

RESOLUTION OF THE TOWNSHIP OF IRVINGTON, NJ

No. UEZ16-0614-9

Date of Adoption June 14, 2016
Legislative Research Officer

APPROVED AS TO FORM AND LEGALITY ON THE BASIS OF FACTS SET FORTH BY

PRESENTED BY COUNCIL MEMBER INMAN SECONDED BY JONES

RESOLUTION OF THE TOWNSHIP OF IRVINGTON, IN THE COUNTY OF ESSEX DESIGNATING A REDEVELOPER AND AUTHORIZING THE EXECUTION OF AN ESCROW AGREEMENT AND REDEVELOPMENT AGREEMENT WITH CB BERKELEY URBAN RENEWAL ASSOCIATES, LLC IN CONNECTION WITH THE ACQUISITION AND REHABILITATION OF CERTAIN PROPERTY WITHIN THE TOWNSHIP OF IRVINGTON

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

WHEREAS, the Municipal Council (the "Township Council") of the Township of Irvington (the "Township"), designated certain property within the Township, including, without limitation, the property identified on the official tax maps of the Township as Block 139, Lot 1 and Block 135, Lot 14, and more commonly known as 9-23 Berkeley Terrace and 794 Grove Street (the "Property") as an area in need of redevelopment, pursuant to the LRHL (the "Redevelopment Area"); and

WHEREAS, the Township Council duly adopted the East Ward/East Springfield Avenue Redevelopment Plan, for the Redevelopment Area (as amended, the "Redevelopment Plan"); and

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

WHEREAS, CB Berkeley Urban Renewal Associates, LLC (the "Redeveloper") has submitted a Redevelopment Application (the "Application") to the Township and submitted its plans for acquisition and renovation of the 153 units of garden style apartments (the "Project") to the Township for its review and consideration; and

WHEREAS, the Redeveloper submitted information outlining its financial capabilities, experience, expertise and project concept descriptions for the Project and requested designation by the Township as the redeveloper for the Project; and

WHEREAS, the Redeveloper is the contract-purchaser of the Property; and

WHEREAS, the Township has determined that the redevelopment of the Property in accordance with applicable provisions of the Redevelopment Plan will contribute to the redevelopment of the Township in accordance with the legislative intent, goals and objectives of the LRHL; and

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

WHEREAS, in order to implement the development, financing, construction, operation and management of the Project, the governing body of the Township has determined to enter into a redevelopment agreement with the Redeveloper (the "Redevelopment Agreement"), which Redevelopment Agreement designates the Redeveloper as the "redeveloper" of the Project as that term is defined in the LRHL, and which specifies the respective rights and responsibilities of the Township and the Redeveloper with respect to the Project,

WHEREAS, the Redeveloper has agreed to bear the costs for professionals needed by the Township to review and advise the Township with regard to the redevelopment of the Property and the negotiation and implementation of (i) the Redevelopment Agreement and/or (ii) a financial agreement, as may be applicable or appropriate for the Project. The Township desires to enter into an escrow agreement establishing the mechanism for the deposit and disposition of funds to cover the Township costs.

NOW, THEREFORE, BE IT RESOLVED by the Municipal Council of the Township of Irvington, County of Essex, New Jersey as follows:

- 1. Generally. The aforementioned recitals are incorporated herein as though fully set forth at length.
2. Execution of Escrow Agreement.
a. The Township Council hereby authorizes the Township Administration together with redevelopment counsel, to finalize and execute an escrow agreement substantially in the form attached hereto as Exhibit A with such changes, deletions and modifications as may be required to effect the transaction contemplated by this resolution, for any and all costs incurred by the Township and its professionals and consultants in reviewing and advising the Township with regard to the Project and the negotiation and implementation of the Redevelopment Agreement and financial agreement,

provided however, that this resolution shall not be construed as an obligation of the Township to execute a financial agreement with the Redeveloper.

3. Execution of the Redevelopment Agreement.

a. The Mayor is hereby authorized to execute the Redevelopment Agreement, substantially in the form attached hereto as Exhibit B, together with such additions, deletions and modifications as are necessary and desirable in consultation with counsel to effectuate the same.

b. The Municipal Clerk is hereby authorized and directed, upon execution of the Redevelopment Agreement in accordance with the terms of Sections 3(a) hereof, to attest to the signature of the Mayor upon such document and is hereby further authorized and directed to affix the corporate seal of the Township upon such document.

4. **Designation of the Developer.** Upon execution of the Redevelopment Agreement, CB Berkeley Urban Renewal Associates, LLC shall be the designated redeveloper of the Project, pursuant to LRHL.

5. **Effective Date.** This resolution shall take effect immediately.

RECORD OF COUNCIL VOTE

X = Indicates Vote N.V. = No Vote A.B. = Absent

COUNCIL MEMBER	YES	NO	N.V.	A.B.	COUNCIL MEMBER	YES	NO	N.V.	A.B.
BURGESS, 1ST VICE PRESIDENT	X				JONES, 2ND VICE PRESIDENT	X			
COX	X				LYONS	X			
HUDLEY	X				FREDERIC, PRESIDENT	X			
INMAN	X								

PRESIDENT OF COUNCIL [Signature] MUNICIPAL CLERK [Signature] DATE June 14, 2016

I hereby certify that the foregoing is a true copy of a Resolution duly adopted by the Municipal Council. In witness whereof I have hereunto set my hand and the Corporate Seal of the Township of Irvington.

MUNICIPAL CLERK _____ DATE _____



ADMINISTRATOR ASSESSOR BLDG CFO COLLECTOR COURT ENGINEER FIRE HEALTH HOUSING INIC JUDGE
 LEGAL LIBR LICEN MAYOR OCDP PARKS PAYROLL PUBLIC SAFETY~DIR PUBLIC WORKS PURCHASING SEC~PB/ZBA
 TRAFFIC ZONING~OFF DLGS GNCD OTHER(S): _____

REDEVELOPER AGREEMENT

By and Between

THE TOWNSHIP OF IRVINGTON

As Redevelopment Entity

and

CB BERKELEY URBAN RENEWAL ASSOCIATES, LLC

as Redeveloper

Dated: _____, 20__

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THIS REDEVELOPER AGREEMENT (the “**Agreement**”) made this ___ day of _____, 20__ by and between

THE TOWNSHIP OF IRVINGTON, a public body corporate and politic of the State of New Jersey, having its offices at Municipal Building, 1 Civic Square, Irvington, New Jersey 07111 in its capacity as a “redevelopment entity” pursuant to *N.J.S.A. 40A:12A-4(c)* (hereinafter referred as the “**Township**”);

AND

CB Berkeley Urban Renewal Associates, LLC, a New Jersey limited liability company, with principal offices located at c/o CB Cubed, LLC, 745 Fifth Avenue, 29th Floor, New York, New York 10151, together with permitted successors or assigns hereinafter referred to as the “**Redeveloper**”);

WITNESSETH

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

WHEREAS, the Municipal Council (the “**Township Council**”) of the Township of Irvington (the “**Township**”), designated certain property within the Township, including, without limitation, the property identified on the official tax maps of the Township as Block 139, Lot 1 and Block 135, Lot 14, and more commonly known as 9-23 Berkeley Terrace and 794 Grove Street (the “**Property**”) as an area in need of redevelopment, pursuant to the Act (the “**Redevelopment Area**”); and

