

**REDEVELOPMENT AGREEMENT**

**By and Among**

**THE TOWNSHIP OF MORRIS**

**As Redevelopment Entity**

**and**

**MADISON AVENUE URBAN RENEWAL LLC**

**as Redeveloper**

**Dated: November 12, 2020**

**THIS REDEVELOPMENT AGREEMENT** (the “**Agreement**” or “**Redevelopment Agreement**”) is entered into this 12th day of November, 2020 between:

**MORRIS TOWNSHIP**, a municipal corporation of the State of New Jersey, having its offices at 50 Woodland Avenue, Morristown, NJ 07960 in its capacity as a “redevelopment entity” pursuant to N.J.S.A. 40A:12A-4(c) (hereinafter referred as the “**Township**”);

**AND**

**MADISON AVENUE URBAN RENEWAL LLC**, a limited liability company, having its offices at 15 Koch Road, Suite K, Corte Madera, CA 94925 (together with permitted successors or assigns as hereinafter provided, referred to as the “**Redeveloper**”). The Township and the Redeveloper are sometimes collectively referred to as the “**Parties**.”

**WITNESSETH**

**WHEREAS**, on October 17, 2018, by Resolution No. 229-18, the Township Committee of the Morris Township (the “**Township Committee**”), pursuant to and in accordance with the requirements of the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the “**LRHL**”) heretofore designated an area in need of redevelopment, located at 355 Madison Avenue and identified as Block 8409, Lot 1 on the tax maps of the Township, commonly known as “The Abbey/Alnwick Hall” and more particularly described on **Exhibit A** annexed hereto and made a part hereof (the “**Redevelopment Area**” or the “**Property**”); and

**WHEREAS**, on September 23, 2020 the Township Committee duly adopted “The Abbey/Alnwick Hall Redevelopment Plan” for the Redevelopment Area pursuant to Ordinance 07-20 (the “**Redevelopment Plan**”); and

**WHEREAS**, pursuant to N.J.S.A. 40A:12-4, the Township has determined to act as the “redevelopment entity” (as such term is defined at N.J.S.A. 40A:12A-3 of the LRHL) for the Redevelopment Area; and

**WHEREAS**, Redeveloper is under contract to purchase the Property, and has the right to develop the Property; and

**WHEREAS**, Redeveloper submitted a concept plan to the Township, a copy of which is annexed hereto and made a part hereof as **Exhibit F**, which provides for: (i) the renovation and rehabilitation of the main historic portion of the “Abbey” and the removal of later additions to the Property (ii) the construction of additional gallery space, retail, restaurant and associated wine bar, offices for related design services, including an outdoor display area with informal seating (iii) other site improvements including parking, landscaping and lighting improvements, and (iv) improvements to the roadway and intersection at Morris Avenue and Canfield Road (collectively, the “**Project**”) and

**WHEREAS**, Redeveloper requested that it be designated by the Township as “redeveloper” of the Redevelopment Area; and

**WHEREAS**, the Township has determined that the Redeveloper possesses the proper qualifications, financial resources and capacity to implement and complete the Project in accordance with the Redevelopment Plan, and all other applicable laws, ordinances and regulations; and

**WHEREAS**, in order to implement the development, financing, construction, operation and management of the Project, the Township Committee has determined that it is in the best interest of the Township and its residents to enter into this Redevelopment Agreement with the Redeveloper, which Redevelopment Agreement designates Redeveloper as the “redeveloper” of the Project as that term is defined in the LRHL, and which specifies the respective rights and responsibilities of the Township and the Redeveloper with respect to the Project.

**NOW THEREFORE**, in consideration of the promises and mutual covenants herein contained, the parties hereto do hereby covenant and agree, each with the other, as follows:

## **ARTICLE 1**

### **DEFINITIONS**

**1.01. Definitions.** As used in this Redevelopment Agreement the following terms shall have the meanings ascribed to such terms below. Terms listed below in the singular form shall include the plural and words listed in the plural shall include the singular. Whenever the context may require, any pronoun that is used in this Redevelopment Agreement shall include the corresponding masculine, feminine and neuter. All references to Sections, Articles or Exhibits shall refer to Sections, Articles or Exhibits in this Redevelopment Agreement unless otherwise specified.

(a) The following terms shall have the meanings ascribed to them in the above Recitals to this Redevelopment Agreement:

**Agreement**  
**Township Committee**  
**LRHL**  
**Parties**  
**Project**  
**Property**  
**Redeveloper**  
**Redevelopment Agreement**  
**Redevelopment Area**  
**Redevelopment Plan**  
**Township**

(b) The following terms shall have the definitions ascribed to them herein:

“**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.

“**Appeal Period**” shall mean the period of time specified by statute or court rule within which an appeal may be taken by any party from the grant of any Governmental Approval.

“**Applicable Laws**” means all federal, state and local laws, ordinances, approvals, rules, regulations and requirements applicable thereto including, but not limited to, the LRHL, the MLUL, relevant construction codes including construction codes governing access for people with disabilities, and such other applicable zoning, sanitary, pollution and other environmental safety ordinances, laws and such rules and regulations promulgated thereunder, and all applicable environmental laws and applicable federal and state labor standards.

“**Bond**” is defined in Section 4.05(b).

“**Building Permit**” means a building permit issued by or on behalf of the Township for construction of the Project, excluding a demolition permit but including a footings and foundation permit.

“**Business Days**” means all days except Saturdays, Sundays and the days observed as public holidays by the Township.

“**Certificate of Completion**” means a written acknowledgement by the Township in recordable form that the Redeveloper has Completed Construction of the Project in accordance with the requirements of this Redevelopment Agreement, substantially in the form annexed hereto and made a part hereof as **Exhibit D**.

“**Certificate of Occupancy**” means a temporary or permanent certificate of occupancy as defined in the applicable provisions of the Uniform Construction Code.

“**Commencement**”, “**Commence Construction**”, “**Commencement of Construction**”, or “**Commencement Date**” means the undertaking of any actual physical construction of any portion of the Project, including demolition, site preparation, environmental remediation, construction of Improvements or construction or upgrading of infrastructure.

“**Completion**”, “**Completion of Construction**”, “**Complete Construction**”, or “**Completion Date**” means the completion of construction of the Project in accordance with the Redevelopment Plan and this Redevelopment Agreement, sufficient for issuance of one or more Certificates of Occupancy and subject only to (i) completion of “punch list” items or minor conditions of the Governmental Approvals, and (ii) installation of landscaping, if the delay in completion thereof is necessitated by seasonal concerns.

**“Completion Notice”** means written notification to the Township of Completion of Construction of the Project and request by Redeveloper for the issuance by the Township of a Certificate of Completion.

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

**“County”** means the County of Morris in the State of New Jersey.

**“Declaration of Covenants and Restrictions”** or **“Declaration of Restrictions”** means a written instrument to be executed by Redeveloper and recorded in the Office of the Morris County Clerk, substantially in the form annexed hereto and made a part hereof as **Exhibit B**, intended to encumber the Property and to run with the land until a Certificate of Completion has been issued for the Project, except as otherwise expressly provided therein, setting forth certain statutory and contractual undertakings of and restrictions applicable to Redeveloper and its permitted successors and assigns in connection with the ownership, redevelopment or rehabilitation of the Project, all as more particularly described in Article 3.

**“Effective Date”** means the date this Redevelopment Agreement has been executed by both the Township and the Redeveloper.

**“Environmental Laws”** means each and every federal, State, county or local statute, ordinance, rule and regulation concerning the protection of the environment, human health or safety, presently in effect, including, without limitation, (a) the New Jersey Spill Compensation and Control Act, as amended, N.J.S.A. 58:10-23.11 et seq.; (b) the New Jersey Industrial Site Recovery Act, as amended, N.J.S.A. 13:1K-6 et seq.; (c) the New Jersey Leaking Underground Storage Tank Act, as amended, N.J.S.A. 58:10-21 et seq.; (d) the Comprehensive Environmental Response, Compensation & Liability Act, as amended, 42 U.S.C. Section 9601 et seq.; (e) the Resource Conservation and Recovery Act, as amended, 42 U.S.C. Section 6901 et seq.; (f) the Hazardous Material Transportation Act, as amended, 49 U.S.C. Section 180, et seq.; and (g) the Occupational Safety and Health Act, as amended, 29 U.S.C. Section 651, et seq.

**“Escrow Account”** is defined in Section 8.02(a).

**“Escrow Deposit”** is defined in Section 8.02(a).

**“Estoppel Certificate”** is defined in Section 6.12.

**“Event of Default”** is defined in Section 5.01.

**“Existing Members”** means the Persons owning membership interests in the Redeveloper as of the date of this Agreement, which Persons are set forth in **Exhibit E** annexed hereto and made a part hereof.

**“Financial Agreement”** means the Financial Agreement executed by the Redeveloper and the Township pursuant to the terms of the Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq.

**“Force Majeure Event”** means events or conditions that are beyond the reasonable control and not substantially due to the fault or negligence of the party seeking to excuse delay or failure of performance of an obligation hereunder by reason thereof, including, but not limited to: actions or inactions by any federal, state or local governmental or quasi-governmental entity, including the Township, with respect to the Governmental Approvals or the development of the Project (including, without limitation, a failure of the Township to perform in accordance with the terms of this Agreement); third-party litigation that enjoins implementation of the Project; declarations of public emergency, epidemics or pandemics; acts of nature (as to weather-related events, limited to severe and unusual events or natural occurrences such as hurricanes, tornadoes, earthquakes, and floods); acts of the public enemy; acts of terrorism; acts of war; fire; epidemics; quarantine restrictions; blackouts, power failures, or energy shortages; environmental contamination; governmental embargoes; strikes or similar labor action by equipment or material suppliers or transporters, or unavailability of necessary building materials; moratoriums; and severe economic, financial or market conditions affecting the region (and not unique to the Project) that prevents the procurement of financing for the Project.

**“Foreclosure”** is defined in Section 7.03(b).

**“Governmental Approvals”** means all governmental approvals required for the Commencement of Construction, Completion of Construction, and use and occupancy of the Project, including, without limitation, site plan approval by the Planning Board; County planning board approvals, if and to the extent required; Building Permits; environmental permits, approvals, consents or authorizations from NJDEP and any other applicable governmental agencies; historic commissions, sewerage capacity approvals, utilities-related permits and any and all other necessary governmental permits, licenses, consents and approvals.

**“Hazardous Substances”** shall mean any hazardous substances or wastes now or in the future regulated under Environmental Laws, excluding, however, customary construction, maintenance, janitorial and cleaning supplies in reasonable quantities to be used in the ordinary course of construction and operation of the Project and which are used and disposed of in accordance with all applicable Environmental Laws.

