

**THIS AMENDMENT TO ROADWAY/RAIL PROPERTY BUFFER AND PROPERTY USE AGREEMENT** (the "**Amendment**") by and among **The Port Authority of New York and New Jersey**, a body corporate and politic created by Compact between the States of New York and New Jersey, with the consent of the Congress of the United States of America and having its principal executive office at 4 World Trade Center, 150 Greenwich Street, in the City of New York, New York County and State of New York (the "**Port Authority**") and **Bayonne Bay Developers, Urban Renewal LLC**, (f/k/a Bayonne Bay Developers, LLC), a limited liability company formed and existing under the laws of the State of New Jersey (the "**Redeveloper**"), having its offices at 90 Woodbridge Center Drive, Woodbridge, New Jersey, and **The City of Bayonne**, a municipal corporation in the County of Hudson and the State of New Jersey (the "**City**") (Port Authority, Redeveloper and City each, a "**Party**" and, together, the "**Parties**"), is made as of this 24 day of December, ~~2020~~

**WITNESSETH**

**WHEREAS**, the Parties entered into a Roadway/Rail Property Buffer and Property Use Agreement dated August 21, 2015 ("**Original Agreement**"); and

**WHEREAS**, Port Authority and LEG-BP Bayonne Owner LLC ("**LEG-BP**") have entered into an Exchange Agreement dated December 19, 2018 (the "**Exchange Agreement**") pursuant to which, among other things, Port Authority and LEG-BP have agreed to an equal exchange of properties as follows:

- (i) LEG-BP, as the fee owner of Block 1180, Lot 1 (the "**LEG-BP Property**"), has agreed to subdivide the LEG-BP Property into two separate lots and to convey one of those newly created lots – consisting of about 17.29 acres – to Port Authority.
- (ii) Port Authority, as the fee owner of Block 900, Lot 1 and Block 1000, Lot 1 (collectively, the "**Port Authority Property**"), has agreed to subdivide the Port Authority Property into two separate lots and to convey one of those newly created lots – consisting of approximately 9.78 acres (the "**Parcel to be Acquired by LEG-BP**") – to LEG-BP; and

**WHEREAS**, the Parties are desirous of amending the Original Agreement to reflect the changes contemplated by the Exchange Agreement, all on the terms and conditions set forth herein.

**NOW THEREFORE**, in consideration of the mutual promises and covenants contained herein and the undertakings of each Party to the other and such other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound hereby, mutually covenant, promise and agree as follows:

1. (a) Pursuant to and subject to the conditions set forth in the Exchange Agreement, LEG-BP has agreed (i) to construct an access road that will connect the westernmost portion of the Port Authority Property to Pulaski Lane, as more particularly depicted on Exhibit C attached to the Exchange Agreement (the "Access Road"), and (ii) to construct and install a landscaped berm and sound attenuation wall within the area identified on Exhibit C attached to the Exchange Agreement (the "Berm/Wall"). A copy of Exhibit C to the Exchange Agreement is attached to this Amendment as Exhibit A. In addition to the foregoing, it is understood and agreed that the Berm/Wall will be constructed/installed in accordance with the specifications set forth on the "Grass Berm and Sound Wall Figure" attached to this Amendment as Exhibit B.  
  
