

**REDEVELOPMENT AGREEMENT BY AND BETWEEN THE BOROUGH OF FLEMINGTON AND
HBC LIBERTY, LLC**

THIS REDEVELOPMENT AGREEMENT (“**Agreement**”), made as of the ____ day of June, 2022 (the “**Effective Date**”), by and between the BOROUGH OF FLEMINGTON, with offices at 38 Park Avenue, Flemington, New Jersey 08822, (the “**BOROUGH**” or “**FLEMINGTON**”), acting pursuant to the provisions of the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 and HBC LIBERTY VILLAGE LLC, or its permitted assignees, with offices located at 331 Newman Springs Road, Building 3, Suite 310, Red Bank, New Jersey 07701 (“**Redeveloper**” or “**HBC Liberty**”).

RECITALS

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

WHEREAS, by Resolution 2021-15, on October 12, 2021, the Borough of Flemington designated the Liberty Village Redevelopment Area as a “Non-Condemnation” Redevelopment area comprising of ten (10) lots and approximately twenty-three (23) acres (collectively, the “**Redevelopment Area**”); and

WHEREAS, by Ordinance No. 2021-28 on December 13, 2021, the Borough of Flemington adopted a plan for the redevelopment of the parcels within the Redevelopment Area known as the Liberty Village Redevelopment Plan (“**Redevelopment Plan**”); and

WHEREAS, the Borough desires that certain property located within the Redevelopment Area be redeveloped in accordance with the Redevelopment Plan, as may be amended from time to time, a complete copy of which is on file at Borough Hall:

- Block 35, Lots 22, 23, 24, 25, 31, 53, 54, 69, 70, and 71 – property known as Liberty Village,

consisting of approximately 23 acres located generally at the intersection of NJ Route 12, Stangl Road, and Church Street (“**Project Site**”)

WHEREAS, the Borough and Redeveloper desire to enter into this Agreement, which supersedes any and all previous Agreements for the Redevelopment of the Project Site;

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

Article 1 **DEFINITIONS**

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

“Affiliate” means with respect to any Person or entity, any other Person or entity directly or indirectly controlling or controlled by, or under direct or indirect common control with, such Person. For purposes of this definition, the term “control,” including the correlative meanings of the terms “controlled by” and “under common control with,” as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such Person; provided that the right of another entity or entities to consent to “major decisions” shall not be deemed to negate the existence of control (however, for the avoidance of doubt, the foregoing shall not be deemed to excuse Redeveloper or any Affiliate from the performance of any of its obligations under this Agreement).

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

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

“Borough Cost(s)” means all reasonable and ordinary out-of-pocket costs and/or expenses incurred by the Borough that are required by or necessary to implement or defend this Agreement and/or any amendment thereto, including Redeveloper’s designation as the exclusive Redeveloper of the Project Site, the Redevelopment Plan or any amendment thereto in connection with the Project, the cost to defend litigation challenging this Agreement or any action taken by the Borough in furtherance or support of this Agreement or the Project, and/or any Financial Agreement or other such agreement memorializing the terms of any PILOT, which shall include, but not be limited to, the following: reasonable fees and costs of any professional, consultant, contractor or vendor retained by the Borough in writing, including attorneys, environmental consultants, engineers, technical consultants, planners, and financial consultants among others.

“Certificate of Completion” means a recordable, conclusive determination issued by the Borough evidencing the satisfaction and termination of the agreements and covenants in this Agreement, as applicable, and compliance with this Agreement and the Redevelopment Plan with respect to the Redeveloper's obligation to implement the Project, as follows: (i) based upon its review of a written certification of a duly authorized officer of Redeveloper

stating that: (a) the Project has been completed and all labor, services, materials and supplies used in connection thereto have been paid for (or, if disputed, bonded for as may be set forth herein) and (b) the Redeveloper has materially performed all of its duties and obligations under this Agreement as to the Project; and (ii) a written determination by the Borough that the Redeveloper has materially performed all of its duties and obligations under this Agreement as to the Project, based upon: (a) the Borough Engineer Certification and (b) any other physical inspection of the Project and/or review of such other documentation or information that the Borough shall reasonably deem relevant and appropriate (the “**Written Determination**”). A Certificate of Completion for the Project shall be formally approved by Resolution of the Borough and such Resolution in and of itself may constitute the Written Determination defined in this paragraph.

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

“Donation” means the conveyance of an interest in real or personal property for altruistic purposes. For the sake of clarity, a Donation constitutes a voluntary act for which the grantor does not receive anything in return from the grantee. With respect to any Donations called for under this Agreement, the Borough agrees to provide the Internal Revenue Service with a written statement of the value of the property so Donated and confirming that Redeveloper did not receive anything in return from the grantee.

“Effective Date” means the date this Agreement is last executed by the authorized representative of the Borough.

“Final and Non-Appealable Site Plan Approval” shall mean the date that is 45 days after publication of site plan approval without any Complaints being filed challenging such approval, or in the event that a challenge is filed, the date upon which a decision of the Superior Court of New Jersey upholding such site plan approval and the expiration of the time to file an appeal of such ruling.

“Flemington Borough Engineer Certification” means a written certification by the Flemington Borough Engineer that, based upon the Flemington Borough Engineer’s physical inspection and review of the Project, together with any other documentation or information that the Flemington Borough Engineer shall reasonably deem relevant and appropriate, the Project has been constructed and implemented in accordance with the relevant plans approved pursuant to the Governmental Approvals.

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

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

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

“Interim Cost Agreement” or “Interim Cost and Conditional Designation Agreement” means the terms and conditions of the Interim Cost Agreement, as amended, entered into by and between the Borough and the Redeveloper on or about January 24, 2022, which sets forth the parameters by which Redeveloper may be designated as the exclusive Conditional Redeveloper of the Project Site and which required, *inter alia*, Redeveloper to establish an escrow fund for the payment of the Borough Costs incurred during the interim. Upon the Effective Date of this Agreement, the Interim Cost Agreement, and any amendments thereto, shall be automatically terminated and the terms and obligations contained therein shall be replaced by the terms contained herein with respect to same.

“Mall Parcel” means a subdivided parcel of land identified as “Phase I” on Exhibit A.

“Parking Lot Parcel” means a subdivided parcel of land identified as “Phase II” on Exhibit A.

“Progress Report” means a written report in substantially the form attached hereto as **Exhibit D** which sets forth a description of activities completed, the activities anticipated to be undertaken prior to the next monthly Progress Report, the status of all Governmental Approvals, an explanation of each activity, if any, which is showing delay, a description of current and anticipated delaying factors and their estimated impact on performance of other

activities and completion dates in the Project Schedule and an explanation of corrective action taken or proposed.

“Project” shall be as defined in accordance with the Project Description set forth in Attachment B and the site plans approved by the Borough, which shall be substantially consistent with the Concept Plan attached at **Exhibit A** (the “**Project Concept Plan**”) which illustrate the general concept and layout of the Project to be constructed as described in the Project Description, attached hereto as **Exhibit B**, and the provisions of Section 2.1 of this Agreement, as may be modified and approved in writing by the Developer with Borough approval as provided herein. Redeveloper is not permitted to submit any applications to the Flemington Planning Board for Site Plan or Subdivision approval without receipt of written approval from the Borough in accordance with Article 3 of this Agreement.

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

“Redevelopment Law” means the State of New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq., as this statute may be amended from time to time.

“Well Parcel” means one pad, approximately 100’ in diameter, to be donated to the Borough by the Redeveloper as a location for installation by the Borough of a future municipal well, including as required, easements for access and maintenance of such future well, the precise location of which shall be finalized and memorialized as provided in Section 2.1(g).

