

9/20/24

Deleted: ¶

FIRST AMENDMENT TO REDEVELOPMENT AGREEMENT AND PURCHASE AND SALE
AGREEMENT

THIS FIRST AMENDMENT TO REDEVELOPMENT AGREEMENT AND PURCHASE AND SALE AGREEMENT (“**First Amendment and Purchase Agreement**”) is made this ____ day of September, 2024 (the “**Effective Date**”), by and between THE TOWNSHIP OF WEST ORANGE, NEW JERSEY, a public body corporate and politic of the State of New Jersey with offices at 66 Main Street, West Orange, New Jersey 07052 (“**Seller**” or the “**Township**”), and MDGA – WEST ORANGE DOWNTOWN REDEVELOPMENT, LLC, a New Jersey limited liability company with offices at 3 Centre Drive, Monroe, New Jersey 08831 (“**Purchaser**” or “**Redeveloper**”). Purchaser and Seller are herein individually referred to as a “**Party**” and collectively as the “**Parties**”.

RECITALS

WHEREAS, Seller is the owner of certain real property designated as Lots 15, 16 and 51 in Block 115 on the tax maps of the Township of West Orange, New Jersey, which properties are located north of Lakeside Avenue, west of Watchung Avenue and south Columbia Street (the “**Property**”);

WHEREAS, the Property is part of an area designated by Seller as an “area in need of redevelopment” pursuant to the provisions of the *Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.*, as amended and supplemented (the “**LRHL**”), and Seller is entering into this First Amendment and Purchase Agreement to convey the Property to Purchaser as the designated “redeveloper” of the Property, pursuant to the provisions of the LRHL;

WHEREAS, the Property is subject to the Film Services Overlay District (“**FSOD**”) as set forth in that certain Fourth Amendment to the Downtown Redevelopment Plan adopted on September 14, 2021 (the “**Redevelopment Plan**”);

WHEREAS, Purchaser desires to construct a film and video production campus containing between 150,000 and 350,000 square feet (the “**Project**”) on the Property, which is adjacent to the site of the world’s first film production studio;

WHEREAS, in furtherance of the Project the Parties have entered into that certain Redevelopment Agreement dated December 5, 2023, pursuant to which Purchaser agrees to construct the Project on the Property (the “**Original Redevelopment Agreement**”) (the Original Redevelopment Agreement and the First Amendment and Purchase Agreement collectively referred to herein as the “**Agreements**”);

WHEREAS, the Original Redevelopment Agreement requires Seller to sell the Property to Purchaser in connection with the development of the Project; and

WHEREAS, the Parties seek to set forth their agreement regarding the purchase and sale of the Property in a comprehensive document setting forth their mutual understanding, as well as to amend the Original Redevelopment Agreement to, among other things, extend the term thereof.

NOW, THEREFORE, in consideration of the above recitals and the mutual promises, covenants and undertakings contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. THE PROPERTY.

1.1 Seller agrees to sell to Purchaser and Purchaser agrees to buy from Seller, the Property, together with all of the following, if any (all of which shall be deemed to be included in the

defined term "Property"): all easements, rights of way or use, licenses, permits and rights to same belonging to or appurtenant to the Property; any strips or gores of land adjoining the Property; all mineral, oil, and gas rights and profits, water rights and sub-terrain rights; all sewer and utility rights allocated to the Property and the improvements thereon; all right, title, and interest of Seller as owner of the Property in and to any roads, streets and ways, public or private, serving the Property; and appurtenances to the Property; all right, title and interest of Seller as owner of the Property in and to any land lying in the bed of any street, road, avenue, lane or right-of-way in front of, adjoining or adjacent to the Property whether currently existing or to be obtained by Seller hereunder; other than any of the right, title or interest set forth herein that Seller, as a municipal corporation of the State, may have, or otherwise may be required to hold, preserve, possess, occupy or maintain, as a matter of law.

1.2 Lot 51, Block 115 ("**Lot 51**") is currently occupied by the owner of adjacent Lot 16.01, Block 115 on a month to month lease for its towing operation. Notwithstanding anything to the contrary, Purchaser shall have the right to elect not to take title to Lot 51, in which event the Purchase Price shall be reduced by Fifty Three Thousand Two Hundred Eighty (\$53,280) Dollars, which is the amount equal to the size of Lot 51 (.06 acre) multiplied by Eight Hundred Eighty Eight Thousand (\$888,000) Dollars per acre.

2. PURCHASE PRICE AND PAYMENT. Purchaser agrees to pay, and Seller agrees to accept, as and for the total purchase price for the Property the sum of Ten Million Eight Hundred Thirty Three Thousand Six Hundred (\$10,833,600) Dollars (the "**Purchase Price**"). At Closing, Purchaser shall pay the Purchase Price to Seller, less any sum to be credited to the Purchase Price in accordance with the terms of this Agreement. The Parties acknowledge that Purchaser has paid to Seller the Initial Payment in the amount of Two Hundred Thousand (\$200,000) Dollars and the Extension Payment in the amount of Two Hundred Thousand (\$200,000) Dollars, pursuant to Section 3.2(a) and (b) of the Original Redevelopment Agreement. The Initial Payment and Extension Payment are non-refundable, except as specifically provided otherwise in Section 3.3 of the Original Redevelopment Agreement, and shall not be credited to the Purchase Price at Closing.

