

CARNEYS POINT TOWNSHIP SEWERAGE AUTHORITY

RESOLUTION 2023-63

Resolution Approving Developers Agreement

WHEREAS, CP Land North Urban Renewal, LLC (“CP North”) is proposing the development of four warehouses, with a combined area of approximately 2,048,022 +/- square feet of warehouse space, on land located near Route 40 and Quilleytown Road and more particularly known as Block 239, Lots 17, 17.01, 17.02 and 19 on the Official Carneys Point Township Tax Maps (the “CP North Project”);

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WHEREAS, CP Land South Urban Renewal, LLC (“CP South”) is proposing the development of approximately 1,754,996 +/- square foot warehouse space located adjacent to Route 40 on land more particularly known as Block 255, Lot 12 on the Official Carneys Point Township Tax Maps (the “CP South Project”);

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WHEREAS, RG Carneys Point Urban Renewal, LLC (“RG Carney”) is developing of 1,126,443 +/- square feet of warehouse space on land located along Forest Lane and Route 40 and being (or will be, following the proposed lot consolidation) Block 255, Lot 5.02 on the Township Tax Map (the “RG Carney Project”); and

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WHEREAS, the CP North Project, the CP South Project and the RG Carney Project are referred to collectively as the “Projects”; and CP North, CP South and RG Carney may hereinafter be referred individually as a “Developer” and collectively as the “Developers”, as applicable; and

WHEREAS, CP South has agreed, at its expense: (i) to construct certain upgrade work to the McLane Pump Station owned and operated by the Carneys Point Township Sewerage Authority (the “Authority”) to ensure that the McLane Pump Station will have sufficient capacity to accommodate the Projects (the “McLane Pump Station Work”); and (ii) to construct an approximately 10,000 +/- lineal foot 6” force main along Harding Highway (NJ Rt 48), Wiley Road (US Rt 40), and Course Landing Road (County Rt. 628), from the RG Carney Project to the McLane Pump Station (the “Route 40 & Route 48 Conveyance Improvements”); and

WHEREAS, the McLane Pump Station Work and the Route 40 & Route 48 Conveyance Improvements will serve all of the Projects; and

WHEREAS, the McLane Pump Station Work and the Route 40 & Route 48 Conveyance Improvements are referred to hereinafter collectively as the “Sanitary Sewer Improvements”;

WHEREAS, CP North, CP South, RG Carney and the Authority would like to enter into an Agreement to evidence CP South’s obligations to construct the Sanitary Sewer Improvements, the agreement of RG Carney and CP North to reimburse CP South for their

respective pro rata share of the costs of constructing the Sanitary Sewer Improvements (the “Sewer Costs”) and the Authority’s agreement to accept for dedication, the Sanitary Sewer Improvements upon CP South’s completion thereof substantially in accordance with the Developer’s Agreement and all applicable written rules, regulations and policies of the Authority (collectively, the “Rules and Regulations”), all as hereinafter set forth; and

WHEREAS, an agreement between the parties has been attached hereto; and

WHEREAS, the Authority has reviewed the agreement and approves of same.

NOW THEREFORE BE IT FURTHER RESOLVED that the agreement attached hereto is approved by the Authority and that the Chairman is authorized to sign the agreement on behalf of the Authority.



 Kenneth Brown, Authority Chairman

Date of Adoption: December 19, 2023

Committee	Moved	Seconded	Y	N	Abstain	Absent
Mr. Bomba		✓	✓			
Mr. Basile	✓		✓			
Mr. Brown			✓			
Mr. Newton			✓			
Dr. Racite			✓			

SANITARY SEWER DEVELOPMENT AND CONTRIBUTION AGREEMENT

THIS SANITARY SEWER DEVELOPMENT AND CONTRIBUTION AGREEMENT

(this "Agreement") is made this 19th day of December, 2023, by and among CP LAND NORTH URBAN RENEWAL, LLC, a Delaware limited liability company ("CP North"), CP LAND SOUTH URBAN RENEWAL, LLC, a Delaware limited liability company ("CP South"), RG CARNEYS POINT URBAN RENEWAL LLC, a New Jersey limited liability company ("RG Carney"), and CARNEYS POINT TOWNSHIP SEWERAGE AUTHORITY, a New Jersey municipal authority (the "Authority").

