

Township Council
1 Municipal Plaza
Bloomfield, NJ 07003

Louise M. Palagano
Municipal Clerk

<http://www.bloomfieldtnj.com>

Meeting: 02/26/18 07:00 PM

12-3

2018 RESOLUTION APPROVAL

RESOLUTION OF THE TOWNSHIP OF BLOOMFIELD, IN THE COUNTY OF ESSEX AUTHORIZING THE EXECUTION OF A FIRST AMENDMENT TO A REDEVELOPMENT AGREEMENT, SHARED PARKING AGREEMENT, PARKING GARAGE CONSTRUCTION AGREEMENT, MASTER DEED, BY LAWS, AND DECLARATION OF EASEMENT IN RELATION TO THE FARRAND STREET PROJECT

WHEREAS, by resolution duly adopted on December 18, 2000, the Township of Bloomfield (the “Township”) designated a portion of the Township, consisting of the properties then identified as Block 220, Lot 40, Block 225, Lots 1 and 9, Block 227, Lots 1, 3, 5, 6, 8, 9, 10, 11, 12, 13, 15, 16, 17, 19, 20, 22, 24, 26, 30, 31, 32 and 35, Block 228, Lots 1, 4, 5, 7, 8, 10, 11, 13, 14, 15, 16, 17, 18, 19, 21, 24, 27, 28, 29, 30, 31, 33 and 35, and Block 243, Lots 1, 3, 4, 5, 6, 7, 8, 10, 11, 13, 15, 17, 18 and 20 on the Township’s tax map (collectively, the “Redevelopment Area”), as an area in need of redevelopment pursuant to the New Jersey Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the “Redevelopment Law”); and

to be owned by the Township for community benefit purposes (the “Community Space”, and together with the Farrand Garage and the Residential Component, collectively, the “Project”); and

WHEREAS, the Farrand Garage will be available to serve the residents of the Residential Component as well as other permit holders with parking permits issued by the Township; and

WHEREAS, the Project Site will be divided to create a 3-unit condominium, or some similar structure, the components of which will be owned as follows: (i) the Township will own the unit or portion of the Project Site containing the Farrand Garage (the “Farrand Garage

Property"); (ii) the Township will own the unit or portion of the Project Site containing the Community Space (the "**Community Space Property**"); and (iii) the Entity will own the unit or portion of the Project Site containing the Residential Component (the "**Residential Component Property**"); and

WHEREAS, the Township and the Entity entered into that certain Redevelopment Agreement dated February 13, 2017 (the "**Redevelopment Agreement**"), pursuant to which the Entity agreed to construct the Project on the Project Site; and

WHEREAS, the Project is a "redevelopment project" as defined in the Redevelopment Law and a "parking project" as defined in the Parking Authority Law, *N.J.S.A. 40:11A-1 et seq.* (the "**Parking Authority Law**"); and

WHEREAS, on February 14, 2017, the Entity and the Authority submitted an application to the planning board of the Township (the "**Planning Board**") for site plan approval in connection with the Project (the "**Planning Board Application**"); and

WHEREAS, after conducting public hearings relating to the Planning Board Application, the Planning Board granted site plan approval for the Project on May 9, 2017, and on June 13, 2017, the Planning Board adopted a resolution memorializing its findings and conclusions with respect to the Planning Board Application (the "**Final Site Plan**"); and

WHEREAS, pursuant to Ordinance 17-35 in accordance with *N.J.S.A. 40A:5A-20*, as of September 18, 2017, the Township dissolved the Authority and, by operation of law, acquired title to all real and personal property, facilities and contracts of the Authority; and

WHEREAS, as successor to the Authority, the Township owns the Project Site; and

WHEREAS, the Redeveloper and the Township now desire to amend the Redevelopment Agreement in certain sections (the "**First Amendment**"); and

WHEREAS, simultaneous with the execution of a shared parking agreement (the

“**Shared Residential Parking Agreement**”), the Entity and the Township shall enter into that certain Parking Garage Construction Agreement (the “**Parking Garage Construction Agreement**”), under which the Entity will construct, and the Township will finance the construction of, the Farrand Garage; and

WHEREAS, the Township desires to authorize the execution of agreements such as a Shared Residential Parking Agreement and a Parking Garage Construction Agreement pursuant to the Redevelopment Law; and

WHEREAS, the Entity desires to create a condominium association for the condominium structure, the “Lackawanna Station Condominium Association, Inc.” (“**Association**”) pursuant to the master deed (“**Master Deed**”) and bylaws of such Association (the “**Bylaws**”); and

WHEREAS, the Bylaws of the Association shall govern the administration and management of the Lackawanna Station Condominium Association, Inc., a nonprofit corporation organized under Title 15A of the New Jersey Statutes, and to provide for the management, administration, utilization and maintenance of the common elements as described in the Master Deed for the condominium; and

WHEREAS, the Master Deed shall establish the Property (as defined in the Master Deed) as a three-unit commercial condominium, pursuant to the provisions of the New Jersey Condominium Act, *N.J.S.A.46:8B-1 et seq.*, under the name of Lackawanna Station Condominium; and

WHEREAS, the Township desires to authorize the execution of such Master Deed and Bylaws to enable the creation of such condominium association; and

WHEREAS, the Township has determined to establish permanent access, utility and maintenance easements over certain portions of the Project (the “**Entrance Easements**,” as

described on the Declaration of Easement on file with the Township Clerk) on the terms and conditions described therein ; and

WHEREAS, the Township desires to authorize a **“Declaration of Easements”**.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Township Council as follows:

1. The foregoing recitals are incorporated herein as if set forth in full.
2. The First Amendment to the Redevelopment Agreement, Shared Residential Parking Agreement, Parking Garage Construction Agreement, Master Deed, Bylaws, and Declaration of Easement are on file with the Township Clerk and are approved subject to additions, deletions, modifications or revisions deemed necessary and appropriate in consultation with counsel and authorizes the Mayor, Township Clerk and other necessary Township Officials and professionals to execute, deliver and accept all aforementioned agreements, master deed, by laws, deeds and declarations and all other necessary documents and undertake all actions reasonably necessary to effectuate all such agreements, master deed, by laws, deeds and declarations and this Resolution.
3. If any part of this Resolution shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Resolution.
4. A copy of this Resolution shall be available for public inspection at the offices of the Township.
5. This Resolution shall take effect immediately.

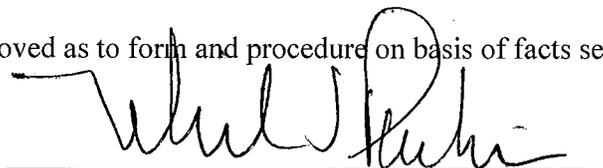
I, LOUISE M. PALAGANO, Township Clerk, Essex County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of this Resolution which was finally adopted by the Township Council at a meeting held on the _____ day of _____, 2017.

CERTIFIED BY ME THIS _____ DAY OF _____ 2017.

Louise M. Palagano, Township Clerk

* * * * *

Approved as to form and procedure on basis of facts set forth.



Director of Law-Township Attorney

I do hereby certify that the funding will be legally appropriated per the above information for the purpose specified in the attached contract. Furthermore, it has been represented to me that

the contracts have been processed in accordance with the applicable provisions of New Jersey Local Public Contract Law and the Code of the Township of Bloomfield.



Chief Financial Officer

I hereby certify that the above resolution was duly adopted by the Mayor and Council of the Township of Bloomfield at a meeting of said Township Council held on February 26, 2018.



Municipal Clerk of the Township of Bloomfield



Mayor of the Township of Bloomfield

✓ Vote Record – Resolution						
		Yes/Aye	No/Nay	Abstain	Absent	
<input type="checkbox"/> Adopt	Jenny Mundell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Deny	Nicholas Joanow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Withdrawn	Sarah Cruz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Table	Wartyna Davis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Not Discussed	Ted Gamble	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> First Reading	Richard Rockwell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Table with no Vote	Michael J. Venezia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Approve						
<input type="checkbox"/> Veto by Mayor						
<input type="checkbox"/> Discussion						
<input type="checkbox"/> Defeated						
<input type="checkbox"/> Discussion No Vote						

P E A R L M A N & M I R A N D A , L L C

Patricia J. Ryou
2 Broad Street, Suite 510
Bloomfield, NJ 07003
Telephone: 973-707-3568
Facsimile: 973-893-5962
PRyou@PearlmanMiranda.com

March 1, 2018

Via Hand Delivery

Township of Bloomfield
1 Municipal Plaza
Bloomfield, NJ 07003
Attn: Matthew Watkins, Business Administrator

**Re: Re-Executed Final, Original Agreements for Farrand Street Redevelopment Project
(the "Project")**

Dear Mr. Watkins:

At the request of Mr. Michael Parlavecchio, Township attorney, Lackawanna Station Urban Renewal, LLC ("LSUR") has re-executed and enclosed herewith two (2) original sets of the following deal documents for the Farrand Street Redevelopment Project in the Township of Bloomfield:

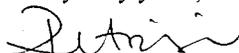
1. First Amendment to Redevelopment Agreement;
2. First Amendment to Purchase and Sale Agreement;
3. Financial Agreement;
4. Parking Garage Construction Agreement;
5. Master Deed; and
6. Shared Residential Parking Agreement.

Also enclosed please find two (2) copies of the Declaration of Easements, to be executed by the Township and notarized.

The enclosed documents were originally hand delivered to the Township on February 15, 2018, together with a check (check no.1013) from LSUR made payable to the Township of Bloomfield in the amount of \$25,000 to be deposited in escrow for use by the Township to pay outside professionals with respect to the Project. We were informed today, however, that the documents delivered on February 15, 2018 were damaged or misplaced (but not the check). As the Mayor and Township Council of the Township of Bloomfield have duly adopted legislation authorizing the execution of the enclosed documents at its February 26, 2018 meeting, please have the enclosed documents executed (and notarized, as applicable) on behalf of the Township and have one original copy of each returned to LSUR or this office.

Please feel free to contact me with any questions or concerns. Thank you.

Very truly yours,



Patricia J. Ryou

Enclosures

cc: Michael Parlavecchio, Esq. (w/o encl.; via email)
Lackawanna Station Urban Renewal, LLC (w/o encl., via email)

First Amendment to Redevelopment Agreement

FIRST AMENDMENT TO REDEVELOPMENT AGREEMENT

THIS FIRST AMENDMENT TO REDEVELOPMENT AGREEMENT DATED FEBRUARY 13, 2017 BETWEEN THE TOWNSHIP OF BLOOMFIELD AND LACKAWANNA STATION URBAN RENEWAL LLC (this "First Amendment") is dated as of _____, 2017 and entered into by and between THE TOWNSHIP OF BLOOMFIELD, a body politic and corporate of the State of New Jersey having an address of Municipal Building, 1 Municipal Plaza, Bloomfield, New Jersey 07003 (the "Township") and LACKAWANNA STATION URBAN RENEWAL, LLC, having an address at 2 Broad Street, Suite 400, Bloomfield, New Jersey 07003 (the "Redeveloper").

WITNESSETH

WHEREAS, the Township and the Redeveloper have executed that certain Redevelopment Agreement, dated February 13, 2017 (the "Original Agreement", and together with this First Amendment, the "Agreement"); and

WHEREAS, the Township and the Redeveloper have determined to enter into this First Amendment for the purpose of revising certain sections of the Original Agreement; and

WHEREAS, capitalized terms used herein shall have the meaning assigned thereto in the Original Agreement; and

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

Section 1. As the Township has dissolved the Parking Authority of the Township of Bloomfield and assumed all of its assets, liabilities, rights and obligations, all references to the Parking Authority of the Township of Bloomfield in the Original Agreement shall be deemed to refer to the Township, as successor thereto.

Section 2. The seventh (7th) and eighth (8th) Whereas Clauses in the Preambles of the Original Agreement are amended in their entirety to read as follows:

"WHEREAS, the Redeveloper proposes to redevelop the Project Site by constructing thereon a mixed use project consisting of: (i) a parking garage with approximately 314 parking spaces (the "Parking Garage"), (ii) approximately 176 residential units (the "Residential Component"), and (iii) approximately 2,700 square feet of space to be utilized as community benefit space (the "Community Benefit Space"), and together with the Parking Garage and the Residential Component, the "Redevelopment Project"); and

WHEREAS, the Parties acknowledge that, pursuant to a Purchase and Sale Agreement to be duly and in good faith negotiated by and between the Redeveloper and the Township (the "Purchase and Sale Agreement"), at the Closing, the Project Site will be divided to create a 3-unit condominium, or some similar structure, and as of such date the condominium units will be owned as follows: (i) the unit or portion of the Project

Site containing the Parking Garage (the "**Parking Garage Property**") by the Township; (ii) the unit or portion of the Project Site containing the Residential Component (the "**Residential Component Property**") by the Redeveloper; and (iii) the unit or portion of the Project Site containing the Community Benefit Space (the "**Community Benefit Space Property**") by the Township; and"

Section 3. Section 3.2 of the Original Agreement is amended in its entirety to read as follows:

"**Section 3.2 Condition Precedent.** The Redeveloper's obligations hereunder are contingent upon the Redeveloper's acquisition of the Residential Component Property pursuant to the Purchase and Sale Agreement."

Section 4. Section 4.9 of the Original Agreement is amended in its entirety to read as follows:

4.9 Township to Acquire Community Benefit Space.

The Township has determined to exercise its option to acquire the Community Benefit Space Property (originally defined as the "Amenity Space Property" in the Original Agreement) and implement thereon the Community Benefit Space. The Township and Redeveloper have agreed that at the Closing, the Township and Redeveloper shall cause the 3-unit condominium, or some similar structure, to be formed. At the Closing, the Township shall retain ownership of the Parking Garage Property and the Community Benefit Space Property, and the Township shall convey the Residential Component Property to the Redeveloper, all in accordance with the Purchase and Sale Agreement, as may be amended."

Section 5. Section 6.1(h) of the Original Agreement is amended in its entirety to read as follows:

"(h) that, pursuant to the Purchase and Sale Agreement, the Redeveloper is the contract purchaser of the Residential Component Property."

Section 6. Section 7.1(b)(iii) and (iv) of the Original Agreement are amended in their entirety to read as follows:

"(iii) assign or attempt to assign this Agreement or any rights herein or in the Residential Component Property, (iv) make any total or partial sale, lease, transfer or conveyance of the whole or any part of its interest in the Residential Component Property, or the Residential Component;"

Section 7. Section 7.5 of the Original Agreement is amended in its entirety to read as follows:

7.5 Fees. The Redeveloper shall be subject to normal and customary application fees for Township approvals and review processes for the Approvals for the applicable portions of the Redevelopment Project, as well as normal and customary building and construction permit fees for the Residential Component. The Township will be responsible for all such fees and costs relating to the Parking Garage and the Community Benefit Space.”

Section 8. Section 8.1 (b) and (c) of the Original Agreement are hereby deleted in their entirety.

Section 9. Reaffirmation of Original Agreement and Amendment. Except as expressly amended by this First Amendment, the Original Agreement remains in full force and effect and is hereby ratified and reaffirmed in its entirety. The Parties acknowledge that the Original Agreement has been amended by a First Amendment by and among the Parties thereto.

Section 10. Counterparts. This First Amendment may be executed in several counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. This First Amendment may be executed electronically, including facsimile transmission and by way of email (i.e., TIF, JPG, PDF), and all such signatures shall be deemed originals for all purposes.

Section 11. Successors and Assigns. This First Amendment shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and assigns.

Section 12. Effective Date. Anything herein contained to the contrary notwithstanding, the effective date of this First Amendment shall be the date first written above.

[Signature page follows.]

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

(Seal)

TOWNSHIP OF BLOOMFIELD

Attest:

By: ME Vg
Michael J. Venezia, Mayor

Luis M. Palagano

(Seal)

LACKAWANNA STATION URBAN RENEWAL,
LLC

Attest:

By: [Signature]
Name: Steven M. Rosetsky
Title: Authorized Signatory

[Signature]

Amendment to the Purchase and Sale Agreement

**AMENDMENT TO AGREEMENT FOR PURCHASE
AND SALE OF REAL ESTATE**

This Amendment to Agreement for Purchase and Sale of Real Estate (this "**Amendment**") is made on November 27, 2017 by and between TOWNSHIP OF BLOOMFIELD (the "**Township**") and LACKAWANNA STATION URBAN RENEWAL, LLC ("**Purchaser**").

WHEREAS, the Township and Purchaser entered into an Agreement for Purchase and Sale of Real Estate dated as of January 19, 2017 (the "**Agreement**") in which the Township agreed to sell, and Purchaser agreed to buy, certain property described in the Agreement; and

WHEREAS, the Township and the Purchaser mutually agree to amend the Agreement as provided herein.

NOW THEREFORE, the Township and the Purchaser hereby agree as follows:

1. Section 2(b) of the Agreement is amended to read as follows:

Description of the Condominium. The Township, as successor to the Parking Authority shall, either alone or in cooperation with the Buyer, create, on the Parking Lot, a three (3) unit condominium including the space upon which the Parking Component will be constructed (the "**Parking Garage Property**"), the space upon which the Residential Component will be constructed (the "**Residential Component Property**") and the space upon which the Amenity Space will be constructed (the "**Amenity Space Property**"). The definition of "**Property**" shall mean the Residential Component Property only.

2. All other terms and conditions of the Agreement remain in full force and effect.

3. This Agreement may be executed in counterparts, which shall constitute original signatures for one and the same instrument.

SELLER

TOWNSHIP OF BLOOMFIELD

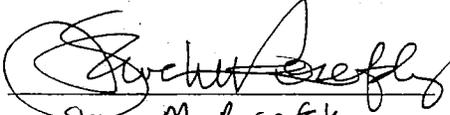
By: _____


Michael J. Venezia
Mayor

PURCHASER

LACKAWANNA STATION URBAN RENEWAL LLC

By: _____


Steven M. Rosefsky
Authorized Signatory

Financial Agreement

Record and Return to:

Joseph P. Baumann, Jr., Esq.
McManimon, Scotland & Baumann, L.L.C.
75 Livingston Avenue
Roseland, New Jersey 07068

FINANCIAL AGREEMENT

THIS FINANCIAL AGREEMENT (the "Agreement"), made this ____ day of _____, 2017, by and between **LACKAWANNA STATION URBAN RENEWAL, LLC**, an urban renewal entity qualified to do business under the provisions of the New Jersey Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq., as amended and supplemented (the "**Long Term Tax Exemption Law**"), 2 Broad Street, Suite 400, Bloomfield, New Jersey 07003 (together with its permitted successors and assigns, the "**Entity**") and the **TOWNSHIP OF BLOOMFIELD**, a municipal corporation in the County of Essex and the State of New Jersey, with offices at 1 Municipal Plaza, Bloomfield, New Jersey 07003 (together with its permitted successors and assigns, the "**Township**", and together with the Entity, the "**Parties**" or "**Party**"),

WITNESSETH:

WHEREAS, the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the "**Act**") authorizes municipalities to determine whether certain parcels of land in the municipality constitute areas in need of redevelopment; and

WHEREAS, the Act confers certain contract, planning and financial powers upon a redevelopment entity, as defined at Section 3 of the Act, in order to implement redevelopment plans adopted pursuant thereto; and

WHEREAS, the Township has elected to exercise these redevelopment entity powers directly, as permitted by Section 4 of the Act; and

WHEREAS, by resolution duly adopted on December 18, 2000, the Township designated a portion of the Township, consisting of the properties then identified as Block 220, Lot 40, Block 225, Lots 1 and 9, Block 227, Lots 1, 3, 5, 6, 8, 9, 10, 11, 12, 13, 15, 16, 17, 19, 20, 22, 24, 26, 30, 31, 32 and 35, Block 228, Lots 1, 4, 5, 7, 8, 10, 11, 13, 14, 15, 16, 17, 18, 19, 21, 24, 27, 28, 29, 30, 31, 33 and 35, and Block 243, Lots 1, 3, 4, 5, 6, 7, 8, 10, 11, 13, 15, 17, 18 and 20 on the Township's tax map (collectively, the "**Redevelopment Area**"), as an area in need of redevelopment pursuant to the Act; and

WHEREAS, by ordinance finally adopted on December 15, 2008, the Township approved and adopted a Redevelopment Plan (as amended by ordinance finally adopted by the Township on November 21, 2011) for the redevelopment of the Redevelopment Area (the "**Redevelopment Plan**"); and

WHEREAS, on October 17, 2016, the Township Council duly adopted a resolution conditionally designating Metro Real Estate Development Corporation ("**Metro**") as redeveloper of the portion of the Redevelopment Area known as Block 225, Lots 1 and 9 on the Township's tax map (now known as Block 225, Lot []), as the lots were consolidated on October 30, 2017 into one new tax lot, known as Block 225, Lot [] (the "**Redevelopment Project Site**"), subject to the successful negotiation of a redevelopment agreement; and

WHEREAS, the Township has dissolved the Bloomfield Parking Authority (the "**Authority**") and assumed all of its assets, liabilities, rights and obligations; and

WHEREAS, as successor to the Authority, the Township owns the Redevelopment Project Site; and

WHEREAS, the Authority and the Entity, an affiliate of Metro, entered into that certain Purchase and Sale Agreement, dated January 19, 2017 (the "**Purchase and Sale Agreement**"), providing for the conveyance of a portion of the Redevelopment Project Site to the Entity to enable the Entity to undertake the redevelopment of the Redevelopment Project Site by constructing thereon a mixed use project consisting of: (i) a parking garage with approximately 314 parking spaces (the "**Farrand Garage**"), (ii) approximately 176 residential units (the "**Project**") and (iii) approximately 2,700 square feet of space to be owned by the Township for community benefit purposes (the "**Community Space**", and together with the Farrand Garage and the Project, collectively, the "**Redevelopment Project**"); and

WHEREAS, the Township has assumed all of the rights and obligations of the Authority pursuant to the Purchase and Sale Agreement; and

WHEREAS, the Farrand Garage will be available to serve the residents of the Project as well as other permit holders with parking permits issued by the Township; and

WHEREAS, the Redevelopment Project Site will be divided to create a 3-unit condominium, or some similar structure, the components of which will be owned as follows: (i) the Township will own the unit or portion of the Redevelopment Project Site containing the Farrand Garage (the "**Farrand Garage Property**"); (ii) the Township will own the unit or portion of the Redevelopment Project Site containing the Community Space (the "**Community Space Property**"); and (iii) the Entity will own the unit or portion of the Redevelopment Project Site containing the Project (the "**Land**"); and

WHEREAS, the Township and the Entity entered into that certain Redevelopment Agreement dated February 13, 2017 (the "**Redevelopment Agreement**"), pursuant to which the Entity agreed to construct the Redevelopment Project on the Redevelopment Project Site; and

WHEREAS, the Project is a "redevelopment project" as defined in the Act; and

WHEREAS, on February 14, 2017, the Entity and the Authority submitted an application to the Planning Board of the Township (the "**Planning Board**") for site plan approval in connection with the Redevelopment Project (the "**Planning Board Application**"); and

WHEREAS, after conducting public hearings on April 18, 2017 and May 9, 2017 relating to the Planning Board Application, the Planning Board granted site plan approval for the Redevelopment Project on May 9, 2017, and on June 13, 2017, the Planning Board adopted a resolution memorializing its findings, conclusions, and approval with respect to the Planning Board Application; and

WHEREAS, simultaneous with the execution of a Parking Agreement relating to the use of the Farrand Garage by residents of the Project, the Entity and the Township entered into that certain Parking Garage Construction Agreement (the "**Parking Garage Construction Agreement**"), under which the Entity will construct, and the Township will pay for the construction of, the Farrand Garage; and

WHEREAS, pursuant to and in accordance with the provisions of the Long Term Tax Exemption Law, the Township is authorized to provide for and accept, in lieu of real property taxes, an annual service charge paid by the Entity to the Township; and

WHEREAS, the Entity, an urban renewal entity qualified to do business under the provisions of the Long Term Tax Exemption Law, submitted an application to the Township for the approval of the Project, an urban renewal project (the "**Exemption Application**"), in accordance with N.J.S.A. 40A:20-8.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, it is mutually covenanted and agreed as follows:

ARTICLE I
GENERAL PROVISIONS

SECTION 1.01 Governing Law This Agreement shall be governed by and construed by the laws of the State (as defined herein), including (A) the Long Term Tax Exemption Law, the Act and such other State statutes as may be sources of relevant authority, (B) the Ordinance, and (C) all other Applicable Law, without regard to conflict of law principles.

SECTION 1.02 General Definitions The following terms shall have the meanings assigned to such term in the preambles hereof:

<u>Act</u>	<u>Parking Garage Construction Agreement</u>
<u>Agreement</u>	<u>Party or Parties</u>
<u>Authority</u>	<u>Planning Board</u>
<u>Community Space</u>	<u>Planning Board Application</u>
<u>Community Space Property</u>	<u>Purchase and Sale Agreement</u>
<u>Entity</u>	<u>Project</u>
<u>Exemption Application</u>	<u>Redevelopment Agreement</u>
<u>Farrand Garage</u>	<u>Redevelopment Area</u>
<u>Farrand Garage Property</u>	<u>Redevelopment Plan</u>
<u>Land</u>	<u>Redevelopment Project</u>
<u>Long Term Tax Exemption Law</u>	<u>Redevelopment Project Site</u>
<u>Metro</u>	<u>Township</u>

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

Allowable Net Profit – The amount arrived at by applying the Allowable Profit Rate to Total Project Cost pursuant to the provisions of N.J.S.A. 40A:20-3(c).

Allowable Profit Rate – The allowable profit rate as defined in N.J.S.A. 40A:20-3(b).

Annual Gross Revenue – The annual gross revenue of the Entity as defined as Gross Revenue in N.J.S.A. 40A:20-3(a).

Annual Service Charge – shall mean the payment by the Entity pursuant to Article IV hereof and: (A) that the Entity has agreed to pay in part for municipal services supplied to the Project, (B) that is in lieu of any taxes on the Project improvements and Land pursuant to N.J.S.A. 40A:20-12, (C) that shall be paid on the Annual Service Charge Payment Dates as defined herein, and (D) that shall be pro-rated in the year in which this Agreement begins and the year in which this Agreement terminates.

Annual Service Charge Start Date – The date of the issuance of the first Certificate of Occupancy for the Project.

Applicable Law – All federal, State and local laws, ordinances, approvals, rules, regulations, resolutions and requirements applicable hereto including, but not limited to, the Act,

the Long Term Tax Exemption Law, relevant construction codes including construction codes governing access for people with disabilities, and such zoning, sanitary and safety ordinances, laws and such rules and regulations thereunder, including all applicable federal and State labor standards and all Environmental Laws.

Auditor's Report – A financial statement outlining the financial status of the Project (for a period of time as indicated by context), which shall include a certification of Total Project Cost and computation of Net Profit as provided in N.J.S.A. 40A:20-3(c). The contents of the Auditor's Report shall have been prepared in conformity with generally accepted accounting principles. The Auditor's Report shall be certified as to its conformance with such principles by a certified public accountant.

Certificate of Occupancy – A temporary (if temporary or conditional for the limited reasons of grading, seeding, landscaping and/or surface pavement course) or permanent Certificate of Occupancy, as such term is defined in the New Jersey Administrative Code issued by the Township authorizing the occupancy of a building, in whole or in part, pursuant to N.J.S.A. 52:27D-133.

County – The County of Essex.

County Share – The first five percent (5%) of the Annual Service Charge, which shall be payable to the County in accordance with the provisions of N.J.S.A. 40A:20-12.

Default - A breach or the failure of the Entity to perform any obligation imposed upon the Entity by the terms of this Agreement, or under Applicable Law, and the continuance of such breach or failure beyond any applicable grace or cure periods after written notice of such failure.

Default Notice - As defined in Section 13.02.

Disclosure Statement – As defined in Section 6.02(C).

Effective Date – The date on which this Agreement is executed and delivered by the last of the Parties so executing and delivering this Agreement.

Fiscal Plan – The plan prepared pursuant to N.J.S.A. 40A:20-8(e) and attached as *Exhibit 13* to the Exemption Application.

In Rem Tax Foreclosure - A summary proceeding by which the Township may enforce the lien for taxes due and owing by a tax sale in accordance with the provisions of the Tax Sale Law.

Land Taxes - The amount of taxes assessed on the Land, if any, exclusive of the value of any of the Project related thereto, in accordance with Applicable Law.

Land Tax Payments - Payments for the Land Taxes, if any, as determined by the Tax Assessor and the Tax Collector.

Material Conditions – As defined in Section 4.06.

Net Profit – The Annual Gross Revenue of the Entity, less all operating and non-operating expenses of the Entity, all determined in accordance with generally accepted accounting principles and the provisions of N.J.S.A. 40A:20-3(c).

Ordinance – The ordinance adopted on _____, ____ numbered ____ approving this Agreement.

State – The State of New Jersey.

Tax Assessor – The Township tax assessor.

Tax Collector – The Township tax collector.

Tax Sale Law – N.J.S.A. 54:5-1 et seq., as the same may be amended or supplemented from time to time.

Termination - Any action or omission which by operation of the terms of this Agreement or Applicable Law shall cause the Entity to relinquish the tax exemption granted pursuant to this Agreement.

Total Project Cost – The total cost of development and construction of the Project through the date all final Certificate(s) of Occupancy are issued for the entire Project, which categories of cost are as defined in N.J.S.A. 40A:20-3(h).

Transferee Agreement – As defined in Section 7.01(B).

SECTION 1.03 Interpretation and Construction In this Agreement, unless the context otherwise requires:

A. The terms “hereby”, “hereof”, “hereto”, “herein”, “hereunder” and any similar terms, as used in this Agreement, refer to this Agreement, and the term “hereafter” means after, and the term “heretofore” means before the date of delivery of this 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 Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

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. 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 twenty (20) days, unless the context dictates otherwise.