ARTICLE 2

IMPLEMENTATION OF PROJECT

SECTION 2.1 Implementation of Project. The Redeveloper is hereby designated as the exclusive redeveloper of the parcels referred to herein as the Project Site, and Redeveloper agrees to perform and complete the following tasks (not necessarily in the indicated sequence), collectively referred to herein as the “**Project**,” consistent with all of the Exhibits, referred to herein, which depict a two-phase development consisting of approximately 160 stacked town-homes and related improvements (the “**Townhomes**”) along with the Donation of the Well Parcel and execution of the Well Easement (as defined hereinbelow), Public Park and Donation of the Polo Building to the Borough (“**Phase I**”) and approximately 225 rental residential apartment units in five (5) buildings not to exceed six (6) stories with a pool and recreation center, (“**Phase II**” and, together with Phase I, and including the further details included on Exhibit D collectively, the “**Project Description**”), in compliance with the terms and conditions of this Agreement, the Redevelopment Plan, all Applicable Laws, and in accordance with the level of skill and care ordinarily exercised by developers of such similar first class residential development. Redeveloper may not sell more than 10% of the total completed units in the Project to a single entity, it being the intention of the Parties that no single entity shall own more than 10% of the units in the Project after completion and sale by the Redeveloper. Redeveloper hereby agrees that the Borough of Flemington is, by this Agreement, approving the Project Concept Plan contained in Exhibit A and any and all Subdivisions and Site Plans must be further approved in writing by the Borough pursuant to Article 3 prior to seeking approval from the Planning Board:

- a. Site Acquisition: acquisition of ownership of the Property.
- b. Site Preparation: Undertaking all site preparation tasks and activities for all development and/or construction hereunder.
- c. Governmental Approvals: obtaining all applicable Governmental Approvals, as that term is defined herein, for the Project.
- d. Construction and Implementation of the Project: financing, development, construction and maintenance of a mixed-use residential and commercial project –

including an affordable housing set-aside for the rental and the for-sale units, with parking for the use of residents, employees and visitors of the Project, shall be consistent with the Project Concept Plan, and in accordance with the Project Schedule attached hereto as **Exhibit C**, the Redevelopment Plan, the terms of this Agreement, and all Applicable Laws. The Project shall include approximately 385 residential units, nonresidential development, open space, and circulation, and shall be consistent with the Project Concept Plan.

- e. Affordable Housing: The affordable element to this Project shall be implemented through the provision of a 15% inclusionary set-aside of all Apartments constructed in Phase II (50% for Low Income, including 13% VLI, and 50% for moderate income families per UHAC requirements) and a inclusionary set aside of all townhome units constructed as part of Phase I which shall include 13 family sale affordable townhomes; three (3) townhomes with 4 bedrooms each and each bedroom used as a group home bedroom for a total of 25 affordable units, with the three (3) group home townhomes (the “Special Needs Units”) owned by or leased to a Special Needs housing provider (“Special Needs Provider”), and all affordable units shall be subject to affordability controls of not less than thirty (30) years Any lease and/or sale of any Special Needs Unit(s) to any Special Needs Provider shall be subject to the prior review and approved in writing by the Borough, which approval shall not be unreasonably withheld. The very low income units (13% of total affordable housing units) in Phase I shall be provided as the group home, not the family units. The affordable element to this Project shall be implemented by phasing consistent with N.J.A.C. 5:93-5.6(d) which will include a pro rata share of affordable units constructed as the market rate units are built. There shall be no Certificate of Occupancy issued until it is demonstrated that affordable units have been built in the proper ratio, and Certificates of Occupancy shall be issued in the proper ratio of market to affordable units. For the sake of clarity, nothing herein shall prohibit the issuance of a Certificate of Occupancy for the market-rate rental units provided a pro-rata share of market-rate affordable rental units have been

constructed and a Certificate of Occupancy issued for such affordable units, or a Certificate of Occupancy for the market-rate stacked townhomes provided a pro-rata share of market-rate affordable townhome units have been constructed, and a Certificate of Occupancy issued for such affordable townhome units. Notwithstanding the foregoing, deviations from this, or any other provision herein relating to affordable housing, shall be permitted provided such deviation is approved in writing by both Flemington and the Fair Share Housing Center and confirmation that, notwithstanding such deviation, all units restricted to low and moderate-income households required to be constructed herein are eligible for credit against the Borough's affordable housing obligation it being understood that the provision of Special Needs Housing rentals will be acceptable to the Borough if acceptable to the Fair Share Housing Center.

- f. Parking: The provision of the total on-site motor vehicle parking spaces shall be completed in compliance with all Borough requirements and shall be depicted on the Project Site Plans to be approved by the Borough pursuant to Article 3 Relief to the Borough parking requirements may be granted at the Planning Board's discretion. The implementation of electric charging stations for vehicles shall be completed in compliance with the ratio and schedule required by Applicable Law.
- g. Infrastructure Improvements: Construction or extension of any improvement or utility necessitated or required by the implementation of, and to serve, the Project, which is located in whole or in part either on or off the Project Site, including but not limited to roadway milling and paving, installation of electric power transmission lines, sewer transmission conduits or pipes, storm sewers, telephone transmission lines, and cable lines, and any other such utilities all of which shall be subject to final utility connection coordination with each relevant utility provider. The Project shall include the following additional specific Infrastructure Improvements with the costs being borne by the Redeveloper:
 - i. replacement of all water and sewer lines which shall be connected to the existing mains;

- ii. maintenance of all water infrastructure that is serving areas adjacent to the Project during this Redevelopment process and up to the issuance of the final Certificate of Occupancy;
 - iii. Donation of the Well Parcel, consisting of a one hundred (100') foot diameter circle together with an access easement (the "Well Access Easement") and provision for expansion of the existing Borough owned building at Wells #7 and #9 (the "Water Treatment Building") by donating additional land area adjacent to the Water Treatment Building (the "Well Expansion Land"). The Well Parcel and Well Expansion Land may be provided by way of permanent easement or property transfer to the Borough, at the Borough's sole discretion. The Well Parcel shall be located at a specific location either within the Phase II of the Redevelopment Area or outside of the Redevelopment Area, the final location of which shall be determined by the Borough Engineer and the Donation thereof shall be in accordance with Subsection (j), below;
 - iv. Provide minimum of one master water meter per rental building and one per Town House Unit consistent with Borough ordinances and policy (Borough shall not be responsible for billing Apartment tenants); and
 - v. Incorporation of existing drainage facilities adjacent to the Brown Street area, which the exact dimensions and locations remain to be determined in accordance with Applicable Laws and to the mutual satisfaction of the Borough and Redeveloper.
- h. Infrastructure Contribution. The Borough confirms that there is sufficient water and sewer in amounts necessary to service the Project, and that such amounts will be reserved for a period of two (2) years with respect to Phase I and up to four (4) years with respect to Phase II. Notwithstanding the foregoing, the water and sewer reservation for Phase II shall cease on the date that is the earlier of the date

the New Jersey Department of Environmental Protection issues a Final denial of a Flood Mitigation Permit for Phase II or two (2) years from the Effective Date. However, if the Redeveloper receives Final Approval of a Flood Mitigation Permit for Phase II within said two-year period, the Borough shall extend the reservation of water and sewer for the full four (4) years subject to the right, in the sole discretion of the Borough, to charge Redeveloper a standard usage fee for the water and sewer so reserved in years three and four.

