

SUBSEQUENT DEVELOPER AGREEMENT AMONG

THE CITY OF ASBURY PARK

AND

MADISON ASBURY RETAIL, LLC

AND

ASBURY PARTNERS, LLC

Dated: As of June 1, 2010

SUBSEQUENT DEVELOPER AGREEMENT

THIS SUBSEQUENT DEVELOPER AGREEMENT made as of the 1 day of June, 2010 (this "Subsequent Developer Agreement" or this "Agreement"), among

THE MAYOR AND COUNCIL (collectively, the "City Council") OF THE CITY OF ASBURY PARK (the "City"), in its capacity as a "redevelopment entity" pursuant to N.J.S.A. 40A:12A-4, with principal offices at 1 Municipal Plaza, Asbury Park, New Jersey 07712;

and

MADISON ASBURY RETAIL, LLC, a Delaware limited liability company, with principal offices located at 1100 Ocean Avenue, Asbury Park, New Jersey 07712 (together with its permitted successors and assigns, "MA Retail");

and

ASBURY PARTNERS, LLC, a New Jersey limited liability company, with principal offices located at 1100 Ocean Avenue, Asbury Park, New Jersey 07712 (together with its permitted successors and assigns, "Asbury Partners").

RECITALS

A. On November 7, 1984, the City Council adopted the Asbury Park Waterfront Redevelopment Plan, which has been amended from time to time and was last amended December 7, 2005 (as so amended, and as the same may hereafter be further amended from time to time, the "Waterfront Redevelopment Plan" or "WRP").

B. On June 5, 2002 the City Council adopted Ordinance No. 2607 entitled "Ordinance Adopting Amended Waterfront Redevelopment Plan for the City of Asbury Park" (the "Redevelopment Ordinance"), which provided for the redevelopment of certain properties situated in the City pursuant to the Waterfront Redevelopment Plan.

C. On October 28, 2002 the City Council and Asbury Partners entered into an Amended and Restated Redeveloper and Land Disposition Agreement (as the same may have been and as it may hereafter be amended from time to time, the "Redeveloper Agreement"); and on April 10, 2006 the City Council and Asbury Partners entered into a Dispute Resolution Agreement (as the same may have been amended, the "Dispute Resolution Agreement" or "DRA").

D. MA Retail was formed for the sole purpose of creating a joint venture between Asbury Partners and Madison Asbury Investment Inc., a Delaware corporation ("Investments"), for the purpose of redeveloping the Retail Properties; pursuant to an Assignment of Interest dated

as of December 8, 2008, the interest of Investments in and to MA Retail has been assigned to MMREF Asbury Retail LLC, a Delaware limited liability company ("Madison").

E. Madison is the managing member of MA Retail.

F. Pursuant to a Resolution adopted by the City Council on April 4, 2007, a copy of which is attached hereto as Exhibit A (the "Consenting Resolution"), the City Council (having reviewed the financial capabilities of MA Retail) consented to the transfer by Asbury Partners to MA Retail of all Asbury Partners' interests in and to the Retail Properties, acknowledged MA Retail would be eligible for approval as a Subsequent Developer for the Retail Properties, and required MA Retail to enter into a subsequent developer agreement with respect to the Retail Properties with the City and Asbury Partners.

G. MA Retail now owns fee title to, or holds a leasehold interest in, each of the Retail Properties.

H. MA Retail has been restoring and developing certain of the Retail Properties, and intends to further restore and develop the Retail Properties, pursuant to Plans heretofore or hereafter to be provided to the City.

I. Asbury Partners and MA Retail desire to have MA Retail confirmed as the Subsequent Developer of the Retail Properties pursuant to Sections 2.0 and 9.1 of the Redeveloper Agreement, and the City Council, acting as redevelopment entity pursuant to N.J.S.A. 40A:12A-4, desires to confirm MA Retail as the Subsequent Developer of the Project Site.

J. The City, MA Retail and Asbury Partners desire to enter into this Subsequent Developer Agreement for the further restoration and redevelopment of the Retail Properties.

K. On May 5, 2010, the City Council adopted a Resolution authorizing the execution of this Subsequent Developer Agreement on behalf of the City, a copy of which is attached hereto as Exhibit B.

L. Madison has provided the City with a resolution of Madison authorizing the execution of this Agreement on behalf of MA Retail, a copy of which is attached hereto as Exhibit C.

M. Asbury Partners has provided the City with a resolution of Asbury Partners authorizing the execution of this Agreement on behalf of Asbury Partners, a copy of which is attached hereto as Exhibit D.

N. This Subsequent Developer Agreement is intended to replace the Dispute Resolution Agreement in its entirety, and incorporates all remaining obligations contained in the Dispute Resolution Agreement.

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 Subsequent Developer Agreement (including the preamble and recitals above), the terms set forth below in this Section 1.01 shall have the meanings ascribed to such terms. Terms listed below in the singular form shall include the plural and terms listed in the plural shall include the singular. Whenever the context may require, any pronoun that is used in this Subsequent Developer Agreement shall include the corresponding masculine, feminine and neuter. Unless otherwise noted, the words "include," "includes" and "including" when used in this Subsequent Developer Agreement shall be deemed to be followed by the phrase "without limitation." The words "agree," "agreements," "approval" and "consent" when used in this Subsequent Developer Agreement shall be deemed to be followed by the phrase "which shall not be unreasonably withheld or unduly delayed" recognizing that one party to this Agreement is a public entity and its ability to quickly react is constrained by laws governing public notice and public actions, except or unless otherwise specified. All references to Recitals, Sections, Articles or Exhibits shall refer to Sections, Articles or Exhibits in this Subsequent Developer Agreement unless otherwise specified. Each reference to a Block and Lot shall refer to the parcel of land identified by the corresponding Block and Lot on the official Tax Map of the City existing on the date of this Subsequent Developer Agreement.

"1st Avenue Pavilion Property" means Block 227, Lot 1.06.

"1st Avenue Pavilion Project" means the project for the redevelopment of the 1st Avenue Pavilion Property.

"2nd Avenue Pavilion Property" means Block 227, Lot 1.08.

"2nd Avenue Pavilion Project" means a future project for the redevelopment of the 2nd Avenue Pavilion Property for retail use, subject to the provisions of Section 4.06(h) of this Subsequent Developer Agreement.

"3rd Avenue Pavilion Property" means Block 227, Lot 1.10.

"3rd Avenue Pavilion Project" means the project for the redevelopment of the 3rd Avenue Pavilion Property.

"4th Avenue Pavilion Property" means Block 227, Lot 1.13.

"4th Avenue Pavilion Project" means the project for the redevelopment of the 4th Avenue Pavilion Property.

"5th Avenue Pavilion Property" means Block 227, Lot 1.16.

"5th Avenue Pavilion Projects" means the 5th Avenue Pavilion Retail Project and the Band Shell Project.

"5th Avenue Pavilion Retail Project" means the project for the redevelopment of the 5th Avenue Pavilion Property, exclusive of the Band Shell.

"Act" means the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.

"ADA" means the Americans with Disabilities Act of 1990, and all amendments thereto and all related regulations.

"Affiliate" means, with respect to any person or entity, any other person or entity directly or indirectly controlling, controlled by or under common control with such person or entity. For purposes hereof, "control" means the power to direct the affairs of an entity by ownership of a majority of the beneficial interests therein, by contract or otherwise.

"Applicable Laws" means all federal, state, county and local laws, ordinances, approvals, rules, regulations and requirements applicable thereto including the Act, the Land Use Law, the CAFRA Permit, 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.

"Applications for Governmental Approvals" means the Plans, drawings, documentation, presentations and applications necessary and appropriate for the purpose of obtaining any and all Governmental Approvals required to complete the Retail Projects or any part thereof, including Building Permits.

"Asbury Partners" has the meaning set forth in the preamble to this Subsequent Developer Agreement, in its capacity as "Master Developer" under the Redeveloper Agreement.

"Band Shell" means the Arthur Pryor Band Shell located on the roof of the improvements constructed on the 5th Avenue Pavilion Property.

"Band Shell Project" means the reconstruction or replacement of the Band Shell.

"Boardwalk" means the "boardwalk" located east of Block 227, extending from the border between Ocean Grove and the City to the south and the northern boundary of Lot 1.22 to the north.

"Boardwalk Access Easements" means the easements held by the City on behalf of the public over portions of the Pavilion Properties for public access from Ocean Avenue to the Boardwalk, the locations of which are shown on Exhibit E attached to this Subsequent Developer Agreement.

"Boardwalk Vending Ordinance" means Ordinance No. 2876 of the City adopted on June 18, 2008, as the same may be replaced, supplemented and/or amended.

"Building Permit" means a building permit issued by or on behalf of the City.

“CAFRA” means the Coastal Area Facilities Review Act (N.J.S.A. 13:19-1 et seq.) as administered by the DEP.

“CAFRA Permit” means that certain permit, number 1303-03-0001.2, issued by the DEP on March 26, 2004, recorded April 7, 2004 in the County Clerk’s Office in Deed Book OR - 8347 page 9115, as the same was modified by letter dated December 29, 2005 from Kevin J. Broderick, Manager, Bureau of Coastal Regulation of the DEP, to Mr. Steven Ewing of Schoor DePalma, recorded January 4, 2006 in the County Clerk’s Office in Deed Book OR-8530 page 3942, and may hereafter be amended from time to time.

“Carousel House” means the improvements located on that portion of the Casino Property consisting of a large carousel house located to the west of the Casino House and the Casino Arcade.

“Casino Arcade” means the improvements located on the portion of the Casino Property between the Casino House and the Casino Arena and referred to as the “Boardwalk Arcade” in the WRP.

“Casino Arena” means the portion of the Casino Property which extends east of the Casino Arcade over the beachfront and upon which a new structure may be constructed in accordance with the Redevelopment Plan and CAFRA Permit.

“Casino House” means the improvements located on the portion of the Casino Property between the Casino Arcade and the Carousel House.

“Casino Property” means Block 227, Lot 1.04.

“Casino Projects” means the projects for the redevelopment of the Casino Property.

“Certificate of Completion” means a Certificate of Completion issued by the City in accordance with the Redeveloper Agreement and this Agreement in substantially the form of Exhibit T attached to this Subsequent Developer Agreement.

“Certificate of Occupancy” or “C/O” means and refers to a temporary or permanent “certificate of occupancy,” as defined in and issued pursuant to the applicable section of the municipal code of the City and the applicable provisions of the Uniform Construction Code.

“CH/PT Arcade” means the enclosed arcade situated on the CH/PT Property between the Convention Hall and the Paramount Theater.

“CH/PT Projects” means the projects for the redevelopment of the CH/PT Property.

“CH/PT Property” means all of Block 227, Lot 1.18, including the Convention Hall Property and the Paramount Theater Property, and the CH/PT Arcade.

“City” has the meaning set forth in the preamble to this Subsequent Developer Agreement.

"City Council" has the meaning set forth in the preamble to this Subsequent Developer Agreement.

"Commencement of Construction" and **"Commence Construction"** means any activity associated with construction, including the placement upon the applicable Retail Property of any equipment to be used in construction, grading, excavation or site preparation of such Retail Property and the use of such equipment for its intended purpose.

"Completion Guaranty" means a guaranty of completion of a Project executed and delivered to the City by MRP, or a Madison Retail Affiliate, prior to the Commencement of Construction, which shall be in form substantially similar to the form attached hereto as Exhibit J.

"Completion of Construction" and **"Complete Construction"** means the substantial completion in accordance with applicable Governmental Approvals of one or more of the Retail Projects, substantially in accordance with Resolutions of the Planning Board, as evidenced by the issuance of a Certificate (or Certificates) of Occupancy with respect to the "core and shell" (i.e., the structure, the building envelope and the core mechanical, electrical and plumbing systems) of the Retail Project in question, it being understood that Completion of Construction and Complete Construction shall not require completion of any tenant or other user build-out, systems, finishes or other installations.

"Consenting Resolution" shall have the meaning set forth in Recital F.

"Conceptual Approval" means the approval by the City Council of the Plans or Revised Plans submitted to the City Council by MA Retail for a particular Retail Project pursuant to Section 4.01(g), which Plans or Revised Plans (as the case may be) will not be approved by the City Council if the same are not consistent with the provisions of the Waterfront Redevelopment Plan in all material respects, and which approval, if granted by the City Council, may be granted either (a) with conditions that shall be complied with by MA Retail, or (b) without conditions.

"Conceptual Disapproval" means the disapproval (incorporating the basis of such disapproval) by the City Council of the Plans or Revised Plans submitted to the City Council by MA Retail for a particular Retail Project pursuant to Section 4.01(g), which Plans or Revised Plans (as the case may be) will be disapproved by the City Council if the same are not consistent with the provisions of the Waterfront Redevelopment Plan in all material respects.

"Construction Department" means the department within the City responsible for the issuance of building permits and inspections of completed work.

"Convention Hall" means the Asbury Park Convention Hall situated on the Convention Hall Property.

"Convention Hall Property" means that portion of the CH/PT Property, east of the CH/PT Arcade, on which the Convention Hall is situated.

“Convention Hall Project” means the project for the redevelopment of the Convention Hall Property.

“Cost Substantiation” means the process by which the costs associated with Menu Items shall be substantiated. Prior to undertaking a Menu Item, MA Retail shall provide an estimate of the costs involved, including labor and materials. No developer fee or overhead shall be charged by MA Retail. Following completion of the Menu Item, all such costs shall be reasonably documented and accompanied by a certificate, signed by an Authorized Representative of MA Retail itemizing the amount expended on the Menu Item, including labor and materials (but no overhead component shall be charged or collected by MA Retail) and attesting that such cost represents a competitive price for the service or materials supplied. MA Retail shall retain all records or invoices related to Menu Items for a period of 2 years after the end of the term of this Agreement and shall make such records available to the City upon reasonable request.

“County Clerk’s Office” means the Office of the County Clerk, Monmouth County, New Jersey.

“Day” shall have the meaning set forth in Section 15.06.

“Declaration of Restrictions” means the filing with the County Clerk’s Office of: (i) a notice of the covenants pursuant to Section 3.05; (ii) a notice of the remedy of the City set forth in Section 8.03(b); and (iii) notice as to the existence of this Agreement between the City and MA Retail, in substantially the form set forth as Exhibit E.

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

“Development Schedule” shall have the meaning set forth in Section 4.01(a).

“Dispute Resolution Agreement” or **“DRA”** shall have the meaning set forth in Recital C.

“Easement Encroachment and Expansion Agreement” means a written agreement between the City and MA Retail, substantially in the form of Exhibit F attached to this Subsequent Developer Agreement.

“Effective Date” means the date this Subsequent Developer Agreement is executed by the City, MA Retail and Asbury Partners.

“Emergency” means a situation constituting (or reasonably anticipated to constitute) an imminent danger to health, life and/or property.

“Entire Boardwalk” means the boardwalk located east of Block 227, as then existing, excluding space within the Casino Arcade and the CH/PT Arcade.

“Escrow Agreement” shall mean that certain agreement by and between the City of Asbury Park and Madison Asbury Investment, Inc., dated as of January 22, 2008.

“Event of Default” shall be as set forth in Article 8.

“Event of Force Majeure” means any delay in performance arising from causes beyond a party’s reasonable control and without its fault or negligence, including acts of God, acts of the public enemy, acts or omissions of other parties (including litigation by third parties), delay by any governmental authority or agency to issue any Governmental Approval, fires, floods, epidemics, quarantine restrictions, energy shortages, shortages of building materials, embargoes, unusual or severe weather, explosion, war, blockade, security problems, insurrections, riots, mob violence or civil disturbance, act of terrorism, acts of the Federal government, or delays of subcontractors or consultants due to any of the foregoing such causes.

“Exterior Decorative Scheme” means the painting and decorative painting scheme for the improvements upon the 4th Avenue Pavilion Property and the Sunset Avenue Pavilion Property, substantially in accordance with the design principles underlying the already completed Pavilion renovations.

“Financial Agreement” shall mean a “financial agreement” entered into under the provisions of Section 15.02 hereof.

“Final Site Plan” means the final site plan submitted to, and approved by, the Planning Board with respect to the development of a Retail Project.

“Governing Law” has the meaning set forth in Section 15.15.

“Governmental Approvals” means all government review, permits, licenses, certificates, consents and approvals necessary for the development, construction, lease, sale, or occupancy of each of the Retail Projects, or any part thereof, or any other obligation hereunder, issued by or on behalf of any governmental entity or subdivision and issued in reliance on the Applications for Governmental Approvals and including approvals from any utility.

“Green Acre Parcels” means those parcels of land identified as Block 227, Lots 1.01, 1.02, 1.05, 1.07, 1.09, 1.11, 1.12, 1.14, 1.15, 1.17, 1.19, 1.21 and 1.22.

“Infrastructure Improvements” means infrastructure repairs and/or improvements in the Redevelopment Area undertaken in accordance with the Infrastructure Master Plan, as required pursuant to the Waterfront Redevelopment Plan and the Redeveloper Agreement.

“Infrastructure Master Plan” shall have the meaning set forth in Section 4.01(d)(iii).

“Institution” means any savings and loan association, savings bank, commercial bank or trust company (whether, in the case of any of the foregoing, the same is acting in its individual capacity and/or in any fiduciary capacity), or any insurance company, real estate investment trust, mutual fund, hedge fund, equity fund or debt fund, or any educational institution, or any state, municipal or other public employees’ benefit, welfare, pension or retirement fund or system, or any other corporation or other entity subject to supervision and regulation by the insurance department or the banking department (or any successor department or departments hereafter exercising the same or substantially similar functions as either of said departments) of the State

or the States of Delaware or New York or of the United States Treasury, or affiliate thereof, in each case having a net worth of not less than \$100,000,000 or assets of at least \$1,000,000,000 (at the time of the origination of the loan in question), or an affiliate thereof.

“Land Use Law” means N.J.S.A. 40:55D-1, et seq.

“Local Building Products” means building products, including lumber, sheetrock, plaster, paint, windows, doors, wiring, pipes, conduits and fasteners purchased from a business located within the City.

“Local Labor” means entry-level, apprentice and journeyman level workers in the appropriate building trades living and working in the City, including workers identified by or on behalf of the City.

“Madison” has the meaning set forth in Recital D.

“MA Parking” shall have the meaning set forth in Section 4.05.

“MA Retail” has the meaning set forth in the preamble to this Subsequent Developer Agreement.

“MA Retail Affiliates” means MRP, MA Retail and their respective successors or assigns.

“Menu Items” means and refers to the work, as hereinafter listed, which shall be undertaken on behalf of the City by MA Retail using contractors reasonably satisfactory to the City and funded by MA Retail up to the limits set forth in Section 4.01(i) hereof, and shall include: (i) the permitting and design and later construction of the New Lifeguard Facility (which may be undertaken as a multi-year item with design and permitting done first and construction undertaken in a later year); (ii) the installation of two public ADA compliant modular restroom facilities pursuant to Section 4.04(a) and (iii) such other capital projects for the benefit of the Boardwalk, including the Entire Boardwalk, as may be designated by the City in accordance with the timeframes set forth in Section 4.01(i)(iii).

“MRP” mean Madison Realty Partnership, LLC, a Delaware limited liability company.

“Mortgage” means any instrument constituting (or creating) a mortgage lien on any one or more of the Retail Properties, including a mortgage, leasehold mortgage, deed of trust or leasehold deed of trust or indenture of mortgage and deed of trust, and including all modifications, amendments, spreaders, consolidations replacements and/or renewals thereof. The term Mortgage shall also be deemed to include, when delivered in connection with any of the instruments constituting a “Mortgage” pursuant to the immediately preceding sentence, any other instruments so delivered which constitute (or create) a lien on the related Retail Properties and which are customarily required by mortgage lenders in connection with mortgage loan financings, such as assignments of leases and rents.

“Net AP Lease” means that certain lease creating a leasehold interest in Block 227, Lots 1.24 and 1.26 between the City and Asbury Partners, substantially in the form of Exhibit G attached hereto.

“Net MA Retail Lease” means that certain lease creating leasehold interest in the Green Acres Parcels between the City and MA Retail, substantially in the form of Exhibit H attached hereto.

“Net Leases” means the Net AP Lease and the Net MA Retail Lease.

“Net Worth” shall mean assets minus liabilities, which may be determined by reference to cost basis.

“Net Worth Guaranty” shall mean a guaranty agreement executed by MRP for the benefit of the City substantially in the form of Exhibit I attached hereto.

“NJHPO” means the Historic Preservation Office of the DEP.

“Non MA Retail Boardwalk Item” mean a Menu Item selected by the City that is not located on the Boardwalk, and which is a non repetitive item of work and arises from special circumstances.

“Off-Peak Season” means all periods during each year that are not within the Peak Season.

“Paramount Theater” means the Asbury Park Paramount Theater situated on the Paramount Theater Property.

“Paramount Theater Project” means the project for the refurbishment of the Paramount Theater Property.

“Paramount Theater Property” means that portion of Block 227, Lot 1.18 west of the CH/PT Arcade, where the Paramount Theater is situated.

“Pavilion” and **“Pavilions”** means, respectively, the individual and the collective reference to the buildings and appurtenant improvements constructed and/or to be constructed on the Pavilion Properties.

“Pavilion Property” and **“Pavilion Properties”** means, respectively, the individual and the collective reference to the 1st Avenue Pavilion Property, the 2nd Avenue Pavilion Property, the 3rd Avenue Pavilion Property, the 4th Avenue Pavilion Property, the 5th Avenue Pavilion Property and the Sunset Avenue Pavilion Property.

“Peak Season” means the period commencing May 15 and ending on (and including) September 15 of each year.

“Performance Security” means the Net Worth Guaranty and the Completion Guaranty.

"Permitted Mortgagee" means an Institution (or an Affiliate) which holds a Mortgage on its own behalf or on behalf of other Institutions on any one or more of the Retail Properties and acknowledges the provisions of Article 14 of this Agreement.

"Permitted Successor" means any successor owner of a Retail Property which (a) acquires such Retail Property pursuant to a foreclosure or other court proceeding, or action (including an agreement) in lieu thereof, or pursuant to a Transfer from a Permitted Mortgagee or an Affiliate of a Permitted Mortgagee and (b) in the case of a Retail Project to be completed under the terms of this Agreement, which affirms the terms of this Subsequent Developer Agreement and is (1) an Institution, or an Affiliate of an Institution or (2) an entity which (A) is a reputable developer of retail properties of types similar to the Retail Properties (as determined by the City in its reasonable discretion), and (B) has a Net Worth (as certified by an independent certified public accounting firm reasonably acceptable to the City) that is not less than the greater of (x) one hundred fifty percent (150%) of the estimated cost to complete the renovation and/or reconstruction of the Retail Property owned by such entity and (y) \$10,000,000.

"Planning Board" means the planning board of the City established pursuant to N.J.S.A. 40:55D-23.

"Plans" means the drawings, plans and specifications for the development of each of the Retail Properties, including site plans, building floor plans, building elevations, and architectural renderings. "Plans" shall include the minimum requirements of Applicable Laws and Project Documents.

"Plans and Specifications" shall mean all plans, drawings, specifications and related documents for a Menu Item, as accepted by the City and including a construction progress schedule and shall be subject to Force Majure.

"Power Plant Property" means Block 227, Lot 1.03.

"Power Plant Project" means the project for the redevelopment of the Power Plant Property.

"Project Documents" means the Waterfront Redevelopment Plan, the Redeveloper Agreement, the CAFRA Permit and this Subsequent Developer Agreement, as each of the same may be amended from time to time.

"Punch List Items" shall mean items within a Menu Item that do not meet the Plans and Specifications and that MA Retail shall be obligated to fix or repair within 30 days of the completion date set forth in the construction progress schedule within the Plans and Specifications, subject to Force Majure.

"Redeveloper Agreement" shall have the meaning set forth in Recital C.

“Redevelopment Area” shall have the same meaning that is given to such term in the Redeveloper Agreement.

“Redevelopment Entity” means the City Council acting in its capacity as a redevelopment entity pursuant to the Act and any permitted successors or assigns.

“Redevelopment Ordinance” has the meaning set forth in Recital B.

“Resolution Date” has the meaning set forth in Recital F.

“Retail Project” and **“Retail Projects”** means, respectively, the individual and the collective reference to the 1st Avenue Pavilion Project, the 2nd Avenue Pavilion Project, the 3rd Avenue Pavilion Project, the 4th Avenue Pavilion Project, the 5th Avenue Pavilion Project, the Sunset Avenue Pavilion Project, the CH/PT Projects, the Casino Projects and the Power Plant Project, and the redevelopment or rehabilitation, as the case may be, of the applicable Retail Property or Retail Properties, all in compliance with the terms and conditions set forth in Applicable Laws, applicable Governmental Approvals, including the applicable Final Site Plan(s), and the Project Documents, all as may be amended from time to time.

“Retail Properties” means the Casino Property, the CH/PT Property, the Pavilion Properties, the Power Plant Property and the Green Acres Parcels, all as more particularly described on Exhibit K attached hereto. The Retail Properties do not include any property north of Block 227, Lot 1.22.

“Sidewalk Café Ordinance” means Ordinance No. 2875 of the City adopted on June 18, 2008, as the same is replaced, supplemented and/or amended.

“State” means the State of New Jersey.

“Subsequent Developer” means a “subsequent developer” as defined in the Redeveloper Agreement.

“Subsequent Developer Agreement” means this Agreement.

“Sunset Avenue Pavilion Property” means Block 227, Lot 1.20.

“Sunset Avenue Pavilion Project” means the project for the redevelopment of the Sunset Avenue Pavilion Property.

“Technical Review Committee” or **“TRC”** means the technical review committee of the City as set forth in the Waterfront Redevelopment Plan.

“Term” shall mean a date beginning upon the execution of this Agreement by all parties and ending upon the issuance of a Certificate of Completion for the Retail Projects in their entirety pursuant to Section 4.16(e) hereof.

“**Tillie Mural**” means collectively the historical “Tillie” mural and the “Bumper Cars Ladies” mural, which were formerly located on an exterior wall of the former Palace Amusements Building and to which reference is made in the CAFRA Permit.

“**Transfer**” shall have the meaning set forth in Section 6.03.

“**Waterfront Redevelopment Area**” or “**WRA**” means the real property within the City which is subject to the Waterfront Redevelopment Plan.

“**Waterfront Redevelopment Plan**” or “**WRP**” shall have the meaning set forth in Recital A.

ARTICLE 2

REPRESENTATIONS AND WARRANTIES

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

(a) The City has the power and authority under the Act to declare the Project Site an area in need of redevelopment.

(b) The Waterfront Redevelopment Plan has been duly adopted in compliance with all Applicable Laws; except as described in the definition of the Waterfront Redevelopment Plan, the Waterfront Redevelopment Plan has not been amended; and the Waterfront Redevelopment Plan is in full force and effect.

(c) The CAFRA Permit is in full force and effect; the City has received no notice that the CAFRA Permit has been revoked, modified or changed; and, except as set forth in Exhibit K hereto, each of which is to be remedied in accordance with the terms of this Agreement, to the knowledge of the City, no event has occurred which with the giving of notice or the passage of time, or both, would constitute a default by the applicant under the CAFRA Permit.

(d) The Redeveloper Agreement has been duly authorized in compliance with all Applicable Laws; the Redeveloper Agreement as applicable to the Retail Properties has not been amended; the Redeveloper Agreement is in full force and effect with respect to the Retail Properties; and, to the knowledge of the City, no event has occurred which with the giving of notice or the passage of time, or both, would impair MA Retail’s ability to act as a subsequent developer in accordance with the terms of the Redeveloper Agreement or this Subsequent Developer Agreement.

(e) The City has the legal power, right and authority to enter into this Subsequent Developer Agreement and the instruments and documents referenced herein to which the City 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 Subsequent Developer Agreement.

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

(g) This Subsequent Developer Agreement has been duly executed by the City, and is valid and legally binding upon the City 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 notice or the passage of time, constitute a default under or violate the terms of any indenture, agreement or other instrument to which the City is a party.

(h) To the best of the City's knowledge and belief, after diligent inquiry, there is no action, proceeding or investigation now pending, nor any basis therefor, known or believed to exist, which questions the validity of the Waterfront Redevelopment Plan, the CAFRA Permit, the Redeveloper Agreement or this Subsequent Developer Agreement, or any action or act taken or to be taken by the City pursuant to the Waterfront Redevelopment Plan, the CAFRA Permit, the Redeveloper Agreement or this Subsequent Developer Agreement.

(i) The uses of the Project Site contemplated by this Subsequent Developer Agreement are authorized by Applicable Laws and the Waterfront Redevelopment Plan.

(j) As of the date of this Subsequent Developer Agreement, there is no sewer moratorium or other moratoria that would prohibit or prevent construction of the Retail Projects.

2.02 **Representations and Warranties of MA Retail.** MA Retail hereby makes the following representations and warranties:

(a) MA Retail has the legal capacity to enter into this Subsequent Developer Agreement and perform each its obligations set forth herein and, by reference thereto herein, in the Waterfront Redevelopment Plan as of the date of this Subsequent Developer Agreement.

(b) MA Retail is duly organized and a validly existing limited liability company under the laws of the State of Delaware and all necessary resolutions have been duly adopted to authorize the execution and delivery of this Subsequent Developer Agreement and to authorize and direct the persons executing this Subsequent Developer Agreement to do so for and on behalf of MA Retail. Further, any and all instruments and documents referenced herein to which Madison is a party, and the consummation of the transaction contemplated hereby, and, to the best of Madison's knowledge and belief, all such action and consents and this Subsequent Developer Agreement and the instruments and documents referenced herein to which MA Retail is a party, and the consummation of the transaction contemplated hereby are authorized by all

Applicable Laws. To the best knowledge of MA Retail there are no writs, injunctions, orders or decrees of any court or governmental body that would be violated by MA Retail entering into, or performing its obligations under, this Subsequent Developer Agreement.

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

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

(e) To the best of MA Retail's knowledge and belief after diligent inquiry, all information and statements included in any information submitted to the City and its agents are true and correct in all material respects. MA Retail acknowledges that the facts and representations contained in the information submitted by MA Retail are a material factor in the decision of the City to enter into this Subsequent Developer Agreement.

(f) MA Retail agrees that the cost and financing of the Retail Projects will be the responsibility of MA Retail, pursuant to the Waterfront Redevelopment Plan, the Redeveloper Agreement and this Subsequent Developer Agreement, and the City shall not be responsible for any cost whatsoever with respect to the same, other than as provided in this Subsequent Developer Agreement.

(g) MA Retail is financially and technically capable of performing its obligations under this Agreement.

(h) All information provided or to be provided to the City by MA Retail indicating that MA Retail is financially capable of developing the Retail Projects in furtherance of the City's consideration of MA Retail as eligible for designation as a Subsequent Developer is accurate and complete in all material respects, and MA Retail is not aware of any information that would make the information provided either inaccurate or misleading in any material respect.

2.03 Representations and Warranties of Asbury Partners.

Asbury Partners hereby makes the following representations and warranties:

(a) Asbury Partners has the legal capacity to enter into this Subsequent Developer Agreement and perform each its obligations set forth herein and, by reference thereto herein, in the Waterfront Redevelopment Plan as of the date of this Subsequent Developer Agreement.

(b) Asbury Partners is duly organized and a validly existing limited liability company under the laws of the State of New Jersey and all necessary resolutions have been duly adopted to authorize the execution and delivery of this Subsequent Developer Agreement and to authorize and direct the persons executing this Subsequent Developer Agreement to do so for and on behalf of Asbury Partners. To the best knowledge of Asbury Partners, there are no writs, injunctions, orders or decrees of any court or governmental body that would be violated by Asbury Partners entering into, or performing its obligations under, this Subsequent Developer Agreement.

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

2.04 Mutual Representations and Warranties.

(a) The City, MA Retail and Asbury Partners have been advised that, with the exception of work to be performed in connection with the New Lifeguard Facility described in Section 4.02, this Subsequent Developer Agreement does not constitute a "Public Works Contract" as defined in P.L. 1975, c. 127 (N.J.S.A. 10:5-31) and the completion of the Retail Project does not constitute a "Public Work" as defined in N.J.S.A. 34:11-56.26 (the "Prevailing Wage Law").

(b) In the event that any contractual provisions which are required by the laws of the State to be included in this Subsequent Developer Agreement have been omitted, then the City, MA Retail and Asbury Partners agree that this Subsequent Developer Agreement shall be deemed to incorporate all such required contractual provisions by reference and such required contractual provisions shall become a part of this Subsequent Developer Agreement.

ARTICLE 3
COVENANTS AND RESTRICTIONS

3.01 Covenants and Restrictions of the City.

(a) The City covenants that it will comply with all Applicable Laws.

(b) The City covenants to support any applications for Governmental Approvals that are consistent with the terms of the Waterfront Redevelopment Plan and this Subsequent Developer Agreement, to promptly execute any documents reasonably required to obtain such Governmental Approvals, and otherwise to cooperate with MA Retail with respect to all such Governmental Approvals; provided, however, that nothing contained in this Section 3.01 shall prohibit: (i) the Technical Review Committee from exercising the responsibilities and duties granted to it pursuant to the Waterfront Redevelopment Plan; (ii) the City Council from exercising the responsibilities and duties granted to it pursuant to Applicable Laws and the Waterfront Redevelopment Plan with respect to its review and Conceptual Approval of Plans submitted by MA Retail; or (iii) the Planning Board from exercising responsibilities and duties granted to it by Applicable Laws, including but not limited to the Land Use Law, and the Waterfront Redevelopment Plan with respect to review and approval of Plans submitted by MA Retail.

(c) The City covenants, to the fullest extent permitted by Applicable Law, to timely consider all requests for reviews, consents, approvals, meetings, applications for building permits or certificates of occupancy, and to provide cooperation in obtaining Governmental Approvals and all other acts necessary or appropriate to allow MA Retail to obtain approvals for, construct and operate the Retail Properties.

(d) The City will take no action to impair MA Retail's completion of the Retail Projects within the time periods specified in this Subsequent Developer Agreement, except as authorized by this Subsequent Developer Agreement.

(e) Upon Completion of Construction of a Retail Project, proper application and satisfactory inspections by the City as to compliance with Governmental Approvals, the City shall, with reasonable diligence, issue in accordance with Applicable Laws, the Certificate(s) of Occupancy and all other Governmental Approvals (if any) required to be issued by the City for the lawful occupancy and uses of that Retail Project for the purposes contemplated hereby.

(f) Upon the issuance of Certificates of Occupancy for the whole of any Retail Project, the City shall promptly issue a Certificate of Completion for such Retail Project.

3.02 Covenants and Restrictions of MA Retail.

(a) MA Retail shall comply with the applicable provisions and public purposes of the Act and shall at all times construct and develop the Retail Projects or cause the Retail Projects to be constructed and developed pursuant to the conditions and requirements of the Waterfront Redevelopment Plan, including, but not limited to, those provisions restricting the

permitted uses established therein (which shall be a covenant running with the land). MA Retail shall abide by and adhere to the Project Documents applicable to the Retail Properties.

(b) Except as may be expressly permitted by this Subsequent Developer Agreement, MA Retail shall not sell, lease or otherwise transfer all or any portion of the Retail Properties without the written consent of the City; provided, however, that (i) the City hereby consents and agrees that MA Retail may make any of those Transfers permitted by Article 6 of this Subsequent Developer Agreement, and (ii) MA Retail may enter into "space leases" with occupants of retail space, for lawful uses, with the right to conduct business at such spaces being conditioned upon receipt of a Certificate of Occupancy.

(c) MA Retail (i) shall keep the Retail Properties free from any substantial accumulation of debris or waste materials and (ii) shall maintain in good condition any landscaping required to be planted on the Retail Properties pursuant to the Final Site Plans for the Retail Projects (which obligation in this clause (ii) shall be a covenant running with the land).

(d) MA Retail shall, in connection with its use or occupancy of the Retail Projects, not effect or execute any covenant, agreement, lease, conveyance or other instrument whereby the Retail Properties or any building or structure erected or to be erected thereon is restricted upon the basis of age, race, color, creed, religion, ancestry, national origin, sex, sexual orientation, or familial status, and MA Retail, 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, sex, sexual orientation, or familial status (which shall be a covenant running with the land).

(e) MA Retail shall, in order to effectuate the purposes of this Subsequent Developer Agreement, make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions with any other persons, firms or corporations and in general do all things which may be requisite or proper for the construction and development of the Retail Projects in accordance with the applicable Final Site Plan, this Subsequent Developer Agreement, the Waterfront Redevelopment Plan, and Applicable Law.

(f) MA Retail shall obtain, upon Completion of Construction of a Retail Project, the Certificates of Occupancy and all other Governmental Approvals required for the lawful occupancy and uses of that Retail Project for the purposes contemplated hereby.

(g) MA Retail shall not (i) discontinue the performance of its obligations under this Subsequent Developer Agreement for any reason, including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration or commercial frustration of purpose, or by reason of any damage to or destruction of any of the Retail Projects; (ii) suspend the performance of its obligations under this Subsequent Developer Agreement for any reason, except that MA Retail shall be permitted to suspend performance of its obligations under this Subsequent Developer Agreement (A) during the pendency of an Emergency or Event of Force Majeure, and (B) if and to the extent otherwise expressly permitted by the provisions of this Subsequent Developer Agreement.

(h) MA Retail shall cause each of the Retail Projects to be developed, financed, constructed, operated and maintained at its sole cost and expense (other than contributions by tenants, licensee, vendors, etc.), and at no cost or expense to the City.

(i) MA Retail shall develop, finance, construct, operate and maintain the Retail Projects on the Retail Properties consistent with Applicable Laws, Governmental Approvals and the Project Documents.

(j) MA Retail shall use commercially reasonable efforts to diligently undertake the construction, development, operation, and maintenance of the Retail Projects and achieve Completion of Construction of each of the Retail Projects, in accordance with the requirements of this Subsequent Developer Agreement.

(k) MA Retail shall promptly notify the City and Asbury Partners of any material change in its financial condition from the information provided to the City by MA Retail indicating MA Retail's financial capability to develop, finance, construct, operate, and maintain the Retail Projects in furtherance of the City's consideration in designating MA Retail a Subsequent Developer.

(l) MA Retail will make good faith efforts to encourage City residents, women, and minority participation in construction and permanent job opportunities as a result of the Retail Projects. MA Retail will cooperate with City agencies which may disseminate information concerning opportunities to contractors, vendors, and organizations based within the City and the County of Monmouth. MA Retail will make good faith efforts to actively seek qualified business enterprises owned by minorities and women and business enterprises located in Asbury Park for professional, retail, marketing, building and ground maintenance, transportation, supply, and food services. MA Retail will use its good faith efforts to identify market opportunities and match them with qualified local and minority businesses.

(m) MA Retail (i) shall at all times maintain a Net Worth (as certified by Price Waterhouse Coopers LLP or another independent certified public accounting firm reasonably acceptable to the City) equal to or greater than the levels required by Section 4.13(a)(ii), (ii) shall not permit its debt-to-equity ratio (as certified by Price Waterhouse Coopers LLP or another independent certified public accounting firm reasonably acceptable to the City) at any time to exceed 70:30, and (iii) shall dedicate such Net Worth to the fulfillment of its obligations under this Agreement, as and when required by this Subsequent Developer Agreement.

(n) MA Retail shall indemnify the City as set forth in Section 15.19 hereof.

(o) MA Retail shall record the Declaration of Restrictions.

(p) MA Retail acknowledges that the City and its boards and advisory panels have developed certain deadlines prior to a scheduled meeting for the purpose of allowing for review of proposals. For purposes of the City's covenant to prioritize and expedite required approvals from the City and its boards and advisory panels as set forth in Section 3.01(b), a failure to act on a proposal submitted by MA Retail after any such deadline shall not be

considered a breach of such covenant, provided, however, that the City nevertheless agrees to make, and to cause its boards and advisory panels to make, good faith efforts to consider all such proposals prior to the applicable scheduled meeting.

(q) MA Retail shall execute or cause MRP (or its qualified Affiliate) to execute the Performance Security as set forth in this Subsequent Developer Agreement and shall cause such Performance Security to remain in full force and effect in accordance with the provisions therein.

(r) MA Retail shall continue to replenish funds as provided in the Escrow Agreement.

3.03 **Effect of Covenants**. It is intended and agreed that the covenants and restrictions set forth in Sections 3.01 and 3.02 shall be covenants running with the land. All covenants in Sections 3.01 and 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 Subsequent Developer Agreement, shall be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by, the other parties to this Agreement and their respective successors and assigns, as the case may be (the "**Benefited Parties**"), against MA Retail, Asbury Partners and the City, as the case may be, their respective successors and assigns and every successor in interest therein, and any party in possession or occupancy of the Retail Properties or any part thereof.

3.04 **Enforcement**. In amplification but not in limitation of the provisions of this Article 3, it is intended and agreed that the Benefited Parties shall be deemed beneficiaries of the agreements and covenants set forth in Sections 3.01 and 3.02, as the case may be, 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 Benefited Parties for the entire period during which such agreements and covenants shall be in force and effect, without regard to whether any of the Benefited Parties has at any time been, remain, or is an owner of any land or interest therein to or in favor of which such agreements and covenants relate. The Benefited Parties shall have the right, in the event of any breach of any such agreement or covenant, to exercise all the rights and remedies as set forth in Article 8 of this Subsequent Developer Agreement.

3.05 **Duration of Covenants**. The covenants set forth in Section 3.02 shall be deemed satisfied for a particular Retail Project upon termination of this Subsequent Developer Agreement, as evidenced by the issuance by the City of a Certificate of Completion for that particular Retail Project, which shall be recorded in the land records of that particular Retail Project. The covenants set forth in Section 3.02(a) and 3.02(d), which are covenants running with the land, shall be recited in the Certificate of Completion and shall remain in effect without limitation as to time, provided, however, that a breach of any of said covenants with respect to any particular Retail Property shall not constitute a breach of such covenant(s) with respect to any other Retail Property. The indemnity described in Section 3.02(n) shall survive as to claims made with respect to a particular Retail Project if such claims arose during the term of this Subsequent Developer Agreement as applicable to such particular Retail Project.

ARTICLE 4
PROJECT OBLIGATIONS OF MA RETAIL AND CITY

4.01 General Scope of Project.

(a) Development Schedule. (i) MA Retail shall have the right to own, use, repair and maintain the Retail Properties in accordance with the Waterfront Redevelopment Plan and Applicable Laws and to develop the Retail Properties in accordance with the Waterfront Redevelopment Plan and an applicable subsequent development agreement.

(ii) This Agreement shall govern the rights and obligations of MA Retail relating to the 1st Avenue Pavilion Project, the 3rd Avenue Pavilion Project (as to use in its present condition), the 5th Avenue Pavilion Retail Project and the CH/PT Project, each of which MA Retail has commenced prior to the effective date of this Agreement, as well as the undertaking of the reconfiguration and beautification of the existing structure on 4th Avenue Pavilion Property and the demolition and right to reconstruct the structure on the Sunset Avenue Pavilion Property. In addition, this Agreement shall govern MA Retail's obligations related to the Band Shell Project and the construction of the New Lifeguard Facility and other obligations related to the WRA and the operation of the Entire Boardwalk.

(iii) The Parties agree that the future undertaking of each of (i) the 2nd Avenue Pavilion Project, (ii) the potential demolition of the existing structures and reconstruction of permitted structures on the 3rd Avenue Pavilion Property, the 4th Avenue Pavilion Property and the Sunset Avenue Pavilion Property, (iii) the Casino Projects and (iv) the Power Plant Project shall require subsequent development agreements prior to the right to Commence Construction and the obligation to undertake these projects arise; provided however, that MA Retail shall retain the right to occupy, use, repair and maintain the properties in accordance with the provisions of the Waterfront Redevelopment Plan and Applicable Law.

(iv) This Subsequent Developer Agreement shall satisfy the requirement for a development agreement with the City as set forth in the Consenting Resolution and previously adopted resolutions of the Planning Board granting approval of certain previous undertakings of MA Retail.

(b) Local Labor. In constructing a Retail Project, MA Retail agrees that it will use commercially reasonable efforts to use Local Labor. In addition, MA Retail agrees that it will use commercially reasonable efforts to acquire and use Local Building Products. The City shall designate a person or office which shall coordinate with MA Retail and advise as to the availability and identity of Local Labor and the availability of Local Building Products. MA Retail shall, from time to time when requested by the City but not more frequently than once in any ninety (90) day period, provide summary reports of its efforts to engage Local Labor.

(c) Plan Review. The renovation or reconstruction of each Retail Property shall be performed in a good and workmanlike manner, observing good construction practices. Prior to the start of renovation or reconstruction of each Retail Property, the Plans therefor shall be submitted to Asbury Partners for review and approval, not less than five (5) Business Days

prior to being delivered to any Governmental Authority. Such Plans shall be reviewed, and approved by the Technical Review Committee, the City Council (acting as redevelopment entity) and the City's Planning Board as may be required by the Waterfront Redevelopment Plan and Applicable Law. All renovation or reconstruction shall be completed in accordance with the Plans as approved by all appropriate Governmental Entities.

(d) Encroachments.

(i) Design of renovations and reconstruction of each Retail Property shall avoid encroachment on public access or utility easements. No such encroachments shall be permitted without the express written consent of the City and the City shall have the right to require, as a condition to its consent to any such encroachment, that MA Retail perform, at its sole cost, such work as the City may reasonably require to minimize or eliminate any adverse affect of such encroachment, including, without limitation, the expansion or relocation of the portions of the walkways on public access easements so affected to the portions of such public access easements areas that have been, or will be, expanded or relocated to compensate for the portions of such public access easement areas lost to such encroachments

(ii) The City has consented (or hereby consents) to the following encroachments on existing public access easements: (A) the encroachment of the stairs attached to the 1st Avenue Pavilion Property on the existing public access easement immediately to the north of the 1st Avenue Pavilion Property, (B) the encroachment of the stairs and elevator (and related shaft and enclosure) planned to be attached to the 5th Avenue Pavilion Property to the extent necessary to provide public access to the Band Shell on the existing public access easement located on the Green Acres Parcel immediately to the south of the 5th Avenue Pavilion Property as set forth in the design plans developed in accordance with Section 4.06(d)(ii) hereof and (c) the encroachment of the handicap ramp to the 3rd Avenue Pavilion Property on the existing public access easement on the south side of the 3rd Avenue Pavilion Property. The City shall (i) convey to MA Retail perpetual easement rights to maintain such encroachments, and (ii) dedicate for use as public access easements portions of the affected Green Acres Parcels to compensate for the portions thereof lost to the above-described encroachments, pursuant to and in accordance with the Easement Encroachment and Expansion Agreement.

(iii) MA Retail and the City agree to take such steps as are necessary to allow for the installation of paving stones, bollards and related decorative features as may be acceptable to the City pursuant to the Infrastructure Component Report, prepared by Schoor DePalma, Inc., and dated January 19, 2004 and last revised March 10, 2005 (the "**Infrastructure Master Plan**") for the creation of a public plaza east of the terminus of Asbury Avenue at Ocean Avenue (within Block 227, Lot 105). The parties acknowledge that currently this property is encumbered by a right of way for Asbury Avenue and a public access easement that meanders through the site. The parties agree to resolve these issues to allow for public access and public use of this site as an "outdoor café" in a manner consistent with Applicable Law.

(iv) MA Retail shall operate, or cause to be operated, all spaces within the Retail Properties in accordance with the City's ordinances and Applicable Law regarding permitted uses, hours of operation and nuisance.

(i) Annual MA Retail Police and Public Safety Contributions and Menu Items.

(i) Commencing in 2010, and continuing in each year thereafter until such a time as a Certificate of Completion is issued for the entire Retail Project, MA Retail shall (a) make contributions of \$150,000.00 towards operating costs associated with police and other public health and safety services performed for the benefit of the WRA, and (b) fund an additional \$100,000 for the undertaking of Menu Items in accordance with paragraph (iii) below.

(ii) (A) The contributions for operational costs shall be made in biannual payments of \$75,000.00 within 30 days of the effective date of this Agreement and on July 1, 2010 and thereafter on February 1 and July 1 of each calendar year.

(B) If in any calendar year, revenues from the City operations within the WRA (including the receipt of this payment) produce a surplus above actual operating costs, the City agrees to use up such surplus money, up to an amount of \$50,000, to fund additional Menu Items. The availability of such surplus shall not reduce the obligations of MA Retail set forth herein.

(C) In developing a plan to utilizing the operating contributions from MA Retail, the City and MA Retail shall meet twice every calendar year, once in second week in April before the Peak Season, and a second time in the second week in October. Representatives of the City will meet with MA Retail to discuss proposed City and private staffing within the WRA so that such services, including but not limited to public health and safety services, may effectively be coordinated based on the anticipated level of normal activity on the Boardwalk and on future entertainment events within the WRA; provided however that the City will retain complete control of all staffing decisions and all operations relating to the provision of City services. The City's primary contact will be the City Manager and MA Retail's primary contact will be Gary Mottola or the project's manager, although each primary contact may designate other contacts at their discretion and as the issues to be discussed shall require.

(iii) (A) Within 30 days of the effective date of this Agreement, and then on or before February 1 of each year thereafter, MA Retail shall make available funds to undertake Menu Items for that year. The funds shall be made available in a timely manner necessary to permit the expedient performance of the Menu Items in accordance with good construction practices.

(B) (1) On or before February 1 of each year, beginning February 1, 2011, the City and MA Retail will meet to discuss which Menu Item will be undertaken for that year. In making such determination, the City and MA Retail will act in good faith to designate items which are consistent with the WRA, MA Retail's development and operational plan and program and the City's goal of revitalizing the Entire Boardwalk. If the parameters under section (2) are satisfied, the Menu Item may be a Non MA Retail Boardwalk Item.

(2) The City shall have the right to propose a Non MA Retail Boardwalk Item by demonstrating to MA Retail that (i) the proposed Menu Item is necessary for the revitalization of the Entire Boardwalk and is permitted by the WRA or is necessary for the preservation of the public health and safety of the City's residents and visitors and (ii) that the City has unsuccessfully sought funding for such Menu Items from other sources.

(3) If the City and the MA Retail cannot agree on the Menu Item to be undertaken in any year, then the City will be entitled to make the final determination.

(C) Unless the Parties agree otherwise, the Menu Items for the calendar year 2010 shall be (i) the permitting and design of the New Lifeguard Facility; and (ii) the installation of two public ADA compliant modular restroom facilities pursuant to Section 4.04(a) of this Agreement. On or before April 1 of each year, beginning April 1, 2011, the City shall adopt a resolution identifying the Menu Item or Items to be implemented during that calendar year or declaring its intent to bank such contribution for that year to pay for a Menu Item in a future year which costs are expected to exceed the amounts currently available under subparagraph E hereof.

(D) Any projects undertaken as Menu Items shall be performed or contracted directly by MA Retail, which contract may be with the City for labor, and shall be subject to Cost Substantiation to the City. MA Retail shall comply with the provisions of the Prevailing Wage Law, if applicable to the particular Menu Item. If a Menu Item is designated by the City in a calendar year, MA Retail and the City shall meet promptly to develop Plans and Specifications. MA Retail shall begin undertaking such Menu Item within 30 days following the acceptance of Plans and Specifications by the City, subject to Force Majeure. MA Retail shall diligently prosecute the same in accordance with the construction progress schedule set forth in the Plans and Specifications. Upon completion of a Menu Item, the City will be entitled to inspect the same for compliance with the Plans and Specifications. Following such inspection, the City shall prepare of list of Punch List Items which shall be delivered to MA Retail and MA Retail shall acknowledge receipt of such list. MA Retail shall use best efforts to complete all Punch List Items within thirty (30) days after receipt from the City. Upon the acceptance by the City, MA Retail shall be released from any further responsibility for that Menu Item. MA Retail shall either name the City directly, or assign to the City prior to acceptance by the City, any warranties issued by contractors or by their sub-contractors in the construction of a Menu Item and any such warranties shall not be less than as set forth in the Plans and Specifications.

(E) If funds remain undesignated and unused at the end of any calendar year, such amounts shall "carry forward" into the following year (or years) until expended. With the exception of funding for the New Lifeguard Facility, MA Retail shall not be required to advance more than an additional \$100,000 in any calendar year to complete a Menu Item. If funds are advanced by MA Retail, MA Retail shall undertake the Menu Item in a manner consistent with this section and shall be entitled to a credit against the obligation to make funds available in future years, until such time as the cost of the completed Menu Item has been fully

covered. If the City receives any grants or other funds from sources other than MA Retail as reimbursement for work undertaken as a Menu Item, the amount of such reimbursements shall be made available for future Menu Items.

(j) Boardwalk.

(i) MA Retail shall have the exclusive right to coordinate, approve, permit and oversee vending and concession activities within the Boardwalk Area (as such term is defined in the WRP) south of Lot 1.23, Block 227. Asbury Partners has retained the exclusive right to coordinate, approve, permit and oversee vending and concession activities within the Boardwalk Area north of Lot 1.22 in Block 227. Any vendor, once approved by MA Retail or Asbury Partners, as appropriate, shall be licensed by the City in accordance with City ordinances. The City shall provide to MA Retail and Asbury Partners a copy of any ordinance regulating fees for vending activities and shall provide a copy of any amendments as the same are adopted.

(ii) As contemplated by Section 3.3 of the Redeveloper Agreement, the licensing and oversight of such activities by MA Retail and Asbury Partners shall be conducted in accordance with the Boardwalk Vending Ordinance and the Sidewalk Cafe Ordinance. In accordance with Section 3.03 of the Redeveloper Agreement, the City shall not license any vendors, other than those designated under paragraph (i) above, except as may be required by law. MA Retail and Asbury Partners shall each have the right to petition the City on an annual basis, on or before March 1 of each year, to make reasonable amendments to the Boardwalk Vending Ordinance based on their experience during the preceding year. The City will use good faith efforts to consider such requests and shall explain its rationale if it declines to implement such request; provided however that the City's decision shall be final and made in its sole discretion. If an amendment to the Ordinance is undertaken to accommodate such requested changes, the City shall introduce such amendments on or before May 15, of each year. In addition, the City reserves the right to make additional reasonable amendments to such ordinance at its discretion; provided, however, that the license fees that may be payable to the City pursuant to the Boardwalk Vending Ordinance (or any other or similar ordinance) shall not exceed fees that are reasonable and customary for the rights granted pursuant to the Boardwalk Vending Ordinance; provided further, however, that the parties hereto hereby expressly agree that the annual fee of \$4.00 per square foot of useable Boardwalk space constitutes a reasonable and customary fee for Boardwalk space adjacent to Pavilions.

(iii) The City shall maintain the Entire Boardwalk, including all of the existing overhead lights, in a safe, sound, neat and professional manner. The City shall supply an adequate number of trash barrels to keep the Entire Boardwalk free of trash and debris. The barrels shall be similar to those traditionally found at a public beach; provided, however, that south of Lot 1.23, Block 227, MA Retail shall have the right to supply decorative containers as set forth in the Infrastructure Master Plan. at no cost to the City. The City shall empty all trash barrels on a regular basis.

(iv) The Entire Boardwalk (including all of the existing overhead lights) shall remain the property of, and shall be maintained by, the City and shall remain open to the public at all times. Businesses within the Pavilions shall not be permitted to encroach on the

Boardwalk, except as is permitted by the City ordinances. On or before December 31, 2011 (as such time may be extended, in writing and upon the request of MA Retail, by the City in its reasonable discretion), MA Retail shall establish a lighting plan to supplement the existing lighting based on the standards in the WRA and the Infrastructure Master Plan. Such supplemental lighting plan shall show the location and wiring for the proposed fixtures and the area of illumination proposed. All Plans for any proposed supplemental lighting shall be submitted to the City for approval by resolution. Upon approval of such Plans, and provided the City shall have installed or caused to be installed necessary electrical infrastructure and power supply required to support the operation of such fixtures, MA Retail shall commence the installation of the lighting fixtures and wiring in a commercially reasonable manner; provided that all lighting and wiring shall be installed as a condition of granting a Certificate of Completion for the final Retail Project.

4.02 **Lifeguard Facilities.**

(a) MA Retail has heretofore built or otherwise provided for use by the City's lifeguards, and the City's lifeguards shall have the right to use, at no cost to the City, (i) the office and ticket booth at the north-east corner of the Green Acres Parcel designated as Block 227, Lot 1.07, (ii) lockers and changing rooms, including showers and storage facilities, in the basement of the 4th Avenue Pavilion Property, and (iii) two (2) trailers located on the site of the Casino Arena for use as storage for vehicles and equipment utilized by the lifeguards. MA Retail shall have the right, from time to time, to relocate the existing lifeguard facilities to similar locations (including "pop-up" structures on Green Acres Parcels, and space for changing rooms, showers and storage, which may also be in "pop-up" structures on Green Acres Parcels), provided that any such relocation shall occur during the Off-Peak Season.

(b) The City desires new lifeguard management facilities, substantially in compliance with the drawing attached hereto as Exhibit M, which shall be located on the eastern edge of the Boardwalk opposite the 4th Avenue Pavilion (the "**New Lifeguard Facility**"). The City and Asbury Partners intend to seek a modification of the CAFRA Permit to permit the construction of the New Lifeguard Facility; provided, however, that at such time (or thereafter, as MA Retail shall determine), MA Retail may, at no cost to (but with the support of) the City and Asbury Partners, request that the City and Asbury Partners seek a modification to the CAFRA Permit to permit a reconstructed 3rd Avenue Pavilion Property which shall be committed to retail or entertainment use. If the CAFRA Permit is modified to permit the New Lifeguard Facility, MA Retail shall with reasonable diligence commence to design the New Lifeguard Facility, subject to the review and consent of the City and Asbury Partners, and thereafter commence to construct to completion the New Lifeguard Facility. Funding for the permitting, design and construction of the New Lifeguard Facility shall be a Menu Item. In addition, the City and MA Retail agree to investigate the use of the space underneath such structure, including the possible reactivation of the tunnel between the basement of the 4th Avenue Pavilion Property and the beach, as a storage facility.

4.03 **Beach Utility Connections.** Previously, certain utilities and meters servicing communication service, water service and electric power to the City's beach were located within the basements of the 3rd Avenue and 4th Avenue Pavilions. MA Retail has relocated such

service and meters to the exterior of these Pavilion Properties in accordance with Plans approved by the City. Maintenance of such utilities and meters shall remain the responsibility of the City.

4.04 **Public Restroom Facilities.**

(a) MA Retail has heretofore funded, installed and made operational and open to the general public, the following, all of which the City further acknowledges are acceptable to the City: (i) public restroom facilities in the Convention Hall and (ii) modular public restroom facilities on the Green Acres Parcel designated as Block 227, Lot 1.07. In addition, as a Menu Item, MA Retail shall install and make operational two (2) ADA compliant modular bathroom units, behind the concession activity structure on the Green Acres Parcel designated as Block 227, Lot 1.14, each of which shall be designated for use by men and women and shall contain showers and private changing areas. The City shall not charge any connection fees for this facility.

(b) The public restroom facilities and the changing room facilities referred to above, are and shall remain the property of MA Retail, but the public restrooms referred to in clause (i) above shall be maintained by MA Retail, and the public restrooms and changing room facilities referred to in clauses (ii) and (iii) above shall be leased or licensed by MA Retail to the City pursuant to an agreement or agreements obligating the City to operate and maintain the same, at the City's sole cost (specifically including the obligation to provide and maintain appropriate insurance coverage), in a manner that is consistent with their intended use and industry standards for restroom facilities servicing a functioning retail environment.