G. All exhibits referred to in this Agreement and attached hereto are incorporated herein and made part hereof.

H. All references to Sections, Articles or Exhibits shall, unless indicated otherwise, refer to the Sections, Articles or Exhibits in this Agreement.

SECTION 1.04 It is expressly understood and agreed that the Township expressly has relied upon the facts, data and representations contained in the Exemption Application in granting the tax exemption described in this Agreement.

{End of Article I}

ARTICLE II
APPROVAL

SECTION 2.01 Approval of Tax Exemption

Pursuant to the Ordinance, the Project and the Land shall be exempt from taxation as provided for herein and in the Long Term Tax Exemption Law. In accordance with N.J.S.A. 40A:20-12, the tax exemption shall constitute a single continuing exemption from local property taxation for the duration of this Agreement.

SECTION 2.02 Approval of the Entity

The Entity represents that its certificate of formation as attached hereto as *Exhibit C* contains all the requisite provisions of law, has been reviewed and approved by the Commissioner of the Department of Community Affairs, and has been filed with, as appropriate, the Secretary of State, all in accordance with N.J.S.A. 40A:20-5.

SECTION 2.03 Improvements to be Constructed

The Entity represents that it will acquire the Land and construct or cause to be constructed the Project in accordance with the Redevelopment Agreement and the Redevelopment Plan, the use of which Project is more specifically described in the Exemption Application.

SECTION 2.04 Construction Schedule

The Entity agrees diligently to undertake to commence or cause the commencement of the construction and completion of the Project substantially in accordance with the Project Schedule set forth in and in compliance with the provisions of the Redevelopment Agreement.

SECTION 2.05 Ownership, Management and Control

The Parties acknowledge that the Entity is the contract purchaser of the Land and that, upon satisfaction of the conditions set forth in the Purchase and Sale Agreement, the Township will convey title to the Land to the Entity. The Entity covenants that it shall cause the redevelopment of the Land in conformance with the Redevelopment Agreement, the Redevelopment Plan and all Applicable Law.

The Entity covenants, warrants and represents that the Land and the Project shall be used, managed and operated for the purposes set forth in the Exemption Application and the Redevelopment Agreement, and in accordance with the Redevelopment Plan and all Applicable Law.

SECTION 2.06 Project Financing Plan

The Entity represents that the Project shall be financed substantially in accordance with the portions of the plan attached as *Exhibit 14* to the Exemption Application applicable to the Project.

SECTION 2.07 Findings

The Township makes the following findings with respect to the Redevelopment Project (including the Project):

A. Relative Benefits of the Redevelopment Project (including the Project):

1. The revitalization of the Redevelopment Project Site (including the Land), which has long been characterized by significant amounts of vacant or underutilized properties, depends in large part on the ability of the Township to provide adequate parking for commuters utilizing the Bloomfield Train Station, and shoppers and other visitors to commercial and office uses in the downtown area of the Township.
2. The Redevelopment Project (including the Project) will accelerate the revitalization of the Redevelopment Area through the redevelopment of longstanding vacant and/or underutilized properties by providing: (a) new residential units, the occupants of which are expected to patronize existing and future retail and commercial establishments in the Redevelopment Area; and (b) parking and traffic management.

B. Assessment of the importance of the tax exemption in obtaining development of the Redevelopment Project (including the Project) and influencing the locational decisions of probable occupants: The tax exemption is required for (1) the Entity to finance and construct the Project in a manner that will allow it to establish rents that are consistent with the market and (2) the Farrand Garage to be constructed. As a result, without the exemption probable occupants of the Project would not choose to locate in the Project. The exemption permits the Entity to charge rents and makes parking available consistent with new mixed use, multifamily, rental and retail projects in the Bloomfield area thus influencing the locational decisions of the probable occupants of the Project.

{End of Article II}

ARTICLE III
DURATION OF AGREEMENT

SECTION 3.01 Term

This Agreement shall become effective on the Effective Date.

The Parties understand and agree that this Agreement, including the obligation to pay the Annual Service Charge required under Article IV and the tax exemption granted and referred to in Section 2.01, shall remain in effect until the earlier of (A) thirty-five (35) years from the date of execution of this Agreement or (B) thirty years (30) from the Annual Service Charge Start Date for the Project. At the expiration of the term hereof or upon Termination, the tax exemption for the Project and the Land shall expire and the Project and the Land shall thereafter be assessed and taxed according to the general law applicable to other non-exempt property in the Township. After expiration of the term hereof, all restrictions and limitations upon the Entity shall terminate upon the Entity's rendering and the Township's acceptance of its final accounting, pursuant to N.J.S.A. 40A:20-12. Upon any Termination of the tax exemption described in Section 2.01, the date of such Termination shall be deemed to be the last day of the fiscal year of the Entity in which the Termination has occurred.

{End of Article III}

ARTICLE IV
ANNUAL SERVICE CHARGE

SECTION 4.01 Annual Service Charge Consent

The Entity and the Township hereby consent and agree to the amount of Annual Service Charge and the Entity hereby consents and agrees to the liens established in this Agreement, and the Entity shall not contest the validity or amount of any such lien; provided, however, that the foregoing shall not be construed to bar the Entity from raising the defense that (A) the Annual Service Charge then due and owing has been paid in full, (B) the Annual Service Charge is not yet due and owing, or (C) the Annual Service Charge is calculated in a manner other than as set forth in this Agreement. Notwithstanding anything herein to the contrary, the Entity's obligation to pay the Annual Service Charge shall be absolute and unconditional and shall not be subject to any defense, set-off, recoupment or counterclaim under any circumstances, including without limitation any loss of status of the Entity as an "urban renewal entity" qualified under and as defined in the Long Term Tax Exemption Law, or any violation by the Township of any provisions of this Agreement, termination of the Redevelopment Agreement or failure of the Entity to complete the Project.

SECTION 4.02 Annual Service Charge Amount

A. The Annual Service Charge shall be an amount equal to the greater of: (1)(a) ten percent (10%) of the Annual Gross Revenue for years one (1) through and including year fifteen (15) years of the Agreement and (b) eleven percent (11%) for the balance of the term of the Agreement; (2) the minimum annual service charge of Zero Dollars (\$0.00) (which was the amount of taxes payable during the last year of full taxes as required by with N.J.S.A. 40A:20-12); and (3) the amount determined pursuant to Section 4.02(B).

B. Unless the provisions of Section 4.02(1) or (2) of this section shall apply, the schedule of Annual Service Charge payments over the term of this Agreement shall be as follows:

Stage	Annual Service Charge
Years 1 - 10	0% of taxes otherwise due on the value of the Land and Project.
Years 11 - 15	20% of the taxes otherwise due on the value of the Land and Project.
Years 16 - 20	40% of the taxes otherwise due on the value of the Land and Project.
Years 21 - 25	60% of the taxes otherwise due on the value of the Land and Project.
Years 26 - 30	80% of the taxes otherwise due on the value of the Land and Project.

SECTION 4.03 Payment of Annual Service Charge

A. Notwithstanding anything herein to the contrary, the Entity shall pay to the Township the Annual Service Charge as provided in this Agreement. The Entity has agreed to pay the Annual Service Charge as consideration for the municipal services supplied to the Project. The Annual Service Charge shall commence on the Annual Service Charge Start Date.

B. Subject to the provisions of Section 4.03(A), payment of the Annual Service Charge shall be made on a quarterly basis on each February 1, May 1, August 1, and November 1, commencing on the first February 1, May 1, August 1 or November 1 following the applicable Annual Service Charge Start Date.

C. The Annual Service Charge for the first year and last year of the tax exemption shall be calculated on a pro rata basis, based respectively on the number of days remaining in the calendar year or the number of days having elapsed in the calendar year, divided by three hundred sixty-five (365). For the first year, the exemption shall be in effect from the Annual Service Charge Start Date to the close of the first calendar year. For the year ending the tax exemption, the exemption shall be in effect from the first day of the year to the termination of the exemption.

D. In the event that the Entity fails to timely pay any installment, the amount past due shall bear the rate of interest then being assessed by the Township against other delinquent taxpayers in the case of unpaid property taxes until paid.

E. In accordance with the Long Term Tax Exemption Law, specifically N.J.S.A. 40A:20-12, in the event of any change in the tax-exemption status as provided herein during any tax year, including but not limited to any termination of such tax exemption as provided for herein, the procedure for the apportionment of any taxes and/or Annual Service Charge, as the case may be, shall be the same as in the case of other changes in tax exemption status to any other property located within the Township during the tax year, in accordance with Applicable Law.

SECTION 4.04 Land Taxes and Credits: Reformation of Annual Service Charge Computation

A. In the event the exemption of the Land required under N.J.S.A. 40A:20-12 is invalidated by a court of competent jurisdiction, the Parties agree that this Agreement shall remain valid and in full force and effect, and shall be reformed to provide that Land Taxes are assessed on the Land. In such case, the payment for Land Taxes shall be applied as a credit against the Annual Service Charge for the subsequent year. In any year that the Entity fails to make any Land Tax Payments when due and owing, such delinquency shall render the Entity ineligible for any land tax credits against the Annual Service Charge.

B. In the event the exemption of the Land authorized under N.J.S.A. 40A:20-12 is invalidated as described in Section 4.04A, all Land Taxes, shall be separately assessed for the Land, and shall be assessed only on the Land without regard to any improvements or increase in value to the Land because of the improvements. In such event, the Entity will be required to

make payment of both the Annual Service Charge and the Land Tax Payments. The Entity will be required to pay the full Land Tax Payments in any given year, and no credits will be applied against the Annual Service Charge for partial payment of the Land Taxes. The Entity's failure to make the requisite Annual Service Charge payment and/or the requisite Land Tax Payment, if any and as applicable, in a timely manner shall constitute a violation and breach of this Agreement. The Township shall, among its other remedies, have the right to proceed against the Land pursuant to the Tax Sale Law and/or may declare a Default under this Agreement upon sixty (60) days written notice to the Entity.

SECTION 4.05 County Portion Paid to the County

In accordance with the provisions of N.J.S.A. 40A:20-12, upon the payment of the Annual Service Charge, the Township shall remit the County Share to the County.

SECTION 4.06 Material Conditions

It is expressly agreed and understood that all payments of the Annual Service Charge and any interest payments, penalties or costs of collection due thereon and payments of Land Taxes, if applicable, are material conditions of this Agreement (the "**Material Conditions**"). If any other term, covenant or condition of this Agreement or the Exemption Application, as to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each remaining term, covenant or condition of this Agreement shall be valid and enforced to the fullest extent permitted by Applicable Law.

SECTION 4.07 No Reduction in Payment of the Annual Service Charge

Neither the amounts nor dates established for payment of the Annual Service Charge, as provided in Sections 4.02 and 4.03, shall be reduced, amended or otherwise modified during the term of this Agreement, except as explicitly provided herein, including Section 4.04.

SECTION 4.08 Annual Service Charge as Municipal Lien

The Township and the Entity hereby expressly acknowledge, understand and agree that in accordance with Applicable Law, upon the recordation of the Ordinance and this Agreement (a) the Ordinance, this Agreement and any amount due hereunder, including without limitation, the Annual Service Charge, shall be a continuous, perfected municipal lien on the Project and the Land, and that any subsequent Annual Service Charge, including any interest, penalties or costs of collection thereof, that shall thereafter become due or accrue, shall be added and relate back to and be part of the initial municipal lien on the Project and the Land, (b) the Ordinance, this Agreement and any amounts due hereunder, including without limitation, the Annual Service Charge, shall constitute an automatic, enforceable and perfected statutory municipal lien for all purposes on the Project and the Land, including specifically and without limitation, the federal bankruptcy code, regardless of whether the amount of the Annual Service Charge has been determined, and (c) any applicable process, procedure or action of any court, government body or other relevant authority, including without limitation any confirmation hearing, to determine

the amount of the Annual Service Charge due shall not affect the commencement or validity of the municipal lien.

SECTION 4.09 Security for Payment of Annual Service Charge

In order to secure the full and timely payment of the Annual Service Charge, the Township reserves the right to prosecute an In Rem Tax Foreclosure action against the Project and/or the Land in accordance with Applicable Law, as more fully set forth in this Agreement.

SECTION 4.10 Administrative Fee

In addition to the Annual Service Charge, the Entity also shall pay for administrative costs associated with the collection of the Annual Service Charge payment by the City or its designee. The Entity shall be liable to pay an annual amount of an administrative payment equal to two percent (2%) of the Annual Service Charge for each year Annual Service Charge is payable under this Agreement as authorized by N.J.S.A. 40A:20-9. The annual administrative payment shall be paid by the Entity and shall be due and paid in the same manner as the quarterly Annual Service Charge payments.

{End of Article IV}

ARTICLE V
CERTIFICATE OF OCCUPANCY

SECTION 5.01 Certificate of Occupancy

It is understood and agreed that it shall be the obligation of the Entity to take such actions as are necessary under Applicable Law to obtain all required Certificates of Occupancy in a reasonably timely manner. The Township shall, in good faith, reasonably cooperate with the Entity and use its best efforts to support and expedite the review, comment and approval of any application of the Entity seeking a Certificate of Occupancy.

SECTION 5.02 Filing of Certificate of Occupancy

The Entity shall file or cause to be filed with both the Tax Assessor and the Tax Collector a copy of each Certificate of Occupancy promptly upon receipt thereof by the Entity.

Failure of the Entity to file or cause to be filed such issued Certificate of Occupancy as required by the preceding paragraph shall not militate against any action or non-action by the Township, including, if appropriate, retroactive billing with interest for any charges determined to be due in the absence of such filing by the Entity.

{End of Article V}

ARTICLE VI
ANNUAL AUDITS

SECTION 6.01 Calculation of Net Profit

For the purposes of this Agreement, the Entity agrees to calculate its "Net Profit" pursuant to N.J.S.A. 40A:20-3(c).

SECTION 6.02 Periodic Reports/Notices

A. Auditor's Report: Within ninety (90) days after the close of each fiscal or calendar year that this Agreement shall continue in effect, according to the Entity's accounting basis, the Entity shall submit to the Mayor, Municipal Council, the Tax Collector and the Township Clerk, who shall advise those municipal officials required to be advised, and the Division of Local Government Services in the Department of Community Affairs, its Auditor's Report for the preceding fiscal or calendar year. The Report shall clearly identify and calculate the Net Profit for the Entity during the previous year. The Entity assumes all costs associated with preparation of the periodic reports.

B. Total Project Cost Audit: Within one hundred and twenty (120) days after the issuance of the last Certificate of Occupancy for the Project, the Entity shall submit to the Mayor, Municipal Council, the Tax Collector and the Township Clerk, who shall advise those municipal officials required to be advised, an audit of Total Project Cost, certified as to actual construction costs by the Entity's architect.

C. Disclosure Statement: On each anniversary date of the execution of this Agreement, the Entity shall submit to the Mayor, Municipal Council, the Tax Collector and the Township Clerk, who shall advise those municipal officials required to be advised, a disclosure statement listing the persons having an ownership interest in the Project, and the extent of the ownership interest of each and such additional information as the Township may reasonably request from time to time regarding such ownership interest in the Project (each a "**Disclosure Statement**").

D. Confidential Information: Each entity and person to whom any such report or information described in Section 6.01(A) through (C) is distributed shall, to the greatest extent possible, and unless prohibited by Applicable Law, receive, hold and maintain any and all such reports and information STRICTLY CONFIDENTIAL as PROPRIETARY INFORMATION of Entity and not for general publication or distribution; and furthermore shall not so distribute, publish in any form or forum or distribute such reports or information, or any part thereof, except upon order by a court of competent jurisdiction or as required by Applicable Law.

SECTION 6.03 Inspection

Upon reasonable request in writing, during normal business hours, the Entity shall permit (A) the inspection of its property, equipment, buildings and other facilities of the Project, and (B) the examination and audit of its books, contracts, records, documents and papers, in each case by representatives duly authorized by the Township and Division of Local Government Services in the Department of Community Affairs as provided in the Redevelopment Agreement, provided that such rights of inspection also shall extend to representatives in the Division of Local Government Services in the Department of Community Affairs pursuant to N.J.S.A. 40A:20-9(e), duly authorized by the Township, as reasonably deemed necessary and appropriate by the Township. Such inspections and examinations shall be made as provided in the Redevelopment Agreement. The inspections and examinations shall not in any manner materially interfere with construction or operation of the Project.

SECTION 6.04 Limitation on Profits and Reserves

During the period of tax exemption as provided herein, the Entity shall be subject to a limitation of its profits or dividends pursuant to the provisions of N.J.S.A. 40A:20-15 and N.J.S.A. 40A:20-3(c). Upon expiration or Termination of the tax exemption, the foregoing limitations on the profits or dividends of the Entity shall be of no further force or effect.

The Entity shall have the right in any year to establish and maintain a reserve against vacancies, unpaid rentals, and reasonable contingencies in an amount up to ten percent (10%) of the Annual Gross Revenues of the Entity for the last full fiscal year preceding the year in which the reserve is established or maintained, and may retain such part of the excess Net Profits as is necessary to eliminate a deficiency in that reserve, as provided in N.J.S.A. 40A:20-15.

There is expressly excluded from calculation of "Gross Revenue" and from "Net Profit" as set forth in N.J.S.A. 40A:20-3 for the purpose of determining compliance with N.J.S.A. 40A:20-15 or N.J.S.A. 40A:20-16, the amount of any sale, including any gain realized thereby, by the Entity on the sale of all or any portion of the Project, whether or not taxable under federal or State law.

SECTION 6.05 Payment of Dividend and Excess Profit Charge

In the event the Net Profits of the Entity (after funding of any reserve described in Section 6.04), in any fiscal year, shall exceed the Allowable Net Profits for such period, then the Entity, within one hundred twenty (120) days after the end of such fiscal year, shall pay such excess Net Profits to the Township as an additional Annual Service Charge. The calculation of Net Profit and Allowable Net Profit shall be made in the manner required pursuant to N.J.S.A. 40A:20-3(c) and 40A:20-15.

The Parties agree that any excess Net Profit will be treated by the Township as additional Annual Service Charge subject to the provisions of this Agreement, including, but not limited to, the pledge set forth in Section 4.01.

{End of Article VI}

ARTICLE VII
ASSIGNMENT AND/OR ASSUMPTION

SECTION 7.01 Approval of Sale of Project by Entity Formed and Eligible to Operate Under Law

The Entity shall not transfer ownership of more than ten percent (10%) of the Entity or of the Project prior to completion of the Project without the written consent of the Township; however, the Entity shall be permitted to transfer ownership of more than ten percent (10%) of the Entity prior to completion of the Project without the written consent of the Township so long as control of the Entity (or transferee entity) is the same as that of Redeveloper. The Entity shall not transfer ownership of more than ten percent (10%) of the Project after completion of the Project, except that the Entity shall be permitted to transfer all or any portion of the Project to another urban renewal entity approved by the Township, and the Entity shall be permitted to transfer all or portion of the ownership of the Entity, as follows:

A. As permitted by N.J.S.A. 40A:20-10(a), upon written application by the Entity after completion of the Project, the Township will consent to a sale of all or any part of the Project and the transfer or partial assignment of this Agreement provided: (i) the transferee entity does not own any other project subject to long term tax exemption at the time of transfer; (ii) the transferee entity is formed and eligible to operate under the Long Term Tax Exemption Law; (iii) the Entity is not then in Default of this Agreement or the Long Term Tax Exemption Law; (iv) the Entity's obligations so transferred under this Agreement are fully assumed by the transferee entity; (v) the transferee entity agrees to abide by all terms and conditions of this Agreement including, without limitation, the filing of an application pursuant to N.J.S.A. 40A:20-8, and any other terms and conditions of the Township in regard to the Project; and (6) the principal owners of the transferee entity possess substantially equal or greater business reputation, financial qualifications and credit worthiness as the Entity and are otherwise reputable. In the event that the transfer contemplated in this Section 7.01(A) is for less than the whole of the Project, the Annual Service Charge to be paid each by the Entity and the transferee entity after the transfer shall be pro-rated based on the relative assessed value of the portion of the Project being transferred compared to the portion of the Project remaining with the Entity.

B. As permitted by N.J.S.A. 40A:20-10(c), upon written application by the Entity after the applicable Annual Service Charge Start Date has occurred, the Township will consent to a sale to another urban renewal entity purchasing all or a portion of the Project in fee simple and the transfer of the tax exemption in this Agreement for the Project, or portion thereof (reflected in a new Agreement incorporating all the terms of this Agreement for the period remaining on the tax exemption for the Project or portion thereof (the "Transferee Agreement")), provided: (i) the transferee entity is formed and eligible to operate under the Long Term Tax Exemption Law; (ii) the Entity is not then in Default of this Agreement or the Long Term Tax Exemption Law; (iii) the Entity's obligations under this Agreement as to the Project or portion thereof being transferred are fully assumed by the transferee entity in the Transferee Agreement; (iv) the transferee entity agrees to all terms and conditions of this Agreement in the Transferee Agreement; and (v) if applicable, the Entity or the transferee entity, upon proper application to and approval by the Township, subdivides the Land underlying that portion of the Project being transferred, which application for subdivision shall not be unreasonably withheld, conditioned or delayed. The Township shall, in good faith, in a prompt and timely manner reasonably cooperate

with the Entity and the transferee entity and use its best efforts to review the written application of the Entity, review and approve the application for approval of the transferee entity pursuant to N.J.S.A. 40A:20-8, and negotiate and approve the Transferee Agreement. The then applicable Annual Service Charge for the Project or portion thereof will be paid by the transferee entity pursuant to the Transferee Agreement. The date of transfer of title of the Project to a purchasing entity shall be considered to be the close of the fiscal year of the Entity. Within ninety (90) days after that date of the transfer of title to the entire Project, the Entity shall pay to the City the amount of reserve, if any, maintained by it, as well as the excess Net Profit, if any, pursuant to N.J.S.A. 40A:20-15. In the event that the transfer contemplated in this Section 8.01(B) is for less than the whole of the Project, the Annual Service Charge to be paid each by the Entity and the transferee entity after the transfer shall be pro-rated based on the relative assessed value of the portion of the Project being transferred compared to the portion of the Project remaining with the Entity.

C. In accordance with N.J.S.A. 40A:20-10(d) the Entity shall pay an administrative fee to the City equal to two percent (2%) of the then applicable Annual Service Charge for processing the request to transfer the ownership of the Entity or the Project and this Agreement.

D. Notwithstanding anything to the contrary, in accordance with N.J.S.A. 40A:20-5(e) and the Entity's certificate of formation approved by the Department of Community Affairs and filed with the State Department of Treasury, nothing shall prohibit or restrict any transfer of the ownership interest in the Entity itself; provided however, that the transfer, if greater than ten percent (10%), is disclosed to the Township Council in the Disclosure Statement or in correspondence sent to the municipality in advance of the Disclosure Statement.

SECTION 7.02 Severability

It is an express condition of the granting of the tax exemption contemplated herein that during its duration, the Entity shall not, without the prior consent of the Municipal Council by Ordinance, convey, mortgage or transfer, ownership of all or part of the Project so as to sever, disconnect, or divide the Project from the Land which is basic to, embraced in, or underlying the exempted Project.

SECTION 7.03 Subordination of Fee Title

It is expressly understood and agreed that the Entity has the right, subordinate to the lien of the Annual Service Charge and to the rights of the Township hereunder, to encumber and/or lease and/or assign the fee title to the Land and/or Project, and that any such encumbrance, lease or assignment shall not be deemed to be a violation of this Agreement.

SECTION 7.04 Restriction on Transfer

So long as this Agreement remains in effect, any transfer of the Land (except for a sale permitted under this Article VII) shall be void *ab initio*.

{End of Article VII}

ARTICLE VIII
WAIVER

SECTION 8.01 Waiver

Except for the express waiver herein of certain rights of acceleration and certain rights to terminate the Agreement and tax exemption for violation of any of the conditions provided herein, nothing contained in this Agreement or otherwise shall constitute a waiver or relinquishment by the Township or the Entity of any rights and remedies provided by Applicable Law. Nothing herein shall be deemed to limit any right of recovery that the Township or the Entity has under law, in equity, or under any provision of this Agreement.

{End of Article VIII}

ARTICLE IX
NOTICE

SECTION 9.01 Notice

Any notice required hereunder to be sent by any party to another party shall be sent to all other parties hereto simultaneously by certified or registered mail, return receipt requested, or by courier or overnight delivery service, as follows:

- A. When sent to the Entity it shall be addressed as follows:

Lackawanna Station Urban Renewal LLC
2 Broad Street, Suite 400
Bloomfield, New Jersey 07003
Attention: General Counsel

with copies to:

Stephen B. Pearlman, Esq.
Pearlman & Miranda, LLC
2 Broad Street, Suite 510
Bloomfield, New Jersey 07003

- B. When sent to the Township, it shall be addressed as follows:

Township Clerk
Township of Bloomfield
Municipal Building
Municipal Plaza
Bloomfield, New Jersey 07003

with copies to

Township Law Director
Township of Bloomfield
Municipal Building
Municipal Plaza
Bloomfield, New Jersey 07003

and

Joseph P. Baumann, Jr., Esq.
McManimon, Scotland & Baumann, LLC
75 Livingston Avenue, 2nd Floor
Roseland, New Jersey 07068

The notice to the Township shall identify the subject with the block and lot numbers, and any other qualifying designation as may apply, of the tax parcels comprising the Land.

{End of Article IX}

ARTICLE X
COMPLIANCE

SECTION 10.01 Statutes and Ordinances

The Entity hereby agrees at all times prior to the expiration or Termination of the tax exemption to remain bound by the provisions of Federal and State law and any lawful ordinances and resolutions of the Township, including, but not limited to, the Long Term Tax Exemption Law. The Entity's failure to substantially comply with such statutes or ordinances and the continuation of such noncompliance beyond any applicable notice, grace or cure period provided therein or herein, shall constitute a breach of this Agreement.

{End of Article X}

ARTICLE XI
CONSTRUCTION

SECTION 11.01 Construction

This Agreement shall be construed and enforced in accordance with the laws of the State, and without regard to or aid or any presumption or other rule requiring construction against the party drawing or causing this Agreement to be drawn since counsel for both the Entity and the Township have combined in their review and approval of same.

{End of Article XI}

ARTICLE XII
INDEMNIFICATION

SECTION 12.01 Indemnification

It is understood and agreed that in the event the Township shall be named as a party in any action brought against the Township or the Entity by allegation of any breach, Default or violation of any of the provisions of this Agreement and/or the provisions of the Long Term Tax Exemption Law or by allegation and materially arising from or relating to the Project under any other Applicable Law, the Entity shall indemnify and hold the Township harmless from and against all liability, losses, damages, demands, costs, claims, actions or expenses (including reasonable attorneys' fees and expenses) of every kind, character and nature arising out of or resulting from the action or inaction of the Entity and/or by reason of any breach, Default or violation of any of the provisions of this Agreement, the provisions of the Long Term Tax Exemption Law and/or any other Applicable Law; provided, however, that the Entity shall not be required to indemnify the Township for any liability, losses, damages, demands, costs, claims, actions or expenses (including reasonable attorneys' fees and expenses) of any kind, character or nature arising out of or resulting from any willful or negligent act, omission or misconduct by the Township or any of its officers, officials, employees or agents. Upon the Township becoming aware of any claim or loss for which indemnification is sought, the Township shall promptly provide the Entity with written notice thereof and demand for indemnification. The Entity shall defend against any such claim or loss at its own expense. The Township maintains the right to intervene as a party thereto, to which intervention the Entity hereby consents, the reasonable expense thereof to be borne by the Entity.

{End of Article XII}

ARTICLE XIII
DEFAULT; REMEDIES; TERMINATION

SECTION 13.01 Default

Default shall be failure of the Entity to make payment of the Annual Service Charge when due hereunder or to otherwise conform to the terms of this Agreement and any failure of the Entity to substantially observe and perform any other obligation imposed upon the Entity by Applicable Law beyond any applicable notice, cure or grace period.

SECTION 13.02 Cure Upon Default

Should the Entity be in Default of any obligation under this Agreement, the Township shall notify the Entity and any mortgagee of the Entity, in writing of said Default (the "Default Notice"). Said Default Notice shall set forth with particularity the basis of said Default. Except as otherwise limited by law, the Entity shall have sixty (60) days to cure any Default (other than a Default in payment of any installment of the Annual Service Charge) from the date of its receipt of the Default Notice; provided, however, that if such Default is not reasonably able to be cured within such sixty (60) day period and the Entity is diligently pursuing a cure, such cure period shall extend as long as the Entity continues diligently to pursue such cure, but in any event, not more than one hundred twenty (120) days from the date of Entity's receipt of the Default Notice.

SECTION 13.03 Remedies Upon Default Cumulative: No Waiver

In the event of any uncured Default, the Township shall have the right to proceed against the Project and/or the Land pursuant to the provisions of Applicable Law. Upon any Default in payment of any installment of the Annual Service Charge, the Township shall have the right to proceed to In Rem Tax Foreclosure consistent with the provisions and procedures of the Tax Sale Law.

Subject to the other terms and conditions of this Agreement including Section 13.04, all of the remedies provided in this Agreement to the Township, and all rights and remedies granted to the Township by law and equity, shall be cumulative and concurrent and no determination of the invalidity of any provision of this Agreement shall deprive the Township of any of its remedies or actions against the Entity because of Entity's failure to pay Land Taxes, if applicable, the Annual Service Charge and/or any applicable water and sewer charges and interest payments. This right shall only apply to arrearages that are due and owing at the time, and the bringing of any action for Land Taxes, if applicable, Annual Service Charge or other charges, or for breach of covenant or the resort of any other remedy herein provided for the recovery of Land Taxes, if applicable, Annual Service Charge or other charges shall not be construed as a waiver of the right to proceed with an In Rem Tax Foreclosure action consistent with the terms and provisions of this Agreement.