WHEREAS, the Property is currently subject to the *East Ward/East Springfield Avenue Redevelopment Plan*” (as amended, the “**Redevelopment Plan**”) which was duly adopted by the Township Council pursuant to the Act and in accordance with the procedures set forth therein; and

WHEREAS, the Redeveloper is the contract-purchaser of the Property through its affiliate, CB Berkeley Terrace, LLC, and has signed a Purchase and Sale Agreement for the Property; and

WHEREAS, pursuant to *N.J.S.A. 40A:12-4*, the Township has determined to act as the “Redevelopment Entity” (as such term is defined at *N.J.S.A. 40A:12A-3*) for the Redevelopment Area to exercise the powers contained in the Act; and

WHEREAS, the Redeveloper has submitted to the Township its plans for acquisition and renovation of the Property (the “**Project**”, as further described in Exhibit A) for review and consideration; and

WHEREAS, the Redeveloper submitted information outlining its financial capabilities, experience, expertise and project concept descriptions for the Project and requested designation by the Township as the redeveloper for the Property (the “**Redeveloper Application**”) attached hereto as Exhibit B; and

WHEREAS, the Township has determined that the redevelopment of the Property in accordance with applicable provisions of the Redevelopment Plan will contribute to the rehabilitation and reinvigoration of the Township and to the social and economic improvement of the Township in accordance with the legislative intent, goals and objectives of the Act; and

WHEREAS, the Township evaluated the Redeveloper Application according to criteria which included project concept descriptions and determined to commence negotiations with Redeveloper to enter into a redevelopment agreement; and

WHEREAS, in order to implement the development, financing, construction, operation and management of the Project, the governing body of the Township has determined to designate the Redeveloper as the “redeveloper” (as defined in the Act) of the Property and to enter into this Agreement, which specifies terms of the redevelopment of the Property and the rights and responsibilities of the Township and the Redeveloper with respect to the Project.

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

ARTICLE 1

DEFINITIONS

1.01. Definitions. As used in this Agreement the following terms shall have the meanings ascribed to such terms below. Terms listed below in the singular form shall include the plural and words listed in the plural shall include the singular. Whenever the context may require, any pronoun that is used in this Agreement shall include the corresponding masculine, feminine and neuter. Unless otherwise noted, the words "include," "includes" and "including" when used in this Agreement shall be deemed to be followed by the phrase "without limitation". The words "agree," "agreements," "approval" and "consent" when used in this Agreement shall be deemed to be followed by the phrase "which shall not be unreasonably withheld or unduly delayed," unless otherwise specified. All references to Sections, Articles or Exhibits shall refer to Sections, Articles or Exhibits in this Agreement unless otherwise specified.

“**Act**” shall mean the New Jersey Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.*

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

“Building Permit” shall mean a building permit issued by or on behalf of the Township for the Project.

“Certificate of Completion” means written acknowledgement by the _____ in recordable form that the Redeveloper has Completed Construction of the Project (or a relevant Phase or portion thereof) in accordance with the requirements of this Redevelopment Agreement and that terminates this Agreement and the Declaration of Covenants and Restrictions.

“Certificate of Occupancy” shall mean a temporary or permanent certificate of occupancy as defined in the applicable section of the municipal code of the Township and the applicable provisions of the Uniform Construction Code.

“Commence Construction” and **“Commencement of Construction”** shall mean the date on which the construction force and machinery is mobilized for construction of the Project on the Property.

“Completion of Construction” and **“Complete Construction”** shall mean the completion of the Project in accordance with the Redevelopment Plan sufficient for issuance of Certificates of Occupancy for the Project, subject to (i) completing minor conditions of the Governmental Approvals; and (ii) installation of landscaping, final fixtures, and floor coverings.

“Declaration of Covenants and Restrictions” shall mean the filing with the office of the Essex County Clerk of: (i) a notice of the covenants as set forth in Sections 3.02 of this Agreement and (ii) notice as to the existence of this Agreement by and between the Township and Redeveloper, substantially in the form as attached hereto as Exhibit C.

“Effective Date” shall mean the date this Agreement is executed by the Township and Redeveloper.

“Event of Default” is defined in Section 6.01.

“Force Majeure” shall mean acts of God, fire, earthquake, explosion, the elements, war, riots, mob violence or civil disturbance, inability to procure or a general shortage of labor, equipment or facilities, energy, materials or supplies in the open market, failure of transportation, strikes, walkouts, actions of labor unions, court orders, laws, rules, regulations or orders of governmental or public agencies, bodies and authorities, or any other similar cause not within the control of the Redeveloper or the Township. Compliance with municipal laws regulating land use and construction, any legal requirements under any applicable environmental laws, as well as known NJDEP clearances, approvals, or permits typical of the development process and referred

to in this Agreement shall not be considered or construed as events of Force Majeure. Economic factors and market conditions shall also not be considered or construed as events of Force Majeure.

“Governmental Approvals” shall mean all governmental approvals required for the construction of the Project, including, without limitation to the extent such may be applicable: the final site plan with respect to the development of the Project submitted to, and approved by, the Planning Board or its successor, in accordance with the Municipal Land Use Law; county planning board approvals; construction plans and specifications for the obtaining of building permits for the proposed construction; environmental approvals, consents and authorizations from the NJDEP and any other applicable agencies; sewerage capacity approvals, utilities-related permits and any and all other necessary permits, licenses, consents and approvals.

“HUD” shall mean the form of Housing Assistance Payments Contract used to provide Section 8 tenant-based assistance under the housing choice voucher program of the U.S. Department of Housing and Urban Development. The main regulation for this program is 24 C.F.R. Part 982.

“Insurance Requirements” is defined in Exhibit D.

“Minority” shall mean a person who is a citizen or lawful permanent resident of the United States and who is either one or a combination of: (i) African American (a person having origins in any of the black racial groups of Africa), (ii) Alaskan Native and/or American Indian (a person having origins in any of the original peoples of North America), (iii) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, Hawaii or the Pacific Islands), (iv) Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race), or (v) Female (a person of the female gender).

“Minority Business Enterprise” shall mean a sole proprietorship where the sole proprietor is a minority person; or a business corporation where fifty-one (51%) percent of the interest in such corporation is beneficially owned by minority persons and minority persons occupy the majority of management and board positions and control all decisions concerning the entity; or a partnership where fifty-one (51%) percent of the partnership interest in such partnership is beneficially owned by minority persons and minority persons occupy the majority of management and partnership positions and control all decisions concerning the entity; and which is certified as a bona fide minority business enterprise by a certifying agency designated by the Township such as, but not limited to, the New Jersey Department of Community Affairs.

“Municipal Land Use Law” shall mean *N.J.S.A. 40:55D-1 et seq.*

“NJDEP” shall mean the New Jersey Department of Environmental Protection

“NJHMFA” shall mean the New Jersey Housing and Mortgage Finance Agency Law of 1983, as amended, *N.J.S.A. 55:14K-1 et seq.*, and the rules promulgated thereunder at *N.J.A.C. 5:80-1 et seq.*

“Notice” is defined in Section 6.07

“Planning Board” shall be as defined in the recitals hereto.

