
REDEVELOPMENT AGREEMENT

By and Between

BOROUGH OF CHATHAM

and

CHATHAM RIVER ROAD URBAN RENEWAL, LLC

Dated as of February 8, 2021

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THIS REDEVELOPMENT AGREEMENT (this “Agreement” or “Redevelopment Agreement”) dated as of this **8TH** day of February, 2021 (the “Effective Date”), by and between the Borough of Chatham, in the County of Morris, State of New Jersey, having its offices at 54 Fairmount Avenue, Chatham, New Jersey 07928 (the “Borough”); and **CHATHAM RIVER ROAD URBAN RENEWAL, LLC**, a New Jersey limited liability company, having its offices at c/o BNE Real Estate Group, 16 Microlab Road, Livingston, New Jersey 07039 (the “Redeveloper,” together with the Borough, the “Parties,” and each a “Party”).

WITNESETH

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, in accordance with the Redevelopment Law, on September 5, 2018, the municipal council (the “Borough Council”) of the Borough, by Resolution #18-265, directed the Borough’s Planning Board (the “Planning Board”) to conduct a preliminary investigation to determine whether the properties identified on the tax map of the Borough as Block 135, Lots 9, 10 and 11 (together, the “Property” or “Redevelopment Area”) qualified as a non-condemnation area in need of redevelopment pursuant to the Redevelopment Law; and

WHEREAS, the Planning Board’s professional planning firm Topology performed an investigation of the Property and produced a report dated October 19, 2018, revised through November 7, 2018, entitled “Preliminary Investigation of River Road North, Chatham Borough, New Jersey” (the “Study Report”); and

WHEREAS, based upon the conclusions set forth in the Study Report, as well as the testimony provided at a public hearing held on November 7, 2018, the Planning Board adopted a resolution

recommending that the Borough Council designate the Property as a non-condemnation area in need of redevelopment; and

WHEREAS, on November 26, 2018, the Borough Council adopted Resolution #18-331 accepting the Planning Board's resolution and the Study Report and designating the Property as a non-condemnation area in need of redevelopment; and

WHEREAS, on May 28, 2019, the Borough Council adopted Resolution #19-204 identifying the Borough Council as the redevelopment entity of the Borough pursuant to the Redevelopment Law; and

WHEREAS, in order to facilitate the redevelopment of the Property, the Borough Council also authorized the preparation of a redevelopment plan for the Property pursuant to the authority granted under the Redevelopment Law; and

WHEREAS, Topology has prepared, and the Borough Council has adopted on June 10, 2019, by Ordinance #19-11, the redevelopment plan entitled "River Road Redevelopment Plan" dated May 6, 2019 (the "Redevelopment Plan"); and

WHEREAS, pursuant to the Redevelopment Law, the 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 development of the Property in accordance with the Redevelopment Plan; and

WHEREAS, Redeveloper is the assignee of Chatham River Road Partners, LLC which was designated the redeveloper pursuant to Resolution No. 20-184 of the Borough Council; and

WHEREAS, Redeveloper has or will acquire title to the Property in order to develop the Project as hereinafter defined; and

WHEREAS, Redeveloper has provided information consisting of documentation evidencing financial responsibility and capability with respect to the Project (as defined herein), 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, the Borough has determined to enter into this Agreement with Redeveloper, which specifies the rights and responsibilities of the Borough, designates Redeveloper as redeveloper of the Property and specifies the rights and responsibilities of Redeveloper with respect to the Project.

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 (as defined herein).

Section 1.2 Definitions. Words that are capitalized, and which are not the first word of a sentence, are defined terms. The following terms defined in the preambles hereto shall have the meanings assigned to such terms:

Agreement

Borough

Borough Council

Effective Date

Party or Parties

Planning Board

Property

Redeveloper

Redevelopment Agreement

Redevelopment Area

Redevelopment Law

Redevelopment Plan

Study Report

Unless specifically provided otherwise or the context otherwise requires, the following terms when used in this Agreement shall mean:

"Affiliate" means with respect to any Person, any other Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such Person. For purposes of this

definition, the term "control" (including the correlative meanings of the terms "controlled by" and "under common control with"), 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.

"Affordable Housing Requirements" shall be as defined in Section 8.11.

"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 and the Land Use Law (as amended from time to time); as applicable, 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.

"Borough Costs" shall be as defined in Section 4.1(b).

"Borough Indemnified Parties" shall be as defined in Section 10.1.

"Borough Representative" shall be as defined in Section 2.4(a).

"Certificate of Completion" shall mean a certificate in the form attached hereto as Exhibit A, issued by the Borough pursuant to Section 2.3.

"Certificate Denial Statement" shall be as defined in Section 2.3(f).

"Certificate of No Default" shall be as defined in Section 2.9.

"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 the Borough), causes of action, proceedings, costs and expenses (including, without limitation, reasonable attorneys' fees, disbursements and court costs), losses and injuries.

"Commence" or "Commencement" shall mean the mobilization of a construction force and/or machinery for the remediation of non-conforming environmental conditions, demolition of existing improvements and/or for construction of the Project.

"Community Contribution" shall mean a \$150,000.00 contribution to the Borough for purposes of public space beautification and/or improvements ("**Public Space Improvements**") which Community Contribution serving as an inducement to the Borough to enter into this Redevelopment Agreement. In the Borough's sole discretion, the Borough may permit Redeveloper to perform Public Space Improvements valued at \$150,000.00 in lieu of a monetary contribution.

"Complete" or "Completion" shall mean with respect to the Project or Project Area, the date that the Project may, in all material respects, be used and operated for its intended purpose and the 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 each of the dates set forth on Exhibit C for completion of steps in Completion of the Project.

"Concept Plan" means the conceptual plans attached hereto and made a part hereof as Exhibit B.

"Declaration" shall be as defined as in Section 6.3.

"Default Notice" shall be as defined as in Section 12.1(a).

"Design Standards" shall mean the general architectural design of the Project as illustrated on the (i) Concept Plan and (ii) the renderings attached hereto and made a part hereof as Exhibit K.

"Environmental Claim" shall mean any claim (in whatever form) made or asserted by any Person (including enforcement notices and proceedings) in connection with or with respect to environmental matters respecting the Project Area, including without limitation, any non-compliance (or alleged non-compliance) with Environmental Laws.

"Environmental Document(s)" shall mean any documents produced for or by NJDEP regarding the oversight, review or approval of Environmental Testing or Remediation of the Property in accordance

with Environmental Laws, including but not limited to the following (all to the extent applicable, if at all):

(i) a proposed preliminary assessment report prepared in accordance with the applicable requirements of the NJDEP and Environmental Laws; and/or (ii) a RAWP.

“**Environmental Laws**” shall mean all federal, state, regional, and local laws, statutes, ordinances, regulations, rules, codes, consent decrees, judicial or administrative orders or decrees, directives or judgments relating to environmental contamination, damage to or protection of the environment, environmental conditions, or the use, handling, processing, distribution, generation, treatment, storage, disposal, manufacture or transport of Hazardous Substances materials or wastes, including, but not limited to, the Comprehensive Environmental Response, *Compensation and Liability Act* (42 U.S.C. §§ 9601-9675); the *Resource Conservation and Recovery Act of 1976* (42 U.S.C. §§ 690f et seq.); the *Clean Water Act* (33 U.S.C. §§ 1251, et seq.); the *New Jersey Spill Compensation and Control Act* (N.J.S.A. 58:10-23.11, et seq.); the *Industrial Site Recovery Act, as amended* (N.J.S.A. 13:1K-6, et seq.); the *New Jersey Underground Storage of Hazardous Substances Act* (N.J.S.A. 58:10A-21, et seq.), the *New Jersey Water Pollution Control Act* (N.J.S.A. 58:10A-1 et seq.); the *New Jersey Environmental Rights Act* (N.J.S.A. 2A:35A-1, et seq.); the *Site Remediation Reform Act*, (N.J.S.A. 58:10C-1 et seq.) (the “**SRRA**”); and the rules and regulations promulgated thereunder, including but not limited to, the *Technical Requirements for Site Remediation* (N.J.A.C. 7:26E et seq.).

“**Escrow Account**” shall be as defined in Section 4.1(b).

“**Event of Default**” shall be as set forth in Section 12.1.

“**Financial Agreement**” shall mean a financial agreement between the Borough and Redeveloper in accordance with the LTTEL, as amended from time to time.

“**Force Majeure**” shall be as defined in Section 12.3.

“**Foreclosure**” shall be as defined in Section 4.4(d).

"General Contractor" shall mean the main contractor or prime contractor responsible for the day to day oversight of a construction site, management of vendors and trades and the communication of information to all parties throughout the course of the Project.

"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 approvals and Remediation required by NJDEP and/or other Governmental Bodies with jurisdiction to administer Environmental Laws; and any plans and specifications for the obtaining of building permits, for 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 Borough, 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, the Borough, State and Environmental Authorities.

"Groundwater RAO" means a site-wide unrestricted RAO with respect to the Property.

"Holder" shall be as defined in Section 4.4(a).

"Infrastructure Improvements" shall mean the preparation and installation on, in, under and to the Project Area of site work, building foundations and other on-site improvements as required by the Governmental Approvals, the Redevelopment Plan and Applicable Laws, and as illustrated on the Concept Plan including, but not limited to, (i) modifications to the radius at the corner of Watching and River Road to improve road circulation and reduce traffic, (ii) widening of River Road in the vicinity of

the Project Area, (iii) modernizing traffic control technology at the traffic control lights on Watching and River Roads subject to the review and approval of Morris County, and (iv) making commercially reasonable efforts in consultation with the Borough to relocate and bury all utility wires underground.

"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.

"LSRP" shall mean a Licensed Site Remediation Professional under the SRRA.

"LTTEL" shall mean the Long Term Tax Exemption Law, *N.J.S.A. 40A:20-1 et seq.*, as amended from time to time.

"Minority" shall be as defined in Section 8.2(b).

"NJDEP" shall mean the New Jersey Department of Environmental Protection.

"NJDOT" shall mean the New Jersey Department of Transportation.

"Performance and Maintenance Guarantees" shall be as defined in Section 4.3.

"Permitted Transfers" shall be as defined in Section 11.2.

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

"Progress Report" shall be as defined in Section 2.4(b).

"Project" shall be as defined in Section 2.1(a).

"Project Area" shall mean the property consisting of Block 135, Lots 9, 10, and 11.

"Project Costs" shall be as defined in Section 4.1(a).

"Project Improvements" means all buildings, structures, improvements and amenities necessary for the implementation and completion of the Project generally as shown on the conceptual plans attached hereto and made a part hereof as Exhibit B (the **"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.

"Qualified Minority Business Enterprise" shall be as defined in Section 8.2(b).

"Qualified Women Business Enterprise" shall be as defined in Section 8.2(b).

"RAO" means a Remedial Action Outcome issued by an LSRP.

"RAWP" means a remedial action work plan issued by an LSRP and approved by NJDEP.

"Remediation" means the demolition, removal, site clearance, disposition and related processing and other costs and charges regarding existing improvements, the land and any groundwater thereunder, and all necessary actions required under Environmental Laws or any other Applicable Law to investigate and clean up, remove, or otherwise respond to the known or suspected presence or threatened discharge of hazardous substances or hazardous wastes, including, as necessary, preliminary assessment, site investigation, remedial investigation, and remedial action, including "soft costs" such as professional fees, site audit costs, environmental testing, agency processing and the like.

"State" shall mean the State of New Jersey.

"Third Party Approvals" shall mean those approvals granted by a third party that is a 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.

"Total Project Costs" shall be as such term is defined under the LTTEL, *N.J.S.A. 40A:20-3(h)*.

"Transfer" shall be as defined in Section 11.1.

"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.

"Women" shall be as defined in Section 8.2(b).

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, 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, 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 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 in the ordinary course of business in connection with the development of the Project, other than the Borough), to implement and complete the redevelopment of the Project Area through: (i) the construction of up to 259 residential dwelling units, of which approximately 220 shall be market rate (approximately 98 one-bedroom units and 122 two-bedroom units)(the "Market Rate Units") and fifteen percent (15%), but not less than 36, of which will be low- and moderate-income units subject

to Section 8.11 (having bedroom counts/distributions in compliance with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq)(the “Affordable Units,” together with the Market Rate Units, the “Units”), as well as 490 parking spaces within the building, approximately 12,000 square feet of lobby and amenity space, a pool, and two (2) courtyards for outdoor recreation, and all ancillary Project Improvements and Infrastructure Improvements as approved by the Planning Board; (ii) the procurement of all applicable Governmental Approvals for all Project Improvements; (iii) financing, design, construction and Completion of all Project Improvements; (iv) marketing of the Project as necessary to ensure sufficient tenants to facilitate the financing, leasing, sale and occupancy of the improvements; (v) payment of the Community Contribution; and (vi) payment of the Borough Costs in accordance with, and subject to, the terms of this Agreement (collectively, the “Project”). 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 commercial developments.