- i. The Redeveloper agrees to Donate Two Million Dollars (\$2,000,000.00) (the “Infrastructure Financing”) to be utilized by the Borough for Water, Sewer, Stormwater Infrastructure Improvements or fit out of the Polo Building (cumulatively, “Borough Improvements”), in addition to the improvements as stated in Section 2.1(g) above. The first installment of \$1,000,000 shall be due prior to issuance of a construction permit for the first Townhome in Phase I. The second \$1,000,000 Donation shall be due prior to issuance of the first construction permit for Phase II. Redeveloper reserves the right to apply for public or private funding to satisfy the Infrastructure Financing through grants or loans provided no additional debt liability inures to the Borough. The Borough agrees to cooperate with such efforts, but only to the extent that such funding does not conflict with other funding sources or applications sought or to be sought by the Borough, with such determination to be in the sole and absolute discretion of the Borough.
- j. Property Donation. Redeveloper shall donate the Well Access Easement and Well Expansion Land to the Borough to be used for municipal purposes in perpetuity and donate the Well Parcel or assist the Borough in acquiring the Well Parcel for use by the Borough for municipal purposes in perpetuity. The Well Parcel will be located so as to minimize the impact on the density of housing units to be constructed and will be approved in writing by the Borough Engineer and approved by the Borough pursuant to Article 3. Further, it will be described using the metes and bounds description established by a survey completed by the Redeveloper’s surveyor. Additionally, provided the location of the Well Parcel is identified by the

Borough Engineer and Borough prior to commencement of construction of Phase II, Redeveloper also agrees to construct and donate piping (“Well Infrastructure”) at a suitable location and of a suitable diameter connecting the Well Parcel to the existing Water Treatment Building. The conveyance of the donated Well Access Easement and Well Expansion Land shall take place within 90 days after the Redeveloper has obtained Final Site Plan Approval from the Flemington Planning Board for Phase I, and Redeveloper shall request that such conveyance be a condition of Final Site Plan Approval. If the Borough Engineer and Borough identify the location of the Well Parcel prior to the date Redeveloper submits for Site Plan Approval for Phase I, and the Well Parcel is located within the Redevelopment Area, the conveyance of the donated Well Parcel shall also take place within 90 days after the Redeveloper has obtained Final Site Plan Approval from the Flemington Planning Board for Phase I, and Redeveloper shall request that such conveyance be a condition of Final Site Plan Approval. If the Well Parcel location is identified by the Borough Engineer and approved by the Borough prior to the date Redeveloper submits for Final Site Plan Approval and the Well Parcel is located within the Redevelopment Area, and the Borough elects to take fee ownership of the Well Parcel as opposed to a perpetual easement, Redeveloper shall obtain subdivision approval from the Planning Board for the Well Parcel simultaneously with Final Site Plan Approval. However, if the location of the Well Parcel is not determined by the Borough Engineer and approved by the Borough prior to the date Redeveloper submits for Final Site Plan Approval for Phase I, Redeveloper shall be obligated to either apply for Subdivision Approval of the Well Parcel within the latter of sixty (60) days of the date the Borough Engineer and Borough determine a final location for the Well Parcel or the date Redeveloper submits for Final Site Plan Approval of Phase II, by filing an application with the Planning Board (if the Well Parcel is located within the Redevelopment Area) and convey the donated Well Parcel to the Borough within thirty (30) days after receipt of Final Subdivision Approval or, if the location of the Well Parcel as determined by the

Borough Engineer and approved by the Borough is outside of the Redevelopment Area, Redeveloper shall cooperate with the Borough as necessary to acquire the land area for the Well Parcel from the owner thereof, through condemnation or otherwise, and all reasonable and actual expenses associated with such acquisition shall be within the definition of Borough Costs. The Well Parcel and Well Expansion Land shall be subject to a full inspection by the Borough which shall include but is not limited to an inspection of the condition of title and environmental status of both. The inspection, and any follow up inspection based on items uncovered during initial inspection, shall be completed by professionals selected by the Borough and paid for by the Redeveloper. The conveyances shall be completed using a form of Deed or easement acceptable to the Borough which shall be held in escrow until filing. Redeveloper shall also donate to the Borough the building and property described generally as the Polo Building, as identified on the Concept Plan, to be used for municipal purposes in perpetuity. The property is located on a portion of Block 35, Lot 31 on the Borough of Flemington's tax map and will be subject to the metes and bounds description established by a survey completed by the Redeveloper's surveyor. The conveyance of this property shall take place , within 90 days after the Redeveloper has obtained Subdivision Approval of the Polo Building parcel from the Flemington Planning Board, which subdivision approval shall be sought at the same time that a Site Plan application for Phase I is submitted. and the lease to the Polo Building has expired. The building shall be conveyed in broom-clean condition for the Borough's use as a municipal building as further described herein, and the full property being conveyed shall be subject to a full inspection. This shall include but is not limited to an inspection of the structural, environmental, health and safety status of the building. The inspection, and any follow up inspection based on items uncovered during initial inspection, shall be completed by professionals selected by the Borough and paid for by the Borough.

- k. Public Park and Easement: Donation of approximately 7,500 sq. ft. of public open space located on a portion of Lots 53 and 54 which shall be depicted on the Site Plans to be reviewed and approved by the Borough pursuant to Article 3 (“**Public Park**”) which shall be conveyed to the Borough and: (i) improved as a public park at no cost to the Borough by way of donation of such improvement by the Developer; (ii) accessible to the public during daylight hours; (iii) properly and regularly maintained, at Redeveloper’s sole cost (Subsections ii and iii to be codified in an easement agreement in a form acceptable to the Borough. (“**Public Park Easement Agreement**”) which requirement Redeveloper shall request be included as a condition in any Final Site Plan Approval issued by the Planning Board and (iv) feature amenities such as swings, slides, spring riders, dog run, spinners, seesaw, etc... The Borough agrees to apply for available grant funding for the Park improvements, but only to the extent that such grant funding does not conflict with other grant applications sought or to be sought by the Borough, with such determination to be in the sole and absolute discretion of the Borough. Prior to the issuance of any Certificate of Occupancy in connection with any improvements in Phase I, Redeveloper shall establish a (x) cash escrow, (y) letter of credit or (z) post a performance bond in the amount of \$100,000.00 to be utilized to secure the Redeveloper’s obligation to maintain the Public Park, the form of (y) and (z) being subject to approval by the Borough.
- l. Sustainability Component. The Project shall be designed and constructed to comply with not less than the indicated minimum level of one of the following:
- * LEED v4.1, Residential BD+C (USGBC) Certified (Min 40 Points)
 - * ICC/ASHRAE 700-2015 Bronze (Min 50 Points)
 - * Green Globes: New Construction One Globe (Min. 350 Points)
 - * Enterprise Green Communities 2015 (Min 35 Points)
 - * National Green Building Standard - ICC/ASHRAE 700-2015 Bronze (Min 50 Points).

The Project shall include the following:

- Bicycle Facilities (both short and long term)
- Low flow fixtures and dual flush toilets
- Electric Vehicle Charging stations
- On site recycling collection facilities
- Waste Management plan for disposing and recycling construction and demolition waste
- Trash and recycling pickup for the Town Homes will be provided by the Borough.
- Trash and recycling pickup for the Apartment will be provided by the building's owner(s).
- No smoking in common areas, including tobacco smoke, smoke produced from the combustion of cannabis and controlled substances and the emissions produced by electronic smoking devices.
- Provide compartmentalization by limiting occupants' exposure to indoor air pollutants by minimizing the transfer of air between units.
- Incorporation of native trees and plantings.
- A minimum of 75% of each of items (i) – (iv) must be Low VOC / No added formaldehyde:
 - (i) Interior paint, gypsum and plaster-based wall board and ceiling panels (excluding panels exposed to the exterior)
 - (ii) Interior adhesives and sealants, thermal and acoustic insulation (excluding HVAC insulation)
 - (iii) Wood based interior products, including but not limited to cabinets and wood panels
 - (iv) Flooring and wall coverings

Satisfaction of the Sustainability Component requirements set forth above shall not require actual application for any rating or certification from any particular organization but the Redeveloper's compliance with the foregoing Sustainability Component requirements shall be subject to review and approval in writing by the Borough, prior to submission of an

application for Site Plan review, and Redeveloper shall consent to the Sustainability Component requirements being a condition of Site Plan Approval.