**“Immediate Family Member”** shall mean a spouse, child or grandchild of a member of the Redeveloper.

**“Improvements”** shall mean all improvements constructed as part of the Project.

**“Interim Cost Agreement”** is defined in Section 8.02(b).

**“MLUL”** means the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

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

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

**“Nonresidential Development Fees”** means the payment required to the Affordable Housing Trust fund for non residential development as provided for in Article XXXVI of the Township Code, or any successor laws or regulations.

**“Notice”** is defined in Section 6.08.

**“Permitted Transfers”** is defined in Section 3.05(B).

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

**“Planning Board”** means the Planning Board of the Township.

**“Redevelopment Entity”** means the Township acting in its capacity as a redevelopment entity pursuant to the LRHL and any permitted successors or assigns.

**“State”** means the State of New Jersey.

**“Township Costs”** shall mean (i) all reasonable outside professional and consultant fees, out of pocket costs or expenses incurred by the Township arising out of or in connection with the preparation, performance, administration, or enforcement of this Redevelopment Agreement or arising out of or in connection with the Project, after the date of this Agreement; (ii) subject to Redeveloper’s termination rights pursuant to Section 5.07 herein, litigation costs arising out of or in connection with a dispute with a third party with respect to this Redevelopment Agreement or the Project; and (iii) any other out of pocket fee, cost or expense reasonably incurred by the Township, after the date of this Agreement, to satisfy its obligations under this Agreement or in furtherance of the Project, but shall not include any and all costs incurred in connection with Redeveloper’s site plan application to the Planning Board, which costs shall be governed by the escrow deposited by Redeveloper in connection with such application in accordance with the MLUL and local land use ordinances.

**“Transfer”** means prior to Completion of the Project (i) a sale or re-conveyance of all or any portion of the Property or Project by Redeveloper to any other Person; (ii) a sale, pledge, joint venture, equity investment, or any other act or transaction involving or resulting in a change

in Control of Redeveloper as it exists on the date of this Redevelopment Agreement; or (iii) any assignment of this Redevelopment Agreement to any other Person.

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

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

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

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

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

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

## ARTICLE 2

### REPRESENTATIONS AND WARRANTIES

**2.01. Designation as Redeveloper.** The Township hereby designates and appoints the Redeveloper as redeveloper of the Property. For so long as this Redevelopment Agreement and the designation hereunder remain in effect, Redeveloper shall have the exclusive right to redevelop the Property in accordance with the Redevelopment Plan, the Governmental Approvals, the LRHL and all other Applicable Laws, and the terms and conditions of this Redevelopment Agreement.

**2.02 Representations and Warranties of the Township.** The Township hereby makes the following representations and warranties:

(a) The Redevelopment Area has been duly designated in compliance with all Applicable Laws and is currently in full force and effect.

(b) The Redevelopment Plan has been duly adopted in compliance with all Applicable Laws and is currently in full force and effect.

(c) The Township is a municipal corporation, duly organized and existing under the laws of the State, that has the legal power, right and authority pursuant to the LRHL to enter into this Redevelopment Agreement and the instruments and documents referenced herein to which the Township is a party, to consummate the transactions contemplated hereby, to take any steps or actions contemplated hereby, and to perform its obligations hereunder, and has duly executed this Redevelopment Agreement.

(d) All requisite action has been taken by the Township and all requisite consents have been obtained in connection with the entering into this Redevelopment Agreement and the instruments and documents referenced herein to which the Township is a party, and the consummation of the transactions contemplated hereby, and to the best of the Township's knowledge and belief are authorized by all Applicable Laws.

**2.03. Representations and Warranties of Redeveloper.** Redeveloper hereby makes the following representations and warranties:

(a) Redeveloper has the legal capacity to enter into this Redevelopment Agreement and perform each of the undertakings set forth herein and in the Redevelopment Plan as of the date of this Redevelopment Agreement.

(b) Redeveloper is a duly organized and a validly existing legal entity under the laws of the State and all necessary consents have been duly adopted to authorize the execution and delivery of this Redevelopment Agreement and to authorize and direct the persons executing this Redevelopment Agreement to do so for and on the Redeveloper's behalf.

(c) 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 the Redeveloper shall have been filed as of the Effective Date;

(d) No adjudication of bankruptcy of the 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 the Redeveloper has been filed;

(e) No indictment has been returned against Redeveloper or any officer or shareholder of Redeveloper;

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

(g) Subject to obtaining construction financing, Redeveloper is financially and technically capable of developing, designing, financing, constructing, operating, and maintaining the Project;

(h) To the best of Redeveloper's knowledge and belief, after diligent inquiry, there is no action, proceeding or investigation now pending, nor any basis therefore, known or believed to exist which (i) questions the validity of this Redevelopment Agreement or any action or act taken or to be taken by Redeveloper pursuant to this Redevelopment 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 pursuant to the terms of this Redevelopment Agreement.

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

(j) To the best of Redeveloper's knowledge and belief after diligent inquiry all information and statements included in any information submitted to the Township and its agents, are true and correct in all respects. Redeveloper acknowledges that the facts and representations contained in the information, submitted by Redeveloper are a material factor in the decision of the Township to enter into this Redevelopment Agreement.

(k) To the best of their knowledge after diligent inquiry, Redeveloper is not delinquent with respect to any taxes, payments in lieu of tax, service charge, or similar obligations owed to the Township for any property situated in the Township.

(l) The Redeveloper represents that it shall make all reasonable efforts to continue the productive dialogue it has had with the neighbors and other stakeholders relative to refining the design of the Project, before and during the site plan process before the Planning Board. This obligation shall continue during construction if material field changes are made.

### ARTICLE 3

#### COVENANTS AND RESTRICTIONS

**3.01. Covenants and Restrictions.** Redeveloper agrees to execute and record the Declaration of Restrictions in the office of the Morris County Clerk immediately upon full execution of this Redevelopment Agreement by the Parties. A recorded copy shall be promptly transmitted to the Township Clerk.

**3.02. Description of Covenants.** The following covenants and restrictions are imposed upon Redeveloper, its successors and assigns, and are intended to run with the land until a Certificate of Completion has been issued for the Project. They shall be recorded substantially in the form of a Declaration of Covenants and Restrictions annexed hereto and made a part hereof as **Exhibit B**, upon execution of this Redevelopment Agreement by the Parties:

(a) Redeveloper shall construct the Project on the Property in accordance with, and subject to the terms of, the Redevelopment Plan, this Redevelopment Agreement, and all Applicable Laws and Governmental Approvals;

(b) In connection with its use or occupancy of the Project, Redeveloper shall not effect or execute any covenant, agreement, lease, conveyance or other instrument whereby the Property is 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, creed, religion, ancestry, national origin, sexual orientation, sex or familial status;

(c) Subject to and in accordance with the terms hereof, Redeveloper shall, upon Completion of Construction, obtain a Certificate of Occupancy and all other Government Approvals required for the occupancy and uses of the Property for the purposes contemplated hereby;

(d) Subject to and in accordance with the terms hereof, Redeveloper shall cause the Project to be developed, financed, constructed, operated and maintained at its sole cost and expense;

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

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

(g) Redeveloper will promptly pay any and all taxes, annual service charges or other charges under the Financial Agreement, special assessments or similar obligations when owed with respect to the Property and any other property owned by Redeveloper situated in the Township; and

(h) With the exception of the portion of the Abbey shown on Figure 4 of the Redevelopment Plan, which will be demolished as part of the Project construction, the remaining Abbey structure shall not be demolished except in connection with the refurbishment of certain areas which may need to be demolished and/or rebuilt because of structural deficiencies. Every effort, however, shall be made to maintain the historic integrity of the Abbey structure. All structural elements of the Abbey shall be maintained in good and/or acceptable condition for occupancy as required by Township Code during the Term of the Financial Agreement. The term “structural elements” shall include, but not be limited to the roof, load bearing walls, mechanical systems, the exterior façade and the integrity of all windows to repel water infiltration within the building.

**3.03. Effect and Duration of Covenants** It is intended and agreed that the covenants and restrictions set forth in Section 3.02 shall be covenants running with the land. All covenants in Section 3.02, in any event, and without regard to technical classification or designation, legal or

otherwise, and except only as otherwise specifically provided in this Redevelopment Agreement, shall be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by the Township and its successors and assigns, and any successor in interest to the Property, or any part thereof, against Redeveloper, its successors and assigns and every successor in interest therein, and any party in possession or occupancy of the Property or any part thereof. Notwithstanding the foregoing, the agreements and covenants set forth in Article 3.02 shall cease and terminate upon the issuance of a Certificate of Completion, substantially in the form annexed hereto and made a part hereof as **Exhibit D**.

**3.04. Enforcement by Township.** In amplification, and not in restriction of the provisions of this Article 3, it is intended and agreed that the Township and its successors and assigns shall be deemed beneficiaries of the agreements and covenants set forth in Section 3.02 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 shall run in favor of the Township for the entire period during which such agreements and covenants shall be in force and effect, without regard to whether the Township has at any time been, remains, or is an owner, or lessor, of any land or interest therein to or in favor of which such agreements and covenants relate.

**3.05 Prohibition Against Transfers of Interests in Redeveloper.**

(a) Redeveloper recognizes the importance of the Redevelopment Project to the general welfare of the community and that the identity of the Redeveloper and its qualifications are critical to the Township in entering into this Redevelopment Agreement. Notwithstanding anything set forth herein, it is expressly understood and agreed that, after completion of construction of the Project and the recording of a Certificate of Completion in substantially the form provided in **Exhibit D** hereto, any Transfer of any ownership interest in the Redeveloper shall be permitted and in no way be prohibited, provided such Transfer is consistent with the requirements of this Agreement. The Township considers that, until the completion of construction of the Project and the recording of a Certificate of Completion, a change of Control in Redeveloper, is for practical purposes a Transfer or disposition of the Project. Redeveloper recognizes that it is because of such qualifications and identity that the Township is entering into this Redevelopment Agreement with Redeveloper, and, in so doing, the Township is relying on the obligations of Redeveloper and not some other Person for the faithful performance of all undertakings and covenants to be performed by Redeveloper hereunder.

Based upon the foregoing, except for Permitted Transfers, prior to Completion of the Project as evidenced by the issuance of a Certificate of Completion, Redeveloper agrees for itself and all successors in interest that there shall be no Transfer, including a change in Control of Redeveloper and a Substantial Membership Transfer.

Notwithstanding the foregoing, any Transfer of ownership interests of greater than ten percent (10%) (including, without limitation, any such Transfer which takes place after the completion of the Project and the recording of the Certificate of Completion) shall be disclosed to the Township Committee in writing at least ten (10) days prior to such Transfer.

