

1. Agenda Packet 6-30-26

Documents:

[AGENDA PACKET 6-30-26.PDF](#)

2. Redeveloper's Agreement - Block 702 Lots 4, 6, And 17.01

Documents:

[REDEVELOPERS AGREEMENT - TERRACE II.PDF](#)

**Township of Berkeley Heights
Union County, New Jersey**

**Township Council Public Meeting
June 30, 2026
6:30 P.M.**

Adequate notice of this meeting has been provided by forwarding a copy to the Courier News, Star Ledger and posting on the Township website, at least forty-eight hours prior to the meeting, all in accordance with the Open Public Meetings Act.

COUNCIL MEMBERS:

John Foster - President
Margaret Illis
Bill Machado
Alvaro Medeiros
Andrew Moran
Susan Poage – Vice President
Angie Devanney- Mayor

AGENDA FOR PUBLIC MEETING

- I. CALL TO ORDER**
- II. ROLL CALL**
- III. FLAG SALUTE**
- IV. PROCLAMATION**
 - Girl Scout Gold Award – Molly Altman
- V. CONFERENCE SESSION**
 1. JCP&L Representative
 2. Amending the Tree Ordinance
 3. Creating a Recreation Department
 4. Amending the Police Department Organizational Structure
- VI. REGULAR AGENDA**
- VII. APPROVAL OF MINUTES**

Public Meetings: June 9, 2026
- VIII. ORDINANCES FOR PUBLIC HEARING AND FINAL ADOPTION:**

Ordinances Introduced on June 9, 2026

Ordinance 2026-12
ORDINANCE APPROPRIATING \$145,000.00 FOR VARIOUS CAPITAL IMPROVEMENTS IN AND BY THE TOWNSHIP OF BERKELEY HEIGHTS, IN THE COUNTY OF UNION, NEW JERSEY.

IX. CITIZENS HEARING - (3) minutes per resident

Comments are welcome during the public comment period during this meeting on any matter over which the Township has jurisdiction. To make your comment, the speaker must come forward to the microphone and state his/her name and address for the record. Each speaker is limited to 3 minutes. The Mayor and/or Council President will keep time. Please promptly yield the floor when time is called and return to your seat. Your cooperation in adherence to these rules of order will ensure an orderly and respectful meeting.

X. NEW BUSINESS – RESOLUTIONS OFFICIAL ACTION WILL BE TAKEN ON THE FOLLOWING:

RESOLUTIONS

CONSENT AGENDA – All matters listed under Consent Agenda are considered routine by the Township Council and will be enacted upon by one motion; there will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

Resolution No. 2026-

222. Resolution approving Bill List dated June 30, 2026, in the amount of \$745,335.42.
223. Resolution designating a redeveloper and authorizing the execution of a redevelopment agreement for the property known as Block 702, Lots 4 and 6 and a portion of Block 702, Lot 17.01 on the tax map of the Township.
224. Resolution authorizing the execution of a Developer’s Agreement with OZ Custom Builders, LLC for the property identified as Block 2006, Lots 32.01 (725 Mountain Avenue), 32.02 (7 Westminster Court), 32.03 (1 Westminster Court), 32.04 (3 Westminster Court) and 32.05 (5 Westminster Court).
225. Resolution amending the adopted budget for additional item of revenue and offsetting appropriation for Alcohol Education, Rehabilitation and Enforcement Fund Grant.
226. Resolution amending the adopted budget for additional item of revenue and offsetting appropriation for Berkeley Heights Senior Citizen Public Services Program (CDBG YR 52).
227. Resolution amending the adopted budget for additional item of revenue and offsetting appropriation for 2026 Sustainable Jersey Grant.
228. Resolution amending the adopted budget for additional item of revenue and offsetting appropriation for New Jersey Historic Trust Grant. (\$384,067.00)
229. Resolution amending the adopted budget for additional item of revenue and offsetting appropriation for New Jersey Historic Trust Grant. (\$228,247.00)

230. Resolution authorizing the release of Cash Performance Bond in the amount of \$3,000.00 for work performed at 596 Mountain Avenue.
231. Resolution authorizing the release of Cash Performance Bond in the amount of \$4,000.00 for work performed at 157 Pearl Street.
232. Resolution amending Resolution 2026-216 which authorized a grant application to the New Jersey Department of Transportation’s Safe Streets grant program to reflect the Safe Streets to Transit grant program name.
233. Resolution authorizing a block party at Ridge Drive, on Saturday, September 12, 2026, from 4:00 – 8:00 p.m.
234. Resolution rejecting the Bid from NJAW for the provision of the “Phase II- Exterior Restoration & Structural Stabilization at the Littell-Lord Farmhouse” which was received and opened on June 24, 2026, in accordance with N.J.S.A. 40A:11-13.2(b) because it exceeds the appropriation for the goods or services which are the subject of the bid.
235. Resolution authorizing the purchase of APX 6500 vehicle-mounted radios with accessories for the police department, through the New Jersey State Cooperative Purchasing Contract #T0109 for the total amount of \$13,802.22.
236. Resolution authorizing the cancellation of certain unexpended improvement authorization balances in the General Capital Fund.
237. Resolution authorizing the Clerk to go out to bid for flood mitigation services.
238. Resolution to adopt the Township of Berkeley Heights Community Energy Plan (CEP) as part of the New Jersey Board of Public Utilities CEP Grant Program.
239. Resolution approving the execution of a sidebar agreement between the Township of Berkeley Heights and PBA Local 144 setting an academy rate of pay.
240. Resolution authorizing the Right-of-Way Encroachment License Agreement for the property located at 251 Plainfield Avenue.
241. Resolution authorizing the award of a professional services contract to Connolly & Hickey Historical Architects for bidding and contract administration services for the exterior and interior restoration and rehabilitation of the Littell-Lord Farmhouse.
242. Resolution authorizing an agreement with Animal Control Solutions, LLC for animal control services for the period July 1, 2026 through December 31, 2026.

