

BOROUGH OF HIGHLAND PARK
NO. 11-22-267

**RESOLUTION DESIGNATING TANTUM FIDELCO HP LLC AS THE
CONDITIONAL REDEVELOPER FOR PROPERTY IDENTIFIED AS TRACT A IN
THE 2021 DOWNTOWN REDEVELOPMENT PLAN AND AUTHORIZING AN
INTERIM COST AND CONDITIONAL DESIGNATION AGREEMENT**

WHEREAS, the Borough of Highland Park, a public body corporate and politic of the State of New Jersey (the “**Borough**”), is authorized pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, *et seq.* (as same may be amended from time to time) (the “**Redevelopment Law**”) to act as a redevelopment entity and to implement redevelopment plans and carry out redevelopment projects in the Borough; and

WHEREAS, pursuant to the Redevelopment Law, the Borough Council caused a redevelopment plan to be prepared for certain property located within the Borough, entitled the “Downtown Redevelopment Plan for Tracts A-D” (the “**Redevelopment Plan**”); and

WHEREAS, on September 14, 2021, the Borough Council approved Ordinance No. 21-2030 adopting the Redevelopment Plan; and

WHEREAS, as described in the Redevelopment Plan, the properties identified as Tract A: Block 1704 [173], Lots 41-49 & Portion of Lot 20 (“**Tract A**”); Tract B: Block 2201 [13], Lots 6 & 9 (“**Tract B**”); Tract C: Block 2202 [22], Lots 4, 32.02 & 33.01 (“**Tract C**”); and Tract D: Block 1604 [158], Lots 20-26, 42, 50-51 & Portion of Lot 47, and Block 1603 [162], Lots 36-38 (“**Tract D**”) on the Official Tax Map of the Borough (collectively, the “**Properties**”) have been designated as an “area in need of rehabilitation,” “area in need of redevelopment” and/or a “condemnation area in need of redevelopment”; and

WHEREAS, on December 7, 2021, the Borough Council approved Resolution 12-21-299, authorizing the issuance of a Request for Proposals (the “**RFP**”) related to the redevelopment of Tracts A, C, and D; and

WHEREAS, the Borough received a proposal from Tantum Fidelco HP LLC (the “**Conditional Redeveloper**”), for Tract A and the Borough and the Conditional Redeveloper intend to pursue pre-development activities, including but not limited to review of the Conditional Redeveloper’s proposal, negotiation in good faith and preparation of a redevelopment agreement and other related actions (the “**Pre-Development Activities**”); and

WHEREAS, the Conditional Redeveloper recognizes that the Borough will incur costs and expenses in connection with the Pre-Development Activities, and the Borough is willing to defray those costs and expenses, with no assurance of a particular result for the Conditional Redeveloper from the Borough; and

WHEREAS, the Borough wishes to enter into an interim cost and conditional redeveloper’s agreement with the Conditional Redeveloper (the “**Conditional Redeveloper’s Agreement**”), substantially in the form attached, to effectuate the funding of an escrow account

and procedures for the payment therefrom of moneys to pay the Borough's costs and expenses incurred in undertaking the Pre-Development Activities.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Highland Park as follows:

Section 1. Generally. The aforementioned recitals are incorporated herein as though fully set forth at length.

Section 2. Execution of Agreement. The Borough Council hereby authorizes the Borough Administrator to execute the Conditional Redeveloper's Agreement substantially in the form attached hereto as Exhibit A, with such changes, deletions, and modifications in consultation with counsel as may be necessary or desirable to effectuate the transaction contemplated by this Resolution. However, neither the adoption of this Resolution, nor the execution of the Conditional Redeveloper's Agreement authorized hereby, shall be construed in any way to bind the Borough to execute one or more definitive agreements with respect to the Project.

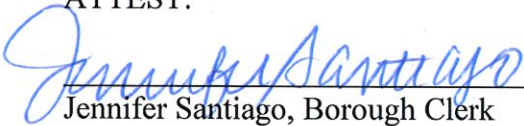
Section 3. Severability. If any part of this Resolution shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Resolution.

Section 4. Availability of the Resolution. A copy of this Resolution shall be available for public inspection at the office of the Borough Clerk.

Section 5. Effective Date. This Resolution shall take effect immediately.

