

## COMMUNITY SERVICE CONTRIBUTION AGREEMENT

**THIS COMMUNITY SERVICE CONTRIBUTION AGREEMENT** (the “**Agreement**”) is made as of \_\_\_\_\_, 2023 (the “**Effective Date**”);

by and between

**MONMOUTH MEDICAL CENTER, INC.**, (“**MMC**” or “**Redeveloper**”) a not-for-profit corporation of the State of New Jersey, with an address of 300 Second Avenue, Long Branch, New Jersey 07740, an affiliate and assignee of RWJ Barnabas Health, Inc., whose address is 95 Old Short Hills Road, West Orange, New Jersey 07052;

and the

**BOROUGH OF TINTON FALLS** (the “**Borough**”), a municipal corporation of the State of New Jersey, having its principal office at 556 Tinton Avenue, Tinton Falls, New Jersey 07742.

Hereinafter each a “**Party**” and collectively referred to as the “**Parties**”.

### RECITALS

**WHEREAS**, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq., as amended and supplemented (the “**Redevelopment Law**”), provides a process for municipalities to participate in the redevelopment and improvement of areas in need of redevelopment; and

**WHEREAS**, pursuant to N.J.S.A. 40A:12A-4, the governing body of the Borough serves as an instrumentality and agency pursuant to the Redevelopment Law for the purpose of implementing redevelopment plans and carrying out redevelopment projects within the Borough (the “**Redevelopment Entity**”); and

**WHEREAS**, N.J.S.A. 40A:12A-8 authorizes the Borough, acting as the Redevelopment Entity, to enter into contracts or agreements for the planning, construction or undertaking of any development project or redevelopment work in an area in need of redevelopment; and

**WHEREAS**, on March 6, 2012, the Borough adopted Resolution No. R-12-089 determining and designating that the entirety of the former Fort Monmouth property in the Borough is an area in need of redevelopment under the Redevelopment Law; and

**WHEREAS**, on May 15, 2012, the Borough adopted Ordinance No. 12-1344 accepting the Fort Monmouth Reuse and Redevelopment Plan (the “**Reuse Plan**”), as

amended, under the Redevelopment Law, which established the land use regulations governing the former Fort Monmouth property in the Borough identified herein in conjunction with the land use regulations set forth at N.J.A.C. 19:31C-3.1 et seq.; and

**WHEREAS**, on October 30, 2017, the Fort Monmouth Economic Revitalization Authority ("**FMERA**") and the Redeveloper entered into a Purchase and Sale Agreement for Block 101.03, Lot 1 (the former Myer Center property) consisting of approximately 36.3 acres within the Borough (the "**Property**" or "**Project Site**"); and

**WHEREAS**, on August 10, 2018, FMERA, the New Jersey Economic Development Authority ("**NJEDA**") and Redeveloper entered into an Agreement to Assign, as amended from time to time (the "**Agreement to Assign**"), pursuant to which Redeveloper agreed to assume, and NJEDA agreed to assign, NJEDA's rights and obligations under a Purchase Agreement, dated October 30, 2017, between FMERA and NJEDA for the acquisition of the Property; and

**WHEREAS**, FMERA's Agreement to Assign with the Redeveloper was amended a fourth time in 2021 establishing an outside closing date of December 30, 2022; and

**WHEREAS**, on February 19, 2019, the Borough and the Redeveloper entered an Escrow Agreement to address pre-development activities, including negotiation of a Redevelopment Agreement for the Project and other related actions; and

**WHEREAS**, on May 12, 2022, the Redeveloper formally applied to the Borough to be designated redeveloper of the Property within the Fort Monmouth Reuse and Redevelopment Plan Area, whereby the Redeveloper proposes to construct a phased development as follows: (a) the first phase consisting of the construction of an approximately 150,000 square foot cancer center/ambulatory care pavilion, comprised of the following uses: oncology services, imaging, radiation, ambulatory surgery center, parking and interphase grading and landscaping ("**Phase 1**"); and (b) a second phase consisting of two options, which may be undertaken by the Redeveloper at its discretion in accordance with the Redevelopment Agreement, Phase 2A consisting of the construction of an approximately 568,901 square foot acute care hospital including 250 licensed beds, an approximately 206,768 square foot clinical and support building, a 112,864 square foot medical office building, a 34,000 square foot central utility plant, an approximately 404,000 square foot structured parking facility, and associated site improvements and amenities, and Phase 2B consisting of 20 acres of publicly available accessible open space, stone dust walking trails connecting different site components, seatwall and sculpture space, at least two gazebos and landscaped open areas and plantings (Phase 1 and either Phase 2A or Phase 2B, as elected by Redeveloper in accordance with the Redevelopment Agreement (collectively, the "**Project**"); and

