intended and agreed that the covenants and restrictions set forth in Section 6.1 shall be covenants running with the land referenced in any deeds, leases or other documents of conveyance for the Property. All covenants in Section 6.1, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in this Agreement, shall be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by Borough and its successors and assigns, and any successor in interest to the Property, or any part thereof, against Redeveloper, its successors and assigns and every successor in interest therein, and any party in possession or occupancy of the Property or any part thereof. Notwithstanding the foregoing, the agreements and covenants set forth in Section 6.1 shall cease and terminate upon the issuance of a Certificate of Completion for such improvements, provided, however, that the covenant in Section 6.1(c), (i) and (o) shall remain in effect without limitation as to time and (m) for a period of fifty (50) years following issuance of a Certificate of Completion.

Section 6.5 Enforcement by Borough. (a) In amplification, and not in restriction, of the provisions of this Article VI, it is intended and agreed that Borough and its successors and assigns shall be deemed beneficiaries of the terms and covenants set forth in this Redevelopment Agreement, both for and in their own right but also for the purposes of protecting the interests of the community and other parties, public or private, in whose favor or for whose benefit such agreements and covenants have been provided. Such agreements and covenants shall run in favor of Borough for the entire period during which such agreements and covenants shall be in force and effect (and the Declaration shall so state), without regard to whether Borough has at any time been, remains, or is an owner of any land or interest therein. Borough shall have the right, in the event of any material breach of any such agreement or covenant beyond any applicable notice and cure period, to exercise all the rights and remedies and to maintain any actions or suits at law or in equity or other lawful proceedings to enforce the curing of such breach of agreement or covenant, to which it or any other beneficiaries of such agreement or covenant may be entitled.

(b) Upon Completion of the Project, the conditions that were found and determined to exist at the time the Redevelopment Area was determined to be in need of redevelopment shall be deemed to no longer exist and the conditions and requirements of N.J.S.A. 40A:12A-9 shall be deemed to have been satisfied with respect to the Project.

ARTICLE VII PURCHASE AND SALE OF THE PROPERTY

Section 7.1 Agreement to Sell and Purchase the Property. Subject to the terms and conditions herein, Borough agrees to sell the Property to Redeveloper, and Redeveloper agrees to purchase the Property from Borough, in consideration of Redeveloper's undertaking to construct the Project in accordance with the provisions of this Agreement and on the additional terms and conditions herein.

Section 7.2 Terms and Conditions of Purchase and Sale. (a) Purchase Price. The purchase price for the Property shall be an amount equal to One Dollar (\$1.00) (the "Purchase Price").

(b) Redeveloper Due Diligence. Redeveloper has the right to perform a physical investigation of the Property, including, but not limited to, soil and subsurface conditions of the Property ("Redeveloper's Due Diligence"). Redeveloper's Due Diligence shall commence on the Effective Date and shall expire after seventy-five (75) days. Redeveloper's Due Diligence shall be conducted by experienced and qualified professionals and such professionals shall deliver proof of professional liability, third party liability, automobile and worker's compensation insurance to Borough prior to entry on the Property. Additionally, should any of Redeveloper's Due Diligence involve soil boring, subsurface investigations or any other type of "invasive" testing, it shall first obtain the consent of Borough to such testing by providing Borough with a plan showing in reasonable detail the locations of the Property for which such testing is contemplated. Following completion of Redeveloper's Due Diligence, Redeveloper shall cause the portions of the Property affected by Redeveloper's Due Diligence to be restored to substantially the same condition as existed prior to the commencement of Redeveloper's Due Diligence. Redeveloper shall not use the services of a LSRP in connection with any inspection or investigation of the Property.

Redeveloper shall, in accordance with Section 11.1, defend, protect, indemnify and hold harmless Borough Indemnified Parties from any Claims, arising in connection with Redeveloper's Due Diligence as described herein.

(c) Time and Place of Closing. Closing on the Property shall occur on or about thirty (30) days after satisfaction of all of the conditions in Section 7.3 (the "Closing Date"). The Closing Date shall be automatically extended until such time as Borough has provided the requisite site approvals for the development, provided that Redeveloper has made application within the required time periods set forth herein, the application is compliant with this Agreement and Redeveloper is proceeding diligently with the approvals process. The Closing shall take place by mail or at such place as the Parties may mutually agree.

(d) Transfer of Ownership; Title. (i) At Closing, Borough shall give to Redeveloper a properly executed Bargain and Sale Deed with covenants as to grantor's acts for the Property (the "Deed"). Borough shall additionally give to Redeveloper an adequate affidavit of title, a properly executed Affidavit of Consideration or Exemption, a true copy of the Resolution of Borough Council authorizing the sale and conveyance, and such other documentation as may reasonably be requested by the title company. The Deed will contain a limited right of reverter to the Borough, which the Borough may, but is not obligated to, exercise in the event this Agreement is terminated by a reason of an Event of Default attributable to the Redeveloper's acts or omissions after conveyance of the Property to the Redeveloper. The Deed's limited right of reverter will specifically reference that it terminates upon issuance of a Certificate of Completion and issuance of a Certificate of Occupancy.

(ii) Borough shall transfer and convey to Redeveloper clear and marketable title to the Property. For purposes 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 Redeveloper (the "Title Company") at regular rates free of all claims and rights of others, except for: (1) normal utility easements servicing the Property which do not interfere with Redeveloper's intended use thereof, development, construction or operation of the Project; (2) ALTA 1992 preprinted exceptions not removed by a standard affidavit of title; and (3) any Permitted Exceptions (as hereinafter defined). Immediately following the Effective Date, Redeveloper shall order a title report and title insurance commitment and survey (the "Title Commitment"). Redeveloper shall provide Borough with a copy of the Title Commitment upon receipt thereof and shall notify Borough in writing of any objection to title within thirty (30) days following the receipt of the Title Commitment. Failure to notify Borough of an objection to title within such sixty (60) day period shall be deemed a waiver by Redeveloper of all objections to any lien, encumbrances or other exception revealed by the Title Commitment except for Monetary Encumbrances (as waived, or as otherwise deemed acceptable by Redeveloper, the "Permitted Exceptions"). In the event Redeveloper does raise title objections, Borough shall have fifteen (15) days from the date of receipt of Redeveloper's written objections in which to decide whether to remedy the title defect(s) identified in such objection; provided, however, that Borough shall be required to remove or have removed any Monetary Encumbrances. If Borough undertakes to remedy the title defect(s), Borough shall be entitled to postpone the Closing Date for a reasonable period of time in order to effectuate such remedy. In the event Borough is unable to remedy or cause to be remedied such title defect(s), then Redeveloper may either (a) waive the objection and proceed to Closing; or (b)

terminate this Agreement, in which case Redeveloper's designation as "redeveloper" (as defined in the Redevelopment Law) shall simultaneously and automatically terminate as to the Project.

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

(e) Building and Zoning Laws. The Property is being sold subject to the Redevelopment Plan and all other Applicable Laws.

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

(g) Brokerage Fees. Borough represents that, concerning the purchase of the Property, Borough has not dealt with or transacted any business with any broker.

(j) Bulk Sales Law. The Parties hereto acknowledge that the provisions of the New Jersey Sales and Use Tax Act, N.J.S.A. 54:32B-1 et seq. (the "Bulk Sales Act"), are applicable to the sale of the Property by Borough. Redeveloper shall submit the required Notification of Sale, Transfer or Assignment in Bulk (Form C-9600) and all required attachments with the New Jersey Department of the Treasury, Division of Taxation, Bulk Sales Section not later than fifteen (15) Business Days prior to Closing. Borough shall cooperate with Redeveloper in connection with such submission by supplying any information necessary for Redeveloper to file the required notice under the Bulk Sales Act. In the event that the New Jersey Division of Taxation requires Redeveloper to hold a portion of the Purchase Price in escrow for potential tax liabilities of Borough, Borough authorizes Redeveloper to comply with such requirement and Redeveloper's counsel or agent shall hold such amount, in escrow, and is authorized to disburse same upon receipt of authorizations, and in accordance with directions, from the Division of Taxation, and the balance of the escrow, if any, shall be paid to Borough. This paragraph shall survive the closing of title.

(k) Casualty and Condemnation. (i) If, prior to Closing, the Property or any part thereof suffers a casualty, Borough shall promptly notify Redeveloper thereof. If, in Redeveloper's reasonable judgment, such casualty materially interferes with Redeveloper's ability to develop the Project, Redeveloper shall have the option either to terminate this Agreement or to consummate the transaction contemplated by this Agreement notwithstanding such casualty. If Redeveloper elects to consummate the transaction contemplated by this Agreement, Redeveloper shall be entitled to receive the insurance and other proceeds associated with such casualty and Borough shall, at Closing and thereafter, execute and deliver to Redeveloper all required assignments of proceeds and other similar items. In the event the purchase and sale of Hamilton Sale Lot has already occurred and Redeveloper elects to consummate the transaction contemplated herein but the Property cannot be utilized due to such casualty, the Parties shall cooperate to find another suitable location for the Project using the insurance and other proceeds associated with such casualty.

