

MAINTENANCE AGREEMENT

THIS AGREEMENT (the “Agreement”) is made the _____ day of August, 2024 between Croton Enterprises, LLC with an address at c/o Newmark, 120 White Plains Road, Suite 120, Tarrytown, NY 10591 (“Owner”) and the Village of Croton-on-Hudson with an address at 1 Van Wyck Street, Croton-on-Hudson, NY 10520 (the “Village”).

WHEREAS, Owner is the owner of property known as 440-460 South Riverside Avenue, Croton-on-Hudson, NY and which is further identified on the Tax Assessment Map of the Village of Croton-on-Hudson as Section 79.17, Block 2, Lot 2 (the “Property”); and

WHEREAS, the Village has granted special permit and site plan approvals for the improvements to the Property, including for the ShopRite supermarket as the primary tenant at the Property (“Shoprite”); and

WHEREAS, as part of the site plan approval granted for Shoprite the Village Planning Board required that the Owner and the Village enter into a parking lot maintenance agreement for the upkeep of the parking lot on the Property and the maintenance and health of the landscape trees on the Property; and

WHEREAS the parties desire to enter into this Agreement to set forth the Owner’s obligations with respect to the maintenance of the parking lot and the Property.

NOW, THEREFORE, the parties agree as follows:

1. The Owner shall be responsible to at all times maintain the parking lot on the Property in good, clean condition. Specifically, the Owner shall be responsible for the following items of maintenance on a regular basis as needed to keep the Property in good condition:
 - a. Regular sweeping of the parking lot and trash clean up.
 - b. Maintaining all signage, including directional signage, to be at all times clear and visible, including replacing and repairing signage as may be necessary.
 - c. Restriping the parking lot at regular intervals as needed to maintain visible and clearly delineated parking spaces and roadway striping.
 - d. Snow and ice removal as needed.
 - e. Maintenance of all landscaping, including promptly replacing all dead plant materials including street trees as required by the Village site plan approval.
 - f. Filling of all potholes and asphalt repairs as needed.
 - g. Maintenance of all stormwater management features on the Property.

In no event shall the Village have the right to require the Owner to complete any repair or maintenance which is a capital expense in accordance with Generally Accepted Accounting Principles. Furthermore in no event, unless there is an imminent threat to health and safety, shall the Village have the right to require Owner to complete any

- repair or maintenance that costs Twenty-Five Thousand and 00/100 dollars (\$25,000) or more in any twelve (12) month period.
2. The Owner shall enter into such agreements or retain such contractors as may be reasonably necessary to complete the maintenance obligations set forth herein.
 3. Upon the written request by the Village to be made no more than once annually, the Owner shall promptly submit a report to the Village Engineering Department summarizing the ongoing maintenance completed, any repairs or replacements undertaken during the prior year, and including the names of the contractors that Owner has entered into a direct written agreement to undertake the maintenance.
 4. Subject to Owner's right to reasonably contest same (as set forth below), should the Village become aware of any needed material maintenance or repair required hereunder which has not been addressed (as used herein 'material' shall mean a condition which will result in a condition below the standard of maintenance required by the applicable governmental and municipal approvals for the Property), the Village shall give the Owner written notice of same and Owner shall (subject to the aforesaid right to contest) undertake to complete such maintenance or repair thirty (30) days after receipt of such notice, unless delayed by weather conditions or delays in obtaining materials needed for such maintenance or repair or other events beyond the reasonable control of Owner, in which case Owner shall use its commercially reasonable efforts to commence and complete such maintenance or repair as soon as possible. Pending any good faith challenge by Owner, the Owner's obligation to complete such maintenance or repair shall be tolled. If the Owner shall disagree with the Village's requirement for maintenance or repair, the Owner shall within ten (10) business days of receipt of notice from the Village send notice to the Village contesting the Village's requirement. The parties shall thereafter work to resolve differences, if the parties shall not reasonably agree to a resolution within thirty (30) days, the parties shall submit the dispute to Arbitration by a single arbitrator in the New York Office of the American Arbitration Association ("AAA") in accordance with the AAA's Commercial Arbitration Rules. The arbitrator shall be selected by the AAA and shall be a recognized commercial retail property manager with at least ten (10) years of experience in managing comparable shopping centers in the County where the Property is located.
 5. Notice to Owner shall be given at the address set forth above. Notice may also be given by email to gej@justerdevelopment.com, with a copy to knvevins@goodwin.com, or such other addresses as the Owner shall require.
 6. In the event Owner fails to meet its obligations under this Agreement, and after giving of the notice required by paragraph 4 above, the Village shall have the right after a second thirty (30) day notice and opportunity to cure, to undertake such necessary and reasonable maintenance or repair or retain a contractor to undertake such maintenance and repair, and the reasonable out of pocket cost of same shall be assessed against the Owner and the Property.

7. Should any term or provision of this Agreement be declared to be void, invalid, illegal or unenforceable, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the subject matter hereof, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.
8. This Agreement will terminate if and when the lease to Shoprite shall terminate or expire.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written above.

Croton Enterprises, LLC

By: _____
Name:
Title:

Village of Croton-on-Hudson

By: _____
Bryan T. Healy
Village Manager