

# AGREEMENT

This Agreement entered into this 6<sup>th</sup> day of September, 2006 by and between **Mount Carmel Land Co., L.L.C.**, its successor or assigns, a New Jersey Limited Liability Company, located at 401 Cooper Landing Road, Suite C-25, Cherry Hill, NJ, 08002, (hereinafter "Developer"), and **Heritage Square Condominium**, a Condominium Association pursuant to the New Jersey Condominium Act, with a mailing address of P.O. Box 4264, Lindenwold, NJ 08021 (hereinafter "Association");

## WITNESSETH:

**WHEREAS**, Developer is the owner of that certain parcel of land located in the Borough of Clementon, Camden County, State of New Jersey, known and designated as Block 59, Lots 1.0181 through 1.0300 on the Borough of Clementon Tax Map (hereinafter the "Property" or the "Premises"); and

**WHEREAS**, the Property is located adjacent to the Heritage Square Condominium community, and whereas the Property is currently unimproved but had site plan approval for an additional 120 condominium units; and

**WHEREAS**, the Developer intends to develop the Property separate and apart from the original condominium community; and

**WHEREAS**, after a meeting with the Condominium Association Board, its Manager, the Mayor of Clementon, the Land Use Board Chairman of Clementon and Developer, the parties agreed to the separation and subdivision of the Property in principle, and that a separate agreement between Developer and the Association memorializing same be prepared for the Association and Developer; and

WHEREAS, Developer has obtained Final Subdivision Approval and Final Major Site Plan Approval from the Borough of Clementon Combined Land Use Board for the Property and Developer intends to make application to all other required and appropriate governmental authorities for the intended development, and the Association agrees to support, endorse, and consent to or complete any and all applications for development of the Property as so required.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants hereinafter set forth and for other good and valuable consideration, the receipt of which is hereby acknowledged by Developer and Association, and the parties herein intending to be legally bound hereby agree as follows:

1. Agreement to Subdivision. Association hereby agrees to grant and convey any and all right, title and interest as it may have, and or release same as necessary, to permit Developer to subdivide the Property from the Heritage Square Condominium Association in order to allow Developer to develop the Property independent of the Association.
2. Approval and Perfection of Subdivision. Association agrees to fully cooperate and facilitate Developer in finalizing and perfecting the Final Subdivision and Site Plan Approval obtained for the Property including but not limited to the prompt furnishing of authorizations or other documentation, signing of any applications, affidavits, authorizations or other documents relating to obtaining the Subdivision Approval and Site Plan as may be required. Association shall endorse or otherwise consent to or acknowledge any and all applications or other requirements so required by any approving authority to finalize and perfect the Final Subdivision and Site Plan Approval.
3. Acknowledgement of Subdivision. Association shall immediately upon execution of this Agreement formally resolve, authorize and take any and all necessary and required actions

pursuant to its by-laws, Master Deed or other authority to adopt or authorize the aforementioned Final Subdivision Approval of the Property. In addition thereto, in order to perfect said subdivision, the Association shall amend, modify or revise accordingly its by-laws and or Master Deed, and execute and or file with the County Clerk the appropriate recordable documents releasing the Property from same, thereby permitting Developer to insure clear title for the Property, and permit same to be recorded with the Clerk of the County of Camden, New Jersey.

4. Pump Station Improvements. Developer agrees to cause the upgrading and improvement as necessary to the existing sanitary sewer pumping station now servicing the Association (hereinafter the "Pump Station"). Developer, at its sole discretion, will make such improvements as to permit the Pump Station to be acceptable by the Borough of Clementon for future maintenance and upkeep, or as may be required.

5. Pump Station Transfer. The Developer and the Association agree that it is in the best interest of the parties to have the Borough of Clementon accept and assume control, maintenance and responsibility for the Association's Pump Station. Both Developer and Association will endeavor to seek acceptance by the Borough Sewer Department of the Pump Station, and related sewer system (or any portion thereof) and any and all improvements, to be maintained and operated by the Borough, with the intent that the Borough shall undertake performance of all future services related to said Pump Station and sewer system. The parties further agree to cooperate in that effort, but acknowledge that same is not within their control. The Association hereby further agrees that if the Borough accepts the Pump Station and related sewer system, that any and all necessary easements, rights of way or other interests will be granted by the Association to the Borough to effectuate said takeover as soon as so noticed by the Borough requesting same. If the Borough declines to accept the pump station as outlined above, then

Developer will assume responsibility for same no later than 30 days after, conditioned upon Developer obtaining unappealable Final Site Plan Approval from the Borough of Clementon Combined Land Use Board for development of the Property for residential use. Accordingly, if the Borough declines to accept the Pump Station, future costs associated with the Pump Station will be shared between the Association and Developer on a pro-rata basis, based on sewer flow\capacity determinations. It is agreed that said cost and flow determinations will be calculated annually, by Developer's engineer utilizing NJ-RSIS standards, until build out of the Property. Pro-rata payment will begin on the date of issuance of the first Certificate of Occupancy for a unit for the Property. Association hereby further agrees to grant Developer any and all necessary easements, rights of way or other interests as soon as so noticed by Developer requesting same. Notwithstanding the foregoing, both parties hereby acknowledge, agree and consent to each other's right of use of the Pump Station and all necessary related sewer system infrastructures connecting to the public sewer system.