3. ADJUSTMENTS AND PRORATIONS. All ad valorem taxes, special assessments, payments in lieu of taxes and other state, county or municipal taxes, charges and assessments affecting the Property will be prorated as of 12:01 a.m. on the Closing Date (as defined in Section 16). In the event final bills for such taxes are not available at Closing, such taxes will be prorated on the basis of the taxes for most recent year for which final bills are available.

4. TITLE. Within ten (10) days following the Effective Date, Purchaser shall obtain and provide to Seller a copy of a title commitment (the "**Title Commitment**") issued by a title company of its choosing, licensed to do business in New Jersey (the "**Title Company**"), together with a statement specifying any defects in title to which Purchaser objects (said defects being "**Title Objection(s)**") and said statement being "**Purchaser's Statement**"). Seller shall notify Purchaser within ten (10) days after receipt of Purchaser's Statement whether Seller is unable to remedy any of the Title Objections. In the event Seller notifies Purchaser within ten (10) days of receipt of Purchaser's Statement that it cannot remove any one or more of the Title Objections, Purchaser shall have the right to either (a) waive the defect(s) and close title without abatement or reduction of the Purchase Price, or (b) terminate this Agreement and obtain a refund of the entire Deposit, and upon such refund, except as expressly provided herein, neither Party shall have any further obligation hereunder. If Seller does not advise Purchaser of its inability to remove any Title Objection within ten (10) days of its receipt of Purchaser's Statement, time being of the essence, Seller shall removal Title Objections prior to, and as a condition of, Closing. All encumbrances contained in the Title Commitment which are not contained in Purchaser's Statement, or which are contained in Purchaser's Statement but Seller has declared it is unable to remedy and to which Purchaser has waived its objection as provided herein, are collectively the "**Permitted Encumbrances**". All encumbrances created in connection with the Development Approvals (as defined in Section 11) are also Permitted Encumbrances.

5. AMENDMENT TO ARTICLE III OF THE ORIGINAL REDEVELOPMENT AGREEMENT WITH RESPECT TO PURCHASER'S DUE DILIGENCE. Section 3.2 of the Original Redevelopment Agreement is hereby amended as follows:

5.1 Due Diligence Period. Purchaser shall have twelve (12) months from the Effective Date of this First Amendment and Purchase Agreement as the "**Due Diligence Period**". The Due Diligence Period hereunder can be extended by mutual agreement for an additional period of six (6) months. During the Due Diligence Period, Purchaser may make inquiries to determine the feasibility of its intention to purchase the Property and construct the Project. During the Due Diligence Period, Purchaser and its agents, at Purchaser's own risk, shall have the right to enter the Property for the purposes of conducting tests, field investigations, environmental audits, marketing studies, feasibility studies and the like (collectively the "**Diligence Activities**") in accordance with the provisions hereof. Purchaser may, in its sole discretion, terminate this Agreement prior to the expiration of the Due Diligence Period by written notice to Seller for any reason or for no reason, and, except as otherwise set forth in the Agreements, thereafter neither Party shall have any further obligations under the Agreements, except for such obligations that specifically survive the termination of the Agreements. For avoidance of doubt, in the event of such termination the Original Redevelopment Agreement shall be terminated simultaneously with the termination of this First Amendment and Purchase Agreement.

5.2 Diligence Activities. During the Diligence Period, Purchaser and/or its agents, contractors, engineers, attorneys, employees and representatives shall have the right to enter the Property to conduct Diligence Activities pursuant to the terms of that certain Pre-Closing Access Agreement between the Parties dated December 5, 2023 (the "**Access Agreement**"). All such studies and investigations shall be conducted at Purchaser's sole expense, without risk, cost or liability to Seller. All Diligence Activities shall be conducted in accordance with all applicable laws. During the Due Diligence Period Purchaser shall continue to provide progress reports as required by the Original Redevelopment Agreement, demonstrating that Redeveloper is undertaken the activities hereunder with all diligence and in good faith, as required under the Original Redevelopment Agreement.

5.3 Continued Access. Provided Purchaser does not exercise its right to terminate this First Amendment and Purchase Agreement pursuant to Section 5.1 or as otherwise permitted pursuant to the Agreements, Purchaser and its agents and contractors shall continue to have the right to enter the Property pursuant to the terms of the Access Agreement up to the date of Closing.

6. SELLER'S REPRESENTATIONS AND WARRANTIES. Seller represents and warrants to Purchaser as follows:

6.1 Seller has the power and authority to enter into this First Amendment and Purchase Agreement and to perform its obligations hereunder. This First Amendment and Purchase Agreement and all other documents, agreements and instruments executed and/or to be executed by Seller in connection herewith have been duly authorized by all necessary action of Seller and same shall be duly executed and delivered by Seller at Closing

6.2 This First Amendment and Purchase Agreement has been duly executed and delivered by Seller and constitutes a valid, binding and enforceable obligation of Seller in accordance with its terms. The person(s) executing this First Amendment and Purchase Agreement have been duly authorized and empowered to so execute this Agreement and all documents necessary and appropriate to consummate the transaction contemplated thereunder.

6.3 The execution and delivery of this First Amendment and Purchase Agreement and performance of the obligations set forth in this First Amendment and Purchase Agreement: (i) shall not be

a breach or violation of any agreement to which Seller is a party and Seller shall have obtained the necessary approvals for the execution and performance of same, and (ii) do not conflict with any agreement, indenture or other instrument, order, judgment, injunction, award or decree of any governmental body, administrative agency, court, law, rule or regulation affecting Seller or by which Seller or any of Seller's assets or properties is or are bound.

