

2019
REDEVELOPMENT Agreement

REDEVELOPMENT AGREEMENT

THIS REDEVELOPMENT AGREEMENT ("Agreement" or "Redevelopment Agreement"), made as of the ^{5th} day of March, 2019, by and between TOWNSHIP OF NUTLEY, a public body corporate and politic of New Jersey, acting as redevelopment entity pursuant to N.J.S.A. 40A:12A-1 et seq., whose address is 1 Kennedy Drive, Nutley, New Jersey 07110 (the "Township"), and PB NUTCLIF MASTER, LLC, a New Jersey limited liability company, having its principal office at c/o Prism Capital Partners, LLC, 200 Broadacres Drive, Suite 180, Bloomfield, New Jersey 07003 (the "Redeveloper"). The Township and the Redeveloper are hereinafter individually referred to as a "Party" and collectively referred to as the "Parties".

WITNESSETH:

WHEREAS, the Board of Commissioners of the Township (the "Board of Commissioners") identified certain properties in the Township (the "Township") designated as follows on the official Tax Map of the Township (collectively, the "Study Area"):

Block 102, Lots 2 and 9; Block 200, Lots 1, 2, 3, 4, 5, 6 and 24; Block 201, Lot 1; Block 300, Lots 1 and 20; Block 2000, Lots 1, 4 and 5; Block 2100, Lot 9 C0101, Lot 9 C0102, Lot 9 C0103, Lot 9 C0104, Lot 9 C0105, Lot 9 C0106, Lot 9 C0107, Lot 9 C0108, Lot 9 C0109, Lot 9 C0110, Lot 9 C0111, Lot 9 C0208, Lot 9 C0209, Lot 9 C0210, Lot 9 C0211, Lot 9 C0212, Lot 9 C0214, Lot 9 C0215, Lot 9 C0216 and Lot 9 C0217; Block 2101, Lot 1; and Block 2304, Lot 17, Lot 18 C0001, Lot 18 C0002, Lot 18 C0003 and Lot 18 C0203,

also known as the Hoffmann-La Roche site, to be considered for designation as a condemnation "area in need of redevelopment" under the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the "Redevelopment Law"); and

WHEREAS, on March 18, 2014, under Resolution No. 67-14, the Board of Commissioners directed the Planning Board of the Township of Nutley (the "Planning Board") to conduct a preliminary investigation to determine whether the Study Area, or any portions thereof, constitute a condemnation "area in need of redevelopment" according to the criteria set forth in N.J.S.A. 40A:12A-5; and

WHEREAS, the Board of Commissioners, under Resolution No. 67-14, further directed the Planning Board to develop a map reflecting the boundaries of the Study Area to be included within the proposed redevelopment area, to conduct a public hearing pursuant to N.J.S.A. 40A:12A-6, and to draft a report/resolution to the Board of Commissioners containing its findings; and

WHEREAS, a preliminary investigation/report entitled “Redevelopment Study Area, Determination of Need, Hoffmann-La Roche Site – Nutley/Clifton, ‘HOFFMANN-LA ROCHE SITE’, Township of Nutley, Essex County, New Jersey,” dated February 5, 2015, was prepared and issued by Maser Consulting, P.A. (the “**Preliminary Investigation**”); and

WHEREAS, N.J.S.A. 40A:12A-6.b(4)-(5) of the Redevelopment Law provides in pertinent part relative to the Planning Board’s public hearing on the Preliminary Investigation and whether the Study Area should be considered for designation as a condemnation “area in need of redevelopment”:

“(4) At the hearing, which may be adjourned from time to time, the planning board shall hear all persons who are interested in or would be affected by a determination that the delineated area is a redevelopment area. All objections to such a determination and evidence in support of those objections, given orally or in writing, shall be received and considered and made part of the public record.

(5) (a) After completing its hearing on this matter, the planning board shall recommend that the delineated area, or any part thereof, be determined, or not be determined, by the municipal governing body to be a redevelopment area”; and

WHEREAS, on February 24, 2015, the Planning Board held a public hearing during which any persons interested in or affected by a determination that the Study Area is a redevelopment area were given the opportunity to be heard, and any objections to such a determination and evidence in support of those objections, were received and considered and made part of the public record; and

WHEREAS, the Planning Board concurred and agreed with the reasons stated in the Preliminary Investigation that portions (excluding Block 102, Lot 9; Block 2100, Lot 9; and Block 2304, Lot 18) of the Study Area constitutes and meets the criteria under the Redevelopment Law supporting the recommendation that portions of the Study Area be determined a condemnation “area in need of redevelopment”; and

WHEREAS, on February 24, 2015, the Planning Board adopted a Resolution recommending that Block 102, Lot 2; Block 200, Lots 1, 2, 3, 4, 5, 6 and 24; Block 201, Lot 1; Block 300, Lots 1 and 20; Block 2000, Lots 1, 4 and 5; Block 2101, Lot 1, and Block 2304, Lot 17, as shown on the official Tax Map of the Township of Nutley (the “**Property**”) be determined by the Board of Commissioners to be a condemnation “area in need of redevelopment” under the Redevelopment Law; and

WHEREAS, the Board of Commissioners concurred and agreed with Planning Board’s recommendation, as supported by the reasons stated in the Preliminary Investigation, that the

Property constitutes and meets the criteria under the Redevelopment Law and that the Property should be determined and declared a condemnation “area in need of redevelopment”, which determination shall, among other things, authorize the Township to exercise the power of eminent domain to acquire all or any portion of such Property; and

WHEREAS, on March 3, 2015, the Board of Commissioners adopted a Resolution declaring the Property a condemnation “area in need of redevelopment,” thereby establishing the Property as a **“Redevelopment Area”** under the Redevelopment Law; and

WHEREAS, on July 19, 2016, after conducting the requisite hearings therefor, the Board of Commissioners, via Ordinance No. 3341, adopted the plan entitled “Redevelopment Plan – Nutley HLR/Phase I for an approximately 10.98-acre portion of the Property comprised of Block 201, Lot 1, and Block 300, Lot 1 (to be subdivided into Block 201, Lots 1.01, 1.02, 1.03 and 1.04) (the **“Phase I Premises”**) in accordance with the provisions of the Redevelopment Law; and

WHEREAS, on August 7, 2018, after conducting the requisite hearings therefor, the Board of Commissioners, via Ordinance No. 3392, adopted the plan entitled “Nutley Phase IIA Redevelopment Plan” (the **“Phase IIA Redevelopment Plan”**) for an approximately 11.88 acre portion of the Property shown and described as Lot V (proposed Lot 1.01, in Block 201), Lot W (proposed Lot 1.02, in Block 201), Lot X (proposed Lot 1.03, in Block 201) and Lot Y (proposed Lot 1.05, in Block 300) in the Phase IIA Redevelopment Plan created from a portion of Block 201, Lot 1, and Block 300, Lots 1 and 20 (to be consolidated and subdivided into up to four (4) new tax lots)(the **“Phase IIA Premises”**) in accordance with the provisions of the Redevelopment Law; and

WHEREAS, Redeveloper is the fee owner of the Phase IIA Premises and the Property (excluding the Phase I Premises, which is owned by PB Nutclif Med, LLC, an Affiliate of the Redeveloper); and

WHEREAS, the Phase IIA Redevelopment Plan anticipates (a) that the Phase IIA Premises will be consolidated, in part, and subdivided, in part, to create four (4) new tax lots and two (2) remainder lots, which remainder lots are not part of the Phase IIA Premises (the **“Subdivision”**), with each of the existing three (3) buildings within the Phase IIA Redevelopment Area (i.e., Building 76 (now known as 200 Metro Boulevard, which is a 15-story building containing approximately 306,471 gross square feet of building area), Building 1 (now known as 100 Metro Boulevard, which is a seven-story building containing approximately 255,018 gross square feet of building area) and Building 102 (now known as 111 Ideation Way, which is a six-story building containing approximately 153,482 gross square feet of building area)(each an **“Existing Building”** and collectively, the **“Existing Buildings”**) to be located on separate lots, and (b) the construction of a

structured parking garage to be utilized exclusively by the occupants (including guests, invitees, visitors, contractors, etc.) of Building 76 (now known as 200 Metro Boulevard), and Building 1 (now known as 100 Metro Boulevard), and (c) an expansion of the parking lot for 111 Ideation Way and for the renovation and possible addition to the existing building located at 111 Ideation Way of an approximately 30,000 square foot manufacturing pilot plant building as more particularly described herein (the “**Pilot Plant**”); and

WHEREAS, the Redeveloper submitted to the Township conceptual architectural plans and renderings, site plans, including landscaping plans and drawings attached hereto as **Exhibit A** (collectively, the “**Concept Plans**”), which depict and describe the scope and nature of the Redeveloper’s proposed redevelopment of the Phase IIA Premises as described in Section 2.03 hereof, all in a manner consistent with the Phase IIA Redevelopment Plan, which includes the Phase IIA Project Improvements; and

WHEREAS, as of the date hereof, the Redeveloper has received preliminary and final major subdivision approval pursuant to Planning Board Resolution No. PB-18-00003 adopted on September 19, 2018 and preliminary site plan approval pursuant to Planning Board Resolution No. PB-18-00003 adopted on September 19, 2018, copies of which are attached hereto and made a part hereof as **Exhibit B** (collectively, the “**Site Plan/Subdivision Approvals**”); and

WHEREAS, on August 20, 2018, the Board of Commissioners conditionally designated the Redeveloper, owner of the Phase IIA Premises, as the Redeveloper of the Phase IIA Premises by Resolution No. 186-18; and

WHEREAS, on November 20, 2018, the Board of Commissioners authorized the Township to enter into a redevelopment agreement pursuant to Resolution R-273-18, setting forth the terms and conditions by which the Redeveloper will redevelop the Phase IIA Premises for the construction and operation of the Phase IIA Project subject to certain conditions stated in such resolution; and

WHEREAS, in light of the importance of the Phase IIA Project to the Township, the Parties acknowledge that proceeding with the redevelopment of the Phase IIA Premises in a timely fashion is essential. Furthermore, in light of the importance to the Township and the Redeveloper of the timely completion of the Phase IIA Project, the Township and the Redeveloper have prepared and agreed upon a redevelopment process timeline that shall control the commencement, progress and completion of the Phase IIA Project, which redevelopment process timeline, as same may be amended, is hereinafter referred to as the “**Redevelopment Project Schedule**” and is attached and annexed hereto as **Exhibit B**; and

WHEREAS, the Governing Body believes that the redevelopment of the Phase IIA Premises in the manner agreed to by the Parties herein is in the vital and best interests of the community and promotes the health, safety, morals and welfare of the Township's residents and is in accord with the public purpose and provisions of the Redevelopment Law and all other Legal Requirements; and

WHEREAS, the Parties desire to enter into this Redevelopment Agreement for the purpose of setting forth in greater detail their respective undertakings, rights and obligations in connection with the construction of the Phase IIA Project in accordance with the Phase IIA Redevelopment Plan, and Applicable Laws and the terms and conditions of this Redevelopment Agreement hereinafter set forth.

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

ARTICLE 1

DEFINITIONS AND INTERPRETATIONS

1.01. Definitions. Except as expressly provided herein to the contrary, all capitalized terms used in this Redevelopment Agreement and its exhibits shall have the following meanings:

"Affiliate" means with respect to any Person, any other Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such Person. For purposes of this Agreement, the term "Control" (including the correlative meanings of the terms "Controlled by" and "under common Control with"), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such Person, whether through the ownership of voting securities or by contract or otherwise.

"Applicable Laws" means (i) all statutes, laws, common law, rules, regulations, ordinances, codes or other legal requirements of any Governmental Body, board of fire underwriters and similar quasi-governmental authority, and (ii) any judgment, injunction, order or other similar requirement of any court or other adjudicatory authority, in effect at the time in question and in each case to the extent the Person or property in question is subject to the same.

"Certificate of Approval" means a certificate issued pursuant to N.J.A.C. 5:23-2 upon completion of work that requires a construction permit but not a certificate of occupancy.

“Certificate of Completion and Compliance” means a certificate issued by the Township in accordance with Section 2.11 of this Redevelopment Agreement.

“Certificate of Occupancy” means a document, whether temporary or permanent, issued by the Township authorizing occupancy of a building, in whole or in part, pursuant to N.J.S.A. 52:27D-133.

“Days” means calendar days.

“Development Approvals” means final and non-appealable approval by all applicable governing agencies of the subdivisions and site plans for the Phase IIA Project as submitted by the Redeveloper to the Planning Board.

“Effective Date” means the date of this Redevelopment Agreement, which shall be entered on the first page hereof upon the full execution hereof.

“Environmental Laws” means any present or future applicable federal, state or local law, rule, regulation, order, directive, judgment, arbitration award, settlement or agreement dealing with environmental protection and/or human health and safety.

“Environmental Remediation” is defined in Section 2.05(g).

“Governmental Approvals” means all necessary reviews, consents, permits, easements or grants or other approvals of any kind, including, but not limited to, Development Approvals, agreements for utility relocation and service legally required by or from any Governmental Body, each of which must be final and non-appealable, in order to carry out the Phase IIA Project, including but not limited to those set forth in **Exhibit C** hereto, but not including (i) those required for Environmental Remediation or (ii) those relating to financial incentives of any kind or financing the Phase IIA Project or any Phase thereof.

“Governmental Body” means any federal, state, county or local agency, department, commission, authority, court, or tribunal and any successor thereto, exercising executive, legislative, judicial, or administrative functions of or pertaining to government, and any public utility, including, without limitation, the Township, the City of Clifton and the State of New Jersey or any other quasi-governmental agency having jurisdiction of the subject matter.

“HLR’s Environmental Remediation” is defined in Section 2.05(f).

“Improvements” means all buildings, structures, improvements, site preparation work and amenities necessary or desirable in connection with development of land.

“Legal Requirements” means all laws, statutes, codes, ordinances, orders, regulations and requirements of any Governmental Body, now or hereafter in effect, and, in each case, as amended from time to time, including but not limited to the Township Code.

“Mortgage” means any security interest, evidenced by a written instrument, encumbering the Phase IIA Premises, 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 the Phase IIA Premises.

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

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

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

“Phase 1” shall mean the renovation of Building 1 (now known as 100 Metro Boulevard, which is an existing seven-story building containing approximately 255,018 gross square feet of building area) and all related site improvements, on a subdivided portion of Block 201, Lot 1, which subdivided portion is identified as Lot X (proposed Block 201, Lot 1.03) in the Redevelopment Plan and is shown on **Exhibit G** attached hereto and made a part hereof, all to be completed by the Redeveloper in accordance with the Subdivision/Site Plan Approvals.

“Phase 2” shall mean the renovation of Building 76 (now known as 200 Metro Boulevard, which is an existing 15-story building containing approximately 306,471 gross square feet of building area) and all related site improvements, on a subdivided portion of Block 201, Lot 1, which

subdivided portion is identified as Lot W (proposed Block 201, Lot 1.02) in the Redevelopment Plan and is shown on **Exhibit G** attached hereto and made a part hereof, all to be completed by the Redeveloper in accordance with the Subdivision/Site Plan Approvals.

“Phase 3” shall mean the renovation of Building 102 (now known as 111 Ideation Way, which is an existing six-story building containing approximately 153,482 gross square feet of building area), including the expansion of the parking lot and the possible addition to the existing building located at 111 Ideation Way of an approximately 30,000 square foot manufacturing Pilot Plant on a subdivided portion of Block 300, Lots 1 and 20 and all related site improvements, which subdivided portion is identified as Lot Y (proposed Block 300, Lot 1.05) in the Redevelopment Plan and is shown on **Exhibit G** attached hereto and made a part hereof.

“Phase 4” shall mean the construction of a new structured parking garage and the courtyard on a subdivided portion of Block 201, Lot 1 and all related site improvements, which subdivided portion is identified as Lot V (proposed Block 201, Lot 1.01) in the Redevelopment Plan and is shown on **Exhibit G** attached hereto and made a part hereof, all to be completed by the Redeveloper in accordance with the Subdivision/Site Plan Approvals.

“Phase IIA Premises” shall have the meaning given to it in the recitals.

“Phase IIA Project” is defined in Section 2.03 hereof, which may be completed in four (4) Phases as defined herein.

“Phase IIA Project Improvements” means all buildings, structures, improvements, site preparation work and amenities necessary for the renovation, redevelopment and occupancy of the Existing Buildings.

“Phase IIA Redevelopment Plan” shall have the meaning given to it in the recitals.

“Phases” or “applicable Phase” shall mean collectively or individually Phase 1, Phase 2, Phase 3 and Phase 4, which Phases may be commenced in any order or simultaneously.

“Planning Board” shall have the meaning given to it in the recitals.