In the event of a Default under this Agreement by either of the Parties or a dispute arising between the Parties in reference to the terms and provisions as set forth herein, then the Parties shall submit the dispute to the American Arbitration Association in the State to be determined in accordance with its rules and regulations in such a fashion to accomplish the purpose of said

laws. Costs for said arbitration shall be paid by each Party equally, to be reimbursed in full by the non-prevailing Party to the prevailing Party.

SECTION 13.04 Remedies

The Township's customary tax payment enforcement proceedings will apply to the collection of any delinquent payment of the Annual Service Charge. In the event of a Default on the part of the Entity to pay any installment of the Annual Service Charge required by Article IV above, and the continuance of such Default after expiration of any notice, grace or cure periods under Applicable Law, the Township in addition to its other remedies, reserves the right to proceed against the Entity's land and premises, in the manner provided by Applicable Law, including the Tax Sale Law, and any act supplementary or amendatory thereof, provided that it is understood and agreed that the Township shall look solely to the estate and property of the Entity in the Project (including the rental income and insurance proceeds therefrom) for the satisfaction of the Township's remedies for the collection of a judgment or other judicial process requiring the payment of money by the Entity in the event of any Default or breach by the Entity with respect to any of the terms, covenants and conditions of this Agreement to be observed or performed by the Entity, and any other obligation of the Entity created by, under or as a result of this Agreement, and no other property or assets of the Entity, or of their partners, beneficiaries, shareholders, officers, directors, members, managers, tenants, principals, agents or attorneys (as the case may be) (in any of their capacities) shall be subject to service, levy, execution or other enforcement procedures for the satisfaction of the Township's remedies. In no event shall the Township name the Entity's partners, members, shareholders, officers, directors, managers, beneficiaries, tenants, shareholders, principals, agents or attorneys (in any of their capacities) to any suit or other proceeding to which the Township and/or Entity are a party arising out of or relating to this Agreement.

The Township shall pursue the collection of delinquent payments of Annual Service Charge with the same diligence it employs in the collection of the Township's general *ad valorem* real estate taxes, including the commencement of an In Rem Tax Foreclosure. The Parties understand and agree that the Township's ordinary discretion in this regard allows it to decide not to expend resources to collect *de minimis* outstanding amounts.

In the event the Township does not pursue the collection of delinquent payment amounts in the manner provided herein, the Township may pursue collection of the delinquent Annual Service Charge pursuant to the authority granted in Article IV.

Whenever the word "Taxes" appears, or is applied, directly or implied, to mean taxes or municipal liens on land, such statutory provisions shall be read, as far as it is pertinent to this Agreement, as if the Annual Service Charge were taxes or municipal liens on land. In either case, however, the Entity does not waive any defense it may have to contest the rights of the Township to proceed in the above-mentioned manner.

SECTION 13.05 Termination Upon Default of the Entity

Subject to the provisions of Section 13.02, in the event the Entity fails to cure or remedy a Default, within the time period provided in Section 13.02, the Township may terminate this Agreement upon thirty (30) days written notice to the Entity.

SECTION 13.06 Final Accounting

Within ninety (90) days after the date of Termination of tax exemption, the Entity shall provide a final accounting and pay to the Township the reserve, if any, pursuant to the provisions of N.J.S.A. 40A:20-13 and 15 as well as any excess Net Profits. For purposes of rendering a final accounting the date of termination of this Agreement shall be deemed to be the last day of the fiscal year of the Entity in which the termination occurred.

SECTION 13.07 Conventional Taxes

Upon termination or expiration of this Agreement, the tax exemption for the Project and the Land shall expire and the Land and the Project thereon shall thereafter be assessed and conventionally taxed according to the general law applicable to other nonexempt taxable property in the Township.

{End of Article XIII}

ARTICLE XIV
MISCELLANEOUS

SECTION 14.01 Conflict

The Parties agree that in the event of a conflict between the Exemption Application and this Agreement, the language in this Agreement shall govern and prevail.

SECTION 14.02 Oral Representations

There have been no oral representations made by either of the Parties which are not contained in this Agreement.

SECTION 14.03 Entire Document

All conditions in the Ordinance are incorporated in this Agreement and made a part hereof. This Agreement, the Ordinance and the Exemption Application constitute the entire agreement between the Parties as to the subject matter thereof and hereof.

SECTION 14.04 Good Faith

In their dealings with each other, the Parties agree that they shall act in good faith.

SECTION 14.05 Recording

Upon the execution and delivery of this Agreement, the entire Agreement, including the Ordinance, shall be filed and recorded with the office of the Essex County Register by the Entity, at the Entity's expense, such that this Agreement and the Ordinance shall be reflected upon the land records of the County as a perfected statutory municipal lien upon and a covenant running with each and every parcel of the Land including the Project related thereto.

SECTION 14.06 Municipal Services

The Entity shall make payments for municipal services, including water and sewer charges and any services that create a lien on a parity with or superior to the lien for the Land Taxes, if applicable, and the Annual Service Charge, as required by law. Nothing herein is intended to release the Entity from its obligation to make such payments.

SECTION 14.07 Financing Matters

The financial information required by the final paragraph of N.J.S.A. 40A:20-9 is set forth in the Exemption Application.

SECTION 14.08 Counterparts; Electronic Signatures.

This Agreement may be simultaneously executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Electronic or facsimile signatures shall constitute original signature for all purposes under this Agreement.

SECTION 14.09 Amendments

This Agreement may not be amended, changed, modified, altered or terminated without the written consent of the Parties.

SECTION 14.10 Certification

The Township Clerk shall certify to the Tax Assessor, pursuant to N.J.S.A. 40A:20-12, that an agreement with an urban renewal entity, i.e., the Entity, for the development of a portion of the Redevelopment Area, has been entered into and is in effect as required by the Long Term Tax Exemption Law. Delivery by the Township Clerk to the Tax Assessor of a certified copy of the Ordinance adopted by the Municipal Council approving the tax exemption described herein and this Agreement shall constitute the required certification. Upon certification as required hereunder, the Tax Assessor shall implement the exemption and continue to enforce that exemption without further certification by the Township Clerk until the expiration of the entitlement to exemption by the terms of this Agreement or until the Tax Assessor has been duly notified by the Township Clerk that the exemption has been terminated.

Further, within ten (10) calendar days following the later of the effective date of the Ordinance or the execution of the Financial Agreement by the Entity, the Township Clerk shall transmit a certified copy of the Ordinance and the Financial Agreement to the chief financial officer of the County and to the County Counsel for informational purposes.

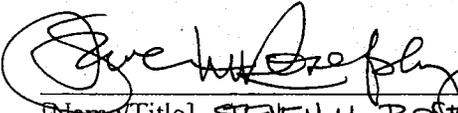
SECTION 14.11 Severability

If any terms or provision of this Agreement or the application thereof shall to any extent be held to be invalid or unenforceable, the remainder of this 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 Agreement shall be valid and shall be enforced to the extent permitted by Applicable Law.

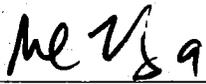
{End of Article XIV}

IN WITNESS WHEREOF, the parties have caused these presents to be executed as of the day and year first above written.

LACKAWANNA STATION URBAN RENEWAL
LLC, a New Jersey limited liability company

By: 
[Name/Title] STEVEN M. ROSE
Authorized Signatory

TOWNSHIP OF BLOOMFIELD

By: 
Michael J. Venezia,
Mayor

STATE OF NEW JERSEY :
: SS
COUNTY OF ESSEX :

The foregoing instrument was acknowledged before me this 1st day of MARCH, 2018 by [Steven M. Rosefsky], the Authorized Signatory LACKAWANNA STATION URBAN RENEWAL, LLC, a New Jersey limited liability company, on behalf of the company.

Kathleen Correll
Notary Public

Commission Expiration: 1/5/2021

KATHLEEN J. CORRELL
NOTARY PUBLIC OF NEW JERSEY
I.D. # 2454193
My Commission Expires 1/5/2021

Exhibit A

Description of Land

Chicago Title Insurance Company

SCHEDULE A
(Continued)
LEGAL DESCRIPTION

File No. 16PTA-055477

ALL THAT CERTAIN LOT, PARCEL OR TRACT OF LAND, SITUATE AND LYING IN THE TOWNSHIP OF BLOOMFIELD, COUNTY OF ESSEX, STATE OF NEW JERSEY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TRACT ONE:

BEGINNING AT A POINT IN THE NORTHWESTERLY LINE OF WASHINGTON STREET WHERE THE SAME IS INTERSECTED BY THE NORTHEASTERLY LINE OF THE RIGHT OF WAY OF THE DELAWARE, LACKAWANNA AND WESTERN RAILROAD; THENCE.

- (1) ALONG SAID RIGHT OF WAY LINE, NORTH 22 DEGREES 42 MINUTES WEST 235.18 FEET TO A POINT THEREIN; THENCE
- (2) NORTH 67 DEGREES 18 MINUTES EAST 108.30 FEET TO A CORNER; THENCE
- (3) SOUTH 14 DEGREES 15 MINUTES EAST 2.70 FEET TO ANOTHER CORNER; THENCE
- (4) NORTH 74 DEGREES 16 MINUTES EAST 93.59 FEET TO A POINT IN THE SOUTHWESTERLY LINE OF FARRAND STREET; THENCE
- (5) ALONG SAID STREET LINE, SOUTH 27 DEGREES 49 MINUTES EAST 101.24 FEET TO AN ANGLE THEREIN; THENCE
- (6) CONTINUING ALONG SAID STREET LINE, SOUTH 7 DEGREES 2 MINUTES EAST 171.94 FEET TO A POINT OF CURVE IN SAID STREET LINE; THENCE
- (7) ON A CURVE TO THE RIGHT HAVING A RADIUS OF 12.57 FEET AN ARC DISTANCE OF 25.38 FEET TO A POINT IN THE NORTHERLY LINE OF WASHINGTON STREET; THENCE
- (8) ALONG SAID NORTHERLY LINE OF WASHINGTON STREET, NORTH 71 DEGREES 21 MINUTES WEST 80.25 FEET TO AN ANGLE IN SAID STREET LINE; THENCE
- (9) STILL ALONG SAID STREET LINE, SOUTH 74 DEGREES 34 MINUTES WEST 25.98 FEET TO ANOTHER ANGLE IN SAID STREET LINE; THENCE
- (10) ALONG SAID NORTHWESTERLY LINE OF SAID WASHINGTON STREET, SOUTH 62 DEGREES 15 MINUTES WEST 57.20 FEET TO THE POINT AND PLACE OF BEGINNING.

FOR INFORMATIONAL PURPOSES ONLY: ALSO KNOWN AS LOT 1 IN BLOCK 225 ON THE TOWNSHIP OF BLOOMFIELD TAX MAP.

TRACT TWO:

BEGINNING AT A POINT IN THE WESTERLY LINE OF FARRAND STREET, DISTANT 149.22 FEET NORTHERLY ALONG THE SAME FROM THE NORTHERLY LINE OF LANDS NOW OR FORMERLY OF ANNIE E. CONNIFF; AND THENCE

Chicago Title Insurance Company

SCHEDULE A - LEGAL DESCRIPTION (Continued)

File No. 16PTA-055477

- (1) SOUTH 61 DEGREES 59 MINUTES WEST 188.39 FEET TO LANDS OF ERIE LACKAWANNA RAILROAD COMPANY; THENCE
- (2) ALONG THE SAME, SOUTH 22 DEGREES 42 MINUTES EAST 117.14 FEET TO CORNER OF LANDS NOW OR FORMERLY OF CORNELIUS VAN WAGONER; THENCE
- (3) NORTH 67 DEGREES 18 MINUTES EAST 108.30 FEET TO A POINT; THENCE
- (4) SOUTH 14 DEGREES 15 MINUTES EAST 2.70 FEET TO A POINT; THENCE
- (5) NORTH 74 DEGREES 16 MINUTES EAST 93.68 FEET TO THE WESTERLY LINE OF FARRAND STREET; THENCE
- (6) ALONG THE SAME, NORTH 27 DEGREES 49 MINUTES WEST 149.22 FEET TO THE POINT AND PLACE OF BEGINNING.

FOR INFORMATIONAL PURPOSES ONLY: ALSO KNOWN AS LOT 9 IN BLOCK 225 ON THE TOWNSHIP OF BLOOMFIELD TAX MAP.

Exhibit B

Ordinance

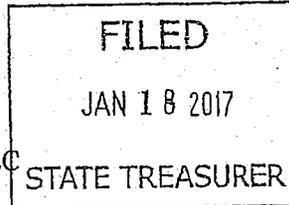
Exhibit C

Certificate of Formation of the Entity

CERTIFICATE OF FORMATION

OF

LACKAWANNA STATION URBAN RENEWAL, LLC



To: Treasurer of the State
of New Jersey

0600438237

THE UNDERSIGNED, of the age of eighteen years or over, for the purpose of forming a limited liability company pursuant to the provisions of the New Jersey Revised Uniform Limited Liability Company Act, as amended, P.L. 1993, c.210 (c.42:2C-1 et seq.), and the New Jersey Long Term Tax Exemption Law, as amended, P.L. 1991, c.431 (c.40A:20-1 et seq.), does hereby execute this Certificate of Formation of LACKAWANNA STATION URBAN RENEWAL, LLC.

FIRST: The name of the limited liability company is "LACKAWANNA STATION URBAN RENEWAL, LLC" (the "Company").

SECOND: The address of the Company's registered agent in the State of New Jersey is CORPORATION SERVICE COMPANY, 100 Charles Ewing Blvd, Suite 160, Ewing, NJ 08628.

THIRD: (a) The purposes for which the Company is formed shall be to operate under P.L. 1991, c.431, (c.40A:20-1 et seq.), and to initiate and conduct projects for the redevelopment of a redevelopment area pursuant to a redevelopment plan, or projects necessary, useful, or convenient for the relocation of residents displaced or to be displaced by the redevelopment of all or part of one or more redevelopment areas, or low and moderate income housing projects, and, when authorized by financial agreement with the TOWNSHIP OF BLOOMFIELD (the "Municipality"), to acquire, plan, develop, construct, alter, maintain or operate housing, senior citizen housing, business, industrial, commercial, administrative,

community, health, recreational, educational or welfare projects, or any combination of two or more of these types of improvements in a single project, under such conditions as to use, ownership, management and control as regulated pursuant to P.L. 1991, c.431 (c.40A:20-1 et seq.).

(b) So long as the Company is obligated under financial agreement with the Municipality made pursuant to P.L. 1991, c.431 (c.40A:20-1 et seq.), it shall engage in no business other than the ownership, operation and management of the project.

(c) The Company has been organized to serve a public purpose. The Company's operations shall be directed toward: (1) the redevelopment of redevelopment areas, the facilitation of the relocation of residents displaced, or to be displaced by redevelopment, or the conduct of low and moderate income housing projects; and (2) the acquisition, management and operation of a project, redevelopment relocation housing project, or low and moderate income housing project under P.L. 1991, c.431 (c.40A:20-1 et seq.). The Company shall be subject to regulation by the Municipality, and to a limitation or prohibition, as appropriate, on profits or dividends for so long as the Company remains the owner of a project subject to P.L. 1991, c.431 (c.40A:20-1 et seq.).

(d) The Company shall not voluntarily transfer more than ten percent (10%) of the ownership of the project or any portion thereof undertaken by it under P.L. 1991, c.431 (c.40A:20-1 et seq.), until it has first removed both itself and the project from all restrictions of P.L. 1991, c.431 (c.40A:20-1 et seq.) in the manner required by P.L. 1991, c.431 (c.40A:20-1 et seq.) and, if the project includes housing units, has obtained the consent of the Commissioner of Community Affairs to such transfer, with the exception of a transfer to another urban renewal entity as approved by the Municipality in which the project is situated, which other urban

renewal entity shall assume all contractual obligations of the Company under the financial agreement with the Municipality. The Company shall file annually with the governing body of the Municipality a disclosure of the persons having an ownership interest in the project, and of the extent of the ownership interest of each. Nothing herein shall prohibit any transfer of the ownership interest in the Company itself provided that the transfer, if greater than ten percent (10%), is disclosed to the governing body of the Municipality in the annual disclosure statement or in correspondence sent to the Municipality in advance of the annual disclosure statement referred to above.

(e) The Company shall be subject to the provisions of Section 18 of P.L. 1991, c.431 (c.40A:20-18), respecting the powers of the Municipality to alleviate financial difficulties of the Company or to perform actions on behalf of the Company upon a determination of financial emergency.

(f) Any housing units constructed or acquired by the Company shall be managed subject to the supervision of, and in accordance with rules adopted by, the Commissioner of Community Affairs.

FOURTH: The effective date of this Certificate of Formation of the Company shall be the date of filing with the New Jersey Department of Treasury.

FIFTH: The duration of the Company shall be perpetual.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of
Formation of the Company on this 12th day of December, 2016.

A handwritten signature in black ink, written over a horizontal line. The signature is cursive and appears to read "E. J. [unclear]".

Authorized Person



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
101 SOUTH BROAD STREET
PO Box 805
TRENTON, NJ 08625-0805

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

CHARLES A. RICHMAN
Commissioner

TO: State Treasurer
RE: Lackawanna Station Urban Renewal, LLC
File #1893
An Urban Renewal Entity

This is to certify that the attached CERTIFICATE OF FORMATION OF AN URBAN RENEWAL ENTITY has been examined and approved by the Department of Community Affairs, pursuant to the power vested in it under the "Long Term Tax Exemption Law," P.L. 1991, c.431.

Done this 3rd day of January 2017 at Trenton, New Jersey.

DEPARTMENT OF COMMUNITY AFFAIRS

BY 
Edward M. Smith, Director
Division of Codes and Standards



Garage Construction Agreement

PARKING GARAGE CONSTRUCTION AGREEMENT

BY AND BETWEEN

TOWNSHIP OF BLOOMFIELD

AND

METRO REAL ESTATE DEVELOPMENT CORP.

Dated: FEBRUARY ____, 2018

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PARKING GARAGE CONSTRUCTION AGREEMENT

THIS AGREEMENT (the "**Agreement**") is made this ____ day of February, 2018 (the "**Effective Date**"), by and between the **TOWNSHIP OF BLOOMFIELD**, a public body corporate and politic and a political subdivision of the State of New Jersey (the "**Township**"), and **METRO REAL ESTATE DEVELOPMENT CORP.**, a New Jersey corporation ("**Metro**") (The Township and Metro are each a "**Party**" and, together, the "**Parties**").

WITNESSETH:

WHEREAS, the New Jersey Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the "**Act**") authorizes municipalities to determine whether certain parcels of land in the municipality constitute areas in need of redevelopment; and

WHEREAS, the Act confers certain contract, planning and financial powers upon a redevelopment entity, as defined at Section 3 of the Act, in order to implement redevelopment plans adopted pursuant thereto; and

WHEREAS, the Township has elected to exercise these redeveloper powers directly, as permitted by Section 4 of the Act; and

WHEREAS, by resolution duly adopted on December 18, 2000, the Township designated a portion of the Township, consisting of the properties then identified as Block 220, Lot 40, Block 225, Lots 1 and 9, Block 227, Lots 1, 3, 5, 6, 8, 9, 10, 11, 12, 13, 15, 16, 17, 19, 20, 22, 24, 26, 30, 31, 32 and 35, Block 228, Lots 1, 4, 5, 7, 8, 10, 11, 13, 14, 15, 16, 17, 18, 19, 21, 24, 27, 28, 29, 30, 31, 33 and 35, and Block 243, Lots 1, 3, 4, 5, 6, 7, 8, 10, 11, 13, 15, 17, 18 and 20 on the Township's tax map (collectively, the "**Redevelopment Area**"), as an area in need of redevelopment pursuant to the Act; and

WHEREAS, by ordinance finally adopted on December 15, 2008, the Township approved and adopted a Redevelopment Plan for the redevelopment of the Redevelopment Area (the "**Redevelopment Plan**"); and

WHEREAS, on October 17, 2016, the municipal council of the Township (the "**Township Council**") adopted a resolution conditionally designating Metro as redeveloper of the portion of the Redevelopment Area known as Block 225, Lots 1 and 9 on the Township's tax map (now consolidated on October 30, 2017 into one new tax lot, known as Block 225, Lot 1 (the "**Redevelopment Project Site**"), subject to the successful negotiation of a redevelopment agreement; and

WHEREAS, Bloomfield Parking Authority (the "**Authority**") and Lackawanna Station Urban Renewal, LLC (the "**Redeveloper**"), an affiliate of Metro, entered into that certain Purchase and Sale Agreement, dated January 19, 2017 (the "**Purchase and Sale Agreement**"), providing for the conveyance of the Redevelopment Project Site to Redeveloper to enable the

redevelopment of the Redevelopment Project Site by constructing thereon a mixed use project consisting of: (i) a Farrand Garage with approximately 314 parking spaces (the "**Farrand Garage**"), (ii) approximately 176 residential units (the "**Residential Project**") and (iii) approximately 2,700 square feet of space to be owned by the Township for community benefit purposes (the "**Community Space**", and together with the Farrand Garage and the Project, collectively, the "**Redevelopment Project**"); and

WHEREAS, the Township and Redeveloper entered into that certain Redevelopment Agreement, dated February 13, 2017 (the "**Redevelopment Agreement**"), pursuant to which Redeveloper agreed to construct, or cause to be constructed, the Redevelopment Project on the Redevelopment Project Site; and

WHEREAS, on February 14, 2017, the Redeveloper and the Authority submitted an application to the Planning Board of the Township (the "**Planning Board**") for site plan approval in connection with the Redevelopment Project (the "**Planning Board Application**"); and

WHEREAS, after conducting public hearings relating to the Planning Board Application, the Planning Board granted site plan approval for the Redevelopment Project on May 9, 2017, and on June 13, 2017, the Planning Board adopted a resolution memorializing its findings and conclusions with respect to the Planning Board Application (the "**Final Site Plan**"); and

WHEREAS, the Township dissolved the Authority and assumed all of its assets, liabilities, rights and obligations, including without limitation all of the Authority's rights and obligations pursuant to the Purchase and Sale Agreement; and

WHEREAS, as successor to the Authority, the Township owns the Redevelopment Project Site; and

WHEREAS, the Farrand Garage will be available to serve the residents of the Residential Project as well as other permit holders with valid parking permits issued by the Township; and

WHEREAS, the Redevelopment Project Site will be divided to create a 3-unit condominium, or some similar structure, the components of which will be owned as follows: (i) the Township will own the unit or portion of the Redevelopment Project Site containing the Farrand Garage (the "**Farrand Garage Property**"); (ii) the Township will own the unit or portion of the Redevelopment Project Site containing the Community Space (the "**Community Space Property**"); and (iii) the Redeveloper will own the unit or portion of the Redevelopment Project Site containing the Residential Project (the "**Residential Property**"); and

WHEREAS, the Redevelopment Project is a "redevelopment project" as defined in the Act; and

WHEREAS, the Township desires to engage Metro to construct the Farrand Garage in accordance with the terms and conditions of this Agreement; and

WHEREAS, the Parties now desire to enter into this Agreement in order to set forth each Party's obligations, rights and responsibilities in connection with the construction of the Farrand Garage.

NOW, THEREFORE, in consideration of the respective covenants, conditions and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, it is agreed by and between the Parties as follows:

*

ARTICLE 1
GENERAL PROVISIONS

Section 1.1. Team Relationship. The Township and Metro agree to proceed with the Farrand Garage on the basis of trust, good faith and fair dealing, and shall take all actions reasonably necessary to perform as required under this Agreement in an economical and timely manner, including consideration of design modifications and alternative materials or equipment that will permit the Work (as defined herein) to be constructed for the Stipulated Sum by the Completion Date (as defined herein). Metro agrees to furnish the design, construction and administration of the Work. Metro accepts the relationship of trust and confidence established between Metro and the Township by this Agreement. Metro agrees to furnish the Work including efficient business administration and oversight and to cause the Farrand Garage to be completed in the soundest and most expeditious manner consistent with the mutual interests of the Parties.

Section 1.2. Definitions. In this Agreement, defined terms shall have the meaning assigned to such terms in the preambles hereto or as set forth below:

“**AAA**” is defined in Section 10.1(a).

“**Act**” shall have the meaning set forth in the Recitals.

“**Affiliate**” means, with respect to Metro, any other individual, corporation, partnership, joint venture, association, limited liability company, joint stock company, trust (including any beneficiary thereof) or incorporated organization controlling or controlled by or under common Control with Metro, its members, shareholders, officers or employees provided that, notwithstanding anything herein to the contrary, Affiliate shall not mean any entity that is Controlled or owned by Metro and to which Metro assigns this entire Agreement.

“**Agreement**” is defined in the preamble hereto.

“**Amendment No. 1**” means that certain amendment to this Agreement that the Parties expect to enter into in order to memorialize, among other things, the final Construction Documents, Work Schedule and the date for Substantial Completion.

“**Applicable Law**” means any statute, law, constitution, charter, ordinance, resolution, building code, judgment, order, decree, rule, regulation, directive, interpretation, standard or similarly binding authority which, in any case, shall be enacted, adopted, promulgated, issued or enforced by any Governmental Authority, and/or court of competent jurisdiction that relates to or affects the Parties or either of them, the Farrand Garage Property, the Farrand Garage, or any portion thereof, the performance by the Parties of their respective obligations or the exercise by the Parties of their respective rights under this Agreement, including without limitation, the Act.

“**Arbitration Rules**” is defined in Section 10.1(a).

“**Authority**” shall have the meaning set forth in the Recitals.

“Change in Law” means the enactment, promulgation, modification or repeal of or with respect to any Applicable Law subsequent to the Effective Date, which establishes requirements affecting performance by the Party relying thereon as a justification for its failure to perform any obligation under this Agreement which are materially more burdensome than and adversely inconsistent with the requirements which are applicable to the performance of such obligations as of the Effective Date. Actions or inactions of the Township shall not constitute a Change in Law giving rise to a suspension of any performance or other obligation of the Township under this Agreement.

“Change Order” means a written instrument, issued after execution of this Agreement, signed by the Township and Metro stating their agreement upon a change in the Work Schedule.

“Community Space” shall have the meaning set forth in the Recitals.

“Community Space Property” shall have the meaning set forth in the Recitals.

“Completion Date” means the date by which Substantial Completion shall have occurred.

“Construction Documents” means those documents that set forth in detail the requirements for construction of the Work, consisting of drawings and specifications based upon Applicable Law enacted at the time of their preparation.

“Construction Phase” means the phase of the Work during which the Construction Phase Services will be performed.

“Construction Phase Services” means those services described in Section 2.4.

“Contract Documents” means this Agreement, Amendment No. 1, any written amendments to this Agreement signed by the Township and the Redeveloper, the most current Design Documents and Construction Documents and Change Orders. In case of any inconsistency, conflict or ambiguity between any of the Contract Documents, the Contract Documents listed above shall govern in the following order: Change Orders, Construction Documents, Design Documents and this Agreement, as amended.

“Construction Documents” is defined in Section 2.2(a).

“Control” means the power to direct the management and policies of any entity, directly or indirectly, whether through ownership of voting securities, by contract or otherwise.

“Day” means a calendar day.

“Design Documents” means the documents to be prepared by or on behalf of Metro under Section 2.2(a) and supplied by Metro under Section 2.2(c), which documents shall be for the Farrand Garage in a manner consistent with the Township Program and shall include, but not

be limited to, drawings, sketches, diagrams and other images, site plan layouts, floor plans, elevations, grading plans, utility plans, stormwater and wastewater management plans, landscaping plans, construction code analyses, structural, mechanical and electrical systems analyses, lighting systems and fire protection systems.

“Design Phase Services” means those services described in Section 2.2.

“Dispute” is defined in Section 10.1(a).

“Effective Date” is defined in the preamble hereto.

“Environmental Laws” means all federal, state, regional, and local laws, statutes, ordinances, regulations, rules, codes, consent decrees, judicial or administrative orders or decrees, directives or judgments relating to environmental contamination, damage to or protection of the environment, environmental conditions, or the use, handling, processing, distribution, generation, treatment, storage, disposal, manufacture or transport of Hazardous Substances materials or wastes, including, but not limited to, the *Comprehensive Environmental Response, Compensation and Liability Act* (“CERCLA”) (42 U.S.C. §§ 9601-9675); the *Resource Conservation and Recovery Act of 1976* (“RCRA”) (42 U.S.C. §§ 6901, et seq.); the *Clean Water Act* (33 U.S.C. §§ 1251, et seq.); the *New Jersey Spill Compensation and Control Act* (the “Spill Act”) (N.J.S.A. 58:10-23.11, et seq.); the *Industrial Site Recovery Act*, as amended (“ISRA”) (N.J.S.A. 13:1K-6, et seq.); the *Site Remediation Reform Act*, (N.J.S.A. 58:10C-1 et seq.) (“SRRRA”) the *New Jersey Underground Storage of Hazardous Substances Act* (N.J.S.A. 58:10A-21, et seq.), the *New Jersey Water Pollution Control Act* (N.J.S.A. 58:10A-1 et seq.); the *New Jersey Environmental Rights Act* (N.J.S.A. 2A:35A-1, et seq.); and the rules and regulations promulgated thereunder.

“Escrow Account” means an account into which the Redeveloper shall deposit the Stipulated Sum (including the Residential Property Purchase Amount) and from which the Redeveloper shall pay for the Work, which account shall be governed by the terms of the Escrow Agreement. The Escrow Account may be held by the Redeveloper’s construction lender.

“Escrow Agent” means the entity holding the Escrow Account pursuant to the terms of the Escrow Agreement, which entity may be the Redeveloper’s construction lender.

“Escrow Agreement” means an agreement by and among the Redeveloper, Township and Escrow Agreement.

“Farrand Garage” shall have the meaning set forth in the Recitals.

“Farrand Garage Property” shall have the meaning set forth in the Recitals.

“Final Site Plan” shall have the meaning set forth in the Recitals.

