



# UNION COUNTY IMPROVEMENT AUTHORITY

1499 US Highway One, North, 3<sup>rd</sup> Floor  
Rahway, New Jersey, 07065  
www.ucimprovementauthority.org  
(732) 382-9400 (732) 382-5862 fax

Resolution No. 63-2017

Date: September 13, 2017

**RESOLUTION OF THE UNION COUNTY IMPROVEMENT AUTHORITY  
AUTHORIZING THE EXECUTIVE DIRECTOR TO ENTER INTO A RIGHT OF  
ACCESS AGREEMENT WITH VVR DEVELOPERS, LLC TO PERFORM STORM  
WATER DRAINAGE TESTING AT THE PROPERTIES KNOWN AS BLOCK 84 LOTS  
1 AND 4-7 AND BLOCK 91 LOTS 3, 5-8 AND 9-12 IN THE CITY OF LINDEN**

APPROVED AS TO FORM:  
Lisa M. da Silva, RMC  
Clerk of the Authority

APPROVED AS TO SUFFICIENCY OF FUNDS  
☐ YES ☐ NO ☒ NONE REQUIRED  
UNION COUNTY IMPROVEMENT AUTHORITY

	PRESENT	ABSENT	AYE	NAY	ABSTAIN	MOTION	SECOND
<i>Bornstad, Treasurer</i>		✓					
<i>D'Elia</i>		✓					
<i>Hockaday</i>		✓					
<i>Huff</i>	✓		✓				
<i>Lattimore</i>	✓		✓				✓
<i>Salerno, Secretary</i>	✓		✓			✓	
<i>Szpond</i>		✓					
<i>Rountree, Vice Chairwoman</i>	✓		✓				
<i>Scutari, Chairman</i>	✓		✓				

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**WHEREAS**, the Union County Improvement Authority ( the “Authority”) has been duly created by ordinance of the Union County Board of Chosen Freeholders as a public body corporate and politic of the State of New Jersey pursuant to and in accordance with the County Improvement Authorities Law, N.J.S.A. 40: 37A-44 et seq.; and

**WHEREAS**, pursuant to N.J.S.A. 40:37A-55(t), the Authority is empowered to enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts and things necessary, convenient or desirable for the purposes of the Authority, subject to the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.; and

**WHEREAS**, the Authority is the owner of certain property located at Block 84, Lots 1 and 4-7 and Block 91, Lots 3, 5-8 and 9-12 in the City of Linden, County of Union , New Jersey; and

**WHEREAS**, the Authority has agreed to convey the property to the City of Linden which in turn will convey the property to the Redeveloper, VVR Developers, LLC; and

**WHEREAS**, VVR Developers, LLC is seeking a right of access to the property for itself and their consultants for the purpose of performing storm water drainage testing; and

**WHEREAS**, the Authority desires to enter into a Right of Access Agreement with VVR Developers, LLC to permit them to perform the necessary storm water drainage testing in substantially the form annexed hereto and made a part hereof ;

**NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE MEMBERS OF  
THE UNION COUNTY IMPROVEMENT AUTHORITY AS FOLLOWS:**

1. The Authority hereby approves the execution of the Right of Access Agreement with VVR Developers, LLC.
2. The Authority authorizes the Executive Director to approve and execute the Right of Access Agreement with VVR Developers, LLC. Such approval and execution by the Executive Director shall be deemed approval by the Authority and no further action or approval shall be required.
3. This resolution shall take effect immediately.

### Right of Access Agreement

Right of Access Agreement (this "Agreement") between the **UNION COUNTY IMPROVEMENT AUTHORITY**, with offices at 1499 US Highway One North, Rahway, New Jersey 07065, collectively referred to in this Agreement as "**UCIA**,"

- and -

**VVR DEVELOPERS, LLC**, having an address at 23 Jani Court, Clifton, New Jersey 07013, referred to in this Agreement as "**Redeveloper**," together with the UCIA, the "**Parties**."

### Background

A. The UCIA is the owner of Block 84, Lots 1 and 4-7, and Block 91, Lots 3, 5-8 and 10-12, in the City of Linden, County of Union, and State of New Jersey (collectively, the "**Premises**").

B. The UCIA has agreed to convey the Premises to the City of Linden (the "**City**"), which in turn will then convey the Premises to the Redeveloper pursuant to that certain Redevelopment Agreement executed by the City and Redeveloper on or about June 12, 2017 (the "**Redevelopment Agreement**").