“Plans” shall mean the plans, including site plans, building floor plans, building elevations, architectural renderings for the Project or any portion thereof. **“Plans”** shall include, but shall not be limited to, the minimum requirements of Applicable Laws or the Redevelopment Plan depending on the context of its use in this Agreement.

“Project” shall be as defined in the recitals hereto. The Project shall encompass the redevelopment of the Property in compliance with the terms and conditions set forth in the Redevelopment Plan, Applicable Laws, Government Approvals and this Agreement.

“Property” shall be as defined in the recitals hereto.

“Redeveloper” shall be as defined in the preamble hereto.

“Redevelopment Entity” shall mean the Township acting in its capacity as a redevelopment entity pursuant to the Act and/or any permitted successors or assigns.

“Redevelopment Fee” is defined in Section 4.05

“Redevelopment Plan” shall be as defined in the recitals hereto.

“Rehabilitation Area” shall be as defined in the recitals hereto.

“State” shall mean the State of New Jersey.

“Termination Notice” is defined in Section 6.02.

“Township” shall be as defined in the preamble hereto.

“Township Costs” shall mean all reasonable and necessary costs and expenses of the Township incurred in negotiation and implementation of this Agreement, including outside engineering and financial consultants fees, costs of counsel and any planning professionals. **“Township Costs”** shall not include charges for services performed by Township employees.

“Township Council” shall be as defined in the recitals hereto.

“Uniform Construction Code” shall mean Chapter 23 of Title 5 of the New Jersey Administrative Code

“Women's Business Enterprise” shall mean a sole proprietorship where the sole proprietor is a woman; a business corporation where fifty-one (51%) percent of the interest in such corporation is beneficially owned by women and women occupy the majority of

management and board positions and control all decisions concerning the entity; or a partnership where fifty-one (51%) percent of the partnership interest in such partnership is beneficially owned by women and women occupy the majority of management and partnership positions and control all decisions concerning the entity; and which is certified as a bona fide women's business enterprise by a certifying agency designated by the Township such as, but not limited to, the New Jersey Department of Community Affairs.

ARTICLE 2

REPRESENTATIONS AND WARRANTIES

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

(a) The Redevelopment Plan and the designation of the Redevelopment Area have been duly adopted in compliance with all Applicable Laws and are currently in full force and effect.

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

(c) All requisite action has been taken by the Township and all requisite consents have been obtained in connection with entering into this Agreement and the instruments and documents referenced herein to which the Township is a party, and the consummation of the transaction contemplated hereby, and to the best of the Township's knowledge and belief are authorized by all Applicable Laws. To the best knowledge of the Township there are no writs, injunctions, orders or decrees of any court or governmental body that would be violated by the Township entering into or performing its obligations under this Agreement.

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

(e) The Township represents that to the best of its knowledge and belief, after diligent inquiry, there is no action, proceeding or investigation now pending, nor any basis therefore, known or believed to exist which questions the validity of the Redevelopment Plan or this

Agreement or any action or act taken or to be taken by the Township pursuant to the Redevelopment Plan or Agreement.

(f) The use(s) of the Property, as contemplated by this Agreement, are authorized by the Act, Applicable Laws and the Redevelopment Plan.

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

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

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

(c) To the best of Redeveloper's knowledge and belief, after diligent inquiry, there is no action, proceeding or investigation now pending, nor any basis therefore, known or believed to exist which (i) questions the validity of this Agreement or any action or act taken or to be taken by Redeveloper pursuant to this Agreement; or (ii) is likely to result in a material adverse change in Redeveloper's property, assets, liabilities or condition which will materially and substantially impair its ability to perform pursuant to the terms of this Agreement.

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

(e) To the best of Redeveloper's knowledge and belief, after diligent inquiry, all information and statements included in any information submitted to the Township and its agents, including but not limited to, McManimon, Scotland & Baumann, LLC, are true and correct in all respects. Redeveloper acknowledges that the facts and representations contained in the information, submitted by Redeveloper are a material factor in the decision of the Township to enter into this Agreement.

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

(g) Redeveloper is financially and technically capable of developing, designing, financing, constructing, operating, and maintaining the Project.

(h) No receiver, liquidator, custodian or trustee of Redeveloper shall have been appointed as of the Effective Date, and no petition to reorganize Redeveloper pursuant to the

United States Bankruptcy Code or any similar statute that is applicable to the Redeveloper shall have been filed as of the Effective Date.

(i) No adjudication of bankruptcy of the Redeveloper or a filing for voluntary bankruptcy by Redeveloper under the provisions of the United States Bankruptcy Code, 11 U.S.C. §101 *et seq.* or any other similar statute that is applicable to the Redeveloper shall have been filed.

(j) No indictment has been returned against any official of Redeveloper with respect to any transaction related to the transactions contemplated by the terms of this Agreement.

ARTICLE 3

COVENANTS AND RESTRICTIONS

3.01. Covenants and Restrictions. Redeveloper agrees to record the Declaration of Restrictions in the office of the Essex County Clerk on the Property immediately following the later of: (a) the Effective Date; or (b) the date upon which the Redeveloper acquires the Property.

3.02. Description of Covenants. The covenants to be imposed upon Redeveloper, its successors and assigns, and recorded in the form of a Declaration of Covenants and Restrictions Exhibit C, shall set forth that the Redeveloper and its successors and assigns shall:

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

(b) Redeveloper shall not sell, or otherwise transfer all or any portion of the Property without the written consent of the Township, provided however that a Certificate of Occupancy shall constitute written approval for the sale or lease of a residential unit or retail space for which such Certificate of Occupancy has been issued, except for an assignment to an entity which is not an urban renewal entity under common control with Redeveloper.

(c) Redeveloper shall, in connection with its use or occupancy of the Project, not effect or execute any covenant, agreement, lease, conveyance or other instrument except in accordance with applicable law or as may be required by NJHMFA or HUD whereby the Property is restricted upon the basis of age, race, color, creed, religion, ancestry, national origin, sexual orientation, sex or familial status, and Redeveloper, its successors and assigns, shall comply with all Applicable Laws prohibiting discrimination or segregation by reason of age, race, color, creed, religion, ancestry, national origin, sexual orientation, sex or familial status except in accordance with applicable law or as may be required by NJHMFA or HUD.

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

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

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

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

(h) Redeveloper will promptly pay the Township Costs upon execution of this Agreement and any and all taxes, service charges or similar obligations when owed to the Township with respect to any property situated in the Township owned by Redeveloper.

(i) Redeveloper shall, with the advice and support of the Township, provide social services intended to provide targeted benefits to new and existing tenants. The specific services provided shall be subject to the financing attained by the Redeveloper.

3.03. Effect and Duration of Covenants. It is intended and agreed that the covenants and restrictions set forth in Section 3.02 shall be covenants running with the land. All covenants in Section 3.02, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in this Agreement, shall be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by the Township against Redeveloper, its successors and assigns and every successor in interest therein, and any party in possession or occupancy of the Property or any part thereof. Notwithstanding the foregoing, the agreements and covenants set forth in Article 3.02 shall cease and terminate upon the issuance of a Certificate of Completion for such improvements.