(ii) If, prior to Closing, the Property or any part thereof, shall be condemned or subject to a written threat of condemnation, Borough shall promptly notify Redeveloper thereof. If, in Redeveloper's sole judgment, such condemnation materially interferes with Redeveloper's ability to develop the Project, Redeveloper shall have the option either to terminate this Agreement or to consummate the transaction contemplated by this Agreement notwithstanding such condemnation. If Redeveloper elects to consummate the transaction contemplated by this Agreement, Redeveloper shall be entitled to receive the condemnation proceeds and Borough shall, at Closing and thereafter, execute and deliver to Redeveloper all required assignments of proceeds and other similar items. In the event the purchase and sale of Hamilton Sale Lot has already occurred and Redeveloper elects to consummate the transaction contemplated herein but the Property cannot be utilized due to such condemnation, the Parties shall cooperate to find another suitable location for the Project using the condemnation proceeds.

Section 7.3 Conditions Precedent to Obligation of Redeveloper to Purchase the Property. The obligation of Redeveloper to close title hereunder shall be subject to the fulfillment on or before the Closing Date of all of the following conditions, any or all of which may be waived by Redeveloper in its sole discretion:

(a) Borough shall have delivered to Redeveloper all of the items required to be delivered to Redeveloper hereunder.

(b) All of the representations and warranties of Borough contained in this Agreement shall be true and correct in all material respects as of the Closing Date.

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

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

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

(f) Prior to Closing, Borough shall deliver the Seller's Pre-Closing Environmental Certification to Redeveloper in accordance with Section 8.4 hereof.

(g) Redeveloper shall have received all necessary financing for the Completion of the Project.

Section 7.4 Conditions Precedent to Obligation of Borough to Sell the Property. The obligation of Borough to close title hereunder shall be subject to the fulfillment on or before the Closing Date of all of the following conditions, any or all of which may be waived by Borough in its sole discretion:

(a) All of the representations and warranties of Redeveloper contained in this Agreement shall be true and correct in all material respects as of the Closing Date.

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

(c) Closing on the sale to Hamilton Street of the Hamilton Sale Lot shall have occurred.

Section 7.5 Right of First Refusal. (a) Grant of Right of First Refusal. (i) Upon conveyance of the Property, Redeveloper shall grant a right of first refusal, which shall be in recordable form (the "Right of First Refusal"), for the benefit of Borough and its assignees, that shall be exercisable in the event Redeveloper receives and determines to accept a bona fide written offer to purchase the Property from a third party. The Right of First Refusal shall be governed by the following terms and conditions:

(b) Promptly upon Redeveloper receiving a bona fide written offer to purchase the Property which Redeveloper intends to accept as described in Section 7.5(a), Redeveloper shall deliver written notice to Borough (the "Offer Notice") at the address stated in the preamble, by certified mail or reputable overnight courier with signature required. Borough may change such address for notice by written notice to Redeveloper given to the address of the Property by certified mail or reputable overnight courier with signature required. The Offer Notice shall include all relevant facts (including effective or other material dates) all other material financial terms. Such notice shall also include specifically and without limitation, copies of any letter of intent, agreement of sale and related documents, and any documents furnished by Redeveloper to the party making the bona fide written offer.

(c) No later than twenty-one (21) Business Days following receipt of Offer Notice, Borough may provide written notice to Redeveloper of its determination as to whether the Right of First Refusal will be exercised. If the Right of First Refusal is exercised by Borough, the terms and conditions set forth in the Offer Notice (unless otherwise modified to the mutual satisfaction of the Parties) shall govern the Borough's acquisition of the Property and no further negotiations concerning the terms and conditions relating to such acquisition shall be required; provided however, that the Parties shall negotiate in good faith with respect to a written agreement incorporating such terms and conditions of acquisition provided further however, that if the Offer Notice does not provide an outside date for execution of a definitive agreement, Redeveloper and Borough shall execute a definitive agreement within one hundred eighty (180) days following exercise of the Right of First Refusal.

(d) In the event that Borough rejects or fails to respond to the Offer Notice within twenty-one (21) Business Day period set forth herein (time being of the essence), Redeveloper may enter into the transaction contemplated by the Offer Notice upon the terms and conditions set forth therein.

**ARTICLE VIII
ENVIRONMENTAL OBLIGATIONS**

Section 8.1 Borough Remediation. The Parties acknowledge that the Property is environmentally contaminated and that Borough, at its sole cost and expense, shall be responsible for the Remediation (including, but not limited to, excavation, characterization, segregation, storage, permitted reuse or off-site disposal, as applicable) of any Hazardous Substances, which shall include soils, groundwater and vapor, discovered prior to the sale of the Property as described in Article VII in accordance and compliance with all applicable Environmental Laws to permit the issuance of an unrestricted use Response Action Outcome for Soils (“Soils RAO”) and all Remediation of groundwater such that the only remaining groundwater obligations are the ongoing sampling and monitoring of wells, together with required reporting, if any (“Groundwater Monitoring”), all as required by the NJ DEP. Additionally, Borough shall not cause any release or discharge of any Hazardous Substances at, on, under or upon the Property and any such release or discharge shall be promptly Remediated in accordance with applicable Environmental Laws. Borough shall diligently prepare and submit all applications and documentation required to comply with the requirements of all Environmental Laws in connection with the Remediation obligations as set forth in this Section 8.1. Borough’s Remediation, if any, shall be consistent with the proposed uses of the Property and shall implement the applicable standard of remedy as deemed appropriate by a LSRP or otherwise required by the NJDEP in accordance with applicable Environmental Laws. The Parties acknowledge that Borough may apply for certain public funds pursuant to the Hazardous Discharge Site Remediation Fund program and N.J.S.A. 58:10B-4 (“HDSRF”) to offset Remediation costs, the Parties acknowledging that the HDSRF program requirements mandate the expenditure of HDSRF funding prior to Closing. Borough reserves the right not to commence or complete the Remediation if the costs of same are determined by Borough, in its reasonable discretion, to exceed \$435,650.00. In the event that Borough makes such determination and Redeveloper has already conveyed the Hamilton Sale Lot to Hamilton Street, the Parties shall cooperate to find another suitable location for the Project, to which Borough shall make available the amount Borough currently anticipates spending on Remediation of the Property. Upon Closing and Completion of Borough’s Remediation obligations under this Section 8.1, Redeveloper shall accept the Property in an “as-in” condition.

Section 8.2 Redeveloper’s Remediation. Redeveloper shall be responsible for Remediation (including, but not limited to, excavation, characterization, segregation, storage, permitted reuse or off-site disposal, as applicable) of any Hazardous Substance, which shall include soils, groundwater and vapor, generated in connection with, caused by any construction activities associated with the Project in accordance and in compliance with all applicable Environmental Laws as well as Groundwater Monitoring as described in Section 8.1. Additionally, Redeveloper shall not cause any release or discharge of any Hazardous Substances caused by such construction activities (i) at, on, under or upon the Property or (ii) elsewhere within the Borough, and Redeveloper shall promptly notify Borough in writing and investigate and remediate same in accordance with applicable Environmental Laws. To the extent required, all costs for such Remediation, shall be the sole responsibility of Redeveloper, including ongoing compliance with engineering and/or institutional controls. Redeveloper shall diligently prepare and submit all applications and documentation required to comply with the requirements of all Environmental Laws in connection with the Remediation obligations as set forth in this Section 8.2. Redeveloper’s

Remediation, if any, shall be consistent with the proposed uses of the Property and shall implement the applicable standard of remedy as deemed appropriate by a LSRP or otherwise required by the NJDEP in accordance with applicable Environmental Laws. Redeveloper shall not be responsible for any pre-existing environmental condition existing on the Property prior to Closing, unless caused by Redeveloper.

Section 8.3 Indemnification. The Parties shall defend, protect, indemnify and hold harmless each other from any Claims which may be sustained as a result of any environmental conditions on, in under or migrating to or from the Property to the extent that any such liabilities, obligations, claims, damages, losses, proceedings or costs attached to a Party as a result of their respective obligations under Section 8.1 or 8.2 or the actions or omissions of a Party pursuant to Section 8.1 and 8.2, including, without limitations, Claims brought by any third party.

Section 8.4 Seller's Pre-Closing Environmental Certification. Borough shall deliver a letter issued and certified by the Licensed Site Remediation Professional responsible for oversight of the Remediation of the Property ("Seller's Pre-Closing Environmental Certification") which shall confirm that the Remediation is being performed with all diligence and in compliance with all Laws. It shall further state that the only remaining conditions to the completion of Borough's Remediation are (i) the issuance of a Soils RAO; (ii) the establishment of any required long-term groundwater monitoring system; and (iii) such other conditions as NJDEP or the LSRP may require and that are not presently known and which shall not prohibit Redeveloper's commencement of construction or materially interfere with, restrict or prevent Redeveloper's intended use of the Property or impose any additional obligations upon Redeveloper.

ARTICLE IX REQUIRED UNDERTAKINGS

Section 9.1 Supervision. Redeveloper shall supervise and direct the contractors and subcontractors for the Project. Redeveloper shall use reasonable efforts to cause such contractors and subcontractors to (a) confine operations to within the Property, or areas appurtenant thereto, or to areas permitted by the Governmental Approvals and Applicable Laws, and (b) not unreasonably encumber the Property or areas appurtenant thereto with materials or equipment.

Section 9.2 Neighborhood Impacts. Redeveloper shall take all commercially reasonable steps to minimize negative effects that the construction of the Project may produce to the areas immediately surrounding the Property.

Section 9.3 Traffic. Redeveloper and Borough agree that the direction, flow and amount of traffic in and around the Property during the time of construction are an issue to be addressed during the construction of the Project. Redeveloper herein commits to exert commercially reasonable efforts to minimize the traffic effects of the Project upon the surrounding neighborhoods during construction.