6.4 No brokerage or other compensation is or will be due or payable to any person, firm, corporation or other entity on account of the sale contemplated by this First Amendment and Purchase Agreement.

7. PURCHASER'S REPRESENTATIONS. Purchaser represents and warrants to Seller as follows:

7.1 Purchaser is, and on the Closing Date shall be, duly formed, validly existing and in good standing under the laws of the State of New Jersey and authorized to conduct business in the State of New Jersey. Purchaser has the power and authority to enter into this First Amendment and Purchase Agreement and to perform its obligations hereunder. This First Amendment and Purchase Agreement and the transaction contemplated hereunder have been, and will be on the Closing Date, duly authorized and approved by all necessary action by Purchaser in accordance with its organizational documents and governing law. This First Amendment and Purchase Agreement and all other documents, agreements and instruments executed and/or to be executed by Purchaser in connection herewith have been duly authorized by all necessary action of the Purchaser and same shall be duly executed and delivered by Purchaser at Closing.

7.2 This First Amendment and Purchase Agreement has been duly executed and delivered by Purchaser and constitutes a valid, binding and enforceable obligation of Purchaser in accordance with its terms, subject to bankruptcy and other debtor relief laws. The person(s) executing this First Amendment and Purchase Agreement have been duly authorized and empowered to so execute this First Amendment and Purchase Agreement and all documents necessary and appropriate to consummate the transaction contemplated thereunder.

7.3 The execution and delivery of this First Amendment and Purchase Agreement and performance of the obligations set forth herein: (i) shall not be a breach or violation of any agreement to which Purchaser is a party, and Purchaser has obtained the necessary approvals for the execution and performance of same; and (ii) do not conflict with any agreement, indenture or other instrument, order, judgment, injunction, award or decree of any governmental body, administrative agency, court, law, rule or regulation affecting Purchaser or by which Purchaser or any of its assets or properties is or are bound.

7.4 No bankruptcy, insolvency, rearrangement or similar action or proceedings, whether voluntary or involuntary, is or are pending or threatened against the Purchaser, or to the best of Purchaser's knowledge, against any partner, member, affiliate or other related entity, and the Purchaser has no intention of filing or commencing any such action or proceeding.

7.5 No brokerage or other compensation is or will be due or payable to any person, firm, corporation or other entity on account of the sale contemplated by this First Amendment and Purchase Agreement.

8. AMENDMENT TO ARTICLE V: PROPERTY ACQUISITION. Section 5.1 of the Original Redevelopment Agreement is hereby deleted and replaced with the following:

As of the Effective Date, Purchaser has not confirmed if the acquisition of the Twin Towing property designated as Block 115, Lot 16.01, located at 1 Lakeside Avenue ("**1 Lakeside**") is necessary or desirable for inclusion in the Project. In the event Purchaser determine that 1 Lakeside should be included in the Project, Purchaser shall use commercially reasonable efforts to acquire title to 1 Lakeside in an arm's length transaction between Purchaser and the owner(s) of 1 Lakeside, based upon terms determined by Purchaser to be reasonable and feasible for the Project. If Purchaser determines 1 Lakeside is necessary and desirable for inclusion in the Project and is unable to acquire 1 Lakeside, Purchaser shall advise the Township, including the details of its efforts to acquire 1 Lakeside and specific offers made for such purchase. Seller shall review and the Parties will mutually assess whether it is economically feasible and remains necessary or desirable for Purchaser to seek to acquire 1 Lakeside, either through negotiation and voluntary contract with the owners or by the Township's exercise of the power of eminent domain. In such event, the Parties will enter into a second amendment to the Agreements outlining their respective rights and obligations with respect to such acquisition, which shall specifically include that the costs for such acquisition will be borne solely by Purchaser. Accordingly, any offers for the purchase of 1 Lakeside or for the provision of relocation or other assistance offered to be by Seller shall be subject to approval by Purchaser. In the event that the Parties mutually determine that the acquisition of 1 Lakeside is necessary or desirable apart from direct inclusion in the Project but for the accomplishment of the goals and objectives of the Redevelopment Plan, the Township may determine to acquire 1 Lakeside and Purchaser agrees to reasonably consider providing financial assistance to such acquisition to the extent that such acquisition and redevelopment of 1 Lakeside, in the sole opinion of Purchaser, would be beneficial to the Project and Purchaser's investment.

9. FINANCIAL AGREEMENT. Section 13.1 of the Original Redevelopment Agreement is hereby deleted and replaced with the following:

