

Record and return to:

Prepared by:

DEVELOPER'S AGREEMENT

THIS AGREEMENT made this _____ day of _____, 2023

BETWEEN **TOWNSHIP OF ABERDEEN**

1 Aberdeen Square
Aberdeen, NJ 07747
a municipal corporation of the State of New
Jersey, located in the County of Monmouth
(hereinafter referred to as "Township")

AND

Roger Mumford Homes LLC
having its principal place of business at
247 Bridge Avenue, Suite 5
Red Bank, NJ 07701
(hereinafter referred to as the "Developer")

affects all or a portion of real estate known as:

Block 198, Lots 11 & 12
Township of Aberdeen, Monmouth County, New Jersey
(hereinafter referred to as the "Property")

WHEREAS, Roger Mumford Homes LLC, the contract purchaser and developer of the Property (the "Developer"), made an application to the Aberdeen Township Planning Board ("Planning Board") for Preliminary Subdivision Approval Application No. SD 22-002 for construction of eleven (11) single-family homes (the "Development"); and

WHEREAS, the Planning Board reviewed maps and presentations of the Applicant and granted approval subject to compliance by the Applicant with certain terms and conditions set forth in the Resolution granting Preliminary and Final Major Subdivision, adopted on March 2, 2022 (the "Resolution" or "Approved Plan") attached hereto and made a part hereof as **Exhibit A**; and

WHEREAS, the Township is planning to undertake roadway and infrastructure improvements to Meinzer Street, Locust Street, Kort Street and Van Cleaf Street (the “Township Road Improvements”). The Township Road Improvements require an infiltration basin to offset an increase in impervious area created by the improvements. This infiltration basin is currently proposed to be constructed on a portion of Block 198, Lot 12 (hereinafter, “Lot 12”), for which the Township planned to acquire an easement from either the current property owner of Lot 12 or from the Developer upon Developer’s acquisition of Lot 12; and

WHEREAS, the Developer also requires stormwater management for the site of the Development due to the proposed subdivision of Block 198, Lot 11 (hereinafter, “Lot 11”). Said stormwater management was proposed to consist of recharge trenches along the rear property lines of the proposed subdivided lots; and

WHEREAS, a viable alternative, subject to analysis and Township review and approval, is to construct an infiltration basin on Lot 12 sized to accept drainage from both the Township Road Improvements and the development of the eleven subdivided lots on Lot 11; and

WHEREAS, the Parties agree that the best engineering solution is to construct a shared basin on Lot 12, which will serve both the Township Road Improvements and the development of the eleven Single-Family homes on Lot 11 (the “Infiltration Basin”); and

WHEREAS, the approval of the proposed subdivision is conditioned upon the Developer complying with all terms and conditions set forth in the Planning Board Resolution adopted on March 2, 2022, as well as the Developer entering into the herein Developer’s Agreement, which governs the rights and obligations of the Parties and, amongst other things, the Developer’s construction of the Infiltration Basin at its own expense, the Township’s future maintenance of the Infiltration Basin after the Developer’s conveyance of Lot 12 to the Township, and the

applicable financial contribution by the Developer for a portion of the off-site improvements to be constructed by the Township; and

WHEREAS, the improvements to be constructed by the Township have been identified on the plan and sketch prepared by CME Associates, dated March 31, 2023, attached and incorporated hereto as **Exhibit B** (the “Improvement Plan”). The Improvement Plan delineates the parties’ respective obligations for installation of improvements. The improvements to be constructed by the Township are those shown within the Limit of Township Improvements on the Improvement Plan (the “Township Constructed Improvements”). As identified in the Improvement Plan, the Township Constructed Improvements shall include a storm sewer system, which comprises the installation of inlets, sanitary sewer laterals, and water and sewer mains, and roadway and infrastructure improvements to Meinzer Street, Kort Street, and Van Cleaf Lane, which includes the installation of curbs along the western edge of Meinzer Street. The Township Constructed Improvements do not include the construction of the Infiltration Basin, which is to be constructed by the Developer, as specified in the Improvement Plan; and

WHEREAS, in addition, as a portion of the performance guarantee for the on-site improvements authorized by the Resolution, the Developer and the Township have agreed to enter into this Agreement; and