WITNESSETH:

WHEREAS, the Authority is a duly constituted corporate body politic created under the provisions of New Jersey Statutes 40:14B-1 et seq., and holds the right and franchise to provide sanitary sewer service within Carneys Point Township, Salem County, New Jersey (the "Township"); and

WHEREAS, CP North is proposing the development of four warehouses, with a combined area of approximately 2,048,022 +/- square feet of warehouse space, on land located near Route 40 and Quilleytown Road and more particularly known as Block 239, Lots 17, 17.01, 17.02 and 19 on the Official Carneys Point Township Tax Maps (the "CP North Project");

WHEREAS, CP South is proposing the development of approximately 1,754,996 +/- square foot warehouse space located adjacent to Route 40 on land more particularly known as Block 255, Lot 12 on the Official Carneys Point Township Tax Maps (the "CP South Project");

WHEREAS, RG Carney is developing of 1,126,443 +/- square feet of warehouse space on land located along Forest Lane and Route 40 and being (or will be, following the proposed lot consolidation) Block 255, Lot 5.02 on the Township Tax Map (the "RG Carney Project"); and

WHEREAS, the CP North Project, the CP South Project and the RG Carney Project are referred to collectively as the "Projects"; and CP North, CP South and RG Carney may hereinafter be referred individually as a "Developer" and collectively as the "Developers", as applicable; and

WHEREAS, CP South has agreed, at its expense: (i) to construct certain upgrade work to the McLane Pump Station owned and operated by the Authority to ensure that the McLane Pump Station will have sufficient capacity to accommodate the Projects, as more particularly described in Exhibit "A" attached hereto and incorporated herein (the "McLane Pump Station Work"); and (ii) to construct an approximately 10,000 +/- lineal foot 6" force main along Harding Highway (NJ Rt 48), Wiley Road (US Rt 40), and Course Landing Road (County Rt. 628), from the RG Carney Project to the McLane Pump Station (the "Route 40 & Route 48 Conveyance Improvements"); and

WHEREAS, the McLane Pump Station Work and the Route 40 & Route 48 Conveyance Improvements will serve all of the Projects; and

WHEREAS, the McLane Pump Station Work and the Route 40 & Route 48 Conveyance Improvements are referred to hereinafter collectively as the "Sanitary Sewer Improvements";

WHEREAS, the parties hereto are entering into this Agreement to evidence CP South's obligations to construct the Sanitary Sewer Improvements, the agreement of RG Carney and CP North to reimburse CP South for their respective pro rata share of the costs of constructing the Sanitary Sewer Improvements (the "Sewer Costs") and the Authority's agreement to accept for dedication, the Sanitary Sewer Improvements upon CP South's completion thereof substantially in accordance with the Developer's Agreement and all applicable written rules, regulations and policies of the Authority (collectively, the "Rules and Regulations"), all as hereinafter set forth.

NOW, THEREFORE, in consideration of the sum of \$1.00 and other good and valuable consideration, receipt whereof is hereby acknowledged, and in further consideration of the foregoing premises and the mutual agreements hereinafter set forth, the parties hereby agree as follows:

1. Construction of Sanitary Sewer Improvements. CP South, at its expense (CP South shall be entitled to reimbursement in accordance with this Agreement, however, the issue of reimbursement shall not stop or delay this project), agrees to construct the Sanitary Sewer Improvements, subject to the following requirements:

(1) CP South, in CP South's sole but reasonable discretion, shall engage the services of a professional engineer, licensed within the State of New Jersey, to prepare plans for the Sanitary Sewer Improvements. The plans shall be prepared in accordance with accepted engineering standards and practices and must comply with the Authority's Rules and Regulations (the "Sanitary Sewer Improvements Plans").

(2) The Sanitary Sewer Improvements Plans shall be submitted to the Authority, RG Carney and CP North for their review and approval, which approval shall not be unreasonably withheld, conditioned or delayed.