†

“Governmental Approvals” means all necessary reviews, consents, permits or other approvals of any kind legally required by any Governmental Authority in order to construct the Farrand Garage.

“Governmental Authority” means the federal government, the State, any state or other political subdivision thereof, and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government and any other governmental entity with authority or jurisdiction over any part of the permitting, Remediation, construction or operation of the Farrand Garage or the Farrand Garage Property, or pursuant to Environmental Laws.

“Hazardous Material” means any element, compound, material, mixture, substance, chemical or waste that is listed as hazardous, toxic, a pollutant or contaminant, or dangerous in the Environmental Laws or under any applicable Governmental Authority statute, rule, regulation, ordinance or order.

“Metro” shall have the meaning set forth in the Preamble.

“Party” or **“Parties”** is defined in the preamble hereto.

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

“Planning Board Application” shall have the meaning set forth in the Recitals.

“Prevailing Wage Act” is defined in Section 2.10.

“Public Works Contractor Registration Act” is defined in Section 2.9(f).

“Purchase and Sale Agreement” shall have the meaning set forth in the Recitals.

“Redeveloper” shall have the meaning set forth in the Recitals.

“Redevelopment Agreement” shall have the meaning set forth in the Recitals.

“Redevelopment Area” shall have the meaning set forth in the Recitals.

“Redevelopment Plan” shall have the meaning set forth in the Recitals.

“Redevelopment Project” shall have the meaning set forth in the Recitals.

“Redevelopment Project Site” shall have the meaning set forth in the Recitals.

“Remediation” means the investigation, study, planning, design, clean-up, removal, containment, disposal, dispersal, treatment (including in-situ and ex-situ treatment), management, remediation, stabilization, neutralization of Hazardous Material required by Governmental Authority and/or pursuant to Environmental Laws which, subject to Section 2.5,

are required in order to construct the Farrand Garage, including, but not limited to any operations, maintenance, and monitoring activities that may be required after completion of the foregoing.

“Residential Project” shall have the meaning set forth in the Recitals.

“Residential Property” shall have the meaning set forth in the Recitals.

“Residential Property Purchase Amount” means \$3,500,000.00, including any deposit paid on account thereof by Redeveloper prior to the date of this Agreement.

“Retainage” means \$2,900,000.00.

“Stipulated Sum” means \$6,400,000.00, which payment shall be satisfied by the credit for the Residential Property Purchase Amount and the payment of the Retainage as more particularly set forth in Section 6.3.

“Subcontractor” means a person or entity that has an agreement with Metro to perform any portion of the Work.

“Substantial Completion” means the date when construction of the Farrand Garage Property is sufficiently complete in accordance with the Contract Documents so that the Township can occupy or utilize the Farrand Garage for the use for which it is intended notwithstanding a punch-list of items to be completed or connected. This date shall be confirmed by a certificate of Substantial Completion signed by the Township and Metro, which execution by either Party shall not be unreasonably withheld, delayed or conditioned. The certificate shall also list the items to be completed or corrected, and establish the time for their completion and correction. For purposes of clarity, Substantial Completion of the Farrand Garage Property shall be independent from the construction of the Residential Project or Community Space.

“Subsubcontractor” means a person or entity that has an agreement with a Subcontractor or to perform any portion of the Subcontractor’s Work.

“Township” is defined in the preamble hereto.

“Township Council” shall have the meaning set forth in the Recitals.

“Township Program” means the initial description of the Township’s objectives as set forth in Exhibit A.

“Township’s Representative” means an officer or employee of the Township as may be designated by the Township from time to time.

“Uncontrollable Circumstance” means the events or conditions set forth below, or any combination thereof, that has (have) had or may reasonably be expected to have a 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 any obligation or complying with any condition required of such Party under the terms of the Contract Documents:

(a) An act of God, such as severe natural conditions such as landslide, lightning strike, earthquake, flood, hurricane, blizzard, tornado or other severe weather conditions, severe sea conditions affecting delivery of materials or similar cataclysmic occurrence, nuclear catastrophe, an act of a public enemy, war, blockade, insurrection, riot, general unrest or general restraint of government and people; provided however, that any question as to whether any such conditions should be deemed to constitute an Uncontrollable Circumstance shall be considered in light of good engineering practice and industry standards to protect against reasonably foreseeable severe weather conditions (such as, but not limited to, seasonable temperature and precipitation), taking into account the geographic location and topographic and geotechnical conditions of the Farrand Garage Property.

(b) Change in Law.

(c) Action or inaction by any Governmental Authority which precludes or delays the Party relying thereon from performing its obligations under this Agreement; provided, however, that (i) such action or failure to act shall not be the result of the willful, intentional or negligent action or inaction of the Party relying thereon, (ii) neither the contesting of any action or failure to act, 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, (iii) such action, inaction, issuance, denial or suspension shall not be the result of the illegal or unlawful actions of the Party relying thereon, and/or (iv) decisions interpreting Federal, State and local tax laws that are generally applicable to all business taxpayers shall not constitute an Uncontrollable Circumstance under this Section (c).

(d) The suspension, termination, interruption, denial, failure of or delay in the renewal or issuance of any Governmental Approval; provided, however, that such suspension, termination, interruption, denial or failure of or delay in renewal or issuance shall not be the result of the willful, intentional or negligent action or inaction of the Party relying thereon and that neither the contesting of any such suspension, termination, interruption, denial or failure of renewal or issuance, in good faith, nor the reasonable failure to so contest (up to thirty (30) Days following such suspension, termination, interruption or failure of renewal or issuance) shall constitute or be construed as a willful, intentional or negligent action or inaction by such Party. Metro's failure to timely and substantially complete submission for a Governmental Approval or failure of Metro to agree to any reasonable condition to the issuance or renewal of such Governmental Approval shall not constitute an Uncontrollable Circumstance under this Section (d).

(e) The intentional or unintentional damage or destruction of the Farrand Garage or any portion thereof or of the Farrand Garage Property by any Subcontractor as long as Metro has implemented and complied with customary and reasonable security measures and has

maintained, or required of others to maintain, customary and reasonable insurance against the occurrence of such acts.

(f) Delay caused by or arising out of legal action or lawsuits filed to challenge the issuance or grant of any Governmental Approval, including, but not limited to, the Final Site Plan, or the implementation of the Work.

(g) Delay caused by or arising out of the inability of any Subcontractor or materials supplier to make timely delivery of materials or long-lead items due to strike, labor unrest, national emergency or generally recognized materials shortage, or other delays in the industry.

The Parties acknowledge that the acts, events or conditions set forth in Sections (a) through (g) of this definition are intended to be the only acts, events or conditions which may (upon satisfaction of the criteria set forth above) constitute an Uncontrollable Circumstance.

“Work” means with regard to the Farrand Garage only, the Design Phase Services, the Construction Phase Services and the Remediation, including but not limited to all labor, materials, equipment and services provided by Metro, the Subcontractors, Subsubcontractors, material suppliers, and any other entity for whom Metro is responsible pursuant to this Agreement.

“Work Schedule” is defined in Section 2.2(b).

Section 1.3. Exhibits Incorporated. All Exhibits referred to in this Agreement and attached hereto are incorporated herein and made a part hereof.

Section 1.4. Interpretation and Construction. In this Agreement, unless the context otherwise requires:

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

(b) All references to Articles, Sections or Exhibits shall, unless otherwise indicated, refer to the Articles, Sections or Exhibits in this Agreement.

(c) 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.

(d) 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.

(e) All notices to be given hereunder and responses thereto shall be given, unless a certain number of Days is specified, within a reasonable time.

(f) Unless otherwise indicated, any "fees and expenses" shall be required to be customary and reasonable.

ARTICLE 2 METRO'S RESPONSIBILITIES

Section 2.1. Metro General Responsibilities. Metro shall be responsible for the Work consistent with the Contract Documents as may be modified by mutual agreement, in writing signed by Metro and the Township, during the course of the Work pursuant hereto. Metro shall exercise reasonable skill and judgment in the performance of the Work. Metro shall cause the Work to be performed in accordance with all Applicable Law.

Section 2.2. Design Phase Services.

(a) At the times required by this Section 2.2, Metro shall cause the preparation and completion of "**Design Documents**" and "**Construction Documents**", sufficient to enable Metro to provide the Township with proposed Amendment No. 1 and complete the Farrand Garage.

(b) Metro shall prepare a schedule of the Work (the "**Work Schedule**"), which shows (1) the activities of the Township and Metro necessary to meet the Township's completion requirements, (2) the dates by which Metro expects such activities to be completed, including the dates for the start and completion of the various stages of the construction including the Completion Date, and (3) the dates when information and approvals are required from the Township.

(c) Metro shall use commercially reasonable efforts to supply the Design Documents to the Township within sixty (60) Days of the Effective Date. The Township Representative shall approve or suggest changes to the Design Documents within thirty (30) Days of the Township's receipt thereof.

(d) Metro shall submit, for the Township Representative's written approval, Construction Documents based on the approved Design Documents within ninety (90) Days of the Township Representative's approval of the Design Documents. The Township Representative shall approve, or suggest changes to, such Construction Documents within forty five (45) Days of the receipt thereof.

(e) Three (3) sets of the Construction Documents shall be furnished to the Township prior to commencement of construction of the Farrand Garage. All Contract Documents shall be the property of the Township. The Township shall have the right, without Metro's agreement and without further compensation to Metro, to utilize the Contract Documents for any purpose in the event this Agreement is terminated; provided, however, that Metro shall have no liability in connection with the use of the Contract Documents by the Township and the Township shall hold Metro harmless with respect to such use; and further provided, however, that the Township

has paid all costs related to Metro's provision of the Design Phase Services incurred as of the date of the termination of this Agreement.

(f) Metro reserves the right to meet the obligations described herein and submit documents to the Township for review prior to the deadline set forth herein. The Township agrees to respond to Metro upon the earlier of the Township's completion of its review of the applicable documents or the date set forth herein. In the event that the Township Representative does not respond to Metro after (A) the applicable period set forth herein and (B) five (5) Days following its receipt of written notice from Metro, then the Township shall be deemed to have approved such request.

Section 2.3. Stipulated Sum and Amendment No. 1.

(a) The Stipulated Sum is not subject to modification for any reason.

(b) Within ninety (90) Days from Effective Date, Metro shall provide the Township with a proposed Amendment No. 1 which shall include:

(1) the proposed Construction Documents;

(2) the date of Substantial Completion;

(3) the Work Schedule;

(4) a list of all Subcontractors and Subsubcontractors to be retained by Metro pursuant to Article 4, together with a copy of the certificate of registration of each of said Subcontractors and Subsubcontractors, as required under the Public Works Contractor Registration Act;

(5) evidence of the deposit by the Redeveloper of an amount equal to the Stipulated Sum (including the Land Purchase Amount from the Township following receipt thereof from the Redeveloper) in the Escrow Agreement; and

(6) a performance bond in the amount of the Stipulated Sum and in the form approved by the Township.

(c) Metro shall meet with the Township Representative to review Amendment No. 1. In the event that the Township discovers any inconsistencies or inaccuracies in the information presented, the Township Representative shall promptly give written notice to Metro, who shall make appropriate adjustments to proposed Amendment No. 1.

(d) If the Township Representative does not accept proposed Amendment No. 1 in writing on or before the later to occur of (i) forty-five (45) Days from the Township's receipt of the proposed Amendment No. 1 or (ii) thirty (30) Days following the date of Metro's submittal of a revised Amendment No. 1 pursuant to Section 2.3(c), then the Parties shall use good faith efforts to negotiate modifications thereto.

Section 2.4. Construction Phase Services.

(a) The Construction Phase will commence in accordance with the Work Schedule, which shall be mutually agreed to by the Parties and set forth in Amendment No. 1.

(b) In order to complete the Work, Metro shall provide all necessary construction supervision, inspection, construction equipment, labor, materials, tools, and subcontracted items. During the construction of the Farrand Garage, Metro shall provide construction administration services that shall include the observation of construction Work for conformance to the drawings and specifications; processing of shop drawings, materials and product samples; reviewing the result of construction tests and inspections; handling of design and scope changes; project closeout; preparation of as-built record drawings and specifications; and preparation of the final punch list.

(c) Metro shall give all notices and comply with Applicable Law which governs the proper performance of the Work.

(d) Metro shall obtain all building and construction permits in accordance with the Design Documents and the Construction Documents on behalf of the Township necessary for the construction of the Farrand Garage. The Township will provide assistance to Metro in securing permits.

(e) Metro shall take necessary precautions for the safety of its employees in connection with the Farrand Garage, and shall comply with all applicable provisions of federal, state and municipal safety laws to prevent accidents or injury to persons on, about or adjacent to the Farrand Garage Property. Metro, directly or through its Subcontractors or Subsubcontractors, shall erect and properly maintain at all times, as required by the conditions and progress of the Work, necessary safeguards for the protection of workers and the public. Metro, however, shall not be responsible for the elimination or abatement of safety hazards created or otherwise resulting from Work at the Farrand Garage Property carried out by the Township or its employees, agents, separate contractors or tenants. The Township agrees to cause its employees, agents, separate contractors and tenants to abide by and fully adhere to all applicable provisions of federal, state and municipal safety laws and regulations. The above provision shall not relieve Subcontractors or Subsubcontractors of their responsibility for the safety of persons or property in the performance of their Work, nor for compliance with all Applicable Law.

(f) Metro shall keep such full and detailed accounts as may be necessary for proper financial management under this Agreement. The Township shall be afforded access to all Metro's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda and similar data relating to this Agreement upon reasonable notice during normal business hours at Metro's office. Metro shall preserve all such records for a period of three (3) years after the final payment or longer where required by Applicable Law.

(g) Metro shall provide monthly written reports to the Township on the progress of the Work.

(h) At all times, Metro shall maintain the site of the Work free from debris and waste materials resulting from the Work. At the completion of the Work, Metro shall remove from the premises all construction equipment, tools, surplus materials, waste materials and debris.

(i) Metro shall maintain, at the site for the Township, one record copy of all Construction Documents in good order and marked currently to record all changes made during construction. Upon completion of the Work, Metro shall deliver such documents to the Township.

(j) Metro shall provide sufficient, safe and proper facilities at all times for the inspection of the Work by the Township or its authorized representatives.

Section 2.5. Hazardous Material. Metro agrees that it will incorporate any Work necessary to comply with all applicable Environmental Laws and effectuate any required Remediation into the Construction Phase Services, including but not limited to any soil or underground storage tank removal and disposal (if necessary), and any laboratory testing in connection therewith. Metro shall be responsible for seeking and obtaining any Governmental Approvals necessary therefor. To the extent possible and permitted by the appropriate Governmental Authorities, Metro shall treat and use existing soils and other materials on site.

Section 2.6. Tax Exemption. In accordance with the Township's direction, an exemption is claimed for sales taxes and Metro, Subcontractors and all Subsubcontractors, shall obtain an exemption for such taxes. The Township agrees to defend, indemnify and hold Metro harmless from any liability, penalty, interest, fine, tax assessment, attorney's fees or other expense or cost incurred by Metro as a result of any action taken by Metro in accordance with the Township's direction.

Section 2.7. Warranties and Completion.

(a) Metro warrants that all materials and equipment furnished under the Construction Phase of this Agreement will be new unless otherwise specified, of good quality, in conformance with the Contract Documents, and free from defective workmanship and materials for three (3) years from the completion of the Farrand Garage. Warranties shall commence on the Completion Date. Metro agrees to correct all construction performed under this Agreement which proves to be defective in workmanship and materials as may be set forth with respect to specific warranties required by the Contract Documents. If required by Township, Metro shall furnish satisfactory evidence as to the kind and quality of materials and equipment furnished under this Agreement.

(b) Metro shall provide the Township with a maintenance bond for any and all defective conditions arising by reason of defective materials, work, or labor performed by Metro, Subcontractors or Subsubcontractors. The maintenance bond shall be approved by the Township Representative and shall be in an amount to be agreed upon by the parties. The maintenance bond shall be in effect for a period of one (1) year commencing from the Completion Date.

(c) Those products, equipment, systems or materials incorporated in the Work at the direction of or upon the specific request of the Township shall be covered exclusively by the warranty of the manufacturer. There are no warranties which extend beyond the description on the face thereof.

(d) Metro shall secure required certificates of inspection, testing or approval for the Farrand Garage and deliver them to the Township.

(e) Metro shall collect all written warranties and equipment manuals and deliver them to the Township.

(f) With the assistance of the Township's maintenance personnel, Metro shall direct the checkout of utilities and operations of systems and equipment for readiness, and assist in their initial start-up and testing.

(g) Metro shall serve or prepare to serve as an expert witness in connection with any proceeding, legal or otherwise, regarding the Farrand Garage.

(h) Metro shall deliver to the Township as-builts relating to the Work.

Section 2.8. Performance Bonds/Labor and Materials Bond.

(a) Pursuant to *N.J.S.A 2A:44-143 et seq.*, Metro shall provide a performance bond for construction and a labor materials payment bond to the Township equal to the Stipulated Sum. Such bonds shall be the security for performance of the Work, and the payment for furnished labor and supplies in the execution of Work under the Agreement. The bonds shall be provided by an insurance company approved by the Township Representative, and shall be in effect from the date of commencement of the Work to the date of final payment for the Work by the Township.

(b) Metro shall be responsible throughout the term of the Agreement for monitoring the financial condition of any surety company issuing bonds and for making inquiries no less often than annually to confirm that such surety company maintains at least the minimum rating agreed to by Township Representative. In the event the rating level of any surety, as agreed to by the Township Representative, falls below such minimum level, Metro shall promptly notify the Township of such event and shall promptly furnish a substitute or an additional bond of a surety company whose rating and other qualifications satisfy all of the above requirements, unless the Township Representative agrees in writing to accept an alternative method of assurance.

Section 2.9. Affirmative Action.

(a) During the term of the Agreement, Metro, Subcontractor(s) or Subsubcontractor(s) shall not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, sex, affectional or

sexual orientation. Metro, Subcontractor(s) or Subsubcontractor(s) shall take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Metro, Subcontractor(s) or Subsubcontractor(s) shall post in conspicuous places, available to employees and applicants for employment, notices to be setting forth the provisions of this nondiscrimination clause.

(b) Metro, Subcontractor(s), or Subsubcontractor(s) shall, where applicable, in all solicitations or advertisements for employees placed by or on behalf of Metro, Subcontractor(s) or Subsubcontractor(s) state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation.

(c) Metro, Subcontractor(s) or Subsubcontractor(s) shall, where applicable, send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising the labor union or workers' representative of Metro's commitments under the law and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) Metro, Subcontractor(s) or Subsubcontractor(s) shall comply with the regulations promulgated by the State Treasurer pursuant to P.L.1975, c.127, as amended and supplemented from time to time and the Americans with Disabilities Act.

(e) Metro, Subcontractor(s) and Subsubcontractor(s) shall attempt in good faith to employ minority and female workers consistent with the applicable employment goals prescribed by *N.J.A.C. 17:27-5.2*, promulgated by the State Treasurer pursuant to P.L.1975, c.127, as amended and supplemented from time to time or in accordance with a binding determination of the applicable county employment goals determined by the Affirmative Action Office pursuant to *N.J.A.C. 17:27-5.2* promulgated by the State Treasurer pursuant to P.L.1975, c.127, as amended and supplemented from time to time.

(f) In accordance with the provisions of the Public Works Contractor Registration Act (*N.J.S.A. 34:11-56.48 et seq.*) (the "**Public Works Contractor Registration Act**"), Metro shall require that each Subcontractor and Subsubcontractor represent that it has registered with the Contractor Registration Unit of the New Jersey Department of Labor and that is not prohibited from receiving a contract pursuant to *N.J.S.A. 34:11-56.38*.

Section 2.10 Prevailing Wage Act. Metro shall comply with the provisions of the New Jersey Prevailing Wage Act, P.L. 1963, c. 150, as amended and supplemented (the "**Prevailing Wage Act**"). Metro warrants that it is not listed or on record with the New Jersey Department of Labor for failure to pay prevailing wages in accordance with the Prevailing Wage Act nor shall Metro retain any Subcontractor or Subsubcontractor that is listed or on record with the New

Jersey Department of Labor for failure to pay prevailing wages in accordance with the Prevailing Wage Act.

ARTICLE 3 TOWNSHIP'S RESPONSIBILITIES

Section 3.1. Township's Responsibilities During Design Phase. The Township shall review, and timely approve or reject, the Design Documents, the Construction Documents, Amendment No. 1 and Change Orders as required herein.

Section 3.2. Township's Responsibilities During Construction Phase.

(a) If the Township becomes aware of any error, omission or failure to meet the requirements of the Contract Documents or any fault or defect in the Work, the Township shall give prompt written notice to Metro.

(b) The Township shall have no contractual obligations to Subcontractors, Subsubcontractors, or suppliers.

(c) The Township shall provide insurance for the Farrand Garage as provided in Article 8.

Section 3.3. Township Representative. The Township Representative:

(a) shall be fully acquainted with the Farrand Garage; and

(b) agrees to furnish the information and services required of the Township pursuant hereto so as not to delay the Work.

Section 3.4. Application Fees. In connection with any application or similar request for any Governmental Approval to which a fee, deposit or bond requirement, other than a performance bond or maintenance bond requirement, applies, the Township shall request that the applicable Governmental Authority waive such fee, deposit or bond requirement.

ARTICLE 4 SUBCONTRACTS

Section 4.1. Subcontractors and Subsubcontractors Generally. Work not performed by Metro with its own forces shall be performed by Subcontractors or Subsubcontractors.

Section 4.2 Management of Subcontractors and Subsubcontractors. Metro shall be responsible for the Subcontractors and Subsubcontractors with regard to the Farrand Garage, including but not limited to, management, supervision and coordination of their performance of the Work.

Section 4.3. Assignment of Subcontract or Subsubcontract Agreements. Metro shall provide for assignment of Subcontractor or Subsubcontractor agreements in the event that the Township terminates this Agreement for cause as provided in Section 9.1. Following such termination, the Township shall notify, in writing, those Subcontractors or Subsubcontractors whose assignments will be accepted, subject to the rights of sureties.

Section 4.4. Subcontractor and Subsubcontractor List.

(a) Metro shall provide a monthly list of all Subcontractors, Subsubcontractors and suppliers who are, or may be, entitled to file or record a construction lien claim on the Farrand Garage, including the amount owed to any such entities.

(b) All Subcontractors or Subsubcontractors with five (5) or more employees shall have an affirmative action plan in place and approved by the State Treasurer.

**ARTICLE 5
CONTRACT TIME**

Section 5.1. Commencement of the Work. The Work shall commence and proceed in accordance with the Work Schedule. Notwithstanding the foregoing, Metro shall not commence construction of the Work (other than Design Phase Services) prior to Township's and Metro's execution of Amendment No. 1.

Section 5.2. Time of the Essence. Time shall be of the essence of this Agreement.

Section 5.3. Delays in the Completion of the Work.

(a) If any delay by Metro in the progress of the Work is due to Uncontrollable Circumstance, the Work Schedule and/or Completion Date shall be modified.

(b) In the event delays to the Farrand Garage are encountered for any reason, the Parties agree to undertake reasonable steps to mitigate the effect of such delays.

**ARTICLE 6
COMPENSATION**

Section 6.1. Metro Compensation. The compensation to be paid by the Township to Metro under this Article 6 shall be limited to the Stipulated Sum.

Section 6.2. Initial Payment. Upon the closing on the sale of the Property (as defined in the Purchase and Sale Agreement) the Township shall pay to Metro, the Residential Property Purchase Amount, as a progress payment on account of the Work for deposit in the Escrow Account.

Section 6.3. Final Payment.

(a) Upon Substantial Completion of the Work, as certified by Metro and a licensed engineer to the Township and as approved by the Township, which approval shall not be unreasonably withheld, delayed or conditioned, the Township shall pay the Retainage to Metro. Such Retainage shall constitute the final payment. Before issuance of final payment, the Township may request satisfactory evidence that all payrolls, materials bills and other indebtedness connected with the Work have been paid or otherwise satisfied.

(b) In accepting final payment, Metro waives all claims except those previously made in writing and which remain unsettled.

ARTICLE 7 CHANGES IN THE WORK SCHEDULE

Section 7.1. Claims for Additional Time. For any claim for a modification of the Work Schedule, Metro shall give the Township written notice of the claim within ten (10) Days after the occurrence giving rise to the claim or within ten (10) Days after Metro first recognizes the condition giving rise to the claim, whichever is later. Any change in the Work Schedule resulting from such claim shall be authorized by Change Order.

Section 7.2. Emergencies. In any emergency affecting the safety of persons and/or property, Metro shall act, at its discretion, to prevent threatened damage, injury or loss. The Work Schedule shall be changed if required by any such emergency.

ARTICLE 8 INDEMNITY, INSURANCE AND WAIVER OF SUBROGATION

Section 8.1 Indemnity.

(a) To the fullest extent permitted by law, Metro shall defend, indemnify and hold the Township harmless from all claims for bodily injury and/or property damage (other than to the Work itself and other property insured under Section 8.5), including resulting loss of use that may arise from the performance of the Work, negligence, or acts of omission by Metro, Subcontractors, Subsubcontractors, professionals or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable. To the fullest extent permitted by law, Metro shall cause Subcontractors, Subsubcontractors and professionals to agree to indemnify the Township, and anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable and hold them harmless from all claims for bodily injury and/or property damage that may arise from such Subcontractors', Subsubcontractors', and such professionals' operations. Metro shall also cause Subcontractors, and Subsubcontractors to name the Township as an additional insured on their liability policies, on a primary basis for all ongoing and completed operations, and ensure that such liability policies include a waiver of subrogation against the Township. Such provisions shall be in a form satisfactory to the Township. Metro shall not be required to defend, indemnify or hold harmless the Township for any acts, omissions or negligence of the Township, the Township's employees, agents or separate contractors.

(b) To the fullest extent permitted by Law, the Township shall defend, indemnify and hold Metro, Redeveloper, Subcontractors, Subsubcontractors and professionals harmless from all claims for bodily injury and/or property damage that may arise from operations of any other contractor (other than the Metro, Redeveloper, any Subcontractors, any Subsubcontractors or any professional) with a contract with Township to perform Work under this Agreement. To the fullest extent permitted by law, Township shall cause any other such contractors to agree to indemnify the Metro, Redeveloper, Subcontractors, Subsubcontractors, professional and anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable and hold them harmless from all claims for bodily injury and/or property damage that may arise from such contractor's operations. The Township shall also cause such contractors to name Metro, the Redeveloper, Subcontractors, and Subsubcontractors as additional insureds on Metro's liability policies, on a primary basis for all ongoing and completed operations, and ensure that such liability policies include a waiver of subrogation against Metro, the Redeveloper, Subcontractors, and Subsubcontractors. Such provisions shall be in a form satisfactory to Metro and the Redeveloper. The Township or such contractors shall not be required to defend, indemnify or hold harmless Metro, the Redeveloper, Subcontractors and Subsubcontractors for any acts, omissions or negligence of Metro, the Redeveloper, Subcontractors and Subsubcontractors, or their employees or agents.

Section 8.2. Redeveloper's Liability Insurance.

(a) Metro shall obtain and maintain, or shall cause its Subcontractors to obtain and maintain, insurance coverage for the following claims which may arise out of Metro's operations under this Agreement, whether resulting from Metro's operations or by the operations of any Subcontractor, anyone in the employ of any of them, or by an individual or Redeveloper for whose acts they may be liable:

- (1) Claims under workers' compensation, disability and other employee benefit acts applicable to the Work;
- (2) Claims for damages because of bodily injury, occupational sickness, disease or death of Metro's employees;
- (3) Claims for damages because of bodily injury, sickness, disease or death of persons not employed by Metro;
- (4) Claims for damages from usual personal injury offenses;
- (5) Claims for damages because of destruction of tangible property, including resulting loss of use, except to the extent such destruction is or should be covered by the insurance outlined in Section 8.5;
- (6) Claims for damages because of bodily injury, death or property damage resulting from the use, maintenance or ownership of any motor vehicle; and

(7) To the extent normally insured in a commercial general liability policy, claims involving contractual liability applicable to Metro's obligations under Section 8.1(a).

(b) The insurance required by Section 8.2(a) shall be written for not less than the limits of liability set forth in **Exhibit B**.

(c) Commercial Liability Insurance may be arranged under a single policy for the full limits required or by a combination of underlying policies and an excess or umbrella liability policy.

(d) The policies shall contain a provision that coverage will not be cancelled or not renewed until at least thirty (30) Days' prior written notice has been given to the Township. Certificates of insurance showing required coverage to be in force shall be filed with the Township prior to commencement of the Work. The general liability and excess liability insurance policies maintained by Metro shall include an endorsement naming Township as additional insured.

(e) Products and completed operations insurance shall be maintained for a minimum period of at least one (1) year after either ninety (90) Days following the date of Substantial Completion or final payment, whichever is earlier.

Section 8.3 Professional Liability Insurance. The engineers that designed the Farrand Garage shall maintain professional liability insurance for claims arising from the negligent performance of professional services under this Agreement, which insurance shall be written for not less than \$10,000,000.00 per claim and \$20,000,000.00 in the aggregate with a deductible not to exceed \$100,000.00. These requirements shall be continued in effect for three (3) years after the date of Substantial Completion. If such engineer retains consultants for a portion of the design, their professional liability insurance coverage, including deductible amounts, shall be as set forth in this Section 8.3.

Section 8.4. Township's Liability Insurance. The Township shall be responsible for obtaining and maintaining its own liability insurance. Insurance for claims arising out of the performance of this Agreement may be purchased and maintained at the Township's discretion.

Section 8.5. Insurance to Protect Farrand Garage.