ADOPTED: November 22, 2022

ATTEST:


Jennifer Santiago, Borough Clerk

I, Jennifer Santiago, Borough Clerk of the Borough of Highland Park, New Jersey, do hereby certify the above to be a true copy of a resolution adopted by the Borough Council of said Borough on the 22nd day of November 2022.

Jennifer Santiago, Borough Clerk

RECORD OF COUNCIL VOTES

Council Member	Ayes	Nays	Abstain	Absent
Canavera				✓
Foster				✓
George	✓			
Hale	✓			
Hersh	✓			
Kim-Chohan	✓			

INTERIM COST AND CONDITIONAL DESIGNATION AGREEMENT
BY AND BETWEEN THE BOROUGH OF HIGHLAND PARK
AND TANTUM-FIDELCO

THIS AGREEMENT dated as of ^{December} November 16, 2022 (“Effective Date”), by and between the **BOROUGH OF HIGHLAND PARK**, (the “Borough”), located at 221 South Fifth Street, Highland Park, New Jersey 08904, acting 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 “**Redevelopment Law**”), and Tantum Fidelco HP LLC, a limited liability company of the State of New Jersey, located at 66 York Street, 5th Floor, Jersey City, New Jersey 07302 (the “**Conditional Redeveloper**”).

WITNESSETH

WHEREAS, the Redevelopment Law provides a process for municipalities to participate in the redevelopment and improvement of areas designated as areas in need of redevelopment or as areas in need of rehabilitation; and

WHEREAS, the Borough desires that the land located in an area which has been determined to be an area in need of redevelopment in accordance with the Redevelopment Law, designated as Blocks 1704, Lots 41-49, and a portion of Block 1704, Lot 20; more commonly known as 101 Raritan Ave, 115 Raritan Ave., 125 Raritan Ave, 127 Raritan Ave, 133 Raritan Ave, 110-148 Montgomery St. and two unnumbered lots on Denison St. in the Borough, also known as Tract A, (the “**Project Site**”), be redeveloped in accordance with the Downtown Redevelopment Plan For Tracts A-D adopted by the Borough Council on September 14, 2021 (the “**Redevelopment Plan**”); and

WHEREAS, Block 1704, Lots 41, 42 and 48 are currently owned by the Borough; and

WHEREAS, on or about May 6, 2022, the Conditional Redeveloper submitted to the Borough a Proposal in response to a Request for Proposals issued by the Borough (“**RFP**”) and certain accompanying information seeking to be designated as the Redeveloper of the Project Site (collectively, the “**Proposal**”); and

WHEREAS, the Borough and the Conditional Redeveloper desire to negotiate a redevelopment agreement to redevelop the Project Site based generally upon the Proposal as a starting point for negotiations, subject to the provisions herein, and further review by the Borough; and

WHEREAS, the Borough shall, during the Interim Period, as that term is defined herein, negotiate exclusively with the Conditional Redeveloper regarding the Proposal for the redevelopment of the Project Site; and

WHEREAS, the Borough requires that the Conditional Redeveloper pay the reasonable costs incurred by the Borough associated with the review of the Proposal, the drafting and negotiation of a redevelopment agreement and any other related agreements or documents, and all other reasonable costs and expenses related to this matter prior to the execution of any redevelopment agreement, should such an Agreement ultimately be executed, or the determination by the Borough that such a redevelopment agreement cannot be executed, should that result occur; and

WHEREAS, payment of such costs by the Conditional Redeveloper in no way assures any particular result,

NOW, THEREFORE, for and in consideration of the promises and of the mutual representations, covenants and agreements herein set forth, the parties hereto, each binding itself, its successors and assigns, do mutually promise, covenant and agree as follows:

1. **Conditional Designation.** Upon the complete execution of this Agreement, the Conditional Redeveloper shall be designated as the Conditional Redeveloper of the Project Site. The Borough and Conditional Redeveloper shall negotiate in good faith all the issues identified herein and execute a redevelopment agreement within the Interim Period set forth herein. In the event that the parties are unable to reach agreement on the terms of a redevelopment agreement before the expiration of the Interim Period, this Agreement may be terminated by either party and upon such termination the designation set forth herein shall be automatically terminated, subject to the provisions herein and Conditional Redeveloper shall cease to have any liability to pay any further Borough professional costs and fees that were incurred after termination of this Agreement.