WHEREAS, the Approved Plan calls for certain improvements. Except for the Township Constructed Improvements, which the Township agrees to construct, the Developer agrees to construct all improvements as shown on the Approved Plan and records before the Planning Board, all of which are made a part of this Agreement by reference hereto as though fully set forth at length, as well as the improvements delineated within the Limit of Developer Improvements shown within the Improvement Plan; and

WITNESSETH THAT, in consideration of the foregoing recitals and the covenants and agreements hereinafter contained, the parties hereto mutually agree as follows:

1. Incorporation of Recitals. All of the above recitals are incorporated herein and made a part of this Agreement by referenced hereto as though fully set forth at length herein.

2. Infrastructure Agreement. The Developer shall pay for and install the Infiltration Basin on Lot 12 and shall deliver to the Township a complete and accurate survey of Lot 12 including all necessary details and specification in accordance with all applicable laws, regulations, and industry standards. Developer shall remain responsible for maintenance of the Infiltration Basin until such time that Lot 12 is conveyed to the Township, which shall not be until the time of final acceptance of the site improvements by the Township, or as otherwise agreed to by the Township. The Township shall install the Township Installed Improvements at the Township's expense, except as to the following items, which will be paid for by the Developer and, if specified below, installed by the Developer:

- a) The Township shall pay for all laterals installed from the new sewer and water mains in the street to lot clean outs and curb stops for each of the eleven subdivided lots, as well as all inlets identified as within the Limit of Township Improvements on the Improvement Plan. However, the cost and responsibility to install all laterals beyond the lot clean outs and curb stops, as well as all inlets identified as within the Limit of Developer Improvements on the Improvement Plan, shall be a responsibility of the Developer. The Township shall install at the Township's expense the manhole with capped stubs within the proposed basin buffer, the 12LF (+/-) of 36-inch RCP, the reinforced concrete headwall, and the gabion basket within the Infiltration Basin.

- b) As part of the Township Constructed Improvements, the Township shall install at its expense a 6-inch base course on Meinzer Street. However, prior to the Township's issuance of the last Certificate of Occupancy for the Development, the Developer shall at its own expense pave a 2-inch top layer of surface course of HMA 9.5M64.
- c) The Developer will install at its expense all sidewalks and driveway aprons located along the frontage of the properties (from STA. +78 to STA 9+72). The Township shall install the western curb along Meinzer Street (from STA. 2+78 to 9+72) at its expense as part of the Township Constructed Improvements, but the Developer shall stake out all required depressed curbs at the request of the Township.
- d) The Developer will plant and fund all shade trees as required by the Approved Plan.

3. Application of Agreement. The terms and conditions of this Agreement shall be applicable to the described Property and any and all off-site and/or off-tract improvements set forth herein, if any.

4. Sewer and Water Connection Fees. Developer agrees that prior to the execution of any maps by the Township or issuance of any building permits, Developer shall pay, pursuant to the Code of the Township of Aberdeen, all water and sewer connection charges associated with the Development or said respective section of the Development.

5. Bayshore Regional Sewerage Authority Fees. Developer agrees that prior to the execution of any maps by the Township or issuance of any building permits, all required fees are

to be paid to the Bayshore Regional Sewerage Authority prior to construction start-up. The Developer shall provide proof of such payment to the Township.

6. Developer/Owner Bound. With regard to its property, the Developer agrees to be bound by all resolutions, representations, commitments, matters of fact and matters of law, written or oral, which constitute the file and record of the Planning Board in this matter and it will faithfully discharge all of the obligations and commitments thereof.

7. Construction Subject to Ordinance. With regard to its property, the Developer shall carry out construction in accordance with the specifications of the Land Use Development and Regulations Ordinance of the Code of the Township of Aberdeen (the "Code"), as amended to date, in a manner satisfactory to the Township Engineer and in accordance with the improvements set forth on the Approved Plan. Developer shall perform all work in full compliance and observation of all ordinances of the Township. Developer shall be responsible for securing all permits required by law including, but not limited to, road opening permits and others required by the Code of the Township and to pay the requisite fees called for under the appropriate fee schedules.