(a) The Township shall obtain and maintain property insurance in a form acceptable to Metro during construction of the entire Farrand Garage for the full cost of replacement at the time of any loss and including coverage for extra expenses and soft costs incurred as a result of a physical loss to the property. This insurance shall include as named insureds Metro. This insurance shall insure against all risk of physical loss or damage, including, but not limited to: fire and extended coverage, theft, vandalism, malicious mischief, transit, collapse, false work, temporary buildings, debris removal, flood, earth movement, testing, and damage resulting from defective design, workmanship or material. Such insurance shall insure, on a replacement cost basis, the building and all materials and equipment which are to become a permanent part of the building while on site, in transit, and/or stored off site. The Township shall increase limits of

coverage, if necessary, to reflect estimated replacement cost. The Township shall be responsible for any co-insurance penalties and deductibles.

(b) Upon Metro's request at any time, the Township shall provide Metro with a copy of all policies. Copies of any subsequent endorsements shall be furnished to Metro. Metro shall be given thirty (30) Days' notice of cancellation, non-renewal, or any endorsements restricting or reducing coverage. If Metro is damaged by failure of the Township to purchase or maintain property insurance or to so notify Metro, the Township shall bear all reasonable costs incurred by Metro arising from the damage.

Section 8.6. Waiver of Subrogation.

(a) The Township and Metro waive all rights against each other, and any of their respective employees, agents, consultants, Subcontractors and Subsubcontractors for damages caused by risks covered by insurance provided in Section 8.4 and Section 8.5 to the extent they are covered by that insurance, except such rights as they may have to the proceeds of such insurance held by the Township and Metro as trustees. Metro shall require similar waivers from all Subcontractors, and shall require each of them to include similar waivers in their subsubcontracts and consulting agreements.

(b) The Township waives subrogation against Metro, the Redeveloper, Subcontractors and Subsubcontractors on all property and consequential loss policies carried by the Township on adjacent properties and under property and consequential loss policies purchased for the Farrand Garage after its completion and waive all rights of recovery for any loss not covered by insurance.

(c) If the policies of insurance referred to in this Section require an endorsement to provide for continued coverage where there is a waiver of subrogation, the owners of such policies will cause them to be so endorsed.

ARTICLE 9

TERMINATION OF THE AGREEMENT AND TOWNSHIP'S RIGHT TO PERFORM REDEVELOPER'S RESPONSIBILITIES

Section 9.1. Township's Right to Perform Metro's Obligations and Termination by Township for Cause.

(a) If Metro, on more than one (1) occasion, fails to substantially perform any of its obligations under this Agreement, the Township may, after fourteen (14) Days' written notice, during which period Metro fails to perform such obligation, undertake to perform such obligations; provided, however, that such cure cannot be completed within fourteen (14) Days, notwithstanding Metro's reasonably diligent efforts to cure. Notwithstanding the foregoing, the Retainage shall be reduced by the cost to the Township of performing such obligations.

(b) Upon written notice to Metro and Metro's surety, if any, the Township may terminate this Agreement for any of the following reasons if they continue for more than

fourteen (14) Days after such notice; provided, however, that (i) no Dispute is ongoing with respect to the following; and (ii) such cure cannot be completed within fourteen (14) Days notwithstanding Metro's reasonably diligent efforts to cure; and further provided, however, that, after sixty (60) Days, the Township may terminate for the following events:

- (1) if Metro, on more than one (1) occasion, utilizes improper materials and/or inadequately skilled workers;
- (2) if Metro, on more than one (1) occasion, does not make proper payment to laborers, material suppliers or Subcontractors;
- (3) if Metro, on more than one (1) occasion, fails to abide by Applicable Law;
- (4) if Metro otherwise materially breaches this Agreement; or
- (5) if the Redeveloper's designation as the redeveloper of the Farrand Garage is terminated by the Township and/or the Redevelopment Agreement is terminated.

If Metro fails to cure within fourteen (14) Days of notice, the Township, without prejudice to any other right or remedy, may take possession of the site and complete the Work. In this event, Metro shall not have a right to further payment.

(c) If Metro files a petition under the Bankruptcy Code, this Agreement shall terminate if Metro or Metro's trustee rejects the Agreement or, if there has been a default, Metro is unable to give adequate assurance that Metro will perform as required by this Agreement or otherwise is unable to comply with the requirements for assuming this Agreement under the applicable provisions of the Bankruptcy Code.

(d) In the event the Township exercises its rights under Section 9.1(a), upon the request of Metro, the Township shall provide a detailed accounting of the cost incurred by the Township.

ARTICLE 10 DISPUTE RESOLUTION

Section 10.1. Disputes.

(a) Upon demand of any Party hereto, whether made before or after institution of any judicial proceeding, any claim or controversy arising out of, or relating to this Contract (a "Dispute") shall be resolved by binding arbitration conducted under and governed by the Commercial Financial Disputes Arbitration Rules (the "Arbitration Rules") of the American Arbitration Association (the "AAA") and the Federal Arbitration Act by a single arbitrator. Disputes may include, without limitation, tort claims, counterclaims, Disputes as to whether a matter is subject to arbitration, claims brought as class actions, or claims arising from documents

executed in the future. A judgment upon the award may be entered in any court having jurisdiction.

(b) All arbitration hearings shall be conducted in Essex County, New Jersey. A hearing shall begin within ninety (90) Days of demand for arbitration and all hearings shall be concluded within one hundred twenty (120) Days of demand for arbitration. These time limitations may not be extended unless a Party shows cause for extension and then for no more than a total of sixty (60) Days. The expedited procedures set forth in Rule 51 *et seq.* of the Arbitration Rules shall be applicable to claims of less than \$1,000,000. Arbitrators shall be licensed attorneys selected from the Commercial Financial Dispute Arbitration Panel of the AAA. The Parties do not waive Applicable Law except as provided herein.

(c) Notwithstanding the preceding binding arbitration provisions, the Parties agree to preserve, without diminution, certain remedies that any Party may exercise before or after arbitration proceedings are brought. The Parties shall have the right to proceed in any court of proper jurisdiction or by self-help to exercise or prosecute the following remedies as applicable: (i) all rights of self-help including peaceful occupation of real property and collection of rents, set-off, and peaceful possession of personal property; (ii) obtaining provisional or ancillary remedies including injunctive relief, sequestration, garnishment, attachment, appointment of receiver and filing an involuntary bankruptcy proceeding; and (iii) when applicable, a judgment by confession of judgment. Any claim or controversy with regard to the Parties' entitlement to such remedies is a Dispute.

(d) Each Party agrees that it shall not have a remedy of punitive or exemplary damages against the other in any Dispute and hereby waives any right or claim to punitive or exemplary damages it may have now or which may arise in the future in connection with any Dispute, whether the Dispute is resolved by arbitration or judicially.

(e) The Parties acknowledge that by agreeing to binding arbitration they have irrevocably waived any right they may have to a jury trial with regard to a Dispute.

ARTICLE 11 MISCELLANEOUS PROVISIONS

Section 11.1. Assignment. Neither the Township nor Metro shall assign their interest in this Agreement without the written consent of the other except as permitted in Section 11.9.

Section 11.2. Governing Law. This Agreement shall be governed by New Jersey law.

Section 11.3. Severability. The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision.

Section 11.4. No Waiver of Performance. The failure of either Party to insist, in any one or more instances, on the performance of any of the terms, covenants or conditions of this

Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, condition or right with respect to further performance.

Section 11.5. Titles. The title given to the Articles and Sections of this Agreement are for ease of reference only and shall not be relied upon or cited for any other purpose.

Section 11.6. Notices. All notices required by or relating to this Agreement shall be in writing and shall be personally delivered or transmitted by United States registered or certified mail, return receipt request, postage pre-paid, to the other respective Party at its address set forth below, or at such other address as such other Parties shall designate by notice. Notices to the Township shall be addressed to Township of Bloomfield, Town Hall, Bloomfield, New Jersey 07003, Attention: Business Administrator, with a copy to McManimon, Scotland & Baumann, L.L.C., 75 Livingston Avenue, Roseland, New Jersey 07068, Attention: Joseph P. Baumann, Jr., Esq. Notices to Metro shall be addressed to 2 Broad Street, Suite 400, Bloomfield, New Jersey 07003, Attention: William J. Colgan, with a copy to Stephen B. Pearlman, Esq., Pearlman & Miranda, 2 Broad Street, Suite 510, Bloomfield New Jersey 07003.

Section 11.7. Execution in Counterparts. This Agreement may be executed by the Parties in any number of separate counterparts, all of which, when delivered, shall together constitute one and the same agreement.

Section 11.8. Deadline Not a Business Day. Whenever this Agreement provides for a date, Day, or period of time on which or prior to which action or events are to occur or not occur, and if such date, Day or last Day of such period of time falls on a Saturday, Sunday, or legal holiday, then same shall be deemed to fall on the immediately following business Day.

Section 11.9. Successors and Assigns. This Agreement shall be binding upon the respective Parties hereto and their successors and assigns. The Township may, in its sole discretion, assign this Agreement to another public body. Metro may, in its sole discretion, assign this Agreement to any entity controlled by it upon providing Township of same with evidence of such Control. In addition, either Party may assign this Agreement with the consent of the other Party.

Section 11.10. Sole Agreement. This Agreement represents the entire and integrated agreement between the Parties with respect to the construction of the Farrand Garage by Metro for the Township, and supersedes all prior negotiations, representations or agreements, either written or oral.

Section 11.11. Amendments. This Agreement may be amended only by written instrument signed by both the Township and Metro.

**[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.
SIGNATURE PAGE FOLLOWS].**

**EXHIBIT A
TOWNSHIP PROGRAM**

THIS TOWNSHIP PROGRAM IS SUBJECT TO THE FINAL DESIGN, WHICH SHALL BE AGREED TO BY THE PARTIES AND INCLUDED IN AMENDMENT NO. 1.

Codes

NJUCC; BOCA Building Code Use Group S-2; Construction Type 2B; NFPA-13; IBC 2009; IRC 2009; NSPC 2009; IMC 2009; NEC 2008; NJAC 5:70 Uniform Fire Code; NJAC 5:23-7 Barrier Free Subcode

Bulk Standards

Proposed Total Area (all garage levels): 106,000 sf +/-

Proposed Height: Approximately 26 feet / two (2) stories.

Parking Space Distribution Per Level

To be agreed to by the Parties, provided that the total number of spaces shall be approximately 314 spaces.

Proposed Construction Materials to be agreed to by the Parties.

Proposed Systems and Access

Access to Residences: None.

Ventilation: Natural fresh air exchange via exterior wall openings.

Lighting: Adequate lighting will be provided for the parking areas, stairways, and the ingress/egress area.

Sprinklers: May be required in stairs and elevator shaft.

Utility Room: A utility room will be required for mechanical electrical equipment and sprinkler equipment, if any for the Farrand Garage. Such utility room is proposed to be located on the lowest parking level. However, the final location of the utility room shall be determined with the final design and included in Amendment No. 1.

Security: All hook-ups required for the implementation of panic buttons, alarms and video surveillance, which equipment shall be the responsibility of the Township.

Signage: To be agreed to by the Parties and paid for by the Township.

PARCS System: All hook-ups required for the implementation of the PARCS System. The PARCS System shall be the responsibility of the Township.

Construction Contract Documents/Management

Design Plans: Three (3) sets of design plans indicating materials, design details and other construction requirements, including construction staging, will be prepared.

Proposal Packages: Proposal packages will be prepared for the various construction elements composing the Farrand Garage such as foundations, pre-cast, and electrical.

**EXHIBIT B
INSURANCE REQUIREMENTS**

Commercial General Liability Insurance

Each Occurrence Limit	\$5,000,000
General Aggregate	\$5,000,000
Products/Completed Operations Aggregate	\$5,000,000
Personal and Advertising Injury Limits	\$5,000,000

Automobile Liability Insurance

Combined single limit Bodily Injury and Property Damage	\$3,000,000
	Each Occurrence
Or	
Bodily Injury	\$1,000,000
	Each Person
	\$3,000,000
	Each Occurrence
Property Damage	\$3,000,000
	Each Occurrence
<u>Redeveloper's Risk Insurance</u>	\$5,000,000

The limits required herein may be obtained through a combination of primary and excess liability insurance.

Master Deed

MASTER DEED
FOR
LACKAWANNA STATION CONDOMINIUM

RECORD AND RETURN TO:

Ashenfelter, Slous, Trembulak, McDonough, Golia & Trevenen, LLP
363 Bloomfield Avenue, Suite 2C
Montclair, New Jersey 07042

Prepared by: Laurence Slous, Esq.

MASTER DEED
FOR
LACKAWANNA STATION CONDOMINIUM

THIS MASTER DEED, dated as of this ____ day of _____, 2017, is made by LACKAWANNA STATION URBAN RENEWAL, LLC, a limited liability company of the State of New Jersey, having its principal office at 2 Broad Street, Suite 400, Bloomfield, New Jersey 07003 ("LSUR") and the TOWNSHIP OF BLOOMFIELD, a public body corporate and politic and a political subdivision of the State of New Jersey (the "Township", and together with LSUR, each a "Party", and collectively, the "Parties"). LSUR and the Township are hereinafter referred to jointly as "Sponsor".

WHEREAS, pursuant to that certain Contract for Sale of Real Estate, dated as of January 19, 2017, by and between the Bloomfield Parking Authority (the "Authority") and LSUR (the "Contract"), LSUR has the contractual right to acquire in the Township of Bloomfield, County of Essex, State of New Jersey the entirety of Block 225, Lots 1 and 9, as more particularly shown on the Township's municipal tax maps, and all as more particularly described by a metes and bounds description attached hereto as Exhibit A and made a part hereof (the "Land");

WHEREAS, the Township has dissolved the Authority and assumed all of its assets, liabilities, rights and obligations, including without limitation the Contract;

WHEREAS, after the date hereof, LSUR shall construct certain improvements on the Land consisting of (each as hereinafter defined) the Residential Unit, the Garage Unit, the Community Unit, and the Common Elements, all as are more particularly shown on that certain site plan attached hereto as Exhibit B and made a part hereof (such improvements are hereinafter collectively referred to as the "Development");

WHEREAS, it is the intention of Sponsor to cause the establishment of the Property (as hereinafter defined) as a three-unit commercial condominium, either simultaneously with or immediately after the closing contemplated under the Contract, pursuant to the provisions of the New Jersey Condominium Act, N.J.S.A.46:8B-1 et seq., under the name of Lackawanna Station Condominium (the "Condominium"); and

WHEREAS, from and after the establishment of the Property as a three-unit commercial condominium, Sponsor shall establish the Association (as hereinafter defined) for the administration, operation and management of the common affairs of the Condominium.

THEREFORE, WITNESSETH:

1. ESTABLISHMENT OF CONDOMINIUM. Sponsor does hereby submit, declare and establish, in accordance with N.J.S.A. 46:8B-1 et seq., the condominium form of ownership for the Property.

2. DEFINITIONS. For the purpose hereof, the following terms shall have the following meanings unless the context in which same is utilized clearly indicates otherwise:

"Association" shall mean Lackawanna Station Condominium Association, Inc., a New Jersey non-profit corporation, formed to administer, manage and operate the common affairs of the Owners (as hereinafter defined) of the Condominium and maintain, repair and replace the Common Elements (as hereinafter defined) of the Condominium as provided in the Condominium Documents (as hereinafter defined).

"Board" shall mean the Board of Trustees of the Association.

"Building" shall mean the enclosed structure containing the Units (as hereinafter defined) to be constructed upon the Land.

"By-Laws" shall mean the By-Laws of the Association, a copy of which document is attached hereto and made a part hereof as Exhibit C, together with all amendments or supplements thereto made after the date hereof.

"Certificate of Incorporation" shall mean the Certificate of Incorporation of the Association, a copy of which document is attached hereto and made a part hereof as Exhibit D, together with all amendments or supplements thereto made after the date hereof.

"Common Elements" shall have the meaning given to the same by Paragraph 5 hereof.

"Common Expense Assessments" or "Assessments" shall mean any interest, charge, cost, attorneys' fees, penalties and expenses levied by the Association and referred to in the Condominium Documents.

"Common Expenses" shall, subject to the provisions of Paragraphs 7 and 8 hereof, mean all those expenses incurred or assessed by the Association in the lawful performance of their respective duties and powers.

"Community Unit" means the Community Unit as more particularly described on Exhibit E-1 attached hereto (the "Community Unit Plans").

"Condominium" shall mean the Lackawanna Station Condominium which includes (a) the Land; (b) all improvements now or hereinafter constructed in, upon, over or through the Land, whether or not shown on any exhibit; and (c) all rights, privileges and appurtenances thereto belonging or appertaining.

"Condominium Act" shall mean the provisions of N.J.S.A.46:8B-1 et seq., and all applicable amendments and supplements thereto.

"Condominium Documents" shall collectively mean this Master Deed, the By-laws, the Rules and Regulations and the Certificate of Incorporation.

"Garage Unit" means the Garage Unit as more particularly described on Exhibit E-2 attached hereto (the "Garage Unit Plans").

"Hazardous Materials" shall mean any chemical, substance, waste, material, equipment or fixture defined as or deemed hazardous, toxic, a pollutant, a contaminant, or otherwise regulated under any environmental law, including but not limited to, petroleum and petroleum products, waste oil, halogenated and non-halogenated solvents, PCBs and asbestos.

"Institutional Lender" shall mean any bank, mortgage bank, insurance company, savings and loan association, trust company or other financial institution or pension fund, which is the record owner of a mortgage loan that encumbers any Unit.

"Lease" shall mean any agreement for the leasing or rental of any Unit of the Condominium, including any sublease.

"Legal Requirements" shall mean laws, orders, rules, regulations, by-laws, building codes, permits or approvals, orders, requirements and court decisions of any public authorities, courts or other governmental entities having competent jurisdiction.

"Master Deed" shall mean this instrument together with all amendments or supplements hereto.

"Owner" or "Unit Owner" shall mean and refer to those persons or entities in whom record title to any Unit is vested as shown in the records of the Essex County Clerk's Office, but notwithstanding any applicable theory of mortgage, shall not mean or refer to any mortgagee or trustee under a deed of trust unless and until such mortgagee or trustee has acquired title to any such Unit pursuant to foreclosure proceedings or any proceeding or transaction in lieu of foreclosure, nor shall the term Unit Owner refer to any lessee or tenant of a Unit Owner.

"Plans" shall mean, collectively, the Community Unit Plans, the Garage Unit Plans, and the Residential Unit Plans, each as more particularly described on Exhibits E-1, E-2, and E-3 attached hereto

"Property" shall mean the Land and all improvements now or hereafter constructed in, upon, over or through the Land.

"Residential Unit" means the Residential Unit as more particularly described on Exhibit E-3 attached hereto (the "Residential Unit Plans").

"Rules and Regulations" shall mean the Rules and Regulations attached hereto as Exhibit F, together with any and all additional rules and regulations of the Association promulgated pursuant to the By-Laws.

"Unit" shall mean a part of the Condominium designated and intended for independent ownership and use, as more specifically described in Paragraph 4 hereof; provided that Units shall not be deemed to include any part of the Common Elements. The Residential Unit, the Garage Unit and the Community Unit shall each be referred to herein as a Unit, and collectively, as the Units.

3. GENERAL DESCRIPTION OF CONDOMINIUM. On the date hereof, the Condominium includes the Residential Unit, the Garage Unit and the Community Unit, together with the Common Elements, and all rights, privileges and appurtenances thereto belonging or appertaining.

4. DESCRIPTION OF UNITS. The dimensions, area and location of the Residential Unit, the Garage Unit and the Community Unit, respectively, are specifically as shown on the Residential Unit Plans, the Garage Unit Plans, and the Community Unit Plans, respectively.

5. DESCRIPTION OF COMMON ELEMENTS.

(a) Common Elements. All appurtenances, facilities and other items that are not part of the Units and otherwise serve the Community Unit, the Garage Unit and/or the Residential Unit, respectively, shall comprise the Common Elements; provided, however, that in no event shall the Common Elements include any space that is solely accessible to or used exclusively by a particular Unit. The Common Elements include, by way of description, and not by way of limitation, the following items provided that they are not part of the Units and otherwise serve the Community Unit, the Garage Unit and/or the Residential Unit, respectively:

- (i) The Land;
- (ii) Any entrances, exits, hallways and other means of access or egress;
- (iii) All driveways, curbs and sidewalks constructed on the Property;
- (iv) Any utility connections, conduits, pipes, lines, meters and systems;
- (v) The foundations, footings, columns, girders, beams and supports;
- (vi) Exterior security lighting;
- (vii) Street-level lawns and landscaping; and
- (viii) All tangible personal property owned by the Association.

(b) Repairs or maintenance to Common Elements. Any repairs or maintenance of the Common Elements shall be the responsibility and right of the Association; provided, however, that any material changes to the façade of the Building shall require the unanimous consent of the Trustees (as such term is defined in the By-Laws), such consent not to be unreasonably withheld, conditioned or delayed.

6. ESTATE ACQUIRED; PERCENTAGE COMMON INTEREST.

(a) The Owner of each Unit shall have such an estate therein as may be required by grant, by purchase or by operation of law, including an estate in fee simple, and shall acquire, as an appurtenance thereto, an undivided percentage interest in the Common Elements of the Condominium as set forth in Exhibit G-1, which shall not be divisible from the Unit to which it appertains.

(b) The percentage interests set forth in Exhibit G-1 shall be used for the following purposes: (i) to allocate the division of proceeds, if any, resulting from casualty loss, any eminent domain proceedings, any common surplus of the Association, or from any other disposition of the Condominium property, and (ii) to apportion any other Assessment which the Board deems appropriate to apportion among Units.

(c) Notwithstanding the foregoing, the Parties acknowledge and agree that the Residential Unit Owner shall be responsible for one hundred percent (100%) of the annual Common Expense Assessments for all Units; provided, however, that the Common Expense Assessments relating to those specified items set forth on Exhibit G-2 shall be shared in accordance with the cost allocations set forth on said Exhibit G-2.

7. COMMON EXPENSE ASSESSMENTS. The amount of monies for Common Expenses of the Association and Assessments deemed necessary by the Board and the manner of expenditure thereof shall be a matter for the sole discretion of the Board.

(a) Common Expense Assessments shall be made for an annual period to be determined by the Board, payable in monthly installments due on the first day of each month.

(b) If the Board fails to recalculate the Common Expense Assessment on an annual basis as required, an Assessment shall be presumed to have been made in the amount equal to 105% of the prior year's Assessment, and any installments of such annual Assessment shall be due on the first day of each month until a new annual Common Expense Assessment is made.

(c) In the event the annual Common Expense Assessment proves to be insufficient, the Board may amend the budget and Assessment accordingly, provided that no provision in the Condominium Documents shall serve to prohibit or prevent the Board from exercising its sole discretion in imposing a lump sum Assessment against any or all of the Units in the case of any immediate need or emergency.

(d) Every Unit Owner, by acceptance of a deed or other conveyance of a Unit, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association such Common Expense Assessments contemplated herein or in the other Condominium Documents.

¶

(e) Upon request of a Unit Owner or Institutional Lender, the Association shall furnish a certificate in writing, signed by an officer of the Association, setting forth whether Common Expense Assessments have been paid for the Unit to which the Unit Owner holds title or in which the Institutional Lender holds an interest. Such certificate shall constitute conclusive evidence of the payment of any Common Expense Assessments therein stated to have been paid.

(f) No Unit Owner may waive or otherwise avoid liability for Common Expenses by non-use of the Common Elements.

(g) Assessments shall be a continuing lien upon the Unit against which they are made and the joint and several obligation of the Unit Owner at the time the Assessment fell due, and of each subsequent record Owner of such Unit, together with interest, late charges and costs of collection including reasonable attorneys' fees. Liens for unpaid Assessments may be foreclosed by suit brought by the Association in the same manner as a foreclosure of a mortgage on real property. Suits to recover money judgments for unpaid Assessments may be maintained without waiving the lien of the Association.

(h) If any balance is due to Unit Owners as a result of an overpayment of Assessments for the immediately preceding year, then such amount shall be applied by the Board against the next monthly Assessment payments due from Unit Owners hereunder.

(i) Unit Owners shall have the right to review the books and records of the Association, on notice, at such times and places as shall be determined by the Board from time to time.

8. UNIT MAINTENANCE: DAMAGE TO COMMON ELEMENTS.

(a) Unit Maintenance. Each Unit Owner shall be individually responsible for the proper maintenance and repair of its respective Unit, excluding any Common Elements, in a manner consistent with the standards and quality of similar first class mixed-use developments in the greater Essex County, New Jersey area and in accordance with applicable Legal Requirements. Each Unit Owner shall at all times (i.e., 24 hours/day, 7 days/week and 365 days/year) provide the other Unit Owner with an emergency contact available to address maintenance and repair issues, and shall provide current contact information for such emergency contact to any third party manager.

(b) Damage to Common Elements. If, due to the negligent act or omission of or misuse by a Unit Owner or its invitees, damage shall be caused to any of the Common Elements, or to a Unit owned by another Unit Owner, or maintenance, repairs or replacements shall be required which would otherwise be a Common Expense, the Unit Owner shall pay for such damage and be liable for any damages, liability, costs and expenses, including attorney's fees, caused by or arising out of such circumstances.

9. EASEMENTS. The following perpetual easements shall encumber the Property:

(a) Every Unit Owner shall have a non-exclusive easement in, upon, over, under across and through the Common Elements to keep, maintain, use, operate, repair and replace the Unit in its original position and in every subsequent position to which the Unit changes by reason of the gradual forces of nature and the elements;

(b) Every Unit Owner shall have an exclusive easement for the existence and continuance of any encroachment by the Unit upon any adjoining Unit or upon any Common Elements, now existing or which may come into existence hereafter as a result of construction, repair, shifting, settlement, movement of any portion of the Building or a Unit, or as a result of condemnation or eminent domain proceedings, so that any such encroachment may remain undisturbed so long as the Building stands;

(c) Every Unit Owner shall have a non-exclusive easement for ingress and egress to the Unit in, upon, over, across and through Common Elements;

(d) Every Unit Owner shall have an easement in common with other Unit Owners to use all pipes, wires, ducts, cables, conduits, public utility lines, cable and master antenna television, and other Common Elements located in any of the other Units and serving the Unit Owner's Unit;

(e) The foregoing rights of every Unit Owner in the Common Elements are subject to the right of the Association: (i) to promulgate Rules and Regulations for the use and enjoyment of the common property; and (ii) to suspend any and all of the enjoyment of the Common Elements and voting rights of any Unit Owner for any period during which any Assessment remains unpaid, or for any period during which any infraction of the Rules and Regulations continues, it being understood that any suspension for either nonpayment of any Assessment or a breach of the Rules and Regulations shall not constitute a waiver or discharge of the Unit Owner's obligation to pay the Assessment;

(f) The Association shall have a perpetual exclusive easement for the existence, continuance and maintenance of the Common Elements;

(g) The Association, its Board, manager or managing agent, shall have the perpetual and nonexclusive right of access to each Unit to remove any violations set forth in the Condominium Documents if such violations are affecting other Units or the Common Elements, and to perform any operations required in connection with the maintenance, repair or replacement of or to the Common Elements, or any equipment, facilities or fixtures affecting or serving other Units or the Common Elements accessible from the Unit, or for making emergency repairs necessary to prevent damage to the Common Elements or to any other Unit; provided that requests for entry into a Unit are made in advance to the Unit's Owner and that such entry is at a time reasonably convenient to such Unit Owner, however, in case of any emergency, such right of entry shall be immediate, whether the Unit Owner is present at the time or not;

(h) The Association, its Board, manager or managing agent, shall have a blanket, perpetual and non-exclusive easement in, upon, over, across and through the Common Elements for the purpose of the installation, maintenance, repair, and replacement of all sewer,

water, power and telephone pipes, lines, mains, conduits, poles, transformers, master television antennas or cable television facilities, and any and all other equipment or machinery necessary or incidental to the proper functioning of any utility systems serving the Property, which easement shall be for the benefit of any governmental agency or utility company or other entity which requires same for the purpose of furnishing one or more of the foregoing systems; and

(i) The Property shall be subject to any and all additional easements of record affecting the Property.

10. RESTRICTIONS. The Condominium, the Association, the Units, the Unit Owners and their respective heirs, personal representatives, successors, assigns, family, guests, permitted tenants, visitors, agents and invitees, are subject to the Condominium Documents, to all covenants, restrictions and easements of record, and to the following restrictions (as the same are applicable):

(a) The Units may be used for any lawful purpose, not otherwise prohibited by the terms and provisions of the Condominium Documents, or any other document affecting title to the Land, and any such use shall be subject to applicable Legal Requirements.

(b) No Unit Owner shall: (i) dump, flush, or in any way introduce any Hazardous Materials into the septic, sewage or other waste disposal system serving the Building; and in the event of any unpermitted introduction, at its sole cost and expense, such Unit Owner will promptly remedy any damage occasioned by the same; (ii) generate, store or use or dispose of Hazardous Materials in or on the Building, or dispose of Hazardous Materials from the Building into the air or to any other location, except to a properly approved disposal facility and then only in compliance with any and all Legal Requirements.

11. NO PARTITION. Subject to the provisions of the Condominium Documents and the Condominium Act, the Common Elements shall remain undivided. No Unit Owner shall bring any action for partition or division thereof. In addition, the undivided percentage interest in the Common Elements shall not be separated from the Unit to which it appertains and shall be deemed conveyed or encumbered with the Unit even though such interest is not expressly mentioned or described in the conveyance or other instrument.

12. COMPLIANCE BY OWNERS: ASSOCIATION MEMBERSHIP. Each Unit Owner shall comply with, and assume ownership or occupancy subject to, all Legal Requirements, the provisions of the Condominium Documents, and any other related documents, amendments or supplements and other documents referred to or described herein and therein. Failure to comply with any such provisions shall be grounds for injunctive relief for the Association and any Unit Owner, and for penalties and other available remedies at law or in equity. Upon acceptance of a deed to a Unit, the applicable Unit Owner shall automatically become a member of the Association and remain so as long as such Unit Owner holds legal title to such Unit. Membership in the Association shall be subject to all provisions of the Condominium Documents.