**(b) Consent to Permitted Transfers.** The Township hereby consents, without the necessity of further approvals from any entity, to the following Transfers (each, a “**Permitted Transfer**”):

(i) A Mortgage or related security granted by Redeveloper to a Mortgagee for the purpose of obtaining the financing necessary to enable Redeveloper to perform its obligations under this Redevelopment Agreement, including any Mortgage or Mortgages and other liens and encumbrances granted by Redeveloper to a Mortgagee for the purpose of financing costs associated with the acquisition, development, construction, or marketing of the Project and not any transaction or project unrelated to the Project; provided, however, that Redeveloper shall give the Township at least ten (10) days prior written notice of such Permitted Transfer, including a description of the nature of such Transfer, and the name(s) and address(es) of the Mortgagee; or

(ii) Transfers of easements or dedications of portions or interests in the Property as may be required for utilities for the Project or otherwise as conditions of Governmental Approvals;

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

(iv) A lease or option agreement to a tenant;

(v) Upon completion of the Project and the recording of a Certificate of Completion in substantially the form provided in **Exhibit D** hereto, a Transfer to an Affiliate of the Redeveloper, to one of the Existing Members, to an entity Controlled by one of the Existing Members or transfers to any successor entity which purchases all of the assets, stock or membership interest of Redeveloper (and/or Redeveloper’s parent corporation and/or Affiliates); and

(vi) A Transfer by means of inheritance, devise or bequest or by operation of law upon an Immediate Family Member, or a trust established for the benefit of such Immediate Family Member; and

(vi) A Transfer pursuant to a Foreclosure, and any Transfer by any Mortgagee or any Mortgagee’s successor and/or assigns after Foreclosure; and

(vii) Any contract or agreement with respect to any of the foregoing.

**(c) Automatic Approval of Transfer.** Notwithstanding anything to the contrary contained herein, with respect to any Transfer that requires the Township’s consent pursuant to the terms of this Section 3.05, the Township Committee shall not unreasonably withhold, condition or delay its consent to such Transfer. The Township Clerk shall notify the Redeveloper in writing whether the Township Committee consents to a Transfer within thirty (30) days after Redeveloper’s written request to the Township Committee for such consent. If the Township Committee does not deliver a written response to the Redeveloper’s request within

said thirty (30) day period, then the Redeveloper may deliver a second written request to the Township Committee for consent to the Transfer and the Township Committee shall be deemed to have consented to such requested Transfer if the Township Committee does not deliver a written response to the Redeveloper within thirty (30) days after Redeveloper's second request to the Township Committee for such consent. The Township Committee shall not withhold, condition or delay its consent to any Transfer to a transferee that has the same or greater experience and technical capability to carry out the Project as Redeveloper, and has the same or greater financial wherewithal to obtain financing for the Project as Redeveloper.

(d) The Township Committee's consent to a Transfer (other than a Permitted Transfer which does not require such consent) shall be conditioned upon the Redeveloper complying with the following conditions to the Township's satisfaction: (i) the Redeveloper presents evidence demonstrating the reputability of the transferee or assignee and the financial ability of the transferee or assignee to fulfill the obligations of this Agreement (or, if the Transfer is of a part of the Project or rights hereunder, the obligations relating to such part); and (ii) the Redeveloper presents evidence demonstrating the competence and experience of management of the proposed transferee or assignee to complete the relevant section of the Project.

(e) Upon the granting of such consent, the Township Committee shall issue a certificate to the transferee or assignee evidencing such consent and certifying that no Default by the Redeveloper or any other entity under this Agreement shall impair such transferee's or assignee's rights under this Agreement.

**3.06 Township Covenants.** The Township hereby covenants and agrees that:

- (a) The Township shall fully cooperate with the Redeveloper to ensure that all Governmental Approvals are obtained for the Project. Furthermore, the Township agrees to support any applications for Governmental Approvals that are consistent with the terms of the Redevelopment Plan and this Agreement, and to execute and deliver any documents required to obtain such approvals and otherwise to cooperate with the Redeveloper with respect to the Governmental Approvals; provided that nothing contained in this Section 3.06(a) shall be deemed: (i) to constitute an approval of all or any portion of the Project for which applications have been submitted or are required or (ii) a waiver of the ability of any Governmental Authority, to exercise its statutorily authorized responsibilities with respect to such applications or Governmental Approvals. Without limiting the generality of the foregoing, the Township shall (A) assuming Redeveloper has properly filed its application and posted all application and escrow fees, request that all agencies of the Township having jurisdiction over any of the Governmental Approvals act in good faith and with continuity of purpose to expedite the processing of all applications for Governmental Approvals, (B) schedule, convene and conclude all required public hearings in an expeditious manner consistent with Applicable Laws, and (C) cause all of the planners, engineers and other consultants engaged by the Township to review and comment on all submittals by Redeveloper in an expeditious manner and request that all planners, engineers and other consultants engaged by the Township or any of its

agencies review and comment on all submittals by Redeveloper in an expeditious manner.

- (b) The Township shall undertake and complete, with due diligence, all of its obligations under this Agreement.
- (c) The Township shall not amend or cause the amendment of the Redevelopment Plan in a manner that materially, adversely affects Redeveloper or the Project during the term of this Agreement without the prior written consent of the Redeveloper.
- (d) The Township shall not exercise its power of eminent domain to condemn the Property during the term of this Agreement.
- (e) The Redeveloper has been designated as the exclusive redeveloper of the Property and shall have the exclusive right and obligation to redevelop the Property and implement the Project in accordance with the terms and conditions of this Agreement.

## **ARTICLE 4**

### **PROJECT DETAILS**

**4.01. Acquisition of the Property.** It is understood and agreed by and between the Parties that Redeveloper owns the Property, or is under contract to purchase the Property, and has the right to develop the Property consistent with the terms of the Government Approvals, the Redevelopment Plan, Applicable Laws, and this Redevelopment Agreement.

#### **4.02. Timeline and Construction of Project.**

(a) **Project Timeline.**

(i) Redeveloper will submit an application for preliminary and final site plan approval to the Planning Board within one hundred twenty (120) days from the Effective Date of this Agreement.

(ii) Redeveloper shall proceed in good faith and with continuity of purpose to obtain all other final and un-appealable Governmental Approvals on or before the one hundred eightieth (180th) day after Redeveloper has obtained final and un-appealable site plan approval from the Planning Board. To the extent reasonably requested by the Redeveloper, and to the extent applicable, the Township shall provide assistance and support to the Redeveloper in connection

with any applications for any Governmental Approvals required to be obtained for or with respect to the Project.

(iii) Redeveloper agrees to proceed in good faith and with continuity of purpose to Commence Construction of the Project within one hundred and fifty (150) days after the issuance of a Building Permit for the Project. In this regard, the Redeveloper shall apply for a Building Permit within sixty (60) days from the receipt of all unappealable Governmental Approvals required to be obtained for or with respect to the Project.

(iv) The Redeveloper agrees to execute a commercially reasonable agreement (each a "Parking Agreement") with any neighboring property owner for the use of parking spaces as may be required by the Redevelopment Plan and/or any Planning Board approvals, and to provide a copy of same to the Township.

(v) The Redeveloper agrees to use commercially reasonable efforts to Complete Construction of the Project on or before twenty four (24) months after Commencement of Construction.

(b) If, subject to the provisions of this Agreement, the Redeveloper fails, or determines that it will fail, to meet any relevant date for the completion of a task set forth in the Project time line set forth above, for any reason, the Redeveloper shall promptly provide notice to the Township Clerk stating: (i) the reason for the failure or anticipated failure, (ii) the Redeveloper's proposed method for correcting such failure, (iii) the Redeveloper's proposal for revising the time line and (iv) the method or methods by which the Redeveloper proposes to achieve subsequent tasks by the relevant dates set forth in the revised Project time line. Redeveloper's proposed revisions to the Project time line shall be subject to the Township Committee's approval, which shall not be unreasonably withheld, conditioned or delayed.

(c) In the event that Redeveloper does not obtain all necessary Governmental Approvals for the Project on terms and conditions acceptable to Redeveloper in its sole discretion, or if Redeveloper determines that the Governmental Approvals for the Project cannot be obtained on terms and conditions acceptable to Redeveloper in its sole discretion, then Redeveloper shall have the right to terminate this Agreement upon written notice to the Township Clerk. No Governmental Approval shall be deemed to have been obtained (i) until the Appeal Period relating thereto has expired and no appeal has been taken, or (ii) if an appeal is filed within the applicable Appeal Period, until such appeal shall have been finally resolved in a manner sustaining the challenged Governmental Approval. If this Agreement is terminated pursuant to the terms of this Section 4.02(c) then except as expressly set forth herein to the contrary, this Agreement shall be of no further force and effect and the Parties hereto shall have no further rights, liabilities and/or obligations hereunder.

(d) To the extent reasonably requested by the Redeveloper and, to the extent permitted by Applicable Law (and without violating its obligations as a governmental entity or

regulatory body having competent jurisdiction over the Project), the Township shall provide its support and assistance to the Redeveloper in facilitating the review of all plans, issuance of all permits, request for inspections and the conduct of such inspections through the appropriate Township board, body or department, as applicable.

#### **4.03. Construction of the Project.**

(a) **Construction Hours.** Construction practices and hours shall be in accordance with Township ordinances.

(b) **Maintenance.** The Property will be reasonably maintained on a regular basis by Redeveloper; provided, however, that Redeveloper agrees to clean up the Property within twenty-four (24) hours of a specific, reasonable request by the Township that Redeveloper do so or the close of the following Business Day, whichever is later. Should Redeveloper fail to comply with this obligation, the Township will undertake such cleaning and charge Redeveloper for the costs of same. The Redeveloper shall repair, at Redeveloper's cost, any damage to the streets or sidewalks caused by Redeveloper during the construction of the Project.

(c) **Pedestrian Access and Safety.** The Township acknowledges that for safety reasons, the streets adjacent to the Property may need to be closed from time to time during construction of the Project. Notwithstanding the foregoing, Redeveloper acknowledges that the Project is located in a busy area of the Township and near residential homes. The Redeveloper shall, in coordination with the Township Police, employ appropriate measures to ensure the safe and continued flow of pedestrian and vehicular traffic and to deter unauthorized persons from entering the site during construction. The Redeveloper shall supply to the Township Building Department plans and specifications for providing pedestrian safety and site security as applicable.

(d) **Residential Neighbors.** The Redeveloper acknowledges that residential neighbors are located to the rear and one side of the Property. Redeveloper will provide advance written notice to the adjacent residential neighbors of any unusual construction activity (including demolition) planned on the Property, including but not limited to street closures.