“Redeveloper’s Environmental Remediation” is defined in Section 2.05(g).

“Redevelopment Agreement” or “Agreement” means this Redevelopment Agreement between Township and Redeveloper and any written amendments and supplements hereto.

“Redevelopment Area” shall have the meaning given to it in the recitals.

“Redevelopment Law” means the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., as amended and supplemented.

“Reimbursable Township Costs” is defined in Section 5.01 hereof.

“Township” means the Township of Nutley, New Jersey, a municipal corporation of the State of New Jersey. For the purposes of this Agreement, the Board of Commissioners of the Township of Nutley is the designated Redevelopment Entity for the Redevelopment Area pursuant to N.J.S.A. 40A:12A-3.

“Township Code” means the Ordinances and Regulations of the Township as amended from time to time.

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

“Transfer” means any transaction by which a Transferee obtains an interest in the Phase IIA Premises, or any portion thereof and/or any or all of the Phase IIA Project Improvements, or in this Agreement by means or methods which include, but are not limited to, a change of control, conveyance, transfer, lease, encumbrance, acquisition or assignment through sale, merger, consolidation, reorganization, foreclosure or otherwise, including the appointment of a trustee in bankruptcy or assignee for the benefit of creditors.

“Transferee” means any third party to whom an interest in the Phase IIA Premises, the Phase IIA Project Improvements or rights in or under this Agreement is duly and validly conveyed, transferred, leased, encumbered, acquired or assigned, by sale, merger, consolidation, reorganization, foreclosure or otherwise, including through designation of a trustee in bankruptcy or assignee for the benefit of creditors, as further described in Article VIII.

1.02. Term. The term of the Redevelopment Agreement (the “Term”) shall, unless otherwise extended in accordance with the terms of the Redevelopment Agreement or unless terminated sooner in accordance with the terms of this Redevelopment Agreement, be the earlier of

(a) the issuance of a Certificate of Completion and Compliance for the last phase of the Phase IIA Project in accordance with this Agreement, or (b) thirty (30) years from the date hereof.

1.03. 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 Effective Date 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.

(f) Unless a certain number of days is specified, all Notices to be given hereunder and responses thereto shall be given within a reasonable time, which shall not be less than ten (10) days nor more than twenty (20) days, unless the context dictates otherwise.

(g) Unless otherwise indicated, all “costs”, “fees” and “expenses” shall be required to be customary and reasonable.

(h) “including” means “including, without limitation”; that is to say, in each case, the example or enumeration that follows the use of the word “including” is by way of example or illustration but is not exclusive or exhaustive, unless otherwise expressly provided to the contrary. The term “includes” has a meaning correlative thereto.

(i) Unless otherwise specified to the contrary, “Phase IIA Project” shall be construed as “Phase IIA Project or applicable Phase thereof”.

(j) Unless otherwise specified to the contrary, “Redeveloper” shall be construed as “Redeveloper, or, as to the applicable Phase of the Project, its Permitted Transferee.”

1.04. The Parties hereto acknowledge and agree that the rights and obligations of the Parties set forth in this this Redevelopment Agreement shall relate only to the Phase IIA Premises comprised of Lot V, Lot W, Lot X and Lot Y as shown and described in the Phase IIA Redevelopment Plan.

1.05. As a material condition to this Agreement and as a condition precedent to any and all of the Redeveloper’s rights under this Agreement, the Redeveloper (a) shall withdraw and dismiss or cause to be withdrawn and dismissed, with prejudice, any and all tax appeals as may have been filed by the Redevelopers or any of Redeveloper’s Affiliates affecting the Property, including but not limited to those appeal bearing docket numbers 2401-16, 7126-16, 7155-16, 7132-16, 7140-16, 7150-16, 5362-17, 5366-17, 5367-17, 5370-17, 5371-17, 5376-17, 5377-17, 4620-18, 4624-18, 4628-18, 4631-18, 4634-18, 4637-18, 5604.18; and (b) covenants to forego any future tax appeals on 100 Metro Boulevard, 200 Metro Boulevard and the parking garage (*i.e.* Phases 1, 2 and 4) for so long as the Financial Agreements are in full force and effect, and to execute any documents to effectuate that purpose. The Township agrees that the assessments will be frozen for two (2) years on 100 Metro Boulevard, 200 Metro Boulevard and the parking garage pursuant to the Freeze Act. The Redeveloper acknowledges that freezing assessments does not mean taxes on those lots will not increase since the Township cannot agree to freeze the tax rate.

ARTICLE 2

IMPLEMENTATION OF PHASE IIA PROJECT

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

2.02. Phase IIA Premises Ownership. The Redeveloper represents, warrants and covenants to the Township that, as of the date hereof, it is the fee owner of the Phase IIA Premises.

2.03. The Phase IIA Project. The Phase IIA Project (“**Phase IIA Project**”) shall consist of Phase 1, Phase 2, Phase 3 and Phase 4, including but not limited to: (a) the effectuation and perfection of the Subdivision subject to and in accordance with Applicable Laws, if same has not already occurred; (b) the renovation of the Existing Buildings within the Phase IIA Premises in accordance with the provisions of the Phase IIA Redevelopment Plan, the Subdivision/Site Plan Approvals and this Agreement; and (c) the receipt of all Government Approvals necessary to carry out and to operate the Phase IIA Project Improvements for their contemplated purpose. The Phase IIA Project shall further consist of (A) clearance of the Phase IIA Premises to the extent necessary, (B) the Redeveloper’s Environmental Remediation (as defined herein) of the Phase IIA Premises in accordance with Environmental Laws, but only to the extent completed by the date of completion of the Phase IIA Project Improvements, (C) the construction and development of all Phase IIA Project Improvements all in accordance with the Phase IIA Redevelopment Plan and as set forth in this Redevelopment Agreement, the Concept Plans and the Subdivision/Site Plan Approvals, and (D) a 7-story approximately +/-2,566 car structured parking garage, 570 of which spaces are proposed to be located in the City of Clifton, or in the alternative at Redeveloper’s sole discretion a 6-story approximately +/-2,244 car structured parking garage, portions of which spaces are proposed to be located in the City of Clifton, on a portion of Block 201, Lot 1 (which portion is identified as Lot V in the Redevelopment Plan), and at Redeveloper’s sole discretion an approximately 30,000 square foot manufacturing Pilot Plant building addition on a portion of Block 300, Lots 1 and 20 (identified as Lot Y in the Redevelopment Plan). Redeveloper agrees that the implementing and completion of the Phase IIA Project, including but not limited to redevelopment of the Phase IIA Premises, shall be at the sole cost and expense of the Redeveloper.

2.04. Governmental Approvals.

(a) The Redeveloper represents and warrants to the best of its knowledge, information and belief that the list attached hereto as **Exhibit C** includes all Governmental Approvals known to the Redeveloper that need to be obtained by the Redeveloper in order to satisfy its obligations under this Redevelopment Agreement. The Redeveloper shall be responsible, at its sole cost and expense, for obtaining all such Governmental Approvals and for any other Governmental Approval which may be required but which is not identified herein. The Redeveloper covenants that it shall (i) use diligent, continuous and commercially reasonable efforts to secure, or cause to be secured, any and all Governmental Approvals, (ii) carry out the Phase IIA Project in conformance therewith and in accordance with the Redevelopment Project Schedule and the Phase IIA Redevelopment Plan, (iii)

provide the Township copies of all Governmental Approvals for the Phase IIA Project, (iv) keep the Township apprised of the status of all Governmental Approvals, and (v) promptly inform the Township if the Redeveloper is unable to submit or obtain any Governmental Approval in accordance with the Redevelopment Project Schedule. The Township agrees to fully cooperate, to the extent that such cooperation is consistent with the terms and intent of the Phase IIA Redevelopment Plan, with the Redeveloper in obtaining the Governmental Approvals. The Township acknowledges that obtaining the Government Approvals may involve approvals from bodies or agencies over which Redeveloper has no control, and Redeveloper's failure to obtain such Governmental Approvals following its continuous and good faith reasonable efforts to do so, shall not constitute a default hereunder.

(b) Approval of Concept Plans for the Phase IIA Project. As required by Section 7 of the Phase IIA Redevelopment Plan, prior to its submission of the application seeking the Site Plan/Subdivision Approvals, the Redeveloper submitted the Concept Plans for the Phase IIA Project (exclusive of the Pilot Plant) to the Board of Commissioners for review in consultation with the Township's professionals in accordance with and to the extent required by the Phase IIA Redevelopment Plan, which Concept Plans were prepared in accordance with Applicable Laws and consistent with the Phase IIA Redevelopment Plan. Prior to the submission of a site plan application for the Pilot Plant, the Redeveloper shall submit plans, elevations and reports as set forth in Section 7 of the Phase IIA Redevelopment Plan.

(c) Township Review. The Board of Commissioners, in consultation with the Township's professionals, exercised its right to review and approve the Concept Plans for subdivision of Lot 1 and 20 in Block 300 and Lot 1 in Block 201 and site plan with regard to the parking garage, courtyard and improvements to 100 Metro Boulevard prior to the Redeveloper submitting same to the Planning Board for the Subdivision/Planning Board Approvals as set forth in the Phase IIA Redevelopment Plan, which review included a finding of general consistency with the Phase IIA Redevelopment Plan. The Board of Commissioners, in consultation with the Township's professionals, shall have the right to review and approve any concept plans as to future submissions for approval of other portions of the Phase IIA Premises and/or any amendments or modifications to the Subdivision/Site Plan Approvals prior to the submission to the Planning Board. If modifications are required by the Board of Commissioners, in consultation with the Township's professionals, and such modifications are consistent with the Redevelopment Plan, then the Redeveloper shall modify

the concept plans and resubmit same to the extent required by the Board of Commissioners, in their reasonable discretion.

(d) Filing of Site Plan Application. The Board of Commissioners, after consultation with the Township's professionals, notified the Redeveloper of its approval of the Concept Plans for subdivision of Lot 1 and 20 in Block 300 and Lot 1 in Block 201 and site plan with regard to the parking garage, courtyard and improvements to 100 Metro Boulevard, and the expansion of the parking lot on Lots 1 and 20 in Block 300 through its adoption of the resolution on August 20, 2018 authorizing the Redeveloper to proceed to the Planning Board to pursue and obtain the Subdivision/Site Plan Approvals. As to future submissions for site plan or subdivision approval and/or amendments or modification to the Subdivision/Site Plan Approvals, upon receipt of any future concept plans, the Board of Commissioners after consultation with the Township's professionals, will notify the Redeveloper of its approval of, or required modifications to, the concept plans and authorization to proceed to the Planning Board for site plan and/or subdivision approval.

(e) The Redeveloper shall (i) notify the Township via e-mail, or in writing in accordance with the notice provisions set forth herein, of any meeting with any Governmental Body relating to any Governmental Approval or application therefor made by Redeveloper in pursuit of such Governmental Approval, promptly upon scheduling but in no case less than 24-hrs prior to such meetings (unless such meeting is scheduled less than 24 hours prior to the meeting), but excluding therefrom any application to the New Jersey Economic Development Authority ("EDA"), or to the Essex County Improvement Authority ("ECIA") for bonding or otherwise financing any portion of the Phase IIA Project, or any application or meeting which is subject to a Non-Disclosure Agreement ("NDA") or which relates to an entity or subject which is subject to a NDA; and (ii) provide the Township with a complete and true copy of any and all submissions made by or on behalf of Redeveloper to any Governmental Body relating to any Governmental Approval or application therefor made in pursuit of any such Governmental Approval simultaneous with the making of any such submission but excluding therefrom any application to the EDA, the ECIA, or any application or meeting which is subject to a NDA or which relates to an entity or subject which is subject to a NDA.

2.05. Other Governmental Approvals, Construction Plan Review and Commencement of Construction

(a) After the Effective Date, the Redeveloper shall proceed diligently to obtain all other Governmental Approvals required for same from any governmental agency having jurisdiction.

(b) Nothing contained in this Redevelopment Agreement shall be construed to prohibit Redeveloper from pursuing preliminary and final site plan approval for the Phase IIA Project simultaneously, or from pursuing preliminary and final site plan approval separately for any property in the Phase IIA Project.

(c) Upon receipt of all Governmental Approvals, except for building permits, for any of the Phase IIA Project Improvements within the Phase IIA Project, the Redeveloper will prepare construction plans for same, as well as materials and an application for approval of the construction plans. The respective timing for the Redeveloper's submission of applications for Governmental Approvals and obtaining Governmental Approvals shall be in accordance with the dates set forth in the Redevelopment Project Schedule, as same may be modified with the approval of the Board of Commissioners, which approval shall not be unreasonably withheld. The time periods contained in the Redevelopment Project Schedule may be adjusted and are intended to be "target" dates, as to which time is not of the essence.

(d) To expedite the commencement of construction of the Phase IIA Project, the Township will use good faith efforts to have the Township Engineering Division and Building and Construction Department review the Redeveloper's construction plans for compliance with the Applicable Laws within fifteen (15) Days of its submittal of same. The Redeveloper may not Commence Construction of the Phase IIA Project until such time as the Redeveloper has satisfied all pre-construction requirements prescribed by the Applicable Laws; provided however, that Commencement of Construction within the Existing Buildings may occur prior to receipt of preliminary and final site plan approval, to the extent same is not specifically required under Applicable Laws, and the Township agrees to facilitate the issuance of construction permits for same.

(e) The Township acknowledges that Hoffmann-LaRoche, Inc. ("HLR"), the prior owner of the Property, has undertaken environmental investigation and remediation as part of ongoing corrective action under the federal Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§ 6901 *et seq.*, since 1992 ("RCRA Corrective Action"), and to comply with New Jersey's Site Remediation Reform Act ("SRRA"), N.J.S.A. 58: 10C-1 et seq., Industrial Site Recovery Act ("ISRA"), N.J.S.A. 13:1K-6 et seq., and all related amendments, regulations, and regulatory

guidance. HLR's environmental investigation and remediation is under the oversight of both NJDEP and the U.S. Environmental Protection Agency ("USEPA").

(f) It is the Parties' contemplation that HLR will complete all environmental investigation, remediation, and corrective actions for all media, and comply with accompanying regulatory requirements applicable to such actions, as necessary for HLR to obtain a Remedial Action Approval ("RAA") from NJDEP (following HLR's documentation of implementation of remedial action in a Remedial Action Report), to obtain a Licensed Site Remediation Professional's ("LSRP") subsequent issuance of a restricted or unrestricted Response Action Outcome(s) ("RAO") based on the RAA from NJDEP under the SRRA, and to conduct any ongoing groundwater monitoring under a classification exception area and/or groundwater remedial action permit, or both, all as required of HLR by NJDEP as part of HLR's responsibilities. For those portions of the Property subject to RCRA corrective action requirements, HLR will also obtain concurrence or approval from USEPA (or its functional equivalent, in whatever form that is customary for New Jersey RCRA corrective action sites) of NJDEP's RAA, so as to satisfy HLR's corrective action obligations under RCRA. All of the foregoing shall be referred to as the "HLR's Environmental Remediation."

(g) In addition, the Phase IIA Premises or any portion(s) thereof may require environmental remediation, mitigation or clean-up for as yet undefined and undetermined environmental contamination that is the responsibility of Redeveloper ("Redeveloper's Environmental Remediation"), which together with HLR's Environmental Remediation shall be "Environmental Remediation". The Parties agree that any environmental remediation, mitigation or clean-up process may be time consuming and may involve many of the same steps the Redeveloper must take for site preparation and the construction of building foundations.

2.06. Final Site Plan Approval. The Redeveloper shall obtain final site plan approval, consistent with the Site Plan/Subdivision Approval, for all, or any Phase, of the Phase IIA Project to the extent required by Applicable Laws provided however, the Redeveloper shall be permitted to commence construction of all or any Phase of the Phase IIA Project Improvements upon obtaining preliminary site plan approval (and any other required Governmental Approval), consistent with the Site Plan/Subdivision Approval, to the extent permitted or required by Applicable Laws.

2.07. Governmental Approval Fees. In addition to the Redeveloper's reimbursement of the Township for any and all costs, including attorneys' fees, planners' fees and the like, incurred by the Township prior to, and after the Effective Date, pursuant to Section 5 hereof, the Redeveloper shall pay all the Township permit, application, escrow and approval fees ("Township Fees") and other non-Township fees for Governmental Approvals, which include any application fees for Governmental Approvals (payable by the Township) to all required Governmental Bodies other than the Township in connection with the Phase IIA Project, or application fees for which the Township is required to reimburse other Governmental Bodies in connection with Governmental Approvals.