13. DAMAGE, DESTRUCTION OR CONDEMNATION. If the Building, any improvement, or the Common Elements, or any part thereof, is damaged or destroyed by fire, casualty or eminent domain, the repair, restoration or ultimate disposition of any funds or proceeds thereby created shall be in accordance with N.J.S.A.46:8B-24 and 25, respectively.

14. INSURANCE. Commencing no later than the issuance of the initial certificate of occupancy for any part of the Condominium, the Association shall obtain and maintain policies to provide:

(a) Property insurance with all risk coverage in an amount equal to the full replacement cost of the Building Shell, defined below. The policy shall include loss due to causes that are known as All Risk of Physical Loss or Damage (Special Form). This coverage is intended to cover the Building Shell and core, as well as such building systems and other improvements which are typically owned by the landlord in a rented commercial building (a so called plain vanilla shell, referred herein as the Building Shell). The policy shall provide a loss payable endorsement in favor of any designated Mortgagee of each Unit. Each Owner and the Association shall be loss payees as their interest may appear.

(b) Fidelity insurance to protect against dishonest acts on the part of officers, directors and employees and all other persons who handle or are responsible for handling funds of the Association. The Property Manager, if any, shall maintain fidelity insurance for its officers, employees and agents who handle or are responsible for handling funds of the Association. The policy shall have coverage limits of not less than the estimated maximum funds, including reserve funds, on hand during the policy term, but in no event less than three month's assessments plus reserve funds.

(c) Statutory workers compensation and employers liability insurance with limits of not less than \$1,000,000 each accident covering all employees of the Association.

(d) Directors and officers liability insurance with limits of not less than \$1,000,000 each claim insuring the officers and directors of the Association against losses arising from claims alleging wrongful acts made by such person while acting in their capacity as officer or director of the Association.

(e) Commercial general liability insurance for the Association and its Common Elements with limits of not less than \$1,000,000 each occurrence/\$2,000,000 aggregate covering third party claims alleging bodily injury, death or property damage.

(f) Non-owned and hired automobile liability insurance with limits of not less than \$1,000,000 each occurrence.

(g) Umbrella excess liability coverage with minimum limits of not less than \$5,000,000 each occurrence/aggregate in excess of the required employers liability, general liability and auto liability insurance above.

(h) All insurance shall be placed with insurers selected by LSUR (including the successors to LSUR by merger, consolidation or acquisitions of all or substantially all stock or assets), as long as LSUR is the owner of the Residential Unit and the terms of the insurance are commercially reasonable and competitive and otherwise comply with this Master Deed. If LSUR is not the Residential Unit Owner, the insurers shall be selected by the Board. The Board shall review the adequacy of the Association's insurance coverage not less than annually. All insurance shall be obtained from insurance carriers that are authorized to do business in the state where the Condominium is located and rated at least "A- VII" by A.M. Best. All policies shall provide that coverage will not be materially modified or cancelled without thirty (30) days written notice except (10) days for nonpayment of premium.

(i) The Association's policies shall provide primary insurance for the Association's assets and operations. Any other insurance maintained by a Unit Owner for its own account covering the same risk shall be excess and non-contributory of the Association insurance as described this section 14.

(j) The cost of insurance, including deductibles, shall be a Common Expense.

(k) The Association and each Unit Owner hereby waives any and all claims they may have against any other Unit Owner arising out of or in connection with damage to any improvements or other property owned by such person, or any loss of use arising out of the actions or omissions (other than intentional misconduct) of the Unit Owner, regardless of whether such claim results from the negligence or fault, but only to the extent the claim is covered by the property insurance maintained or required to be maintained by the Association pursuant to this Section 14. The foregoing waiver shall not apply to any liability which is not an insured risk under the property insurance which the Association is required to carry.

15. AMENDMENT. This Master Deed may be amended or supplemented at any time after the date hereof by a vote in person, by proxy or by signed ballot of members in good standing holding at least seventy-five percent (75%) of the percentage interests in the Common Elements. No amendment shall be effective until recorded in the Office of the Clerk of Essex County, New Jersey. In the alternative, an amendment may be made by an agreement, signed and acknowledged by all of the Unit Owners in the manner required for the execution of a deed, and such amendment shall be effective when recorded in the Office of the Clerk of Essex County, New Jersey.

16. ENFORCEMENT. Enforcement of this Master Deed shall be by any appropriate proceeding in law or equity in any court or administrative tribunal having jurisdiction against any person or persons, firm, government entity or corporation violating or attempting to violate or circumvent any provision, either to restrain or enjoin such violation or threatened violation or to recover damages, and against any Unit to enforce any lien created by or referred to in this Master Deed. Failure by the Association or any Unit Owner to enforce any provision herein contained for any period of time shall in no event be deemed a waiver or estoppel of the right to enforce such provision.

17. INVALIDITY; CONFLICT. The invalidity of any provision of the Condominium Documents shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of the Condominium Documents, and in such event, all of the other provisions of such documents shall continue in full force and as if such invalid provision had never been included therein. Anything to the contrary herein notwithstanding, if any provision of this Master Deed is in conflict with or contradiction of the By-laws or with the requirements of any law, then the requirements of law shall be deemed controlling in the first instance and thereafter, the provisions of this Master Deed shall control.

18. WAIVER. No provision contained in this Master Deed shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches that may occur.

19. GENDER. The use of one gender in this Master Deed shall be deemed to refer to the other gender and the use of the singular shall be deemed to refer to the plural, and vice versa, whenever the context so requires.

20. PROTECTIVE PROVISIONS FOR LENDERS.

(a) Notwithstanding anything to the contrary in the Condominium Documents, the prior written approval of all holders of a mortgage on a Unit is required for changes to the Master Deed relating to the following:

(i) The abandonment or termination of the Condominium, except for abandonment or termination provided by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain;

(ii) Any material amendment to the Condominium Documents, including, but not limited to, any amendment which would change the percentage interests of the Unit Owners;

(iii) The partitioning or subdivision of a Unit.

(b) Any lien the Association may have on any Unit for the payment of Common Expense Assessments attributable to such Unit is subordinate to the lien or equivalent security interest of any mortgage recorded prior to the date any such Common Expense Assessments become due.

(c) In the event of substantial damage to or destruction of any Unit or any part of the Common Elements, the holder of a mortgage on an affected Unit is entitled to timely written notice of any such damage or destruction. No Unit Owner or other party shall have priority over such holder with respect to distribution of insurance proceeds for such Unit.

(d) If any Unit or portion thereof, or the Common Elements or any portion thereof, is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then the holder of a mortgage on an

affected Unit is entitled to timely written notice of any such proceeding or proposed acquisition and no Unit Owner or other party shall have priority over such holder with respect to the distribution for such Unit of the proceeds of any award or settlement.

(e) If any holder of a mortgage on a Unit obtains title to the Unit as a result of foreclosure of the mortgage or acceptance of a deed in lieu of foreclosure, then such acquirer of title, successors and assigns, is not liable for the share of Common Expenses or Assessments pertaining to such Unit or chargeable to the former Unit Owner which became due prior to acquisition of title. Such unpaid share of Common Expenses and Assessments shall be deemed to be Common Expenses collectible from all of the remaining Unit Owners, including such acquirer, its successors and assigns.

21. EXHIBITS. Attached hereto and made a part hereof are the following exhibits:

- Exhibit A Metes and Bounds
- Exhibit B Site Plan
- Exhibit C By-laws
- Exhibit D Certificate of Incorporation
- Exhibit E-1 Community Unit Plans
- Exhibit E-2 Garage Unit Plans
- Exhibit E-3 Residential Unit Plans
- Exhibit F Rules and Regulations
- Exhibit G-1 Common Expense Assessments
- Exhibit G-2 Specified Common Expense Cost Allocations

[Signature page follows]

EXHIBIT A
METES AND BOUNDS

MSB Draft 11/3/17

EXHIBIT B

SITE PLAN

MSB Draft 11/3/17

EXHIBIT C

BY-LAWS

BYLAWS
OF
LACKAWANNA STATION CONDOMINIUM ASSOCIATION, INC.

ARTICLE I.
NATURE OF BYLAWS

SECTION 1.01. Purpose. These Bylaws are intended to govern the administration and management of the Lackawanna Station Condominium Association, Inc., a nonprofit corporation organized under Title 15A of the New Jersey Statutes, and to provide for the management, administration, utilization and maintenance of the Common Elements described in the Master Deed for the Lackawanna Station Condominium.

SECTION 1.02. Definitions. Unless the context clearly indicates otherwise, all definitions set forth in the Master Deed are incorporated herein by reference.

SECTION 1.03. Principal Office. The principal office of the Association shall be located as determined by the Board.

ARTICLE II.
MEMBERSHIP

SECTION 2.01. Members. Every Owner of any Unit shall automatically be a member of the Association; provided, however, that any person, firm, association, corporation or legal entity who holds an interest in a Unit merely as a security for the performance of any obligation (including but not limited to mortgagees or trustees under deeds of trust) shall not be a member of the Association.

SECTION 2.02. Member in Good Standing. A member shall be deemed to be in good standing if, and only if, (a) the member shall have fully paid all Assessments made or levied by the Association against the member and the member's Unit, including any and all interest, charges, costs, attorneys' fees, penalties and expenses; and (b) the member's voting rights and privileges have not been suspended by action of the Board. Any date set forth in these Bylaws or any resolution of the Board for determining good standing for voting purposes, as well as any related requirement which may be established by the Board, shall be deemed supplemental to and not in derogation of, the record date provisions of N.J.S. 15A: 5-7.

SECTION 2.03. Change of Membership. Change of membership in the Association shall be accomplished by recording in the Essex County Clerk's Office a deed establishing a record of title to a Unit. The membership of the prior Owner with respect to such Unit or part thereof shall be thereby automatically terminated.

SECTION 2.04. Rights of Membership. Every Owner shall have the right and privilege to use and enjoy the Common Elements and to assign such right and privilege to the Owner's family, guests, visitors, invitees, permitted tenants and occupants, subject to the provisions of the documents regarding this Condominium being executed and/or adopted

simultaneously with these Bylaws ("Condominium Documents"), and the rights of the Association: (a) to promulgate Rules and Regulations governing the use and enjoyment of Common Elements; (b) to suspend the use and enjoyment of Common Elements as set forth in Section 2.05 below; and (c) to dedicate or transfer all or part of the Common Elements.

SECTION 2.05. Suspension of Membership Rights and Privileges. Voting rights and privileges of any member may be suspended by the Board for any period during which any Assessments or portion thereof remain unpaid by the member. Such rights and privileges shall be restored upon payment of such Assessments, including any interest, charges, costs, attorneys' fees, penalties and expenses levied by the Association by cash, money order, or certified or collected funds; provided, however, that a member shall be entitled to participate in an upcoming vote only if such overdue payment is received by the Association at least five (5) days prior to a meeting at which a vote is to occur, or five (5) days prior to the date set for the counting of the votes, or five (5) days prior to the deadline for the return of ballots, unless otherwise decided by the Board. If a member is in violation of any Rules and Regulations or in violation of any covenant or restriction of the other Condominium Documents, the Board, in its discretion, may suspend any and all rights and privileges of the member for a period not to exceed thirty (30) days for any single violation, but if the violation is of a continuing nature, such rights and privileges may be suspended for a longer period, from time to time, or indefinitely, until such time as the violation is abated.

SECTION 2.06. Votes. Except as otherwise provided in the Master Deed, in matters requiring the vote of members, each member in good standing shall be entitled to cast one vote for each Unit to which the member holds title. Whenever any Unit is owned of record by other than one person, the several owners of such Unit shall (i) determine and designate which one of such owners shall be authorized and entitled to cast votes, execute instruments, and otherwise exercise as proxy the rights pertaining to such Unit, and (ii) notify the Trustees of such designation by a written notice signed by all of the record owners of such Unit.

ARTICLE III. MEETINGS OF MEMBERS

SECTION 3.01. Place of Meetings. All meetings of members of the Association shall be held at the principal office of the Association or at such other place as may be designated by the Board.

SECTION 3.02. Special Meetings. Special meetings of members may be called when so ordered by the Board or upon the written request of at least twenty-five percent (25%) of Association members in good standing. The notice of a special meeting shall state the purpose(s) of such meeting and the matter(s) proposed to be acted upon.

SECTION 3.03. Notice. Except as otherwise provided by law, notice of each regular and special meeting of members shall be given, not less than ten (10) days nor more than sixty (60) days before the date of the meeting, to each member in good standing. Such notice shall be sent to the last known address of such members, by personal delivery, first class mail, overnight mail or, if requested by a member, by telecopy or electronic mail. Except where expressly required by law, no publication of any notice of a meeting of members shall be

required. Such notice shall state the time, place and purpose(s) of the meeting. Notice of any meeting of members shall not be required to have been sent to any member who attends the meeting in person or by proxy or who submits a ballot by mail. Unless otherwise expressly required by law, notice of any adjourned meeting of the members shall not be required to be given if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken and the purpose and business of the adjourned meeting are the same as for the meeting originally called.

SECTION 3.04. Quorum. At each membership meeting, all members are required to constitute a quorum for the transaction of business. In the absence of a quorum, the members in good standing present in person, by majority vote, may adjourn the meeting from time to time, until a quorum shall be present or represented. At any such adjourned meeting at which a quorum may be present, any business may be transacted which may have been transacted at the meeting originally called.

SECTION 3.05. Voting. Except as otherwise required by the Condominium Documents and provided that a quorum is present, a unanimous vote of the members, present in person or by proxy, shall be required on those matters which are to be voted on by the membership.

ARTICLE IV. BOARD OF TRUSTEES

SECTION 4.01. Powers and Duties. The affairs of the Association shall be administered and supervised by the Board of Trustees (the "Board") which shall have all those powers granted to it by the Condominium Documents, and by law.

SECTION 4.02. Number. The Board shall consist of three (3) Trustees. The Owner of the Community Unit shall have the right to appoint one (1) Trustee, the Owner of the Garage Unit shall have the right to appoint one (1) Trustee, and the Owner of the Residential Unit shall have the right to appoint one (1) Trustee. In the event the Owner of the Community Unit and the Owner of the Garage Unit are the same, the same person may serve as Trustee for both Units.

SECTION 4.03. Term of Office. Trustees shall serve until removed by the Unit Owner having the right to appoint said Trustee.

SECTION 4.04. Meetings; Notice

(a) Meetings. Regular or special meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of the Trustees.

(b) Notice. Notice of regular and special meetings of the Board shall be given to each Trustee by telephone, personal delivery, first class mail, overnight mail or, if requested by a Trustee, by telecopy or electronic mail, at least three (3) business days prior to the day of the meeting. Notice of Board meetings shall state the time, place and purpose(s) of the meeting; provided that any business may be transacted at a regular meeting regardless of whether such business was set forth in the meeting notice as a purpose of the meeting. Any Trustee may, at

any time, waive notice of any meeting. Actual attendance by a Trustee at any meeting shall constitute a waiver of notice by the Trustee. If all Trustees are present, no notice shall be required and any business may be transacted at such a meeting.

SECTION 4.05. Voting; Quorum. Except as otherwise required by the Condominium Documents and provided that a quorum is present, a unanimous vote of the Board, present in person or by proxy, shall be required on those matters which are to be voted on by the membership. At each Board meeting, all members are required to constitute a quorum for the transaction of business. Any or all Trustees may participate in meeting of the Board by means of a conference telephone or any other means of communication by which all persons participating in the meeting of the Board are able to hear or otherwise communicate with each other.

SECTION 4.06. Approval. The transaction of any business or making of any decision at any meeting of Trustees shall constitute valid action by the Board if, either before or thereafter, every Trustee signs a written consent thereof. All such waivers, consents or approvals shall be in writing and filed with and placed in the minute book of the Association.

SECTION 4.07. Non-Waiver. All rights, duties, and privileges of the Board shall be deemed to be continuing and shall not be exhausted by any single act or series of acts. To the same extent, the failure by the Board to use or employ any remedy, right or privilege for any period of time shall not in any way preclude its exercise or use by the Board, nor shall any custom or practice bind the Board.

SECTION 4.08. Consent in Lieu of Meeting and Vote. Notwithstanding anything to the contrary contained in the Condominium Documents, the entire Board shall have the power to take action on any matter on which it is authorized to act, without the necessity of a formal meeting and vote, if all the Trustees entitled to act shall consent in writing to such action.

ARTICLE V.
POWERS AND DUTIES OF BOARD OF TRUSTEES

SECTION 5.01. Powers and Duties of the Board. The Board shall have, but not be limited to, the following powers and all other powers granted or necessarily implied in the Condominium Documents:

(a) To employ, by contract or otherwise, a manager or managing agent, or hire an independent contractor (referred to herein as the "manager"), to oversee, supervise and carry out the responsibilities of the Board. Such manager shall be compensated at the rate of 5% of aggregate costs in each annual Common Expense Budget (as hereinafter defined) approved by the Board, payable monthly. Unless and until the Residential Unit Owner materially breaches the management agreement to be executed between the Unit Owners and such breach continues after proper notice and beyond applicable cure periods, the Residential Unit Owner or its designee shall remain manager of the Property.

(b) To employ any person, firm or corporation to repair and maintain the Common Elements;

(c) To employ professional counsel and to obtain advice from persons, firms or corporations such as, but not limited to, landscape architects, recreation experts, architects, engineers, planners, biologists, attorneys and accountants;

(d) To employ or contract for water, sewer, electricity and gas or other forms of utilities, cable or master antenna television, painting, cleaning, building, repairing, renovating, remodeling;

(e) To employ all personnel necessary for the efficient discharge of the duties of the Board hereunder;

(f) To adopt, enforce and amend Rules and Regulations relating to the operation, use, maintenance and enjoyment of the Units and Common Elements;

(g) To enforce obligations of the Unit Owners and do anything and everything else necessary and proper for the sound management of the Condominium, including the right to bring lawsuits to enforce the terms, conditions and restrictions contained in the Condominium Documents;

(h) To place and keep in force all insurance coverages and limits required to be maintained by the Association, applicable to its property and members, including but not limited to the following:

(1) Physical Damage Insurance. Broad form insurance against loss by fire and against loss by lightning, windstorm and other risks normally included within extended coverage, insuring all improvements existing on the Common Elements, together with all service machinery appurtenant thereto, and covering the interest of the Association, the Board, and all Unit Owner-members and holders of Permitted Mortgages as their interests may appear, in an amount equal to the full replacement value of such improvements without deduction for depreciation. Each policy shall contain a standard mortgagee clause in favor of each holder of a Permitted Mortgage, which shall provide that the loss, if any, thereunder shall be payable to each such holder as its interests may appear. Prior to obtaining any policy of fire insurance or any renewal thereof, the Board shall obtain a qualified appraisal of the full replacement value of the Units and the Common Elements and the improvements located thereon, without determining the amount of fire insurance to be effected pursuant to this Section. Until the first meeting of the Board following the first annual meeting, such physical damage insurance shall be in an amount not less than \$1,000,000.00.

(2) Public Liability Insurance. To the extent obtainable, public liability insurance for personal injury and death from accidents occurring within the Common Elements, and the defense of any actions brought by reason of any injury or death of a person or damage to property, occurring within the Common Elements, and not arising by reason of any act or negligence of any individual member. Such insurance shall be in such limits as the Board may, from time to time, determine covering each Trustee, the manager and each member, and shall also cover cross liability claims of one insured against another. The Board shall review such limits at least once a year. Until the first meeting of the Board following the first annual

meeting, such public liability insurance shall be in an amount not less than \$500,000.00 for claims for bodily injury, death and/or property damage in any one occurrence.

(3) Workers' Compensation Insurance. As required by law.

(4) Other Insurance. Such other insurance as the Board may determine from time to time; provided that Owners shall not be prohibited from carrying insurance for their own benefit provided that all such policies shall contain waivers of subrogation and provided that the liability of carriers issuing insurance obtained by the Board shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner.

(i) To manage the fiscal affairs of the Association as provided in the Condominium Documents; and

(j) To borrow and repay monies giving notes, mortgages or other security upon such term or terms as the Board deems necessary; and

(k) To invest and reinvest monies, sue and be sued; collect interest, dividends, and capital gains; exercise rights; pay taxes; make and enter into contracts; enter into leases or concessions; make and execute any and all proper affidavits for various purposes; compromise any action; and to exercise all other powers necessary and incidental thereto; and

(l) To grant and obtain easements, licenses and other property rights with respect to contiguous lands; and

(m) To purchase or lease or otherwise acquire in the name of the Association or its designees, corporate or otherwise, on behalf of all members, Units offered for sale or lease or surrendered by their Owners to the Board; and

(n) To purchase Units within the Condominium at foreclosure or other judicial sales in the name of the Association or its designees, corporate or otherwise, on behalf of all members;

(o) To sell, lease, mortgage (but not vote the votes appurtenant thereto) or otherwise deal with Units acquired by the Association, and sublease any such Units leased by the Association or its designees, on behalf of all members; and

(p) To bring and defend actions and proceedings which are pertinent to the Condominium or the health, safety or general welfare of the Unit Owners; and

(q) To appoint an insurance Trustee, who shall not be a member of the Association or the manager, who shall discharge duties in accordance with these Bylaws; provided that, in the absence of such an appointment, the Board shall be responsible for the disposition of all insurance proceeds; and

(r) To create, appoint members to, remove members of, designate duties of, and disband such committees as shall, from time to time, be deemed appropriate or necessary to aid the Board in the discharge of its duties, functions and powers.

ARTICLE VI.
FISCAL MANAGEMENT

SECTION 6.01. Fiscal Year. The fiscal year of the Association shall be the calendar year, unless otherwise decided by the Board.

SECTION 6.02. Budget; Common Expense Assessments. The Board shall prepare an annual Common Expense budget (the "Common Expense Budget") that shall estimate the anticipated revenues, operating expenditures and repair and replacement reserves requirements for the following fiscal year of the Association. The Board shall have the duty to collect from each member and the member's heirs, administrators, successors and assigns, as Annual Common Expense Assessments, a proportionate part of the annual Common Expenses assessed against each Unit as provided in the Condominium Documents.

SECTION 6.03. Disbursements. The Board shall take and hold the funds as collected and shall disburse the same for the purposes and in the manner set forth herein and as required by the Condominium Documents.

SECTION 6.04. Depositories. The depositories of the Association shall be such bank or banks as shall be designated from time to time by the Board and in which the monies of the Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by such parties as are authorized by the Board, provided that a management agreement may include among its provisions, authority for the manager to sign checks on behalf of the Association for payment of the obligations of the Association.

SECTION 6.05. Accounts.

(a) Receipts and expenditures of the Association shall be Assessments and Common Expenses respectively, and shall be credited and charged to accounts under the following classifications as the Board shall deem appropriate:

(1) Current expenses, which shall include expenditures within the year for which the budget is made, including a reasonable allowance for contingencies and working funds, except expenditures chargeable to reserves, or to additional improvements, or to operations. Any surplus balance of this fund at the end of each fiscal year may be applied to reduce Assessments for current expenses for the succeeding year, transferred to any reserve account(s), or distributed to the membership in the same manner as assessed, as the Board shall determine from time to time.

(2) Reserve for deferred maintenance, which shall include funds for maintenance items that occur less frequently than annually.

(3) Reserve for replacement, which shall include funds for repair or replacement of Common Elements or other facilities and of the Association required because of

damage, depreciation or obsolescence, and which shall be allocated among each of the separate categories of replacement items.

(4) Reserve for capital improvements, which shall include the funds to be used for capital expenditures for additional improvements or additional personal property that will be part of the Common Elements.

(5) Operations, which shall include any gross revenues from the use of the Common Elements or from any other sources. Only the additional direct expense required by any revenue producing operation will be charged to this account, and any surplus from any operation or otherwise may be used to reduce the Assessments for current expenses for any year, or transferred to any reserve account(s), as the Board shall determine. Losses from operations or otherwise may be offset by Special Assessments, which Special Assessments may be made in advance to provide a working fund.

(b) The Board shall not be required to physically segregate the funds held in the above accounts, but may, in its sole discretion, maintain the funds in one or more consolidated accounts. As to each consolidated account, the division into the various accounts set forth above need be made only on the Association's records.

SECTION 6.06. Reserves. The Board shall not be obligated to expend all of the revenues collected in any accounting period, and may maintain reasonable reserves for, among other things, repairs, replacements, emergencies, contingencies of bad weather or uncollected accounts.

SECTION 6.07. Acceleration of Assessment Installment upon Default. If a member is in default in the payment of an installment of any Assessment, the Board may accelerate the remaining installments of the Assessment and the remaining amounts due for the balance of the fiscal or calendar year, upon written notice to the member, and the then unpaid balance of the Assessment shall come due upon the date stated in the notice, but not less than five (5) days after delivery of notice to the member, or not less than ten (10) days after the mailing of such notice to the member by registered or certified mail, whichever shall first occur.

SECTION 6.08. Lien. If a member is in default in the payment of any Assessment, or portion thereof, and such default shall continue for a period of thirty (30) days after reasonable notice and cure periods as determined by the Board from time to time, the Board shall be obligated to: (a) accelerate any and all remaining installments of the Assessment in accordance with Section 6.07; (b) record a claim of lien for such accelerated Assessment amount in accordance with the applicable provision of the New Jersey Condominium Act; and (c) notify any holder of a Permitted Mortgage on the affected Unit. If the default continues for a period of ninety (90) days after the recording of the claim of lien, then the Board may foreclose its lien pursuant to law and/or commence a suit against the appropriate parties to collect the amounts due.

SECTION 6.09. Late Charges, Interest and Legal Fees. The Board, at its option, shall have the right to impose a late charge and/or interest at the legal maximum rate, if any Assessment is not paid when due. If the Board uses legal or other professional assistance for

collection purposes, the Board may also add to the Assessment due, a charge for the fees of the attorneys and other professionals, in addition to collection costs such as, without limitation, the costs of recording a claim of lien and any related amendments and discharge of lien.

SECTION 6.10. Assessment of Expenses for Actions and Proceedings; Allocation of Awards.

(a) Common Expenses. In the case of any litigation, arbitration, administrative or other action or proceeding brought or defended by the Association pursuant to the provisions of the Condominium Documents, the reasonable costs and expenses of preparation, prosecution and defense, including attorneys' and experts' fees, shall be Common Expenses. All Common Expense Assessments received and to be received by the Board, for the purpose of paying any judgment against the Association or the Board, and the right to receive such funds, shall constitute trust funds and the same shall be expended first for such purpose before expending any portion thereof for any other purpose.

(b) Allocation of Awards. Money judgments recovered by the Association in any such action or proceeding, including costs, penalties or damages, shall be deemed a special fund to be applied to (1) the payment of unpaid expenses related to the action or proceeding; (2) Common Expense Assessments, if the recovery thereof was the purpose of the action or proceeding; (3) repair or reconstruction of the Common Elements if recovery of damages to same was the purpose for the action or proceeding; and (4) any amount not applied to (1), (2) and (3) above shall, at the discretion of the Board, be treated either as (a) a common surplus which shall be allocated and distributed pursuant to the provisions of Article 6 of the Master Deed or (b) a set-off against the Common Expense Assessments generally.

(c) Recovery by Member. In the event that any member(s) succeeds in obtaining a judgment or order against the Association or the Board, then in addition to any other sums to which said Owner(s) would otherwise be entitled by such judgment or order, the member(s) shall also be entitled to the restitution or recovery of any amounts paid to the Board as Common Expense Assessments for expenses relating to such action or proceeding.

SECTION 6.11. Examination of Books and Records. Each member shall be permitted to examine the books and records of the Association at a reasonable time on business days.

SECTION 6.12. Fidelity Bonds. The Board may require fidelity bonds from any and all persons handling or responsible for Association funds. The Board shall determine the amount of any such bonds. The Association shall pay the premium on such bonds.

**ARTICLE VII.
OFFICERS**

SECTION 7.01. Designation. The Association shall have the right to designate officers of the Association.

SECTION 7.02. Removal. Upon vote of Trustees representing no less than [fifty-one percent (51%)] of the relative percentage interests in the Common Elements, any officer may be removed, with or without cause, after opportunity for a hearing, and a successor elected.

SECTION 7.03. Eligibility of Trustees. Nothing herein contained shall prohibit a Trustee from being an officer.

ARTICLE VIII.
COMPENSATION, INDEMNIFICATION AND EXCULPABILITY

SECTION 8.01. Compensation. No compensation shall be paid to any officer, Trustee, or committee member of the Association.

SECTION 8.02. Indemnification. Each Trustee, officer or committee member of the Association shall be indemnified by the Association against the actual amount of net loss, including counsel fees, reasonably incurred by or imposed upon the Trustee, officer or committee member in connection with any action, suit or proceeding to which the Trustee, officer or committee member may be made a party by reason of being or having been a Trustee, officer or committee member of the Association, except as to matters as to which the Trustee, officer or committee member shall be finally found in such action to be liable for gross negligence or willful misconduct. The fiduciary responsibilities to the Association are the same as any other director/trustee of a corporation and cannot be disclaimed, except to the minimum extent required by law, sponsor appointed directors/trustees shall be held harmless and indemnified by the Association for their actions on behalf of the Association in their capacity as directors/trustees. In the event of a settlement of any such case, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Association is advised by legal counsel that the person to be indemnified had not been guilty of gross negligence or willful misconduct.

SECTION 8.03. Exculpation. Neither the Board as a body nor any Trustee, officer or committee member, if any, of the Association, nor the delegates of any of them, shall under any circumstances or in any event be held liable or accountable out of such Trustee's personal assets by reason of any action taken, suffered or omitted in good faith, by reason of anything except such Trustee's own personal and willful malfeasance.