C. Section 13.12 of the Redevelopment Agreement provides that "Redeveloper shall have the right to conduct any and all such investigations with regard to the legal, economic, physical, and environmental condition of the Property and feasibility of the Project as Redeveloper shall elect to perform, and the City shall provide such access to the Property as Redeveloper shall request for its investigations."

D. In anticipation of the Redeveloper's acquisition of the Premises, Redeveloper desires a right of access to the Premises for itself and its consultants ("**Consultants**") for the purpose of performing certain investigatory activities at the Premises.

E. As it is anticipated that the Premises will not be conveyed to the City by the time that Redeveloper and its Consultants desire to access the Property, the UCIA is willing to grant Redeveloper and Consultants a limited right of access to the Premises upon the terms and conditions set forth in this Agreement.

Now, therefore, in consideration of the promises and the mutual covenants contained in this Agreement, the Parties agree as follows:

### Definitions

A. "**Business Day**" means any day other than a Saturday, Sunday or a day on which national banking associations are authorized or required to close.



B. **"Environmental Laws"** means each and every federal, state, county and municipal statute, ordinance, rule, regulation, order, directive or requirement, now existing or hereafter enacted or promulgated, together with all amending and successor statutes, ordinances, rules, regulations, orders, directives or requirements, of any Governmental Authority, in any way related to any solid, liquid, gaseous or thermal contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, waste, petroleum products or byproducts, asbestos, PCBs, phosphates, lead or other heavy metals, urea formaldehyde foam insulation, radon gas, any solid or liquid wastes (including hazardous wastes), hazardous air pollutants, hazardous substances, hazardous chemical substances and mixtures, toxic substances, pollutants and contaminants.

C. **"Governmental Authority"** means the federal, state, county or municipal government, and any department, agency, bureau or other similar type body obtaining authority therefrom or created pursuant to any Environmental Laws.

#### Right and Conditions of Access

1. The UCIA hereby grants to Redeveloper and Consultants the non-exclusive and limited right to enter upon the Premises to perform certain investigatory activities at the Premises (the **"Activities"**), at the sole cost and expense of Redeveloper, but only upon the terms and conditions set forth in the Redevelopment Agreement and this Agreement.

2. All Activities shall be performed at such times and on such days of the week so as to be performed in a manner that will not have any adverse effect on the UCIA or any other person or entity obtaining rights of use and occupancy through the UCIA, their respective agents, employees or invitees, or all of them.

3. Redeveloper shall, at its sole cost and expense, promptly remove and dispose of off of the Premises, in accordance with all Environmental Laws, all equipment, material, soil, water and debris associated with the collection of samples from the Premises.

4. All Activities performed at the Premises by or on behalf of Redeveloper shall, once begun, be completed with reasonable diligence and paid for in full by Redeveloper, free and clear of all mechanic's or other liens and encumbrances, and shall be performed in accordance with all applicable statutes, ordinances, rules, regulations, orders and requirements of any Governmental Authority, including without limitation Environmental Laws. All Activities performed by or on behalf of Redeveloper shall be done in a good and workmanlike manner, and in such a manner so as not to cause any damage to the Premises or interference with the use and occupancy of the Premises by the UCIA or any other person or entity obtaining rights of use and occupancy through the UCIA, or their respective agents, employees or invitees. Redeveloper shall, to the reasonable satisfaction of the UCIA, and at such times and upon such terms and conditions as the UCIA shall determine in its sole and absolute discretion, either repair or replace, as the case may be, any damage done to the Premises during any entry, and shall substantially restore the Premises to its original condition at the time the entry commenced.

5. Prior to each entry upon the Premises, Redeveloper shall, at least forty-eight (48) hours in advance of each entry if such entry pertains to invasive, physical testing, and at least

twenty-four (24) hours in advance of all other entries, notify the UCIA, in writing, which notice may be by email to [dminchello@njrcmlaw.com](mailto:dminchello@njrcmlaw.com), and which shall set forth (i) the date and time of the proposed entry upon the Premises; (ii) the nature, location and extent of all Activities to be performed upon the Premises; and (iii) the estimated duration of the entry.

6. This Agreement shall serve as notice that the Redeveloper will be accessing the Premises approximately during the week of September 11, 2017, to perform stormwater drainage testing (i.e. test pits).