8. Engineering Escrows and Legal Fees. Developer shall pay an engineering inspection escrow in accordance with the estimates (**Exhibit "C"**), which may be posted proportionately as provided by law. Over and above any costs associated with filing fees, the Developer shall post escrow deposits to cover the legal costs associated with the review of applications, both as to completeness and as to content; for the review and preparation of documents including, but not limited to: drafting resolutions, ordinances, developer's agreements, and any and all necessary correspondence with Developer, Developer's professionals, the Township and/or its professional personnel, including, but not limited to, the

Township Engineer and/or the Township's Consulting Engineers, if any. The Township Attorney and/or Special Counsel will bill the Developer at the same hourly rate and in the same manner as it bills the Township.

Should any deposit monies be left over in escrow at the time of the issuance of the last Certificate of Occupancy for the Development, a refund will be made to the Developer within thirty (30) business days of completion of Development. Alternatively, should there be a shortage of funds in escrow to cover the legal costs described herein, the Developer shall pay the additional amount as certified by the Township's Chief Financial Officer.

9. Building Permit. In consideration of the execution of this Agreement, the posting of the guarantees as hereinbefore required, and after obtaining final approval upon complying with the terms and conditions of the Resolution with respect to this Development, the Developer shall be entitled to a building permit for this Development after proper application has been made to the Construction Official of the Township and subject to this Agreement and all laws, rules and regulations applicable to this Development. The Developer shall be permitted to construct one single-family active model showcase home on Lot 11, in conjunction with the Township's construction of the Township Road Improvements and prior to Developer obtaining final subdivision approval of Lot 11, subject to the Developer obtaining a builder's permit. Once a fulltime sales associate is working out of the active model, the Developer shall be required to obtain a Temporary Certificate of Occupancy following connection of the showcase home to the Township's water and sewer system and other necessary inspections are passed. The Developer acknowledges that the showcase home shall not be used as an active model made available for public tours or viewing until the Developer obtains a Temporary Certificate of Occupancy.

10. Withholding Permits/Certificates of Occupancy. Developer understands and agrees that in the event it is in violation of any of the terms of this Agreement, the Township may, in its discretion, upon prior written notice to the Developer, withhold the issuance of any further building permits and/or certificates of occupancy related to the Developer's project until the violation has been corrected.

11. Completion of Improvements. The improvements contemplated in this Agreement and in the Approved Plan shall be performed within a period of two (2) years from the date hereof or such additional periods of time as may be granted by the Township and prior to the issuance of a certificate of occupancy, and in compliance with all applicable ordinances, rules and regulations of the Township and its agencies. Developer agrees that should it not comply with the ordinance, rules or regulations as set forth above, the Township shall have the right to suspend any permits, including building permits, and to issue a stop work order to prevent all construction until such time as Developer is in compliance. In the event the aforesaid improvements are not completed within the period stated above, the Township reserves the right to refuse issuance of any certificate(s) of occupancy or building permit(s) for the Property. In the event an extension is granted, the Township may annually review the amount of performance guarantee to determine its sufficiency to ensure faithful completion of remaining required improvements, and, if found insufficient, require Developer to increase the amount of performance guarantees. The issuance of a certificate of occupancy by the Township within the period stated above shall not be deemed a waiver of defects ascertained during said period or subsequent thereto.

12. Release of Maps. Any payments, posting of bonds or other financial obligations required to be performed by the Developer pursuant to this Agreement, unless specifically set

forth otherwise, shall be completed and/or performed prior to the signing of the Plan map by the Township Engineer for release to Developer.

13. Assignment/Sale of Premises. The Property with the Approved Plan may be sold or otherwise conveyed by the Developer prior to the installation of all improvements, provided the subsequent qualified developer assumes this Agreement in writing and in a form that is acceptable to the Township Attorney and/or Special Counsel, and tenders new performance guarantees to the Township in accordance with Section 18 of this Agreement. The new guarantees shall be reviewed by the Township Attorney and/or Special Counsel as to form and content prior to acceptance of the new performance guarantees and the release of Developer's existing performance guarantees. Should Developer sell the Property with the Approved Plan in place, Developer shall provide notice of such sale to the Engineering Department of the Township and shall provide the Purchaser's name, address and relevant contact information.