(b) The Parties acknowledge and agree that (i) the construction of the Access Road and the construction/installation of the Berm/Wall satisfies in all respects any obligation that Port Authority may have pursuant to the Original Agreement or otherwise to construct any roads (including without limitation the Interim Truck Route (as defined in the Original Agreement) and/or any sound walls or sound barriers (including without limitation the Visual/Sound Wall (as defined in the Original Agreement) in connection therewith; and (ii) effective as of the closing date of the exchange of properties contemplated by the Exchange Agreement, the Parcel to be Acquired by LEG-BP shall not be bound by or subject to, and shall be fully and irrevocably released from, the Original Agreement and any and all requirements and/or restrictions thereunder.
2. From and after the construction of the Access Road, all truck traffic associated with lands of the Port Authority and LEG-BP shall utilize the Access Road, and the City shall have the right to enact and enforce traffic regulations that affect this requirement. The Parties acknowledge and agree that (i) the Access Road may be constructed and utilized for its intended purposes prior to the time that the Berm/Wall is constructed/installed, (ii) during the period of such use, the noise level may exceed the maximum permitted noise level, if any, set forth in the Original Agreement and/or in any applicable license agreement, redevelopment agreement or redevelopment plan (iii) the Berm/Wall will be constructed/installed as soon as possible in connection with the development of the LEG-BP Property but in any event by no later than the date that is two (2) years after the issuance of the certificate of occupancy for the first building constructed on the LEG-BP Property; and (iv) LEG-BP shall not commence construction of any buildings on that portion of the LEG-BP Property, which fronts on properties designated as Block 823, Lot 1, Block 824, Lot 1 or Block 824, Lot 2 until the soil for the Berm has been placed, stabilized and rough graded to the lines and grades specified in Exhibit B. For the purpose of this Amendment, "commence construction of buildings" shall specifically include placement of pilings or foundations but shall specifically exclude placing or surcharging of fill on the LEG-BP Property to raise site elevations and/or surcharge building footprints or other general sitework, including but not limited to utility installations.
3. From and after construction and installation of the Berm/Wall, (i) the City shall retain control of the properties on which the Berm/Wall is located and (ii) the parties to the Exchange Agreement will maintain the Berm/Wall in accordance with the terms of the Exchange Agreement (including all maintenance activities), it being understood and agreed that Port Authority and LEG-BP shall be responsible for the cost of such maintenance in accordance with the terms of, and in the percentage shares set forth in,

the Exchange Agreement.

4. Unless otherwise amended by this Amendment, all other provisions of the Original Agreement shall remain in full force and effect as among the Parties to the Original Agreement for the various time frames and circumstances set forth therein. Nothing in this Amendment shall require or create any obligation and/or liability on behalf of LEG-BP to perform, satisfy or be responsible for any covenants or provisions of the Original Agreement or any amendment thereto. To the extent of any conflict with the Original Agreement, the provisions of this Amendment shall control.
5. Limitation on Liability. Notwithstanding anything contained herein to the contrary, no officer, director, commissioner, member, manager, agent or employee of a Party shall be charged personally or held contractually liable by or to the other Party or by any such persons under any term or provision of this Amendment because of any breach thereof, or because of its or their execution or attempted execution.
6. Severability. In the event that any one or more of the provisions of this Amendment shall be determined to be void or unenforceable by a court of competent jurisdiction, or by law, such determination will not render this Amendment invalid or unenforceable and the remaining provisions hereof shall remain in full force and effect.
7. Counterparts. This Amendment may be signed in counterparts, all of which when taken together shall constitute a single agreement.

[Signatures on next page]

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to Roadway/Rail Property Buffer and Property Use Agreement to be executed as of the day and year first written above.

PORT AUTHORITY OF NEW YORK AND NEW JERSEY

Witness: [Signature]  
Linda C. Handel, Secretary  
James McCoy

By: Richard Cotton  
Richard Cotton  
Executive Director

Port Authority Use Only:	
Approval as to Terms:	Approval as to Form:
RF <input checked="" type="checkbox"/> DB	<input checked="" type="checkbox"/> TS