(3) After obtaining approval from the Authority, RG Carney and CP North of the Sanitary Sewer Improvements Plans, CP South, at its expense (CP South shall be entitled to reimbursement by RG Carney and CP North in accordance with this Agreement, however, the issue of reimbursement shall not stop or delay this project), shall seek all permits and approvals from all governmental agencies having jurisdiction, to construct the Sanitary Sewer Improvements. The Authority shall cooperate with CP South in connection with CP South's applications for such permits and approvals, including executing any applications as co-applicant; provided, the Authority shall not be obligated to incur any costs in connection therewith and provided that the Authority shall be given the opportunity to review and comment on the application. Upon request, Authority, RG Carney, CP North and CP South will work in

good faith to enter into any separate, additional agreements as necessary concerning any applications pertaining to the Sanitary Sewer Improvements for which Authority would be the applicant.

(4) CP South shall construct the Sanitary Sewer Improvements in a good workman like manner, and in substantial compliance with the Sanitary Sewer Improvements Plans, the Authority's Rules and Regulations. Any material changes to the Sanitary Sewer Improvements Plans, necessitated by unavoidable and unforeseen circumstances, must be approved by the Authority's engineer (which approval shall not be unreasonably withheld, conditioned or delayed), prior to construction. All field modifications shall be clearly indicated on the "as built" drawings for the Sanitary Sewer Improvements.

(5) Upon completion of the Sanitary Sewer Improvements, CP South shall notify the Authority in writing. The Authority's engineer shall conduct an inspection promptly after receipt of such notice to confirm that the Sanitary Sewer Improvements have been completed substantially in accordance with the Sanitary Sewer Improvements Plans. The Authority shall notify CP South promptly after such inspection as to the acceptance or rejection of the Sanitary Sewer Improvements and if rejected, a list of unsatisfied items which are to be corrected by CP South within a reasonable period of time.

(6) CP South shall be fully responsible for obtaining all necessary land and easements for the construction of the Sanitary Sewer Improvements at its own cost and expense (CP South shall be entitled to reimbursement by RG Carney and CP North in accordance with this Agreement, however, the issue of reimbursement shall not stop or delay this project). If the Authority agrees by resolution to condemn any premises upon which easements may be required as requested by CP South to construct the Sanitary Sewer Improvements, the cost of same including, without limitation, all reasonable legal fees actually incurred, condemnation costs, negotiated purchase costs, appraisal fees, final taking costs, appeal fees, and any other reasonable costs incidental thereto actually incurred, shall be paid by CP South (CP South shall be entitled to reimbursement by RG Carney and CP North in accordance with this Agreement, however, the issue of reimbursement shall not stop or delay this project). CP South shall place in escrow with the Authority, pursuant to a separate written agreement, a sum reasonably estimated by the Authority to pay such condemnation costs and shall thereafter upon twenty (20) days' written notice, pay into such escrow account additional sums as may be from time to time required to maintain the escrow account at a level reasonably satisfactory to the Authority

(7) The Authority shall create and establish an escrow account for the purpose of receiving from CP South, the Authority's engineering and attorney's fees, incurred by the Authority in the performance of this Agreement, including any and all professional fees incurred for the negotiation and preparation of this Agreement. Promptly after the execution and delivery of this Agreement by the Authority, CP South, CP North, and RG Carney shall pay to the Authority, as an initial deposit to the inspection fees escrow account, the total sum of \$21,875.00

for such fees in accordance with each Developer's proportionate share.¹ The Authority shall provide to CP South, CP North and RG Carney, upon request, an accounting of the escrow account, together with all bills, which were paid from the escrow account. If the balance of the escrow account is below \$5,000.00, CP South shall pay into and replenish such escrow account within twenty (20) days after the Authority's written request, the sum necessary to maintain the escrow account balance at the required level as required by the Rules and Regulations of the Authority.

(8) CP South shall post any required performance or maintenance bond for the construction and maintenance of the Sanitary Sewer Improvements in an amount to be approved by the Authority's engineer and in form by the Authority's attorney. CP South shall be reimbursed for such costs by RG Carney and CP North in accordance with this Agreement, however, such reimbursement shall not be cause to delay posting the performance and/or maintenance bond.