(c) From time to time during the term of this Agreement, the parties shall, in good faith, periodically review the need for additional bathroom facilities and locations. The City and MA Retail agree that the existing public restroom facilities are sufficient for current needs, and in the event beach usage increases significantly, as the City and MA Retail shall acting together reasonably determine, MA Retail shall fund, install and make operational, and open to the general public, additional bathroom facilities, or if circumstances dictate, the relocation of existing modular facilities.

4.05 **Reserved**

4.06 **Pavilions.**

(a) **1st Avenue Pavilion.** (i) The City acknowledges that upon the completion of certain work which must be performed to comply with approvals granted by the Planning Board, MA Retail will have completed all renovations to the 1st Avenue Pavilion Property that are contemplated by the Project Documents and upon completion of such work, the 1st Avenue Pavilion Project shall be entitled to a Certificate of Completion in accordance with Section 4.17 of this Subsequent Developer Agreement.

(ii) MA Retail and the City acknowledge that a major item which must be completed is an exterior feature to the Ocean Avenue exterior wall of the pavilion. The City agrees to support an application by MA Retail to amend the existing Planning Board Approvals

for such pavilion to provide for a competition to create and install an exterior feature. MA Retail shall promptly develop rules for the competition, advertise the competition and then hold such competition. The winner of such competition shall be selected through a public panel which may include representatives of MA Retail and community organizations. MA Retail shall deposit \$25,000 to pay the winner of the competition to create, design or manufacture and install the winning submission. If the Planning Board does not endorse such competition, the parties agree to work diligently to develop an alternate method to create an exterior feature. The intent of the City and MA Retail is to have an exterior feature installed by May 15, 2011.

(b) 3rd Avenue Pavilion.

(i) The City acknowledges that upon the completion of certain work which must be performed to comply with approvals granted by the Planning Board, MA Retail will have completed all renovations to the 3rd Avenue Pavilion Property that are contemplated by the Project Documents and that upon completion of such work, the 3rd Avenue Pavilion Project shall be entitled to a Certificate of Completion in accordance with Section 4.17 of this Subsequent Developer Agreement.

(ii) The City acknowledges that the improvements on 3rd Avenue Pavilion Property may be replaced, and agrees that MA Retail shall have the right to demolish the improvements currently constructed on the 3rd Avenue Pavilion Property and replace the same with a two-story retail structure; subject to the requirements set forth in Section 4.01(a)(iii).

(c) 4th Avenue Pavilion. (i) Prior to December 31, 2010, MA Retail shall apply the Exterior Decorative Scheme to the 4th Avenue Pavilion Property. Upon the application of such Exterior Decorative Scheme, MA Retail shall be deemed to have satisfied the obligation to renovate the 4th Avenue Pavilion under the Redeveloper Agreement; provided, however, that a Certificate of Completion for the 4th Avenue Pavilion Property shall not be issued until completion of the 4th Avenue Pavilion Project.

(ii) Completion of the 4th Avenue Pavilion Project shall consist of the following:

(A) Existing office space vacant as of the effective date of this Agreement shall be converted and activated as retail space on or before May 15, 2011.

(B) On or before May 15, 2012, MA Retail shall reconfigure existing office uses within the existing structure on the 4th Avenue Pavilion Property to maximize retail frontage along the Boardwalk.

(iii) The City acknowledges that MA Retail is analyzing whether the improvements on 4th Avenue Pavilion Property should be replaced, and agrees that MA Retail shall have the right to demolish the improvements currently constructed on the 4th Avenue Pavilion Property and replace the same with a structure as may be permitted by the WRA and the CAFRA Permit. Any reconstruction activity shall be subject to the requirements set forth in

Section 4.01(a)(iii) and shall constitute an abandonment of the pre-existing non-conforming office use.

(d) 5th Avenue Pavilion.

(i) **The 5th Avenue Pavilion Retail Project** - The City acknowledges that upon the completion of certain work which must be performed to comply with approvals granted by the Planning Board, the 5th Avenue Pavilion Retail Project will have been substantially completed and encompasses all renovations contemplated by the Project Documents and that upon completion of such work, the 5th Avenue Pavilion Retail Project shall be entitled to a Certificate of Completion in accordance with Section 4.17 of this Subsequent Developer Agreement.

(ii) **The Band Shell Project** - On or before December 31, 2010, MA Retail shall design or caused to be designed the Band Shell Project. Such design work shall incorporate the existing concept of the band shell structure and performance area and fixed seating for approximately 200 persons. The remainder of the surface area may consist of multi purpose flexible space to allow for hospitality and entertainment uses and may incorporate permanent or removable elements to maximize the use of this entire space in all seasons. Such design work shall yield a conceptual design suitable for evaluation by the City, MA Retail, the Technical Review Committee, the Planning Board and the DEP and include preliminary structural and construction drawings to demonstrate the technical feasibility of the Band Shell Project and allow for an estimation of a construction schedule and the costs associated with the completion of the Band Shell Project. If the estimated construction costs are \$600,000 or below, MA Retail shall complete the Band Shell Project within 18 months of final Planning Board approvals. If the estimated construction costs are greater than \$600,000, MA Retail shall complete the Band Shell Project within 30 months of final Planning Board approvals.

(e) Sunset Pavilion.

(i) The Parties acknowledge that it does not appear to be economically feasible to renovate the existing structure on the Sunset Avenue Pavilion Property at this time and that the existing structure creates a visual blight and retards the economic revitalization of the Boardwalk north of the CH/PT Property. Within two months of the effective date of this Agreement, MA Retail shall prepare an application for filing by the City and Asbury Partners to modify the CAFRA Permit to permit for the demolition of the existing structure and the right to reconstruct a structure utilizing the same footprint and maximum building height that currently exist (the "Request for CAFRA Amendment").

(ii) Within four (4) months of successfully amending the CAFRA Permit, MA Retail shall demolish the existing structure and shall program the Sunset Avenue Pavilion Property for recreational purposes in a manner reasonably acceptable to the City. Such demolition and programming shall be completed within six months of commencing demolition. Within five (5) years of the issuance of a demolition permit by the City, MA Retail shall propose plans and request a subsequent development agreement in accordance with Section 4.01(a)(iii).

(iii) If the Request for CAFRA Amendment is denied, MA Retail shall, within three months of such denial, apply an Exterior Decorative Scheme to the existing structure. Within five (5) years of the denial of the Request for CAFRA Amendment, MA Retail shall propose plans and request a subsequent development agreement in accordance with Section 4.01(a)(iii).

(iv) If MA Retail fails to timely apply the Exterior Retail Scheme or timely file plans and project security as required by paragraph (ii) or (iii) above, the City shall have the right to purchase the Sunset Avenue Pavilion Property for Fair Market Value as of that date. For purposes of this section, "Fair Market Value" shall mean an amount agreed to by the City and MA Retail. If these parties can not agree on an amount, each party shall, within 90 days, obtain an appraisal from a qualified appraiser. Such appraisals shall be exchanged on or before the 90th day. If one party does not obtain an appraisal, the amount set forth in the other appraisal shall govern. If each party does obtain and exchange appraisals and the amounts set forth in the respective appraisals do not agree, and the parties can not agree on an amount based on the information contained in the appraisals, then within 30 days of the date on which the initial appraisals were exchanged, the two appraisers shall select a third appraiser, who shall select an amount from the initial appraisals. Such a decision shall be due within 30 days of appointment of the third appraiser. If the two appraisers do not agree on a third appraiser, each appraiser shall designate two other independent qualified appraisers and the third appraiser shall be selected from among these designated appraisers by lot. For purposes of this section, "qualified appraiser" shall mean an appraiser who holds a "certified general real estate appraiser" classification from the State of New Jersey and holds a designation as an MAI.

4.07 Green Acres Parcels.

(a) Simultaneously to the execution of this Subsequent Development Agreement (i) MA Retail is conveying to the City fee simple title to those Green Acres Parcels

designated as Block 227 Lots 1.01, 1.02, 1.12, 1.14 and 1.22 (which were conveyed in error by the City to Asbury Partners and subsequently conveyed by Asbury Partners to MA Retail), (ii) the City and Asbury Partners are terminating the existing "99 Year Net Lease" dated October 22, 2002 (including the Memorandum of Lease dated October 29, 2002, and recorded on July 7, 2003 in the County Clerk's Office in Deed Book 8252 page 9035), (iii) Asbury Partners and MA Retail are terminating the existing Sublease dated as of June 11, 2007, (iv) the City and MA Retail are entering into the Net MA Retail Lease (including a memorandum thereof to be recorded in the County Clerk's Office) demising the Green Acres Parcels, and (v) the City and Asbury Partners are entering into the Net AP Lease (including a memorandum thereof to be recorded in the County Clerk's Office) demising Block 227, Lots 1.24 and 1.26.

(b) MA Retail shall maintain each Green Acres Parcel in a clean and safe manner. Any landscaping or planting shall be maintained, and trash and recyclables shall not be allowed to accumulate. MA Retail shall have the right to improve and use the Green Acres Parcels during the term of, and in accordance with the provisions of, the Net MA Retail Lease. Except as set forth in Section 4.07(c) below, each Green Acre Parcel shall be used for conservation and recreational purposes, including "skating," "skate-boarding," "rides" and similar activities, and such additional activities consistent with the historical uses of such parcels. Such conservation and recreational uses may include water features, skating facilities, miniature golf, rides and other recreational attractions, reflecting pools, benches landscaping, plantings and lighting. Except for such recreational activities, the use of the Green Acre Parcels shall be open and free to the general public.

(c) Upon application and approval by the Planning Board, MA Retail shall have the right to install concession activities on the two eastern corners of each Green Acres Parcel. The Parties acknowledge that such approval has been received for the installation of such concessions on the following parcels: Block 227, Lots 1.07, 1.09, 1.11, 1.12, 1.14 and 1.15. Any application relating to future concession activities shall be in substantial conformity with the Planning Board Resolution dated April 28, 2008, a copy of which is attached hereto as Exhibit N. Each such concession activity shall support the general recreational activity of the beachfront and may include food service, retail sales or rentals.

(d) The City acknowledges that MA Retail has heretofore completed the installation of (i) the mini golf course on Block 227, Lots 1.11 and 1.12, (ii) the water park on Block 227, Lot 1.09, and (iii) the dune grass and temporary landscaping on Block 227, Lots 1.07 and 1.14/1.15, all of which the City further acknowledges are acceptable to the City. If MA Retail shall, in its sole discretion, determine to replace the landscaping on Block 227, Lot 1.07 and/or Block 227, Lots 1.14/1.15, MA Retail shall make application to the Planning Board to replace such landscaping with a design consistent with passive recreation and/or the above uses.

(e) If requested by the City pursuant to Section 4.01(i), (i) MA Retail shall improve the Green Acre Parcels located at Block 227, Lots 1.21 and 1.22, by installing two (2) concession activities on these parcels pursuant to approvals which may be issued by the Planning Board. MA Retail will use commercially reasonable efforts to provide utility service to such concession activity locations but shall not be required to assume or pay any extraordinary costs, such as the cost of an electric transformer, associated with the installation of such utilities. MA

Retail will use efforts consistent with its leasing efforts for other concession activities to identify and lease these locations to vendors to supply food services and beach retail services to the users of the beach north of Convention Hall during the Peak Season. If leases for these structures have not been executed by April 1, 2011, MA Retail shall notify the City and the City shall have the right to make these structures available to community organizations at no cost to MA Retail, in which event the City (or the community organizations, as the case may be), shall pay costs associated with utilities, if any, taxes, insurance, security, staff and other operating expenses. At such time as MA Retail shall obtain tenant(s) for these structures or shall obtain permits for other uses, it shall so advise the City and the City shall, upon notice of not less than ninety (90) days, deliver vacant possession of such structures to MA Retail.

4.08 CH/PT Projects.

(a) To the extent MA Retail has in its possession, or can obtain, using commercially reasonable efforts, MA Retail shall file with the appropriate governmental authorities the "As Built" Plans related to (A) the renovation of the Paramount Theater Property undertaken in 2007, and (B) the interior and exterior storefronts of the CH/PT Arcade.

(b) The City acknowledges that MA Retail has completed all of the work to the Convention Hall Property set forth on Exhibit O, and that upon completion of the work set forth in Exhibit P (to include with specificity, issues regarding sprinkler system/fire safety and building code issues outstanding and compliance with Planning Board Approvals for the steps extending from the Convention Hall structure to the beach). MA Retail shall have no obligation to perform any further construction or renovation work in or to the Convention Hall Property, whether pursuant to the Project Documents or otherwise. Upon the completion of the work set forth in Exhibit P, MA Retail shall be entitled to a Certificate of Completion for Convention Hall.

(c) MA Retail shall provide general maintenance to CH/PT Property in accordance with the preservation easement on the property held by NJSHPO and the New Jersey Historic Trust. MA Retail acknowledges that NJSHPO has jurisdiction over the buildings and all work shall be undertaken in accordance with the guidelines and requirements of that office.

(d) MA Retail, as the owner of fee title in and to the CH/PT Arcade, shall have the right to use, lease and/or license the CH/PT Arcade, subject to the obligation to maintain as a public access easement to an aggregate 20 foot wide area (or areas) over and across the full length (north to south) of the CH/PT Arcade. Simultaneously herewith, MA Retail and the City are executing and delivering the Easement Agreement substantially in the form of Exhibit Q attached hereto, which shall be recorded in the appropriate land records.

(e) Additionally, MA Retail and the City are executing and delivering the Easement Agreement substantially in the form of Exhibit R which relates to the public easement through the Casino Arcade.

(f) On or before June 15, 2010, MA Retail shall complete the "beautification" program for the Convention Hall Grand Arcade.

4.09 Beach Clubs. (a) Notwithstanding the provisions of Section 3.13 of the Redeveloper Agreement, MA Retail or Asbury Partners shall have the ability, but not the obligation, to construct or provide for the construction of two beach clubs. The parties agree that the "water park" constructed on Block 227, Lot 1.09 shall be deemed to satisfy the requirement for a children's pool or wading pool as expressed in the Redeveloper Agreement and the Waterfront Redevelopment Plan, respectively. Further, the parties agree to seek an amendment to the CAFRA Permit to document such satisfaction.

(b) If constructed, one beach club may require memberships (the "private beach club") and one may charge fees on a daily basis (the "public beach club"). Each beach club may

be located on the west side of the Boardwalk on property owned by the appropriate entity but any right of exclusivity on the use of the property shall terminate at the Boardwalk. If the private beach club is developed first, construction on the public beach club shall commence within 18 months of the completion of construction on the private beach club. Each beach club shall have the same basic amenities; provided that luxury "fee for service" amenities such as saunas, spa rooms, etc. may be provided exclusively at the private beach club. If a public beach club is developed first, there shall be no obligation to develop the private beach club. Neither MA Retail nor Asbury Partners shall commence construction of the initial beach club without the consent of the other.

4.10 **Bradley Park.** The City acknowledges that improvements to Bradley Park (including irrigation, seeding and replanting of the entire park, installation of pedestrian hardscapes within the interior of the park) have been performed.

4.11 **Sponsorship/Branding.** MA Retail shall have the right to enter into branding and sponsorship arrangements that relate to products made, sold and/or used by the retailers and restaurants at or about the Retail Properties; provided, however, that no such branding and/or sponsorship arrangements shall include or refer to "the City of Asbury Park" or suggest any endorsement of such products by the City without the City's prior written consent; provided further, however, that the City acknowledges and agrees that such branding and/or sponsorship may include the words "Asbury Park." All such sponsorship and branding arrangements shall be undertaken in accordance with the City's zoning regulations.

4.12 **City Inspections.** The City shall use best efforts to accommodate requests for approvals and inspections. The costs of performing all such approvals and inspections shall be paid from funds on deposit with the City pursuant to the Escrow Agreement (which Escrow Agreement shall remain in effect until Completion Certificates have been delivered for all of the Retail Projects under this Agreement).

4.13 **Performance Security and Escrow.**

(a) (i) Upon execution of this Subsequent Developer Agreement, MA Retail shall deliver to the City an executed Net Worth Guaranty.

(ii) At the time of delivery of the Net Worth Guaranty, MA Retail shall also deliver (A) an opinion of counsel to MRP that such agreement is (i) a valid and binding obligation of MRP, (ii) is enforceable in accordance with its terms and (iii) is duly authorized by MRP and is in full force and effect at the time of delivery and (B) a certificate of an independent certified public accountant that MA Retail has a Net Worth equal to or greater than \$30,000,000. Upon the issuance of a Certificate of Completion for a Retail Property, this amount may be reduced proportionally as the City and MA Retail may reasonably agree, but in no event shall the Net Worth of MA Retail fall below \$10,000,000 during the term of this Agreement.

(iii) Not more frequently than once in any calendar year in which this Subsequent Developer Agreement remains in effect, upon request of the City, MA Retail shall

deliver a certificate of an independent certified public accountant that MA Retail has maintained a net worth as required in paragraph (ii) above for the preceding 12 months.

(b) Prior to Commencement of Construction of each Retail Project, MA Retail shall deliver to the City an executed Completion Guaranty with respect to such project.

(c) As additional security for the performance by MA Retail of its obligations under this Subsequent Developer Agreement and for the remainder of the Retail Projects under future Subsequent Development Agreements contemplated by Section 4.01(a)(iii), the City, MA Retail and McManimon & Scotland L.L.C. are entering into a Performance Escrow Agreement in the form of Exhibit S attached hereto, with the funds to be held thereunder to be provided as contemplated by Section 7.01(b) hereof. If requested by MA Retail, the cash funds may be replaced by letter of credit, in form and from a banking institution reasonably acceptable to the City. When a Certificate of Completion for the entire Project is issued pursuant to Section 4.16(e), monies on deposit under the Performance Escrow Agreement shall be returned to MA Retail.

4.14 Intentionally Omitted.

4.15 Progress Reports. Not more frequently than once in any ninety (90) day period in which this Subsequent Developer Agreement shall remain in effect, upon request of the City, MA Retail shall deliver a written report to the City (with a copy to Asbury Partners) as to the actual progress of MA Retail with respect to (i) the acquisition of Governmental Approvals; (ii) Commencement of Construction of the Retail Projects; (iii) Completion of Construction of the Retail Projects; (iv) the leasing of the retail spaces; and (v) such other matters as the City shall reasonably request be addressed in such reports. Reports shall be filed with the City's Director of Planning and Redevelopment.

4.16 Certificates of Occupancy and Certificates of Completion.

(a) Upon Completion of Construction of each Retail Project, MA Retail shall apply to the appropriate governmental officer or body for a Certificate of Occupancy for any building located within the applicable Retail Project or portion thereof.

(b) Following the issuance of one or more Certificates of Occupancy for the whole of the Retail Projects (which may be for "shell and core" and exclude future tenant fit out) and the satisfaction of the terms and conditions of this Subsequent Developer Agreement with respect to a particular Retail Project, the City shall, within 30 days following the written request of MA Retail (or a Permitted Successor), issue a Certificate of Completion for that Retail Project, in proper form for recording, substantially in the form as annexed hereto as Exhibit T, which shall acknowledge that MA Retail has performed all of its duties and obligations with respect to that Retail Project under this Subsequent Developer Agreement and has completed construction of that Retail Project in accordance with the requirements of this Subsequent Developer Agreement, or a written statement setting forth in detail the reasons why it believes that MA Retail or a Permitted Mortgagee has failed to complete a particular Retail Project in accordance with the provisions of this Subsequent Developer Agreement or is otherwise in

default under this or any other applicable agreement and what reasonable measures or acts will be necessary in the opinion of the City in order for MA Retail or a Permitted Mortgagee to be entitled to the Certificate of Completion. If the reason for the refusal is confined to the completion of specific minor finish items, the City shall issue its Certificate of Completion upon the posting of a performance bond (or other security reasonably acceptable to the City) by (or on behalf of) MA Retail or a Permitted Mortgagee with the City in an amount representing the fair value of the work not yet completed for the particular Retail Project. If the work in question is the subject of a performance guarantee previously provided to the City, whether pursuant to this Subsequent Developer Agreement or pursuant to the Planning Board's approval of the applicable Final Site Plan or otherwise, the City acknowledges and agrees that such performance guarantee shall be adequate to assure performance, and the City shall issue the Certificate of Completion without requiring any further guarantee of performance from MA Retail.

(c) The Certificate of Completion shall constitute a recordable conclusive determination of (i) the satisfaction and termination of the agreements and covenants in this Subsequent Developer Agreement, the Redeveloper Agreement and the Waterfront Redevelopment Plan with respect to the obligations of MA Retail to construct a particular Retail Project within the dates (if any) for completion of same, and (ii) the termination of this Subsequent Developer Agreement as applicable to such Retail Project, except for those matters which by the terms of this Subsequent Developer Agreement are intended to, or by the operation of Applicable Laws are required to, survive such termination.

(d) Upon the issuance of a Certificate of Completion for a Retail Project, (i) the conditions that were found and determined to exist on the Retail Properties on which that Retail Project is located at the time the Retail Properties were determined to be in need of redevelopment, shall be deemed to no longer exist and the land and improvements located thereon shall no longer be subject to eminent domain as a result of those determinations, and all restrictions on transfers and encumbrances set forth herein shall terminate, and (ii) MA Retail may sell, pledge, encumber, exchange or otherwise transfer such Retail Property to any person or entity without the prior consent of the City or Asbury Partners, solely in its capacity as "master developer" under the Redeveloper Agreement.

(e) Following the issuance of a Certificate of Completion for each of the Retail Projects governed by this Subsequent Developer Agreement and future subsequent development agreements as provided, MA Retail shall apply to the City, and the City shall issue, a Certificate of Completion for the Retail Project in its entirety, in accordance with the foregoing provisions of Section 4.16(b) through 4.16(d). The Certificate of Completion issued pursuant to this Section 4.16(e) shall acknowledge that MA Retail has satisfied all of its obligations under this Subsequent Developer Agreement with respect to the Retail Project in its entirety and with respect to the Retail Properties.

4.17 Certain Permit Fees. The City agrees that no "permit fees" shall be charged in connection with entertainment events on the Boardwalk or the beach which do not directly produce revenue and as to which the City has been given the opportunity to be a co-sponsor (at no cost to the City).

ARTICLE 5

INFRASTRUCTURE IMPROVEMENTS

5.01 Responsibility for Construction of Infrastructure Improvements. MA Retail, Asbury Partners and the City hereby acknowledge that MA Retail and Asbury Partners, subject to Events of Force Majeure., are responsible for Infrastructure Improvements as provided in the Redeveloper Agreement.

(a) The City is not responsible for the costs of any Infrastructure Improvements unless expressly provided to the contrary in the Redeveloper Agreement or this Subsequent Developer Agreement. The City acknowledges that all Infrastructure Improvements required hereunder with respect to the Retail Properties have been completed, other than the items set forth on the Phase I Punch List.

(b) Neither Asbury Partners nor MA Retail is obligated to maintain any utilities on the Entire Boardwalk (including the meandering portion thereof).

(c) MA Retail shall reconstruct all Infrastructure Improvements damaged by MA Retail, including damage caused in connection with its construction activities (e.g. damage to roadways, sidewalks, lampposts, signs, sidewalk amenities, landscaping, curbing, aprons, etc.) as identified by the City and will pay for the cost of all engineering, inspections, construction, administration, permits, materials, labor, etc., associated with such reconstruction. MA Retail will contract directly for the repairs or, if acceptable to Asbury Partners, reimburse Asbury Partners for actual costs, including additional administrative costs (e.g., easements, legal, City inspections, Asbury Partners' internal construction management, etc.) associated with the reconstruction.

The City and MA Retail further acknowledge and agree that any modification of any existing or planned infrastructure or Infrastructure Improvement, and any changes or additions to the infrastructure necessitated by or required in connection with any enhancements to or development of any Retail Project undertaken by MA Retail pursuant to this Subsequent Developer Agreement or otherwise, is solely the responsibility of MA Retail, unless any such modification to the infrastructure is expressly identified herein and Asbury Partners expressly undertakes to perform such modification. Without limiting the foregoing, the City and MA Retail acknowledge and agree that Asbury Partners is not responsible for, and MA Retail is solely responsible for, any of the changes to the infrastructure that may be necessitated by the provisions of Sections 4.01, 4.02, 4.06, 4.07 and 4.11 herein.

ARTICLE 6
ASSIGNMENT AND TRANSFER

6.01 Transfers of Interests by MA Retail.

(a) MA Retail recognizes the importance of the Retail Projects to the general welfare of the community and that the identity of MA Retail and its qualifications are critical to the City in entering into this Subsequent Developer Agreement particularly in view of the public aid that have been made available for the purpose of making such redevelopment possible. The City considers that a transfer of the ownership of MA Retail or of the MA Retail Affiliates or of any part thereof or any other act or transaction involving or resulting in a change in the ownership of MA Retail or MA Retail Affiliates, in all cases to a person or entity which is not an Affiliate of MA Retail and MA Retail Affiliates, as the case may be, is for practical purposes, a transfer or disposition of the Retail Projects and/or Retail Properties then owned by MA Retail. MA Retail recognizes that it is because of such qualifications and identity that the City is entering into this Subsequent Developer Agreement with MA Retail, and, in so doing, the City is relying on the obligations of MA Retail and not some other person or entity for the faithful performance of all undertakings and covenants to be performed by MA Retail hereunder. Furthermore, MA Retail recognizes the importance that the City places on Madison as the managing member of MA Retail.

(b) Prior to completion of any Retail Project (as evidenced by a Certificate of Completion for such Retail Project), and without the prior written approval of the City, which approval shall not be unreasonably withheld, MA Retail agrees for itself and any successor in interest that (i) there shall be no transfer by any owner of any interest in MA Retail or the MA Retail Affiliates, or by any successor in interest to such owner of any interest in MA Retail or the MA Retail Affiliates and (ii) nor shall any such owner or successor in interest suffer any such transfer to be made; provided, however, that as between the City and Asbury Partners, the foregoing provisions of this Section 6.01(b) shall not apply to any transfer, whether direct or indirect, (i) by Asbury Partners of its interests in MA Retail and (ii) of interests in Asbury Partners. For purposes of this Subsequent Developer Agreement, the term "owners" is defined to include the interests of the members, partners, or shareholders of MA Retail and the MA Retail Affiliates, as the case may be, and the owners of such members, partners, or shareholders. Upon completion of any Retail Project (as evidenced by a Certificate of Completion) there shall be no restriction on the transfer of such completed Retail Project or any ownership interest therein or thereof.

6.02 Exemptions from Prohibited Transfers. Notwithstanding the foregoing, the following shall not constitute a prohibited transfer for purposes of Section 6.01, and the consent of the City shall not be required in connection with any of the following:

(a) The assignment by MA Retail of its rights under this Subsequent Developer Agreement upon the following conditions: (i) the assignee of MA Retail shall have been approved in writing by Asbury Partners, which approval is not to be unreasonably withheld, delayed or conditioned, (ii) the assignee of MA Retail must be an entity controlling, controlled by, or under common control with, MA Retail; (iii) the assignee of MA Retail shall assume all of

the obligations of MA Retail hereunder, but MA Retail shall remain primarily liable for the performance of MA Retail's obligations; (iv) a copy of the fully executed written assignment and assumption agreement shall be promptly delivered to the City; and (v) such assignment does not violate any of the Governmental Approvals.

(b) All or a portion of the interest of MA Retail, direct or indirect, may be transferred so long as such transfer: (i) is to an Affiliate or an Affiliate continues to control (by contract or otherwise) the management of MA Retail, and (ii) does not violate any of the Governmental Approvals.

(c) Transfers, direct or indirect, of less than a fifty (50%) percent interest in and to MA Retail or a MA Retail Affiliate.

(d) Transfers of all or a portion of Asbury Partner's interest in MA Retail.

6.03 **Transfer of Subsequent Developer Agreement.** MA Retail further agrees for itself, its successors and assigns, that prior to the Completion of a Retail Project, as evidenced by the issuance of a Certificate of Completion, it will not make or create, or suffer to be made or created, any sale, assignment, conveyance or transfer in any other mode or form (each, a "**Transfer**") of its interests in the Retail Properties or its interest in this Subsequent Developer Agreement, or any part thereof or any interest therein, without the prior written approval of the City, except (a) for any Retail Property which has received a Certificate of Completion and/or (b) as provided in Section 6.04 below.

6.04 **Consent to Permitted Transfers.**

(a) The City hereby consents, without the necessity of further approvals from the City or any other entity and regardless of whether or not a Certificate of Completion for any Retail Project has been issued, to the following Transfers and/or encumbrances, at any time and from time to time: (i)(A) any Mortgage or Mortgages granted by MA Retail to a Permitted Mortgagee for the purpose of financing (and/or repayment of) costs associated with the acquisition, development (including construction, renovation and/or reconstruction) and marketing of the applicable Retail Property or Retail Properties and Retail Project or Retail Projects; (B) any Transfer pursuant to a foreclosure or other court proceeding with respect to any such Mortgage or Mortgages, or action in lieu thereof; and (C) if a Permitted Mortgagee shall acquire title to any Retail Property pursuant to any such foreclosure or other court proceeding, or action in lieu thereof, any subsequent Transfer of such Retail Property by such Permitted Mortgagee to a Permitted Successor, provided, however, that nothing in this Article 6 or elsewhere in this Subsequent Developer Agreement shall prohibit MA Retail (or any successor to MA Retail), following the issuance of a Certificate of Completion for a Retail Property, from granting a Mortgage or Mortgages on such Retail Property to any lender, whether or not such lender is an Institution, or limit the amount which may be secured by any such Mortgage or Mortgages or the use of the proceeds of any loan secured by such Mortgage or Mortgages, provided, that such Mortgage or Mortgages do not also encumber any of the remaining Retail Properties for which a Certificate of Completion has not yet issued, and provided further, that as to the unrestricted use of proceeds, all amounts due and payable to the City pursuant to the terms

and conditions of this Subsequent Developer Agreement and any applicable Financial Agreement in respect of such Retail Property or the redevelopment thereof have been paid; (ii) any lease agreements, together with such ancillary documents and instruments which may be reasonably necessary to effect such lease agreements, between MA Retail and any prospective tenants with respect to the Retail Projects; (iii) any utility and other development easements or dedications required by any public utility or governmental authority as a condition of any approval necessary to construct, renovate and/or reconstruct, and thereafter operate and maintain, any Retail Project; (iv) any contract or agreement with respect to any of the foregoing clauses (i) through (iii); (v) any environmental covenants and restrictions imposed by a regulatory agency as a condition of any permit or approval; and (vi) a Transfer of all or any part of the Retail Properties to one or more Urban Renewal Entities controlled by MA Retail (each, a "Permitted Transfer" and collectively, the "Permitted Transfers").

(b) With respect to any of the Permitted Transfers described in Sections 6.04(a)(i), (ii), (iv) and (vi), MA Retail or its Affiliate successor or the applicable Permitted Mortgagee (in the case of any Permitted Transfer pursuant to Section 6.04(a)(i)(B) or (C)), as the case may be, shall provide to the City and Asbury Partners written notice of such Permitted Transfer not less than five (5) Business Days prior to the occurrence of such Permitted Transfer, including a description of the nature of such Permitted Transfer, and the name and address of the transferee and, if applicable, the name(s) and address(es) the individuals and/or entities who own or control, directly or indirectly, more than ten (10%) percent of such transferee or which are the principals of the transferee.

6.05 Prohibition Against Speculative Development. Because of the importance of Retail Projects to the general welfare of the community, MA Retail represents and agrees that its acquisition of the Retail Properties and MA Retail's undertakings pursuant to this Subsequent Developer Agreement will not be used for speculation in land holding.

6.06 Information as to Ownership of Redeveloper. In order to assist in the effectuation of the purpose of this Article 6, MA Retail agrees that during the period between the execution of this Subsequent Developer Agreement and the completion of the last Retail Project as evidenced by the issuance of a Certificate of Completion for the last Retail Project, MA Retail shall, at such time or times as the City may request, but not more frequently than once in any 180 day period, furnish the City with a complete statement subscribed and sworn to by the managing partner, managing member or other executive officer or member of MA Retail or MA Retail Affiliates, setting forth all of the partners, both general and limited, managing members, shareholders, or other owners of equity interests (and the extent of their respective equity interest) of a ten (10%) percent interest, directly or indirectly, of MA Retail, the MA Retail Affiliates and their respective Affiliates or successors and/or assigns.

ARTICLE 7
TERMINATION OF DISPUTE RESOLUTION AGREEMENT; CERTAIN OTHER
REDEVELOPER AGREEMENT ITEMS

7.01 Termination of Dispute Resolution Agreement.

(a) The City and Asbury Partners, being all of the parties to the Dispute Resolution Agreement, hereby agree that the Dispute Resolution Agreement is terminated and of no further force or effect; provided, however, that the rights and obligations of the City and Asbury Partners with respect to Item 2 of Schedule F of the Dispute Resolution Agreement, the "Tillie Mural" which obligation is being assumed by MA Retail in accordance with Section 7.02 hereof) are incorporated herein and made a part hereof. The City hereby expressly acknowledges and agrees that (i) except as expressly set forth in this Subsequent Developer Agreement as an obligation of MA Retail, the performance of all items of work that were to be performed by Asbury Partners on or with respect to the Retail Properties, or any of them, under the Dispute Resolution Agreement have either been completed to the satisfaction of the City or unconditionally waived by the City, and (ii) except as expressly set forth in the immediately preceding sentence of this Section 7.01(a), all other items of work that were to be performed by Asbury Partners under the Dispute Resolution Agreement have either been completed to the satisfaction of the City, unconditionally waived by the City or incorporated in one or more other documents under which MA Retail has no obligations and the non-performance of which will not affect the Retail Properties. This Subsequent Developer Agreement shall, from and after the date hereof, replace the Dispute Resolution Agreement. Further, by this Subsequent Developer Agreement, (i) MA Retail assumes the obligations set forth in the Redeveloper Agreement and the Waterfront Redevelopment Plan with respect to the Retail Properties, but only as and to the extent such obligations are expressly set forth in this Subsequent Developer Agreement, and the City expressly consents to such assumption, and (ii) the City releases Asbury Partners from the obligations set forth in the Redeveloper Agreement and the Waterfront Redevelopment Plan with respect to the Retail Properties, but only as and to the extent such obligations are expressly set forth in this Subsequent Developer Agreement.

(b) Five hundred thousand dollars (\$500,000.00) of the funds held in escrow pursuant to the Dispute Resolution Agreement shall be delivered to McManimon and Scotland L.L.C., in escrow, pursuant to Section 4.13(c) hereof to be held pursuant to the Performance Escrow Agreement; the balance shall be delivered to MA Retail as its sole property. In addition, MA Retail shall be the recipient and/or beneficiary, as applicable, of all escrow deposits, letters of credit, bonds, permits, proceeds and benefits held, earned and/or accrued for the benefit of Asbury Partners pursuant to the Dispute Resolution Agreement with respect to the Retail Project (but excluding such items obtained by Asbury Partners or posted by Asbury Partners pursuant to its Governmental Approvals and relating to the Infrastructure Improvements to be performed by Asbury Partners), all of which escrow deposits, letters of credit, bonds, permits, proceeds and benefits shall be, and the same hereby are, unconditionally assigned and transferred by Asbury Partners to, and/or for the benefit of, MA Retail.

7.02 Additional Undertakings.

(a) The City hereby acknowledges that MA Retail and/or Asbury Partners has heretofore satisfied the requirements set forth in Section 3.9, Subsection (b) of the Redeveloper Agreement. The obligations under Section 3.9(c) shall be satisfied in accordance with the terms of Section 4.1(j)(iv) hereof. In satisfaction of the obligation of Section 3.9(a), at the direction of the City, MA Retail hereby undertakes to provide two (2) wooden gazebos which are to be located to the south of the Convention Hall Property and Asbury Partners hereby undertakes to provide one (1) wooden gazebo which is to be located to the north of the Convention Hall Property.

(b) MA Retail hereby undertakes, and Asbury Partners is released from, responsibility for the preservation and use of the Tillie Murals and other harvested artifacts from the former Palace Amusement building and Casino Property and MA Retail shall reconstruct the existing sheds which are currently storing the Tillie Murals, as may be required by the Himmelstein Report. The City shall maintain such structure until a final destination for the Tillie Murals are determined in satisfaction of the provisions of the CAFRA Permit.

ARTICLE 8 **DEFAULT AND REMEDIES**

8.01 City Defaults. The failure of the City to observe and perform any covenant, condition, representation, warranty or agreement hereunder, and continuance of such failure for a period of thirty (30) Days, after receipt by the City of written notice from MA Retail specifying the nature of such failure and requesting that such failure be remedied, shall constitute an Event of Default by the City; provided, however, if the breach of any such covenant, condition or agreement is one which cannot be completely remedied within the thirty (30) Days after such written notice has been given, it shall not be an Event of Default as long as the City is proceeding with due diligence to remedy the same as soon as practicable but in no event later than one hundred twenty (120) Days after such written notice.

8.02 MA Retail Defaults. With respect to each of the Retail Projects, (x) this Subsequent Developer Agreement shall replace and supersede Article 8 of the Redeveloper Agreement and (y) any one or more of the following shall constitute an Event of Default by MA Retail; provided, however, that the exercise of a particular remedy with respect to an Event of Default involving one Retail Project shall have no effect on the available remedies following an Event of Default involving any other Retail Project:

(a) Failure of MA Retail to observe and perform any covenant, condition, representation, warranty or agreement hereunder, and continuance of such failure for a period of thirty (30) Days, after receipt by MA Retail of written notice from the City specifying the nature of such failure and requesting that such failure be remedied; provided, however, if the breach of any such covenant, condition or agreement is one which cannot reasonably be completely remedied within the thirty (30) Days after such written notice has been given, it shall not be an Event of Default as long as MA Retail is proceeding with due diligence to remedy the same as

soon as practicable but in no event later than one hundred twenty (120) Days after such written notice.

(b) MA Retail or MRP 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 MA Retail or MRP and shall not have been dismissed for a period of ninety (90) consecutive Days; (iii) MA Retail or MRP, as applicable, (A) has made a general assignment for the benefit of creditors, or (B) has filed a voluntary petition in bankruptcy or a petition or an answer seeking an arrangement with creditors or has taken advantage of any insolvency law; (iv) MA Retail or MRP has filed an answer admitting the material allegations of a petition in any bankruptcy or insolvency proceeding; or (v) MA Retail or MRP shall take any action for the purpose of effecting any of the foregoing; (vi) a petition in bankruptcy shall have been filed against MA Retail or MRP, as applicable, and shall not have been dismissed for a period of ninety (90) consecutive Days; (vii) an Order for Relief shall have been entered with respect to or for the benefit of MA Retail or MRP, under the Bankruptcy Code; (viii) an Order, judgment or decree shall have been entered, without the application, approval or consent of MA Retail or MRP, by any court of competent jurisdiction appointing a receiver, trustee, custodian or liquidator of MA Retail or MRP, or a substantial part of its assets and such order, judgment or decree shall have continued unstayed and in effect for any period of ninety (90) consecutive Days; (ix) MA Retail or MRP shall have indefinitely abandoned or suspended work on a Retail Project or otherwise suspended the transaction of its usual business for a period of ninety (90) consecutive days or more.

(c) Failure of MA Retail to meet the applicable deadlines for a particular Retail Project as set forth in Article 4, as extended pursuant to Article 9, after receipt by MA Retail of written notice from the City specifying the nature of such failure and requesting that such failure be remedied, unless MA Retail shall commence to prosecute to completion such project with reasonable diligence or MRP shall assume such obligation under the Completion Guaranty provided for such Retail Project under Section 4.13(b).

(d) MA Retail, or any successor in interest that is an Affiliate of MA Retail, shall fail (i) to pay any real estate taxes (or payments in lieu thereof) or assessments on the Project Site or any part thereof when due, (ii) shall place on the Project Site any encumbrance or lien unauthorized by this Subsequent Developer Agreement, or (iii) shall suffer any levy or attachment to be made, or any construction liens that have not been adequately bonded or collateralized, or any other unauthorized encumbrance or lien to attach, and such real estate taxes or assessments shall not have been paid, or the encumbrance or lien removed or discharged or provision satisfactory to the City made for such payment, removal, or discharge, within sixty (60) Days after written demand by the City to do so.

(e) There is, in violation of this Subsequent Developer Agreement, a transfer or assignment as prohibited in Article 6.

(f) MA Retail shall fail to replenish funds on deposit under the Escrow Agreement within 30 days of a written demand by the City in accordance with the terms thereof.

(g) MA Retail shall fail to make a payment due the City under this Subsequent Developer Agreement within 15 days of a written demand.

(h) MA Retail shall fail to maintain the financial covenant set forth in Section 3.02(n) of this Subsequent Developer Agreement and a failure by MRP to affirm its obligations under the Net Worth Guaranty; provided however that upon such affirmation by MRP of its obligation under the Net Worth Guaranty, it shall maintain any ability of MA Retail under the terms of this Subsequent Developer Agreement to challenge its obligation to perform under the Subsequent Developer Agreement.

Notwithstanding the foregoing, prior to exercising any remedy with respect to any Event of Default by MA Retail, the City agrees to provide forty-five (45) Business Days prior notice to Asbury Partners of such Event of Default, during which time Asbury Partners may remedy the event giving rise to such Event of Default, provided further, that if Asbury Partners is diligently pursuing such cure, then such 45-day period prior to which an Event of Default shall exist shall be extended as reasonably necessary to allow such cure, but in no event shall such period be extended for more than an additional 135 days.

8.03 Remedies of City Upon Event of Default by MA Retail.

(a) Whenever any Event of Default by MA Retail shall have occurred and be continuing with respect to a particular Retail Project, subject to the notice and cure periods herein provided and the rights of the Mortgagee set forth in Article 14, the City may terminate this Subsequent Developer Agreement, rescind any designation of MA Retail, or any successor in interest that is an Affiliate of MA Retail as a Subsequent Developer and/or take whatever action at law or in equity (including but not limited to specific performance or injunction) as may appear necessary or desirable to enforce the performance or observance of any rights, remedies, obligations, agreements, or covenants of MA Retail under this Subsequent Developer Agreement for that particular Retail Project.

(b) In addition to, and not in limitation of, the remedies available to the City as set forth above, the City may seek in a court of competent jurisdiction a temporary injunction or injunction to prevent: (i) any transfer or assignment of the Retail Properties located within the applicable Retail Project not permitted pursuant to Article 6; or (ii) any action by MA Retail in breach of covenants as set forth in Section 3.02(a), (b), (g), (l), (m), (n), (o), (q) and (r).

(c) In addition to, and not in limitation of, the remedies available to the City as set forth above, upon the occurrence of an Event of Default and notice to MA Retail of not less than five (5) Business Days, the City may utilize any monies on deposit within the Performance Escrow Account funded in accordance with Section 4.13(c) of this Subsequent Developer Agreement to cure any outstanding Events of Default.

8.04 Remedies of MA Retail and Asbury Partners Upon Event of Default.

Whenever any Event of Default by the City shall have occurred and be continuing, MA Retail and/or Asbury Partners may take whatever action at law or in equity as either of them, in their respective sole judgment, may deem necessary or desirable to enforce the performance or

observance of any rights, remedies, obligations, agreements, or covenants of the City under this Subsequent Developer Agreement.

8.05 **Restoration of Status.** In case the City or MA Retail shall have commenced any proceeding to enforce its rights under this Subsequent Developer Agreement and such proceeding shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the party which shall have commenced the same, then, and in every such case, MA Retail and the City shall be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of MA Retail and the City shall continue as though no such proceeding had been commenced.

8.06 **Failure or Delay by Either Party.** Except as otherwise expressly provided in this Subsequent Developer Agreement, any failure or delay by a party in asserting any of its rights or remedies as to any default, shall not operate as a waiver of any default, or any such rights or remedies, or deprive either such party 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.

8.07 **Remedies Cumulative.** No remedy conferred by any of the provisions of this Subsequent Developer 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.

8.08 **No Punitive Damages.** Each party agrees that it shall not have a remedy of punitive or exemplary damages against the other in any dispute and hereby waives any right or claim to any punitive or exemplary damages it may have now or which may arise in the future in connection with any dispute, whether the dispute is resolved by arbitration or judicially.

ARTICLE 9

DELAYS

9.01 **Delays due to Event of Force Majeure.** For the purposes of this Subsequent Developer Agreement, no party hereto (nor any successor in interest to any such party) shall be considered in breach of, or in default with respect to, any obligation(s) to be performed by such party hereunder because of any delay in such performance caused by or resulting from the occurrence of an Event of Force Majeure; provided, however, that the parties agree that an Event of Force Majeure shall not be available for the satisfaction of MA Retail's obligation to maintain the required Net Worth under Section 3.02(m). It is the purpose and intent of this Section 9.01 that, in the event of the occurrence of any such delay, the time or times for performance of the obligations of the party affected by such delay shall be extended for the period of the delay and such additional period as is hereinafter in this Section 9.01 provided; provided, that such delay is actually caused by or results from the Event of Force Majeure such party asserts as the reason for such delay. The time for completion of any specified obligation hereunder shall be tolled and extended for the period of time equal to the period of delay caused by or resulting from the occurrence of an Event of Force Majeure, plus a reasonable period of time not to exceed sixty

(60) days, or such longer period of time which may be agreed to by the other party or parties for whose benefit the obligation in question is to be performed, for the party whose performance is so delayed by such Event of Force Majeure to re-mobilize its personnel, contractors and/or agents to complete performance of the obligation(s) in question or affected portion(s) thereof, and such party's non-performance of such obligation during any such period of time shall not be deemed a default by such party in the performance of its obligations under this Subsequent Developer Agreement. To invoke the provisions of this Section 9.01, the party whose performance is delayed by the occurrence of an Event of Force Majeure must give written notice thereof to the other party or parties as soon as reasonably practicable and (a) if such notice is timely given, the tolling and extension period shall be calculated from the first day of the occurrence of an Event of Force Majeure, or (b) if such notice is not timely given, the tolling period shall be calculated from the date of the giving of the applicable notice.

ARTICLE 10
WAIVER.

10.01 **No Other Waiver.** No waiver made by any party with respect to any obligation of any other party under this Subsequent Developer Agreement shall be considered a waiver of any rights of the party making the waiver beyond those expressly waived in writing and to the extent thereof.

ARTICLE 11
COOPERATION AND COMPLIANCE

11.01 **Implementation of Subsequent Developer Agreement and Waterfront Redevelopment Plan.** The parties hereto agree to cooperate with each other and to provide all necessary and reasonable documentation, approvals, certificates, and consents in order to satisfy the terms and conditions of this Subsequent Developer Agreement and the Waterfront Redevelopment Plan and further agree to cooperate as may be reasonably requested by any Permitted Mortgagee of MA Retail in connection with obtaining financing for the Retail Projects; provided, however, that all reasonable cost of such action shall be borne by MA Retail.

11.02 **Enforcement of Subsequent Developer Agreement and the Waterfront Redevelopment Plan.** The parties hereto agree to cooperate with each other, furnish all necessary and reasonable documentation and take all necessary actions to assure compliance with the terms of this Subsequent Developer Agreement and the Waterfront Redevelopment Plan.

ARTICLE 12
INTENTIONALLY OMITTED

ARTICLE 13
CITY POWERS

13.01 **City Council Acting on behalf of City.** The City shall exercise its powers, duties, rights, and responsibilities set forth in this Subsequent Developer Agreement by

resolution unless otherwise provided by law, the Waterfront Redevelopment Plan, the Redeveloper Agreement or this Subsequent Developer Agreement, provided, however, that nothing herein shall prohibit the City from delegating to a redevelopment entity other than the City Council any of the powers, duties, rights, and responsibilities that may be exercised by a redevelopment entity under the Act.

ARTICLE 14
MORTGAGE FINANCING: RIGHTS OF THE MORTGAGEE

14.01 Mortgage Financing. Mortgage Financing - Generally.

(a) (i) MA Retail shall at all times have the right to grant Mortgages encumbering the Retail Properties, or any of them, as security for the repayment of monies borrowed by MA Retail to fund a Retail Project, as hereinafter provided.

(ii) Upon execution of this Subsequent Developer Agreement, MA Retail shall promptly notify the City, in writing, of the name, address and contact information for any Permitted Mortgagee holding a Mortgage encumbering any Retail Property that includes a Retail Project for which a Certificate of Completion has not been issued, together with such Permitted Mortgagee's loan (or other identifying) number for such Mortgage. Following execution of this Subsequent Developer Agreement, MA Retail shall provide such information to the City for any Institution that becomes a Permitted Mortgagee holding a Mortgage encumbering any Retail Property that includes a Retail Project for which a Certificate of Completion has not been issued. Failure of MA Retail to provide this information to the City shall not constitute a default or Event of Default by MA Retail under this Subsequent Developer Agreement but shall relieve the City of its obligations to provide notices to the applicable Permitted Mortgagee under Section 14.02 until such information is provided to the City.

(b) Until issuance of a Certificate of Completion for a Retail Property, as to that particular Retail Property, MA Retail shall be permitted to grant Mortgage(s) encumbering such particular Retail Property only to Permitted Mortgagees. Except for (i) the return of capital contributions to members of MA Retail, as permitted pursuant to Section 6.04(a), and (ii) repayment of Mortgages being refinanced, all monies obtained by MA Retail in connection with any such financing must be intended for the pre-development and construction, renovation and/or reconstruction of improvements within the Project Site, and/or the operation of the Retail Properties (including, without limitation, related hard costs such as land acquisition, and related soft costs, such as interest, professional fees, marketing, leasing, management and filing fees) and otherwise as may be necessary to fulfill MA Retail's obligations under this Subsequent Development Agreement.

(c) Anything in this Subsequent Development Agreement to the contrary notwithstanding, upon the issuance of a Certificate of Completion for a particular Retail Property, such Retail Property shall thereafter be free of the covenant set forth in Section 14.01(b) above and (i) MA Retail (or any successor to MA Retail) may refinance such completed Retail Property, and grant one or more Mortgages securing such refinancing, without restriction or limitation on the amount which may be secured by any such Mortgage(s) or the use of the

proceeds of any loan secured by such Mortgages, and (ii) a default by MA Retail under this Subsequent Developer Agreement shall have no effect on any Retail Property for which a Certificate of Completion, as applicable, has been issued; provided, however, that such Mortgage or Mortgages do not also encumber any of the remaining Retail Properties for which a Certificate of Completion has not yet issued, and provided further, that as to the unrestricted use of proceeds, all amounts due and payable to the City pursuant to the terms and conditions of this Subsequent Developer Agreement and any applicable Financial Agreement in respect of such completed Retail Property or the redevelopment thereof have been paid.

14.02 **Notice to Permitted Mortgagees and Asbury Partners.** If the City shall deliver any notice or demand to MA Retail with respect to any Event of Default, or any event which with the giving of any further notice or the passage of time, or both, could constitute an Event of Default, by MA Retail of its obligations or covenants under this Subsequent Developer Agreement, the City shall simultaneously forward a copy of such notice or demand to each Permitted Mortgagee holding any Mortgage and to Asbury Partners. MA Retail or any Permitted Mortgagee shall advise the City in writing of the name and address of such Permitted Mortgagee following the closing of the Mortgage loan between MA Retail and such Permitted Mortgagee. The City shall not have any obligation to deliver notices to such Permitted Mortgagee under this Section 14.02 unless and until MA Retail or such Permitted Mortgagee provides such information regarding such Permitted Mortgagee to the City; provided, however, that once such information regarding a Permitted Mortgagee is furnished to the City no subsequent notice or demand from the City to MA Retail shall be effective as to such Permitted Mortgagee unless and until a copy of such notice or demand is given by the City to such Permitted Mortgagee. The City acknowledges that on and as of the date of this Agreement, Wells Fargo Bank, N.A. is a Permitted Mortgagee and shall be given copies of notices as contemplated by this Section 14.02.

14.03 **Mortgagee's Right to Cure Default.**

(a) Anything in this Article 14 or elsewhere in this Subsequent Developer Agreement to the contrary notwithstanding, each Permitted Mortgagee shall (insofar as the rights of the City are concerned) have the right, at its option, to cure any breach or default giving rise to an Event of Default, or any breach or default which with the giving of any notice or the passage of time, or both, could constitute an Event of Default, relating to a Retail Property encumbered by a Mortgage held by such Permitted Mortgagee and to add the cost thereof to the debt secured by the lien of such Mortgage; provided, however, if the breach or default is non-monetary in nature and relates to MA Retail's failure to construct, renovate, reconstruct and/or complete a particular Retail Project, or portion thereof, in accordance with the provisions of this Subsequent Developer Agreement, except to the extent necessary to conserve or protect such Permitted Mortgagee's security (including the improvements or construction already begun), the right of such Permitted Mortgagee to cure such breach or default shall be conditioned upon such Permitted Mortgagee first expressly assuming, by written agreement reasonably satisfactory to the City, MA Retail's obligation to complete such construction, renovation and/or reconstruction in the manner required by this Subsequent Developer Agreement. Anything in the first sentence of this Section 14.03(a) or elsewhere in this Subsequent Developer Agreement to the contrary notwithstanding, if a Permitted Successor shall acquire title to any Retail Property, the rights granted to Permitted Mortgagees under the first sentence of this Section 14.03(a) shall apply to

any such Permitted Successor, provided that such Permitted Successor shall have expressly assumed, by written agreement reasonably satisfactory to the City, MA Retail's obligation to complete construction, renovation and/or reconstruction of such Retail Project in the manner required by this Subsequent Developer Agreement.

(b) Any Permitted Mortgagee or Permitted Successor electing to cure any breach or default pursuant to Section 14.03(a) above shall cause the same to be cured (i) within 30 Days after receipt of notice of same, in the case of a monetary default, and (ii) within 60 Days after receipt of notice of same, in the case of a non-monetary default, unless such non-monetary default cannot reasonably be cured within such 60-Day period, in which event, provided the Permitted Mortgagee or Permitted Successor commences to cure such non-monetary default within such 60-day period and thereafter diligently pursues same to completion, (A) the Permitted Mortgagee or Permitted Successor shall have such additional time as shall reasonably be necessary to complete such cure, including, if applicable, such time as shall be required to obtain effective control of the applicable Retail Project, or portion thereof, by foreclosure or other court proceeding, or action in lieu thereof, and (B) any non-monetary defaults that cannot be cured (e.g. dates by which obligations must be performed) even with possession of the applicable Retail Project, shall be waived by the City.

(c) With respect to a Retail Project which is under construction and as to which the "shell" of the structure has not been substantially completed, upon the acquisition of title to such Retail Project by the Permitted Mortgagee, the Permitted Mortgagee shall have one hundred twenty (120) days to notify the City of its election to proceed under this Agreement. The Permitted Mortgagee shall commence to cure such Event of Default and shall thereafter diligently pursue the same to completion, and the Permitted Mortgagee shall have such additional time as shall be commercially reasonable to complete such cure, provided that such additional time shall have a rational relationship to the timeframes and diligence levels initially contemplated in this Agreement. If the Permitted Mortgagee does not commence to cure during such 120 day period or abandons such cure once commenced, the City shall have a right to terminate this Agreement.

(d) Any such Permitted Mortgagee or Permitted Successor who shall complete the construction, renovation and/or reconstruction of a particular Retail Project, or portion thereof, in accordance with the provisions of this Subsequent Developer Agreement shall be entitled, upon written request made to the City, to receive, and the City shall issue, the Certificate(s) of Occupancy and/or the Certificate(s) of Completion for that Retail Project, or portion thereof, as provided for in this Subsequent Developer Agreement as if such construction, renovation and/or reconstruction had been so completed by MA Retail.

(e) Nothing contained herein shall be construed to prohibit a Permitted Mortgagee from taking such actions as it deems necessary to avoid or mitigate an Emergency or to take such actions as it deems necessary to conserve or protect such Permitted Mortgagee's security for its Mortgage (including securing and preserving the improvements under construction).

(f) A Permitted Mortgagee that declines to cure an Event of Default but takes title to the Retail Property shall be a property owner within the City and any future use of such Retail Property shall remain subject to the provisions of the Waterfront Redevelopment Plan; provided however that until such time as a Certificate of Completion has been issued in accordance with Section 4.16 of this Agreement, the conditions that were found and determined to exist at the time such property was determined to be in need of redevelopment will be deemed to continue and such Retail Property will remain subject to the powers of the City acting under the Redevelopment Law.

14.04 **Estoppel Certificate**. Within fifteen (15) Days following written request therefor by MA Retail, or of any lender, purchaser or tenant (or prospective lender, purchaser or tenant), or any other party having an interest in a Retail Project, the City and/or Asbury Partners, as the case may be, shall issue a signed estoppel certificate stating (a) that this Subsequent Developer Agreement is in full force and effect and that there is no default or breach under this Subsequent Developer Agreement (and no event has occurred which, with the passage of time or the giving of notice, or both, would result in a default or breach under this Subsequent Developer Agreement), or stating the nature of the default or breach or event, if any, (b) as to the City certificate, whether there are any amounts then due and payable to the City with respect to any Retail Property or the redevelopment thereof pursuant to the terms and conditions of this Subsequent Development Agreement and/or pursuant to any applicable Financial Agreement, and specifying the amounts (if any) that are then due and payable, (c) as to the City's certificate, the status of permits and approvals issued for the Retail Project, and the date or dates by which the Retail Project is to commence construction and/or be substantially completed, and (d) such additional information regarding or relating to this Subsequent Development Agreement and/or the Retail Properties as MA Retail, or such lender, purchaser or tenant (or prospective lender, purchaser or tenant), or such other party, shall reasonably request. In the event the estoppel certificate discloses such a default, breach or event, it shall also state the manner in which such default, breach and/or event may be cured. Notwithstanding anything to the contrary, each party does hereby and may in any such estoppel certificate, expressly limit its statements in any such estoppel certificate to the provisions of this Subsequent Developer Agreement, the parties acknowledging that the parties (and their Affiliates) are parties to numerous other agreements and understandings none of which are subject to or are intended to be affected by any statement of such party to be made pursuant to this Section 14.05. No party shall be required to deliver more than four (4) estoppel certificates in any calendar year.

ARTICLE 15

MISCELLANEOUS

15.01 **Redeveloper Agreement Addressed**. Notwithstanding that Articles 3 and 9 of the Redeveloper Agreement, in part, require: (i) the times for the submissions of the Plans needed for Governmental Approvals; (ii) times for commencement of work needed to complete certain improvements; (iii) times for completion of certain of the Retail Projects (to wit, the Pavilions), the provisions of this Subsequent Developer Agreement, including the Development Targets (and the application of Article 9), are agreed to by MA Retail, Asbury Partners, and the City and shall govern and supersede with respect to the Redeveloper Agreement.

15.02 **Tax Abatement Availability.** The City confirms and agrees that the following Retail Projects are eligible for "tax abatements" pursuant to the Five Year Exemption and Abatement Law, N.J.S.A. 40A:21-1 et seq. (and the City ordinance governing five year abatements): the 1st Avenue Pavilion Project, the 3rd Avenue Pavilion Project, the 4th Avenue Pavilion Project, the 5th Avenue Pavilion Project and the Sunset Avenue Pavilion Project.

15.03 **Notices.** All notices, demands, certificates or other communications under this Agreement by any party to the other at their respective addresses shall be in writing and shall be sufficiently given or delivered if delivered (or attempted to be delivered and refusal to accept or undeliverable due to change of address of which no notice was given) by overnight courier (such as FedEx or UPS) or delivered personally (and receipt acknowledged):

If to the City:

City of Asbury Park
Asbury Park Municipal Building
One Municipal Plaza
Asbury Park, New Jersey 07712
Attention: City Manager

with a copy to:

McManimon & Scotland L.L.C.
One Riverfront Plaza, 4th Floor
Newark, New Jersey 07102
Attention: Glenn F. Scotland, Esq. and
Thomas J. Hastie, Jr., Esq.