3.04. Enforcement by Township. In amplification, and not in restriction of the provisions of this Article 3, it is intended and agreed that the Township and its successors and assigns (meaning only municipal agencies) shall be deemed beneficiaries of the agreements and covenants set forth in Section 3.02 both for and in their own right but also for the purposes of protecting the interests of the community and other parties, public or private, in whose favor or for whose benefit such agreements and covenants shall run in favor of the Township for the entire period during which such agreements and covenants shall be in force and effect, without regard to whether the Township has at any time been, remains, or is an owner of any land or interest therein to or in favor of which such agreements and covenants relate. The Township alone shall have the sole right to enforce the terms and covenants of this Agreement.

ARTICLE 4

PROJECT DETAILS

4.01. General Scope of Project. It is understood and agreed by and between the parties that Redeveloper has the right to develop the Project on the Property consistent with the terms of Applicable Laws, Government Approvals, the Redevelopment Plan, and this Agreement.

4.02. Redeveloper Deadline: Governmental Approvals, Commencement of Construction and Completion of Construction.

(a) Redeveloper entered into a Purchase and Sale Agreement with the Seller of the Property on May 25, 2016 (“PSA”).

(b) Redeveloper will conclude its due diligence under the PSA by July 9, 2016.

(c) By July 26, 2016, Redeveloper will submit its request to HUD and NJHMFA to transfer and revise HAP Contracts for the Property.

(d) By July 26, 2016, Redeveloper will submit an application to the NJHMFA for issuance of tax exempt bonds and four (4%) percent tax credits.

(e) By June 1, 2017, assuming all conditions and contingencies under the PSA have been satisfied or waived, Redeveloper will have closed on the financing and title to the Property.

(f) Within thirty (30) days of the acquisition of the Property, Redeveloper shall submit all applications for Governmental Approvals as necessary for the Project.

(g) Within thirty (30) days of the receipt of all Building Permits, Redeveloper shall Commence Construction.

(h) Within twenty-four (24) months of the receipt of all Building Permits, Redeveloper shall Complete Construction.

Should Redeveloper experience delays related to the above Project schedule, Redeveloper must immediately notify the Township of such delays. Provided that Redeveloper is diligently undertaking (a) through (h) above, and there are no other events of default, the Township may, in its reasonable discretion, grant extensions for delays to the Redeveloper Deadlines.

4.03. Certificates of Occupancy and Certificates of Completion. (a) Upon Completion of Construction pursuant to 4.02, Redeveloper shall apply to the appropriate governmental officer or body for Certificates of Occupancy.

(b) Following the issuance of all of the Certificates of Occupancy and the satisfaction of the terms and conditions of this Agreement, the Township agrees to issue a Certificate of Completion. The Certificate of Completion shall constitute a recordable conclusive determination of the satisfaction and termination of the agreements and covenants with respect to the Project in this Agreement and the Redevelopment Plan with respect to the obligations of

Redeveloper to construct the Project within the dates for completion of same. Within 30 days after written request by Redeveloper, the Township shall provide Redeveloper with the Certificate of Completion or a written statement setting forth in detail the reasons why it believes that Redeveloper has failed to complete the Project in accordance with the provisions of this Agreement or is otherwise in default under this or any other applicable agreement and what reasonable measures or acts will be necessary in the reasonable opinion of the Township in order for Redeveloper to be entitled to the Certificate of Completion.

4.04. First Source Employment. (a) The Redeveloper agrees to employ, and shall require in each of its contracts with contractors that they and their subcontractors must employ, residents of the Township in the construction of the Project, and in the operation and maintenance of the Project following Completion of Construction for so long as this Financial Agreement remains in effect with respect to the Project. Thirty (30%) percent of billable construction laborer, administrative, janitorial, landscaping and clerical hours associated with the Project shall be provided by Township residents or by employees of Minority Business Enterprises and Women's Business Enterprises, consistent with market wages to the extent that there are qualified workers with appropriate job skills to fill available jobs. The Township designated the Director of Economic Development and Gants Oversight to oversee and monitor the Redeveloper's compliance with these First Source Employment requirements and affirmative action requirements, at no cost to the Redeveloper. The Redeveloper will engage in and cooperate with efforts to recruit Township residents for all employment opportunities in connection with the Project, including participation in Township job fairs and utilization of a central employment registry, if the Township maintains such a registry. The Township and Redeveloper shall develop a procedure for the recruitment and placement of Township residents that allows the Redeveloper (as well as its contractors and subcontractors) to abide by the First Source Employment requirements without causing undue delay to the Project. The Redeveloper agrees to meet periodically with the Township's designee at the designee's request, to discuss the status of the Redeveloper's employment efforts and compliance with the requirements of this Section 4.04. All contracts entered into by the Redeveloper for the construction of the Project shall contain appropriate language to effectuate this provision and the Redeveloper covenants to enforce its contracts with its contractors and subcontractors, if such parties are not in compliance with the requirements of this Section 4.04.

(b) Reporting and Enforcement.

(i) The Redeveloper shall submit monthly reports during construction and quarterly reports following Completion of Construction regarding compliance with this Section as the Township may reasonably require.

(ii) Reports submitted by the Redeveloper shall include names, addresses, ethnic origin of those who apply and are interviewed for employment including those denied employment. Reports should also include businesses hired, recruitment efforts including advertisements and letters to community groups advising them of employment and business opportunities.

(iii) The Redeveloper covenants to enforce its contracts with its contractors and subcontractors if such parties are not in compliance with this Section.

(iv) The penalties for non-compliance with this Section shall be as set forth in the Code of the Township.

4.05. Redevelopment Fee. The Redeveloper shall make payments to the Township in the amount of TEN THOUSAND DOLLARS (\$10,000) per year (the “**Redevelopment Fee**”) to defray the costs of investments made by the Township to encourage the redevelopment of the Property. The Redeveloper’s obligation to pay the Redevelopment Fee shall commence following the later of: (a) execution of this Agreement, or (b) upon acquisition of the Property by Redeveloper and such obligation shall end and terminate after payment of the Redevelopment Fee for the year during which a Certificate of Occupancy is issued for the Project. The Redevelopment Fee shall be prorated for the first and last years during which such Redevelopment Fee is payable.

ARTICLE 5

EVENTS OF DEFAULT; TERMINATION

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

(a) Failure of Redeveloper to observe or perform any covenant, condition, representation, warranty or agreement hereunder and any other failure, act or omission by Redeveloper designated elsewhere in this Agreement as a “Default” or a “default”, and except as otherwise specified below the continuance of such Default for a period of thirty (30) days after Notice from the Township specifying the nature of such Default and requesting that such Default be remedied; *provided, however*, if the Default is one that cannot be completely remedied within thirty (30) days after such Notice, it shall not be an Event of Default as long as Redeveloper is proceeding in good faith and with due diligence to remedy the same as soon as practicable, but in no event later than ninety (90) days or such longer period if reasonably required to cure such default after such Notice unless this Agreement specifically provides otherwise.