(9) In the event of CP South defaulting on its obligations under this Agreement, Authority shall give written notice of such default to CP South and RG Carney, and thereafter RG Carney shall have the right (but not the obligation) to cure such default, and in such event, prior to Authority terminating this Agreement or exercising any other available remedies, (x) RG Carney shall have a thirty (30) day period to cure such default (provided that, if such default by its nature can be cured but cannot be cured by the payment of money and RG Carney commences to cure such default during such thirty (30) day period and is diligently and in good faith attempting to effect such cure, such cure period shall be extended for so long as it shall require RG Carney to cure such default), and (y) RG Carney shall be entitled to all rights to reimbursement from the other Developers that CP South previously held under this Agreement and further RG Carney shall have full access to any escrowed funds to perform CP South's obligations.

2. Dedication. Upon completion of the Sanitary Sewer Improvements and the certification thereof by the Authority's engineer, the execution of appropriate surety documentation, and the approval by the Authority, CP South shall convey and dedicate the Sanitary Sewer Improvements to the Authority, at no cost or expense to the Authority. It is understood and agreed, that any sewer laterals from any of the Projects to the Sanitary Sewer Improvements, shall constitute the property of the owner of the applicable Project and such owner shall be responsible for the maintenance of such laterals. Prior to the acceptance of dedication by the Authority, CP South shall deliver to the Authority and the other Developers, in CAD format, "as built" drawings of the Sanitary Sewer Improvements and CP South will post with the Authority such bonds, guarantees, sureties or other security guaranteeing the work was constructed and installed, as may be required by the Authority's Rules and Regulations(which

¹ Estimated Sanitary Sewer Improvement Cost is approximately \$1,750,000.00. Inspection fee escrow is equal to 5% of the Estimated Sanitary Sewer Improvement Cost. The initial inspection fee escrow amount shall be 25% of the inspection fees. When the escrow account balance drops below 10% of the amount of the inspection fees Developers shall make additional payments of 25% of the inspection fees.

shall be subject to reimbursement by CP North and RG Carney in accordance with this Agreement). The written confirmation by the Authority of the acceptance of the Sanitary Sewer Improvements shall vest title to the Sanitary Sewer Improvements in the Authority, without the necessity of a bill of sale, deed or other documentation evidencing ownership. Any amounts remaining in the escrow account shall be returned to CP South (and CP South shall thereafter distribute same to the Developers pro rata in accordance with the proportionate share by which they actually funded such escrow account).

3. Sanitary Sewer Fees and Service. The Authority agrees that the Projects shall be entitled to receive sanitary sewer service upon completion of the Sanitary Sewer Improvements and the issuance of a certificate of occupancy, temporary certificate of occupancy (or local jurisdictional equivalent) for any Project. Upon any Project usage of that sanitary sewer service the Authority shall commence to charge sanitary sewer usage fees in accordance with the prevailing rate schedule of the Authority and shall thereafter charge in accordance with the rate schedule as amended.

4. Reimbursement by RG Carney and CP North to CP South. Within five (5) calendar days from the full execution and delivery of this Agreement, RG Carney, CP North and CP South shall each deposit with First American Title Insurance Company, 3455 Peachtree Road, NE, Suite 1700 Atlanta, Georgia 30326, Attn: Jon Uhlir, Email: juhliir@firstam.com (“Escrow Agent”) the following amounts (the “Escrowed Sums”):

<u>Developer</u>	<u>Proportionate Share</u>	<u>Proportionate Share of \$1,750,000.00 Estimated Sewer Costs</u>
RG Carney	11.75%	\$205,625.00
CP North	47.36%	\$828,800.00
CP South	40.90%	\$715,750.00

Escrow Agent shall hold and disperse the Escrowed Sums pursuant to the terms of this Agreement and the escrow agreement attached hereto as Exhibit D (the “Escrow Agreement”). To the extent of any conflict between the terms this Agreement and the Escrow Agreement, the terms of this Agreement shall control and supersede any conflicting Escrow Agreement terms.

