

**Council Room Borough of Neptune City
March 25, 2013**

The Regular Council Meeting of the Mayor and Council was called to order by Mayor Robert Brown at 7:00 pm.

The Mayor asked everyone to join in on the Flag Salute.

Council Present: Shafer, Mitchell, Pryor, Cross, Zajack, More, Mayor Brown
Absent: None

Mayor Brown announced that the Notice Requirements of Chapter 231 P.L. 1975 have been satisfied by the publication of said notice in the Asbury Park Press, and Coaster and by filing a copy with the Municipal Clerk.

Moved and seconded (Mitchell/Cross) for approval of minutes for February 25, 2013. Carried.

Moved and seconded (Cross/Zajack) to receive and file the Neptune City Municipal Court Monthly Report for March 2013. Carried.

Moved and seconded (Shafer/More) to receive and file the Neptune City Tax Collector Report for 2012. Carried.

Moved and seconded (Pryor/Mitchell) to receive and file the Neptune Township Sewerage Authority Charges for 2013. Carried.

In Mayor and Council Reports:

Councilman Cross had no report.

Councilman Pryor reported the Summer Recreation Program start date has been moved from Monday, July 1st to Friday August 2nd.

Mr. Pryor reported the Community Center is now in full operation and the following programs will be in effect.

Tuesday will be for Youth Floor Hockey for grades 5th through 8th from 6:30pm to 8:30pm.
The Youth Dance will be Friday, April 19th from 6:00pm to 9:00pm.
Men's Basketball will be Thursdays from 7:00pm to 8:00pm.

Mr. Pryor announced there will be an Senior Easter Luncheon on March 28th at 12:00pm.

Councilwoman Shafer reported the Finance Committee met last week to discuss changes to the Budget and Mrs. Shafer will be reviewing these changes with the Committee next week.

Councilman More reported the Law and Ordinance Committee met to discuss enhancements to existing Ordinances and proposed a new Ordinance in which a draft will be going to the Mayor and Council for review.

Councilman Zajack expressed his condolences to the Kelshaw family. Mr. Kelshaw was a former member of the Neptune City Fire Department.

Mr. Zajack announced he will be attending a seminar at the Monmouth County Fire Academy Thursday, March 28th at 7:00pm.

Mr. Zajack reported the Easter Egg Hunt held on Saturday, March 23rd had a great turn out.

Councilwoman Mitchell announced loose leaves can be put out to the curb starting Monday, April 1st and Public Works are working on the baseball fields in town as weather permits and plan to have them completed before Little League begins.

Mayor Brown expressed his condolences to the Kelshaw family for their loss.

The Mayor thanked all department heads and Council for their hard work on the Budget.

Mayor Brown reported he spoke with County Engineer Joe Ettore to express his concerns regarding the traffic light on Evergreen Avenue and Memorial Drive and was assured by the County this matter will be taken care of as quickly as possible.

The Mayor thanked everyone for their patience regarding the Redevelopment Agreement for Steiner Avenue and announced there will be a new developer taking over the project and hope to be breaking ground very soon.

Mayor Brown announced he had lunch with the Court staff last week and is very pleased with the new Administrator and how well everything is running.

Mayor Brown expressed how pleased he is the Community Center is fully functioning and thanked Community Center Tom Adcock and the Public Works Department for their assistance in getting the center functioning again.

Councilwoman Shafer offered the following resolution and moved its adoption. Seconded by Councilman More.

Bill List March 25, 2013

Be it resolved that the following payroll and bills be paid:

Current Payroll	\$118,743.15
Current Bills	\$531,702.09
Current Agency	\$5169.84
Sewer Payroll	\$6184.80
Sewer Bills	\$4049.32
Sewer Agency	\$473.14
Public Defender Checking	\$283.53
Admin P.A. Checking	\$3092.00
Animal Control Checking	\$1109.00
• Associated Humane Societies (Animal Services for February)	
Capital Checking	
• Gerrit De Vos (Reimbursement)	\$117.62
• Fire Hooks Unlimited (Tools for fire truck)	\$248.20

On Roll Call the following vote was recorded:
Aye: Shafer, Mitchell, Pryor, Cross, Zajack, More
Nay: None
Absent: None

The Mayor declared the motion carried and the resolution adopted.

Councilwoman Shafer offered the following resolution and moved its adoption. Seconded by Councilman Cross.

**BOROUGH OF NEPTUNE CITY
ORDINANCE 2013-1**

AN ORDINANCE TO AMEND AN ENTITLED "AN ORDINANCE OF THE BOROUGH OF NEPTUNE CITY IN THE COUNTY OF MONMOUTH AND STATE OF NEW JERSEY, FIXING THE SALARIES OF CERTAIN OFFICES AND EMPLOYEES" ADOPTED MARCH 4, 1965

	<u>Minimum</u>	<u>Maximum</u>
Administrator	\$3000.00	\$3500.00
Borough Clerk	\$25,000.00	\$50,000.00
Deputy Clerk	\$2000.00	\$2000.00
Tax Collector	\$35,000.00	\$50,000.00
Deputy Tax Collector	\$4000.00	\$4000.00