**WHEREAS**, on June 21, 2022, the Redeveloper conducted a public presentation on the Project during a special meeting of the Borough Council; and

**WHEREAS**, on August 9, 2022, pursuant to Resolution No. R-22-180, the governing body of the Borough conditionally designated the Redeveloper as the redeveloper of the Property; and

**WHEREAS**, on October 26, 2022, pursuant to Resolution No. PB2021-12, the planning board of the Borough granted Redeveloper Preliminary and Final Site Plan with Variances, Design Exceptions and Waivers for the Project; and

**WHEREAS**, on December 20, 2022, the Borough adopted Resolution No. R-22-241, fully designating MMC as Redeveloper of the Property and authorizing the entry of a Redevelopment Agreement dated January 23, 2023 (the “**Redevelopment Agreement**”); and

**WHEREAS**, on December 15, 2022, the Redeveloper acquired title and took possession of the Property; and

**WHEREAS**, MMC is a not-for-profit corporation exempt from federal, state and local income tax under Section 501(c)(3) of the Internal Revenue Code and Title 54 of the New Jersey Statutes; and

**WHEREAS**, the project improvements, with the exception of the Medical Office Building to be developed in Phase 2A, are to be used in furtherance of MMC’s charitable, public purpose and not for profit use (the Project, excluding the Medical Office Building to be developed as part of Phase 2A, is referred to herein as the “**Non-Profit Project**”); and

**WHEREAS**, in accordance with N.J.S.A. 54:4-3.6j, the Non-Profit Project and the Property shall be exempt from conventional taxation, but in accordance with N.J.S.A. 54:4-3.6j and N.J.S.A. 40:48J-1, MMC is required to make an annual community service contribution; and

**WHEREAS**, MMC and the Borough desire to enter this Agreement in order to memorialize each Party’s respective obligations with respect to the annual community service contribution to be made by MMC to the Borough.

**NOW, THEREFORE**, in consideration of the provisions and the mutual covenants and agreements hereinafter set forth, and subject to the terms, conditions, and contingencies hereof, RWJBH and the Borough hereby agree as follows:

- 1. Payments Upon Acquisition.** Upon the Redeveloper acquiring title to the Property, the Property shall remain tax-exempt, but the Redeveloper shall

commence making Community Service Contribution payments of \$25,000 per year ("**CSC Payment**") during the construction period prior to the issuance of the first Temporary Certificate of Occupancy or Certificate of Occupancy for Phase 1.

- 2. Payment Upon Completion of Phase 1.** Upon issuance of the first Temporary Certificate of Occupancy or Certificate of Occupancy for Phase 1, the Redeveloper shall commence making CSC Payments to the Borough equal to \$150,000 annually (prorated for partial years), which shall increase 2% annually. A credit, however, shall be applied against the post-construction annual payments due under this Section 2 equal to the sum of CSC Payments made pursuant to Section 1 above, up to a maximum credit of \$125,000 in each annual period hereunder. If the applicable credits due to Redeveloper hereunder exceed \$125,000, such credits shall be applied to amounts due under this Section 2 in subsequent years, so that the minimum CSC Payment in any annual period shall never be less than \$25,000. Upon issuance of the Temporary Certificate of Occupancy or Certificate of Occupancy for Phase 1, the amounts due pursuant to this Section 2 shall be due in lieu of the amounts set forth in Section 1 above and any assessed property tax payments, and shall thereafter be referred to as the CSC Payment.
- 3. Payment Upon Completion of Phase 2A.** Upon issuance of the first Temporary Certificate of Occupancy or Certificate of Occupancy for the acute care hospital under Phase 2A, the Redeveloper shall commence CSC Payments to the Borough in an amount equal to that which is required pursuant to N.J.S.A. 40:48J-1 et seq. based on the then-current per day, per bed contribution amount, which increases 2% annually in accordance with applicable law. Upon issuance of the first Temporary Certificate of Occupancy or Certificate of Occupancy for the acute care hospital under Phase 2A, the amounts due pursuant to this Section 3 shall be due in lieu of the amounts set forth in Section 1 and Section 2 above, and shall thereafter be referred to as the CSC Payment.
- 4. Payment Process.** The applicable CSC Payments will be made to the Borough in accordance with N.J.S.A. 40:48J-1(b)(3).
- 5. Enforcement.** The obligation to remit CSC Payments is legal, valid, and binding. If a quarterly installment of CSC Payments are not paid when due, the unpaid balance shall constitute a municipal lien on the Property after 30 days and shall be enforced and collected in the same manner as unpaid property taxes and N.J.S.A. 40:48J-1(c) shall apply.