Notwithstanding anything to the contrary, Purchaser's obligation to purchase the Property is expressly conditioned upon Purchaser executing a financial agreement with Seller pursuant to the Long Term Tax Exemption Law (N.J.S.A. 40A:20-1 et. seq.) and, if such need is demonstrated, the Redevelopment Area Bond Financing Law (N.J.S.A. 40A:12-1 et. seq.) providing for a Payment in Lieu of Tax ("**PILOT**") arrangement. (the "**Financial Agreement**"). The Township shall reasonably approve Redeveloper's application for a Financial Agreement within ninety (90) days of submission. In the event the Township unreasonably rejects and fails to approve Redeveloper's application for a Financial Agreement within ninety (90) days of submission, Redeveloper shall have the right to terminate the Agreements, in which event the Township shall refund the Extension Payment and neither Party shall have any further rights or obligations under the Agreements. The determination of the reasonableness of the Township's rejection of the Financial Agreement shall be assessed by: (a) with respect to the need for financial assistance- review of applicable current typical market criteria and conditions for what is deemed by the New Jersey Economic Development Authority (NJEDA)) for purposes of evaluating applications for Aspire Tax Credits as an acceptable rate of return on similar projects receiving financial assistance through a PILOT and (b) with respect to the Township's projected revenue- (i) whether Purchaser has demonstrated that the proposed Financial Agreement would generate surplus funds for the Township above the anticipated costs of municipal services to be estimated by a fiscal impact study submitted by Redeveloper to the Township and reviewed and approved by the Township's financial consultant, and (ii) the Township would receive greater revenue under the Financial Agreement that would exceed, by a minimum of 100%, the ad-valorem taxes based upon the Township's rate applied to the current assessment of Land and Improvements, as of the date of this Agreement.

10. FILM CREDIT. Notwithstanding anything to the contrary, Purchaser's obligation to purchase the Property is expressly conditioned on Purchaser being designated a Studio Partner or Film-

Lease Partner Facility pursuant to the New Jersey Film and Digital Media Tax Credit Program, and obtaining a tax credit in connection therewith (the “**Film Credit**”).

11. **ASPIRE CREDIT.** Notwithstanding anything to the contrary, Purchaser’s obligation to purchase the Property is expressly conditioned on Purchaser also obtaining incentives from the New Jersey Economic Development Authority through the Aspire Tax Credit Program under the New Jersey Economic Recovery Act of 2020 (NJAC 19:31-23 et.seq.), as may be necessary and sufficient to bridge the gap between Project costs and available financing (the “**Aspire Credit**”).

12. **DEVELOPMENT APPROVALS.** Article 4 of the Original Redevelopment Agreement is hereby amended to add the following provisions:

12.1 Notwithstanding anything to the contrary, Purchaser’s obligation to purchase the Property is expressly conditioned on Purchaser obtaining all final and unappealable permits, approvals, licenses and consents necessary for construction and operation of the Project, including, but not limited to, (i) a redevelopment plan under the LRHL reasonably acceptable to Purchaser, (ii) preliminary and final site plan approval with conditions reasonably acceptable to Purchaser, (iii) County planning board approval, if necessary, with conditions reasonably acceptable to Purchaser, (iv) soil conservation and control district approval with conditions reasonably acceptable to Purchaser, (v) New Jersey Department of Environmental Protection permits and approvals, including wetlands and flood hazard permits, if necessary; (vi) all permits and approvals necessary for water and sewer service, and all other utilities necessary for the Project, (vii) “will serve letters” from all applicable utilities; and (viii) all other permits, approvals and consents necessary for issuance of a building permit for the Project upon submission of conforming architectural plans and the posting of bonds, if any (collective the “**Development Approvals**”).

12.2 It shall be reasonable for Purchaser to object to any of the following regarding the Development Approvals, which will result in the Development Approvals contingency not being met. The Development Approvals:

(a) have material deviations from the narrative attached to the Original Redevelopment Agreement as Exhibit A;

(b) would require, or would result in, the expenditure of more than ~~Three~~ Hundred Thousand (\$300,000) Dollars ~~by the Purchaser~~ on off-site improvements and related fees, in the aggregate, including, but not limited to, extending existing sewer or water lines and sewer connection fees. Such amount can be increased to \$1,000,000, if such funds are obtained from state or local grant programs;

(c) contain conditions, the compliance with which is outside of Purchaser’s control;

(d) require the imposition of any covenants, easements or agreements regarding the Property which (i) contain any forfeiture or revision clause or (ii) would impair the development, use, leasing, marketing, financing or enjoyment of the Property or the Project, or any element thereof which would diminish the value of the Property or Project;

(e) require the dedication or acquisition of any lands, rights of way, easements or other property rights;

(f) contain any unreasonable restriction on Purchaser’s ability to construct, use, lease, market or finance the Property; or

Deleted: One

Deleted: 100,000

(g) contain any illegal condition or requirement that, in the reasonable judgment of Purchaser, could be voided in a legal proceeding either before or after expiration of the appeal period.

12.3 Applications and requests for all Development Approvals shall be filed in the name of Purchaser when possible, but may be filed in the name of Seller when necessary. Seller shall cooperate with Purchaser in the filing of said applications and shall promptly provide any information and execute any and all documents reasonably required of it as part of Purchaser's attempt to obtain the Development Approvals.

13. **ENVIRONMENTAL CLEANUP.** The Parties will work cooperatively toward obtaining a Response Action Outcome for the entire Property which will allow for the construction and operation of the Project without material additional cost and in a manner reasonably acceptable to Purchaser (the "RAO"). In connection therewith:

13.1 The costs for the investigation, testing, analysis and environmental cleanup necessary to obtain the RAO, including the Township's environmental legal counsel and other Township professional fees (collectively the "**Remediation**") remain undetermined at this time based upon the level of investigation that has occurred. Purchaser shall be responsible to obtain a Phase 2 environmental assessment for Block 115, Lot 16 (the DPW Site), as part of its Due Diligence. Seller intends to seek various grants and other funds to assist in the Remediation. While Seller is seeking the funding necessary to complete the Remediation, Purchaser agrees to advance up to Seven Hundred and Fifty Thousand (\$750,000) Dollars to be used for the Remediation ("**Purchaser's Remediation Loan**"), each advance to be funded upon Purchaser's approval of the Remediation activities subject to each advance and the costs incurred in connection with same. In the event Seller is successful in securing the financial assistance, such funds shall be used in advance or in lieu of Purchaser's Remediation Loan. Further, Seller may utilize the funds posted in the Remedial Funding Source escrow posted with the NJDEP in the amount of \$485,400 in connection with the Remediation of Block 115, Lot 15 (the Barton Press site). While the Remediation will be undertaken by the Seller's Licensed Site Remediation Professional(s) ("**LSRP**"), both Parties shall review and approve the Remediation activities and costs incurred in connection with same. If Purchaser's Remediation Loan has been expended and additional Remediation funding is necessary, Purchaser shall advance up to an additional Seven Hundred and Fifty Thousand (\$750,000) Dollars to be used for the Remediation (the "**Additional Remediation Funding**"), with the Remediation costs continuing to be subject to review and approval of both Parties. In the event Purchaser provides any Additional Remediation Funding, the term "Purchaser's Remediation Loan" shall include such additional funds, up to a total of One Million and Five Hundred Thousand (\$1,500,000) Dollars. If Seller is unable to obtain all of the funding necessary to complete the Remediation through the above sources the Parties shall share the costs equally (50/50), with Purchaser being responsible to contribute, without setoff or Purchase Price credit, up to One Million Dollars (\$1,000,000) to complete the remainder of the Remediation (the "Supplemental Remediation Funding"). In the event that there is still Remediation necessary after the Parties have expended the Supplemental Remediation Funding, the Parties shall confer and seek in good-faith to reach a mutually-acceptable arrangement for the funding of completion of the Remediation, it being understood in no event shall Purchaser be obligated to pay for any additional portion of the Remediation, absent further agreement between the Parties, its sole obligation in that regard being making the Purchaser's Remediation Loan and paying the Supplement Remediation Funding. In the event Closing occurs, Purchaser shall receive a credit against the Purchase Price equal to the amount of Purchaser's Remediation Loan, without interest. In the event this Agreement is terminated prior to Closing, Seller shall refund Purchaser's Remediation Loan, without interest, within thirty (30) days of such termination.

Deleted: attorney's

13.2 During the Due Diligence Period, and prior to Closing, Seller shall continue efforts to complete all portions of the Remediation necessary in order to obtain a letter from Seller's LSRP(s) indicating the Remediation is complete except for installation of a cap, which will consist of construction

of the Project, and recording of a deed notice, which will occur once the cap is installed, and following completion of the cap and filing of the Deed Notice the LSRP(s) will issue the RAO (the “**LSRP Remediation Letter**”). In the event that all Purchaser Conditions Precedent are met other than the LSRP Remediation Letter, the LSRP shall set forth in detail all additional remaining Remediation to be completed and the Parties shall confer in good-faith to determine if terms can be reached to proceed to Closing upon reaching mutually-acceptable terms regarding the financing of such remaining costs. Such terms may include Purchaser taking over the Remediation from Seller and deducting all or a portion of the costs incurred in connection therewith from the Purchase Price. In the event that the Parties cannot reach an agreement for proceeding with the Remediation as set forth in this Section 13.1, Purchaser may terminate this Agreement upon written notice to Seller at any time prior to the date upon which the LSRP Remediation Letter is issued, in which event Seller shall refund to Purchaser, within thirty (30) days of said termination, Purchaser’s Remediation Loan, without interest. Notwithstanding the foregoing, it is understood in no event shall Purchaser be obligated to pay for any portion of the Remediation, absent for the agreement between the Parties, its sole obligation in that regard being making Purchaser’s Remediation Loan

13.3 Demolition of the Barton Press and DPW buildings shall be part of the Remediation and it is anticipated that Seller shall be responsible for performing said demolition and commencing performance of all Remediation of the areas formally occupied by said buildings in order to obtain the RAO.

14. COOPERATION AND COORDINATION WITH SURROUNDING DOWNTOWN REDEVELOPMENT EFFORTS. Purchaser recognizes that the Project is part of a larger Redevelopment Area where other projects are intended to be developed, pursuant to the Redevelopment Plan. Purchaser has engaged in discussions with the Township concerning concepts for coordination and integration of the Project with such other redevelopment initiatives and projects and agrees to continue such discussions as the details of the Project Concept Plans are further developed. In accordance therewith, Section 4.3(a) of the Original Redevelopment Agreement is deleted and replaced with the following:

“(a) Township Approval of Concept Plan. Prior to conclusion of the Due Diligence Period Redeveloper shall provide a more detailed concept plan for Township approval which shall be substituted as Exhibit A to this Agreement. The concept plan will also be submitted by the Seller to the Downtown Alliance solely for advisory and non-binding input. Approval of Redeveloper’s concept plan shall be a completeness item before the Planning Board as part of the Redeveloper’s application for Site Plan approval. The Township has requested that Purchaser review, consider and discuss in good faith the following items in furtherance of potential coordination of the Project with other, yet to be determined, potential surrounding redevelopment projects:

(i) Whether the design of the planned parking lot at the end of Babcock Place could be expanded, at the Township’s cost, to allow for municipal parking;

(ii) The improvement of rights of way around the Property to alleviate traffic and provide better circulation in the area.