2. **Interim Period.** The term "**Interim Period**" shall mean the period of 180 calendar days commencing on the date of the full execution of this Agreement; provided however, that the Parties may continue to negotiate with each other beyond the initial 180 calendar days of the Interim Period without the necessity for any formal amendment to this Agreement, and this Agreement will remain in effect during such ongoing negotiations provided that either party may, in its sole discretion, terminate this Agreement by written notice at any time after such 180 day period. Notwithstanding the foregoing, if at any time following the Interim Period it is reasonably determined by the Borough that a redevelopment agreement cannot be successfully negotiated and executed for any reason, the Borough may terminate this Agreement, subject to the provisions herein, upon 30 days written notice by Borough to Conditional Redeveloper and provided that Conditional Redeveloper is unable to cure the Borough's reason for termination within said 30 day period, failing which the termination shall be deemed effective as of close of business on the thirtieth (30th) day following such written notice.

During the Interim Period, the Borough agrees to negotiate exclusively with the

Conditional Redeveloper toward the preparation and execution of a redevelopment agreement for the Project Site, which shall include all the project details, terms and conditions, schedules, and financial arrangements between the Borough and the Conditional Redeveloper with respect to the redevelopment of the Project Site. During the Interim Period, either party may cease negotiations and terminate this Agreement if the other party is not diligently negotiating in good faith or it is mutually determined by the parties that a redevelopment agreement cannot be successfully negotiated and executed for any reason. In the event that this Agreement is terminated, then neither party hereto shall be bound by any further obligations hereunder to the other, except as may exist under Paragraph 3 pertaining to the Payment of Interim Costs.

3. **Payment of Interim Costs.** The Conditional Redeveloper shall pay or reimburse the Borough, as applicable, all reasonable and documented professional fees and costs incurred by the Borough and as more thoroughly defined below in paragraph 3A which have been incurred by the Borough beginning on June 1, 2022 related to the selection of the Conditional Redeveloper for Tract A, and which shall continue to be incurred prior to the execution of any redevelopment agreement or the determination that such a redevelopment agreement cannot be executed, should that result occur.

A. **Definition of Interim Costs:** The term “**Interim Costs**” shall include, but not be limited to, all costs incurred by the Borough in connection with, related to or arising out of the designation of the Conditional Redeveloper as the Conditional Redeveloper of the Project Site, the drafting and negotiation of any redevelopment agreement and any other related agreements or documents, the review of any future revised proposal(s) submitted, and reasonable professional fees charged by any legal, engineering or financial consultant, contractor or vendor retained by the Borough in connection with same. The Conditional Redeveloper shall fully reimburse all Interim

Costs incurred by the Borough, even if a redevelopment agreement between the Borough and Conditional Redeveloper is not executed notwithstanding the Borough and Conditional Redeveloper's good faith, due diligent efforts to the contrary **except that** in no event shall the Conditional Redeveloper's obligation to pay or reimburse the Borough include fees, costs and expenses of any litigation or action instituted by Borough or the Conditional Redeveloper relating to any claim associated with the subject matter of the within Agreement and/or the Conditional Redeveloper's designation as Conditional Redeveloper. In the event of such litigation, the Borough and Conditional Redeveloper each shall be responsible for their own costs and expenses, inclusive of legal fees. In the event of any litigation or action instituted by a third party relating to any claim associated with the subject matter of the within Agreement and/or the Conditional Redeveloper's designation as Conditional Redeveloper, the Conditional Redeveloper shall either be obligated to pay or reimburse the Borough for all fees, costs and expenses in connection with the defense of said litigation or the Conditional Redeveloper may terminate the Agreement. The Conditional Redeveloper further agrees that in the event the Parties continue good faith negotiations following the expiration of the Interim Period, all Interim Costs incurred by the Borough following such expiration shall be included in the definition of Interim Costs and shall be reimbursed by the Conditional Redeveloper in the same manner as Interim Costs. Notwithstanding anything contained in this Paragraph 3A to the contrary.