14. Records. The Township Engineer shall keep records of inspections, related reviews, and the costs thereof and upon Developer's written request, said records shall be made available for inspection by the Developer or its representatives not more than once quarterly during the regular business hours of the Township Engineer.

15. Record Drawings. The Except as to the Township Constructed Improvements, Developer shall provide record drawings of all improvements and utilities, including, but not limited to, water, sanitary sewer and storm drainage as constructed by the Developer. Said record drawings shall be in conformance with applicable Township standards and shall be both in hard copy and on disc or other acceptable electronic media. A final as built survey of the Site must be submitted at the time of request for a certificate of occupancy.

16. Maintenance of Site. During the course of construction and until the time of final acceptance of improvements, Developer shall, for its portion of the Development:

(a) keep the Site free of debris, including, but not limited to, dirt, stone, mud, trash, weeds and leaves; and

(b) maintain and keep all storm drainage within the Site free from accumulation of debris. "Final Acceptance" of improvements for the purpose of this provision is deemed to be the date upon which the improvements are accepted by the Township and the final maintenance guarantees for the same are posted with the Township. Said maintenance guarantees shall be posted with the Township for a period of not less than two (2) years in an amount not less than fifteen percent (15%) of the cost of said improvements.

17. Landscaping. During the course of construction and until the time of final acceptance of the Site improvements by the Township, as is applicable for its part of the development, Developer shall maintain and repair all of the landscape improvements within the Development. In addition, Developer shall provide a "Right of Entry" statement to allow the Developer's landscape contractor access to private property to install, replace and maintain any landscape plantings required by the Development approval until final acceptance by the Township. The Township shall not schedule any site landscaping inspections prior to the receipt of the above documentation.

18. Deeds and Affidavits of Title. Developer shall provide to the Township such documents, including, but not limited to, deeds, affidavits of title and corporate resolutions as are necessary to convey a valid, marketable and insurable easement(s) or fee title, as the case may be, for such dedications of property or easements as revealed on the Approved Plan or any and all revisions or amendments thereto. If applicable, prior to the final execution of development

plat(s) for the Property, the Developer shall prepare Deeds of Dedication for any easements granted to the Township; shall submit such Deeds to the Township for review and record such Deeds in the form approved by the Township. Notwithstanding anything to the contrary in this Agreement, the Township shall not be obligated to release any Performance Bonds until all deeds and conveyances are properly filed and recorded.

19. Payment of Taxes and Other Municipal Charges. During the course of construction and continuing until the time of a transfer of title, the Developer shall pay all taxes and other municipal charges due and owing on all parcels or portions of the Premises, including those parcels or portions thereof which are to be dedicated or transferred to the Township of Aberdeen or to any other governmental agency (i.e., for detention basin purposes, etc.) as a condition of the approvals incorporated herein by reference. For any parcels or portions of the Property that are being transferred to the Township or to any other governmental agency, this requirement shall where appropriate include the payment of all taxes and other municipal charges. For any parcels or portions of the Property that are being transferred to the Township, the following specific requirements shall apply:

(a) Prior to the title transfer, the underlying property owner shall contact the Township Tax Collector in writing in order to obtain a payoff figure as of the anticipated date of the transfer. This payoff figure shall include all outstanding taxes owed on the parcels or portions of thereof being transferred to the Township as of the date of the transfer (anticipated payoff date), along with all accrued interest, delinquent charges and any other applicable municipal charges, as well as the remaining tax principal amounts due for the rest of the calendar year.

(b) The underlying property owner shall pay this combined amount to the Township prior to transferring the title. Failure to pay any portion of such taxes or other

municipal charges, or to otherwise adhere to the provisions of this paragraph and its sub-parts, shall constitute a breach of this Agreement.

(c) Following the title transfer, the underlying property owner shall file copies of the recorded Deed with the Township Clerk and Tax Assessor within ten (10) days of the date of recordation with the Monmouth County Clerk's Office.

