

REDEVELOPER AGREEMENT

FOR THE

RIVERFRONT LANDING ZONE OF THE

SECAUCUS TRANSIT VILLAGE REDEVELOPMENT PLAN

BY AND BETWEEN

NEW JERSEY MEADOWLANDS COMMISSION

AND

FRATERNITY MEADOWS, LLC

DATED: SEPTEMBER 30, 2004

REDEVELOPER AGREEMENT

This **REDEVELOPER AGREEMENT** ("Agreement") made this 30th day of September, 2004, by and between

THE NEW JERSEY MEADOWLANDS COMMISSION, a body corporate and politic and a political subdivision of the State of New Jersey ("NJMC")

and

FRATERNITY MEADOWS, LLC ("Fraternity Meadows" or "Redeveloper"), a limited liability company of the State of New Jersey.

PREAMBLE

WHEREAS, the NJMC adopted the Secaucus Transit Village Redevelopment Plan ("Plan" or "Redevelopment Plan"), by Resolution No.04-20 on April 16, 2004; and

WHEREAS, Fraternity Meadows is the owner of property designated as Block 5, Lots 3 and 5 (the "Property"), which Property is subject to the Redevelopment Plan; and

WHEREAS, the Property is within the Riverfront Landing Zone of the Redevelopment Plan, which designates the Property for residential development; and

WHEREAS, Fraternity Meadows filed with the NJMC a notice of its intent to proceed with residential development consistent with the Redevelopment Plan (the "Project"), and requested to be formally designated redeveloper of its property; and

WHEREAS, the NJMC by Resolution #04-42, adopted on June 23, 2004, designated Fraternity Meadows as redeveloper of its Property and authorized the Executor Director of the NJMC to enter into a redevelopment agreement; and

WHEREAS, N.J.S.A. 13:17-21(b)6 authorizes the NJMC to enter into contracts with developers for purposes of redevelopment.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and the undertakings of both Fraternity Meadows and the NJMC to the other and such other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the NJMC and Fraternity Meadows, intending to be legally bound hereby, mutually covenant, promise and agree as follows:

1. PROJECT DESCRIPTION

1.1 Proposed Development

Fraternity Meadows proposes to construct a transit-oriented mixed use development including approximately 1,700 residential units, supporting neighborhood commercial uses not exceeding a total of 150,000 square feet, and/or such other uses as may be permitted within the Riverfront Landing Zone of the Redevelopment Plan. The Redeveloper plans to construct the Project in sections or phases consistent with the phasing requirements as set forth in the Design Criteria of the Plan. This undertaking will require capping of the former Gallo "ash" landfill, along with substantial up front investment by the Redeveloper in the nature of planning, design and infrastructure improvements necessary for all phases of the Project. This Agreement provides for certain specific procedures for review and approval of an overall General Development Plan to facilitate the multi-phase redevelopment contemplated for the Project.

2. MASTER DEVELOPMENT PLAN

2.1 Filing of Application

Fraternity Meadows shall submit an application for approval of a Master Development Plan which depicts the overall development of the Project, and describes the approximate number of dwelling units, the approximate amount of non-residential floor space, the residential density, and the non-residential floor area ratio for the Project in its entirety, consistent with the application requirements specified in Section 2.2 below.

2.2 Contents of Application

The Master Development Plan Application shall include the following:

- a. A general land use plan indicating the tract area and general locations of the land uses proposed in the development, including:
 1. approximate location of public roads;
 2. approximate location of public open space and amenities;
 3. description of proposed development consistent with the "Permitted Uses" as set forth at Section IV(B) of the Redevelopment Plan;
 4. statement describing overall project design consistent with the "Design Criteria" as set forth at Section IV(C) of the Redevelopment Plan, with the exception of subsections 5, 6, 7, 9 and 14; and

5. description of reciprocal easements or property management agreements covering the provision and maintenance of street, parks and public amenities.
- b. A Traffic Impact Assessment (“TIA”) in accordance with N.J.A.C. 19:4-7.10 et seq. The TIA shall assess the circulation impacts of the proposed development and identify improvements required;
- c. A Project Impact Assessment (“PIA”) in accordance with N.J.A.C. 19:4-10.1 et seq. The PIA shall provide information to allow the NJMC to assess the probable effects of the proposed Project;

2.3 Administrative Completeness

The Master Development Plan Application shall be reviewed for administrative completeness to verify that the required elements of the application have been submitted and the requirements of this Agreement have been addressed. Within fourteen (14) days of NJMC’s receipt of the Application, the NJMC shall advise Fraternity Meadows in writing of the administrative completeness of the Application, or, in the alternative, advise of the administrative incompleteness, including a detailed explanation of any deficiencies.

If the Application is deemed administratively incomplete, within seven (7) days of receipt of additional responsive information filed by Fraternity Meadows, the NJMC shall advise of the administrative completeness or incompleteness of the Application, specifying any remaining deficiencies. This process shall continue until such time as the Application is deemed administratively complete in writing by the NJMC.

2.4 Review and Approval

Within four (4) weeks of the determination that the Master Development Plan Application is administratively complete, the NJMC shall either: (i) approve the Master Development Plan Application; (ii) approve the Master Development Plan Application subject to specified conditions; or (iii) disapprove the Master Development Plan Application.

Nothing herein prohibits the Redeveloper from filing a zoning certificate application for one or more phases of the Project simultaneous with the filing, review and approval of the Master Development Plan Application.

2.5 Developer’s Agreement

Within sixty (60) days of the issuance of Master Development Plan approval, the Redeveloper shall enter into a developer’s agreement in accordance with the provisions of NJAC 19:4-10.10 (“Developer’s Agreement”). The Developer’s Agreement shall set

forth the Redeveloper's obligations with respect to project impacts and any improvements required pursuant to the results of the Project Impact Assessment ("PIA"), such PIA having been submitted for review and comment by the Town of Secaucus in accordance with NJAC 19:4-10.1 et seq. The Developer's Agreement shall also include a schedule for phasing construction of the Active Adult Units, and the extent to which any affordable housing obligation assigned to the Town of Secaucus pursuant to N.J.S.A. 52:27D-301 et seq. will be fulfilled by the development.

2.6 Period of Validity

Upon approval of the Master Development Plan, and subject to such amendments, modifications or extensions thereof as may be approved by the NJMC, the Master Development Plan shall remain in effect until completion of the Project, provided that the Project is not "abandoned" by the Redeveloper as such term is defined herein. Such approval shall vest the Redeveloper and the Project with protection from any subsequent zoning changes, amendments to the Redevelopment Plan, or other redevelopment initiatives, except that nothing herein shall be construed to prevent the NJMC from modifying by resolution such general terms and conditions of the Redevelopment Plan as relate to public health and safety.

For purposes of this paragraph, the Project shall be considered "abandoned" only if the Redeveloper fails to file a zoning certificate application for one or more initial phase(s) of construction within three (3) years of the date of approval of the Master Development Plan. Thereafter, once the Redeveloper has commenced construction, the Project shall only be considered "abandoned" if the Redeveloper fails to submit a zoning certificate application for one or more subsequent phase(s) of the Project within three (3) years of completion of construction (i.e. final certificates of occupancy having been issued for the use/occupancy of all buildings/structures) of the last previously approved phase of the Project.

3. ZONING CERTIFICATE APPLICATIONS/PHASES OF PROJECT

3.1 Project to be Constructed in Phases

The Project shall be developed and constructed in phases, such phases to be determined by the Redeveloper and included in the Master Development Plan.

3.2 Submission of Zoning Certificate Applications

No site work, including the improvement of land and the placement of fill, nor the construction or use of any structure shall commence unless and until a zoning certificate is obtained from the NJMC. The Redeveloper may submit applications for zoning certificate approval for one or more phases of the Project as may be determined by the

Redeveloper. Such zoning certificate applications shall be filed, reviewed and approved pursuant to the applicable NJMC regulations.

3.3 Period of Validity

A zoning certificate issued for one or more phases of the Project shall become null and void two (2) years after the date on which it is issued, unless within such two (2) year period, the site work, construction, moving, remodeling, reconstruction or change in use of a structure, or addition thereto, is commenced. Extensions, not exceeding one year each, may be granted by the Chief Engineer upon written application. No more than five such extensions shall be granted.

3.4 Permitted Deviations from Master Development Plan

It is intended that the Redeveloper should be permitted flexibility in the phased development of the Project to facilitate innovative planning and implementation as needed to achieve the transit-oriented village development. In reviewing and approving a zoning certificate application, the NJMC may approve zoning certificates for individual phases of the Project that deviate in certain material respects from the Master Development Plan, so long as the overall plans for the development remain, in the opinion of the Chief Engineer, generally consistent with the overall intent and purpose of the Master Development Plan and the Redevelopment Plan. Such approval shall not require an amendment to the Master Development Plan.

4. REQUIRED COVENANTS

4.01 Covenant as to Use

The Redeveloper covenants and agrees, for itself and its successors and assigns, that it shall construct only those uses established pursuant to the Redevelopment Plan and such approvals as may be issued pursuant thereto.

4.02 Covenant as to Non-Discrimination

The Redeveloper covenants and agrees, for itself and its successors and assigns that Redeveloper and its successors and assigns will not discriminate upon the basis of race, color, creed, sex, or national origin in employment in connection with the Project, or in the sale, leasing, use or occupancy of the Property, the Project, or any part thereof.

4.03 Limitation as to Transfers

The Redeveloper represents and agrees for itself, its successors and assigns that, prior to the completion of the Project or any portion thereof, the Redeveloper (except as authorized) has not made or created, and will not make or create, or suffer to be made or created, any sale, assignment, conveyance, lease or transfer in any other mode or form

(collectively, the "Transfers") of the Property or the Project, or any part thereof or any interest therein, without the prior written approval of the NJMC which approval shall not be unreasonably withheld. The NJMC hereby consents, without the necessity of any further approvals from any entity, to the Transfers listed in subsections (a) through (h) below:

- (a) security for the purpose of obtaining the financing necessary to enable the Redeveloper or any successor in interest to the Property, or any part thereof, to perform its obligations under this Agreement with respect to completing the Project and any other purpose authorized by this Agreement;
- (b) a mortgage or mortgages and other liens and encumbrances for the purposes of financing costs associated with the acquisition, development, construction and marketing of the Project;
- (c) a conveyance to any limited liability company, corporation, partnership or other entity owned or controlled by the Redeveloper or its related entities;
- (d) leases to the tenants of the individual units or commercial structures in the Project;
- (e) utility and other development easements;
- (f) lease or transfer by the Redeveloper of portions of the Project in connection with the financing for the Project or portions thereof, which financing may include loans, equity financing, bond issuance, leasehold financing or any other form of financing;
- (g) transfers of interests to trusts for the benefit of children, parents or heirs of a party owning an interest in the Redeveloper upon the death of such party; and
- (h) a transfer to a subsequent owner/tenant of an individual residential unit by way of a deed, lease, or issuance of co-operative shares/stock.

With respect to any of the Transfers listed in subsections (a) through (g) above, the Redeveloper shall provide to the NJMC written notice at least ten (10) days prior to such Transfer, including a description of the nature of such Transfer, and the name(s) and address(es) of the transferee and any parties, individuals and/or entities comprising such transferee.

4.04 Permitted Transfer of Project Phase/Component

The Redeveloper shall have the right to transfer, assign, or otherwise convey a phase/component of the Project to a third party for development and construction of such phase/component subject to the following:

- (1) any proposed transferee shall have the qualifications and financial responsibility, as reasonably determined by the NJMC, necessary and adequate to fulfill the obligations undertaken in the Agreement by the Redeveloper as it relates to the phase or Project component so transferred. The Redeveloper shall supply the NJMC with documentation reasonably necessary for the NJMC to make its determination regarding the qualifications of the proposed transferee;
- (2) any proposed transferee, by instrument in writing reasonably satisfactory to the NJMC shall for itself and its successors and/or assigns and expressly for the benefit of the NJMC have expressly assumed all the obligations of the Redeveloper and shall be subject to all of the conditions and restrictions to which the Redeveloper is subject as it relates to the phase or Project component so transferred; and
- (3) the Redeveloper shall provide a breakdown of the number of residential units (including active adult units) and/or square footage of commercial space in the phase/component being transferred.

The Redeveloper shall initiate such request by notifying the NJMC in writing of its intent to transfer, assign, or otherwise convey such phase/component of the Project. The NJMC shall have the right to approve or disapprove such transfer based upon the qualifications and financial responsibility of the proposed transferee, which approval shall not be unreasonably withheld. The NJMC shall advise of its determination regarding such qualifications within thirty (30) days of submittal by the Redeveloper. The NJMC shall evidence its consent to such transfer of a Project phase/component in writing. The completion of such transfer of a Project phase/component to a third party, as evidenced by NJMC's approval in writing, shall release the Redeveloper from any further obligation under this Agreement as it relates to the phase or Project component so transferred. No other Transfer shall be deemed to release the Redeveloper from its obligations under this Agreement unless such release is in writing and duly executed by NJMC.

5. MORTGAGE FINANCING: RIGHTS OF MORTGAGEE.

5.01 Mortgage Financing.

All monies obtained in connection with any construction financing for any Project improvements must be devoted to the construction of improvements within the Redevelopment Area and related "soft costs" such as interest, professional fees, filing fees, etc. Thereafter, upon completion of any phase, the Redeveloper may refinance such

phase without restriction. The provisions of this paragraph shall not apply to mechanic's or materialman's liens and shall not be deemed to grant to the NJMC the right to approve or review the terms of any proposed financing.

5.02 Completion of Project by Mortgagee.

Notwithstanding any of the provisions of this Agreement, including but not limited to those which are or are intended to be covenants running with the land, the holder of any mortgage authorized by this Agreement (including any such holder who obtains title to the Property or any part thereof as a result of foreclosure or other court proceedings, or action in lieu thereof, but not including (a) any other party who thereafter obtains title to the Property or such part from or through such holder or (b) any purchaser at foreclosure sale other than the holder of the mortgage itself) shall in no way be obligated by the provisions of this Agreement to construct or complete the Project or to guarantee such construction or completion; nor shall any covenant or any other provision in this Agreement be construed to so obligate such holder.

5.03 Mortgagee's Right to Cure Default and Assume Redeveloper's Obligations.

After delivery of notice of a breach or default and the expiration of the time to commence cure, as described above, each holder shall (insofar as the rights of the NJMC are concerned) have the right, at its option, to cure or remedy such breach or default (or such breach or default to the extent that it relates to the part of the Property covered by its mortgage) and to add the cost thereof to the mortgage debt and the lien of its mortgage; provided that, if the breach or default is with respect to construction of the Project, nothing contained in this Article or any other Article of this Agreement shall be deemed to permit or authorize such holder, either before or after foreclosure or action in lieu thereof, to undertake or continue the construction or completion of the Project (beyond the extent necessary to conserve or protect the holder's security, including the improvements or construction already begun) without first having expressly assumed the obligation to the NJMC, by written agreement satisfactory to the NJMC, to complete, in the manner provided in this Agreement, the Project on the Property or the part thereof to which the lien, interest or title of such holder relates. Notwithstanding any other provision of this Agreement, if the holder shall opt to cure or remedy the breach or default, the times to cure provided herein shall be extended for a period of time equal to that otherwise applicable to the Redeveloper for cure. Any such holder who shall properly complete the Project or applicable part thereof shall be entitled, upon written request made to the NJMC, to receive the individual Certificates of Occupancy for the units or buildings, the overall Certificate of Occupancy for the entire Project or phases thereof.

6. DELAYS/FORCE MAJEURE.

6.01 Delays/Force Majeure.

For the purposes of any of the provisions of this Agreement, the Redeveloper, nor any successor in interest, shall be considered in breach of, or default in, its obligations hereunder in the event of any enforced delay in the performance of such obligations due to or arising from causes beyond its reasonable control and without its fault or negligence, including, but not restricted to (i) acts of God, acts of the public enemy, acts or omissions of the other parties (including litigation by third parties), fires, floods, epidemics, quarantine restrictions, strikes, freight, energy shortages, embargoes, unusual or severe weather, or delays of subcontractors due to any of the foregoing such causes; or (ii) actions or inactions by any federal, state or local governmental or quasi governmental authority with respect to any required governmental approvals for the development of the Project. It is the purpose and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times for performance of the obligations of the Redeveloper shall be extended for the period of the enforced delay.

7. NOTICES AND DEMANDS.

7.01 Notices and Demands.

A notice or demand required to be given under this Agreement by any party to the other shall be sufficiently given or delivered if dispatched by United States Registered or Certified Mail, postage prepaid and return receipt requested, or delivered by overnight courier or delivered personally (and receipt acknowledged) to the parties at their respective addresses set forth herein, or at such other address or addresses with respect to the parties or their counsel as any party may, from time to time, designate in writing and forward to the others as provided herein. The addresses for the parties are as follows:

If to NJMC, to:

New Jersey Meadowlands Commission
One DeKorte Park Plaza
Lyndhurst, New Jersey 07071
Attn: Executive Director

With copy to:

New Jersey Meadowlands Commission
One DeKorte Park Plaza
Lyndhurst, New Jersey 07071
Attn: Land Use Management

And copy to:

Office of the Attorney General
P.O. Box 093
Trenton, NJ 08625
Attn: Environmental Section

If to Redeveloper, to:

Fraternity Meadows, LLC
C/O Atlantic Realty Development
90 Woodbridge Center Drive
Woodbridge, NJ 07095-0457
Attn: David Halpern

With a copy to:

Harry Stadler, Esq.
Attorney at Law
90 Woodbridge Center Drive
Suite 600
Woodbridge, NJ 07095

And copy to:

Waters, McPherson, McNeill, P.C.
300 Lighting Way
Secaucus, New Jersey 07096
Attn: Thomas J. O'Connor, Esq.

8. **TITLES OF ARTICLES/RULES OF CONSTRUCTION.**

8.01 **Titles for Convenience.**

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

8.02 **Rules of Construction.**

This Agreement was prepared by the parties hereto with the assistance of counsel, and no rule of construction against the draftsman shall be applied to either party in construing any provision of this Agreement.

9. **SEVERABILITY.**

9.01 **Severability.**

The validity of any article, section, clause or provision of this Agreement shall not affect the validity of the remaining articles, sections, clauses or provisions hereof.

10. **SUCCESSORS BOUND.**

10.01 **Successors Bound.**

The Agreement shall be binding upon the respective parties hereto and their successors.

11. **GOVERNING LAW.**

11.01 **Governing Law.**

This Agreement shall be governed by and construed by the laws of the State of New Jersey.

12. **COUNTERPARTS.**

12.01 **Counterparts.**

This Agreement may be executed in counterparts. All such counterparts shall be deemed to be originals and together shall constitute but one and the same instrument.

13. **ENTIRE AGREEMENT.**

13.01 **Entire Agreement.**

This Agreement constitutes the entire agreement between the parties hereto and supersedes all prior oral and written agreement between the parties with respect to the subject matter hereof except as otherwise provided herein.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be properly executed and their corporate seals (where applicable) affixed and attested to this 30 day of September, 2004

ATTEST:

NEW JERSEY
MEADOWLANDS COMMISSION

Lynn Johnson

BY: Robert R. Ceberio
Robert R. Ceberio

WITNESS/ATTEST:

FRATERNITY MEADOWS, LLC

[Signature]

BY: David Huberman
David Huberman

415805-v1

**FIRST AMENDMENT TO REDEVELOPER AGREEMENT
FOR THE
RIVERFRONT LANDING ZONE OF THE
SECAUCUS TRANSIT VILLAGE REDEVELOPMENT PLAN**

This **FIRST AMENDMENT TO REDEVELOPER AGREEMENT** ("Amendment") made this 17 day of ~~February~~^{March}, 2006, by and between

THE NEW JERSEY MEADOWLANDS COMMISSION, a body corporate and politic and a political subdivision of the State of New Jersey ("NJMC")

and

FRATERNITY MEADOWS, LLC ("Fraternity Meadows" or "Redeveloper"), a limited liability company of the State of New Jersey.

PREAMBLE

WHEREAS, the NJMC adopted the Secaucus Transit Village Redevelopment Plan ("Plan" or "Redevelopment Plan"), by Resolution No.04-20 on April 16, 2004; and

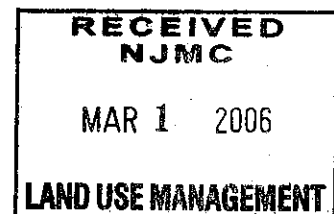
WHEREAS, Fraternity Meadows is the owner of property designated as Block 5, Lots 3 and 5 (the "Property"), which Property is subject to the Redevelopment Plan; and

WHEREAS, the Property is within the Riverfront Landing Zone of the Redevelopment Plan, which designates the Property for residential development; and

WHEREAS, the NJMC by Resolution #04-42, adopted on June 23, 2004, designated Fraternity Meadows as redeveloper of its Property and authorized the Executor Director of the NJMC to enter into a redeveloper agreement; and

WHEREAS, pursuant to N.J.S.A. 13:17-21(b)6, the NJMC entered into a Redeveloper Agreement with Fraternity Meadows on September 30, 2004 (the "Redeveloper Agreement"), which provides, *inter alia*, for the submission of a Master Development Plan for the Project; and

WHEREAS, the Redeveloper having submitted a Master Development Plan application on September 9, 2005, it appears that the approval of such Master Development Plan may be delayed as a result of certain modifications to the Redevelopment Plan, which have been proposed in order to address the requirements of the third round affordable housing regulations of the New Jersey Council on Affordable Housing ("COAH"); and



WHEREAS, the Redeveloper is prepared to begin construction of the Project and wishes to proceed immediately with zoning certificate and subdivision applications for construction of the Project.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the NJMC and Fraternity Meadows agree that the Redeveloper Agreement is amended as follows:

1. Notwithstanding any contrary provisions set forth in the Redeveloper Agreement with respect to the submission of a Master Development Plan, the Redeveloper may seek a zoning certificate, without prior Master Development Plan approval, consistent with provisions of the Redevelopment Plan and the affordable housing requirements for the Project.
2. The Redeveloper shall proceed by application for zoning certificate pursuant to N.J.A.C. 19:4-4.2 et seq. and, if necessary, application for subdivision pursuant to N.J.A.C. 19:5-5.1 et seq.
3. The Redeveloper Agreement shall remain in effect in all other respects and no modifications thereto may be made without the written consent of the parties.

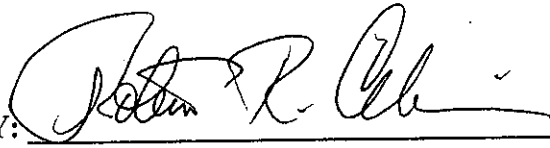
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be properly executed and their corporate seals (where applicable) affixed and attested to this 17 day of ~~February~~ ^{MARCH}, 2006.

ATTEST:

**NEW JERSEY
MEADOWLANDS COMMISSION**

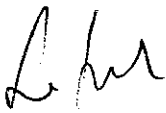


BY:

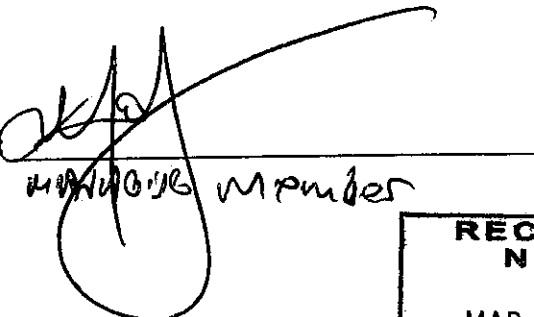


WITNESS/ATTEST:

FRATERNITY MEADOWS, LLC



BY:



MEMBER