(a) CP South shall, on a monthly basis, (i) compile all invoices associated with the Sewer Costs and calculate each of the Developer’s proportionate share of any such Sewer Costs. On a monthly basis, the CP South shall also submit via email and regular mail to RG Carney and CP North a written notice setting forth the aggregate amount of the Sewer Costs to be reimbursed to CP South from the Escrowed Sums and each Developer’s respective proportionate share of such aggregate amount (together with reasonable supporting documentation, including applicable

invoices and a statement setting forth the fees and costs incurred which have previously been drawn down from the Escrowed Sums) (a “Reimbursement Request”).

(b) Upon receipt of a Reimbursement Request, each Developer agrees to reasonably cooperate with CP South so as to deliver to Escrow Agent, within fifteen (15) business days after each of the Developer’s receipt of a written Reimbursement Request, a signed, written Reimbursement Notice authorizing Escrow Agent to reimburse CP South the amount(s) requested to be disbursed in the Reimbursement Request (the “Reimbursement Notice”) unless otherwise reasonably objected by a Developer. Within five (5) business days after receipt of a Reimbursement Notice from each and every Developer, Escrow Agent shall disburse from the Escrowed Sums to CP South the amount(s) set forth in the Reimbursement Notice. The Escrow Agent will not disburse any funds from escrow without first obtaining a signed, written Reimbursement Notice from each Developer.

(c) Within ten (10) business days of receipt of a Reimbursement Request, each Developer shall provide notice in the form of either a written a Reimbursement Notice or written objection to the other Developers indicating its approval or disapproval of the payment of the invoice(s) and Sewer Costs included in such Reimbursement Request, it being understood and agreed that a written Reimbursement Notice or written objection sent via email or regular mail in response to the Reimbursement Request indicating a Developer’s approval or disapproval shall be sufficient for the purposes of this Section 4(c). After such time that CP South receives the affirmative, written approval from RG Carney and CP North to the reimbursement of any such Sewer Costs, CP South may submit the Developers’ signed Reimbursement Notices to Escrow Agent and the other Developers. If a Developer disapproves of the payment of any invoice included in a Reimbursement Request, such Developer shall provide notice to CP South, in writing, within ten (10) business days of such Developer’s receipt of a Reimbursement Request, of its disapproval and the basis therefor. For the avoidance of doubt, a Developer may only disapprove of the payment of an invoice if such invoice (i) contains an error, (ii) is for work not included in the Developer’s Agreement, or (iii) is for work not included in the Sewer Costs. If a Developer timely disapproves of any invoices(s) included in a Reimbursement Request, the undisputed portion of such invoice(s) and any undisputed invoices included in the Reimbursement Request and approved by RG Carney and CP North (as evidenced by their written, signed Reimbursement Notices) shall be deemed final and CP South may submit the Reimbursement Notices to Escrow Agent and the Developers for the undisputed portion of such invoice(s) and any undisputed invoices included in the Reimbursement Request.

(d) The Developers shall seek to resolve any such disapproval within ten (10) business days of the receipt of a disapproval notice by CP South and the other Developers, and shall use good faith, commercially reasonable efforts to resolve any such disputes.

5. Change Orders.

(a) CP South may authorize all Non-Material Change Orders (as hereinafter defined) to the Sanitary Sewer Improvements Plans without the approval of the other Developers (but

with at least ten (10) business days' prior written notice to the other Developers). A "Non-Material Change Order" shall mean changes to the Sanitary Sewer Improvements Plans that is required by the Authority pursuant to the Authority's Rules and Regulations, the cost of which do not exceed \$50,000.00 per occurrence or \$250,000.00 in the aggregate.

(b) **Material Change Orders.** Should CP South desire to initiate changes in or to the Sanitary Sewer Improvements Plans that is not a Non-Material Change Order (a "Material Change Order"), CP South will submit a proposed change order along with reasonable supporting documentation to the other Developers for their review and approval ("Material Change Order Request"). Within ten (10) calendar days of receipt of a Material Change Order request, each non-requesting Developer shall provide notice to CP South indicating its approval or disapproval of the Material Change Order. If any Developer disapproves the Material Change Order, the Developers shall seek to resolve any such disapproval within ten (10) days of the receipt of a disapproval notice by the CP South and the other Developers. If such disapproval is not resolved within such ten (10) day period, the Developers agree to refer the matter to an arbitrator, selected pursuant to the American Arbitration Association rules, and the arbitrator shall render a binding determination upon the matter within thirty (30) days of referral of the matter to the arbitrator, it being understood and agreed that the arbitrator shall look only to the terms of this Agreement in rendering a decision. The cost of arbitration shall be paid by each Developer in accordance with their proportionate shares of the Sewer Costs, although each Developer shall bear its own attorneys' fees and costs for such arbitration.