(e) **Construction Parking; Sanitary Facilities.** Except as set forth in any Parking Agreement (as more fully detailed in Section 4.02(iv) above), the Redeveloper shall park all vehicles on the Property and not on local streets. The Redeveloper shall provide sanitary facilities on site for all employees and contractors. Should the Redeveloper need to use the public street for construction activities, it shall coordinate with the Township Building Department, the Engineering Department, and Township Police Department in advance of such activities.

(f) **Preconstruction Meeting.** There shall be a preconstruction meeting held at least ten (10) days prior to the Commencement of Construction, which meeting shall include the Township Construction Official, the Township Engineer, a representative from the Township

Police Department, a representative from the Township Fire Department and representatives from the various utility companies.

(g) **Buffers.**

1. The Redeveloper has developed two (2) alternative buffers for the Property, both of which may be constructed along shared property lines to the Project (such buffers to be installed totally within the confines of the Property). The two (2) proposed buffer treatments are as follows:

- a. **Double Hedge Row with Solid Fence:** This first option offers a softer vegetative edge formed by mature boxwood hedges that would be eight (8') feet in height at the time of planting. The Redeveloper will install a double row of hedges along the shared property lines that flank a solid fence. Attached hereto as **Exhibit G** is a drawing depicting the proposed hedge row. All trees planted in front of the hedges shall be installed at a planting height of between 20' and 25' as depicted on the Exhibits attached hereto.
- b. **Venetian Plaster Perimeter Wall (6 feet):** If the Planning Board prefers the second option would have the look of a solid wall. The Redeveloper shall construct a solid wall clad in Venetian plaster, a material which the Redeveloper has had great success on other projects. Attached hereto as **Exhibit H** are photographs of similar walls installed in a variety of locations around the country.

The Planning Board shall be the ultimate decision-maker relative to the type and extent of buffer to approve after comment during the public hearing(s) from the neighbors. The Redeveloper shall, nonetheless, work diligently with the neighbors prior to the public hearings of the Planning Board to discuss the alternative buffers. The selected buffer shall be perpetually maintained by the Redeveloper. The selected buffer shall be installed prior to: (a) the installation of any other site improvements, (b) any demolition, and/or (c) any new construction.

(h) **Restoration Hardware Operations:** Restoration Hardware ("RH") will be the long-term lessee of the Property from the Redeveloper, as the landlord. For clarification purposes as to RH's operations, the following descriptions are provided:

1. **Showroom vs. Retail:** RH Galleries are strictly showrooms where furniture collections are displayed. There are no goods purchased and carried off the premises;

2. **Weddings:** RH is not a wedding venue nor is it a venue for similar types of life events such as (but not limited to) bar mitzvahs, sweet 16 parties, gender reveal parties or similar types of events;

3. **Kitchen Operations:** The kitchen will meet or exceed all New Jersey health code standards. Moreover and specifically, food waste will be stored indoors within a refrigerated trash room (to be approved by the Township Engineer) to avoid any odors or pest/vermin issues.

In addition, in order to eliminate odors generated by the kitchen operations, oven exhaust hoods will utilize scrubbers which meet or exceed the highest industry standards;

4. **Deliveries:** RH anticipates very limited deliveries of new furniture strictly for floor display and not for sales inventory. Restaurant deliveries will be coordinated in the morning hours; and

5. **Noise Impacts:** RH's Gallery shall close at 10 pm and the last restaurant seating will be no later than 10 pm. Any noise generating activity shall comply with Township Ordinance Section 345-1 et seq.

(i) **Preservation of the Historic Resource During Construction:** As a condition to the submission process to the Planning Board for site plan approval, the Redeveloper shall submit a plan to protect this historic resource during construction, in a manner consistent with the Redevelopment Plan.

(j) **Extension of Public Sidewalk on Madison Avenue:** Section III.D.3 of the Redevelopment Plan, the Redeveloper is required to construct a public sidewalk within the public right-of-way on Madison Avenue. In response to requests from Township officials and neighbors, the Redeveloper shall, to the extent required by the Planning Board, extend the public sidewalk on Madison Avenue for approximately 300 additional feet to Crescent Drive. The Redeveloper agrees to make commercially reasonable efforts to secure all authorizations, permits and/or licenses from the State of New Jersey to construct such additional sidewalk. If construction of the additional sidewalk it not possible because of issues beyond Redeveloper's control including, without limitation, the failure to obtain State of New Jersey approval, then Redeveloper's obligation under this Section and Section III.D.3 of the Redevelopment Plan shall terminate.

(k) **Project Lighting:** During the Planning Board site plan process, the Redeveloper shall endeavor to work with the neighbors (to the satisfaction of the Planning Board) to identify lighting fixtures and an overall lighting plan which minimizes light spillage and glare. Where feasible, Redeveloper will use low profile lighting fixtures.

(l) **Electric Charging Stations:** The Developer will add two double EV Charging Stations during the site plan process before the Planning Board..

**4.04. Certificates of Occupancy and Certificates of Completion.** (a) Upon the Completion of Construction, Redeveloper shall apply to Township Construction Code Official for a Certificate of Occupancy.

(b) Following Completion of Construction of the Project, the Township agrees to issue a Certificate of Completion upon receipt of a Completion Notice from Redeveloper. The Certificate of Completion shall constitute a recordable, conclusive determination of the satisfaction and termination of the agreements and covenants with respect to the Project in this Redevelopment Agreement and the Redevelopment Plan. Within thirty (30) days after receipt of the Completion Notice, the Township shall provide Redeveloper with the Certificate of Completion or 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 or is otherwise in default hereunder and what reasonable measures or acts will be necessary in the reasonable opinion of the Township in order for Redeveloper to be entitled to the Certificate of Completion.

#### **4.05. Project Costs, Financing and Performance and Maintenance Guarantees.**

(a) Redeveloper agrees that the costs and financing for the Project are the sole responsibility of the Redeveloper, not the Township.

(b) Redeveloper shall post performance and maintenance guarantees, safety and stability bond and review escrows in accordance with the provisions of N.J.S.A. 40:55D-53 et seq. of the MLUL and all Applicable Laws (collectively, the “**Bond**”), in the following manner:

(i) Prior to the Commencement of Construction, a performance bond or irrevocable letter of credit (or such other form of guarantee allowed in accordance with the MLUL) in a form reasonably acceptable to the Township Attorney (provided that the New Jersey Department of Community Affairs’ standard form shall be deemed to be reasonably acceptable to the Township Attorney) for those Improvements for which a performance guarantee may be required pursuant to the MLUL and as may be required pursuant to the approved site plan and Planning Board Resolution, in an amount to be determined by the Township Engineer pursuant to the MLUL. Notwithstanding the foregoing, and without limiting those items to be included pursuant to the MLUL and the applicable Planning Board approvals, the parties agree that all perimeter buffer landscaping shall be included in the bonded amounts. The cost of all off-site improvements, if any, shall be allocated in accordance with Section 42 of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et. seq.

(ii) A maintenance guarantee in respect of those Improvements required to be bonded in accordance with the MLUL, in the form of a surety bond (or such other form of guarantee allowed in accordance with the MLUL) for a period not to exceed two (2) years after final acceptance of the Improvement, in an amount not to exceed 15% of the cost of the Improvement, which cost shall be determined by the Township Engineer according to the method of calculation set forth in N.J.S.A. 40:55D-53. Without limiting those items to be included pursuant to the MLUL and the applicable Planning Board approval, the parties agree that all perimeter buffer landscaping shall be included in the maintenance guarantee, except to the extent that such improvements are included in any maintenance bond to Morris County.

(iii) If applicable, the Bond must name the Township as an obligee, and Redeveloper shall deliver a copy of the Bond to the Township Clerk prior to Commencement of Construction. To the extent that a surety bond is provided, it shall be provided by a company licensed by the New Jersey Department of Banking and Insurance or otherwise authorized by the New Jersey Department of Banking and Insurance to do business in the State. In the event any insurance company, financial institution or other entity issuing a performance guarantee herein, shall be insolvent or shall declare bankruptcy or otherwise be subject to reorganization, rehabilitation, or other action, whereby state or federal agencies have taken over the management

of the entity, within thirty (30) days after notice from the Township, Redeveloper shall replace the Bond.

(iv) In the event any Bond should lapse, be canceled or withdrawn, or otherwise not remain in full force and effect as a result of any act or omission by Redeveloper, then until an approved replacement of the lapsed Bond has been deposited with the Township, the Township may require Redeveloper to cease and desist any and all work on the Project, unless the Improvements required to be bonded have been completed and approved by the Township. In the event any Bond should lapse, be canceled or withdrawn, or otherwise not remain in full force and effect through no act or omission of Redeveloper, then unless Redeveloper fails to replace the Bond within ten business (10) days of notice given to Redeveloper by the Township, the Township may require Redeveloper to cease and desist work on the Project unless the Improvements required to be bonded have been completed and approved by the Township.

**4.06. Affordable Housing Obligation.** The Project is a fully commercial project and therefore, no affordable housing will be constructed on the Property. The Redeveloper, in fulfillment of its obligation to provide for Affordable Housing, shall make the applicable contribution to the Township’s Affordable Housing Trust Fund. The contribution shall be calculated and provided in accord with the provisions of the Township Code Article XXXVI. “Development Fees” (§57-164.E), as such provisions may be amended from time to time.

**4.07. Intersection Improvements.** The Redeveloper agrees to make a right of way dedication to the Township and or the State of New Jersey for the realignment of the Canfield Road, Madison Avenue and Punch Bowl Road intersection. The dedication will grant a portion of Lot 1, Block 8409 to the Township and or State of New Jersey for roadway purposes and the dedication shall be made free of charge.

**4.08. Parking Agreement(s).** In elaboration of Section 4.02.(a)(iv) of this Agreement, the Redeveloper acknowledges that the Redevelopment Plan for the Property permits limited parking on Property. The Redeveloper has commitment to provide additional parking off-site pursuant to a Parking Agreement at one or more neighboring properties as detailed in the Redevelopment Plan and as may be determined and/or as required by the Planning Board. Any Parking Agreement between the Redeveloper and any other private property owner shall be fully executed and provided to the Township Administrator prior to the issuance of any Certificate of Occupancy for the Project.