2.08. Phase IIA Project Construction. All activities undertaken under this Redevelopment Agreement shall be performed in accordance with the level of skill and care ordinarily exercised by developers of first class commercial developments. All construction shall be performed consistent with this Redevelopment Agreement and the Phase IIA Redevelopment Plan and strictly in accordance with all applicable statutes, ordinances, codes, regulations and restrictions, except where relief therefrom has been obtained. The Phase IIA Project shall be constructed wholly in accordance with all permits and approvals, and Redeveloper shall diligently pursue completion of the Redeveloper's Environmental Remediation and construction of the Phase IIA Project Improvements in accordance with the Redevelopment Project Schedule. Upon the written request of the Redeveloper, the Township shall reasonably consider modifications of the dates set forth in the Redevelopment Project Schedule. The Township agrees to consider and render a decision with respect to any such modification request, within a period of thirty (30) days following receipt of a written request by the Redeveloper. The Township may deny approval of such modification proposed by the Redeveloper only if such modification is unreasonable under the circumstances. Nothing herein shall prohibit Redeveloper from accelerating the dates in the Redevelopment Project Schedule.

2.09. Amendment of Phase IIA Redevelopment Plan; Modification of Phase IIA Project Improvements.

(a) Upon (i) the written request by the Redeveloper, and (ii) the Redeveloper's payment to the Township of a refundable application fee of \$10,000.00 (except for an amendment to incorporate signage provisions/criteria) and all other fees required by the Phase IIA Redevelopment Plan, the Township agrees that it will reasonably consider a request of the Redeveloper to amend the Phase IIA Redevelopment Plan (relative only to the Phase IIA Premises) in order to accommodate changes to the Phase IIA Project, provided such changes are generally consistent with the intent and

purpose of the Phase IIA Redevelopment Plan, provided however, amendment of the Redevelopment Project Schedule shall not require payment of any application fees. In the event the Township does not agree to the requested amendment, the Township shall advise the Redeveloper within thirty (30) days of such request and shall return the \$10,000 fee along with the response.

(b) The Parties agree that if the Phase IIA Redevelopment Plan (relative only to the Phase IIA Premises) needs to be amended for any reason in the future, that the Party making the request shall do so in writing with supporting documentation reasonably satisfactory to the other Party, and other Party shall provide a response within thirty (30) days of receipt of the request. The reply will address only the conceptual response and any formal application to change the Phase IIA Redevelopment Plan must follow the requirements of Applicable Laws.

2.10. Easements. If requested by the Township Engineer or Township Attorney (or Redevelopment Counsel), the Redeveloper shall grant an easement or easements in a form reasonably satisfactory to the Township and Redeveloper, or any utility provider with whom Redeveloper may negotiate, for purposes of obtaining utilities to serve the Phase IIA Premises, which easement(s) shall include the right to inspect, maintain, repair and replace any utility lines and improvements located under or along any private roadways within the Phase IIA Premises, if any, provided that same do not interfere with Redeveloper's (or any tenant's or successor's) use and enjoyment of the Phase IA Premises and the Improvements thereon. In the event that the Township requires the dedication of any such utility lines and improvements, the Township shall accept the dedication of same.

2.11. Certificate of Completion and Compliance. (a) The Redeveloper shall use commercially reasonable efforts to diligently and continuously pursue completion of the Phase IIA Project in accordance with this Agreement so that a Certificate or Certificates of Completion and Compliance in the form of **Exhibit D** annexed hereto may be issued by the Township in accordance with the Redevelopment Project Schedule upon completion of the Phase IIA Project or any Phase thereof, as evidenced by the issuance of a Certificate or Certificates of Occupancy or Certificate of Approval, as the case may be, therefor (which issuance, if a temporary certificate of occupancy, may be subject to the posting of a temporary certificate of occupancy bond to the extent permitted under the MLUL) for newly constructed buildings and/or improvements and such other documentation reasonably requested by the Township evidencing Redeveloper's completion of those Improvements being constructed by Redeveloper pursuant to the Phase IIA Redevelopment Plan and this

Agreement. The Redeveloper shall provide a certificate from an authorized representative of the Redeveloper and from the Redeveloper's Phase IIA Project engineer and Phase IIA Project architect in the form attached as and referenced in **Exhibit F**, Schedule 1 of which shall state that (i) all other facilities necessary in connection with the subject Phase of the Phase IIA Project have been constructed or improved in accordance with the final site plan and all costs and expenses incurred in connection therewith have been paid free of any construction liens or a bond or surety has been established in an amount sufficient to cover all outstanding claims; (ii) all improvements, and all equipment and components thereof, which are necessary for the full operation of the subject Phase of the Phase IIA Project have been installed to the Redeveloper's satisfaction, and as so installed are suitable and sufficient for the efficient operation of the subject Phase of the Phase IIA Project for its intended purposes; (iii) a Certificate of Occupancy and/or Certificate of Approval, as the case may be and if required, and any other permissions required, if any, of governmental authorities or agencies having jurisdiction over the subject Phase of the Phase IIA Project, for the occupancy and/or use of the subject Phase of the Phase IIA Project for the purposes contemplated by this Redevelopment Agreement and the Phase IIA Redevelopment Plan, have been obtained; and (iv) the subject Phase of the Phase IIA Project is complete and ready for use, or tenant fit-out for which a building permit has been issued is underway by anyone other than the Redeveloper as intended and approved, upon which time the Redeveloper shall be entitled to receive a Certificate or Certificates of Completion and Compliance for any Phase of the Phase IIA Project, which shall be in a form substantially as set for in **Exhibit D** attached hereto and made a part hereof. The Certificate of Completion and Compliance shall constitute a recordable conclusive determination of the satisfaction and termination of the agreements and covenants in this Redevelopment Agreement and in the Phase IIA Redevelopment Plan with respect to the Redeveloper's obligation to construct the Phase IIA Project in accordance herewith. Upon issuance of the Certificate of Completion and Compliance, the conditions determined to exist at the time the Phase IIA Premises was determined to be an area in need of redevelopment shall be deemed to no longer exist as to that Phase the Phase IIA Premises for which such certificate is issued.

(b) If requested by Redeveloper, and upon Redeveloper's satisfaction of its obligations under this Agreement, the Township shall issue a Certificate of Completion and Compliance for a Phase of the Phase IIA Premises and/or the Phase IIA Project to the extent same may further the intent and purpose of this Agreement and the Redevelopment Law. The Township acknowledges that certain areas of the Phase IIA Project Improvements may already be suitable for occupancy and

nothing herein shall prevent Redeveloper from applying for and obtaining a Certificate of Occupancy as to same and from occupying such areas.

2.12. Performance Guarantees and Inspection Fees.

(a) As a condition of site plan approval for any Phase the Phase IIA Project, to the extent permitted under N.J.S.A. 40:55D-53, the Redeveloper shall post with the Township inspection fees and a performance bond in an amount and form acceptable to the Township (consistent with the MLUL) guaranteeing that the public improvements, if any, will be completed in accordance with all Governmental Approvals to the extent permitted by the MLUL.

(b) A performance guarantee shall be provided in the amount as reasonably determined by the Township Engineer for the installation of public improvements and for a buffer as identified on the plans approved by the Planning Board, including the Subdivision/Site Plan Approvals (the "**Performance Guarantee**") to the extent permitted by the MLUL. The Performance Guarantee may be released by resolution of the Township, and in accordance with the terms of N.J.S.A. 40:55D-53 of the MLUL, as amended, upon partial or complete construction as provided therein, and the posting and acceptance of a maintenance bond, as may be required by the Township and consistent with the MLUL. The Performance Guarantee shall be provided by the Redeveloper to the Township in a form authorized by the MLUL, and in accordance with the estimates approved by the Township Engineer. Inspection fees will be provided as set forth in the MLUL.

(c) Every bond, letter of credit, whether cash or surety, shall contain a clause to the effect that a determination made by the Township Engineer that the principal has defaulted in the performance obligations shall be binding and conclusive upon the surety and the principal. The Redeveloper and/or third parties on behalf of the Redeveloper may object by formal written notice and/or cure said asserted default within ten (10) business days after being notified in writing of the Township Engineer's determination of default. In the event the Redeveloper fails to object or to commence action to cure the asserted default within the ten (10) business day period, the cash portion, if any, may be utilized by the Township upon default of the Redeveloper or failure of the Redeveloper to cure any such defect or breach under this Agreement. Sureties shall be instructed to indicate that the guarantee automatically continues if the work is not completed by the stated expiration date. In addition, all taxes, assessments, escrows and fees for the Phase IIA Premises must be paid prior to the release of the Performance Guarantee. The amount of the Performance Guarantee may be reduced in accordance with the provisions of N.J.S.A. 40:55D-53, as amended,

when portions of public infrastructure and the buffer so bonded to the extent permitted by the MLUL have been completed and accepted.

(d) If any insurance company, financial institution or other entity issuing a Performance Guarantee hereunder shall be subject to a reorganization, rehabilitation, other action whereby a state or federal agency has taken over management of the entity, or, if in the reasonable opinion of the Township, the circumstances and condition of the entity results in the Township declaring that it believes that its interests are jeopardized, within forty-five (45) days of such written notification, the Redeveloper and/or third parties on behalf of the Redeveloper shall replace the Performance Guarantee(s). If requested by the Redeveloper and/or third parties on behalf of the Redeveloper, the Township shall adopt a resolution conditionally releasing the jeopardized Performance Guarantee(s) subject to the posting of satisfactory substitute guarantee(s).

(e) In the event any Performance Guarantee shall lapse, be cancelled or withdrawn or otherwise not remain in full force and effect, the Redeveloper and/or third parties on behalf of the Redeveloper, until an approved replacement guarantee has been deposited with the Township, will, if required by the Township Engineer, cease and desist any and all work on bonded improvements unless the required improvements under the Resolution and this Agreement and/or third parties on behalf of the Redeveloper have been completed and approved by the Township Engineer.

(f) Nothing contained herein shall authorize the Township to require any bonds or inspection fees in an amount in excess of that allowed by N.J.S.A. 40:55D-53. In the event of any conflict between the provisions of this Section 2.13 and the provisions of N.J.S.A. 40:55D-53, it is agreed that the provisions of the statute shall prevail.

2.13 Intentionally omitted.

2.14. Prohibition Against Suspension, Discontinuance or Termination. Redeveloper shall not suspend or discontinue its performance of its obligations under this Redevelopment Agreement or terminate this Redevelopment Agreement (other than in the manner provided for herein) for any reason except to the extent permitted by the express written terms of this Redevelopment Agreement, and then only to the extent and for the period of time expressly permitted by the express written terms of this Redevelopment Agreement, unless a modification is sought and approved by the Township as provided herein.

ARTICLE 3

EXISTENCE OF UTILITIES; INFRASTRUCTURE

3.01. Existing and Public Utility Rights and Improvements.

(a) The Redeveloper acknowledges that local public utility providers may have certain rights with respect to the Phase IIA Premises and may own certain facilities located therein. The Redeveloper agrees that it is its sole responsibility, at its sole cost and expense, to undertake the appropriate measures to negotiate with, acquire, relocate or otherwise address the existence of these utilities and improvements and easements therefore, in order to complete the Phase IIA Project as provided by this Redevelopment Agreement, provided that the Township shall provide any appropriate letter of support to accomplish such relocation, consistent with the provisions of N.J.S.A. 40A:12A-10. The Redeveloper shall consult local public utility providers with respect to all Phase IIA Project preparation and construction, and shall take all precautions to prevent personal injury, property damage and other liabilities related to utilities above, at or under the Phase IIA Premises, including, but not limited to, assuring uninterrupted utility service to all properties during construction.

(b) The Township will cooperate with the Redeveloper to determine the adequacy of existing municipal infrastructure. The Township agrees to provide reasonable access to and permit connection to all such infrastructure and shall permit the Redeveloper, at Redeveloper's sole cost and expense, to improve and/or expand such infrastructure as may be deemed necessary by the Redeveloper, subject to the Township's reasonable approval and the terms set forth in Section 3.03 hereof.

3.02. Infrastructure Improvements and Public Improvements.

(a) (i) If the Redeveloper is offering any infrastructure improvements or public improvements for dedication, the Redeveloper shall design the infrastructure improvements for the Phase IIA Project in accordance with typical and ordinary standards required by the Governmental Body having jurisdiction and shall construct the infrastructure improvements in a good and workmanlike manner and materially in accordance with all applicable Legal Requirements. The Township Engineer shall inspect all infrastructure improvements within the Township's jurisdiction as same are completed for compliance with the preceding sentence and, if found compliant, shall so certify to the Township. Upon the Township's receipt of such certification, the Redeveloper shall offer for dedication, or shall diligently pursue the grant by any third party with the right to do so to the extent reasonably required by the Township, and the Township shall consider for acceptance the dedication of any infrastructure improvements that are public and Redeveloper shall provide a

maintenance bond in accordance with N.J.S.A. 40:55D-53 guaranteeing that the public improvements (and those private improvements authorized by the MLUL) when completed will remain in compliance with its accepted condition for a period of not to exceed two (2) years following the date of certification or posting of such maintenance bond.

(ii) Any infrastructure improvements for the Phase IIA Project offered for dedication to the Township as set forth above shall be in compliance with all Environmental Laws at the time of offering. Redeveloper shall indemnify and hold harmless and defend the Township and hold harmless and defend the Township Indemnified Parties, and the Redeveloper shall pay any and all liability, loss, cost, damage, claims, judgments or expenses, of any and all kinds or nature and however arising, imposed by law, including but not limited to, any and all claims by workmen, employees and agents of the Redeveloper and unrelated third parties, which arise from the noncompliance with any Environmental Law of any such infrastructure improvements accepted by the Township.

(iii) The Township shall not be responsible for contributing to the cost of any infrastructure improvements.

(b) Nothing contained herein shall authorize the Township to require any bonds or inspection fees in an amount in excess of that allowed by N.J.S.A. 40:55D-53. In the event of any conflict between the provisions of this section and the provisions of N.J.S.A. 40:55D-53, it is agreed that the provisions of the statute shall prevail.

3.03. Water and Sewer Connection Fees. The Township reasonably believes that it has sufficient public water and public sewer service capacity in its public water and sewer systems to serve the Phase IIA Project. The Redeveloper shall be responsible for any additional infrastructure improvements required to accommodate full development of the Phase IIA Project, including but not limited to streets, sanitary sewers, storm sewers, utility lines and drainage facilities, although none have been identified at this time. The Township shall reasonably utilize any authority which it may have under Applicable Laws to assist the Redeveloper in the approval and construction of infrastructure improvements required for Phase IIA Project. The Township shall also cooperate with the Redeveloper as an applicant or in any other capacity to assist the Redeveloper in obtaining approvals for any infrastructure improvements required for the Phase IIA Project. In furtherance of same, the Redeveloper shall pay all new water connection fees due to the Municipal Utilities Authority, if any, and all new sewer connection fees due to the Township, if any in excess of the

number of existing or previously purchased connections. Said water and sewer connection fees, if any, shall be paid by the Redeveloper to the Township at such time as the Redeveloper applies for and is issued a building and/or a grading permit for the Phase IIA Project.

3.04. Maintenance and Security of the Phase IIA Project and Phase IIA Premises.

(a) If requested by the Township, in its sole discretion, the Redeveloper shall provide the Township with the Redeveloper's schedule of maintenance and repair, if any, at the Redeveloper's sole cost and expense, of the landscaping, open space and roadway improvements within the Phase IIA Project.

(b) Redeveloper covenants that it shall operate and maintain the Phase IIA Premises and the Phase IIA Improvements, including but not limited to the landscaping, open space, roadway improvements and other related site improvements, in a manner consistent with, or better than, other Class A medical office and research/development parks in northern New Jersey and so as to prevent and avoid any condition that may create an unsightly or visually undesirable environment within, on or about the Phase IIA Project and Phase IIA Premises.

(c) Redeveloper covenants that it shall operate and maintain, and provide adequate security personnel and measures throughout, the Phase IIA Project and Phase IIA Premises so as to prevent and avoid any condition that may pose an unreasonable risk to the public health, safety and welfare of the persons and/or property on or about the Phase IIA Project and Phase IIA Premises. If requested by the Township, the Redeveloper shall demonstrate Redeveloper's provision of such security personnel and measures.

3.05. Cooperation. Both Parties shall fully cooperate with each other as necessary to accomplish the Phase IIA Project, including entering into additional agreements that may be required provided, however, that such actions shall not result in a material increase in the Parties' respective obligations hereunder or material decrease in the Parties' respective rights hereunder.