20. **Performance Guarantees.** Developer shall post with the Township performance guarantees and pay inspection fees in accordance with the requirements set forth in **Exhibit "D"** attached hereto and made a part hereof and as follows:

| | |
|--|----------|
| 10% Minimum Cash Surety Bond: | \$ _____ |
| 90% Maximum Performance Bond: | \$ _____ |
| Total Estimated Engineering & Inspection Escrow: | \$ _____ |
| 25% of Estimated Engineering & Inspection Escrow: | \$ _____ |
| Stormwater Improvement Fee: | \$ _____ |

The performance guarantee estimates set forth herein are effective only if approved bonds/letters of credit are posted and cash deposits made within one hundred and twenty (120) days of receipt of the estimates or within twenty (20) days of the date of the execution of this Agreement, whichever is later. Thereafter, the estimates are subject to revision. The cash deposit shall be released proportionately to the performance guarantee by the Township. The cash portion may be utilized by the Township upon default of Developer to cure any defect or breach under this Agreement. In addition, all taxes, assessments, escrows and fees for the Property must be paid prior to the release of performance guarantees.

21. **Township Observation, Access and Inspections.** The Township, its consultants, employees and agents, shall be given free access to observe construction of the Development, including but not limited to roadways, sanitary sewers/septics, water mains/wells, storm sewers, landscaping for buffer areas, lot grading, ground cover, soil erosion/sediment control provisions

on each lot and appurtenances associated with the Approved Plan. The purpose of such observations shall be limited to providing the Township with a greater degree of confidence that such improvements will be constructed in accordance with the Approved Plan and any of Developer's approved submittals. The Township, or its representatives, consultants, employees or agents, shall not supervise, direct or have control over Developer's work during such observations, nor, as a result thereof, shall they have authority over, or responsibility for, the means, methods, techniques, sequences or procedures of construction selected by Developer, for safety precautions and programs incident to the work of the Developer or for any failure of Developer to comply with applicable laws, rules, regulations, ordinances, codes or orders. Developer is not an agent or employee of the Township.

22. Compliance with Applicable Laws. Developer shall comply with all laws and regulations of the State of New Jersey, County of Monmouth and Township of Aberdeen. In addition, Developer shall comply with all environmental laws and regulations of the Federal and State Governments, including, but not limited to, the State Flood Control Facility Act (N.J.S.A. 58:16A-1, et seq.), Flood Hazard Area Control Act (N.J.S.A. 58:16A-51, et seq.), the Spill Compensation and Control Act (N.J.S.A. 58:10-23.11, et seq.), the Industrial Site Recovery Act (N.J.S.A. 13:1K-6, et seq.), the Worker Community Right to Know Act (N.J.S.A. 34:5A-1 et seq.), the Noise Act of 1971, (N.J.S.A. 13:1G-1, et seq.), the Fresh Water Wetlands Protection Act (N.J.S.A. 13:9B-1 et seq.), the Water Pollution Control Act (N.J.S.A. 58:10A-1, et seq.), the Safe Drinking Water Act (N.J.S.A. 58:12A-1, et seq.), the Solid Waste Management Act (N.J.S.A. 13:1E-1, et seq.), the Realty Improvement and Sewerage Facilities Act (N.J.S.A. 58:11-23, et seq.), and any other environmental acts or regulations adopted by the Federal, State, County or Local Government. Failure to comply with these laws and any violations thereof shall

be deemed to constitute a material breach of this Agreement. To the extent the Township must bring an action for compliance with this Agreement, defend or participate in any litigation with regard to said laws or regulations related to the Developer's development and/or actions whether purposeful or negligent, any such action shall be subject to the provisions set forth in Paragraphs 24 and 30 herein below. In addition, Developer shall indemnify and hold the Township, its officials, officers, agents, servants, representatives, employees harmless for such violations and shall reimburse the Township for any and all fees, judgments or penalties entered against the Township as a result of the purposeful or negligent acts of the Developer.