## ARTICLE 5

### EVENTS OF DEFAULT; TERMINATION

**5.01. Events of Default.** Any one or more of the following shall constitute an “Event of Default” hereunder, subject to Force Majeure Extension and tolling as provided elsewhere in this Redevelopment Agreement:

(a) If at any time Redeveloper shall: (i) generally not pay its debts as such debts become due, within the meaning of such phrase under Title 11 of the United States Code (or any successor to such statute), or admit in writing that it is unable to pay its debts as such debts become due; or (ii) make an assignment for the benefit of creditors; or (iii) file a voluntary petition under Title 11 of the United States Code, as the same may be amended, or any successor to such statute; or (iv) file any petition or answer seeking, consenting to or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future federal bankruptcy code or any other present or future applicable federal or state or other statute or law; or (v) seek or consent to or acquiesce in the appointment of any custodian, trustee, receiver, sequestrator, liquidator or other similar official of Redeveloper or of all or any substantial part of its property or of the Property or any interest of Redeveloper therein; or (vi) take any corporate action in furtherance of any action described in this subsection or (vii) if at any time any proceeding against Redeveloper seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future applicable federal or state or other statute or law shall not be dismissed within sixty (60) days after the commencement thereof, or if, within sixty (60) days after the appointment without the consent of Redeveloper of any custodian, trustee, receiver, sequestrator, liquidator or any other similar official of Redeveloper, or of all or any substantial part of its properties or of the Property or any interest of Redeveloper therein, such appointment shall not have been vacated or stayed on appeal or otherwise, or if any such appointment shall not have been vacated within forty five (45) days after the expiration of any such stay.

(b) Redeveloper's failure to pay, or delinquency in the payment of, real property taxes or assessments or annual service charges and other charges under the Financial Agreement, which failure or delinquency is not cured within thirty (30) days after Notice by the Township.

(c) Cancellation or termination by reason of any act or omission of Redeveloper of any insurance policy, performance or completion bond, letter of credit, guaranty or other surety required hereunder to be provided by Redeveloper for the benefit of the Township, which failure or delinquency is not cured within forty-five (45) days after Notice by the Township.

(d) Any Transfer (except for Permitted Transfers), without the approval (or deemed approval pursuant to Section 3.05(c)) of the Township Committee.

(e) Any other default or breach by Redeveloper or the Township in the observance or performance of any covenant, condition, representation, warranty or agreement hereunder and, except as otherwise specified below, the continuance of such default or breach for a period of forty-five (45) days after Notice from the non-defaulting party specifying the nature of such default or breach and requesting that such default or breach be remedied; *provided, however*, with respect to any non-monetary default or breach, if the default or breach is one that cannot be completely remedied within forty-five (45) days after such Notice, it shall not be an Event of Default as long as the defaulting party is proceeding in good faith and with due diligence to remedy the same as soon as practicable, but in no event later than one hundred eighty (180) days after such Notice unless this Redevelopment Agreement specifically provides otherwise.

**5.02. Remedies Upon Event of Default of Redeveloper.** Whenever any Event of Default of Redeveloper shall have occurred, the Township may, on written notice to Redeveloper (after applicable Notice and cure periods shall have expired) (a “**Termination Notice**”) terminate this Redevelopment Agreement and Redeveloper’s designation as Redeveloper hereunder upon which, except as expressly provided herein, this Agreement shall be void and of no further force and effect and neither Party shall have any further rights, liability and/or obligations hereunder. In addition, if Redeveloper fails to pay any Township Costs in accordance with the requirements of this Agreement, the Township may file legal action seeking payment of the Township Costs. The exercise of any rights and remedies of the Township, whether provided by this Agreement or otherwise, shall not constitute a waiver of any other rights or remedies provided under this Agreement and, except as otherwise specifically provided by this Agreement, the exercise by the Township of any one or more of such rights or remedies shall not preclude the exercise, at the same or at different times, of any other such rights or remedies for the same Default, or for the same failure in respect to any of the terms, covenants, conditions or provisions of this Agreement or any of its remedies for any other default or breach. No delay by the Township in asserting any rights or exercising any remedy shall operate as a waiver of such rights or remedy or otherwise deprive the Township of, or limit such rights and remedies in any way (it being the intent of this provision that the Township shall not be constrained, so as to avoid the risk of being deprived of or limited in the exercise of any remedy provided in this Section because of concepts of waiver, laches, or otherwise, to exercise such remedy at a time when it may still hope otherwise to resolve the problems created by the Default involved); nor shall any waiver by the Township with respect to any specific Default by the Redeveloper under this Section be considered or treated as a waiver of the rights of the Township with respect to any other Defaults by the Redeveloper under this Section or with respect to the particular Default, except to the extent specifically waived in writing. The terms of this Section 5.02 shall be in addition to and not in limitation of, the provisions of Section 5.05 and 5.06 of this Agreement.

**5.03. Remedies Upon Event of Default by the Township.** If an Event of Default by the Township occurs, then the Redeveloper may take whatever action at law or in equity as Redeveloper may deem necessary or desirable to enforce the performance or observance of any rights or remedies of Redeveloper, or any obligations, agreements, or covenants of the Township under this Redevelopment Agreement, including an action for specific performance and/or actual, compensatory damages. Further, but subject to any cure provisions afforded the Township hereunder, the Redeveloper shall have the right, in its sole and absolute discretion, on written notice to the Township (after applicable Notice and cure period shall have expired), to terminate this Redevelopment Agreement upon which, except as expressly provided for herein, this Agreement shall be void and of no further force and effect and neither Party shall have any further rights, liabilities and/or obligations hereunder.

**5.04. Force Majeure Extension.** For the purposes of this Redevelopment Agreement, neither the Township nor Redeveloper shall be considered in breach or in default with respect to its obligations hereunder because of a delay in performance arising from a Force Majeure Event. It is the purpose and intent of this provision that in the event of the occurrence of any such delay, the time or times for performance of the obligations of the Township or Redeveloper shall be extended for the period of the delay; provided, however, that such delay is actually caused by or

results from the Force Majeure Event. With the exception of a pandemic, to which different time limitation shall apply, the time for completion of any specified obligation hereunder shall be tolled for a period of time up to but not exceeding twelve (12) months from the occurrence of a Force Majeure Event. With respect to a pandemic, the time for completion of any specified obligation hereunder shall be tolled for a period of time up to but not exceeding twelve (12) months from the end of a declared state of emergency by the Governor. During any Force Majeure Event that affects only a portion of a Project, Redeveloper shall to the extent reasonably feasible continue to perform its obligations for the balance of the Project unaffected by the Force Majeure Event. The existence of a Force Majeure Event shall not prevent the Township or Redeveloper from declaring a default or the occurrence of an Event of Default by the other party if the event that is the basis of the Event of Default is not a result of the Force Majeure Event.

**5.05 No Waiver.** Except as otherwise expressly provided in this Redevelopment Agreement, any failure or delay by either party hereunder in asserting any of its rights or remedies as to any default by the other party, shall not operate as a waiver of such default, or of any such rights or remedies, or to deprive the Township or the Redeveloper, as the case may be, of its right to institute and maintain any actions or proceedings in accordance with this Agreement, which it may deem necessary to protect, assert or enforce any such rights or remedies.

**5.06 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.

**5.07 Termination Rights Related to Litigation.** If third party litigation is commenced challenging the validity of (i) the designation of the Redevelopment Area, (ii) the Redevelopment Plan, or (iii) execution of this Redevelopment Agreement by the Township, the commencement of such litigation shall be a Force Majeure Event effective as of the date of the filing of the summons and complaint if Redeveloper invokes the Force Majeure provisions this Redevelopment Agreement; provided, however, that (a) Redeveloper may terminate this Agreement pursuant to Section 4.02(c) hereof, at any time, and (b) if such litigation is finally determined in favor of the plaintiff with no further opportunity for appeal, then either Party may terminate this Redevelopment Agreement by written notice to the other. Upon such termination, this Agreement shall be void and of no further force and effect and neither Party hereto shall have any rights, liabilities and/or obligations hereunder.

## ARTICLE 6

### MISCELLANEOUS

**6.01. No Consideration for Agreement.** Redeveloper warrants it has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this

Redevelopment Agreement, other than normal costs of conducting business and costs of professional services such as architects, engineers, financial consultants and attorneys. Redeveloper further warrants it has not paid or incurred any obligation to pay any officer or official of the Township, any money or other consideration for or in connection with this Redevelopment Agreement.

**6.02. Non-Liability of Officials and Employees.** (a) No member, official or employee of the Township shall be personally liable to Redeveloper, or any successor in interest, in the event of any default or breach by the Township, or for any amount which may become due to Redeveloper or its successor, or on any obligation under the terms of this Redevelopment Agreement.

(b) No member, officer, shareholder, director, partner or employee of the Redeveloper shall be personally liable to the Township, or any successor in interest, in the event of any default or breach by the Redeveloper or for any amount which may become due to the Township, or their successors, on any obligation under the terms of this Redevelopment Agreement.

**6.03. Modification of Agreement.** No modification, waiver, amendment, discharge, or change of this Redevelopment Agreement shall be valid unless the same is in writing, duly authorized, and signed by Redeveloper and the Township.

**6.04. Recitals and Exhibits.** The Recitals and all Exhibits annexed to this Redevelopment Agreement are hereby made a part of this Redevelopment Agreement by this reference thereto.

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

**6.06. Severability.** The validity of any Articles and Section, clause or provision of this Redevelopment Agreement shall not affect the validity of the remaining Articles and Section, clauses or provisions hereof.

**6.07. Indemnification.** (a) Redeveloper, for itself and its successors and assigns, covenants and agrees, at its sole cost and expense to indemnify, defend and hold harmless the Township, its governing body, their respective officers, employees, agents, attorneys and consultants, representatives and employees, agents, attorneys and consultants, representatives and employees and respective successors and assigns from any third party claims, liabilities, losses, costs, damages, penalties and expenses (including reasonable attorney's fees) resulting from or in connection with the acts or omissions of Redeveloper or of Redeveloper's agents, employees, or consultants in connection with the development, financing, design, construction, operation, or maintenance of the Project, provided, however, that no indemnification shall be required pursuant to this Section 6.07 in the event that the indemnification otherwise due pursuant to this Section 6.07 is attributable to the negligence or willful misconduct of the Township, its governing body, or any agency of the Township or any of their respective officers,

employees, agents, attorneys, consultants, representatives and employees. This Section 6.07(a) shall survive termination of this Agreement.

(b) As between the Redeveloper and the Township, the Redeveloper agrees and specifically assumes any and all responsibility for the investigation and remediation of all Hazardous Substances, whether known or unknown, on, under or within the Property, as may be required by applicable Environmental Laws, and the Redeveloper shall bear all costs for such investigation and remediation of the Property. The Redeveloper shall use reasonable efforts to obtain all environmental approvals that may be required for the remediation of the Property. Any and all environmental costs shall be the sole responsibility of the Redeveloper.