7. The UCIA shall have the right to have a representative present during any such entry.

8. Redeveloper shall indemnify, defend and hold the UCIA and its officials, agents and employees harmless from and against all claims, liabilities, losses, penalties, damages and costs, foreseen or unforeseen, including, without limitation, reasonable legal, engineering and other professional or expert fees and expenses which any or all them may incur, resulting directly or indirectly, wholly or partly, from the access granted hereunder, the Activities, or any action or non-action by or on behalf of Redeveloper or any Consultants, or both. Redeveloper releases and covenants not to sue the UCIA with respect to any personal injury or property damage suffered by Redeveloper, Consultants, their respective employees, representatives, agents and/or any third party, resulting directly or indirectly, wholly or partly, from the breach, the access, the Activities or any action or non-action by or on behalf of Redeveloper, Consultants, or both.

9. With the exception of the notices required under Paragraph 5 above, all notices or other communications required or permitted hereunder shall be in writing, and shall be given by any nationally recognized overnight delivery service with proof of delivery, or by e-mail, sent to the intended addressee at the addresses set forth below, or to such other addresses or to the attention of such other persons as the addressee will have designated by written notice sent in accordance herewith. Unless changed in accordance with the preceding sentence, the addresses for notices given pursuant to this Agreement will be as follows:

If to UCIA:

**Union County Improvement Authority  
1499 Routes 1 & 9, North  
Rahway, New Jersey 07065**

With Copy to:

David L. Minchello, Esq.  
1 Woodbridge Center, Suite 515  
Woodbridge, New Jersey 07095  
E-mail: [dminchello@njrcmlaw.com](mailto:dminchello@njrcmlaw.com)  
Fax: (732) 791-1555

If to Redeveloper:

VVR Developers, LLC  
23 Jani Court  
Clifton, New Jersey 07013  
Attn: Hiren Ramani

With Copy to:

Robert S. Goldsmith, Esq.



Greenbaum, Rowe, Smith & Davis LLP  
99 Wood Avenue South  
Iselin, NJ 08830  
E-mail: rgoldsmith@greenbaumlaw.com  
Fax: (732) 476-2621

Notices given by (i) overnight delivery service as aforesaid shall be deemed received and effective on the first Business Day following such dispatch and (ii) e-mail as aforesaid shall be deemed given at the time and on the date of the e-mail provided same is sent prior to 5:00 p.m. (EST) on a Business Day (if sent later, then notice shall be deemed given on the next Business Day). Notices may be given by counsel for the Parties described above, and such notices shall be deemed given by said party for all purposes hereunder.

10. The right of access shall automatically terminate at the sooner of the date in which the UCIA conveys title to the Premises to the City of Linden and the expiration of the Due Diligence Period, as same may be extended by the City and the Redeveloper in writing (as defined by the Redevelopment Agreement).

11. All obligations imposed upon Redeveloper shall survive the expiration or earlier termination of this Agreement.

12. This Agreement shall be governed by the laws of the State of New Jersey. The Parties acknowledge that this Agreement has been executed and delivered in the State of New Jersey, and the Parties submit to the jurisdiction of the courts of the State of New Jersey.

13. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof. No change, addition or modification to this Agreement shall be effective unless signed in writing by all Parties.

14. Redeveloper and Consultants shall not assign any rights or delegate any responsibility imposed under this Agreement.

15. In all references in this Agreement to any Parties, persons, entities or corporations, the use of any particular gender or the plural or singular number is intended to include the appropriate gender and number as the text of this Agreement may require.

16. This Agreement shall be binding upon Redeveloper, its successors and permitted assigns and shall inure to the benefit of the UCIA, its successors and assigns.

17. This Agreement may be executed in multiple counterparts, each of which, when assembled to include a signature for each party contemplated to sign this Agreement, will constitute a complete and fully executed Agreement. All such fully executed counterparts will collectively constitute a single agreement. The delivery of an executed counterpart of this Agreement via electronic means, such as e-mail or facsimile, shall be as legally binding on the party so delivering same as the delivery of a counterpart bearing an original signature.

IN WITNESS WHEREOF, the Parties have duly executed and delivered this Agreement as of September 13, 2017.

**UNION COUNTY IMPROVEMENT  
AUTHORITY**

By:



Name:

Title:

**VVR DEVELOPERS, LLC**

By:



Name: Hiren Ramani

Title: Principal