(b) The Redeveloper shall implement those recommendations for sustainability in connection with Project construction and operation as set forth on Exhibit L attached hereto and designated as “Will Comply.” The Redeveloper will make best efforts to implement the remaining recommendations set forth on Exhibit L in consultation with the Borough Engineer. The Redeveloper’s best efforts shall be summarized in its periodic reports, pursuant to Section 2.4(c), to the Borough and shall be subject to audit by the Borough Engineer for compliance.

(c) The Project shall in all material respects be constructed consistent with this Agreement, the Redevelopment Plan, the Design Standards, and Applicable Law.

(d) The Project shall include provision for shuttle bus/jitney service to the New Jersey Transit Rail Station within, in the Redeveloper’s reasonable discretion, Chatham Borough or the City of Summit coinciding with weekday morning and evening peak-hour train schedules. The requirement for shuttle bus/jitney service as approved by the Planning Board shall be incorporated in the resolution memorializing the site plan approval. The shuttle bus/jitney service as approved by the Planning Board

shall be incorporated in the Declaration described in Section 6.3. Notwithstanding anything in this Agreement or the Declaration to the contrary, if at any point after Project stabilization and implementation of the shuttle bus/jitney service the Redeveloper determines in its reasonable discretion that the demand for shuttle bus/jitney service does not warrant continuation of such service, then the Redeveloper shall not be required to continue providing such shuttle bus/jitney service; provided however that, prior to discontinuance of the shuttle bus/jitney service, (i) the Redeveloper shall conduct a survey of the residents of the Project utilizing the shuttle service to assess the need and determining if discontinuance of same is warranted, a copy of which survey shall be submitted to the Borough by the Redeveloper together with a written determination by the Redeveloper regarding discontinuance of the shuttle bus/jitney service, and (ii) the Redeveloper reasonably considers in good faith the Borough's comments and/or recommendations in response to the Redeveloper's written determination regarding the discontinuance of shuttle bus/jitney service. For purposes of this paragraph, the term "Project stabilization" shall mean 90% occupancy of the Units.

(e) The Redeveloper, subject to the provisions hereof, is the designated Redeveloper and shall have the exclusive right to carry out the Project in accordance with the Redevelopment Plan, the Redevelopment Law and this Redevelopment Agreement. For the term of this Redevelopment Agreement, except as provided hereinabove and subject to termination of this Agreement pursuant to its terms, the Borough shall not have the right to designate any person or entity other than the Redeveloper (which the Redeveloper has been so designated), as a redeveloper of the Project Area or to enter into a redevelopment agreement pursuant to the Redevelopment Law with any such persons or entities.

Section 2.2 Term. This Agreement shall have a term of ten (10) years from the Effective Date subject to: (a) any extension by reason of a Force Majeure event in accordance with Section 2.5, or (b) any extension granted by the Borough, or its successor, pursuant to a request of Redeveloper which shall be governed by Section 1.3(g), or (c) the Project Schedule. Notwithstanding any of the foregoing, this Agreement shall terminate upon the issuance of Certificate of Completion.

Section 2.3 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 provisions of Section 2.5. Redeveloper shall use commercially reasonable efforts, subject to obtaining Governmental Approvals, to Commence construction no later than the date set forth in the Project Schedule.

(b) Redeveloper may modify the Project Schedule from time to time; provided that (i) any such modification shall not change the Completion Date for the Project without the prior written consent of the Borough, and (ii) any material changes to the Project Schedule shall be subject to the Borough's review and consent, provided that in the case of either clause (i) or (ii) herein, the Borough will not unreasonably withhold, condition or delay its consent.

(c) Subject to the provisions of Section 2.5, Redeveloper shall use commercially reasonable efforts to Complete the Project in accordance with the Project Schedule.

(d) If, subject to the provisions in Section 2.5, Redeveloper fails to meet a Completion Date for any reason or determines that it will fail to meet a Completion Date for any reason, Redeveloper shall promptly provide notice to the Borough stating: (i) the reason for the failure or anticipated failure to meet the 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 Dates. In such event the Borough's consent shall be required for the modification of the Completion Date(s), and such consent shall not be unreasonably withheld, conditioned or delayed. If the Borough does not so consent and Redeveloper fails to meet the Completion Date, then Redeveloper shall be in default hereunder.

(e) If Redeveloper has performed all of its duties and obligations under this Agreement and Completed the Project in its entirety, the Borough shall, as applicable, within thirty (30) days of the issuance of a Certificate of Occupancy for the final phase of 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.

(f) In the event the Borough does not issue any such Certificate of Completion, as applicable, within thirty (30) days after submission of written request by Redeveloper, the 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 the 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.

(g) 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 portion of the Redevelopment Area upon which the Project is located.

Section 2.4 Project Oversight. (a) Redeveloper agrees to hold a progress meeting or phone conference with designated representatives of the Borough (each a "**Borough Representative**," a complete list of whom are attached as Exhibit E) on a monthly basis, to report on the status of the Project and to review the progress under the Project Schedule. The parties will coordinate and agree upon a mutually-agreeable date and time for the progress meeting or call each month; and if a meeting, same shall be held at such office as is maintained by Redeveloper in the Borough, as designated by Redeveloper, or at the Project Area.

(b) Redeveloper shall keep the Borough Representative reasonably informed during construction on the progress of the Project, and upon written request from the Borough Representative (but not more than twice in one-year period), Redeveloper shall provide a written report including a description of activities completed, the activities to be undertaken, the status of all Governmental Approvals, status of all Remediation activities, 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 the Borough (each, a "Progress Report").

(c) The Borough and the Borough Representatives reserve the right to enter upon the Project Area, upon reasonable notice to Redeveloper and during business hours, to visually inspect the site for informational purposes and observe Remediation, demolition and construction activities, subject to the Borough's acknowledgment that the Project Area will be an active construction site, and Redeveloper shall not be liable or responsible to the 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 Project Area pursuant to the foregoing sentence will comply with all applicable reasonable health and safety rules established by the Redeveloper and/or General Contractors for personnel present on the Project Area. Such inspections and observations shall not relieve Redeveloper from its obligation to implement the Project and Remediate the Project Area in accordance with this Agreement. In no event shall the Borough's inspection of the Project under this Section 2.4(c) be deemed acceptance of the work or deemed to waive any right the Borough has under this Agreement. Representatives of any Governmental Body with permitting jurisdiction over the Project, the Project Area or the Remediation shall be permitted to enter the Project Area at any time.

Section 2.5 Tolling. 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 (a) the occurrence of an event of Force Majeure as defined in Section 12.3 or (b) an extension of the dates for Completion of any Project granted by the Borough, not to be unreasonably withheld, conditioned or delayed, pursuant to Section 2.3(d). If a delay only affects a portion of the Project, the extension granted hereunder shall only apply to the obligations so affected and Redeveloper shall, to the extent practicable, continue to perform its obligations with respect to the balance of the Project. Tolling by reason of Force Majeure must be asserted by notice given by the Redeveloper to the Borough, including, without limitation, any tolling asserted as a result of the COVID-19 emergency. Tolling by reason of Force Majeure may not exceed in the aggregate two years.

Section 2.6 Infrastructure Improvements. Redeveloper will design and construct the Infrastructure Improvements in a good and workmanlike manner and in substantial accordance with all Applicable Laws. Redeveloper acknowledges the presence of certain existing utility structures, including but not limited to electric power transmission lines, sewer transmission conduits or pipes, water lines or pipes, storm sewers, telephone transmission lines, television cable lines and other utilities, and agrees to undertake the appropriate measures to negotiate with, acquire, relocate or otherwise address the existence of these utilities and easements therefor, in order to complete the Project as provided by this Agreement. Site plan approval may be conditioned upon other on-site and off-site improvements specific to the Project, consistent with the authority of the Planning Board and consistent with the Land Use Law, as amended from time to time. If site plan approval is so conditioned, Redeveloper shall exercise reasonable efforts to ensure the effective coordination of such improvements and shall cooperate with the Borough in all respects to ensure that the implementation of the Project does not unreasonably interfere with the operation of the existing utilities. Redeveloper agrees to provide the Performance and Maintenance

Guarantees as required by the Planning Board, consistent with the authority of the Planning Board under the Land Use Law, as amended from time to time, and in accordance with the provisions of Section 4.3.

Section 2.7 Community Contribution. Prior to the issuance of the a building permit for the Project (the “**Capital Contribution Deadline**”), the Redeveloper must make the Community Contribution to the Borough. If the Redeveloper proposes to satisfy the Community Contribution by performing the Public Space Improvements, it shall submit such proposal to the Borough in writing at least sixty (60) days prior to the Capital Contribution Deadline, which proposal shall (i) detail the Public Space Improvements proposed, including proposed plans, (ii) documentation supporting a valuation of the proposed Public Space Improvements as no less than the monetary value of the Community Contribution, and (iii) a schedule for completion of the Public Space Improvements, which shall provide for completion of the Public Space Improvements simultaneously with the Project. The Borough shall not issue a Final Certificate of Completion until (y) the Community Contribution has been made, or (z) the Public Space Improvements are Complete, provided the Borough has approved in writing Redeveloper’s proposal to complete the Public Space Improvements in lieu of a Community Contribution.

Section 2.8 Prohibition against Suspension, Discontinuance or Termination. Redeveloper shall not suspend or discontinue its performance of its obligations under this Agreement for a period exceeding thirty (30) days or terminate this Agreement (other than in the manner provided for herein) for any reason except to the extent permitted by Section 2.5, but only to the extent and for the period of time permitted by Section 2.5.

Section 2.9 Certificate of No Default. At the request of either Party, the other Party shall deliver to the requesting Party a certificate to the effect that other party 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**”). The Certificate of No Default

shall be delivered to the requesting party within sixty (60) days of the requesting Party's written request therefor.

Section 2.10 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 the Borough's and Redeveloper's respective obligations hereunder or material decrease in the Borough's and Redeveloper's respective rights hereunder. The Borough specifically agrees to cooperate with the Redeveloper to effect changes to the Redevelopment Plan consistent with the instructions of the Redevelopment Plan and this Agreement.

ARTICLE III

PROJECT APPROVALS

Section 3.1 Governmental Approvals and Third Party Approvals. (a) Redeveloper shall use commercially reasonable effort to secure, or cause to be secured, any and all Governmental Approvals and Third Party Approvals for the Project in order to cause Commencement, Completion and Remediation of the Project and Project Area in accordance with the Project Schedule and the provisions of Section 2.3.

(b) The 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 site 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 the Borough. Attached as Exhibit B are the Concept Plan for the Project which has been approved by the Borough. Prior to submission of any Governmental Applications that are materially inconsistent with the Concept Plan, Redeveloper shall provide to the Borough a revised concept plan for its review and comment. Prior to submission of any application for site plan approval ("Site Plan"), Redeveloper shall first submit the proposed Site Plan to the Borough for review by its professional planner and engineer (the "Borough Professionals") to confirm compliance with this Redevelopment Agreement, the Redevelopment Plan, the Design Standards and Applicable Law. Within thirty (30) days of the Borough's receipt of Redeveloper's proposed Site Plan, the Borough Professionals shall confirm in writing that the Site Plan is or is not in compliance with this Redevelopment Agreement, the Redevelopment Plan, the Design Standards or Applicable Law, and, if not in compliance, the Borough Professionals shall set forth the reasons why the proposed Site Plan is not in compliance. The Planning Board shall not have jurisdiction to deem an application for Site Plan on the Project complete without a copy of a letter of compliance from the Borough Professionals. All Governmental Applications shall comply with the Site Plan approval. Redeveloper shall provide the Borough with copies of all other Governmental Applications promptly upon submission of same. Further, Redeveloper shall provide the Borough with copies of all hearing notices promptly upon receipt of same and shall promptly inform the Borough of the results of all 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; provided that 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 and the requirement 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 12.2(c) of this Agreement.

(e) In the event that Redeveloper's application for any Governmental Approval is denied or any Person brings an action that contests or challenges the grant of any Governmental Approval, 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 the Borough in accordance with the provisions of Section 12.2(c) of this Agreement.

Section 3.2 Borough Approval. The Borough has reviewed Redeveloper's Concept Plan and acknowledges that the Concept Plan comply with the Redevelopment Plan and with this Agreement. The Borough agrees to rely upon the Planning Board's review of all development applications, providing 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 the Borough prior to issuance of a building permit for the Project. Upon Completion, Redeveloper shall provide as-built drawings for the Project to the Borough.

Section 3.3 Financial Contingency. As of the Effective Date, Redeveloper has submitted to the Borough an application for a tax exemption in accordance with the LTTEL, N.J.S.A. 40A:20-1 *et seq.*,

as amended from time to time. The obligations of Redeveloper under this Redevelopment Agreement are specifically conditioned upon the execution of the Financial Agreement substantially in form and substance as set forth in Exhibit I and the approval of the tax exemption and Financial Agreement by the Borough as permitted by Applicable Law, which Financial Agreement shall prohibit Redeveloper or its successor-in-interest from seeking reimbursement pursuant to the Municipal Services Act, *N.J.S.A. 40:67-23.2, et seq.*, if the Project or any portion thereof covered by the tax exemption is converted to a form of ownership that qualifies as a "qualified private community" under the Municipal Services Act.