ARTICLE 4

PHASE IIA PROJECT OVERSIGHT

4.01 Project Oversight. (a) At the request of the Township, Redeveloper agrees to hold a reasonable number of regular progress meetings (which the Parties expect to be no more than quarterly unless the Township reasonably requires more frequent meetings) upon the Township's reasonable request, to report on the status of the Phase IIA Project and to review the progress under the Project Schedule. Unless otherwise agreed by the Parties, the meetings shall be held within five

(5) business days of Redeveloper's receipt of the Township's request for such a meeting, at such office as is maintained by Redeveloper in the Township, as designated by Redeveloper. The Township Representatives may visit the Phase IIA Premises to inspect the progress of the work on the Phase IIA Project at reasonable times subject to reasonable advance notice and without undue interference with the Phase IIA Project progress, and in strict conformance to all Applicable Laws.

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

(c) The Township and the Township's Representatives reserve the right to enter upon the Phase IIA Premises, upon reasonable notice to Redeveloper and during business hours, to visually inspect the Phase IIA Premises for informational purposes, subject to the Township's acknowledgment that the Phase IIA Premises will be an active construction site and Redeveloper shall not be liable or responsible to the Township, its employees, agents or invitees for damages arising from injury to person or property sustained in connection with such inspections except to the extent that Redeveloper violates the standard of due care owed to invitees. Such inspections and observations shall not relieve Redeveloper from its obligation to implement the Project. In no event shall the Township's inspection of the Phase IIA Premises as provided for and allowed by this Redevelopment Agreement be deemed acceptance of the work or deemed to waive any right the Township has under this Redevelopment Agreement. Permit officials shall be permitted to enter the Phase IIA Premises at any reasonable time; provided same shall not interfere with ongoing construction.

ARTICLE 5

REDEVELOPER AND TOWNSHIP FINANCIAL OBLIGATIONS

5.01. **Reimbursable Township Costs**. The Redeveloper shall reimburse to the Township all out-of-pocket costs incurred by the Township in connection with the Phase IIA Project (**"Reimbursable Township Costs"**). Reimbursable Township Costs shall include the fees and costs

of any attorney, planner and other professionals or consultants retained by the Township in connection with the Phase IIA Project, including but not limited to the preparation and drafting of the Phase IIA Redevelopment Plan and this Redevelopment Agreement, financial/fiscal analysis, preparation of a financial agreement, if any, professional fees associated with compliance and review of the implementation of this Redevelopment Agreement and any amendments hereto. However, Reimbursable Township Costs shall not include the costs of ordinary wages, salaries and benefits paid to employees of the Township providing services in furtherance of the Phase IIA Project, except that if requested by the Redeveloper, or agreed to by the Redeveloper upon request of the Township, Redeveloper shall pay the salary (for the period of time such employee is engaged exclusively in connection with the Phase IIA work), of any Township employee(s) hired for the exclusive purpose of undertaking any building inspections or other work necessary to accommodate the schedule or deadlines of the Redeveloper in connection with the Phase IIA Project or any phase thereof. Notwithstanding the foregoing, the Redeveloper shall, within thirty (30) days of written request therefor from the Township, pay the Township a separate sum in the amount of Twenty Five Thousand and 00/100 Dollars (\$25,000.00), which is intended to reimburse the Township to compensate the Township Attorney for additional work he has performed on the Phase IIA Project.

5.02. Payment of Reimbursable Township Costs. The Redeveloper represents that it will make timely payment or reimbursement to the Township of the Reimbursable Township Costs.

(a) As of and after the Effective Date, the Redeveloper shall, within twenty (20) Days of receipt of the invoices for the Reimbursable Township Costs incurred by the Township prior to the Effective Date, pay directly to the Township the amount of the Reimbursable Township Costs indicated on such invoices. In addition, the Redeveloper shall, within twenty (20) Days of the Effective Date, fund an escrow account (the “Escrow Account”) the amount of Forty Thousand Dollars (\$40,000.00) for the purpose of reimbursing the Township for the Reimbursable Township Costs in accordance with this Agreement.

(b) Following the Redeveloper’s payment to the Township of the Reimbursable Township Costs incurred by the Township prior to the Effective Date and the initial funding of the Escrow Account in the amount of Forty Thousand Dollars (\$40,000.00) as set forth in Paragraph 5.02(a), and after any replenishment of the Escrow Account by the Redeveloper as set forth in Paragraph 5.02(c), the Redeveloper shall have thirty (30) Days following receipt of all invoices with sufficient back-up, as required in Paragraph 5.02(d), for Redeveloper to ascertain

the applicability of such charges to the Phase IIA Project to provide a written objection to the Township identifying any charges to which Redeveloper objects as a cost which is not related to the Phase IIA Project or does not meet the definition of a Reimbursable Township Cost. While the Township may pay invoices from the Escrow Account notwithstanding an objection from the Redeveloper, in the event that the subject of the objection is found to be a cost which is not related to the Phase IIA Project or does not meet the definition of a Reimbursable Township Cost as set forth herein, then the Township will credit the Escrow Account with said sum. Redeveloper will pay all Reimbursable Township Costs incurred between the Effective Date and the issuance of Certificate of Completion and Compliance for the Phase IIA Project.

(c) If, when, and as often as may occur that the Escrow Account is drawn down to Ten Thousand Dollars (\$10,000.00), then Redeveloper, upon the Township's written request, shall within twenty (20) Days of receipt of such request, provide to the Township funds sufficient to replenish the Escrow Account to the amount of Forty Thousand Dollars (\$40,000.00) for use in accordance with the terms of this Agreement, unless such time period shall be extended for good reason by the Township in its sole discretion. Funds in the Escrow Account will be applied to the payment or reimbursement of the Reimbursable Township Costs as provided in this Agreement.

(d) At the time of any request for replenishment of the Escrow Account, the Township shall provide Redeveloper with invoices and sufficient supporting details setting forth the costs incurred by the Township, which will be drawn down against the Escrow Account along with a statement evidencing the disbursement of funds from the Escrow Account. Any dispute concerning payment of the Reimbursable Township Costs shall be resolved in accordance with the procedures set forth in N.J.S.A. 40:55D-53.2a of the MLUL; provided however, to the extent permitted by Applicable Law, the Redeveloper shall make its dispute/appeal directly to the Essex County Construction Board of Appeals in the first instance (rather than to the Township Governing Body). Upon the issuance of a Certificate of Completion and Compliance, or upon termination of this Agreement, any money remaining in the Escrow Account shall be disbursed to Redeveloper, except that the Township may retain for not more than sixty (60) Days after such submission or termination date, an amount sufficient to cover unpaid expenses.

5.03. Affordable Housing. If required by law, the Redeveloper shall pay to the Township a non-residential development fee in accordance with and if required by the Statewide Non-Residential Development Fee Act, N.J.S.A. 40:55D-8.1 et seq. (the “Act”), for use by the Township as permitted by the Act and any amendments thereto.

ARTICLE 6

INDEMNIFICATION

6.01. Redeveloper Indemnification. Redeveloper agrees to indemnify and hold harmless and defend the Township and hold harmless and defend the Township Indemnified Parties, and the Redeveloper shall pay any and all liability, loss, cost, damage, claims, judgments or expenses, of any and all kinds or nature and however arising, imposed by law, including but not limited to, any and all claims by workmen, employees and agents of the Redeveloper and unrelated third parties, which arise from the Phase IIA Project, which the Township and/or the Township Indemnified Parties may sustain, be subject to or be caused to incur by reason of (i) any claim, suit or action based upon personal injury, death, or damage to property, whether real, personal or mixed, in connection with the condition, use, possession, conduct, management, planning, design, construction, installation, financing, marketing, leasing, or sale of the Phase IIA Project or based upon or arising out of the actual breach by the Redeveloper of contracts entered into by the Redeveloper which directly relate to the Phase IIA Project, except for any claim or suit arising from the intentional and willful acts or gross negligence of the Township and/or the Township Indemnified Parties; (ii) the violation of any law, rule, or regulation by the Township; or (iii) Redeveloper's performance of Redeveloper's obligations pursuant to this Agreement, the failure by Redeveloper to perform such obligations, any action or failure to act by Redeveloper with respect to the Redevelopment to which this Agreement is applicable or in connection with any allegation of any of the foregoing.

6.02. Insurance Coverage.

At all times during the construction of the Phase IIA Project, the Redeveloper shall maintain or cause to be maintained at its own cost and expense, with responsible insurers, the following kinds and the following amounts of insurance with such variations as shall reasonably be required to conform to customary insurance practice:

(a) Builder's Risk Insurance for the benefit of the Redeveloper during the term of construction which will protect against loss or damage resulting from fire and lightning, the standard extended coverage perils, and vandalism and malicious mischief. The limits of liability will be equal

to one hundred (100%) percent of the insurable value of the Phase IIA Project, including items of labor and materials connected therewith, whether in or adjacent to the structure insured, and materials in place or to be used as part of the permanent construction;

(b) Comprehensive General Liability Insurance (including coverage for any construction on or about each parcel of property contained within the Phase IIA Premises) against claims for bodily injury, death or property damage occurring on, in or about the Phase IIA Premises and the adjoining streets, sidewalks and passageways, in amounts not less than Three Million (\$3,000,000.00) Dollars for each claim with respect to any bodily injury or death, with respect to any one occurrence and Three Million (\$3,000,000.00) Dollars with respect to all claims for property damage relating to any one (1) occurrence, which insurance may be provided by primary and/or umbrella coverage;

(c) Worker's Compensation Insurance coverage in the amount of the full statutory liability of the Redeveloper; and

(d) Such other insurance, in such amounts and against such risks, as is customarily maintained by the Redeveloper with respect to other similar properties owned or leased by it, including automobile insurance and environmental liability.

Prior to the commencement of construction, the Redeveloper shall submit to the Township proof of all applicable insurance(s). Redeveloper shall provide such proof of insurance which indicates that the policy(ies) name the Township, its elected and appointed officials, officers, agents, servants, representatives, employees and/or its assigns and Township's consulting engineers, its officers, agents, servants, representatives, employees, successors and assigns, as additional insured with respect to their interest in work performed by the above named insured for the Phase IIA Project (except for Worker's Compensation or Automobile Coverage, if applicable, insurance). The policy(ies) shall contain contractual liability coverage insuring the Township Indemnified Parties against the claims set forth in Section 6.01. Upon each anniversary date of this Redevelopment Agreement, the Redeveloper shall submit the aforementioned proofs of insurance until the Township's issuance of a Certificate of Completion and Compliance.

ARTICLE 7

COVENANTS AND RESTRICTIONS

7.01. Declaration of Covenants and Restrictions. The covenants and restrictions set forth in Section 7.02 hereof shall hereinafter be referred to as the “Covenants and Restrictions”. Simultaneously with the execution of this Agreement, the Redeveloper shall record a Declaration of Covenants and Restrictions, in the form attached hereto as **Exhibit E** (hereinafter referred to as the “**Declaration**”), with respect to all of the parcels of property contained within the Phase IIA Premises, which, subject to the terms hereof, shall run with the lands to all Transferees and subsequent holders of title, imposing upon said lands the Covenants and Restrictions pursuant to Section 7.02.

7.02. Description of Covenants and Restrictions. The Covenants and Restrictions to be imposed upon the Redeveloper, and its Transferee(s), and recorded in the Declaration, shall set forth that the Redeveloper and its Transferees shall:

(a) devote the Phase IIA Premises to the uses specified in the Phase IIA Redevelopment Plan and shall not devote the Phase IIA Premises to any other uses without the approval of the Township; and

(b) to the extent provided for by Applicable Laws, not discriminate upon the basis of age, race, color, creed, religion, ancestry, national origin, sex or marital status in the sale, lease, use or occupancy of the Phase IIA Premises or any Improvements, buildings or structures erected or to be erected thereon, or any portion thereof; and

(c) to the extent provided for by Applicable Laws, in the sale, lease or occupancy of the Phase IIA Premises or any portion thereof, not effectuate or execute any covenant, lease agreement, conveyance or other instrument whereby the land or any Improvement, building or structure erected or to be erected thereon is restricted upon the basis of age, race, color, creed, religion, ancestry, national origin, sex or marital status, and the Redeveloper, its successors and Transferee(s) shall comply with all State and local laws prohibiting discrimination or segregation by reason of age, race, color, creed, religion, ancestry, national origin, sex or marital status and

(d) not sell, lease or otherwise Transfer any Phase IIA Project Improvements, or any portion thereof, without the written consent of the Governing Body, as set forth in Section 8.01 hereof other than those Transfers deemed to be Permitted Transfers pursuant to Section 8.03 hereof. Notwithstanding the foregoing, the Township has already consented to the leasing of the Existing Buildings, except for 200 Metro Boulevard.

7.03. Effect and Term of Covenants and Restrictions. It is intended and agreed and the Declaration shall so expressly provide, that the Covenants and Restrictions set forth in Section 7.02 hereof shall be covenants running with the land and that they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in this Agreement, be binding, to the fullest extent permitted by the Applicable Laws, for the benefit and in favor of, and enforceable by, the Township, its successors and assigns, against the Redeveloper, or its Transferee(s). It is further intended and agreed that the Covenants and Restrictions set forth in Section 7.02 hereof shall remain in effect until the issuance by the Township of a Certificate of Completion, as provided for in Section 2.12 hereof at which time all terms, conditions, obligations, including the Covenants and Restrictions set forth in this Agreement shall cease and terminate as to the Phase IIA Project, or any Phase as to which a Certificate of Completion has been issued, except, however, that the Covenants and Restrictions provided for in Sections 7.02(b) and (c) hereof, shall remain in effect without limitation as to time subject to any changes in the Applicable Laws.

7.04. Enforcement by Township. In amplification, and not in restriction of the provisions of this Article VII, it is intended and agreed that the Township shall be deemed a beneficiary of the Covenants and Restrictions set forth in Section 7.02 hereof both for and in its own right but also for the purposes of protecting the interest of the community as is deemed necessary and appropriate by the Board of Commissioners however it is not intended by the Parties that the general public be determined to be a third party beneficiary of the same.

ARTICLE 8

PROHIBITIONS AGAINST ASSIGNMENT AND TRANSFER

8.01. Prohibition Against Speculative Development. The Redeveloper covenants that its undertakings pursuant to this Agreement shall be for the purpose of redevelopment of the Phase IIA Premises and not for speculation in land holding. Similarly, the Township shall not (i) require the Redeveloper to acquire directly, or (ii) be obligated to exercise its power of eminent domain to acquire, any parcels of property.

8.02. Prohibition Against Transfers. The Parties to this Agreement acknowledge that pursuant to Section 7.02(d) hereof, the Redeveloper has covenanted not to effectuate any Transfer prior to the issuance of a Certificate of Completion for the Phase IIA Project without first having obtained the prior written consent of the Township to such Transfer, which consent shall not be

unreasonably withheld, conditioned or delayed, except for those Transfers deemed in Section 8.03 to be a Permitted Transfer, which transfer shall not require any such consent. In addition, the Redeveloper recognizes that, in view of (a) the importance of the Phase IIA Project to the general welfare of the community; (b) the public assistance to be made available by the Applicable Laws and by the Township on the conditions stated herein, for the purpose of making such redevelopment possible; and (c) the fact that a change in control of the Redeveloper is for practical purposes a Transfer, the qualifications and identity of the Redeveloper and its principals are of particular concern to the Township, and, therefore, there shall be no change in control of Redeveloper, without the prior written consent of the Township, which shall not be unreasonably withheld, conditioned or delayed, except for those Transfers deemed in Section 8.03 to be a Permitted Transfer. For the purpose of this Agreement, a change in the control of the Redeveloper shall mean a transfer of greater than ten percent (10%) of the membership interests in the Redeveloper. Notwithstanding the foregoing, the Township hereby consents to any transfer (even if greater than 10%) to any current investor, which has been disclosed to the Township as owning a percentage of the membership interest in the Redeveloper as of the date hereof, or a transfer to an entity whose owners are the same as the owners of the Redeveloper.