243. Resolution amending Resolution 2026-203 which authorized the purchase of APX NEXT portable radios with accessories for the police department, through the New Jersey State Cooperative Purchasing Contract to increase the contract not to exceed amount to include an additional radio and related accessories.

XI. ORDINANCES FOR INTRODUCTION

Public Hearing and Final Adoption scheduled for July 21, 2026.

Ordinance 2026-13

AN ORDINANCE TO DESIGNATE DATA CENTERS AS A PROHIBITED USE IN ALL ZONES WITHIN THE TOWNSHIP

Ordinance 2026-14

ORDINANCE AMENDING CHAPTER 10.08, "THROUGH STREETS, STOP INTERSECTIONS, TRAFFIC CONTROL SIGNALS AND CROSSWALKS," OF THE TOWNSHIP CODE TO REFLECT STOP INTERSECTIONS AT ALL APPROACHES AT WASHINGTON STREET AND BERKELEY AVENUE

Ordinance 2026-15

ADOPTING AN ORDINANCE TO DISSOLVE THE RECREATION COMMISSION AND SET FORTH THE RECREATION DEPARTMENT WITHIN THE TOWNSHIP OF BERKELEY HEIGHTS

Ordinance 2026-16

AN ORDINANCE CLARIFYING THE LAND USE PROCEDURES OF THE TOWNSHIP OF BERKELEY HEIGHTS AS IT RELATES TO PERMITTED AND ACCESSORY USES AS WELL AS VIOLATIONS OF THIS ORDINANCE

Ordinance 2026-17

ORDINANCE APPROPRIATING \$135,000.00 FOR ROAD CAPITAL IMPROVEMENTS IN AND BY THE TOWNSHIP OF BERKELEY HEIGHTS, IN THE COUNTY OF UNION, NEW JERSEY

XII. TOWNSHIP COUNCIL REPORTS

- A. John Foster - President
- B. Margaret Illis
- C. Bill Machado
- D. Alvaro Medeiros
- E. Andrew Moran
- F. Susan Poage – Vice President

ADMINISTRATION REPORTS

Mayor Devanney
Liza Viana

XIII. EXECUTIVE SESSION

XIV. ADJOURNMENT

Angela Lazzari, Township Clerk

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-12

ORDINANCE APPROPRIATING \$145,000.00 FOR
VARIOUS CAPITAL IMPROVEMENTS IN AND BY THE
TOWNSHIP OF BERKELEY HEIGHTS, IN THE COUNTY
OF UNION, NEW JERSEY.

BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF
BERKELEY HEIGHTS, IN THE COUNTY OF UNION, NEW JERSEY AS FOLLOWS:

Section 1. The Township of Berkeley Heights, in the County of Union, New Jersey (the "Township") hereby appropriates the sum of \$145,000.00, consisting of the following amounts from Capital Fund Balance to provide for the following various capital improvements in the following amounts:

<u>Improvement or Purpose</u>	<u>Amount</u>
a) <u>Department of Public Works:</u> Township grounds repairs and improvements, including, but not limited to, repairs at the Municipal Complex, Berkeley Heights Volunteer Rescue Squad Building, Department of Public Works Building, Wastewater Treatment Plant and public paths, including all work and materials necessary therefor and incidental thereto.	\$60,000.00
b) <u>Department of Public Works:</u> The acquisition of parts and major repairs to heavy equipment to extend their useful life,	\$25,000.00
c) <u>Sewer:</u> Acquisition of a pickup truck with plows.	\$60,000.00

Section 2. The Township hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Township is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

ORDINANCE 2026-12

Section 3. This ordinance shall take effect after final adoption and publication and otherwise as provided by law.

Angie Devanney, Mayor

Introduction						Councilperson	Final Adoption					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
	X	X				John Foster						
		X				Margaret Illis						
		X				Bill Machado						
X		X				Alvaro Medeiros						
		X				Andrew Moran						
		X				Susan Poage						
Introduced: June 9, 2026						I hereby certify the above ordinance was adopted by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey on the aforementioned date.						
Final Adoption: June 30, 2026												
						_____ Angela Lazzari, Township Clerk						

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

NOTICE OF PENDING ORDINANCE AND SUMMARY

The ordinance, the summary terms of which are included herein, was introduced and passed upon first reading at a meeting of the governing body of the Township of Berkeley Heights, in the County of Union, State of New Jersey, on **June 9, 2026**. It will be further considered for final passage, after public hearing thereon, at a meeting of the governing body to be held at the Township Municipal Complex, 29 Park Avenue, Berkeley Heights, NJ on **June 30, 2026** at **6:30 p.m.** During the week prior to and up to and including the date of such meeting, copies of the full ordinance will be available at no cost and during regular business hours at the Clerk's office for the members of the general public who shall request the same. The summary of the terms of such ordinance follows:

Title: ORDINANCE APPROPRIATING \$145,000.00 FOR VARIOUS CAPITAL IMPROVEMENTS IN AND BY THE TOWNSHIP OF BERKELEY HEIGHTS, IN THE COUNTY OF UNION, NEW JERSEY