If to MA Retail:

c/o Madison Asbury Retail, LLC
1100 Ocean Avenue
Asbury Park, New Jersey 07712
Attention: Gary Mottola, President

and

c/o Madison Marquette
2001 Pennsylvania Avenue NW - 10th Floor
Washington, D.C. 20006
Attention: Phil Akins, Vice President

with a copy to:

Tannenbaum Helpert Syracuse & Hirschtritt LLP
900 Third Avenue
New York, New York 10022
Attention: Roger M. Roisman, Esq.

If to Asbury Partners:

Asbury Partners, LLC
1100 Ocean Avenue
Asbury Park, New Jersey 07712
Attention: General Counsel

and

iStar Financial
1114 Avenue of the Americas, 39th Floor
New York, New York 10036
Attention: Samantha K. Garbus, Senior Vice President

with a copy to:

Wolff & Samson PC
One Boland Drive
West Orange, New Jersey 07052
Attention: Daniel A. Schwartz, Esq.

The City, MA Retail and Asbury Partners may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

15.04 **Successors Bound.** This Subsequent Developer Agreement shall be binding upon the respective parties hereto and their successors and permitted assigns; provided however that the parties agree that the provisions set forth in this Agreement, including but not limited to the provisions relating to the City's remedies set forth in Section 8.03 and Mortgagee rights to cure set forth in Section 14.03 do not bind, create a precedent for or mandate any business terms that may be employed in future subsequent developer agreements required under Section 4.01(a)(iii) or any other subsequent developer agreements between the parties.

15.05 **Further Assurances and Corrective Instruments.** The City, MA Retail and Asbury Partners shall, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Retail

Project or for carrying out the intention of or facilitating the performance of this Subsequent Developer Agreement.

15.06 **Time**. Whenever the word "Days" is used in computing any period of time in this Subsequent Developer Agreement, the day of the act or event from which the designated period begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or State holiday, in which event the period runs until the end of the next day which is neither a Saturday, a Sunday nor a State holiday. In computing a period of time of less than seven (7) Days, Saturday, Sunday and State holidays shall be excluded.

15.07 **No Third Party Beneficiary**. It is understood and agreed that only the parties hereto shall have any rights or benefits under this Subsequent Developer Agreement and that the parties do not intend to create any rights or benefits in any third parties.

15.08 **No Other Reliance**. Each of Madison and Asbury Partners represents by execution of the Subsequent Developer Agreement that they have not relied upon any representation, oral or otherwise, of the City or its officers, agents or representatives in connection with entering into this Subsequent Developer Agreement except for those representations which are explicitly set forth in this Subsequent Developer Agreement. The City represents by execution of this Subsequent Developer Agreement that it has not relied upon any representations, oral or otherwise, of Madison or Asbury Partner or their respective officers, agents or representatives in connection with entering into this Subsequent Developer Agreement, except for those representations which are explicitly set forth in this Subsequent Developer Agreement.

15.09 **Conflict with Redeveloper Agreement**. To the extent that the rights and responsibilities of MA Retail and obligations of the City contained in this Subsequent Developer Agreement are inconsistent with the rights and responsibilities of a Subsequent Developer or the obligations of the City as set forth in the Redeveloper Agreement, then provisions of this Subsequent Developer Agreement shall govern.

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

15.11 **Non Liability of Officials and Employees of the City**. No member, official or employee of the City shall be personally liable to MA Retail, or any successor in interest, in the event of any default or breach by the City, or for any amount which may become due to MA Retail or its successor, or on any obligation under the terms of this Subsequent Developer Agreement.

15.12 **Inspection of Books and Records**.

(a) The City shall have the right at all reasonable times upon reasonable notice to inspect the books and records of MA Retail pertinent to the purposes of this Subsequent Developer Agreement, including but not limited to construction contracts, books and records, leases, insurance policies, and agreements. The City's right of inspection shall be subject to limitations on disclosure due to confidentiality obligations and privilege, and MA Retail shall have the right to make appropriate redactions to any books and records made available to the City for inspection.

(b) MA Retail shall have the right at all reasonable times to inspect the books and records of the City pertinent to the purposes of this Subsequent Developer Agreement.

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

15.13 **Modification of Agreement.** No modification, waiver, amendment, discharge, or change of this Subsequent Developer Agreement shall be valid unless the same is in writing, duly authorized, and signed by MA Retail, the City, and Asbury Partners; provided, however, that no modification, waiver, amendment, discharge or change of this Subsequent Developer Agreement adversely affecting any Permitted Mortgagee(s) or any Permitted Successor(s) shall be valid unless the same is consented to in writing by the affected Permitted Mortgagee(s) and/or Permitted Successor(s), as the case may be.

15.14 **Exhibits.** Any and all exhibits annexed to this Subsequent Developer Agreement are hereby made a part of this Subsequent Developer Agreement by this reference thereto.

15.15 **Governing Law.** This Subsequent Developer Agreement, including any disputes arising under Article 12 hereof, shall be governed by and construed in accordance with the laws of the State of New Jersey (the "Governing Law").

15.16 **Entire Agreement.** This Subsequent Developer Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior oral and written agreements between the parties with respect to the subject matter hereof, excluding agreements between MA Retail and Asbury Partners (or their respective Affiliates). Nothing herein shall alter or modify in any respect, or create a waiver, of any of the rights of either MA Retail or Asbury Partners (or their respective Affiliates) which may be contained in other agreements.

15.17 **Title of Articles and Sections.** The titles of the several Articles and Sections of this Subsequent Developer Agreement, as set forth in the Table of Contents or at the heads of said Articles and Sections, are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

15.18 **Severability.** The invalidity of any Articles and Section, clause or provision of this Subsequent Developer Agreement shall not affect the validity of the remaining Articles and Section, clauses or provisions hereof.

15.19 **Indemnification.** MA Retail, for itself and its successors and assigns, covenants and agrees, at its sole cost and expense to indemnify, defend and hold harmless the City, its governing body, their respective officers, employees, agents, attorneys and consultants, 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 MA Retail or its agents, employees or consultants, of MA Retail's obligations under this Subsequent Developer Agreement, or (ii) the acts or omissions of MA Retail or of MA Retail's agents, employees, or consultants in connection with the development, financing, design, construction, operation, or maintenance of the Retail Project, provided, however, that no indemnification shall be required pursuant to this Section 15.19 in the event that the indemnification otherwise due pursuant to this Section 15.19 is attributable to the negligence or misconduct of the City.

15.20 **Execution of Counterparts.** This Subsequent Developer Agreement may be executed in one or more counterparts and when each party has executed and delivered at least one counterpart, this Subsequent Developer Agreement shall become binding on the parties and such counterparts shall constitute one and the same instrument. This Agreement may be executed and legally delivered by facsimile by one party to the other party's legal counsel. After delivery of this Subsequent Developer Agreement by facsimile, the party so delivering shall send at least two (2) originally executed counterparts via overnight delivery service for delivery not later than two (2) Days thereafter; provided, however, that the failure of any such party to do so shall not invalidate or otherwise effect the delivery by facsimile or the effectiveness of this Subsequent Developer Agreement.

15.21 **Limitation of Liability.** Except as provided in Section 14.03, no Mortgagee shall become liable under the provisions of this Subsequent Developer Agreement unless and until such time as it becomes, and then only for as long as it remains, the owner of the Retail Properties.

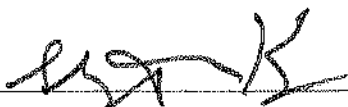
15.22 **Approvals.** In all cases where the approval or consent of a party is not to be unreasonably withheld, such approval or consent, as the case may be, is not to be unreasonably withheld, conditioned or delayed.

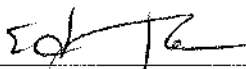
[Remainder of this page intentionally blank; next page is the signature page]

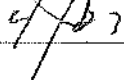
IN WITNESS WHEREOF, the parties have executed this Subsequent Developer Agreement effective as of the latest date of the signatures affixed hereto.

Attest:

THE CITY OF ASBURY PARK

_____ 

By: 
_____ Mayor

Date: , 2010

Attest:

MADISON ASBURY RETAIL, LLC

By: Madison MMREF Asbury Retail LLC,
its managing member

By: Madison Asbury Investment Inc.,
its managing member

By: _____
Name:
Title:

Date: _____, 2010

Attest:

ASBURY PARTNERS, LLC

By: Jersey Star LLC
its managing member

By: _____
Name:
Title:

Date: _____, 2010

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

Attest:

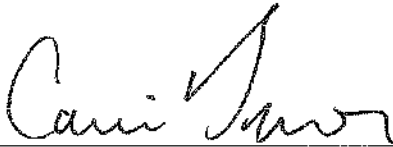
THE CITY OF ASBURY PARK

By: _____
Mayor

Date: _____, 2010

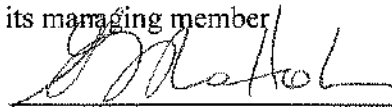
Attest:

MADISON ASBURY RETAIL, LLC



By: Madison MMREF Asbury Retail LLC,
its managing member

By: Madison Asbury Investment Inc.,
its managing member

By: 
Name: **GARY MOTTOLA**
Title: *Executive Vice President*

Date: MAY 20 , 2010

Attest:

ASBURY PARTNERS, LLC

By: Jersey Star LLC
its managing member

By: _____
Name:
Title:

Date: _____, 2010

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

Attest:

THE CITY OF ASBURY PARK

By: _____
Mayor

Date: _____, 2010

Attest:

MADISON ASBURY RETAIL, LLC

By: Madison MMREF Asbury Retail LLC,
its managing member

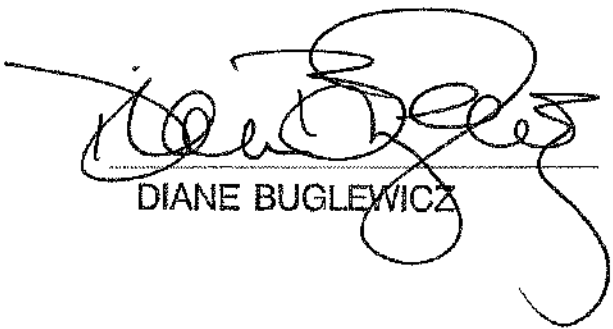
By: Madison Asbury Investment Inc.,
its managing member

By: _____
Name:
Title:

Date: _____, 2010

Attest:

ASBURY PARTNERS, LLC



DIANE BUGLEWICZ

By: Jersey Star LLC
its managing member

By: 
Name: **Samantha K. Garbus**
Title: **Senior Vice President**

Date: May 5th, 2010

EXHIBITS

- Exhibit A** - City Resolution of April 4, 2007 consenting to the creation of MA Retail
- Exhibit B** - City Resolution authorizing execution of Subsequent Developer Agreement
- Exhibit C** - Madison Resolution authorizing execution of Subsequent Developer Agreement
- Exhibit D** - Asbury Partners Resolution authorizing execution of Subsequent Developer Agreement
- Exhibit E** - Declaration of Restrictions
- Exhibit F** - Easement Encroachment and Expansion Agreement
- Exhibit G** - Net AP Lease
- Exhibit H** - Net MA Retail Lease
- Exhibit I** - Net Worth Guaranty
- Exhibit J** - Form of Completion Guaranty
- Exhibit K** - Descriptions of Retail Properties
- Exhibit L** - Existing Issues with CAFRA Permit to be cured
- Exhibit M** - Schematic drawing of Lifeguard Facility
- Exhibit N** - Planning Board Resolution related to "Pop Up" Retail Facilities
- Exhibit O** - Convention Hall Completed Work
- Exhibit P** - Convention Hall Work to be Completed
- Exhibit Q** - CH/PT Arcade Easement Agreement
- Exhibit R** - Casino Arcade Easement Agreement
- Exhibit S** - Performance Escrow Agreement
- Exhibit T** - Form of Certificate of Completion
- Exhibit U** - Pedestrian Walkways and Utility Ramps

Exhibit A

City Resolution of April 4, 2007 consenting to the creation of MA Retail

Councilperson: Offers the Following Resolution and Moves
its Adoption

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASBURY PARK TO EXECUTE AN ESTOPPEL AND CONSENT CERTIFICATE IN THE FORM ANNEXED HERETO AND AN AMENDMENT OF THE DISPUTE RESOLUTION AGREEMENT AS SET FORTH AS EXHIBIT A HERETO AND TO APPROVE THE SCOPE OF WORK TO BE COMPLETED BY MADISON ASBURY RETAIL, LLC, A JOINT VENTURE OF ASBURY PARTNERS, LLC ("MASTER DEVELOPER") AND MADISON REALTY PARTNERSHIP LLC AND ITS SUCCESSORS, ASSIGNS AND AFFILIATES (COLLECTIVELY, "MADISON MARQUETTE")

WHEREAS, the City of Asbury Park has entered into an Amended and Restated Redeveloper and Land Disposition Agreement dated October 28, 2002; and

WHEREAS, the City of Asbury has adopted an Amended Waterfront Redevelopment Plan on the date of June 5, 2002; and

WHEREAS, the City of Asbury Park has entered into a Dispute Resolution Agreement with Master Developer under a date of April 10, 2006; and

WHEREAS, Madison Marquette has entered into a joint venture with Master Developer to redevelop the retail component of the prime renewal area of the waterfront redevelopment zone; and

WHEREAS, in order to accomplish the joint venture Madison Marquette and the Redevelopment Law of the State of New Jersey require a consent of the Redevelopment Agency to allow for the transfer of real property in the waterfront redevelopment zone;

and

WHEREAS, said consent to transfer is accomplished by the Estoppel and Consent Certificate annexed to this Resolution as Exhibit A; and

WHEREAS, Madison Marquette has requested an Estoppel Certificate to provide it comfort that the City will not declare in default the Master Developer or the joint venture, for work to be undertaken by the joint venture and Master Developer as it relates specifically to the retail component of the prime renewal area but also as to the other projects in the prime renewal area; and

WHEREAS, an Estoppel Certificate, with limitations, is annexed hereto and made a part hereof as the Estoppel and Consent Certificate as annexed to this Resolution; and

WHEREAS, Madison Marquette has pledged to complete a work plan as set forth in Exhibit B to this Resolution which work plan is to be accepted by the City of Asbury Park and signed off on by the Mayor of the City of Asbury Park, subject to future modification to such work plan as may be agreed to by the City in a subsequent developers agreement to be negotiated between the City and Madison Asbury Retail, LLC; and

WHEREAS, the City shall promptly begin discussions with the

joint venture, Madison Asbury Retail, LLC, to enter into a formal subsequent developers agreement with the City of Asbury Park to provide for the completion of the work plan annexed to the within Resolution and for an outline and schedule of the work to be performed by the joint venture as well as potential amendments to the Plan; and

WHEREAS, in the event a subsequent developers agreement is not entered into between the City of Asbury Park and Madison Asbury Retail, LLC, then in that event certain portions of the Estoppel Certificate shall become void and of no further force or effect; and

WHEREAS, the City of Asbury Park has been requested by Madison Marquette and the joint venture to consent to an amendment of the Dispute Resolution Agreement in the form annexed hereto and made a part hereof as Exhibit C to this Resolution in order to permit Madison Marquette to move forward with certain work pending completion of the subsequent developers agreement; and

WHEREAS, the execution of all of the within documents is in the furtherance of the completion of the waterfront redevelopment plan and its retail development; and

WHEREAS, the auditor of the City of Asbury Park, David A.

Kaplan, CPA, has reviewed the financial statements of Madison Marquette and found them to be a bona fide entity; and

WHEREAS, a report of David Kaplan in summary form as to his review of Madison Marquette's financial statements is annexed hereto and made a part hereof as Exhibit D; and

WHEREAS, Madison Marquette has provided to the public in workshop and in open public session a description of the plans that it has and the work that it is to do together with an anticipated time scheduled for its completion; and

WHEREAS, the above Project is in the best interest of the citizens of the City of the Asbury Park to have go forward at the present time.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Asbury Park, as follows:

1. That the Mayor of the City of Asbury Park be and the same hereby is authorized to execute the Estoppel and Consent Certificate as annexed hereto and made a part hereof.

2. The City hereby consents to the amendment of the Dispute Resolution Agreement as annexed hereto and made a part hereof and to approve the work plan as annexed hereto and made a part hereof, and the Mayor is hereby authorized to execute the same, in each case subject to future modification as may be

agreed to by the City in a subsequent developers agreement to be negotiated between the City and Madison Asbury Retail, LLC.

3. The Mayor and the City Manager and City attorneys be and the same hereby are authorized to enter into any further agreements deemed necessary and appropriate to effectuate the intent and purpose of the within Resolution including correspondence to confirm the scope and effectuation of the Estoppel Certificate and Consent as it relates to the subsequent developers agreement that is required for all the work to be completed in the retail areas of the prime renewal zone under the Redeveloper Documents as the same may be hereafter modified; except that until such subsequent developers agreement is entered into Master Developer shall remain responsible for the obligations set forth in the scope of work annexed as Exhibit B.

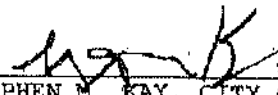
4. That a certified copy of the within Resolution shall be provided to each of the following:

1. Terence J. Reidy, City Manager
2. Donald Sammet, Redevelopment Director
3. Gregory Mayers, Chief Financial Officer
4. Rick Diaz, Finance Director
5. David Kaplan, City Auditor
6. James G. Aaron, Esq.

7. Thomas Hastie, Esq.
8. Frederick C. Raffetto, Esq., City Attorney

I, STEPHEN M. KAY, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of a RESOLUTION which was finally adopted by the City Council at a meeting held on the 4th day of April, 2007.

CERTIFIED BY ME THIS 5th DAY OF April, 2007.



STEPHEN M. KAY, CITY CLERK

List of Exhibits

- Exhibit A - Estoppel and Consent Certificate
- Exhibit B - Work Plan
- Exhibit C - Amendment to Dispute Resolution Agreement
- Exhibit D - Accountant's Report

Exhibit A

ESTOPPEL AND CONSENT CERTIFICATE
OF
THE CITY OF ASBURY PARK

To: **Madison Realty Partnership LLC**, a Delaware limited liability company, and its successors, assigns and affiliates (collectively, "**Madison Marquette**") and **Asbury Partners, LLC**, a New Jersey limited liability company, and its successors and assigns ("**Master Developer**")
Madison Asbury Retail, LLC, a Delaware limited liability company, and its successors and assigns ("**Madison Asbury**")

Re: Amended and Restated Redeveloper and Land Disposition Agreement dated as of October 28, 2002 by and between the City of Asbury Park and Asbury Partner, a Dispute Resolution Agreement dated April 10, 2006 by and between the same parties, and the Waterfront Redevelopment Plan dated June 5, 2001 and amended through December 7, 2005, collectively referred to as the "Redeveloper Documents".

Ladies and Gentlemen:

The City of Asbury Park has been advised that Madison Marquette has entered into a joint venture agreement with Master Developer for the redevelopment of the retail component of the prime renewal area of the waterfront redevelopment area.

WHEREAS, Madison Marquette is desirous of obtaining an equity interest in the real estate to be developed by it as part of its joint venture; and

WHEREAS, Madison Marquette desires to enter into a joint venture with Master Developer for the development of the retail component of the prime renewal area of the waterfront redevelopment zone; and

WHEREAS, Madison Marquette requests that the City of Asbury Park make certain representations, certifications and warranties as set forth herein.

NOW THEREFORE, the City of Asbury Park hereby certifies, represents, warrants and agrees as follows:

1. The Redeveloper Documents set forth above contain all of the understandings and agreements between the City and the Master Developer with respect to the Project (as defined in the Redeveloper Documents) and the property comprising the Project, and are in existence and in full force and effect without modification, addition, extension or renewal on the date hereof.

2. As of the date of this Certificate the City of Asbury Park has not issued any default notices to Master Developer under any of the terms of any agreement with the City and none exists solely by the passage of time or by the giving of notice.

3. The City further asserts that there has been no contemplated default under any of the agreements listed above.

4. The City asserts further that the potential for a default by Master Developer exists with respect to any of the timelines listed in the obligations of the Master Developer as set forth in the Redeveloper Documents (as defined herein).

5. The City further asserts that the methodology for declaring and curing any default are contained in the language of the Redeveloper Documents.

6. The City hereby consents to the transfer by Master Developer and its affiliates of its interest in the real property identified on Exhibit A hereto to Madison Asbury, an affiliate of Master Developer, in connection with the proposed development of the retail components of the project with respect to such real property and the transfer of an equity interest in Madison Asbury to Madison Marquette.

7. The City acknowledges having read this Certificate and understands the certification and representations made herein, and hereby executes this Certificate as of the date set forth below, which shall take effect as a sealed instrument, intending reliance by Madison Marquette, Madison Asbury and Master Developer for purposes as set forth herein and based upon the representations of Madison Marquette and the Master Developer to complete the scope of work which is annexed as Exhibit B to this Estoppel Certificate. It is specifically understood that the Estoppel Certificate is provided to Madison Marquette as a third party as an inducement for Madison Marquette to enter into a joint venture with Madison Asbury. Be it further understood that Sections 2, 3 and 4 of this Estoppel Certificate are expressly subject to Madison Marquette entering into a joint venture with Madison Asbury. Master Developer shall remain liable to complete the scope of work which is annexed as Exhibit B annexed hereto. The City further acknowledges that Sections 2, 3 and 4 of this Estoppel Certificate shall become void and of no further force or effect should Madison Asbury fail to enter into a subsequent developers agreement with the City of Asbury Park for all work necessary in the retail area of the prime renewal area under the Redeveloper Documents as the same may be hereafter modified; except that until such subsequent developers agreement is entered into Master Developer shall remain responsible for the obligations set forth in the scope of work annexed as Exhibit B to this Estoppel Certificate.

Dated: ~~February~~ 2007
April 27, 2007

THE CITY OF ASBURY PARK

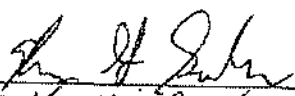
By: 
Name: Kevin B. Sanders
Title: Mayor

Exhibit A

Real Property and Leasehold Interests:

Block 227, Lot 1.01

Block 227, Lot 1.03

Block 227, Lot 1.04

Block 227, Lot 1.02

Block 227, Lot 1.06

Block 227, Lot 1.08

Block 227, Lot 1.10

Block 227, Lot 1.16

Block 227, Lot 1.20

Block 227, Lot 1.12

Block 227, Lot 1.13

Block 227, Lot 1.14

Block 227, Lot 1.22

Block 227, Lot 1.18

Block 227, Lot 1.05

Block 227, Lot 1.07

Block 227, Lot 1.09

Block 227, Lot 1.11

Block 227, Lot 1.15

Block 227, Lot 1.17

Block 227, Lot 1.19

Block 227, Lot 1.21

Exhibit B

Scope of Work

#1163889 v3
106840-37301

EXHIBIT B

A. Scope of Work/Work Plan for 2007

The joint venture shall perform the following work for 2007:

1. Renovate the "Howard Johnson's" component of the 5th Avenue Pavilion and lease to a first-class restaurant operator by the timeline designated in the Amended DRA.
2. Renovate the southern section of the 5th Avenue Pavilion as per the Planning Board Approvals. Major components to include
 - A. New Store Fronts
 - B. Mechanicals
 - C. Painting and Upgrading the Appearance of the Exterior
 - D. Landscaping Around the Building.
3. Perform significant aesthetic improvement to the green spaces between the Pavilions. To be accomplished mainly through a vastly enhanced landscaping program.
4. Implement a master-planned beautification program for the Boardwalk, the scope of work to include, but not be limited to, graphics, banners and painting. All work to be vetted through the City. Work to include a visual upgrade to the Ocean Grove portal to the Boardwalk.
5. Perform immediate basic improvements to correct serious deficiencies in the Paramount Theatre. This will allow the Paramount Theatre to have a higher level of functionality for the 2007 summer season. All work is subject to SHPO approval and is expected to be completed by mid-summer.
6. Accelerate infrastructure construction on 1st and 2nd Avenues to fully complete the island medians.
7. Install final topcoat on Ocean Avenue and re-stripe streets to enhance the beachfront's appearance and maximize parking spaces.
8.
 - A. Install screen fencing, 8 ft. high, on Block 145, Lot 2 (the JFC construction yard).
 - B. Demolish the Golddigger building on the southeast corner of Ocean and 2nd Avenues and erect a new fence around the perimeter.
 - C. Keep the Wonder Bar open with Debbie DeLisa and Lance Larson as operators for Summer 2007.
 - D. Provide new screen fence around the crushing operation on Block 161.
 - F. Upgraded maintenance on the 1st, 3rd, and 4th Ave Pavilions.

B. Long Term Vision

The City of Asbury Park will promptly begin negotiation with the joint venture of a subsequent developers agreement to provide for the development of the retail component of the prime renewal area of the waterfront redevelopment zone, with the following scope and characteristics*:

1. A high rise mixed use development comprising up to 400 condo/hotel and residential units, 20 townhouses, 95,000 square feet of retail, and 850 parking spaces will be located on Blocks 130.01, 130.02 and 144.03. The hotel will be located in a high rise building at the maximum level the Cafra permit will allow and become the predominant icon building in the waterfront.
2. The Casino building will be built out as per the requirements in the Cafra permit. The Carousel building will become home for a "Festive Market" themed to host "Best of New Jersey" type concessions. These concessions will sell everything from fresh fruits and vegetables to coffee and deserts to sandwiches and specialized ethnic fare to souvenirs and artistic ware. This will become a major destination point for local residents and tourists alike. Special short term parking areas will be constructed to accommodate the retail traffic.
3. The Arena section of the Casino will become a three story retail/entertainment complex with great retail on the first floor, restaurants on the second floor and a nightclub on the third. Depending on Cafra regulations an observation tower is also envisioned attached to the structure.
4. The Arcade between the two buildings will be used by the public to traverse the boardwalk as well as to gain entry to the retail establishments. Vertical transportation devices will be placed in the Arcade for use by the public to gain 2nd and 3rd floor access.
5. The power plant will be leased to a restaurant operator and renovated as per the Cafra permit.
6. The "Green Areas" between the pavilions will accommodate amusement and retail components that will generate positive public use. Anticipated uses for the "Green Areas" include a waterslide, children's rides, wave pool, miniature golf, food elements, and tourist orientated retail concessions. A ferris wheel and/or carousel have strong potential for inclusion.
7. The 1st, 2nd, 3rd, 4th and Sunset Ave Pavilion's will all be reconstructed or renovated as per the Cafra regulations.
8. The Convention Hall and Paramount Theatre will receive thorough renovations as per the DRA and subsequent documents. High level musical acts as well as trade shows

will be booked into the venues shortly after essential renovations are completed.

9. Superior grounds keeping and facility maintenance programs will be implemented.
10. A public outreach program aimed at job training, business incubation and entrepreneurial assistance for local residents will be implemented.

*Such scope and characteristics are subject to the mutual approval of the City, the joint venture and Asbury Partners, LLC to be memorialized in a subsequent developer's agreement and Asbury Partners, LLC shall not be liable to perform or complete the scope of work set forth in this Paragraph B.

Exhibit C

Attest

City of Asbury Park

[Signature]
 Stephen M. Kay
 City Clerk

[Signature]
 Mayor Kevin Sanders

SCHEDULE A

5TH Avenue Pavilion

Projected Costs

\$5,262,500

Task	Date	Subtask	Trades	Est. Cost
A. Feasibility Study	Mar-06	Feasibility Study (COMPLETED)	Architect Structural Engineer, Brick Conservator	\$12,500
B. Emergency Repairs	Mar-06	Design Complete	Repair roof leaks; remove and secure loose building materials; repair glazing; remove paint from brick and re-point mortar; touch-up paint; secure rebar area; repair mechanical, electrical and plumbing systems; box-out cantilevered brackets; landscaping for west yard	\$250,000
	Jun-06	Construction Complete		

	Jun-06	Schematic Design	
	Jul-06	Design Development	
	Feb-07	Construction Drawings	
	Mar-07	Bids Awarded	

Madison Asbury Retail, LLC

By: *[Signature]*
 Name: Hugh R. Lank
 Title: President

Ashby Partners, LLC

By: *[Signature]*
 Name: Hugh R. Lank
 Title: President

Madison Marguette

By: _____
 Name: _____
 Title: _____

[Handwritten mark]

<p>C. Renovation of Entire Pavilion</p>	<p>Jun-07</p>	<p>Exterior rehabilitation of Hobbies portion completed; 1st floor of Hobbies portion ready for restaurant operation; 1st floor retail spaces temporary beautification (facade improvements) in accordance with Planning Board approval of March 12, 2007</p>	<p>Architect, Construction Manager</p>	<p>\$5,000,000</p>
	<p>May-07</p>	<p>TRC Submittal for final design of full pavilion renovation/rehabilitation</p>		
	<p>Jun-07</p>	<p>Redevelopment Entity Submittal for final design of full pavilion renovation/rehabilitation</p>		
	<p>Jul-07</p>	<p>Site Plan for Entire Pavilion final design</p>		
	<p>Sep-07</p>	<p>Construction Drawings and Building Permit Application for Entire Pavilion</p>		
	<p>Jun-08</p>	<p>Balance of Pavilion Renovated.</p>		

112

Attest

City of Asbury Park

Steph M. Kay
Steph M. Kay
City Clerk

Kevin Sanders

Mayor Kevin Sanders

SCHEDULE B

Convention Hall

Projected Costs

\$12,400,000

Task	Date	Subtask	Trades	Est. Cost
A. Window Replacement	Feb-06	Design Complete		
	Mar-06	NISHPO Initial Review		
	Jul-06	Mock-up Construction		
	Aug-06	NISHPO Final Review		
	Aug-06	Order Windows		
	Feb-07	Measure/shop drwggs/manufacture	Window installer, masonry repair, rough carpentry.	\$500,000
	May-07	Installation Completion		
B. Life/Safety Repairs	Feb-06	Complete Design		
	Mar-06	Initial NISHPO Review		
	Apr-06	Final NISHPO Review		
	Jun-06	Bid for Construction Awarded		
	Jul-06	Construction begins		
	Nov-06	Construction ends		
				Carpenter, locksmith, masonry repair
C. Interior Storefront Replacements	Feb-06	Design Complete		
	Apr-06	NISHPO Review		
	Jun-06	Bid for Construction Awarded		
	Sep-06	Construction Complete		
			Storefront system installer; carpenter.	\$225,000

Madison Asbury Retail, LLC

Asbury Partners, LLC

Madison Marquette

By: *Mark...*
Title: President

By: *Mark...*
Title: President

By: _____
Title: _____

D. Arcade Entrance Structural Repair	Apr-06	Design Complete		
	May-06	NISSPO Review		
	Jul-06	Bid for Manufacture and Installation	Structural steel, masonry repair, terra cotta repair, window and storefront installation	\$400,000
	Sep-06	Windows bid awarded		
	May-07	Install Windows, Repair Steel and Masonry		

E. Exterior Storefronts and Entry Doors	Apr-06	Design Complete		
	May-06	NISSPO Review		
	Aug-06	Bid For Manufacture and Installation Awarded	Storefront system installer, carpenter.	\$175,000
	Oct-06	Manufacturer Items		
	Apr-07	Construction Complete		

F. Paramount Interior Renovation Design	Jan-07	Schematic Design Complete		
	Apr-07	Design Development Complete		
	Aug-07	Parties meet to agree on construction schedule with SINC cap.	Interior Scape TBD	\$1,000,000
	Sep-07	Construction Documents Complete.		
	Oct-07	Renovation tasks pursuant to construction timeline to begin		

G. Convention Hall Complex Renovation Design (including entire exterior)	Jan-07	Schematic Design Complete	Stabilize exterior including: Cementitious repair of brick, terra cotta, and historical features Full Scope TBD (Interior and Exterior)	\$10,000,000
	Apr-07	Design Development Complete		
	Aug-07	Parties meet to agree on construction schedule with \$10M cap.		
	Sep-07	Construction Documents Complete.		
	Oct-07	Renovation bids pursuant to construction timeline to begin		

Attest:

City of Asbury Park

[Signature]
Stephen M. Kay
City Clerk

[Signature]
Mayor Kevin Sanders

SCHEDULE A

5TH Avenue Pavilion

Projected Costs

\$5,262,500

Task

Date

Subtask

Trades

Est. Cost

A. Feasibility Study

Mar-06 Feasibility Study (COMPLETED)

Architect, Structural Engineer,
Brick Conservator

\$12,500

Mar-06 Design Complete

Jun-06 Construction Complete

Repair roof leaks; remove and
resecure loose building materials;
repair plaster; remove mortar
from brick and re-point mortar;
touch-up paint; secure ramp
area; repair mechanical,
electrical and plumbing
systems; box-out unflashed
headers; landscaping for west
yard

\$250,000

B. Emergency Repairs

Jun-06 Schematic Design

Jul-06 Design Development

Feb-07 Construction Drawings

Mar-07 Bids Awarded

Madison Asbury Retail, LLC

Asbury Partners, LLC

Madison Marquette

By: _____

By: _____

Name:

Title:

Name:

Title:

By: *[Signature]*
Name: GARY MOTTRECH

Title: Exec VP

EXHIBIT C

C. Removal of Entire Pavilion

	<p>Jun-07 Exterior rehabilitation of HOUs portion completed; 1st floor of HoJos portion ready for restaurant operation; 1st floor retail spaces temporary beautification (facade improvements) in accordance with Planning Board approval of March 12, 2007</p>		<p>Architect, Construction Manager</p>	<p>\$5,000,000</p>
	<p>May-07 TRC Submitted for final design of full pavilion removal/rehabilitation</p>			
	<p>Jan-07 Redeveloped Entire Submittal for final design of full pavilion removal/rehabilitation</p>			
	<p>Jul-07 Site Plan for Entire Pavilion final design</p>			
	<p>Sep-07 Construction Drawings and Bidding Permit Application for Entire Pavilion</p>			
	<p>Jun-08 Balance of Pavilion Retrieved</p>			

Stephen M. Kay
City Clerk

Mayor Kevin Sanders

SCHEDULE B

Convention Hall

Projected Costs \$12,400,000

Task	Date	Subtask	Trades	Est. Cost
A. Window Replacement	Feb-06	Design Complete		
	Mar-06	NSHPO Initial Review		
	Jul-06	Mock-up Construction		
	Aug-06	NSHPO Final Review	Window installer, masonry repair, rough carpentry	\$500,000
	Aug-06	Order Windows		
	Feb-07	Manufacturer prep drywall/structure		
	May-07	Installation Completion		
B. Life/Safety Repairs	Feb-06	Complete Design		
	Mar-06	Initial NSHPO Review		
	Apr-06	Final NSHPO Review	Carpenter, Jacksmith, masonry repair	\$100,000
	Jun-06	Bid for Construction Awarded		
	Jul-06	Construction begins		
Nov-06	Construction ends			
C. Interior Storefront Replacements	Feb-06	Design Complete		
	Apr-06	NSHPO Review		
	Jun-06	Bid for Construction Awarded	Storefront system installer, carpenter	\$225,000
	Sep-06	Construction Complete		

Madison Asbury Retail, LLC

Asbury Partners, LLC

Madison Marquette

By: _____
Title: _____

By: _____
Title: _____

By: *[Signature]*
Title: Exec VP

D. Arcade Entrance Structural Repair	Apr-06	Design Complete		
	May-06	N/S/PO Review		
	Jul-06	Bid for Manufacture and Installation	Structural steel, masonry repair, terra cotta repair, window and storefront installation	\$400,000
	Sep-06	Windows bid awarded		
May-07	Install Windows, Rejap Steel and Masonry			

E. Exterior Storefronts and Entry Doors	Apr-06	Design Complete		
	May-06	N/S/PO Review		
	Aug-06	Bid For Manufacture and Installation	Storefront system installer, carpenter.	\$175,000
	Oct-06	Awarded		
Apr-07	Manufacture Items			
		Construction Complete		

E. Paramount Interior Renovation Design	Jan-07	Schematic Design Complete		
	Apr-07	Design Development Complete		
	Aug-07	Parties meet to agree on construction schedule with \$1M cap.	Interior	
	Sep-07	Construction Documents Complete	Scope TBD	\$1,000,000
Oct-07	Renovation starts pursuant to construction timeline to begin			

G. Convention Hall Complex Renovation Design (including entire exterior)	Jan-07	Schematic Design Complete	Stabilize exterior including: Cosmetic level repair of brick, leaky coats, and historical features Full Scope TBD (interior and Exterior)	\$10,000,000
	Apr-07	Design Development Complete		
	Aug-07	Parties meet to agree on construction schedule with \$10M cap.		
	Sep-07	Construction Documents Complete.		
	Oct-07	Removal work pursuant to construction timeline to begin.		

Exhibit B

City Resolution authorizing execution of Subsequent Developer Agreement

RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF ASBURY PARK APPROVING A SUBSEQUENT DEVELOPER AGREEMENT BY AND AMONG THE CITY, MADISON ASBURY RETAIL, LLC AND ASBURY PARTNERS, LLC IN CONNECTION WITH THE REDEVELOPMENT OF CERTAIN BUILDINGS LOCATED ON THE CITY'S WATERFRONT

WHEREAS, Section 8 of the *Local Redevelopment and Housing Law*, N.J.S.A. 40A:12-8, permits a municipality to contract with a designated redeveloper for the construction of redevelopment projects within a designated redevelopment area pursuant to an adopted redevelopment plan; and

WHEREAS, on June 5, 2002, the City adopted the *Amended Waterfront Redevelopment Plan for the City of Asbury Park* (as amended and supplemented, the "Plan") for the designated redevelopment area within the City known as the Prime Renewal Area (as such term is defined in the Plan, the "Waterfront Redevelopment Area"); and

WHEREAS, on October 28, 2002, the City and Asbury Partners, LLC ("Asbury Partners") entered into a redevelopment agreement to implement the Plan (the "Redevelopment Agreement"), in which Asbury Partners was reaffirmed as the designated redeveloper of the Waterfront Redevelopment Area; and

WHEREAS, pursuant to the Redevelopment Agreement, Asbury Partners is responsible, among other things, for certain rehabilitation of particular waterfront buildings acquired by Asbury Partners from the City pursuant to the terms of the Redevelopment Agreement, which buildings include Convention Hall, Paramount Theater, the Casino, the Power Plant, the Boardwalk Pavilions (all as defined in the Redevelopment Agreement) and the real property interests on other parcels within Block 227 held by MA Retail, as defined below (collectively, the "Retail Properties"); and

WHEREAS, on April 5, 2007, the City consented to the creation of Madison Asbury Retail, LLC, a joint venture ("MA Retail") between Asbury Partners and Madison Realty Partnership, LLC ("Madison Marquette") to fulfill the obligations of Asbury Partners to improve and restore the Retail Properties pursuant to a certain Dispute Resolution Agreement, dated as of April 10, 2006, between the City and Asbury Partners (the "Dispute Resolution Agreement"); and

WHEREAS, MA Retail now owns fee title to, or holds a leasehold interest in, each of the Retail Properties; and

WHEREAS, Madison Marquette has become the managing member of MA Retail; and

WHEREAS, Madison Marquette, on behalf of MA Retail, has proposed to the City a schedule of activities to improve, construct, restore and repair elements of the Retail Properties in satisfaction of the work mandated under the Redeveloper Agreement and the Dispute Resolution Agreement and to assume additional obligations in connection with their operations

(the "Subsequent Developer Agreement" or "SDA"), including the designation of MA Retail as subsequent developer for the Retail Properties and providing for the redevelopment of the Retail Properties on an interim and permanent basis; and

WHEREAS, the City desires to see the redevelopment of the Retail Properties in accordance with the Redevelopment Plan commence as soon as practicable and to see the redevelopment succeed so that the residents, businesses, and property-owners surrounding the Retail Properties may benefit because of the substantial expansion of a stable, year-round retail presence; and

WHEREAS, MA Retail has agreed to own and occupy the Retail Properties and in furtherance of the Redevelopment Plan, to effectuate the redevelopment of a portion of the Retail Properties as set forth in the SDA, and in connection therewith, has agreed to devote substantial cash assets and borrowed funds to such redevelopment; and

WHEREAS, the Mayor and City Council believe that the execution of the SDA is in the best interests of the City,

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ASBURY PARK AS FOLLOWS:

Section 1. Recitals. The recitals hereto are fully incorporated herein as if set forth at length.

Section 2. Designation of Madison Asbury Retail, LLC as Subsequent Developer. Upon execution of the Subsequent Redeveloper Agreement, Madison Asbury Retail, LLC, Asbury Park, New Jersey will be designated as subsequent developer of the Retail Properties pursuant to the Act and the Redeveloper Agreement.

Section 3. Approval of the Subsequent Developer Agreement. The Subsequent Developer Agreement, and the related exhibits thereto, substantially in the form attached hereto as Exhibit A, is hereby approved, together with any changes, insertions and omissions thereto as the Mayor and City Manager, after consultation with redevelopment counsel to the City, deem in their collective discretion to be necessary or desirable for the execution thereof.

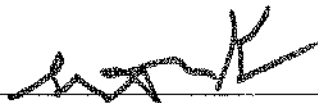
Section 4. Execution of the Subsequent Developer Agreement. Upon a determination that MA Retail is in compliance with its existing agreements with the City, the Mayor of the City of Asbury Park, in the County of Monmouth (the "Mayor") is hereby authorized and directed, upon satisfaction of all the legal conditions precedent to the execution and delivery by the City of the Subsequent Developer Agreement, to execute the Subsequent Developer Agreement, together with each of the exhibits to which the City is a signatory, in substantially the form of the draft attached hereto and such changes as may be provided in accordance with Section 3 hereof. McManimon and Scotland, L.L.C. is hereby directed and authorized to execute the "Performance Escrow Agreement" which is exhibit "S" to the Subsequent Developer Agreement.

Section 5. Attestation and Sealing of the Subsequent Developer Agreement. The Clerk of the City is hereby authorized and directed, upon the execution of the Subsequent Developer Agreement and required exhibits in accordance with the terms of Section 4 hereof, to attest to the signature of the Mayor upon such documents and is hereby further authorized and directed thereupon affix the corporate seal of the City upon such documents.

Section 6. Implementation of the Subsequent Developer Agreement. Upon the execution and attestation and placing of the seal on the Subsequent Developer Agreement as contemplated by Sections 4 and 5 hereof, the City Manager and City staff and professionals are hereby authorized and directed to (i) deliver the fully executed, attested and sealed document to the other parties thereto and (ii) perform such other actions as the City Manager deems necessary or desirable in relation to the execution and delivery of the Subsequent Developer Agreement.

Section 7. Effective Date. This resolution shall take effect immediately.

I certify the above to be a true copy of the Resolution adopted at a public meeting held on the 7th day of April, 2010.



Stephen M. Kay
City Clerk, City of Asbury Park

Exhibit C

Madison Resolution authorizing execution of Subsequent Developer Agreement

CONSENT ACTION OF THE MANAGING MEMBER

OF

MADISON MMREF ASBURY RETAIL LLC

The undersigned, being the managing member of MADISON MMREF ASBURY RETAIL LLC, a Delaware limited liability company (the "MMREF"), which is the managing member of MADISON ASBURY RETAIL, LLC, a Delaware limited liability company ("MAR"), which is the sole member of MADISON ASBURY CONVENTION HALL LLC, a New Jersey limited liability company ("MAC"), hereby authorizes, approves and agrees to the adoption, by written consent without a meeting, of the following resolutions:

WHEREAS, Madison Asbury Investment Inc., a Delaware corporation (the "Managing Member"), is the managing member of MMREF;

WHEREAS, MMREF is the managing member of MAR;

WHEREAS, MAR owns 100% of the membership interests in MAC; and

WHEREAS, pursuant to that certain Subsequent Developer Agreement dated on or about the date hereof (the "Subsequent Developer Agreement"; capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Subsequent Developer Agreement), by and among MAR, the Mayor and Council (collectively, the "City Council") of the City of Asbury Park (the "City") and Asbury Partners, LLC, a New Jersey limited liability company ("Asbury Partners"), MAR is, inter alia, recognized as the Subsequent Developer with respect to the Retail Properties located in Asbury Park, New Jersey and more particularly described in the Subsequent Developer Agreement.

NOW, THEREFORE, BE IT

RESOLVED, that the Managing Member, as the managing member of MMREF, which is the managing member of MAR, is hereby authorized to cause MAR to (a) convey to the City the parcels of land (and all the buildings, improvements and structures located thereon) known as Block 227, Lots 1.01, 1.02, 1.12, 1.14 and 1.22 (collectively, the "Green Acre Parcels") in Asbury Park, New Jersey; and (b) enter into (i) the Subsequent Developer Agreement, (ii) the Net MA Retail Lease, (iii) the Performance Escrow Agreement, (iv) that certain Easement Modification Agreement (Convention Hall/Paramount Theater), between MAR and the City, (v) that certain Deed by MAR to the City for the Green Acre Parcels and any other documents that are necessary, appropriate or advisable to consummate such conveyance, and (vi) any other documents to which it is a party and any other documents as are necessary, appropriate or advisable to consummate the transactions contemplated by the Subsequent Developer Agreement (collectively, the "MAR Documents"); and be it further

RESOLVED, that the Managing Member, as the managing member of MMREF, which is the managing member of MAR, which is the sole member of MAC, is hereby authorized to cause MAC to (i) enter into that certain Easement Modification Agreement (Casino Arcade), between MAC and the City, and (ii) enter into any other documents to which it is a party and any other documents as are necessary, appropriate or advisable to consummate the transactions contemplated by the Subsequent Developer Agreement (collectively, the "MAC Documents"); and be it further

RESOLVED, that each of Gary Mottola, as the Executive Vice President (the "Executive Vice President") of the Managing Member, and Phillip Akins, as the Vice President (the "Vice President") of the Managing Member, which is the managing member of MMREF, which is the managing member of MAR, which is the sole member of MAC, be, and each of them, acting alone, hereby is authorized to execute and deliver, in their capacity as officers of the Managing Member, as the managing member of MMREF, which is the managing member of MAR, which is the sole member of MAC, (i) the MAR Documents and the MAC Documents, and (ii) any and all other documents, instruments and other agreements necessary, appropriate or advisable to consummate the transactions contemplated by the Subsequent Developer Agreement, and to take from time to time any other actions which the Managing Member, as applicable, shall in his discretion determine to be appropriate, to effect the transactions contemplated by the Subsequent Developer Agreement, whether upon the terms and conditions set forth in the Subsequent Developer Agreement, the MAR Documents and the MAC Documents or upon such other terms and conditions as the Managing Member, as applicable, shall in his discretion determine to be appropriate, and the execution and delivery of any document or instrument by the Managing Member, as applicable, shall constitute conclusive evidence that the terms and conditions contained in said documents or instruments have been determined to be appropriate by the Managing Member, as applicable, acting on behalf of the Managing Member, pursuant to this Consent; and be it further

RESOLVED, that the Managing Member be and hereby is authorized, empowered and directed to take all such further action and to execute and deliver all such other documents as it shall deem necessary, appropriate or desirable in order to accomplish the purposes and intent of the foregoing resolutions and the actions contemplated thereby, the taking of such further action and the execution and delivery of such other documents to be conclusive evidence of such necessity, appropriateness or advisability, as the case may be.

This Consent may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument. Facsimiles of signatures shall be deemed to be originals.

[signature page follows]

Executed and acknowledged by the undersigned as of the 20th day of May, 2010.

MANAGING MEMBER:

MADISON ASBURY INVESTMENT INC.

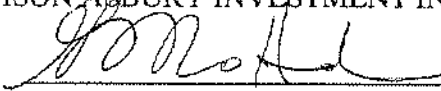
By: 
Gary Mottola, Executive Vice
President

Exhibit D

Asbury Partners Resolution authorizing execution of Subsequent Developer Agreement

**UNANIMOUS WRITTEN CONSENT OF THE
SOLE MEMBER
OF
ASBURY PARTNERS, LLC**

The undersigned being the sole member of Asbury Partners, LLC (the "Company"), pursuant to Section 42:2B-27 of the New Jersey Limited Liability Company Act, without the formality of convening a meeting, hereby consents to the adoption of the preambles and resolutions set forth below and authorizes the actions specified therein:

WHEREAS, Company is the master developer pursuant to the terms of the Amended and Restated Redeveloper and Land Disposition Agreement dated October 28, 2002 (the "Redeveloper Agreement") between Company and the City Council of the City of Asbury Park (the "City"); and

WHEREAS, Madison Asbury Retail, LLC ("MA Retail") has purchased certain development properties from Company with the consent of the City for the purpose of redevelopment; and

WHEREAS, MA Retail desires to be designated as a "subsequent developer" pursuant to the terms of the Redeveloper Agreement and, in connection therewith, to execute the Subsequent Developer Agreement in the form attached hereto as **Exhibit A** (the "SDA"); and

WHEREAS, Company is willing to consent to such appointment and to execute the attached SDA in its capacity as master developer, and specifically not in its capacity as a member of MA Retail,

NOW, THEREFORE, BE IT RESOLVED, that the sole member of the Company hereby authorizes the Company to (i) consent to the designation of MA Retail as a subsequent developer, and (ii) execute and deliver the attached SDA and all other documents, instruments and agreements necessary or appropriate in connection therewith and the transactions contemplated thereby, in its capacity as master developer, such documents, instruments and agreements to be in such form and to contain such terms as the officer of the Company executing same shall deem necessary, in such officer's sole discretion, as conclusively evidenced by such officer's execution thereof, and such execution and delivery is hereby ratified and approved in all respects; and be it further

RESOLVED, that all other acts and deeds of such officer of the Company for or on behalf of the Company, whether heretofore or hereafter taken, done or performed consistent with or in furtherance of the above resolution, are hereby ratified, approved, confirmed and authorized.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the undersigned have executed this Written Consent as of this ___ day of _____, 2010.

By: JERSEY STAR LLC


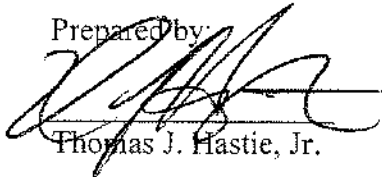
By: 
Name: Samantha K. Garbus
Title: Senior Vice President

Exhibit E

Declaration of Restrictions

Record and Return to:
Thomas J. Hastie, Jr.
McMANIMON & SCOTLAND, LLC
1037 Raymond Boulevard, 4th Floor
Newark, New Jersey 07102

Prepared by:

Thomas J. Hastie, Jr.

DECLARATION OF COVENANTS AND RESTRICTIONS

Block 227, Lots 1.01 to 1.22, within the City of Asbury Park (collectively, the "Property")

(Record in Mortgage Book)

This Declaration of Covenants and Restrictions is made this 14th day of June, 2010, by and among the **CITY OF ASBURY PARK** (the "City"), a public body corporate and politic of the State of New Jersey, having its offices at 1 Municipal Plaza, Asbury Park, New Jersey 07712, in its capacity as redevelopment entity pursuant to *N.J.S.A. 40A:12A-4(c)*,

and

MADISON ASBURY RETAIL, LLC, a Delaware limited liability company, having its offices at 1100 Ocean Avenue, Asbury Park, New Jersey 07712 (together with permitted successors or assigns, "MA Retail"),

and

ASBURY PARTNERS, LLC, a New Jersey limited liability company, with its principal offices located at 1100 Ocean Avenue, Asbury Park, New Jersey 07712 ("Asbury Partners").

WITNESSETH:

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

WHEREAS, the City Council of the City (the "City Council") duly adopted a resolution determining that a portion of the City was an "area in need of redevelopment" in accordance with the procedures and criteria in *N.J.S.A. 40A:12A-14* of the Act; and

WHEREAS, on November 7, 1984, the City Council adopted by ordinance a redevelopment plan for a portion of the City identified as the Waterfront Redevelopment Area (as amended to date, and as may hereafter be amended, the "Waterfront Redevelopment Plan") in accordance with *N.J.S.A. 40A:12A-7* of the Act; and

WHEREAS, in furtherance of the Waterfront Redevelopment Plan, the City and Asbury Partners entered into the Amended and Restated Redeveloper and Land Disposition Agreement dated October 28, 2002 (as amended to date and as may hereafter be amended, the “**Redeveloper Agreement**”) pursuant to which Asbury Partners was appointed “Master Developer” for the Waterfront Redeveloper Area; and

WHEREAS, the Redeveloper Agreement provides, among other things, for the construction, renovation and/or reconstruction of certain improvements, landscaping, sidewalk and other off-site improvements in accordance with the requirements of the Waterfront Redevelopment Plan; and

WHEREAS, pursuant to the Redeveloper Agreement, in order to implement the development, financing, construction, operation and management of the improvements to be constructed, renovated and/or reconstructed in accordance with the requirements of the Waterfront Redevelopment Plan, the City Council, by duly adopted resolution, authorized the execution of a Subsequent Developer Agreement, among the City, MA Retail and Asbury Partners, dated June 1, 2010 (the “**Subsequent Developer Agreement**”), in accordance with *N.J.S.A. 40A:12A-8(f)* of the Act; and

WHEREAS, *N.J.S.A. 40A:12A-9(a)* of the Act requires that all agreements, leases, deeds and other instruments between a municipality and a redeveloper shall contain a covenant running with the land requiring, among other things, that “. . . the owner shall construct only the uses established in the current redevelopment plan . . .”; and

WHEREAS, the Subsequent Developer Agreement contains such a covenant by MA Retail (binding all successors and assigns) for as long as the Subsequent Developer Agreement remains in effect with respect to each particular Retail Project, as well as perpetual covenants applicable to all of the Retail Projects by MA Retail (binding all successors and assigns) to comply with the Act, the Redeveloper Agreement, and the Subsequent Developer Agreement (to the extent applicable), and the Waterfront Redevelopment Plan, to maintain in good condition any landscaping, not to unlawfully discriminate upon the basis of age, race, color, creed, religion, ancestry, national origin, sex or familial status in the sale, lease, rental, use or occupancy of the Property or any building or structures erected thereon, and to indemnify the City; and

WHEREAS, the Subsequent Developer Agreement also provides that MA Retail will not Transfer its interests in the Retail Properties or its interest in the Subsequent Developer Agreement, or any part thereof or any interest therein, except as expressly permitted in the Subsequent Developer Agreement, prior to the issuance of a Certificate of Completion for the applicable Retail Project, and further provides certain remedies to the City for violations of the covenants and defaults under the Subsequent Developer Agreement; and

WHEREAS, the Subsequent Developer Agreement requires that such covenants be memorialized in a Declaration of Restrictions and said declaration be recorded in the Office of the Monmouth County Clerk.

NOW THEREFORE, IT IS AGREED AS FOLLOWS:

Section 1. Defined terms not otherwise defined herein shall have the meaning assigned to such terms in the Subsequent Developer Agreement.

Section 2. The Property is encumbered by the Subsequent Developer Agreement; and any development on the Property must be undertaken in accordance with the terms and conditions of the Subsequent Developer Agreement until, in the case of each Retail Project, such time as a Certificate of Completion is issued for such Retail Project. Until such time, except as may be expressly permitted by the Subsequent Developer Agreement and except for any Retail Properties located within a Retail Project that has been issued a Certificate of Completion, MA Retail shall not Transfer all or any portion of any Retail Properties without the written consent of the City.

Section 3. Prior to and following the issuance of a Certificate of Completion for each Retail Project, MA Retail has covenanted as follows:

(A) MA Retail shall comply with the applicable provisions and public purposes of the Act and shall at all times construct and develop the Retail Projects, or cause the Retail Projects to be constructed and developed, pursuant to the conditions and requirements of the Waterfront Redevelopment Plan, including, but not limited to, those provisions restricting the permitted uses established therein.

(B) MA Retail shall abide by and adhere to the Waterfront Redevelopment Plan, the Redeveloper Agreement and the Subsequent Developer Agreement (it being agreed and understood that the issuance of a Certificate of Completion for a particular Retail Project shall constitute a conclusive determination of the termination of the Subsequent Developer Agreement as applicable to such Retail Project, except for those matters which by the terms of the Subsequent Developer Agreement are intended to, or by the operation of Applicable Laws are required to, survive such termination.

(C) MA Retail shall maintain in good condition any landscaping required to be planted on each Retail Property pursuant to the Final Site Plans for such Retail Property.

(D) MA Retail shall, in connection with the use and/or occupancy of the Retail Projects, not effect or execute any covenant, agreement, lease, conveyance or other instrument whereby the Property, or any building or structure erected or to be erected thereon is restricted on the basis of age, race, color, creed, religion, ancestry, national origin, sex, sexual orientation, or familial status; and MA Retail, 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, sex, sexual orientation, or familial status.

The covenants set forth in this Section 3 shall be perpetual, shall run with land constituting the Property and shall bind all successors in interest to MA Retail with respect to the Property.

Section 4. Under the Subsequent Developer Agreement, the City has reserved a right to purchase the Sunset Avenue Pavilion Property as provided in Section 4.06(e)(iv) of the Subsequent Developer Agreement.

{The balance of this page intentionally left blank; signatures appear on next page.}

IN WITNESS WHEREOF, the parties hereto have caused this **Declaration of Covenants and Restrictions** to be executed in their names by their duly authorized officials or managers, as the case may be, and their corporate seals to be hereunto affixed attested to by their duly authorized officers all as of the date first written above.

Attest:

CITY OF ASBURY PARK, NEW JERSEY


_____, City Clerk

By: _____
_____, Mayor

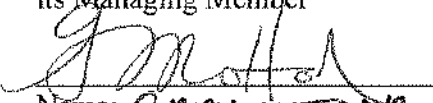
WITNESS:

MADISON ASBURY RETAIL, LLC

By: Madison MMREF Asbury Retail LLC,
its Managing Member



By: Madison Asbury Investment Inc.,
its Managing Member

By: 
Name: **GARY MOTTOCA**
Title: *Executive Vice President*

WITNESS:

ASBURY PARTNERS, LLC

By: Jersey Star LLC

By: _____
Name:
Title:

IN WITNESS WHEREOF, the parties hereto have caused this **Declaration of Covenants and Restrictions** to be executed in their names by their duly authorized officials or managers, as the case may be, and their corporate seals to be hereunto affixed attested to by their duly authorized officers all as of the date first written above.

Attest:

CITY OF ASBURY PARK, NEW JERSEY

_____, City Clerk

By: _____
_____, Mayor

WITNESS:

MADISON ASBURY RETAIL, LLC

By: Madison MMREF Asbury Retail LLC,
its Managing Member

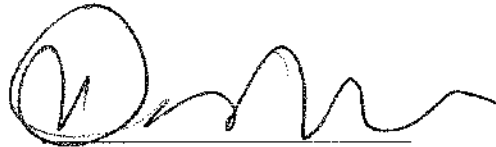
By: Madison Asbury Investment Inc.,
its Managing Member

By: _____
Name:
Title:

WITNESS:

ASBURY PARTNERS, LLC

By: Jersey Star LLC



Rodney Mehall

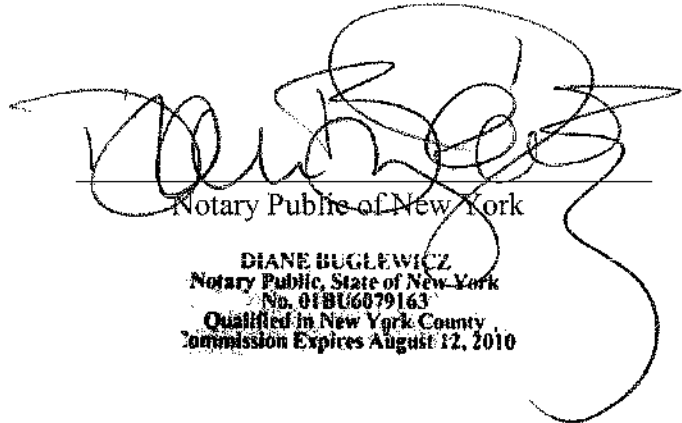
By: 

Name: Samantha Garbus
Title: Senior Vice President

ACKNOWLEDGMENT

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

BE IT REMEMBERED, that on this 26th day of May 2010 before me, the subscriber, a Notary Public of New York, personally appeared Samantha Garbus, who, being by me duly sworn on her (or his) oath, deposes and makes proof to my satisfaction that she (or he) is the Senior Vice President of **JERSEY STAR LLC**, the Managing Member of **ASBURY PARTNERS, LLC**, a company named in the within instrument; that the execution, as well as the making of this instrument, having been duly authorized by Asbury Partners, LLC, and said instrument was signed and delivered by said Member as and for the voluntary act and deed of Asbury Partners, LLC.