ARTICLE IX.
ADDITIONS, ALTERATIONS OR IMPROVEMENTS

SECTION 9.01. Additions, Alterations or Improvements. In the event the Board proposes an addition, alteration or improvement of any of the Common Elements costing in excess of \$50,000.00, such addition, alteration or improvement shall not be made unless authorized by the vote in person, by proxy or by ballot of members in good standing holding at least [fifty-one percent (51%)] of the percentage interests in the Common Elements. If such approval is obtained, all Units shall be assessed for the cost thereof. In the event of an emergency that could cause damage to any of the Common Elements or Units, however, the Board may expend sums in excess of \$50,000.00 for an addition, alteration or improvement to

the Common Elements in order to protect any Common Element or Unit, and the determination of an emergency by the Board shall be final.

SECTION 9.02. Façade. Any material changes to the façade of the building in which the Community Unit, Garage Unit or Residential Unit form a part shall require the unanimous consent of the Trustees, such consent not to be unreasonably withheld, conditioned or delayed.

ARTICLE X. ENFORCEMENT

SECTION 10.01. Enforcement. In addition to its other enforcement rights and duties and remedies provided under the Condominium Documents and law, the Board shall have the power, at its sole option, to enforce the terms of the Condominium Documents by any or all of the following: sending notice to the offending party to cause certain things to be done or undone; restoring the Association to its original position and charging the breaching party with the entire cost or any part thereof; complaint to authorities having jurisdiction; taking action before any court or tribunal, summary or otherwise, as may be provided by law. Subject to the Condominium Documents, the Association may do all that it is legally entitled to do under the laws applicable to its form of organization.

SECTION 10.02. Fines. The Board shall also have the power to levy fines for violations of the Condominium Documents and each day a violation continues after notice shall be considered a separate violation. Fines imposed by the Board shall be deemed Assessments collectible as any other Assessment.

ARTICLE XI. AMENDMENTS

SECTION 11.01. Amendments. These Bylaws may be amended or repealed, or new Bylaws made, as authorized by the unanimous vote in person, by proxy or by ballot of members in good standing.

ARTICLE XII. CONFLICT; INVALIDITY

SECTION 12.01. Conflict. Anything to the contrary herein notwithstanding, if any provision of these Bylaws is in conflict with or contradiction of any of the other Condominium Documents or with the requirements of any law, then the requirements of the other Condominium Documents or law shall be deemed controlling.

SECTION 12.02. Invalidity. The invalidity of any provision of these Bylaws shall not impair or affect in any manner the enforceability or affect the validity of the remaining provisions of the Bylaws.

*

ARTICLE XIII.
NOTICE

SECTION 13.01. Notices. Except as otherwise expressly provided, any notice required to be sent to any Association member under the provisions of the Condominium Documents shall be deemed to have been properly sent and given, when mailed, by at least first class United States mail with postage prepaid, addressed to the Association member at the last known post office address of the member on the records of the Association at the time of such mailing. It shall be the obligation of every Association member to immediately notify the Association in writing of any change of address.

ARTICLE XIV.
CORPORATE SEAL

SECTION 14.01. Seal. The Association shall have a seal in circular form having within its circumference the words "Lackawanna Station Condominium Association, Inc."

ARTICLE XV.
DISPUTE RESOLUTION

SECTION 15.01. Alternative Dispute Resolution. Notwithstanding anything herein to the contrary, any Unit Owner (each, a "party") shall have the right to demand that any dispute arising out of this Agreement be submitted to "final offer" (aka "baseball style") arbitration, subject to the below rules:

(a) The party invoking arbitration shall be required to deliver a written notice (in each case, an "Arbitration Notice") to the other party containing a list of all issues the invoking party proposes to submit to arbitration, as well as that party's "final best offer" on each of those issues. Within five (5) days of receipt of an Arbitration Notice, the receiving party will notify the invoking party of any additional issues which the receiving party intends to include in the arbitration, as well as the receiving party's "final best offer" on the issues raised in the Arbitration Notice and such additional issues ("New Issues"). The original party will have five (5) days to reply to the New Issues with its final best offer. The issues listed in the Arbitration Notice and in such reply will be the only issues submitted to arbitration.

(b) The parties agree that they shall select a neutral arbitrator by utilizing the "Request for Arbitrator Select: List Only" service offered by the American Arbitration Association (the "AAA"). Pursuant to this service, the AAA acts as a referral source to identify arbitrators to serve on arbitration cases; the AAA provides a list of arbitrators and has no involvement past the point of arbitrator selection.

(c) Simultaneously with the invoking party's delivery of an Arbitration Notice to the other party, the invoking party shall complete the "AAA Request for Arbitration Select: List Only Form", including the selection of five (5) arbitrators to be provided, and submit it to the AAA, together with the non-refundable fee of \$750.00 made payable to the AAA, at the AAA Regional Office at 120 Broadway, 11th Floor, New York, New York 10271. The party

invoking arbitration shall also simultaneously deliver a copy of the completed form and check to the other party.

(d) Within one (1) day of receipt from the AAA of the list of five (5) arbitrators, the party receiving such list shall deliver a copy to the other party. Within five (5) days of the receipt of the AAA list of arbitrators, the parties shall each independently rank the prospective arbitrators, from 1 to 5, provided that each party shall have the right and option to disqualify one of the prospective arbitrators, in which case such party would rank the prospective arbitrators from 1 to 4. The parties will exchange with each other their ranked list of prospective arbitrators within five (5) days of the receipt of the AAA list of arbitrators, and on such day, either party shall contact the arbitrator with the lowest cumulative score in order to designate such party as the arbitrator for this matter. In the event that such arbitrator is for any reason unable to officiate, the next highest-ranked candidate will be immediately selected, and so on. In the event of a tie, the arbitrator with the lowest rank (i.e., Number 1) selected by the non-invoking party shall be designated as the arbitrator for this matter. The selection of the neutral arbitrator will be binding on the parties. During the pendency of the arbitration, the parties shall jointly share the costs of the arbitrator. A failure to timely comply with any of the foregoing time periods shall be deemed a waiver of such right by such defaulting party.

(e) No later than ten (10) days from the date of the appointment of the neutral arbitrator, each party will prepare and submit to the arbitrator in writing their respective "final best offer" on each open issue, as well as a memorandum summarizing its position with respect to each issue submitted to arbitration.

(f) The parties acknowledge and agree that the neutral arbitrator's scope shall be expressly limited to selecting only one party's final best offer on each of the issues, which, in the determination of the arbitrator, most closely conforms to the terms and conditions of the Condominium Documents.

(g) Within ten (10) days following its receipt of the final best offers and memoranda, the neutral arbitrator shall be required to render a binding, non-appealable written decision selecting only one party's final best offer on each of the issues presented in the arbitration, and a determination of which single party is responsible for all costs of the arbitration.

(h) At any time prior to the arbitrator's selection, either party may accept the other party's position on any disputed issue, and in such event, such issue will no longer be subject to arbitration, or both parties may otherwise agree on a resolution.

(i) Each party shall bear their respective costs in pursuing the arbitration; provided, however, the party designated as the paying party by the arbitrator shall pay and/or reimburse all costs of the arbitration, including without limitation the fees of the neutral arbitrator (whether paid by the prevailing or the non-prevailing party), any and all fees paid and/or payable to the AAA, and all reasonable, out of pocket costs and fees paid and/or payable by the prevailing party.

(j) All time periods set forth in this Section 15 are time of the essence. In the event that a party fails to meet any of the timeframes set forth in this Section 15, such party will be deemed to have waived its right to avail itself of such step. By way of example, (A) if a party fails to submit to the other party its ranked list of arbitrators within the required timeframes, then such party will be deemed to have waived its right to participate in the selection of the arbitrator, and the complying party shall use its ranked list to select the designated arbitrator, and (B) if a party fails to submit its final best offer within the required timeframes, then such party will be deemed to have waived its right to submit a final best offer, and the arbitrator shall render its decision without such party's final best offer in hand.

[End of Bylaws]

EXHIBIT D

CERTIFICATE OF INCORPORATION

EXHIBIT E-1

COMMUNITY UNIT PLANS

EXHIBIT E-2

GARAGE UNIT PLANS

MSB Draft 11/3/17

EXHIBIT E-3

RESIDENTIAL UNIT PLANS

EXHIBIT F

RULES AND REGULATIONS

The following Rules and Regulations for Lackawanna Station Condominium (the "Project") are adopted by the Board of the Condominium Association (the "Association") pursuant to the recorded Master Deed for the Condominium (the "Master Deed"). Except as otherwise expressly stated, these Rules and Regulations apply to all Owners of Condominium Units in the Project (each, an "Owner", and collectively, the "Owners"), and to all guests, invitees, tenants, employees, customers, contractors and agents of such Owners (collectively, "Occupants"). Any term not defined herein shall have the meaning assigned to it in the recorded Master Deed. In the event of a conflict between the Master Deed, the Bylaws, and these Rules and Regulations, the terms and provisions of the Master Deed, and then the Bylaws, will govern and control, in that order.

1. Subject to the Master Deed and the Bylaws, the Association hereby delegates all of its rights and obligations under these Rules and Regulations, and the authority of the Association and the Board with respect to the matters that are the subject of these Rules and Regulations, to the managing agent engaged by the Association (the "Managing Agent").
2. Owners shall be responsible for the observance of all of the Rules and Regulations by the Owners' guests, invitees, tenants, employees, customers, contractors and agents.
3. All "Common Elements" (as defined in the Master Deed) of the Project shall, unless the Association elects otherwise, be under the sole and absolute management and control of the Association, which shall have the exclusive authority to regulate and control such areas. In furtherance to the Master Deed and the Bylaws, the following rules and regulations apply to the Common Elements:
 - (i) No Owner or Occupant shall obstruct any Common Element in the Project or store or leave any objects within or upon any Common Element (except in specifically designated storage areas.
 - (ii) No Owner or Occupant shall engage in any vehicle repair within or upon the Common Elements.
 - (iii) No Owner or Occupant shall go upon the roof of any structure in the Project for any purpose.
 - (iv) No Common Element in the Project shall be cordoned off or otherwise utilized, even temporarily, by any Owner or Occupant to the exclusion of other Owners or Occupants.
 - (v) Children shall not play in parking areas, driveways, hallways, stairways, elevators or other Common Elements of the Project.

- (vi) All electrical wires that run through any part of the Common Elements must be in conduit and meet applicable building codes, and must be approved in writing in advance by the Board.
- 4. The Association shall have the right at all times to remove obstructions or other personal property from the Common Elements, immediately upon telephonic notice, to levy a reimbursement assessment upon the responsible Condominium Unit Owner for the cost of removal and storage.
- 5. All deliveries and the moving of furniture, fixtures, equipment and other items of personal property to and from the Condominium Units shall be made by way of the loading docks wherever possible, and otherwise by way of authorized entries, hallways and elevators only, and shall be performed at such times and in such manner as not to cause unreasonable noise or an unreasonable disturbance to Owners or Occupants of other Condominium Units in the Project, and so as not to cause damage of any kind to the Common Elements or the Condominium Units.
- 6. No Owner or Occupant shall do or permit anything to be done within the Project, or bring or keep anything therein, which violates applicable health and safety laws or any insurance policy of the Association, the Master Deed or these Rules and Regulations, or which conflicts with the laws, ordinances or regulations of any governmental authority having jurisdiction over the Project.
- 7. No Owner or Occupant shall, without the express prior written consent of the Board, (i) perform or cause to be performed any painting, staining or other resurfacing of the exterior surfaces of any walls, exterior doors, windows, or other aspects of the Condominium Units, or (ii) perform or cause to be performed any alteration, change, maintenance, repair, improvement, restoration, replacement, destruction, defacing or other damage of any structural elements and roofs, common lighting or utilities, landscaping or other Common Elements of the Project (including exterior walls, doors, door frames, windows, window frames, or other aspects), or (iii) install or permit to be installed any awnings, fixtures, curtains, drapes, blinds, shades, signs, lettering, placards, decorations or advertising of any kind on the exterior of the Project that is in violation of the signage plan approved by the Planning Board of the Township of Bloomfield. If the Association consents to any such installation, no Owner or Occupant shall make any changes, alterations or modifications to the approved items without the express prior written consent and approval of the Board.
- 8. No sign, lettering, poster, or other advertising of any kind shall be allowed, displayed, inscribed, painted or affixed on any Common Element without the prior written approval of the Board. Without limiting the generality of the foregoing, all signs must comply with applicable laws and regulations of the municipality in which the Project is located. Further, no advertisements, handbills, announcements or solicitations of any kind shall be distributed or passed out within the Project, and no canvassing or peddling shall be allowed within the Project, without the prior written consent of the Board.

9. Smoking is expressly prohibited in all Common Elements of the Project, including without limitation hallways, elevators, stairways, lobbies, sidewalks, garages and landscaped areas.
10. No idling of passenger vehicles or trucks for more than two (2) minutes shall be permitted at any time within the Project.
11. No Owner or Occupant shall obstruct, alter, damage, or in any manner impair the efficient operation of the common heating, ventilating, air-conditioning, electrical, plumbing, sprinklering, fire safety, lighting or irrigation systems within the Project, and there shall be no wasting of water, electricity or other resources.
12. The Association will monitor compliance with applicable laws and regulations of the municipality in which the Project is located relating to the disposal of trash, garbage, recyclable products, and other items and materials.
13. No Owner or Occupant shall place a load upon any floor of a Condominium Unit or of a Limited Common Element that exceeds the weight per square foot that such floor was designed to carry and/or which is permitted by applicable law. Weight distribution platforms may be used in appropriate instances, with the prior written consent of the Board. Any business machines or mechanical or other equipment (including without limitation sound or audio) which cause noise or vibration that may be transmitted to the structure of the Project or otherwise beyond the structural boundaries of the Condominium Unit in which located such that it becomes objectionable to other Owners or Occupants in the Project, shall be placed and maintained by the Owner or Occupant (at their expense) on vibration eliminators or other devices adequate to reduce noise or vibration and maintained at volumes below objectionable levels, subject to the prior written approval of the Board.
14. If a Condominium Unit becomes infested with vermin or mold as a consequence of the use, misuse or neglect of such Condominium Unit by the Owner or Occupant thereof, the Condominium Unit Owner shall immediately cause the same to be exterminated or removed by licensed exterminators or mold remediation experts, to the reasonable satisfaction of the Board, at the Owner's cost and expense.
15. Water spigots and electric outlets located in the Common Elements of the Project, including the parking areas, are for Association use only for purposes of cleaning Project structures and for maintenance of Project facilities, and shall not be used by Owners or Occupants.
16. Except as expressly set forth in Shared Parking Agreements entered into from time to time by the Unit Owners and the Bloomfield Parking Authority, no parking is provided outside the Project.

17. If an Owner or Occupant violates any of the terms and provisions of the Master Deed or of these Rules and Regulations, after three (3) days' notice and opportunity to cure, the Association shall have full right and authority to remedy, correct or remove such violation by whatever means the Association considers most appropriate in the circumstances and to levy a reimbursement assessment upon the Owner for all costs and expenses of accomplishing same.
18. No Occupant or visitor to the Project shall do, cause or allow anything reasonably constituting a nuisance to any other parties at the Project, including without limitation music, broadcasting or other noise; odors, smells and unpleasant restaurant and other commercial aromas; bright lighting and displays; loitering; and operations and/or uses not compatible with residential occupancy.
19. The loading docks are provided as a convenience to the Residential Unit Owner and its Occupants, and are not staffed by the Association. The loading docks shall be used for the limited purpose of loading and unloading, and shall not be used for the temporary parking of vehicles.
20. Vehicles may not be parked, loaded or unloaded within the Project in such manner as to obstruct passage, ingress or egress or other vehicles or persons in the Project, or that will obstruct proper snow removal from the Project.
21. No door or elevator shall be forced open, propped open, or otherwise prevented from closing, or caused to malfunction.

EXHIBIT G-1

PERCENTAGE INTERESTS IN COMMON ELEMENTS

Community Unit Owner	2%
Garage Unit Owner	48%
Residential Unit Owner	50%

EXHIBIT G-2

SPECIFIED COMMON EXPENSE COST ALLOCATIONS

The Unit Owners shall pay costs relating to the Common Element footings, foundations, girders, beams and supports as follows:

Community Unit Owner:	0%
Garage Unit Owner:	50%
Residential Unit Owner:	50%

Shared Residential Parking Agreement

LACKAWANNA STATION PROJECT
RESIDENTIAL SHARED PARKING AGREEMENT
AND LEASE

THIS BLOOMFIELD CENTER RESIDENTIAL SHARED PARKING AGREEMENT AND LEASE (this "**Parking Agreement**"), made this [] day of November, 2017 by and between LACKAWANNA STATION URBAN RENEWAL, LLC (the "**Entity**"), an urban renewal entity qualified to do business in the State of New Jersey (the "**State**") and the TOWNSHIP OF BLOOMFIELD, a public body corporate and politic of the State (the "**Township**" and, together with the Entity, each a "**Party**", and collectively, the "**Parties**").

WITNESSETH:

WHEREAS, by resolution duly adopted on December 18, 2000, the Township of Bloomfield designated a portion of the Township, consisting of the properties then identified as Block 220, Lot 40, Block 225, Lots 1 and 9, Block 227, Lots 1, 3, 5, 6, 8, 9, 10, 11, 12, 13, 15, 16, 17, 19, 20, 22, 24, 26, 30, 31, 32 and 35, Block 228, Lots 1, 4, 5, 7, 8, 10, 11, 13, 14, 15, 16, 17, 18, 19, 21, 24, 27, 28, 29, 30, 31, 33 and 35, and Block 243, Lots 1, 3, 4, 5, 6, 7, 8, 10, 11, 13, 15, 17, 18 and 20 on the Township's tax map (collectively, the "**Redevelopment Area**"), as an area in need of redevelopment pursuant to the New Jersey Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the "**Redevelopment Law**"); and

WHEREAS, by ordinance finally adopted on December 15, 2008, the Township approved and adopted a Redevelopment Plan for the redevelopment of the Redevelopment Area (the "**Redevelopment Plan**"); and

WHEREAS, on October 17, 2016, the Township Council adopted a resolution conditionally designating Metro Real Estate Development Corporation ("**Metro**") as redeveloper of the portion of the Redevelopment Area known as Block 225, Lots 1 and 9 on the Township's tax map (which has since been consolidated by the Township on October 30, 2017 to Block ___ Lot ___ (the "**Project Site**"), subject to the successful negotiation of a redevelopment agreement; and

WHEREAS, the Township has dissolved the Bloomfield Parking Authority (the "**Authority**") and assumed all of its assets, liabilities, rights and obligations; and

WHEREAS, as successor to the Authority, the Township owns the Project Site; and

WHEREAS, the Authority and the Entity, an affiliate of Metro, entered into that certain Purchase and Sale Agreement, dated January 19, 2017 (the "**Purchase and Sale Agreement**"), providing for the conveyance of a portion of the Project Site to the Entity to enable the Entity to undertake the redevelopment of the Project Site by constructing thereon a mixed use project consisting of: (i) a parking garage with approximately 314 parking spaces (the "**Farrand Garage**"), (ii) approximately 176 residential units (the "**Residential Component**"), and (iii) approximately 2,700 square feet of space to be owned by the Township for community benefit

purposes (the “**Community Space**”, and together with the Farrand Garage and the Residential Component, collectively, the “**Project**”); and

WHEREAS, the Township has assumed all of the rights and obligations of the Authority pursuant to the Purchase and Sale Agreement; and

WHEREAS, the Farrand Garage will be available to serve the residents of the Residential Component as well as other permit holders with parking permits issued by the Township; and

WHEREAS, the Project Site will be divided to create a 3-unit condominium, or some similar structure, the components of which will be owned as follows: (i) the Township will own the unit or portion of the Project Site containing the Farrand Garage (the “**Farrand Garage Property**”); (ii) the Township will own the unit or portion of the Project Site containing the Community Space (the “**Community Space Property**”); and (iii) the Entity will own the unit or portion of the Project Site containing the Residential Component (the “**Residential Component Property**”); and

WHEREAS, the Township and the Entity entered into that certain Redevelopment Agreement dated February 13, 2017 (the “**Redevelopment Agreement**”), pursuant to which the Entity agreed to construct the Project on the Project Site; and

WHEREAS, the Project is a “redevelopment project” as defined in the Redevelopment Law and a “parking project” as defined in the Parking Authority Law, *N.J.S.A 40:11A-1 et seq.* (the “**Parking Authority Law**”); and

WHEREAS, on February 14, 2017, the Entity and the Authority submitted an application to the Planning Board of the Township (the “**Planning Board**”) for site plan approval in connection with the Project (the “**Planning Board Application**”); and

WHEREAS, after conducting public hearings relating to the Planning Board Application, the Planning Board granted site plan approval for the Project on May 9, 2017, and on June 13, 2017, the Planning Board adopted a resolution memorializing its findings and conclusions with respect to the Planning Board Application; and

WHEREAS, simultaneous with the execution of this Parking Agreement, the Entity and the Township entered into that certain Parking Garage Construction Agreement (the “**Parking Garage Construction Agreement**”), under which the Entity will construct, and the Township will finance the construction of, the Farrand Garage; and

WHEREAS, the Township is authorized to enter into agreements with redevelopers including agreements such as this Parking Agreement pursuant to the Redevelopment Law; and

WHEREAS, the Township and the Entity desire to enter into this Parking Agreement to memorialize the terms and conditions by which the Township will make parking spaces within the Farrand Garage available to the Entity for use by the residents of the Residential Component.

NOW THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties mutually covenant and agree as follows:

Section 1. Interpretation and Construction. In this Agreement, unless the context expressly otherwise requires:

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

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

(c) Unless otherwise indicated, all approvals, consents and acceptances required to be given or made by any Party hereunder shall not be unreasonably withheld, conditioned, or delayed. The words "consent" or "approve" or words of similar import, shall mean the prior written consent or approval of the Township or Entity, as the case may be, unless expressly stated to the contrary herein.

(d) All references to Recitals, Articles, Sections or Exhibits shall, unless otherwise indicated, refer to the Recitals, Articles, Sections or Exhibits in this Agreement.

(e) Unless otherwise indicated, any "fees" or "expenses" shall be required to be customary and reasonable.

(f) The term "Business Day" shall mean any day other than a Saturday, a Sunday, or a day on which banks and public offices generally are not open under the laws of the State.

Section 2. Issuance of Parking Permits.

2.1 (a) Subject to and in accordance with the terms and conditions of this Parking Agreement, the Township shall issue two hundred eleven (211) parking permits (i.e., 1.2 times 176 residential units) in the Farrand Garage (each, a "**Parking Permit**", and collectively, the "**Parking Permits**"), which the Entity shall have the right to provide to the residents of the Residential Component (each, a "**Permit Holder**", and collectively, the "**Permit Holders**") provided that the Entity shall provide the Township, on an ongoing basis, with the name and address of, and vehicle license plate number for, the applicable vehicle owned by, each Permit Holder so that the Township always has an accurate list of all Permit Holders and the vehicle associated with each such Parking Permit. Each Parking Permit shall entitle a Permit Holder to park the vehicle in the Farrand Garage 24 hours per day, 7 days per week, 365 days per year, subject to temporary closures of all or a portion thereof to address emergencies, maintenance or security issues, as set forth in Section 6.2. Parking Permits will allow Permit Holders the right to

park their respective motor vehicles in any available parking space designated for Permit Holders by the Township, provided that in the event such designated spaces are full, the Permit Holder may park in any other available parking space. The Parties specifically intend and agree that on each and every occasion that a Permit Holder desires to park in the Farrand Garage, the Township shall have ensured that a space therefor is available for such Permit Holder.

(b) The Township shall have in place throughout the term of this Parking Agreement a protocol whereby there shall at all times be security personnel on-call who control access to alternative comparable parking within 5 minutes of the Farrand Garage, including without limitation the Glenwood Garage located on Block 228, Lot 1.01 in the Township (the "**Glenwood Garage**"), and an assistance button at each entry and exit to the Farrand Parking Garage to summon such security personnel within 5 minutes of such call. In the event any Permit Holder seeks a parking space in the Farrand Garage and none is available, such Permit Holder shall be permitted to park in the Glenwood Garage without charge.

(c) In the event a Permit Holder is unable to park as described in Section 2.1(a) or (b), other than due to an event described in Section 6.2, the Entity shall receive a credit against its next payment due to the Township under this Parking Agreement in the amount of \$10 for each Permit Holder so affected, which shall increase by the CPI (as hereinafter defined) on each anniversary of the Commencement Date.

2.2 (a) Upon the earlier to occur of the first Business Day of the month immediately following the (1) issuance date of the temporary or permanent certificate of occupancy for the Residential Component and (2) 24 months following the issuance of the first building permit for the Project (such earlier date, the "**Commencement Date**") the Township shall issue, and the Entity shall accept, not less than sixty (60) Parking Permits. On the first Business Day of each month immediately following the Commencement Date, the Township shall issue, and the Entity shall accept, not less than forty (40) additional Parking Permits per month until two hundred eleven (211) Parking Permits have been issued by the Township to the Entity. In the sole discretion of the Entity, the Entity may request, and the Township shall accelerate, the issuance of the Parking Permits.

(b) At any time throughout the term of this Parking Agreement, the Entity may obtain an additional thirty six (36) Parking Permits (the "**Additional Permits**"), subject to availability provided that the Township will endeavor to make such Additional Permits as and when they become available prior to using its wait list, for a total of two hundred forty seven (247) Parking Permits (i.e., 1.4 times 176 residential units); which Additional Permits shall be issued at the same rates and under the same terms as the original Parking Permits provided for under this Parking Agreement. The total number of Parking Permits, inclusive of any Additional Permits, issued to the Entity at any given time through the term of this Parking Agreement shall become the minimum number of Parking Permits (the "**Minimum Parking Permits**") that the Township shall issue and the Entity shall accept in perpetuity, provided that the Township may, if requested by the Entity, in the Township's sole discretion, agree to reduce such Minimum Parking Permits at any time. The Township shall have the right to allocate the Additional Permits between the Farrand Garage and the Glenwood Garage, in the Township's sole discretion.

2.3 The Township shall issue Parking Permits to the Entity in a form determined by the Township from time to time, including without limitation a "proximity card" embedded with an electronic chip that will operate gates controlling ingress to and egress from the Farrand Garage. All systems implemented by the Township shall (a) allow for long term parking for the Permit Holders and other long term parkers with permits and (b) provide for adequate monitoring capabilities by the Township so as to ensure that the Township maintains sufficient spaces available such that all Permit Holders are always able to park in the Farrand Garage.

2.4 The Parties agree that the Farrand Garage will be open to parkers with valid and duly issued Parking Permits only or the general public with valid and duly issued monthly parking permits; the Farrand Garage will not be open to the general public for short term parking. Notwithstanding the foregoing, parking privileges will be subject to availability on a first-come, first-served basis as to location but subject to the requirement that the Township maintains sufficient spaces available such that all Permit Holders are always able to park, so long as each and every Permit Holder seeking to park at any time is accorded a parking space in the Farrand Garage. The Township retains the ability to offer, market and sell various forms of parking privileges in the Farrand Garage to the public under various fee schedules and/or time limitations to be determined and set by the Township, but the Township shall not oversell parking privileges in the Farrand Garage to the extent that any Permit Holder is denied a space in the Farrand Garage at any time. The Parties recognize that there is a likelihood of their respective needs and local conditions changing over time and therefore agree that the understanding outlined herein does not preclude either Party from proposing reasonable changes hereto, in which case the other Party agrees to consider any such proposals in good faith.

2.5 The Township shall provide the Entity with detailed and comprehensive parking reports in a form reasonably agreeable to the Entity on a quarterly basis. Such report shall indicate the efficacy with which the Entity's parking requirements as permitted under this Agreement are being met. In the event of any discrepancies therein from time to time, the Township agrees to use best efforts to correct all deficiencies in availability as expeditiously as possible.

Section 3. Term of Parking Permits. Parking Permits shall remain valid in perpetuity, provided that the Entity meets the requirements of Section 4, subject to notice and cure period pursuant to this Agreement.

Section 4. Parking Permit Fee.

4.1 Commencing on the Commencement Date and continuing on the first day of each month thereafter throughout the term of this Parking Agreement, the Entity shall pay a monthly fee for each Parking Permit (the "Parking Permit Fee") for the time periods set forth below in amounts equal to the lesser of (i) the Township's then-current rates and (ii) the amounts set forth below:

<u>Period</u>	<u>Parking Permit Fee per</u> <u>Month</u>
Year 1	\$75.00
Years 2 - 3	\$100.00
Year 4	\$125.00
Year 5 onward	Township's then-current rates

4.2 Notwithstanding any other remedies hereunder, failure of the Entity to make any payment to the Township due hereunder shall be subject to a late charge of eight percent (8%) of the amount of such late payment.

Section 5. Transferability of Parking Permits. The Entity may only provide Parking Permits to Permit Holders; provided, however, that the Entity shall advise Permit Holders that the Parking Permits are personal to the Permit Holders and may not be loaned, sold, traded, transferred or otherwise made available to others. Each failure to comply with this provision shall result in a fine being imposed upon the Entity by the Township in the amount of \$100.00.

Section 6. Parking Garage Management.

6.1 Maintenance.

(a) The Township shall, at its sole cost and expense, keep the Farrand Garage, including all fixtures, systems, machinery, equipment, alterations and improvements made by the Township therein, in good working order, condition and repair, and make all necessary repairs and replacements to all of the foregoing, and shall be solely responsible for the prompt clean up of any oil spills and other spills therein, and maintenance and repair of the driveways within and leading thereto.

(b) The Entity shall be solely responsible for the removal of ice, snow, trash, rubbish, garbage and other refuse from the Farrand Garage and the driveways entering and sidewalks surrounding same.