Purposes:

<u>Improvement or Purpose</u>	<u>Amount</u>
a) <u>Department of Public Works:</u> Township grounds repairs and improvements, including, but not limited to, repairs at the Municipal Complex, Berkeley Heights Volunteer Rescue Squad Building, Department of Public Works Building, Wastewater Treatment Plant and public paths, including all work and materials necessary therefor and incidental thereto.	\$60,000.00
b) <u>Department of Public Works:</u> The acquisition of parts and major repairs to heavy equipment to extend their useful life,	\$25,000.00
c) <u>Sewer:</u> Acquisition of a pickup truck with plows.	\$60,000.00

Appropriation: \$145,000

Bonds/Notes Authorized: \$0

Grants (if any) Appropriated: \$0

Section 20 Costs: N/A

Useful Life: N/A

Angela Lazzari, Clerk

This Notice is published pursuant to N.J.S.A. 40A:2-17.

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE STATEMENT AND SUMMARY

The ordinance, the summary terms of which are included herein, has been finally adopted by the Township of Berkeley Heights, in the County of Union, State of New Jersey, on **June 30, 2026**. Copies of the full ordinance are available at no cost and during regular business hours at the Clerk's office for members of the general public who request the same. The summary of the terms of such ordinance follows:

Title: ORDINANCE APPROPRIATING \$145,000.00 FOR VARIOUS CAPITAL IMPROVEMENTS IN AND BY THE TOWNSHIP OF BERKELEY HEIGHTS, IN THE COUNTY OF UNION, NEW JERSEY

Purposes:

<u>Improvement or Purpose</u>	<u>Amount</u>
a) <u>Department of Public Works:</u> Township grounds repairs and improvements, including, but not limited to, repairs at the Municipal Complex, Berkeley Heights Volunteer Rescue Squad Building, Department of Public Works Building, Wastewater Treatment Plant and public paths, including all work and materials necessary therefor and incidental thereto.	\$60,000.00
b) <u>Department of Public Works:</u> The acquisition of parts and major repairs to heavy equipment to extend their useful life,	\$25,000.00
c) <u>Sewer:</u> Acquisition of a pickup truck with plows.	\$60,000.00

Appropriation: \$145,000

Bonds/Notes Authorized: \$0

Grants (if any) Appropriated: \$0

Section 20 Costs: N/A

Useful Life: N/A

Angela Lazzari, Clerk

This Notice is published pursuant to N.J.S.A. 40A:2-17.

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, in meeting assembled, authorizes and directs the Township Treasurer to make payment of vouchers listed on the Bill List dated **6/30/2026**, in the amount of **\$745,335.42** such vouchers having been received by the Township Council, having been satisfied that appropriate procedure has been followed in the processing of said vouchers.

Approved this 30th day of June, 2026.

ATTEST:

**Angela Lazzari, RMC
Township Clerk**

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY

RESOLUTION

RESOLUTION OF THE TOWNSHIP OF BERKELEY HEIGHTS, IN THE COUNTY OF UNION, NEW JERSEY, DESIGNATING A REDEVELOPER AND AUTHORIZING THE EXECUTION OF A REDEVELOPMENT AGREEMENT FOR THE PROPERTY KNOWN AS BLOCK 702, LOTS 4 AND 6 AND A PORTION OF BLOCK 702, LOT 17.01 ON THE TAX MAP OF THE TOWNSHIP

WHEREAS, the Township of Berkeley Heights (the “**Township**”) is a political subdivision of the State of New Jersey, located in the County of Union; and

WHEREAS, on November 21, 2023, the Township Council (the “**Township Council**”) of the Township of Berkeley Heights (the “**Township**”), adopted Resolution No. 287-2023, authorizing and directing the Township Planning Board (the “**Planning Board**”) to conduct an investigation pursuant to the Redevelopment Law to determine whether all or a portion of the property identified as Block 702, Lots 4, 6 and 16 on the official tax maps of the Township, along with all streets and rights of way appurtenant thereto (the “**Study Area**”), meets one or more criteria set forth in the Redevelopment Law and should be designated as a non-condemnation area in need of redevelopment; and

WHEREAS, on May 1, 2024, the Planning Board, after providing due notice, conducted a public hearing in accordance with the Redevelopment Law, at which hearing it determined, by resolution, that the Study Area qualified as an area in need of redevelopment and recommended that the Township Council designate the Study Area as an area in need of redevelopment pursuant to the criteria and requirements of the Redevelopment Law; and

WHEREAS, on May 21, 2024, in accordance with the Redevelopment Law, the Township Council duly adopted Resolution No. 135-2024 designating the Study Area as a non-condemnation area in need of redevelopment (the “**Redevelopment Area**”); and

WHEREAS, on behalf of the Township and pursuant to the Redevelopment Law, Harbor Consultants (the “**Planning Consultant**”) prepared a redevelopment plan for a portion of the Redevelopment Area consisting of Block 702, Lots 4 and 6, as well as a portion of Block 702, Lot 17.01 (which was then known as Lot 17 and declared an “area in need of redevelopment” by the Township Council by adoption of Resolution No. 274-2016, and subsequently subdivided into Lot 17.01 per the minor subdivision application approved by the Planning Board on January 13, 2021 and recorded by subdivision deed dated December 10, 2021) (collectively, the “**Project Site**”), entitled “Terrace II Redevelopment Plan” (as the same may be supplemented from time to time, the “**Redevelopment Plan**”); and