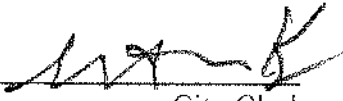
Notary Public of New York

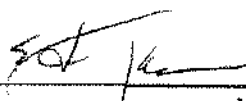
DIANE BUGLEWICZ
Notary Public, State of New York
No. 01BU6879163
Qualified in New York County
Commission Expires August 12, 2010

IN WITNESS WHEREOF, the parties hereto have caused this Declaration of Covenants and Restrictions to be executed in their names by their duly authorized officials or managers, as the case may be, and their corporate seals to be hereunto affixed attested to by their duly authorized officers all as of the date first written above.

Attest:

CITY OF ASBURY PARK, NEW JERSEY


_____, City Clerk

By: 
_____, Mayor

WITNESS:

MADISON ASBURY RETAIL, LLC

By: Madison MMREF Asbury Retail LLC,
its Managing Member

By: Madison Asbury Investment Inc.,
its Managing Member

By: _____
Name:
Title:

WITNESS:

ASBURY PARTNERS, LLC

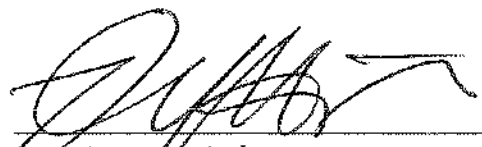
By: Jersey Star LLC

By: _____
Name:
Title:

ACKNOWLEDGMENT

STATE OF NEW JERSEY :
: SS.:
COUNTY OF MONMOUTH:

BE IT REMEMBERED, that on this 1st day of Jan, 2010 before me, the subscriber, a Notary Public of New Jersey, personally appeared Ed Johnson, who, being by me duly sworn on his oath, deposes and makes proof to my satisfaction that he is the Mayor of the **CITY OF ASBURY PARK, NEW JERSEY**, the entity named in the within Instrument; that the execution, as well as the making of this Instrument, have been duly authorized by the City of Asbury Park and said Instrument was signed and delivered by said Mayor as and for the voluntary act and deed of said entity.



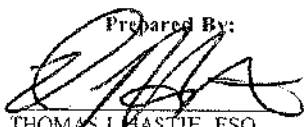
Attorney At Law
The State of New Jersey

Exhibit F

Easement Encroachment and Expansion Agreement

EXECUTION COPY

RECORD AND RETURN TO:
TANNENBAUM HELPERN SYRACUSE & HIRSCHTRITT LLP
900 THIRD AVENUE
NEW YORK, NEW YORK 10022
ATTENTION: ROGER M. ROISMAN, ESQ.

Prepared By:

THOMAS J. HASTIE, ESQ.

EASEMENT ENCROACHMENT AGREEMENT

(Boardwalk Walkway Easements)

THIS EASEMENT ENCROACHMENT AGREEMENT (this "**Agreement**") is made this 1 day of June, 2010, by and between **MADISON ASBURY RETAIL, LLC**, a Delaware limited liability company, having an address at 1100 Ocean Avenue, Asbury Park, New Jersey 07712 ("**Owner**"), and **THE CITY OF ASBURY PARK**, having an address at 1 Municipal Plaza, Asbury Park, New Jersey 07712 (the "**City**"; and, together with Owner, sometimes referred to herein collectively as "parties" and individually as a "party", as the context may require).

RECITALS:

A. Owner is the owner of that certain parcel of land, together with the improvements located thereon, known as Block 227, Lot 1.06 in the City of Asbury Park, County of Monmouth, State of New Jersey, as more particularly described in **Exhibit A** attached hereto and made a part hereof ("**Owner's 1st Avenue Parcel**").

B. Owner is the owner of that certain parcel of land, together with the improvements located thereon, known as Block 227, Lot 1.10 in the City of Asbury Park, County of Monmouth, State of New Jersey, as more particularly described in **Exhibit B** attached hereto and made a part

hereof ("Owner's 3rd Avenue Parcel" and together with Owner's 1st Avenue Parcel, the "Owner's Parcels").

C. The Owner's Parcels are part of the "Waterfront Redevelopment Area," as such term is defined in that certain Waterfront Redevelopment Plan adopted by the City on November 7, 1984 (as same has been and may hereafter be amended, the "Plan") and were transferred in accordance with the Amended and Restated Redeveloper and Land Disposition Agreement dated October 28, 2002, by and between the City and Asbury Partners, as approved by Ordinance Number 2002-2617 of the City, and as the same may be amended from time to time (the "Redeveloper Agreement").

D. By Deed dated January 15, 2004 (the "Deed") and recorded on February 27, 2004 in Book OR-8335, Page 5257 in the Monmouth County Clerk's Office, between the City and Asbury Partners, LLC ("Asbury Partners"), the City conveyed the Owner's Parcels to Asbury Partners.

E. The Owner's Parcels included structures known as the First Avenue Pavilion (as to Owner's 1st Avenue Parcel) and the 3rd Avenue Pavilion (as to Owner's 3rd Avenue Parcel).

F. The City, as the predecessor in title to Asbury Partners as the fee owner of Owner's Parcel required, among other things, that, as a condition to the City's agreement to convey fee title to the Owner's Parcel to Asbury Partners, the City and the public shall have, in perpetuity, the right to travel on existing walkways to the north and south of each pavilion structure on concrete walkways which existed at the time of conveyance between the public access easements bordering Ocean Avenue to the west of each pavilion structure and the City's Boardwalk to the east of each pavilion structure (the "Original Easement Sites").

G. Pursuant to the Deed, and in accordance with the terms and conditions of the Redeveloper Agreement, (i) the City reserved for itself and the public, and Asbury Partners granted to the City and the public, an easement in perpetuity providing for the right to traverse through the Original Easement Sites as further set forth on the “Final Plat Asbury Park Redevelopment Project” Major Subdivision filed in the Monmouth County Clerk’s Office on December 22, 2003 in Case 292 at Sheet 21 (4 of 5).

H. By Deed dated June 11, 2007 and recorded on June 26, 2007 in Book OR-8660, Page 6466 in the Monmouth County Clerk’s Office, between Asbury Partners and Owner, Asbury Partners conveyed Owner’s Parcel to Owner, subject to the easements, restrictions and conditions set forth in the Deed.

I. The Owner has commenced reconstruction and rehabilitation of the First Avenue Pavilion Property and the 3rd Avenue Pavilion Property and such activities have caused encroachments into the Original Easement Sites.

J. The City has consented to the encroachments into the Original Easement Sites as an inducement to the renovation of the 1st Avenue Pavilion and the 3rd Avenue Pavilion as set forth in a certain agreement, dated as of June 1, 2010, by and among the City, the Owner and Asbury Partners and entitled “Subsequent Developer Agreement (the “Boardwalk SDA”).

K. This Agreement is being entered into to, and is intended to, inter alia, amend and modify the terms, covenants and conditions of the Deed relating to the Original Easement Sites to allow for the limited encroachments related to the Owner’s reconstruction and rehabilitation activities.

NOW, THEREFORE, in consideration of the foregoing Recitals, the mutual covenants hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of

which are hereby acknowledged, the parties hereto hereby covenant and agree to and with each other as follows:

ARTICLE I

GRANT OF EASEMENT ENCROACHMENT

1.01 **Terms and Conditions of Easement Encroachments** Owner and the City hereby acknowledge and agree that the terms, covenants and conditions of the Deed relating to the Original Easement Sites are hereby amended and modified as follows:

(a) The 1st Avenue Property Encroachment: The City hereby grants, gives and conveys to the Owner, for the benefit of the Owner and its permitted successors and assigns, an easement of approximately 234 square feet on which the Owner has caused the construction of an exterior stairwell on the northwest corner of the structure located on the 1st Avenue Property. The location and dimensions of the permitted encroachment are set forth graphically as Exhibit A hereto.

(b) The 3rd Avenue Property Encroachment: The City hereby grants, gives and conveys to the Owner, for the benefit of the Owner and its permitted successors and assigns, an easement of approximately 160 square feet on which the Owner has caused the construction of a ADA complaint ramp on the southwest corner of the structure located on the 3rd Avenue Property. The location and dimensions of the permitted encroachment are set forth graphically as Exhibit B hereto.

(c) Future permitted encroachment on the 5th Avenue Property: The City hereby consents to a design of the Band Shell Project (as such term is defined in the Boardwalk SDA) that utilize a portion of the existing public access easement to the south of the 5th Avenue Pavilion Property to permit for the construction of required stairs and elevator (and related shaft

and enclosure) planned to be attached to the 5th Avenue Pavilion Property to the extent necessary to provide public access to the Band Shell at no additional cost to Owner and its permitted successor and assigns and will approve and execute such documents as are reasonably required to document such consent and convey the necessary rights to encroach the existing easements once the redesign of the Band Shell has been completed and approved as required by the Boardwalk SDA and the Plan; provided however, that the Owner agrees that in effecting such redesign of the Band Shell it shall utilize such techniques as required to minimize the permitted encroachment to the extent possible.

ARTICLE II

COVENANTS RUNNING WITH THE LAND

All of the covenants, agreements, conditions and restrictions set forth in this Agreement are intended to be, and shall be construed as, covenants running with the land, binding upon Owner and Owner's successors and assigns, and any mortgagee of Owner's Parcel; provided, however, that in the event and for so long as Owner or its successor or assign shall cease, for any or no reason, to operate the Convention Hall as a convention, exhibition and/or entertainment facility, the rights of the City under Article II shall lapse.

ARTICLE III

EACH PARTY IS AN INDEPENDENT CONTRACTOR

Nothing contained in this Agreement shall be construed to make the parties to this Agreement partners or joint venturers, or to render either party liable for the debts or obligations of the other, except as expressly provided in this Agreement.

ARTICLE IV

WAIVERS

No delay or omission by either party hereto in exercising any right or power accruing hereunder upon any default in the performance or observance by the other party under the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either party of any of the covenants, conditions or agreements hereof to be performed or observed by the other party shall not be construed to be a waiver of any subsequent breach thereof or of any other covenants, conditions or agreements herein contained.

ARTICLE V

APPLICABLE LAW; INVALIDITY

This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey. If any provision of this Agreement or a portion thereof, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

ARTICLE VI

NOTICES

Every notice, demand or other document or instrument required or permitted to be given or served upon either of the parties hereunder shall be in writing and shall be deemed to have been duly given or delivered (or attempted to be delivered and refusal to accept or undeliverable due to change of address of which no notice was given) when sent by reputable overnight courier providing for receipted next business day delivery, and addressed as follows:

- (a) If to Owner:

c/o Madison Asbury Retail, LLC
1100 Ocean Avenue
Asbury Park, New Jersey 07712
Attention: Gary Mottola, President

and

c/o Madison Marquette
2001 Pennsylvania Avenue NW - 10th Floor
Washington, D.C. 20006
Attention: Chief Financial Officer

with a copy to:

Tannenbaum Helpem Syracuse & Hirschtritt LLP
900 Third Avenue
New York, New York 10022
Attention: Roger M. Roisman, Esq.

(b) If to the City:

City of Asbury Park
Asbury Park Municipal Building
One Municipal Plaza
Asbury Park, New Jersey 07712
Attention: City Manager

with a copy to:

McManimon & Scotland L.L.C.
One Riverfront Plaza, 4th Floor
Newark, New Jersey 07102
Attention: Glenn F. Scotland, Esq. and
Thomas J. Hastie, Jr., Esq.

ARTICLE VII

MISCELLANEOUS

7.01 No breach of this Agreement shall entitle either party hereto to cancel, rescind or otherwise terminate this Agreement, but such limitation shall not affect in any manner any other rights or remedies which such party may have hereunder by reason of any breach of this

Agreement. The rights and remedies given to either of the parties hereunder are cumulative and the exercise of any one of such right or remedies shall not operate to bar the exercise of any other rights or remedies available to such party under the provisions of this Agreement or at law or in equity.

7.02 Each party hereto shall, from time to time, upon not less than ten (10) days notice from the other party, execute and deliver to the requesting party a certificate stating (i) that this Agreement is unmodified and in full force and effect or, if modified, that this Agreement is in full force and effect, as modified and stating the modifications, (ii) whether or not, to the best of its knowledge, the other party hereto is in default in any respect, and if in default, specifying such default, and (iii) any other matters reasonably requested by such requesting party with respect to this Agreement.

7.03 Upon the complete execution, acknowledgement and delivery of this Agreement, an original counterpart of this Agreement shall be submitted by Owner for recording in the Office of the County Clerk, Monmouth County, New Jersey, at Owner's cost and expense. The parties hereto shall execute such other and further documents as are necessary to cause this Agreement to be so recorded.

7.04. Any alteration, change or modification hereto, in order to become effective, shall be made by written instrument or endorsed hereon and, in each such instance, executed by both of the parties hereto, or their respective successors or assigns.

7.05 Except as modified by this Agreement, the terms and provisions contained in the Deed are ratified and confirmed.

7.06. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which counterparts shall constitute one and the same instrument.

7.07 This Agreement sets forth the entire agreement between the parties with respect to the matters set forth herein. There have been no additional oral or written representations or agreements.

[signatures appear on the following page]

The parties hereto have executed this Agreement the day and year first written above.

OWNER:

MADISON ASBURY RETAIL, LLC

**By: Madison MMREF Asbury Retail LLC,
its managing member**

**By: Madison Asbury Investment Inc.,
its managing member**

By: _____

Name:

Title:

CITY:

THE CITY OF ASBURY PARK

By:  _____

Name: Ed Johnson

Title: Mayor

STATE OF _____ :SS:
COUNTY OF _____

BE IT REMEMBERED, that on _____, 2010, before me, the undersigned, a Notary Public in and for the State of _____, personally appeared _____, the _____ of Madison MMREF Asbury Retail LLC, which is the managing member of Madison Asbury Retail, LLC, and acknowledged to me that:

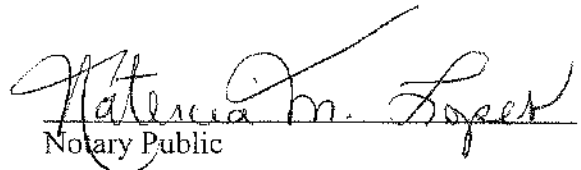
- (1) Such individual executed the within instrument on behalf of said company; and
- (2) The within instrument is the voluntary act and deed of said company.

Notary Public
[NOTARY SEAL]

STATE OF NEW JERSEY :SS:
COUNTY OF MONMOUTH

BE IT REMEMBERED, that on June 1, 2010, Ed Johnson personally came before me and this person acknowledged under oath, to my satisfaction, that:

- (1) this person is the Mayor of The City of Asbury Park, a Municipal corporation;
- (2) this person knows the proper seal of the corporation which was affixed to this Agreement; and
- (3) this person signed this proof to attest to the truth of these facts.



Notary Public

[NOTARY SEAL]
NATERCIA M. LOPES
A Notary Public of New Jersey
My Commission Expires June 25, 2014

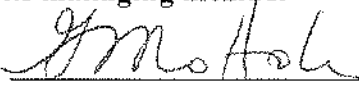
The parties hereto have executed this Agreement the day and year first written above.

OWNER:

MADISON ASBURY RETAIL, LLC

By: Madison MMREF Asbury Retail LLC,
its managing member

By: Madison Ashbury Investment Inc.,
its managing member

By: 
Name: GARY MOTTOLA
Title: Executive Vice President

CITY:

THE CITY OF ASBURY PARK

By: _____
Name: Ed Johnson
Title: Mayor

STATE OF New Jersey
COUNTY OF Monmouth :SS:

BE IT REMEMBERED, that on May 20, 2010, before me, the undersigned, a Notary Public in and for the State of New Jersey, personally appeared Gary Mottola, the Executive Vice President of Madison MMREF Asbury Retail LLC, which is the managing member of Madison Asbury Retail, LLC, and acknowledged to me that:

- (1) Such individual executed the within instrument on behalf of said company; and
- (2) The within instrument is the voluntary act and deed of said company.

Carla A. Ayala
Notary Public
CAROLA AYALE
[NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 02/08/11]

STATE OF NEW JERSEY
COUNTY OF MONMOUTH :SS:

BE IT REMEMBERED, that on _____, 2010, Ed Johnson personally came before me and this person acknowledged under oath, to my satisfaction, that:

- (1) this person is the Mayor of The City of Asbury Park, a Municipal corporation;
- (2) this person knows the proper seal of the corporation which was affixed to this Agreement; and
- (3) this person signed this proof to attest to the truth of these facts.

Notary Public

[NOTARY SEAL]

TABLE OF EXHIBITS

- EXHIBIT A: DESCRIPTION OF 1st AVENUE PROPERTY
- EXHIBIT B: DESCRIPTION OF 3rd AVENUE PROPERTY
- EXHIBIT C: GRAPHIC OF PERMITTED ENCROACHMENT FOR
1st AVENUE PROPERTY
- EXHIBIT D: GRAPHIC OF PERMITTED ENCROACHMENT FOR
3rd AVENUE PROPERTY

EXHIBIT A

DESCRIPTION OF OWNER'S 1ST AVENUE PARCEL

LEGAL DESCRIPTION FOR BLOCK 227, LOT 1.06

Being all of Proposed Lot 1.06 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey," prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

EXHIBIT B

DESCRIPTION OF OWNER'S 3rd AVENUE PARCEL

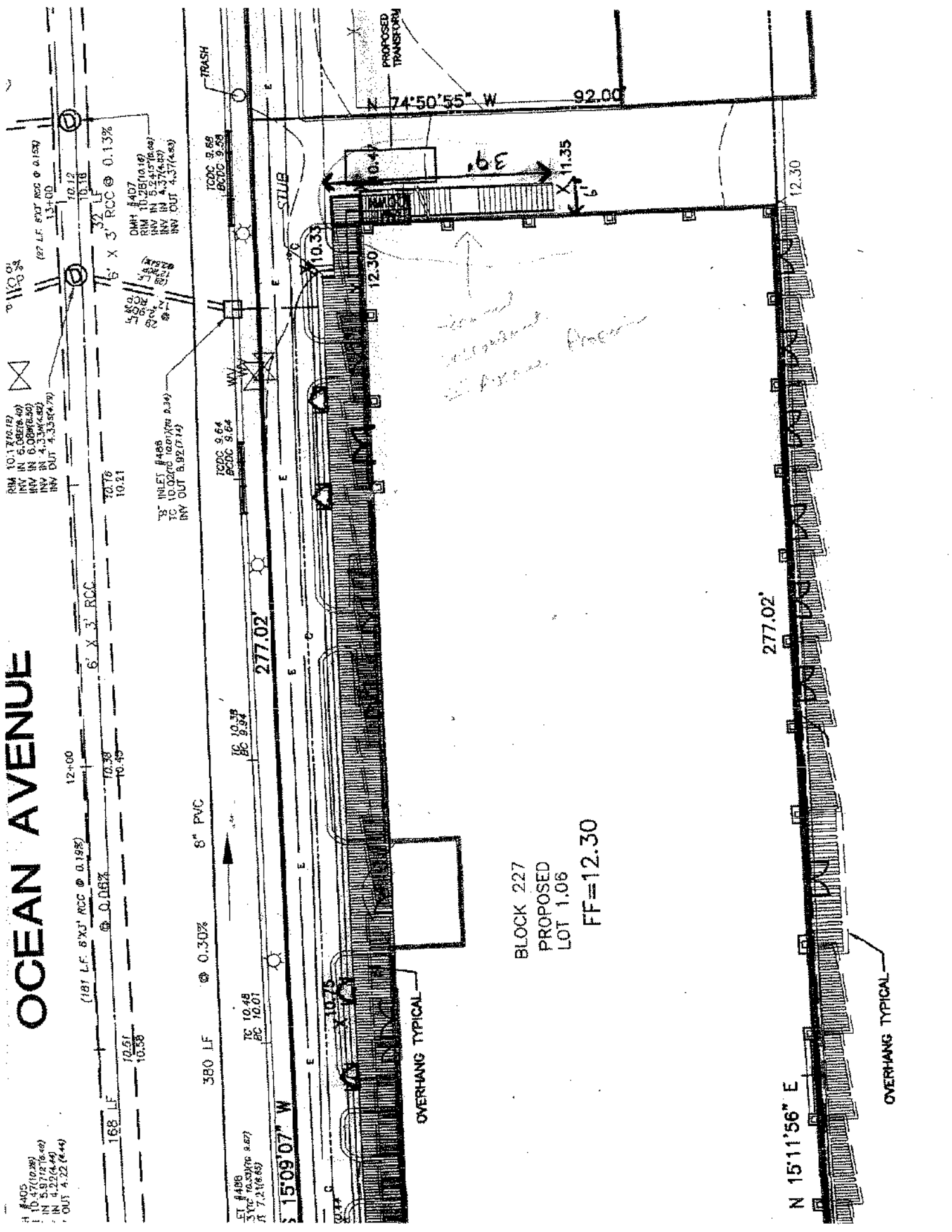
LEGAL DESCRIPTION FOR BLOCK 227, LOT 1.10

Being all of Proposed Lot 1.10 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey," prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

EXHIBIT C

GRAPHIC OF PERMITTED ENCROACHMENT
FOR 1st AVENUE PROPERTY

OCEAN AVENUE



4405
 I 10.47(10.88)
 IN 5.87(2.66)
 IN 4.22(4.44)
 OUT 4.22(4.44)

RIM 10.17(10.12)
 IN 5.08(5.40)
 IN 6.08(6.30)
 IN 4.33(4.62)
 IN 4.35(4.78)

(181 LF 8'X3' RCC @ 0.19%)
 @ 0.06%

6' X 3' RCC

(87 LF 8'X3' RCC @ 0.15%)
 1.3+00

168 LF

10.51
10.58

12+00

10.76
10.21

10.12
10.18

78" INLET #488
 TO 10.02(10.01)(7.0 0.34)
 IN 10.02(10.01)
 IN 9.92(10.14)

DMH #487
 RIM 10.25(10.18)
 IN 9.31(9.63)
 IN 9.37(9.83)
 IN 9.37(9.83)

380 LF @ 0.30% 8" PVC

TOCC 9.68
 BCOC 9.58

TC 10.48
 BC 12.01

TC 10.38
 BC 9.34

TOCC 9.64
 BCOC 9.64

TOCC 9.68
 BCOC 9.58

15'09'07" W

277.02'

10.33

10.75

12.30

10.40

10.75

12.30

10.40

10.75

12.30

10.40

10.75

12.30

10.40

10.75

12.30

10.40

10.75

12.30

10.40

10.75

12.30

10.40

10.75

12.30

10.40

10.75

12.30

10.40

10.75

12.30

10.40

10.75

12.30

10.40

10.75

12.30

10.40

10.75

12.30

10.40

10.75

12.30

10.40

10.75

12.30

10.40

10.75

12.30

10.40

10.75

12.30

10.40

10.75

12.30

10.40

10.75

12.30

10.40

10.75

12.30

10.40

10.75

12.30

10.40

10.75

12.30

10.40

10.75

12.30

10.40

BLOCK 227
 PROPOSED
 LOT 1.06
 FF=12.30

OVERHANG TYPICAL

OVERHANG TYPICAL

Handwritten note:
 - 10' and
 - 11.35' Area. Proceed

PROPOSED TRANSFORM

N 74°50'55" W 92.00'

N 15°11'56" E

277.02'

12.30

TRASH

STUB

STUB

STUB

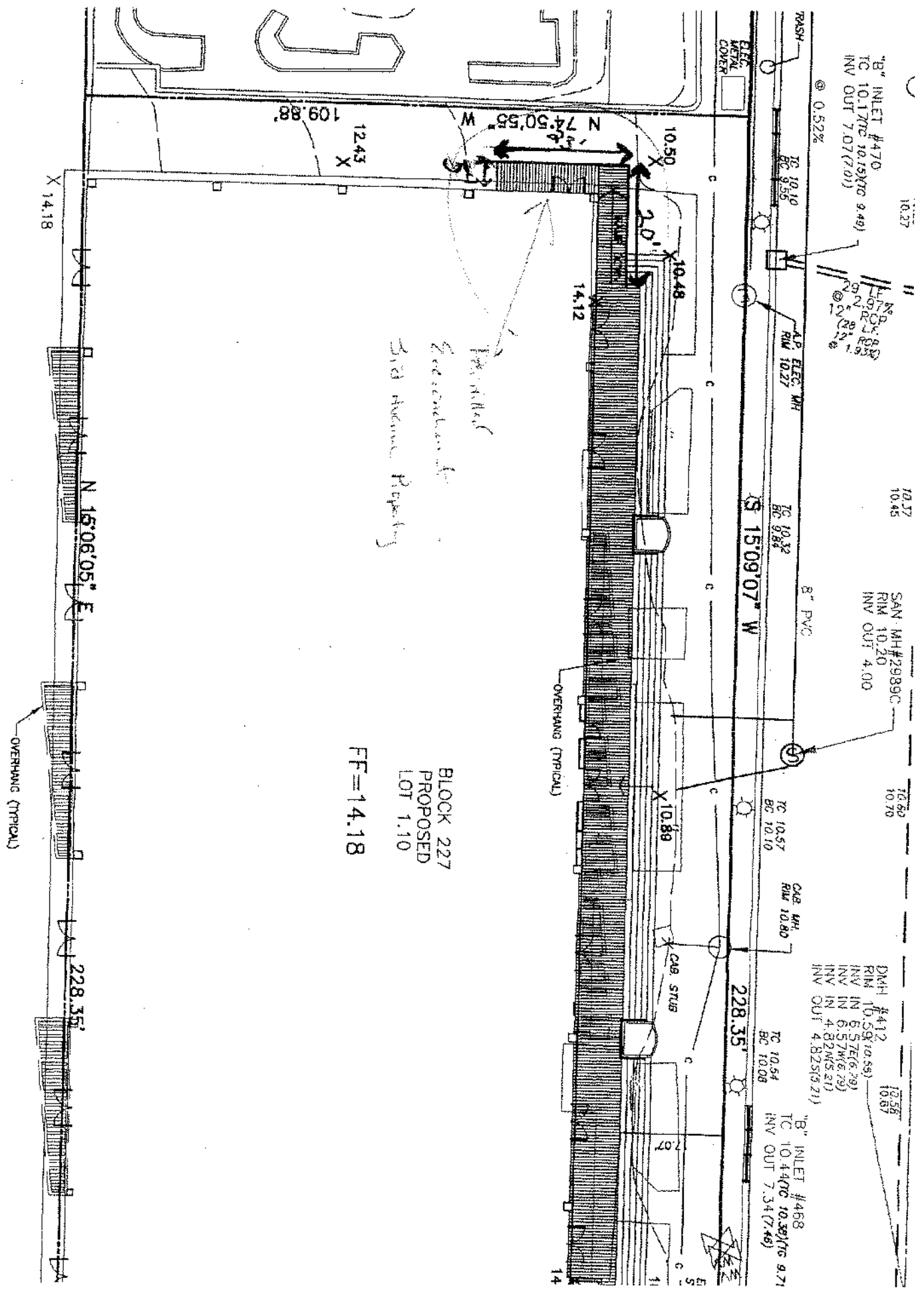
STUB

STUB

STUB

EXHIBIT D

GRAPHIC OF PERMITTED ENCROACHMENT
FOR 3rd AVENUE PROPERTY



Permitted
 See conditions
 and
 Sid Avenue Reporting

BLOCK 227
 PROPOSED
 LOT 1.10
 FF=14.18

Exhibit G

Net AP Lease

SEVERANCE LEASE

between

CITY OF ASBURY PARK

and

ASBURY PARTNERS, LLC

Dated as of June 1, 2010

DEMISED PREMISES:

BLOCK 227, LOT 1.24

BLOCK 227, LOT 1.26

SEVERANCE LEASE

THIS SEVERANCE LEASE (this "Lease") dated this 1st day of June, 2010, is entered into by and between the **CITY OF ASBURY PARK**, a municipal corporation of the State of New Jersey having an address at the Asbury Park Municipal Building, One Municipal Plaza, Asbury Park, New Jersey 07712 (herein called "Landlord"), and **ASBURY PARTNERS, LLC**, a New Jersey limited liability company having an address at 1100 Ocean Avenue, Asbury Park, New Jersey 07712 (herein called "Tenant").

RECITALS:

A. Landlord and Tenant are parties to a certain Amended and Restated Redeveloper and Land Disposition Agreement, dated as of October 28, 2002 (herein called the "Redeveloper Agreement"), pursuant to which Landlord has appointed and designated Tenant as the "Master Developer" for the planned redevelopment of the Redevelopment Area (as defined in the Redeveloper Agreement) pursuant to the Redevelopment Plan (as defined in the Redeveloper Agreement).

B. Landlord and Tenant, in its capacity as such "Master Developer," are also parties to that certain Sale and Purchase Agreement (Pavilion Properties and Additional Properties), executed and delivered in conjunction with the Redeveloper Agreement, dated as of October 28, 2002 (herein referred to as the "Sale Agreement").

C. Pursuant to the provisions of the Sale Agreement and the Redeveloper Agreement, (i) Landlord conveyed certain premises (the "Conveyed Premises") to Tenant by Deed dated as of October 28, 2002, and recorded in the Monmouth County Clerk's Office (the "Clerk's Office") on November 2, 2002 in Deed Book 8159 page 7512, and thereafter corrected by a Corrective Deed dated July 13, 2006, and recorded in the Clerk's Office on July 28, 2006 in Deed Book 8581 page 6596, and (ii) Landlord and Tenant entered into that certain 99-Year Net Lease dated as of October 28, 2002 (the "99-Year Lease"), pursuant to which Landlord leased certain property, including the Demised Premises (as hereinafter defined), to Tenant.

D. Thereafter, Tenant, in its capacity as such "Master Developer" and in connection with the formation of the joint venture that created Madison Asbury Retail, LLC, a Delaware limited liability company ("Madison"), and with the consent of Landlord, (i) conveyed the Conveyed Premises to Madison by Deed dated as of June 11, 2007, and recorded in the Clerk's Office on June 26, 2007 in Deed Book 8660 page 6431, and (ii) entered into that certain Sublease with Madison, dated as of June 11, 2007 (the "Sublease"), pursuant to which Tenant subleased to Madison Lots 1.05, 1.07, 1.09, 1.11, 1.15, 1.17, 1.19 and 1.21 in Block 227 (the "Sublease Premises"), located in the City of Asbury Park, Monmouth County, New Jersey, as more particularly described in the Sublease, and which Sublease provides, among other things, that the term thereof will terminate in the event Madison enters into a direct lease of the Sublease Premises with Landlord.

E. Immediately prior to the execution and delivery of this Lease, (i) Madison is conveying the Conveyed Premises to Landlord, (ii) Landlord and Tenant are terminating the 99-

Year Lease, (iii) the Sublease is being terminated by virtue of Madison's entering into the Madison Lease (as hereinafter defined) and Landlord and Tenant entering into this Lease, and (iv) Landlord and Madison are entering into a separate Severance Lease (the "Madison Lease") of even date herewith relating to those properties previously demised under the 99-Year Lease which are not demised under this Lease.

F. Landlord and Tenant desire to enter into this Lease of the Demised Premises (as hereinafter defined) to, among other things, replace the 99-Year Lease with respect to the portion of the premises demised under the 99-Year Lease which is included in the Demised Premises under this Lease.

NOW, THEREFORE, Landlord hereby demises to Tenant, and Tenant hereby hires from Landlord, the Demised Premises, for the Term, at the Rent and otherwise upon, subject to and in accordance with the following terms and conditions:

1. Demised Premises

The premises demised by this Lease shall be and consist of all of the two (2) land parcels described on Schedule A hereto, together with any and all improvements located thereon from time to time (the "Demised Premises"). Each such land parcel, together with the improvements thereon, is sometimes herein separately referred to as a "Parcel". Tenant hereby accepts the Demised Premises in their "AS IS" condition as of the date hereof, and acknowledges that it has been in possession of the Demised Premises since the date of the 99-Year Lease.

2. Term and Renewal Term

2.1 Term. The initial term of this Lease (the "Initial Term") shall commence on the date hereof (the "Commencement Date") and end on the date which is twenty-four (24) years and six (6) months from the Commencement Date. The Initial Term, the Renewal Terms (as hereinafter defined) and the Final Renewal Term (as hereinafter defined) are hereinafter referred to collectively as the "Term."

2.2 Renewal. Tenant shall have two (2) options to renew the Term of this Lease for additional periods each of twenty-four (24) years and six (6) months (each, a "Renewal Term" and collectively, the "Renewal Terms"), followed by one (1) option to renew for an additional period of approximately seventeen (17) years and eleven (11) months (the "Final Renewal Term"), such that the Final Renewal Term shall expire no later than October 27, 2101.

2.3 Exercise of Renewal Options. Not less than two (2) months prior to the expiration of the Initial Term or any Renewal Terms of this Lease (each, an "Expiration Date"), Landlord shall deliver notice to Tenant of the scheduled Expiration Date (the "Expiration Notice"). Provided no Event of Default (as hereinafter defined) is then continuing beyond any applicable notice and cure periods under the Lease, Tenant may then exercise Tenant's next applicable renewal option by providing Landlord with written notice of Tenant's election to renew (the "Renewal Notice") within one (1) month after Tenant's receipt of the applicable Expiration Notice. If Tenant fails to deliver the applicable Renewal Notice to Landlord within such one (1) month period, then Landlord shall give notice (the "Reminder Notice") to Tenant of Tenant's obligation to deliver

such Renewal Notice to Landlord; it being agreed that Tenant's right to renew shall not be contingent upon, or waived on account of, Landlord's failure to deliver an Expiration Notice and/or Reminder Notice. In the event that Landlord fails to deliver an Expiration Notice, then Tenant may remain in the Demised Premises on a month-to-month basis on the terms set forth herein, until such time that Landlord delivers an Expiration Notice and/or Tenant delivers a Renewal Notice in accordance with this subsection 2.3.

3. Matters To Which Lease is Subject

3.1. Permitted Exceptions. This Lease, and the estate created hereby, are subject to the following (such exceptions being herein called the "Permitted Exceptions").

(a) The Redeveloper Agreement and the Redevelopment Plan, for so long as the same shall relate to the Demised Premises.

(b) The Green Acres Development Grant Contract recorded in Deed Book 5028, Page 938.

3.2. Covenant against Further Encumbrances. Landlord covenants that, throughout the Term, it shall not permit or suffer any new encumbrances upon its fee estate in the Demised Premises to be created by, through or under it.

4. Rent

The rent payable by Tenant under this Lease (the "Rent") shall be, and consist of, an aggregate sum of TEN and 00/100 (\$10.00) DOLLARS for the entire Term. The Rent has been prepaid in full on the date hereof.

5. Permitted Use

The Demised Premises may be used for any lawful purpose, subject to (a) requirements under the Permitted Exceptions, and (b) other terms and provisions hereof. By way of example and not by way of limitation, Tenant shall have the right to use the Demised Premises for commercial, recreational and entertainment purposes, such as (i) miniature golf, volleyball and other games, (ii) amusement rides, (iii) indoor and outdoor restaurants and cafes, (iv) preparation and sale of food and beverages (including alcoholic beverages), (v) sale of goods and merchandise, (vi) flea markets, open-air stands and kiosks, (vii) concerts, performances and other events, and (viii) for any other use in which the Demised Premises has historically been used.

6. Net Lease

This Lease is a *net lease*, and, subject only to the requirements of the Permitted Exceptions and the other terms and provisions hereof, (a) this Lease is intended to transfer sole possession and operational control of the Demised Premises to Tenant for the Term, and (b) Tenant, throughout the Term, shall develop, operate, manage and maintain the Demised Premises at its expense; and, without limiting the generality thereof, shall be solely responsible to arrange, obtain, and pay for, all services and utilities necessary or desired in connection with the development, operation, management and maintenance of the Demised Premises. Landlord shall

have no obligation (as landlord hereunder) to furnish any services or utilities to the Demised Premises.

7. **Quiet Enjoyment**

Tenant, throughout the Term, shall peaceably and quietly have, hold and enjoy the Demised Premises without hindrance, ejection or molestation by Landlord or any person lawfully claiming through or under Landlord, subject, nevertheless to the Permitted Exceptions and the terms and provisions of this Lease.

8. **Proper Use and Care**

8.1. Prohibited Uses. Tenant shall not use or occupy the Demised Premises (or any part thereof), nor permit or suffer the same to be used or occupied, (i) for any unlawful or illegal business, use or purpose, or (ii) in a manner which may, in law, constitute a nuisance, public or private.

8.2. Repairs and Maintenance. Tenant shall be responsible to make all needed repairs, and perform all needed maintenance, to the Demised Premises.

9. **Transfers of Interests in Demised Premises; Leasehold Mortgages**

9.1 Transfers of Interest. Subject only to the Permitted Exceptions, Tenant may (without any requirement to obtain Landlord's consent or approval), from time to time, and at any time, (i) assign this Lease, or (ii) sublease the whole or any part of the Demised Premises. In the event of an assignment of this Lease, the assignor Tenant shall be released from all of the obligations of Tenant under this Lease accruing after the effective date of such assignment, and such transfer; and the assignee Tenant shall be deemed to have assumed all of the obligations of Tenant under this Lease accruing after the effective date of such assignment.

9.2 Non-disturbance of Subtenant. In the event that the Demised Premises shall be subleased to any subtenant pursuant to subsection 9.1 above, (i) the terms of this Lease shall be incorporated by reference into any such sublease, and (ii) Landlord agrees that, so long as such subtenant shall not then be in default under its sublease beyond any applicable grace period:

(a) neither such subtenant nor any person properly claiming through or under such subtenant shall be named or joined as a party defendant in any action, suit or proceeding which may be instituted or taken by Landlord for the purpose of terminating this Lease by reason of a Tenant Event of Default hereunder; and

(b) neither such subtenant nor any person properly claiming through or under such subtenant shall be evicted from the subleased premises, nor shall the leasehold estate or possession of such subtenant or any person properly claiming through or under such subtenant be terminated or disturbed.

(c) If at any time Landlord shall terminate this Lease and such subtenant shall not then be in default under the sublease beyond any applicable grace period, then Landlord agrees to accept such subtenant as Landlord's direct tenant pursuant to and on the terms and conditions of its sublease, from and after the date of such termination; such subtenant shall attorn to and recognize

Landlord as such subtenant's landlord under the sublease; Landlord shall accept such attornment and recognize such subtenant as Landlord's tenant under the sublease; and such subtenant and Landlord shall promptly execute and deliver any reasonable instrument that either may request to evidence such attornment and recognition.

9.3 Leasehold Mortgages. Tenant shall have the absolute right, at any time and from time to time, to enter into and grant any Leasehold Mortgages (as such term is hereinafter defined), on such terms, conditions and maturity as Tenant shall determine so long as no Leasehold Mortgagee (as such term is hereinafter defined) requires Landlord to execute or join in such Leasehold Mortgage or otherwise subordinate its interest in the Demised Premises to the lien of such Leasehold Mortgage. In addition, Tenant shall have the absolute right, at any time and from time to time, to grant to any Leasehold Mortgagee a security interest in the personal property owned by Tenant and located at the Demised Premises and/or a collateral assignment of subleases by Tenant of all or any portion of the Demised Premises and the rents, issues and profits therefrom, if any, and Landlord hereby agrees that any interest that Landlord may have in such personal property or subleases, as the case may be, whether granted pursuant to this Lease or by statute, shall be subordinate to the interest of any such Leasehold Mortgagee. Landlord agrees to execute and deliver, on demand, in recordable form, any instruments which may reasonably be requested by Tenant or any Leasehold Mortgagee to accomplish the aforesaid subordination of Landlord's rights in such personal property and subleases. Tenant shall reimburse Landlord for any and all reasonable costs and expenses (including attorney's fees) incurred by Landlord in connection with any documents or instruments executed by Landlord in connection with any Leasehold Mortgage. Any and all Leasehold Mortgagees shall have the rights and powers set forth in Section 10 of this Lease. As used in this Lease, (i) the term "Leasehold Mortgage" shall mean each and every recorded mortgage, deed of trust, deed to secure debt, collateral assignment of lease or other similar instrument creating a lien or other encumbrance on any portion of Tenant's Leasehold Estate (regardless of the priority thereof) and any modification of any of the terms thereof, including, without limitation, any extension, renewal or refinancing of any indebtedness secured thereby or any additional advance secured by any Leasehold Mortgage or any additional Leasehold Mortgage given to secure the same and (ii) the term "Leasehold Mortgagee" shall mean any person which makes or holds any Leasehold Mortgage, it being understood that Tenant may at any time and from time to time, concurrently or otherwise grant one or more Leasehold Mortgages and each such holder shall be deemed to be a "Leasehold Mortgagee".

10. Rights of Leasehold Mortgagee

10.1 So long as any Leasehold Mortgage shall remain unsatisfied of record, the following provisions shall apply, notwithstanding anything to the contrary contained in this Lease, and any pertinent provisions of this Lease shall be deemed to be amended and modified to the extent necessary so as to provide as follows:

(a) No Modification. There shall be no cancellation (unless this Lease is terminated by Landlord in accordance with the terms of subsection 10.1(d) below), surrender, acceptance of surrender or modification of this Lease without the prior written consent of each Leasehold Mortgagee.

(b) Notice. Landlord shall, at the time the same is served upon Tenant, give to each Leasehold Mortgagee a copy of each notice or demand which it gives to Tenant pursuant to this Lease or in connection with this Lease or the Demised Premises, including all notices of default by Tenant (which shall specify the default and the steps required to effect a cure by Tenant), and the same shall not be effective for any purpose unless and until a copy thereof has been so delivered.

(c) Cure and Exercise of Tenant's Rights. Each Leasehold Mortgagee shall have the right, but not the obligation, to perform any covenant or agreement under this Lease to be performed by Tenant (including the exercise of options), and Landlord shall accept such performance by any Leasehold Mortgagee as if performed by Tenant. Tenant constitutes and appoints each Leasehold Mortgagee Tenant's attorney-in-fact with full power, in Tenant's name, place and stead, at Tenant's cost and expense, to enter upon the Demised Premises to perform any of Tenant's obligations under this Lease. Each Leasehold Mortgagee shall have the right (but not the obligation) to cure Tenant's defaults at any time within sixty (60) days (which shall be reduced to thirty (30) days with respect any default by Tenant which is of such a nature that it would jeopardize Landlord's interest in the Demised Premises) (such period being referred to herein as the "Mortgagee's Grace Period") following the expiration of any applicable grace period(s), subject to extension of Mortgagee's Grace Period as provided in subsection (d) below. If Tenant shall fail, within the time period permitted in this Lease, to exercise any option contained in this Lease, then Landlord shall give written notice to each Leasehold Mortgagee of such failure and the time for exercising such option shall, upon the giving of such notice by Landlord, be extended for a period of thirty (30) days. Any Leasehold Mortgagee or Tenant, before the expiration of such extended period, may exercise any and all options provided in this Lease.

(d) Termination of Lease. If Landlord shall intend, by reason of the occurrence and continuance of an Event of Default beyond all applicable notice and cure periods under the Lease, to terminate this Lease prior to the stated expiration of the Term, Landlord shall notify every Leasehold Mortgagee of such intention (and the reasons therefor and the necessary steps to effect a cure thereof) at least thirty (30) business days in advance of the proposed effective date for such termination. Each Leasehold Mortgagee, in addition to any and all rights hereunder that it may have, shall have the right to postpone the date on which this Lease would so terminate for a period of not more than sixty (60) days, unless a longer period of time shall be needed to obtain possession from Tenant and cure such default, in which event the date of termination shall be postponed for such longer period, provided such Leasehold Mortgagee, prior to the expiration of such sixty (60) days following receipt of Landlord's notice of intention to terminate, shall have (i) given to Landlord written notice of its intention to cure all defaults susceptible of cure by such Leasehold Mortgagee, (ii) cured all defaults, if any, then existing which may be cured by the payment of a sum of money (excepting obligations of Tenant to discharge liens, charges or encumbrances against Tenant's leasehold estate in the Demised Premises ("Leasehold Estate")), and (iii) initiated, and be diligently pursuing, steps to acquire the Leasehold Estate by foreclosure of its Leasehold Mortgage or otherwise. If (i) a Leasehold Mortgagee or other person shall obtain possession of the Demised Premises or shall have acquired Tenant's Leasehold Estate by foreclosure or other enforcement proceeding under any Leasehold Mortgage or by obtaining an assignment of the Leasehold Estate in lieu of foreclosure or through settlement of or arising out of any pending or threatened foreclosure proceeding (any of the foregoing being referred to as an

"Enforcement Proceeding"), (ii) a lease assumption agreement shall be delivered to Landlord by such Leasehold Mortgagee in possession or its designee, of the covenants and conditions contained in this Lease on Tenant's part to be performed, and (iii) such Leasehold Mortgagee shall have complied with all obligations on Tenant's part to be performed under this Lease, including the curing of all defaults susceptible of being cured by such Leasehold Mortgagee, then (A) all defaults not susceptible of being cured by such Leasehold Mortgagee shall be deemed waived and all rights of Tenant under this Lease shall be deemed reinstated, and (B) notwithstanding any provision in this Lease to the contrary, such Leasehold Mortgagee or other person or any of their respective designees or nominees and their respective successors and assigns shall have the further right to assign, from time to time, the Leasehold Estate without Landlord's consent. No Leasehold Mortgagee shall be required to continue to proceed to obtain possession, continue in possession of the Leased Premises as Leasehold Mortgagee or to continue to prosecute foreclosure proceedings or other remedies, if and when such defaults which were the basis for the termination of this Lease shall be cured. If more than one Leasehold Mortgagee shall seek to exercise the rights provided for in this subsection, the Leasehold Mortgagee with the most senior lien priority shall be entitled, as against the others, to priority in the exercise of such rights.

(e) Replacement Lease. If this Lease shall be terminated prior to the stated expiration of the Term for any reason, including, without limitation, as a result of the occurrence and continuance of an Event of Default beyond all applicable notice and cure periods under the Lease, Landlord promptly will notify each Leasehold Mortgagee of such termination and Landlord shall, within sixty (60) days after request by the Leasehold Mortgagee having the most senior lien priority (or such other Leasehold Mortgagee, in order of lien priority, if the Leasehold Mortgagee having the most senior lien shall not have made such request), enter into a replacement lease for the Demised Premises with said Leasehold Mortgagee or its nominee or designee, which lease shall have the same priority as this Lease, be for the remainder of the Term, have the same terms and conditions contained in this Lease, and grant to or confirm in such Leasehold Mortgagee or its nominee or designee the same interest (as an owner or tenant) in the Demised Premises as previously held by Tenant under this Lease; provided, however, that the foregoing right to obtain a replacement lease is contingent upon a request therefor being made within sixty (60) days after receipt of Landlord's notice of termination, and such Leasehold Mortgagee, at the time of execution and delivery of said replacement lease, paying to Landlord any and all sums then due under this Lease. In no event, however, shall such Leasehold Mortgagee or its nominee or designee be required to cure a default under this Lease which is not susceptible of being cured by such Leasehold Mortgagee or its nominee or designee in order to obtain a replacement lease.

(f) Right of Leasehold Mortgagee to Take Possession. Any Leasehold Mortgagee or equitable owner of Tenant's Leasehold Estate shall have the right, in the event of any default under its Leasehold Mortgage or any of the other documents executed in connection with such Leasehold Mortgage and if allowed by law or its agreements with Tenant, to take possession of the Demised Premises subject to the terms and conditions of this Lease and manage the same and collect rents subject to paying the Rent required pursuant to the terms of this Lease.

(g) Liability of Leasehold Mortgagees. No Leasehold Mortgagee or other person succeeding to the Leasehold Estate through or subsequent to an Enforcement Proceeding shall be liable

under this Lease, unless and until such time as it becomes the owner of the Leasehold Estate, and then only for such obligations of Tenant which accrue during the period while it remains the owner of the Leasehold Estate.

(h) Casualty and Condemnation Proceeds. Notwithstanding any provision in this Lease to the contrary, in the event of any casualty to or condemnation of the Demised Premises or any portion thereof, and if allowed by law or its agreements with Tenant, the most senior Leasehold Mortgagee (or such other Leasehold Mortgagee, in order of lien priority, if the Leasehold Mortgagee having the most senior lien shall not request or shall not be permitted by law or its agreements with Tenant to do so) shall be permitted to receive insurance proceeds and/or condemnation awards otherwise payable to Tenant and shall be permitted (but shall not be obligated except as required by law or its agreements with Tenant or as provided in the next sentence) to restore the Demised Premises. In addition, if such Leasehold Mortgagee (by reason of its acquiring Tenant's Leasehold Estate) shall be obligated under this Lease to repair or restore the Demised Premises, such obligation shall be limited to the amount of such proceeds or awards actually received by such Leasehold Mortgagee.

(i) Modification for Leasehold Mortgagee. Landlord, upon the request of Tenant or any Leasehold Mortgagee, shall execute such reasonable modifications or amendments of this Lease as shall be required by such Leasehold Mortgagee or by any person to which Tenant has made application for a Leasehold Mortgage if such modifications or amendments do not, taken as a whole, materially affect Tenant's obligations or materially affect Landlord's rights under this Lease. Landlord shall not unreasonably refuse any such request for such modification or amendment.

(j) Delivery of Notices. Any notices to be sent to any Leasehold Mortgagee shall be sent to the addressees and at the addresses designated by such Leasehold Mortgagee from time to time, by any method permitted for notices under subsection 16.1 of this Lease.

11. Insurance

Tenant, at its expense, shall maintain, or cause to be maintained, the following insurance: (a) property insurance covering any improvements on the Demised Premises, with coverage that includes "all risk" perils, and with an agreed amount endorsement with the valuation determined on a replacement cost basis, and (b) commercial liability insurance, written on an occurrence basis, with a combined single limit (in any one occurrence) of not less than \$2,000,000 for bodily injury and property damage in any single occurrence, and a \$5,000,000.00 aggregate limit, (c) during all times that alcohol is served on the Demised Premises, liquor liability insurance, which shall be written with a limit of \$2,000,000.00 per occurrence, and (d) workmen's compensation insurance for all employees, consistent with all laws of the State of New Jersey (including the Workmen's Compensation and Occupational Disease Laws of the State of New Jersey). The foregoing dollar limits of insurance shall be re-evaluated every five (5) years during the Term, at which time Landlord may require the same be increased, but only to the extent that such increases are necessary to keep the levels of insurance under this Section consistent with the levels of similar insurance then generally being maintained by similarly situated operators of similar real property. Landlord shall be (i) named, as its interest appears (as net lessor), under the

insurance policy (or policies) described in clause (a) of this Section, and (ii) named *as an* additional insured under the insurance policy (or policies) described in clauses (b) and (c) of this Section. Each of the insurance policies required to be maintained pursuant to this Section shall be issued by companies licensed to do business in the State of New Jersey (and having a rating at least equal to the rating generally maintained by insurance companies issuing similar insurance policies to Landlord). Certificates of the insurance required under this Section shall be provided to Landlord on or prior to the Commencement Date. The policies shall provide (and the certificates shall so indicate), that the coverage may not be cancelled or any major change therein implemented, without at least thirty (30) days notice thereof having been given to Landlord. Tenant shall have the right to insure and maintain the insurance required above under blanket insurance policies covering other real property owned or operated by Tenant and/or its affiliates, provided that such policies afford the required coverage to the Demised Premises without diminution.

12. Indemnification

Tenant shall indemnify and hold harmless Landlord from and against any and all third-party claims and liabilities arising out of, or based upon, (a) either (i) any accident, injury or damage occurring, during the Term, in or upon the Demised Premises, or (ii) the performance by Tenant (or any of its employees, agents or contractors) of any alterations to the Demised Premises (except, in any of the cases described in clauses (i) or (ii), to the extent such claims or liabilities arise out of, or are based upon, any negligent or intentionally wrongful act or omission of Landlord or its employees, agents or contractors), or (b) any negligent or intentionally wrongful act or omission of Tenant or its employees, agents or contractors relating to the Demised Premises or the obligations of Tenant under this Lease; together with all costs and expenses incurred in or in connection with such claims and liabilities, or any action or proceeding brought thereon or in respect thereof, including reasonable attorneys' fees and expenses.

13. Casualty and Condemnation

13.1. Casualty. If, at any time during the Term, the Demised Premises (or any part thereof) shall be damaged or destroyed by a fire or other casualty, then (i) this Lease shall nevertheless continue in full force and effect, and (ii) Tenant shall be responsible to repair or restore the Demised Premises.

13.2. Condemnation. If, at any time during the Term, the Demised Premises (or any part thereof) shall be taken by any condemnation or eminent domain proceedings, then (i) this Lease shall terminate as to the portion of the Demised Premises so taken, (ii) this Lease shall nevertheless continue in full force and effect as to any remaining portions of the Demised Premises, and (iii) Tenant shall be entitled to the entire award or payment in connection with any such taking.

14. Event of Default; Remedies for an Event of Default

14.1. Generally. In the event that either party hereto shall default in its obligations hereunder, then the other party shall have all rights and remedies available to it at law, or in equity, on account of such default.

14.2. Event of Default. For purposes of this Lease, an "Event of Default" shall mean the failure by Tenant to perform or observe in any material respect any other covenant or condition contained in this Lease which failure shall continue for a period of sixty (60) days after written notice thereof by Landlord to Tenant; provided, however, that if Tenant's obligation is of such nature that more than sixty (60) days are required for its performance, then there shall not be deemed to be an Event of Default hereunder if Tenant shall commence such performance within said sixty (60) day period and diligently pursues such cure to completion.

14.3 Cure Right for Mortgagees. Notwithstanding the foregoing, if any act or omission of Tenant shall give rise to Landlord having the right (at law or in equity) to terminate this Lease, then Landlord agrees that it, nevertheless, shall not exercise such right unless and until Landlord shall have complied with the provisions of Article 10 of this Lease, including, without limitation, Sections 10.1(b) through (d) of this Lease.

15. Inability to Perform

Notwithstanding anything to the contrary contained herein, neither Landlord nor Tenant shall have any liability to the other party hereunder if (and to the extent that) it is unable to fulfill, or is delayed in fulfilling, any of its obligations under this Lease by reason of one or more Events of Force Majeure. The term "Event of Force Majeure" shall mean (i) any strike, lock-out or other labor trouble, governmental preemption of priorities, or other controls in connection with a national or other public emergency, or any shortage of materials, supplies or labor, or (ii) any failure or defect in the supply, quantity or character of electricity, water, oil, gas, steam or other utility furnished to Demised Premises by reason of any law or any requirement, act or omission of the public utility or other person(s) serving such Demised Premises therewith, or (iii) any accident, fire or other casualty, or other act of, or (iv) any other event, whether similar or dissimilar, beyond the reasonable control of the party in question.

16. Miscellaneous

16.1. Notices. Any notice, demand or other communication (each, a "notice") that is given or rendered pursuant to this Lease by either Landlord or Tenant to the other party, shall be (i) given or rendered, in writing, (ii) addressed to the other party at its required address(es) for notices delivered to it as set forth below, and (iii) delivered via nationally recognized courier service (e.g., Federal Express, Express Mail). Any such notice shall be deemed given or rendered, and effective for purposes of this Lease, as of the date actually delivered to the other party at such address(es) (whether or not the same is then received by other party due to a change of address of which no notice was given, or any rejection or refusal to accept delivery). Notices from either party (to the other) may be given or rendered by its counsel. The required address(es) of each party for notices delivered to it is (are) as set forth below. Each party, however, may, from time to time, designate an additional or substitute required address(es) for notices delivered to it (provided, that such designation must be made by notice given in accordance with this Section).

If to Landlord: Asbury Park Municipal Building
 One Municipal Plaza

Asbury Park, New Jersey 07712
Attention: Mayor and City Council
Attention: City Clerk
Attention: City Manager

with a copy to: McManimon & Scotland, L.L.C.
One Riverfront Plaza, Fourth Floor
Newark, New Jersey 07102
Attention: Glenn F. Scotland and Thomas J. Hastie, Jr.

If to Tenant: Asbury Partners, LLC
1100 Ocean Avenue
Asbury Park, New Jersey 07712
Attention: General Counsel

and

iStar Financial
1114 Avenue of the Americas, 39th Floor
New York, New York 10036
Attention: Samantha K. Garbus, Senior Vice President

with a copy to:

Wolff & Samson PC
One Boland Drive
West Orange, New Jersey 07052
Attention: Daniel A. Schwartz, Esq.

16.2. Estoppel Certificates. Either party hereto or a Leasehold Mortgagee, at any time and from time to time, on or prior to the twentieth (20th) day following a written request by the other party hereto, shall execute and deliver to such other party (and/or to a party designated by such other party) a statement (i) certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications), and (ii) stating whether or not, to the best knowledge of such party, the other party is in default in performance of any of its obligations under this Lease (and, if so, specifying each such default of which such party shall have knowledge).

16.3. Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State of New Jersey.

16.4. No Third Party Beneficiaries. Nothing in this Lease is intended or shall be construed to confer upon or to give to any person, other than the parties hereto or a Leasehold Mortgagee, any right, remedy or claim under or by reason of this Lease.

16.5. Entire Agreement. This Lease, subject to the Redeveloper Agreement and that certain Subsequent Developer Agreement, dated as of April 7, 2010, by and among Landlord, Tenant and Madison (the "Subsequent Developer Agreement"), sets forth the entire agreement between Landlord and Tenant relating to the transactions contemplated hereby, and, accordingly, all other prior agreements or understandings relating to the subject matter hereof (whether oral or written) are hereby superseded.

16.6. Modifications. This Lease may not be amended or modified, except by a written instrument to such effect signed by the party to be charged.

16.7. No Waivers. Except as expressly provided herein to the contrary, (i) no delay or omission by either party in exercising a right or remedy shall exhaust or impair such right or remedy or constitute a waiver of, or acquiescence in, any breach or default by the other party, (ii) a single or partial exercise of a right or remedy by either party shall not preclude a further exercise thereof, or the exercise of another right or remedy, by such party, and (iii) no waiver by either party of a breach or default of any provision(s) hereof by the other party shall be deemed a waiver of any other breach or default by such other party (whether of the same or other provisions hereof).

16.8. Captions. The captions of the individual Articles and Sections are for convenience of reference only and shall not affect the construction to be given any provision hereof.

16.9 The Severance Leases. Nothing contained in this Lease, and no default under this Lease, shall affect or modify the Madison Lease, and nothing contained in the Madison Lease, and no default under the Madison Lease, shall affect or modify this Lease.