(c) Without limitation on any obligation to defend and indemnify pursuant to this Agreement, and without limitation to such obligation which the Redeveloper may have as a matter of law, the Redeveloper shall indemnify, defend, release and hold the Township and its officials and agents harmless against (a) all claims or alleged claims and response costs and fines and penalties against the Township and its officials and agents or the Redeveloper by any governmental authority or third party due to Redeveloper's discharge of Hazardous Substances in excess of any limitations provided by applicable Environmental Laws, (b) all claims or alleged claims against the Township and its officials and agents by any governmental authority or third party for injunctive relief related to Redeveloper's discharge of Hazardous Substances in excess of any limitations provided by applicable Environmental Laws, and (c) all claims or alleged claims of bodily injury or property damage asserted against the Township and its officials and agents by third Parties due to Redeveloper's discharge of Hazardous Substances in excess of any limitations provided by applicable Environmental Laws. The indemnity in this Section 6.07(c) shall survive termination of this Redevelopment Agreement.

**6.08. Notices** A notice, demand or other communication required to be given under this Redevelopment Agreement by any Party to the other ("**Notice**") shall be in writing and shall be sufficiently given or delivered if dispatched by United States Registered or Certified Mail, postage prepaid and return receipt requested, or delivered by overnight courier or delivered personally (with receipt acknowledged), to the parties at their respective addresses set forth herein, or at such other address or addresses with respect to the parties or their counsel as any party may, from time to time, designate in writing and forward to the others as provided in this Section.

As to the Township:

Township of Morris  
50 Woodland Avenue  
PO BOX 7603  
Convent Station, NJ 07961-7603  
Attn: Township Business Administrator

With a copy to:

DiFrancesco Bateman Kunzman, Davis, Lehrer & Flaum, P.C.  
15 Mountain Boulevard  
Warren, New Jersey 07059

Attn: Jeffrey B. Lehrer, Esq.  
(908) 757-8039 fax

As to the Redeveloper:

Madison Avenue Urban Renewal LLC  
15 Koch Road, Suite K,  
Corte Madera, CA 94925

With a copy to:

Frank Vitolo, Esq.  
Riker Danzig Scherer Hyland Perretti, LLP  
One Speedwell Avenue  
Morristown, NJ 07962

From time to time either Party may designate a different person or address for all the purposes of this Notice provision by giving the other party no less than ten (10) days Notice in advance of such change of address in accordance with the provisions hereof. Notices shall be effective upon the earlier of receipt or rejection of delivery by the addressee. Any notice given by an attorney for a party shall be effective for all purposes.

**6.09 Further Assurances/Cooperation.** The Parties shall reasonably cooperate with each other as reasonably necessary to effectuate the Project. From time to time at the request of either Redeveloper or the Township, the other party shall execute, acknowledge and deliver such other and further documents as the requesting party may reasonably request to better effectuate the provisions of this Redevelopment Agreement.

**6.10. Governing Law.** This Redevelopment Agreement shall be construed and enforced in accordance with the internal laws of the State of New Jersey, without giving effect to the principles of conflicts of law.

**6.11. Counterparts.** This Redevelopment Agreement may be executed in one or more counterparts (which may be copies delivered electronically or by facsimile), each of which shall be deemed to be an original, but all of which taken together shall constitute one and the same Agreement.

**6.12 Estoppel Certificates.** Within fourteen (14) days following written request therefore by a Party hereto (which request may be on behalf of any Mortgagee, purchaser, tenant or other party having an interest or prospective interest in the Property), the other party shall issue a signed certificate (“**Estoppel Certificate**”) stating that (i) this Redevelopment Agreement is in full force and effect, (ii) there is no Event of Default under this Redevelopment Agreement (nor any event which, with the passage of time and the giving of notice would result in an Event of Default under this Redevelopment Agreement), or stating the nature of the Event of Default or other such event, if any, and (iii) any other matter reasonably requested. In the event the Estoppel Certificate discloses an Event of Default or other event, it shall also state the manner in which

such default, breach and/or event may be cured. No more than three (3) Estoppel Certificates per year may be requested by each Party.

## ARTICLE 7

### FINANCING

**7.01. Mortgage Financing.** (a) During the initial five (5) year period from the commencement of construction of the Project, the Redeveloper shall not engage in any financing or any other transaction creating any Mortgage on the Project in excess of 90 percent of the cost of acquiring the Property and developing the Project (including designing, permitting and constructing the Project), except as may be approved by the Township (which approval shall not be unreasonably withheld) for the purpose of obtaining funds in connection with the construction of the Project.

(b) In the event that the Redeveloper is unable to obtain financing for the Project on terms and conditions acceptable to Redeveloper in its sole discretion, or if Redeveloper determines that financing for the Project cannot be obtained on terms and conditions acceptable to Redeveloper in its sole discretion, then Redeveloper shall have the right to terminate this Agreement upon at least thirty (30) days prior written notice to the Township.

(c) If this Agreement is terminated pursuant to the terms of this Section 7.01 then, except as expressly set forth herein to the contrary and upon full payment of all Township Costs accruing until the date of such termination, this Agreement (including, without limitation, all the covenants contained herein) shall be of no further force and effect and the Parties hereto shall have no further rights, liabilities and/or obligations hereunder.

(d) If the Mortgagee reasonably requires any change(s) or modification(s) to the terms of this Redevelopment Agreement, the Township shall reasonably cooperate with the Mortgagee and the Redeveloper in reviewing and approving such proposed change(s) or modification(s); provided, however, that any such proposed change or modification shall not materially and adversely alter or modify the rights and obligations of the Redeveloper or the Township, as provided in this Redevelopment Agreement.

(e) To the extent reasonably requested by the Redeveloper, the Township shall execute such other agreements and/or documents (to the extent same are in form and content reasonably acceptable to the Township) as may be requested or required by any Mortgagee (or any equity participant of the Redeveloper); provided, however, that any such agreement or document shall not materially and adversely alter any of the rights, liabilities or obligations of the Redeveloper or the Township under this Redevelopment Agreement.

**7.02. Notice of Default to the Mortgagee and Right to Cure.** Whenever the Township shall deliver any notice or demand to the Redeveloper with respect to any breach or default by the Redeveloper under this Redevelopment Agreement, the Township shall at the same time deliver to each Mortgagee a copy of such notice or demand; provided that the Redeveloper has delivered to the Township a written notice of the name and address of such Mortgagee. Each such Mortgagee shall (insofar as the rights of the Township are concerned) have the right at its option within sixty (60) days after the receipt of such notice (and the expiration of all applicable cure periods), to cure or remedy, or to commence to cure or remedy,

any such default which is subject to being cured and to add the cost thereof to the debt and the lien which it holds. The Township shall not seek to enforce any of its remedies under this Agreement during the period in which any such Mortgagee is proceeding diligently and in good faith to cure a Redeveloper Event of Default. If the Mortgagee elects to cure the Event of Default within such sixty (60) day period, but has not completed such cure, then not later than every sixty (60) days thereafter until such Event of Default is cured, Redeveloper shall inform the Township that the Mortgagee is proceeding diligently to cure the Redevelopment Event of Default, and briefly describing the course of action being pursued to effectuate such cure. Notwithstanding the foregoing, the Township may seek to enforce any of its remedies under this Agreement with respect to a monetary Event of Default if such monetary Event of Default is not cured within such sixty (60) day period after notice thereof. If possession of the Property is necessary to cure any default or breach, any Mortgagee will be allowed to complete any proceedings required to obtain possession of the Property.

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

(b) If a Mortgagee forecloses its Mortgage secured by the Project, or takes title (in its name or the name of an Affiliate) to the Project by deed-in-lieu of foreclosure or similar transaction (collectively a "**Foreclosure**"), the Mortgagee or its Affiliate shall have the option to either (i) sell the Project to any Person, provided Mortgagee gives the Township notice of such sale at least 20 days prior to closing and provided such Person assumes the obligations of the Redeveloper under this Redevelopment Agreement in accordance with Applicable Law, and/or (ii) assume the obligations of the Redeveloper under this Redevelopment Agreement in accordance with Applicable Law. The Mortgagee, or the entity assuming the obligations of the Redeveloper, in that event must agree to complete the Project in accordance with the terms of this Redevelopment Agreement, but subject to reasonable extensions of any deadlines hereunder. Any such Mortgagee, or other entity assuming such obligations of the Redeveloper, upon completing the Project shall be entitled, upon written request made to the Township, to a Certificate of Completion in accordance with the terms of this Agreement. Nothing in this Redevelopment Agreement shall be construed or deemed to permit or to authorize any Mortgagee, or such other entity assuming such obligations of the Redeveloper, to devote the Property, or any part thereof, to any uses, or to construct any improvements thereon, other than those uses or improvements provided for or authorized by this Redevelopment Agreement and the Redevelopment Plan. The Mortgagee or such other entity that assumes the obligations of the Redeveloper shall be entitled to develop the Property or Project in accordance herewith.

## ARTICLE 8

### FUNDING AGREEMENT

#### 8.01. Escrow Account to Cover Township Costs

(a) Redeveloper has established with the Township an escrow account (the “**Escrow Account**”) having an initial balance of **TWENTY-FIVE THOUSAND (\$25,000) DOLLARS** to cover any Township Costs (the “**Escrow Deposit**”). Attached to and made a part of this Agreement as **Exhibit C** is a description of the agreed upon procedure to be utilized in establishing, funding and replenishing the Escrow Account and in making disbursements therefrom.

(b) The parties make reference to the Funding Agreement between them dated October 4, 2017, which established an escrow account to pay certain reasonable and necessary costs of the Township prior to the date of this Agreement (the “Funding Agreement”). To the extent there is any balance in that escrow account as of the date hereof, such balance shall be transferred to the Escrow Account and shall be credited against the initial required balance set forth above. To the extent there is a deficiency in that escrow account to pay for such costs incurred prior to the date of this Agreement that are required to be paid in accordance with the terms of the Funding Agreement, then such costs shall be paid from the funds in the Escrow Account in accordance with the terms hereof. By the execution of this Agreement, the Funding Agreement is hereby terminated.