Section 9.4 Rodent, Insect and Animal Control. Redeveloper will take all commercially reasonable steps necessary to minimize and control the migration of rodents, insects,

or other animals from the Property during the construction of the Project. Redeveloper will undertake to provide controls in accordance with all Applicable Laws and other construction standards such that the issue of rodent, insect and animal control is reasonably addressed prior to the Commencement of construction. Redeveloper agrees to coordinate this effort with Borough and the Middlesex County Department of Health.

Section 9.5 Illumination, Noise, Pollution or Damage. Redeveloper is mindful of the size of the Project and the potential effects that the construction of such an undertaking may have on the surrounding communities during construction. Therefore, Redeveloper agrees that it will take all steps reasonably necessary to minimize the passage of excessive or unwarranted illumination, noise or pollution into the surrounding communities during construction. Redeveloper shall take measures necessary to ensure that the improvements outside of the perimeter of the Property shall not be damaged or disturbed during construction. To the extent any damage or disturbance occurs outside of the perimeter of the Property as a result of Redeveloper's construction activities, Redeveloper shall repair or replace such damage or disturbance to its original condition at its sole cost and expense. Redeveloper shall be bound by any conditions imposed by the Planning Board, which has jurisdiction with respect to illumination issues related to the Project and will address the issue in the context of review of site plan applications.

Section 9.6 Maintenance and Landscaping. During construction but not during demolition and clearing of the Property, Redeveloper shall keep the Property free from any substantial accumulation of debris or waste materials. Following completion of construction, Redeveloper will be bound by any conditions imposed by the Planning Board, which has jurisdiction with respect to maintenance and landscaping issues related to the Project and will address the issue in the context of review of site plan applications.

Section 9.7 Speculative Development. Redeveloper represents its undertakings pursuant to this Agreement are for the purpose of redevelopment of the Property and not for speculation in land holding. Redeveloper shall not use the Property, or any part thereof, as collateral for an unrelated transaction.

Section 9.8 Statewide Non-Residential Development Fee. Redeveloper shall be responsible for the payment of any fees required pursuant to the New Jersey Statewide Non-Residential Development Fee Act, N.J.S.A. 40:55D-8.1 et seq., if applicable and as may be amended.

ARTICLE V INSURANCE

Section 10.1 Insurance Required.

(a) At all times during the construction of the Project, Redeveloper shall maintain commercial general liability insurance, naming Borough as an additional insured, insuring Borough against losses, costs, liabilities, claims, causes of action and damages for bodily injury and property damage on all property in the Property or related to the construction thereon, in the

amount of at least One Million Dollars (\$1,000,000.00) primary and Five Million Dollars (\$5,000,000.00) excess combined single limit coverage. Such insurance shall include blanket contractual liability coverage. All such policies shall be written to apply to all bodily injury, property damage, personal injury and other covered loss, including, but not limited to, claims of subcontractors, however occasioned, occurring during the policy term, shall be endorsed to add Borough as an additional insured, and to provide that such coverage shall be primary and that any insurance maintained by Borough shall be excess insurance only. Such coverage shall be endorsed to waive the insurer's rights of subrogation against Borough.

(b) At all times during the construction of the Project, Redeveloper or Redeveloper's contractors, shall maintain Comprehensive Automobile Liability Insurance covering all owned, hired and non-owned vehicles, with at least the following limits of liability: Bodily Injury Liability and Property Damage Liability in the amount of at least One Million Dollars (\$1,000,000) primary and Two Million Dollars (\$2,000,000) excess combined single limit coverage.

(c) Prior to the Commencement of the construction of the Project Improvements, Redeveloper shall furnish or cause to be furnished to Borough duplicate originals of Builder's Risk Insurance for the benefit of Redeveloper (subject to the interests of any Holder), during the term of construction, sufficient to protect against loss or damage resulting from fire and lightning, the standard extended coverage perils, vandalism, and malicious mischief. The limits of liability will be equal to one hundred percent (100%) of the replacement cost (to current building code) of the applicable Project Improvements, including items of labor and materials connected therewith, whether in or adjacent to the structure(s) insured, and materials in place or to be used as part of the permanent construction.

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

(e) All insurance policies required by this Section shall be obtained from insurance companies licensed in the State of New Jersey and rated at least A in Best's Insurance Guide or such lesser rated provider that is proposed by Redeveloper and is reasonably acceptable to Borough.

(f) All insurance policies required by this Section shall be non-assignable and shall contain language to the effect that (i) the policies are primary and noncontributing with any insurance that may be carried by Borough, (ii) the policies cannot be canceled or materially changed except after thirty (30) days prior written notice by the insurer to Borough, and (iii) Borough shall not be liable for any premiums or assessments. All such insurance shall have deductibility limits reasonably satisfactory to Borough and shall contain cross liability endorsements. Satisfactory evidence of such insurance shall be provided to Borough prior to the Commencement of Construction.

(g) Redeveloper's obligation to maintain insurance pursuant to, and in accordance with, this Section 10.1 shall terminate upon issuance of a Certificate of Completion with respect to the Project.

ARTICLE XI INDEMNIFICATION

Section 11.1 Redeveloper's Indemnity.

(a) Redeveloper covenants and agrees, at its sole expense, to pay and to indemnify, protect, defend and hold Borough and its employees, officers and agents (the "Borough Indemnified Parties") harmless from and against all Claims resulting from or in any way connected with the acquisition, condemnation, condition, use, possession, conduct, management, planning, design, construction, or installation, of the Project on the Property, or other cause of action arising from the nexus of Borough to Redeveloper as a result of this Redevelopment Agreement, including but not limited to, the death of any person or any accident, injury, loss, and damage whatsoever caused to any person or to the property of any person that shall occur on the Property and that, with respect to any of the foregoing, are directly related to or resulting from any alleged negligence or willful misconduct of Redeveloper, its agents, servants, employees, or contractors ("Indemnified Claim").

(b) In any situation in which Borough Indemnified Parties are entitled to receive and desire defense and/or indemnification by Redeveloper, Borough Indemnified Parties shall give prompt written notice of such situation to Redeveloper. Failure to give prompt notice to Redeveloper shall not relieve Redeveloper of any liability to indemnify Borough Indemnified Parties, unless such failure to give prompt notice materially impairs Redeveloper's ability to defend. Upon receipt of such notice, Redeveloper shall resist and defend any action or proceeding involving an Indemnified Claim on behalf of the Borough Indemnified Parties, including the employment of counsel reasonably acceptable to the Borough Indemnified Parties, and the payment of all expenses related to such defense. Redeveloper may compromise or settle any Indemnified Claim; except, in the case of any compromise or settlement that provides for any relief other than the payment of monetary damages or that provides for the payment of monetary damages as to which Borough Indemnified Parties will not be indemnified in full pursuant to this Article XI, the consent of Borough Indemnified Parties shall be required, in their sole discretion. All of the Borough Indemnified Parties shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such separate counsel shall be at the expense of the Indemnified Party unless the employment of such counsel is specifically authorized in advance by Redeveloper, provided, however, that if the defense of such action is assumed by Redeveloper's insurance carrier, employment of such separate counsel by Borough Indemnified Parties shall be at the sole discretion of such carrier, as provided in its endorsement of insurance. Redeveloper shall not be liable for any settlement of any such action effected without its consent, but if settled with the consent of Redeveloper or if there is a final judgment against Redeveloper in any such action, Redeveloper shall indemnify and hold harmless Borough Indemnified Parties from and against any loss or liability by reason of such settlement or judgment for which Borough Indemnified Parties are entitled to indemnification hereunder.

(c) Notwithstanding anything to the contrary in this Article XI, Redeveloper's indemnity shall not extend to any claims if caused by or as a result of the gross negligence, unlawful conduct or willful misconduct of Borough, Borough Representatives, or their respective employees, officers or agents.

Section 11.2 Survival of Indemnity. The provisions of this Article XI shall survive the termination of this Redevelopment Agreement due to an Event of Default by the indemnifying Party and shall exist until such time as Redeveloper's covenants under the Declaration are discharged as a result of the recording of a Certificate of Completion; provided, however, that until such time, such indemnity shall be binding on Redeveloper itself, each successor in interest to the Project, the Property, or any part thereof, and each party in possession or occupancy, only for such period as Redeveloper or such successor or party shall have title to the Property, the Project Improvements or any part thereof. Notwithstanding the foregoing, with respect to events that occur prior to the issuance of a Certificate of Completion for which Borough Indemnified Parties would be entitled to indemnification pursuant to this Article XI, Redeveloper's obligations in this Article XI shall survive the issuance of a Certificate of Completion.

ARTICLE XII RESTRICTIONS ON TRANSFER

Section 12.1 Prohibition Against Transfers. Redeveloper recognizes the importance of the Project to the general welfare of the community and that the identity of Redeveloper and its qualifications are critical to Borough in entering into this Redevelopment Agreement. Except for Permitted Transfers, prior to the issuance of the Certificate of Completion, Redeveloper shall not make any Transfers without the prior written consent of Borough, which consent shall not be unreasonably withheld, conditioned or delayed, provided, however, that these restrictions shall not apply following the issuance of the Certificate of Completion.