(b) Redeveloper’s failure or refusal to make any payment or deposit of funds required hereunder as and when required.

(c) (i) Redeveloper shall have applied for or consented to the appointment of a custodian, receiver, trustee or liquidator of all or a substantial part of its assets; (ii) a custodian shall have been legally appointed with or without consent of Redeveloper; (iii) Redeveloper, (1) has made a general assignment for the benefit of creditors, or (2) has filed a voluntary petition in bankruptcy or a petition or an answer seeking an arrangement with creditors or has taken advantage of any insolvency law; or (iv) Redeveloper shall have suspended the transaction of its usual business.

(d) Redeveloper (i) fails to perform its obligations with respect to implementation of the Project in accordance with this Agreement, including but not limited to failure to Commence Construction or Complete Construction in accordance with this Agreement; or (ii) abandons the Project or substantially suspends construction work without the prior knowledge and consent of the Township.

(e) Redeveloper's failure to pay or delinquency in the payment of real property taxes or assessments, which failure or delinquency is not cured within thirty (30) days of Notice by the Township.

(f) Cancellation or termination by reason of any act or omission of Redeveloper of any insurance policy, performance or completion, letter of credit, guaranty or other surety required hereunder to be provided by Redeveloper for the benefit of the Township, immediately upon cancellation or termination thereof if not replaced with no resulting gaps in coverage.

5.02. Remedies Upon Event of Default. Whenever any Event of Default of Redeveloper shall have occurred, the Township may, on written notice to Redeveloper (a "**Termination Notice**") terminate this Agreement and Redeveloper's designation as Redeveloper hereunder, and take whatever other action at law or in equity as may appear necessary or desirable to enforce the performance or observance of any rights, remedies, obligations, agreements, or covenants of Redeveloper under this Agreement.

5.03. Force Majeure Extension. For the purposes of this Agreement, neither the Township nor Redeveloper shall be considered in breach or in default with respect to its obligations hereunder because of a delay in performance arising from a Force Majeure Event. It is the purpose and intent of this provision that in the event of the occurrence of any such delay, the time or times for performance of the obligations of the Township or Redeveloper shall be extended for the period of the delay; *provided, however*, that such delay is actually caused by or results from the Force Majeure Event. The time for completion of any specified obligation hereunder shall be tolled for a period of time up to but not exceeding the period of delay resulting from the occurrence of a Force Majeure Event.

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

5.05 Remedies Cumulative. No remedy conferred by any of the provisions of this Agreement is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies.

5.06 Termination Rights Related to Litigation. If third party litigation is commenced challenging the validity of (i) the designation of the Rehabilitation Area, (ii) the Redevelopment

Plan, or (iii) execution of this Redevelopment Agreement by the Township, the commencement of such litigation shall be a Force Majeure Event effective as of the date of the filing of the summons and complaint if Redeveloper invokes the Force Majeure provisions this Agreement; *provided, however,* that (a) if such litigation is finally determined in favor of the plaintiff with no further opportunity for appeal, then either Party may terminate this Agreement by written notice to the other, and (b) if such litigation is not finally determined (inclusive of the expiration of any applicable appeal period) but the Force Majeure Extension has been in effect for at least six (6) months from the date the complaint was filed, then Redeveloper only may elect to terminate this Agreement.

ARTICLE 6

MISCELLANEOUS

6.01. No Consideration For Agreement. Redeveloper warrants it has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement, other than normal costs of conducting business and costs of professional services such as architects, engineers, financial consultants and attorneys. Redeveloper further warrants it has not paid or incurred any obligation to pay any officer or official of the Township, any money or other consideration for or in connection with this Agreement.

6.02. Non-Liability of Officials and Employees of the Township and Redeveloper. No member, official or employee of the Township shall be personally liable to Redeveloper, or any successor in interest, in the event of any default or breach by the Township, or for any amount which may become due to Redeveloper or its successor, or on any obligation under the terms of this Agreement. Redeveloper, and its employees, officers, members or managers shall not be personally liable to Township in the event of any default or breach by Redeveloper, or for any amount which may become due to the Township or its successor, or any obligation under the terms of this Agreement.

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

6.04. Exhibits. Any and all Exhibits annexed to this Agreement are hereby made a part of this Agreement by this reference thereto.

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

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

6.07. Notices. Formal notices, demands and communications (“**Notice**”) between the Township and Redeveloper shall be deemed given if dispatched to the address set forth below by registered or certified mail, postage prepaid, return receipt requested, or by a commercial overnight delivery service with packaging tracking capability and for which proof of delivery is available. In this case such notice is deemed effective upon delivery. Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by written Notice.

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

To Redeveloper: CB Berkeley Urban Renewal Associates, LLC
 c/o CB Cubed, LLC
 745 Fifth Avenue, 29th Floor
 New York, New York 10151
 Attn: Josh Levy

With copies to: Sokol Behot, LLP
 433 Hackensack Avenue
 Hackensack, New Jersey 07601
 Attn: Jeffrey A. Zenn, Esq.

To Township: Township of Irvington
 Attn: Musa A. Malik, Esq., Business Administrator
 1 Civic Square
 Irvington, New Jersey 07111

With copies sent to:

Township of Irvington
Attn: Ramon E. Rivera, Esq., Township Attorney
1 Civic Square
Irvington, New Jersey 07111

Township of Irvington
Attn: Genia C. Philip, Esq., Director
Department of Economic Development
& Grants Oversight
1 Civic Square, Room 102
Irvington, New Jersey 07111

and

McManimon, Scotland & Baumann, LLC
Attn: Glenn Scotland, Esq.
75 Livingston Avenue, Second Floor

6.08. Indemnification. Redeveloper, for itself and its successors and assigns, covenants and agrees, at its sole cost and expense to indemnify, defend and hold harmless the Township, its governing body, their respective officers, employees, agents, attorneys and consultants, representatives and employees, agents, attorneys and consultants, representatives and employees and respective successors and assigns from any third party claims, liabilities, losses, costs, damages, penalties and expenses (including reasonable attorney's fees) resulting from or in connection with (i) any breach by Redeveloper or its agents, employees or consultants, of Redeveloper's obligations under this Agreement, or (ii) the acts or omissions of Redeveloper or of Redeveloper's agents, employees, or consultants in connection with the development, financing, design, construction, operation, or maintenance of the Project, provided, however, that no indemnification shall be required pursuant to this Section 5.07 in the event that the indemnification otherwise due pursuant to this Section 5.07 is attributable to the gross negligence of the Township.

6.09. Contingency for Approvals of Project, Government Approvals and/or Building Permits. In addition to all other portions of this Agreement, Redeveloper's obligation to proceed under this Agreement is expressly contingent upon: (a) closing on title to the Property; and (b) receipt of Project Approvals.