8.03. Permitted Transfers. Notwithstanding the Covenants and Restrictions contained in Sections 7.02 and 8.02 hereof, the following Transfers are deemed to be “Permitted Transfers”, and shall serve as exceptions to the general prohibition set forth in the previous paragraph and in Section 7.02(d) hereof and shall not require prior approval of the Township: (a) utility and other development easements and/or dedications; (b) leases/subleases to the ultimate users or tenants of any Phase of the Phase IIA Premises or the Improvements constructed thereupon for the purpose of operating a permitted business of that tenant as a part of the intended use of the Phase IIA Premises consistent with and as permitted under the Phase IIA Redevelopment Plan; (c) environmental covenants and restrictions imposed by a governmental regulatory agency; (d) execution of the Declaration; (e) execution of a financial agreement, if any; (f) a Mortgage or related security granted by the Redeveloper, or a tenant for a leasehold mortgage, to a mortgagee for the purpose of obtaining the financing necessary to enable Redeveloper to perform its obligations under this Agreement or otherwise carry out the Phase IIA Project; (g) a pledge of less than ten percent (10%) of the membership interests in the Redeveloper for the purpose of obtaining the financing necessary for Redeveloper to perform its obligations under this Agreement; (h) a Transfer by foreclosure; (i) a Transfer to an “urban renewal entity” or “urban renewal entities” for portions of the Phase IIA

Project, as such term is defined in the Long Term Tax Exemption Law, that is owned or Controlled by the Redeveloper; (j) a Transfer to an “urban renewal entity” or “urban renewal entities” for portions of the Phase IIA Project, as such term is defined in the Long Term Tax Exemption Law, that is not owned or Controlled by the Redeveloper; *provided however*, prior to effectuating such transfer any urban renewal entity shall submit an application to the Township evidencing to the Township’s reasonable satisfaction that such urban renewal entity has the qualifications and financial wherewithal necessary and adequate to fulfill the obligations undertaken in this Agreement and Applicable Laws, sufficient to carry out the Phase IIA Project and perform the obligations of Redeveloper hereunder.

8.04. Notice of Permitted Transfers. With respect to any of the Permitted Transfers listed in Section 8.03 hereof, the Redeveloper shall provide the Township with written notice not less than thirty (30) days prior to the consummation of such Permitted Transfer, including a description of the nature of such Permitted Transfer, and the name(s) and address(es) of the parties and any parties, individuals and/or entities comprising such parties.

8.05. Transfers in Violation of this Agreement. Any Transfer of Redeveloper’s interest not constituting a Permitted Transfer under Section 8.03 hereof, in violation of this Article 8 of this Agreement, shall be deemed to be a Redeveloper Event of Default and shall be null and void ab initio. The occurrence of such Redeveloper Event of Default shall entitle the Township to seek all available remedies under the terms of this Agreement, and those available pursuant to law or equity, including the right, but not the obligation, to terminate this Agreement and any financial agreement entered by any Affiliate of the Redeveloper, including all other remedies available under the Applicable Laws. In the absence of Permitted Transfer or specific written consent by the Township, no such sale, transfer, conveyance or assignment shall be deemed to relieve Redeveloper from any obligations under this Redevelopment Agreement (unless this Agreement has been terminated). The Declaration shall contain a restriction against transfers as set forth in this Article 8 of this Redevelopment Agreement and, in addition, shall provide that in the event of any attempted transfer in violation of the restrictions in this Article 8 of this Redevelopment Agreement the Township shall be entitled to the ex parte issuance of an injunction restraining such transfer, and the award of reasonable legal fees and related expenses of the Township in connection with any such legal action. Upon the recording of the Declaration in the Office of the Essex County Register, the provision affording such injunctive relief shall have the same force and effect as a Notice of Lis Pendens.

Upon recording of the Certificate Completion, the provisions of the Declaration set forth in this Article 8 of this Redevelopment Agreement shall be deemed terminated.

8.06. Conditions of Transfer. Except as otherwise provided in this Agreement, and except with respect to those Permitted Transfers defined under Section 8.03 hereof, the Township shall be entitled to require, as a condition(s) to its approval of any Transfer that:

- (i) The proposed Transferee will have qualifications and financial responsibility necessary and adequate to fulfill the obligations undertaken in this Agreement with respect to the transferred Phase the Phase IIA Project and other obligations pursuant to Governmental Approvals or any part of such obligations that may pertain to the transferred interest or the transferred Phase the Phase IIA Premises, as determined from:
 - (1) Audited (if same is reasonably available or if not so available, unaudited), financial statements indicating: (a) net worth or unencumbered lines of credit; or (b) evidence of loan commitments sufficient to carry out the Phase IIA Project; and
 - (2) If applicable, examples of past projects that the prospective Transferee has undertaken and completed of comparable development, showing that the proposed Transferee of the relevant Phase of the Phase IIA Project possesses the competence and integrity to undertake same.
- (ii) Any proposed Transferee, by instrument in writing reasonably acceptable to the Township, will, for itself and its Transferees, and expressly for the benefit of the Township, have expressly assumed all of the relevant obligations of the Redeveloper under this Agreement with respect to the Phase or Phases of the Phase IIA Premises proposed to be transferred, and agrees to be subject to all the Covenants and Restrictions to which the Redeveloper is subject.
- (iii) Any Transfer under this Article VIII will absolutely release the Redeveloper from any and all relevant obligations under this Agreement with respect to the Phase or Phases of the Phase IIA Premises proposed to be transferred, except as to any liability or obligation of the Redeveloper as to which the Redeveloper has incurred or defaulted prior to such Transfer.

- (iv) The Transferee will comply with such other reasonable conditions as the Township may find necessary in order to achieve and safeguard the purposes of the Phase IIA Redevelopment Plan.

Notwithstanding anything to the contrary contained herein, the Township's consent to any Transfer shall not be unreasonably withheld, conditioned or delayed. The Township shall notify the Redeveloper in writing whether the Township consents to a Transfer within thirty (30) days after Redeveloper's request to the Township for such consent. If the Township 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 for consent to the Transfer and the Township shall be deemed to have consented to any requested Transfer if the Township does not deliver a written response to the Redeveloper within thirty (30) Days after Redeveloper's second request to the Township for such consent.

ARTICLE 9

EVENTS OF DEFAULT AND REMEDIES

9.01. Redeveloper's Default. The Township shall have the right to declare the Redeveloper in default of this Agreement in the event of the occurrence of any of the following beyond any applicable notice, grace and/or cure periods (each, an "**Event of Default**"):

- (a) The Redeveloper's failure to substantially perform any of its obligations under the terms of this Agreement;

- (b) A determination by a court of competent jurisdiction that the Redeveloper is insolvent;

- (c) (i) The Redeveloper shall have applied for or consented to the appointment of a custodian, receiver, trustee or liquidator of all or a substantial part of its assets; (ii) a custodian shall have been legally appointed with or without consent of the Redeveloper; (iii) the Redeveloper (A) has made a general assignment for the benefit of creditors, or (B) has filed a voluntary petition in bankruptcy or a petition or an answer seeking an arrangement with creditors or has taken advantage of any insolvency law; (iv) the Redeveloper has filed an answer admitting the material allegations of a petition in any bankruptcy or insolvency proceeding; or (v) the Redeveloper shall take any action for the purpose of effecting any of the foregoing; (vi) a petition in bankruptcy shall have been filed against the Redeveloper and shall not have been dismissed for a period of sixty (60) consecutive days; (vii) an Order for Relief shall have been entered with respect to or for the benefit of the

Redeveloper under the Bankruptcy Code; (viii) an order, judgment or decree shall have been entered, without the application, approval or consent of the Redeveloper by any court of competent jurisdiction appointing a receiver, trustee, custodian or liquidator of the Redeveloper or a substantial part of its assets and such order, judgment or decree shall have continued unstayed and in effect for any period of sixty (60) consecutive days; or (ix) the Redeveloper shall have suspended the transaction of its usual business.

(d) Failure by the Redeveloper to make any payments owed (other than any payments being legitimately disputed by Redeveloper) to the Township when due of Reimbursable Township Costs and/or other required payments to the Township pursuant to this Agreement, within the time periods set forth in Section 5.02 hereof.

(e) There is an uncured default by the Redeveloper or any Affiliate of the Redeveloper as a party under any financial agreement entered into with the Township affecting all or any Phase of the Phase IIA Premises.

9.02. Township Default. The Redeveloper shall have the right to declare the Township in default of this Agreement in the event of the failure by the Township to substantially perform any covenant, condition or obligation under this Agreement.

9.03. Right to Cure Default. (a) Upon written notice of an Event of Default, either party shall have (i) thirty (30) days from receipt of such notice to cure a monetary default; and (ii) sixty (60) days from receipt of such notice to cure a non-monetary Event of Default, provided that if such non-monetary Event of Default cannot reasonably be cured within sixty (60) days then, providing that the party is diligently proceeding to cure such default, the party will have such time as is reasonably required to cure the non-monetary default, but in no event shall such time to cure exceed one hundred twenty (120) days (without grant of an extension by the non-defaulting Party).

9.04. Force Majeure. Failure of either Party to perform any of the provisions of this Agreement shall not constitute an Event of Default or breach of this Agreement where delays or failure to perform are the result of any act, event or condition or any combination thereof that has had or may be reasonably expected to have a direct, material, adverse effect on the rights or obligations of the Parties to this Agreement; provided however that such act, event or condition shall be beyond the reasonable control of the Party relying thereon as justification for not performing or timely performing an obligation or complying with any condition required of such Party under the terms of

this Agreement, and shall prevent the Party relying thereon from compliance with a relevant condition of this Agreement (“**Force Majeure**”) including, without limitation, the following:

(a) Lightning, blizzards, hurricane, tornado, earthquake or other extreme weather conditions, acts of public enemy, war (whether or not declared), terrorism, blockade, insurrection, riot or civil disturbance, sabotage or similar occurrence;

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

(c) The order, judgment, action or inaction and/or determination of any Governmental Body (other than the Township when acting in conformance with this Agreement) with jurisdiction within the Township, excepting decisions interpreting federal, State and local tax laws generally applicable to all business taxpayers, adversely affecting the construction of the Phase IIA Project; provided, however, such order, judgment, action and/or determination shall not be the result of the willful, intentional or grossly 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) Litigation by third parties adversely affecting the construction of the Phase IIA Project in which the Redeveloper is directly enjoined, other than third parties for whom the party asserting an excusable delay is responsible, such as contractors performing work for that party, or litigation by third parties challenging the grant of any Governmental approvals, or litigation brought by Redeveloper challenging the denial of any Governmental Approvals or the conditions to the grant thereof.

(e) 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 grossly 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 a good faith complete submission for a Governmental Approval shall not be an event of Force Majeure.

(f) Strikes, lockouts, slowdowns or similar labor action by trade unions or any of their members, equipment manufacturers, suppliers of material and/or transporters of same beyond the control of Redeveloper or any of its members;

(g) Remediation related interruption, failure, or delay encountered due to unforeseen conditions or unanticipated results of actions taken in the course of dealing with contamination; and/or

(h) Demolition related interruption, failure, or delay encountered during the course of removal of existing buildings or improvements.

(i) Significant and prolonged change of market conditions which results in the Phase IIA Project or any Phase thereof not being reasonably viable from an economic standpoint. For purposes of this provision, “significant and prolonged change of market conditions” shall mean conditions of the real estate and/or financing markets as they affect the Phase IIA Project or any Phase thereof, as demonstrated by an independent market study reasonably acceptable to the Township.

Notice by the Party claiming such extension shall be sent to the other Party within thirty (30) calendar days of the commencement of the cause. During any Force Majeure that affects part of the Phase IIA Project, Redeveloper shall continue to perform its obligations for the rest of the Phase IIA Project. The existence of an act of Force Majeure shall not prevent a party from declaring the occurrence of an Event of Default by the party relying on such Force Majeure, provided that the event that is the basis of the Event of Default is not a result of the Force Majeure. Except for acts of Force Majeure resulting from acts or omissions of the Township, all acts of Force Majeure will be deemed to have ceased to exist as of a date eighteen (18) months from its initial occurrence, unless otherwise agreed to by the Parties to be extended.

9.05. Default Rights and Remedies. Except as may otherwise be provided in this Agreement, upon the occurrence of an Event of Default not cured pursuant to Section 9.03 hereof, the non-defaulting party may terminate this Agreement and/or take whatever action at law or in equity, as may appear necessary or desirable to enforce the performance or observance of any rights under this Agreement, including an action for specific performance, provided that Redeveloper cannot be compelled to construct the Phase IIA Project as part of any specific performance obligation. In the event that the Township terminates this Agreement in accordance with its terms, the Redeveloper’s designation as the redeveloper of the Phase IIA Premises shall immediately terminate, together with the Redeveloper’s rights as the Redeveloper and under any financial agreement entered by any Affiliate of the Redeveloper. The Township shall have all rights under

Applicable Laws including, without limitation, the rights of eminent domain and the right to appoint a new redeveloper, as set forth in the Eminent Domain Law and the Redevelopment Law. In no event shall either party have any liability for consequential or punitive damages.

9.06. Rights and Remedies of Parties Cumulative; No Waiver by Delay. The rights and remedies of the Parties whether provided by this Agreement or by law, shall be cumulative, and except as otherwise specifically provided by this Agreement, the exercise by the Parties 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 either Party in asserting any rights or exercising any remedy shall operate as a waiver of such rights or remedy or otherwise deprive it of, or limit such rights and remedies in any way (it being the intent of this provision that a Party shall not be constrained, so as to avoid the risk of being deprived of or limited in the exercise of the 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 a Party with respect to any specific Event of Default by the other Party under this section be considered or treated as a waiver of the rights of the Party with respect to any other defaults by the other Party under this Section or with respect to the particular default except to the extent specifically waived in writing.

ARTICLE 10

REPRESENTATIONS, WARRANTIES AND COVENANTS.

10.01. Township Representations. The Township represents and warrants to Redeveloper as follows:

(a) The Township (i) is a public body corporate and politic of the State of New Jersey, is duly organized, validly existing and in good standing under the laws of the State of New Jersey; and (ii) has all requisite corporate power to execute, deliver and perform its obligations under this Redevelopment Agreement.

(b) The execution, delivery and performance of this Redevelopment Agreement and the transactions contemplated hereby (i) have been duly authorized by all necessary corporate proceedings by the Township; (ii) do not conflict with or result in any breach or contravention of any provision of law, statute, rule or regulation to which the Township is subject or any judgment, order,

writ, injunction, license or permit applicable to the Township or its properties; and (iii) do not conflict with any provision of its charter documents, bylaws, or any material agreement or other material instrument binding upon the Township. The Township is not in violation of any provision of its charter documents, bylaws, or any agreement or instrument to which it is subject or by which it or any of its properties are bound or any decree, order, judgment, statute, license, rule or regulation, in any of the foregoing cases in a manner that could reasonably be expected to materially adversely affect the ability of the Township to perform its obligations under this Redevelopment Agreement.

(c) The execution and delivery of this Redevelopment Agreement will result in valid and legally binding obligations of the Township enforceable against it in accordance with the respective terms and provisions hereof, except as such enforceability is limited by bankruptcy, insolvency, reorganization, moratorium or other laws relating to or affecting generally the enforcement of creditors' rights and except to the extent that availability of the remedy of specific performance or injunctive relief is subject to the discretion of the court before which any proceeding therefore may be brought.

(d) There are no pending, or to the knowledge of the Township, threatened actions or proceedings by or before any court or administrative agency or arbitrator against or affecting the Township that involve the Township's execution or performance of this Redevelopment Agreement or the transactions contemplated hereby that, if adversely determined, are reasonably likely, either individually or in the aggregate, to materially adversely affect the ability of the Township to perform its obligations under this Agreement.

(e) The Township has designated the Phase IIA Premises as an area in need of redevelopment pursuant to the Redevelopment Law and the Phase IIA Premises remain subject to the Phase IIA Redevelopment Plan, as may be modified or amended upon approval by the Township and Redeveloper. The Township has named Redeveloper the redeveloper for the Phase IIA Project in accordance with Applicable Laws.

(f) The Township shall not utilize its power of eminent domain while this Agreement is in effect, provided that there is no uncured Event of Default by the Redeveloper under this Agreement.

10.02. Redeveloper Representations. Redeveloper represents and warrants to the Township as follows:

(a) Redeveloper (i) is a limited liability company, duly formed, validly existing and in good standing under the laws of the State of New Jersey; and (ii) has all requisite power to execute, deliver and perform its obligations under this Redevelopment Agreement.

(b) The execution, delivery and performance of this Redevelopment Agreement and the transactions contemplated hereby; (i) have been duly authorized by Redeveloper; (ii) do not conflict with or result in any breach or contravention of any provision of law, statute, rule or regulation to which Redeveloper is subject or any judgment, order, writ, injunction, license or permit applicable to Redeveloper or its properties; and (iii) do not conflict with any provision of its governing documents, or any material agreement or other material instrument binding upon Redeveloper. Redeveloper is not in violation of any provision of its charter documents, or any agreement or instrument to which it is subject or by which it or any of its properties are bound or any decree, order, judgment, statute, license, rule or regulation, in any of the foregoing cases in a manner that could reasonably be expected to materially adversely affect the ability of Redeveloper to perform its obligations under this Redevelopment Agreement.

(c) The execution and delivery of this Redevelopment Agreement will result in valid and legally binding obligations of Redeveloper enforceable against it in accordance with the respective terms and provisions hereof, except as such enforceability is limited by bankruptcy, insolvency, reorganization, moratorium or other laws relating to or affecting generally the enforcement of creditors' rights and except to the extent that availability of the remedy of specific performance or injunctive relief is subject to the discretion of the court before which any proceeding therefore may be brought.