23. Indemnification and Attorneys' Fees. Developer agrees to indemnify and hold the Township, its officials, officers, agents, servants, representatives, employees and Township's designated consulting engineer and its employees, harmless from and against any claims, liabilities, damages, costs or expenses of every kind and nature arising from Developer's performance of Developer's obligations pursuant to this Agreement, the failure by Developer to perform such obligations, any action or failure to act by the Developer with respect to the Development to which this Agreement is applicable, or in connection with any allegation of any of the foregoing. Such indemnification and/or hold harmless obligation shall extend not only to any damages, but to any and all costs and expenses of litigation, including, but not limited to, expenses and fees in connection with the engagement or utilization of any fact or expert witnesses, as well as reasonable attorney fees and court costs. When requested by the Township, Developer agrees to aid and/or defend the Township, its officials, officers, agents, servants, representatives and employees, in the event any or all of same are named as a defendant or defendants in any action relating to activities or obligations of Developer arising under this Agreement or in connection with the Development to which this Agreement applies.

24. Reliance of Township. Developer further acknowledges and understands all of the conditions contained in this Agreement and the record of the proceedings in this matter, including any agreements made by Applicant or Developer with the Planning Board and incorporated in the Resolution, as well as the Approved Plan, are hereby deemed to be essential to the Governing Body's decision to enter into this Agreement. A breach of any such conditions or the failure of Developer to adhere to the terms of any agreement incorporated within the Resolution or this Agreement, or material deviation from the Approved Plan shall result in a breach of this Agreement and upon prior written notice to the Developer shall terminate the right of Developer to obtain additional construction permits, certificates of occupancy or any other governmental authorizations in order to continue developing the Site until such time as such breach has been remedied.

25. Hold Harmless from Defects. For a period of two (2) years after the acceptance of the improvements by the Township, Developer agrees to hold the Township harmless from any defects of workmanship or materials.

26. Acceptance of Open Space. Notwithstanding the recording of any final Plan map, Developer specifically acknowledges and understands that the Township has not, with the release of any maps or execution of this Agreement or any other document, accepted any improvement, or title to any open spaces proposed in the Approved Plan which acceptance can only be accomplished by separate ordinance or resolution of the Township Council. Further, Developer agrees that any proposed open space or other lands offered for acceptance by the Township Council shall be kept and maintained free of litter, rubbish, garbage, trash and debris by Developer, and, unless such land is recommended for acceptance in its natural state by the Environmental Commission and Planning Board, Developer shall, upon notice from the

Township, remove from any such lands, all brush, weeds, dead and dying trees, stumps, roots, obnoxious growths and shall cause any grass on such lands to be mowed.

27. Conditions of Approval. Developer shall also comply with the following terms and conditions in connection with the final approval of the Plan and any variances and/or waivers granted to it by the Township Planning Board and as set forth in the Resolution of the Planning Board defined hereinabove and attached hereto and made a part hereof as **Exhibit “A”**, including, but not limited to:

The development of the site shall take place in strict conformance with the testimony, plans and drawings which have been submitted to the Board with this application which are to be revised based on the Board's determination as follows:

1. Except where specifically modified by the terms of the Resolution, the Developer shall comply with all recommendations contained in the reports of the Board's Professionals;
2. Payment of all fees, costs, escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board Secretary;
3. Subject to all other applicable rules, regulations, ordinances and statutes of the Township of Aberdeen, County of Monmouth, State of New Jersey or any other applicable jurisdiction.

28. Recording of this Agreement. Developer shall record this Developer's Agreement in the Monmouth County Clerk's Office and submit a fully executed recorded copy to the Township Clerk and Township Attorney and/or Special Counsel.

29. Developer Acknowledgments, Waiver, and Release. Developer, on behalf of itself and its successors and assigns, hereby unconditionally acknowledges the validity and enforceability of all Township ordinances and regulations that form the basis for any fees or costs charged to Developer and/or memorialized in this Agreement. Developer, on behalf of itself and its successors and assigns, hereby absolutely, unconditionally, and irrevocably releases

and waives all claims, counterclaims, disputes, controversies, and causes of action, including for costs, expenses, and attorneys' fees, known or unknown, whether legal or equitable, in tort, contract, or otherwise, that in any way arise out of or relate directly or indirectly to said payment of fees or costs. Further, Developer, on behalf of itself and its successors and assigns, acknowledges that said payment of any such fees or costs represents compliance with the Township's ordinances and regulations, as well as any land use board resolutions or approvals related to the Property or Development, and, therefore, any breach of this Agreement shall automatically and immediately suspend all approving land use board resolutions and approvals, building permits, and associated development approvals. Developer acknowledges that it has been represented by or had the opportunity to be represented by independent counsel of its own choosing, and that it has had the full right and opportunity to consult with its attorney(s), and that it or its authorized officers have carefully read and fully make these acknowledgments and give this waiver and release knowingly, voluntarily, and fully aware of their contents, meaning, intent, and legal effect, and do so free from coercion, duress, or undue influence.