(a) Approvals. Redeveloper's final obligation to proceed under this Agreement is contingent upon the ability of Redeveloper to: (i) verify the Township's full and final approval of the Project for the subject Property (ii) obtain all required final approvals, not subject to any opportunity of appeal by anyone, from the Township of Irvington, County of Essex, State of New Jersey, and/or such other necessary governmental and quasi-governmental boards or agencies having jurisdiction over the Property (collectively known as the "Government Entities") which are necessary to develop the Property. This shall include all final and non-appealable contractual arrangements, approvals, licenses, agreements, permits and authorizations required for the lawful use, construction, ingress and egress, drainage, utilities, sewer and water capacity, parking and signage necessary by Redeveloper to develop the Property in the configuration and design set forth by Redeveloper in its plans and applications.

(b) Approval Period Extension. During the process of construction, provided Redeveloper has submitted applications for various building permits and any other required Government Approvals necessary from the Township pursuant to the approved Plan; and is diligently pursuing same and they are delayed through no fault of Redeveloper, Redeveloper, upon written notice to Township ("Extension Notice"), shall be entitled to one(1) automatic extension comprised of a maximum period of ninety (90) days in order to complete the process necessary to achieve a Certificate of Completion and Certificate of Occupancy.

6.10 Right to Terminate. The Redeveloper shall have the right to terminate this Redeveloper Agreement if it does not acquire the Property by June 1, 2017. Upon notice to the Township terminating this Redeveloper Agreement, the parties' obligations to each other shall

terminate and the parties shall have no obligation or liabilities to the other except for those that may have accrued to the date of the notice.

6.11 Successors and Assigns. This Redeveloper Agreement shall be binding upon, and inure to the benefit of, the parties hereto and upon each party's successors and assigns.

IN WITNESS WHEREOF, the parties have executed this Redeveloper Agreement effective as of the latest date of the signatures affixed hereto.

EXHIBIT A

PROJECT DESCRIPTION

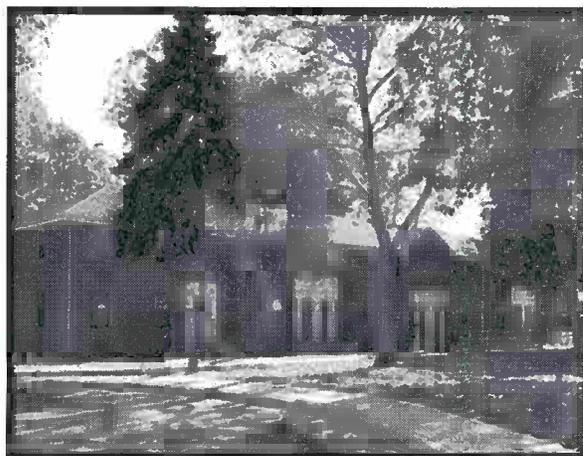
BERKELEY TERRACE APARTMENTS

OVERVIEW

Berkeley Terrace Apartments (“Berkeley Terrace” or the “Property”) is a 153-Unit multifamily property, which is covered by a Project-Based Section 8 Contract, located in Irvington, NJ.

CB Cubed, LLC (“CB3” or the “Sponsor”) is proposing to renovate the property in order to address substantial issues that have resulted in sub-standard housing for the tenants and caused blight in the neighborhood.

The Property’s most recent REAC Inspection resulted in a score of 40c, which is a failing score, making the property at risk of losing its subsidy and thereby creating a risk that the asset could ultimately become vacant, non-tax paying and an attractive nuisance for crime and other issues in Irvington.



CB3 is working with the leaders of Irvington, New Jersey Housing Mortgage Finance Agency and HUD in order to purchase the Property from the current owner, refinance the Property and invest capital into the Property in order execute the Scope of Work identified below.

All tenants who are in good standing will remain at the Property and will be temporarily relocated for a period of approximately 30 days each while their units are renovated. Relation will be at no cost to the tenants and is included in the Sponsor’s development budget.

DEVELOPMENT PLAN

Below, please find an analysis of the issues that CB3 has identified at Berkeley Terrace and the manner in which it will be corrected.

Issue #1:

The Property received a 40c on its last REAC score, which is a failing score that can result in loss of the Project Based Section 8 Subsidy and put tenants at risk. Without the Section 8 Contract, the Property would not be able to pay debt service, operational costs or taxes at the current level.

Resolution:

CB3 has met with the heads of the New York Hub Office for HUD to discuss Berkeley Terrace. We have disclosed that we are in contract to purchase the asset and that we will renovate the property and change property management. Based on these representations HUD has agreed to not take any corrective action against the Property so that we can have time to purchase the Property and execute our business plan. CB3 is working with HUD in order to enter into a new 20-Year HAP Contract which will create greater security for the Property and its tenants.

Issue #2:

The Property is in disrepair and has conditions that are not acceptable for tenants. The only reason the asset maintains its occupancy is because of its Section 8 Contract and the tenant's lack of options.

Resolution:

CB3 believes that affordable housing is not intended to just provide a roof over a family's or individuals head, but is rather intended to create a home that is a place of security, happiness and pride for tenants. In order to accomplish this we will be undertaking an extensive renovation of the Property, which will include the following¹:

1. Renovation of the interior of all units, including kitchens and bathrooms.
 - a. This will include refinishing or replacing floors.
 - b. Putting carpet into bedrooms.
 - c. Providing all new kitchens and bathrooms with low flow fixtures and energy star appliances.
 - d. Repainting all units.
 - e. Replacing existing lighting fixtures with energy efficient lights.
2. Renovations of all common areas (stairwells, landings, etc.)
3. Replacement of Exterior Doors (as necessary) and upgrading the entry ways into each building.
4. Replacement of all windows with energy efficient windows.
5. Pointing and painting of exterior of building to provide the Property with a new identity and create curb appeal.
6. Implementation of Security Camera System throughout Property.
7. Repair and replacement of existing sidewalks, curbs and asphalt.
8. New landscaping, playground equipment (if desired by tenancy) and passive outdoor recreation areas (gazebo, picnic table, benches).
9. Repair or replacement of existing fencing and security gate.
10. New exterior lighting package to enhance security at the site.
11. CB3 is also going to endeavor to upgrade the management office, laundry facilities and to create a tenant lounge area.

Issue #3:

Management at the property is not engaged in making sure the Property has the proper upkeep and that tenant

¹ Please note, scope of work has been based on assumptions regarding financing for the Property and is dependent on our ability to achieve the projected financing.

needs are met.

Resolution:

CB3 will be replacing current management and will be bringing in a management team that understands the importance of the tenant's needs and the need to make sure the Property is maintained in order to facilitate continued growth in Irvington.

Additionally, CB3 will be implementing social services for the tenants at Berkeley Terrace. The social services provided will be determined after we have a meeting with the tenants to discuss the renovation of the property, transfer of ownership and what their needs are. CB3 will be working with the Mayor's staff to help facilitate these social service programs and tenant involvement.

We believe that with these changes, Berkeley Terrace can serve as a catalyst for the further gentrification of Irvington and continued investment in Irvington. In addition to this benefit, CB3 is working with Irvington to utilize a First Source Agreement, which will help to provide job opportunities to Irvington residents and/or companies.

NEXT STEPS:

CB3 has executed a Purchase and Sale Agreement with the current owner of the Property. At this time we are in due diligence on the property and are gathering all necessary reports. We are also working with HUD to facilitate the transfer of the asset, a new rent schedule and a new 20-year HAP Contract. CB3 is also working with NJHMFA to facilitate the use of Tax Exempt Multifamily Revenue Bonds and 4% Low Income Housing Tax Credits to finance this transaction. However, if we are not able to access this financing, we will still move forward with the transaction under an alternative financing scenario (HUD Mortgage and Conventional Equity). The receipt of a PILOT from Irvington is an imperative part of the financing plan for the renovation and refinancing of the Property. Without the help of the Mayor, Council and the entire Irvington staff, we could not be accomplishing this work and we are incredibly grateful for your partnership.

In order to meet the timelines under our Purchase and Sale Agreement, the Mayor and the Irvington Executive Staff have worked tirelessly to help us receive a PILOT prior to July 4, 2016. In order to accomplish this, we must have the approvals in place before that date, which will also require a waiver of the 20 day waiting period. We are incredibly appreciative of the council's consideration of these requests and are looking forward to working together to see this Property be a tremendous success and a place that the tenants and township can be proud of.

EXHIBIT B

REDEVELOPER APPLICATION

EXHIBIT C

FORM OF DECLARATION OF COVENANTS AND RESTRICTIONS

EXHIBIT D

INSURANCE REQUIREMENTS

General. At all times the Redeveloper shall maintain, or cause to be maintained, insurance for the mutual benefit of the Township and Redeveloper as their interest may appear:

(1) Loss or damage by fire, and such other risks as may be included in the standard form of extended coverage insurance from time to time available, with minimum limits of \$50,000 each occurrence;

(2) Commercial General Liability insurance or its equivalent for bodily injury, personal injury, and property damage including loss of use, with minimum limits of \$1,000,000 each occurrence, \$1,000,000 personal injury, \$1,000,000 general aggregate and \$1,000,000 products/completed operations, plus excess ("umbrella") liability policy(s) with coverage of not less than \$1,000,000 per occurrence and \$1,000,000 annual aggregate. It is further understood that the Commercial General Liability insurance is primary and non-contributory, with the Township named as Additional Insured.

(3) Workers compensation insurance in an amount not less than \$500,000 or such greater amount as may be required under Applicable Laws for employees of Redeveloper and the Contractors.

Redeveloper's obligation to provide insurance as to the Project shall cease upon the issuance of a Certificate of Completion.

Restrictions. All insurance provided for under this Agreement will be reasonably effected under valid enforceable policies issued by insurers rated "A-" or better by A.M. Best and reasonably acceptable to the Township. Within seven (7) days of the execution of this Agreement, a certificate procured by Redeveloper pursuant this Exhibit D (or certificates thereof) will be delivered to the Township. At least 30 days prior to the expiration date of any policy, the original renewal policy (or certificates thereof) for such insurance will be delivered by the Redeveloper to the Township as aforesaid, together with satisfactory evidence of payment of the premium thereon. All policies referred to in this Exhibit D will, to the extent then generally obtainable, contain agreements by the insurers that (a) any loss will be payable to the Redeveloper and the Township, as their interest may appear and (b) such policies may not be canceled except upon 30 days prior written notice to the named insured, additional insured/certificate holder and loss payee.

Township as Insured. All policies of insurance required herein shall name the Redeveloper as the insured and the Township as the additional insured, as their respective interests may appear.

Additional Insurance. Nothing in this Article shall prevent the Redeveloper from taking out insurance of the kind and in the amounts and with companies under a blanket

insurance policy or policies which can cover other properties as well as the Property; provided, however, that any such policy of insurance must (a) specify therein, or the Redeveloper shall furnish the Township with a written statement from the insurers under such policies specifying the amount of the total insurance allocated to the Project, which amount will not be less than the amount required herein to be carried, and (b) Property will be written on a replacement cost, completed value basis.

Deductibles. All insurance provided under this Exhibit D may contain loss deductible clauses in such maximum amounts as the Township approves in its reasonable discretion.

Subrogation. All insurance policies obtained pursuant to this Exhibit D must include waivers of subrogation against the Township and Redeveloper.

ESCROW AGREEMENT

THIS ESCROW AGREEMENT (this “Escrow Agreement”) is made as of the ____ day of June, 2016 by and between **CB BERKELEY URBAN RENEWAL ASSOCIATES, LLC** (the “Proposed Redeveloper”), with an address at c/o CB Cubed, LLC, 745 Fifth Avenue, 29th Floor, New York, NY 10151 and **THE TOWNSHIP OF IRVINGTON**, a body corporate and politic of the State of New Jersey, (the “Township”), with an address at Municipal Building, Civic Square, Irvington, New Jersey 07111.

WITNESSETH:

WHEREAS, the Proposed Developer is the contract-purchaser of certain property designated as Block 139, Lot 1 and Block 135, Lot 14 on the official tax maps of the Township and more commonly known by the street addresses of 9-23 Berkeley Terrace and 794 Grove Street (collectively, the “Property”) and has signed a Purchase and Sale Agreement for the Property; and

WHEREAS, the Proposed Developer proposes to rehabilitate the Property by: renovating the interior and exterior of the two (2) story, one-hundred fifty-three (153) unit residential buildings, adding passive and active outdoor amenity spaces for tenants, increasing security, arranging for on-site maintenance and incorporating new social services intended to provide targeted benefits to new and existing tenants (the “Project”); and

WHEREAS, the Property is currently subject to the *East Ward/East Springfield Avenue Redevelopment Plan*” (as amended, the “Redevelopment Plan”) which was duly adopted by the Municipal Council of the Township of Irvington (the “Township Council”) pursuant to the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the “Redevelopment Law”) and in accordance with the procedures set forth therein; and

WHEREAS, the Proposed Redeveloper and the Township, in its capacity as redevelopment entity, intend to negotiate a Redevelopment Agreement and/or Financial Agreement (the “Agreement”), with respect to the designation of the Proposed Redeveloper as “Redeveloper” and to provide for (i) the redevelopment of a portion of certain real property within that area that has been designated by the Township Council as an area in need of redevelopment pursuant to the Redevelopment Law, and/or (ii) a payment in lieu of taxes pursuant to the Long Term Tax Exemption Law, *N.J.S.A. 40A:12A-1 et seq.* (the “LTTE”); and

WHEREAS, as an inducement to the Township to engage in such negotiations, and as a precondition thereto, the Proposed Redeveloper has agreed to deposit with the Township the initial amount of **TEN THOUSAND and 00/100 DOLLARS (\$10,000.00)** (the “Escrow Deposit”), to be deposited in an escrow account and disbursed in accordance with the provisions of this Escrow Agreement to defray certain costs incurred by or on behalf of the Township arising out of or in connection with the

selection and designation of the Proposed Redeveloper as redeveloper and the negotiation and preparation of the Agreement.

NOW THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, and intending to be legally bound hereby, the parties hereto agree as follows:

1. Escrow Deposit. The initial Escrow Deposit is separate from and in addition to all other application fees and escrow deposits that may be required by the Township pursuant to the terms of the Agreement, if the parties are successful in their negotiations and one is executed, including any applications for land use approvals that may be needed to implement the Project in accordance with the Redevelopment Plan. Additions to the Escrow Deposit may subsequently become necessary to cover all reimbursable expenses incurred by the Township pursuant to the terms of this Escrow Agreement.

2. Scope of Reimbursable Services.

(a) The Township shall be entitled to be reimbursed for all professional charges incurred in connection with the selection and designation of the Proposed Redeveloper as redeveloper, and the negotiation and preparation of the Agreement; the preparation and review of all related documents and materials, including but not limited to correspondence, meetings and all communications (including by telephone and e-mail) with the Proposed Redeveloper, its professionals, Township staff or retained professional(s) in the negotiation and preparation of such Agreement and related documents or materials (collectively, the “**Reimbursable Activities**”). **Reimbursement may include charges incurred in connection with Reimbursable Activities prior to the date of this Escrow Agreement, and is not contingent upon the outcome of the negotiations or execution of an Agreement.**

(b) Properly reimbursable professional charges shall be reasonable and necessary and shall relate to Reimbursable Activities performed by outside consultants and professionals.

(c) In addition to professional and consultant fees and expenses, properly reimbursable charges shall include a charge for each special meeting of a municipal board held at the request of or with the consent of the Proposed Redeveloper, at a cost of **ONE THOUSAND and 00/100 DOLLARS (\$1,000.00) per meeting.**

3. Deposit and Administration of Escrow Funds. The Escrow Deposit and all additions thereto shall be held by the Township in a banking institution or savings and loan association in the State of New Jersey insured by an agency of the federal government, or in any other fund or depository approved for such deposits by the State of New Jersey, in a segregated, non-interest bearing account referenced to this Escrow Agreement.

4. Payments from the Escrow Funds.

(a) The Township shall use such funds to pay reimbursable professional charges or the charges for special meetings.

(b) Professional charges paid out of the escrow account shall include professional charges in connection with the Reimbursable Activities. The Proposed Redeveloper shall not be charged for any costs and expenses not associated with the Reimbursable Activities. The only costs that shall be added shall be actual out-of-pocket expenses of such professionals or outside consultants, including normal and typical expenses incurred in connection with such Reimbursable Activities.

(c) Each payment for professional services charged to the escrow account shall be pursuant to a voucher from the professional, identifying the personnel performing the Reimbursable Activities, each date the services were performed, the hours spent in not greater than one-quarter (1/4) hour increments, the hourly rate, and specifying properly reimbursable expenses. All professionals shall submit the required vouchers or statements to the Township on a periodic basis in accordance with the schedule and procedures established by the Township. The professional shall simultaneously send an informational copy of each voucher or statement submitted to the Township to the Proposed Redeveloper, c/o Sokol Behot, LLP, 433 Hackensack Avenue, Hackensack, New Jersey 07601, Attn: Jeffrey A. Zenn, Esq.; *provided*, that each such informational voucher or statement may be redacted if and as necessary to prevent disclosure of privileged or otherwise confidential matters.

5. Accounting and Additional Deposits. Upon the execution of an Agreement, termination of negotiations, or as reasonably requested by the Proposed Redeveloper, the Township shall prepare and send to the Proposed Redeveloper a statement which shall include an accounting of funds listing all deposits, disbursements and the cumulative balance of the escrow account. If at any time the balance in the escrow account is less than **TWO THOUSAND FIVE HUNDRED and 00/100 DOLLARS (\$2,500.00)**, or if the escrow account otherwise contains insufficient funds to enable the Township to continue with the negotiations or document preparation, the Township shall provide the Proposed Redeveloper with a notice of the insufficient escrow deposit balance. The Proposed Redeveloper shall deposit to the escrow account additional funds such that the total amount on deposit shall be not less than **TEN THOUSAND and 00/100 DOLLARS (\$10,000.00)**, such deposit to be made within five (5) business days of the Township's notice, failing which the Township may unilaterally cease work without liability to the Proposed Redeveloper.

6. Close Out Procedures. Upon termination of negotiations without an Agreement being executed, or upon the execution of an Agreement, and unless otherwise provided in the Agreement, the Proposed Redeveloper shall send written notice by certified mail to the Township, the Township Attorney and to the relevant municipal professional(s), requesting that the remaining balance of the Escrow Deposit be refunded, or otherwise applied as agreed to pursuant to the terms of the executed Agreement. After receipt of such notice, the professional(s) shall render a final bill to the Township within 30 days, and if so requested shall send an informational copy simultaneously to the Proposed

Redeveloper. Within 30 days of receipt of the final bill the Township shall pay all outstanding bills and render a written final accounting to the Proposed Redeveloper detailing the uses to which the escrow funds were put. The Proposed Redeveloper will not be responsible for any additional charges once the final accounting has been rendered by the Township in accordance with this section. If an Agreement is executed and the Proposed Redeveloper so requests, the Township agrees to apply any balance remaining in the Escrow Deposit towards the funding of any escrow deposits that may be required to be posted pursuant to the terms of the executed Agreement.

7. Disputed Charges.

(a) The Proposed Redeveloper may dispute the propriety or reasonableness of professional charges paid out of the Escrow Deposit by written notice to the Township. A copy of such notice shall be sent simultaneously to the professional(s) whose charges or estimated costs are the subject of the dispute. Such written notice of a disputed charge shall be given within 45 days from the Proposed Redeveloper's receipt of the informational copy of the professional's voucher, except that if the professional has not supplied the Proposed Redeveloper with an informational copy of the voucher, then the Proposed Redeveloper shall send notice within 60 days from receipt of the first statement of activity against the escrow account containing the disputed charge. Failure to dispute a charge in writing within the prescribed time shall constitute the Proposed Redeveloper's acceptance of the charge and a waiver by the Proposed Redeveloper of all objections to the charge and to payment thereof out of the escrow account.

(b) During the pendency of a dispute the Township may continue to pay undisputed charges out of the escrow account. If a dispute over a charge is resolved in the Proposed Redeveloper's favor after having been paid, the Township shall reimburse the escrow account in the amount determined to be properly disputed.

8. Governing Law. This Escrow Agreement shall be governed, construed and enforced according to the laws of the State of New Jersey, without regard to its conflicts of laws principles. Any action hereunder shall be brought exclusively in a court of the State of New Jersey or in a United States Court having jurisdiction in the District of New Jersey, in either case sitting in Essex County, New Jersey, and the Proposed Redeveloper hereby waives all objections to such venue.

9. Successors and Assigns. This Escrow Agreement shall be binding upon, and inure to the benefit of, the parties hereto and upon each party's successors and assigns.

10. Entire Agreement; No Modification Unless in Writing. This Escrow Agreement contains the entire agreement of the parties relative to the subject matter hereof. Any amendment hereto or modification or variation hereof shall be ineffective unless in writing signed by each of the parties hereto.

11. Effective Date. This Escrow Agreement shall not become effective unless and until the initial Escrow Deposit is made.

IN WITNESS WHEREOF, the parties have executed this Agreement the date and year first above written.

Witness or Attest:

TOWNSHIP OF IRVINGTON

By: _____

Witness or Attest:

**CB BERKELEY URBAN RENEWAL
ASSOCIATES, LLC**

By: _____