Tax Assessor	\$17,000.00	\$25,000.00
Emergency Management	\$800.00	\$2000.00
Director of Public Works	\$60,000.00	\$90,000.00
Superintendent of Public Works	\$5000.00	\$7500.00
Judge	\$34,000.00	\$40,000.00
Prosecutor	\$22,000.00	\$32,000.00
Public Defender	\$4500.00	\$8000.00
Construction Officer	\$15,000.00	\$20,000.00
Zoning Officer	\$1200.00	\$2700.00
Sub Code Building Inspector	\$5000.00	\$8000.00
Sub Code Plumbing	\$4000.00	\$7000.00
Sub Code Fire Inspector	\$5000.00	\$8800.00
Electrical Inspector	\$4000.00	\$6500.00
Code Enforcement	\$18.00 hr	\$23.00 hr
Administrator of Public Assistance	\$8000.00	\$18,000.00
Land Use Board Secretary	\$7000.00	\$11,000.00
Librarian	\$15,000.00	\$22,000.00
Library Aid 1	\$12.50 hr	\$12.75 hr
Library Aid 2	\$12.50 hr	\$12.75 hr
Library Aid 3	\$10.35 hr	\$10.35 hr
Fire Prevention Official	\$7000.00	\$12,000.00
Fire Prevention Inspector	\$500.00	\$2500.00
Payroll Clerk	\$2000.00	\$3500.00
Sewer Operator	\$8000.00	\$16,000.00
Assistant Sewer Operator	\$3500.00	\$9500.00
Recycling Coordinator	\$2500.00	\$4000.00
Assistant Recycling Coordinator	\$300.00	\$1000.00
Secretary 1	\$31,000.00	\$33,000.00
Secretary 2 (effective July 1 st)	\$28,000.00	\$30,000.00
Secretary 3	\$23,000.00	\$28,000.00
Court Administrator	\$30,000.00	\$45,000.00
Deputy Court Administrator 1	\$40,000.00	\$45,000.00
Deputy Court Administrator 2	\$30,000.00	\$37,000.00
Public Works Employee 1	\$24,000.00	\$26,500.00
Public Works Employee 2	\$45,000.00	\$47,000.00
Public Works Employee 3	\$47,000.00	\$50,000.00
Public Works Employee 4	\$50,000.00	\$52,000.00
Public Works Employee 5	\$53,000.00	\$54,000.00
Public Works Employee 6	\$54,000.00	\$55,000.00
Police Administrative Clerk	\$25,000.00	\$57,000.00
Police Records Clerk	\$12,000.00	\$14,000.00
Chief Financial Officer	\$20,000.00	\$30,000.00
Hourly/Seasonal/Casual	\$7.50 hr	\$18.00 hr
Recreation Counselors	\$7.50 hr	\$19.00 hr
Mayor	\$4500.00	\$6000.00
Council	\$3500.00	\$5100.00
Chief of Police	\$90,000.00	\$123,000.00
Captain of Police	\$90,000.00	\$120,000.00
Lieutenant	\$88,000.00	\$115,000.00
Sergeant	\$82,000.00	\$105,000.00
Corporal	\$78,000.00	\$97,000.00

Patrolman Seventh Year	\$90,000.00	\$94,000.00
Patrolman Sixth Year	\$76,000.00	\$85,000.00
Patrolman Fifth Year	\$70,000.00	\$80,000.00
Patrolman Fourth Year	\$64,000.00	\$74,000.00
Patrolman Third Year	\$60,000.00	\$67,000.00
Patrolman Second Year	\$58,000.00	\$60,000.00
Patrolman First Year	\$50,000.00	\$60,000.00
Probationary Patrolman	\$40,000.00	\$50,000.00
Academy Pay	\$28,000.00	\$40,000.00
Public Safety Director	\$75,000.00	\$101,750.00
Community Center Director	\$35,000.00	\$66,000.00
Assistant Community Center Director	\$12,000.00	\$14,000.00
Housing Officer	\$6000.00	\$9000.00
Mechanic	\$40,000.00	\$56,000.00
Alliance Program Administrator	\$1950.00	\$3000.00
Crossing Guard	\$30.00 hr	\$35.00 hr
OPRA Clerk	\$2500.00	\$5000.00
Municipal Housing Liaison	\$1000.00	\$5000.00
Class 2 Special Officer	\$15.00 hr	\$20.00 hr

Be it ordained by the Mayor and Council of the Borough of Neptune City as follows:

That the annual Salary and Compensation for the following employees of the Borough of Neptune City with the following ranges shall be payable semi-monthly except as otherwise stated herein:

1. That all other employees and officers of the Borough not specifically mentioned herein are continued at their present range of salary until changed by resolution of the Borough Council.
2. That all salary and compensation ordinances and parts thereof not inconsistent herewith shall remain in full force effect and virtue.
3. That all salary and compensation ordinances and parts thereof not inconsistent herewith shall remain in full force effect and virtue.
4. That this Ordinance will take effect when finally passed and published according to law.

On Roll Call the following vote was recorded:

Aye: Shafer, Mitchell, Pryor, Cross, Zajack, More

Nay: None

Absent: None

The Mayor declared the motion carried and the resolution adopted.

Moved and seconded (Shafer/Cross) to advertise the Ordinance. Carried.

Councilman More offered the following resolution and moved its adoption. Seconded by Councilwoman Mitchell.

**RESOLUTION 2013-31
LEASE OF BOROUGH OWNED PROPERTY**

WHEREAS, Municipalities are authorized to offer for lease Borough owned property that is no longer needed for public use, and

WHEREAS, the Borough of Neptune City has identified the following property as available for lease:

117 Third Avenue Store #1
Rental Store, formerly occupied as the Underground Gym
Minimum Bid \$900 per month for minimum three years lease

WHEREAS, the Mayor and Council have found it necessary and advisable to offer this property for lease, under the following terms:

1. The properties shall be bid with reserve.
2. The property will be leased to the highest bidder through a sealed bid on April 5, 2013 in the Neptune City Council Chambers, 106 W. Sylvania Avenue, Neptune City NJ at 10:00am or as soon after as the matter may be reached.
3. Utilities including Natural Gas, Electricity and Water will not be included in the lease.
4. The proposed use of the property must have a Zoning Permit Approval.
5. The Borough reserves the right to reject any and all bids.