Section 12.2 Permitted Transfers. Redeveloper, without violating the provisions of Section 12.1 hereof, may effect the following Transfers ("Permitted Transfers"), without the necessity of further action by Borough, provided that the requirements set forth in Section 12.3 have been satisfied:

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

(b) a mortgage or mortgages and other liens and encumbrances (including mechanic's liens) for the purposes of financing the acquisition, development, construction and marketing of the Project;

(c) utility and other development easements;

(d) environmental covenants and restrictions imposed by a regulatory agency as a condition of any permit or approval;

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

Section 12.3 Notice of Permitted Transfers. Except as further set forth below, with respect to any Permitted Transfers, Redeveloper shall provide to Borough written notice thereof not later than twenty (20) days prior to such Permitted Transfer, including a description of the nature of such Permitted Transfer, and the name(s) and address(es) of the transferee and any parties, individuals and/or entities comprising such transferee. Redeveloper shall exercise diligent efforts with respect to the provisions of any documentation relating to the Permitted Transfer as Borough may reasonably request. Redeveloper shall not have the right to carry out a Permitted Transfer if an Event of Default has occurred or if there is a breach by Redeveloper hereunder that, if uncured, would give rise to an Event of Default.

Section 12.4 Transfers Void. Any transfer by Redeveloper in violation of this Redevelopment Agreement shall be a Redeveloper Event of Default and shall be null and void ab initio. Such default shall entitle Borough to seek all remedies available under the terms hereof, including termination of this Redevelopment Agreement, and Borough may also seek equitable relief to cause the reversal of the transfer. The Declaration shall contain a restriction against Transfers as set forth in Section 12.1 and, in addition, shall provide that in the event of any attempted transfer in violation of the restriction in Section 12.1, Borough shall be entitled to the ex parte issuance of an injunction restraining such Transfer, and the recovery of reasonable legal fees and related expenses of Borough in connection with any such legal action. Upon the recording of the Declaration in the Office of the Middlesex County Clerk, the provision affording such injunctive relief shall have the same force and effect as a Notice of Lis Pendens.

Section 12.5 Reimbursement on Transfer. Any transfer of title or of a leasehold interest in the Property in excess of five years (cumulatively) by Redeveloper, including following the issuance of a Certificate of Completion, shall require Redeveloper to reimburse to Borough the amount expended by Borough on the Remediation, which amount shall be inserted in the Declaration at Closing.

ARTICLE XIII EVENT OF DEFAULT; REMEDIES

Section 13.1 Events of Default. Either of the Parties shall have the right to declare the other Party in default of this Agreement if any of the following events (each an “Event of Default”) occur:

(a) Subject to the tolling and other provisions provided in this Agreement, including but not limited to Section 2.4, a material failure of either Party to substantially observe and perform any covenant, condition, representation, warranty or agreement hereunder and continuance of such failure for thirty (30) days after receipt by the defaulting party of a written notice of default (the “Default Notice”) from the non-defaulting party specifying in sufficient detail, accompanied by any relevant documentation therefore, of (i) the nature and extent of such failure, (ii) what action is required to remedy such default and (iii) requesting that such failure be remedied; provided, however, if the breach of any such covenant, condition, representation, warranty or agreement is one which cannot be completely remedied within thirty (30) days after such written notice has been given, it shall not be an Event of Default as long as the defaulting Party has commenced the cure within the thirty (30) day period after receipt of a Default Notice and is proceeding with due

diligence to remedy the same as soon as practicable but in no event later than the later of: (x) one hundred twenty (120) days after such written notice, or (y) a date agreed to by the Parties to reach compliance; or

(b) Subject to the tolling and other provisions provided in this Agreement, including but not limited to Section 2.4, Redeveloper materially defaults in or materially violates obligations with respect to design, development and construction of the Project in accordance with this Redevelopment Agreement, the Redevelopment Plan, Governmental Approvals or Applicable Law, and any such default, or violation shall not be cured, ended or remedied within sixty (60) days after written demand by Borough to do so, provided, however, if the default or violation is one which cannot be completely remedied within sixty (60) days after such written notice has been given, it shall not be an Event of Default as long as Redeveloper has commenced the cure within the sixty (60) day period after receipt of a Default Notice and is proceeding with due diligence to remedy the same as soon as practicable but in no event later than the later of: (x) one hundred twenty (120) days after such written notice, or (y) a date agreed to by the Parties, to reach compliance; or

(c) Subject to the tolling and other provisions provided in this Agreement, including but not limited to Section 2.4, Redeveloper's default results in an unauthorized Material Adverse Change of the Project Schedule, as the same may be modified or extended from time to time in accordance with this Agreement, or shall abandon or substantially suspend construction work for a period of sixty (60) consecutive days and any such default, or violation shall not be cured, ended, or remedied within sixty (60) days after written demand by Borough to do so, provided, however, if the default or violation is one which cannot be completely remedied within ninety (90) days after such written notice has been given, it shall not be an Event of Default as long as Redeveloper has commenced the cure within the sixty (60) day period after receipt of a Default Notice and is proceeding with due diligence to remedy the same as soon as practicable but in no event later than the later of: (x) one hundred twenty (120) days after such written notice, or (y) a date agreed to by the Parties, to reach compliance; or

(d) Redeveloper causes a Transfer or assignment prohibited under this Agreement and any such default, or violation shall not be cured, ended, or remedied within forty-five (45) days after written demand by Borough to do so; or

(e) Redeveloper or its successor in interest (except for third parties, if any, to which a portion of the Project has been conveyed in the ordinary course of business) fails to pay any real estate taxes, assessments, payments in lieu of taxes on the Property or any part thereof prior to the imposition of any penalty therefore, or shall place on the Property any encumbrance or lien unauthorized by this Agreement and such real estate taxes payments in lieu of taxes, encumbrance or lien have not been paid, removed or discharged or provision satisfactory to Borough made for such payment, removal or discharge within sixty (60) days after written demand by Borough to do so; or

(f) (i) Subject in all cases to Applicable Law, Redeveloper shall have applied for or consented to the appointment of a custodian, receiver, trustee or liquidator of all or a substantial part of its assets; (ii) a custodian shall have been legally appointed with or without consent of

Redeveloper; (iii) Redeveloper (1) has made a general assignment for the benefit of creditors, or (2) has filed a voluntary petition in bankruptcy or a petition or an answer seeking an arrangement with creditors or has taken advantage of any insolvency law; (iv) Redeveloper has filed an answer admitting the material allegations of a petition in any bankruptcy or insolvency proceeding; (v) Redeveloper shall take any action for the purpose of effecting any of the foregoing; (vi) a petition in bankruptcy shall have been filed against Redeveloper and shall not have been dismissed or stayed for a period of one hundred twenty (120) consecutive days from the date of filing; (vii) an order for relief materially affecting the rights of Borough under this Redevelopment Agreement shall have been entered with respect to or for the benefit of Redeveloper, under the United States Bankruptcy Code; (viii) an order, judgment or decree shall have been entered, without the application, approval or consent of Redeveloper, by any court of competent jurisdiction appointing a receiver, trustee, custodian or liquidator of Redeveloper, or a substantial part of its assets and such order, judgment or decree shall have continued unstayed and in effect for any period of ninety (90) consecutive days; or (ix) Redeveloper shall have suspended the transaction of its ordinary business activities for more than ninety (90) consecutive days.

(g) A representation made by Redeveloper in Article V was knowingly, after due inquiry, and materially false on the Effective Date.

(h) Redeveloper materially violates a covenant set forth in Article VI, subject to the notice and cure periods set forth above, to the extent applicable.

Section 13.2 Remedies Upon Default; Termination.

(a) Upon an Event of Default by Borough which is continuing and remains uncured beyond any applicable notice and cure dates, Redeveloper may take whatever action at law or in equity, as may appear necessary or desirable to enforce the performance or observance of any rights under this Agreement, including an action for specific performance or damages. Further, Redeveloper shall have the right to terminate this Agreement upon sixty (60) days' written notice to Borough, in which event the Declaration shall be null and void and Borough shall discharge same of record.

(b) Upon an Event of Default by Redeveloper which is continuing and remains uncured beyond applicable notice and cure dates, Borough may terminate this Agreement and/or take whatever action at law or in equity, as may appear necessary or desirable to enforce the performance or observance of any rights under this Agreement, including an action for specific performance or damages. Further, Borough shall have the right to terminate this Agreement upon sixty (60) days' written notice to Redeveloper, provided, however, that upon issuance of any Certificate of Completion, Borough shall no longer hold any right to terminate this Agreement for an Event of Default or otherwise.

(c) In the event that either Party exercises its right to termination pursuant to Section 3.1(d) and (e) and Section 5.3, the terminating Party shall provide the other Party with not less than thirty (30) days prior written notice of such election. Within thirty (30) days of such termination and in case the Initial Funds are insufficient to cover outstanding Borough Costs: (i) Redeveloper shall pay to Borough all outstanding Borough Costs minus remaining Initial Funds,

if any; and (ii) upon full payment of the Borough Costs, Borough shall return the balance of the amounts, if any, in the Escrow Account. In such case neither Party shall have any further rights, claims or obligations against the other Party arising out of this Redevelopment Agreement.