6. **Payment to County.** The Borough acknowledges and agrees that, upon receipt of an applicable CSC Payment, it shall remit 5% of such amount, as the case may be, to the County of Monmouth pursuant to N.J.S.A. 40:48J-1(d).
7. **Authority.** MMC and the Borough acknowledge that this Agreement represents a contract between MMC and the Borough and each party represents that it has the power and right to consummate this Agreement.
8. **Public Interest Statement.** MMC and the Borough acknowledge that this Agreement is in the interest of the public, MMC and the Borough.
9. **Term.** Provided that the Property continues to be exempt from taxation under N.J.S.A. 54:4-3.6, this Agreement shall have an initial term of 30 years and this Agreement will be automatically renewed for additional 5 year periods pursuant to the same terms and conditions unless written notification is given by either Party to the other setting forth desired changes in the terms of this Agreement at least 6 months before the expiration of the initial term or any renewal period. Notwithstanding the foregoing, the Agreement and its terms may only be amended by a written document signed by each of the Parties hereto.
10. **Change in Exemption.** If prior to the completion of Phase 2A, a portion of the Property is not exempt from taxation under N.J.S.A. 54:4-3.6, the amount of taxes paid on such non-exempt portion shall be deducted from the next applicable CSC Payment. If the entire Property is not exempt from taxation under N.J.S.A. 54:4-3.6, MMC shall have no obligation to make any CSC Payments to the Borough unless otherwise required by law.
11. **Severability.** If any term, covenant or condition of this Agreement shall be judicially declared to be invalid or unenforceable, the remainder of this Agreement or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law.
12. **Notices.** Any notices to be given hereunder shall be in writing and properly addressed and directed to the party to receive the same at the following address or at such other address as may hereafter be substituted by notice in writing thereof.

**If to the Borough, to:**  
Borough Administrator

556 Tinton Avenue  
Tinton Falls, New Jersey 07742

**With a copy to:**

Brian M. Nelson, Esq.  
Spiro Harrison & Nelson LLC  
Two Bridge Avenue, Suite 322  
Red Bank, New Jersey 07701

**and if to Redeveloper, to:**

Monmouth Medical Center, Inc.  
300 Second Avenue  
Long Branch, New Jersey 07740

RWJ Barnabas Health, Inc.  
95 Old Short Hills Road  
West Orange, New Jersey 07052

**With a copy to:**

Michael A. Bruno, Esq.  
Giordano, Halleran & Ciesla, P.C.  
125 Half Mile Road, Suite 300  
Red Bank, New Jersey 07701

David Mebane, Executive Vice President and General Counsel  
RWJ Barnabas Health, Inc.  
95 Old Short Hills Road  
West Orange, New Jersey 07052

**13. Counterparts.** This Agreement may be signed in counterparts, each of which shall be an original and which together shall constitute one and the same instrument.

**[signatures on next page]**

**IN WITNESS WHEREOF**, the parties hereto have hereunto set their hands and seals the day and year above written.

Witness:

**MONMOUTH MEDICAL CENTER, INC.**

\_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Eric Carney  
President & CEO

Attest:

**BOROUGH OF TINTON FALLS**

\_\_\_\_\_  
Michelle Hutchinson  
Borough Clerk

By: \_\_\_\_\_  
Vito Perillo  
Mayor