WHEREAS, pursuant to the Redevelopment Law, specifically *N.J.S.A. 40A:12A-7(e)*, prior to the adoption of a redevelopment plan, the municipality’s planning board shall provide to the governing body of the municipality a report containing the planning board’s recommendation concerning the redevelopment plan pursuant to *N.J.S.A. 40A:12A-7(e)*; and

WHEREAS, on September 16, 2025, the Township Council adopted Resolution No. 2025-266 authorizing and directing the Planning Board to review the proposed Redevelopment Plan and provide a report to the Township Council pursuant to *N.J.S.A. 40A:12A-7(e)*; and

WHEREAS, on October 8, 2025, after due consideration of the Redevelopment Plan at a duly noticed and constituted public meeting, the Planning Board determined that the Redevelopment Plan is consistent with the Township's Master Plan and recommended that the Township Council enact the Redevelopment Plan; and

WHEREAS, on November 5, 2025, the Township Council adopted Ordinance 2025-32 approving the Redevelopment Plan; and

WHEREAS, the Township has determined to act as the "redevelopment entity" for the Project Site; and

WHEREAS, the Township desires to authorize the execution of a redevelopment agreement with Lockhern Property II BH Urban Renewal LLC (the "**Redeveloper**") (in the form set forth on file in the office of the Township Clerk, the "**Redevelopment Agreement**"), for the planning, construction and undertaking of the Project Site in accordance with the Redevelopment Plan; and

WHEREAS, the Redeveloper has proposed to undertake the following actions, in accordance with the terms of the Redevelopment Agreement and the Redevelopment Plan: (i) demolish the existing structures on the Project Site; (ii) design, develop, finance, construct, operate and maintain a mixed-use development including one four-story building containing thirty-three (33) residential rental units, including seven (7) units affordable to persons of very low-, low-, and moderate-incomes, a minimum of 1,500 square feet of ground floor retail space, a minimum of 37 off-street parking spaces on-site on Block 702, Lots 4 and 6, with any remaining required parking spaces provided off-site at the existing surface parking located on Block 702, Lot 17.01, along with associated amenities and site improvements; and (iii) construct all necessary on- and -off-site infrastructure improvements (items (i) through (iii), as more specifically described in Redevelopment Agreement, the "**Project**"); and

WHEREAS, in order to effectuate the Redevelopment Plan, the Project and the redevelopment of the Project Site, the Township has determined to enter into the Redevelopment Agreement with the Redeveloper, which Redevelopment Agreement designates Redeveloper as the "redeveloper" of the Project in accordance with the Redevelopment Law, and which specifies the respective rights and responsibilities of the parties with respect to the Project; and

WHEREAS, pursuant to Section 6.2.A of the Redevelopment Plan and Section 4.8 of the Redevelopment Agreement, the Township Council, as redevelopment entity, shall review the Project to ensure it is consistent with the Redevelopment Plan, and relevant affordable housing compliance laws and regulations and the Redevelopment Agreement; and

WHEREAS, in furtherance of the Township Council's review, the Planning Consultant prepared a consistency review report dated June 25, 2026 (on file in the office of the Township Clerk, the "**Consistency Review Report**"), concluding that the Project is substantially consistent with the requirements of the Redevelopment Plan, including the affordable housing provisions

therein, and the Redevelopment Agreement, subject to Redeveloper addressing the comments provided in such Consistency Review Report; and

WHEREAS, the Township Council, as redevelopment entity, wishes to make a consistency determination in accordance with Section 6.2.A of the Redevelopment Plan and Section 4.8 of the Redevelopment Agreement

NOW THEREFORE BE IT RESOLVED by the Township Council of the Township of Berkeley Heights, in the County of Union, New Jersey, as follows:

Section 1. The foregoing recitals are hereby incorporated by reference as if fully set forth herein.

Section 2. The Redeveloper is hereby designated as the Redeveloper of the Project Site.

Section 3. The Mayor of the Township is hereby authorized and directed to execute the Redevelopment Agreement, in the form set forth on file in the office of the Township Clerk, with such changes, omissions or amendments as the Mayor deems appropriate in consultation with the Township's general counsel, redevelopment counsel, Planning Consultant and other Township professionals. The Clerk of the Township is hereby authorized and directed to attest to the Mayor's signature and affix the seal of the Township to the Redevelopment Agreement. Upon execution and attestation of same, the Mayor is hereby authorized to deliver the Redevelopment Agreement to the other parties thereto.

Section 4. Based on the findings set forth in the Consistency Review Report, and subject to the conditions set forth therein, the Township Council, as redevelopment entity, hereby finds the Project substantially consistent with the requirements of the Redevelopment Plan, including the affordable housing provisions therein, and the Redevelopment Agreement.

Section 5. This resolution shall take effect immediately.

Approved this 30th day of June, 2026.