BE IT FURTHER RESOLVED, a copy of this resolution will be published according to law and that the Municipal Clerk/Administrator be authorized to enter into a lease on behalf of the Borough of Neptune City with a qualified bidder.

On Roll Call the following vote was recorded:
Aye: Shafer, Mitchell, Pryor, Cross, Zajack, More
Nay: None
Absent: None

The Mayor declared the motion carried and the resolution adopted.

Councilman Cross offered the following resolution and moved its adoption. Seconded by Councilwoman Shafer.

RESOLUTION 2013-32

RESOLUITON ACKNOWLEDGING THE HURRICANE SANDY RECOGNITION PLAQUE AND SAFETY AWARD RECEIVED FROM THE MONMOUTH COUNTY MUNICIPAL JOINT INSURANCE FUND'S EXECUTIVE SAFETY COMMITTEE

WHEREAS, the Borough of Neptune City is a member of the Monmouth County Municipal Joint Insurance Fund (Monmouth JIF); and

WHEREAS, the Monmouth County Municipal Joint Insurance Fund's Executive Committee and Executive Safety Committee recognize the exemplary safety performance of its member municipalities, the Governing Body, Municipal Employees and Volunteers during Hurricane Sandy which occurred on October 29, 2012, and in the aftermath in the weeks following the storm; and

WHEREAS, the Monmouth County Municipal Joint Insurance Fund recognize the outstanding safety performance of their entire membership at the Monmouth JIF's Annual Safety Breakfast Event with a recognition plaque and safety award; and

WHEREAS, the Governing Body of the Borough of Neptune City has reviewed the recognition and award and has publically acknowledged receipt of the said award in this meeting; and

NOW THEREFORE BE IT RESOLVED, by the Governing Body of the Borough of Neptune City, County of Monmouth, State of New Jersey that the Monmouth County Municipal Joint Insurance Fund Recognition be accepted; and

BE IT FURTHER RESOLVED, a certified copy of the Resolution be sent to the Executive Director of the Monmouth County Municipal Joint Insurance Fund.

On Roll Call the following vote was recorded:
Aye: Shafer, Mitchell, Pryor, Cross, Zajack, More
Nay: None
Absent: None

The Mayor declared the motion carried and the resolution adopted.

Councilman Cross offered the following resolution and moved its adoption. Seconded by Councilwoman Shafer.

**RESOLUTION 2013-33
REDEVELOPMENT AGREEMENT**

This REDEVELOPMENT AGREEMENT ("Redevelopment Agreement"), dated as of March 25, 2013 is by and between the **Borough of Neptune City** ("Borough"), a municipal corporation of the State of New

Jersey with offices at 106 West Sylvania Avenue, Neptune City, NJ 07753, New Jersey acting as redevelopment entity, and, **99 Steiner Avenue Partners, LLC** (and referred to as “Redeveloper”), having an address c/o Kenneth L. Pape, Esquire, 516 Highway 33, Millstone Township, New Jersey, 08535.

PREAMBLE

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

WHEREAS, in order to stimulate redevelopment, the Borough Council, by resolution duly adopted, designed certain properties in the Borough known as the Steiner Avenue Redevelopment Area as a “Redevelopment Area” in accordance with the Redevelopment Law, a description of which is set forth in **Exhibit A** hereof (the “Redevelopment Area”) and;

WHEREAS, on February 8, 2010, the Borough Council by Ordinance 2010-03 adopted the Redevelopment Plan (“Redevelopment Plan”) which sets forth, *inter alia*, the plan for the redevelopment of the Redevelopment Area;

WHEREAS, Redeveloper desires to redevelop a portion of the Redevelopment Area in accordance with the Redevelopment Plan, said portion being limited to the former Charlene Motel, 99 Steiner Avenue, Neptune City, shown as Block 12, Lots 10 and 14 (hereinafter, the “Project Site”); and

WHEREAS, pursuant to the Redevelopment Law, the parties desire to enter into this Redevelopment Agreement that sets forth the terms and conditions pursuant to which the Project Site is to be redeveloped by Redeveloper as described herein; and

NOW THEREFORE BE IT RESOLVED, for and in consideration of the premises and of the mutual representations, covenants and agreements herein set forth, the parties hereto, each bidding itself, its successors and assigns, do mutually promise, covenant and agree as follows:

ARTICLE 1 DEFINED TERMS

ARTICLE 1.1. Defined Terms. Except as expressly provided herein to the contrary, all capitalized terms used in this Redevelopment Agreement and its Exhibits shall have the following meanings:

“Environmental Indemnity” is defined in Section 9.1(b) hereof.

“Environmental Laws” means any present or future applicable federal, state or local law, rule, regulation, order or other requirement dealing with environmental protection and/or human health and safety.

“Event of Default” is defined in Section 10.1 hereof.

“Force Majeure” is defined in Section 10.2 hereof.

“Governmental Approvals” means all necessary reviews, consents, permits or other approvals of any kind legally required by any Governmental Body in order to carry out the Project.

“Government Body” means any federal, state, county or local agency, department, commission, authority, court, or tribunal and any successor thereto, exercising executive, legislative, judicial, or administrative functions of or pertaining to government, including without limitation, Borough, the Council on Affordable Housing, and the State of New Jersey.

“Hazardous Substance” means any substance, chemical or waste that is listed as hazardous, toxic, a pollutant or contaminant, or dangerous under any applicable federal, state, county or local statute, rule, regulation, ordinance or order.

“Land Use Board” shall mean the Land Use Board of the Borough.