30. Litigation and Attorney's Fees. In the event the Township is involved in any litigation, or other similar action, whether initiated by the Township or others, which action relates in any way to the terms of this Agreement or Developer's performance hereunder in which litigation ensues and the instituting party prevails, Developer agrees to pay/reimburse the Township for any and all costs and expenses, including reasonable attorney's fees, expert witness fees and court costs. The Township shall have the option of having such fees taxed in the underlying action, or maintaining a separate action for same. This shall not apply to any actions or litigation filed against the Township where the litigation is attributable to wrongful conduct on the part of the Township, its agents or employees.

31. Severability. If any terms or conditions are determined invalid by a court of competent jurisdiction, the remainder shall remain in full force and effect.

32. Interpretation of Law. This Agreement shall be interpreted under and governed by the laws of the State of New Jersey.

33. Notices. All notices required or permitted under this Agreement shall be in writing by certified mail, return receipt requested, to the addresses set forth herein or as otherwise designated by the parties in writing. Notices to Developer shall also be sent to: Michael W. Herbert, Esq. Parker McCay, P.A., 3840 Quakerbridge Road, Suite 200, Hamilton, New Jersey 08619.

34. Successors. This Agreement shall inure to the benefit of and be binding upon the parties, their heirs, successors and/or assigns.

35. Insurance Coverage. Insurance coverage and limits shall be in accordance with the requirements of the Township Attorney and/or Special Counsel. The policy shall indicate that Aberdeen Township, its elected and appointed officials, officers, agents, servants, representatives, employees and/or its assigns and Township's consulting engineers, it's officers, agents, servants, representatives, employees, successors and assigns, are additional insureds with respect to their interest in work performed by the Developer at the Development. The policy shall indicate Aberdeen Township and Township's consulting engineers as additional insureds with respect to their interest in work performed by the Developer at the Development. It shall indemnify and hold harmless the Township, its elected and appointed officials, officers, agents, servants, representatives, employees, and/or its assigns Township's consulting engineers, it's officers, agents, servants, representatives, employees, successors and assigns, and its designated engineering consultants and their assigns and employees against any claims, liabilities, damages,

costs or expenses of every kind and nature arising from Developer's performance of Developer's obligations pursuant to this Agreement, the failure by Developer to perform such obligations, any action or failure to act by Developer with respect to the Development to which this Agreement is applicable or in connection with any allegation of any of the foregoing. Each policy shall provide that if it is to be cancelled before the expiration date, the insurer shall provide the Township with thirty (30) days written notice of cancellation.

36. Completion of Development. It is agreed that all work to be performed pursuant hereto, including compliance with all applicable ordinances, rules and regulations of the Township and its agencies, shall be completed two (2) years after the date of commencement of construction of the improvements. Developer agrees that, should it not comply with the ordinance, rules and regulations as set forth above, that the Township shall have the right to suspend any permits including building permits and to issue a stop work order to prevent all construction until such time as the Developer is in compliance.

37. Voluntary Payments. Developer herein represents that it has voluntarily entered this Agreement and it has not been executed under duress or coercion imposed by the Township or its representatives, and unequivocally states that the agreements, conditions and amounts to be paid as agreed upon in this Agreement have not been forced upon it by undue influence, coercion and are not being undertaken or paid under protest. Developer has reviewed all calculations and rationale for the agreements and payments set forth herein and is undertaking them voluntarily. Accordingly, Developer herein covenants and agrees that it will not bring any action against the Township with respect to the obligations assumed by Developer under this Agreement which has been mutually negotiated between the parties.

38. Non-Reliance. Developer acknowledges that it has not relied upon any cost estimates or opinions furnished by the Township, including the Township Engineer or Consulting Engineer(s), if applicable, and that Developer has satisfied itself as to the anticipated construction costs of the improvements set forth herein prior to the execution of this Agreement.