B. **Deposit of Project Funds**: Concurrently with the full execution of this Agreement, Conditional Redeveloper shall pay \$25,000.00 ("**Project Funds**") to the Borough to be maintained in a separate, non-interest bearing escrow account by the Borough and to be drawn down upon by the Borough to cover Interim Costs. The Borough shall provide Conditional Redeveloper with detailed invoices setting forth the work, time expended, and costs incurred by

the Borough which have been drawn down from the Project Funds. Within 15 days of the receipt by Conditional Redeveloper of written notice from the Borough that the amount of Project Funds has decreased to \$5,000.00 or less, Conditional Redeveloper shall promptly replenish the Project Funds to the amount of \$15,000.00. If at any time the Interim Costs exceed the amount of the Project Funds, on hand, the Borough shall provide Conditional Redeveloper payment notice and billing to support its requests for additional funds and within 15 days of receipt of the same the Conditional Redeveloper agrees to remit payment to the Borough.

C. **Termination:** Subject to the terms herein, in the event that a redevelopment agreement is not ultimately executed, and this Agreement is terminated, the Borough shall draw down upon the Project Funds in order to pay all invoices for Interim Costs incurred up to the termination. Within 30 days from the date of termination, the Borough shall return all remaining Project Funds to the Conditional Redeveloper. In the event that a redevelopment agreement is ultimately executed, the Project Funds shall remain on deposit with the Borough to cover any additional Interim Costs incurred by the Borough and to cover any costs incurred by the Borough pursuant to the redevelopment agreement, which redevelopment agreement shall contain a provision providing for the payment of such costs.

4. **Scope.** The Parties have had preliminary discussions regarding the scope of the project to be covered by the redevelopment agreement. The Parties agree that the description set forth in the Proposal shall provide the basis for the commencement of the negotiations for the redevelopment agreement, subject to the provisions herein. The Parties further agree that the Parties are not bound by the description of the project set forth in the Proposal, nor does the Proposal contain an exhaustive list of all terms, conditions and obligations to be included in a redevelopment agreement. The continuing negotiations shall address several issues to refine the

description set forth in the Proposal and determine where amendments to the Redevelopment Plan may arise.

5. **Entire Agreement.** This Agreement contains the entire agreement of the Parties with respect to the subject matter of this Agreement, and supersedes all prior negotiations, agreements and understandings with respect thereto.

6. **Controlling Law.** New Jersey law shall govern the within Agreement.

[Remainder of page left intentionally blank.]

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

TANTUM FIDELCO HP LLC

Attest:



Nicholas Strasser

By:



Debra Tantleff
Principal


BOROUGH OF HIGHLAND PARK

Attest:



Jennifer Santiago

By:



Teri Jover
Borough Administrator

[Signature Page for Interim Cost Agreement]

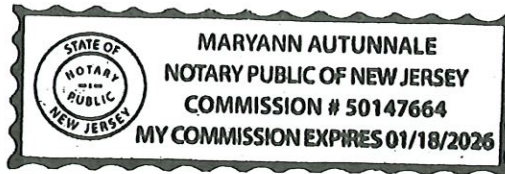
STATE OF NEW JERSEY)
) ss:
COUNTY OF MIDDLESEX)

I CERTIFY that on November 23, 2022, Jennifer Santiago, personally came before me, and this person acknowledged under oath, to my satisfaction, that:

- (a) this person is the Clerk of the Borough of Highland Park, named in this document;
- (b) this person is the attesting witness to the signing of this document by the proper Borough of Highland Park official who is Teri Jover, Borough Administrator;
- (c) this document was signed and delivered by the Borough of Highland Park as its voluntary act duly authorized by a proper resolution of the Borough of Highland Park; and
- (d) this person signed this proof to attest to the truth of these facts.

Jennifer Santiago


Signed and sworn to before me
on 23rd day November, 2022.



[Signature]
Notary Public

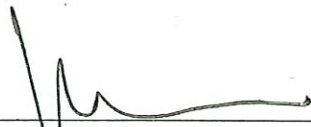
STATE OF NEW JERSEY)
) ss:
COUNTY OF MIDDLESEX)

I CERTIFY that on December 16, 2022, Debra Tantleff personally came before me, and this person acknowledged under oath, to my satisfaction, that this person, Debra Tantleff is the Principal of Tantum-Fidelco, which is the company named in this document; and signed and delivered this document as his/her act and deed on behalf of the said company.



J. Nicholas Strasser

Signed and sworn to before me
on December 16, 2022.



Notary Public - Anthony
Joseph Baumann