“Legal Requirements” means all laws, statutes, codes, ordinances, orders, regulations and requirements of any Governmental Body, now or hereafter in effect, and, in each case, as amended from time to time.

“Notice of Completion” means a notice issued to the Borough by the Redeveloper, its certified consultant, attorney, contractor, engineer, or architect, indicating completion of the Project Improvements in accordance with Section 4.7 of the Redevelopment Agreement.

“Permitted Transaction” is defined in Section 8.2(b) hereof.

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

“Project” means the obtaining of Governmental Approvals, the site preparation of the Project Site and the financing, construction and completion of all Project Improvements as further described in Exhibit B hereof.

“Project Costs” is defined in Section 6.2 hereof.

(d) All materials and documentation submitted by Redeveloper and its agents to Borough and its agents were, at the time of such submission, and as of the Effective Date, in the documentation submitted.

(e) Redeveloper has all legal right, title and interest to the Project Site.

ARTICLE 2.2. Representations and Warranties by Borough. Borough hereby represents and warrants the following to Redeveloper for the purpose of inducing Redeveloper to enter into this Redevelopment Agreement and to consummate the transactions contemplated hereby, all of which shall be true as of the date hereof:

(a) Borough has the legal power, right and authority to enter into this Redevelopment Agreement and the instruments and documents referenced herein to which Borough is a party, to consummate the transactions contemplated hereby, and to perform their obligations hereunder, including, without limitation, the authority to condemn the Condemnable Property and convey it to Redeveloper.

(b) This Redeveloper Agreement is duly executed by Borough and is valid and legally binding upon Borough and enforceable in accordance with its terms on the basis of Legal Requirements presently in 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 Borough is party.

(c) There is no pending, pr to the best of Borough's knowledge, threatened litigation that would prevent Borough from performing its duties and obligations hereunder.

(d) Borough will not amend or revise the Redevelopment Plan and/or the underlying SA-8 zoning requirements as they apply to the Project Site while this Agreement is executor in any manner that would materially impair the ability of Redeveloper to implement the Project.

ARTICLE 3 REDEVELOPER COVENANTS

ARTICLE 3.1. Redeveloper Covenants. Redeveloper covenants and agrees that (collectively, "Redeveloper Covenants"):

(a) Redeveloper shall carry out in accordance with the provisions of this Redevelopment Agreement and Legal Requirements, including, but not limited to, the Redevelopment Law, all Governmental Approvals and Environmental Laws. Such obligation shall include, but not be limited to, Redeveloper making commercially reasonable efforts to ensure that all consultants, professionals, employees, agents, contractors engaged by Redeveloper or any of Redeveloper's subcontractors shall have the skill and judgment necessary to implement the Project in compliance with the terms and conditions of this Redevelopment Agreement.

ARTICLE 4 IMPLEMENTATION OF PROJECT

ARTICLE 4.1. Governmental Approvals. Redeveloper represents that it shall diligently apply for and pursue all known Governmental Approvals that need to be obtained by Redeveloper in order to satisfy its obligations under this Redevelopment Agreement. The Governmental Approvals shall be updated in the event either party determines that additional Governmental Approvals are not or become necessary. Redeveloper shall use diligent efforts to secure, or cause to be secured any and all Governmental Approvals and shall carry out the Project in conformance therewith. Redeveloper hereby agrees that prior to the Commencement of Construction and prior to submission by Redeveloper of building permit, applications, Redeveloper shall submit floor plans, elevations, individual site plans and landscape plans for the proposed improvements to Borough for review and final approval and which are consistent with the Redevelopment Plan. The Borough shall have 30 days from receipt of such plans and elevations to provide comments to Redeveloper on same or to approve, by resolution, such plans and elevations. Subject to Section 4.3 hereof, the Borough shall be deemed to have approved such plans and elevations if, at the end of such 30 day period, no comments have been provided. In the event Borough

does have comments on any of the floor plans, elevations, site plans or landscape plans, Redeveloper hereby agrees to revise said plans, to the mutual satisfaction of both parties. Redeveloper hereby agrees to complete the Project Improvements in accordance with the plans approved per this Section 4.1.

ARTICLE 4.2. Due Diligence. Redeveloper has determined, in its sole and absolute discretion, that, subject to Borough's performance herein, the Project Site can legally and practically support the Project ("Due Diligence Period"). Redeveloper (and its professionals, consultants and contractors), as the agent of the Redevelopment Entity, has conducted all such tests and made all inquiries as Redeveloper deems it fit to satisfy itself, in its sole discretion, that the Project Site can legally and practically support the Project, including, but not limited to, any Phase I environmental investigation, and, if warranted, a Phase II environmental investigation. In the event that a condition is discovered on the Project Site that would, in Redeveloper's opinion, prevent Redeveloper from constructing the Project on such Project Site, Redeveloper may, by written notice to Borough extend the time periods set forth herein. The written notice for an extension must specify the reasons Redeveloper is not otherwise satisfied that the Project Site can support the Project, and must specify what actions Redeveloper has taken to date with respect to such reasons, and shall indicate whether Redeveloper expects to obtain clarification on such reasons. Borough shall not unreasonably deny such extension request.