17. Tenant's Right to Purchase Fee Title to Demised Premises

Provided that Tenant shall have obtained the consent of the New Jersey Department of Environmental Protection thereto, Tenant, at any time during the Term, shall have the option (the "Purchase Option") to purchase Landlord's fee title to any one or more of the Parcels comprising the Demised Premises for a purchase price (the "Purchase Price") of TEN and 00/100 (\$10) DOLLARS for each Parcel purchased. The Purchase Option may be exercised only by notice to Landlord ("Tenant's Exercise Notice") given prior to the end of the Term. If Tenant exercises the Purchase Option, then Landlord shall sell, and Tenant shall purchase, Landlord's fee title to the Parcel(s) being purchased, upon, subject to and in accordance with the following provisions: (a) the closing shall take place on the date that is ninety (90) days after the delivery of Tenant's Exercise Notice; (b) at the closing, the Tenant shall pay the Purchase Price to Landlord by certified check or other immediately available funds; (c) at the closing, Landlord shall convey title to the Parcel(s) being purchased that is free of title exceptions other than (xx) the Permitted Exceptions and (yy) any other title exceptions that may then exist (other than any thereof which are the result from a default by Landlord under Section 3.2 hereof, it being understood that Landlord shall remove or discharge the same prior to the closing); and (d) at the closing, Landlord shall convey title by delivery of the customary bargain and sale deed with covenant against grantor's acts (in proper statutory form for recording, duly executed and acknowledged), and the parties shall execute, acknowledge and deliver any other customary documents necessary or desirable to effectuate such sale and purchase.

18. Real Estate Taxes

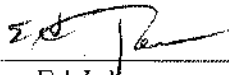
18.1 Real Estate Taxes: Additional Rent. Tenant shall pay to Landlord, as additional rent, an amount equal to any and all real estate taxes to which the Demised Premises may actually be subject during the Term of this Lease, provided, however, that if and for so long as the Demised Premises shall be exempt from real estate taxes by reason of Landlord's ownership of the Demised Premises, Tenant shall pay to Landlord, as additional rent, an amount equal to the real estate taxes that would be levied against the Demised Premises (taking into account limitations on the use of the Demised Premises imposed by Landlord, the New Jersey Department of Environmental Protection, the State of New Jersey and any other governmental agencies) but for such exemption, and Landlord shall provide Tenant with a bill for such amount, accompanied by such documentation and/or information as the City of Asbury Park would customarily provide to an owner of real property in connection with any real estate tax bill.

[BALANCE OF PAGE INTENTIONALLY BLANK; SIGNATURES ON FOLLOWING
PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the date first above written.

Landlord:

CITY OF ASBURY PARK

By: 
Name: Ed Johnson
Title: Mayor

Tenant:

ASBURY PARTNERS, LLC

By: Jersey Star LLC
its managing member

By: _____
Name:
Title:

STATE OF NEW JERSEY

:SS:

COUNTY OF MONMOUTH

I certify that on June 1, 2010, Mayor Ed Johnson, personally came before me and stated to my satisfaction that this person: (a) signed, sealed and delivered the signed documents as Mayor of the CITY OF ASBURY PARK, the municipality named in this document; and (b) this document was signed and made by the municipality as its voluntary act and deed.



NATERCIA M. LOPES
A Notary Public of New Jersey
My Commission Expires June 25, 2014

STATE OF NEW JERSEY

:SS:

COUNTY OF MONMOUTH

I certify that on _____, 2010, _____, personally came before me and stated to my satisfaction that this person: (a) signed, sealed and delivered the signed documents as _____ of Asbury Partners, LLC, the company named in this document; and (b) this document was signed and made by the company as its voluntary act and deed.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the date first above written.

Landlord:

CITY OF ASBURY PARK

By: _____

Name: Ed Johnson

Title: Mayor

Tenant:

ASBURY PARTNERS, LLC

By: Jersey Star LLC
its managing member

By:  _____

Name: Samantha Garbus

Title: Senior Vice President

STATE OF NEW JERSEY

:SS:

COUNTY OF MONMOUTH

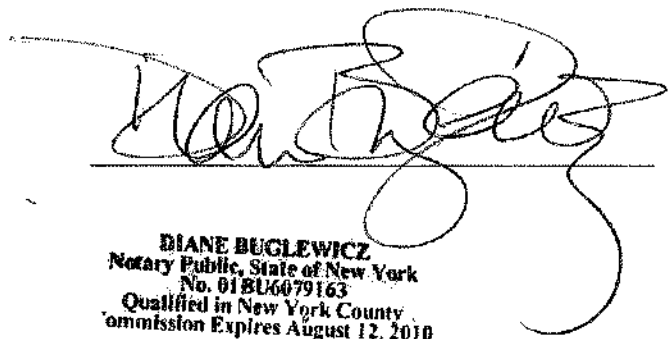
I certify that on _____, 2010, Mayor Ed Johnson, personally came before me and stated to my satisfaction that this person: (a) signed, sealed and delivered the signed documents as Mayor of the CITY OF ASBURY PARK, the municipality named in this document; and (b) this document was signed and made by the municipality as its voluntary act and deed.

STATE OF NEW YORK

:SS:

COUNTY OF NEW YORK

I certify that on May 26, 2010, Samantha Garbus, personally came before me and stated to my satisfaction that this person: (a) signed, sealed and delivered the signed documents as Senior Vice President of Jersey Star LLC, the managing member of Asbury Partners, LLC, the company named in this document; and (b) this document was signed and made by the company as its voluntary act and deed.



DIANE BUGLEWICZ
 Notary Public, State of New York
 No. 618U6079163
 Qualified in New York County
 Commission Expires August 12, 2010

SCHEDULE A

LEGAL DESCRIPTIONS FOR THE DEMISED PREMISES

The two (2) land parcels listed below, which comprise the Demised Premises, are each separately described on Schedules A-1 through A-2 attached to this Schedule A. Following the execution and delivery of the 99-Year Lease, Block 227, together with certain other Blocks designated on the Official Tax Map of the City of Asbury Park, New Jersey, were subdivided. A subdivision map entitled "Final Plat Asbury Park Redevelopment Project, Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey," prepared by Schoor DePalma, Manalapan, dated November 15, 2002, last revised August 20, 2003, and approved by the Monmouth County Planning Board on December 22, 2003, was filed in the Office of the Monmouth County Clerk on December 22, 2003, as Filed Map No. 19 through 22, Case No. 292 (the "Filed Map"). The Block and Lot designations on the Filed Map and in the municipal tax records differ from the Block and Lot designations in the 99-Year Lease, because the Block and Lot designations set forth in the 99-Year Lease were based upon the then contemplated Block and Lot designations. Listed below are the current Block and Lot designations for the Demised Premises, together with the previously contemplated Block and Lot designations (the "Contemplated Lot Designations") for the Demised Premises referenced in the 99-Year Lease.

Block 227, Lot 1.24 (Contemplated Lot Designation: Block 227, Lot 1.25)

Block 227, Lot 1.26 (Contemplated Lot Designation: Block 227, Lot 1.27)

SCHEDULE A-1

LEGAL DESCRIPTION FOR BLOCK 227, LOT 1.24

Being all of Proposed Lot 1.24 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

SCHEDULE A-2

LEGAL DESCRIPTION FOR BLOCK 227, LOT 1.26

Being all of Proposed Lot 1.26 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

After Recording, Return to:
Asbury Partners, LLC
1100 Ocean Avenue
Asbury Park, New Jersey 07712
Attention: Richard Levitan, Esq.

(The Above Space for Recorder's Use Only)

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE (this "Memorandum"), made as of June 1, 2010, by and between the **CITY OF ASBURY PARK**, a municipal corporation of the State of New Jersey having an address at the Asbury Park Municipal Building, One Municipal Plaza, Asbury Park, New Jersey 07712 ("Landlord"), and **ASBURY PARTNERS, LLC**, a New Jersey limited liability company having an address at 1100 Ocean Avenue, Asbury Park, New Jersey 07712 ("Tenant").

WHEREAS, Landlord and Tenant have entered into that certain Severance Lease, dated as the date hereof (the "Lease"), pursuant to which Landlord has leased to Tenant, and Tenant has leased from Landlord, the Property (as hereinafter defined); and

WHEREAS, Landlord and Tenant have agreed that a Memorandum of Lease be recorded in the Monmouth County Clerk's Office for the purpose of placing on record the interest of Tenant in and to the Property.

NOW, THEREFORE, this Memorandum shall be recorded for the purpose of placing on record the interest of Tenant in and to the Property.

1. The Property being leased by Tenant that is the subject of this Memorandum consists of the two (2) parcels of land described on Schedule A attached hereto and made a part hereof, together with any and all improvements located thereon from time to time (the "Property").

2. The Lease provides for an initial term of twenty-four (24) years and six (6) months commencing on the date hereof (the "Initial Term").

3. Under the terms of the Lease, the Initial Term may be renewed for two (2) additional periods each of twenty-four (24) years and six (6) months, followed by one (1) additional period of approximately seventeen (17) years and eleven (11) months (the "Final").

Renewal Term"); provided, however, that in no event may the Final Renewal Term expire later than October 27, 2101.

4. All of the terms, conditions and agreements set forth in the Lease are hereby incorporated by reference as though fully set forth herein.


5. If there is any discrepancy between the terms and conditions of this Memorandum and the Lease, the terms and conditions of the Lease shall prevail.

[signature page follows]

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

WITNESS:

CITY OF ASBURY PARK, a municipal corporation (Landlord)

By: 
Name: Ed Johnson
Title: Mayor

WITNESS:

ASBURY PARTNERS LLC, a New Jersey limited liability company (Tenant)

By: Jersey Star LLC
its managing member


By: _____
Name:
Title:

STATE OF NEW JERSEY

:SS:

COUNTY OF MONMOUTH

I certify that on June 1, 2010, Mayor Ed Johnson, personally came before me and stated to my satisfaction that this person: (a) signed, sealed and delivered the signed documents as Mayor of the CITY OF ASBURY PARK, the municipality named in this document; and (b) this document was signed and made by the municipality as its voluntary act and deed.


NATERCIA M. LOPES
A Notary Public of New Jersey
My Commission Expires June 25, 2014

STATE OF NEW JERSEY

:SS:

COUNTY OF MONMOUTH

I certify that on _____, 2010, _____, personally came before me and stated to my satisfaction that this person: (a) signed, sealed and delivered the signed documents as _____ of Asbury Partners, LLC, the company named in this document; and (b) this document was signed and made by the company as its voluntary act and deed.

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

WITNESS:

CITY OF ASBURY PARK, a municipal corporation (Landlord)

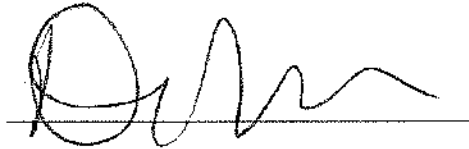
By: _____

Name: Ed Johnson

Title: Mayor

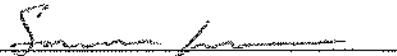
WITNESS:

ASBURY PARTNERS LLC, a New Jersey limited liability company (Tenant)



By: Jersey Star LLC
its managing member

Dorothy Mahelc

By: 

Name: Samantha Garbus

Title: Senior Vice President

STATE OF NEW JERSEY

:SS:

COUNTY OF MONMOUTH

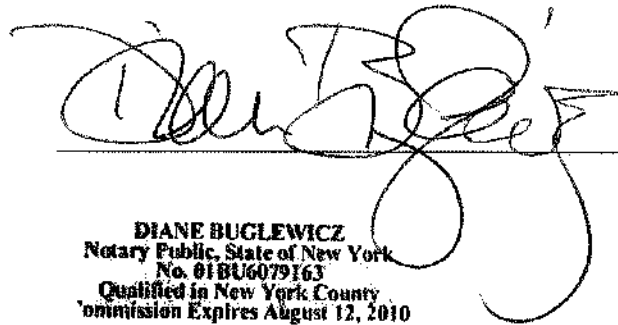
I certify that on _____, 2010, Mayor Ed Johnson, personally came before me and stated to my satisfaction that this person: (a) signed, sealed and delivered the signed documents as Mayor of the CITY OF ASBURY PARK, the municipality named in this document; and (b) this document was signed and made by the municipality as its voluntary act and deed.

STATE OF NEW YORK

:SS:

COUNTY OF NEW YORK

I certify that on May 26th, 2010, Samantha Garbus, personally came before me and stated to my satisfaction that this person: (a) signed, sealed and delivered the signed documents as the Senior Vice President of Jersey Star LLC, the managing member of Asbury Partners, LLC, the company named in this document; and (b) this document was signed and made by the company as its voluntary act and deed.



DIANE BUGLEWICZ
 Notary Public, State of New York
 No. 01BU6079163
 Qualified in New York County
 Commission Expires August 12, 2010

SCHEDULE A

Legal Description of the Property

Block 227, Lot 1.24

Being all of Proposed Lot 1.24 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.26

Being all of Proposed Lot 1.26 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Exhibit H

Net MA Retail Lease

After Recording, Return to:
Tannenbaum Helpert Syracuse & Hirschtritt LLP
900 Third Avenue
New York, New York 10022
Attention: Roger M. Roisman, Esq.

(The Above Space for Recorder's Use Only)

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE (this "Memorandum"), made as of June 1, 2010, by and between the **CITY OF ASBURY PARK**, a municipal corporation of the State of New Jersey having an address at the Asbury Park Municipal Building, One Municipal Plaza, Asbury Park, New Jersey 07712 ("Landlord"), and **MADISON ASBURY RETAIL, LLC**, a Delaware limited liability company having an address at 1100 Ocean Avenue, Asbury Park, New Jersey 07712 ("Tenant").

WHEREAS, Landlord and Tenant have entered into that certain Severance Lease, dated as the date hereof (the "Lease"), pursuant to which Landlord has leased to Tenant, and Tenant has leased from Landlord, the Property (as hereinafter defined); and

WHEREAS, Landlord and Tenant have agreed that a Memorandum of Lease be recorded in the Monmouth County Clerk's Office for the purpose of placing on record the interest of Tenant in and to the Property.

NOW, THEREFORE, this Memorandum shall be recorded for the purpose of placing on record the interest of Tenant in and to the Property.

1. The Property being leased by Tenant that is the subject of this Memorandum consists of the thirteen (13) parcels of land described on Schedule A attached hereto and made a part hereof, together with any and all improvements located thereon from time to time (the "Property").

2. The Lease provides for an initial term of twenty-four (24) years and six (6) months commencing on the date hereof (the "Initial Term").

3. Under the terms of the Lease, the Initial Term may be renewed for two (2) additional periods each of twenty-four (24) years and six (6) months, followed by one (1) additional period of approximately seventeen (17) years and eleven (11) months (the "Final Renewal Term"); provided, however, that in no event may the Final Renewal Term expire later than October 27, 2101.

4. All of the terms, conditions and agreements set forth in the Lease are hereby incorporated by reference as though fully set forth herein.

5. If there is any discrepancy between the terms and conditions of this Memorandum and the Lease, the terms and conditions of the Lease shall prevail.

[signature page follows]

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

WITNESS:

CITY OF ASBURY PARK, a municipal corporation (Landlord)

By: _____
Name: Ed Johnson
Title: Mayor

WITNESS:

MADISON ASBURY RETAIL, LLC

By: Madison MMREF Asbury Retail LLC,
its managing member

By: Madison Asbury Investment Inc.,
its managing member

By: _____
Name:
Title:

STATE OF NEW JERSEY

:SS:

COUNTY OF MONMOUTH

I certify that on _____, 2010, Mayor Ed Johnson, personally came before me and stated to my satisfaction that this person: (a) signed, sealed and delivered the signed documents as Mayor of the CITY OF ASBURY PARK, the municipality named in this document; and (b) this document was signed and made by the municipality as its voluntary act and deed.

STATE OF NEW JERSEY

:SS:

COUNTY OF MONMOUTH

I certify that on _____, 2010, Gary Mottola, personally came before me and stated to my satisfaction that this person: (a) signed, sealed and delivered the signed documents as Executive Vice President of Madison Asbury Investment Inc., the managing member of Madison MMREF Asbury Retail LLC, the managing member of Madison Asbury Retail, LLC, the company named in this document; and (b) this document was signed and made by the company as its voluntary act and deed.

SCHEDULE A

Legal Description of the Property

Block 227, Lot 1.01

Being all of Proposed Lot 1.01 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.02

Being all of Proposed Lot 1.02 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.05

Being all of Proposed Lot 1.05 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.07

Being all of Proposed Lot 1.07 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.09

Being all of Proposed Lot 1.09 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.11

Being all of Proposed Lot 1.11 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.12

Being all of Proposed Lot 1.12 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.14

Being all of Proposed Lot 1.14 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.15

Being all of Proposed Lot 1.15 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.17

Being all of Proposed Lot 1.17 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.19

Being all of Proposed Lot 1.19 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.21

Being all of Proposed Lot 1.21 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

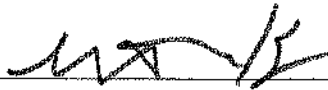
Block 227, Lot 1.22

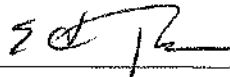
Being all of Proposed Lot 1.22 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

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

WITNESS:

CITY OF ASBURY PARK, a municipal corporation (Landlord)



By: 

Name: Ed Johnson
Title: Mayor

WITNESS:

MADISON ASBURY RETAIL, LLC

By: Madison MMREF Asbury Retail LLC,
its managing member

By: Madison Asbury Investment Inc.,
its managing member

By: _____

Name:


Title:

STATE OF NEW JERSEY

:SS:

COUNTY OF MONMOUTH

I certify that on June 1, 2010, Mayor Ed Johnson, personally came before me and stated to my satisfaction that this person: (a) signed, sealed and delivered the signed documents as Mayor of the CITY OF ASBURY PARK, the municipality named in this document; and (b) this document was signed and made by the municipality as its voluntary act and deed.


NATERCIA M. LOPES
A Notary Public of New Jersey
My Commission Expires June 25, 2014

STATE OF NEW JERSEY

:SS:

COUNTY OF MONMOUTH

I certify that on _____, 2010, Gary Mottola, personally came before me and stated to my satisfaction that this person: (a) signed, sealed and delivered the signed documents as Executive Vice President of Madison MMREF Asbury Retail LLC, the managing member of Madison Asbury Retail, LLC, the company named in this document; and (b) this document was signed and made by the company as its voluntary act and deed.

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

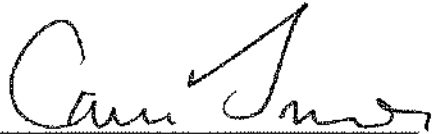
WITNESS:

CITY OF ASBURY PARK, a municipal corporation (Landlord)

By: _____
Name: Ed Johnson
Title: Mayor

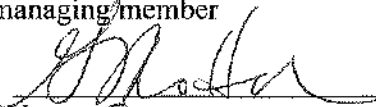
WITNESS:

MADISON ASBURY RETAIL, LLC



By: Madison MMREF Asbury Retail LLC,
its managing member

By: Madison Asbury Investment Inc.,
its managing member

By: 
Name: GARY MOTTOLA
Title: Executive Vice President

STATE OF NEW JERSEY

:SS:

COUNTY OF MONMOUTH

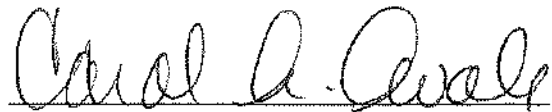
I certify that on _____, 2010, Mayor Ed Johnson, personally came before me and stated to my satisfaction that this person: (a) signed, sealed and delivered the signed documents as Mayor of the CITY OF ASBURY PARK, the municipality named in this document; and (b) this document was signed and made by the municipality as its voluntary act and deed.

STATE OF NEW JERSEY

:SS:

COUNTY OF MONMOUTH

I certify that on MAY 20, 2010, Gary Mottola, personally came before me and stated to my satisfaction that this person: (a) signed, sealed and delivered the signed documents as Executive Vice President of Madison Asbury Investment Inc., the managing member of Madison MMREF Asbury Retail LLC, the managing member of Madison Asbury Retail, LLC, the company named in this document; and (b) this document was signed and made by the company as its voluntary act and deed.



CAROL A. AVALE
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 02/02/11

SEVERANCE LEASE

between

CITY OF ASBURY PARK

and

MADISON ASBURY RETAIL, LLC

Dated as of June 1, 2010

DEMISED PREMISES:

**BLOCK 227, LOT 1.01
BLOCK 227, LOT 1.02
BLOCK 227, LOT 1.05
BLOCK 227, LOT 1.07
BLOCK 227, LOT 1.09
BLOCK 227, LOT 1.11
BLOCK 227, LOT 1.12
BLOCK 227, LOT 1.14
BLOCK 227, LOT 1.15
BLOCK 227, LOT 1.17
BLOCK 227, LOT 1.19
BLOCK 227, LOT 1.21
BLOCK 227, LOT 1.22**

SEVERANCE LEASE

THIS SEVERANCE LEASE (this "Lease") dated this 1st day of June, 2010, is entered into by and between the **CITY OF ASBURY PARK**, a municipal corporation of the State of New Jersey having an address at the Asbury Park Municipal Building, One Municipal Plaza, Asbury Park, New Jersey 07712 (herein called "Landlord"), and **MADISON ASBURY RETAIL, LLC**, a Delaware limited liability company having an address at 1100 Ocean Avenue, Asbury Park, New Jersey 07712 (herein called "Tenant").

RECITALS:

A. Landlord and Asbury Partners, LLC ("AP") are parties to a certain Amended and Restated Redeveloper and Land Disposition Agreement, dated as of October 28, 2002 (herein called the "Redeveloper Agreement"), pursuant to which Landlord has appointed and designated AP as the "Master Developer" for the planned redevelopment of the Redevelopment Area (as defined in the Redeveloper Agreement) pursuant to the Redevelopment Plan (as defined in the Redeveloper Agreement).

B. Landlord and AP, in its capacity as such "Master Developer," are also parties to that certain Sale and Purchase Agreement (Pavilion Properties and Additional Properties), executed and delivered in conjunction with the Redeveloper Agreement, dated as of October 28, 2002 (herein referred to as the "Sale Agreement").

C. Pursuant to the provisions of the Sale Agreement and the Redeveloper Agreement, (i) Landlord conveyed the Conveyed Premises (as hereinafter defined) to AP by Deed dated as of October 28, 2002, and recorded in the Monmouth County Clerk's Office (the "Clerk's Office") on November 2, 2002 in Deed Book 8159 page 7512, and thereafter corrected by a Corrective Deed dated July 13, 2006, and recorded in the Clerk's Office on July 28, 2006 in Deed Book 8581 page 6596, and (ii) Landlord and AP entered into that certain 99-Year Net Lease dated as of October 28, 2002 (the "99-Year Lease"), pursuant to which Landlord leased certain property, including the 99-Year Premises (as hereinafter defined), to AP.

D. Thereafter, AP, in its capacity as such "Master Developer" and in connection with the formation of the joint venture that created Tenant, and with the consent of Landlord, (i) conveyed the Conveyed Premises to Tenant by Deed dated as of June 11, 2007, and recorded in the Clerk's Office on June 26, 2007 in Deed Book 8660 page 6431, and (ii) entered into that certain Sublease of the 99-Year Premises between AP and Tenant dated as of June 11, 2007 (the "Sublease"), which Sublease provides, among other things, that the term thereof will terminate in the event Tenant enters into a direct lease of 99-Year Premises with Landlord.

E. Immediately prior to the execution and delivery of this Lease, (i) Tenant is conveying the Conveyed Premises to Landlord, (ii) Landlord and AP are terminating the 99-Year Lease, (iii) the Sublease is being terminated by virtue of AP's entering into the AP Lease (as hereinafter defined) and Landlord and Tenant entering into this Lease, and (iv) Landlord and AP are entering into a separate Severance Lease (the "AP Lease") of even date herewith relating to those properties previously demised under the 99-Year Lease which are not demised under this

Lease.

F. Landlord and Tenant desire to enter into this Lease of the Demised Premises (as hereinafter defined) to, among other things, replace the Sublease with respect to the portion of the premises demised under the Sublease which is included in the Demised Premises under this Lease.

NOW, THEREFORE, Landlord hereby demises to Tenant, and Tenant hereby hires from Landlord, the Demised Premises, for the Term, at the Rent and otherwise upon, subject to and in accordance with the following terms and conditions:

1. **Demised Premises**

The premises demised by this Lease shall be and consist of all of (i) the eight (8) land parcels described on Schedule A hereto, together with any and all improvements located thereon from time to time (the "99-Year Premises"), and (ii) the five (5) land parcels described on Schedule B hereto, together with any and all improvements located thereon from time to time (the "Conveyed Premises" and together with the 99-Year Premises, the "Demised Premises"). Each such land parcel, together with the improvements thereon, is sometimes herein separately referred to as a "Parcel". Tenant hereby accepts the Demised Premises in their "AS IS" condition as of the date hereof, and acknowledges that it has been in possession of the Demised Premises since the date of the Sublease.

2. **Term and Renewal Term**

2.1 Term. The initial term of this Lease (the "Initial Term") shall commence on the date hereof (the "Commencement Date") and end on the date which is twenty-four (24) years and six (6) months from the Commencement Date. The Initial Term, the Renewal Terms (as hereinafter defined) and the Final Renewal Term (as hereinafter defined) are hereinafter referred to collectively as the "Term."

2.2 Renewal. Tenant shall have two (2) options to renew the Term of this Lease for additional periods each of twenty-four (24) years and six (6) months (each, a "Renewal Term" and collectively, the "Renewal Terms"), followed by one (1) option to renew for an additional period of approximately seventeen (17) years and eleven (11) months (the "Final Renewal Term"), such that the Final Renewal Term shall expire no later than October 27, 2101.

2.3 Exercise of Renewal Options. Not less than two (2) months prior to the expiration of the Initial Term or any Renewal Terms of this Lease (each, an "Expiration Date"), Landlord shall deliver notice to Tenant of the scheduled Expiration Date (the "Expiration Notice"). Provided no Event of Default (as hereinafter defined) is then continuing beyond any applicable notice and cure periods under the Lease, Tenant may then exercise Tenant's next applicable renewal option by providing Landlord with written notice of Tenant's election to renew (the "Renewal Notice") within one (1) month after Tenant's receipt of the applicable Expiration Notice. If Tenant fails to deliver the applicable Renewal Notice to Landlord within such one (1) month period, then Landlord shall give notice (the "Reminder Notice") to Tenant of Tenant's obligation to deliver such Renewal Notice to Landlord; it being agreed that Tenant's right to renew shall not be

contingent upon, or waived on account of, Landlord's failure to deliver an Expiration Notice and/or Reminder Notice. In the event that Landlord fails to deliver an Expiration Notice, then Tenant may remain in the Demised Premises on a month-to-month basis on the terms set forth herein, until such time that Landlord delivers an Expiration Notice and/or Tenant delivers a Renewal Notice in accordance with this subsection 2.3.

3. Matters To Which Lease is Subject

3.1. Permitted Exceptions. This Lease, and the estate created hereby, are subject to the following (such exceptions being herein called the "Permitted Exceptions").

(a) The Redeveloper Agreement and the Redevelopment Plan, for so long as the same shall relate to the Demised Premises.

(b) The Green Acres Development Grant Contract recorded in Deed Book 5028, Page 938.

3.2. Covenant against Further Encumbrances. Landlord covenants that, throughout the Term, it shall not permit or suffer any new encumbrances upon its fee estate in the Demised Premises to be created by, through or under it.

4. Rent

The rent payable by Tenant under this Lease (the "Rent") shall be, and consist of, an aggregate sum of TEN and 00/100 (\$10.00) DOLLARS for the entire Term. The Rent has been prepaid in full on the date hereof.

5. Permitted Use

The Demised Premises may be used for any lawful purpose, subject to (a) requirements under the Permitted Exceptions, and (b) other terms and provisions hereof. By way of example and not by way of limitation, Tenant shall have the right to use the Demised Premises for commercial, recreational and entertainment purposes, such as (i) miniature golf, volleyball and other games, (ii) amusement rides, (iii) indoor and outdoor restaurants and cafes, (iv) preparation and sale of food and beverages (including alcoholic beverages), (v) sale of goods and merchandise, (vi) flea markets, open-air stands and kiosks, (vii) concerts, performances and other events, and (viii) for any other use in which the Demised Premises has historically been used.

6. Net Lease

This Lease is a *net lease*, and, subject only to the requirements of the Permitted Exceptions and the other terms and provisions hereof, (a) this Lease is intended to transfer sole possession and operational control of the Demised Premises to Tenant for the Term, and (b) Tenant, throughout the Term, shall develop, operate, manage and maintain the Demised Premises at its expense; and, without limiting the generality thereof, shall be solely responsible to arrange, obtain, and pay for, all services and utilities necessary or desired in connection with the development, operation, management and maintenance of the Demised Premises. Landlord shall have no obligation (as landlord hereunder) to furnish any services or utilities to the Demised

Premises.

7. **Quiet Enjoyment**

Tenant, throughout the Term, shall peaceably and quietly have, hold and enjoy the Demised Premises without hindrance, ejection or molestation by Landlord or any person lawfully claiming through or under Landlord, subject, nevertheless to the Permitted Exceptions and the terms and provisions of this Lease.

8. **Proper Use and Care**

8.1. **Prohibited Uses.** Tenant shall not use or occupy the Demised Premises (or any part thereof), nor permit or suffer the same to be used or occupied, (i) for any unlawful or illegal business, use or purpose, or (ii) in a manner which may, in law, constitute a nuisance, public or private.

8.2. **Repairs and Maintenance.** Tenant shall be responsible to make all needed repairs, and perform all needed maintenance, to the Demised Premises.

9. **Transfers of Interests in Demised Premises; Leasehold Mortgages**

9.1 **Transfers of Interest.** Subject only to the Permitted Exceptions, Tenant may (without any requirement to obtain Landlord's consent or approval), from time to time, and at any time, (i) assign this Lease, or (ii) sublease the whole or any part of the Demised Premises. In the event of an assignment of this Lease, the assignor Tenant shall be released from all of the obligations of Tenant under this Lease accruing after the effective date of such assignment, and such transfer; and the assignee Tenant shall be deemed to have assumed all of the obligations of Tenant under this Lease accruing after the effective date of such assignment.

9.2 **Non-disturbance of Subtenant.** In the event that the Demised Premises shall be subleased to any subtenant pursuant to subsection 9.1 above, (i) the terms of this Lease shall be incorporated by reference into any such sublease, and (ii) Landlord agrees that, so long as such subtenant shall not then be in default under its sublease beyond any applicable grace period:

(a) neither such subtenant nor any person properly claiming through or under such subtenant shall be named or joined as a party defendant in any action, suit or proceeding which may be instituted or taken by Landlord for the purpose of terminating this Lease by reason of a Tenant Event of Default hereunder; and

(b) neither such subtenant nor any person properly claiming through or under such subtenant shall be evicted from the subleased premises, nor shall the leasehold estate or possession of such subtenant or any person properly claiming through or under such subtenant be terminated or disturbed.

(c) If at any time Landlord shall terminate this Lease and such subtenant shall not then be in default under the sublease beyond any applicable grace period, then Landlord agrees to accept such subtenant as Landlord's direct tenant pursuant to and on the terms and conditions of its sublease, from and after the date of such termination; such subtenant shall attorn to and recognize Landlord as such subtenant's landlord under the sublease; Landlord shall accept such attornment

and recognize such subtenant as Landlord's tenant under the sublease; and such subtenant and Landlord shall promptly execute and deliver any reasonable instrument that either may request to evidence such attornment and recognition.

9.3 Leasehold Mortgages. Tenant shall have the absolute right, at any time and from time to time, to enter into and grant any Leasehold Mortgages (as such term is hereinafter defined), on such terms, conditions and maturity as Tenant shall determine so long as no Leasehold Mortgagee (as such term is hereinafter defined) requires Landlord to execute or join in such Leasehold Mortgage or otherwise subordinate its interest in the Demised Premises to the lien of such Leasehold Mortgage. In addition, Tenant shall have the absolute right, at any time and from time to time, to grant to any Leasehold Mortgagee a security interest in the personal property owned by Tenant and located at the Demised Premises and/or a collateral assignment of subleases by Tenant of all or any portion of the Demised Premises and the rents, issues and profits therefrom, if any, and Landlord hereby agrees that any interest that Landlord may have in such personal property or subleases, as the case may be, whether granted pursuant to this Lease or by statute, shall be subordinate to the interest of any such Leasehold Mortgagee. Landlord agrees to execute and deliver, on demand, in recordable form, any instruments which may reasonably be requested by Tenant or any Leasehold Mortgagee to accomplish the aforesaid subordination of Landlord's rights in such personal property and subleases. Tenant shall reimburse Landlord for any and all reasonable costs and expenses (including attorney's fees) incurred by Landlord in connection with any documents or instruments executed by Landlord in connection with any Leasehold Mortgage. Any and all Leasehold Mortgagees shall have the rights and powers set forth in Section 10 of this Lease. As used in this Lease, (i) the term "Leasehold Mortgage" shall mean each and every recorded mortgage, deed of trust, deed to secure debt, collateral assignment of lease or other similar instrument creating a lien or other encumbrance on any portion of Tenant's Leasehold Estate (regardless of the priority thereof) and any modification of any of the terms thereof, including, without limitation, any extension, renewal or refinancing of any indebtedness secured thereby or any additional advance secured by any Leasehold Mortgage or any additional Leasehold Mortgage given to secure the same and (ii) the term "Leasehold Mortgagee" shall mean any person which makes or holds any Leasehold Mortgage, it being understood that Tenant may at any time and from time to time, concurrently or otherwise grant one or more Leasehold Mortgages and each such holder shall be deemed to be a "Leasehold Mortgagee".

10. Rights of Leasehold Mortgagee

10.1 So long as any Leasehold Mortgage shall remain unsatisfied of record, the following provisions shall apply, notwithstanding anything to the contrary contained in this Lease, and any pertinent provisions of this Lease shall be deemed to be amended and modified to the extent necessary so as to provide as follows:

(a) No Modification. There shall be no cancellation (unless this Lease is terminated by Landlord in accordance with the terms of subsection 10.1(d) below), surrender, acceptance of surrender or modification of this Lease without the prior written consent of each Leasehold Mortgagee.

(b) Notice. Landlord shall, at the time the same is served upon Tenant, give to each Leasehold Mortgagee a copy of each notice or demand which it gives to Tenant pursuant to this Lease or in connection with this Lease or the Demised Premises, including all notices of default by Tenant (which shall specify the default and the steps required to effect a cure by Tenant), and the same shall not be effective for any purpose unless and until a copy thereof has been so delivered.

(c) Cure and Exercise of Tenant's Rights. Each Leasehold Mortgagee shall have the right, but not the obligation, to perform any covenant or agreement under this Lease to be performed by Tenant (including the exercise of options), and Landlord shall accept such performance by any Leasehold Mortgagee as if performed by Tenant. Tenant constitutes and appoints each Leasehold Mortgagee Tenant's attorney-in-fact with full power, in Tenant's name, place and stead, at Tenant's cost and expense, to enter upon the Demised Premises to perform any of Tenant's obligations under this Lease. Each Leasehold Mortgagee shall have the right (but not the obligation) to cure Tenant's defaults at any time within sixty (60) days (which shall be reduced to thirty (30) days with respect any default by Tenant which is of such a nature that it would jeopardize Landlord's interest in the Demised Premises) (such period being referred to herein as the "Mortgagee's Grace Period") following the expiration of any applicable grace period(s), subject to extension of Mortgagee's Grace Period as provided in subsection (d) below. If Tenant shall fail, within the time period permitted in this Lease, to exercise any option contained in this Lease, then Landlord shall give written notice to each Leasehold Mortgagee of such failure and the time for exercising such option shall, upon the giving of such notice by Landlord, be extended for a period of thirty (30) days. Any Leasehold Mortgagee or Tenant, before the expiration of such extended period, may exercise any and all options provided in this Lease.

(d) Termination of Lease. If Landlord shall intend, by reason of the occurrence and continuance of an Event of Default beyond all applicable notice and cure periods under the Lease, to terminate this Lease prior to the stated expiration of the Term, Landlord shall notify every Leasehold Mortgagee of such intention (and the reasons therefor and the necessary steps to effect a cure thereof) at least thirty (30) business days in advance of the proposed effective date for such termination. Each Leasehold Mortgagee, in addition to any and all rights hereunder that it may have, shall have the right to postpone the date on which this Lease would so terminate for a period of not more than sixty (60) days, unless a longer period of time shall be needed to obtain possession from Tenant and cure such default, in which event the date of termination shall be postponed for such longer period, provided such Leasehold Mortgagee, prior to the expiration of such sixty (60) days following receipt of Landlord's notice of intention to terminate, shall have (i) given to Landlord written notice of its intention to cure all defaults susceptible of cure by such Leasehold Mortgagee, (ii) cured all defaults, if any, then existing which may be cured by the payment of a sum of money (excepting obligations of Tenant to discharge liens, charges or encumbrances against Tenant's leasehold estate in the Demised Premises ("Leasehold Estate")), and (iii) initiated, and be diligently pursuing, steps to acquire the Leasehold Estate by foreclosure of its Leasehold Mortgage or otherwise. If (i) a Leasehold Mortgagee or other person shall obtain possession of the Demised Premises or shall have acquired Tenant's Leasehold Estate by foreclosure or other enforcement proceeding under any Leasehold Mortgage or by obtaining an assignment of the Leasehold Estate in lieu of foreclosure or through settlement of or arising out

of any pending or threatened foreclosure proceeding (any of the foregoing being referred to as an "Enforcement Proceeding"), (ii) a lease assumption agreement shall be delivered to Landlord by such Leasehold Mortgagee in possession or its designee, of the covenants and conditions contained in this Lease on Tenant's part to be performed, and (iii) such Leasehold Mortgagee shall have complied with all obligations on Tenant's part to be performed under this Lease, including the curing of all defaults susceptible of being cured by such Leasehold Mortgagee, then (A) all defaults not susceptible of being cured by such Leasehold Mortgagee shall be deemed waived and all rights of Tenant under this Lease shall be deemed reinstated, and (B) notwithstanding any provision in this Lease to the contrary, such Leasehold Mortgagee or other person or any of their respective designees or nominees and their respective successors and assigns shall have the further right to assign, from time to time, the Leasehold Estate without Landlord's consent. No Leasehold Mortgagee shall be required to continue to proceed to obtain possession, continue in possession of the Leased Premises as Leasehold Mortgagee or to continue to prosecute foreclosure proceedings or other remedies, if and when such defaults which were the basis for the termination of this Lease shall be cured. If more than one Leasehold Mortgagee shall seek to exercise the rights provided for in this subsection, the Leasehold Mortgagee with the most senior lien priority shall be entitled, as against the others, to priority in the exercise of such rights.

(e) Replacement Lease. If this Lease shall be terminated prior to the stated expiration of the Term for any reason, including, without limitation, as a result of the occurrence and continuance of an Event of Default beyond all applicable notice and cure periods under the Lease, Landlord promptly will notify each Leasehold Mortgagee of such termination and Landlord shall, within sixty (60) days after request by the Leasehold Mortgagee having the most senior lien priority (or such other Leasehold Mortgagee, in order of lien priority, if the Leasehold Mortgagee having the most senior lien shall not have made such request), enter into a replacement lease for the Demised Premises with said Leasehold Mortgagee or its nominee or designee, which lease shall have the same priority as this Lease, be for the remainder of the Term, have the same terms and conditions contained in this Lease, and grant to or confirm in such Leasehold Mortgagee or its nominee or designee the same interest (as an owner or tenant) in the Demised Premises as previously held by Tenant under this Lease; provided, however, that the foregoing right to obtain a replacement lease is contingent upon a request therefor being made within sixty (60) days after receipt of Landlord's notice of termination, and such Leasehold Mortgagee, at the time of execution and delivery of said replacement lease, paying to Landlord any and all sums then due under this Lease. In no event, however, shall such Leasehold Mortgagee or its nominee or designee be required to cure a default under this Lease which is not susceptible of being cured by such Leasehold Mortgagee or its nominee or designee in order to obtain a replacement lease.

(f) Right of Leasehold Mortgagee to Take Possession. Any Leasehold Mortgagee or equitable owner of Tenant's Leasehold Estate shall have the right, in the event of any default under its Leasehold Mortgage or any of the other documents executed in connection with such Leasehold Mortgage and if allowed by law or its agreements with Tenant, to take possession of the Demised Premises subject to the terms and conditions of this Lease and manage the same and collect rents subject to paying the Rent required pursuant to the terms of this Lease.

(g) Liability of Leasehold Mortgagees. No Leasehold Mortgagee or other person succeeding

to the Leasehold Estate through or subsequent to an Enforcement Proceeding shall be liable under this Lease, unless and until such time as it becomes the owner of the Leasehold Estate, and then only for such obligations of Tenant which accrue during the period while it remains the owner of the Leasehold Estate.

(h) Casualty and Condemnation Proceeds. Notwithstanding any provision in this Lease to the contrary, in the event of any casualty to or condemnation of the Demised Premises or any portion thereof, and if allowed by law or its agreements with Tenant, the most senior Leasehold Mortgagee (or such other Leasehold Mortgagee, in order of lien priority, if the Leasehold Mortgagee having the most senior lien shall not request or shall not be permitted by law or its agreements with Tenant to do so) shall be permitted to receive insurance proceeds and/or condemnation awards otherwise payable to Tenant and shall be permitted (but shall not be obligated except as required by law or its agreements with Tenant or as provided in the next sentence) to restore the Demised Premises. In addition, if such Leasehold Mortgagee (by reason of its acquiring Tenant's Leasehold Estate) shall be obligated under this Lease to repair or restore the Demised Premises, such obligation shall be limited to the amount of such proceeds or awards actually received by such Leasehold Mortgagee.

(i) Modification for Leasehold Mortgagee. Landlord, upon the request of Tenant or any Leasehold Mortgagee, shall execute such reasonable modifications or amendments of this Lease as shall be required by such Leasehold Mortgagee or by any person to which Tenant has made application for a Leasehold Mortgage if such modifications or amendments do not, taken as a whole, materially affect Tenant's obligations or materially affect Landlord's rights under this Lease. Landlord shall not unreasonably refuse any such request for such modification or amendment.

(j) Delivery of Notices. Any notices to be sent to any Leasehold Mortgagee shall be sent to the addressees and at the addresses designated by such Leasehold Mortgagee from time to time, by any method permitted for notices under subsection 16.1 of this Lease.

11. Insurance

Tenant, at its expense, shall maintain, or cause to be maintained, the following insurance: (a) property insurance covering any improvements on the Demised Premises, with coverage that includes "all risk" perils, and with an agreed amount endorsement with the valuation determined on a replacement cost basis, and (b) commercial liability insurance, written on an occurrence basis, with a combined single limit (in any one occurrence) of not less than \$2,000,000 for bodily injury and property damage in any single occurrence, and a \$5,000,000.00 aggregate limit, (c) during all times that alcohol is served on the Demised Premises, liquor liability insurance, which shall be written with a limit of \$2,000,000.00 per occurrence, and (d) workmen's compensation insurance for all employees, consistent with all laws of the State of New Jersey (including the Workmen's Compensation and Occupational Disease Laws of the State of New Jersey). The foregoing dollar limits of insurance shall be re-evaluated every five (5) years during the Term, at which time Landlord may require the same be increased, but only to the extent that such increases are necessary to keep the levels of insurance under this Section consistent with the levels of similar insurance then generally being maintained by similarly situated operators of

similar real property. Landlord shall be (i) named, as its interest appears (as net lessor), under the insurance policy (or policies) described in clause (a) of this Section, and (ii) named *as an* additional insured under the insurance policy (or policies) described in clauses (b) and (c) of this Section. Each of the insurance policies required to be maintained pursuant to this Section shall be issued by companies licensed to do business in the State of New Jersey (and having a rating at least equal to the rating generally maintained by insurance companies issuing similar insurance policies to Landlord). Certificates of the insurance required under this Section shall be provided to Landlord on or prior to the Commencement Date. The policies shall provide (and the certificates shall so indicate), that the coverage may not be cancelled or any major change therein implemented, without at least thirty (30) days notice thereof having been given to Landlord. Tenant shall have the right to insure and maintain the insurance required above under blanket insurance policies covering other real property owned or operated by Tenant and/or its affiliates, provided that such policies afford the required coverage to the Demised Premises without diminution.

12. Indemnification

Tenant shall indemnify and hold harmless Landlord from and against any and all third-party claims and liabilities arising out of, or based upon, (a) either (i) any accident, injury or damage occurring, during the Term, in or upon the Demised Premises, or (ii) the performance by Tenant (or any of its employees, agents or contractors) of any alterations to the Demised Premises (except, in any of the cases described in clauses (i) or (ii), to the extent such claims or liabilities arise out of, or are based upon, any negligent or intentionally wrongful act or omission of Landlord or its employees, agents or contractors), or (b) any negligent or intentionally wrongful act or omission of Tenant or its employees, agents or contractors relating to the Demised Premises or the obligations of Tenant under this Lease; together with all costs and expenses incurred in or in connection with such claims and liabilities, or any action or proceeding brought thereon or in respect thereof, including reasonable attorneys' fees and expenses.

13. Casualty and Condemnation

13.1. Casualty. If, at any time during the Term, the Demised Premises (or any part thereof) shall be damaged or destroyed by a fire or other casualty, then (i) this Lease shall nevertheless continue in full force and effect, and (ii) Tenant shall be responsible to repair or restore the Demised Premises.

13.2. Condemnation. If, at any time during the Term, the Demised Premises (or any part thereof) shall be taken by any condemnation or eminent domain proceedings, then (i) this Lease shall terminate as to the portion of the Demised Premises so taken, (ii) this Lease shall nevertheless continue in full force and effect as to any remaining portions of the Demised Premises, and (iii) Tenant shall be entitled to the entire award or payment in connection with any such taking.

14. Event of Default; Remedies for an Event of Default

14.1. Generally. In the event that either party hereto shall default in its obligations hereunder, then the other party shall have all rights and remedies available to it at law, or in

equity, on account of such default.

14.2. Event of Default. For purposes of this Lease, an “Event of Default” shall mean the failure by Tenant to perform or observe in any material respect any other covenant or condition contained in this Lease which failure shall continue for a period of sixty (60) days after written notice thereof by Landlord to Tenant; provided, however, that if Tenant's obligation is of such nature that more than sixty (60) days are required for its performance, then there shall not be deemed to be an Event of Default hereunder if Tenant shall commence such performance within said sixty (60) day period and diligently pursues such cure to completion.

14.3 Cure Right for Mortgagees. Notwithstanding the foregoing, if any act or omission of Tenant shall give rise to Landlord having the right (at law or in equity) to terminate this Lease, then Landlord agrees that it, nevertheless, shall not exercise such right unless and until Landlord shall have complied with the provisions of Article 10 of this Lease, including, without limitation, Sections 10.1(b) through (d) of this Lease.

15. Inability to Perform

Notwithstanding anything to the contrary contained herein, neither Landlord nor Tenant shall have any liability to the other party hereunder if (and to the extent that) it is unable to fulfill, or is delayed in fulfilling, any of its obligations under this Lease by reason of one or more Events of Force Majeure. The term “Event of Force Majeure” shall mean (i) any strike, lock-out or other labor trouble, governmental preemption of priorities, or other controls in connection with a national or other public emergency, or any shortage of materials, supplies or labor, or (ii) any failure or defect in the supply, quantity or character of electricity, water, oil, gas, steam or other utility furnished to Demised Premises by reason of any law or any requirement, act or omission of the public utility or other person(s) serving such Demised Premises therewith, or (iii) any accident, fire or other casualty, or other act of, or (iv) any other event, whether similar or dissimilar, beyond the reasonable control of the party in question.

16. Miscellaneous

16.1: Notices. Any notice, demand or other communication (each, a “notice”) that is given or rendered pursuant to this Lease by either Landlord or Tenant to the other party, shall be (i) given or rendered, in writing, (ii) addressed to the other party at its required address(es) for notices delivered to it as set forth below, and (iii) delivered via nationally recognized courier service (e.g., Federal Express, Express Mail). Any such notice shall be deemed given or rendered, and effective for purposes of this Lease, as of the date actually delivered to the other party at such address(es) (whether or not the same is then received by other party due to a change of address of which no notice was given, or any rejection or refusal to accept delivery). Notices from either party (to the other) may be given or rendered by its counsel. The required address(es) of each party for notices delivered to it is (are) as set forth below. Each party, however, may, from time to time, designate an additional or substitute required address(es) for notices delivered to it (provided, that such designation must be made by notice given in accordance with this Section).

If to Landlord: Asbury Park Municipal Building
One Municipal Plaza
Asbury Park, New Jersey 07712
Attention: Mayor and City Council
Attention: City Clerk
Attention: City Manager

with a copy to: McManimon & Scotland, L.L.C.
One Riverfront Plaza, Fourth Floor
Newark, New Jersey 07102
Attention: Glenn F. Scotland and Thomas J. Hastie, Jr.

If to Tenant: Madison Asbury Retail, LLC
1100 Ocean Avenue
Asbury Park, New Jersey 07712
Attention: Gary Mottola

with a copy to: Tannenbaum Helpern Syracuse & Hirschtritt LLP
900 Third Avenue
New York, New York 10022
Attention: Roger M. Roisman, Esq.

16.2. Estoppel Certificates. Either party hereto or a Leasehold Mortgagee, at any time and from time to time, on or prior to the twentieth (20th) day following a written request by the other party hereto, shall execute and deliver to such other party (and/or to a party designated by such other party) a statement (i) certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications), and (ii) stating whether or not, to the best knowledge of such

party, the other party is in default in performance of any of its obligations under this Lease (and, if so, specifying each such default of which such party shall have knowledge).

16.3. Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State of New Jersey.

16.4. No Third Party Beneficiaries. Nothing in this Lease is intended or shall be construed to confer upon or to give to any person, other than the parties hereto or a Leasehold Mortgagee, any right, remedy or claim under or by reason of this Lease.

16.5. Entire Agreement. This Lease, subject to the Redeveloper Agreement and that certain Subsequent Developer Agreement, dated as of [intended to be signed], 2010, by and among Landlord, Tenant and AP (the "Subsequent Developer Agreement"), sets forth the entire agreement between Landlord and Tenant relating to the transactions contemplated hereby, and, accordingly, all other prior agreements or understandings relating to the subject matter hereof (whether oral or written) are hereby superseded.

16.6. Modifications. This Lease may not be amended or modified, except by a written instrument to such effect signed by the party to be charged.

16.7. No Waivers. Except as expressly provided herein to the contrary, (i) no delay or omission by either party in exercising a right or remedy shall exhaust or impair such right or remedy or constitute a waiver of, or acquiescence in, any breach or default by the other party, (ii) a single or partial exercise of a right or remedy by either party shall not preclude a further exercise thereof, or the exercise of another right or remedy, by such party, and (iii) no waiver by either party of a breach or default of any provision(s) hereof by the other party shall be deemed a waiver of any other breach or default by such other party (whether of the same or other provisions hereof).

16.8. Captions. The captions of the individual Articles and Sections are for convenience of reference only and shall not affect the construction to be given any provision hereof.

16.9 The Severance Leases. Nothing contained in this Lease, and no default under this Lease, shall affect or modify the AP Lease, and nothing contained in the AP Lease, and no default under the AP Lease, shall affect or modify this Lease.

17. Tenant's Right to Purchase Fee Title to Demised Premises

Provided that Tenant shall have obtained the consent of the New Jersey Department of Environmental Protection thereto, Tenant, at any time during the Term, shall have the option (the "Purchase Option") to purchase Landlord's fee title to any one or more of the Parcels comprising the Demised Premises for a purchase price (the "Purchase Price") of TEN and 00/100 (\$10) DOLLARS for each Parcel purchased. The Purchase Option may be exercised only by notice to Landlord ("Tenant's Exercise Notice") given prior to the end of the Term. If Tenant exercises the Purchase Option, then Landlord shall sell, and Tenant shall purchase, Landlord's fee title to the Parcel(s) being purchased, upon, subject to and in accordance with the following provisions: (a) the closing shall take place on the date that is ninety (90) days after the delivery of Tenant's Exercise Notice; (b) at the closing, the Tenant shall pay the Purchase Price to Landlord by

certified check or other immediately available funds; (c) at the closing, Landlord shall convey title to the Parcel(s) being purchased that is free of title exceptions other than (xx) the Permitted Exceptions and (yy) any other title exceptions that may then exist (other than any thereof which are the result from a default by Landlord under Section 3.2 hereof, it being understood that Landlord shall remove or discharge the same prior to the closing); and (d) at the closing, Landlord shall convey title by delivery of the customary bargain and sale deed with covenant against grantor's acts (in proper statutory form for recording, duly executed and acknowledged), and the parties shall execute, acknowledge and deliver any other customary documents necessary or desirable to effectuate such sale and purchase.

18. Real Estate Taxes

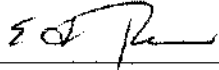
18.1 Real Estate Taxes: Additional Rent. Tenant shall pay to Landlord, as additional rent, an amount equal to any and all real estate taxes to which the Demised Premises may actually be subject during the Term of this Lease, provided, however, that if and for so long as the Demised Premises shall be exempt from real estate taxes by reason of Landlord's ownership of the Demised Premises, Tenant shall pay to Landlord, as additional rent, an amount equal to the real estate taxes that would be levied against the Demised Premises (taking into account limitations on the use of the Demised Premises imposed by Landlord, the New Jersey Department of Environmental Protection, the State of New Jersey and any other governmental agencies) but for such exemption, and Landlord shall provide Tenant with a bill for such amount, accompanied by such documentation and/or information as the City of Asbury Park would customarily provide to an owner of real property in connection with any real estate tax bill.

[BALANCE OF PAGE INTENTIONALLY BLANK; SIGNATURES ON FOLLOWING
PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the date first above written.

Landlord:

CITY OF ASBURY PARK

By: 
Name: Ed Johnson
Title: Mayor

Tenant:

MADISON ASBURY RETAIL, LLC

By: **Madison MMREF Asbury Retail LLC,
its managing member**

By: **Madison Asbury Investment Inc.,
its managing member**

By: _____
Name:
Title:

STATE OF NEW JERSEY

:SS:

COUNTY OF MONMOUTH

I certify that on June 1, 2010, Mayor Ed Johnson, personally came before me and stated to my satisfaction that this person: (a) signed, sealed and delivered the signed documents as Mayor of the CITY OF ASBURY PARK, the municipality named in this document; and (b) this document was signed and made by the municipality as its voluntary act and deed.



NATERCIA M. LOPES
A Notary Public of New Jersey
My Commission Expires June 25, 2014

STATE OF NEW JERSEY

:SS:

COUNTY OF MONMOUTH

I certify that on _____, 2010, Gary Mottola, personally came before me and stated to my satisfaction that this person: (a) signed, sealed and delivered the signed documents as Executive Vice President of Madison MMREF Asbury Retail LLC, the managing member of Madison Asbury Retail, LLC, the company named in this document; and (b) this document was signed and made by the company as its voluntary act and deed.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the date first above written.

Landlord:

CITY OF ASBURY PARK

By: _____

Name: Ed Johnson

Title: Mayor

Tenant:

MADISON ASBURY RETAIL, LLC

By: **Madison MMREF Asbury Retail LLC,
its managing member**

By: **Madison Asbury Investment Inc.,
its managing member**

By: _____

Name: **GARY MOTOLO**

Title: *Executive Vice President*

STATE OF NEW JERSEY

:SS:

COUNTY OF MONMOUTH

I certify that on _____, 2010, Mayor Ed Johnson, personally came before me and stated to my satisfaction that this person: (a) signed, sealed and delivered the signed documents as Mayor of the CITY OF ASBURY PARK, the municipality named in this document; and (b) this document was signed and made by the municipality as its voluntary act and deed.

STATE OF NEW JERSEY

:SS:

COUNTY OF MONMOUTH

I certify that on MAY 20, 2010, Gary Mottola, personally came before me and stated to my satisfaction that this person: (a) signed, sealed and delivered the signed documents as Executive Vice President of Madison MMREF Asbury Retail LLC, the managing member of Madison Asbury Retail, LLC, the company named in this document; and (b) this document was signed and made by the company as its voluntary act and deed.



CAROL A. AVALE
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 02/06/11

SCHEDULE A

LEGAL DESCRIPTIONS FOR THE 99-YEAR PREMISES

The eight (8) land parcels listed below, which comprise the 99-Year Premises (and which, in turn, comprise part of the Demised Premises), are each separately described on Schedules A-1 through A-8 attached to this Schedule A. Following the execution and delivery of the 99-Year Lease, Block 227, together with certain other Blocks designated on the Official Tax Map of the City of Asbury Park, New Jersey, were subdivided. A subdivision map entitled "Final Plat Asbury Park Redevelopment Project, Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey," prepared by Schoor DePalma, Manalapan, dated November 15, 2002, last revised August 20, 2003, and approved by the Monmouth County Planning Board on December 22, 2003, was filed in the Office of the Monmouth County Clerk on December 22, 2003, as Filed Map No. 19 through 22, Case No. 292 (the "Filed Map"). The Block and Lot designations on the Filed Map and in the municipal tax records differ from the Block and Lot designations in the 99-Year Lease, because the Block and Lot designations set forth in the 99-Year Lease were based upon the then contemplated Block and Lot designations. Listed below are the current Block and Lot designations for the 99-Year Premises, together with the previously contemplated Block and Lot designations (the "Contemplated Lot Designations") for the 99-Year Premises referenced in the 99-Year Lease.

Block 227, Lot 1.05 (Contemplated Lot Designation: Block 227, Lot 1.06)
Block 227, Lot 1.07 (Contemplated Lot Designation: Block 227, Lot 1.08)
Block 227, Lot 1.09 (Contemplated Lot Designation: Block 227, Lot 1.10)
Block 227, Lot 1.11 (Contemplated Lot Designation: Block 227, Lot 1.12)
Block 227, Lot 1.15 (Contemplated Lot Designation: Block 227, Lot 1.16)
Block 227, Lot 1.17 (Contemplated Lot Designation: Block 227, Lot 1.18)
Block 227, Lot 1.19 (Contemplated Lot Designation: Block 227, Lot 1.20)
Block 227, Lot 1.21 (Contemplated Lot Designation: Block 227, Lot 1.22)

SCHEDULE A-1

LEGAL DESCRIPTION FOR BLOCK 227, LOT 1.05

Being all of Proposed Lot 1.05 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

SCHEDULE A-2

LEGAL DESCRIPTION FOR BLOCK 227, LOT 1.07

Being all of Proposed Lot 1.07 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

SCHEDULE A-3

LEGAL DESCRIPTION FOR BLOCK 227, LOT 1.09

Being all of Proposed Lot 1.09 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

SCHEDULE A-4

LEGAL DESCRIPTION FOR BLOCK 227, LOT 1.11

Being all of Proposed Lot 1.11 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

SCHEDULE A-5

LEGAL DESCRIPTION FOR BLOCK 227, LOT 1.15

Being all of Proposed Lot 1.15 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

SCHEDULE A-6

LEGAL DESCRIPTION FOR BLOCK 227, LOT 1.17

Being all of Proposed Lot 1.17 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

SCHEDULE A-7

LEGAL DESCRIPTION FOR BLOCK 227, LOT 1.19

Being all of Proposed Lot 1.19 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

SCHEDULE A-8

LEGAL DESCRIPTION FOR BLOCK 227, LOT 1.21

Being all of Proposed Lot 1.21 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

SCHEDULE B

LEGAL DESCRIPTIONS FOR THE CONVEYED PREMISES

The five (5) land parcels listed below, which comprise the Conveyed Premises (and which, in turn, comprise part of the Demised Premises), are each separately described on Schedules B-1 through B-5 attached to this Schedule B.