(d) There are no pending or, to the knowledge of Redeveloper, threatened actions or proceedings by or before any court or administrative agency or arbitrator against or affecting Redeveloper or any of its affiliates or that involve Redeveloper's execution or performance of this Redevelopment Agreement or the transactions contemplated hereby that, if adversely determined, are reasonably likely, either individually or in the aggregate, to materially adversely affect the ability of Redeveloper to perform its obligations under this Redevelopment Agreement.

(e) Redeveloper shall not allow a use of the Phase IIA Premises, or permit the Phase IIA Premises to be used, in any manner which violates any Legal Requirements.

(f) Redeveloper acknowledges that (i) Redeveloper shall construct only the uses established in the Phase IIA Redevelopment Plan; (ii) Redeveloper shall develop the Phase IIA

Project in accordance with the terms of this Redevelopment Agreement; and (iii) Redeveloper shall comply with the Redevelopment Law and all associated laws.

ARTICLE 11

MISCELLANEOUS

11.01. Notices. Formal notices, demands and communications between the Township and the Redeveloper and from the Redeveloper to the Township (as required herein) shall be in writing and shall be deemed sufficiently given if dispatched to the address set forth below by registered or certified mail, postage prepaid, return receipt requested, and shall be deemed delivered upon receipt. Notices, demands and communications by any Party to the other may also be hand delivered by messenger (with receipt acknowledged in writing), delivered by a nationally recognized commercial overnight delivery service guaranteeing overnight delivery, with receipt acknowledged in writing, with packaging tracking capability and for which proof of delivery is available, to the Parties at their respective addresses set forth herein. Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designated by written notice.

Copies of all notices, demands and communications shall be sent as follows:

If to Redeveloper:	PB Nutclif Master, LLC c/o Prism Capital Partners, LLC 200 Broadacres Drive, Suite 180, Bloomfield, New Jersey 07003 Attention: Eugene Diaz
with a copy to:	Meryl A. G. Gonchar, Esq. and Cecilia Lassiter, Esq. Sills Cummis & Gross, P.C. One Riverfront Plaza, 1037 Raymond Boulevard, 13th Floor Newark, New Jersey 07102
If to Township:	Honorable Mayor Dr. Joseph P. Scarpelli Township of Nutley 1 Kennedy Drive Nutley, New Jersey 07110
with a copy to:	Eleni Pettas, Township Clerk Township of Nutley 1 Kennedy Drive Nutley, New Jersey 07110
with a copy to:	Alan Genitempo, Esq.

Piro, Zinna, Cifelli, Paris & Genitempo
360 Passaic Avenue
Nutley, NJ 07110

and a copy to: John P. Inglesino, Esq.
Inglesino, Webster, Wyciskala & Taylor, LLC
600 Parsippany Road, Suite 204
Parsippany, New Jersey 07054

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

Either Party may, from time to time (upon not less than seven (7) days prior written notice given to the other Party pursuant to the terms of this Article 11 of this Agreement) change the address, electronic mail address and/or facsimile number to which notices, demands and communications shall be sent or designate one (1) or more additional substitute persons to whom notices, demands and communications are to be sent

11.02. Non-Liability of Officials and Employees of Township. No member, official, employee, or consultants of Township shall be personally liable to the 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 the Redeveloper or its successor, or on any obligation under the terms of this Redevelopment Agreement.

11.03. Non-Liability of Officials and Employees of Redeveloper. No member, officer, shareholder, director, partner, employee or consultant of 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 its successor, on any obligation under the terms of this Redevelopment Agreement.

11.04. Estoppel Certificate. Within thirty (30) days following written request therefor by a party hereto, the other party shall issue a signed estoppel certificate either stating that this Redevelopment Agreement is in full force and effect and that there is no default or breach under this Redevelopment Agreement (nor any event which, with the passage of time and the giving of notice would result in a default or breach under this Redevelopment Agreement), or stating the nature of the default or breach or event, if any. In the event the estoppel certificate discloses such a default, breach

or event, it shall also state the manner in which such default, breach and/or event may be cured. No more than a reasonable number of estoppel certificates may be requested per year.

11.05. No Brokerage Commissions. The Township and the Redeveloper each represent one to the other that no real estate broker initiated, assisted, negotiated or consummated this Redevelopment Agreement as broker, agent, or otherwise acting on behalf of either the Township or the Redeveloper, and the Township and the Redeveloper shall indemnify each other with respect to any claims made by any person, firm or organization claiming to have been so employed by the indemnifying party.

11.06. No Consideration for Redevelopment Agreement. The Redeveloper warrants it has not paid or given, and will not pay or give, any third person any money or other consideration in connection with obtaining this Redevelopment Agreement, other than normal costs of conducting business and costs of professional services such as architects, engineers, financial consultants and attorneys. The 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.

11.07. Successors and Assigns. This Redevelopment Agreement shall be binding upon and inure to the benefit of the permitted successors, assigns and affiliates of the Parties hereto, and their heirs, executors, and administrators. This Redevelopment Agreement shall not be assigned by either party without the written consent of the other party which consent shall not be unreasonably withheld, delayed or conditioned, except where such consent is not required by the express terms of this Agreement.

11.08. Exhibits and Schedules. All Exhibits and Schedules attached hereto and/or referred to in this Redevelopment Agreement are incorporated herein as though set forth in full.

11.09. Titles of Articles and Sections. The titles of the several Articles and Sections of this Redevelopment Agreement are inserted for the convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

11.10. Severability of Provisions. If any term or provision of this Redevelopment Agreement or the application thereof shall to any extent be held to be invalid or unenforceable, the remainder of this Redevelopment Agreement, or the application of such term or provision to circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby,

and each other term and provision of this Redevelopment Agreement shall be valid and shall be enforced to the extent permitted by law.

11.11. Modification of Redevelopment 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 the party against which the enforcement of such modification, waiver, amendment, discharge, or change is or may be sought.

11.12. Execution of Counterpart. This Redevelopment Agreement may be executed in one or more counterparts and when each party has executed and delivered at least one counterpart, this Redevelopment Agreement shall become binding on the Parties and such counterparts shall constitute one and the same instrument.

11.13. Drafting Ambiguities; Interpretation. In interpreting any provision of this Redevelopment Agreement, no weight shall be given to, nor shall any construction or interpretation be influenced by, the fact that counsel for one of the Parties drafted this Redevelopment Agreement, each party acknowledging that it and its counsel have had an opportunity to review this Redevelopment Agreement and have contributed to the final form of same.

11.14. Waivers and Amendments in Writing. All waivers of the provisions of this Redevelopment Agreement must be in writing and signed by the appropriate authorities of the Township and the Redeveloper and all amendments hereto must be in writing and signed by the appropriate authorities of the Township and the Redeveloper. The waiver by either party of a default or of a breach of any provision of this Redevelopment Agreement by the other party shall not operate or be construed to operate as a waiver of any subsequent default or breach.

11.15. Conflict of Interest. No member, official or employee of Township shall have any direct or indirect interest in this Redevelopment Agreement, nor participate in any decision relating to the Redevelopment Agreement which is prohibited by law.

11.16. Governing Law. This Redevelopment Agreement shall be governed by and construed in accordance with the Applicable Laws of the State of New Jersey. Redeveloper and the Township acknowledge and agree that the Phase IIA Project poses unique issues as it involves not only the Phase IIA Premises located in the Township which is located within the boundaries of Essex County but also additional adjoining property located in the City of Clifton which is located within the boundaries of Passaic County. In order to avoid the possibility of related litigation pending in both the Essex County Vicinage and the Passaic County Vicinage of the Superior Court of New Jersey,

Redeveloper and Township agree and consent to venue any legal action filed by either the Redeveloper or the Township in the Superior Court of New Jersey, Passaic County Vicinage. Redeveloper represents and warrants to the Township that the redevelopment agreement entered into by Redeveloper with the City of Clifton in connection with the Phase IIA Project contains the same venue designation clause, placing venue of any legal action filed by either the Redeveloper or the City of Clifton with the Superior Court of New Jersey, Passaic County Vicinage.

11.17. Return of Escrows. Upon any termination of this Agreement for any reason whatsoever, all escrows and other amounts deposited with the Township under this Agreement shall be promptly returned to Redeveloper, after payment of any costs and/or permitted damages for which Redeveloper is then liable under the terms of this Agreement.

11.18 Inspection of Books and Records. (a) The Township shall have the right, at all reasonable times, upon reasonable request and notice, to inspect any and all documents located in the files of the Redeveloper pertinent to the Phase IIA Premises, the Phase IIA Project and/or the purposes of this Redevelopment Agreement.

(b) The Redeveloper shall have the right, at all reasonable times, upon reasonable request and notice, to inspect any and all documents located in the possession of the Township's attorney or special redevelopment counsel for files of the Township pertinent to the Phase IIA Premises, the Phase IIA Project and/or the purposes of this Redevelopment Agreement, without the need to comply with the requirements of the OPRA. Nothing contained herein shall limit Redeveloper's rights pursuant to the Open Public Records Act.

(c) Such inspections must be for a legitimate business purpose affecting the material interest of the party seeking the inspection.

(d) Such inspections shall be performed at a time and in a manner as to not unreasonably interfere with the business operations of the party whose files are being inspected.

(e) The Redeveloper shall arrange for biennial meetings with the Township to update the Township on the redevelopment of the Phase IIA Premises as set forth herein.

11.19. Counting of Days; Saturday, Sunday or Holiday. The word "days" as used in this Agreement shall mean calendar days unless a contrary intention is stated, provided that if the final date of any period provided herein for the performance of an obligation or for the taking of any action falls on a day other than a Business Day, then the time of such period shall be deemed extended to the next Business Day. The term "Business Day" as used herein means any day other

than a Saturday, Sunday, or a day on which banks and public offices are not open under the laws of the State.

ARTICLE 12

MORTGAGE FINANCING

12.01. Pursuant to the Permitted Transfers set forth in Section 8.03 hereof, Redeveloper, or a tenant with respect to a leasehold mortgage, may obtain a Mortgage for the purpose of obtaining financing necessary to enable Redeveloper to perform its obligations under this Agreement or otherwise carry out the Phase IIA Project. The Redeveloper shall notify the Township as set forth in Section 8.04 of any financing proposed to be secured by a Mortgage on any Phase the Phase IIA Premises prior to the completion of Phase IIA Project, as such completion is certified by the issuance of the Certificate of Completion, which it proposes to enter into with respect to the Phase IIA Premises or any portion thereof and, in any event, the Redeveloper shall promptly notify the Township as set forth in Section 8.04 of any encumbrance or lien that has been created on or attached to the Phase IIA Premises, or Phase thereof whether by voluntary act of the Redeveloper or otherwise, upon obtaining knowledge or notice of same. The Redeveloper shall provide contact information for any Mortgagee in writing to the Township, such that the Town may comply with notice obligations in Section 12.02 below.

12.02 To the extent reasonably requested by a Mortgagee, the Township shall promptly execute such 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 such Mortgagee provided, however, that any such agreement and/or document shall not alter or modify any of the rights or obligations of the Redeveloper or the Township under this Agreement.

12.03. Obligations of Mortgagee. Notwithstanding any of the provisions of this Agreement, including but not limited to those which are or are intended to be covenants running with the land, the holder of any Mortgage authorized by this Agreement (including any such holder who obtains title to the Phase IIA Premises or any part thereof as a result of foreclosure proceedings, or action in lieu thereof, but not including (a) any other party who thereafter obtains title to the Phase IIA Premises or such part from or through any such holder or (b) any other purchaser at foreclosure sale (other than the holder of the Mortgage itself)) shall in no way be obligated by the provisions of this Agreement to construct or complete the Phase IIA Project or to guarantee such construction or completion; provided that nothing in this Article or any other Article or provision of this Agreement

shall be deemed or construed to permit or authorize any such holder to devote the Phase IIA Premises or any part thereof to any uses, or to construct any project thereon, other than those uses provided or permitted under the Redevelopment Plan, Governmental Approvals and Applicable Law.

12.04. Notice of Default to 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 (but not the obligation) within ninety (90) days after the receipt of such notice, to cure or remedy, or to commence to cure or remedy, any such default which is subject to being cured and to add the cost thereof to the debt and the lien which it holds. Failure by the Township to deliver any notice or demand to any Mortgagee as required hereunder shall not effect or diminish the efficacy or validity of any notice or demand sent to the Redeveloper in accordance with this Agreement.

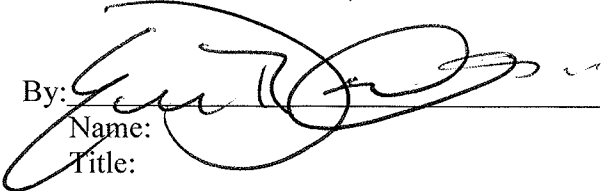
12.05 Estoppel Certificate. Within sixty (60) days following written request therefor by Redeveloper, or any lender, purchaser, tenant or the other party having an interest in the Phase IIA Premises, the Township shall issue a signed estoppel certificate either stating that to the best of its knowledge this Redevelopment Agreement is in full force and effect and that there is no default or breach under this Redevelopment Agreement (nor any event which, with the passage of time and the giving of notice would result in a default or breach under this Redevelopment Agreement), or stating the nature of the default or breach or event, if any. In the event the estoppel certificate discloses such a default, breach or event, it shall also state the manner in which such default, breach and/or event may be cured. No more than a reasonable number of estoppel certificates may be requested per year.

12.06. Lenders Consent. The Redeveloper represents to the Township that the Redeveloper has obtained consent to enter into this Agreement from all Mortgagees existing as of the Effective Date to the extent that such consent of any such the Mortgagee is required under any Mortgage and that Redeveloper has complied with this Article 12, including the notice provisions in Section 12.01 hereof, with respect to any and all such Mortgagees.

[The Remainder of this Page Intentionally Left Blank. Signatures Follow on Next Page]

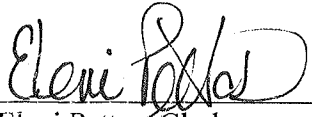
IN WITNESS WHEREOF, the Parties hereto have caused this Redevelopment Agreement to be executed, all as of the date first above written.

PB NUTCLIF MASTER, LLC

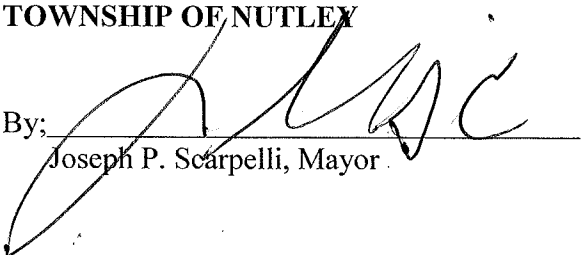
By: 

Name:

Title:


Eleni Pettas, Clerk

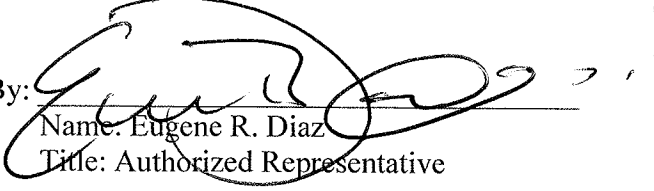
TOWNSHIP OF NUTLEY

By: 

Joseph P. Scarpelli, Mayor

IN WITNESS WHEREOF, the Parties have caused this Redevelopment Agreement to be executed the day and year first above written.