ARTICLE 4.7. Certificate and Notice of Completion. Upon completion of the Project, Redeveloper shall obtain a temporary or permanent Notice of Completion which shall evidence the completion of the Project. Redeveloper shall submit of a copy such temporary or permanent Notice of Completion to Borough and Borough shall, within seven (7) calendar days of the receipt of the temporary or permanent certificate of completion, issue a certificate of completion ("Certificate of Completion"). The Certificate of Completion shall be in form recordable with the Monmouth County Clerk's Office and shall constitute a conclusive determination of the satisfaction and termination of the agreements and covenants in this Redevelopment Agreement with respect to the Project Site and with respect to Redeveloper's obligation to construct the Project within the Completion Dates. Upon issuance of the Certificate of Completion, the conditions determined to exist at the time the relevant portion of the Project Site was determined to be an area in need of redevelopment shall be deemed to no longer exist and the land and improvements within the relevant portion of the Project Site shall no longer be subject to eminent domain as a result of those determinations. Further, upon recordation of the Certificate of Completion, the Declaration of Taking, if any, shall be discharged of record, excepting any provisions in the Declaration of Taking, if any, that expressly survive the recording of the Certificate of Completion shall remain of record, and Redeveloper hereby agrees to execute any modification to the Declaration of Taking, if any, that becomes necessary to preserve only those provisions that were expressly intended to survive the recording of the Certificate of Completion.

(b) Project Schedule Violations. If Redeveloper fails to meet a Completion Date and is notified of same in writing by Borough, or Redeveloper conclusively determines that it will fail to meet a Completion Date, Redeveloper shall promptly provide written notice to Borough stating: (a) the reason for the failure to complete the applicable task, (b) Redeveloper's proposed method for correcting such failure, (c) Redeveloper's schedule for completing such task, and (d) the method or methods by which Redeveloper proposes to achieve subsequent tasks by the relevant Completion Dates. Such notice shall not in and of itself constitute an Event of Default hereunder; however, this Section shall not in any way limit the rights of Borough under Article 8 hereunder.

ARTICLE 4.8. Prohibition Against Suspension, Discontinuance of Termination.

(a) The Project Schedule shall control the progress and completion of the Project. Redeveloper will diligently adhere to the Completion Dates set forth in the Project Schedule subject only to relief resulting from (i) the occurrence of an event of Force Majeure, (ii) the challenge by a third party or entity that Borough lacks the authority to enter into this Agreement or effectuate any of its obligations herein, or (iii) any act or omission of Borough that has a material adverse effect on the ability of Redeveloper to adhere to the Project Schedule (each of the foregoing, a "Tolling Event"). In the event that Tolling Events occur that are caused solely by Borough which exceed twelve (12) consecutive months, such event shall be deemed an Event of Default by Borough.

(b) Redeveloper shall not suspend or discontinue its performances of its any other Governmental Body for the construction and development of the Project.

ARTICLE 6.4. Borough Costs. Redeveloper shall provide funding to Borough for all actual out of pocket administrative costs incurred by Borough in connection with the Project and all direct costs paid to a third party ("Borough Costs"). The Borough Costs shall include, but not be limited to those fees and costs of any professional consultant, contractor or vendor retained by Borough for work on the Project, including attorneys, technical consultants, planners, financial consultants and appraisers, all costs of redevelopment, review fees by Neptune City's redevelopment professional commencing with the designation of Redeveloper as redeveloper of the Project Site, off-site improvement fees consistent with any ordinance to be adopted by Neptune City, low and moderate housing fees consistent with State law and any ordinance to be adopted by Neptune City, provided all such off site charges and costs of redevelopment borne by Redeveloper shall be reasonable and consistently applied by Neptune City to Redeveloper and to any other redeveloper of property in the Redevelopment Area of Neptune City. Borough and Redeveloper hereby acknowledge that in the event Borough incurs costs defending its right to condemn the Condemnable Property required by Redeveloper to construct the Project Improvements, such costs shall be considered "Borough Costs" as used in this Article 6.4. Borough Costs shall not include costs for employees on Borough payroll or incidental overhead costs for Borough employees such as telephone, fax, copying, etc.

ARTICLE 6.5. Payment of Borough Costs. Subject to Article 6.4, Borough Costs shall be paid on a monthly basis out of the Project Fund which Borough is entitled to draw down to cover Borough Costs. Borough shall provide Redeveloper with invoice(s) setting forth Borough Costs incurred by Borough that will be or have been drawn down.

ARTICLE 6.6. Contribution to Project Review Fund. Redeveloper agrees to make an contribution of \$15,000.00 to the Project Fund which Borough will draw down in accordance with Article 6.5. Redeveloper shall replenish said deposit with the Borough to achieve the \$15,000.00 balance when requested by the Borough.

ARTICLE 6.7. [Intentionally Omitted]

ARTICLE 7 PROJECT OVERSIGHT

ARTICLE 7.1. Progress Meetings. Redeveloper shall attend and participate in progress meetings once each month with representatives of Borough to report on the status of the Project and to review the progress under the Project Schedule. Borough shall give Redeveloper five days (5) advance written notice

of such meetings which may be called by Borough at least once monthly. The meetings shall be held at Borough's municipal offices or other convenient location in Borough. The agenda for the meeting shall include, but not be limited to, Governmental Approval submissions and approvals, financial commitments, construction of Project Improvements, and activities concerning marketing and sales. At the meeting, this information will be evaluated by Borough to determine compliance with the terms and conditions of this Redevelopment Agreement and the Project Schedule. Borough shall have the right at all reasonable times to inspect the records of Redeveloper which are pertinent to the purposes of this.

(b) The following transactions ("Permitted Transactions") are exceptions to the prohibition set forth in the previous subparagraph and shall not require prior approval by Borough, the written consent of Borough to such transactions being deemed given hereby; provided, however, Redeveloper shall provide Borough with written notice of same: (i) a mortgage or mortgages for the purposes of financing the Project Costs associated with, or incurred in connection with the development and construction of the Project; (ii) any contract of sale for all or any portion of the Project with closing to occur following issuance of a Certificate of Completion; (iii) utility and other development easements; (iv) an assignment and/or transfer of Redeveloper's interests in this Redevelopment Agreement to an Affiliate, provided that the Affiliate is under the Control of or is owned by Redeveloper and provided that such new entity is subject to the terms of this Redevelopment Agreement and that Redeveloper retains daily managerial responsibility for the development of the Project; and (v) the sale, transfer or conveyance (but not leasing) of an individual dwelling unit to be constructed by Redeveloper as part of the Project to a third party.