39. No Convictions. Developer herein represents that neither the Developer nor any person owning five percent (5%) or more of the stock or equity interest in the Developer's business has been convicted of an offense under N.J.S.A. 2C:27; 2C:27-4; 2C:27-6 and 2C:27-7; N.J.S.A. 2C:29-4; N.J.S.A. 2C:30-2 and 2C:30-3. This representation is made pursuant to P.L. 1981, CH.356.

[Signatures follow on next page]

IN WITNESS WHEREOF, Developer has hereunto caused these presents to be signed by its proper authorized parties and has caused its proper seals, if any, to be affixed hereto. The Township of Aberdeen has caused this instrument to be signed by its Mayor and attested by its Clerk and does cause its proper corporate seal to be affixed as of the date and year first above written.

Witnessed and Attested to:

TOWNSHIP OF ABERDEEN

Melissa Pfeifer, Municipal Clerk

By: _____
Fred Tagliarini, Mayor

Witnessed and Attested to:

[INSERT]

By: _____

MUNICIPAL ACKNOWLEDGMENT

STATE OF NEW JERSEY :
: SS
COUNTY OF MONMOUTH :

I CERTIFY that on _____, 2023,

Melissa Pfeifer, personally came before me, and this person acknowledged under oath, to my satisfaction, that:

- (a) this person is the Municipal Clerk of the Township of Aberdeen, the Municipal Corporation named in this document;
- (b) this person is the attesting witness to the signing of this document by the proper Corporate Officer who is FRED TAGLIARINI, the Mayor of the Municipal Corporation;
- (c) this document was signed and delivered by the Municipal Corporation as its voluntary act duly authorized by a proper Resolution of its Municipal Council;
- (d) this person knows the proper seal of the corporation which was affixed to this document; and
- (e) this person signed this proof to attest to the truth of these facts.

Signed and sworn to before me on
_____, 2023.

Melissa Pfeifer,
Municipal Clerk

Notary Public, State of New Jersey

STATE OF NEW JERSEY

SS:

COUNTY OF MONMOUTH

I certify that on _____, 2023, _____ personally came before me and this person acknowledged under oath, to my satisfaction, that:

- a. this person is the secretary of _____. the corporation named in this document;
- b. this person is the attesting witness to the signing of this document by the proper corporate officer who is _____, President of the corporation;
- c. this document was signed and delivered by the corporation as its voluntary act duly authorized by a proper resolution of its Board of Directors;
- d. this person knows the proper seal of the corporation which was affixed to this document; and
- e. this person signed this proof to attest to the truth of these facts.

_____, Secretary

Signed and sworn to before
me on _____.

Notary Public

EXHIBIT A

EXHIBIT B

Limit of Developer Improvements

Limit of Township Improvements

LOT/BASIN IMPROVEMENTS BY DEVEL OPER

WESTERN CURB ALONG MEINZER STREET TO BE PART OF TOWNSHIP ROADWAY IMPROVEMENTS. SIDEWALK, DRIVEWAY APRONS AND OTHER IMPROVEMENTS BEYOND THE CURB TO BE PART OF THE DEVELOPER'S LOT IMPROVEMENTS

**MANHOLE WITH CAPPED
STUB BY DEVELOPER**

**MEINZER STREET ROADWAY AREA TO
BE MILLED AND RESURFACED BY THE
DEVELOPER ONCE LOT AND BASIN
IMPROVEMENTS ARE COMPLETED**

ROADWAY/INFRASTRUCTURE IMPROVEMENTS BY TOWNSHIP

VAN CLEAF LANE

(R.O.W. WIDTH VARIES)

2

**TOWNSHIP OF ABERDEEN
MONMOUTH COUNTY NEW JERSEY**

MEINZER AREA IMPROVEMENTS

DEVELOPER & TOWNSHIP IMPROVEMENTS

DATE : 3/31/2023

SCALE: 1 - 40

CAE CONSULTING AND MUNICIPAL ENGINEERS
ASSOCIATES



PROJECT : AB-00664.01

GRAPHIC SCALE

SCALE: 1"=40'

160

80

40

20

0

EXHIBIT C