Section 13.3 Force Majeure. Performance by either Party hereunder shall not be deemed to be in default where delays or failure to perform are the result of the following acts, events or conditions or any combination thereof that has had or may be reasonably expected to have a direct, material, adverse effect on the rights or obligations of the Parties to this Redevelopment Agreement; provided, however, that such act, event or condition shall be beyond the reasonable control of the Party relying thereon as justification for not performing an obligation or complying with any condition required of such Party under the terms of this Redevelopment Agreement (“Force Majeure”):

(a) An act of God, lightning, blizzards, hurricane, tornado, earthquake, acts of public enemy, war (whether or not declared), terrorism, blockade, insurrection, riot or civil disturbance, sabotage or similar occurrence, but not including reasonably anticipated weather conditions for the geographic area of the Project, other than those set forth above;

(b) A landslide, fire, explosion, global pandemic, flood or release of nuclear radiation not created by an act or omission of either Party;

(c) The order, judgment, action or inaction and/or determination of any Governmental Body (other than Borough when acting in conformance with this Redevelopment Agreement) with jurisdiction within Borough, excepting decisions interpreting federal, State and local tax laws generally applicable to all business taxpayers, adversely affecting the construction of the Project; provided, however, such order, judgment, action and/or determination shall not be the result of the willful, intentional or negligent action or inaction of the Party relying thereon and that neither the contesting of any such order, judgments, action and/or determination, in good faith, nor the reasonable failure to so contest, shall constitute or be construed as a willful, intentional or negligent action or inaction by such party;

(d) The suspension, termination, interruption, denial or failure of or delay in renewal or issuance of any other Governmental Approval, provided, however, such suspension, termination, interruption, denial or failure of or delay in renewal or issuance shall not be the result of the willful, intentional or negligent action or inaction of the Party relying thereon and that neither the contesting of any such suspension, termination, interruption, denial or failure of renewal or issuance, in good faith, nor the reasonable failure to so contest, shall constitute or be construed as a willful, intentional or negligent action or inaction by such Party; provided further that delay in issuance of a Governmental Approval resulting from Redeveloper’s failure to make an administratively complete submission for a Governmental Approval shall not be an event of Force Majeure;

(e) Strikes, lockouts, slowdowns, labor unrest, or similar labor action by trade unions or any of their members, equipment manufacturers, suppliers of material and/or transporters of same;

(f) Delays of subcontractors due to any of the foregoing such causes, and actions or inactions by any federal, State or local governmental or quasi-governmental authority, including, but not limited to, utility providers, with respect to Governmental Approvals or the development of the Project, affecting the rights or obligations of Redeveloper or Borough hereunder, court orders, laws, rules, regulations, moratoria or orders of governmental or public agencies, bodies and authorities; or

(g) Delays caused by Redeveloper's or any of its contractors and subcontractor's inability to timely obtain construction materials due to supply chain failures that are the direct result of any of the foregoing causes.

Section 13.4 Remedies Cumulative. No remedy conferred by any of the provisions of this Redevelopment Agreement is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies.

Section 13.5 Litigation Costs. In the event of litigation in connection with this Agreement, each Party shall bear its own costs, expenses and attorneys' fees incurred in connection with such litigation.

Section 13.6 Mitigation. The Parties shall act reasonably to mitigate any damages that may be incurred as the result of an Event of Default hereunder.

Section 13.7 Survival of Termination. The provisions of this Article XIII shall survive the termination of this Redevelopment Agreement as a result of an Event of Default by Redeveloper.

Section 13.8 Use of Documents. Redeveloper hereby agrees that it shall provide to Borough copies of all documents, reports, studies and analyses prepared by it or on its behalf in connection with the Project. Upon termination of this Agreement, Redeveloper hereby agrees that Borough has the right to all such documents, including but not limited to the Governmental Applications and Governmental Approvals, without cost to Borough.

ARTICLE XIV MISCELLANEOUS

Section 14.1 Notices and Demands. A notice, demand or other communication under this Agreement by any Party to the other shall be in writing and shall be hand delivered by messenger (with receipt acknowledged in writing), delivered by overnight delivery service (guaranteeing overnight delivery, with receipt acknowledged in writing), or delivered personally, to the Parties at their respective addresses set forth herein:

If to Borough:

Borough of Dunellen

355 North Avenue
Dunellen, New Jersey 08812
Attn: Borough Clerk

with copies to:

John E. Bruder, Esq.
2 West Union Ave
Bound Brook, NJ 08805

Charles B. Liebling, Esq.
Windels Marx Lane & Mittendorf, LLP
120 Albany Street Plaza, Sixth Floor
New Brunswick, New Jersey 08901

If to Redeveloper:

Dunellen Rescue Squad, Inc.
415 North Avenue
Dunellen, New Jersey 08812
Attn: Daniel Pickett, President

with copy to:

John J. Sullivan, Jr., Esq.
Vastola & Sullivan
495 Union Avenue, Suite 2D
Middlesex, New Jersey 08846

Either Party may, from time to time (upon not less than seven (7) days' prior written notice given to the other Party pursuant to the terms of this Article XIV) change the address to which notices shall be sent or designate one or more additional or substitute persons to whom notices are to be sent.

Section 14.2 Conflict of Interest. No member, official or employee of the Borough shall have any direct or indirect interest in Redeveloper or this Agreement, nor participate in any decision relating to this Agreement that is prohibited by law.

Section 14.3 No Improper Consideration For Agreement. Redeveloper warrants it has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement, other than normal costs of conducting business and costs of professional services such as architects, engineers, financial consultants and attorneys. Redeveloper and Borough warrant that redeveloper has not paid or incurred any obligation to pay any officer or official of the Borough, any money or other consideration for or in connection with this Agreement, nor has Borough or any officer or official of the Borough has not received any such payment or accepted any such obligation.

Section 14.4 Non-Liability of Officials and Employees of Borough. No member, official, or employee of the Borough shall be personally liable to Redeveloper, or any successor in interest, in the event of any default or breach by Borough, or for any amount which may become due to Redeveloper or its successor, or on any obligation under the terms of this Agreement, unless such member, official, or employee shall have willfully acted unlawfully, in bad faith or in gross negligence.

Section 14.5 Non-Liability of Officials, Members and Employees of Redeveloper. No member, officer, director, or employee of Redeveloper shall be personally liable to Borough, or any successor in interest, in the event of any default or breach by Redeveloper or for any amount which may become due to Borough, or their successors, on any obligation under the terms of this Agreement, unless such officer, shareholder, director, or employee shall have willfully acted in bad faith or in gross negligence.

Section 14.6 Inspection of Books and Records. Borough shall have the right during normal business hours and subject to reasonable advance notice (but not less than fifteen (15) Business Days and not more frequently than once every quarter), and following execution of a confidentiality agreement reasonably satisfactory to Redeveloper, to inspect at Redeveloper's place of business, the books and records of Redeveloper pertinent to the purposes of this Agreement, including but not limited to construction contracts, books and records, leases, insurance policies, and agreements.

Such inspections shall be performed at the offices of the Party whose records are being examined and at a time and in a manner as to not unreasonably interfere with the business operations of the Party whose books and records are being inspected and be for a legitimate business purpose affecting the material interest of the Party seeking the inspection.

Section 14.7 Modification of Agreement. No modification, waiver, discharge, or amendment of this Agreement shall be valid unless the same is in writing, duly authorized, and signed by Redeveloper and Borough.

Section 14.8 Severability. To the extent that any article, section, subsection, clause, provision, or term of this Agreement or the application thereof to any party or circumstance shall, to any extent, be invalid or unenforceable, the remainder of any such article, section, subsection, clause, provision, or term of this Agreement or the application of the same to parties or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby and each remaining article, section, subsection, clause, provision, or term of this Agreement shall be valid and enforceable to the fullest extent permitted by law, provided that no such severance shall serve to deprive either of the Parties of the enjoyment of its substantial benefits under this Agreement.

Section 14.9 Successors Bound. This Agreement shall be binding upon the respective Parties hereto and their successors and assigns.

Section 14.10 Governing Law. This Agreement shall be governed by and construed by the laws of the State. Any legal action filed in this matter shall be heard in the Superior Court of New Jersey, Middlesex County Vicinage.

Section 14.11 Borough Approvals. All approvals or disapprovals required by Borough shall, unless otherwise stated herein, be valid if given in writing by Borough Representative or his/her authorized designee.

Section 14.12 Counterparts. This Agreement may be executed in counterparts. All such counterparts shall be deemed to be originals and together shall constitute one and the same instrument.

Section 14.13 Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto and supersedes all prior oral and written agreements between the parties with respect to the subject matter hereof.

Section 14.14 Waiver. No waiver made by any Party with respect to any obligation of any other Party under this Agreement shall be considered a waiver of any other rights of the Party making the waiver beyond those expressly waived in writing and to the extent thereof.

Section 14.15 Counting of Days; Saturday, Sunday, or Holiday. The word “days” as used in this Agreement shall mean calendar days unless a contrary intention is stated, provided that if the final date of any period provided herein for the performance of an obligation or for the taking of any action falls on a day other than a Business Day, then the time of such period shall be deemed extended to the next Business Day. The term “Business Day” as used herein means any day other than a Saturday, Sunday, or a day on which banks and public offices are not open under the laws of the State.

Section 14.16 Review by Counsel. This Agreement shall be construed and enforced in accordance with the laws of the State without regard to or any presumption or other rule requiring construction against the party drawing or causing this Agreement to be drawn since counsel for both Redeveloper and Borough have collectively reviewed same.