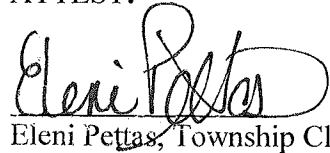
PB NUTCLIF MASTER, LLC

By: 

Name: Eugene R. Diaz

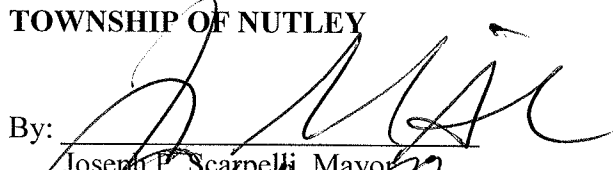
Title: Authorized Representative

ATTEST:



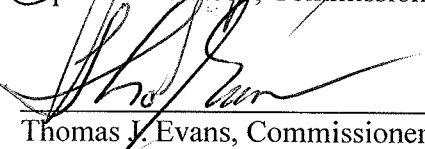
Eleni Pettas, Township Clerk

TOWNSHIP OF NUTLEY

By: 

Joseph P. Scarpelli, Mayor


Alphonse Petracco, Commissioner


Thomas J. Evans, Commissioner


Mauro G. Tucci, Commissioner


Steven L. Rogers, Commissioner

EXHIBIT A

Concept Plan

[Attached]

EXHIBIT B

Redevelopment Project Schedule

1. Redeveloper to commence demolition of the Phase IIA Premises, if applicable 11/1/18
2. Anticipated receipt of all Governmental Approvals for all phases of the Phase IIA Project (except for the Pilot Plant and related parking area) 12/31/19
3. Redeveloper to commence construction of the Phase IIA Project Improvements 2/1/19
4. Redeveloper to substantially complete construction of the Phase IIA Project Improvements 12/31/22
5. Redeveloper to complete all requirement necessary for the Township to issue last Certificate of Completion and Compliance for Phase IIA Project 12/31/22

EXHIBIT C

Government Approvals

1. Preliminary and Final Subdivision Approval from the Nutley Planning Board for the Subdivision of Lot 1 and 20 in Block 300 into one new tax lot and one remainder lot, and the subdivision of Lot 1 in Block 201 into three new tax lots and one remainder lot.
2. Preliminary and Final Site Plan Approval from the Nutley Planning Board for the following components of the Phase IIA Project:
 - a. Parking garage, courtyard and building 100 Metro Boulevard modifications;
 - b. Site Plan Approval of parking lot expansion/modification of proposed Lot Y;
 - c. Site Plan Approval of pilot plant of proposed Lot Y.
3. Subdivision and Site Plan Approval from the Essex County Planning Board as to each Phase.
4. Soil Erosion and Sediment Control Plan Certification from the County Soil Conservation District as to each Phase.
5. NJDEP Treatment Works Approval and Water Extension Permits, if required for any Phase.

And any other reviews, consents, permits, licenses, easements, agreements or other approvals of any kind which may be required by any Governmental Body with jurisdiction over the Phase IIA Premises.

EXHIBIT D

Form of Certification of Completion and Compliance

Record and Return to:

CERTIFICATE OF COMPLETION AND COMPLIANCE
[FOR ANY PHASE OF THE PHASE IIA PROJECT]

Pursuant to [_____] of the Redevelopment Agreement by and between the Township of Nutley (the "Township") and [_____] (the "Redeveloper"), dated as of [_____] (the "Redevelopment Agreement"), the undersigned certifies, as of the date hereof, that (all undefined terms used herein shall have the same meaning ascribed to them in the Redevelopment Agreement):

(i) The Phase IIA Project **[OR ANY PHASE THEREOF, THE "COMPLETED PHASE"]** located on that certain property known as _____ in the Township of Nutley, State of New Jersey more particularly described on **Schedule A** has been completed in its entirety as of _____ in accordance with the Redevelopment Agreement, the Phase IIA Redevelopment Plan and in compliance with all Governmental Approvals;

(ii) all Governmental Approvals that are required in order for the Redeveloper to complete the Completed Phase, to the extent so required, are in full force and effect;

(iii) such completion has been further evidenced by a written certificate of the Redeveloper and certificates of the Redeveloper's engineer and architect evidencing completion of the Completed Phase; and

(iv) the Certificate of Occupancy for the Completed Phase has been issued with respect to the Phase IIA Project and Phase IIA Project Improvements.

The conditions determined to exist at the time the Redevelopment Area was determined to be an area in need of redevelopment no longer exist with respect to the Completed Phase, and all restrictions on transfers and encumbrances in the Redevelopment Agreement relating to the Completed Phase shall terminate.

The Declaration recorded in the office of the Essex County Clerk's Office on _____ in Deed Book ____, Page ____ is void and of no further force and effect is hereby discharged.

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

The rights of any third party acquired prior to termination of the Redevelopment Agreement, including, but not limited to, any tax exemption or abatement granted pursuant to law, shall not be negatively affected by termination and satisfaction of the covenants.

IN WITNESS WHEREOF, the undersigned has caused this Certificate of Completion to be executed as of the ____ day of _____ 201__.

Attested By:

TOWNSHIP OF NUTLEY,
a municipal corporation of the State of New Jersey

Eleni Pettas, Township Clerk

By: _____
Dr. Joseph P. Scarpelli, Mayor

ACKNOWLEDGEMENT

STATE OF NEW JERSEY)

) SS:

COUNTY OF ESSEX)

BE IT REMEMBERED, that on this ___ day of _____, 201__ before me, the subscriber, personally appeared Dr. Joseph P. Scarpelli, who, being by me duly sworn on his oath, deposes and makes proof to my satisfaction that he is the Mayor of the **Township of Nutley**, the Township named in the within Instrument; that the execution, as well as the making of this Instrument, have been duly authorized by the Township, that deponent well knows the seal of said Township; and that the seal affixed to said Instrument is the proper seal and was hereto affixed by **Eleni Pettas**, Township Clerk, and said Instrument was signed and delivered by said Mayor as and for the voluntary act and deed of said Township.

Schedule A

PHASE IIA PROJECT PROPERTY DESCRIPTION [OR ANY PHASE THEREOF]

[Attached]

EXHIBIT E
Form of Declaration

Record and return to:

DECLARATION OF COVENANTS AND RESTRICTIONS

THIS DECLARATION OF COVENANTS AND RESTRICTIONS (this "Declaration") is made as of this ____ day of _____, 2019 by _____, a _____, having an address of _____, _____ (the "Declarant").

WITNESSETH:

WHEREAS, Declarant is party to that certain Redevelopment Agreement, dated as of the ____ day of _____, 2019, by and between Declarant and the Township of Nutley (the "Township") with respect to Phase IIA of the Hoffmann-La Roche Redevelopment Area (the "Redevelopment Agreement");

WHEREAS, capitalized terms used herein, but not defined herein shall have the meanings ascribed to such terms in the Redevelopment Agreement;

WHEREAS, on the date hereof, in accordance with the Redevelopment Agreement, Declarant is the owner of an approximately 11.88-acre portion of the Property comprised of Block 201, Lot 1, and Block 300, Lots 1 and 20 on the official Tax Map of the Township of Nutley, and more particularly described on **Schedule A** annexed hereto (the "Property"); and

WHEREAS, pursuant to the Redevelopment Agreement, Declarant is required to record this Declaration upon Declarant's execution of the Redevelopment Agreement.

NOW, THEREFORE, intending to be legally bound, Declarant hereby declares that the Property shall be held, sold and conveyed subject to the following covenants and restrictions (the "Covenants and Restrictions"), which, subject to the terms hereof, shall run with title to the Property, and be binding upon all parties who have any right, title or interest in Declarant's Property, or any part thereof, their heirs, executors, administrators, successors and assigns.

1. Declarant covenants and agrees that, subject to the terms of the Redevelopment Agreement, the Declarant shall:

(a) devote the Property to the uses specified in the Phase IIA Redevelopment Plan and shall not devote the Property to any other uses without the approval of the Township;

(b) to the extent provided for by Applicable Laws, not discriminate upon the basis of age, race, color, creed, religion, ancestry, national origin, sex or marital status in the sale, lease, use or occupancy of the Property or any Phase IIA Project Improvements, buildings or structures erected or to be erected thereon, or any portion thereof;

(c) to the extent provided for by Applicable Laws, in the sale, lease or occupancy of the Property or any portion thereof, not effectuate or execute any covenant, lease agreement, conveyance or other instrument whereby the land or any Improvement, building or structure erected or to be erected thereon is restricted upon the basis of age, race, color, creed, religion, ancestry, national origin, sex or marital status, and the Declarant shall comply with all state and local laws prohibiting discrimination or segregation by reason of age, race, color, creed, religion, ancestry, national origin, sex or marital status; and

(d) not sell, lease or otherwise transfer the Property, or any portion thereof, without the written consent of the Governing Body, except as permitted by the Redevelopment Agreement.

2. The Covenants and Restrictions set forth in herein shall be covenants running with the land and they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in the Redevelopment Agreement, be binding, to the fullest extent permitted by Applicable Laws for the benefit and in favor of, and enforceable by, the Township, its successors and assigns, against the Declarant, or its successors and assigns. Notwithstanding anything to the contrary contained herein, this Declaration shall not be binding on any mortgagee except in accordance with the terms of the Redevelopment Agreement.

3. It is further intended and agreed that the Covenants and Restrictions set forth herein shall remain in effect only until the issuance by the Township of a Certificate of Completion for the Property, as provided for in the Redevelopment Agreement at which time the Covenants and Restrictions and all terms, conditions and obligations, set forth in the Redevelopment Agreement shall cease and terminate with respect to the Property, except, however, that the Covenants and Restrictions provided for in Sections I(b) and I(c) hereof, shall remain in effect without limitation as to time subject to any changes in Applicable Laws. Upon issuance of a Certificate of Completion for the Property, the conditions that were found and determined to exist at the time the Redevelopment Area was determined to be in need of redevelopment shall be deemed to no longer exist with respect to the Property and the conditions and requirements of N.J.S.A. 40A:12A-9 shall be deemed to have

been satisfied with respect to the Property, and all restrictions on transfers and encumbrances in the Redevelopment Agreement relating to the Property shall terminate.

4. In amplification, and not in restriction of the provisions of this Declaration and the Redevelopment Agreement, it is intended and agreed that the Township shall be deemed a beneficiary of the Covenants and Restrictions set forth herein both for and in its own right but also for the purposes of protecting the interest of the community as is deemed necessary and appropriate by the Board of Commissioners as it is not intended by the Parties that the general public be determined to be a third party beneficiary of the same.

5. The rights of any third party acquired prior to termination of the Redevelopment Agreement, including, but not limited to, any tax exemption or abatement granted pursuant to law, shall not be negatively affected by termination and satisfaction of the covenants.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed the day and year first above written.

PB NUTCLIF MASTER, LLC

By: _____
Name:
Title:

STATE OF NEW JERSEY)
 SS.:
COUNTY OF)

I certify that on _____, 2019, _____, the _____ of **PB NUTCLIF MASTER, LLC**, a New Jersey limited liability company, personally came before me and this person acknowledged under oath, to my satisfaction, that:

(a) being authorized to do so, this person signed, sealed and delivered the attached document as the _____ of **PB NUTCLIF MASTER, LLC**, the Declarant named in this document; and

(b) this document was signed and made by the _____ as its voluntary act and deed by virtue of authority from **PB NUTCLIF MASTER, LLC**.

Notary Public

EXHIBIT F

REDEVELOPER'S CERTIFICATE

Pursuant to [] of the Redevelopment Agreement by and between the Township of Nutley (the "Township") and [] (the "Redeveloper"), dated as of [] (the "Redevelopment Agreement"), the undersigned certifies, as of the date hereof, to its best knowledge, information and belief, as follows (all undefined terms used herein shall have the same meaning ascribed to them in the Redevelopment Agreement):

(i) the Phase IIA Project been completed in its entirety as of _____ in accordance with the Redevelopment Agreement, the Phase IIA Redevelopment Plan and in compliance with Governmental Approvals;

(ii) all Governmental Approvals that are required in order for Redeveloper to complete the Phase IIA Project, to the extent so required, in full force and effect;

(iii) Redeveloper has performed or has caused to be performed all of its duties and obligations under the Redevelopment Agreement with respect to the Phase IIA Project; and

(iv) attached hereto as **Schedule 1** is a certificate of _____, the Redeveloper's engineer, and a certificate of _____, Redeveloper's architect, evidencing completion of the Phase IIA Project.

[]

By: _____

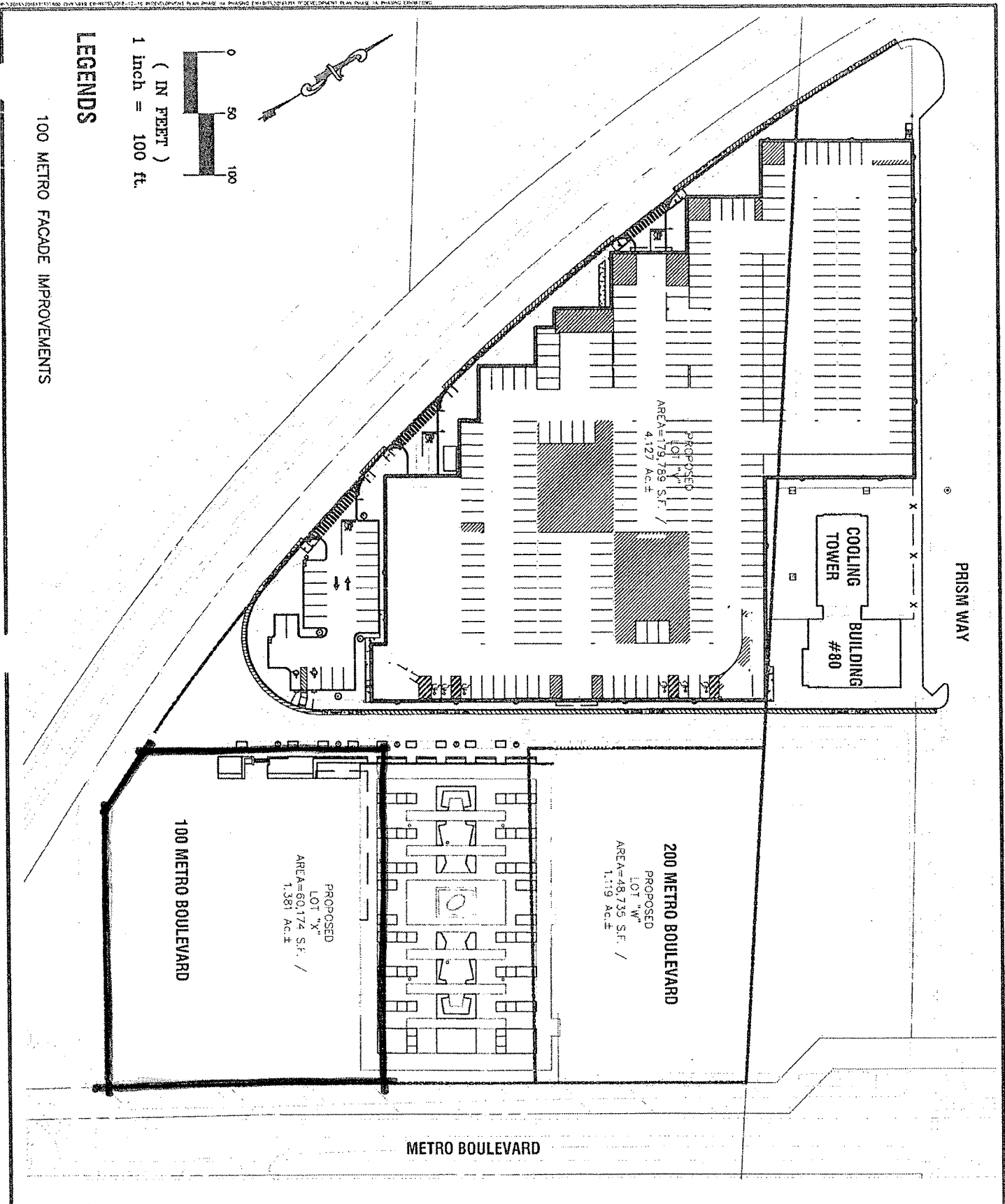
Name:

Title:

EXHIBIT G

Phasing Plan

[Attached]