ARTICLE IV

FINANCING OF THE PROJECT

Section 4.1 Redeveloper Financial Commitment. (a) **Project Costs.** Except with respect to the provisions of Section 3.3, 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 Project Area, the cost of designing and constructing (including the costs of any construction observation services) all Project Improvements, all financing costs, all marketing and leasing costs for the Project Improvements, the Borough Costs and the Total Project Cost (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 the Borough).

(b) **Payment of Borough Costs.** Redeveloper agrees to provide funding for all reasonable and necessary out of pocket costs including but not limited to legal and other professional fees actually incurred by the Borough in connection with the Project (the "Borough Costs"), including any and all Borough Costs incurred prior to the execution of this Redevelopment Agreement including, but not limited to, the study of, and subsequent designation of, the Redevelopment Area as an area in need of redevelopment and the preparation and adoption of the Redevelopment Plan, the preparation of this Redevelopment Agreement and the preparation of the Financial Agreement. This Agreement supersedes any and all prior funding arrangements with the Borough as to such matters, if applicable.

Redeveloper represents that it will make timely payment or reimbursement to the Borough of the Borough Costs. Redeveloper shall fund an escrow account (the "Escrow Account") with an initial balance of Twenty-Five Thousand Dollars (\$25,000.00) and will pay (1) all prior outstanding Borough Costs, including any reasonable out of pocket costs incurred by the Borough prior to the Effective Date and (2) all current and future Borough Costs. If, when, and as often as may occur that the escrow account is drawn down to Five Thousand Dollars (\$5,000.00), then Redeveloper, upon the Borough's written request, shall within ten (10) business days thereafter provide to the Borough deposit funds sufficient to replenish the escrow account to the amount of Twenty-Five Thousand Dollars (\$25,000.00) for use in accordance with these terms, unless such time period shall be extended for good reason by the Borough in its sole discretion. Funds in the Escrow Account will be applied to the payment or reimbursement of the Borough Costs as provided in this Agreement. The Borough shall provide Redeveloper with invoices setting forth the costs incurred by the Borough which will be drawn down against the Escrow Account. Any dispute concerning payment of the 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, or upon termination of this Agreement, any money remaining in the Escrow Account shall be disbursed to Redeveloper, except that the Borough may retain, for not more than sixty (60) days after the issuance of the Certificate of Completion or the termination date, an amount sufficient to cover unpaid expenses.

Section 4.2 Governmental Approval Fees. Redeveloper shall pay all fees including but not limited to fees for permits, water connection, and sewer connection required by the Borough (in accordance with standard fees provided for in the Borough's municipal code) and any other Governmental Body for the construction and development of the Project in accordance with Applicable Laws. Redeveloper shall pay all other permit fees, which include any permit fees payable by the Borough or Redeveloper to all required Governmental Bodies other than the Borough, or for which the Borough is required to reimburse other Governmental Bodies or for which the Borough pays to the County of Morris or is required to pay other third party contractors retained by or on behalf of the Borough to perform

services which the Borough would otherwise be required to perform itself. The connection fee for sewer shall be \$4,500 per Unit, and the connection fee for water shall be \$1,300 per Unit. The connection fees have been calculated to reflect equitable and statutory adjustments for prior sewer and/or water consumption at the Property, and the Affordable Units, in accordance with Applicable Law.

Section 4.3 Performance and Maintenance Guarantees. Redeveloper shall furnish performance and maintenance guarantees as required by and in forms as specified in the Land Use Law, as amended from time to time, (collectively, the "**Performance and Maintenance Guarantees**"). If there occurs an Event of Default by Redeveloper, then the Borough shall thereafter have the right to the protections and guarantees available through and from the surety provided by the Performance and Maintenance Guarantees. The Performance and Maintenance Guarantees shall name the Borough beneficiary of the Performance and Maintenance Guarantees and of all rights, payments and benefits flowing or deriving from the Performance and Maintenance Guarantees. The Performance and Maintenance Guarantees must include coverage for any approved change orders to work material to Completion of the Project. The cost of obtaining the Performance and Maintenance Guarantees shall be borne by Redeveloper.

Section 4.4 Mortgage Financing; Notice of Default to Mortgagee; Right to Cure.

(a) **Mortgage Financing.** (i) Redeveloper, or its successor in interest, shall notify the Borough in advance of any financing secured by a mortgage or other lien instrument which it proposes to enter into with respect to the Project or any part thereof (the mortgagee thereunder or its affiliate, a "**Holder**") and, in any event, Redeveloper shall promptly notify the Borough of any encumbrance or lien (other than liens for governmental impositions) that has been created on or attached to any portion of the Project Area, whether by voluntary act of Redeveloper or otherwise, upon obtaining actual knowledge or notice of same.

(ii) To the extent reasonably requested by Redeveloper, the Borough shall execute such other agreements and/or documents (to the extent same are in form and content reasonably

acceptable to the Borough) as may be requested or required by any Holder; provided, however, that any such agreement or document shall not materially and adversely alter any of the rights or obligations of Redeveloper or the Borough under this Agreement.

(b) **Notice of Default to Holder and Right to Cure.** (i) Whenever the Borough shall deliver any notice or demand to Redeveloper with respect to any breach or default by Redeveloper under this Redevelopment Agreement, the Borough shall at the same time deliver to each Holder a copy of such notice or demand, provided that Redeveloper has delivered to the Borough a written notice of the name and address of such Holder. Each such Holder shall (insofar as the rights of the Borough are concerned) have the right at its option within ninety (90) days after the receipt of such notice, to cure or remedy, or to commence to cure or remedy, any such default which is subject to being cured and to add the cost thereof to the debt and the lien which it holds.

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

(c) **No Guarantee of Development, Construction or Completion of the Project.** A Holder shall have the right at its sole discretion to, but in no manner shall be obligated by the provisions of this Redevelopment Agreement to, develop, construct or Complete the Project (or portion to which its mortgage relates), or to guarantee such development, construction or Completion; nor shall any covenant

or any other provisions be construed to so obligate a Holder. Notwithstanding the foregoing, nothing contained in this Redevelopment Agreement shall be deemed to permit or authorize such Holder to undertake or continue the development, construction or Completion of the Project, or portion to which its mortgage relates (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 the Borough going forward from and after the date of such assumption with respect to the Project (or portion to which its mortgage relates) by written agreement reasonably satisfactory to the Borough and the Holder.

(d) **Foreclosure.** If a Holder acquires title to the Project Area by foreclosing its mortgage secured by the Project Area (or portion to which its mortgage relates), or takes title to the Project Area (or portion to which its mortgage relates) by deed-in-lieu of foreclosure or similar transaction (collectively a "Foreclosure"), the Holder shall have the option to sell the Project Area and the Project. The Holder (if it acquires and does not sell the Property) or Person acquiring the Project (if reasonably acceptable to the Borough), shall have the right to assume the obligations of Redeveloper under this Redevelopment Agreement in accordance with Applicable Law. In the event of a Foreclosure and provided the Holder or the purchaser is in compliance with this Redevelopment Agreement, the Borough shall not seek to enforce against the Holder or purchaser of such parcel any of the remedies available to the Borough pursuant to the terms of this Redevelopment Agreement available in connection with the events preceding the Foreclosure. The Holder, or such Person assuming the obligations of Redeveloper as to the parcel affected by such Foreclosure or sale, in that event must agree to Complete the Project in the manner provided in this Redevelopment Agreement, but subject to reasonable extensions of the scheduled Completion Date, and shall submit evidence reasonably satisfactory to the Borough that it has the qualifications and financial responsibility necessary to perform such obligations. Any such Holder or Person assuming such obligations of Redeveloper, properly Completing Project Improvements shall be entitled to a Certificate of Project Completion in accordance herewith. Nothing in this Redevelopment Agreement shall be

construed or deemed to permit or to authorize any Holder, or such other Person acquiring the Property and/or assuming such obligations of Redeveloper, to devote the Project Area, or any part thereof, to any uses, or to construct any improvements thereon, other than those uses or improvements provided for or authorized by this Redevelopment Agreement.

(e) **Statutory Protections.** Notwithstanding anything to the contrary contained herein, and in addition to all other rights and remedies of a Holder set forth in this Agreement, the provisions of *N.J.S.A. 55:17-1* to *N.J.S.A. 55:17-11*, inclusive, shall apply to this Agreement to protect the interests of any Holder.

ARTICLE V

GENERAL REPRESENTATIONS AND WARRANTIES

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

(a) Redeveloper is a limited liability company and an urban renewal entity, 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 applicable statutes, rules and regulations of the United States, the State or of any Borough having jurisdiction over and 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 Borough, or other Governmental Body which is in any respect material to the transactions contemplated hereby.

(g) To the best of Redeveloper's actual 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 materially and substantially 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 estimates that the cost of the Project is approximately \$99,768,000.00 and agrees that the cost and financing of the Project is the responsibility of Redeveloper, pursuant to and as set forth in this Redevelopment Agreement, the Financial Agreement and any other agreements between the Parties. The 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, as well as Remediating the Project Area in conformance with the requirements of this Agreement, the Redevelopment Plan, Governmental Approvals and Applicable Laws.

(k) The ownership of each member of Redeveloper owning ten percent (10%) or more of the ownership interest in Redeveloper is set forth on Exhibit D. Redeveloper shall, at such times as the Borough may request, furnish the Borough with a complete statement subscribed and sworn to by a managing member of Redeveloper, setting forth all of the ownership interests of Redeveloper owning ten percent (10%) or more of the ownership interest in Redeveloper.

(l) Neither Redeveloper nor its members have been convicted in a criminal proceeding, and none of them are a named subject in a pending criminal proceeding, (excluding traffic violations or other similar minor offenses), and, to the best of the Redeveloper's knowledge and belief the principals and members of Redeveloper, are not a target of a criminal investigation.

(m) Neither Redeveloper nor its members directly or beneficially, is a party to or beneficiary of any contract or agreement with the Borough which has been terminated due to a default by such individual, partnership or entity or which is currently the subject of a dispute in which the Borough alleges such default, nor is such individual, partnership or entity an adverse party in any currently pending litigation involving the Borough.

(n) Neither Redeveloper nor its members has been found in any civil or criminal action in or by a court or Borough 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.

(o) Neither Redeveloper nor its members has violated any Borough, State or federal ethics law and entering into this Redevelopment Agreement will not cause any such violation or result in a conflict of interest.

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

(a) The Borough has the legal power, right, authority and means to enter into this Agreement and the instruments and documents referenced herein to which the 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) Upon the execution of this Agreement by the Borough, all requisite action will have been taken by the Borough, and after all due and diligent investigation by the Borough, the Borough represents that (i) all requisite consents have been obtained in connection with the entering into this Agreement and the instruments and documents referenced herein to which the Borough is party, (ii) the consummation of the transaction contemplated hereby, and to the best of the Borough's knowledge and belief are permitted and/or authorized by all Applicable Laws, and (iii) after all due and diligent investigation and to the best knowledge of the Borough, there are no writs, injunctions, orders or decrees of any court or governmental body that would be violated by the Borough entering into or performing its obligations under this Agreement.

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

(d) The Borough represents that to the best of its knowledge there is no action, proceeding or investigation now pending or threatened, 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 the 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 the 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, the 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 12.3, 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), and (iv) to seek tenants for the Project Improvements. 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) Redeveloper shall undertake with due diligence the Remediation of the Project Area, if required, or, as applicable, enforce all rights it has against third parties with respect to Remediation of the Project Area.

(d) Redeveloper shall not seek a material change to the Project, without the Borough's written approval, which approval shall not be unreasonably withheld, conditioned or delayed.

(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 and Remediation of the Project Area, including evidence reasonably satisfactory to the Borough that the Project is in compliance with all Applicable Laws, including the Environmental Laws.

(f) Subject to the provisions of Sections 2.5 and 2.7 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 Project Area, 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, Redeveloper cannot sell, convey, lease, or otherwise transfer all or any portion of the Project without consent from the Borough, except as otherwise permitted by this Agreement (including as set forth in Article XII), provided that nothing contained in this Agreement shall prevent Redeveloper from entering into contracts or leases which are conditioned upon obtaining a Certificate of Occupancy or Certificate of Completion as applicable.

(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. This provision shall survive Termination of this Agreement.

(j) 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 the Borough of any material adverse change in its financial condition from the information provided to the Borough by Redeveloper or its predecessor entity, Chatham River Road Partners LLC, indicating Redeveloper's financial capability to develop, finance and construct the Project in furtherance of the Borough's consideration in designating the Redeveloper as the redeveloper of the Redevelopment Area.