[Signature Page Follows]

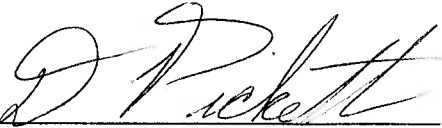
IN WITNESS WHEREOF, the Parties have caused this Redevelopment Agreement to be properly executed and their corporate seals affixed and attested as of the date first written above.

WITNESS:

REDEVELOPER:

DUNELLEN RESCUE SQUAD, INC.,
a New Jersey not for profit corporation

By:  _____

By:  _____
Name: Daniel Pickett
Title: President

ATTEST:

BOROUGH OF DUNELLEN

William M. Robins, RMC
Borough Clerk

By: _____
Jason Cilento, Mayor

IN WITNESS WHEREOF, the Parties have caused this Redevelopment Agreement to be properly executed and their corporate seals affixed and attested as of the date first written above.

WITNESS:

REDEVELOPER:

DUNELLEN RESCUE SQUAD, INC.,
a New Jersey not for profit corporation

By: _____

By: _____

Name: Daniel Pickett

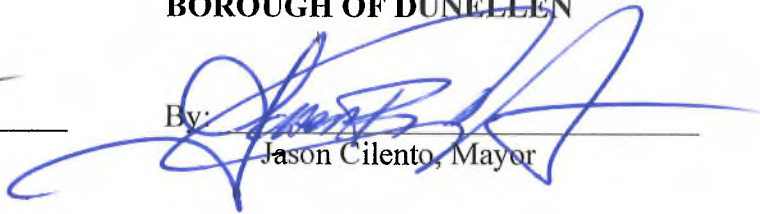
Title: President

ATTEST:

BOROUGH OF DUNELLEN



William M. Robins, RMC
Borough Clerk



By: _____

Jason Cilento, Mayor

EXHIBIT A

Certificate of Completion

Record and Return to:

Charles B. Liebling, Esq.
Windels Marx Lane & Mittendorf, LLP
120 Albany Street Plaza, 6th Floor
New Brunswick, New Jersey 08901

CERTIFICATE OF COMPLETION

Date: _____, 20__

Project: Construction of a three-story building, including but not limited to, garage bays, decontamination area, bathrooms, oxygen tank fill area, supply storage, classroom space, offices, kitchen area, and long-term bunk units (the “Project”).

Location: Block 49, Lot 29, more commonly known as 635 Bound Brook Road in the Borough of Dunellen, County of Middlesex (the “Property”).

Pursuant to Section 2.2(d) of the Redevelopment Agreement by and between the Borough of Dunellen (the “Borough”) and Dunellen Rescue Squad, Inc. (the “Redeveloper”), dated as of August 29, 2023 (the “Redevelopment Agreement”), the undersigned, an authorized representative of the Borough, certifies as of the date hereof that (all undefined terms used herein shall have the same meaning ascribed to them in the Redevelopment Agreement):

(i) the Project in its entirety has been completed as of _____, in accordance with the Redevelopment Agreement; and

(ii) such Completion has been further evidenced by a written certificate of Redeveloper and a certificate of Redeveloper’s engineer evidencing completion of the Project Improvements, which certificate is attached hereto as **Exhibit 1**:

The conditions determined to exist at the time the Redevelopment Area was determined to be an area in need of redevelopment no longer exist with respect to the Property. The Property shall no longer be subject to (i) any covenant for the benefit of Borough, set forth in the Declaration, as defined herein below, except as specifically indicated as surviving therein, and (ii) eminent domain for purposes of redevelopment as a result of those determinations.

The Declaration recorded in the office of the Middlesex County Clerk on _____ in Deed Book ____, Page ____ (the “Declaration”) is hereby discharged of record and is void and of no further force and effect except as specifically indicated as surviving therein.

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

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

ATTEST:

BOROUGH OF DUNELLEN

William M. Robins, RMC
Borough Clerk

By: _____
Jason Cilento, Mayor

Acknowledgment

STATE OF NEW JERSEY :

:SS

COUNTY OF MIDDLESEX :

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

EXHIBIT 1 (to Certificate of Completion)

Certificate of Redeveloper's Engineer

EXHIBIT B
[RESERVED]

EXHIBIT C

Project Schedule

	<i>Task</i>	<i>Completion Date</i>
1	Redeveloper and Borough execute Redevelopment Agreement.	"Effective Date"
2.	Redeveloper submits conceptual design and elevations to Borough pursuant to Section 3.3	Within 45 days of the Effective Date
3.	Completion of the Approved Concept Plan	Within 45 days following Redeveloper's submission of conceptual design and elevations to the Borough
4.	Redeveloper and Borough execute amendment to Redevelopment Agreement	Within 30 days of the completion of the Approved Concept Plan
5.	Borough adopts Redevelopment Plan Amendment (subject to Council approval)	Within 75 days of the execution of the amendment to Redevelopment Agreement
6.	Redeveloper submits Preliminary Site Plan to Borough Council pursuant to Section 3.2	Within 45 days of the Redevelopment Plan Amendment
7.	Redeveloper submits Preliminary/Final Site Plan Application to Planning Board	Within 95 days of the Redevelopment Plan Amendment
8.	Redeveloper submits remaining Governmental Applications for Project.	Within 90 days after receipt of Site Plan approval
9.	Redeveloper's receipt of all Governmental Approvals for Project excluding building permits	Within 90 days following Site Plan approval from Planning Board, with maximum of two 30-day extensions if necessary to satisfy conditions of approval
10.	Submit construction plans for building permits	The later of 60 days following (a) issuance of the Seller's Pre-Closing Environmental Certification or (b) receipt of all Governmental Approvals
11.	Redeveloper receives Construction Loan Commitment for Project, if applicable	Within 90 days after receipt of all Governmental Approvals
12.	Commencement of Construction	Within 60 days from issuance of the first building permit by Borough
13.	Completion of Construction	Within 60 months from issuance of the first building permit by Borough

EXHIBIT D

List of Borough Representatives

1. Mayor
2. Borough Administrator
3. Construction/Zoning/Code Officials

EXHIBIT E

Form of Declaration of Covenants

Record and Return to:

Windels Marx Lane & Mittendorf, LLP
120 Albany Street Plaza, 6th Floor
New Brunswick, NJ 08901
Attn: Charles B. Liebling, Esq.

**DECLARATION OF COVENANTS AND RESTRICTIONS
(as to Block 49, Lot 29 of the Borough of Dunellen,
County of Middlesex (collectively, the “Property”))**

This Declaration of Covenants and Restrictions (this “**Declaration**”) is made this ___ day of _____, 20___, by and between the **BOROUGH OF DUNELLEN**, a municipal corporation of the State of New Jersey with offices at the 355 North Avenue, Dunellen, New Jersey 08812, acting in the capacity of a redevelopment entity, together with its successors and assigns (the “**Borough**”), and

and

DUNELLEN RESCUE SQUAD, INC., a New Jersey not for profit corporation, having offices at 415 North Avenue, Dunellen, New Jersey 08812 (together with its permitted successors or assigns, the “**Redeveloper**” or “**Owner**”).

W I T N E S S E T H

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

WHEREAS, the municipal council of the Borough (“Borough Council”) directed the Borough planning board (“Planning Board”) to investigate whether certain properties within the Borough’s downtown area (the “Study Area”) constituted an “area in need of redevelopment” as defined in the Redevelopment Law; and

WHEREAS, Borough Council on May 5, 2003, adopted a resolution designating certain properties within the Borough as areas in need of redevelopment in accordance with the Redevelopment Law (“Redevelopment Area”); and

WHEREAS, Borough Council on August 9, 2004, adopted an ordinance approving and adopting the Dunellen Downtown Redevelopment Plan Phase I, which was thereafter amended, most recently on July 5th 2022, pursuant to Ordinance #2022-15 (as amended, the “Redevelopment Plan”) in accordance with the Redevelopment Law; and

WHEREAS, pursuant to this Agreement, Redeveloper has the right to acquire certain real property within the Redevelopment Area known and identified on the official tax maps of the Borough as Block 49, Lot 29, more commonly known as 635 Bound Brook Road (the “Property”); and

WHEREAS, the Parties acknowledge that the Property is environmentally contaminated and as a condition of sale, Borough has agreed to remediate the Property; and

WHEREAS, Redeveloper proposes to construct a three-story building, including but not limited to, garage bays, decontamination area, bathrooms, oxygen tank fill area, supply storage, classroom space, offices, kitchen area, and long-term bunk units (the “Project”) on the Property; and

WHEREAS, the Redevelopment Law requires that all agreements, leases, deeds and other instruments between a municipality and a redeveloper shall contain a covenant running with the land requiring, among other things, that “. . . the owner shall construct only the uses established in the current redevelopment plan . . . ”; and

WHEREAS, the Redevelopment Agreement executed between Redeveloper and Borough on August 29, 2023 (the “Redevelopment Agreement”) contains such a covenant by Redeveloper and its successor or assigns for as long as the Redevelopment Agreement remains in effect, as well as perpetual covenants by Redeveloper and its successor or assigns not to unlawfully discriminate upon the basis of age, race color creed, religion, ancestry, national origin, sex or familial status in the sale, lease, rental, use or occupancy of the Redevelopment Area or any building or structures erected thereon, to comply with Applicable Laws, Governmental Approvals, the Redevelopment Agreement and the Redevelopment Plan and to maintain in good condition any improvements made on the Property in accordance with the Redevelopment Agreement; and

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

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

NOW THEREFORE, IT IS AGREED AS FOLLOWS:

Section 1. Defined terms not otherwise defined herein shall have the meaning assigned to such terms in that certain Redevelopment Agreement dated as of August 29, 2023 by and between Borough and Redeveloper.