6. **Inspection.** All the Developers shall have the right, but not the obligation, at all times during construction of the Sanitary Sewer Improvements, to conduct, at such Developer's own expense, inspections of such construction to determine if the improvements are being constructed in accordance with the Developer Agreement, this Agreement and the Authority's Rules and Regulations. The Developers shall each reasonably cooperate with the other Developers and their respective agents in connection with such inspections and shall instruct its contractors to do the same, provided that such inspections shall not interfere with, hinder or delay the construction of the improvements.

7. **Notices.** Every notice, approval, consent or other communication authorized or required by this Agreement shall be sent by overnight mail delivery service with a nationally recognized courier (such as Federal Express) and by email, to the following addresses:

If to RG Carney:

RG Carney Urban Renewal LLC
c/o Rockefeller Group Development Corporation
92 Headquarters Plaza, North Tower, 9th Floor
Morristown, NJ 07960
Attn: Heath Abramsohn and Jonathan Gerardo
Email: habramsohn@rockefellergroup.com and
jgerardo@rockefellergroup.com

with a copy to:

Rockefeller Group Development Corporation
1271 Avenue of the Americas, 24th Floor
New York, New York 10020
Attn: Assistant Secretary
Email: kwon@rockefellergroup.com

If to CP South:

250 Grandview Drive, Suite 260
Fort Mitchell, Kentucky 41017
Attention: Doug Armbruster
Senior VP & Regional Director, East Region
Email: darmbruster@c5ip.com

and:

Core5 Industrial Partners LLC
1230 Peachtree Street, NE, Suite 1000
Atlanta, GA 30309
Attn: General Counsel
Email: bmarston@c5ip.com

If to CP North:

250 Grandview Drive, Suite 260
Fort Mitchell, Kentucky 41017
Attention: Doug Armbruster
Senior VP & Regional Director, East Region
Email: darmbruster@c5ip.com

and:

Core5 Industrial Partners LLC
1230 Peachtree Street, NE, Suite 1000
Atlanta, GA 30309
Attn: General Counsel
Email: bmarston@c5ip.com

If to the Authority:

If to the Escrow Agent:

8. Governing Law; Binding effect. This Agreement shall be governed by the laws of the State of New Jersey without regard to conflicts of laws principles. This Agreement shall be binding upon and inure to the benefit of, the parties hereto and their respective successors and assigns. This Agreement, and any amendments to this Agreement that the parties may wish to enter, may be transmitted between them by electronic mail. Documents signed by DocuSign (or similar), scanned (in PDF or similar format) or photocopied signatures shall constitute original signatures and that a fully executed, scanned Agreement containing the PDF signatures of all the parties shall be binding on the parties.

9. This Agreement constitutes the entire agreement between the parties and supersedes any and all prior negotiations, understandings and agreements of any nature whatsoever with respect to the subject matter hereof. No amendment, waiver or discharge of any provision of this Agreement shall be effective against any party unless in a writing signed by both parties hereto. This Agreement shall not be construed in favor of either party as a result of one party or its counsel drafting this Agreement.

10. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original, but all of which shall constitute one in the same instrument.

[SIGNATURE PAGE FOLLOWS]

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

RG CARNEYS POINT URBAN RENEWAL LLC

By: _____
Name: Heath Abramsohn
Title: Vice President

CP LAND SOUTH URBAN RENEWAL, LLC

By: _____
Name: _____
Title: _____

CP LAND NORTH URBAN RENEWAL, LLC

By: _____
Name: _____
Title: _____

**CARNEYS POINT TOWNSHIP SEWERAGE
AUTHORITY**

By: _____
Name: _____
Title: _____

ESCROW AGENT

By: _____
Name: _____
Title: _____

Exhibit "A"

McLane Pump Station Work

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