(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 the Borough Costs.

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

(a) The Borough shall fully cooperate with Redeveloper to ensure that all Governmental Approvals and additional financing sources, if necessary, are obtained for the Project at no third party cost or expense to the Borough.

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

Section 6.3 Declaration of Covenants and Restrictions. Redeveloper shall execute and record a Declaration of Covenants and Restrictions, approved by the Borough (the "Declaration"), imposing the Redeveloper's covenants on the Project Area, 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 F.

Section 6.4 Effect and Duration of Covenants. It is intended and agreed, and the Declaration shall so expressly provide, that the covenants and restrictions contained in this Article VI shall be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by, the Borough, its successors and assigns, against Redeveloper, its successors and assigns and every successor in interest therein, and any party in possession or occupancy of the Project Area or any part thereof as set forth therein. Such agreements and covenants 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 Project Area, the buildings and structures thereon or any part thereof.

Section 6.5 Enforcement by the Borough. (a) In amplification, and not in restriction, of the provisions of this Article VI, it is intended and agreed that the 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 (and the Declaration shall so state) run in favor of the Borough for the entire period during which such agreements and covenants shall be in force and effect, without regard to whether the Borough has at any time been, remains, or is an owner of any land or interest therein. The 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) The covenants and restrictions contained in this Article VI shall run with the land and be referenced in any deeds, leases, or other documents of conveyance for the Project Area.

(c) 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

ENVIRONMENTAL OBLIGATIONS

Section 7.1 Remediation of Project Area. Redeveloper shall (a) be responsible for any and all Remediation required with respect to the development of the Project Area, whether known or unknown, located on, under or migrating from the Project Area to the extent required by the NJDEP or as determined to be necessary by the Redeveloper's LSRP, and (b) obtain a Groundwater RAO with respect to the Property and a RAWP providing for issuance of an unconditional site-wide unrestricted RAO for soils upon the Property to the extent required by the NJDEP or as determined to be necessary by the Redeveloper's LSRP. The Redeveloper shall provide copies of all Environmental Documents prior to issuance of the Final Certificate of Completion, it being agreed by the Parties that the issuance of an RAO shall not be a precondition to the issuance of the Final Certificate of Completion.

Section 7.2 Indemnification of Borough. Redeveloper shall defend, protect, indemnify and hold harmless the Borough Indemnified Parties from any Claims which may be sustained as a result of any environmental conditions on, in, under or migrating to or from the Project Area to the extent that any such liabilities, obligations, claims, damages, losses, proceedings or costs attached to the Borough Indemnified Parties as a result of this Agreement or the actions or omissions of Redeveloper or its General Contractors pursuant to this Agreement, including, without limitation, Claims against the Borough Indemnified Parties by any third party.

ARTICLE VIII

REQUIRED UNDERTAKINGS

Section 8.1 First Source Employment. Until the issuance of the Certificate of Completion, Redeveloper shall make good faith efforts to employ, and shall provide in its contract with its General Contractor that they must make good faith efforts to employ qualified residents of the Borough in the construction of the Project by Redeveloper. Redeveloper's good faith efforts will include without limitation cooperating with the Borough in job fairs and similar endeavors and giving adequate consideration to potential employees and businesses as referred by the Borough. In addition, consistent with market wages and to the extent feasible, Redeveloper shall make good faith efforts that qualified residents of the Borough, and businesses located in the Borough, are employed in Redeveloper's operation of the Project. Inclusion of the requirements in this Article VIII in Redeveloper's general contract agreements shall fully satisfy this obligation of Redeveloper under this Article VIII. Redeveloper, in its sole discretion, shall determine if, and the extent to which, it shall use union labor for the construction of the Project.

Section 8.2 Affirmative Action. Redeveloper during the construction of the Project shall undertake best efforts to comply with, and shall provide in its contracts with its General Contractors, an obligation to undertake good faith efforts to comply with the following:

(a) When hiring workers in each construction trade, or when engaging General Contractors, Redeveloper will use its good faith efforts to employ: (i) qualified Minority and Women workers in each construction trade or (ii) Minority and Women contractors consistent with the following goals (as to contractors) contracting with Qualified Minority Business Enterprises and Qualified Women Business Enterprises for twenty percent (20%) of the dollar value of the hard costs of total procurements to be awarded in connection with the Project.

For purposes of this section, the term "**Minority**" shall be as defined in N.J.S.A. 34:1B-48. "**Qualified Minority Business Enterprise**" shall mean a business that has its principal place of business in the State, is independently owned and operated, is at least fifty-one percent (51%) owned and controlled by

Minority group members, and is qualified financially and by training, knowledge and experience to successfully Complete the Project. The term "Women" shall be as defined in *N.J.S.A. 34:1B-48*. "Qualified Women Business Enterprises" shall mean a business that has its principal place of business in the State, is independently owned and operated is at least fifty-one percent (51%) owned and controlled by Women group members, and is qualified financially and by training, knowledge and experience to successfully Complete the Project.

(b) Redeveloper will undertake a program of local preference to facilitate entering into contracts with and/or purchasing good and services from local merchants and businesses located within the Borough, including preferences for local retail and restaurant businesses;

(c) Where applicable, Redeveloper and/or its General Contractors will at all times conform to Applicable Law with respect to affirmative action and equal employment opportunities requirements, and particularly those which are imposed as a condition to receipt of any government sponsored funding for the Project, notwithstanding any other provision of this Redevelopment Agreement to the contrary.

Section 8.3 Equal Opportunity Employment. Redeveloper agrees, during construction of the Project to undertake a good faith effort to comply with, and shall provide in its contracts with its General Contractors an obligation to undertake good faith efforts to comply with all Applicable Laws with respect to equal employment opportunities requirements, and particularly those which are imposed as a condition to receipt of any government sponsored funding for the Project, notwithstanding any other provision of this Agreement to the contrary, as follows:

(a) Redeveloper and/or its General Contractor will not discriminate against any employee of Redeveloper and/or its General Contractor or applicant for employment because of race, color, religion, sex, or national origin. Redeveloper and/or its General Contractor will take appropriate action to ensure that applicants are employed, and that employees are treated during employment, without regard to their age, race, color, religion, creed, national origin, ancestry, physical handicap, familial status, sex or sexual orientation. Such action shall include, the following: employment, upgrading, demotion, or transfer;

recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Redeveloper and/or its General Contractor agree to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause and any such notices provided by the Borough that are consistent therewith.

(b) Redeveloper and/or its General Contractor will, in any solicitations or advertisements for employees placed by or on behalf of Redeveloper, state that all qualified applicants will receive consideration for employment without regard to age, race, color, religion, creed, national origin, ancestry, physical handicap, familial status, sex or sexual orientation.

(c) The obligations contained in this Article VIII shall be binding on the General Contractor to the extent that any work is done by any General Contractor, and Redeveloper's and/or its General Contractor's obligation with regard thereto shall be to provide that any General Contract entered into by Redeveloper shall so provide.

Section 8.4 Supervision. Redeveloper and/or its General Contractor, Project and/or construction manager(s) acting on Redeveloper's behalf shall supervise and direct the contractors and subcontractors. Redeveloper and/or its General Contractor shall use reasonable efforts to cause the contractors and subcontractors to (a) confine operations in the Project Area, or areas appurtenant thereto, to areas permitted by the Governmental Approvals and Applicable Laws, and (b) not unreasonably encumber the Project Area or areas appurtenant thereto with materials or equipment.

Section 8.5 Neighborhood Impacts. Redeveloper shall take all commercially reasonable steps to minimize negative effects that the construction of the Project may produce in the areas immediately surrounding the Project Area.

Section 8.6 Traffic. Redeveloper and the Borough agree that the direction, flow and amount of traffic in and around the Project Area during the time of construction shall be addressed during the

construction of the Project. Redeveloper commits to exert commercially reasonable efforts to minimize the adverse traffic impacts of the Project upon the surrounding neighborhoods during construction.

Section 8.7 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 Project Area 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 the Borough's Department of Health.

Section 8.8 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 within the perimeter of the Project Area shall not be damaged or disturbed during construction. To the extent any damage or disturbance occurs within the perimeter of the Project Area as a result of Redeveloper's negligence during its 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 8.9 Maintenance and Landscaping. During construction but not during demolition and clearing of the Project Area, Redeveloper shall keep the Project Area 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 8.10 Speculative Development. Redeveloper represents its undertakings pursuant to this Agreement are for the purpose of redevelopment of the Project Area and not for speculation in land holding. Redeveloper shall not use the Project Area, or any part thereof, as collateral for an unrelated transaction. Nothing in this Section 8.10 is shall be deemed or construed to limit the Redeveloper's right to Transfer this Agreement and/or the Project as set forth in Section 11.2.

Section 8.11 Affordable Housing Requirement. The Redeveloper shall restrict fifteen percent (15%) of the units to low- and moderate-income residents (the "Affordable Housing Requirements") pursuant to the Fair Housing Act, *N.J.S.A.* 52:27D-301, *et seq.*, Chapter 69 of the Borough's Land Development Ordinance, and the Borough's Housing Element and Fair Share Plan. The Affordable Housing Requirements shall be fulfilled in compliance with the regulations set forth at *N.J.A.C.* 19:3, 19:4 and 19:5 then in effect, all as amended and supplemented from time-to-time.

ARTICLE IX

INSURANCE

Section 9.1 General Requirements. From and after the date of execution of this Redevelopment Agreement, Redeveloper shall provide and maintain, or cause to be maintained, insurance for the Project Area in the Redevelopment Area as provided below until a Final Certificate of Completion has been issued with regard to the Project.

Redeveloper shall furnish the Borough with satisfactory proof that it has obtained the insurance described below from insurance companies or underwriters reasonably satisfactory to the Borough. The Borough shall be an additional named insured party under all applicable insurance policies, except the insurance for workers compensation. Redeveloper shall furnish to the Borough certificates for the following types of insurance showing the type, amount, and class of operations insured, and the effective and expiration dates of the policies. The certificates shall be submitted promptly upon execution of this

Agreement and Redeveloper shall not be entitled to exercise any rights hereunder until the certificate has been received and verified. Specific reference to this Redevelopment Agreement shall be made in all policies.

Section 9.2 Insurance Required. (a) All insurance policies required by this Article IX shall be obtained from insurance companies licensed to conduct business in the State and rated at least A- in Best's Insurance Guide.

(b) All insurance policies required by this Section shall be non-assessable and shall contain language to the effect that (1) the policies are primary and noncontributing with any insurance that may be carried by the Borough, (2) to the extent available, that the policies cannot be canceled or materially changed except after thirty (30) days' written notice by the insurer to the Borough, and (3) the Borough shall not be liable for any premiums or assessments. All such insurance shall have deductibles reasonably satisfactory to the Borough. Redeveloper shall be responsible to pay any deductible amount under all insurance policies.

(c) Redeveloper shall furnish or cause to be furnished to the Borough evidence satisfactory to the Borough of Commercial General Liability Insurance, and Umbrella Excess Liability Coverage, and Cyber Liability Coverage insuring Redeveloper against losses, costs, liabilities, claims, causes of action and damages for bodily injury, property damage and personal injury on the Project Area in the Redevelopment Area, or related to the construction thereon, including claims made by subcontractor personnel with the coverages and in the amounts set forth in Exhibit H. 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 customary covered losses, however occasioned, occurring during the policy term, and shall be endorsed to add the Borough as an additional insured and to provide that such coverage shall be primary and that any insurance maintained by the Borough shall be excess insurance only. Such coverage shall be endorsed to waive the insurer's rights of subrogation against the Borough.

(d) Redeveloper shall furnish or cause to be furnished to the Borough evidence satisfactory to the Borough of Builder's Risk Insurance for the benefit of Redeveloper (subject and subordinate to the interests of any lender or 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 as set forth in Exhibit H, including items of labor and materials, whether in or adjacent to the structures insured, connected therewith, and materials in place or to be used as part of the permanent construction of the Project.

(e) Redeveloper shall furnish or cause to be furnished to the Borough evidence satisfactory to the Borough, and any General Contractors with whom it has contracted for the construction of the Project shall carry workers' compensation insurance as required by law and an employer's liability insurance endorsement with customary limits, and shall be endorsed with a waiver of subrogation clause for the Borough.

(f) Redeveloper shall furnish or cause to be furnished to the Borough evidence reasonably satisfactory to the Borough that any consultant with whom it has contracted for the design of the Project carries errors and omissions insurance, naming the Borough as an additional insured, with limits reasonably acceptable to the Borough.

ARTICLE X

INDEMNIFICATION

Section 10.1 Redeveloper's Indemnity. (a) Redeveloper covenants and agrees, at its sole expense, to pay and to indemnify, protect, defend and hold the 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 Project Area, or other cause of action arising from the nexus of the Borough to Redeveloper as a result of this Redevelopment Agreement or the

Financial 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 Project Area and that, with respect to any of the foregoing, are directly related to or resulting from any negligence or willful misconduct of Redeveloper, its agents, servants, employees, or contractors.