Block 227, Lot 1.01 (Contemplated Lot Designation: Block 227, Lot 1.02)

Block 227, Lot 1.02 (Contemplated Lot Designation: Block 227, Lot 1.03)

Block 227, Lot 1.12 (Contemplated Lot Designation: Block 227, Lot 1.13)

Block 227, Lot 1.14 (Contemplated Lot Designation: Block 227, Lot 1.15)

Block 227, Lot 1.22 (Contemplated Lot Designation: Block 227, Lot 1.23)

SCHEDULE B-1

LEGAL DESCRIPTION FOR BLOCK 227. LOT 1.01

Being all of Proposed Lot 1.01 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

SCHEDULE B-2

LEGAL DESCRIPTION FOR BLOCK 227, LOT 1.02

Being all of Proposed Lot 1.02 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

SCHEDULE B-3

LEGAL DESCRIPTION FOR BLOCK 227, LOT 1.12

Being all of Proposed Lot 1.12 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

SCHEDULE B-4

LEGAL DESCRIPTION FOR BLOCK 227, LOT 1.14

Being all of Proposed Lot 1.14 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

SCHEDULE B-5

LEGAL DESCRIPTION FOR BLOCK 227, LOT 1.22

Being all of Proposed Lot 1.22 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

After Recording, Return to:
Tannenbaum Helpem Syracuse & Hirschtritt LLP
900 Third Avenue
New York, New York 10022
Attention: Roger M. Roisman, Esq.

(The Above Space for Recorder's Use Only)

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE (this "Memorandum"), made as of _____, 2010, by and between the **CITY OF ASBURY PARK**, a municipal corporation of the State of New Jersey having an address at the Asbury Park Municipal Building, One Municipal Plaza, Asbury Park, New Jersey 07712 ("Landlord"), and **MADISON ASBURY RETAIL, LLC**, a Delaware limited liability company having an address at 1100 Ocean Avenue, Asbury Park, New Jersey 07712 ("Tenant").

WHEREAS, Landlord and Tenant have entered into that certain Severance Lease, dated as the date hereof (the "Lease"), pursuant to which Landlord has leased to Tenant, and Tenant has leased from Landlord, the Property (as hereinafter defined); and

WHEREAS, Landlord and Tenant have agreed that a Memorandum of Lease be recorded in the Monmouth County Clerk's Office for the purpose of placing on record the interest of Tenant in and to the Property.

NOW, THEREFORE, this Memorandum shall be recorded for the purpose of placing on record the interest of Tenant in and to the Property.

1. The Property being leased by Tenant that is the subject of this Memorandum consists of the thirteen (13) parcels of land described on Schedule A attached hereto and made a part hereof, together with any and all improvements located thereon from time to time (the "Property").

2. The Lease provides for an initial term of twenty-four (24) years and six (6) months commencing on the date hereof (the "Initial Term").

3. Under the terms of the Lease, the Initial Term may be renewed for two (2) additional periods each of twenty-four (24) years and six (6) months, followed by one (1) additional period of approximately seventeen (17) years and eleven (11) months (the "Final Renewal Term"); provided, however, that in no event may the Final Renewal Term expire later than October 27, 2101.

4. All of the terms, conditions and agreements set forth in the Lease are hereby incorporated by reference as though fully set forth herein.

5. If there is any discrepancy between the terms and conditions of this Memorandum and the Lease, the terms and conditions of the Lease shall prevail.

[signature page follows]

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

WITNESS:

CITY OF ASBURY PARK, a municipal corporation (Landlord)

By: _____
Name: Ed Johnson
Title: Mayor

WITNESS:

MADISON ASBURY RETAIL, LLC

By: Madison MMREF Asbury Retail LLC,
its managing member

By: Madison Asbury Investment Inc.,
its managing member

By: _____
Name:
Title:

STATE OF NEW JERSEY

:SS:

COUNTY OF MONMOUTH

I certify that on _____, 2010, Mayor Ed Johnson, personally came before me and stated to my satisfaction that this person: (a) signed, sealed and delivered the signed documents as Mayor of the CITY OF ASBURY PARK, the municipality named in this document; and (b) this document was signed and made by the municipality as its voluntary act and deed.

STATE OF NEW JERSEY

:SS:

COUNTY OF MONMOUTH

I certify that on _____, 2010, Gary Mottola, personally came before me and stated to my satisfaction that this person: (a) signed, sealed and delivered the signed documents as Executive Vice President of Madison Asbury Investment Inc., the managing member of Madison MMREF Asbury Retail LLC, the managing member of Madison Asbury Retail, LLC, the company named in this document; and (b) this document was signed and made by the company as its voluntary act and deed.

SCHEDULE A

Legal Description of the Property

Block 227, Lot 1.01

Being all of Proposed Lot 1.01 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.02

Being all of Proposed Lot 1.02 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.05

Being all of Proposed Lot 1.05 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.07

Being all of Proposed Lot 1.07 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.09

Being all of Proposed Lot 1.09 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.11

Being all of Proposed Lot 1.11 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.12

Being all of Proposed Lot 1.12 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.14

Being all of Proposed Lot 1.14 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.15

Being all of Proposed Lot 1.15 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.17

Being all of Proposed Lot 1.17 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.19

Being all of Proposed Lot 1.19 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.21

Being all of Proposed Lot 1.21 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.22

Being all of Proposed Lot 1.22 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Exhibit I

Net Worth Guaranty

NET WORTH GUARANTY

This NET WORTH GUARANTY (this "Guaranty"), is made as of this 12 day of June, 2010, by MADISON REALTY PARTNERSHIP LLC, a limited liability company organized under the laws of the State of Delaware (the "Guarantor"), to and for the benefit of the CITY OF ASBURY PARK (the "City"), a public body corporate and politic of the State of New Jersey.

RECITALS:

A. Madison Asbury Retail, LLC, a Delaware limited liability company, with principal offices located at 1100 Ocean Avenue, Asbury Park, New Jersey 07712 ("MA Retail"), the Mayor and Council (collectively, the "City Council") of the City of Asbury Park, with principal offices located at 1 Municipal Plaza, Asbury Park, New Jersey, 07712, and Asbury Partners, LLC, a New Jersey limited liability company with principal offices located at 1100 Ocean Avenue, Asbury Park, New Jersey 07712 ("Asbury Partners"), are parties to a Subsequent Developer Agreement dated June 1, 2010 (the "Subsequent Developer Agreement"; capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Subsequent Developer Agreement), pursuant to which, inter alia, MA Retail is recognized as the Subsequent Developer with respect to the Retail Properties.

B. Pursuant to Section 3.02(m)(i) and Section 4.13(a)(ii) of the Subsequent Developer Agreement, for so long as any of the construction obligations of MA Retail under Article 4 of the Subsequent Developer Agreement remain outstanding, MA Retail is obligated to maintain a Net Worth (as certified by Price Waterhouse Coopers LLP or another independent certified public accounting firm reasonably acceptable to the City), of no less than the \$30,000,000.00 (the "Minimum Net Worth"); provided, however, that, in the event any or all of the Parcels shall have been conveyed, in accordance with the Subsequent Developer Agreement, to one or more affiliates of MA Retail (each, an "Affiliate" and collectively, the "Affiliates") and such Affiliate or Affiliates, as the case may be, continue(s) to own fee title to any of the Parcels, then such obligation to maintain a net worth of no less than the Minimum Net Worth shall apply to MA Retail together with such Affiliate or Affiliates, as the case may be.

C. Pursuant to Section 4.13(a)(ii), upon the issuance of a Certificate of Completion for a Retail Property, the Minimum Net Worth may be reduced proportionally as the City and MA Retail may reasonably agree, but in no event shall the Net Worth of MA Retail fall below \$10,000,000 during the term of the Subsequent Developer Agreement.

D. Pursuant to Sections 3.02(q) and 4.13 of the Subsequent Developer Agreement, MA Retail is obligated to cause the Performance Security to be delivered to the City, which Performance Security includes, inter alia the Net Worth Guaranty, pursuant to which Guarantor is to guaranty to the City the obligation of MA Retail to

comply with the Minimum Net Worth covenant set forth in Section 3.02(m)(i) of the Subsequent Developer Agreement.

E. This Guaranty is being made and delivered by Guarantor to satisfy the obligation of MA Retail to cause the Net Worth Guaranty to be delivered to the City by Guarantor pursuant to Sections 3.02(q) and 4.13 of the Subsequent Developer Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Guarantor agrees as follows:

1. The Guarantor hereby absolutely, unconditionally and irrevocably guarantees the following (the "**Guaranteed Obligations**"):

a. If at any time when the construction obligations of MA Retail under Article 4 of the Subsequent Developer Agreement remain outstanding the aggregate Net Worth of MA Retail (and its Affiliates, if applicable) is less than the Minimum Net Worth, Guarantor shall promptly, and without the need for any notice from the City, contribute to MA Retail (and its Affiliates, if applicable) additional capital in the amount by which the then aggregate Net Worth of MA Retail (and its Affiliates, if applicable) is less than the Minimum Net Worth (the "**Net Worth Deficiency**").

b. The full and prompt payment of any Enforcement Costs (as hereinafter defined).

2. In the event of a breach by MA Retail of the Minimum Net Worth covenant in Section 3.02(m)(i) of the Subsequent Developer Agreement, after the expiration of any applicable notice, cure and/or grace period, Guarantor agrees, on written demand by the City to Guarantor, making specific reference to this Guaranty, to promptly contribute to MA Retail (and its Affiliates, if applicable) additional capital in the amount of the Net Worth Deficiency. Notwithstanding any other provision of this Section 2 to the contrary, this Guaranty shall not apply to, and shall impose no obligations upon Guarantor as a result of, any breach by MA Retail of the Minimum Net Worth covenant in Section 3.02(m)(i) of the Subsequent Developer Agreement if such breach: (a) is caused by the breach or repudiation of the Subsequent Developer Agreement by the City; (b) is caused by any action or inaction by the City or any other governmental authority, or (c) is caused by an Event of Force Majeure (as such term is defined in the Subsequent Developer Agreement).

3. The obligations of the Guarantor under this Guaranty are in no way conditional upon any attempt to enforce performance or compliance by MA Retail. Without limiting the generality of the foregoing, the obligations of the Guarantor shall not be affected, reduced, modified or impaired upon the happening, from time to time, of any of the following events, whether or not with notice to or the consent of Guarantor:

a. the failure to give notice to Guarantor of the occurrence of a default by MA Retail under the terms and provisions of the Subsequent Developer Agreement, except as provided in Section 2 of this Guaranty;

b. the modification or amendment (in accordance with the terms of the Subsequent Developer Agreement) (whether material or otherwise) of any obligation, covenant or agreement set forth in the Subsequent Developer Agreement;

c. any failure, omission, delay by or lack on the part of the City to assert or exercise any right, power or remedy conferred on the City in the Subsequent Developer Agreement or this Guaranty; or

d. the voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all of MA Retail's assets; the marshaling of MA Retail's assets and liabilities; the receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition with creditors, or readjustments of, or other similar proceedings affecting MA Retail or its assets.

4. Guarantor hereby waives diligence, presentment, demand of payment, protest and all notices whatsoever (except as expressly provided in Section 2 or as otherwise expressly required by this Guaranty), including, without limitation, notice of (a) any amendment or modification of the Subsequent Developer Agreement, provided such amendment or modification has been duly executed by MA Retail, (b) the City's acceptance and reliance on this Guaranty and (c) default or demand in the case of default, provided such notice or demand has been given to or made upon MA Retail in accordance with the Subsequent Developer Agreement.

5. If a demand, in accordance with Section 2 of this Guaranty, is made upon the Guarantor and the Guarantor duly and properly performs the Guaranteed Obligations set forth in the demand, then the City shall terminate the pursuit of any remedy against MA Retail in respect of any such Guaranteed Obligations which have been fully satisfied by Guarantor hereunder.

6. If: (a) this Guaranty is collected through any legal proceeding; (b) an attorney is retained to represent the City in any bankruptcy, reorganization, receivership or other proceeding affecting creditors' rights and involving a claim under this Guaranty; (c) an attorney is retained to represent the City in any other proceeding whatsoever in connection with this Guaranty, other than any proceeding against Guarantor or MA Retail relating to the Guaranteed Obligations in which the City is not the prevailing party, then Guarantor shall pay to the City, within thirty (30) Days following demand, all reasonable attorneys' fees, costs and expenses incurred in connection therewith (all of which are hereinafter referred to collectively as "Enforcement Costs"), in addition to all other amounts due hereunder, regardless of whether all or a portion of such Enforcement Costs are incurred in a single proceeding brought to enforce this Guaranty.

7. The Guarantor hereby represents and warrants that:

a. it is a limited liability company duly organized and existing under the laws of the State of Delaware; to its knowledge, it is not in violation of any laws of said state applicable to it; it is not in default under any provisions of its certificate of formation; it has inherent power under said laws of the State of Delaware and under its certificate of formation and limited liability company agreement to enter into and perform all agreements on its part herein contained; it has, by proper company action, duly authorized the entering into and the execution and delivery of this Guaranty; entering into this Guaranty and performance hereunder is not an event of default or otherwise contrary to any obligation by which it is bound; and this Guaranty has been duly and validly executed and delivered by the Guarantor and constitutes its legal, valid and binding obligation, enforceable in accordance with its terms (except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting rights of creditors of Guarantor generally); and

b. to Guarantor's knowledge, there is no action or proceeding pending or threatened against it before any court or administrative agency that could adversely affect its ability to perform the Guaranteed Obligations; any authorizations, consents and approvals of governmental bodies or agencies required in connection with the execution and delivery of this Guaranty or in connection with the performance of its obligations hereunder have been obtained as required hereunder or by law.

8. This Guaranty shall be binding upon and enforceable against the Guarantor, its successors and assigns, and is for the benefit of the City, and its successors and assigns.

9. This Guaranty contains the entire agreement of the Guarantor with regard to the performance of the Guaranteed Obligations, and cannot be amended or modified except in a writing executed by Guarantor.

10. This Guaranty shall be governed by the laws of the State of New Jersey. Guarantor (a) irrevocably submits to the non-exclusive jurisdiction of the state and federal courts having jurisdiction in the County of Monmouth and State of New Jersey with respect any suit, action or other legal proceeding relating to this Guaranty, and (b) waives any objection which it may have at any time to the laying of venue of any proceeding brought in any such court, waives any claim that any proceeding has been brought in an inconvenient forum and further waives the right to object, with respect to such proceeding, that such court does not have jurisdiction over such party. Nothing in this Guaranty shall preclude the City from bringing a proceeding in any other legally permissible jurisdiction nor will the bringing of a proceeding in any one or more jurisdictions preclude the bringing of a proceeding in any other jurisdiction. Guarantor further agrees and consents that, in addition to any methods of service of process provided for under applicable law, all service of process in any proceeding in any New Jersey State or United States court sitting in the County of Monmouth made be made by certified mail, return receipt requested, directed to the Guarantor at the address indicated below, and service so made shall be complete upon receipt.

11. Notices required or permitted by this Guaranty shall be given by depositing such notice with a nationally recognized overnight courier with fees paid for next business day delivery. Notices shall be delivered to the parties at the addresses set forth below, and shall be deemed "given" on the date of actual receipt or refusal to accept delivery. Any party may change its address by giving notice to the other parties pursuant to this Section.

If to the City: Asbury Park Municipal Building
One Municipal Plaza
Asbury Park, New Jersey 07712
Attention: Mayor and City Council
Attention: City Clerk
Attention: City Manager

with a copy to: McManimon & Scotland, L.L.C.
1037 Raymond Boulevard, Suite 400
Newark, New Jersey 07102
Attention: Glenn F. Scotland and
Thomas J. Hastie, Jr.

If to Guarantor: Madison Realty Partnership LLC
c/o Madison Marquette
2001 Pennsylvania Avenue - 10th Floor
Washington, D.C. 20006
Attention: Phillip Akins

with a copy to: Tannenbaum Helpert Syracuse & Hirschtritt LLP
900 Third Avenue
New York, New York 10022
Attention: Roger M. Roisman, Esq.

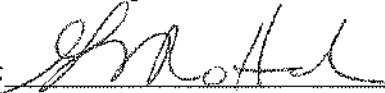
12. This Guaranty shall terminate upon the first to occur of: (a) the issuance of Certificates of Completion for all of the Retail Projects, or (b) the termination of the Subsequent Developer Agreement in accordance with its terms for any reason other than a breach by MA Retail. Upon termination, this Guaranty shall be null and void and Guarantor shall be released from any and all further obligations hereunder.

[The remainder of this page is intentionally left blank. Signature page follows.]

Guarantor has executed this instrument as of the day and year first above written.

MADISON REALTY PARTNERSHIP LLC

By: Madison Realty Corporation,
its Manager

By: _____

Name: Gary Mottola

Title: Executive Vice President

Exhibit J

Form of Completion Guaranty

Exhibit J

Form of Completion Guaranty

COMPLETION GUARANTY

THIS COMPLETION GUARANTY (this "**Guaranty**"), is made as of this _____ day of [_____] , by [_____] , a [_____] organized under the laws of the State of Delaware ("**Guarantor**"), to and for the benefit of the City of Asbury Park (the "**City**"), a public body corporate and politic of the State of New Jersey.

RECITALS:

A. Madison Asbury Retail, LLC, a Delaware limited liability company ("**MA Retail**"), with principal offices located at 1100 Ocean Avenue, Asbury Park, New Jersey 07712, the Mayor and Council (collectively, the "**City Council**") of the City of Asbury Park, with principal offices located at 1 Municipal Plaza, Asbury Park, New Jersey 07712, and Asbury Partners, LLC, a New Jersey limited liability company, with principal offices located at 1100 Ocean Avenue, Asbury Park, New Jersey 07712, are parties to that certain Subsequent Developer Agreement dated as of [_____] , 2010 (the "**Subsequent Developer Agreement**"); capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Subsequent Developer Agreement), pursuant to which, inter alia, MA Retail is recognized as the Subsequent Developer with respect to the Retail Properties.

B. Pursuant to Section 4.13(c) of the Subsequent Developer Agreement, the City, MA Retail and McManimon & Scotland L.L.C. ("**Escrow Agent**") executed and delivered that certain Performance Escrow Agreement dated as of [_____] , 2010, pursuant to which MA Retail deposited FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) with Escrow Agent (the "**Escrow Deposit**") as additional security for the performance by MA Retail of its obligations under the Subsequent Developer Agreement.

C. Pursuant to Section 4.13 (b) of the Subsequent Developer Agreement, prior to the Commencement of Construction of each Retail Project, MA Retail is required to deliver to the City an executed Completion Guaranty with respect to such Retail Project.

D. MA Retail intends to commence the [construction] [renovation] [rehabilitation] of the [_____] Pavilion (the "**Project**"), which is a Pavilion Property, and this Guaranty is being made and delivered by Guarantor to satisfy the obligation of MA Retail to cause the Completion Guaranty to be delivered to the City with respect to the Project pursuant to Section 4.13(b) of the Subsequent Developer Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Guarantor agrees as follows:

1. The Guarantor hereby absolutely, unconditionally and irrevocably guarantees the following (the "**Guaranteed Obligations**"):

a. The completion by MA Retail of the [construction] [renovation] [rehabilitation] of the Project substantially in accordance with the Plans and Building Permits relating thereto, subject to Events of Force Majeure, in accordance with all applicable zoning, building, environmental, land use, wetlands and other laws, statutes, orders, codes, ordinances, regulation and rules, including, without limitation, the following:

i. To pay for (or cause to be paid for) all costs of [construction] [renovation] [rehabilitation] in connection with the Project; and

ii. To pay all real estate taxes levied and assessed against the Project if not paid when due by MA Retail, unless MA Retail is contesting the same.

b. The full and prompt payment of any Enforcement Costs (as hereinafter defined).

2. In the event of a default by MA Retail in the performance of the Guaranteed Obligations, after the expiration of any applicable notice, cure and/or grace period, Guarantor agrees, on written demand by the City to Guarantor, making specific reference to this Guaranty and setting forth the specific default of MA Retail, to promptly pay, perform and satisfy, or cause to be paid, performed and satisfied, those Guaranteed Obligations set forth in such demand. Notwithstanding any other provision of this Section 2 to the contrary, this Guaranty shall not apply to, and shall impose no obligations upon Guarantor as a result of, any failure by MA Retail to perform the Guaranteed Obligations in connection with any action, event or occurrence: (a) that is caused by the breach or repudiation of the Subsequent Developer Agreement by the City; (b) that is caused by any action or inaction by the City or any other governmental authority having jurisdiction over the Project, or (c) that is caused by an Event of Force Majeure.

3. The obligations of the Guarantor under this Guaranty are in no way conditional upon any attempt to enforce performance or compliance by MA Retail (provided, however, that the City shall have taken all actions required by the Subsequent Developer Agreement to declare a default by MA Retail under the Subsequent Developer Agreement). Without limiting the generality of the foregoing, the obligations of the Guarantor shall not be affected, reduced, modified or impaired upon the happening, from time to time, of any of the following events, whether or not with notice to or the consent of Guarantor:

a. the failure to give notice to Guarantor of the occurrence of a default by MA Retail under the terms and provisions of the Subsequent Developer Agreement, except as provided in Section 2 of this Guaranty;

b. the modification or amendment (in accordance with the terms of the Subsequent Developer Agreement) (whether material or otherwise) of any obligation, covenant or agreement set forth in the Subsequent Developer Agreement;

c. any failure, omission, delay by or lack on the part of the City to assert or exercise any right, power or remedy conferred on the City in the Subsequent Developer Agreement or this Guaranty; or

d. the voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all of MA Retail 's assets; the marshaling of MA Retail's assets and liabilities; the receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition with creditors, or readjustments of, or other similar proceedings affecting MA Retail or its assets.

4. Guarantor hereby waives diligence, presentment, demand of payment, protest and all notices whatsoever (except as expressly provided in Section 2 or as otherwise expressly required by this Guaranty), including, without limitation, notice of (a) any amendment or modification of the Subsequent Developer Agreement, provided such amendment or modification has been duly executed by MA Retail, (b) the City's acceptance and reliance on this Guaranty and (c) default or demand in the case of default, provided such notice or demand has been given to or made upon MA Retail in accordance with the Subsequent Developer Agreement.

5. If a demand, in accordance with Section 2 of this Guaranty, is made upon the Guarantor and the Guarantor duly and properly performs the Guaranteed Obligations set forth in the demand, then the City shall terminate the pursuit of any remedy against MA Retail in respect of any such Guaranteed Obligations which have been fully satisfied by Guarantor hereunder.

6. If: (a) this Guaranty is collected through any legal proceeding; (b) an attorney is retained to represent the City in any bankruptcy, reorganization, receivership or other proceeding affecting creditors' rights and involving a claim under this Guaranty; (c) an attorney is retained to represent the City in any other proceeding whatsoever in connection with this Guaranty, other than any proceeding against Guarantor or MA Retail relating to the Guaranteed Obligations in which the City is not the prevailing party, then Guarantor shall pay to the City, within thirty (30) Days following demand, all reasonable attorneys' fees, costs and expenses incurred in connection therewith (all of which are hereinafter referred to collectively as "Enforcement Costs"), in addition to all other amounts due hereunder, regardless of whether all or a portion of such Enforcement Costs are incurred in a single proceeding brought to enforce this Guaranty.

7. The Guarantor hereby represents and warrants that:

a. it is a limited liability company duly organized and existing under the laws of the State of Delaware; it is not in default under any provisions of the laws of said state or under its certificate of formation; it has inherent power under said laws and under its certificate of formation and limited liability company agreement to enter into and perform all agreements on its part herein contained; it has, by proper company action, duly authorized the entering into and the execution and delivery of this Guaranty; entering into this Guaranty and performance hereunder is not an event of default or otherwise contrary to any obligation by which it is bound; and this Guaranty has been duly and validly executed and delivered by the Guarantor and

constitutes its legal, valid and binding obligation, enforceable in accordance with its terms (except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting rights of creditors of Guarantor generally); and

b. to Guarantor's knowledge, there is no action or proceeding pending or threatened against it before any court or administrative agency that could adversely affect its ability to perform the Guaranteed Obligations; any authorizations, consents and approvals of governmental bodies or agencies required in connection with the execution and delivery of this Guaranty or in connection with the performance of its obligations hereunder have been obtained as required hereunder or by law.

8. This Guaranty shall be binding upon and enforceable against the Guarantor, its successors and assigns, and is for the benefit of the City, and its successors and assigns.

9. This Guaranty contains the entire agreement of the Guarantor with regard to the performance of the Guaranteed Obligations, and cannot be amended or modified except in a writing executed by Guarantor.

10. This Guaranty shall be governed by the laws of the State of New Jersey. Guarantor (a) irrevocably submits to the non-exclusive jurisdiction of the state and federal courts having jurisdiction in the County of Monmouth and State of New Jersey with respect any suit, action or other legal proceeding relating to this Guaranty, and (b) waives any objection which it may have at any time to the laying of venue of any proceeding brought in any such court, waives any claim that any proceeding has been brought in an inconvenient forum and further waives the right to object, with respect to such proceeding, that such court does not have jurisdiction over such party. Nothing in this Guaranty shall preclude the City from bringing a proceeding in any other legally permissible jurisdiction nor will the bringing of a proceeding in any one or more jurisdictions preclude the bringing of a proceeding in any other jurisdiction. Guarantor further agrees and consents that, in addition to any methods of service of process provided for under applicable law, all service of process in any proceeding in any New Jersey State or United States court sitting in the County of Monmouth made be made by certified mail, return receipt requested, directed to the Guarantor at the address indicated below, and service so made shall be complete upon receipt.

11. Notices required or permitted by this Guaranty shall be given by depositing such notice with a nationally recognized overnight courier with fees paid for next business day delivery. Notices shall be delivered to the parties at the addresses set forth below, and shall be deemed "given" on the date of actual receipt or refusal to accept delivery. Any party may change it address by giving notice to the other parties pursuant to this Section.

If to the City: Asbury Park Municipal Building
 One Municipal Plaza
 Asbury Park, New Jersey 07712
 Attention: Mayor and City Council

Attention: City Clerk
Attention: City Manager

with a copy to: McManimon & Scotland, L.L.C.
1037 Raymond Boulevard, Suite 400
Newark, New Jersey 07102
Attention: Glenn F. Scotland, Esq. and
Thomas J. Hastie, Jr., Esq.

If to Guarantor: []
2001 Pennsylvania Avenue, N.W., 10th Floor
Washington, D.C. 20006
Attention: []

and

[]
c/o Madison Asbury Retail, LLC
1100 Ocean Avenue
Asbury Park, New Jersey 07712
Attention: []

with a copy to: Tannenbaum Helpern Syracuse & Hirschtritt LLP
900 Third Avenue
New York, New York 10022
Attention: Roger M. Roisman, Esq.

12. This Guaranty shall terminate upon the first to occur of: (a) payment, performance and satisfaction in full of the Guaranteed Obligations; (b) the issuance of a Certificate of Completion for the Project; or (c) the termination of the Subsequent Developer Agreement in accordance with its terms for any reason other than a breach by MA Retail. Upon termination, this Guaranty shall be null and void and Guarantor shall be released from any further obligations hereunder.

Guarantor has executed this instrument as of the day and year first above written.

[INSERT NAME OF GUARANTOR]

By: _____

Name:
Title:

Exhibit K

Descriptions of Retail Properties

Legal Description for the Casino Property (Block 227, Lot 1.04)

Being all of Proposed Lot 1.04 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey," prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Legal Description for the CH/PT Property (Block 227, Lot 1.18)

Being all of Proposed Lot 1.18 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey," prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Legal Description for the Pavilion Properties

Legal Description for the 1st Avenue Pavilion Property (Block 227, Lot 1.06)

Being all of Proposed Lot 1.06 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey," prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Legal Description for the 2nd Avenue Pavilion Property (Block 227, Lot 1.08)

Being all of Proposed Lot 1.08 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey," prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Legal Description for the 3rd Avenue Pavilion Property (Block 227, Lot 1.10)

Being all of Proposed Lot 1.10 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey," prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Legal Description for the 4th Avenue Pavilion Property (Block 227, Lot 1.13)

Being all of Proposed Lot 1.13 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey," prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Legal Description for the 5th Avenue Pavilion Property (Block 227, Lot 1.16)

Being all of Proposed Lot 1.16 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey," prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Legal Description for the Sunset Pavilion Property (Block 227, Lot 1.20)

Being all of Proposed Lot 1.20 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey," prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Legal Description for the Power Plant Property (Block 227, Lot 1.03)

Being all of Proposed Lot 1.03 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey," prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Exhibit K

Legal Description for the Green Acre Parcels

Legal Description for Block 227, Lot 1.01

Being all of Proposed Lot 1.01 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey," prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Legal Description for Block 227, Lot 1.02

Being all of Proposed Lot 1.02 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey," prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Legal Description for Block 227, Lot 1.05

Being all of Proposed Lot 1.05 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey," prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Legal Description for Block 227, Lot 1.07

Being all of Proposed Lot 1.07 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey," prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Legal Description for Block 227, Lot 1.09

Being all of Proposed Lot 1.09 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey," prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Legal Description for Block 227, Lot 1.11

Being all of Proposed Lot 1.11 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey," prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Legal Description for Block 227, Lot 1.12

Being all of Proposed Lot 1.12 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey," prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Legal Description for Block 227, Lot 1.14

Being all of Proposed Lot 1.14 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey," prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Legal Description for Block 227, Lot 1.15

Being all of Proposed Lot 1.15 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of

Asbury Park, Monmouth County, New Jersey," prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Legal Description for Block 227, Lot 1.17

Being all of Proposed Lot 1.17 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey," prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Legal Description for Block 227, Lot 1.19

Being all of Proposed Lot 1.19 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey," prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Legal Description for Block 227, Lot 1.21

Being all of Proposed Lot 1.21 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey," prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Legal Description for Block 227, Lot 1.22

Being all of Proposed Lot 1.22 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey," prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Exhibit L

CAFRA Permit Issued to be Cured

- Appropriate storage of the Tillie Mural
- Return of fee simple ownership in certain Green Acre Parcels to the City and reformation of the existing 99 year lease on the Green Acre Parcels into a format acceptable to the DEP.

Exhibit L

Existing Issues with CAFRA Permit to be cured

Exhibit L

CAFRA Permit Issued to be Cured

- Appropriate storage of the Tillie Mural
- Return of fee simple ownership in certain Green Acre Parcels to the City and reformation of the existing 99 year lease on the Green Acre Parcels into a format acceptable to the DEP.

Exhibit M

Schematic drawing of Lifeguard Facility

Exhibit M

Schematic drawing of Lifeguard Facility

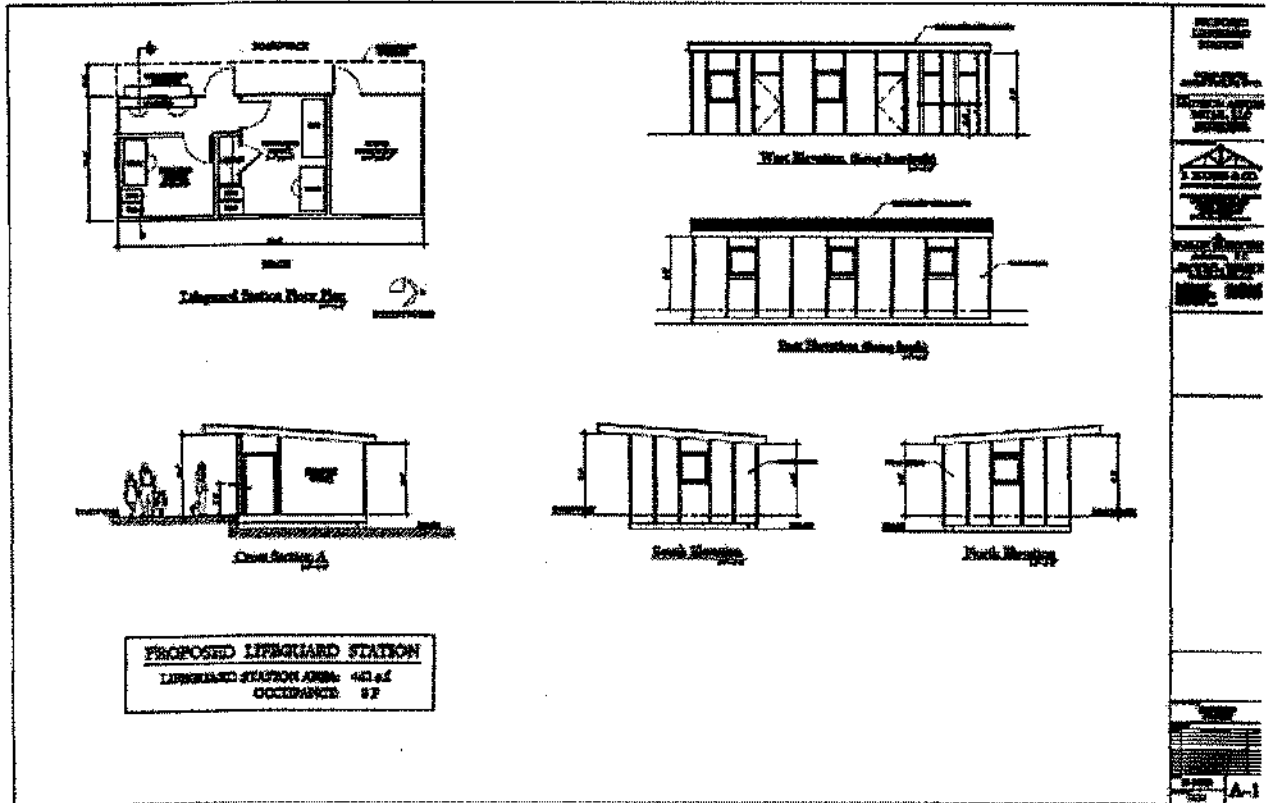


Exhibit N

Planning Board Resolution related to "Pop Up" Retail Facilities

RESOLUTION APPROVING THE LOCATION AND DIMENSIONS OF POP-UP RETAIL STRUCTURES AS PART OF INTERIM PRELIMINARY SITE PLAN APPLICATIONS OF MADISON ASBURY RETAIL, LLC FOR BLOCK 227, LOTS 1.07, 1.09, 1.11, 1.12, 1.14 & 1.15, COMMONLY REFERRED TO AS THE FIRST, SECOND, THIRD AND FOURTH AVENUE GREEN ACRES PARCELS

WHEREAS, the applicant Madison Asbury Retail, LLC, hereinafter referred to as the applicant is the designated developer of the above referenced Tax Block and Lots in the City of Asbury Park, which properties are commonly known as the First, Second, Third and Fourth Avenue Green Acres Parcels that are located in the Waterfront Redevelopment Area Zone, hereinafter referred to as the WRA; and

WHEREAS, the applicant has applied for Preliminary and Final Site Plan approval for the location and construction of modular or container type structures that will contain what is referred to as "pop-up" retail and lavatory uses at the sites. The details of the proposed improvements are set forth in the site plan applications, exhibits and testimony submitted on behalf of the applicant at a public hearing conducted by the Planning Board on April 14, 2008. The applications, site plans, exhibits and testimony submitted into evidence at the hearing are incorporated herein by reference thereto; and

WHEREAS, the proposed uses are permitted in the WRA Zone and all jurisdictional requirements have been met and proper notice has been given pursuant to the Municipal Land Use Law and City Ordinances, and the Board has jurisdiction to consider this application; and

WHEREAS, the Board considered these applications at a public hearing held on April 14, 2008; and

WHEREAS, the Board after considering the evidence and testimony presented on behalf of the applicant and the comments of interested citizens has made the following findings of fact and conclusions based thereon:

1. The properties are located in the Waterfront Redevelopment Area Zone, which permits the contemplated uses at the sites and the proposed improvements.
2. The plans for the projects submitted by the applicant have received the necessary approvals of the WRA Technical Review Committee and the Mayor and Council of the City of Asbury Park acting in their capacity as the City Redevelopment Agency pursuant to a Resolution adopted by the Mayor and City Council on March 6, 2008.
3. The applicant's principal witness Gary Mattola testified that the applicant wants to have these improvements installed before the 2008 summer season. Due to the time constraints the Board has agreed to work with the

applicant by way of granting temporary preliminary approvals that must be supplemented. Essentially the Board has agreed to allow construction permits to be issued to the applicant prior to final site plan approval, recognizing that these projects along with other boardwalk projects by the applicant are “works in progress”. Therefore the applicant has agreed to accept the Board monitoring the projects on a continuing basis and has further agreed to Board imposed conditions which are hereinafter set forth. Due to the continuing nature or evolution of these projects the applicant has also agreed to accept new future conditions that may be imposed by the Board; and

WHEREAS, the Board determined that the relief requested by the applicant can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinances of the City of Asbury Park and will be in compliance with the waterfront redevelopment plan; and

WHEREAS, the Board after considering the testimony and exhibits has found the proposed site plan applications to be in accordance with the spirit of the Site Plan ordinance and aforementioned ordinances subject to compliance with Board imposed conditions at this time and in the future.

NOW THEREFORE BE IT RESOLVED by the Planning Board of the City of Asbury Park that the application for interim and/or temporary preliminary site plan approval of Madison Asbury Retail, LLC for the location and dimensions of the “pop-up” retail structures on the above referenced Block and Lots is hereby approved contingent upon the applicant complying with the following conditions;

1. All testimony, evidence and representations made on behalf of the applicant by its witnesses at the public hearings of the Board and the Mayor and City Council are incorporated herein.
2. The applicant agrees to enter into the appropriate Redevelopers Agreement with the City for this project and does further agree to post performance bonds, inspection fees and escrows as determined by the Mayor and City Council acting in their capacity as the City Redevelopment Agency and/or the City Engineer Brian Grant and Board Secretary.
3. The applicant agrees to comply with all of the outstanding conditions and recommendations if any, set forth in the reports submitted by the City Engineer and the Board Planners for this project which are annexed hereto and made a part hereof.
4. Taxes, fees and escrow accounts shall remain current.
5. The applicant will adhere to the findings of fact set forth above.
6. Compliance with all CAFRA permit, NJDEP and Green Acres requirements and regulations applicable to this project.
7. If this project requires the approval of any other governmental agency, this approval is contingent thereon. Furthermore, if any outside agency approves this project subject to the applicant changing or amending the

- plans approved by this Board the applicant must appear before this Board for approval of an amendment to the approved plans.
8. The applicant agrees to comply with the conditions set forth in the City Council Resolution dated March 6, 2008, except as may be modified herein, which is annexed hereto and made a part hereof.
 9. The applicant agrees that this is an interim approval. The Board may impose additional conditions in the future as set forth in the findings of fact set forth above.
 10. The Board intends to recommend to the Mayor and City Council that these approvals shall be for a 3 year term in order to monitor the success or failure of the use of the proposed type of structures and the architectural and design features proposed by the applicant. The Board accepts the representations of the applicant's principal witness Gary Mattola that the exterior design features of the structures are unknown at this time therefore the Board cannot evaluate and vote on these issues on a permanent basis at this time.
 11. Representatives of the applicant will meet with the Board Design Subcommittee and Board staff members in order to finalize the following elements of the projects:
 - a. The landscaping, lighting (including but not limited to light intensity, fixture design and height) for the projects.
 - b. The exterior designs of the proposed on-site containers.
 - c. All utility locations (which also have to be approved by the Mayor and City Council).
 13. The location and dimensions of the proposed structures are to be fixed at this time as follows:
 - a. The locations and footprints are to be consistent with Exhibits A-6, A-7 & A-8 entered into evidence at the public hearing before the Board held on April 14, 2008, and as directed in the City Council Resolution dated March 6, 2008, which is annexed hereto and made a part hereof.
 - b. The dimensions of the "pop-up" container structures shall be either 8 feet wide by 8 feet in height by 20 or 40 feet in length. In some locations (as depicted on the Exhibits referred to above), two 20 foot containers may be combined to have a 16 foot depth.
 - c. The addition of any architectural elements to the containers such as awnings or attached structural features combined with the dimensions set forth above shall not exceed a height of 12 feet; a maximum front "awning" projection of 4 feet and a maximum projection of 2 feet for each of the 4 sides of the structure for attached architectural features including any "awning" type of feature (with the exception of the front awning).
 14. The Board defers all issues relating to "branding" to the Mayor and City Council since the Board does not have jurisdiction to consider those issues.

A Motion to approve the application subject to compliance with the foregoing conditions was offered by Rev. David Parreott and seconded by Vernice McGriff.

The members of the Board who may vote to adopt this Resolution of memorialization are those members who voted in favor of the motion to approve the application.

Ayes: *Vernice McGriff, S.A. Touey, Terry Reidy, Rev. Parreott.*

Nays:

Abstain:

April 28, 2008.

Barbara Van Wagner
Barbara VanWagner, Board Secretary

I certify this to be a true copy of a Resolution adopted by the City of Asbury Park Planning Board on April 28, 2008.

Barbara Van Wagner
Barbara VanWagner, Board Secretary

Exhibit O

Convention Hall Completed Work

Exhibit O

Convention Hall Work Completed

Task	Status
Window Replacement	Complete
Life/Safety Repairs	Complete
Interior Storefront Replacements	Complete
Arcade Entrance Structural Repair	Complete
Exterior Storefronts and Entry Doors	Complete

Exhibit P

Convention Hall Work to be Completed

Exhibit P

Convention Hall Work to be Completed

Resolution of violation and variance with respect to sprinkler system for Convention Hall

Completion of steps to beach as required by Planning Board Resolution, dated April 14, 2008.

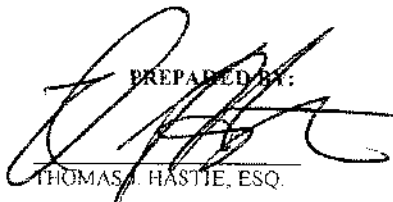
Grand Arcade accent lighting and tenant seating area improvements (the Grand Arcade "beautification" program)

Exhibit Q

CH/PT Arcade Easement Agreement

EXECUTION COPY

RECORD AND RETURN TO:
TANNENBAUM HELPERN SYRACUSE & HIRSCHTRITT LLP
900 THIRD AVENUE
NEW YORK, NEW YORK 10022
ATTENTION: ROGER M. ROISMAN, ESQ.

PREPARED BY:

THOMAS HASTIE, ESQ.

EASEMENT MODIFICATION AGREEMENT

(Convention Hall and Convention Hall Arcade)

THIS EASEMENT MODIFICATION AGREEMENT (this "Agreement") is made this 1 day of June, 2010, by and between MADISON ASBURY CONVENTION HALL, LLC, a Delaware limited liability company, having an address at 1100 Ocean Avenue, Asbury Park, New Jersey 07712 ("Owner"), and THE CITY OF ASBURY PARK, having an address at 1 Municipal Plaza, Asbury Park, New Jersey 07712 (the "City"; and, together with Owner, sometimes referred to herein collectively as "parties" and individually as a "party", as the context may require).

RECITALS:

A. Owner is the owner of that certain parcel of land, together with the improvements located thereon, known as Block 227, Lot 1.18 in the City of Asbury Park, County of Monmouth, State of New Jersey, as more particularly described in Exhibit A attached hereto and made a part hereof ("Owner's Parcel").

B. Owner's Parcel is part of the "Waterfront Redevelopment Area," as such term is defined in that certain Waterfront Redevelopment Plan adopted by the City on November 7, 1984 (as same has been and may hereafter be amended, the "Plan").

C. By Deed dated January 15, 2004 (the "Deed") and recorded on February 27, 2004 in Book OR-8335, Page 5257 in the Monmouth County Clerk's Office, between the City and

Asbury Partners, LLC ("**Asbury Partners**"), the City conveyed the Owner's Parcel to Asbury Partners.

D. Owner's Parcel includes structures known as (i) to the west, the Asbury Park Paramount Theater ("**Paramount Theater**"), (ii) to the east, the Asbury Park Convention Hall ("**Convention Hall**") and (iii) the enclosed arcade (the "**Arcade**") between the Paramount Theater and the Convention Hall, which Arcade contains, from north to south, a continuation of the Asbury Park Boardwalk (the "**Boardwalk**").

E. The City, as the predecessor in title to Asbury Partners as the fee owner of Owner's Parcel required, among other things, that, as a condition to the City's agreement to convey fee title to the Owner's Parcel to Asbury Partners, (i) the City and the public shall have, in perpetuity, the right to utilize the Boardwalk, traverse through the Arcade, as more particularly described on **Exhibit B** attached hereto and made a part hereof (the "**Original Easement Site**"), and (ii) the City shall have the right to use Convention Hall for up to twenty-one (21) days per year for events and functions which serve a public or community purpose and not for commercial purposes (each, an "**Event**"), each pursuant to and in accordance with the terms and conditions of that certain Amended and Restated Redeveloper and Land Disposition Agreement dated October 28, 2002, by and between the City and Asbury Partners, as approved by Ordinance Number 2002-2617 of the City, and as the same may be amended from time to time (the "**Redeveloper Agreement**").

F. Pursuant to the Deed, and in accordance with the terms and conditions of the Redeveloper Agreement, (i) the City reserved for itself and the public, and Asbury Partners granted to the City and the public, an easement in perpetuity providing for the right to traverse through the Original Easement Site (the "**Original Access Easement**"), as more particularly

described on Exhibit B attached hereto and as further set forth on the “Final Plat Asbury Park Redevelopment Project” Major Subdivision filed in the Monmouth County Clerk’s Office on December 22, 2003 in Case 292 at Sheet 21 (4 of 5); and (ii) the City reserved for itself, and Asbury Partners granted to the City, the right for the City to use Convention Hall for up to twenty-one (21) Events per year in accordance with the priorities of use set forth in the Deed.

G. The City recognizes that the Original Access Easement encompasses, in essence, the entire floor area of the Arcade and, thus, is inconsistent with the intent of the Redeveloper Agreement, the Plan, and the historic use of the Arcade permitting various vendor and other retail-related activities along the east and west sides of the Arcade.

H. By Deed dated January 15, 2004 and recorded on February 27, 2004 in Book OR-8335, Page 5396 in the Monmouth County Clerk’s Office, between Asbury Partners and Asbury Convention Hall Limited Liability Company, a New Jersey limited liability company (“ACHLLC”), an affiliate of Asbury Partners, Asbury Partners conveyed Owner’s Parcel to ACHLLC, subject to the easements, restrictions and conditions set forth in the Deed.

I. By Deed dated June 11, 2007 and recorded on June 26, 2007 in Book OR-8660, Page 6466 in the Monmouth County Clerk’s Office, between ACHLLC and Owner, ACHLLC conveyed Owner’s Parcel to Owner, subject to the easements, restrictions and conditions set forth in the Deed.

J. On June 1, 2010, the City Council adopted a Resolution authorizing, among other things, the execution of this Agreement on behalf of the City.

K. This Agreement is being entered into to, and is intended to, inter alia, amend and modify the terms, covenants and conditions of the Deed relating to the Original Easement Site

and the Original Access Easement, and amplify the procedures with respect to the City's right to use Convention Hall.

NOW, THEREFORE, in consideration of the foregoing Recitals, the mutual covenants hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby covenant and agree to and with each other as follows:

ARTICLE I

GRANT OF ACCESS EASEMENT;

RESTRICTIONS AND CONDITIONS OF ACCESS EASEMENT

1.01 Owner and the City hereby acknowledge and agree that the terms, covenants and conditions of the Deed relating to the Original Easement Site and the Original Access Easement are hereby amended and modified as follows: (i) the Original Easement Site described in the Deed is hereby deleted in its entirety and replaced with the Easement Site (as hereinafter defined), (ii) the Original Access Easement described in the Deed is hereby deleted in its entirety and replaced with the Access Easement (as hereinafter defined), and (iii) the terms, covenants and conditions of the Deed relating to the Original Easement Site and the Original Access Easement are hereby deleted in their entirety and replaced with the terms, covenants and conditions of this Agreement, including, without limitation, the terms, covenants and conditions set forth in this Article I.

1.02 Subject to the terms of this Agreement, Owner hereby grants, gives and conveys to the City and the public, for the benefit of the City and the public, without requiring payment of any fee or other charge therefor, the perpetual, non-exclusive and irrevocable right, privilege and easement (the "Access Easement") over, across and through that certain portion of the Arcade

shown on **Exhibit C** attached hereto and made a part hereof (as now or hereafter amended, modified and/or reconfigured, the "**Easement Site**"), as necessary from time to time, during the hours of (x) 6:00 a.m. through 12:00 a.m. from April 1st through September 30th of any calendar year (the "**Prime Season**"), and (y) 7:00 a.m. through 7:00 p.m. from October 1st through March 31st of any calendar year, (i) to traverse over, across and through the Easement Site, and (ii) to access the public restroom facilities within Convention Hall. The Easement Site shall, except as and when specifically provided herein to the contrary, permit pedestrian and vehicular access between the Boardwalk area north of Owner's Parcel and the Boardwalk area south of Owner's Parcel, with an emergency lane to be provided in such area for use by police, fire, ambulances and other emergency vehicles. Vehicular access in such area shall be limited to emergency, community and public safety purposes, including, without limitation, for access by the police department, fire department, ambulances and emergency medical technicians and for maintenance and repair, waste disposal, deliveries and loading and unloading of goods and supplies. In addition, Owner may, from time to time, in accordance with the procedures set forth in this Agreement, reconfigure the location and/or course of the Easement Site.

1.03 Owner, as the owner of "fee title" to the Owner's Parcel, and Owner's successors, assigns, representatives, tenants, employees, agents, subtenants, concessionaires, licensees, customers and other invitees, shall be permitted, without the payment of any "use," "occupancy" or similar fee or charge to the City, to use that portion of the Easement Site not reserved as a pedestrian walkway or emergency lane for events and other exhibitions and for commercial and entertainment purposes, including, by way of example and not by way of limitation, for (i) tables and seating, (ii) kiosks and pushcarts, (iii) entry and ticket purchase lines, (iv) event staging and seating, (v) deliveries, loading and unloading of goods and supplies, (vi) displays and other

advertising and promotional materials, and (vii) seasonal and holiday displays.

1.04 Owner may, from time to time, reconfigure the location and/or course of the Easement Site (i) without the prior consent of the City, consistent with the easement drawings shown on **Exhibit D-1** attached hereto and made a part hereof, **Exhibit D-2** attached hereto and made a part hereof or **Exhibit D-3** attached hereto and made a part hereof, or (ii) in any other manner proposed by Owner with the prior consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that, the Easement Site, as and when reconfigured, shall at all times be configured so as to allow for and permit pedestrian and vehicular access as contemplated by this Agreement.

1.05 Owner may at any time, and from time to time, upon reasonable advance notice to the City (except in the event of an emergency), narrow the Easement Site or restrict or close the Arcade (including the Easement Site), as applicable, (x) prior to, during and following the occurrence of any event or exhibition in the Arcade, Convention Hall and/or Paramount Theater, (y) in connection with any work, repairs, maintenance and/or renovations being conducted on Owner's Parcel, or (z) as may be necessary or appropriate in the interest of maintaining the public's health and safety, including, without limitation, crowd control; provided, however, that in the case of any such restriction or closure, Owner shall provide, and use signage visible to users to designate, a reasonable alternative to the Easement Site.

ARTICLE II

GRANT OF EASEMENT TO USE CONVENTION HALL; RESTRICTIONS AND CONDITIONS OF EASEMENT TO USE CONVENTION HALL

2.01 Owner and the City hereby acknowledge and agree that the terms, covenants and conditions of the Deed relating to the City's right to use Convention Hall are hereby amended

and modified by deleting the terms, covenants and conditions of the Deed relating to the City's right to use Convention Hall and replacing them in their entirety with the terms, covenants and conditions of this Agreement, including, without limitation, the terms, covenants and conditions set forth in this Article II.

2.02 Subject to the terms of this Agreement, Owner hereby grants, gives and conveys to the City and its permittees, for the benefit of the City and its permittees, without requiring payment of any "rental" or "use" fee or other charge therefor, (i) the right to use Convention Hall for up to twenty-one (21) Events per calendar year. For purposes of this Agreement, no single Event shall be for a period of time in excess of one (1) twenty-four (24) hour period (inclusive of set-up and clean-up, but subject to § 2.03(c) below).

2.03 Owner and the City hereby agree and acknowledge that the City's right to use Convention Hall shall be subject to the following terms and conditions:

(a) Except with respect to the "traditional events" listed on **Exhibit E** attached hereto and made a part hereof, Owner shall have the right to reserve and use Convention Hall (to the exclusion of the City) during the Prime Season and such additional dates as Owner reasonably elects to reserve for commercial use (the "**Owner Dates**").

(b) If the City desires to reserve and use Convention Hall on a specific date which is not an Owner Date, the City shall provide Owner with written notice of its request to reserve Convention Hall for such date, and with reasonable promptness following Owner's receipt of such notice, Owner shall advise the City of the availability on such date.

(c) In addition to the single twenty-four (24) hour period that constitutes an Event, unless there is a previously scheduled event or exhibition occurring at Convention Hall, Owner agrees to allow the City (or its designee) to utilize Convention Hall for up to three (3)

days prior to the date of the Event to rehearse and/or prepare for the scheduled event or exhibition, and for one (1) day following the date of such Event to clean and/or dismantle any equipment or other props used in connection with such Event.

2.04 The City acknowledges and agrees that it shall provide, or cause to be provided, at no cost or expense to Owner, event staffing, security, fire, safety and cleaning services at Convention Hall during the days and times that the City (or its designee) occupies Convention Hall. The City agrees that, following any use of Convention Hall by the City, the City shall arrange for Convention Hall to be cleaned and free of waste and debris. In addition, the City agrees to reimburse (or cause to be reimbursed) Owner for any and all charges in respect of electric, gas, heat, light, power and other utilities and services used during the days and times that the City (or its designee) occupies Convention Hall.

2.05 The City agrees to defend, protect, indemnify and hold Owner and Owner's affiliates and their respective agents, servants, shareholders, directors, officers, partners, members and employees harmless from and against all claims or demands, including any action or proceeding brought thereon, and all costs, losses, expenses and liabilities of any kind relating thereto, including reasonable attorneys' fees and cost of suit, arising out of or resulting from the reservation, occupation and use of Convention Hall by the City and/or its designees and any breach of this Agreement by the City and/or its designees; provided, however, that the foregoing indemnification obligation of the City shall not apply to any such claims or demands to the extent the same arise out of, or result from, the gross negligence or willful misconduct of Owner. The City shall provide, or cause to be provided, insurance against liability for injury, death, loss and damage to third parties, the City, or Owner or their respective employees and agents resulting from or arising out of the occupation and use of Convention Hall by the City and its agents,

invitees or designees, issued by an insurance company or companies authorized to do business in the State of New Jersey, in such commercially reasonable amounts and including such coverages as Owner shall reasonably determine.

ARTICLE III

UNAVOIDABLE DELAYS

In any case where either party hereto is required to do any act (other than make a payment of money), delays caused by, or resulting from, an Act of God, war, fire or other casualty, strikes, unavoidable shortages of materials or equipment, government regulations or other causes beyond such party's reasonable control shall not be counted in determining the time when the performance of such act must be completed, whether such time be designated by a fixed time, a fixed period of time or "a reasonable time".

ARTICLE IV

COVENANTS RUNNING WITH THE LAND

All of the covenants, agreements, conditions and restrictions set forth in this Agreement are intended to be, and shall be construed as, covenants running with the land, binding upon Owner and Owner's successors and assigns, and any mortgagee of Owner's Parcel; provided, however, that in the event and for so long as Owner or its successor or assign shall cease, for any or no reason, to operate the Convention Hall as a convention, exhibition and/or entertainment facility, the rights of the City under Article II shall lapse.

ARTICLE V

EACH PARTY IS AN INDEPENDENT CONTRACTOR

Nothing contained in this Agreement shall be construed to make the parties to this Agreement partners or joint venturers, or to render either party liable for the debts or obligations of the other, except as expressly provided in this Agreement.

ARTICLE VI

WAIVERS

No delay or omission by either party hereto in exercising any right or power accruing hereunder upon any default in the performance or observance by the other party under the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either party of any of the covenants, conditions or agreements hereof to be performed or observed by the other party shall not be construed to be a waiver of any subsequent breach thereof or of any other covenants, conditions or agreements herein contained.

ARTICLE VII

APPLICABLE LAW; INVALIDITY

This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey. If any provision of this Agreement or a portion thereof, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

ARTICLE VIII

NOTICES

Every notice, demand or other document or instrument required or permitted to be given or served upon either of the parties hereunder shall be in writing and shall be deemed to have been duly given or delivered (or attempted to be delivered and refusal to accept or undeliverable

due to change of address of which no notice was given) when sent by reputable overnight courier providing for receipted next business day delivery, and addressed as follows:

(a) If to Owner:

c/o Madison Asbury Retail, LLC
1100 Ocean Avenue
Asbury Park, New Jersey 07712
Attention: Gary Mottola, President

and

c/o Madison Marquette
2001 Pennsylvania Avenue NW - 10th Floor
Washington, D.C. 20006
Attention: Chief Financial Officer

with a copy to:

Tannenbaum Helpem Syracuse & Hirschtritt LLP
900 Third Avenue
New York, New York 10022
Attention: Roger M. Roisman, Esq.

(b) If to the City:

City of Asbury Park
Asbury Park Municipal Building
One Municipal Plaza
Asbury Park, New Jersey 07712
Attention: City Manager

with a copy to:

McManimon & Scotland L.L.C.
One Riverfront Plaza, 4th Floor
Newark, New Jersey 07102
Attention: Glenn F. Scotland, Esq. and
Thomas J. Hastie, Jr., Esq.

ARTICLE IX

MISCELLANEOUS

9.01 No breach of this Agreement shall entitle either party hereto to cancel, rescind or otherwise terminate this Agreement, but such limitation shall not affect in any manner any other rights or remedies which such party may have hereunder by reason of any breach of this Agreement. The rights and remedies given to either of the parties hereunder are cumulative and the exercise of any one of such right or remedies shall not operate to bar the exercise of any other rights or remedies available to such party under the provisions of this Agreement or at law or in equity.

9.02 Each party hereto shall, from time to time, upon not less than ten (10) days notice from the other party, execute and deliver to the requesting party a certificate stating (i) that this Agreement is unmodified and in full force and effect or, if modified, that this Agreement is in full force and effect, as modified and stating the modifications, (ii) whether or not, to the best of its knowledge, the other party hereto is in default in any respect, and if in default, specifying such default, and (iii) any other matters reasonably requested by such requesting party with respect to this Agreement.

9.03 Upon the complete execution, acknowledgement and delivery of this Agreement, an original counterpart of this Agreement shall be submitted by Owner for recording in the Office of the County Clerk, Monmouth County, New Jersey, at Owner's cost and expense. The parties hereto shall execute such other and further documents as are necessary to cause this Agreement to be so recorded.

9.04. Any alteration, change or modification hereto, in order to become effective, shall be made by written instrument or endorsed hereon and, in each such instance, executed by both of the parties hereto, or their respective successors or assigns.

9.05 Except as modified by this Agreement, the terms and provisions contained in the Deed are ratified and confirmed.

9.06. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which counterparts shall constitute one and the same instrument.

9.07 This Agreement sets forth the entire agreement between the parties with respect to the matters set forth herein. There have been no additional oral or written representations or agreements.

[signatures appear on the following page]

The parties hereto have executed this Agreement the day and year first written above.

OWNER:

**MADISON ASBURY CONVENTION
HALL, LLC**

By: Madison Asbury Retail, LLC,
its sole member

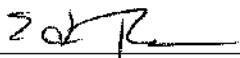
By: Madison MMREF Asbury Retail LLC,
its managing member

By: Madison Asbury Investment Inc.,
its managing member

By: _____
Name:
Title:

CITY:

THE CITY OF ASBURY PARK

By:  _____
Name: Ed Johnson
Title: Mayor

STATE OF _____ :SS:
COUNTY OF _____

BE IT REMEMBERED, that on _____, 2010, before me, the undersigned, a Notary Public in and for the State of _____, personally appeared _____, the _____ of Madison MMREF Asbury Retail LLC, which is the managing member of Madison Asbury Retail, LLC, and acknowledged to me that:

- (1) Such individual executed the within instrument on behalf of said company; and
- (2) The within instrument is the voluntary act and deed of said company.