6.2 Availability. Except as otherwise set forth herein, the Township shall, at its sole cost and expense, maintain the Farrand Garage consistent with industry standards and in compliance with all Federal, State and local laws and regulations, and shall ensure that Permit Holders will secure a parking space at all times within the Farrand Garage. The Township may temporarily close parts of the Farrand Garage for such periods of time as may be reasonably necessary for (a) temporary use as a work area in connection with the construction of improvements in the Farrand Garage, (b) repairs or alterations in or to the Farrand Garage or to any utility type facilities or (c) security reasons; provided, however, that, in any such event, or if any portion of the Farrand Garage is otherwise unavailable during the term of this Parking Agreement, the Township shall ensure availability to the Entity of suitable alternative parking reasonably acceptable, and without additional cost to the Entity, including without limitation in

the Glenwood Garage, until such time as the Farrand Garage, or applicable portion thereof, is available to the Entity. Other than in the case of full or partial emergency closure, the Township shall not implement such closure until it has made sufficient provisions for the aforesaid alternate parking and so advised Permit Holders. In the event, and for the pendency of any and all limitations on availability of spaces, the Entity shall allot all available spaces to the Permit Holders before all other parkers.

6.3 Security. The Township shall be responsible for providing such security systems and related services to the Farrand Garage as it deems appropriate, which systems and services may include ticket issuers, ticket gobblers, treadles, loops, gates, cash registers, security barriers, lighting, 911 phones, alarms, cameras and personnel as are appropriate to ensure the safety of persons and property.

6.4 Rules and Regulations. The Entity and Permit Holders shall be subject to the rules and regulations annexed hereto as Exhibit A, as same may be amended from time to time, including without limitation any and all disclaimers, limitations on liability or reservation of rights established by the Township, in connection with the use of the Farrand Garage.

Section 7. Termination; Defaults; Remedies.

7.1 General Provisions. This Parking Agreement may only be terminated on the terms and conditions set forth in this Section 7. The rights of the Township and the Entity to terminate this Parking Agreement shall be strictly construed in accordance with this Section 7.

7.2 Termination for Cause by the Township. Upon the happening of any of the following events of default by the Entity, the Township shall in its sole discretion, have the right to terminate this Parking Agreement and/or pursue a cause of action for actual direct damages and such other relief as is appropriate under the circumstances:

(a) upon ten (10) Business Days' written notice of termination from the Township to the Entity, following the Entity's failure to make any payment required to be made to the Township pursuant to the terms of this Parking Agreement within ten (10) Business Days of the date the Entity receives notice from the Township that such payment is due;

(b) a determination that any representation or warranty made by the Entity in this Agreement shall prove to be knowingly false and/or misleading in any material respect as of the date of this Parking Agreement;

(c)(i) the Entity 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 Entity; (iii) the Entity shall have made a general assignment for the benefit of creditors, or 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 Entity shall have filed an answer admitting the material allegations of a petition in any bankruptcy or insolvency proceeding; (v) the Entity shall have taken any action for the purpose of effecting any of the foregoing; (vi) a petition in bankruptcy shall have been

filed against the Entity, and shall have continued uncontested and in effect for a period of 90 consecutive days; (vii) an order for relief shall have been entered with respect to or for the benefit of the Entity, under the United States Bankruptcy Code; (viii) an order, judgment or decree shall have been entered, without the application, approval or consent of the Entity, by any court of competent jurisdiction appointing a receiver, trustee, custodian or liquidator of the Entity, or a substantial part of its assets and such order, judgment or decree shall have continued unstayed and in effect for any period of ninety (90) consecutive days; or (ix) the Entity shall have suspended the transaction of its usual business.

7.3 Termination for Cause by the Entity. Upon the failure by the Township to comply with any obligation under this Agreement, the Entity shall, upon thirty (30) days written notice, in its sole discretion, have the right to terminate this Parking Agreement and/or pursue a cause of action for actual damages plus attorney's fees, provided that if such failure is involuntary and cannot be remedied within such thirty (30) day period, and the Township is diligently and continuously endeavoring to comply with its obligations, the Entity may not terminate the Agreement.

7.4 Other Remedies. In the event of any dispute by the Entity regarding the Township's performance under this Parking Agreement (including without limitation failure to maintain the Parking Garage or any element thereof, parking space availability, security, etc.), the Entity shall be entitled to withhold from all charges due under this Parking Agreement such amount as it deems reasonably sufficient to cure or cover all breaches and all costs incurred in connection therewith and, to the extent reasonably practicable, effect such cure.

7.5 Alternative Dispute Resolution. Notwithstanding anything herein to the contrary, either Party shall have the right to demand that any dispute be submitted to a three person panel to be made up of a representative of the Township, a representative of the entity and a third person agreed to by such representatives. The process for selecting all three persons shall be concluded within five (5) days of written notice from either Party demanding this alternative dispute resolution. Within ten (10) days of such written notice the dispute shall be heard and adjudicated and a binding, non-appealable written decision shall be rendered.

Section 8. Representations of the Parties.

8.1 Representations of the Township. The Township hereby represents that: (i) it is duly authorized to execute and deliver this Parking Agreement; (ii) the execution and delivery of this Parking Agreement and performance by the Township of its obligations hereunder will not violate any law, regulation, instrument or agreement by which the Township is bound; and (iii) when executed and delivered by the Township, this Parking Agreement will be legally enforceable against the Township subject to equitable and creditors' rights generally.

8.2 Representations of the Entity. The Entity hereby represents that: (i) it is duly authorized to execute and deliver this Parking Agreement; (ii) the execution and delivery of this Parking Agreement and performance by the Entity of its obligations hereunder will not violate any law, regulation, instrument or agreement by which the Entity is bound; and (iii) when

executed and delivered by the Entity, this Parking Agreement will be legally enforceable against the Entity subject to equitable and creditors' rights generally.

Section 9. Notices. Notices hereunder shall be in writing and shall be delivered by certified mail, return receipt requested, or by recognized overnight carrier such as Federal Express, addressed as follows and deemed to be given on the date of receipt:

A. When sent to the Entity, it shall be addressed as follows:

Lackawanna Station Urban Renewal LLC
2 Broad Street, Suite 400
Bloomfield, New Jersey 07003
Attention: General Counsel

with copies to:

Stephen B. Pearlman, Esq.
Pearlman & Miranda, LLC
2 Broad Street, Suite 510
Bloomfield, New Jersey 07003

B. When sent to the Township, it shall be addressed as follows:

Township Clerk
Township of Bloomfield
Municipal Building
Municipal Plaza
Bloomfield, New Jersey 07003

with copies to

Township Law Director
Township of Bloomfield
Municipal Building
Municipal Plaza
Bloomfield, New Jersey 07003

and

Joseph P. Baumann, Jr., Esq.
McManimon, Scotland & Baumann, LLC
75 Livingston Avenue, 2nd Floor
Roseland, New Jersey 07068

Section 10. Entire Agreement. This Parking Agreement represents the entire understanding between the Parties with respect to the subject matter expressed herein. Neither

prior or contemporaneous written statements, nor any prior, contemporaneous or future oral agreements shall be admissible to interpret, alter, modify or amend this Parking Agreement.

Section 11. Amendments. This Parking Agreement may only be altered or amended by a subsequent writing duly authorized and executed by the Parties.

Section 12. Construction. Each of the recitals above is hereby incorporated into and made part of this Parking Agreement. All captions herein are for convenience of reference only. The captions are not part of this Parking Agreement and in no way limit or add to the terms and provisions hereof.

Section 13. Waiver. No waiver, in whole or in part, of any right or remedy provided for in this Parking Agreement shall operate as a waiver of any other right or remedy, except as may be otherwise provided herein.

Section 14. Assignment. This Parking Agreement may not be assigned or transferred by the Entity without the written consent of the Township.

Section 15. Transfer of Farrand Garage. The Farrand Garage may be sold, leased, or otherwise transferred (all of the foregoing, a "Transfer"), without the consent of the Entity, to another public body. The Farrand Garage may be Transferred without the consent of the Entity, to another private entity, provided that (a) the Entity is first provided the option, upon 120 days prior written notice, to purchase or lease the Farrand Garage upon the same terms and conditions as the proposed sale to such other private entity, and (b) if Transferred to a third party, such party shall have reasonably adequate financial wherewithal and operational experience, and shall assume in writing the affirmative obligation to perform all of the Township's duties as and when due under this Parking Agreement.

Section 16. Severability. If any of the provisions of this Parking Agreement shall be held to be invalid, illegal or unenforceable by a court of competent jurisdiction, the remainder of this Parking Agreement shall remain in full force and effect.

Section 17. Drafting Ambiguities and Interpretation. In interpreting any provisions of this Parking Agreement, no weight shall be given to, nor any construction or interpretation be influenced by, the fact that counsel for one of the Parties drafted this Parking Agreement. Each Party recognizes that it has had an opportunity to review this Parking Agreement with its counsel and have contributed to the final form of same. If any clause, provision or section of this Parking Agreement shall be determined to be apparently contrary to or conflicting with any other clause, provision or section of this Parking Agreement, then the clause, provision or section containing the more specific provisions shall control and govern with respect to such apparent conflict.

Section 18. Governing Law. This Parking Agreement has been made, executed and delivered within, and pursuant to the laws of, the State of New Jersey. The laws of the State of New Jersey shall govern all matters arising out of or relating this Parking Agreement, including but not limited to its validity, interpretation, construction, performance and enforcement.

Section 19. Venue. The Parties agree that venue and jurisdiction regarding any matter pertaining to this Parking Agreement shall be in the Superior Court of New Jersey, Essex County, Law Division and hereby consent to same.

Section 20. Insurance. The Township agrees at all times during the term of this Parking Agreement to maintain and keep in full force and effect reasonable and customary insurance, with appropriate carriers, limits and terms such that the Entity's interests are adequately protected, including without limitation: (a) casualty; (b) comprehensive general liability; (c) garagekeeper's liability and (d) livery insurance.

Section 21. Recordation. A Memorandum of this Parking Agreement, in an insurable form substantially similar to that attached hereto as Exhibit B, shall be recorded by the Entity, at the Entity's expense, in the land records of the Essex County Register, it being the intent of the Parties that the rights and obligations set forth herein shall run with the land during the term of this Parking Agreement.

Section 22. Miscellaneous.

(a) Non-Disturbance Agreement. Prior to any party having an interest in the Farrand Garage superior to that of the Entity (a "Superior Party"), whether by reason of lien, lease or otherwise, the Township shall provide the Entity with a subordination agreement in commercially customary and recordable form executed by each Superior Party and delivered to the Entity.

(b) Indemnity. Each Party hereby agrees to indemnify, defend and hold the other Party harmless from and against any and all claims, damages, liabilities, attorneys fees (including without limitation to enforce this indemnity), court costs and expenses of every nature arising from or in connection with (i) its non-performance or breach of this Parking Agreement and (ii) its grossly negligent and intentionally wrongful conduct.

(c) Force Majeure. Neither Party shall be liable nor be able to terminate this Parking Agreement for any failure to perform hereunder where such failure is proximately caused by an occurrence beyond the control and without the fault or negligence of the Party affected and which by exercise or reasonable diligence the said Party is unable to prevent or provide against (each, a "Force Majeure Occurrence"). Without limiting the generality of the foregoing, Force Majeure Occurrences shall include: acts of nature (including fire, flood, earthquake, storm, hurricane or other natural disaster), war, invasion, acts of foreign combatants, terrorists acts, military or other usurped political power or confiscation, nationalization, government sanction or embargo, labor disputes of third parties to this contract, or the prolonged failure of electricity or other vital utility service. Any Party asserting a Force Majeure Occurrence as an excuse to performance shall have the burden of proving proximate cause, that reasonable steps were taken to minimize the delay and damages caused by events when known, and that the other Party was timely notified of the likelihood or actual occurrence which is claimed as grounds for a defense under this clause.

(d) Covenants. All covenants in this Parking Agreement shall be deemed binding on successors and assigns and covenants running with the Project Site.

(e) Signage. At its own expense and in compliance with applicable law, the Entity may install lease-up, identification and directional signage in and on the Farrand Garage, subject to the Township's written consent, which shall not be unreasonably withheld.

(f) Counterparts. This Parking Agreement may be executed in counterparts, each of which when executed shall be deemed an original for all purposes.

IN WITNESS WHEREOF, the Parties have caused these presents to be executed as of the day and year first above written.

ATTEST:

LACKAWANNA STATION URBAN RENEWAL, LLC

[Signature]

By:

[Signature]
Name: *Steven M. Rosetty*
Title: *Authorized Signatory*

ATTEST:

TOWNSHIP OF BLOOMFIELD

[Signature]

By:

[Signature]
Name:
Title:

EXHIBIT A

RULES AND REGULATIONS FARRAND PARKING GARAGE TOWNSHIP OF BLOOMFIELD

I. DEFINITIONS:

"Legal Holidays" means the following days only: New Year's Day, Memorial Day, July Fourth, Labor Day, Thanksgiving and Christmas.

"Off-Street Parking Projects" means the areas or places constructed or acquired or to be constructed or acquired and owned and operated by the Township for the parking and storing of motor vehicles, including all real and personal property, driveways, roads, approaches, structures, garages, meters, mechanical equipment, electronic equipment and all appurtenances and facilities either on, above or under the ground which are used or usable in connection with such parking or storing of such vehicles.

"Parking Control Equipment" means equipment installed at the off-street parking project for the purpose of controlling vehicular access to and from the project and for collecting fees charged in connection with the proper parking of motor vehicles including but not limited to parking gates, parking gate arms, ticket issuing devices, card readers, detector loops, exit verifiers, pay-on-foot pay stations, pay-in-lane pay stations, and all associated equipment or appurtenances.

"Parking Spaces" means the area or portion of an off-street parking project within which a vehicle may be properly parked, which space shall be bounded by curb or lines marked on the surface of the project or by a combination of curb and lines.

II. RULES AND REGULATIONS:

1. Lines and Markings. Suitable lines or markings shall be provided upon the surface of off-street parking projects to denote and designate each parking space. It shall be a violation of this Article to park a vehicle across any such line or markings or to park a vehicle in such position that it shall not be entirely within the area so designated by such lines or markings as a parking space.

2. Removal of Vehicles. The Police Department shall have the right to remove from off-street parking projects any unattended vehicle parked or standing in any portion thereof not designated as a parking space or any unattended vehicle parked or standing in a designated parking space which has remained there for a period of ten (10) hours after a summons has been issued charging a violation hereunder. When a vehicle is removed from an off-street parking project, the owner of the vehicle shall pay, before being entitled to recovery or possession of the vehicle, all reasonable charges for towing, storage and other removal expenses incurred.

3. Unlawful Use of Off-Street Parking Projects.

(a) It shall be unlawful and an offense for any person to store, wash, paint or repair a vehicle in an off-street parking project; provided, however, nothing herein shall be construed to prohibit necessary emergency repairs of a vehicle. Township projects are intended for parking; the storage of commercial vehicles at any parking project is expressly prohibited as is conducting any business (e.g., stereo, phone, speaker installation and maintenance of vehicles).

(b) It shall be unlawful to utilize any portion of any public parking facility, including but not limited to parking spaces, driveways, traffic lanes and planting areas, for the purpose of storing or causing to be stored commercial and/or private vehicles or for the purpose of using said public parking spaces or general areas for the storage, maintenance, washing, painting, repairing, loading or unloading of vehicles or for the conduct of private business, regardless of time limits posted and fees paid, within the subject areas, which practice denies or unduly limits the use of the parking facilities to the general parking public for whom they are intended.

(c) Nothing herein shall be construed to prohibit necessary and minimal emergency repairs which are required to render a car operational so that it can be moved from any parking space.

4. Prohibited Parking Areas. Parking is not permitted in the various lanes, aisles and access areas providing ingress and egress to and from the parking projects and the parking spaces therein in order to insure access by and for emergency vehicles to protect life, safety and property, to facilitate emergency egress from the parking project and surrounding properties and to insure that the lanes, aisles and access areas are available to all parties with rights to use them.

5. Handicap Parking. The Township shall provide parking spaces for handicapped persons pursuant to N.J.S.A. 52:32-11. It shall be unlawful to park in any space designated for handicapped persons unless the appropriate handicapped parking permit is displayed. The prohibition against parking in a space designated for handicapped persons without the appropriate permit shall be enforced by the Township of Bloomfield pursuant to N.J.S.A. 52:32-13.

6. Tampering with Parking Control Equipment. It shall be unlawful to damage or tamper with parking control equipment or to deposit therein anything other than U.S. currency, credit cards, or parking stubs and slips. It shall be unlawful to deface, injure, tamper with, willfully break, destroy or impair the usefulness of, or to open without lawful authority, parking control equipment installed in off street parking projects.

7. Loitering Prohibited. Loitering in or upon any parking decks, garages, facilities, or lots owned or operated by the Township which obstructs the free passage of pedestrians or vehicles, or obstructs, molests, or interferes with any person lawfully upon such Township property shall be prohibited. No person shall be prosecuted for loitering upon such

Township property unless the violator shall first disobey a Police Officer's or Parking Enforcement Officer's direction to cease loitering and disburse, move on, or exit the property.

8. Parking Fees. Except as otherwise set forth herein, parking fees for use of the Farrand Garage shall be as set forth, from time to time, by the Township. The fee or charge shall be payable in coin or currency of the United States of America, authorized credit cards, or check (for monthly parking).

9. Designated or Reserved Parking. The Farrand Garage will not include any reserved parking spaces except parking spaces reserved for handicap parking.

10. Hours of Operation. The Farrand Garage shall be in operation twenty-four (24) hours a day, daily, including Sundays and holidays.

[End of Exhibit A]

EXHIBIT B

MEMORANDUM OF AGREEMENT AND LEASE

This is a Memorandum of Agreement, being made as of November ____, 2017 between the TOWNSHIP OF BLOOMFIELD (the "Township") and LACKAWANNA STATION URBAN RENEWAL, LLC (the "Entity").

1. Agreement and Lease. The Township and the Entity entered into a Shared Parking Agreement and Lease ("Agreement") dated as of the date hereof regarding a parking garage (the "Farrand Garage") lying, situate and being in the Township, County of Essex and State of New Jersey, known as Block 225, Lots 1 and 9, on the Tax Map of the Township and more particularly described on Schedule A annexed hereto.

2. Settlement. Pursuant to the Agreement, the Entity has certain perpetual parking entitlements in and to the Farrand Garage during the term of the Agreement, all as more particularly provided in the Agreement.

3. Public Notice: Further Information. This memorandum gives public notice of the parties' rights under the Agreement. Anyone seeking further information as to status or otherwise are directed to communicate with the Clerk of the Township or its successor.

IN WITNESS WHEREOF, each party has caused this memorandum to be duly executed on its respective behalf as of the day and year first above written.

WITNESS:

By: _____

Name:

Title:

By: _____

Name:

Title:

Acknowledgments

STATE OF NEW JERSEY, COUNTY OF ESSEX SS:

I CERTIFY that on November __, 2017, _____ personally came before me and stated to my satisfaction that this person (or if more than one, each person):

- (a) Was the maker of the annexed instrument; and,
- (b) Executed this instrument as his/her own act duly authorized by the represented entity.

Notary Public

STATE OF NEW JERSEY, COUNTY OF ESSEX SS:

I CERTIFY that on November __ 2017, _____ personally came before me and stated to my satisfaction that this person (or if more than one, each person):

- (a) Was the maker of the annexed instrument; and,
- (b) Executed this instrument as his/her own act duly authorized by the represented entity.

Notary Public

RECORD AND RETURN TO:

Joseph P. Baumann, Jr., Esq.
McManimon, Scotland & Baumann, LLC
75 Livingston Avenue, Second Floor
Roseland, New Jersey 07068

Declaration of Easement

Record and Return to:
McManimon, Scotland & Baumann, LLC
75 Livingston Avenue, 2nd Floor
Roseland, New Jersey 07068
Attention: Kevin P. McManimon, Esq.

Prepared by: _____
Kevin P. McManimon, Esq.

DECLARATION OF EASEMENTS (this "Declaration") dated as of the ____ day of _____, 2017 by THE TOWNSHIP OF BLOOMFIELD, a public body politic and corporate constituting a political subdivision of the State of New Jersey, its successors and assigns (the "Township").

WITNESSETH

WHEREAS, by resolution duly adopted on December 18, 2000, the Township designated a portion of the Township, consisting of the properties then identified as Block 220, Lot 40, Block 225, Lots 1 and 9, Block 227, Lots 1, 3, 5, 6, 8, 9, 10, 11, 12, 13, 15, 16, 17, 19, 20, 22, 24, 26, 30, 31, 32 and 35, Block 228, Lots 1, 4, 5, 7, 8, 10, 11, 13, 14, 15, 16, 17, 18, 19, 21, 24, 27, 28, 29, 30, 31, 33 and 35, and Block 243, Lots 1, 3, 4, 5, 6, 7, 8, 10, 11, 13, 15, 17, 18 and 20 on the Township's tax map (collectively, the "Redevelopment Area"), as an area in need of redevelopment pursuant to the New Jersey Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the "Redevelopment Law"); and

WHEREAS, by ordinance finally adopted on December 15, 2008, the Township approved and adopted a Redevelopment Plan for the redevelopment of the Redevelopment Area (the "Redevelopment Plan"); and

WHEREAS, on October 17, 2016, the Township Council adopted a resolution conditionally designating Metro Real Estate Development Corporation ("Metro") as redeveloper of the portion of the Redevelopment Area known as Block 225, Lots 1 and 9 on the Township's tax map (the "Project Site"), subject to the successful negotiation of a redevelopment agreement; and

WHEREAS, the Bloomfield Parking Authority (the "Authority") and Lackawanna Station Urban Renewal, LLC, (the "Entity" or "LSUR"), an affiliate of Metro, entered into that certain Purchase and Sale Agreement, dated January 19, 2017 (the "Purchase and Sale Agreement"), providing for the conveyance of a portion of the Project Site to the Entity to enable the Entity to undertake the redevelopment of the Project Site by constructing thereon a mixed use project consisting of: (i) a parking garage with approximately 314 parking spaces (the "Farrand Garage"), (ii) approximately 176 residential units (the "Residential Component"), and (iii) approximately 2,700 square feet of space to be utilized as residential amenity space appurtenant to the Residential Component (unless the Township exercises its option to acquire same for community benefit purposes) (the "Amenity Space"), and together with the Farrand Garage and the Residential Component, collectively, the "Project"); and

WHEREAS, the Farrand Garage will be available to serve the residents of the Residential Component as well as other permit holders with parking permits issued by the Township; and

WHEREAS, the Project Site will be divided to create a 3-unit condominium, or some similar structure, the components of which will be owned as follows: (i) the Township will own the unit or portion of the Project Site containing the Farrand Garage (the "Garage Parcel"); (ii) LSUR, or the Township if the Township exercises its option to acquire same for community benefit purposes, will own the unit or portion of the Project Site containing the Amenity Space (the "Amenity Space Property"); and (iii) LSUR will own the unit or portion of the Project Site containing the Residential Component (the "Residential Parcel"); and

WHEREAS, the Township and LSUR entered into that certain Redevelopment Agreement dated February 13, 2017 (the "Redevelopment Agreement"), pursuant to which LSUR agreed to construct the Project on the Project Site; and

WHEREAS, the Project is a "redevelopment project" as defined in the Redevelopment Law and a "parking project" as defined in the Parking Authority Law, *N.J.S.A. 40:11A-1 et seq.* (the "Parking Authority Law"); and

WHEREAS, on February 14, 2017, LSUR and the Authority submitted an application to the Planning Board of the Township (the "Planning Board") for site plan approval in connection with the Project (the "Planning Board Application"); and

WHEREAS, the Township dissolved the Authority and assumed all of its assets, liabilities, rights and obligations, including without limitation all of the Authority's rights and obligations pursuant to the Purchase and Sale Agreement; and

WHEREAS, as successor to the Authority, the Township owns the Project Site; and

WHEREAS, after conducting public hearings relating to the Planning Board Application, the Planning Board granted site plan approval for the Project on May 9, 2017, and on June 13, 2017, the Planning Board adopted a resolution memorializing its findings and conclusions with respect to the Planning Board Application; and

WHEREAS, simultaneous with the execution of this Declaration, LSUR and the Township shall enter into that certain Parking Garage Construction Agreement (the "Parking Garage Construction Agreement"), under which LSUR's affiliate, MREH Management, LLC, will construct, and the Township will finance the construction of, the Farrand Garage; and

WHEREAS, the Township shall provide for, construct and operate off-street parking projects, manage and operate on-street parking meters and related facilities, enforce applicable parking laws, ordinances and regulations, promote the free movement of traffic and relief of traffic congestion, and improve conditions affecting public safety and general welfare; and

WHEREAS, the Township is authorized to do all things necessary or convenient to aid and cooperate in the operation of a "redevelopment project," all in accordance with the Redevelopment Law; and

WHEREAS, the Township has determined to establish permanent access, utility and maintenance easements over certain portions of the Project (the "Entrance Easements," as described on Exhibit A attached hereto), on the terms and conditions described herein; and

NOW, THEREFORE, in consideration of these premises and the conditions, covenants, and terms hereinafter contained, it is established that:

1. Incorporation by Reference. The foregoing recitals and all Exhibits hereto are incorporated by reference and made a part hereof.

2. Installation, Maintenance, Repair and Replacement of Utility Lines.

(a) Utility Easements for the Garage Parcel. The Township hereby establishes and creates for the benefit of the Garage Parcel perpetual, nonexclusive easements over, under, through and across the boundaries of the Entrance Easements for the installation, operation, inspection, maintenance, repair and replacement of utilities servicing the Garage Parcel and the improvements thereon, including but not limited to storm and sanitary sewer lines and structures, and water, gas, electric, telephone and cable communications lines, as applicable.

(b) Utility Easements for the Residential Parcel. The Township hereby establishes and creates for the benefit of the Residential Parcel perpetual, nonexclusive easements over, under, through and across the Entrance Easements for the installation, operation, inspection, maintenance, repair and replacement of utilities servicing the Residential Parcel and the improvements thereon, including but not limited to storm and sanitary sewer lines and structures, and water, gas, electric, telephone and cable communications lines, as applicable.

(c) Utility Easement Conditions. All utilities installed within the Entrance Easements shall be under ground, and shall be constructed as depicted on, and to the specifications and standards set forth in, formal site plan approvals (as and to the extent applicable, as modified from time to time), and in accordance with all other applicable governmental approvals, regulations, standards and/or specifications. All utilities installed within the Entrance Easements shall be marked or otherwise identified prior to installation.

3. Temporary Right of Access and Construction Easement.

(a) For the Garage Parcel. There is hereby created in favor of the Garage Parcel a limited right of entry, and temporary construction easements, upon the entire Residential Parcel within twenty feet (20') of the perimeter of the Entrance Easements, as may be reasonably necessary in connection with the construction of improvements related to the Farrand Garage on the Garage Parcel, the construction, installation, inspection or repair of the utilities servicing the Farrand Garage on the Garage Parcel, and the interim improvement of the Entrance Easements for the intended uses pursuant to this Declaration, including but not limited to storage of building materials and parking of construction equipment. This right of entry and temporary easement shall terminate upon completion of the Farrand Garage, which shall be evidenced by the Township's issuance of a certificate of occupancy for the Farrand Garage.

(b) For the Residential Parcel. There is hereby created in favor of the Residential Parcel a limited right of entry, and temporary construction easements, upon the Garage Parcel within twenty (20') feet of the perimeter of the Entrance Easements, as may be reasonably necessary in connection with the construction of improvements related to the Residential Parcel, the construction, installation, inspection or repair of the utilities servicing the Residential Parcel pursuant to this Declaration, including but not limited to storage of building materials and parking of construction equipment. This right of entry and temporary easement shall terminate upon completion of the Residential Project which shall be evidenced by the Township's issuance of a certificate of occupancy for the Residential Project.

4. Terms and Conditions: Generally Applicable Provisions.

(a) Nature of Rights Granted. The easements hereby granted shall be burdens upon and shall run with the land comprising the Residential Parcel and Garage Parcel, and shall benefit and bind the Township and its successors and assigns.

(b) Non-interference. No beneficiary of any of the easements described herein shall obstruct or restrict access to any portion of easement areas within which another party has a right or obligation pursuant to this Declaration, nor hinder or otherwise interfere with such other party's proper exercise of such beneficial rights and privileges hereunder, except for reasonable security measures agreed upon by beneficiary parties from time to time, and except for maintenance, repair or replacement activities of a temporary nature permitted hereunder or otherwise required from time to time as provided for herein. Any beneficiary of the easements herein described shall be responsible for maintaining each easement area to which such party is the grantee or beneficiary, including keeping such areas free of rubbish and debris.

(c) Insurance: Indemnity. Beneficiaries of the easements described herein shall reciprocally insure, defend and indemnify each other against, and shall save each other harmless from and reimburse the other with respect to, all claims, demands, actions, causes of action, injuries, orders, losses, liabilities (statutory or otherwise), obligations, damages, fines, penalties, costs and expenses (including without limitation, reasonable attorneys' fees and expenses) incurred by, imposed upon or asserted against either party arising out of or in connection with the other's construction activities and use and occupancy of the Entrance Easements pursuant to this Declaration. All such insurance shall name the applicable party and its lenders as additional insureds.

(d) Miscellaneous Provisions.

(i) No amendment to this Declaration shall be valid unless in writing and duly executed by the Township, its successors or assigns, with such signatures properly acknowledged.

(ii) In the event of a conflict or inconsistency between the metes and bounds description of the easement areas and their graphic depictions, the metes and bounds description shall control.

(iii) This Declaration shall be governed by the laws of the State of New Jersey without giving effect to its conflicts of laws principles. The exclusive venue for all actions or proceedings arising out of or in connection with this Declaration shall be in Essex County, New Jersey.

(iv) This Declaration shall be recorded in the Office of the Essex County Register.

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SIGNATURE PAGE FOLLOWS.

EXHIBIT A

Metes and Bounds Description of the Entrance Easements

[to be attached]