ARTICLE 8.3. Notice of Permitted Transactions. With respect to any Permitted Transactions, Redeveloper shall provide to Borough written notice at least five (5) days prior to such Permitted Transaction, including a description of the nature of such Permitted Transaction, and the name(s) and address(es) of the parties, individuals and/or entities involved.

ARTICLE 8.4. Transfers Void. Any transfer of Redeveloper's interest in violation of this Redevelopment Agreement shall be an Event of Default of Redeveloper and shall be null and void ab initio. Such Event of Default shall entitle Borough to seek all remedies available under the terms hereof, and those available pursuant to law or equity, including termination of this Redevelopment Agreement. In the absence of specific written consent by Borough, no such sale, transfer, conveyance or assignment of the Project Site or Project Improvements, shall be deemed to relieve Redeveloper from any obligations under this Redevelopment Agreement. In the event of any attempted transfer in violation of the restrictions in this Article, Borough shall be entitled to the ex parte issuance of a temporary injunction restraining such transfer, and the award of legal fees and related expenses of Borough in connection with any such legal action. Upon issuance of the Certificate of Completion, the provisions of the restriction set forth in this Article shall be deemed terminated.

ARTICLE 9 INDEMNIFICATION; INSURANCE

ARTICLE 9.1. Redeveloper Indemnification.

(a) Acts and Omissions. Redeveloper covenants and agrees, at its sole expense, to pay and to indemnify, protect, defend and hold Borough Indemnified Parties harmless from and against all liability, losses, damages, costs, claims, actions, or expenses (including attorneys' fees, disbursements, and court costs) of every kind, character and nature arising out of, resulting from or in any way connected with Redeveloper's acts or omissions in connection with the investigation, condition, use, possession, conduct, management, planning, design, construction, installation, financing, marketing, leasing or sale of

the Project Site or the Project, including but not limited to, death of any person or any accident, injury, loss, and damage whatsoever caused to any person that shall occur on the Project Site and that, with respect to any of the foregoing, are caused by any negligence or willful misconduct of Redeveloper, its agents, servants, employees, or contractors.

ARTICLE 9.3. Insurance Required.

(a) Prior to any commencement of construction, Redeveloper, shall furnish or shall cause to be furnished, to Borough, duplicate originals of Commercial General Liability Insurance, insuring Redeveloper against losses, costs, liabilities, claims, causes of action and damages for bodily injury, property damage and personal injury on the Project Site or related to the construction thereon, including claims made by subcontractor personnel, in the amounts set forth in Items 1 and 2 of Exhibit E. Such insurance shall include Blanket Contractual Liability coverage. All such policies shall be written to apply to all bodily injury, property damage, personal injury and other customary covered losses, however occasioned, occurring during the policy term, and shall be endorsed to add Borough Indemnified Parties as additional insureds and to provide that such coverage shall be primary and that any insurance maintained by Borough shall be excess insurance only.

(b) Builder's Risk Insurance for the benefit of Redeveloper, during the term of construction, sufficient to protect against the loss or damage resulting from fire and lightning, the standard extended coverage perils, vandalism, and malicious mischief. The limits of liability will be as set forth in Item 3 of Exhibit E, including items of labor and materials, whether in or adjacent to the structure(s) insured, connected therewith, and materials in place or to be used as part of the permanent construction of the Project.

(c) In the event Borough so requests, Redeveloper shall also furnish or cause to be furnished to Borough evidence satisfactory to Borough that Redeveloper and any contractor with whom it has contracted for the construction of the Project carries workers' compensation insurance with customary limits as may be required by law.

(d) As applicable, Redeveloper shall also maintain Comprehensive Automobile Liability Insurance covering all vehicles owned by or hired by Redeveloper, if any, with at least the following limits of liability: Bodily Injury Liability and Property Damage Liability--\$300,000 combined single limit per occurrence.

(e) All insurance policies pertaining to Redeveloper as required by this Section 9.3 shall be kept in force until a Certificate of Completion is issued.

(f) All insurance policies required by this Section shall be nonassessable and shall contain language to the effect that (i) the policies are primary and noncontributing with any insurance that may be carried by Borough, (ii) the policies cannot be canceled or materially changed except after (30) days written notice by the insurer to Borough, and (iii) Borough shall be liable for any premiums or assessments. All such insurance shall have deductibility limits reasonably satisfactory to Borough.

ARTICLE 10 EVENTS OF DEFAULT AND REMEDIES

ARTICLE 10.0. Events of Default. In addition to any events discussed herein that cause a default, the following events shall constitute an "Event of Default" hereunder unless such event results from the occurrence of (i) a Tolling Event (in the case of an alleged Event of Default of Redeveloper) or (ii) Event of Default by Redeveloper or occurrence of event of Force Majeure (in case of an alleged Event of Default of Borough):

Redevelopment Agreement (as described below "Force Majeure")

(a) An act of God, lightning, blizzards, hurricane, tornado, earthquake, acts of a public enemy, war, terrorism, blockade, insurrection, riot or civil disturbance, sabotage, or similar occurrence, but not including reasonably anticipated weather conditions for the geographic area of the Project, other than those set forth above (such events being required to physically affect a party's ability to fulfill its obligations hereunder, the consequential effect of such events (e.g. impact on market conditions shall not be considered a Force Majeure event);

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

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

(d) The suspension, termination, interruption, denial or failure of or delay in renewal or issuance of any Governmental Approval (including during Redeveloper's appeal of same), 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, shall constitute or be construed as a willful, intentional or negligent action or inaction by such party. Delay in issuance of a Governmental Approval resulting from Redeveloper's failure to make an administratively complete submission for a Governmental Approval shall be an event of Force Majeure if the submission is made in good faith and if Redeveloper promptly provides such items as may be required by the Governmental Body;

(e) Strikes or similar labor action by equipment manufacturers, suppliers of material and/or transporters of same;

(f) Acts of omissions of the other party, except in conformance with this Redevelopment Agreement.