- m. Sewer: The Borough confirms that there is sufficient sewer capacity in amounts necessary to service the Project, and that such amounts will be reserved in accordance with the provisions of Section 2.1(h), and agrees that, upon submission of a Site Plan for approval to the Planning Board, the Borough will execute any applications or providing any consents such as are required by the municipal, State, County, or regional authority to secure such additional sewer capacity.
- n. Water: The Borough confirms that there is sufficient water capacity in amounts necessary to service the Project, and that such amounts will be reserved in accordance with the provisions of Section 2.1(h).

SECTION 2.3 Design Approval. Redeveloper has obtained approval from the Borough for the Concept Plan attached at Exhibit A. Prior to making Application for Subdivision or Site Plan to the Planning Board for the Project, the Redeveloper shall obtain the written approval of all Subdivision and Site Plans from the Borough pursuant to Article 3, the Redeveloper shall also submit to the Planning Board's Technical Review Committee (the "Committee") the complete set of Site Plans, including building elevations, so that the Committee can review and approve the designs and confirm that the complete set of Site Plans be submitted to the Planning Board are in conformance with the Project Concept Plan in Exhibit A and consistent with the Redevelopment Plan and this Redevelopment Agreement Redeveloper shall not submit any application to the Planning Board, or amend any pending application, without first having obtained written approval of same by the Borough. The Redeveloper shall diligently work to obtain all approvals required for the Project from the Borough's Planning Board and all boards and agencies having jurisdiction over the Project. Redeveloper shall request the Planning Board to include all obligations contained in the Redevelopment Agreement be contained as conditions of any Site Plan approval and will consent to the inclusion of such

conditions.

SECTION 2.4 Construction of the Project. Redeveloper agrees, at its sole cost and expense, to construct, implement and complete the Project in accordance with the Project Schedule attached hereto as **Exhibit C**, the Redevelopment Plan, and the terms and conditions of this Agreement. Additionally, the Redeveloper shall design and construct the Project in a good and workmanlike manner and in accordance with all Applicable Laws. The Redeveloper shall make all reasonable efforts to minimize any negative impacts, including with regard to noise, vibration, pests and odors, and any other temporary inconveniences caused by or related to the Project and shall make all reasonable efforts to minimize the traffic effects of the Project upon the surrounding neighborhoods. It shall be the obligation of the Redeveloper to enter into agreement(s) with owners of property to be utilized for the staging of material and/or equipment to be utilized during and for construction of the Project as required.

SECTION 2.5 Project Schedule. It is acknowledged by the Parties that the construction of the Project is time sensitive. The Project Schedule attached hereto as **Exhibit C** shall control the progress and completion of the Project. The Redeveloper agrees to commence construction of the Project as set forth in the Project Schedule. The Redeveloper further agrees to diligently implement and complete the Project by the Completion Date set forth in the Project Schedule, subject to Force Majeure delays. Subject to the notice and cure rights set forth herein, failure to meet the deadlines in the Project Schedule shall be deemed a default of the Agreement.

SECTION 2.6 Contingencies. The Parties acknowledge that the ability of the Redeveloper to proceed with the Redevelopment is specifically contingent upon the following:

- (a) Redeveloper obtaining all required Governmental Approvals.
- (b) The Redeveloper closing title on its purchase contract for the Property.

SECTION 2.7 Union Labor. All work on the Project shall be undertaken by members of labor unions if required by any State or Federal funding source.

SECTION 2.8 Financial Agreement. The terms, conditions and obligations contained in the Financial Agreement shall be incorporated herein.

SECTION 2.9 Waste Disposal and Recycling. The Borough shall provide the waste disposal and recycling services with respect to the Townhomes, the cost of which shall be borne by the owners thereof through the payment of ad valorem property taxes or payment in lieu thereof. Waste disposal and recycling for the Apartments shall be provided by Redeveloper through a commercial carrier at the sole cost and expense of the owner(s) of the Apartments.

ARTICLE 3

PROJECT APPROVALS

3.1 Procedures: General In order to facilitate the development and implementation of a mutually acceptable design, Site Plan, Subdivision and technical approach for the Project, the Parties have established the procedures set forth in this Article 3 for the review and approval of any Site Plan and/or Subdivision application. The process shall consist of an application to the Borough for a Consistency determination (the “**Pre-Application**”) and to the Planning Board for review and approval of a Site Plan and Subdivision for the Project or any Phase, as set forth in detail below. The development process shall be in accordance with the Redevelopment Law and the Municipal Land Use Law. Nothing herein is intended to restrict the exercise of the Planning Board’s governmental authority with respect to applications for Site Plan or Subdivision approval under duly adopted rules and regulations or to in any way alter the procedures established for challenging the exercise of such authority pursuant to the Land Use Law. This procedure shall be used for all development applications by Redeveloper. As of the Effective Date, the Borough has conceptually approved the Concept

Plan and, subject to any deviations or waivers approved by the Borough pursuant to Section 3.2, the Application shall be substantially consistent with the Concept Plan.

3.2 Application for Project.

(a) **Application.** Redeveloper shall submit first the Pre-Application to the Borough for the purpose of determining Consistency with this Article and, after written Borough approval of same, shall then submit to the Planning Board an application for Site Plan and/or Subdivision approval of a proposed development pursuant to this Agreement (the “**Application**”), which Application must be deemed Complete by the Planning Board in accordance with its checklist and Borough Ordinances, subject to any relief requested by Developer and approved by the Planning Board. The pre-Application made to the Borough shall consist of all architectural and civil engineering plans as set forth in Subsubsections (a)(i) through (a)(x) below and shall include information sufficient to determine compliance with the Concept Plan, this Agreement and applicable provisions of the Redevelopment Plan (the “**Pre-Application Materials**”).

- (i) Plans depicting existing rights-of-way and easements in the portions of the Redevelopment area that are the subject of the Application.
- (ii) Architectural renderings of the proposed development, including materials to be utilized for buildings, fences and other visible structures.
- (iii) Plans noting the use, location, plan area, setbacks, height and bulk standards of all existing and proposed structures within the portions of the Redevelopment Area that are the subject of the Application.
- (iv) Plans showing vehicular parking and loading areas and a layout of the pedestrian and vehicular circulation patterns

in relation to the buildings that are the subject of the Application.

- (v) Landscape plans sufficient to show design concepts, including but not limited to lighting and signage design.
- (vi) The location of the Public Park, and the design and equipment to be installed in the Public Park.
- (vii) The location, boundaries and metes and bounds description of the Well Parcel (if a location has been previously identified by the Borough Engineer and Borough), Well Expansion Land and any easements for access and maintenance.
- (viii) The boundaries and metes and bounds description of the property to be subdivided in order to effectuate the Donation of the Polo Building to the Borough.
- (ix) A schedule that reflects the phasing of construction, as necessary and within the time period(s) set forth in the Project Schedule.
- (x) A list of any requirements in the Redevelopment Plan from which Redeveloper seeks design waivers, deviations or such other relief as requested by Developer and the basis upon which such relief is requested.