Notary Public

[NOTARY SEAL]

STATE OF NEW JERSEY :SS:
COUNTY OF MONMOUTH

BE IT REMEMBERED, that on June 1, 2010, Ed Johnson personally came before me and this person acknowledged under oath, to my satisfaction, that:

- (1) this person is the Mayor of The City of Asbury Park, a Municipal corporation;
- (2) this person knows the proper seal of the corporation which was affixed to this Agreement; and
- (3) this person signed this proof to attest to the truth of these facts.

WATERCIA M. LOPES
Notary Public

[NOTARY SEAL]
WATERCIA M. LOPES
A Notary Public of New Jersey
My Commission Expires June 25, 2014

The parties hereto have executed this Agreement the day and year first written above.

OWNER:

**MADISON ASBURY CONVENTION
HALL, LLC**

By: Madison Asbury Retail, LLC,
its sole member

By: Madison MMREF Asbury Retail LLC,
its managing member

By: Madison Asbury Investment Inc.,
its managing member

By: _____

Name: **GARY MOTTOLA**

Title: *Executive Vice President*

CITY:

THE CITY OF ASBURY PARK

By: _____

Name: Ed Johnson

Title: Mayor

STATE OF New Jersey :SS:
COUNTY OF Monmouth

BE IT REMEMBERED, that on May 20, 2010, before me, the undersigned, a Notary Public in and for the State of New Jersey, personally appeared Gary Mottola, the Executive Vice President of Madison Asbury Investment Inc., the managing member of Madison MMREF Asbury Retail LLC, which is the managing member of Madison Asbury Retail, LLC, which is the sole member of Madison Asbury Convention Hall, LLC and acknowledged to me that:

- (1) Such individual executed the within instrument on behalf of said company; and
- (2) The within instrument is the voluntary act and deed of said company.

Carol A. Avale
Notary Public

[NOTARY SEAL] CAROL A. AVALE
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 02/06/11

STATE OF NEW JERSEY :SS:
COUNTY OF MONMOUTH

BE IT REMEMBERED, that on _____, 2010, Ed Johnson personally came before me and this person acknowledged under oath, to my satisfaction, that:

- (1) this person is the Mayor of The City of Asbury Park, a Municipal corporation;
- (2) this person knows the proper seal of the corporation which was affixed to this Agreement; and
- (3) this person signed this proof to attest to the truth of these facts.

Notary Public

[NOTARY SEAL]

TABLE OF EXHIBITS

- EXHIBIT A: DESCRIPTION OF OWNER'S PARCEL
- EXHIBIT B: DESCRIPTION OF ORIGINAL EASEMENT SITE
- EXHIBIT C: DRAWING OF EASEMENT SITE
- EXHIBIT D: DRAWINGS OF THE ALTERNATIVE MODIFIED EASEMENT SITES
- EXHIBIT E: THE TRADITIONAL EVENTS

EXHIBIT A

DESCRIPTION OF OWNER'S PARCEL

LEGAL DESCRIPTION FOR BLOCK 227, LOT 1.18

Being all of Proposed Lot 1.18 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

EXHIBIT B

DESCRIPTION OF ORIGINAL EASEMENT SITE

EXHIBIT B



DESCRIPTION OF PROPERTY
CITY OF ASBURY PARK
MONMOUTH COUNTY, NEW JERSEY

PROPOSED 80' WIDE ACCESS
EASEMENT LOT 1.04 BLOCK 227
PROJECT NO. 010004301
JULY 30, 2003

All that certain lot, tract or parcel of land situate, lying and being in the City of Asbury Park, in the County of Monmouth, and the State of New Jersey and being all of a Proposed 80' Wide Access Easement through a portion of Lot 1.04 Block 227, said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project, Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1, Block 227 Lot 1, Block 230 Lot 1 and Block 231 Lot 1, City of Asbury Park, Monmouth County, New Jersey", prepared by Schoor DePalma, Manalapan, dated November 15, 2002, revised to July 2, 2003, said plat about to be filed in the Monmouth County Clerk's Office, and being further described as follows, to wit;

BEGINNING at a point in the proposed southerly line of the newly created Lot 1.05 Block 227, said line as shown on the aforesaid plat about to be filed, said point being the following bearing and distance from the point of intersection formed by the existing easterly line of Ocean Avenue, (75' R.O.W.), said line being distant 37.50' measured easterly from and parallel with the centerline thereof, with the aforesaid newly created southerly line of Lot 1.05 Block 227

A) South seventy-four degrees fifty-two minutes fifty-two seconds East (S 74° 52' 52" E), one hundred two and five hundredths feet (102.05'), along the newly created southerly line of Lot 1.05 Block 227, to a point in the newly created easterly line of same, thence;

And from said point running, thence;

- 1) North fifteen degrees eleven minutes fifty-six seconds East (N 15° 11' 56" E), twelve and zero hundredths feet (12.00'), along the aforesaid newly created easterly line of Lot 1.05 Block 227, to a point in the same, thence;
- 2) South seventy-four degrees fifty-two minutes fifty-two seconds East (S 74° 52' 52" E), eighty and zero hundredths feet (80.00'), along a newly created southerly line of Lot 1.01 Block 230, to a point in the same, said adjoining lot as shown on the aforesaid plat about to be filed, thence;
- 3) South fifteen degrees eleven minutes fifty-six seconds West (S 15° 11' 56" W), two hundred fifty and twelve hundredths feet (250.12'), passing through a portion of the newly created Lot 1.04 Block 230, to a point in the newly created northerly line of Lot 1.01 Block 230, said adjoining lots as shown on the aforesaid plat about to be filed, thence;



010004301
July 11, 2003
Page 2

- 4) North seventy-four degrees fifty minutes four seconds West (N 74° 50' 04" W), sixty-four and seventy-four hundredths feet (64.74'), along the aforesaid newly created northerly line of Lot 1.01 Block 230 and beyond, along a newly created northerly line of Lot 1.03 Block 230, to a point in an easterly line of same, said adjoining lots as shown on the aforesaid plat about to be filed, thence;
- 5) North fifteen degrees fourteen minutes eight seconds East (N 15° 14' 08" E), five and six hundredths feet (5.06'), along a newly created easterly line of Lot 1.03 Block 230, to a point in a newly created northerly of same, thence;
- 6) North seventy-four degrees forty-nine minutes fifty-three seconds West (N 74° 49' 53" W), fifteen and twenty-eight hundredths feet (15.28'), along the aforesaid newly created northerly line of Lot 1.03 Block 230, to a point in the same, thence;
- 7) North fifteen degrees eleven minutes fifty-six seconds East (N 15° 11' 56" E), two hundred thirty-two and ninety-nine hundredths feet (232.99'), passing through a portion of the aforesaid Lot 1.04 Block 227, to a point in the aforesaid newly created southerly line of Lot 1.05 Block 227, the Point and Place of BEGINNING.

CONTAINING 19,929.41 square feet of land or 0.46 acres of land more or less.

The foregoing description was prepared by the undersigned surveyor for the firm of Schoor DePalma and is based upon a certain map entitled "Final Plat Asbury Park Redevelopment Project, Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1, Block 227 Lot 1, Block 230 Lot 1 and Block 231 Lot 1, City of Asbury Park, Monmouth County, New Jersey", prepared by Schoor DePalma, Manalapan, dated November 15, 2002, revised to July 2, 2003, said plat about to be filed in the Monmouth County Clerk's Office

Martin F. Tirella
New Jersey P.L.S.
License No. 27477

JA/mee

N:\project2001\0100043\descriptions\p-80-access-esmt-1.04.doc

EXHIBIT C

DRAWING OF EASEMENT SITE

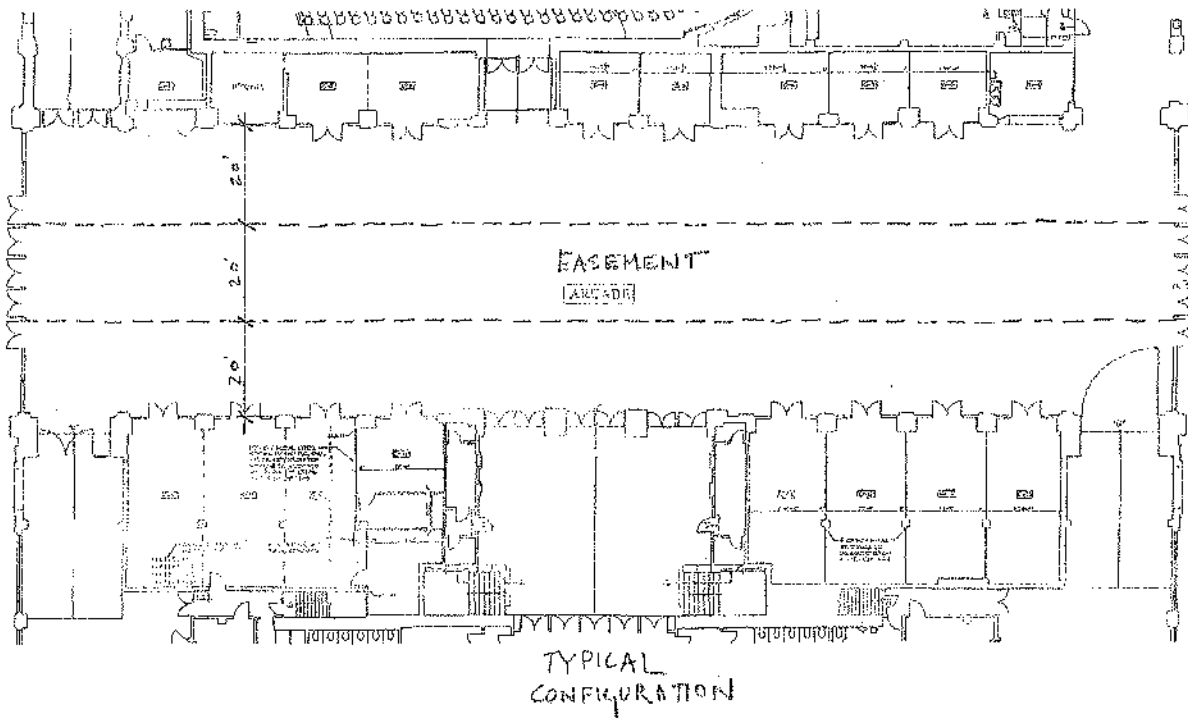


EXHIBIT D-1

DRAWING OF THE ALTERNATIVE MODIFIED EASEMENT SITE #1

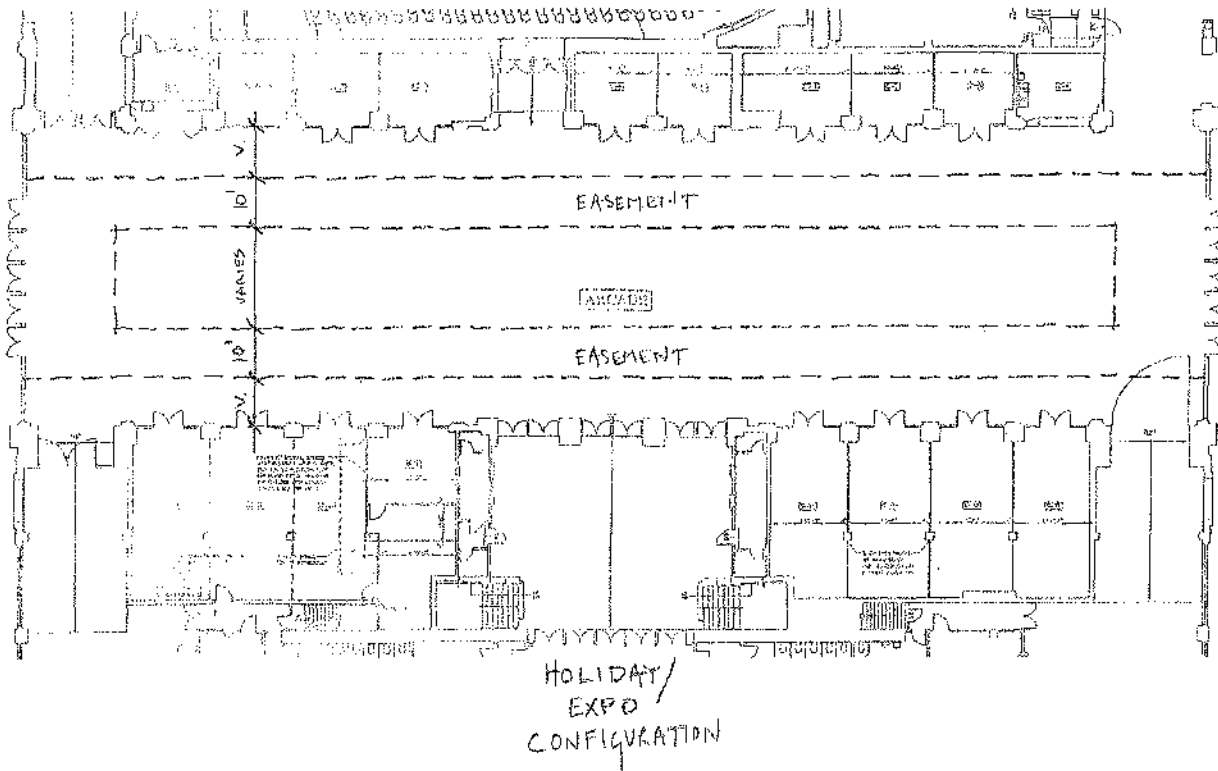


EXHIBIT D-2

DRAWING OF THE ALTERNATIVE MODIFIED EASEMENT SITE #2

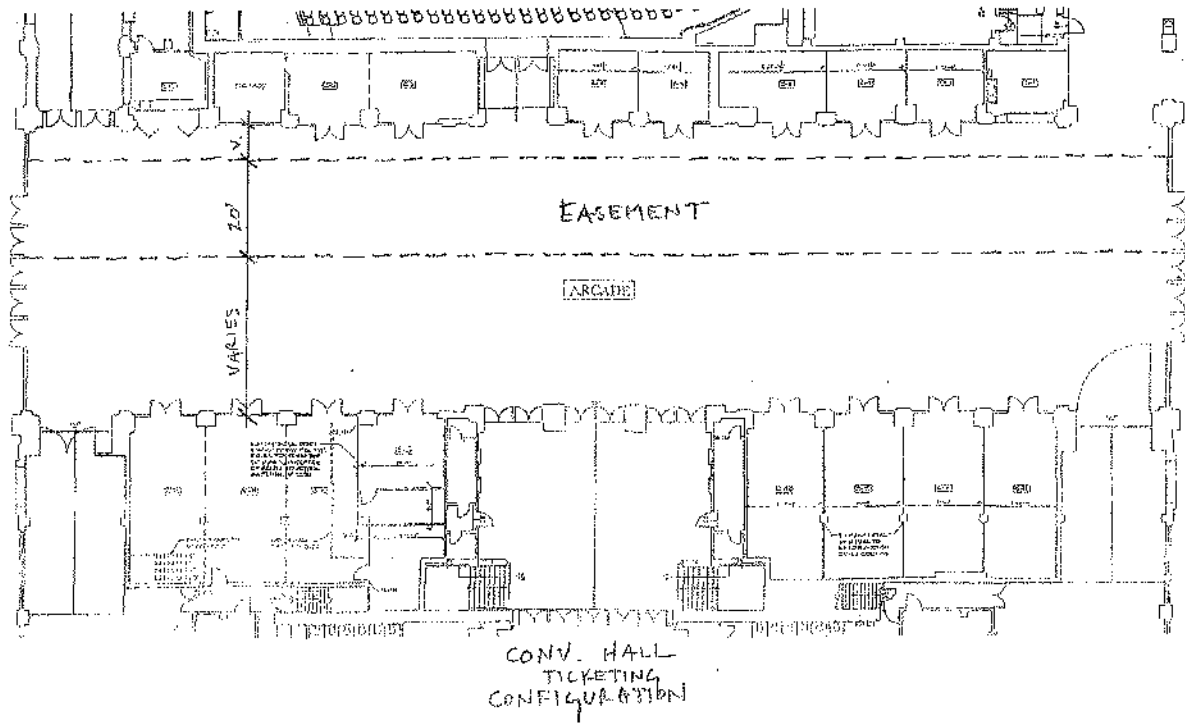


EXHIBIT D-3

DRAWING OF THE ALTERNATIVE MODIFIED EASEMENT SITE #3

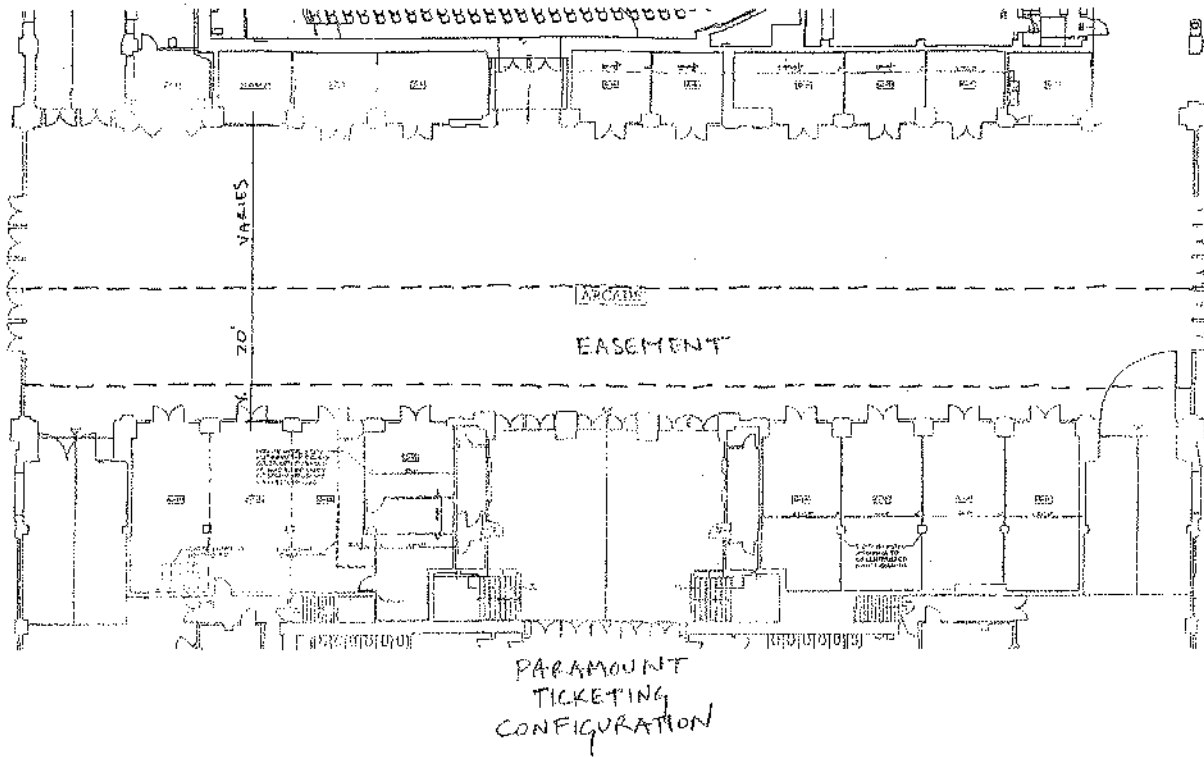


EXHIBIT E

TRADITIONAL EVENTS

1. Asbury Park Technical Academy of Dance (dance recital in Paramount Theater)
2. Asbury Park Graduation (commencement ceremony in Paramount Theater)
3. Asbury Park Art Show (exhibition in Convention Hall)
4. Asbury Park High School/JWAY Wrestling Tournament (Convention Hall)
5. Easter Pageant (event in Paramount Theater)

Exhibit R

Casino Arcade Easement Agreement

EXECUTION COPY

RECORD AND RETURN TO:
TANNENBAUM HELPERN SYRACUSE & HIRSCHTRITT LLP
900 THIRD AVENUE
NEW YORK, NEW YORK 10022
ATTENTION: ROGER M. ROISMAN, ESQ.

EASEMENT MODIFICATION AGREEMENT

(Casino Arcade)

THIS EASEMENT MODIFICATION AGREEMENT (this "**Agreement**") is made this 1 day of June, 2010, by and between MADISON ASBURY RETAIL, LLC, a Delaware limited liability company, having an address at 1100 Ocean Avenue, Asbury Park, New Jersey 07712 ("**Owner**"), and THE CITY OF ASBURY PARK, having an address at 1 Municipal Plaza, Asbury Park, New Jersey 07712 (the "**City**"; and, together with Owner, sometimes referred to herein collectively as "parties" and individually as a "party", as the context may require).

RECITALS:

A. Owner is the owner of that certain parcel of land, together with the improvements located thereon, known as Block 227, Lot 1.04 in the City of Asbury Park, County of Monmouth, State of New Jersey, as more particularly described in **Exhibit A** attached hereto and made a part hereof ("**Owner's Parcel**").

B. Owner's Parcel is part of the "Waterfront Redevelopment Area," as such term is defined in that certain Waterfront Redevelopment Plan adopted by the City on November 7, 1984 (as same has been and may hereafter be amended, the "**Plan**").

C. By Deed dated December 23, 2004 (the "Deed") and recorded on March 4, 2005 in Book OR-8442, Page 3377 in the Monmouth County Clerk's Office, between the City and Asbury Partners, LLC ("Asbury Partners"), the City conveyed the Owner's Parcel to Asbury Partners.

D. Owner's Parcel includes an enclosed arcade (the "Arcade") containing, from north to south, a continuation of the Asbury Park boardwalk (the "Boardwalk").

E. The City, as the predecessor in title to Asbury Partners as the fee owner of Owner's Parcel required, among other things, that, as a condition to the City's agreement to convey fee title to the Owner's Parcel to Asbury Partners, the City and the public shall have, in perpetuity, the right to utilize the Boardwalk and traverse through the Arcade, as more particularly described on Exhibit B attached hereto and made a part hereof (the "Original Easement Site"), pursuant to and in accordance with the terms and conditions of the Plan and that certain Amended and Restated Redeveloper and Land Disposition Agreement dated October 28, 2002, by and between the City and Asbury Partners, as approved by Ordinance Number 2002-2617 of the City (as same has been and may hereafter be amended, the "Redeveloper Agreement").

F. Pursuant to the Deed, and in accordance with the terms and conditions of the Plan and the Redeveloper Agreement, the City reserved for itself and the public, and Asbury Partners granted to the City and the public, an eighty (80) foot wide, open and unobstructed easement in perpetuity providing for the right to traverse through the Original Easement Site (the "Original Access Easement"), as more particularly described on Exhibit B attached hereto and as further set forth on the "Final Plat Asbury Park Redevelopment Project" Major Subdivision filed in the Monmouth County Clerk's Office on December 22, 2003, File Number 292, Map 19.

G. By Deed dated June 11, 2007 and recorded on June 25, 2007 in Book OR-8660, Page 6377 in the Monmouth County Clerk's Office, between Asbury Partners and Owner, Asbury Partners conveyed Owner's Parcel to Owner, subject to the easements, restrictions and conditions set forth in the Deed.

H. On _____, 2010, the City Council adopted a Resolution authorizing, among other things, the execution of this Agreement on behalf of the City.

I. This Agreement is being entered into to, and is intended to, inter alia, amend and modify the terms, covenants and conditions of the Deed relating to the Original Easement Site and the Original Access Easement.

NOW, THEREFORE, in consideration of the foregoing Recitals, the mutual covenants hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby covenant and agree to and with each other as follows:

ARTICLE I

GRANT OF ACCESS EASEMENT:

RESTRICTIONS AND CONDITIONS OF ACCESS EASEMENT

1.01 Owner and the City hereby acknowledge and agree that the terms, covenants and conditions of the Deed relating to the Original Easement Site and the Original Access Easement are hereby amended and modified as follows: (i) the Original Easement Site described in the Deed is hereby deleted in its entirety and replaced with the Easement Site (as hereinafter defined), (ii) the Original Access Easement described in the Deed is hereby deleted in its entirety and replaced with the Access Easement (as hereinafter defined), and (iii) the terms, covenants

and conditions of the Deed relating to the Original Easement Site and the Original Access Easement are hereby deleted in their entirety and replaced with the terms, covenants and conditions of this Agreement, including, without limitation, the terms, covenants and conditions set forth in this Article I.

1.02 Subject to the terms of this Agreement, Owner hereby grants, gives and conveys to the City and the public, for the benefit of the City and the public, without requiring payment of any fee or other charge therefor, the perpetual, non-exclusive and irrevocable right, privilege and easement (the "Access Easement") over, across and through that certain portion of the Arcade shown on Exhibit C attached hereto and made a part hereof (as now or hereafter amended, modified and/or reconfigured, the "Easement Site"), as necessary from time to time, during the hours of (x) 6:00 a.m. through 12:00 a.m. from April 1st through September 30th of any calendar year (the "Prime Season"), and (y) 7:00 a.m. through 7:00 p.m. from October 1st through March 31st of any calendar year, to traverse over, across and through the Easement Site. The Easement Site shall, except as and when specifically provided herein to the contrary, permit pedestrian and vehicular access between the Boardwalk area north of Owner's Parcel and the Boardwalk area south of Owner's Parcel, with an emergency lane to be provided in such area for use by police, fire, ambulances and other emergency vehicles. Vehicular access in such area shall be limited to emergency, community and public safety purposes, including, without limitation, for access by the police department, fire department, ambulances and emergency medical technicians and for maintenance and repair, waste disposal, deliveries and loading and unloading of goods and supplies. In addition, Owner may, from time to time, in accordance with the procedures set forth in this Agreement, reconfigure the location and/or course of the Easement Site.

1.03 Owner, as the owner of “fee title” to the Owner’s Parcel, and Owner’s successors, assigns, representatives, tenants, employees, agents, subtenants, concessionaires, licensees, customers and other invitees, shall be permitted, without the payment of any “use,” “occupancy” or similar fee or charge to the City, to use that portion of the Easement Site not reserved as a pedestrian walkway or emergency lane for events and other exhibitions and for commercial and entertainment purposes, including, by way of example and not by way of limitation, for (i) tables and seating, (ii) kiosks and pushcarts, (iii) entry and ticket purchase lines, (iv) event staging and seating, (v) deliveries, loading and unloading of goods and supplies, (vi) displays and other advertising and promotional materials, and (vii) seasonal and holiday displays.

1.04 Owner may, from time to time, reconfigure the location and/or course of the Easement Site in any manner proposed by Owner with the prior consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that, the Easement Site, as and when reconfigured, shall at all times be configured so as to allow for and permit pedestrian and vehicular access as contemplated by this Agreement.

1.05 Owner may at any time, and from time to time, upon reasonable advance notice to the City (except in the event of an emergency), narrow the Easement Site or restrict or close the Arcade (including the Easement Site), as applicable, (x) prior to, during and following the occurrence of any event or exhibition in the Arcade or on or about any of the areas surrounding the Arcade, (y) in connection with any work, repairs, maintenance and/or renovations being conducted on Owner’s Parcel, or (z) as may be necessary or appropriate in the interest of maintaining the public’s health and safety, including, without limitation, crowd control; provided, however, that in the case of any such restriction or closure, Owner shall provide, and use signage visible to users to designate, a reasonable alternative to the Easement Site.

ARTICLE II

UNAVOIDABLE DELAYS

In any case where either party hereto is required to do any act (other than make a payment of money), delays caused by, or resulting from, an Act of God, war, fire or other casualty, strikes, unavoidable shortages of materials or equipment, government regulations or other causes beyond such party's reasonable control shall not be counted in determining the time when the performance of such act must be completed, whether such time be designated by a fixed time, a fixed period of time or "a reasonable time".

ARTICLE III

COVENANTS RUNNING WITH THE LAND

All of the covenants, agreements, conditions and restrictions set forth in this Agreement are intended to be, and shall be construed as, covenants running with the land, binding upon Owner and Owner's successors and assigns, and any mortgagee of Owner's Parcel.

ARTICLE IV

EACH PARTY IS AN INDEPENDENT CONTRACTOR

Nothing contained in this Agreement shall be construed to make the parties to this Agreement partners or joint venturers, or to render either party liable for the debts or obligations of the other, except as expressly provided in this Agreement.

ARTICLE V

WAIVERS

No delay or omission by either party hereto in exercising any right or power accruing hereunder upon any default in the performance or observance by the other party under the

provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either party of any of the covenants, conditions or agreements hereof to be performed or observed by the other party shall not be construed to be a waiver of any subsequent breach thereof or of any other covenants, conditions or agreements herein contained.

ARTICLE VI

APPLICABLE LAW; INVALIDITY

This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey. If any provision of this Agreement or a portion thereof, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

ARTICLE VII

NOTICES

Every notice, demand or other document or instrument required or permitted to be given or served upon either of the parties hereunder shall be in writing and shall be deemed to have been duly given or delivered (or attempted to be delivered and refusal to accept or undeliverable due to change of address of which no notice was given) when sent by reputable overnight courier providing for receipted next business day delivery, and addressed as follows:

(a) If to Owner:

c/o Madison Asbury Retail, LLC
1100 Ocean Avenue
Asbury Park, New Jersey 07712
Attention: Gary Mottola, President

and

c/o Madison Marquette
2001 Pennsylvania Avenue NW - 10th Floor
Washington, D.C. 20006
Attention: Chief Financial Officer

with a copy to:

Tannenbaum Helpert Syracuse & Hirschtritt LLP
900 Third Avenue
New York, New York 10022
Attention: Roger M. Roisman, Esq.

(b) If to the City:

City of Asbury Park
Asbury Park Municipal Building
One Municipal Plaza
Asbury Park, New Jersey 07712
Attention: City Manager

with a copy to:

McManimon & Scotland L.L.C.
One Riverfront Plaza, 4th Floor
Newark, New Jersey 07102
Attention: Glenn F. Scotland, Esq. and
Thomas J. Hastie, Jr., Esq.

ARTICLE VIII

MISCELLANEOUS

8.01 No breach of this Agreement shall entitle either party hereto to cancel, rescind or otherwise terminate this Agreement, but such limitation shall not affect in any manner any other rights or remedies which such party may have hereunder by reason of any breach of this Agreement. The rights and remedies given to either of the parties hereunder are cumulative and the exercise of any one of such right or remedies shall not operate to bar the exercise of any other rights or remedies available to such party under the provisions of this Agreement or at law or in equity.

8.02 Each party hereto shall, from time to time, upon not less than ten (10) days notice from the other party, execute and deliver to the requesting party a certificate stating (i) that this Agreement is unmodified and in full force and effect or, if modified, that this Agreement is in full force and effect, as modified and stating the modifications, (ii) whether or not, to the best of its knowledge, the other party hereto is in default in any respect, and if in default, specifying such default, and (iii) any other matters reasonably requested by such requesting party with respect to this Agreement.

8.03 Upon the complete execution, acknowledgement and delivery of this Agreement, an original counterpart of this Agreement shall be submitted by Owner for recording in the Office of the County Clerk, Monmouth County, New Jersey, at Owner's cost and expense. The parties hereto shall execute such other and further documents as are necessary to cause this Agreement to be so recorded.

8.04. Any alteration, change or modification hereto, in order to become effective, shall be made by written instrument or endorsed hereon and, in each such instance, executed by both of the parties hereto, or their respective successors or assigns.

8.05 Except as modified by this Agreement, the terms and provisions contained in the Deed are ratified and confirmed.

8.06. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which counterparts shall constitute one and the same instrument.

8.07 This Agreement sets forth the entire agreement between the parties with respect to the matters set forth herein. There have been no additional oral or written representations or agreements.

[signatures appear on the following page]

The parties hereto have executed this Agreement the day and year first written above.

OWNER:

MADISON ASBURY RETAIL, LLC

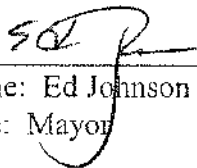
By: Madison MMREF Asbury Retail LLC,
its managing member

By: Madison Asbury Investment Inc.,
its managing member

By: _____
Name:
Title:

CITY:

THE CITY OF ASBURY PARK

By:  _____
Name: Ed Johnson
Title: Mayor

STATE OF _____ :SS:
COUNTY OF _____

BE IT REMEMBERED, that on _____, 2010, before me, the undersigned, a Notary Public in and for the State of _____, personally appeared _____, the _____ of Madison MMREF Asbury Retail LLC, which is the managing member of Madison Asbury Retail, LLC, and acknowledged to me that:

- (1) Such individual executed the within instrument on behalf of said company; and
- (2) The within instrument is the voluntary act and deed of said company.

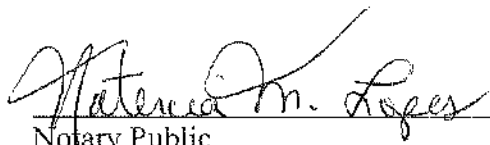
Notary Public

[NOTARY SEAL]

STATE OF NEW JERSEY :SS:
COUNTY OF MONMOUTH

BE IT REMEMBERED, that on June 1, 2010, Ed Johnson personally came before me and this person acknowledged under oath, to my satisfaction, that:

- (1) this person is the Mayor of The City of Asbury Park, a Municipal corporation;
- (2) this person knows the proper seal of the corporation which was affixed to this Agreement; and
- (3) this person signed this proof to attest to the truth of these facts.



Notary Public

[NOTARY SEAL]

NATERCIA M. LOPES
A Notary Public of New Jersey
My Commission Expires June 25, 2014

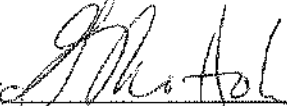
The parties hereto have executed this Agreement the day and year first written above.

OWNER:

MADISON ASBURY RETAIL, LLC

By: Madison Asbury Investment Inc.,
its Managing Member

By: Madison MMREF Asbury Retail LLC,
its Managing Member

By: 
Name: GARY MOTTOLA
Title: Executive Vice President

CITY:

THE CITY OF ASBURY PARK

By: _____
Name: Ed Johnson
Title: Mayor

STATE OF New Jersey :SS:
COUNTY OF Monmouth

BE IT REMEMBERED, that on May 20, 2010, before me, the undersigned, a Notary Public in and for the State of New Jersey, personally appeared Gary Mottola, the Executive Vice President of Madison Asbury Investment Inc., the managing member of Madison MMREF Asbury Retail LLC, which is the managing member of Madison Asbury Retail, LLC, and acknowledged to me that:

- (1) Such individual executed the within instrument on behalf of said company; and
- (2) The within instrument is the voluntary act and deed of said company.

Carol A. Avale
Notary Public
CAROL A. AVALE
[NOTARY SEAL] OF NEW JERSEY
My Commission Expires 02/06/11

STATE OF NEW JERSEY :SS:
COUNTY OF MONMOUTH

BE IT REMEMBERED, that on _____, 2010, Ed Johnson personally came before me and this person acknowledged under oath, to my satisfaction, that:

- (1) this person is the Mayor of The City of Asbury Park, a Municipal corporation;
- (2) this person knows the proper seal of the corporation which was affixed to this Agreement; and
- (3) this person signed this proof to attest to the truth of these facts.

Notary Public

[NOTARY SEAL]

TABLE OF EXHIBITS

- EXHIBIT A: DESCRIPTION OF OWNER'S PARCEL
- EXHIBIT B: DESCRIPTION OF ORIGINAL EASEMENT SITE
- EXHIBIT C: DRAWING OF EASEMENT SITE

EXHIBIT A

DESCRIPTION OF OWNER'S PARCEL

LEGAL DESCRIPTION FOR BLOCK 227, LOT 1.04

Being all of Proposed Lot 1.04 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

EXHIBIT B

DESCRIPTION OF ORIGINAL EASEMENT SITE

JAN-13-2004 TUE 10:57 AM

SCHOOR DEPALMA

732 577 9888

P. 05



EXHIBIT B

**DESCRIPTION OF PROPERTY
CITY OF ASBURY PARK
MONMOUTH COUNTY, NEW JERSEY**

**60' WIDE ACCESS EASEMENT
LOT 1.18 BLOCK 227
PROJECT NO. 010604301
JULY 24, 2003
REVISED DECEMBER 22, 2003**

All that certain lot, tract or parcel of land situate, lying and being in the City of Asbury Park, in the County of Monmouth, and the State of New Jersey, and being all of A Proposed 60' Wide Access Easement through a portion of Lot 1.18 Block 227, said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project, Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1, Block 227 (Lot 1), Block 230 Lot 1 and Block 231 Lot 1, City of Asbury Park, Monmouth County, New Jersey", prepared by Schoor DePalma, Manalapan, dated November 15, 2002, revised to August 20, 2003, said plat filed in the Monmouth County Clerk's Office as case number 292 sheets 19, 20, 21 and 22, and being further described as follows, to wit:

BEGINNING at the point of intersection formed by the newly created easterly line of Lot 1.19 Block 227, said point being the following bearing and distance from the point of intersection formed by the newly created southerly line of Lot 1.19 Block 227, said adjoining lot as shown on the aforesaid plat about to be filed, with the existing easterly line of Ocean Avenue, (75' R.O.W.), said line being distant 37.50' measured easterly from and parallel with the centerline thereof with the aforesaid easterly line of Lot 1.19 Block 227,

A) South seventy-six degrees thirty-one minutes twenty-one seconds East (S 76° 31' 21" E), ninety-nine and ninety-one hundredths feet (99.91'), along the newly created southerly line of Lot 1.19 Block 227, to a point in the same, thence;

And from said point running, thence;

- 1) South seventy-six degrees thirty-one minutes twenty-one seconds East (S 76° 31' 21" E), sixty and one hundredths foot (60.01'), along the newly created northerly line of Lot 1.18 Block 227, said adjoining lot as shown on the aforesaid plat about to be filed, thence;
- 2) South twelve degrees twenty-seven minutes fifty-nine seconds West (S 12° 27' 59" W), two hundred sixty-eight and seventy-eight hundredths feet (268.78'), passing through a portion of the aforesaid Lot 1.18 Block 227, to a point in the newly created southerly line of same, thence;
- 3) North seventy-six degrees thirty-one minutes twenty-one seconds (N 76° 31' 21" W), sixty and one hundredths foot (60.01'), along the aforesaid southerly line of Lot 1.18 Block 227, to a point in the same, thence;

Your Bottom Line Results Partner™

John Corporate Center, 200 State Highway 91, P.O. Box 900, Manalapan, NJ 07726-0900 Tel: 732.577.9000 Fax: 732.577.9888
Manalapan • Atlantic City • Brick • Clinton • Edison • Kinnelon • Parsippany
Piscataway • Phillipsburg • Stafford • Voorhees • White Plains
www.schoordepalma.com



010004301

July 24, 2003

Revised December 22, 2003

Page 2

- 4) North twelve degrees twenty-seven minutes fifty-nine seconds (N 12° 27' 59" E), two hundred sixty-eight and seventy-eight hundredths feet (268.78'), passing through a portion of the aforesaid Lot 1.18 Block 227, to a point in the same, the Point and Place of **BEGINNING**.

CONTAINING 16,126.82 square feet of land or 0.37 acres of land more or less.

The foregoing description was prepared by the undersigned surveyor for the firm of Schoor DePalma and is based upon a certain map entitled "Final Plat Asbury Park Redevelopment Project, Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1, Block 227 Lot 1, Block 230 Lot 1 and Block 231 Lot 1, City of Asbury Park, Monmouth County, New Jersey", prepared by Schoor DePalma, Manalapan, dated November 15, 2002, revised to August 20, 2003, said plat about to be filed in the Monmouth County Clerk's Office as case number 292 sheets 19, 20, 21 and 22.

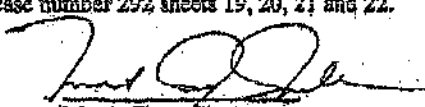

Martin F. Trélla
New Jersey P.L.S.
License No. 27477

EXHIBIT C

DRAWING OF EASEMENT SITE

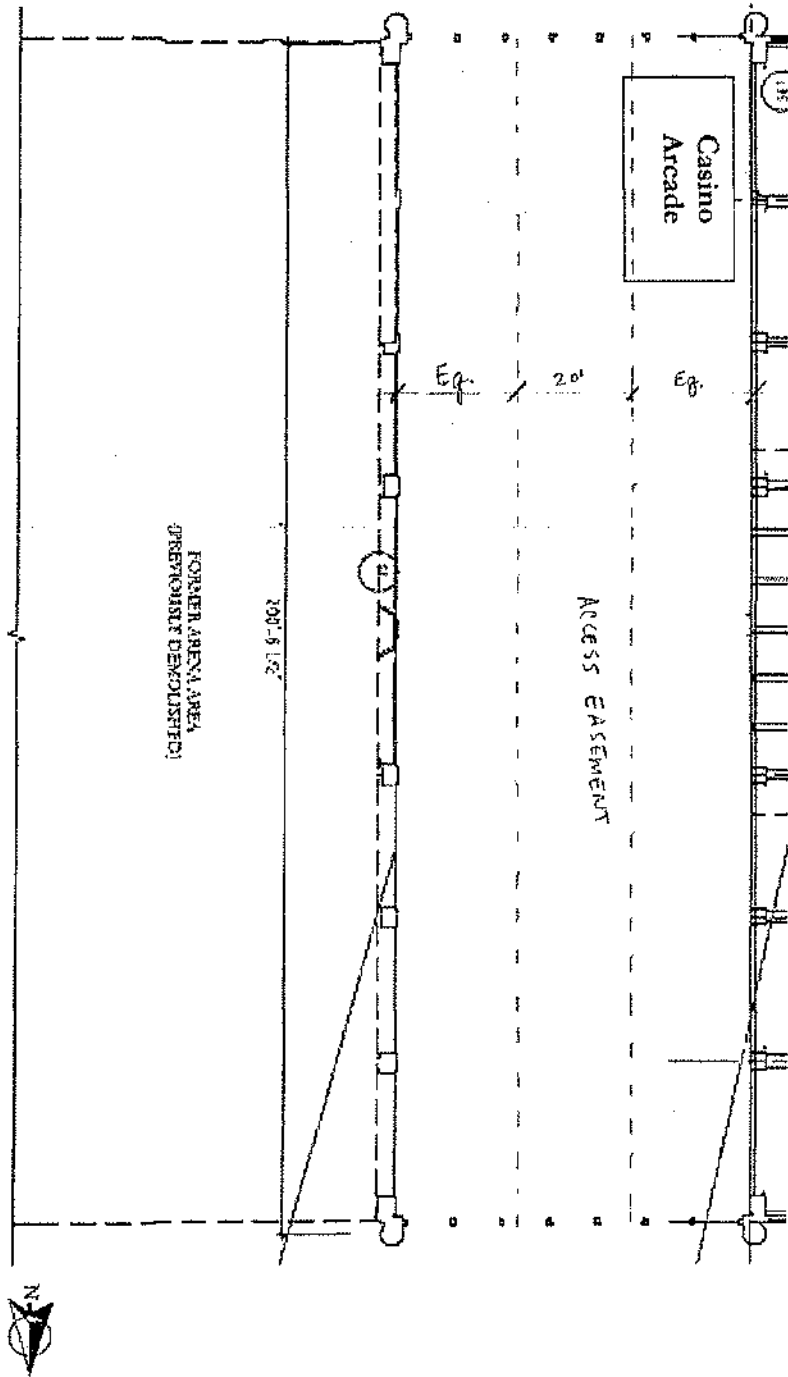


Exhibit S

Performance Escrow Agreement

PERFORMANCE ESCROW AGREEMENT

THIS PERFORMANCE ESCROW AGREEMENT (this "Escrow Agreement") is made as of the 15th day of June, 2010 by and among MADISON ASBURY RETAIL, LLC, a Delaware limited liability company, and its successors and assigns, with an address at 1100 Ocean Avenue, Asbury Park, New Jersey 07712 ("MA Retail"), THE CITY OF ASBURY PARK, a body corporate and politic of the State of New Jersey (the "City"), with an address at 1 Municipal Plaza, Asbury Park, New Jersey 07712, and MCMANIMON & SCOTLAND, L.L.C., ("Escrow Agent") with an address at 1037 Raymond Boulevard, Suite 400, Newark, New Jersey, 07102.

RECITALS:

WHEREAS, MA Retail, the Mayor and Council (collectively, the "City Council") of the City of Asbury Park, with principal offices located at 1 Municipal Plaza, Asbury Park, New Jersey 07712, and Asbury Partners, LLC, a New Jersey limited liability company with principal offices located at 1100 Ocean Avenue, Asbury Park, New Jersey 07712 ("Asbury Partners"), are parties to a Subsequent Developer Agreement dated June 1, 2010 (the "Subsequent Developer Agreement"; capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Subsequent Developer Agreement), pursuant to which, *inter alia*, MA Retail is recognized as the Subsequent Developer with respect to the Retail Properties; and

WHEREAS, Article 4 of the Subsequent Developer Agreement requires MA Retail to complete certain obligations related to the construction, renovation and/or rehabilitation of the Retail Projects within the deadlines set forth in the Subsequent Developer Agreement, including the completion of certain Menu Items; and

WHEREAS, pursuant to Sections 4.13(c) and 7.01(b) of the Subsequent Developer Agreement, MA Retail has agreed to deposit FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) with Escrow Agent (the "Escrow Deposit"), to be deposited in an escrow account and held as additional security for the performance by MA Retail of its obligations under the Subsequent Developer Agreement; and

WHEREAS, pursuant to Section 8.03(c) of the Subsequent Developer Agreement, following the occurrence of an Event of Default by MA Retail and notice to MA Retail of not less than five (5) Business Days, the City may withdraw the Escrow Deposit and utilize the Escrow Deposit for the reimbursement of all reasonable costs and expenses actually paid and/or incurred by the City to cure any such outstanding Events of Defaults; and

WHEREAS, on May 19, 2010, the Mayor and Council of the City of Asbury Park resolved to authorize the execution of this Escrow Agreement on behalf of the City;

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 Escrow Deposit is separate from, and in addition to, all other escrow deposits that may be required by the City pursuant to the terms of the Subsequent Developer Agreement.
2. **Deposit and Administration of Escrow Funds.** The Escrow Agent hereby acknowledges receipt of the Escrow Deposit and agrees that the Escrow Deposit shall be held by Escrow Agent 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 account (the "**Escrow Account**") that makes reference to this Escrow Agreement. Amounts on deposit in the Escrow Account shall be invested in an interest bearing account. Interest earnings shall be credited to M.A. Retail and shall be held in the Escrow Account until withdrawn in accordance with the provisions of this agreement. Upon MA Retail's request, cash funds constituting the Escrow Deposit may be replaced by a letter of credit, in form, and from a banking institution, reasonably acceptable to the City.
3. **Payments from the Escrow Deposit.** If, after the occurrence of an Event of Default and notice thereof by the City to MA Retail of not less than five (5) Business Days, the City elects to cure such Event of Default, the City may deliver written notices thereof to MA Retail and Escrow Agent, together with a demand for reimbursement of the reasonable costs and expenses actually paid by the City in connection with the cure of such Event of Default, which written demand shall be accompanied by a reasonably detailed statement of all such costs and expenses so paid by the City (such written notice, demand and detailed statement are hereinafter referred to collectively as the "**Escrow Demand**"). Within ten (10) business days following the receipt by MA Retail of such written notice and demand, MA Retail shall have the right to give written notice (the "**Objection Notice**") to Escrow Agent (with a copy to the City) of MA Retail's objection, in whole or in part, to such disbursement from the Escrow Deposit. If Escrow Agent does not receive an Objection Notice within ten (10) business days following MA Retail's receipt of a copy of the Escrow Demand, then Escrow Agent shall pay to the City out of the Escrow Deposit the amount so demanded by the City in the Escrow Demand; provided, however, that such payment shall not be made until at least ten (10) business days after the date on which MA Retail has received a copy of such Escrow Demand.
4. **Accounting and Additional Deposits.** As reasonably requested by MA Retail or the City, Escrow Agent shall prepare and send to the City and MA Retail a statement which shall include an accounting of funds listing all deposits, disbursements and the cumulative balance of the escrow account.
5. **Close Out Procedures.** MA Retail shall be entitled to the return of the Escrow Deposit pursuant to, and in accordance with, the terms and conditions of the Subsequent Developer Agreement, including without limitation, Section 4.13(c) of the Subsequent Developer Agreement. For each portion of the Escrow Deposit to be returned to MA Retail pursuant to, and in accordance with, the terms and conditions of the Subsequent Developer

Agreement, including without limitation, Section 4.13(c) of the Subsequent Developer Agreement, MA Retail shall deliver a written demand for payment specifying the amount of the Escrow Deposit to be returned to MA Retail. Escrow Agent shall promptly deliver to the City a copy of such written notice and demand. Thereafter, Escrow Agent shall pay to MA Retail an amount equal to the amount specified in such written demand, pursuant to, and in accordance with, the provisions of this Escrow Agreement and the Subsequent Developer Agreement.

6. **Disputes.** In the event that (i) the Escrow Agent receives an Objection Notice; (ii) any dispute shall arise as to any matter arising under this Escrow Agreement; or (iii) there shall be any uncertainty as to the meaning or applicability of any of the provisions hereof, Escrow Agent's duties, rights or responsibilities hereunder or any written instructions received by Escrow Agent pursuant hereto, Escrow Agent shall continue to hold the Escrow Deposit in accordance with the terms and conditions of this Escrow Agreement and the Subsequent Developer Agreement or, at its option, shall (x) at any time thereafter, deposit the funds and/or instruments then being held by it in escrow into any court having appropriate jurisdiction, (y) at any time thereafter, take such affirmative steps as it may elect in order to substitute an impartial party agreed to by the City and MA Retail to hold any and all escrowed funds and/or instruments, or (z) hold such funds and/or instruments until such time as Escrow Agent receives written instructions signed by each of the City and MA Retail or a court order from a court of competent jurisdiction which directs Escrow Agent to deliver the funds and/or instruments to a specified person or entity, in which case Escrow Agent shall comply with such written instructions or court order, as applicable, and upon making such deposit, delivery or election pursuant to this Section 6, Escrow Agent shall thereupon be relieved of and discharged and released from any and all liability hereunder and with respect to the Escrow Deposit.
7. **Notices.** All notices hereunder shall be given in accordance with the terms and conditions of Section 15.03 of the Subsequent Developer Agreement, and Section 15.03 of the Subsequent Developer Agreement is hereby incorporated by reference herein.
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 sitting in Monmouth County or in a United States Court having jurisdiction in the District of New Jersey and sitting in Mercer County, New Jersey, and MA Retail 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 each party's successors and assigns.
10. **Entire Agreement; No Modification Unless in Writing.** This Escrow Agreement, together with the Subsequent Developer Agreement and all documents executed in connection therewith, contain the entire agreement of the parties relative to the subject matter hereof, and supersede all prior agreements and understandings, written and oral, among the parties with respect to such subject matter. Any amendment hereto or

modification or variation hereof shall be ineffective unless in writing signed by each of the parties hereto.

11. **Counterparts.** This Escrow Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed an original, but all of which shall together constitute one and the same instrument.
12. **Effective Date.** This Escrow Agreement shall not become effective unless and until the initial Escrow Deposit is made.

The balance of this page intentionally left blank; signatures appear on next page.

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

Witness or Attest:

THE CITY OF ASURY PARK

Stephen Kay, City Clerk

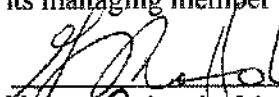
(Seal)

By: _____
Ed Johnson, Mayor

MADISON ASBURY RETAIL, LLC

By: Madison MMREF Asbury Retail LLC,
its managing member

By: Madison Asbury Investment Inc.,
its managing member

By: 
Name: **GARY MOTTOLA**
Title: *Executive Vice President*

MCMANIMON & SCOTLAND, L.L.C.

By: _____
Member

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

Witness or Attest:

THE CITY OF ASURY PARK

Stephen Kay, City Clerk

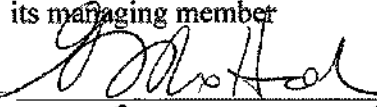
By: _____
Ed Johnson, Mayor

(Seal)

MADISON ASBURY RETAIL, LLC

By: Madison MMREF Asbury Retail LLC,
its managing member

By: Madison Asbury Investment Inc.,
its managing member

By:  _____

Name: **GARY MOTTO LA**

Title: *Executive Vice President*

MCMANIMON & SCOTLAND, L.L.C.

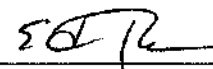
By: _____
Member

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

Witness or Attest:

THE CITY OF ASBURY PARK


Stephen Kay, City Clerk

By: 
Ed Johnson, Mayor

(Seal)

MADISON ASBURY RETAIL, LLC

By: Madison MMREF Asbury Retail LLC,
its managing member


By: Madison Asbury Investment Inc.,
its managing member

By: _____

Name:

Title:

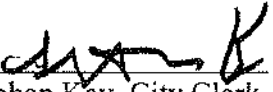
MCMANIMON & SCOTLAND, L.L.C.

By: 
Member

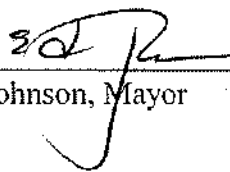
IN WITNESS WHEREOF, the parties have executed this Escrow Agreement on the date and year first above written.

Witness or Attest:

THE CITY OF ASBURY PARK


Stephen Kay, City Clerk

(Seal)

By: 
Ed Johnson, Mayor

MADISON ASBURY RETAIL, LLC

By: Madison MMREF Asbury Retail LLC,
its managing member

By: Madison Asbury Investment Inc.,
its managing member

By: _____
Name:
Title:

MCMANIMON & SCOTLAND, L.L.C.

By: 
Member

EXHIBIT A to Performance Escrow Agreement

City Resolution

RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF ASBURY PARK APPROVING A SUBSEQUENT DEVELOPER AGREEMENT BY AND AMONG THE CITY, MADISON ASBURY RETAIL, LLC AND ASBURY PARTNERS, LLC IN CONNECTION WITH THE REDEVELOPMENT OF CERTAIN BUILDINGS LOCATED ON THE CITY'S WATERFRONT

WHEREAS, Section 8 of the *Local Redevelopment and Housing Law*, N.J.S.A. 40A:12-8, permits a municipality to contract with a designated redeveloper for the construction of redevelopment projects within a designated redevelopment area pursuant to an adopted redevelopment plan; and

WHEREAS, on June 5, 2002, the City adopted the *Amended Waterfront Redevelopment Plan for the City of Asbury Park* (as amended and supplemented, the "Plan") for the designated redevelopment area within the City known as the Prime Renewal Area (as such term is defined in the Plan, the "Waterfront Redevelopment Area"); and

WHEREAS, on October 28, 2002, the City and Asbury Partners, LLC ("Asbury Partners") entered into a redevelopment agreement to implement the Plan (the "Redevelopment Agreement"), in which Asbury Partners was reaffirmed as the designated redeveloper of the Waterfront Redevelopment Area; and

WHEREAS, pursuant to the Redevelopment Agreement, Asbury Partners is responsible, among other things, for certain rehabilitation of particular waterfront buildings acquired by Asbury Partners from the City pursuant to the terms of the Redevelopment Agreement, which buildings include Convention Hall, Paramount Theater, the Casino, the Power Plant, the Boardwalk Pavilions (all as defined in the Redevelopment Agreement) and the real property interests on other parcels within Block 227 held by MA Retail, as defined below (collectively, the "Retail Properties"); and

WHEREAS, on April 5, 2007, the City consented to the creation of Madison Asbury Retail, LLC, a joint venture ("MA Retail") between Asbury Partners and Madison Realty Partnership, LLC ("Madison Marquette") to fulfill the obligations of Asbury Partners to improve and restore the Retail Properties pursuant to a certain Dispute Resolution Agreement, dated as of April 10, 2006, between the City and Asbury Partners (the "Dispute Resolution Agreement"); and

WHEREAS, MA Retail now owns fee title to, or holds a leasehold interest in, each of the Retail Properties; and

WHEREAS, Madison Marquette has become the managing member of MA Retail; and

WHEREAS, Madison Marquette, on behalf of MA Retail, has proposed to the City a schedule of activities to improve, construct, restore and repair elements of the Retail Properties in satisfaction of the work mandated under the Redeveloper Agreement and the Dispute Resolution Agreement and to assume additional obligations in connection with their operations

(the "Subsequent Developer Agreement" or "SDA"), including the designation of MA Retail as subsequent developer for the Retail Properties and providing for the redevelopment of the Retail Properties on an interim and permanent basis; and

WHEREAS, the City desires to see the redevelopment of the Retail Properties in accordance with the Redevelopment Plan commence as soon as practicable and to see the redevelopment succeed so that the residents, businesses, and property-owners surrounding the Retail Properties may benefit because of the substantial expansion of a stable, year-round retail presence; and

WHEREAS, MA Retail has agreed to own and occupy the Retail Properties and in furtherance of the Redevelopment Plan, to effectuate the redevelopment of a portion of the Retail Properties as set forth in the SDA, and in connection therewith, has agreed to devote substantial cash assets and borrowed funds to such redevelopment; and

WHEREAS, the Mayor and City Council believe that the execution of the SDA is in the best interests of the City,

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ASBURY PARK AS FOLLOWS:

Section 1. Recitals. The recitals hereto are fully incorporated herein as if set forth at length.

Section 2. Designation of Madison Asbury Retail, LLC as Subsequent Developer. Upon execution of the Subsequent Redeveloper Agreement, Madison Asbury Retail, LLC, Asbury Park, New Jersey will be designated as subsequent developer of the Retail Properties pursuant to the Act and the Redeveloper Agreement.

Section 3. Approval of the Subsequent Developer Agreement. The Subsequent Developer Agreement, and the related exhibits thereto, substantially in the form attached hereto as Exhibit A, is hereby approved, together with any changes, insertions and omissions thereto as the Mayor and City Manager, after consultation with redevelopment counsel to the City, deem in their collective discretion to be necessary or desirable for the execution thereof.

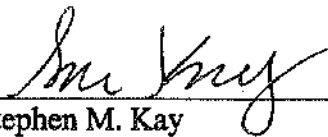
Section 4. Execution of the Subsequent Developer Agreement. Upon a determination that MA Retail is in compliance with its existing agreements with the City, the Mayor of the City of Asbury Park, in the County of Monmouth (the "Mayor") is hereby authorized and directed, upon satisfaction of all the legal conditions precedent to the execution and delivery by the City of the Subsequent Developer Agreement, to execute the Subsequent Developer Agreement, together with each of the exhibits to which the City is a signatory, in substantially the form of the draft attached hereto and such changes as may be provided in accordance with Section 3 hereof. McManimon and Scotland, L.L.C. is hereby directed and authorized to execute the "Performance Escrow Agreement" which is exhibit "S" to the Subsequent Developer Agreement.

Section 5. Attestation and Sealing of the Subsequent Developer Agreement. The Clerk of the City is hereby authorized and directed, upon the execution of the Subsequent Developer Agreement and required exhibits in accordance with the terms of Section 4 hereof, to attest to the signature of the Mayor upon such documents and is hereby further authorized and directed thereupon affix the corporate seal of the City upon such documents.

Section 6. Implementation of the Subsequent Developer Agreement. Upon the execution and attestation and placing of the seal on the Subsequent Developer Agreement as contemplated by Sections 4 and 5 hereof, the City Manager and City staff and professionals are hereby authorized and directed to (i) deliver the fully executed, attested and sealed document to the other parties thereto and (ii) perform such other actions as the City Manager deems necessary or desirable in relation to the execution and delivery of the Subsequent Developer Agreement.