Section 2. Redeveloper covenants and agrees that:

(A) Redeveloper shall design, construct, and complete the Project in compliance with the Redevelopment Plan, Governmental Approvals, Applicable Laws and the Redevelopment Agreement.

(B) Subject to the terms of the Redevelopment Agreement, including without limitation Section 13.3 thereto, Redeveloper shall undertake with due diligence (i) the financing of the Project, (ii) construction and development of the Project, (iii) to begin and complete each item in the Project Schedule on or prior to the date set forth in the Project Schedule (and for those items for which commencement dates only are given, such items shall be completed in a commercially reasonable period). All activities performed under the Redevelopment Agreement shall be performed in accordance with the level of skill and care ordinarily exercised by developers of first-class developments of the same type and nature as the Project.

(C) Upon transfer of title or of a leasehold interest in the Property in excess of five years (cumulatively) by Redeveloper, including following issuance of a Certificate of Completion, Redeveloper shall reimburse to Borough the amount expended by Borough on the Remediation.

(D) Redeveloper shall not seek any material changes in the number and distribution of residential units and/or any other changes that would cause the Project to become nonconforming under the Redevelopment Plan, without first obtaining the consent of the Borough, to be granted in its sole discretion, and the Planning Board, if required.

(E) Redeveloper shall use diligent efforts to obtain all Governmental Approvals and Third Party Approvals requisite to the construction, development, use and occupancy of the Project, if any, including evidence reasonably satisfactory to Borough that the Project is in compliance with all Applicable Laws, including the Environmental Laws.

(F) Subject to the terms of the Redevelopment Agreement, including but without limitation the provisions of Sections 2.4 and 2.6 of the Redevelopment Agreement, Redeveloper shall not suspend or discontinue the performance of its obligations under the Redevelopment Agreement (other than in the manner provided for herein) for any reason, including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, commercial frustration of purpose, or any damage to or destruction of the Project.

(G) Redeveloper shall not use the Property, Project Improvements, or any part thereof in a manner that is inconsistent with the Redevelopment Plan and the Redevelopment Agreement.

(H) Until a Certificate of Completion has been issued for the Project, and subject to any additional restrictions on conveyance, Redeveloper cannot sell, convey, lease, or otherwise transfer all or any portion of the Project without consent from Borough, except as otherwise permitted by the Redevelopment Agreement (including as set forth therein in Article XII).

(I) Redeveloper shall comply with all Applicable Laws that prevent discrimination against any person, or group of persons, on the basis of age, race, color, religion, creed, national origin, ancestry, physical handicap, familial status, sex, or sexual orientation in the sale, lease, sublease, rental, transfer, use, or occupancy of any Property in the Redevelopment Area, or any part thereof.

(J) Without duty of inquiry, Redeveloper shall not knowingly employ, hire or otherwise involve in the Project any Person that has previously been disbarred, suspended or otherwise ruled unable to participate in the process of bidding for, and being awarded, public contracts.

(K) Redeveloper shall promptly notify Borough of any material adverse change in its financial condition from the information provided to Borough by Redeveloper indicating Redeveloper's financial capability to develop, finance and construct the Project in furtherance of Borough's consideration in designating Dunellen Rescue Squad, Inc. as Redeveloper.

(L) Redeveloper shall make all payments in satisfaction of Redeveloper's financial obligations as set forth in the Redevelopment Agreement, including, but not limited to, payment of Borough Costs excluding Initial Funds.

(M) For a period of fifty (50) years following Completion, Redeveloper shall not use the Property, Project Improvements, or any part thereof, for any use materially different from that presently engaged in by Redeveloper, in its capacity as a provider of emergency medical transportation and rescue services. Borough, in its reasonable discretion, shall determine whether a change, if any, in Redeveloper's use of the Property constitutes a "material change" from Redeveloper's current activity. Notwithstanding the foregoing, Redeveloper may rent space within the Project for a period not to exceed three (3) days for use as an event venue provided such occupancy occurs following the issuance of a Certificate of Occupancy as to the Project.

(N) Notwithstanding the foregoing, in the event of dissolution of Redeveloper, the Property and all improvements shall be distributed to a similar use not-for-profit entity in accordance with Applicable Laws subject to Borough's Right of First Refusal as described in Section 7.5 of the Redevelopment Agreement.

Section 3. It is intended and agreed that the covenants and restrictions set forth in Section 2 of this Declaration shall run with the land and that they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in the Redevelopment Agreement and this Declaration, be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by, Borough, its successors and assigns, and any successor in interest to the Property, or any part thereof, against Redeveloper, its successors and assigns and every successor in interest therein, and any person in possession or occupancy of the Property or any part thereof. The covenants and restrictions herein shall be binding on Redeveloper itself, each successor in interest to Redeveloper and each party in possession or occupancy, respectively, only for such period as Redeveloper or such successor or party shall be in possession or occupancy of the Property, the Project or any part thereof.

Section 4. In amplification, and not in restriction, of the provisions of Section 2 of this Declaration, it is intended and agreed that Borough and its successors and assigns shall be deemed beneficiaries of the covenants and restrictions set forth in the Redevelopment Agreement and this Declaration, both for and in their own right but also for the purposes of protecting the interests of the community and other parties, public or private, in whose favor or for whose benefit such covenants and restrictions have been provided. Such covenants and restrictions shall run in favor of Borough for the entire period during which such covenants and restrictions shall be in force and effect, without regard to whether Borough has at any time been, remains, or is an owner of any land or interest therein. Borough shall have the right, in the event of any material breach of any such covenant or restriction, to exercise all the rights and remedies and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breach of covenant or restrictions, to which it or any other beneficiaries of such agreement or covenant may be entitled.

Section 5. Upon redevelopment of the Property and completion of the Project, the covenants contained herein shall terminate and this Declaration will be discharged of record upon Redeveloper's receipt of a Certificate of Completion and termination of the Redevelopment Agreement pursuant to Section 2.2 thereof for the Project, provided, however, that the covenants in Section 2(C) and (I) shall remain in effect without limitation as to time and (M) for a period of fifty (50) years following issuance of a Certificate of Completion.

[signatures appear on successive page]

IN WITNESS WHEREOF, the parties hereto have caused this Declaration to be properly executed and their corporate seals affixed and attested as of the date first written above.

WITNESS:

REDEVELOPER:

DUNELLEN RESCUE SQUAD, INC.,
a New Jersey not for profit corporation

By: _____

By: _____

ATTEST:

BOROUGH OF DUNELLEN

William M. Robins, RMC
Borough Clerk

By: _____
Jason Cilento, Mayor

EXHIBIT F

Form of License Agreement

LICENSE AGREEMENT (this “Agreement”) made this ___ day of _____, 2023 (the “Effective Date”), by and between the **BOROUGH of DUNELLEN**, a municipal corporation of the State of New Jersey with offices at 355 North Avenue, Dunellen, New Jersey 08812, acting in the capacity of a redevelopment entity, and its respective successors and assigns (“Licensor”) and **DUNELLEN RESCUE SQUAD, INC.**, a New Jersey not for profit corporation, with offices at 415 North Avenue, Dunellen, New Jersey 08812 (“Licensee”; each a “Party” and together with Borough, the “Parties”).

WITNESSETH:

WHEREAS, pursuant to the Acquisition and Redevelopment Agreement dated as of August 29, 2023, by and between Licensor and Licensee, Licensee proposes to construct a three-story building, including but not limited to, garage bays, decontamination area, bathrooms, oxygen tank fill area, supply storage, classroom space, offices, kitchen area, and long-term bunk units (the “Project”) on certain real property known and identified on the official tax maps of the Borough of Dunellen as Block 49, Lot 29, more commonly known as 635 Bound Brook Road; and

WHEREAS, Licensee, as seller, and Hamilton Street Development LLC (“Hamilton Street”), as buyer, have negotiated the terms of an agreement for the purchase and sale of Block 66, Lot 14 known and identified on the official tax maps of the Borough of Dunellen, more commonly known as 415 North Ave, Licensee’s current address (the “Hamilton Sale Lot”); and

WHEREAS, between the date Licensee is required to vacate the Hamilton Sale Lot and the Project’s completion, Licensee needs a temporary location to relocate its operations; and

WHEREAS, Pursuant to Section 2.10 of the Redevelopment Agreement, Licensor has agreed to grant a license to Licensee to occupy and use, for a nominal fee, (i) a portion of Licensor’s Department of Public Works property or Fire Department property, in Licensor’s discretion, of sufficient size to accommodate a Licensor-owned garage structure of sufficient size to accommodate at least two (2) vehicles used by Licensee in its ordinary course of business (the “Garage”), with the Licensor to bring standard electric service to the Garage; and (ii) a parking area outside the Garage to accommodate a vehicle used by Licensee with standard electric and water hookups (the “Outside Parking Area”, together with the Garage, the “Licensed Property”); and (iii) if necessary, portion(s) of its property necessary for granting Licensee access to and from the Licensed Property (together with the Licensed Property, the “Licensed Areas”, all as designated by Licensor).

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Capitalized terms used herein not otherwise defined shall have the meanings set forth in the Redevelopment Agreement.