GreenbergFarrow

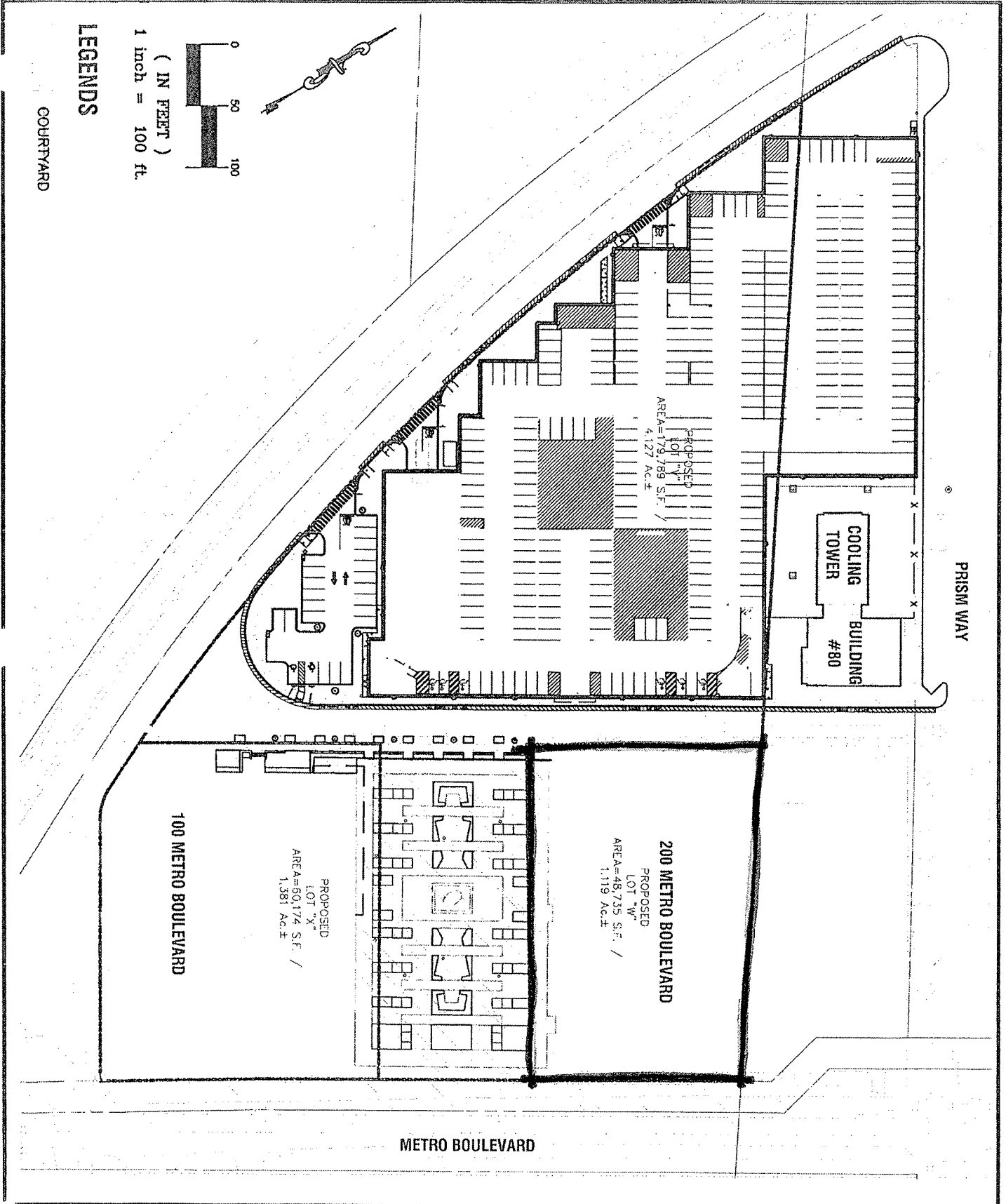
3 Executive Drive, Suite 150
Somerset, NJ 08873
t: 732 537 0811

REDEVELOPMENT PLAN PHASE IIA

100 & 200 METRO BOULEVARD / 111 IDEATION WAY
100 METRO FACADE IMPROVEMENTS

PROJECT NUMBER:
20161711.0
2 OF 4
DATE:12/19/18

Phase I



GreenbergFarrow
3 Executive Drive, Suite 150
Somerset, NJ 08873
t: 732 537 0811

REDEVELOPMENT PLAN PHASE IIA

100 & 200 METRO BOULEVARD / 111 IDEATION WAY
COURTYARD

PROJECT NUMBER:
20161711.0
3 OF 4
DATE:12/19/18

Phase 2

PROFESSIONAL RECORD

DATE	DESCRIPTION
02/20/2018	PRELIMINARY DESIGN
03/20/2018	FINAL DESIGN
04/20/2018	CONSTRUCTION RECORD

PROFESSIONAL SEAL

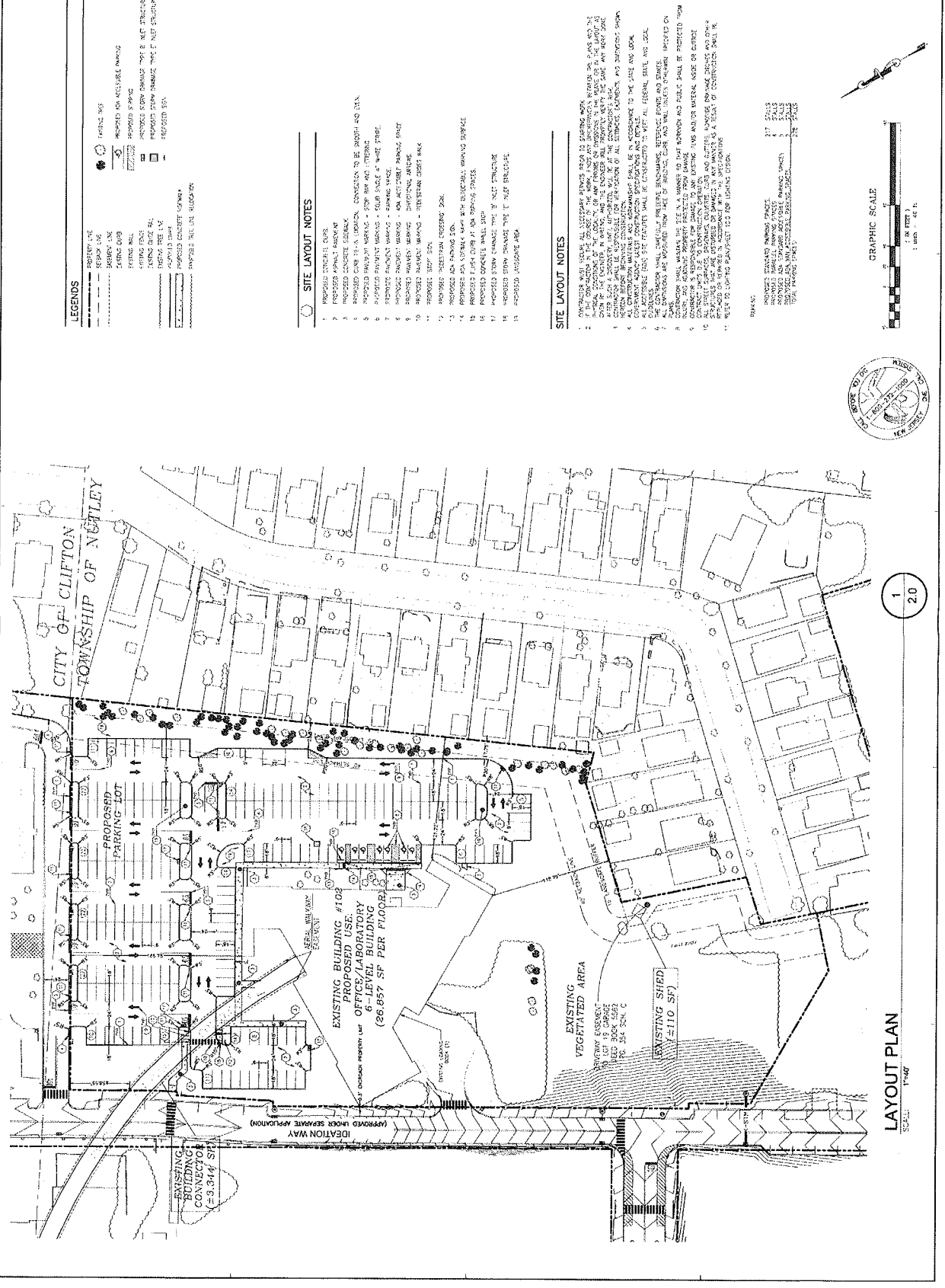
PROFESSIONAL IN CHARGE
 STEPHEN F. FOWLER
 LICENSE NO. 1400077100
 STATE OF NEW JERSEY
 CIVIL ENGINEER

PROJECT NAME
 PARKING LOT
 BUILDING 102
 CLIFTON & RUTLEY
 NEW JERSEY

PROJECT NUMBER
 20181110

SHEET TITLE
 LAYOUT PLAN

SHEET NUMBER
 2.0



- LEGENDS**
- PROPERTY LINE
 - SEWER LINE
 - WATER LINE
 - EXISTING DRIVE
 - PROPOSED DRIVE
 - EXISTING SIDEWALK
 - PROPOSED SIDEWALK
 - EXISTING CURB
 - PROPOSED CURB
 - EXISTING FENCE
 - PROPOSED FENCE
 - EXISTING LOT
 - PROPOSED LOT
 - EXISTING DRIVE
 - PROPOSED DRIVE
 - EXISTING SIDEWALK
 - PROPOSED SIDEWALK
 - EXISTING CURB
 - PROPOSED CURB
 - EXISTING FENCE
 - PROPOSED FENCE
 - EXISTING LOT
 - PROPOSED LOT

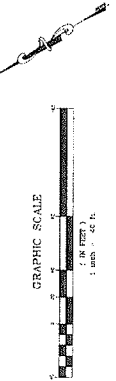
SITE LAYOUT NOTES

1. PROPOSED SIDEWALK CURB
2. PROPOSED SIDEWALK CURB
3. PROPOSED SIDEWALK CURB
4. PROPOSED SIDEWALK CURB
5. PROPOSED SIDEWALK CURB
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17. PROPOSED SIDEWALK CURB
18. PROPOSED SIDEWALK CURB
19. PROPOSED SIDEWALK CURB
20. PROPOSED SIDEWALK CURB

SITE LAYOUT NOTES

1. CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITION OF THE NEW JERSEY CONSTRUCTION CODE.
2. THE CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITION OF THE NEW JERSEY CONSTRUCTION CODE.
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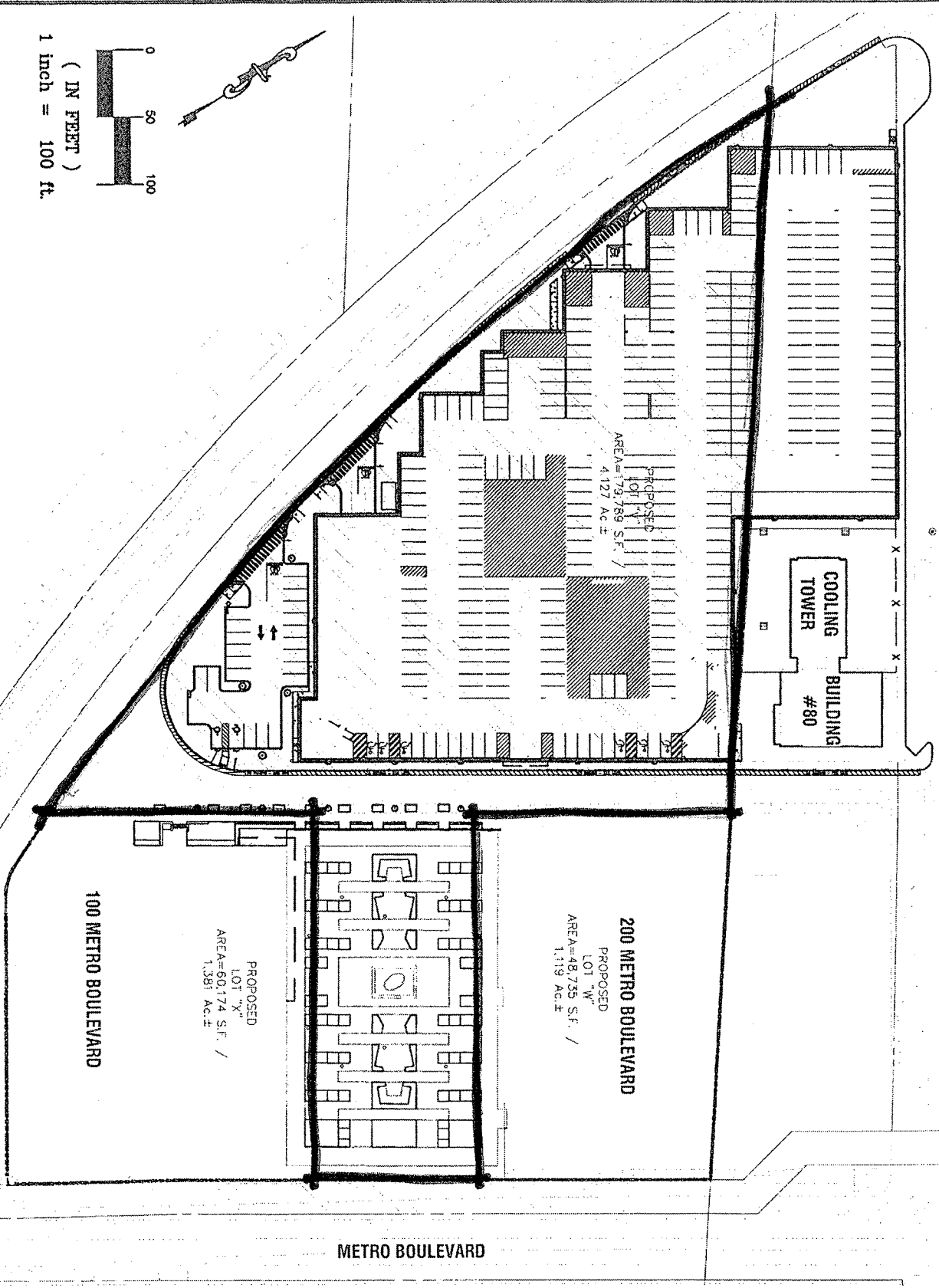
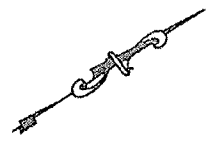
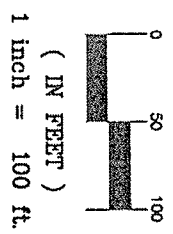
LAYOUT PLAN
 SCALE: 1"=40'

1
 20

1. DEVELOPMENTAL AND LAND USE INFORMATION 2. REDEVELOPMENT PLAN PHASE IIA 3. REDEVELOPMENT PLAN PHASE IIB 4. REDEVELOPMENT PLAN PHASE IIC 5. REDEVELOPMENT PLAN PHASE IID 6. REDEVELOPMENT PLAN PHASE IIE 7. REDEVELOPMENT PLAN PHASE IIF 8. REDEVELOPMENT PLAN PHASE IIG 9. REDEVELOPMENT PLAN PHASE IIH 10. REDEVELOPMENT PLAN PHASE IIJ 11. REDEVELOPMENT PLAN PHASE IIK 12. REDEVELOPMENT PLAN PHASE IIL 13. REDEVELOPMENT PLAN PHASE IIM 14. REDEVELOPMENT PLAN PHASE IIN 15. REDEVELOPMENT PLAN PHASE IIJ 16. REDEVELOPMENT PLAN PHASE IIK 17. REDEVELOPMENT PLAN PHASE IIL 18. REDEVELOPMENT PLAN PHASE IIM 19. REDEVELOPMENT PLAN PHASE IIN 20. REDEVELOPMENT PLAN PHASE IIO 21. REDEVELOPMENT PLAN PHASE IIJ 22. REDEVELOPMENT PLAN PHASE IIK 23. REDEVELOPMENT PLAN PHASE IIL 24. REDEVELOPMENT PLAN PHASE IIM 25. REDEVELOPMENT PLAN PHASE IIN 26. REDEVELOPMENT PLAN PHASE IIO 27. REDEVELOPMENT PLAN PHASE IIJ 28. REDEVELOPMENT PLAN PHASE IIK 29. REDEVELOPMENT PLAN PHASE IIL 30. REDEVELOPMENT PLAN PHASE IIM 31. REDEVELOPMENT PLAN PHASE IIN 32. REDEVELOPMENT PLAN PHASE IIO 33. REDEVELOPMENT PLAN PHASE IIJ 34. REDEVELOPMENT PLAN PHASE IIK 35. REDEVELOPMENT PLAN PHASE IIL 36. REDEVELOPMENT PLAN PHASE IIM 37. REDEVELOPMENT PLAN PHASE IIN 38. REDEVELOPMENT PLAN PHASE IIO 39. REDEVELOPMENT PLAN PHASE IIJ 40. REDEVELOPMENT PLAN PHASE IIK 41. REDEVELOPMENT PLAN PHASE IIL 42. REDEVELOPMENT PLAN PHASE IIM 43. REDEVELOPMENT PLAN PHASE IIN 44. REDEVELOPMENT PLAN PHASE IIO 45. REDEVELOPMENT PLAN PHASE IIJ 46. REDEVELOPMENT PLAN PHASE IIK 47. REDEVELOPMENT PLAN PHASE IIL 48. REDEVELOPMENT PLAN PHASE IIM 49. REDEVELOPMENT PLAN PHASE IIN 50. REDEVELOPMENT PLAN PHASE IIO

LEGENDS

METRO PARKING GARAGE



GreenbergFarrow

3 Executive Drive, Suite 150
Somerset, NJ 08873
t: 732 537 0811

REDEVELOPMENT PLAN PHASE IIA
100 & 200 METRO BOULEVARD / 111 IDEATION WAY
METRO PARKING GARAGE

PROJECT NUMBER:
20161711.0
1 OF 4
DATE:12/19/18

Phase 4