(b) Consistency Review. Prior to making Site Plan or Subdivision Application to the Planning Board, the Redeveloper shall submit to the Borough the Pre-Application Materials, signed by licensed professionals, so that the Borough may confirm that same is substantially consistent with the Concept Plan, this Agreement and Redevelopment Plan. The Borough, within sixty (60) days of submission of the Pre-Application Materials by the Redeveloper, shall conduct a review and advise Redeveloper in writing as to whether the submission is substantially consistent with the Concept Plan, Redevelopment Plan and this Agreement or whether

revisions must be made or additional information is reasonably required by the Borough to determine that the Application in accordance with the Concept Plan, Redevelopment Plan and/or this Agreement. If the Borough requests changes or additional information as provided above, Redeveloper shall submit such changes or additional information and the Borough shall have an additional sixty (60) days from the date of such submission to advise Redeveloper in writing as to whether the submission is substantially consistent with the Concept Plan, Redevelopment Plan and this Agreement or whether revisions must be made or additional information is reasonably required by the Borough to determine that the Application is in accordance with the Concept Plan, Redevelopment Plan and/or this Agreement. The foregoing process of requests by the Borough and resubmissions by the Redeveloper shall continue until such time as the Borough determines that the Application is in accordance with the Concept Plan, Redevelopment Plan and/or this Agreement and Redeveloper may not submit an Application to the Flemington Planning Board without the written approval of the Borough pursuant to this Section. The determination of substantial consistency with the Concept Plan, Redevelopment Plan and this Agreement shall be in the sole and absolute discretion of the Borough.

SECTION 3.3 Governmental Approvals. In accordance with the Project Schedule, Redeveloper shall promptly and diligently, at its sole cost and expense, seek all Governmental Approvals required in connection with (i) the construction and implementation of the Project and (ii) Redeveloper's intended use of the Project Site. After the submission of each application for any Governmental Approval, Redeveloper shall promptly notify the Borough of such application submission and shall provide the Borough with copies of same. Redeveloper shall provide the Borough with copies of all Governmental Approvals obtained. The Borough shall cooperate with Redeveloper in connection with the Governmental Approvals and all costs incurred by the Borough of Flemington in connection with

Redeveloper's Governmental Approvals shall be paid by the Redeveloper in accordance with Section 5.1 regarding Borough Costs.

SECTION 3.4 Certificate of Completion. (a) Upon issuance of a final Certificate of Occupancy for the Project as such term is defined in N.J.A.C. 5:23-1.1, Redeveloper may apply for, and the Borough shall determine in its reasonable discretion whether the Redeveloper has satisfied all the obligations set forth in the Redevelopment Agreement. If the Borough determines that all such obligations have been satisfied, it shall issue a Certificate of Completion in proper form reasonably acceptable to the parties for recording in the County Clerk's Office for the County of Hunterdon, New Jersey, with respect to the Project. The Borough shall respond to the request for an issuance of a Certificate of Completion within thirty (30) days of Redeveloper's request, upon a determination as to whether that the Project has been completed in accordance with the approved final site plan. If the Borough determines the Redeveloper is not entitled to a Certificate of Completion, the Borough shall, within fifteen (15) days of such determination, provide the Redeveloper with a written statement of the reasons the Borough refused or failed to furnish a Certificate of Completion.

(b) The issuance of a Certificate of Completion shall constitute a conclusive determination that the Project has been completed in accordance with the provisions of this Agreement, that Redeveloper has performed all of its duties and obligations under this Agreement and that the agreements and covenants in this Agreement and the Redevelopment Plan have been satisfied and are thus terminated, except as contained in Section 2.7. Furthermore, upon issuance of a Certificate of Completion, the conditions determined to exist on the portion of the Property improved by the Project for which a Certificate of Completion has been requested, and which were the cause of its being determined to be in need of redevelopment, shall be deemed to no longer exist. The Property shall no longer be subject to the Act and any restrictions on transfers and encumbrances set forth herein shall terminate.

ARTICLE 4

GENERAL REPRESENTATIONS AND WARRANTIES

SECTION 4.1 Representations and Warranties by the Redeveloper. The Redeveloper hereby represents and warrants the following to the Borough for the purpose of inducing the Borough to enter into this Agreement and to consummate the transactions contemplated hereby, all of which shall be true as of the date hereof:

(a) The Redeveloper is a limited liability company of the State of New Jersey, and is qualified to do business and is in good standing under the laws of the State of New Jersey, and has all requisite power and authority to carry on its business as now and whenever conducted, and to enter into and perform its obligations under this Agreement.

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

SECTION 4.2 Representations and Warranties by the Borough. The Borough hereby represents and warrants the following to the Redeveloper for the purpose of inducing the Redeveloper to enter into this Agreement and to consummate the transactions contemplated hereby, all of which shall be true as of the date hereof:

The Borough has the legal power, right and authority to enter into this Agreement and the instruments and documents referenced herein to which the Borough is a party, in order to consummate the transactions contemplated hereby, and to perform their obligations hereunder, including the provision of a Long Term Tax Exemption as contemplated herein.

ARTICLE 5

REDEVELOPER COVENANTS

SECTION 5.1 Redeveloper Covenants. The Redeveloper covenants and agrees that:

(a) The Redeveloper shall not use the Project Site or any part thereof in a manner that is not consistent with the Redevelopment Plan or this Agreement. The Redeveloper will implement only those uses as set forth in the Project Description and established in the Redevelopment Plan, as modified from time to time in accordance with the Act. The Borough acknowledges that the Project as described herein is consistent with the requirements of the Redevelopment Plan.

(b) Completion of the Project in Accordance with the Project Schedule. The Redeveloper shall commence construction of the Project in accordance with the dates set forth in Exhibit C - the Project Schedule - and shall implement and complete the Project in accordance with conditions and requirements of this Agreement, the Redevelopment Plan and all Applicable Laws.

(c) Transfers Prohibited without Prior Consent of the Borough. Except for Permitted Transfers, the Redeveloper shall not, without the prior written consent of the Borough, which shall not be unreasonably withheld, conditioned or delayed:

- (i) effect or permit any change, directly or indirectly, in the majority ownership or control of the Redeveloper;
- (ii) assign or attempt to assign this Agreement or any rights herein or in the Project Premises; or
- (iii) make any total or partial sale, lease transfer or conveyance of the whole or any part of its interest in the Project Premises or the Project (collectively a "Transfer").

With respect to any Transfer that requires the Borough's consent pursuant to the terms of this Section 5.1(c), any request for consent shall be accompanied by a maximum payment/application fee equal to the greater of \$1,000 or the reasonable and actual costs incurred by the Borough in connection with the request. The Borough shall notify the Redeveloper in writing whether the Borough consents to a Transfer request within forty-five (45) days after the Redeveloper's written request to the Borough for such consent, along with

whatever additional information is requested by the Borough in consideration of such request. If the Borough does not deliver a written response to the Redeveloper's request within said forty-five (45) day period then the Borough shall be deemed to have consented to the Transfer.

(d) Permitted Transfers. The following transfers are exceptions to the prohibitions of this Section 4.1(c) and the Borough's consent is deemed given hereby (the "**Permitted Transfers**"), provided that notice of same is given to the Borough: (1) a mortgage or related security interest (including conditional assignments to mortgagees required as a condition to the closing of the financing so secured) granted by Redeveloper to a lender (2) mortgages, leases, and other liens and encumbrances for the purpose of financing the costs associated with, or incurred in connection with the acquisition, development, construction and/or utilization of the Project; (3) utility and other development easements, including, but not limited to, a declaration of covenants, conditions and restrictions and/or cross-easements for access, parking and/or utilities; (4) leases to residential tenants or tenants occupying premises in the Project for the purpose of operating a permitted business of that tenant as a part of the intended use of the Project, and/or sales or rentals of completed residential or commercial units in the Project; (5) Inter-Family Transfers; (6) Equity Participation; (7) conveyances to the Borough as called for herein or as otherwise required by the Governmental Approvals; and (8) Production Partners. For the purposes of this Section 5.1(d), the term "Inter-Family Transfers" means a transfer of interests in the Redeveloper for estate planning purposes, the term "Equity Participation" means the inclusion of equity participants, "mezzanine" debt, "preferred equity" "limited equity partners" and other financing arrangements and the term "Production Partners" means any Affiliate of Redeveloper engaged to construct the Project in accordance with approved Site Plans; provided transfers in accordance with the foregoing Subsections (5), (6) and (8) do not result in a change in day-to-day control of Redeveloper or materially and negatively affect the Township's ability to enforce its rights under this Agreement.