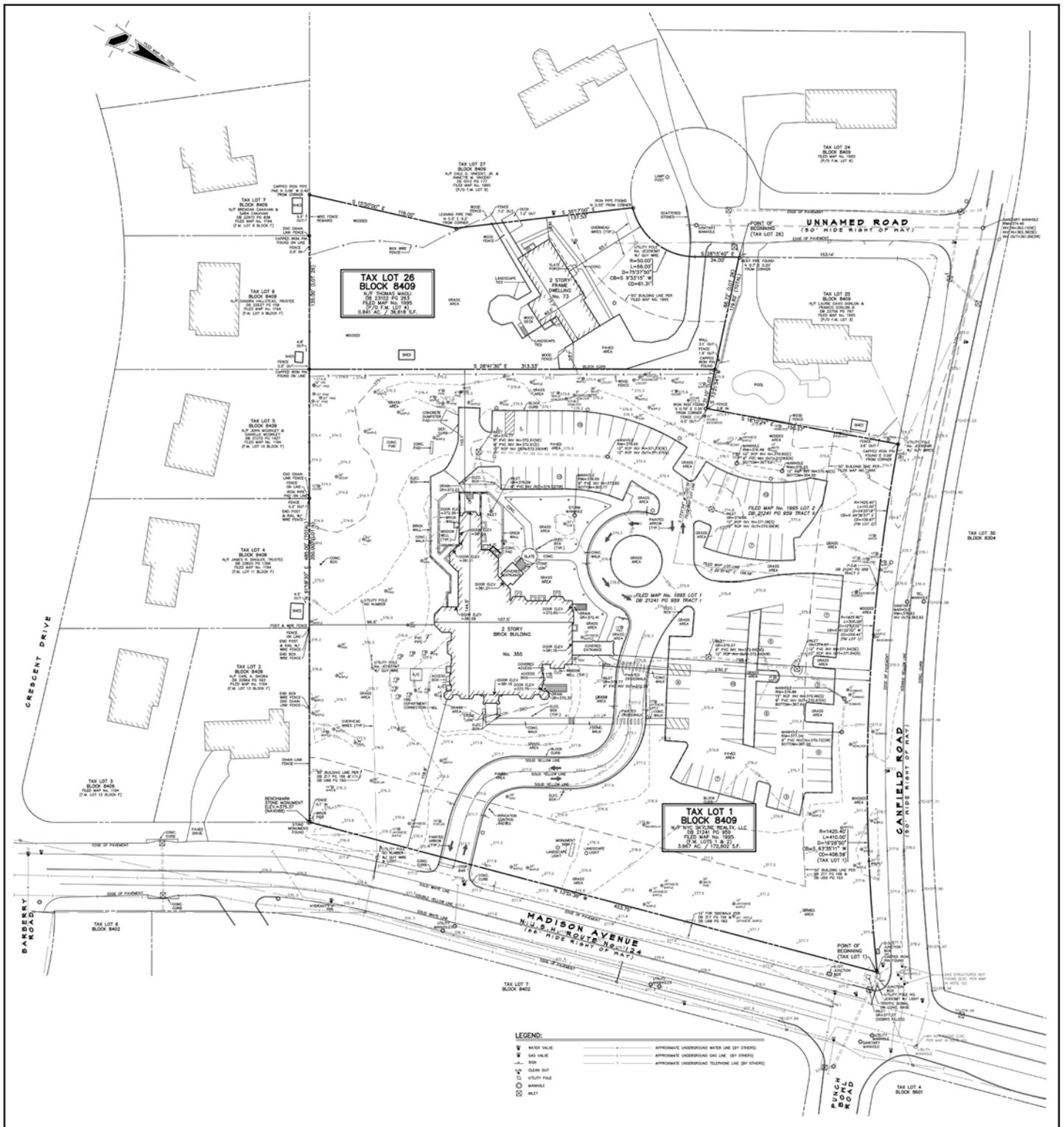
[Signature pages to follow]





**EXHIBIT A**  
**LEGAL DESCRIPTION OF**  
**THE PROPERTY**

FIGURE 3. SITE SURVEY



**EXHIBIT B**

**FORM DECLARATION OF COVENANTS AND RESTRICTIONS**

Record and Return to:

Prepared by:

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**DECLARATION OF COVENANTS AND RESTRICTIONS  
Block 8409, Lot 1 in the Township  
of Morris, Morris County, New Jersey (the “Property”)**

This Declaration of Restrictions is made this 12th day of November, 2020 by **MADISON AVENUE URBAN RENEWAL LLC**, a limited liability corporation, having its offices at 15 Koch Road, Suite K, Corte Madera, CA 94925, (together with permitted successors or assigns hereinafter provided, referred to as the “**Redeveloper**”).

**W I T N E S S E T H**

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

**WHEREAS**, on October 17, 2018 by Resolution No. 229-18, the Township Township Committee of the Township of Morris (the “**Township Committee**”) pursuant to and in accordance with the requirements of the LRHL heretofore designated an area in need of redevelopment consisting of approximately 4+/- acres identified as **Block 8409, Lot1** on the tax maps of the Township and more particularly described on **Exhibit A** annexed hereto (the “**Redevelopment Area**” or the “**Property**”); and

**WHEREAS**, on September 23, 2020 the Township Committee duly adopted the “The Abbey Alnwick Hall Redevelopment Plan” for the Redevelopment Area pursuant to Ordinance No. 07-20 (the “**Redevelopment Plan**”); and

**WHEREAS**, in order to implement the development, financing, construction, operation and management of the Project, the Township Committee by duly adopted resolution authorized the execution of a redevelopment agreement with the Redeveloper on November 12, 2020 (the “**Redevelopment Agreement**”) in accordance with N.J.S.A. 40A:12A-8(f) of the LRHL; and

**WHEREAS**, Section 9(a) of the LRHL 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 also provides that the Property, the Redevelopment Agreement, and Redeveloper’s interest therein shall not be transferable, subject to certain conditions, prior to the issuance of a Certificate of Completion and further provides certain remedies to the Township 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 Restrictions and said declaration be recorded in the office of the Morris County Clerk.

**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, subject to the terms of the Redevelopment Agreement:

- (a) Redeveloper shall construct the Project on the Property in accordance with, and subject to the terms of, the Redevelopment Plan, the Redevelopment Agreement, and all Applicable Laws and Governmental Approvals.
- (b) Except for Permitted Transfers, and subject to the terms hereof, prior to the issuance of a Certificate of Completion, Redeveloper shall not effect a Transfer without the written consent of the Township, which shall not be unreasonably withheld, conditioned or delayed.
- (c) In connection with its use or occupancy of the Project, Redeveloper shall not effect or execute any covenant, agreement, lease, conveyance or other instrument whereby the Property is 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, creed, religion, ancestry, national origin, sexual orientation, sex or familial status.
- (d) Redeveloper shall, upon Completion of Construction, obtain a Certificate of Occupancy and all other Government Approvals required for 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 the

Redevelopment Agreement including the obligation to use commercially reasonable efforts to meet all deadlines and timeframes set forth in this Redevelopment Agreement.

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

(h) Redeveloper will promptly pay any and all taxes, annual service charges or other charges under the Financial Agreement, special assessments or similar obligations when owed with respect to the Property and any other property owned by Redeveloper situated in the Township.

(i) The Abbey structure not be demolished and all structural elements of the Abbey shall be maintained in good and/or acceptable condition for occupancy as required by Township Code during the Term of the Financial Agreement. The term “structural elements” shall include, but not be limited to the roof, load bearing walls, mechanical systems, the exterior façade and the integrity of all windows to repel water infiltration within the building.

(j) Redeveloper recognizes the importance of the Redevelopment Project to the general welfare of the community and that the identity of the Redeveloper and its qualifications were critical to the Township in entering into the Redevelopment Agreement. The Township considers that a change of Control in Redeveloper, or a Substantial Membership Transfer, is for practical purposes a Transfer or disposition of the Project. Redeveloper recognizes that it is because of such qualifications and identity that the Township entered into the Redevelopment Agreement with Redeveloper, and, in so doing, the Township relied on the obligations of Redeveloper and not some other Person for the faithful performance of all undertakings and covenants to be performed by Redeveloper under the Redevelopment Agreement. Based upon the foregoing, except for Permitted Transfers, prior to Completion of the Project as evidenced by the issuance of a Certificate of Completion, and without the prior written approval of the Township, which shall not be unreasonably withheld, conditioned or delayed, Redeveloper agrees for itself and all successors in interest that there shall be no Transfer, including a change in Control of Redeveloper and a Substantial Membership Transfer.

Section 3 It is intended and agreed that the covenants and restrictions set forth in Section 2 shall be covenants running with the land. All covenants in Section 2, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in this Redevelopment Agreement, shall be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by the Township and its successors and assigns, and any successor in interest to the Property, or any part thereof, against Redeveloper, its successors and assigns and every successor in interest therein, and any party in possession or occupancy of the Property or any part thereof. Notwithstanding the foregoing, the agreements and covenants set for in Section 2 shall cease and terminate upon the issuance of a Certificate of Completion for such improvements.



## EXHIBIT C

### ESCROW PROCEDURES

1. **Escrow Deposit.** The Escrow Deposit is separate from and in addition to all other application fees and escrow deposits that may be required by the Township pursuant to the terms of the Redevelopment Agreement, including any applications for land use approvals that may be needed to implement the Redevelopment Plan. Additions to the Escrow Deposit may subsequently become necessary to cover all reimbursable expenses incurred by the Township, as “Escrowee”, pursuant to the terms of this Agreement.
  
2. **Deposit and Administration of Escrow Funds.** The Escrow Deposit and all additions thereto shall be held by the Escrowee in a banking institution or savings and loan association in the State of New Jersey insured by an agency of the federal government, or in any other fund or depository approved for such deposits by the State of New Jersey, in a segregated, non-interest bearing account referenced to this Agreement.
  
3. **Payments from the Escrow Funds.** (a) The Escrowee shall use the Escrow Deposit and all additions thereto to pay the Township Costs in accordance with the provisions of the Redevelopment Agreement.  
  
    (b) Each payment for professional services charged to the Escrow Account shall be pursuant to a voucher from the professional or consultant, identifying the personnel performing services, each date the services were performed, the hours spent in not greater than one-tenth (1/10) hour increments, the hourly rate, and specifying the services performed. All professionals shall submit the required vouchers or statements to the Escrowee on a monthly basis in accordance with the schedule and procedures established by the Escrowee. The professionals or the Escrowee shall simultaneously send an informational copy of each voucher or statement submitted to the Escrowee to the Redeveloper; *provided*, that each such informational voucher or statement may be redacted if and as necessary to prevent disclosure of privileged or otherwise confidential matters.
  
4. **Accounting and Additional Deposits.** Provided that during such period the Township has expended any Township Costs, every thirty (30) days, the Escrowee shall prepare and send to the Redeveloper a statement which shall include an accounting of funds listing all deposits, disbursements and the cumulative balance of the Escrow Account. If at any time the balance in the Escrow Account is less than **FIFTEEN THOUSAND and 00/100 (\$15,000.00) DOLLARS**, the Escrowee shall provide the Redeveloper with a notice of the insufficient Escrow Account balance. Redeveloper shall deposit to the Escrow Account additional funds such that the total amount on deposit shall be not less than **THIRTY THOUSAND and 00/100 (\$30,000.00) DOLLARS**, such deposit to be made within five (5) Business Days

after the Escrowee's notice, failing which the Escrowee may unilaterally cease work without liability to the Redeveloper.