Each of the foregoing items shall be considered to the extent same can be feasibly provided consistent with the overall Project concept plan and so as to not interfere with or diminish the design or operations of the planned studio, as well as consideration of the economic feasibility of such items.

The concept plan shall include pedestrian access to facilitate people working within the Project Site to access the downtown to patronize local businesses, which access is currently contemplated to be on Lakeside Avenue and a location on the other side of the Project Site on either, but not both of, Babcock Place or the section of Columbia Street nearest to Babcock Place, but may be located at additional and/or

Deleted: <#>Plans to integrate the connectivity of the movie studio use with the Redevelopment Area; and¶
(iii)

another location(s) mutually acceptable to the Parties.

15. CONDITIONS PRECEDENT TO PURCHASER'S OBLIGATION TO CLOSE. Notwithstanding anything to the contrary, Purchaser's obligation to consummate its acquisition and to make payment of the Purchase Price shall be subject to the satisfaction on or before the Closing, each of the following conditions precedent (collectively the "**Purchaser Conditions Precedent**");

15.1 Seller delivering clear and marketable title to the Property in accordance with the provisions hereof, free and clear of all debris and liens and other encumbrances, other than the Permitted Encumbrances;

15.2 Seller's warranties and representations herein shall be true and correct in all material respects as of the date of Closing as if made on and as of that date;

15.3 There shall be no administrative agency, litigation or governmental proceeding of any kind whatsoever, pending or threatened against Seller that would materially and adversely affect the Property prior to or after Closing;

15.4 Seller shall not be in default of any term of this Agreement;

15.5 Full execution of the Financial Agreement;

15.6 Purchaser's receipt of the Film Credit;

15.7 Purchaser's receipt of the Aspire Credit;

15.8 Purchaser's receipt of the Development Approvals;

15.9 Issuance of the LSRP Remediation Letter, or as otherwise agreed pursuant to Section 13 of this Agreement; and

15.10 There exists no moratorium or similar impediment to commencement of construction of the Project immediately following Closing.

16. CLOSING OF TITLE. Closing of title for the Property (the "**Closing**") shall take place via mail using the Title Company as the closing agent on or before the sixtieth (60th) day following the last of the following to occur (i) Purchaser's receipt of the Film Credit, (ii) Purchaser's receipt of the Aspire Credit, (iii) Purchaser's receipt of the Development Approvals, and (iv) Purchaser's receipt of the LSRP Remediation Letter. The actual date of the Closing is the "**Closing Date**". In the event the Closing Date does not occur on or before the date that is twenty four (24) months from the Effective Date for reasons other than a default of the terms of the Agreements by the terminating Party, either Party may terminate the Agreements, in which event the Township shall keep the Additional Deposit and neither Party shall have any further rights or obligations under the Agreements. For the avoidance of doubt it is agreed a Party shall not have the right to terminate the Agreements pursuant to this Section 16 if said Party is then in default of any of the terms of the Agreements.

17. SELLER DELIVERIES. At Closing, Seller shall execute and deliver to Purchaser the following documents (the "**Seller's Conveyance Documents**");

17.1 A Bargain and Sale Deed with Covenant Against Grantor's Acts for the Property in proper statutory form for recording, including all ancillary forms needed for recording, including an Affidavit of Consideration and Seller's Residency Certificate, subject only to Permitted Encumbrances;

17.2 An Affidavit of Title in the usual and customary form acceptable to the Title

Company;

17.3 An executed counterpart of a mutually acceptable closing statement, in a form prepared by the Title Company and approved by the Parties, setting forth all payments, credits, prorations and adjustments as provided herein;

17.4 Documentation reasonably satisfactory to Purchaser and the Title Company to establish the due authorization of Seller's consummation of the transaction contemplated by this Agreement; and

17.5 Such other documents, instruments, and agreements necessary or appropriate in the reasonable opinion of the Parties to transfer or convey the Property to Purchaser in accordance with the terms of this First Amendment and Purchase Agreement.

18. PURCHASER'S DELIVERIES. At Closing, Purchaser shall deliver to Seller the following:

18.1 The Purchase Price, subject to the adjustments contemplated by this First Amendment and Purchase Agreement; and

18.2 Documentation reasonably satisfactory to Seller to establish the due authorization of Purchaser's consummation of the transaction contemplated by this First Amendment and Purchase Agreement.

19. CLOSING COSTS / PRORATIONS.

19.1 Purchaser shall pay all Title insurance premiums and the cost of recording the deed.

19.2 Real estate taxes, if any, special assessments, utilities, operating expenses, including but not limited to water and sewer charges, if applicable, rent and all other customary items shall be prorated between the Parties as of the Closing, with charges, rents and other prorations for the day of Closing attributable to Purchaser. In the event that final, current real estate tax bills are unavailable at Closing, such taxes shall be prorated on the basis of the taxes for the most recent year for which tax bills are available.

19.3 The obligation of this Article 16 with regard to any adjustments or payments shall survive Closing for a period of up to sixty (60) calendar days so that the Parties may undertake a post-closing "true-up" to the extent that same is necessary for such items that may have been estimated at closing.

20. ASSESSMENTS. If as of the Closing Date the Property, or any part thereof, shall be or shall have been affected by a special governmental assessment or assessments which are or may become payable in annual installments for: (i) improvements that have been completed prior to Closing; or (ii) for which the first installment is then due or has been paid, then any such installment shall be paid and discharged by Seller prior to or at Closing. The Parties acknowledge that, ~~notwithstanding any PILOT, Financial Agreement and tax exemption granted thereunder,~~ the Property shall be subject to payment of the special assessment for the Downtown Special Improvement District, pursuant to N.J.S.A. 40:56-65, et seq.