THE CITY OF BAYONNE

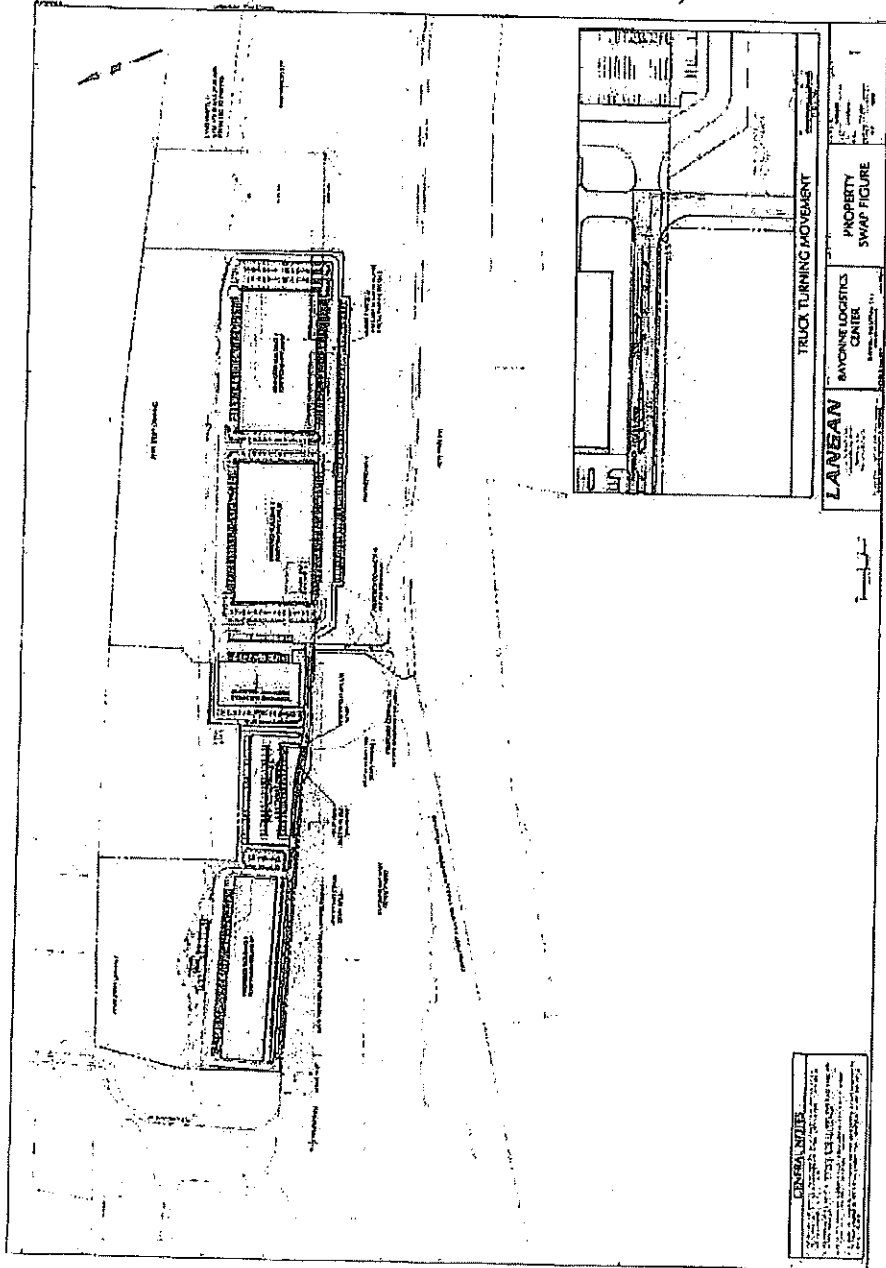
By: [Signature]  
Name: James M. Davis  
Title: Mayor

BAYONNE BAY DEVELOPERS URBAN RENEWAL LLC  
a New Jersey limited liability company