5. **Close Out Procedures.** Upon the issuance of a Certificate of Completion or other termination of this Agreement, the Redeveloper shall send written Notice by certified mail to the Escrowee requesting that the remaining balance of the Escrow Account be refunded, or otherwise applied in accordance with the provisions of this Agreement. After receipt of such notice, the professional(s) shall render a final bill to Escrowee within 30 days, and shall send an informational copy simultaneously to the Redeveloper. Within 30 days after receipt of the final bill the Escrowee shall pay all outstanding bills and render a written final accounting to the Redeveloper. The Redeveloper will not be responsible for any additional charges once the final accounting has been rendered by the Escrowee in accordance with this section. This Section shall survive issuance of a Certificate of Completion or other termination of this Agreement.
  
6. **Disputed Charges.** (a) The Redeveloper may dispute the propriety or reasonableness of Township Costs paid out of the Escrow Account by written Notice to the Escrowee. A copy of such Notice shall be sent simultaneously to the professional(s) whose charges or estimated costs are the subject of the dispute. Such written Notice of a disputed charge shall be given within 30 days after the Redeveloper's receipt of the informational copy of the professional's voucher, invoice, statement or bill, except that if the professional has not supplied the Redeveloper with an informational copy of the voucher, invoice, statement or bill, then the Redeveloper shall send Notice within 30 days after receipt of the first statement of activity against the Escrow Account containing the disputed charge. Failure to dispute a charge in writing within the prescribed time shall constitute the Redeveloper's acceptance of the charge and a waiver by the Redeveloper of all objections to the charge and to payment thereof out of the Escrow Account. The terms of this Section shall survive termination of this Agreement  
  
(b) If the Escrowee and the Redeveloper cannot agree on the resolution of a disputed charge, the parties agree to arbitrate the matter, with a retired judge mutually agreeable to the parties acting as arbitrator. During the pendency of a dispute, the Escrowee shall not pay the disputed charges out of the escrow account, but may continue to pay undisputed charges out of the escrow account.
  
7. The terms of this exhibit shall survive termination of this Agreement.

**EXHIBIT D**

**FORM OF CERTIFICATE OF COMPLETION**

Record and Return to:

Prepared by:

\_\_\_\_\_

**CERTIFICATE OF COMPLETION**

In accordance with Section 3.03 of the agreement entered into by the Township of Morris (the “**Township**”) and RH Urban Renewal LLC (the “**Redeveloper**”), dated as of \_\_\_\_\_, 2020 entitled “*Redevelopment Agreement Between The Township of Morris and Madison Avenue Urban Renewal LLC*” (the “**Agreement**”), the undersigned acknowledges that Redeveloper has performed all of its duties and obligations with respect to the Project (as such term is defined in the Agreement) under the Agreement and has completed construction of the Project in accordance with the requirements of the Agreement.

This Certificate of Completion shall constitute a recordable conclusive determination of the satisfaction and termination of the Redeveloper’s obligations, responsibilities and covenants under the Agreement. The conditions that were found and determined to exist with respect to the Property (as defined in the Agreement) at the time the Property was determined to be in need of redevelopment shall be deemed to no longer exist and the Property shall no longer be subject to the possibility of eminent domain 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. The Property shall no longer be subject to any covenant running with the land pursuant to the Agreement and the Declaration.

All undefined terms used herein shall have the same meaning ascribed to them in the Agreement.



**EXHIBIT E**  
**EXISTING MEMBERS**

**The URE name shall be : Madison Avenue Urban Renewal LLC**

**The names and address of the sole member member of the URE along with the percentage of ownership as of the date of this agreement, shall be listed below:**

The sole member of the URE is Restoration Hardware, Inc.  
Address: 15 Koch Road, Suite K, Corte Madera, CA 94925  
Ownership percentage: 100%

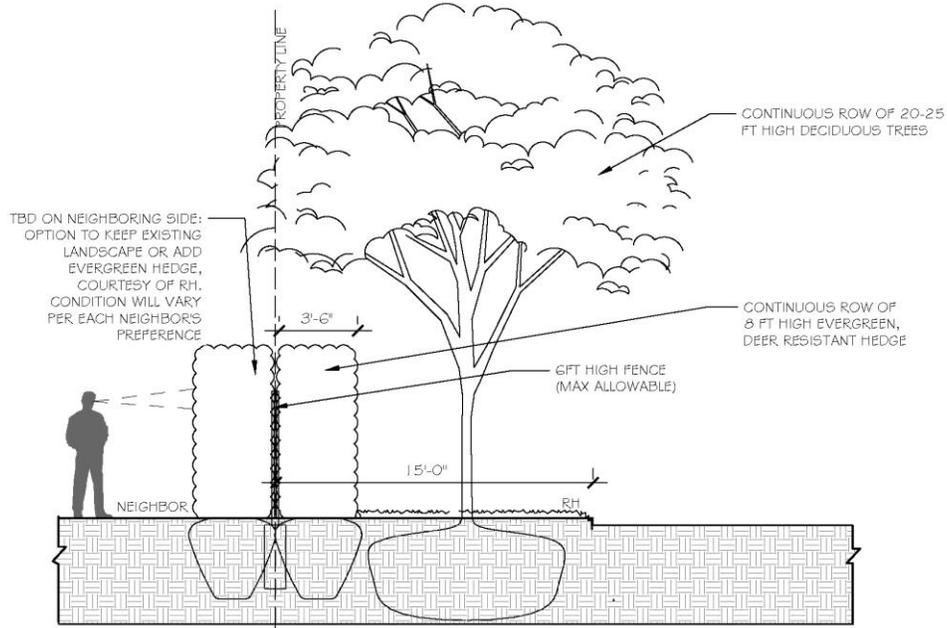
**EXHIBIT F  
CONCEPT PLAN**

**FIGURE 5. PROPOSED CONCEPTUAL SITE PLAN**

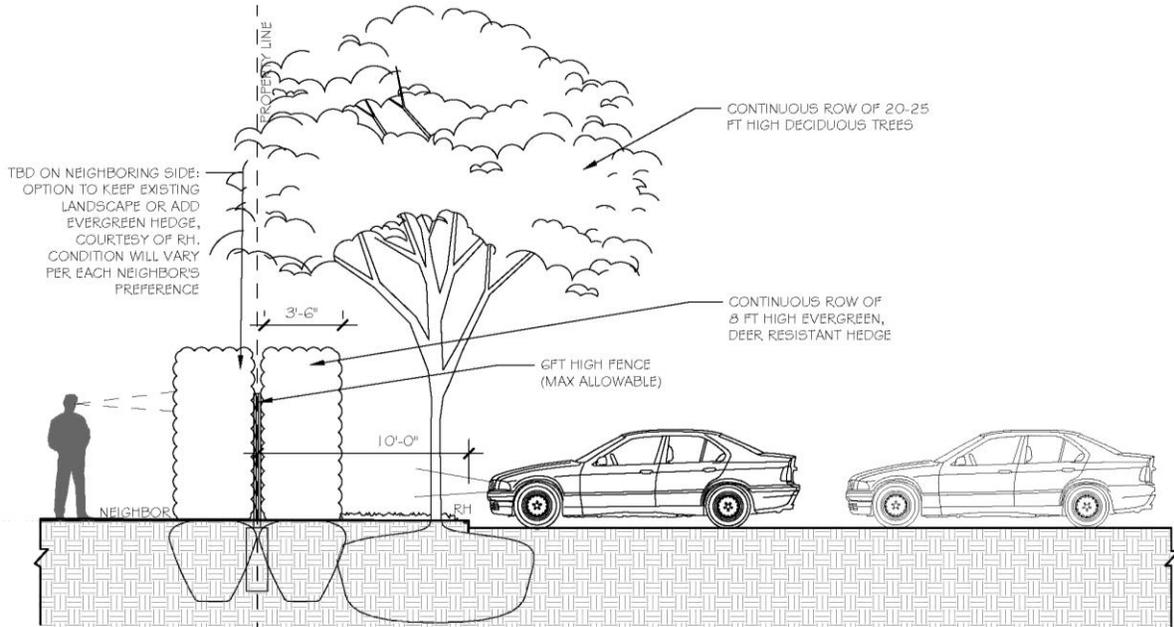


**EXHIBIT G**  
**HEDGE ROW**

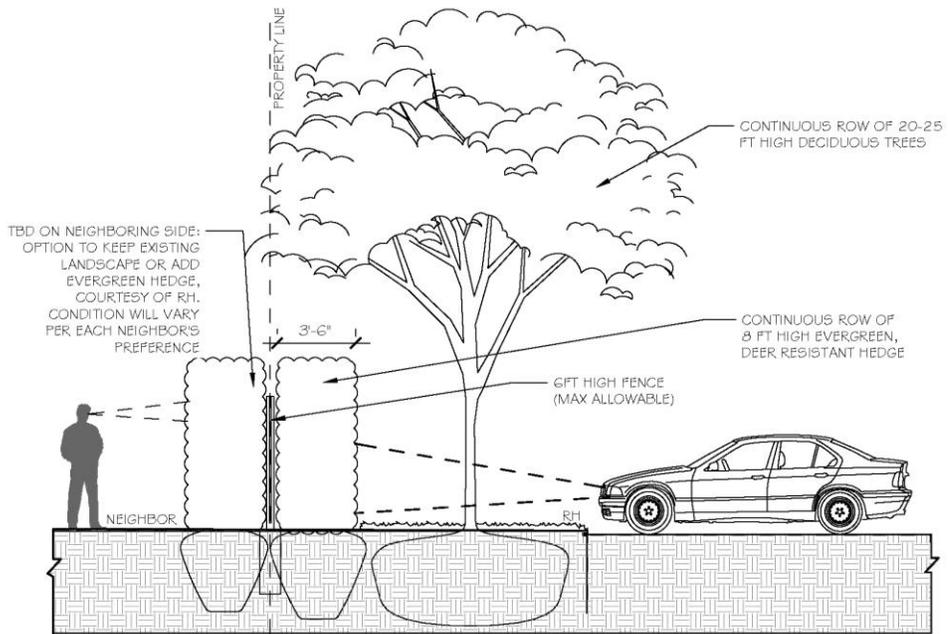
# Potential Hedge Row



1 PROPOSED SOUTH PROPERTY LINE CONDITION - TOWARDS STREET  
LSK1 NTS



1 PROPOSED SOUTH PROPERTY LINE CONDITION AT TANDEM PARKING  
LSK2 NTS



1 PROPOSED WEST PROPERTY LINE CONDITION AT PARKING  
 L5K.3 NTS

**EXHIBIT H**  
**PHOTOGRAPHS OF SIMILAR WALLS AROUND THE COUNTRY**

**Sample Venetian Plaster Wall**