(b) In any situation in which the Borough Indemnified Parties are entitled to receive and desire defense and/or indemnification by Redeveloper, the Borough Indemnified Parties shall give prompt notice of such situation to Redeveloper. Failure to give prompt notice to Redeveloper shall not relieve Redeveloper of any liability to indemnify the Borough Indemnified Parties, 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 on behalf of the Borough Indemnified Parties, including the employment of counsel reasonably acceptable to the Borough Indemnified Parties, the payment of all expenses and the right to negotiate and consent to settlement. 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 the 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 the Borough Indemnified Parties from and against any loss or liability by reason of such settlement or judgment for which the Borough Indemnified Parties are entitled to indemnification hereunder.

(c) Notwithstanding anything to the contrary in this Article X, 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 the Borough, Borough Representatives, or their respective employees, officers or agents.

Section 10.2 Survival of Indemnity. The provisions of this Article X shall survive the termination of this Redevelopment Agreement.

ARTICLE XI

RESTRICTIONS ON TRANSFER

Section 11.1 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 the Borough in entering into this Redevelopment Agreement. The Parties acknowledge and agree that a change in ownership of Redeveloper from that which is noted in Exhibit D attached hereto, or any other act or transaction involving or resulting in a significant change with respect to the identity of the parties in control of Redeveloper is, for practical purposes, a transfer or disposition of the Project then owned by Redeveloper.

Except for Permitted Transfers, prior to the issuance of a Final Certificate of Completion, Redeveloper shall not, without the prior written consent of the Borough, which consent shall not be unreasonably withheld, conditioned or delayed: (a) effect or permit any change, directly or indirectly, in the control of Redeveloper (except in the case of death of an individual(s) having or affecting such ownership or control), (b) assign or attempt to assign this Redevelopment Agreement or any rights herein or in the Project Area, or (c) make any total or partial sale, lease, transfer or conveyance of the whole or any part of its interest in the Project Area or the Project Improvements (collectively a "Transfer"); provided, however, that these restrictions shall not apply following the issuance of the Certificate of Completion.

Section 11.2 Permitted Transfers. The following Transfers are exceptions to the prohibitions of this Article XI and the Borough's consent is deemed given hereby (the "Permitted Transfers"),

provided that notice of same is given to the Borough as required in Section 11.3 below: (a) a mortgage or related security (including conditional assignments to mortgagees or Holders required as a condition to the closing of the financing so secured) granted by Redeveloper to a Holder or of a Project tenant to a leasehold mortgagee; (b) mortgages, leases, and other liens and encumbrances for the purpose of financing the costs associated with, or incurred in connection with the acquisition, development, construction and or utilization of the Project; (c) the Declaration, provided that such Declaration shall otherwise be in compliance and consistent with the Redevelopment Plan and this Agreement; (d) utility and other development easements, including, but not limited to, a declaration of covenants, conditions and restrictions and/or cross-easements for access, parking and/or utilities; (e) an urban renewal entity created and controlled by Redeveloper as required by the LTTELL, as amended from time to time; (f) a lease to a tenant occupying premises in the Project for residential purposes as a part of the intended use of the Project, (g) an Affiliate of the Redeveloper, (h) transfers to family members or trusts established for the benefit of same for estate planning purposes, (i) master deed(s), (j) management agreements pertaining to the operation of the Project, or any part thereof, upon completion, and (k) the Transfer of any direct or indirect ownership interest in the Redeveloper, this Agreement or in any portion of the Project Area to a Transferee Controlled by, or controlling, the Redeveloper (or Controlled by, or controlling, one or more members of the Redeveloper with Control of the Redeveloper) and provided the Transferee is subject to the applicable terms of this Agreement. For the avoidance of doubt, the Borough recognizes and acknowledges that financing of the Project might include one or more additional equity participations, "mezzanine" debt, "preferred equity", and other financing arrangements in addition to a mortgage, all of which shall be Permitted Transfers hereunder provided that one or more members of the Redeveloper retains day to day Control of the Redeveloper.

Section 11.3 Notice of Permitted Transfers. With respect to any Permitted Transfers, Redeveloper shall provide to the Borough written notice at least twenty (20) days prior to such Permitted

Transfers, including a description of the nature of such Permitted Transfers, and the name(s) and address(es) of the parties and any parties, individuals and/or entities comprising such parties.

Section 11.4 Transfers Void. Any transfer of Redeveloper's interest in violation of this Article XI shall be an Event of Default of Redeveloper and shall be null and void *ab initio*. Such Event of Default shall entitle the Borough to seek all remedies available under the terms hereof, and those available pursuant to law or equity, including termination of this Redevelopment Agreement. In the absence of Permitted Transfer or specific written consent by the Borough, no such sale, transfer, conveyance or assignment of the Project Area or Project Improvements, shall be deemed to relieve Redeveloper from any obligations under this Redevelopment Agreement. The Declaration shall contain a restriction against transfers as set forth in this Article XI and, in addition, shall provide that in the event of any attempted transfer in violation of the restrictions in this Article XI the Borough shall be entitled to the seek issuance of an injunction restraining such transfer. Provided the Borough is adjudicated the prevailing party by the final and unappealable judgment of a court of competent jurisdiction the Borough is entitled the award of legal fees and related expenses of the Borough reasonably incurred by the Borough in connection with any such legal action. Upon the recording of the Declaration in the Office of the Morris County Clerk, the provision affording such injunctive relief shall have the same force and effect as a Notice of *Lis Pendens*. Upon recording of the Certificate of Project Completion, the provisions of the Declaration set forth in this Article XI shall be deemed terminated.

ARTICLE XII

EVENT OF DEFAULT, REMEDIES

Section 12.1 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 Section 2.5, material failure of either Party to substantially observe and perform any covenant, condition, representation, warranty or agreement hereunder except as set forth in subparagraph (c) below and continuance of such failure for forty five days (45) 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 forty five (45) 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 forty five (45) 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) 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 the 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) Redeveloper fails to substantially comply with 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 (subject to the provisions of Section 2.5) and any such default, or violation shall not be cured, ended, or remedied within sixty (60) days after written notice by the 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 the Borough to do so; or

(e) Redeveloper or its successor in interest (except for third parties to which a portion of the Project has been conveyed in the ordinary course of business) fails to pay (i) any real estate taxes, assessments, payments in lieu of taxes on the Project Area or any part thereof prior to the imposition of any penalty therefore, or shall place on the Project Area 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 the Borough made for such payment, removal or discharge within sixty (60) days after written demand by the Borough to do so, or (ii) any other monetary obligation required to be paid by Redeveloper hereunder within thirty (30) days after written demand by the 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 the 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 false on the Effective Date.

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

Section 12.2 Remedies upon Default; Termination. (a) Upon an Event of Default by the 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 the Borough, in which event the Declaration shall be null and void and the 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, the 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, the 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 Project Completion, the

Borough shall no longer hold any right to terminate this Agreement for an Event of Default or otherwise with regard to the Project.

(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: (i) Redeveloper shall pay to the Borough all outstanding Borough Costs; and (ii) upon full payment of all Borough Costs, the 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, except for Redeveloper's indemnifications set forth in Article VII and Article X.

Section 12.3 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 (such events being required to physically affect a Party's ability to fulfill its obligations hereunder; the consequential effect of such events (e.g., impact on market conditions) shall not be considered a Force Majeure event);

(b) A landslide, fire, explosion, flood 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 the Borough when acting in conformance with this Redevelopment Agreement) with jurisdiction within the 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. 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) Litigation instituted by an unrelated third party against Redeveloper or the Borough pertaining to the Project, any Governmental Approval or any agreement related thereto; or

(g) Default by the City or Redeveloper, as to the non-defaulting Party.

(h) A health pandemic emergency as may in the future be declared by the State of New Jersey or federal authorities.

Section 12.4 Default Notice to Holders. Upon the occurrence of an Event of Default by the Redeveloper, the Borough shall afford to any Holder all notices and rights in accordance with the terms of Section 4.4 of this Agreement.

Section 12.5 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 12.6 Litigation Costs. In the event that a Party successfully pursues an action to enforce any remedy provided in this Article XII that Party shall be entitled to seek payment by the other Party of all reasonable costs including attorneys fees and expenses incurred in connection with such action.

Section 12.7 Mitigation. The Parties shall act reasonably to mitigate any damages that may be incurred as the result of an Event of Default hereunder.

Section 12.8 Survival of Termination. The provisions of this Article XII shall survive the termination of this Redevelopment Agreement as a result of an Event of Default by Redeveloper.

Section 12.9 Use of Documents. Redeveloper hereby agrees that it shall provide to the Borough, copies of all documents, reports, studies, plans and analyses prepared by it or on its behalf in connection with the Project. Upon termination of this Agreement, Redeveloper hereby agrees that the Borough has all of the Redeveloper's rights to use all such documents, including but not limited to the Governmental Applications and Governmental Approvals, without cost to the Borough in furtherance of the Project.

ARTICLE XIII

MISCELLANEOUS

Section 13.1 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), delivered personally, or delivered by electronic transmittal or by facsimile transmission (evidenced by printed confirmation of receipt specifying the receiving telephone number or electronic mail address) to the Parties at their respective addresses (or facsimile numbers, at the case may be) set forth herein, except that notice of (a) default or an Event of Default and (b) the institution of legal proceedings may not be delivered by facsimile or electronic transmittal:

As to the Borough:

Borough of Chatham
54 Fairmount Avenue
Chatham, New Jersey 07928
Attention: Stephen W. Williams

with copies to:

Greenbaum, Rowe, Smith & Davis LLP
75 Livingston Avenue, Suite 301
Roseland, New Jersey 07068
Attention: Robert S. Goldsmith, Esq.

As to the Redeveloper:

Chatham River Road Urban Renewal LLC

C/O BNE Real Estate Group

16 Microlab Road

Livingston, New Jersey 07039

with copies to:

Inglesino, Webster, Wyciskala & Taylor LLC

600 Parsippany Road #214

Parsippany, NJ 07054

Attention: John P. Inglesino, Esq.

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 XIII) change the address or facsimile number to which notices shall be sent or designate one or more additional or substitute persons to whom notices are to be sent.

Section 13.2 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 13.3 No Improper Consideration 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 the 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 the Borough or any officer or official of the Borough has not received any such payment or accepted any such obligation.

Section 13.4 Non-Liability of Officials and Employees of the 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 the 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 13.5 Non-Liability of Officials, Members and Employees of Redeveloper. No member, officer, shareholders, director, partner, or employee of Redeveloper, and no member, officer, shareholders, director, partner or employee of the members of Redeveloper or the members of Redeveloper shall be personally liable to the 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 the Borough, or their successors, on any obligation under the terms of this Agreement, unless such member, officer, shareholder, director, partner, or employee shall have willfully acted in bad faith or in gross negligence.

Section 13.6 Inspection of Books and Records. The 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 twice every year), 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 13.7 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 the Borough.

Section 13.8 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 13.9 Successors Bound. This Agreement shall be binding upon the respective Parties hereto and their successors and assigns.

Section 13.10 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, Morris County Vicinage.

Section 13.11 Borough Approvals. All approvals or disapprovals required by the Borough shall, unless otherwise stated herein, be valid if given in writing by the Borough Representative or her authorized designee.

Section 13.12 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 13.13 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.

Section 13.14 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 13.15 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 13.16 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 the Borough have collectively reviewed same.

Section 13.17 No Broker. The parties represent that they have acted through no real estate broker, or business broker to bring about the transactions provided for in this Redevelopment Agreement and the Financial Agreement, and no commission or finder's fee is due to any third party.

Section 13.18 Exhibits. The following exhibits are attached hereto and incorporated herein as follows:

Exhibit A	Certificate of Completion
Exhibit B	Redeveloper's Concept Plan and Architectural Elevations
Exhibit C	Project Schedule
Exhibit D	Ownership Disclosure
Exhibit E	List of Borough Representatives
Exhibit F	Form of Declaration of Covenants
Exhibit G	[Intentionally omitted]
Exhibit H	Insurance Requirements
Exhibit I	Draft Financial Agreement
Exhibit J	[Intentionally omitted]
Exhibit K	Design Standards
Exhibit L	Sustainability Recommendations

[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.

BOROUGH OF CHATHAM

By: 

CHATHAM RIVER ROAD URBAN RENEWAL, LLC

By: 
Jonathan Schwartz
Member

EXHIBIT A

Certificate of Completion

Record and Return to:

John P. Inglesino, Esq.