21. ASSIGNMENT. The rights granted in this First Amendment and Purchase Agreement are personal to the Purchaser and this First Amendment and Purchase Agreement is non-assignable. Any such assignment shall be void, the assignee shall acquire no rights herein and Seller shall not recognize any such assignment. Notwithstanding the foregoing, Purchaser shall have the right to convert to an urban renewal entity, pursuant to N.J.S.A. 40A:20-1, et seq., and any such conversion will not be deemed an assignment

Deleted:

Deleted: is and after Closing

Deleted: continue to

of this First Amendment and Purchase Agreement so long as Donald Epstein and Joseph Taylor remain in Control of Purchaser.

22. DEFAULTS.

22.1 Seller's Default. In the event Seller fails to perform, or otherwise breaches any of the terms of this First Amendment and Purchase Agreement or any of its representations, warranties or covenants, and Seller has not cured such default within thirty (30) days of receipt of notice of same from Purchaser, then Purchaser shall be entitled to either: (i) terminate this First Amendment and Purchase Agreement; (ii) waive the default or breach and proceed to Closing; or (iii) pursue an action for specific performance. Upon termination neither Party shall have any further rights or obligations hereunder except as expressly set forth herein to the contrary. In the event Purchaser is successful in an action for specific performance Purchaser shall receive a credit against the Purchase Price in an amount equal to the expenses incurred by Purchaser in connection with such action, including, but not limited to, reasonable attorneys' fees.

22.2 Purchaser's Default. In the event Purchaser fails to perform any of its obligations under this First Amendment and Purchase Agreement and Purchaser has not cured said default within thirty (30) days of receipt of notice of same from Seller, then Seller shall, as its sole and exclusive remedy, be entitled to terminate this First Amendment and Purchase Agreement and retain the Initial Deposit and Additional Deposit as liquidated damages and neither Party shall have any further rights or obligations hereunder except for those that specifically survive the termination of this First Amendment and Purchase Agreement.

22.3 Cross-Default with Original Redevelopment Agreement. This First Amendment and Purchase Agreement is made in furtherance of completion of the Project as more specifically described and set forth in the Original Redevelopment Agreement and fulfillment of the obligations of the Parties under the Original Redevelopment Agreement are necessary and material to the sale of the Property pursuant to this First Amendment and Purchase Agreement. Accordingly, a default under this First Amendment and Purchase Agreement shall be deemed a default under the Original Redevelopment Agreement, and vice-versa, and the termination of this First Amendment and Purchase Agreement shall be deemed to automatically terminate the Original Redevelopment Agreement, and vice-versa.

23. CONDEMNATION AND CASUALTY.

23.1 Casualty. Prior to the Closing, Seller shall bear all risks of loss to the Property and all liabilities arising from the Property. For the avoidance of doubt, it is agreed all improvements on the Property shall be demolished by Seller prior to Closing as part of the Remediation.

23.2 Condemnation. Seller represents and warrants to Purchaser that Seller has not received any notice of any condemnation proceeding or other action or proceeding, either contemplated or pending, in the nature of eminent domain ("**Condemnation Proceedings**") in connection with the Property; nor does the Seller have knowledge of any Condemnation Proceedings. If Seller becomes aware of or receives, at or prior to the Closing, any notice of Condemnation Proceedings it will immediately advise Purchaser of the Condemnation Proceedings in writing and provide a copy of any such notice of Condemnation Proceedings to Purchaser. If all of the Property is condemned prior to Closing, this First Amendment and Purchase Agreement shall terminate. If only a portion of the Property has been or is taken by condemnation or eminent domain prior to Closing, Purchaser shall have the right to either (i) terminate this First Amendment and Purchase Agreement, or (i) proceed to Closing and the Purchase Price shall be reduced by the total of any award of damages actually received by Seller. If a Condemnation Proceeding has commenced or notice thereof has been received prior to the Closing, but same is not resolved by the Closing Date, and Purchaser elects to proceed to Closing, Seller shall assign to Purchaser all of Seller's

rights, title and interest in and to any awards or damages to which Seller may have become entitled or may thereafter be entitled by reason of any exercise of the power of eminent domain or condemnation with respect to or for the taking of the Property or any portion thereof. Notwithstanding anything to the contrary, in the event the taking or contemplated taking will have a material and adverse effect on Purchaser's ability to construct and operate the Project, Purchaser shall have the right to terminate this First Amendment and Purchase Agreement, in which event neither Party shall have any further rights or obligations hereunder except for those that specifically survive the termination of this First Amendment and Purchase Agreement. In any event, Seller shall not settle any condemnation proceeding without the consent of Purchaser, in its sole and absolute discretion.

24. **BROKER CLAUSE.** Each of the Parties warrants and represents to the other that it has not dealt with any real estate agent, broker or salesperson. Each of the Parties covenants to indemnify the other against claims of any such third party. The indemnity contained in this Section 24 shall survive the Closing.