The Parties hereto acknowledge that the acts, events or conditions set forth in paragraphs (a) through (f) above are intended to be the only acts, events or conditions that may (upon satisfaction of the conditions specified above) constitute Force Majeure. Notice by the party claiming such extension shall be sent to the other party within twenty-four (24) calendar days of the commencement of the cause and continuing daily for each day of claimed delay. During any Force Majeure that affects part of the Project,

Redeveloper shall continue to perform its obligations for the rest of the Project. The existence of an act of Force Majeure shall not prevent replacement developer for the Project (subject permitted mortgage liens as may exist against the Project). Such replacement redeveloper shall be designated as soon and in such manner as Borough shall find feasible and consistent with the objectives of state law and of the Redevelopment Plan, to a qualified and responsible party or parties as determined by Borough, who will assume the obligation of completing the Project or such other improvements in its stead as shall be satisfactory to Borough and in accordance with the uses specified for the Project Site, in this Redevelopment Agreement. Redeveloper shall deliver to such replacement redeveloper assignments of all other rights and agreements pertaining to the Project. Such replacement redeveloper shall pay Redeveloper, through the Borough, for the Property at the then assessed value of the Property as determined by the Borough. Any proceeds resulting from the designation of the replacement redeveloper and such payment by replacement redeveloper shall be applied:

(i) First, to all reasonable costs and expenses incurred by Borough, including but not limited to legal fees and related expenses incurred by Borough in connection with the Project; all taxes, assessments; and water and sewer charges, if any, with respect to the Project Site or any part thereof; any payments made or necessary to be made to discharge any encumbrances or liens existing on the Project Site at the time of Borough's reacquisition of the Project Site or to discharge or prevent from attaching, or being made, any subsequent encumbrances or liens due to obligations, defaults, or acts of the Redeveloper, its successors or transferees; any expenditures made or obligations incurred with respect to the completion of the Project or any part thereof; and any otherwise owed to Borough by the Redeveloper and its successors or transferees in accordance with the terms of this Redevelopment Agreement ; and

(ii) Second, to reimburse the Redeveloper, its successor or transferee, up to the amount equal to the Redeveloper's actual costs associated with the Project, including engineering, planning, site improvement, marketing and other development costs paid for by the Redeveloper. Any balance remaining after such reimbursements shall be retained by Borough as its property.

ARTICLE 10.5. Failure or Delay/No Waiver. Except as otherwise expressly provided in this Redevelopment Agreement, any failure or delay by either party in asserting any of its rights or remedies as to any default, shall not operate as a waiver of any default, or of any such rights or remedies, or deprive either such party of its right to institute and maintain any actions or proceedings which may deem necessary to protect, assert or enforce any such rights to remedies.

ARTICLE 10.6. Remedies Cumulative. No remedy conferred by any of the provisions of this Redevelopment Agreement is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder 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.

ARTICLE 10.6. Remedies Cumulative. No remedy conferred by any of the provisions of this Redevelopment Agreement is intended to be exclusive of any other remedy given hereunder or now 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.

ARTICLE 10.7. Continuance of Obligations. The occurrence of an Event of Default shall not relieve the defaulting party of its obligations under this Redevelopment Agreement.

If to Borough: Mary Sapp, Borough Administrator
Borough of Neptune City

106 West Sylvania Avenue
Neptune City, NJ 07753

Copy to: Mark R. Aikins, Esquire
Mark R. Aikins, L.L.C.
Autumn Ridge Office Park
3350 Route 138, Building 1, Suite 113
Wall, NJ 07719

ARTICLE 11.2. Non-Liability of Officials and Employees of Borough. No member, official or employee of Borough shall be personally liable to Redeveloper, or any successor in interest, in the event of any default or breach by Borough, or for any amount which may become due to Redeveloper or its successor, or in any obligation under the terms of this Redevelopment Agreement.

ARTICLE 11.3. Non-Liability of Officials and Employees of Redeveloper. No member, officer, shareholder, director, partner or employee of Redeveloper shall be personally liable to Borough, or any successor in interest, in the event of any default or breach by Redeveloper or for any amount which may become due to Borough, or its successor, on any obligation under the terms of this Redevelopment Agreement.

ARTICLE 11.4. Estoppel Certificate. Within thirty (30) days following written request therefore by a party hereto, or of any purchaser, tenant or third party having an interest in the Project Site, the other party shall issue a signed estoppels certificate either stating that this Redevelopment Agreement is in full force and effect and that there is no default or breach under this Redevelopment Agreement (nor any event which, with the passage of time and the giving of notice would result in a default or breach under this Redevelopment Agreement), or stating the nature of the default or breach or event, of any. In the event the estoppel certificate discloses such a default, breach or event, it shall also state the manner in which such default, breach or event, it shall also state the manner in which such default, breach and/or event may be cured. No more than a reasonable number of estoppels certificates may be requested per year.

ARTICLE 11.5. Lender Changes. If Redeveloper's lender, if any requires a change in the terms of this Redevelopment Agreement, Borough shall reasonably cooperate with Redeveloper in approving such change, so long as such change, if any, does not modify or change the substantial rights or obligations of Borough as set forth in this Redevelopment Agreement. In addition, Borough shall enter into such agreements as Redeveloper's lender (or its equity participants) may reasonably require provided that such agreement shall not be inconsistent with the terms of this Redevelopment Agreement (i.e., shall not increase Borough's responsibilities or decrease its benefits hererunder).

ARTICLE 11.6. No Brokerage Commissions. Borough and Redeveloper each represent one to the other that no real estate broker initiated, assisted, negotiated or consummated this Redevelopment Agreement as broker, agent, or otherwise acting on behalf of either Borough or Redeveloper, and Borough and Redeveloper shall indemnify each other with respect to any claims made by any person, firm or organization claiming to have been so employed by the indemnifying party.

ARTICLE 11.14. Modification of Redevelopment Agreement. No modification, waiver, amendment, discharge, or change of this Redevelopment Agreement shall be valid unless the same is in

writing, duly authorized and signed by the party against which the enforcement of such modification, waiver, amendment, discharge or change is or may be sought.

ARTICLE 11.15. Execution of Counterpart. This Redevelopment Agreement may be executed in one or more counterparts and when each party has executed and delivered at least one counterpart, this Redevelopment Agreement shall become binding on the parties and such counterparts shall constitute one and the same instrument.

ARTICLE 11.16. Drafting Ambiguities; Interpretation. In interpreting any provision of this Redevelopment Agreement, no weight shall be given to, nor shall any construction or interpretation be influenced by, the fact that counsel for one of the parties drafted this Redevelopment Agreement, each party acknowledging that it and its counsel have had an opportunity to review this Redevelopment Agreement and have contributed to the final form of same.

ARTICLE 11.17. Time Period for Notices. All notices to be given hereunder shall be given in writing in conformance with Article 11.1 hereof, and, unless a certain number of days is specified within a reasonable time.

ARTICLE 11.18. Waivers and Amendments in Writing. All waivers of the provisions of this Redevelopment Agreement must be in writing and signed by the appropriate authorities of Borough and Redeveloper and all amendments hereto must be in writing and signed by the appropriate authorities of Borough and Redeveloper. The waiver by either party if a default or of a breach of any provision of this Redevelopment Agreement by the other party shall not operate or be construed to operate as a waiver of any subsequent default or breach.

ARTICLE 11.19. Conflict of Interest. No member, official or employee of Borough shall have any direct or indirect interest in this Redevelopment Agreement, nor participate in any decision relating to the Redevelopment Agreement which is prohibited by law.

ARTICLE 11.20. Governing Law. This Redevelopment Agreement shall be governed by and construed in accordance with the applicable laws of the State of New Jersey.

ARTICLE 11.21. Withholding of Approvals. All approvals, consents and acceptances required to be given or made by any person or party hereunder shall not be unreasonably withheld or delayed unless specifically stated otherwise.

ARTICLE 11.22. P.I.L.O.T. Program. Provided that Redeveloper shall have performed Redeveloper's obligations in accordance with this Redevelopment Agreement, the Borough and Redeveloper shall enter into a P.I.L.O.T. Agreement in accordance with *N.J.S.A. 40A:21-10*, with term acceptable to the Borough.

EXHIBIT B

PROJECT IMPROVEMENTS

Redeveloper intends to construct a multi-building, multi-family residential community of thirty-six (36) units on the Project Site (such construction project, as described in this Exhibit B, hereinafter, the

“Project”). The Project shall comply with the Redevelopment Plan and Borough’s zoning requirements in effect as of the date of this Redevelopment Agreement.

Construction shall be with quality materials as determined by Redeveloper, subject to the prior written approval of the Borough.

The improvements shall be designed, detailed and installed in accordance with the Redevelopment Plan, by Borough Ordinances and State regulation, as applicable. Further, prior to Commencement of Construction. Redeveloper shall submit floor plans, architectural elevations, individual site plans, and landscaping plans as described in Section 4.1. Notwithstanding anything to the contrary, Redeveloper may request Borough to permit waivers from this Exhibit B as Borough deems, in its reasonable discretion, furthers the goals of the Redevelopment Plan.

EXHIBIT D
GOVERNMENTAL APPROVALS

1. Approval from Borough for floor plans, elevations, site plan and landscaping plan for the Project Site.
2. Freehold Soil Conservation District approval for the Project Site.
3. Zoning permit from Borough of Neptune City zoning officer for the Project Site.
4. Building Permits from Borough of Neptune City building department.
5. Driveway opening permits.
6. Road opening permits for sewer connections, if applicable.
7. Sewer capacity reservation for Project Site.

On Roll Call the following vote was recorded:
Aye: Shafer, Mitchell, Pryor, Cross, Zajack, More
Nay: None
Absent: None

The Mayor declared the motion carried and the resolution adopted.

Councilman Cross offered the following resolution and moved its adoption. Seconded by Councilman More.

Be it resolved that the Mayor and Council recessed to Executive Session to discuss a personnel matter pertaining to the Police Department and a legal matter regarding the Municipal Court.

Roll Call the following vote was recorded:

Aye: Shafer, Mitchell, Pryor, Cross, Zajack, More
Nay: None
Absent: None

The Mayor and Council returned at 8:00pm.

Mayor Brown announced that minutes were kept of the Executive Session but will not be made public until such a time as they have no bearing on the operation of the Borough.

Roll Call: Shafer, Mitchell, Pryor, Cross, Zajack, Mayor Brown
Absent: More

Moved and seconded (Cross/Pryor) to adjourn the meeting. Carried.

Mayor Robert Brown

Mary Sapp, Municipal Clerk