2. (a) Subject to terms of this Agreement, Licensor hereby grants unto Licensee a license to use the Licensed Areas. Licensee covenants and agrees to use the Licensed Areas solely in connection with its capacity as a provider of emergency medical transportation and rescue services and as parking for vehicles used in its ordinary course of business and as otherwise set forth herein. In exercising such access rights, Licensee shall use the paved walkways and driveways on the relevant portion(s) of Licensor's property to the extent possible.

(b) Licensee agrees to accept the Licensed Areas in an AS IS condition as of the date of this Agreement, subject to normal wear and tear, and releases Licensor from any claims relating thereto.

(c) Licensee shall not cause or permit any hazardous substance or hazardous wastes to be brought, kept or stored within the Licensed Areas in connection with this Agreement, and shall not engage in or permit any other person or entity to engage in any activity, operation or business within the Licensed Areas in connection with this Agreement which involves the generation, manufacture, refining, transportation, treatment, storage, handling or disposal of hazardous substances or hazardous wastes.

3. (a) The term of this Agreement shall commence on the Effective Date and expire on the termination of this Agreement.

(b) This Agreement shall terminate automatically upon the earlier of (x) thirty (30) days after the date of Completion and (y) thirty (30) days following the date on which Licensor provides notice to Licensee of its failure to satisfy its obligations under the Project Schedule in accordance with Section 2.2 and Exhibit C, subject to Section 2.4 of the Redevelopment Agreement. On or prior to such termination, Licensee shall cause any personal or movable property brought upon the Licensed Areas in connection with this Agreement to be removed from the Licensed Areas. Upon such termination, Licensor shall have the right to demolish or otherwise remove any improvements made to the Licensed Areas.

(c) At the expiration of the term of this Agreement, or upon the termination hereof, Licensee shall peacefully yield up to Licensor the Licensed Areas in good order and repair and broom clean, reasonable wear and tear and damage caused by fire or other casualty excepted.

4. Licensee shall pay to Licensor for the use of the Licensed Areas the sum of (\$1.00) (the "Fee").

5. (a) Licensor agrees to maintain and repair the exterior structure of the Garage at its sole cost and expense; provided, however, if any such maintenance or repair is required as a result of the willful misconduct or negligence of Licensee or its employees, servants, agents, contractors, guests, visitors or invitees, then Licensee shall reimburse Licensor for the cost of such maintenance or repair within ten (10) days after Licensee's receipt of a statement setting forth the cost of such maintenance or repair. Licensee agrees to maintain and repair the interior of the Garage and all

equipment and property, mechanical systems and other facilities within the Garage or running from the Garage, at its sole cost and expense; provided, however, if any such maintenance or repair is required as a result of the willful misconduct or negligence of Licensor or its employees, servants, agents, contractors, guests, visitors or invitees, then Licensor shall reimburse Licensee for the cost of such maintenance or repair within ten (10) days after Licensor's receipt of a statement setting forth the cost of such maintenance or repair.

(b) Licensee covenants and agrees that (i) no waste or damage shall be committed upon or to the Licensed Areas, (ii) the Licensed Areas shall be used for only the purpose set forth in Paragraph 2, (iii) the Licensed Areas shall not be used for any unlawful purpose and no violations of law or ordinance or duly constituted authority shall be committed thereon, (iv) Licensee shall conduct its business in compliance with all laws and in a good, orderly and lien-free manner, and shall keep the Licensed Areas in a clean and sanitary condition, and (v) Licensee shall not do or permit to be done anything upon the Licensed Areas which may subject Licensor to any liability for injury or damage to person or property, or result in a violation of any law, ordinance or regulation of any governmental authority, agency or department.

(c) Licensee shall not perform any repairs to the Licensed Areas, or make any alterations, additions or improvements thereto, without the prior written consent of Licensor. If Licensor elects to consent to any alteration, addition or improvement to the Licensed Areas, Licensor shall have the right to require Licensee to remove said alteration, addition or improvement upon the expiration or termination of this Agreement, to repair all damage to the Licensed Areas caused by said removal and to restore the Licensed Areas to their condition immediately before said alteration, addition or improvement, reasonable wear and tear excepted.

(d) Licensor and its, contractors, consultants and employees shall have the right, upon reasonable notice, to enter the Licensed Areas for inspection, maintenance and repairs; provided, however, such prior notice is not required in the case of an emergency.

6. No landlord-tenant relationship and no tenancy, leasehold or estate rights on the part of Licensee in the Licensed Areas shall at any time be construed to arise, exist or to have been created by the execution and delivery of this Agreement. Licensee hereby expressly acknowledges (i) that it has no interest or estate in the Licensed Areas, (ii) that this Agreement is not binding on any subsequent owner of the Licensed Areas, (iii) that the provisions of this Agreement, including the benefits and burdens, do not run with the land, (iv) that Licensee's possession and control of the Access Area is not exclusive, (v) that this Agreement shall not be deemed coupled with an interest under any circumstances and (vi) that this is a revocable license which can be terminated in accordance with the terms of this Agreement.

7. Licensor shall have the right, upon thirty (30) days prior written notice to Licensee, to have Licensee vacate the Licensed Area and have Licensee relocate to an alternative location for its equipment and personnel during the Gap Period. Licensor shall provide an alternative location, mutually acceptable to both parties, at Licensor's sole cost and expense. Once an alternative location is designated, Licensor and Licensee shall enter into an amendment to this Agreement redefining "Licensed Areas" as the new designated location.

8. Licensee expressly covenants that it shall not assign, transfer, pledge, hypothecate, encumber or otherwise dispose of this Agreement, or sublicense the whole or any part of the Licensed Areas, or permit, or suffer to permit, the Licensed Areas to be used by anyone other than those persons authorized hereunder without the express written consent of Licensor in each instance.

9. Licensee hereby agrees to indemnify and hold Licensor harmless from and against any and all liabilities, obligations, damages, penalties, claims, demands, fines, suits, actions, proceedings, orders, decrees, judgments, costs and expenses (including reasonable attorney's fees and disbursements) of any kind or nature arising out of (i) any act, omission, negligence or improper conduct of Licensee or its employees, servants, volunteers, officers, agents, contractors, guests, visitors or invitees, (ii) any personal injury or property damage occurring in or about the Licensed Areas caused by the negligence, omission or willful acts of Licensee or its employees, servants, volunteers, officers, agents, guests, visitors or invitees, (iii) any breach or violation of the terms and conditions of this Agreement by Licensee; or (iv) any other act, omission, occurrence, event or thing arising out of or in connection with Licensee's obligations under this Agreement, with Licensee's use of the Licensed Areas or with the conduct of Licensee or of its employees, servants, volunteers, officers, agents, guests, visitors or invitees.

10. Claims asserted against Licensor based in tort law for damages shall be subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, *et seq.*

11. (a) If Licensee shall default in the performance or observance of any agreement or condition on its part to be performed or observed under this Agreement and if Licensee shall fail to cure said default within five (5) days after written notice of said default from Licensor (or such longer period (not to exceed thirty (30) days) if said default is not of a nature that can be cured within said five (5) day period provided Licensee has commenced the cure of such default within said five (5) day period and thereafter prosecutes the curing of said default with due diligence), then Licensor may immediately, or at any time thereafter, and without further notice, terminate this Agreement, and Licensee shall forthwith forfeit the Licensed Areas but Licensee shall remain liable to Licensor for all money and other damages arising directly from said default.

(b) If after three (3) days following the expiration, termination or cancellation of this Agreement, Licensee has failed to remove any movable property brought upon the Licensed Areas by Licensee, then in such event, at Licensor's option, (i) said property shall be deemed abandoned by Licensee and shall become the property of Licensor, or (ii) Licensor may notify Licensee to remove said property at Licensee's own cost and expense. If Licensor elects to notify Licensee to remove said property and Licensee fails to do so within the period set forth in Licensor's notice, then, upon such failure, Licensor may, in addition to any other remedies available to it, remove said property as the duly authorized agent of Licensee, and store the same in the name and at the expense of Licensee or those claiming through or under Licensee under any usual or proper form of warehouse receipt, whether or not authorizing the sale of said property for non-payment of storage charges, and without in any way being liable for conversion or negligence of any person in caring for said property while in storage; in such event, Licensee agrees to pay to Licensor, upon demand, irrespective of length of time of storage, all removal and storage costs incurred by Licensor.

12. All notices, demands or other communications under this Agreement by any party to the other shall be in writing and shall be hand delivered by messenger (with receipt acknowledged in writing), delivered by overnight service (guaranteeing overnight delivery with receipt acknowledged in writing), or delivered personally, to the Parties at their respective addresses to the attention of the parties provided in the Redevelopment Agreement.

13. This Agreement shall constitute the entire contract between the parties and shall supersede any and all prior agreements between the parties hereto with respect to the granting of a license to Licensee to use the Licensed Areas.

14. No modification, waiver or amendment of this Agreement or any provision hereof shall be valid unless the same is in writing, and signed by both parties hereto.

15. If any provision of this Agreement shall be deemed to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby.

16. This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey.

[signatures appear on successive page]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day, month and year first above written.

LICENSOR:

BOROUGH OF DUNELLEN

BY: _____

Name: Jason Cilento

Title: Mayor

LICENSEE:

DUNELLEN RESCUE SQUAD, INC., a
New Jersey not for profit corporation

BY: _____

Name: Daniel Pickett

Title: President

[Signature Page to License Agreement