25. **NOTICES.** Any demand, notice or other communication required or permitted to be given hereunder shall be in writing, and shall be (i) delivered personally, (ii) by nationally recognized overnight courier service (such as FedEx or UPS) for next Business Day (as defined below) delivery, or by electronic mail to the Parties at the addresses set forth below (or to such other addresses as the Parties may specify by due notice to the other):

If to Seller:

Township of West Orange
66 Main Street
West Orange, New Jersey 07052
Attn: James P. Abbott, Business Administrator
Email: Jabbott@westorange.org

with copy to:

Robert Beckelman, Esq.
Wilentz, Goldman & Spitzer
90 Woodbridge Center Drive, Suite 900, Box 10
Woodbridge, New Jersey 07905
Email: Rbeckelman@Wilentz.com

If to Purchaser:

MDGA – West Orange Downtown Redevelopment, LLC
C/o Matrix Development Group
3 Centre Street
Monroe, New Jersey 08831
Attn: Donald Epstein & Joseph Taylor
Email: Depstein@Matrixcompanies.com & Jtaylor@Matrixcompanies.com

with copy to:

Chiesa, Shahinian & Giantomasi PC
105 Eisenhower Parkway
Roseland, New Jersey 07068
Attn: Stephen A. Kisker

Email: Skisker@CSGLaw.com

Any notice delivered to a Party's designated address by (a) personal delivery shall be deemed received on the date actually delivered or refused, (b) nationally recognized overnight courier service for next Business Day delivery shall be deemed received the next Business Day after its deposit with such nationally recognized overnight courier service for next Business Day delivery, or (c) by electronic mail shall be deemed received on the day such electronic mail was sent if sent before 5pm New York time on a Business Day, and shall be deemed received on the next Business Day if sent on a non-Business Day or after 5pm New York time on a Business Day. No electronic mail shall be deemed received if the sending Party receives a message that same has been delayed, rejected or otherwise not delivered. Any notice given by an attorney for a Party shall be effective for all purposes. A "**Business Day**" is a day that is not a Saturday, Sunday or Federal holiday.

26. FURTHER ASSURANCES. Each of the Parties agrees to execute, acknowledge and deliver such other documents or instruments as the other may reasonably require from time to time to carry out the purposes of this First Amendment and Purchase Agreement.

27. MISCELLANEOUS PROVISIONS. The Parties further agree as follows:

27.1 Entire Agreement. This First Amendment and Purchase Agreement and the Original Redevelopment Agreement, as amended herein, contains the entire agreement between the Parties regarding the purchase and sale of the Property and supersedes all prior agreements, and may not be modified or changed except by an agreement in writing executed by both Parties. Notwithstanding, this First Amendment and Purchase Agreement is made in furtherance of the completion of the Project as more specifically described and set forth in the Original Redevelopment Agreement and fulfillment of the obligations of the Parties under the Original Redevelopment Agreement are necessary and material to the sale of the Property pursuant to this First Amendment and Purchase Agreement. Any capitalized terms not defined herein shall be as defined in the Original Redevelopment Agreement and reference shall be made to the Original Redevelopment Agreement in the event of any ambiguities under this Agreement. Except as specifically amended or stated otherwise herein, the Original Redevelopment Agreement shall remain in full force and effect.

27.2 Interpretation. This First Amendment and Purchase Agreement has been prepared or reviewed, or both, by counsel for Seller and Purchaser. The Parties agree this Agreement shall be construed reasonably to carry out its intent without presumption against or in favor of either Party.

27.3 Counterparts / Execution. This First Amendment and Purchase Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same Agreement. Electronic signatures to this First Amendment and Purchase Agreement shall be binding for all purposes. Delivery of an executed counterpart of a signature page of this document by facsimile or other generally accepted electronic means (*i.e.* e- mail) shall be effective as delivery of a manually executed counterpart of this document.

27.4 Governing Law. This First Amendment and Purchase Agreement shall be governed by the laws of the State of New Jersey.

27.5 Prevailing Party Provision. In the event any action or proceeding is commenced by a Party to obtain a declaration of rights hereunder, to enforce any provision of this First Amendment and Purchase Agreement, or to seek rescission of this Agreement for default under this Agreement, whether legal or equitable, the prevailing Party shall be reimbursed by the other for the cost of suit, including reasonable legal fees.

27.6 Invalid Terms. If any term or provision of this First Amendment and Purchase Agreement or the application thereof shall, to any extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each of the remaining terms shall remain as valid and enforceable to the fullest extent permitted by law.

27.7 Counting Days. Whenever used herein, unless expressly provided otherwise, the term “days” shall mean consecutive calendar days, except that if the expiration of any time period measured in days occurs on a Saturday, Sunday or Federal Reserve holiday, such expiration shall automatically be extended to the next Business Day.

27.8 Recitals Incorporated. The Recitals of this First Amendment and Purchase Agreement are incorporated into and made a part of the terms of this Agreement.

27.9 Headings. All paragraph headings or captions contained in this First Amendment and Purchase Agreement shall be for convenience of reference only and shall not affect the construction or interpretation of any provision of this Agreement.

27.10 Party Cooperation. The Parties shall reasonably cooperate with one another in furtherance of their efforts to consummate the transaction contemplated by this First Amendment and Purchase Agreement.

IN WITNESS WHEREOF, the Parties hereto have duly executed this First Amendment and Purchase Agreement as of the Effective Date.

Seller: The Township of West Orange

Purchaser: MDGA – West Orange Downtown
Redevelopment, LLC

By: _____
Name _____
Title: _____

By: _____
Name: _____
Title: _____