Inglesino, Webster, Wyciskala & Taylor LLC

600 Parsippany Road #214

Parsippany, NJ 07054

CERTIFICATE OF COMPLETION

Date:

Project: Construction of up to 259 residential dwelling units, of which approximately 220 shall be market rate (98 one-bedroom units and 122 two-bedroom units) and fifteen percent (15%), but not less than 36, of which will be low- and moderate-income units (having bedroom counts/distributions in compliance with the Uniform Housing Affordability Control, N.J.A.C. 5:80-26.1 et seq), together with 490 parking spaces within the building, approximately 12,000 square feet of lobby and amenity space, a pool, and two (2) courtyards for outdoor recreation (the "Facility").

Location: Block 135, Lots 9, 10, and 11 in the Borough of Chatham, Morris County, New Jersey as shown on the tax maps of the Borough (the "Property")

Pursuant to Section 2.3(d) of the Redevelopment Agreement by and between the Borough of Chatham (the "Agency") and Chatham River Road Urban Renewal, LLC (the "Redeveloper"), dated as of _____, 20__ (the "Redevelopment Agreement"), the undersigned, an authorized representative of the Agency, 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 in compliance with Applicable Laws so that the Facility in its entirety may, in all material respects, be used and operated under the applicable provisions of the Redevelopment Agreement;

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

(iii) such Completion has been further evidenced by a written certificate of the Redeveloper and a certificate of the Redeveloper's engineer evidencing completion of the Facility, which certificate is attached hereto as Exhibit 1;

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

(v) a copy of the Certificate of Occupancy issued with respect to the Facility is attached hereto as Exhibit 2.

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

The Declaration recorded in the office of the Morris County Clerk on _____ in deed book _____, page _____ is hereby discharged of record and is void and of no further force and effect. This certificate is given without prejudice to any rights against third parties which exist on the date hereof or which may subsequently come into being.

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

WITNESS OR ATTEST:

THE BOROUGH OF CHATHAM

By: _____
_____, Borough Clerk

By: _____
_____, Mayor

Acknowledgment

STATE OF NEW JERSEY :

:SS

COUNTY OF MORRIS :

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

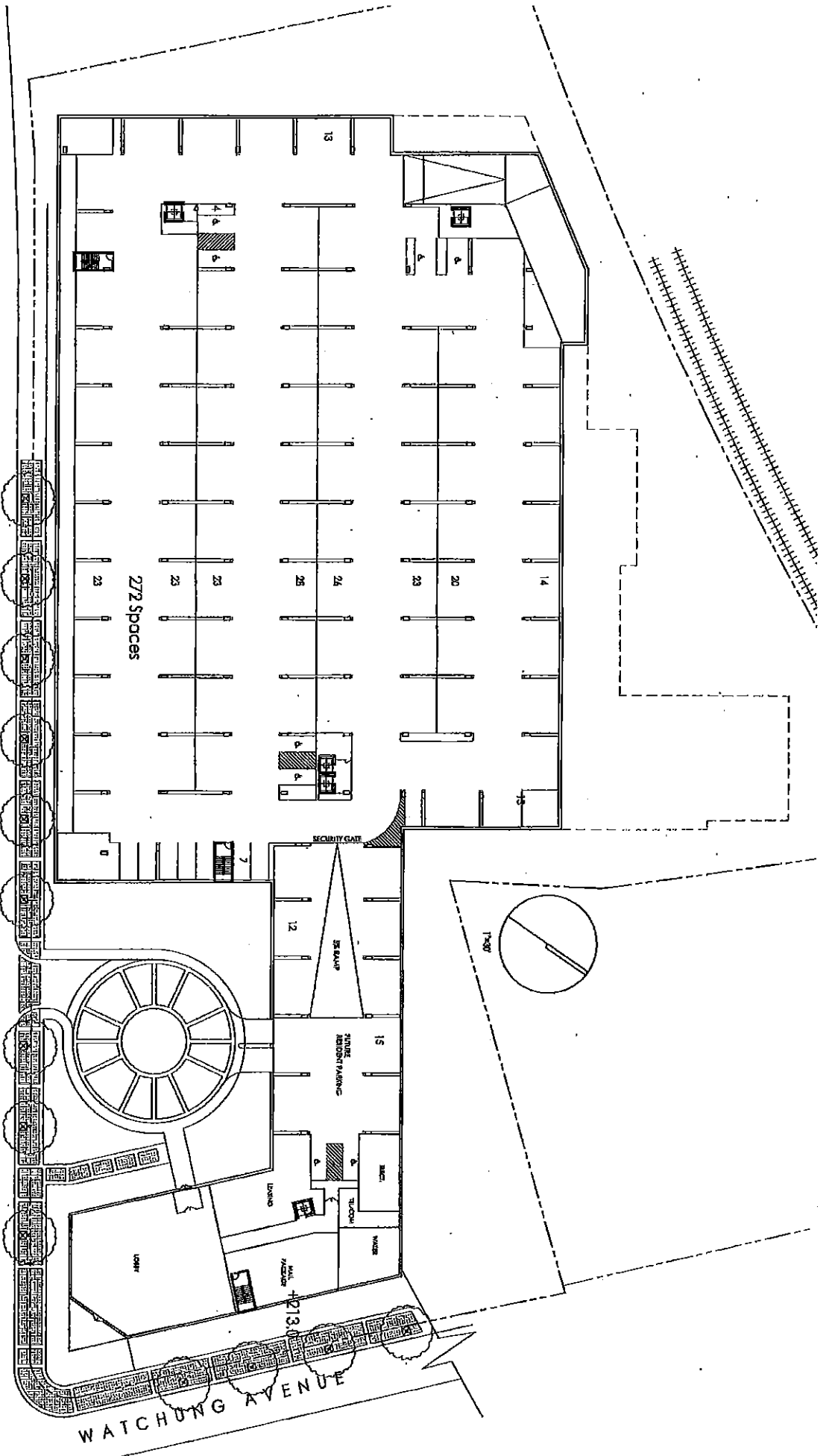
EXHIBIT B

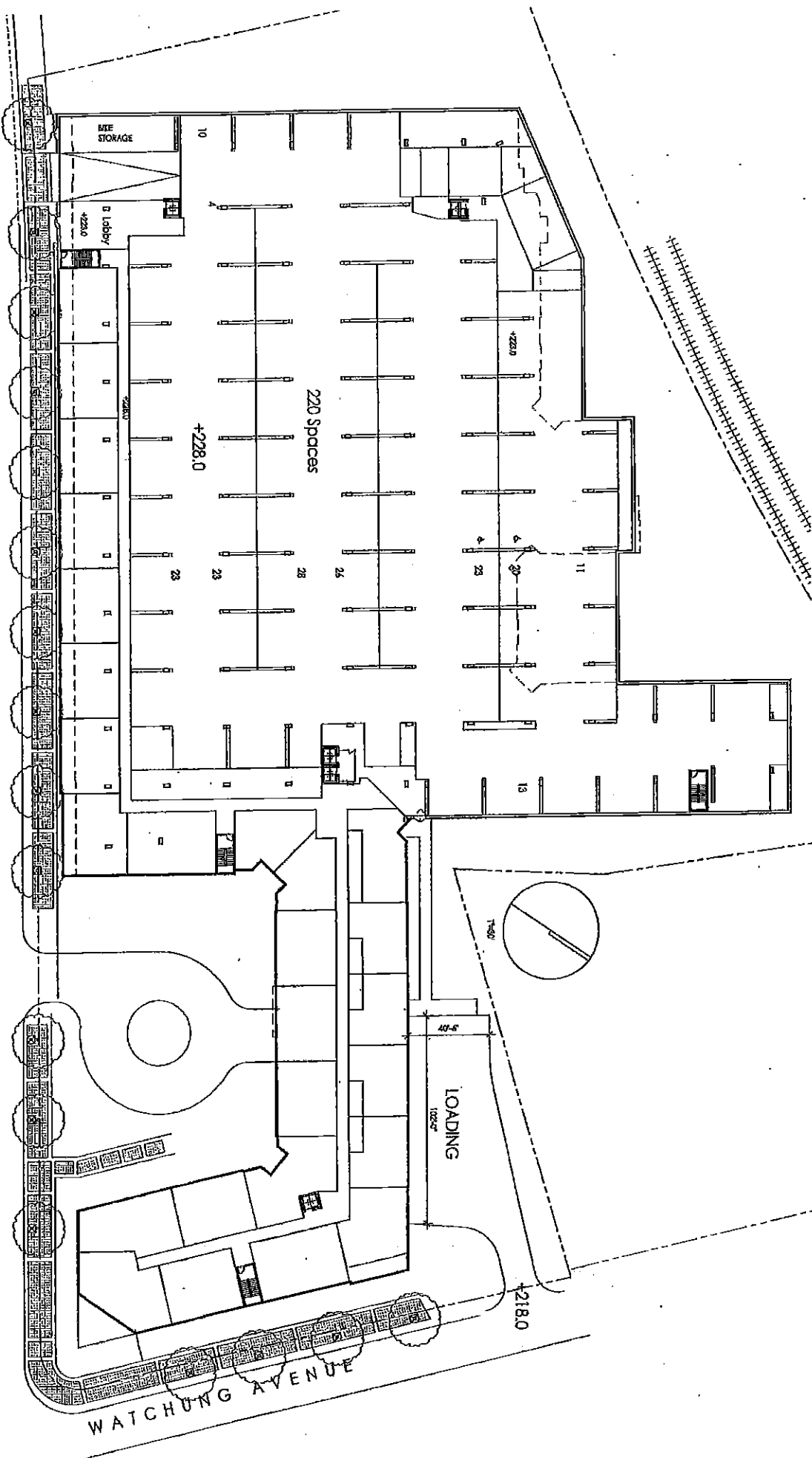
Redeveloper's Concept Site Plan and Architectural Elevations

[Attached]

BASEMENT LEVEL 1
SCALE: 1" = 20'

RIVER ROAD



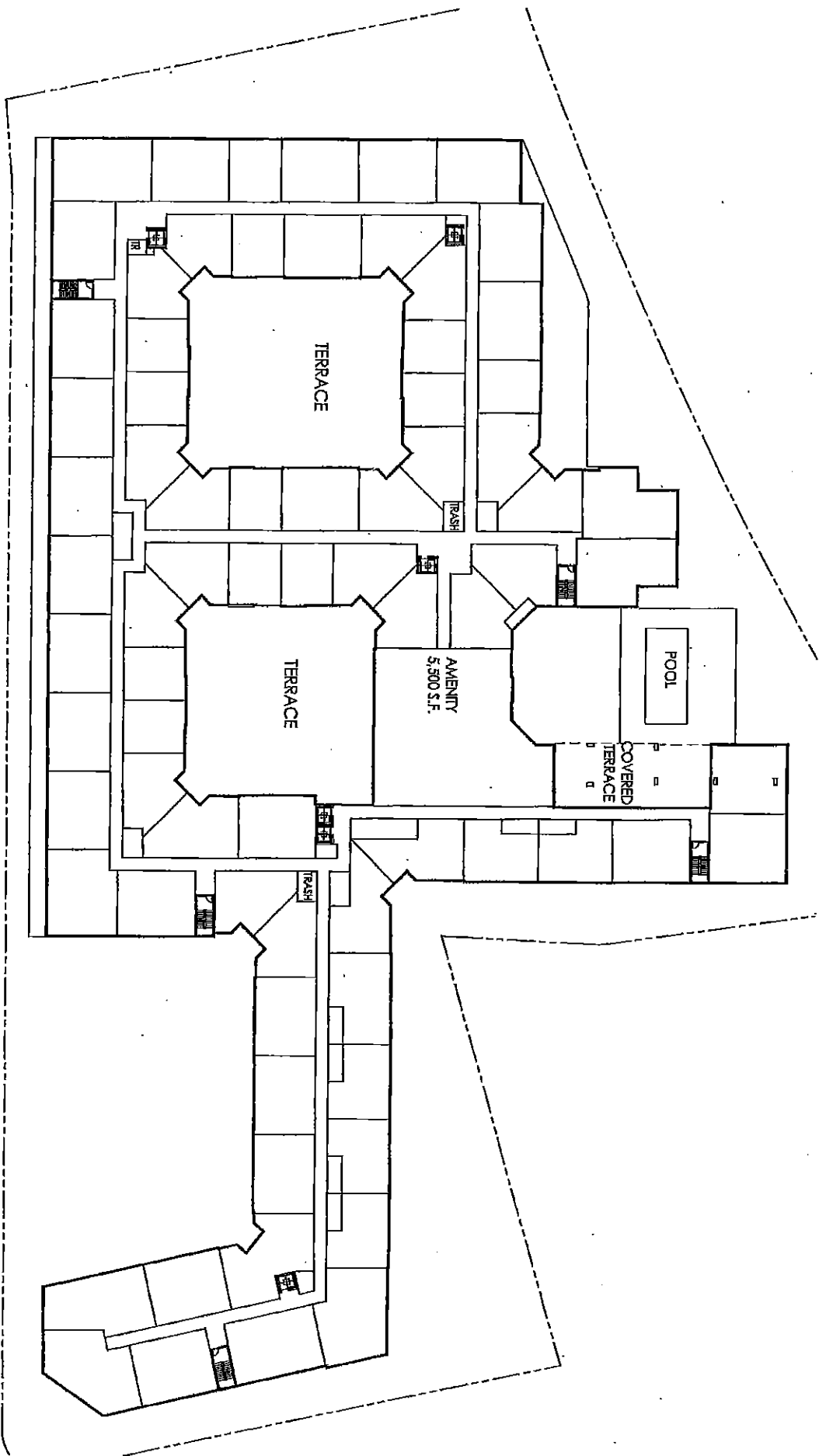


GARAGE LEVEL 1
SCALE: 1/8" = 1'-0"