By: [Signature]  
Name: Jack Halpern  
Title: Managing Member

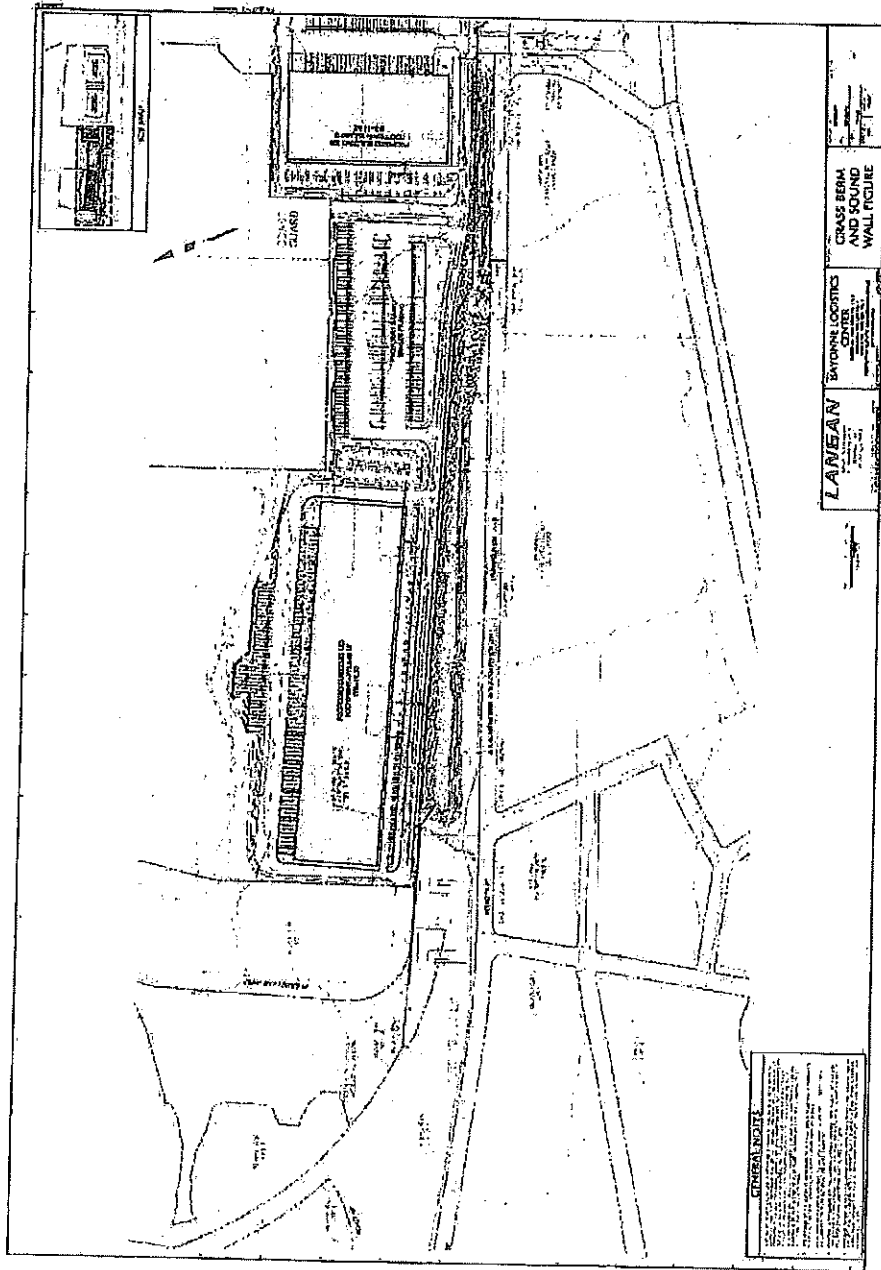
**EXHIBIT A**

Copy of Exhibit C to Exchange Agreement  
(Depicting Access Road and Berm/Wall)



**EXHIBIT B**

**Grass Berm and Sound Wall Figure  
(Providing Specifications for the Berm/Wall)**



**GENERAL NOTES:**  
1. THE GRASS BERM AND SOUND WALL SHALL BE CONSTRUCTED AS SHOWN ON THIS PLAN.  
2. THE GRASS BERM SHALL BE MAINTAINED AT ALL TIMES.  
3. THE SOUND WALL SHALL BE MAINTAINED AT ALL TIMES.  
4. THE GRASS BERM AND SOUND WALL SHALL BE CONSTRUCTED TO THE SPECIFICATIONS SHOWN ON THIS PLAN.  
5. THE GRASS BERM AND SOUND WALL SHALL BE CONSTRUCTED TO THE SPECIFICATIONS SHOWN ON THIS PLAN.

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**GRASS BERM AND SOUND WALL FIGURE**