SECTION 5.2 Prohibition on Discrimination. The Redeveloper shall not discriminate against any person, or group of persons, on account of race, color, religion, creed, national origin, ancestry, physical handicap, age, marital status, gender, gender expression, affectional or sexual orientation in the sale, lease, sublease, rental, transfer, use, occupancy, tenure or enjoyment of the Project, nor shall the Redeveloper itself, or any person claiming under or through the Redeveloper, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use of occupancy of owners, tenants, lessees, subtenants, sub lessees, or vendees on the Project Premises.

SECTION 5.3 Effect and Duration of Covenants. The covenants in this Article shall run with the land and be referenced in any deeds, leases or other documents of conveyance for any parcel within in the Project Site. Except as provided in Section 2.8, the covenants shall cease and terminate when a Certificate of Completion has been issued by the Borough, which Certificate of Completion shall be in recordable form and recorded in the land records of Hunterdon County, and the deeds, leases or other documents of conveyance shall so state.

ARTICLE 6

REDEVELOPER OBLIGATIONS

SECTION 6.1 Borough Costs. The Redeveloper shall provide funding to the Borough for all the Borough Costs in accordance with this Agreement and Applicable Law. The Borough Costs shall include, but not be limited to, the reasonable and actual costs of any professional consultant, contractor or vendor retained by the Borough including attorneys, technical consultants, planners and financial consultants, among others, and all other out-of-pocket costs and expenses of the Borough related to the Project and this Agreement, including the cost to defend litigation challenging this Agreement or any action taken by the Borough in furtherance or support of this Agreement or the Project. By this Agreement, Redeveloper accepts and approves of the following non-exhaustive list of consultants and administrative staff at the rates provided by the Borough:

- (a) Intentionally omitted

- (b) Maraziti, Falcon, LLP as attorneys
- (c) Jerome A. Harris, PE., as Borough Engineer
- (d) CME Associates, as Engineering Consultants
- (e) Beacon Financial Group
- (f) Structural Inspection Consultant
- (g) Kyle McManus Associates
- (h) Van Cleef Engineering Associates

The Redeveloper agrees that the consultants identified in items (b), (d), (g), and (h), can be replaced by other consultants at the discretion of the Mayor.

SECTION 6.2 Payment of Borough Costs. The Redeveloper shall be responsible for the payment of all reasonable Borough Costs that have been authorized by Resolution, as follows: Within ten (10) days from the Effective Date, Redeveloper shall pay Twenty-Five Thousand Dollars (\$25,000.00) (“**Project Funds**”) to the Borough to be drawn down upon by the Borough to cover Borough Costs that Borough may continue to incur during the course of the implementation of the Project, but any amounts being held by the Borough pursuant to the Interim Cost and Conditional Designation Agreement shall be applied to the Project Funds so the Redeveloper shall owe the balance between the amount being held by the Borough and Twenty-Five Thousand Dollars (\$25,000.00). Within fifteen (15) days of the receipt by Redeveloper of written notice from the Borough that the amount of Project Funds has decreased to Five Thousand Dollars (\$5,000.00), Redeveloper shall replenish the Project Funds to the amount of Twenty-Five Thousand Dollars (\$25,000.00). If Borough’s Costs exceed the amount of the Project Funds at any given time, Redeveloper agrees to pay such costs upon fifteen (15) days’ written notice from the Borough stating that such costs are due. Upon the Effective Date of this Agreement, the prior Interim Cost and Conditional Designation Agreement shall be automatically terminated and the terms and obligations contained therein shall be replaced by the terms and obligations contained herein, but any Escrow Amount held by the Borough pursuant to that Agreement shall be applied towards the Project Funds. The Borough agrees to provide Redeveloper reasonable backup for any Projects Costs in accordance with Applicable Laws.

ARTICLE 7

SATISFACTION OF AFFORDABLE HOUSING OBLIGATION

SECTION 7.1. The Parties acknowledge that the construction of the Project will result in the creation of an obligation of the Borough of Flemington to provide low and moderate-income housing. Redeveloper shall help satisfy this obligation, as set forth below, through a 15% affordable housing set-aside for market-rate rental units and a affordable housing set-aside for market rate, for-sale units as provided in Section 2.1(e) which will be available for sale as part of the Project as affordable units of which a maximum of 20% shall be one-bedroom units, at least 30% shall be two-bedroom units, and a minimum of 20% shall be three-bedroom units. Redeveloper's obligation shall provide affordable housing in compliance with the Borough's Affordable Housing Settlement in "In the Matter of the Application of the Borough of Flemington, a municipal corporation of the State of New Jersey, for Determination of Compliance with Affordable Housing Obligations" Superior Court of New Jersey, HNT-L-308-15 (the "**Settlement**"). This requirement shall be a condition of any Site Plan approval that the Planning Board may grant. Redeveloper shall confirm in writing in a form reasonably acceptable to the Borough, that the Borough's affordable housing obligation contained in the Court sanctioned settlement is fully satisfied by the subject construction.

All inclusionary affordable housing units shall comply with the applicable requirements in the Liberty Village Redevelopment Plan, the Borough's affordable housing regulating ordinance in Section 2632 Affordable Housing Procedural Requirements, as well as the substantive rules of the Council on Affordable Housing (N.J.A.C. 5:93), the NJ Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) and the Uniform Housing Affordability Control Rules (N.J.A.C. 5:80-26.1). This shall include, but not be limited to, reservation of at least 50% of the affordable units for low-income households (including 13% of the units as very low income), bedroom distribution, phasing of market and affordable units as described in Section 2.1(e) above, affirmative marketing, and affordability controls of not less than 30 years. The affordable housing units shall be distributed and integrated throughout the development consistent the terms of the Redevelopment Plan and this Redevelopment Agreement.

Notwithstanding the foregoing, deviations from this, or any other provision herein relating to affordable housing, shall be permitted provided such deviation is approved in writing by both Flemington and the Fair Share Housing Center, and confirmation that, notwithstanding such deviation, all units restricted to low and moderate-income households required to be constructed herein are eligible for credit against the Borough's affordable housing obligation it being understood that the provision of Special Needs Housing rentals will be acceptable to the Borough if acceptable to the Fair Share Housing Center.

To assist in offsetting the costs associated with affordable housing and subject to the recommendation of the Borough's financial consultant, , the Redeveloper will request the Borough to consider a 5 year PILOT Agreement on the entire site beginning when the Redeveloper closes on the property and a 25 year PILOT Agreement commencing on the date a Certificate of Occupancy has been issued for each market rate for-sale housing unit and each rental building with a rate to be determined before submission of the application for such PILOT or PILOTs. In accordance with State law, the Borough shall waive the otherwise applicable connection, tap or allocation fees with respect to the provision of water or sewer service (collectively the **"Water and Sewer Fees"**) for all affordable housing units.

Any deviation from this, or any other provision herein relating to affordable housing may be made by Redeveloper subject to written approval from the Borough and Fair Share Housing Center that all units restricted to low- and moderate-income households will be credited against the Borough's affordable housing obligation and the Settlement.

ARTICLE 8

COMPLIANCE WITH LAWS

Redeveloper shall comply with all applicable laws, rules, ordinances, regulations and other requirements of any governmental authority (**"Legal Requirements"**) to the extent such compliance is required as a result of (a) Redeveloper's specific use of the Project Site, (b) Redeveloper's acts and/or (c) its Governmental Approvals.

ARTICLE 9

MAINTENANCE OF PROJECT SITE AND PROJECT OVERSIGHT

SECTION 9.1 Maintenance/Repairs. Redeveloper shall, at its sole cost and expense, take good care of the Project Site and put, keep and maintain same in a neat, good, safe and substantial order and condition, shall not do or suffer any waste with respect thereto and shall promptly, at Redeveloper's sole cost and expense, make all necessary repairs and replacements to the Redeveloper's improvements thereon.