CONCEPT SITE PLAN
DATE: 06/17/2019

MINNO WASKO
ARCHITECTS AND PLANNERS
60 LAWRENCE LANE SUITE 100, LAWRENCEVILLE, NEW JERSEY 08802
MINNOWASKO.COM

CHATHAM RIVER ROAD PARTNERS, LLC
12, 16 & 22 River Road
BLOCK 135
LOTS 9-12
CHATHAM, NEW JERSEY
CONCEPT: MINNO & WASKO ARCHITECTS AND PLANNERS



LEVEL 2
SCALE: 1/8" = 1'-0"

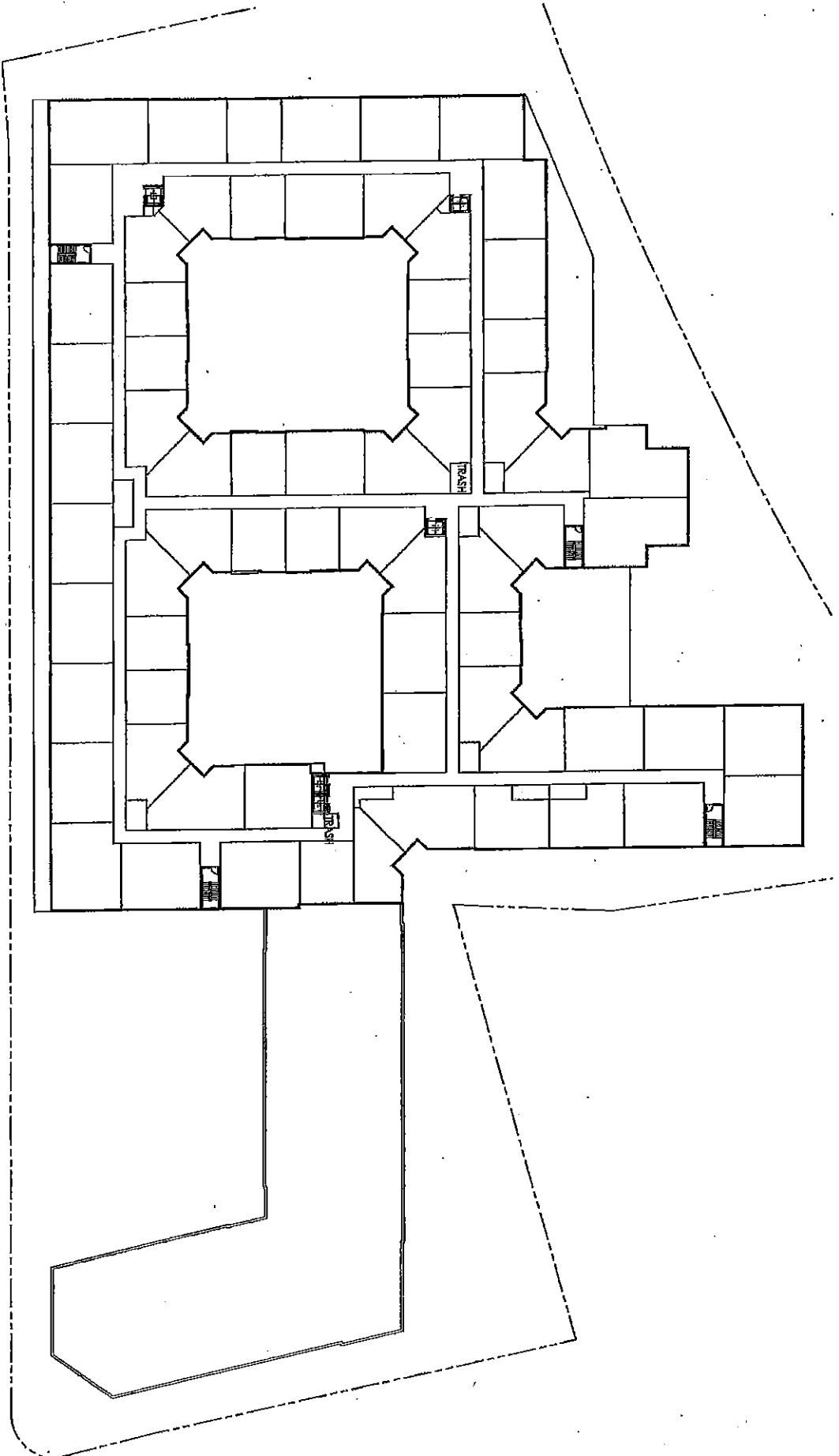
MINNO WASKO
ARCHITECTS AND PLANNERS
60 LAWRENCE AVENUE, SUITE 100, LAWRENCEVILLE, NEW JERSEY 08850
MINNO@WASKO.COM

CHATHAM RIVER ROAD PARTNERS, LLC

12, 16 & 22 River Road
Block 135
Lots 9-12

COURTESY OF MINNO WASKO ARCHITECTS AND PLANNERS

CONCEPT BUILDING PLANS
DATE: 07/19/2019



LEVEL 3
SCALE: 1/8"

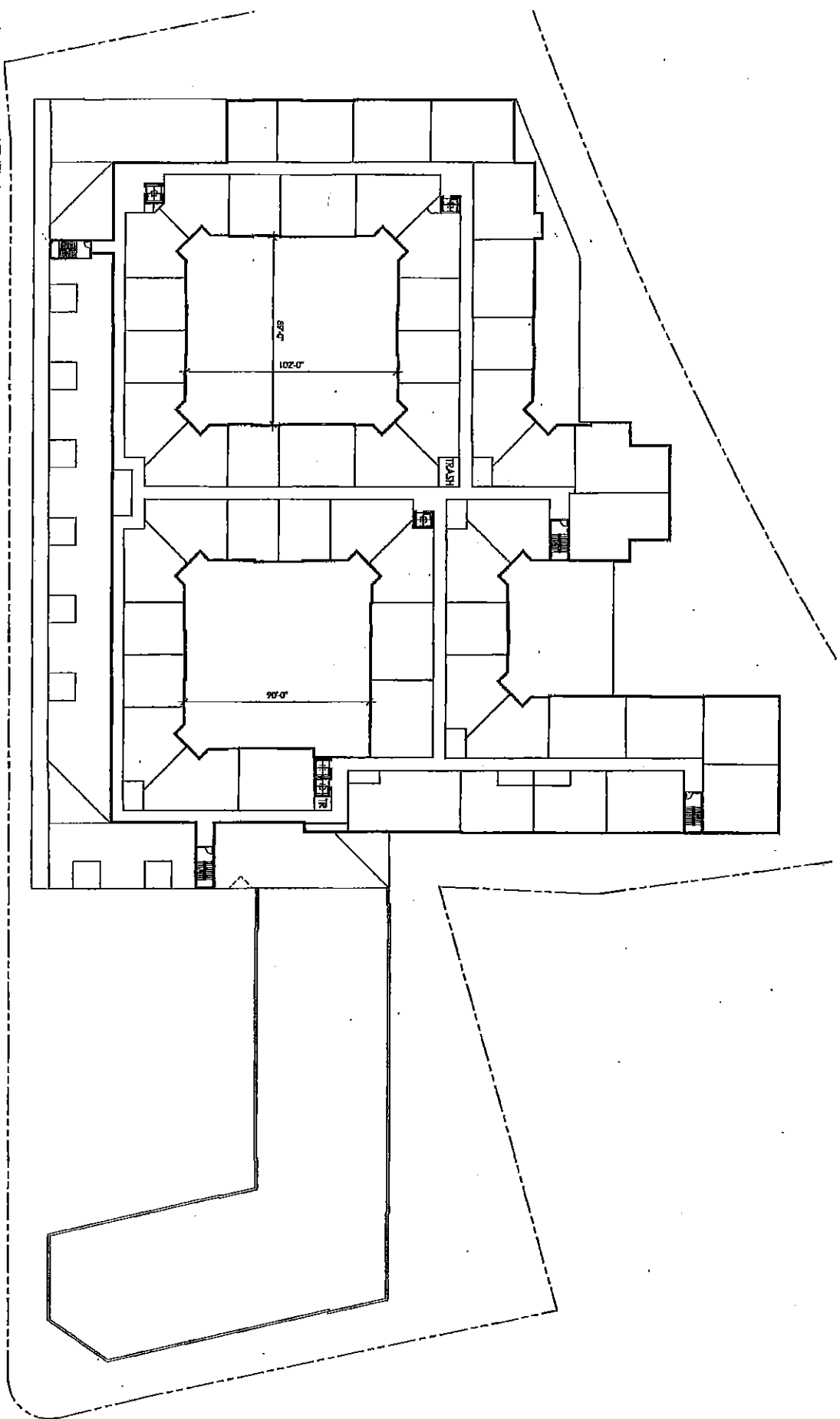
CONCEPT BUILDING PLANS
DATE: 07/19/2019

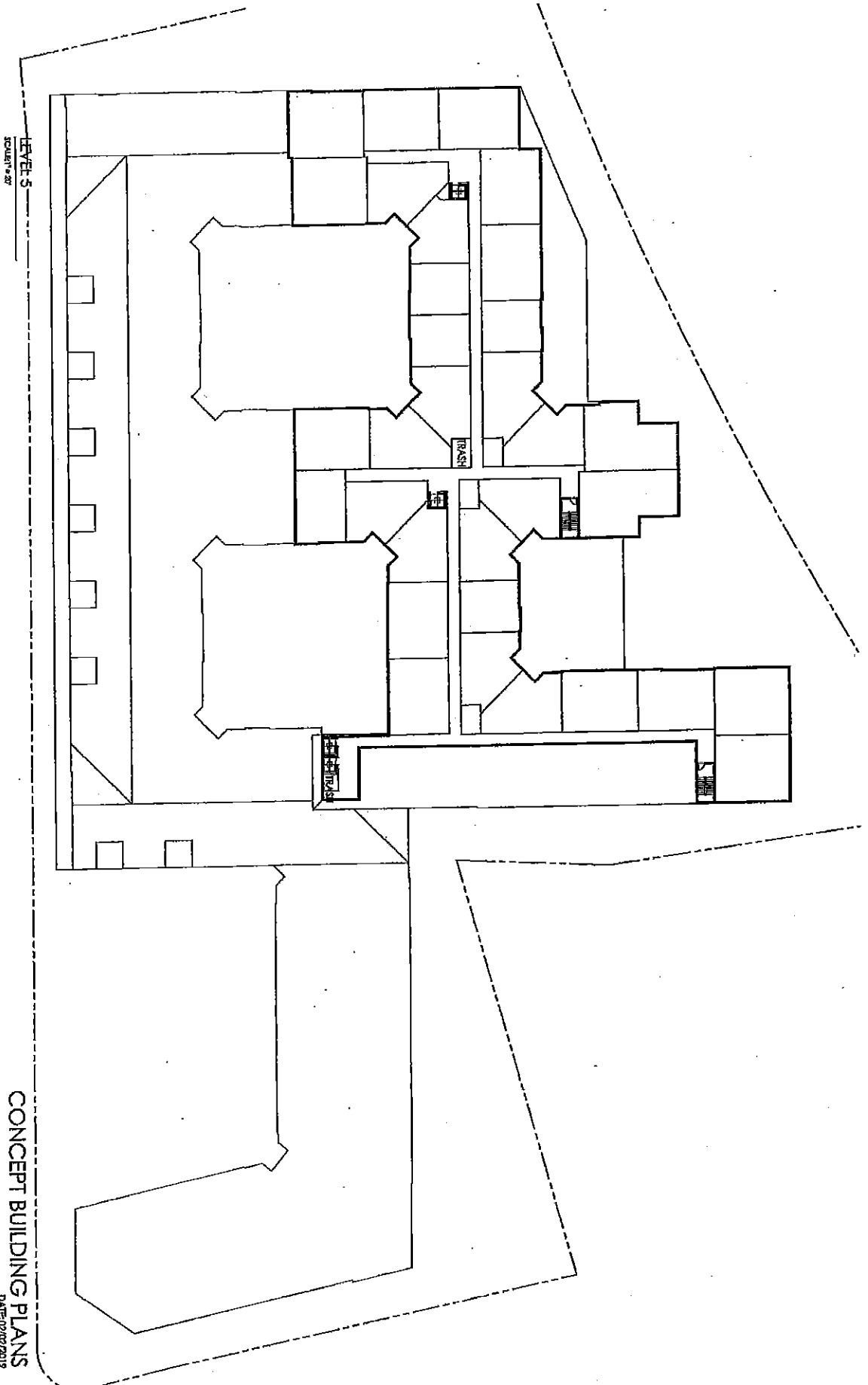
MINNO ■ WASKO
ARCHITECTS AND PLANNERS
80 LAWRENCE LANE, SUITE 100, LAWRENCEVILLE, NEW JERSEY 08854
MINNOWASKO.COM