6. Contribution to Association. Developer agrees to a contribution to the general fund of the Association in the amount of \$11,000.00, payable upon receipt of unappealable Final Site Plan Approval from the Borough of Clementon Combined Land Use Board for development of the Property for residential use. In addition thereto, Developer will contribute the sum of \$30,000.00, with said contribution payment amount to be equally apportioned among the first 120 units so approved and payable upon the date of settlement of each new unit. If more than 120 units are so approved, Developer will then contribute \$100.00 per unit, also payable upon the date of settlement of each new unit, of units 121 or more so approved. Accordingly:

Units 1 to 120 approved : \$30,000.00\* (apportioned among units)

Units 121 to total approved : \$100.00\* / unit

\*Payable upon the date of settlement of each unit

Association hereby understands, acknowledges and agrees that Developer's obligation for payment of said contribution per unit is contingent and conditioned upon Developer obtaining unappealable Final Site Plan Approval from the Borough of Clementon Combined Land Use Board for development of the Property for residential use and a Certificate of Occupancy for each unit.

7. Street Dedication, Sharing. Developer proposes to utilize a separate municipal road entrance, roadway and parking area for the Property development. The existing Heritage Square roadways and parking area will not be utilized in the development for the Property. Developer agrees that if there are any changes in planning or development proposed by Developer to the contrary that include the use of any existing Association roadways or parking area, Developer and Association will amend this Agreement or enter into a separate agreement to set forth same and fairly apportion responsibility relative to dedicating and or sharing of new and existing roadways and parking areas amongst the parties.

8. Heritage Square Existing Pool Facilities. Developer does not intend to share the existing pool facilities in the current proposed development. However, if Developer so wishes to utilize the existing pool facilities for its proposed development, Developer and Association may amend this Agreement or enter into a separate agreement to set forth same and fairly apportion responsibility and costs amongst the parties relative to use of the existing pool facilities.

9. Notices. All notices and any other correspondence by the parties relative to the rights and obligations of the parties for this Agreement shall be made by one of the following methods:

1. Certified mail RRR;
2. Regular mail AND facsimile transmittal; or
3. Overnight commercial carrier such as FedEx or UPS.

Notices and correspondence shall be made to the following address which may be changed upon written notice to the parties:

**If notice to Developer:**

Mt. Carmel Land Co., LLC  
c/o Gabriel S. Di Medio  
401 Cooper Landing Rd. C-25  
Cherry Hill, NJ 08002  
FAX 856-667-3172

**With a copy thereof to:**

Kevin J. Di Medio, Sr., Esq.  
30 Washington Ave. Ste. B-4  
Haddonfield, NJ 08033  
FAX 800-975-1514

**If to Association:**

Heritage Square Condominium Association  
c/o CMS, Inc. & Thomas R. Garver  
P.O. Box 4264  
Lindenwold, NJ 08021  
FAX 856-783-5235

**With a copy to:**


Barry W. Rosenberg, Esq.  
411 Rt. 70 East Ste. 104  
Cherry Hill, NJ 08034-2414  
FAX 856-428-5540

10. Entire Agreement. This Agreement contains the entire understanding of the parties hereto with respect to the subject matter hereof, and no prior or other written or oral agreement or undertaking pertaining to any such matter shall be effective for any purpose.

11. Interpretation. This Agreement shall be construed reasonably to carry out its intent without presumption against or in favor of either party. If any provision hereof shall be declared invalid by any court or in any arbitration or administrative proceedings, then the provisions of this Agreement shall be construed in such manner so as to preserve the validity hereof and the substance of the transaction herein contemplated to the extent possible. The captions and paragraph headings are provided for purposes of convenience of reference only and are not intended to limit, define the scope of, or aid in interpretation of any of the provisions hereof. The parties hereto acknowledge that this Agreement has been negotiated with the assistance of their respective attorneys, so that this Agreement shall not, in any way, be construed or interpreted based upon the scrivener having represented one party or the other.


IN WITNESS WHEREOF, the Developer and the Association, having agreed to and legally bound by this Agreement, have caused this Agreement to be executed as of the date first set forth above.

**For Developer:**  
**MOUNT CARMEL LAND CO., L.L.C.**

By:   
Name: Gabriel S. DiMedio  
Title: Managing Partner

Date: 9/6/06

**For Association:**  
**HERITAGE SQUARE CONDOMINIUM ASSOCIATION**

By:   
Name: ROBERT S GIACOBBE  
Title: BOARD PRESIDENT

Date: 10/16/08

ACKNOWLEDGMENTS

STATE OF NEW JERSEY )  
 ) SS:  
COUNTY OF CAMDEN )

BE IT REMEMBERED, that on this 16<sup>th</sup> day of September, 2006, before me the subscriber, personally appeared Gabriel S. DiMedio who, I am satisfied, is the person who signed the within instrument as MANAGING PARTNER of Mount Carmel Land Co., L.L.C., the company named herein, and this person thereupon acknowledged that the said instrument made by the company was signed, sealed and delivered by this person as such OFFICER of the company and is the voluntary act and deed of the company.

E. LOUIS B. LINDINGER  
NOTARY PUBLIC OF NEW JERSEY  
MY COMMISSION EXPIRES SEPT. 21 2008

*E. Louis B. Lindinger*

E. LOUIS B. LINDINGER  
NOTARY PUBLIC OF NEW JERSEY  
MY COMMISSION EXPIRES SEPT. 21

STATE OF NEW JERSEY )  
 ) SS:  
COUNTY OF CAMDEN )

BE IT REMEMBERED, that on this 16<sup>th</sup> day of October, 2006, before me the subscriber, personally appeared ROBERT GIACOBBO who, I am satisfied, is the person who signed the within instrument as BOARD PRESIDENT of the Heritage Square Condominium Association, the Association named herein, and this person thereupon acknowledged that the said instrument made by the company was signed, sealed and delivered by this person as such OFFICER of the company and is the voluntary act and deed of the company.

*Karen Algayer*

Karen Algayer  
Notary Public of New Jersey  
Commission Expires August 12, 2007