SECTION 9.2 Progress Reports. The Redeveloper shall submit a Progress Report in substantially the form attached hereto as **Exhibit D**, as that term is defined herein, to the Borough on a monthly basis or as otherwise requested by the Borough but which shall not exceed monthly.

SECTION 9.3 Access to Project Site. The Borough and its authorized representatives, including but not limited to any Engineer or other such professional so designated by the Borough, shall have the right to enter the Project Site upon reasonable prior notice (at least 24 hours unless under emergency circumstance) given to the Redeveloper to inspect the Project Site and any and all work in progress for the purpose of furthering its interest in this Agreement. The Borough shall utilize reasonable efforts to minimize any interference with Redeveloper's activities on the Project Site. Such entrance shall be for informational purposes and shall not relieve the Redeveloper of its obligation to implement the Project in accordance with this Agreement. In no event, at any time, shall the Borough's inspection of the Project be deemed acceptance of the work in progress or any completed work or be deemed to waive any right that the Borough has under this Agreement.

ARTICLE 10

DEFAULT AND TERMINATION

SECTION 10.1 Events of Default. The occurrence of any one or more of the following events shall constitute an “**Event of Default**” hereunder:

(a) Failure of the Redeveloper to observe and perform any covenant, condition or term in this Agreement and (i) continuance of such failure for a period of thirty (30) days after receipt by Redeveloper of written notice from the Borough specifying the nature of such failure and requesting that such failure be remedied (“**Default Notice**”); provided, however, if the breach of any such covenant, condition or term is one which cannot be completely remedied within the thirty (30) days after such Default Notice has been received by the Redeveloper, it shall not be an Event of Default as long as the Redeveloper is proceeding in a diligent manner to remedy same and the issue giving rise to the default is fully remedied not later than sixty (60) days after receipt of the Default Notice by the Redeveloper.

(b) The Redeveloper shall fail to satisfy its obligations with respect to the timely construction and implementation of the Project in accordance with this Agreement or shall abandon or substantially suspend construction work, and any such failure, abandonment or suspension shall not be cured, ended, or remedied within thirty (30) days after receipt of default Notice from the Borough; provided, however, if the failure, abandonment, or suspension cannot be completely cured, ended or remedied within the thirty (30) days after such Default Notice has been received by Redeveloper, it shall not be an Event of Default as long as the defaulting party is proceeding in a diligent manner to remedy the same and the failure, abandonment or suspension is fully cured, ended or remedied not later than sixty (60) days after receipt of the Default Notice by Redeveloper

(c) The Redeveloper or its successor-in-interest shall fail to pay any real estate taxes or assessments on the Project Site or any part thereof when due.

SECTION 10.2 Remedies Upon Events of Default.

(a) Termination or Institution of Lawsuit. In the event of an Event of Default by any party hereto, the non-defaulting party may terminate this Agreement and/or may institute whatever action, at law or in equity, it may deem desirable, including the seeking of damages.

(b) Additional Remedies in the Event of Default. In the event of an Event of Default, in addition to the right to terminate the Agreement, the Borough may implement any or all of the following remedies:

- (i) Suspension of cooperation with Redeveloper pursuant to the terms of this Agreement; and/or
- (ii) Suspension of the review and/or approval process of any application or submission related for Governmental Approvals.

ARTICLE 11

NOTICES

SECTION 11.1 Notices. All Notices permitted or required to be made by the Redeveloper or the Borough under this Agreement shall be made in writing and shall be deemed duly given (i) upon confirmation of facsimile, (ii) one (1) Business Day (as hereinafter defined) following the date sent, when sent by overnight delivery, and (iii) three (3) Business Days following the date when mailed by registered or certified mail, return receipt requested and postage prepaid at the following addresses:

Borough:	Sallie Graziano, Borough Clerk Borough of Flemington 38 Park Avenue Flemington, New Jersey 08822 (908) 782-8840
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With a copy to: Andrew M. Brewer, Esq.
Maraziti, Falcon LLP
240 Cedar Knolls Road
Suite 301
Cedar Knolls, New Jersey 07927
(973) 912-6813

Redeveloper: HBC Liberty Village, LLC
c/o Donald Pepe Esq.
331 Newman Springs Road
Building 3, Suite 310
Red Bank, New Jersey 07701

With a copy to: HBC Liberty Village, LLC
c/o George T. Vallone
68 Deer Haven Road
Bedminster, NJ 07921

“Business Day” means any day other than a Saturday, Sunday, or a day on which banks are legally closed for business in the Borough of Flemington, New Jersey.

ARTICLE 12

BINDING EFFECT

SECTION 12.1 This Agreement is binding upon and shall inure to the benefit of the respective successors and permitted assigns of the parties hereto.

ARTICLE 13

MISCELLANEOUS

SECTION 13.1 Captions. The captions appearing herein are inserted only as a matter of convenience and are not intended to define, limit, construe or describe the scope or intent of any provision of this Agreement, nor in any way affect this Agreement.

SECTION 13.2 Severability. If any provision of this Agreement or the application thereof to any person or circumstance described in this Agreement shall to any extent be held void, unenforceable or invalid, then the remainder of this Agreement or the application of

such provision to any person or circumstance described in this Agreement, other than those as to which it is held void, unenforceable or invalid, shall not be affected thereby and each provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

SECTION 13.3 Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument.

SECTION 13.4 Governing Law. Without regard to principles of conflicts of law, the laws of the State of New Jersey shall govern and control the validity, interpretation, performance and enforcement of this Agreement.

SECTION 13.5 Non-Liability of Officials and Employees of the Borough. No member, official or employee of the Borough shall be personally liable to the Redeveloper, or any successor in interest, in the event of any default or breach by the Borough, or for any amount which may become due to the Redeveloper or its successor, or on any obligation under the terms of this Agreement.

SECTION 13.6 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the permitted successors and assigns of the parties hereto, and their heirs, executors, and administrators.

Section 13.7 Effective Date. This Agreement shall become effective upon execution by both parties.

Section 13.8 Force Majeure. Performance by the Borough or the Redeveloper (each, a “Party”) hereunder shall not be deemed to be in default where delays or failure to perform are the result of the following acts, events or conditions or any combination thereof, or other cause beyond such Party’s reasonable control, that has had a material adverse effect on the

ability of the Parties to this Redevelopment Agreement to perform, including Borough delays; provided, however, that such act, event or condition shall be beyond the reasonable control of the Party relying thereon as justification for not performing an obligation or complying with any condition required of such Party under the terms of this Redevelopment Agreement (**"Force Majeure"**):

(a) An act of God, lightning, blizzards, hurricane, tornado, earthquake, acts of public enemy, war (whether or not declared), terrorism, blockade, insurrection, riot or civil disturbance, sabotage, pandemics, or similar occurrence, but not including reasonably anticipated weather conditions for the geographic area of the Project, other than those set forth above (such events being required to physically affect a Party's ability to fulfill its obligations hereunder);

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

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

(d) The suspension, termination, interruption, denial or failure of or delay in renewal or issuance of any other Governmental Approval, provided, however, such suspension, termination, interruption, denial or failure of or delay in renewal or issuance shall not be the

result of the willful, intentional or negligent action or inaction of the Party relying thereon and that neither the contesting of any such suspension, termination, interruption, denial or failure of renewal or issuance, in good faith, nor the reasonable failure to so contest, shall constitute or be construed as a willful, intentional or negligent action or inaction by such Party. Delay in issuance of a Governmental Approval resulting from Redeveloper's failure to make an administratively complete submission for a Governmental Approval shall not be an event of Force Majeure;(e) Third-party litigation that materially interferes with the ability of Redeveloper to obtain Market Rate Financing for the Project (note that Redeveloper shall pay the cost to defend any third party litigation unless an action, inaction, or error by the Borough was the cause of the litigation)

(f) Acts of the public enemy; acts of terrorism; acts of war; fire; epidemics; quarantine restrictions; blackouts, power failures, or energy shortages; governmental embargoes.