CHATHAM RIVER ROAD PARTNERS, LLC

12, 16 & 22 River Road
Block 135
Lots 9-12
CHATHAM RIVER ROAD PARTNERS, LLC
CHATHAM RIVER ROAD PARTNERS, LLC
CHATHAM RIVER ROAD PARTNERS, LLC

LEVEL 4
 SCALE: 1" = 20'





LEVEL 5
SHEET 5 OF 22

CONCEPT BUILDING PLANS
DATE 02/02/2019

MINNO WASKO
ARCHITECTS AND PLANNERS
80 LAUREL LANE SUITE 102 LAURELVILLE NEW JERSEY 08530 MINNOWASKO.COM

CHATHAM RIVER ROAD PARTNERS, LLC

12, 16 & 22 River Road
BLOCK 135
LOTS 9-12
CHATHAM, NEW JERSEY
CONCEPT & MINNO & WASKO ARCHITECTS AND PLANNERS

EXHIBIT C

Project Schedule

Governmental Approvals, Commencement of Construction. Subject to the provisions of Sections 2.5 and 13.3 of the Redevelopment Agreement, Redeveloper shall apply for and diligently pursue all other Governmental Approvals required to Commence and Complete Construction within such times as are consistent with implementation of the Project in accordance with the timetable set forth below. The milestone deadlines set forth below are subject to revision as described in Section 2.5 of the Redevelopment.

a) Within sixty (60) days of the Effective Date, Redeveloper shall submit a complete application for preliminary and final site plan approval to the Planning Board, as applicable, and shall use commercially reasonable efforts to obtain final and unappealable site plan approval (*i.e.*, the 45 day appeal period commencing upon publication of the memorializing resolution shall have run) (“**Site Plan Approval**”).

b) Within six (6) months of Site Plan Approval, Redeveloper shall submit all applications for Governmental Approvals necessary for the Project.

c) Redeveloper shall apply to the Borough for building permits as soon as possible, but in no event more than three (3) months after receipt of all Governmental Approvals prerequisite to the issuance of building permits.

d) Within ninety (90) days of receipt of building permits from the Borough, Redeveloper shall Commence demolition or Construction.

e) In no event shall Commencement of demolition or Construction begin later than twenty four (24) months from the Effective Date.

f) Within thirty six (36) months of the Commencement of Construction, Redeveloper shall Complete construction of the Project.

EXHIBIT D

Ownership Disclosure

The following individuals hold at least 10% interest in Chatham River Road Urban Renewal LLC:

<u>Name</u>	<u>Home Address</u>	<u>Title</u>
LP 3 Family LLC	60 East Hartshorne, Short Hills, NJ	Member
HS 3 Family LLC	21 Vanderbilt Drive, Vanderbilt, NJ	Member
Alan Pines Family LLC	16 Mountain Ridge, Livingston, NJ	Member
Jonathan Schwartz	87 Laurel Avenue, Livingston, NJ	Member

EXHIBIT E

List of Borough Representatives

Stephen W. Williams

Vincent DeNave

EXHIBIT F

Form of Declaration of Covenants

Record and Return to:

Robert S. Goldsmith, Esq.

Greenbaum, Rowe, Smith & Davis LLP

75 Livingston Avenue, Suite 301

Roseland, New Jersey 07068

(732) 476-2621 (facsimile)

DECLARATION OF COVENANTS AND RESTRICTIONS

(as to Block 135, Lots 9, 10, and 11, of the Borough of Chatham,

County of Morris (the "Property"))

This Declaration of Covenants and Restrictions ("Declaration") is made this ____ day of _____, 20__, by and between the **BOROUGH OF CHATHAM**, municipal corporation of the State of New Jersey (the "**Borough**"), a public body corporate and politic of the State of New Jersey having its offices at 54 Fairmount Avenue, Chatham, New Jersey 07928, in its capacity as redevelopment entity pursuant to *N.J.S.A. 40A:12A-4(c)*;

and

CHATHAM RIVER ROAD URBAN RENEWAL LLC, a limited liability company of the State of New Jersey authorized to do business in the State of New Jersey, having offices at C/O BNE Real Estate Group, 16 Microlab Road, Livingston, New Jersey 07039 (together with its permitted successors or assigns as hereinafter provided, the "**Redeveloper**" or "**Owner**").

WITNESSETH

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, in accordance with the Redevelopment Law, on September 5, 2018, the municipal council (the “**Borough Council**”) of the Borough, by Resolution #18-265, directed the Borough’s Planning Board (the “**Planning Board**”) to conduct a preliminary investigation to determine whether the properties identified on the tax map of the Borough as Block 135, Lots 9, 10 and 11 (together, the “**Property**” or “**Redevelopment Area**”) qualified as a non-condemnation area in need of redevelopment pursuant to the Redevelopment Law; and

WHEREAS, the Planning Board’s professional planning firm Topology performed an investigation of the Property and produced a report dated October 19, 2018, revised through November 7, 2018, entitled “Preliminary Investigation of River Road North, Chatham Borough, New Jersey” (the “**Study Report**”); and

WHEREAS, based upon the conclusions set forth in the Study Report, as well as the testimony provided at a public hearing held on November 7, 2018, the Planning Board adopted a resolution recommending that the Borough Council designate the Property as a non-condemnation area in need of redevelopment; and

WHEREAS, on November 26, 2018, the Borough Council adopted Resolution #18-331 accepting the Planning Board’s resolution and the Study Report and designating the Property as a non-condemnation area in need of redevelopment; and

WHEREAS, on May 28, 2019, the Borough Council adopted Resolution #19-204 identifying the Borough Council as the redevelopment entity of the Borough pursuant to the Redevelopment Law; and

WHEREAS, in order to facilitate the redevelopment of the Property, the Borough Council also authorized the preparation of a redevelopment plan for the Property pursuant to the authority granted under the Redevelopment Law; and

WHEREAS, Topology has prepared, and the Borough Council has adopted on June 10, 2019, by Ordinance #19-11, the redevelopment plan entitled "River Road Redevelopment Plan" dated May 6, 2019 (the "**Redevelopment Plan**"); and

WHEREAS, pursuant to the Redevelopment Law, the 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 development of the Property in accordance with the Redevelopment Plan; and

WHEREAS, Redeveloper has made application to be designated as the redeveloper for the Property, for which Redeveloper is the owner or contract purchaser, and Redeveloper has provided information consisting of documentation evidencing financial responsibility and capability with respect to the Project (as defined herein), 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, the Borough has determined to enter into this Agreement with Redeveloper, which specifies the rights and responsibilities of the Borough, designates Redeveloper as redeveloper of the Property and specifies the rights and responsibilities of Redeveloper with respect to the Project; and

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

WHEREAS, the Redevelopment Agreement contains such a covenant by the Redeveloper and its successor or assigns for as long as the Redevelopment Agreement remains in effect, as well as perpetual covenants by the Redeveloper and its successor or assigns not to unlawfully discriminate upon the basis of age, race color creed, religion, ancestry, national origin, sex or familial status in the sale, lease, rental, use or occupancy of the 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 except as permitted in the Redevelopment Agreement, subject to certain conditions, prior to the issuance of a Certificate of Completion and further provides certain remedies to the Borough for violations of the covenants and defaults under the Redevelopment Agreement; and

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

NOW THEREFORE, IT IS AGREED AS FOLLOWS:

Section 1. Defined terms not otherwise defined herein shall have the meaning assigned to such terms in the Redevelopment Agreement.

Section 2. Redeveloper covenants and agrees that:

(A) Redeveloper shall construct on the Property the Project in accordance with the Redevelopment Plan and the Redevelopment Agreement.

(B) Until a Certificate of Completion has been issued for the Property in accordance with the Redevelopment Plan, Redeveloper shall not sell, lease or otherwise transfer all or any portion of the Property except as permitted in the Redevelopment Agreement without the written consent of the Borough, provided however that nothing contained in the Redevelopment Agreement shall prevent Redeveloper from entering into contracts or leases that are conditioned upon obtaining a Certificate of Occupancy or Certificate of Completion as applicable.

(C) Redeveloper shall, in connection with its use or occupancy of the Project, not effect or execute any covenant, agreement, lease, conveyance or other instrument whereby the Property are restricted upon the basis of age, race, color, creed, religion, ancestry, national origin, sexual orientation, sex or familial status, and Redeveloper, its successors and assigns, shall comply with all Applicable Laws

prohibiting discrimination or segregation by reason of age, race, color, religion, creed, national origin, ancestry, physical handicap, familial status, sex or sexual orientation.

(D) Redeveloper shall, upon Completion of Construction, obtain all Government Approvals required authorizing the occupancy and uses of the Property for the purposes contemplated hereby.

(E) Redeveloper shall cause the Project to be developed, financed, constructed, operated and maintained at its sole cost and expense.

(F) Redeveloper shall develop, finance, construct, operate and maintain the Project consistent with Applicable Laws, Government Approvals, the Redevelopment Plan, and this Redeveloper Agreement including the obligation to use commercially reasonable efforts to meet all deadlines and timeframes set forth in this Redeveloper Agreement.

(G) Redeveloper shall not encumber, hypothecate or otherwise use the Property, or any part thereof as collateral for any transaction unrelated to the Project except as permitted in the Redevelopment Agreement.

(H) Redeveloper will promptly pay all outstanding Borough Costs, and any and all taxes, service charges or similar obligations when owed to the Borough with respect to any property situated in the Borough.

(I) Redeveloper shall, during construction of the Project, take commercially reasonable steps to minimize or mitigate impacts on the surrounding neighborhood (such as, for example, noise and dust controls), and keep debris and/or waste materials containerized and/or stored and disposed of, all within normal industry standards.

(J) [Describe Shuttle Bus/Jitney Requirement]

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, the 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 Project Parcels 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 the Borough and its successors and assigns shall be deemed beneficiaries of the covenants and restrictions set forth in the Redevelopment Agreement and this Declaration, both for and in their own right but also for the purposes of protecting the interests of the community and other parties, public or private, in whose favor or for whose benefit such covenants and restrictions have been provided. The Borough shall have the right, in the event of any material breach of any such covenant or restriction, to exercise all the rights and remedies and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breach of covenant or restrictions, to which it or any other beneficiaries of such agreement or covenant may be entitled.

Section 5. Upon redevelopment of the Property and completion of the Project, as evidenced by the Redeveloper's receipt of a Certificate of Completion and termination of the Redevelopment Agreement pursuant to Section 2.3 thereof for the Project the covenants contained herein shall terminate, except for, that the covenants in Section 2(C) which shall remain in effect without limitation as to time, and the covenants in Section 2(H) which shall remain in effect for the duration of the Redevelopment Plan through June 9, 2069. Recording of the Certificate of Completion shall be evidence of the termination of the covenants, other than as set forth in Section 2(C).

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 OR ATTEST:

THE BOROUGH OF CHATHAM

By: _____
_____, Borough Clerk

By: _____
_____, Mayor

Acknowledgment

STATE OF NEW JERSEY :

:SS

COUNTY OF MORRIS :

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

EXHIBIT G

[Intentionally omitted]

EXHIBIT H
INSURANCE REQUIREMENTS

Specific Coverage.

A. Insurance to be Carried by Redeveloper During Period of Construction of the Project

<u>Coverage</u>	<u>Limits</u>
1. Workers Compensation	Statutory
2. Employer's Liability	Statutory or \$ 1,000,000 by accident \$ 1,000,000 by disease, each employee, \$ 2,000,000 by disease, all employees, which- ever is greater
3. Commercial General	\$ 1,000,000 per occ/\$5,000,000/ agg CSL per Liability, including acc/agg premises, operations, product liability completed operations, independent contractors, Broad Form Property, Contractual Liability and Personal Injury coverage
4. Comprehensive Automobile Liability, including	\$ 1,000,000 CSL per

owned, hired and non-owned

5. Excess Liability,

\$ 10,000,000 CSL per Liability

which shall identify as under-
lying insurance, the required
employer's and general liability,
auto, contractual and owner's
protective liability

6. (a) "All Risks" Builders Risk

(a) Full Replacement

Value of all materials and equipment to
be supplied and installed, or rebuilt.

7. Hazardous Materials

Contractors/subs handling hazardous materials
as part of demolition or construction
must have separate coverage if not part
of general liability

8. Cyber Liability Coverage

\$1,000,000

9. The Redeveloper shall be responsible for all deductibles.