Section 7. Effective Date. This resolution shall take effect immediately.

I certify the above to be a true copy of
the Resolution adopted at a public meeting
held on the 19th day of May, 2010.



Stephen M. Kay
City Clerk, City of Asbury Park

cc: Tom Hastie, Special Counsel
Don Sammet
City Attorney

Exhibit T

Form of Certificate of Completion

Exhibit T

FORM OF CERTIFICATE OF COMPLETION

Record and Return to:
Glenn F. Scotland, Esq.
McManimon & Scotland
1037 Raymond Boulevard
Newark, New Jersey 07102

Prepared by:

Glenn F. Scotland, Esq.

CERTIFICATE OF COMPLETION

Block [] Lot [], City of Asbury Park (the "Property")

(Record in Mortgage Book)

This Certificate of Completion (this "Certificate") is made this ____ day of _____, 20__ by the CITY OF ASBURY PARK (the "City"), a public body corporate and politic of the State of New Jersey having its offices at 1 Municipal Plaza, Asbury Park, New Jersey 07712, in its capacity as redevelopment entity pursuant to *N.J.S.A. 40A:12A-4(c)*.

WITNESSETH

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

WHEREAS, the Council of the City ("Council") adopted a resolution determining that the Waterfront Redevelopment Area constitutes an "area in need of redevelopment" pursuant to the provisions of the Act; and

WHEREAS, on November 7, 1984, the City Council adopted a redevelopment plan for the Waterfront Redevelopment Area (as amended to date and as may hereafter be amended, the "Waterfront Redevelopment Plan") in accordance with *N.J.S.A. 40A:12A-7* of the Act; and

WHEREAS, in furtherance of the Waterfront Redevelopment Plan, the City and Asbury Partners, L.L.C. ("Partners"), a limited liability company formed under the laws of the State of New Jersey with offices located at 1100 Ocean Avenue, Asbury Park, New Jersey 07712, entered into the Amended and Restated Redeveloper and Land Disposition Agreement dated October 28, 2002 (as amended to date and as may hereafter be amended, the "Redeveloper Agreement") pursuant to which Partners was appointed "Master Developer" for the Waterfront Redevelopment Area; and

WHEREAS, the Redeveloper Agreement provides, among other things, for the construction, renovation and/or reconstruction of [*Insert Name of Applicable Retail Project*] in accordance with the requirements of the Waterfront Redevelopment Plan (the "Retail Project"); and

WHEREAS, pursuant to the Redeveloper Agreement, in order to implement the development, financing, construction, operation and management of the Retail Project, the City entered into a Subsequent Developer Agreement dated [_____], 2010 (the "**Subsequent Developer Agreement**") with Partners and Madison Asbury Retail, LLC, a limited liability company formed under the laws of the State of Delaware, with principal offices located at 1100 Ocean Avenue, Asbury Park, New Jersey 07712 ("**MA Retail**"); and

WHEREAS, in accordance with N.J.S.A. 40A:12A-(9)(a) of the Act, the Subsequent Developer Agreement includes a covenant running with the Property requiring, among other things, that ". . . only the uses established in the current redevelopment plan . . ." are to be constructed on the Property.

NOW THEREFORE, IT IS HEREBY CERTIFIED by the undersigned as follows:

Section 1. Defined terms not otherwise defined herein shall have the respective meanings ascribed to such terms in the Subsequent Developer Agreement.

Section 2. In accordance with Section 4.16 of the Subsequent Developer Agreement, the City hereby acknowledges and agrees that (a) the Retail Project in its entirety has been completed in accordance with the Redeveloper Agreement, the Waterfront Redevelopment Plan, the Subsequent Developer Agreement and in compliance with Applicable Laws, as further evidenced by the Certificate(s) of Occupancy, attached hereto as Exhibit A, issued with respect to the building(s) located within the Retail Project, (b) MA Retail has performed all of its duties and obligations under the Subsequent Developer Agreement with respect to the Retail Project, (c) the Retail Project is being used and operated in accordance with the terms and provisions of the Redeveloper Agreement, the Waterfront Redevelopment Plan, the Subsequent Developer Agreement and Applicable Laws, (d) this Certificate shall constitute a conclusive determination of (i) the satisfaction and termination of the agreements and covenants in the Subsequent Developer Agreement, the Redeveloper Agreement and the Waterfront Redevelopment Plan with respect to the obligations of MA Retail to construct the Retail Project within the dates (if any) for completion of same, and (ii) the termination of the Subsequent Developer Agreement as applicable to the Retail Project, except for those matters which by the terms of the Subsequent Developer Agreement and Redeveloper Agreement are intended to, or by the operation of Applicable Laws are required to, survive such termination.

Section 3. Upon issuance of this Certificate for the Retail Project, the conditions that were found and determined to exist on the [*insert name of applicable Retail Property*] on which the Retail Project is located at the time the [*insert name of applicable Retail Property*] was determined to be an area in need of redevelopment shall be deemed to no longer exist and [*insert name of applicable Retail Property*] and the improvements located thereon shall no longer be subject to eminent domain as a result of those determinations, and all restrictions on transfers and encumbrances as set forth in the Subsequent Developer Agreement shall terminate.

Section 4. Pursuant to Section 3.05 of the Subsequent Developer Agreement, MA Retail shall (i) comply with the applicable provisions and public purposes of the Act and shall at all times construct and develop the Retail Project or cause the Retail Project to be constructed and developed pursuant to the conditions and requirements of the Waterfront Redevelopment Plan, including, but not limited to, those provisions restricting the permitted uses established

therein, (ii) maintain in good condition any landscaping required to be planted on the *[insert name of the applicable Retail Property]* pursuant to the Final Site Plans for the Retail Projects, and (iii) in connection with its use or occupancy of the Retail Project, not effect or execute any covenant, agreement, lease, conveyance or other instrument whereby the Retail Project or any building or structure erected or to be erected thereon is restricted upon the basis of age, race, color, creed, religion, ancestry, national origin, sex, sexual orientation, or familial status, and MA Retail, 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, sex, sexual orientation, or familial status. All of the covenants, agreements, conditions and restrictions set forth in this paragraph are intended to be, and shall be construed as, covenants running with the land, binding upon MA Retail and MA Retail's successors and assigns.

Section 5. This Certificate is given without prejudice to any rights against third parties which exist on the date hereof or which may subsequently come into being.

IN WITNESS WHEREOF, the undersigned has caused this Certificate for the Retail Project to be executed as of the ____ day of _____, 20__.

ATTEST:

CITY OF ASBURY PARK

By: _____

By: _____

[_____] , Mayor

Acknowledgment

STATE OF NEW JERSEY :

:SS:

COUNTY OF MONMOUTH:

BE IT REMEMBERED, that on this ____ day of _____, 20__ before me, the subscriber, a Notary Public of New Jersey, personally appeared _____, who, being by me duly sworn on her oath, deposes and makes proof to my satisfaction that he/she is the Mayor of the CITY OF ASBURY PARK, NEW JERSEY, the entity named in the within Instrument, who I am satisfied is the person who executed the foregoing Instrument; that the execution, as well as the making of the Instrument, have been duly authorized by the City of Asbury Park and said Instrument was signed and delivered by said Mayor _____ as and for the voluntary act and deed of said entity.

Notary Public of New Jersey

EXHIBIT A to Certificate of Completion

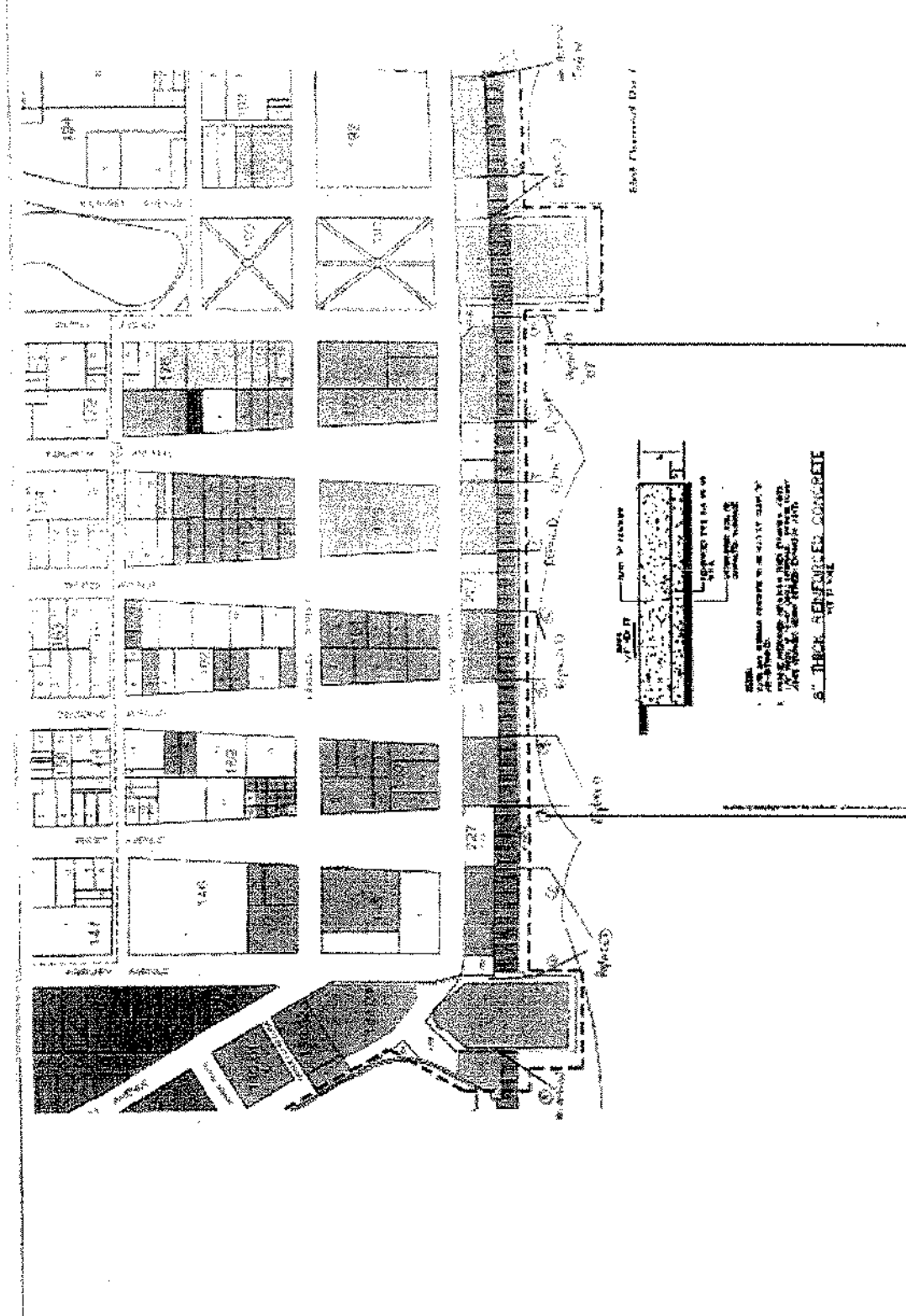
Certificate(s) of Occupancy

Exhibit U

Pedestrian Walkways and Utility Ramps

Exhibit U

- All replaced accesses have been installed with 8" of concrete over a compacted base. The detail is shown below.
- All repaired accesses have been leveled to eliminate tripping hazards and allow safe passage.
- Access A is fenced off due to the buildings needing renovation in the future. The general public is not permitted access.
- Access 11 has been made operational with the use of steel plates.



Related Agreements

Exhibit A

RECORD AND RETURN TO:
THOMAS J. HASTIE, JR., ESQ.
MCMANIMON & SCOTLAND, L.L.C.
1037 RAYMOND BOULEVARD, SUITE 400
NEWARK, NEW JERSEY 07102

DEED

This Deed is made as of the 1st day of June, 2010,

Between

MADISON ASBURY RETAIL, LLC, a Delaware limited liability company, with offices at 1100 Ocean Avenue, Asbury Park, New Jersey 07712, as "Grantor"

and

THE CITY OF ASBURY PARK, a municipal corporation, with offices at Asbury Park Municipal Building, One Municipal Plaza, Asbury Park, New Jersey 07712, as "Grantee."

Grantor grants, sells, conveys and transfers ownership of the property described below to Grantee for the sum of One Dollar and 00/100 (\$1.00) Dollar.

The property (the "Property") consists of the parcels of land and all the buildings, improvements and structures on the parcels land in the City of Asbury Park, County of Monmouth, and State of New Jersey, also known as Block 227, Lots 1.01, 1.02, 1.12, 1.14 and 1.22. The legal description of the Property is annexed hereto as Schedule A.

Being the same premises conveyed to Grantor herein by Deed from Asbury Partners, LLC, a New Jersey limited liability company, dated June 11, 2007 and recorded June 26, 2007 in the Monmouth County Clerk's Office in Deed Book OR-8660 Page 6431.

Together with all the easements, appurtenances and hereditaments and all of the estate, rights, title and interest of Grantor in and to the Property.

The Property is conveyed in accordance with and subject to operative covenants, restrictions and easements of record, if any.

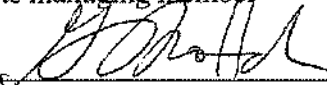
This conveyance is made without representation, warranty, recourse or covenant of any kind whatsoever.

This Deed has been signed by and attested to by Grantor's proper corporate officers as of the date first written above.

MADISON ASBURY RETAIL, LLC

By: Madison MMREF Asbury Retail LLC,
its managing member

By: Madison Asbury Investment Inc.,
its managing member

By: 
Name: GARY MOTTOLA
Title: Executive Vice President

STATE OF New Jersey)
) ss.:
COUNTY OF Monmouth)

BE IT REMEMBERED, that on May 20, 2010, before me, the undersigned, a Notary Public in and for the State of New Jersey, personally appeared **GARY MOTTOLA**, the Executive Vice President of Madison Asbury Investment Inc., the managing member of Madison MMREF Asbury Retail LLC, the managing member of Madison Asbury Retail, LLC, who I am satisfied is the person who signed the foregoing deed, and who did acknowledged under oath to me that:

- (1) He executed the within instrument in his capacity as such officer on behalf of Madison Asbury Investment Inc.; and
- (2) The within instrument is the voluntary act and deed of Madison Asbury Investment Inc., made by virtue of authority from its board of directors, on behalf of Madison MMREF Asbury Retail LLC, on behalf of Madison Asbury Retail, LLC.

Sworn and subscribed before me at _____
_____ on the date above written.

Carol A. Avale
Notary Public

CAROL A. AVALE
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 02/06/11

SCHEDULE A

Description of the Property

Block 227, Lot 1.01

Being all of Proposed Lot 1.01 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.02

Being all of Proposed Lot 1.02 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.12

Being all of Proposed Lot 1.12 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.14

Being all of Proposed Lot 1.14 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.22

Being all of Proposed Lot 1.22 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Exhibit B

LEASE TERMINATION AGREEMENT

THIS LEASE TERMINATION AGREEMENT (this "Termination") dated this 15th day of June, 2010 entered into by and between the **CITY OF ASBURY PARK**, a municipal corporation of the State of New Jersey having an address at the Asbury Park Municipal Building, One Municipal Plaza, Asbury Park, New Jersey 07712 (herein called "Landlord"), and **ASBURY PARTNERS, LLC** a New Jersey limited liability company having an address at 1100 Ocean Avenue, Asbury Park, New Jersey 07712 (herein called "Tenant").

RECITALS:

A. Landlord and Tenant entered into that certain 99-Year Net Lease, dated as of October 28, 2002 (the "Lease"), a Memorandum of which was recorded on July 7, 2003 in Deed Book 8252 page 9035, pursuant to which Landlord leased to Tenant the ten (10) parcels of land described on Schedule A attached hereto and made a part hereof, together with any and all improvements located thereon from time to time (the "Premises").

B. On June 11, 2007, Tenant entered into a Sublease (the "Sublease") with Madison Asbury Retail, LLC, a Delaware limited liability company ("Madison"), for a portion of the Premises known as Block 227, Lots 1.05, 1.07, 1.09, 1.11, 1.15, 1.17, 1.19 and 1.21 in the City of Asbury Park, County of Monmouth, State of New Jersey, and more particularly described on Schedule B hereto (the "Sublease Premises"), which Sublease is coterminous with the term of the Lease.

C. Concurrently with the execution and delivery of this Termination, (i) Landlord and Tenant will enter into a Severance Lease (the "AP Severance Lease") in replacement of the Lease, relating to those properties known as Block 227, Lots 1.24 and 1.26 in the City of Asbury Park, County of Monmouth, State of New Jersey, and more particularly described on Schedule C hereto (the "AP Premises"), and (ii) Landlord and Madison will enter into a Severance Lease (the "Madison Severance Lease") in replacement of the Sublease, relating to the Sublease Premises, together with those properties known as Block 227, Lots 1.01, 1.02, 1.12, 1.14 and 1.22 in the City of Asbury Park, County of Monmouth, State of New Jersey, and more particularly described on Schedule D hereto (the "Additional Premises").

D. Landlord and Tenant desire to terminate the Lease subject to the terms and conditions of this Termination.

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

1. Capitalized Terms; Recitals.

All defined terms used herein and not otherwise defined in this Termination shall have the meanings ascribed to them in the Lease. The recital clauses set forth above are incorporated herein by reference.

2. Termination of Lease.

(a) The parties hereto hereby agree to terminate the Lease effective as of the date hereof, as if such date were the date set forth in the Lease for the scheduled expiration of the term thereof.

(b) Tenant hereby acknowledges and agrees that (i) the Sublease is coterminous with the terms of the Lease, and (ii) as a result of the termination of the Lease, this Termination shall terminate the Sublease effective as of the date hereof, as if such date were the date set forth in the Sublease for the scheduled expiration of the term thereof.

3. Landlord's Representations and Warranties.

Landlord represents and warrants to Tenant as follows:

(a) Landlord is the holder of all of the Landlord's right, title and interest in, to and under the Lease.

(b) This Termination has been duly and validly authorized, executed and delivered by Landlord and is valid, binding and enforceable against Landlord and Landlord's successors and assigns in accordance with its terms. Landlord has the full power and authority to consummate the transactions contemplated hereby.

4. Tenant's Representations and Warranties.

Tenant represents and warrants to Landlord as follows:

(a) Tenant is the holder of all of the Tenant's right, title and interest in, to and under the Lease.

(b) This Termination has been duly and validly authorized, executed and delivered by Tenant and is valid, binding and enforceable against Landlord and Landlord's successors and assigns in accordance with its terms. Tenant has the full power and authority to consummate the transactions contemplated hereby.

5. Miscellaneous.

(a) This Termination shall be governed by and construed in accordance with the laws of the State of New Jersey.

(b) This Termination shall be binding upon and inure to the benefit of Landlord and Tenant and their respective heirs, successors and assigns.

(c) This Termination constitutes the entire and complete understanding between the

parties and supersedes any prior oral or written agreements between the parties not expressed herein. It is expressly agreed that there have been no verbal understandings or agreements which would in any way change the terms, covenants and conditions herein set forth.

[BALANCE OF PAGE INTENTIONALLY BLANK; SIGNATURES ON FOLLOWING
PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Termination as of the date first above written.

Landlord:

CITY OF ASBURY PARK

By: _____
Name: Ed Johnson
Title: Mayor

Tenant:

ASBURY PARTNERS, LLC

By: Jersey Star LLC
its managing member

By: _____
Name:
Title:

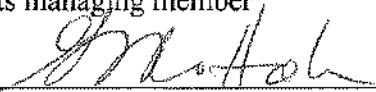
The undersigned has executed this Termination solely to confirm its acknowledgement and acceptance of the termination of the Sublease as set forth in Section 2(b) hereof.

Madison:

MADISON ASBURY RETAIL, LLC

By: Madison MMREF Asbury Retail LLC,
its managing member

By: Madison Asbury Investment Inc.,
its managing member

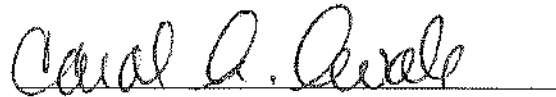
By: 
Name: **GARY MOTTOLA**
Title: *Executive Vice President*

STATE OF NEW JERSEY

:SS:

COUNTY OF MONMOUTH

I certify that on May 20, 2010, Gary Mottola, personally came before me and stated to my satisfaction that this person: (a) signed, sealed and delivered the signed documents as Executive Vice President of Madison Asbury Investment Inc., the managing member of Madison MMREF Asbury Retail LLC, the managing member of Madison Asbury Retail, LLC, the company named in this document; and (b) this document was signed and made by the company as its voluntary act and deed.



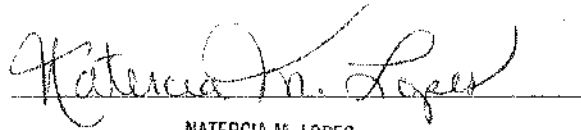
CAROL A. AVALE
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 02/02/11

STATE OF NEW JERSEY

:SS:

COUNTY OF MONMOUTH

I certify that on June 1, 2010, Mayor Ed Johnson, personally came before me and stated to my satisfaction that this person: (a) signed, sealed and delivered the signed documents as Mayor of the CITY OF ASBURY PARK, the municipality named in this document; and (b) this document was signed and made by the municipality as its voluntary act and deed.



NATERCIA M. LOPES
A Notary Public of New Jersey
My Commission Expires June 25, 2014

STATE OF NEW JERSEY

:SS:

COUNTY OF MONMOUTH

I certify that on _____, 2010, _____, personally came before me and stated to my satisfaction that this person: (a) signed, sealed and delivered the signed documents as _____ of Asbury Partners, LLC, the company named in this document; and (b) this document was signed and made by the company as its voluntary act and deed.

IN WITNESS WHEREOF, the parties hereto have executed this Termination as of the date first above written.

Landlord:

CITY OF ASBURY PARK

By: _____
Name: Ed Johnson
Title: Mayor

Tenant:

ASBURY PARTNERS, LLC

By: Jersey Star LLC
its managing member

By: _____
Name: Samantha Garbus
Title: Senior Vice President

The undersigned has executed this Termination solely to confirm its acknowledgement and acceptance of the termination of the Sublease as set forth in Section 2(b) hereof.

Madison:

MADISON ASBURY RETAIL, LLC

By: Madison MMREF Asbury Retail LLC,
its managing member

By: Madison Asbury Investment Inc.,
its managing member

By: _____
Name:
Title:

STATE OF NEW JERSEY

:SS:

COUNTY OF MONMOUTH

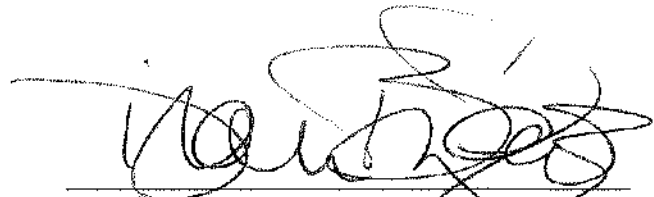
I certify that on _____, 2010, Mayor Ed Johnson, personally came before me and stated to my satisfaction that this person: (a) signed, sealed and delivered the signed documents as Mayor of the CITY OF ASBURY PARK, the municipality named in this document; and (b) this document was signed and made by the municipality as its voluntary act and deed.

STATE OF NEW YORK

:SS:

COUNTY OF NEW YORK

I certify that on May 20th, 2010, Samantha Garbus, personally came before me and stated to my satisfaction that this person: (a) signed, sealed and delivered the signed documents as Senior Vice President of Jersey Star LLC, the managing member of Asbury Partners, LLC, the company named in this document; and (b) this document was signed and made by the company as its voluntary act and deed.



DIANE BUGLEWICZ
Notary Public, State of New York
No. 01BU6079163
Qualified in New York County
Commission Expires August 12, 2010

SCHEDULE A

LEGAL DESCRIPTIONS FOR THE PREMISES

The ten (10) parcels of land listed below, which comprise the Premises, are each separately described below. Following the execution and delivery of the Lease, Block 227, together with certain other Blocks designated on the Official Tax Map of the City of Asbury Park, New Jersey, were subdivided. A subdivision map entitled "Final Plat Asbury Park Redevelopment Project, Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey," prepared by Schoor DePalma, Manalapan, dated November 15, 2002, last revised August 20, 2003, and approved by the Monmouth County Planning Board on December 22, 2003, was filed in the Office of the Monmouth County Clerk on December 22, 2003, as Filed Map No. 19 through 22, Case No. 292 (the "Filed Map"). The Block and Lot designations on the Filed Map and in the municipal tax records differ from the Block and Lot designations in the Lease, because the Block and Lot designations set forth in the Lease were based upon the then contemplated Block and Lot designations. Listed below are the current Block and Lot designations for the Premises, together with the legal descriptions and previously contemplated Block and Lot designations (the "Contemplated Lot Designations") for the Premises referenced in the Lease.

Block 227, Lot 1.05 (Contemplated Lot Designation: Block 227, Lot 1.06)

Being all of Proposed Lot 1.05 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.07 (Contemplated Lot Designation: Block 227, Lot 1.08)

Being all of Proposed Lot 1.07 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.09 (Contemplated Lot Designation: Block 227, Lot 1.10)

Being all of Proposed Lot 1.09 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.11 (Contemplated Lot Designation: Block 227, Lot 1.12)

Being all of Proposed Lot 1.11 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.15 (Contemplated Lot Designation: Block 227, Lot 1.16)

Being all of Proposed Lot 1.15 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.17 (Contemplated Lot Designation: Block 227, Lot 1.18)

Being all of Proposed Lot 1.17 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.19 (Contemplated Lot Designation: Block 227, Lot 1.20)

Being all of Proposed Lot 1.19 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November

15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.21 (Contemplated Lot Designation: Block 227, Lot 1.22)

Being all of Proposed Lot 1.21 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.24 (Contemplated Lot Designation: Block 227, Lot 1.25)

Being all of Proposed Lot 1.24 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.26 (Contemplated Lot Designation: Block 227, Lot 1.27)

Being all of Proposed Lot 1.26 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

SCHEDULE B

LEGAL DESCRIPTIONS FOR THE SUBLEASE PREMISES

Block 227, Lot 1.05

Being all of Proposed Lot 1.05 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.07

Being all of Proposed Lot 1.07 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.09

Being all of Proposed Lot 1.09 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.11

Being all of Proposed Lot 1.11 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.15

Being all of Proposed Lot 1.15 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.17

Being all of Proposed Lot 1.17 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.19

Being all of Proposed Lot 1.19 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.21

Being all of Proposed Lot 1.21 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

SCHEDULE C

LEGAL DESCRIPTIONS FOR THE AP PREMISES

Block 227, Lot 1.24

Being all of Proposed Lot 1.24 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.26

Being all of Proposed Lot 1.26 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

SCHEDULE D

LEGAL DESCRIPTIONS FOR THE ADDITIONAL PREMISES

Block 227, Lot 1.01

Being all of Proposed Lot 1.01 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.02

Being all of Proposed Lot 1.02 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.12

Being all of Proposed Lot 1.12 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.14

Being all of Proposed Lot 1.14 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.22

Being all of Proposed Lot 1.22 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

TERMINATION OF
MEMORANDUM OF LEASE

between

CITY OF ASBURY PARK
as Landlord,

and

ASBURY PARTNERS, LLC
as Tenant,

Dated as of June 1, 2010

Property: Block 227, Lots 1.05, 1.07,
1.09, 1.11, 1.15, 1.17, 1.19,
1.21, 1.24 and 1.26
County: Asbury Park, New Jersey
Monmouth

Record and return to:

Land Title Agency, Inc.
464 Valley Brook Avenue
Lyndhurst, New Jersey 07071

TERMINATION OF MEMORANDUM OF LEASE

THIS TERMINATION OF MEMORANDUM OF LEASE (this "Termination") is made and entered into as of the 1 day of June, 2010, by and between the CITY OF ASBURY PARK, a municipal corporation of the State of New Jersey having an address at the Asbury Park Municipal Building, One Municipal Plaza, Asbury Park, New Jersey 07712 (herein called "Landlord"), and ASBURY PARTNERS, LLC, a New Jersey limited liability company having an address at 1100 Ocean Avenue, Asbury Park, New Jersey 07712 (herein called "Tenant").

RECITALS:

A. Landlord and Tenant entered into that certain 99-Year Net Lease, dated as of October 28, 2002 (the "Lease"), pursuant to which Landlord leased to Tenant the ten (10) land parcels described on Schedule A attached hereto and made a part hereof, together with any and all improvements located thereon from time to time (the "Premises").

B. Following the execution of the Lease, Landlord and Tenant executed and arranged for the recording of that certain Memorandum of Lease, dated as of October 29, 2002 and recorded on July 7, 2003 in the Monmouth County Clerk's Office in Deed Book 8252 Page 9035 (the "Memorandum").

WHEREAS, Landlord and Tenant desire to terminate the Memorandum of record upon the terms, covenants and conditions contained herein.

NOW, THEREFORE, in consideration of these premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by all parties, the parties hereby agree as follows:

That the Memorandum which was recorded on the 7th day of July, 2003 in the Monmouth County Clerk's Office in Deed Book 8252 Page 9035 is and shall be canceled and the parties hereby consent and direct the Monmouth County Clerk to make the notation on the record of the Premises canceling of record such Memorandum.

[SIGNATURE PAGE FOLLOWS]

Landlord and Tenant have duly executed this Termination on the date hereinabove first set forth.

LANDLORD:

CITY OF ASBURY PARK

By: 
Name: Ed Johnson
Title: Mayor

TENANT:

ASBURY PARTNERS, LLC

By: Jersey Star LLC
its managing member

By: _____
Name:
Title:

STATE OF NEW JERSEY

:SS:

COUNTY OF MONMOUTH

I certify that on June 1, 2010, Mayor Ed Johnson, personally came before me and stated to my satisfaction that this person: (a) signed, sealed and delivered the signed documents as Mayor of the CITY OF ASBURY PARK, the municipality named in this document; and (b) this document was signed and made by the municipality as its voluntary act and deed.



NATERCIA M. LOPES
A Notary Public of New Jersey
My Commission Expires June 25, 2014

STATE OF NEW JERSEY

:SS:

COUNTY OF MONMOUTH

I certify that on _____, 2010, _____, personally came before me and stated to my satisfaction that this person: (a) signed, sealed and delivered the signed documents as _____ of Asbury Partners, LLC, the company named in this document; and (b) this document was signed and made by the company as its voluntary act and deed.

Landlord and Tenant have duly executed this Termination on the date hereinabove first set forth.

LANDLORD:

CITY OF ASBURY PARK

By: _____

Name: Ed Johnson

Title: Mayor

TENANT:

ASBURY PARTNERS, LLC

By: Jersey Star LLC
its managing member

By:  _____

Name: Samantha Garbus

Title: Senior Vice President

STATE OF NEW JERSEY

:SS:

COUNTY OF MONMOUTH

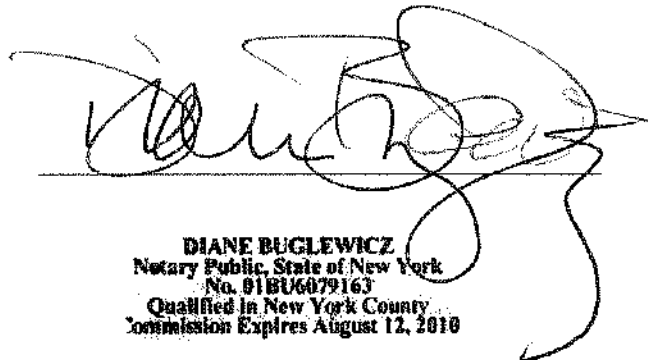
I certify that on _____, 2010, Mayor Ed Johnson, personally came before me and stated to my satisfaction that this person: (a) signed, sealed and delivered the signed documents as Mayor of the CITY OF ASBURY PARK, the municipality named in this document; and (b) this document was signed and made by the municipality as its voluntary act and deed.

STATE OF NEW YORK

:SS:

COUNTY OF NEW YORK

I certify that on May 26th, 2010, Samantha Garbus, personally came before me and stated to my satisfaction that this person: (a) signed, sealed and delivered the signed documents as Senior Vice President of Jersey Star LLC, the managing member of Asbury Partners, LLC, the company named in this document; and (b) this document was signed and made by the company as its voluntary act and deed.



DIANE BUGLEWICZ
Notary Public, State of New York
No. 01BU6079163
Qualified in New York County
Commission Expires August 12, 2010

SCHEDULE A

LEGAL DESCRIPTIONS FOR THE PREMISES

The ten (10) parcels of land listed below, which comprise the Premises, are each separately described below. Following the execution and delivery of the Lease, Block 227, together with certain other Blocks designated on the Official Tax Map of the City of Asbury Park, New Jersey, were subdivided. A subdivision map entitled "Final Plat Asbury Park Redevelopment Project, Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey," prepared by Schoor DePalma, Manalapan, dated November 15, 2002, last revised August 20, 2003, and approved by the Monmouth County Planning Board on December 22, 2003, was filed in the Office of the Monmouth County Clerk on December 22, 2003, as Filed Map No. 19 through 22, Case No. 292 (the "Filed Map"). The Block and Lot designations on the Filed Map and in the municipal tax records differ from the Block and Lot designations in the Lease, because the Block and Lot designations set forth in the Lease were based upon the then contemplated Block and Lot designations. Listed below are the current Block and Lot designations for the Premises, together with the legal descriptions and previously contemplated Block and Lot designations (the "Contemplated Lot Designations") for the Premises referenced in the Lease.

Block 227, Lot 1.05 (Contemplated Lot Designation: Block 227, Lot 1.06)

Being all of Proposed Lot 1.05 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.07 (Contemplated Lot Designation: Block 227, Lot 1.08)

Being all of Proposed Lot 1.07 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20, 2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.09 (Contemplated Lot Designation: Block 227, Lot 1.10)

Being all of Proposed Lot 1.09 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County,

New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.11 (Contemplated Lot Designation: Block 227, Lot 1.12)

Being all of Proposed Lot 1.11 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.15 (Contemplated Lot Designation: Block 227, Lot 1.16)

Being all of Proposed Lot 1.15 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.17 (Contemplated Lot Designation: Block 227, Lot 1.18)

Being all of Proposed Lot 1.17 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.19 (Contemplated Lot Designation: Block 227, Lot 1.20)

Being all of Proposed Lot 1.19 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.21 (Contemplated Lot Designation: Block 227, Lot 1.22)

Being all of Proposed Lot 1.21 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August

20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.24 (Contemplated Lot Designation: Block 227, Lot 1.25)

Being all of Proposed Lot 1.24 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Block 227, Lot 1.26 (Contemplated Lot Designation: Block 227, Lot 1.27)

Being all of Proposed Lot 1.26 Block 227 said newly created lot as shown on a certain map entitled "Final Plat Asbury Park Redevelopment Project Block 144.04 Lot 1, Block 176 Lot 1.01, Block 207 Lot 1.01, Block 227 Lot 1, Block 230 Lot 1, City of Asbury Park, Monmouth County, New Jersey, prepared by Schoor DePalma, Manalapan dated November 15, 2002, revised August 20,2003, said plat filed in the Monmouth County Clerk's Office on December 22, 2003 as Case No. 292 Sheets No 19 through 22.

Exhibit C

June 1, 2010

Becker Meisel LLC
Eisenhower Plaza II
354 Eisenhower Parkway
Suite 1500
Livingston, New Jersey 07039
Attention: Ben H. Becker, Esq.

Ladies and Gentlemen:

Reference is made to (i) that certain Dispute Resolution Agreement, dated as of April 10, 2006 (the "Dispute Resolution Agreement"), between the City of Asbury Park (the "City"), as redevelopment agency, and Asbury Partners, LLC, a New Jersey limited liability company ("Asbury Partners"), as redeveloper, and (ii) that certain Subsequent Developer Agreement, dated as of June 1, 2010 (the "SDA"), among the City, Asbury Partners and Madison Asbury Retail, LLC, a Delaware limited liability company ("MAR"). Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the SDA.

As of May 28, 2010, **\$1,637,213.94** (the "DRA Funds") is being held in escrow by Becker Meisel LLC, as "Escrow Agent" under the Dispute Resolution Agreement pursuant to and in accordance with the provisions of the Dispute Resolution Agreement.

Pursuant to that certain Contribution Agreement, dated as of June 11, 2007, by and among Asbury Partners, Madison Asbury Investment Inc., a Delaware corporation, and MAR, Asbury Partners, *inter alia*, assigned to MAR all of Asbury Partners' right, title and interest in and to the DRA Funds.

Pursuant to Section 7.01(b) of the SDA, the City, Asbury Partners and MAR agreed that (x) five hundred thousand dollars (\$500,000.00) of the DRA Funds shall be delivered to McManimon and Scotland L.L.C. ("M&S") to be held by M&S in escrow pursuant to, and strictly in accordance with, the Performance Escrow Agreement, a copy of which is attached hereto as Exhibit A, (y) one hundred thousand dollars (\$100,000.00) of the DRA Funds shall be delivered to M&S to be used to pay outstanding legal invoices, with the remaining balance to be held by M&S to partially restore the waterfront fee escrow, and (z) the balance of the DRA Funds shall be delivered to MAR as its sole property.

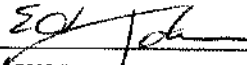
Accordingly, this letter shall constitute the joint request of the parties to Escrow Agent that Escrow Agent deliver, and by execution of this letter Escrow Agent agrees to disburse, the DRA Funds as follows: (x) five hundred thousand dollars (\$500,000.00) in a check or other certified funds to M&S as payee in accordance with the instructions set forth on Exhibit B attached hereto, (y) one hundred thousand dollars (\$100,000.00) in a check or other certified funds to M&S in accordance with the instructions set forth on Exhibit C attached hereto, and (z) the balance of the DRA funds (which as of May 28, 2010 was \$1,037,213.94) in a check or other certified funds to MAR in accordance with the instructions set forth on Exhibit D attached hereto.

The City and MAR hereby acknowledge and agree that, upon the disbursement of the DRA Funds to each of M&S and MAR in accordance with the provisions of this letter and the SDA, Escrow Agent shall be released and discharged from any and all further liabilities and obligations in its capacity as escrow agent with respect to the DRA Funds under the Dispute Resolution Agreement. Furthermore, except in connection with the Escrow Agent's fraud, gross negligence or willful misconduct, the City and MAR hereby release Escrow Agent from any and all liability with respect to or arising out of its obligations under the Dispute Resolution Agreement or hereunder, and each of the City and MAR hereby agrees to severally indemnify and hold harmless Escrow Agent from and against any and all expenses or loss suffered by the Escrow Agent, including reasonable attorneys' fees, in connection with any action, suit or other proceeding involving any claim, action or demand arising out of or relating to the Dispute Resolution Agreement or hereunder or the services of the Escrow Agent under the Dispute Resolution Agreement or hereunder.

[signature page follows]

Sincerely,

THE CITY OF ASBURY PARK

By: 

Mayor

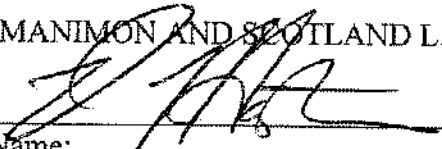
MADISON ASBURY RETAIL, LLC

By: Madison MMREF Asbury Retail LLC,
its managing member

By: Madison Asbury Investment Inc.,
its managing member

By: _____
Name:
Title:

MCMANIMON AND SCOTLAND L.L.C.

By: 

Name: Thomas J Hastie
Title: Member

ACCEPTED AND AGREED TO:

BECKER MEISEL LLC

By: _____
Name:
Title:

cc: Tannenbaum Helpert Syracuse & Hirschtritt LLP
900 Third Avenue
New York, New York
Attention: Roger M. Roisman, Esq.

Sincerely,

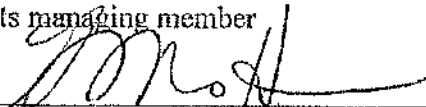
THE CITY OF ASBURY PARK

By: _____
Mayor

MADISON ASBURY RETAIL, LLC

By: Madison MMREF Asbury Retail LLC,
its managing member

By: Madison Asbury Investment Inc.,
its managing member

By: 
Name: Gary Mottola
Title: Executive Vice President

MCMANIMON AND SCOTLAND L.L.C.

By: _____
Name:
Title:

ACCEPTED AND AGREED TO:

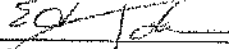
BECKER MEISEL LLC

By: _____
Name:
Title:

cc: Tannenbaum Helpern Syracuse & Hirschtritt LLP
900 Third Avenue
New York, New York
Attention: Roger M. Roisman, Esq.

Sincerely,

THE CITY OF ASBURY PARK

By: 
Mayor

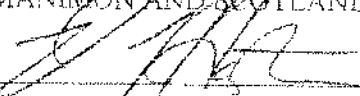
MADISON ASBURY RETAIL, LLC

By: Madison MMREF Asbury Retail LLC,
its managing member

By: Madison Asbury Investment Inc.,
its managing member

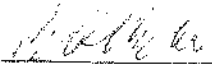
By: _____
Name:
Title:

MCMANIMON AND SCOTLAND L.L.C.

By: 
Name: Thomas J. Husted
Title: Member

ACCEPTED AND AGREED TO:

BECKER MEISEL LLC

By: 
Name: Ben H. Becker
Title: Member

cc: Tannenbaum Helpert Syracuse & Hirschtritt LLP
900 Third Avenue
New York, New York
Attention: Roger M. Roisman, Esq.

EXHIBIT A

PERFORMANCE ESCROW AGREEMENT

[see attached]

PERFORMANCE ESCROW AGREEMENT

THIS PERFORMANCE ESCROW AGREEMENT (this "Escrow Agreement") is made as of the 15th day of June, 2010 by and among MADISON ASBURY RETAIL, LLC, a Delaware limited liability company, and its successors and assigns, with an address at 1100 Ocean Avenue, Asbury Park, New Jersey 07712 ("MA Retail"), THE CITY OF ASBURY PARK, a body corporate and politic of the State of New Jersey (the "City"), with an address at 1 Municipal Plaza, Asbury Park, New Jersey 07712, and MCMANIMON & SCOTLAND, L.L.C., ("Escrow Agent") with an address at 1037 Raymond Boulevard, Suite 400, Newark, New Jersey, 07102.

RECITALS:

WHEREAS, MA Retail, the Mayor and Council (collectively, the "City Council") of the City of Asbury Park, with principal offices located at 1 Municipal Plaza, Asbury Park, New Jersey 07712, and Asbury Partners, LLC, a New Jersey limited liability company with principal offices located at 1100 Ocean Avenue, Asbury Park, New Jersey 07712 ("Asbury Partners"), are parties to a Subsequent Developer Agreement dated June 1, 2010 (the "Subsequent Developer Agreement"; capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Subsequent Developer Agreement), pursuant to which, inter alia, MA Retail is recognized as the Subsequent Developer with respect to the Retail Properties; and

WHEREAS, Article 4 of the Subsequent Developer Agreement requires MA Retail to complete certain obligations related to the construction, renovation and/or rehabilitation of the Retail Projects within the deadlines set forth in the Subsequent Developer Agreement, including the completion of certain Menu Items; and

WHEREAS, pursuant to Sections 4.13(c) and 7.01(b) of the Subsequent Developer Agreement, MA Retail has agreed to deposit FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) with Escrow Agent (the "Escrow Deposit"), to be deposited in an escrow account and held as additional security for the performance by MA Retail of its obligations under the Subsequent Developer Agreement; and

WHEREAS, pursuant to Section 8.03(c) of the Subsequent Developer Agreement, following the occurrence of an Event of Default by MA Retail and notice to MA Retail of not less than five (5) Business Days, the City may withdraw the Escrow Deposit and utilize the Escrow Deposit for the reimbursement of all reasonable costs and expenses actually paid and/or incurred by the City to cure any such outstanding Events of Defaults; and

WHEREAS, on May 19, 2010, the Mayor and Council of the City of Asbury Park resolved to authorize the execution of this Escrow Agreement on behalf of the City;

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 Escrow Deposit is separate from, and in addition to, all other escrow deposits that may be required by the City pursuant to the terms of the Subsequent Developer Agreement.
2. **Deposit and Administration of Escrow Funds.** The Escrow Agent hereby acknowledges receipt of the Escrow Deposit and agrees that the Escrow Deposit shall be held by Escrow Agent 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 account (the "Escrow Account") that makes reference to this Escrow Agreement. Amounts on deposit in the Escrow Account shall be invested in an interest bearing account. Interest earnings shall be credited to MA Retail and shall be held in the Escrow Account until withdrawn in accordance with the provisions of this agreement. Upon MA Retail's request, cash funds constituting the Escrow Deposit may be replaced by a letter of credit, in form, and from a banking institution, reasonably acceptable to the City.
3. **Payments from the Escrow Deposit.** If, after the occurrence of an Event of Default and notice thereof by the City to MA Retail of not less than five (5) Business Days, the City elects to cure such Event of Default, the City may deliver written notices thereof to MA Retail and Escrow Agent, together with a demand for reimbursement of the reasonable costs and expenses actually paid by the City in connection with the cure of such Event of Default, which written demand shall be accompanied by a reasonably detailed statement of all such costs and expenses so paid by the City (such written notice, demand and detailed statement are hereinafter referred to collectively as the "Escrow Demand"). Within ten (10) business days following the receipt by MA Retail of such written notice and demand, MA Retail shall have the right to give written notice (the "Objection Notice") to Escrow Agent (with a copy to the City) of MA Retail's objection, in whole or in part, to such disbursement from the Escrow Deposit. If Escrow Agent does not receive an Objection Notice within ten (10) business days following MA Retail's receipt of a copy of the Escrow Demand, then Escrow Agent shall pay to the City out of the Escrow Deposit the amount so demanded by the City in the Escrow Demand; provided, however, that such payment shall not be made until at least ten (10) business days after the date on which MA Retail has received a copy of such Escrow Demand.
4. **Accounting and Additional Deposits.** As reasonably requested by MA Retail or the City, Escrow Agent shall prepare and send to the City and MA Retail a statement which shall include an accounting of funds listing all deposits, disbursements and the cumulative balance of the escrow account.
5. **Close Out Procedures.** MA Retail shall be entitled to the return of the Escrow Deposit pursuant to, and in accordance with, the terms and conditions of the Subsequent Developer Agreement, including without limitation, Section 4.13(c) of the Subsequent Developer Agreement. For each portion of the Escrow Deposit to be returned to MA Retail pursuant to, and in accordance with, the terms and conditions of the Subsequent Developer

Agreement, including without limitation, Section 4.13(c) of the Subsequent Developer Agreement. MA Retail shall deliver a written demand for payment specifying the amount of the Escrow Deposit to be returned to MA Retail. Escrow Agent shall promptly deliver to the City a copy of such written notice and demand. Thereafter, Escrow Agent shall pay to MA Retail an amount equal to the amount specified in such written demand, pursuant to, and in accordance with, the provisions of this Escrow Agreement and the Subsequent Developer Agreement.

6. **Disputes.** In the event that (i) the Escrow Agent receives an Objection Notice; (ii) any dispute shall arise as to any matter arising under this Escrow Agreement; or (iii) there shall be any uncertainty as to the meaning or applicability of any of the provisions hereof, Escrow Agent's duties, rights or responsibilities hereunder or any written instructions received by Escrow Agent pursuant hereto, Escrow Agent shall continue to hold the Escrow Deposit in accordance with the terms and conditions of this Escrow Agreement and the Subsequent Developer Agreement or, at its option, shall (x) at any time thereafter, deposit the funds and/or instruments then being held by it in escrow into any court having appropriate jurisdiction, (y) at any time thereafter, take such affirmative steps as it may elect in order to substitute an impartial party agreed to by the City and MA Retail to hold any and all escrowed funds and/or instruments, or (z) hold such funds and/or instruments until such time as Escrow Agent receives written instructions signed by each of the City and MA Retail or a court order from a court of competent jurisdiction which directs Escrow Agent to deliver the funds and/or instruments to a specified person or entity, in which case Escrow Agent shall comply with such written instructions or court order, as applicable, and upon making such deposit, delivery or election pursuant to this Section 6, Escrow Agent shall thereupon be relieved of and discharged and released from any and all liability hereunder and with respect to the Escrow Deposit.
7. **Notices.** All notices hereunder shall be given in accordance with the terms and conditions of Section 15.03 of the Subsequent Developer Agreement, and Section 15.03 of the Subsequent Developer Agreement is hereby incorporated by reference herein.
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 sitting in Monmouth County or in a United States Court having jurisdiction in the District of New Jersey and sitting in Mercer County, New Jersey, and MA Retail 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 each party's successors and assigns.
10. **Entire Agreement; No Modification Unless in Writing.** This Escrow Agreement, together with the Subsequent Developer Agreement and all documents executed in connection therewith, contain the entire agreement of the parties relative to the subject matter hereof, and supersede all prior agreements and understandings, written and oral, among the parties with respect to such subject matter. Any amendment hereto or

modification or variation hereof shall be ineffective unless in writing signed by each of the parties hereto.

11. **Counterparts.** This Escrow Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed an original, but all of which shall together constitute one and the same instrument.
12. **Effective Date.** This Escrow Agreement shall not become effective unless and until the initial Escrow Deposit is made.

The balance of this page intentionally left blank; signatures appear on next page.

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

Witness or Attest:

THE CITY OF ASURY PARK

Stephen Kay, City Clerk

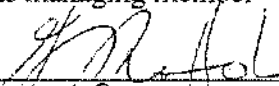
(Seal)

By: _____
Ed Johnson, Mayor

MADISON ASBURY RETAIL, LLC

By: Madison MMREF Asbury Retail LLC,
its managing member

By: Madison Asbury Investment Inc.,
its managing member

By: 
Name: GARY MOTIOLA
Title: Executive Vice President

MCMANIMON & SCOTLAND, L.L.C.

By: _____
Member

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

Witness or Attest:

THE CITY OF ASBURY PARK

Stephen Kay, City Clerk


By: _____
Ed Johnson, Mayor

(Seal)

MADISON ASBURY RETAIL, LLC

By: Madison MMREF Asbury Retail LLC,
its managing member

By: Madison Asbury Investment Inc.,
its managing member

By: 
Name: GARY MOTTO LA
Title: Executive Vice President

MCMANIMON & SCOTLAND, L.L.C.

By: _____
Member

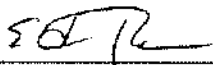
IN WITNESS WHEREOF, the parties have executed this Escrow Agreement on the date and year first above written.

Witness or Attest:

THE CITY OF ASBURY PARK



Stephen Kay, City Clerk

By: 

Ed Johnson, Mayor

(Seal)

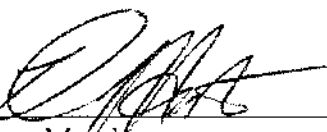
MADISON ASBURY RETAIL, LLC

By: Madison MMREF Asbury Retail LLC,
its managing member

By: Madison Asbury Investment Inc.,
its managing member

By: _____
Name:
Title:

MCMANIMON & SCOTLAND, L.L.C.

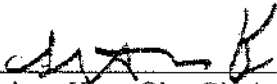
By: 

Member


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

Witness or Attest:

THE CITY OF ASBURY PARK


Stephen Kay, City Clerk

(Seal)

By: 
Ed Johnson, Mayor

MADISON ASBURY RETAIL, LLC

By: Madison MMREF Asbury Retail LLC,
its managing member

By: Madison Asbury Investment Inc.,
its managing member

By: _____
Name:
Title:

MCMANIMON & SCOTLAND, L.L.C.

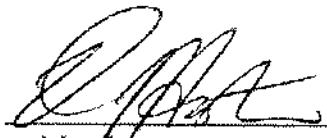
By: 
Member

EXHIBIT A to Performance Escrow Agreement

City Resolution

RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF ASBURY PARK APPROVING A SUBSEQUENT DEVELOPER AGREEMENT BY AND AMONG THE CITY, MADISON ASBURY RETAIL, LLC AND ASBURY PARTNERS, LLC IN CONNECTION WITH THE REDEVELOPMENT OF CERTAIN BUILDINGS LOCATED ON THE CITY'S WATERFRONT

WHEREAS, Section 8 of the *Local Redevelopment and Housing Law*, N.J.S.A. 40A:12-8, permits a municipality to contract with a designated redeveloper for the construction of redevelopment projects within a designated redevelopment area pursuant to an adopted redevelopment plan; and

WHEREAS, on June 5, 2002, the City adopted the *Amended Waterfront Redevelopment Plan for the City of Asbury Park* (as amended and supplemented, the "Plan") for the designated redevelopment area within the City known as the Prime Renewal Area (as such term is defined in the Plan, the "Waterfront Redevelopment Area"); and

WHEREAS, on October 28, 2002, the City and Asbury Partners, LLC ("Asbury Partners") entered into a redevelopment agreement to implement the Plan (the "Redevelopment Agreement"), in which Asbury Partners was reaffirmed as the designated redeveloper of the Waterfront Redevelopment Area; and

WHEREAS, pursuant to the Redevelopment Agreement, Asbury Partners is responsible, among other things, for certain rehabilitation of particular waterfront buildings acquired by Asbury Partners from the City pursuant to the terms of the Redevelopment Agreement, which buildings include Convention Hall, Paramount Theater, the Casino, the Power Plant, the Boardwalk Pavilions (all as defined in the Redevelopment Agreement) and the real property interests on other parcels within Block 227 held by MA Retail, as defined below (collectively, the "Retail Properties"); and

WHEREAS, on April 5, 2007, the City consented to the creation of Madison Asbury Retail, LLC, a joint venture ("MA Retail") between Asbury Partners and Madison Realty Partnership, LLC ("Madison Marquette") to fulfill the obligations of Asbury Partners to improve and restore the Retail Properties pursuant to a certain Dispute Resolution Agreement, dated as of April 10, 2006, between the City and Asbury Partners (the "Dispute Resolution Agreement"); and

WHEREAS, MA Retail now owns fee title to, or holds a leasehold interest in, each of the Retail Properties; and

WHEREAS, Madison Marquette has become the managing member of MA Retail; and

WHEREAS, Madison Marquette, on behalf of MA Retail, has proposed to the City a schedule of activities to improve, construct, restore and repair elements of the Retail Properties in satisfaction of the work mandated under the Redeveloper Agreement and the Dispute Resolution Agreement and to assume additional obligations in connection with their operations

(the "Subsequent Developer Agreement" or "SDA"), including the designation of MA Retail as subsequent developer for the Retail Properties and providing for the redevelopment of the Retail Properties on an interim and permanent basis; and

WHEREAS, the City desires to see the redevelopment of the Retail Properties in accordance with the Redevelopment Plan commence as soon as practicable and to see the redevelopment succeed so that the residents, businesses, and property-owners surrounding the Retail Properties may benefit because of the substantial expansion of a stable, year-round retail presence; and

WHEREAS, MA Retail has agreed to own and occupy the Retail Properties and in furtherance of the Redevelopment Plan, to effectuate the redevelopment of a portion of the Retail Properties as set forth in the SDA, and in connection therewith, has agreed to devote substantial cash assets and borrowed funds to such redevelopment; and

WHEREAS, the Mayor and City Council believe that the execution of the SDA is in the best interests of the City,

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ASBURY PARK AS FOLLOWS:

Section 1. Recitals. The recitals hereto are fully incorporated herein as if set forth at length.

Section 2. Designation of Madison Asbury Retail, LLC as Subsequent Developer. Upon execution of the Subsequent Redeveloper Agreement, Madison Asbury Retail, LLC, Asbury Park, New Jersey will be designated as subsequent developer of the Retail Properties pursuant to the Act and the Redeveloper Agreement.

Section 3. Approval of the Subsequent Developer Agreement. The Subsequent Developer Agreement, and the related exhibits thereto, substantially in the form attached hereto as Exhibit A, is hereby approved, together with any changes, insertions and omissions thereto as the Mayor and City Manager, after consultation with redevelopment counsel to the City, deem in their collective discretion to be necessary or desirable for the execution thereof.


Section 4. Execution of the Subsequent Developer Agreement. Upon a determination that MA Retail is in compliance with its existing agreements with the City, the Mayor of the City of Asbury Park, in the County of Monmouth (the "Mayor") is hereby authorized and directed, upon satisfaction of all the legal conditions precedent to the execution and delivery by the City of the Subsequent Developer Agreement, to execute the Subsequent Developer Agreement, together with each of the exhibits to which the City is a signatory, in substantially the form of the draft attached hereto and such changes as may be provided in accordance with Section 3 hereof. McManimon and Scotland, L.L.C. is hereby directed and authorized to execute the "Performance Escrow Agreement" which is exhibit "S" to the Subsequent Developer Agreement.

Section 5. Attestation and Sealing of the Subsequent Developer Agreement. The Clerk of the City is hereby authorized and directed, upon the execution of the Subsequent Developer Agreement and required exhibits in accordance with the terms of Section 4 hereof, to attest to the signature of the Mayor upon such documents and is hereby further authorized and directed thereupon affix the corporate seal of the City upon such documents.

Section 6. Implementation of the Subsequent Developer Agreement. Upon the execution and attestation and placing of the seal on the Subsequent Developer Agreement as contemplated by Sections 4 and 5 hereof, the City Manager and City staff and professionals are hereby authorized and directed to (i) deliver the fully executed, attested and sealed document to the other parties thereto and (ii) perform such other actions as the City Manager deems necessary or desirable in relation to the execution and delivery of the Subsequent Developer Agreement.

Section 7. Effective Date. This resolution shall take effect immediately.

I certify the above to be a true copy of
the Resolution adopted at a public meeting
held on the 19th day of May, 2010.



Stephen M. Kay
City Clerk, City of Asbury Park

cc: Tom Hastie, Special Counsel
Don Sammet
City Attorney

EXHIBIT B

M&S ESCROW INSTRUCTIONS

Payee: McManimon and Scotland, L.L.C., as escrow agent for the City of Asbury Park
Amount: \$500,000
Send To: 1037 Raymond Boulevard, Suite 400
Newark, New Jersey 07102-5408

EXHIBIT C

M&S ESCROW INSTRUCTIONS

Payee: McManimon and Scotland, L.L.C.,
Amount \$100,000
Send To: 1037 Raymond Boulevard, Suite 400
Newark, New Jersey 07102-5408

EXHIBIT D

MAR'S WIRE INSTRUCTIONS

Payee: Madison Asbury Retail, LLC
Amount: \$1,037,213.94
Send To: Madison Asbury Retail, LLC
1100 Ocean Avenue
Asbury Park, NJ 07712
Attn: Chris Femiano

Request for Taxpayer Identification Number and Certification

Give form to the requester. Do not send to the IRS.

Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return) MADISON ASBURY RETAIL LLC	
	Business name, if different from above	
	Check appropriate box: <input type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input checked="" type="checkbox"/> Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶ <input type="checkbox"/> Exempt payee <input type="checkbox"/> Other (see instructions) ▶	
	Address (number, street, and apt. or suite no.) c/o Madison Marquette, 2001 Pennsylvania Avenue, NW, Suite 1000	
City, state, and ZIP code Washington DC 20006		Requester's name and address (optional)
Last account number(s) here (optional)		

Part I Taxpayer Identification Number (TIN)	
Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I Instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see <i>How to get a TIN</i> on page 3.	Social security number _____ OR Employer identification number 77 : 0670858
Note: If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.	

Part II Certification	
Under penalties of perjury, I certify that:	
1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and 2. I am not subject to backup withholding because (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and 3. I am a U.S. citizen or other U.S. person (defined below).	
Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the instructions on page 4.	

Sign Here	Signature of U.S. person ▶ <i>Laurie F. Maloney</i>	Date ▶ <i>5-1-2010</i>
------------------	---	------------------------

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,