(g) Interruptions in the free flow of capital markets or other instances of illiquidity in global or U.S. capital markets that have a material and adverse effect on Redeveloper's ability to finance and construct the Project.

(e) Default by the Borough or Redeveloper, as to the non-defaulting Party.

[Signature Page to follow]

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

BOROUGH OF FLEMINGTON

By: _____
Betsy Driver
Mayor, Borough of Flemington

HBC Liberty Village LLC

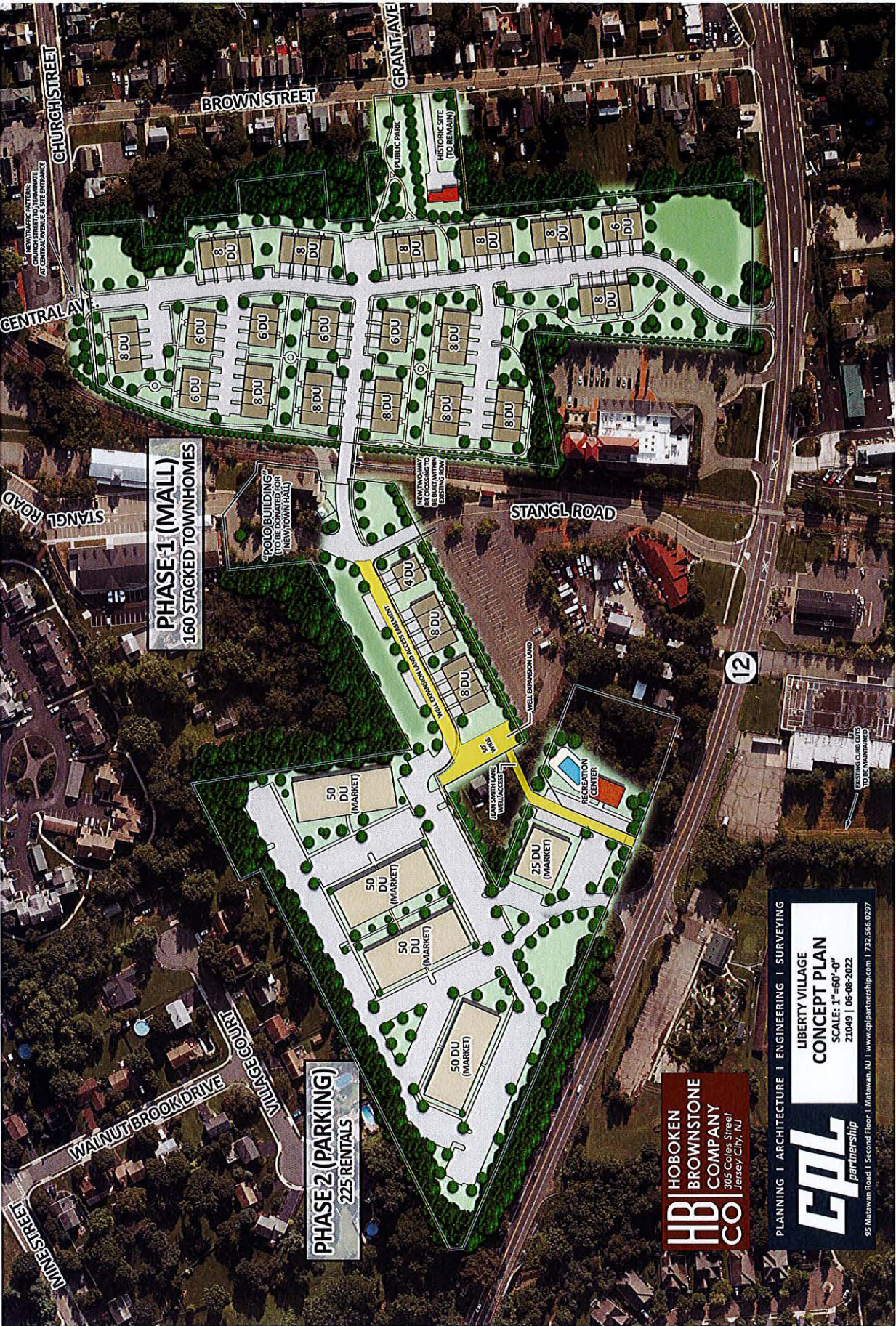
By: _____
George T. Vallone
Managing Member

LIST OF EXHIBITS:

- A. Site Plans
- B. Project Description
- C. Project Schedule
- D. Progress Reports

Exhibit A

Concept Plans



HB HOBOKEN
BROWNSTONE
COMPANY
305 Coles Street
Jersey City, NJ

PLANNING | ARCHITECTURE | ENGINEERING | SURVEYING

LIBERTY VILLAGE
CONCEPT PLAN
SCALE: 1"=60'-0"
21049 | 06-08-2022

CPL
partnership

95 Matawan Road | Second Floor | Matawan, NJ | www.cplpartnership.com | 732.566.0297

Exhibit B
Project Description

The Project shall consist of the acquisition, remediation, clearing and preparation of the Property and the construction of approximately 160 stacked townhomes, 225 rental units in five (5) multifamily residential buildings, with inclusionary affordable housing, a club house and pool, Public Park to be donated to the Borough and conveyed by deed; donation of the Polo Building to the Borough; Donation of land to the Borough for a well and Treatment building; along with other site improvements to be included.

1. Fencing surrounding the project abutting neighboring residential areas shall be at least six (6) feet tall in height and built using solid sound reducing materials, which shall be maintained in perpetuity by the Redeveloper, its successors, and assigns and subject to Borough code enforcement.

2. The area abutting the fencing above on the Project property shall include greenery abutting the residential areas on Brown Street and Village Court and shall be maintained in perpetuity by the Project property owner(s).

3. All roadways leading into the project site shall include signage and such other decorative gateway features on either side of the road subject to Borough review of the plans prior to Site Plan approval from the Planning Board.

Exhibit C
Project Schedule

TASK	Milestone Date
Submission of a complete Application for Subdivision and Site Plan Approval for Phase I (Preliminary and Final) and Phase II (Preliminary only), including the Townhomes, Well Parcel and Polo Building	6 months after execution of Redevelopment Agreement
Submission of Application for all other Governmental Approvals (other than Building Permits) with respect to Phase I or Phase II, as appropriate.	6 months after final and non-appealable Preliminary and Final site plan approval has been obtained with respect to Phase I and/or Phase II
Submission of Application for All Building Permits	6 months after all Governmental Approvals have been obtained and are final and non-appealable with respect to Phase I or Phase II.
Commencement of construction with respect to any Apartment Building or Townhome building	6 months after all Governmental Approvals and Building Permits have been obtained with respect to any Apartment Building or Townhome building and are final and non-appealable.
Substantial Completion of Construction with respect to any Apartment Building or Townhome building	4 years after commencement of construction with respect to any Apartment Building or Townhome building

*

Exhibit D
Liberty Village Progress Report

Date: _____

1. Description Of Activities Completed:
2. Activities Anticipated To Be Undertaken Prior To Next Monthly Progress Report:
3. Status Of All Governmental Approvals:
4. Explanation Of Each Activity (if any) Which Is Showing Delay:
5. Description Of Current And Anticipated Delaying Factors:
6. Estimated Impact Of Delaying Factors On Performance Of Other Activities And Completion Dates In The Project Schedule:
7. Explanation Of Corrective Action(s) Taken Or Proposed: