AMENDMENT NO. 4 to CONTRACT
FOR SALE OF LAND FOR PRIVATE REDEVELOPMENT

This Amendment No. 4 to Contract for Sale of Land for Private Redevelopment, which amendment is dated June 29, 2012 ("Fourth Amendment"), amends that certain Contract for Sale of Land for Private Redevelopment, dated as of May 14, 2003, as amended by Amendment No. 1, dated April 12, 2005 ("First Amendment"), Amendment No. 2, dated September 9, 2008 ("Second Amendment"), and Amendment No. 3, dated October 14, 2009 ("Third Amendment"), by and among GLEN COVE INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation of the State of New York (which, together with any successor public body or office hereafter designated by or pursuant to Law, is hereinafter called the "IDA"), having its office at 9-13 Glen Street, Glen Cove, New York 11542, GLEN COVE COMMUNITY DEVELOPMENT AGENCY, a public benefit corporation of the State of New York (which, together with any successor public body or office hereafter designated by or pursuant to Law, is hereinafter called the "CDA"), having its office at 9-13 Glen Street, Glen Cove, New York 11542, and RXR GLEN ISLE PARTNERS LLC (formerly known as RexCorp-Glen Isle Partners, LLC) (as assignee of the interest as Redeveloper of GLEN ISLE PARTNERS, LLC, formerly known as Glen Isle Development Company, LLC), a limited liability company organized and existing under the Laws of the State of Delaware and authorized to do business in the State of New York (hereinafter called the "Redeveloper") and having an office for the transaction of business at 625 RXR Plaza, Uniondale, New York 11556, (together, the Contract for Sale of Land for Private Redevelopment, as amended by the First Amendment, Second Amendment, and Third

Amendment is referred to as the "Agreement"). The IDA and the CDA are sometimes collectively referred to herein as the "Agencies." IDA, CDA, and the Redeveloper are sometimes collectively referred to herein as the "Parties."

RECITALS:

WHEREAS, the Parties agree that the amendments to the Agreement provided for herein are necessary or desirable to clarify and/or amend certain provisions of the Agreement in order to facilitate the successful execution of the Project,

WHEREAS, the Parties recognize that while there may be further amendments to this Agreement as certain matters become further clarified, various sections of the Agreement need to be modified at this time to bring them into conformance with the substance and spirit of the Amendments hereunder, and the PUD Master Development Plan and SEQRA Findings Statement adopted by the Planning Board regarding the Project on December 19, 2011,

NOW, THEREFORE, the Agencies and the Redeveloper agree, as follows:

I. Defined Terms. Unless stated specifically herein to the contrary, all undefined capitalized words in this Amendment No. 4 shall have the meanings provided in the Agreement.

II. Amendments and Clarifications to the Agreement.

The following Sections of the Agreement are hereby amended, as follows:

1. Section 2.02(a)-(d) shall be amended to read in its entirety, as follows:

"The Project elements shall conform to the PUD Master Development Plan, last revised July 28, 2011, and SEQRA Findings Statement, both as approved by the Planning Board by Resolution dated December 19, 2011. The PUD Master Development Plan is based upon the Conceptual Site Plan approved by the Agencies by Resolution dated April 26, 2011 (the "Agencies' 2011 Resolutions"). The PUD Master Development Plan

includes 860 residential units, including 86 workforce housing units (i.e., minimum 10% of the dwelling units as required under the MW-3 regulations), 250 hotel units, 25,000 gross square footage ("GSF") of retail, cultural and restaurant uses, 50,000 GSF of office space, 2,225,680 GSF of private development, exclusive of structured parking, and significant open space and public amenities. .

Pursuant to the Agencies' 2011 Resolutions and the SEQRA Findings Statement, the Planning Board has the right to approve certain modifications to the PUD Master Development Plan without the further consent and approval of the Agencies. The Redeveloper may increase, for example, the total number of residential units to 1,085, provided, that the total number of hotel units shall not exceed 125, and the size of the hotel building shall be reduced accordingly. The Resolutions further provide, for example, that while the Redeveloper may modify the square foot area of each building per block, the number of residential units per block, residential product mix, and other items, there shall be no increase in the aggregate residential gross square footage, no material changes in building footprint, no material reduction in the amount of open space, and other restrictions.

The PUD Master Development Plan contemplates that the Project will be built in phases. The term "Phase" shall mean the development of a phase or section of the PUD Master Development Plan, including both private development and construction of the associated public amenities, regardless of which development block(s) as shown on the PUD Master Development Plan is proposed to be developed as part of said phase or section. The term "Phase One" shall mean the first Phase of the Project, and each subsequent Phase shall be similarly referred to herein as "Phase Two," and so on.

The Project includes a functional plan for constructing the public amenities and private development. Each Phase has certain public amenities that are associated with it, regardless of the order in which the Phases are constructed. The public amenities for the overall Project build-out include, but are not limited to, the Project's publicly-accessible open spaces, Renaissance Park, other waterfront and pocket parks, the Esplanade (defined below), marinas, lawns, walkways, bicycle paths, and other similar open spaces (collectively, and as shown on the PUD Master Development Plan, and as discussed in the Final Environmental Impact Statement and the SEQRA Findings Statement for the Project, the "Public Amenities"). As set forth below, the terms "Interim Amenities Plan" and "Immediate Interim Amenities Plan" refer to plans that require the construction of certain Public Amenities in accordance with timeframes set forth hereunder, in order to improve the appearance of the Property and begin attracting the public to the waterfront. The term "Public Amenities" shall mean all permanent public amenities for the overall Project build-out, including the "Interim Amenities" required by the Interim Amenities Plan and Immediate Interim Amenities Plan."

2. The second to the last sentence of Section 2.05 shall be deleted.

3. Section 2.10 shall be amended to add the following sentence at the end of the Section:

"Notwithstanding anything in this Agreement to the contrary, the term "Off-Site Infrastructure" shall mean and refer solely to the City's Garvies Point Road/Herb Hill Road Reconstruction Project (the "Garvies Point Road Project" or "Road Project"). The City shall be responsible for the cost and construction of the Garvies Point Road Project, subject to the Agencies' right to have the Redeveloper bear some or all of the costs with a corresponding reduction in the Purchase Price pursuant to Section 3.05. The term "Off-Site Infrastructure" shall not include any improvements outside the Property which are identified and required as mitigation in the SEQRA Findings Statement due to impacts resulting from the Project, or are included as conditions with respect to any of the relevant governmental approvals for any Phase of the Project ("Off-Site Project Improvements"). The Redeveloper shall be responsible for the cost and construction of all Off-Site Project Improvements. To the extent costs of the Road Project fall within the definition of Off-Site Projects Improvements, then those costs strictly associated with the Road Project shall be borne by the City or, at the Agencies' option, by the Redeveloper and credited against the Purchase Price as provided herein."

4. The third to the last sentence of Section 2.10 shall be replaced, to read, as follows:

"The Agencies will use commercially reasonable best efforts to cause the Off-Site Infrastructure to be constructed in such manner and at such times as will provide access and all utility services to the Property for the Redeveloper's construction and marketing activities, as well as occupancy, not unreasonably delay the Redeveloper's activities at the Property, or other users along the Waterfront, and will otherwise be reasonably compatible with the construction schedule of the Project and the Redeveloper shall cooperate with the IDA and the City in such regards."

5. At the end of Section 2.13(a) add the following:

"Notwithstanding anything in this Agreement to the contrary, the IDA and Redeveloper shall cooperate to select a new ferry operator, provided that modification of the License Agreement with a Ferry Operator to resume ferry service shall not be a condition to Closing of any Phase. The Redeveloper shall be reasonably consulted with respect to the language contained in the Request for Proposals or the Request for Qualifications issued by the City, and the construction of the Ferry Terminal, including any and all design modifications of the Ferry Terminal and/or waterborne improvements.

In the event that IDA cannot reach an agreement with a new independent Ferry Operator for any reason, then the Redeveloper shall have the obligation to arrange for the provision of commuter ferry or water taxi service, whichever option the Parties ultimately agree upon ("Ferry Service"), to New York City in a commercially reasonable manner, commencing at such time as two hundred (200) residential units of the Project have been constructed, issued permanent or temporary certificates of occupancy, and occupied (or at such other time agreed upon in good faith by the Parties). The Redeveloper's provision of Ferry Service shall have as a goal operating three (3) roundtrips in the morning and afternoon peak hours (total 6 roundtrips) during the week (M-F), national holidays

excluded. The Parties shall cooperate in good faith to agree upon the Ferry Service destinations and all other operational and service details (all such operational and service details shall be defined as the "Service Levels"), with the mutual goal of establishing and maintaining the viability of the Ferry Service. The Parties shall work together in good faith to conduct ongoing evaluations of the Service Levels. At any time after the commencement of Ferry Service, the Parties may agree to modify the Service Levels or any other aspect of the Ferry Service, with the mutual goal of establishing and maintaining the viability of the Ferry Service based upon actual ridership demand. The Redeveloper's obligation to provide Ferry Service as set forth herein shall expire two (2) years following commencement of same, provided that the Redeveloper's total net subsidy or expense to operate the Ferry Service as set forth herein shall not exceed One Million Dollars ($1,000,000.00), and provided further that Redeveloper shall operate the Ferry Service for a minimum of one (1) year.

If at any time a ferry or water taxi service is not in operation, the Ferry Terminal may be used, to the extent permitted by law or any state or federal rules or regulations or other restrictions, for any use or ancillary use reasonably consistent with the purposes and objectives of the MW-3 District and the Project, including, but not limited to, (i) not-for-profit entities for purposes authorized by the New York State Not-For-Profit Corporation Law, (ii) municipal and quasi-municipal uses, which are maritime in nature, including, but not limited to, recreation uses, and (iii) retail or other public destination uses, provided, such uses must be available to the general public, are not competitive with and would not negatively impact the uses planned for the Project or the marketing thereof, and the Redeveloper shall have the right to review and consent to such uses prior to the City entering into a lease regarding such uses, such consent not to be unreasonably withheld, conditioned or delayed.

If a ferry or water taxi service is in operation, the Ferry Terminal may be used for such ferry or water taxi service and ancillary uses, which are reasonably consistent with the purposes and objectives of the MW-3 District, such as a newsstand, dry cleaner, restaurant, sandwich shop, coffee kiosk, or other similar uses, provided that such ancillary uses do not unreasonably interfere or compete with the viability of any other existing or planned use in the Project pursuant to the PUD Master Development Plan. The Redeveloper shall have the right to review and consent to such proposed ancillary uses prior to the City, or any turnkey operator/user licensed by the City to operate the Ferry Terminal, entering into a lease regarding such ancillary uses, which consent shall not be unreasonably withheld, conditioned or delayed. The Redeveloper, Agencies and the City shall reasonably cooperate to address each other's concerns, with the mutual goal of establishing and maintaining the viability of both the ferry or water taxi service and the Project. Prior to the conveyance of the Ferry Terminal site to the Redeveloper and/or the commencement of ferry or water taxi operations, the terms governing the allowable uses in the Ferry Terminal and other relevant matters, including, but not limited to, allowing for a turnkey operator/user at the Ferry Terminal site, subject to the terms and conditions of this section and any lease or license agreement between the City and Redeveloper, shall be addressed and finalized in appropriate lease, sublease and/or assignment

agreements to be entered into between the City, Agencies, and Redeveloper, as the case may be."

6. At the end of Section 2.15 add the following:

"For the purposes of this Section 2.15, the "adjacent and/or nearby property" shall consist of the properties known under the PUD Master Development Plan as the Gateway Properties. If requested by the Redeveloper, to the extent permitted under law, the IDA shall commence the eminent domain process at any time after the Redeveloper has provided the IDA with suitable financial and other assurances, demonstrating that sufficient funds will be available to the IDA at such time as it is legally required to make such payments in connection with acquiring said property through eminent domain hereunder. At the request of either Party to the other at any time after (i) the Agencies acquire title to any of the Gateway Properties, and (ii) Redeveloper has paid in full all amounts payable to the Agencies under this Section 2.15 with respect to such Properties, the Agencies shall convey title to such condemned Properties to Redeveloper, and Redeveloper shall close title to such condemned Properties in accordance with Article 7 of the Agreement, as applicable. Although the Redeveloper shall be responsible for all costs hereunder as set forth under this Section, the Agencies shall in good faith cooperate in utilizing all reasonable efforts to obtain third-party funding for the acquisition of the Gateway Properties hereunder, including, for example, through Federal and/or State grant programs; provided, that the Agencies shall not be obligated to match or contribute any such third-party funding. The Parties may explore with the City Council the utilization of Tax Increment Financing ("TIF") pursuant to GML Article 18-C, as well as other governmental or private funding or financing sources, to fund the acquisition and/or development of the Gateway Properties and the Public Amenities proposed to be constructed thereon, provided that nothing herein shall be deemed a guarantee or approval of a TIF or other financing. The Agencies shall not be in default of this Agreement if any requested eminent domain proceedings are not completed by a certain date. The commencement of any requested eminent domain proceedings shall not be a condition to Closing of Phase One, but shall be a condition to Closing of any subsequent Phase provided that Redeveloper has provided the funds for such condemnation as required in this Section 2.15.

Simultaneous with the commencement of the eminent domain process hereunder, the Parties shall in good faith enter into an escrow agreement governing the payment by the Redeveloper of the IDA's reasonable and customary costs and expenses (other than the Purchase Price for the property being taken) related to any eminent domain proceedings, including, without limitation, all necessary and reasonable legal and other fees incurred by the IDA in acquiring and disposing of the Gateway Properties, and in defending any legal or administrative challenges to such acquisition or disposition, as well as reasonable appraisal fees, consultant fees, surveying costs, title insurance charges and Court fees. The Parties shall cooperate in good faith in the selection of all consultants and professionals retained by the IDA in connection with its obligations under this Section 2.15.

The Redeveloper shall also be responsible to pay when due any and all additional compensation under the EDPL determined to be due to a Gateway Property landowner/condemnee and/or tenant at the premises by a Court, or agreed to be due to a Gateway Property landowner/condemnee and/or tenant under a settlement of such claim (subject to the approval of the Redeveloper, which approval shall not be unreasonably withheld, conditioned or delayed), as well as all necessary and reasonable legal and other fees incurred by the IDA in defending such claims for additional compensation under the EDPL and/or the negotiation of settlements thereof (the "Post-Closing Consideration"). To secure the payment by Redeveloper of the Post-Closing Consideration, the escrow agreement shall further provide for the Redeveloper to deliver to the Agencies, at the time a claim is made for additional compensation under the EDPL, a letter(s) of credit or other security in favor of and reasonably acceptable to the IDA in the amount of twenty percent (20%) of the aggregate of all claims filed by the Gateway Property landowner/condemnee and/or tenant under EDPL procedures (the "EDPL Security"). In the event that the amount of the EDPL Security is insufficient to pay the Post-Closing Consideration due and payable, then Redeveloper shall be responsible for, and shall pay to the IDA, any such amounts within twenty (20) business days of a written demand, which is accompanied by either a copy of the Judgment of the Court, or any settlement between the IDA and a claimant(s) as approved by the Court."

7. A new Section 2.15-A, entitled "Asphalt Plant, shall be added to read, as follows:

The Rason Asphalt Plant (the "Asphalt Plant") is a hot mix asphalt facility, located directly opposite Block I as shown on the PUD Master Development Plan, on the south side of Glen Cove Creek. The Parties shall cooperate in good faith to determine whether a more appropriate use is warranted for the Asphalt Plant site consistent with City planning documents and the Project, including, but not limited to, potentially converting the Asphalt Plant to such other uses as the Parties may agree upon. If requested by the Redeveloper, to the extent permitted under law, the IDA shall commence (and to the extent the City is the more appropriate party, IDA shall actively support the City commencing) eminent domain proceedings to acquire the Asphalt Plant site upon the same terms and conditions regarding the Gateway Properties hereunder, including, in summary, that the Redeveloper shall be responsible for all associated costs and expenses, the Agencies and/or the City, as the case may be, shall in good faith cooperate in utilizing all reasonable efforts to obtain third-party funding for the acquisition of the Asphalt Plant, and the commencement or progress of any requested eminent domain proceedings shall not be a condition to Closing of any Phase.

8. Section 2.19 shall be deleted in its entirety, and replaced, as follows:

"As a condition to Closing of Phase One, the Agencies and the Redeveloper shall confer with Nassau County and collectively identify, in writing, any and all necessary upgrades to the County Sewer Treatment Plant to remedy any potential odor emanations, effluent discharges and/or other potential impacts from the Plant (the "Sewer Upgrades"), which by reasonable commercial standards would result in a material negative financial impact on the Project or its marketability if left unmitigated. The implementation of the

Sewer Upgrades by the County shall not be a condition to Closing or construction of Phase One. The County's substantial implementation of the Sewer Upgrades shall be a condition to Closing of Phase Two of the Project, provided, that if the Upgrades are not substantially completed through no fault of either Party within a commercially reasonable period agreed upon in good faith by the Parties, then Redeveloper shall be required to Close and proceed diligently with construction of Phase Two of the Project as set forth herein. Neither the City, the Agencies, nor the Redeveloper shall be responsible for any costs or expenses arising from or relating to the Sewer Upgrades."

9. A new Section 2.23 entitled "Work Force Housing" shall be added, to read, as follows:

"The Project's workforce units shall equate to a minimum of 10% of the dwelling units as required by the MW-3 regulations. The workforce units shall be marketed and developed for households with incomes ranging between 60-130% of the Nassau County Area Median Income. The Parties shall collaborate with the Long Island Housing Partnership, Inc., or other similar organization, to administer the program. A preference for local residents for the workforce housing units shall also be considered as part of the program."

10. Section 3.01(a) shall be deleted in its entirety, and replaced, as follows:

"Subject to all the terms, covenants, and conditions of this Agreement, the Agencies shall sell the Property to the Redeveloper, and the Redeveloper shall purchase the Property from the Agencies for a purchase price projected to be in the amount of Fifteen Million Dollars ($15,000,000.00) (the "Projected Purchase Price").

11. Section 3.01(b) shall be deleted in its entirety, and replaced, as follows:

(i) Selection of Appraisers. Within thirty (30) days after the date on which this amended Section 3.01(b) is added to the Agreement, Redeveloper and Agencies shall each select an independent real estate appraiser, and shall give a written notice to the other designating its appraiser for the purpose set forth herein. Each appraiser chosen shall be an MAI appraiser with at least ten (10) years of experience in appraising substantially similar types of the various components contemplated in the PUD Master Development Plan in the Long Island/Westchester/Southern Connecticut geographic area. The Redeveloper and Agencies shall pay the fees and expenses of their respective appraisers.

(ii) Appraisals. In order to facilitate and expedite the valuation process, the two appraisers shall cooperate and consult with each other as appropriate, in good faith, to determine common ground rules, appraisal methods and assumptions to be employed in the valuation of the Project, and to identify and resolve any potential issues or problems which have the potential to delay, disrupt or otherwise impact the appraisal process and the completion of the Project. Within ninety (90) days or as soon as practicable after the Fourth Amendment is executed (and prior to its becoming effective),

the appraisers shall submit to their respective clients, in writing, their estimates of the fair market value ("Fair Market Value") of the Property, to be developed in accordance with the PUD Master Development Plan, taking full account of all costs of whatever nature, incurred and projected to be incurred by the Redeveloper in executing the Project, including, but not limited to, Public Amenities, environmental remediation, environmental insurance, soft costs, and Redeveloper Advances (the "Appraisals"). The appraisers shall further rely upon and take into account all construction cost estimates furnished by the Redeveloper, unless such estimates are not satisfactory to either appraiser, in its respective sole discretion, in which case either appraiser may use its own method or consultant to determine construction cost estimates. Fair Market Value shall be determined by the appraisers on the basis of and shall mean the aggregate amount that would be obtainable in an arms' length transaction between an informed and willing seller under no compulsion to sell, and an informed and willing purchaser under no compulsion to purchase, for the unimproved Property, as the Property is to be developed in accordance with the PUD Master Development Plan.

(iii) Purchase Price. Prior to submitting their Appraisals, the two appraisers shall meet to discuss their tentative findings and arrive at a final Fair Market Value (the "Final Fair Market Value"). If the appraisers are unable to reconcile any potential disparities between such findings, the Parties shall agree upon a methodology to reconcile such disparities, including, without limitation, to ensure that all costs of whatever nature have been reflected in the Appraisals, and arrive at the Final Fair Market Value.

(a) If the Final Fair Market Value of the Property equals the Projected Purchase Price, then Fifteen Million Dollars ($15,000,000.00) shall be the Purchase Price for the Property (the "Purchase Price").

(b) If the Final Fair Market Value of the Property equals less than the Projected Purchase Price, then Redeveloper shall purchase the Property for the Purchase Price.

(c) If the Final Fair Market Value of the Property equals greater than the Projected Purchase Price (the "Increased Purchase Price"), then Redeveloper shall have the option, to be elected within thirty (30) days after the determination of the Increased Purchase Price, to either (i) notify the Agencies that Redeveloper elects to purchase the Property for the Increased Purchase Price, or (ii) notify the Agencies that the Redeveloper elects not to purchase the Property for the Increased Purchase Price, and thereupon terminate this Agreement, in which event (a) the Deposit shall be returned to the Redeveloper as provided in Article 14, (b) the Redeveloper shall not be entitled to the Reimbursable Amount or the Redeveloper Advances hereunder, provided, that the Agencies shall execute and deliver to Redeveloper a mortgage and note creating a lien on the Property in an amount of $950,000.00, within thirty (30) days after the date hereof, which shall be payable to Redeveloper at such time as the Agencies may sell the Property to another purchaser, and if additional funds are available after satisfying all other liens and mortgages existing on the date hereof and liens and mortgages granted after such date with the consent of Redeveloper (which consent shall not be unreasonably withheld,

delayed or conditioned where the lien or mortgage is to secure funding for environmental cleanup or other purposes in furtherance of the Project), and (c) neither the Agencies nor the Redeveloper shall have any further rights against or liability to the other under this Agreement, except for those provisions which are specifically set forth in this Agreement to survive the termination of this Agreement. Termination of the Agreement under this Section shall not constitute a default under the Agreement. If the failure of the Parties to reconcile a Final Fair Market Value is attributable to Agency action or inaction amounting to a Basis For Termination (defined below in Section 14.01), then the Agencies shall repay the Redeveloper Advances in accordance with Section 5.04(f).

12. Section 3.02 shall be amended by adding, after the term IDA, the following:

"or the CDA, as the case may be."

13. At the end of Section 3.02, add the following:

"The Purchase Price shall be paid by the Redeveloper to or for the account of the Agencies as follows: (i) upon the Closing of Phase One (as hereinafter defined), the greater of (x) 50% of the Purchase Price for the Property, or (y) the amount required to discharge all liens on the Property, including, but not limited to, the Agencies' Section 108 Loan, City Environmental Facility Corporation Loan, Brownfield Revolving Loan Fund Loan, and payment owed to the EPA under the Prospective Purchaser's Agreement, plus One Million Dollars ($1,000,000.00), and the Parties shall cooperate and make commercially reasonable best efforts to obtain from the relevant lienholders hereunder either forgiveness, subordination or forbearance of that agency's respective debt hereunder so as to allow construction of the Project to proceed without triggering any early repayment provisions, and (ii) upon the Closing of any subsequent Phase, the balance of the Purchase Price outstanding, multiplied by the denominator equaling the remaining total acreage of the Project, and the numerator equaling the total acreage related to said Phase.

The amount of acreage conveyed in the first Closing shall be reasonably proportionate to the portion of the Purchase Price paid at the first Closing (e.g., if 50% of the Purchase Price is paid at the first Closing, then the amount of acreage conveyed shall be reasonably proportionate to 50% of the acreage that is within the Agencies' and/or Redeveloper's control), even if the acreage conveyed is greater than what is required for Phase One development.

Any amounts that the Agencies elect to have the Redeveloper incur to complete the Road Project pursuant to Section 3.05 shall be deducted from and credited against the Purchase Price, provided, that if the total amount of such deductions, when combined with the amount required to discharge the liens against the Property plus One Million Dollars ($1,000,000.00), exceeds the Purchase Price payable by Redeveloper as the Purchase Price for Phase One then (i) the Parties shall not be obligated to close on Phase One, (ii) the Parties shall have the right, but not the obligation, to pay the excess and proceed to Closing on Phase One, and (iii) the failure by either Party not to pay the excess shall not

constitute a default hereunder. In the event that neither Party elects to pay the excess and proceed to Closing on Phase One, then the Parties shall cooperate in good faith to determine how best to advance the Project, with the mutual goal of completing the Closing of Phase One in a commercially reasonable and timely manner.

14. Sections 3.03 and 3.04 shall be deleted in their entirety.

15. Add the following as a new second sentence to Section 3.05:

"In the event that the Agencies make such election, Redeveloper shall have the right, but not the obligation, to construct the Road Project, or such portion thereof requested by the Agencies, to the extent permitted by law, subject to the Agencies' consent, which consent shall not be unreasonably withheld, conditioned or delayed, and in consultation with the City and its professional engineers. Nothing in this Section 3.05 shall relieve the Agencies of their obligation to cause the construction of any portion of the Road Project not constructed by the Redeveloper pursuant to Section 2.10."

16. Sections 3.06 and 3.07 shall be deleted in their entirety.

17. The first sentence of Section 4.01(a) shall be amended so that the word "promptly" is replaced with "at the appropriate time."

18. At the end of Section 4.01(a), add the following:

"Notwithstanding anything in the Agreement to the contrary, an application for IDA financial assistance, including, but not limited to, a PILOT Agreement, shall be considered in good faith by IDA for each Phase at the time the Redeveloper submits its PUD Site Plan and Subdivision Application for said Phase. Such potential financial assistance may include, among other things, sales and mortgage tax relief, and financial assistance regarding Project infrastructure costs. The availability and the extent of such financial assistance, if any, shall be based upon, among other factors, the actual PUD Site Plan proposal, the current economic conditions at the time the respective PUD Site Plan is evaluated, the financial necessity for such benefits as shown in the documentation required by the IDA, and the compliance history and status of the development of the overall Project at such time. The IDA's granting of any financial assistance shall not be a condition to Closing of any Phase. IDA shall support the granting of sales and mortgage tax relief, provided that Redeveloper makes a proper application and showing at the time it submits its PUD Site Plan and/or PUD Subdivision Application for said Phase."

19. Section 4.01(b) shall be deleted in its entirety.

20. The second sentence in Section 5.02 shall be deleted.

21. Section 5.03 shall be deleted.

22. Section 5.04(c) shall be deleted, and replaced, as follows:

"Notwithstanding anything in the Agreement to the contrary, upon the Effective Date (defined below) of the Fourth Amendment, the Redeveloper shall reimburse the Agencies an amount of $325,000.00, representing reasonable fees, costs and expenses incurred by the Agencies related to the Project since the signing of the Third Amendment. The Redeveloper shall also pay to the Agencies on a go forward basis a total of $1,475,000.00, to be paid in six (6) quarterly installments, commencing upon the Effective Date of the Fourth Amendment or October 1, 2012, whichever is later, until March 1, 2014, provided, if the date of the Closing for Phase One occurs prior to March 1, 2014, then Redeveloper shall pay the Agencies a balloon payment, representing the balance of any unpaid portion of the $1,475,000.00. Said funds shall be applied by the Agencies, in their discretion, in accordance with the Agencies Expenses set forth in the revised Schedule annexed hereto as Exhibit "A." The $1,475,000.00 (plus the $325,000.00 referred to above and an additional $175.000.00 payable to the Agencies pursuant to a letter agreement dated this date) shall be a cap on all funds payable by Redeveloper to the Agencies in reimbursement of fees, costs and expenses incurred by the Agencies through the Closing for Phase One, unless an extraordinary and unforeseen Agency expense arises, not included in Exhibit "A," directly related to the Project, where upon the Redeveloper and the Agencies shall endeavor in good faith to agree on additional reasonable payments. In the event that the Closing for Phase One extends beyond March 1, 2014, then Redeveloper and the Agencies shall endeavor in good faith to agree on additional reasonable and actual fees, costs and expenses directly related to the Project, and Redeveloper shall pay same as they are incurred by the Agencies, regardless of the reason for the delay in the Closing, provided that the Agencies are not in default of this Agreement (collectively, all of the payments required under this Section 5.04(c) shall be defined as the "Additional Redeveloper Advances," together with the Initial Redeveloper Advances, the "Redeveloper Advances"). The Redeveloper Advances, together with an additional amount equal to 20% of the amount to be repaid, shall be repaid to the Agencies only following a finding of a Basis for Termination (defined below) against the Agencies in accordance with Section 5.04(f) hereunder."

23. Add the following as a new second sentence to Section 5.04(f):

"Such obligation on the part of the Agencies to reimburse the Redeveloper Advances (plus 20%), if required, shall be fulfilled in accordance with the same terms as applied to the reimbursement of the Reimbursable Amount under Sections 14.02(c), 14.03 (Right of First Refusal), and 14.04 (Outside Reimbursement Date), provided that any payment of the Redeveloper Advances shall not bear interest as otherwise set forth in Section 14.04 with respect to the Reimbursable Amount."

24. 5.04(f)(i) shall be deleted, and replaced, as follows:

"in the event that the Closing does not occur by reason of any Basis For Termination due to a default or breach by the Agencies pursuant to Section 14.01 of this Agreement"

25. Section 5.04(e) shall be deleted.

26. At the end of the first sentence of Article 6, add the following:

"for Phase One of the Project, and for subsequent Phases of the Project as the case may be.

27. The last sentence of Section 6.02 is deleted and is replaced with the following:

"Notwithstanding anything in this Agreement to the contrary, the Redeveloper's obligation to close on Phase One of the Project is contingent upon the Redeveloper securing all Approvals related to commencement of construction of the Project in accordance with the approved PUD Master Development Plan, including, but not limited to, (i) PUD Site Plan Approval for Phase One from the Planning Board, (ii) building permit(s) for construction of Phase One from the City of Glen Cove Building Department, provided, that Redeveloper shall submit a complete application for a building permit(s) within sixty (60) days of satisfying all material conditions of PUD Site Plan and/or Subdivision Approvals, or one hundred twenty (120) days following the Planning Board's granting of PUD Site Plan and/or Subdivision Approval, whichever occurs later, provided further, that if Redeveloper does not comply with these timeframes, or if Redeveloper does not use commercially reasonable best efforts to satisfy said material conditions of PUD Site Plan and/or Subdivision Approvals, then securing a building permit(s) shall not be a closing condition, and (iii) any other Approvals related to the overall Project (a) that are required by the agency having jurisdiction to be obtained before construction may begin, or (b) the non-receipt of which could result in the risk of material adverse effect on any Phase or the Project as a whole. Except as provided above, Approvals related to the Asphalt Plant, PUD Site Plan Approvals for the other Phases of the Project, outside agency approvals for the other Phases of the Project for which information is not available (e.g., sewer and water supply and distribution), and road opening permits and similar ministerial or quasi-ministerial permits required from the City of Glen Cove shall not be conditions to Closing of Phase One. In the event that any overall Project Approval or Approval for a subsequent Phase other than Phase One is either not obtainable, or obtaining such Approval may cause inordinate delay in the Closing of Phase One, and that the failure to obtain such Approval could not result in a material adverse effect on any other Phase or the overall Project, then the Parties shall proceed diligently to Closing on Phase One. In the event that the lack of such Approval could result in a material adverse effect on any other Phase or on the overall Project, then the Parties shall cooperate, and diligently and using commercially reasonable best efforts, seek to overcome such obstacle and advance the Project in a reasonable and timely manner, including, but not limited to, by seeking judicial intervention or necessary Project modifications where practicable.

28. The first sentence of Section 6.04 shall be deleted in its entirety and the following shall be inserted in its stead.

"The Redeveloper's obligation to close as to any Phase of the Project shall be contingent upon there being no change to applicable zoning law or other City regulations that could materially negatively impact Redeveloper's ability to develop and construct the Project, or any material element thereof, approved in the PUD Master Development Plan. The Parties recognize that there may be a zoning change to the extent required by law or if required to protect the public health and safety."

29. Section 6.06 shall be replaced, to read, as follows:

"The Agencies and/or the City shall have obtained title to all lands required to construct the Road Project, and to provide access to the Property in order to construct Phase One. The Closing of Phase One shall occur simultaneous with (i) the Agencies and/or the City providing documentation satisfactory to the Redeveloper and its lender, applying reasonable commercial standards, that the City has the ability to complete the Road Project within an acceptable time period, as measured by the approximate date by which the Redeveloper anticipates substantial completion of Phase One, and (ii) the Redeveloper providing documentation satisfactory to the Agencies that the Redeveloper is ready, willing and able to Close and commence construction on Phase One in a timely manner. The City's ability to complete the Road Project within an acceptable time period, as set forth under (i) above, shall be evidenced by documentation acknowledging the commitment for and timing of funding to complete the Road Project, and a signed contract between the City and the contractor for the Road Project, which includes a schedule confirming the completion of the Road Project as noted above, and further includes appropriate financial penalties to the contractor for failure to comply with such schedule. If at any time either Party reasonably determines in its discretion that the other Party shall not be able to perform its obligations under this Section, then either Party may suspend its actions herein in connection with the Road Project or closing on Phase One, as the case may be, until such time as the other Party demonstrates that it is ready, willing and able to complete its obligations in accordance with the requirements of this Section. It is the intent of the Parties that construction of the Road Project shall commence shortly after Closing of Phase One, and that the Redeveloper shall not be obligated to close on Phase One until the Agencies and/or the City demonstrate that they have the ability to construct and complete the Road Project reasonably in advance of the approximate date that the Redeveloper anticipates substantial completion of Phase One so as to provide a contingency period to account for reasonable delays in the construction of the Road Project. The Parties shall cooperate in good faith and diligently seek to ensure that any contract awarded by the City for the Road Project provides access during Road construction to all of Phase One property for construction and marketing purposes. The Redeveloper shall be reasonably consulted regarding the Road Project contract, and contract bidding and letting processes."

30. Section 6.07 shall be deleted and replaced, as follows:

"As set forth more fully in Section 4.01, the IDA's granting of any financial assistance shall not be a condition to Closing of any Phase. An application for IDA financial assistance, including, but not limited to, a PILOT Agreement, shall be

considered in good faith by IDA for each Phase at the time the Redeveloper submits its PUD Site Plan and Subdivision Application for said Phase. Such potential financial assistance may include, among other things, sales and mortgage tax relief, and financial assistance regarding Project infrastructure costs. IDA shall support the granting of sales and mortgage tax relief, provided that Redeveloper makes a proper application and showing at the time its submits its PUD Site Plan and/or PUD Subdivision Application for said Phase."

31. Section 6.08 shall be deleted, and replaced, as follows:

"The City of Glen Cove municipal golf course shall be available to hotel guests and residential unit occupants on the same basis as that afforded residents of the City and other hotel guests."

32. Sections 6.09(b), 6.09(c), and 6.09(d) shall be deleted in their entirety.

33. Section 6.09(f) shall be amended so that the phrase "Final Development Plan" is replaced with "PUD Master Development Plan."

34. Section 6.09(g) shall be deleted, and replaced, as follows:

"the City Building Department shall have issued a building permit(s) for construction of the subject Phase(s) of the Project in accordance with the PUD Master Development Plan, subject to the provisions of Section 6.02 hereunder"

35. A new Section 6.09(h) shall read, as follows:

"(h) a Court of competent jurisdiction issues a final and un-appealable determination regarding any outstanding litigation related to any Approvals the receipt of which is a condition to Redeveloper's obligation to Close."

36. A new Section 6.09(i) shall read, as follows:

"(i) the Indemnification Agreement defined in Section 7.10, and all escrow, access, easement, maintenance and other agreements required in connection with the PUD Master Development Plan as identified in this Agreement and the SEQRA Findings Statement, shall be executed by the Parties."

37. A new Section 6.09-A entitled "Vested Rights Amendment" shall be added to read, as follows:

"As a condition to Closing of Phase One, and subject to the terms hereunder, the City Council shall have adopted an amendment under Article VI of the City Zoning Ordinance (i) providing for 'vested rights' for an approved PUD Master Development Plan in the MW-3 District on the south side of Garvies Point Road and Herb Hill Road (including an approved PUD Master Development Plan in the MW-3 District, a portion

of which is on the north side of Garvies Point Road and Herb Hill Road) to protect against possible future zoning changes, as well as (ii) extending the expiration dates of PUD Master Development Plan, PUD Site Plan and PUD Subdivision Approvals (the "Vested Rights Amendment") in accordance with the general principles set forth at pages 152-55 of the Master Plan adopted by the City dated May 2009, provided, that the City Council need not consider such Amendment until the Redeveloper (a) completes construction of the Immediate Interim Amenities Plan, (b) hires a Project Manager for the entire Project, and said Manager commences full-time work, and (c) submits to the Planning Board a substantially complete PUD Site Plan and Subdivision Applications for Phase One of the Project in accordance with Sections 280-73.2C(3) ("Planned Unit Development") and Article IV ("Site Plan Review") of the City of Glen Cove Zoning Ordinance, Chapter 245 of the Code of the City of Glen Cove ("Subdivision of Land"), and General City Law Sections 27-a and 32. If the Redeveloper satisfies the aforementioned obligations by no later than October 1, 2012, then the Agencies shall promptly submit the Vested Rights Amendment to the City Council for its consideration. Redeveloper shall also comply with the requirements of Chapter 266 ("Visual Simulation Submissions") of the Code of the City of Glen Cove by no later than November 1, 2012. In the event that the Redeveloper does not satisfy its obligations under this paragraph by October 1, 2012 or November 1, 2012, as the case may be, then the City Council's adoption of the Vested Rights Amendment shall not be a condition to Closing of Phase One, unless such failure was due to material delay and/or material inaction by the Agencies, or other governmental agency, making it impossible for the Redeveloper to complete the aforementioned Applications in a timely manner hereunder, and provided that Redeveloper used commercially reasonable best efforts to overcome such delay and/or inaction, in which case (i) such date for Redeveloper to satisfy its obligations under this paragraph shall be extended for the duration of the delay and/or inaction, and (ii) if Redeveloper satisfies its obligations within such extended period, then the City Council's adoption of the Vested Rights Amendment shall remain a condition to Closing of Phase One, provided that the Agencies shall have complete discretion regarding when to submit the Vested Rights Amendment to the City Council for its consideration. Notwithstanding anything to the contrary, Redeveloper shall be obligated to satisfy in a timely manner all other requirements relating to the submission of complete PUD Site Plan and Subdivision Applications, including, but not limited to, the requirements set forth in the Planning Board's SEQRA Findings Statement, provided, that for purposes of the October 1, 2012 deadline in this Section 6.09-A, the Redeveloper shall not be obligated to complete the "Requirements For First PUD Site Plan Application," or the "Requirements For Each Individual PUD Site Plan Application And As Applicable To Particular Phase(s)" (except Redeveloper shall complete the requirements relating to the Visual Simulation Submissions by November 1, 2012), as set forth in the SEQRA Findings Statement. Simultaneous with the submission of the Vested Rights Amendment to the City Council hereunder, the Parties shall cooperate and submit to the City Council, to the extent practicable, all documentation necessary to resolve any outstanding issues affecting title to Parcel 7 of the Property as described in Section 5 of the First Amendment. The failure of the City Council to adopt the Vested Rights Amendment hereunder shall not be deemed a Basis For Termination (defined below) of this Agreement, provided, that the Amendment is submitted by the Agencies to the City

Council in a timely and good faith manner as set forth herein, and that the Agencies actively support the adoption of such amendment by the City Council.

38. The following sentence shall be added to the end of Section 6.10:

"Whenever used in this Agreement, the term "commercially reasonable best efforts" shall mean such efforts as are commercially reasonable in light of that Party's own capabilities and of the other Party's justifiable expectations."

39. Section 6.11 shall be deleted in its entirety.

40. Section 7.04 shall be amended so that the first sentence reads, as follows:

"Notwithstanding anything in the Agreement to the contrary, the Property shall be acquired by Phases(s) ("Phased Closing"), subject to the terms and conditions set forth herein. The Agencies shall deliver the Deed(s) to the Redeveloper for that portion of the Property required for Phase One, and the Redeveloper shall close title on Phase One as provided herein within sixty (60) days after the latest of (i) the date of the Redeveloper's receipt of all of the Phase One Approvals and fulfillment of all of the Closing Conditions and (ii) the IDA and the CDA shall possess and be able to convey to the Redeveloper the state of title to the entire Property, free and clear of any claims, liens, mortgages, restrictions or encumbrances as identified on Exhibit 7.04 annexed hereto, which could prevent, restrict or delay construction of the Project in accordance with the PUD Master Development Plan or otherwise could have a material adverse effect on the Project or any Phase thereof."

41. A new second to last sentence in Section 7.04 shall read, as follows:

"The Parties shall cooperate in good faith to facilitate the Agencies' obligation to clear the Property of all claims, liens, mortgages, restrictions or encumbrances, which could prevent, restrict or delay construction of the Project in accordance with the PUD Master Development Plan or otherwise could have a material adverse effect on the Project or any Phase thereof."

42. At the end of Section 7.04 add the following:

"The term Closing shall include the term "Phased Closing." The Closing for each Phase shall occur within sixty (60) days after the latest of (i) the date of the Redeveloper's receipt of Approvals and fulfillment of all of the Closing Conditions and any other closing conditions set forth hereunder, and (ii) the IDA and the CDA shall possess and be able to convey to the Redeveloper the state of title to the Property required hereunder, free and clear of any claims liens, mortgages, restrictions or encumbrances, which could prevent, restrict or delay construction of any portion of the Project in accordance with the PUD Master Development Plan, or on such other date as the parties hereto may mutually agree in writing. Redeveloper shall proceed and make its commercially reasonable best efforts, commensurate with reasonable commercial

standards, to Close on each subsequent Phase and complete construction thereof in a diligent and timely manner."

43. Section 7.08 sub-clause (b) shall be deleted.

44. Section 7.09 shall be amended so that it reads, as follows:

"The covenant pertaining to the uses of the Property, set forth in Section 11.01 hereof, shall remain in effect until such time that any statutory vested rights protection expires, or July 20, 2020 (i.e., 15 years from the date of the adoption of the Third Amended Urban Renewal Plan), whichever is later."

45. A new Section 7.10 entitled "Property Maintenance and Waterfront Access after Closing," shall be added to read, as follows:

"Following the Closing of each Phase, and prior to the completion of any of the Project Improvements and/or Public Amenities, the Redeveloper shall maintain the portion of the Property that is the subject of said Phase in a safe manner at its sole cost and expense. The Redeveloper shall also ensure reasonable public access to the waterfront across said portion of the Property, provided that public access had been previously provided to the waterfront across said portion of the Property prior to Closing, and provided further that such access does not unreasonably interfere with site work or construction for the Project, or subject the Redeveloper to potential claims relating to compromising the public health and safety or for injury to persons or property. The Redeveloper shall also employ commercially reasonable best efforts in creating temporary pathways for safe access to the waterfront during construction of the Improvements or Public Amenities, and shall grant any necessary temporary easements to facilitate the goal of public access to and use of the waterfront at all times during the Project build-out. In addition to the immunities granted by New York General Obligations Law Section 9-103 with respect to the recreational activities enumerated therein, the Redeveloper shall obtain adequate insurance, naming the City and the Agencies as an additional insured party, and the City and the Agencies shall indemnify the Redeveloper with respect to public use of Redeveloper-owned land, pursuant to an indemnity agreement (the "Indemnity Agreement") to be agreed upon in good faith by the Parties. The Parties shall endeavor to diligently prepare the Indemnity Agreement, and all escrow, access, easement, maintenance and other agreements required in connection with the PUD Master Development Plan as identified in this Agreement and the SEQRA Findings Statement, following the Effective Date of this Amendment.

46. A new Article 7-A entitled "Application Process," shall be added to read, as follows:

7.1.1. PUD Site Plan And Subdivision Applications. Redeveloper shall submit a PUD Site Plan Application and, if required, a PUD Subdivision Application for each individual Phase of the Project, showing both the private development and associated Public Amenities, in accordance with the development phasing alternatives and flexibility

provisions adopted in the PUD Master Development Plan and SEQRA Findings Statement issued by the Planning Board."

7.1.2. Modifications To PUD Master Development Plan. Prior to or concurrently with submitting an application to the Planning Board for PUD Site Plan and/or PUD Subdivision Approval for a particular Phase of the Project, the Redeveloper shall have the right, in its reasonable discretion, to modify the PUD Master Development Plan in accordance with the flexibility provisions set forth in the SEQRA Findings Statement and the Agencies' 2011 Resolutions."

7.1.3. Timing Of PUD Site Plan And Subdivision Applications. Redeveloper shall diligently and timely prepare and submit to the Planning Board, and take all necessary actions commensurate with employing commercially reasonable best efforts, to obtain approvals for each Phase's PUD Site Plan and PUD Subdivision Applications so that construction of the Project proceeds in an orderly, sustained and timely fashion, commensurate with market demand and subject to economic conditions affecting the Project."

47. Section 8.04 shall be deleted in its entirety.

48. Section 9.01 shall be deleted in its entirety, and a new Section 9.01 entitled "Time for Commencement and Completion of Improvements" shall be added to read, as follows:

Construction for each Phase shall proceed diligently to completion using commercially reasonable best efforts in accordance with a construction schedule provided to the Agencies by the Redeveloper prior to the start of construction. "Completion" for purposes of this Section shall mean the issuance of a temporary or permanent Certificate of Occupancy by the Building Department. The Parties shall cooperate and use commercially reasonable best efforts to overcome any potential constraint or obstacle to the timely completion of construction for each Phase.

49. A new Section 9.07, entitled "Interim Amenities," shall be added to read, as follows:

"The Interim Amenities Plan contained in the Final Environmental Impact Statement (Exhibit I-32), and described in the SEQRA Findings, is annexed hereto and incorporated in its entirety herein by reference. The Parties agree that a portion of the Interim Amenities Plan, plus other Interim Amenities agreed to by the Parties (the "Immediate Interim Amenities Plan," as shown on the Interim Open Space Improvements Plan, prepared by MPFP, dated May 7, 2012, as the same may be amended, which is also annexed hereto and incorporated in its entirety herein by reference), shall be constructed and completed promptly following the date on which this Section 9.07 is added to the Agreement (if it has not already begun by such date), in order to improve the appearance of the Property and begin attracting the public to the waterfront. The balance of the Interim Amenities Plan shall be constructed and completed during construction of Phase

One of the Project. The Redeveloper shall be solely responsible for maintaining the Interim Amenities, after Closing on Phase I and until such time as the portion of the Property on which they are located is developed pursuant to the PUD Master Development Plan, in good and functional condition. The Redeveloper shall also be solely responsible for maintaining the Immediate Interim Amenities, which maintenance shall consist of grass cutting , at a minimum of four (4) times per year, and repairing all fencing and graphic banners to ensure that the fencing is upright and the banners are legible. The Agencies and Redeveloper shall work together in good faith to enter into any required license, lease, easement, insurance, indemnification or other agreements necessary to allow the Redeveloper to access, construct and maintain any Interim Amenities on the Property while it is owned by the Agencies."

50. A new Section 9.08 entitled "Public Amenities" shall be added to read, as follows:

(a) The Redeveloper shall be responsible for the funding and construction of all Public Amenities. The Agencies acknowledge that the Redeveloper may seek funding from third-party sources, other than the City of Glen Cove and its Agencies, in connection with funding all or a part of the Public Amenities, including, for example, through Federal, State and other governmental grants and/or subsidies. The Agencies agree to cooperate in good faith with the Redeveloper as is reasonably necessary to facilitate obtaining such funding, provided, that the Agencies shall not be obligated to accept any grant or financial assistance which requires matching funding or other financial contributions from the Agencies, unless the Redeveloper agrees to underwrite such contributions. The Redeveloper's obligation to construct the Public Amenities in connection with a particular Phase is not contingent upon obtaining third-party funds.

(b) To secure the payment by the Redeveloper of the costs of construction of the Public Amenities for each Phase as and to the extent required by the Planning Board, the Redeveloper shall deliver to the Planning Board, prior to issuance of a Building Permit for said Phase, a credit worthy financial security, such as a Letter of Credit, (the "Public Amenities Security") to cover the full cost of construction and completion of said Public Amenities attributable to that Phase. The Public Amenities Security shall be in an amount required by the Planning Board based upon the estimated costs of construction of the Public Amenities for said Phase. The Public Amenities Security shall (i) be irrevocable, (ii) be issued by an FDIC insured banking corporation, investment bank or other financial institution having capital of at least $500 Million ($500,000,000.00) and an office in the metropolitan New York area, (iii) name the Planning Board and the City as the beneficiary, and (iv) authorize the Planning Board and the City to draw upon it in the event of a Redeveloper default in constructing the applicable Public Amenities secured thereby.

(c) The uses allowed on the Public Amenities, and the hours of operation thereof, shall be similar to those permitted in other public lands and public open spaces in comparable mixed use public-private waterfront developments, as well as in City of Glen Cove parks and other City public spaces. The following uses shall be prohibited on the

Public Amenities: (i) amplified speech or music, except when such uses shall be permitted in connection with Event Programming as defined herein; (ii) alcoholic beverages (except at approved private events, i.e., weddings); (iii) open fires or cooking of any kind, except when such uses shall be permitted in connection with Event Programming as defined herein; and (iv) other uses specified by the Public Amenities Conservancy Board as not compatible with the Project or its marketing.

(d) The City, members of the public, the Redeveloper and the various Property Owner's Associations as applicable, shall have the right to undertake and implement special events and programs within the Public Amenities ("Event Programming"), such as arts, music, theater, celebrations, holiday events, participatory neighborhood events, political functions, farmers' markets and other cultural and similar activities, as well as private events, all of which, except private events, shall be open to the general public as appropriate for the specific event, subject to prior approval of the Public Amenity Conservancy Board (defined herein). In order to approve and schedule Event Programming within the Public Amenities, at Redeveloper's sole cost and expense, a not-for-profit entity ("Public Amenity Conservancy Board") shall be formed and be comprised of seven (7) members, two of whom shall be appointed by the IDA, one by the CDA, one by the Mayor of the City, and three by the Redeveloper and/or its successor Property Owner's Association for the Project. The Public Amenity Conservancy Board shall meet on an as-needed basis, and at such additional times as may be requested in writing by any member of the Board, to consider and approve any proposals or requests for Event Programming, provided, that the Board shall meet at a minimum on a quarterly basis. All by-laws, charters, and rules and regulations of the Board shall be consistent with the terms of the Declaration as defined below. The jurisdiction of the Public Amenity Conservancy Board shall cover approval and scheduling of special Event Programming only. The Board shall not approve or schedule Event Programming that could reasonably be expected to unduly disturb or interfere with the character of the subject mixed-use neighborhood in which the Public Amenities are to be located, provided, that the Board recognizes that the allowable uses and noise levels within such an area shall be commensurate with similar publicly accessible venues adjacent to residential uses. Event Programming issues, other than approval and scheduling, including, without limitation, rules and regulations, physical improvements, maintenance and repairs, and access to the Public Amenities shall be within the exclusive control and jurisdiction of the Redeveloper and Property Owner's Associations, as applicable. The Property Owner's Association and Redeveloper, as applicable, shall provide staff and logistical support to enable the Board to fulfill its obligations hereunder.

(e) The Public Amenities shall be closed at dusk for active and group uses, provided, that certain Event Programming may end at other reasonably appropriate times all as set forth in the Declaration, and at other reasonably appropriate times as determined by the Public Amenity Conservancy Board consistent with preservation of the character of the subject mixed-use neighborhood in which the Public Amenities are to be located, provided, that the Board recognizes that the hours of operation within such an area shall be commensurate with similar publicly accessible venues adjacent to residential uses. Walking and other passive uses along the waterfront and the Esplanade shall be permitted

until 10:00 p.m. The restaurant shall not be considered a Public Amenity hereunder. Other Amenities may need to be addressed specifically.

(f) Following Closing as to each Phase, the Redeveloper shall be solely responsible in perpetuity for the maintenance, upkeep, repair and replacement of all Public Amenities to be constructed in connection with said Phase, including, but not limited to, the Esplanade (defined below). The Redeveloper shall maintain the Public Amenities at its sole cost and expense, consistent with other developments of a similar type, including, but not limited to, performing general, routine maintenance and repair. The Redeveloper shall guarantee the plantings in the public spaces as shown on the PUD Master Development Plan, and as detailed in subsequent PUD Site Plans, for a period to be determined by the Planning Board during individual PUD Site Plan reviews. The Agencies and Redeveloper shall work together in good faith to enter into any required license, lease, easement, insurance, indemnification, or other agreements necessary to allow the Redeveloper to access, construct and maintain the Public Amenities.

The "pedestrian walkway" referred to in this Agreement shall mean the "Esplanade" as shown and labeled on the PUD Master Development Plan. The Esplanade shall at all times remain publicly accessible, regardless of whether it is constructed on land owned by the Agencies or Redeveloper, and this provision shall survive termination of this Agreement. Upon termination of this Agreement, in the event that a portion of the Esplanade or other Public Amenity has been constructed on land that has not been conveyed to Redeveloper, then the Agencies, or its successors and assigns, shall be solely responsible for maintaining those Public Amenities.

The Parties acknowledge that all such Redeveloper's obligations hereunder, and all rights of Redeveloper regarding or concerning the Public Amenities, may be transferred to a Property Owner's Association and/or an Eligible Transferee in accordance with the terms and conditions of this Agreement. Prior to Closing, the obligation to maintain the Property shall remain with and be discharged by the Agencies, subject to Redeveloper's maintenance obligations provided in Section 9.07 regarding the Immediate Interim Amenities Plan and Interim Amenities Plan.

Cleaning up after any Event Programming shall be the sole responsibility of the sponsor of the event, and shall be completed on the same day or evening of the Event Programming or as soon thereafter as reasonably practicable. The sponsor of the event shall also be responsible for all lighting and electric consumption costs. The sponsor shall also provide insurance certificates and shall indemnify the City, the Agencies, and the Redeveloper, as the case may be, in connection with Event Programming.

Notwithstanding the foregoing, the City shall be solely responsible for the maintenance, repair and replacement of the Ferry Terminal (including associated parking and other areas). The City shall also be solely responsible for the maintenance, repair and replacement of the boat ramp and associated boat trailer parking area on the Boat Ramp Parcel (after initial repair and replacement by Redeveloper), which shall remain in public ownership.

In addition to the immunities granted by New York General Obligations Law Section 9-103 with respect to the recreational activities enumerated therein, the Redeveloper shall obtain adequate insurance, naming the City and the Agencies as an additional insured party, and the City and the Agencies shall indemnify the Redeveloper with respect to the Ferry Terminal and Boat Ramp Parcel (including associated parking and other areas), and to public use of Redeveloper-owned land, pursuant to the Indemnity Agreement defined in Section 7.10.

Should the Redeveloper fail or refuse to begin to perform any required general, routine maintenance of the Public Amenities within 10 days after written notice of such failure has been given by the City and/or the Agencies to the Redeveloper, then the City and/or the Agencies shall have the right, but not the obligation, to perform the maintenance or repair, provided, that no notice shall be required prior to the City and/or the Agencies remedying any condition that threatens the public health or safety. The City and/or the Agencies shall be entitled to seek reimbursement for the reasonable cost and expense of any routine maintenance work performed by the City and/or the Agencies, including in arbitration.

(g) At any conveyance of any portion of the Property, a Declaration shall be recorded against the conveyed Property subject to the Closing, which shall reserve to the Agencies, the City of Glen Cove and the public, among other rights and interests, appropriate easements, covenants and restrictions ensuring permanent public access and passive and active recreational use of the Public Amenities by the general public, and maintenance by the Redeveloper, and/or the Property Owner's Associations or Eligible Transferees, of the Public Amenities as set forth hereunder and subject to the provisions hereof."

51. A new Section 9.09 entitled "LEED and Green Building" shall be added to read, as follows:

"As set forth in the SEQRA Findings Statement, each phase of the Project shall be certifiable under the LEED rating system appropriate for that phase and use. The Redeveloper shall provide a LEED checklist for each phase of the Project, demonstrating that it would be certifiable under the appropriate LEED program. The checklist shall cover the LEED category that might apply, and what level of LEED certification would be possible. Each checklist must specify LEED-certifiable items, at a minimum. The Redeveloper shall provide commitments at each PUD Site Plan review regarding energy efficiency goals and standards that will be met. The Agencies believe that the Project is eligible for certification under the LEED for Neighborhood Development program.

The Project shall contain green building components, including efficient mechanical systems using then current technology. Specific details regarding the major building components, fixtures, materials, etc., shall be provided during each PUD Site Plan review. The Project shall also employ Energy Star energy-saving features, such as increased insulation, high-efficiency heating and cooling systems, energy-saving

appliances and high performance lighting. All refrigerators, dishwashers, clothes washers, and clothes dryers shall be Energy Star compliant. The Redeveloper shall comply to the maximum extent practicable with the New York ENERGY STAR Multifamily Performance Program, which is intended to design buildings that use at least 20 percent less energy than buildings constructed to ASHRAE standards."

52. A new section 9.10, entitled "Water and Sewer Infrastructure," shall be added to read, as follows:

"As set forth in the SEQRA Findings Statement, and except as otherwise provided in Section 6.09-A, the Redeveloper shall prepare and submit a water engineering study (the "Water Study"), unless prepared by the City or any of its agencies, together with its PUD Site Plan Application for Phase One, or fund said Study to be performed by the City. The Water Study shall (i) confirm whether adequate water supply and conveyance exists to service Phase One, and (ii) identify necessary improvements to the City's water supply and distribution system to service the full build-out of the Project, including, the need for a new water supply well either at Kelly Street or another location within the City. The study shall take into account the projected water demand of other reasonably foreseeable developments in the City at the time of the study.

As set forth in the SEQRA Findings Statement, and except as otherwise provided in Section 6.09-A, the Redeveloper shall prepare and submit a sewer engineering study (the "Sewer Study"), together with its PUD Site Plan Application for Phase One. The Sewer Study shall (i) confirm whether adequate capacity exists in the County's pumping station and force main to service Phase One, and (ii) identify the upgrades required to be implemented to service the full build-out of the Project, and the anticipated timing thereof.

The Redeveloper shall only be responsible for its proportionate share of the costs of construction of any necessary water and/or sewer infrastructure improvements that are directly related to the demand requirements of the Project. The City or County, as the case may be, shall be responsible for any costs of improvements required to support excess capacity for other projects or users. Failure of the City or County, as the case may be, to fund or secure funding of the share for which Redeveloper is not responsible shall toll any obligation of the Redeveloper that is contingent or dependent on such improvements, subject to the limitations of Section 2.19. The Redeveloper and the City shall work together in good faith to determine the appropriate party for performing said improvements and paying the costs of the improvements."

53. A new Section 9.11 entitled "Project Manager" shall be added to read, as follows:

"As soon as practicable following the date on which this Section 9.11 is added to the Agreement, and by no later than Redeveloper's submission of the Phase One PUD Site Plan and Subdivision Applications, Redeveloper shall retain a qualified consultant/project manager on a full-time basis to advance the Project in accordance with the terms set forth hereunder (the "Project Manager"). The Project Manager shall be

responsible for, among other things, coordinating the submittal and processing of all required Approvals from all agencies having jurisdiction, including the Environmental Agencies, coordinating the construction and completion of the Interim Amenities Plan, and otherwise coordinating with the Parties and outside agencies on all matters required for the Project to continue to progress diligently and in a reasonable manner. The Redeveloper shall be responsible for all costs related to the Project Manager. The Redeveloper shall provide the Agencies and/or the Planning Board with periodic written status reports, as well as appear before the Agencies and/or the Planning Board as requested, including with the Project Manager if requested, concerning Project status.

54. A new Section 12.02 shall replace Section 12.02, and read, as follows:

"Notwithstanding anything to the contrary in this Agreement, the Redeveloper may assign, transfer or convey any rights it has in any Phase of the Project to an Eligible Transferee, provided, (i) any required Public Amenities Security has been delivered to the Planning Board, (ii) written notice is provided to the Agencies at least forty-five (45) days in advance of such transfer, together with all reasonable documentation requested by the Agencies, (iii) the Redeveloper is in substantial compliance with all of its material obligations under this Agreement, the PUD Master Development Plan Approval, SEQRA Findings Statement, all other relevant governmental Approvals hereunder and any other applicable laws and regulations, (iv) the Transferee acknowledges in writing that as a successor in interest to the Redeveloper it is bound by all the terms and conditions of this Agreement, the relevant PUD Master Development Plan Approval, SEQRA Findings Statement, and all other relevant Approvals related to the Project insofar as they related to the interest being transferred, (v) the Transferee meets the criteria of an Eligible Transferee as defined herein and (vi) the Agencies provide their written consent, which shall not be unreasonably withheld, conditioned or delayed. A transferee shall be an Eligible Transferee only if its principals collectively have, among other criteria (i) a demonstrated history in constructing, owning and/or operating the residential or commercial component it is seeking to develop, (ii) sufficient capital or access thereto, to carry out the Redeveloper's obligations hereunder with respect to the interest being transferred, (iii) has not defaulted on a contract with the City, and (iv) an identified and demonstrated team capable of completing and/or operating the applicable Phase of the Project in accordance with the terms and conditions of this Agreement, the Conceptual Site Plan, the PUD Master Development Plan, the SEQRA Findings Statement, and any other Approvals related thereto."

55. A new Section 15.03, entitled "Local Participation Plan," shall be added to read, as follows:

"The Redeveloper shall make commercially reasonable best efforts to award no less than twenty percent (20%) of all construction-related and post-construction permanent jobs and construction-related contracts to qualified City residents and vendors. The Redeveloper shall make commercially reasonable best efforts to ensure that qualified City residents, minorities and women (collectively, "Local Workforce"), and qualified local, minority and women-owned businesses (collectively, "Local Businesses"), are

represented through this Local Participation Plan. The Redeveloper shall use commercially reasonable best efforts to undertake, among other things, the following steps:

- Host informational sessions in local housing developments, schools, churches and associations to notify residents, area businesses and advocacy groups about the various work opportunities that the Project presents;

- Refer qualified Local Workforce and Local Businesses to current parties with whom the Redeveloper has entered into contracts regarding the Project (e.g., subcontractors, vendors);

- Package construction contracts where feasible in sizes appropriate for smaller businesses;

- Encourage trade contractors to partner and subcontract with Local Businesses and hire Local Workforce;

- Create a Project-specific prequalification form to hand out to subcontractors interested in bidding opportunities; and

- Include contract provisions with trade contractors and subcontractors, which impose a prioritization of hiring qualified Local Businesses and Local Workforce.

Redeveloper shall also work with the Agencies and any other pertinent agencies in the City to secure a list of qualified local vendors, contractors and labor. The Redeveloper shall not be required to employ local residents or contract with local vendors at wages or contract prices that are higher than can be paid to non-residents for similar work or services.

Redeveloper shall maintain detailed records of the actions that it takes to achieve the participation goals in such forms as will enable the Agencies to determine that Redeveloper has implemented efforts in accordance with this Local Participation Plan. The Redeveloper shall periodically at the Agencies' request submit reports to the Agencies to demonstrate compliance with this Plan until two (2) years after completion of construction of the final Phase of the Project.

56. A new Section 17.03(d) shall be added to read, as follows:

"Notwithstanding anything to the contrary in Section 17.02 or Section 17.03 of this Agreement, the Parties recognize that due to the current grading plan adopted in connection with the PUD Master Development Plan, there would potentially be significant additional remediation costs required to bring the Property to true commercial and/or restricted residential use ("Grading Disposal Costs"), the precise characterization or impact of such soil has not yet determined. The Parties agree that the Agencies shall

not be responsible for such Grading Disposal Costs, provided, that to the extent permitted by law, the Agencies shall support the general concept of the Redeveloper re-grading the Property as shown on a plan entitled "Grading Plan G-1 and G-2," dated June 19, 2012, prepared by Posillico (the "Re-Grading"), or other proposal agreed upon by the Parties, which similarly minimizes the amount of net fill that would need to be disposed of off-site, and provided further that the Re-Grading, or other agreed upon proposal, is approved by the Planning Board and/or the Environmental Agencies. The Re-Grading is required to prepare the Property for the development of the Project. The Re-Grading would also avoid the potential significant adverse traffic impacts associated with truck trips to remove fill from the Property. In the event that the Re-Grading is not approved by the Planning Board and/or any Environmental Agency, then the Parties reserve all their respective rights and positions under this Agreement with respect to determining who is responsible for any additional Grading Disposal Costs that might occur hereunder, and nothing in this Agreement shall constitute a waiver or admission regarding such rights.

57. A new Section 17.03(e) shall be added to read, as follows:

If, prior to Closing of any Phase, residual conditions are identified based upon actual test results and other verifiable information requiring additional environmental remediation, other than Grading Disposal Costs, to allow the Property to be developed in accordance with the PUD Master Development Plan, neither Party shall be responsible for any such additional remediation costs, and the Parties shall use commercially reasonable best efforts to secure funding for such additional remediation from the Environmental Agencies and/or other third-party funding sources. In such event, if the commitment of such third-party or other funding source(s) is not sufficient for Redeveloper to obtain all Approvals and satisfy all Closing Conditions or if the remediation cannot be accomplished during construction hereunder as approved by the applicable Governmental Agencies, then the completion and/or closure of any such additional remediation, as the case may be, shall be a condition to Closing of that particular Phase. If, however, the commitment of such third-party or other funding source(s) is sufficient for Redeveloper to obtain all Approvals and satisfy all Closing Conditions, and the required remediation can be accomplished during construction as approved by the applicable Governmental Agencies, then the completion and closure of any such additional remediation shall not be a condition to Closing of that particular Phase. Nothing in this Agreement shall constitute a waiver or admission that additional environmental remediation is required to allow the Property to be developed in accordance with the PUD Master Development Plan.

58. A new Section 17.03(f) shall be added to read, as follows:

"Promptly following Closing of Phase One, the Parties shall jointly retain an environmental consultant to review and monitor all remedial work and compliance on behalf of the Parties to ensure that all proper protocols and requirements of EPA and DEC are implemented with respect to construction of all private development, mitigation, and Public Amenities associated with Phase One, and each subsequent Phase (the "Environmental Monitor"). The Redeveloper shall be responsible for all costs related

thereto. The retention agreement shall afford the Agencies the right, but not the obligation, to access the work of the Environmental Monitor. It is the intent of the Parties that the Environmental Monitor shall report to all the Parties, and that the Parties shall coordinate all communications with the Environmental Monitor so that neither Party shall have any substantive discussion with the Environmental Monitor without the other Party having the right to participate on reasonable notice. The retention agreement shall afford the Parties the right to terminate the Environmental Monitor for either Party's convenience at any time, provided that the Parties shall jointly retain another Environmental Monitor in a timely manner. The Environmental Monitor shall also provide the Agencies and/or the Planning Board with periodic written status reports concerning the Environmental Monitor's work, as well as appear before the Agencies and/or the Planning Board if requested.

59. The second sentence of Section 17.04(a) shall be deleted in its entirety.

60. A new Section 17.04-A shall be added, as follows:

"The Redeveloper shall take the lead after Closing of each Phase regarding any and all applications and approvals required from the Environmental Agencies for said Phase, provided, that the Agencies shall cooperate in good faith with the Redeveloper to the extent permitted by law in any manner reasonably necessary in furtherance of the Project, including, by assisting the Redeveloper in seeking funding from the Environmental Agencies to the extent that any additional remediation is required on the Property to permit the development of the Project in accordance with the PUD Master Development Plan."

61. At the end of Section 17.07(a)(8) add the following:

"The Parties contemplate jointly requesting this Release from the City at or around the same time that the Vested Rights Amendment is submitted to the City Council under Section 6.09-A, provided that the Release after it is executed by the City shall by its terms become effective upon the Closing of Phase One."

62. The first and third sentences of Section 17.07(b) shall be deleted.

63. At the end of Section 17.07(b), add the following:

"Notwithstanding anything to the contrary in the Agreement, the Agencies shall not be responsible for the Redeveloper's costs to obtain the environmental insurance policy described in Section 17.07(a)(5)."

64. Section 17.08 shall be deleted.

65. At the end of Section 18.02 add the following:

"The term "Force Majeure and Other Delay" shall also include specifically delay in the Redeveloper obtaining relevant Approvals for each Phase from the relevant Federal, State or County Agencies, provided, that the Redeveloper used its commercially reasonable best efforts to obtain such Approvals, used all commercially reasonable best efforts to remedy the delaying condition in a timely manner, and that the pursuit of such Approvals in the first instance was reasonable and in substantial conformance with the approved PUD Master Development Plan, SEQRA Findings Statement, and any other relevant Approvals or conditions thereunder. In no event shall Redeveloper's financial condition or inability to obtain funding or financing constitute "Force Majeure and Other Delay," unless the Redeveloper makes a showing to the Agencies through financial pro formas and other relevant documentation, as reasonably requested by the Agencies, that a commercially reasonable redeveloper, with a similar investment basis in the Project, would not pursue an application for or construction of a particular Phase of the Project under then current market conditions existing at the time, or that such funding or financing is then not generally available in the locale or for the uses contemplated at commercially reasonable rates and terms, provided that the Redeveloper shall explore the potential viability of other equivalent uses. All such documentation shall be maintained in strict confidence by the Agencies."

66. Section 14.01 shall be deleted, and replaced, as follows:

"In the event a Party provides the other Party with written notice of a dispute, or alleged default or breach, arising out of this Agreement, the Parties shall cooperate in good faith to explore a resolution to such dispute, or alleged default or breach. In the event that a resolution is not reached within a reasonable time, the non-defaulting or non-breaching Party may not terminate the Agreement, but instead may institute arbitration proceedings pursuant to Section 18.06 of this Agreement, provided, that it may only seek termination in the arbitration in accordance with the standards set forth hereunder.

The arbitrator shall determine the appropriate remedy, at law and/or in equity, to resolve any dispute, or alleged default or breach, arising out of this Agreement, with the goal of keeping the Project progressing in a diligent and commercially reasonable manner. The remedies available to the arbitrator shall include, but not be limited to, requiring specific performance, requiring Project modification(s), subject to any applicable regulations and/or approvals, instituting mediation, awarding any appropriate damages or penalties, and/or declaring a default or breach and terminating the Agreement. Said determination shall be binding upon the Parties, and shall not be subject to review in a court action, except a determination terminating the Agreement. The arbitrator shall not find a default or breach of this Agreement justifying termination against either Party and/or re-vesting title in the Agencies pursuant to Sections 9.03 and 14.07, as the case may be, unless the arbitrator makes a specific finding that the defaulting or breaching Party's actions or inactions relating to its material obligations hereunder constituted extreme or egregious unreasonableness under a rational commercial person standard ("Basis For Termination"), in which case the remedies of this Article 14 shall apply. The arbitrator may also find a Basis For Termination against the Agencies, triggering the remedies available to Redeveloper under this Article 14, in

the event that the City enacts a zoning or other regulatory change that materially negatively impacts Redeveloper's ability to develop and construct the Project, or any material element thereof, approved in the PUD Master Development Plan. In the event that the arbitrator determines to terminate the Agreement and/or re-vest title in the Agencies pursuant to Sections 9.03 and 14.07, either Party may litigate the issues presented to the arbitrator in a competent court of law under a standard that affords the Parties a trial *de novo* of all matters considered by the arbitrator, provided, that either Party may admit the arbitrator's determination into evidence, the probative value of which shall be determined by the Court. The Court may adopt or reject the arbitration decision in whole or in part. Any Party electing to litigate the issues presented to the arbitrator shall commence said litigation within forty-five (45) days of receipt of the arbitrator's determination. In the event of such litigation, the Parties agree that they shall in good faith prosecute said litigation expeditiously, including with respect to discovery, without waiving any of their respective rights, and that this obligation may be enforced by the trial court as it may deem appropriate.

67. Delete Sections 14.02 (i) – (iv), and replace the introductory sentence to the remainder of Section 14.02 (which begins with the language "In the event . . ."), as follows:

"In the event that the arbitrator finds a Basis For Termination due to a default or breach by the Agencies, or the City of Section 6.04 regarding material zoning or other regulatory changes, then: . . ."

68. Section 14.02(a) shall be amended so that it reads, as follows:

"within ten (10) days after the passage of time in which the Agencies or City (with respect to matters as to which the City has potential liability or obligations under this Agreement) may commence litigation regarding the issues presented to the arbitrator and no such litigation having commenced, or within ten (10) days after the date of the trial court's decision and order making a similar determination as the arbitrator to terminate the Agreement, the Agencies shall pay or cause the Escrow Agent to pay the Redeveloper the Deposit and;"

69. Delete the introductory language in Section 14.06 that reads "In the event that," delete Sections 14.06(a) – (d), and replace the introductory sentence to the remainder of Section 14.06 (which begins with the language "then, in any of the events . . ."), as follows:

"In the event that the arbitrator finds a Basis For Termination due to a default or breach by the Redeveloper, then within ten (10) days after the passage of time in which Redeveloper may commence litigation regarding the issues presented to the arbitrator and no such litigation having commenced, or within ten (10) days after the date of the trial court's decision and order making a similar determination as the arbitrator to terminate

the Agreement, the arbitrator's determination (i) the Deposit shall be paid to the Agencies as liquidated damages . . ."

70. The following shall be added to the end of Section 14.06, sub-clause (ii):

", or to the Redeveloper Advances"

71. Section 14.06 shall be amended so that a new sub-clause (iv) is inserted before the words "and neither the Redeveloper", and reads, as follows:

"Redeveloper shall have no further rights with respect to the remainder of the Property that it does not own"

72. Section 14.06 shall be amended so that a new sub-clause (v) is inserted after new sub-clause (iv), and reads as follows:

"and Redeveloper shall continue to be responsible in perpetuity for maintaining the existing Public Amenities that are located on those portions of the Property owned by the Redeveloper"

73. At the end of Section 14.07, add the following:

"Notwithstanding anything to the contrary, only the arbitrator, or Court, as applicable, may determine that title shall revert to the Agencies as provided in Sections 9.03 and 14.07 only upon finding a Basis For Termination due to a default or breach by the Redeveloper in connection with any of its material obligations under the Agreement."

74. Section 14.08(b) shall be deleted, and replaced, as follows:

"Second, to reimburse the Redeveloper, its successor or transferee, up to an amount equal to the sum of the Purchase Price paid by Redeveloper for the Property (or allocable to the part thereof), and the amounts actually invested or expended by Redeveloper in preparing and processing a PUD Site Plan and/or Subdivision Application and otherwise obtaining Approvals for the portion of the Property to which title has revested in the Agencies, in an amount not to exceed fifty percent (50%) of the balance remaining after the reimbursements made to IDA under 14.08(a)."

75. The term "Improvements" as defined under Section 8.01(d), and as amended in the Third Amendment, shall be further amended by adding the following language at the end of the definition:

", including all private development and Public Amenities."

III. Ratification of the Agreement. In each instance in which a provision of this Fourth Amendment may contradict or be inconsistent with the provision or provisions of

the Agreement, the provisions of this Fourth Amendment shall prevail and govern and the contradicted or inconsistent provisions of the Agreement shall be deemed amended accordingly. In each instance in which there is an ambiguity or uncertainty whether a provision of this Fourth Amendment may contradict or be inconsistent with a provision(s) of the Agreement, the Parties shall use best efforts and cooperate to reconcile and resolve the ambiguity in accordance with the intent of the Parties, and execute an amendment to the Agreement thereof if deemed necessary and appropriate by the Parties. The Agreement as so modified and all of the other terms and conditions of the Agreement are hereby ratified and confirmed. This Amendment may be executed in counterparts all of which, taken together, shall constitute one and the same agreement.

IV. Effective Date. The Fourth Amendment shall become effective upon the later of (i) the City Council's execution of a separate agreement with the Parties regarding the City's obligations under the Agreement (the "Proposed City Agreement"), which Proposed City Agreement shall cover the following matters: (a) Garvies Point Road Project as referenced in Sections 2.10, 3.05 and 6.06, (b) Indemnification Agreement as referenced in Sections 7.10 and 9.08(f), (c) water infrastructure as referenced in Section 9.10, (d) conveyance of parcel 7 as referenced in Section 6.09-A, and (e) maintenance of the Ferry Terminal and Boat Ramp as referenced in Section 9.08(f), or (ii) the determination by the Parties' appraisers of a Final Fair Market Value pursuant to Section 3.01(b)(iii), provided that Section 3.01 shall become effective upon the execution of this Agreement. Failure by the City Council to execute the Proposed City Agreement shall not constitute a default or breach by, or Basis For Termination against, the City and/or the Agencies under the Agreement.

IN WITNESS WHEREOF, each of the IDA and the CDA has caused this Fourth Amendment to be duly executed in its name and behalf of its Chairman and the

[intentionally omitted]

Redeveloper has caused this Fourth Amendment to be duly executed on or as of the date first above written.

ATTEST:

GLEN COVE INDUSTRIAL DEVELOPMENT AGENCY

By: _____
Ralph V. Suozzi, Chairman

ATTEST:

GLEN COVE COMMUNITY DEVELOPMENT AGENCY

By: _____
Ralph V. Suozzi, Chairman

RXR GLEN ISLE PARTNERS LLC,

ATTEST:

RXR GLEN ISLE HOLDINGS LLC, Manager

By: RXR FUND II GLEN ISLE INVESTOR LLC, Member

_____

By: _____
Frank Adipietro, Authorized Person

ATTEST:

RXR GLEN ISLE MANAGER LLC, Manager

_____

By: _____
Frank Adipietro, Authorized Person

ATTEST:

POSILLICO MANAGEMENT AT GLEN ISLE LLC, Manager

_____

By: _____
Michael Posillico, Manager

Redeveloper has caused this Fourth Amendment to be duly executed on or as of the date first above written.

ATTEST:

GLEN COVE INDUSTRIAL DEVELOPMENT AGENCY

_____

By: _____
Ralph V. Suozzi, Chairman

ATTEST:

GLEN COVE COMMUNITY DEVELOPMENT AGENCY

_____

By: _____
Ralph V. Suozzi, Chairman

RXR GLEN ISLE PARTNERS LLC,

ATTEST:

RXR GLEN ISLE HOLDINGS LLC, Manager

By: RXR FUND II GLEN ISLE INVESTOR LLC, Member

Jessie DiMaio

By: _____
Frank Adipietro, Authorized Person

ATTEST:

RXR GLEN ISLE MANAGER LLC, Manager

Jessie DiMaio

By: _____
Frank Adipietro, Authorized Person

ATTEST:

POSILLICO MANAGEMENT AT GLEN ISLE LLC, Manager

Audra Schmitt

By: _____
Michael Posillico, Manager