ATTEST:

Angela Lazzari, RMC
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

**RESOLUTION OF THE TOWNSHIP OF BERKELEY
HEIGHTS, IN THE COUNTY OF UNION, NEW JERSEY,
AUTHORIZING THE EXECUTION OF A DEVELOPER'S
AGREEMENT WITH OZ CUSTOM BUILDERS, LLC FOR
THE PROPERTY IDENTIFIED AS BLOCK 2006, LOTS
32.01 (725 MOUNTAIN AVENUE), 32.02 (7 WESTMINSTER
COURT), 32.03 (1 WESTMINSTER COURT), 32.04 (3
WESTMINSTER COURT) and 32.05 (5 WESTMINSTER
COURT)**

WHEREAS, the Township of Berkeley Heights (the "**Township**") is a municipal corporation of the State of New Jersey; and

WHEREAS, Oz Custom Builders, LLC (the "**Developer**") made application (the "**Application**") to the Township Zoning Board of Adjustment (the "**Board**"), requesting preliminary and final major subdivision approval and bulk variance and design waiver relief pursuant to N.J.S.A. 40:55D-70(c) and (d) to permit the subdivision of the property into five (5) lots, now known as Block 2006, Lot 32.01 (725 Mountain Avenue, Lot 32.02 (7 Westminster Court), Lot 32.03 (1 Westminster Court), Lot 32.04 (3 Westminster Court) and Lot 32.05 (5 Westminster Court) (Lots 32.02, 32.03, 32.04 and 32.05 collectively, the "**Property**") to be developed with four (4) detached single-family dwellings and a new public right of way to provide access thereto (the "**Project**") with the existing Westminster Presbyterian Church, associated parking lot, 1.5 story residential dwelling, memory garden, playground area and garage to remain on the fifth lot now known as Lot 32.01 (the "**Church**"); and

WHEREAS, on September 28, 2023, the Board voted 4 to 3 to approve the Application, however the Application was statutorily denied under N.J.S.A. 40:55D-70(d)(2), due to five (5) affirmative votes being required since the Developer requested use variance relief; and

WHEREAS, on January 10, 2024, the Developer filed a Complaint in Lieu of Prerogative Writ (the "**Complaint**"), which was docketed as UNN-L-131-24 in the Superior Court of New Jersey, Law Division, Union County, alleging that the denial of the application was arbitrary, capricious, unreasonable and unlawful; and

WHEREAS, the Developer and the Board reached an agreement as to the terms of a settlement contingent on a properly noticed public hearing, consideration of evidence and comments submitted by the public, public vote, and written resolution, compliant with the statutory safeguards in settling land use litigation set forth in Whispering Woods at Bamm Hollow v. Middletown Planning Bd., 220 N.J. Super. 161 (Law Div. 1987) and its progeny (a "**Whispering Woods Hearing**"); and

WHEREAS, on September 26, 2024, a duly noticed Whispering Woods Hearing took place during which the Board considered the proposed settlement agreement, wherein the

Developer sought preliminary and final major subdivision approval and variance and design waiver relief relating to the Project; and

WHEREAS, the Board, after reviewing the evidence submitted, voted five (5) in favor, one (1) against, and one (1) abstention that the Developer met its burden of proof for the requested preliminary and final subdivision and site plan approval, use and bulk variance relief, and design exception, with said approvals being memorialized by way of written Resolution adopted by the Board on October 24, 2024 (the “**Board Approval**”); and

WHEREAS, the Board and the Developer executed a settlement agreement dated October 11, 2024 (the “**Settlement Agreement**”); and

WHEREAS, on November 21, 2024, the Board adopted a memorializing resolution authorizing the Settlement Agreement; and

WHEREAS, the Board approved the application and granted the Approval on the condition that the Developer enter into a developer’s agreement with the Township prior to the commencement of any on-site construction; and

WHEREAS, the Township and the Developer desire to enter into such agreement to establish the terms pursuant to which the Developer shall proceed, together with its obligations pursuant to the Settlement Agreement, with construction of the Project; and

WHEREAS, the developer’s agreement attached hereto as **Exhibit A** (the “**Developer’s Agreement**”) has been prepared by the Township Attorney and has been reviewed and approved by the attorney for the Developer.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Berkeley Heights, in the County of Union, New Jersey, as follows:

Section 1. The foregoing recitals are hereby incorporated by reference as if fully set forth herein.

Section 2. The Mayor is hereby authorized to execute the Developer’s Agreement substantially in the form as attached hereto as **Exhibit A**, with such changes, omissions or amendments as the Mayor deems appropriate in consultation with the Township’s counsel and other Township professionals. The Clerk of the Township is hereby authorized and directed to attest to the Mayor’s signature and affix the seal of the Township to the Developer’s Agreement. Upon execution and attestation of same, the Mayor is hereby authorized to deliver the Developer’s Agreement to the other parties thereto.

Section 3. This resolution shall take effect immediately.

Approved this 30th day of June, 2026.

ATTEST:

Angela Lazzari, RMC
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

EXHIBIT A

Developer's Agreement

Record and Return to:

Matthew D. Jessup, Esq.
McManimon, Scotland & Baumann, LLC
75 Livingston Avenue, Second Floor
Roseland, New Jersey 07068

DEVELOPER'S AGREEMENT

Block 2006, Lots 32.01, 32.02, 32.03,
32.04, 32.05 (Formerly Lot 32) on the
Official Tax Maps of the Township of
Berkeley Heights, Union County

THIS DEVELOPER'S AGREEMENT (this "**Developer's Agreement**") is made and
executed this _____ day of _____, 2026, by and between:

Township of Berkeley Heights
29 Park Avenue
Berkeley Heights, New Jersey 07922

and

Oz Custom Builders, LLC
725 Mountain Avenue
Berkeley Heights, New Jersey 07922

Affecting property known as Block 2006, Lot 32.01 (725 Mountain Avenue), Lot 32.02 (7
Westminster Court), Lot 32.03 (1 Westminster Court), Lot 32.04 (3 Westminster Court), Lot 32.05
(5 Westminster Court) on the Township of Berkeley Heights Tax Map, formerly all one lot known
as Block 2006, Lot 32 (the "**Property**"), as more particularly described on the property description
attached hereto and made a part hereof as **EXHIBIT A**; and

WHEREAS, the Township of Berkeley Heights (the "**Township**") is a municipal
corporation of the State of New Jersey; and

WHEREAS, Oz Custom Builders, LLC (the "**Developer**") is the owner of the Property;

and

WHEREAS, the Developer made application (the “**Application**”) to the Township of Berkeley Heights Zoning Board of Adjustment (the “**Board**”), requesting preliminary and final major subdivision approval and bulk variance and design waiver relief pursuant to N.J.S.A. 40:55D-70(c) and (d) to permit the subdivision of the existing property into five (5) lots to be developed with four (4) detached single-family dwellings and a new public right of way to provide access thereto (the “**Project**”) with the existing Westminster Presbyterian Church, associated parking lot, 1.5 story residential dwelling, memory garden, playground area and garage to remain on the fifth lot, now known as Lot 32.01 (the “**Church**”); and

WHEREAS, the Board took jurisdiction and conducted public hearings on the Application at its meetings on November 11, 2021; January 27, 2022; April 13, 2022; June 22, 2023; and September 28, 2023, at which time the Board considered the Application materials submitted and plans and reports presented and the Board voted 4 to 3 to approve the Application, however, the Application was statutorily denied under N.J.S.A. 40:55D-70(d)(2), due to five (5) affirmative votes being required since the Developer requested use variance relief; and

WHEREAS, on January 10, 2024, the Developer filed a Complaint in Lieu of Prerogative Writ (the “**Complaint**”), which was docketed as UNN-L-131-24 in the Superior Court of New Jersey, Law Division, Union County, alleging that the denial of the application was arbitrary, capricious, unreasonable and unlawful; and

WHEREAS, the Developer and the Board reached an agreement as to the terms of a settlement contingent on a properly noticed public hearing, consideration of evidence and comments submitted by the public, public vote, and written Resolution, compliant with the statutory safeguards in settling land use litigation set forth in Whispering Woods at Bamm Hollow

v. Middletown Planning Bd., 220 N.J. Super. 161 (Law Div. 1987) and its progeny (“**Whispering Woods Hearing**”); and

WHEREAS, on September 26, 2024, a duly noticed Whispering Woods Hearing took place during which the Board considered the proposed settlement agreement wherein the Developer sought preliminary and final major subdivision approval and variance and design waiver relief relating to the Project and the Board voted unanimously in favor of the settlement agreement, which was memorialized on November 21, 2024 via the adoption of a resolution; and

WHEREAS, on September 26, 2024, the Board, after reviewing the evidence submitted, voted in favor of the Application by a vote of five (5) in favor, one (1) against, and one (1) abstention that the Developer met its burden of proof for the requested preliminary and final subdivision and site plan approval, use and bulk variance relief, and design exception, and memorialized said approval via the adoption of a Resolution on October 24, 2024 which is attached hereto as **EXHIBIT B** and made a part hereof (the “**Board Approval**”); and

WHEREAS, the Board and the Developer executed a settlement agreement dated October 11, 2024, which is attached hereto as **EXHIBIT C** and made a part hereof (the “**Settlement Agreement**”); and

WHEREAS, the Developer submitted and the Board approved the following plans:

1. [•]

(collectively, the “**Approved Plans**”) copies of which are attached as **EXHIBIT D** and are made a part of this Developer’s Agreement by reference as though fully set forth at length herein; and

WHEREAS, the Board has approved the Application and granted the Board Approval on the condition that the Developer enter into this Developer’s Agreement with the Township; and

WHEREAS, the Parties have determined to enter into this Developer’s Agreement as

required by the Board Approval; and

WHEREAS, on _____, 2026 the Township adopted Resolution _____, a copy of which is attached hereto as **EXHIBIT E** authorizing the execution of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual promises and conditions contained herein, the Parties agree as follows:

1. **Application of the Agreement.** The terms and conditions of this Developer's Agreement shall be applicable to the Property and the Project. This Developer's Agreement shall apply only to this Project by the Developer.
2. **Developer Bound.** The Developer agrees to be bound by the Board Approval, and all representations, commitments, matters of fact and matters of law which constitute the file and record of the Board, oral and written, all of which are made a part of this Developer's Agreement by reference hereto as though fully set forth herein, and it will faithfully discharge all of the obligations and commitments thereof.
3. **Construction Subject to Ordinances.** The Developer shall construct and design all improvements in accordance with the specifications of the Township Code, as amended to date, and the Board Approval, in a manner satisfactory to the Township engineer (the "**Township Engineer**") and in accordance with the improvements set forth on the Approved Plans. Except as otherwise approved in the Board Approval, Developer shall perform all work in full compliance and observation of all ordinances of the Township. The Developer shall be responsible for securing any and all permits required by law including, but not limited to, road opening permits and any and all other permits required by the ordinances of the Township or the Board Approval and to pay the requisite fees called for under the appropriate fee schedules.

4. **Performance Guarantees.** As of the date of this Agreement, and prior to commencing construction and the issuance of the initial construction permit, Developer (in this paragraph only the term “Developer” shall mean the Developer and/or third parties on behalf of the Developer, such as the Developer’s General Contractor) has provided the Township the following:

a. A Performance Guarantee in the amount of \$69,390.00, of which 10% or \$6,939.00 must be provided in cash, is required to be provided by the Developer to the Township, in accordance with the Township Construction & Inspection Fee Cost Estimate Letter issued by the Township Engineer and dated October 7, 2025, attached hereto as **EXHIBIT F** and made a part hereof.

b. A deposit for the inspection fees. The amount of the inspection fees is initially \$74,923.80. In accordance with N.J.S.A. 40:55D-53(h), the Developer shall have the option of paying the inspection fees in four installments. The initial amount deposited by the developer shall be 25% of the inspection fees. When the balance of the deposit drops to 10% of the inspection fees because the amount deposited has been reduced by the amount paid to the municipal engineer for inspection, the developer shall make additional deposits of 25% of the inspection fees.

5. **Engineering Escrows and Legal Fees.** The Developer shall deposit with the Township fees in accordance with the Township Code and Paragraph 4(b) hereof prior to the issuance of any building permit. Over and above any costs associated with filing fees, such escrow deposit is to cover the legal costs for the review and preparation of documents, including, but not limited to any required ordinances, resolutions, easements, and this Developer's Agreement, and any necessary correspondences with Developer,

Developer's professionals, the Township and/or its professional personnel, including, but not limited to, the Township Engineer; and to cover the costs associated with services to be rendered by the Township Engineer or his/her authorized representatives or other approving authority in connection with the inspections of the improvements of the Project. The Township Attorney and the Township Engineer will bill the Developer at the same hourly rate and in the same manner as it bills the Township. Said monies will be held and administered in accordance with N.J.S.A. 40:55D-53.1 and -53.2 and its subsections.

Upon completion of all improvements at the Project, should any deposit monies be left over in escrow, the unused balance shall be paid to Developer in accordance with N.J.S.A. 40:55D-53.2(d). Alternatively, should there be a shortage of funds in escrow to cover the legal or engineering inspection costs described herein, the Developer shall pay the additional amount as certified by the Township Chief Financial Officer.

6. **General Provisions.** It is further understood and agreed between the parties hereto as follows:

- a. The Developer shall comply with the Township Code.
- b. Road excavation and grading operations, if any, shall be under the supervision of a licensed professional engineer so that rainfall run-off will not create serious problems or erosion flooding or the deposit of mud and debris on abutting properties. Said engineer shall advise the Township Engineer of the measures to be taken that will afford this protection.
- c. Connections to existing sanitary sewers, if any, shall be plugged at the start of construction and shall not be opened until the line has passed a leakage test and has been inspected and approved by the Township Engineer or her/his authorized

agent.

- d. [Where required by the Construction Code Official and Township Engineer, a site development plan shall be submitted before issuance of a building permit in order to ensure adequate means of ingress and egress to the Property, as applicable.]
- e. No construction vehicles and equipment shall park on existing Township streets. Hours of demolition and construction, including, installation of any improvements, shall be 7:00 a.m. to 7:00 p.m., Monday through Saturday. All construction shall comply with applicable provisions of Section 8.44.030, Prohibited Noises, of the Township Code.
- f. The Developer shall obtain all approvals required from any other governmental agencies with jurisdiction relating to the Developer's Project. [The Developer shall be required to implement the Soil Erosion and Sediment Control Plan prior to the commencement of site construction.]
- g. The Developer shall construct the Project in accordance with the Approved Plans to reflect the requirements of the Board Approval.
- h. Prior to site disturbance, the Developer shall have a pre-construction meeting with the Township Engineer and submit an Affidavit of Compliance demonstrating compliance with all of the conditions of Board Approval and possession of all necessary governmental approvals. The Affidavit of Compliance shall list the approvals required and obtained and separately identify each condition that is satisfied or is being satisfied.
- i. Developer shall comply with all requirements of all ordinances of the Township

and all proper recommendations of the Township Engineer, [Township Planner], the Township Chief of Police, the Township Fire Department, and the Township Board of Health.

- j. Developer shall be responsible for all sewer and water connection fees, as applicable, in accordance with applicable ordinance and regulations as each is due.
- k. Developer shall obtain any permits or approvals required from Soil Conservation District; and shall obtain any approvals or permits required from the New Jersey Department of Environmental Protection, including, but not limited to, sanitary sewer, if required.
- l. Developer shall comply with any and all other Municipal, County, State and Federal regulations, including the New Jersey Department of Environmental Protection (“NJDEP”), if required, and shall obtain all necessary approvals prior to the commencement of construction and shall secure such other approvals or permits required from all agencies, boards or bodies having jurisdiction over the Project or over the Property.

7. **Drainage and Grading.** Drainage and grading shall be as follows:

- a. The Developer will ensure that all areas in the Project will be properly graded and properly drained and will in this regard obey all reasonable instructions of the Township Engineer relating thereto to assure compliance with the grading and drainage provisions approved by the Board.
- b. The Developer shall ensure that no stumps, dead trees or debris related to or resulting from the construction of the Project are deposited on or permitted to remain on any portion of the Property, and that no stumps, dead trees or debris

are deposited below the surface of the earth.

- c. In the event that any drainage problem is created on adjoining properties by the development of this Project, corrective measures shall be taken within the area limits of the Project, at such places and in such manner as the Township Engineer may reasonably require.
 - d. Prior to construction the Developer and the Township Engineer shall examine the Township's storm sewers that may be affected by this construction, if any, in order to determine whether there is any additional soil or debris to be removed after the completion of construction. Subsequently, the Developer will remove silt deposited in the Township's storm sewers, brooks and catch basins or other drainage areas resulting from the wash down of soil or debris in the course of the construction. Any reasonable instructions given by the Township Engineer to prevent such wash down shall be promptly carried out.
 - e. Sufficient detention facilities and drainage improvements must be constructed and operational in accordance with the soil erosion sediment control plan.
8. **Conditions of Approval.** The Developer shall also comply with the following terms and conditions in connection with the Approval, along with the variances granted by the Board and as set forth in the Approval, including, but not limited to:
- a. All the conditions contained in the Board Approval and in the record or the proceedings before the Board, including any agreements made by the Developer that were essential to the Board's decision to grant the Board Approval. The development of the Property shall be implemented in accordance with the Approved Plans. In the event the Developer shall make or propose any changes to

the Project or structures on the Property from those shown on the Approved Plans, whether such changes are voluntarily undertaken or required by any other regulatory agency, Developer shall resubmit such changes to the Engineer for review and determination. The Township Engineer may, in his/her discretion, approve the change administratively as a “field change” or require the Developer to submit the change to the Board for its review.

- b. This Developer’s Agreement is contingent upon the Developer having paid all outstanding taxes, municipal charges, application fees and escrow fees and any such fees as each becomes due after the execution of this Agreement.
- c. Developer shall obtain approvals of any other governmental agency having jurisdiction over the site’s approval, including, but not limited to, the Department of Environmental Protection’s flood hazard area permits, as required.

9. **Maintenance of Property**. During the course of construction and until the time of final acceptance of improvements, Developer shall:

- a. Except as reasonably necessary during construction, keep the Property reasonably free of dirt, stone, mud and other debris, and further agrees to use every effort to prevent dust from blowing on any neighboring properties in the Township;
- b. Keep any streets or roadways, whether Township, County or State owned, or whether under construction, used by trucks or equipment of the Developer or his agents, reasonably clean, including snow removal; and
- c. Maintain and keep all storm drainage within the Property free from accumulation of debris and leaves. “Final acceptance of improvements” for the purpose of this provision is deemed to be the date upon which the improvements are accepted by

the Township Council and the final maintenance guarantees for same are posted with the Township.

- d. Comply with any reasonable instructions from Township consultants, employees, or agents regarding the maintenance of the Property and land surrounding the Property during the course of construction.

10. **Township Observation, Access and Inspections.** The Township, its consultants, employees and agents, shall be given access to observe construction of the subject Project, including, but not limited to, roadways, sanitary sewers/septics, water mains/wells, storm sewers, landscaping for buffer areas, street lighting, woodland management and appurtenances associated with the Approved Plans, as applicable to the Property, provided the Township shall use reasonable care not to interfere with any construction activities. The purpose of such observations shall be limited to providing the Township with a greater degree of confidence that such improvements will be constructed in accordance with the Developer's Approved Plans. The Township, or its representatives, consultants, employees or agents shall not supervise, direct or have control over the Developer's work during such observations, nor as a result thereof, shall they have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by the Developer for safety precautions and programs incident to the work of the Developer or for any failure of the Developer to comply with applicable laws, rules, regulations, ordinances, codes or orders. The Developer is not an agent or employee of the Township.
11. **Stormwater Management System.** The Developer shall construct, manage and maintain all storm water management systems and facilities and shall continue to manage, maintain

and keep in good repair such systems and facilities so long as such systems and facilities are used or exist, and in accordance with the Township Code and applicable NJDEP rules and regulations or similar governmental or quasi-governmental rules and regulations as may be amended from time to time.

12. **Withholding Permits/Certificates of Occupancy.** Developer understands and agrees that in the event it is in violation of any of the terms of this Developer's Agreement, the Township may, in its sole but reasonable discretion, upon written notice to Developer with a reasonable opportunity to cure, withhold the issuance of any permits or certificate(s) of occupancy until the violation has been corrected.
13. **Completion of Improvements.** All improvements contemplated in this Developer's Agreement and in the Board Approval shall be performed and completed to the satisfaction of the Township Engineer and Construction Code Official within a period of two (2) years from the date of the issuance of the first building permit or site disturbance, or such additional periods of time as may be granted by the Township in accordance with N.J.S.A. 40:55D-52, and prior to the issuance of a Certificate of Occupancy, pursuant to the terms and conditions of the Board Approval. In the event the aforesaid improvements are not completed within that period, or the time period as extended hereunder, the Township reserves the right to not issue any certificate(s) of occupancy or building permit(s) for the subject Property. The issuance of a certificate of occupancy by the Township within the two (2) year period shall not be deemed a waiver for defects ascertained during said period or subsequent thereto.
14. **Maintenance Guarantee.** (In this paragraph only the term "Developer" shall mean the Developer and/or third parties on behalf of the Developer, such as the Developer's General

Contractor). Upon completion of the construction of the improvements for which performance guarantees have been posted, including any required landscaping, and prior to the release of the Performance Guarantee, the Developer shall post a maintenance guarantee in the amount of \$10,408.50 with the Township, in accordance with N.J.S.A. 40:55D-53, appropriately secured in form satisfactory to the Township Attorney, conditioned on the Developer maintaining all of such improvements for a period of two (2) years therefrom. Upon posting and acceptance of said maintenance guarantee, the Performance Guarantee shall be released by the Township.

15. **Release of Plans**. Any payments of fees and posting of bonds or other Performance Guarantee required to be performed by the Developer in this Developer's Agreement, unless specifically set forth herein otherwise, shall be done and/or performed prior to the signing of the Approved Plans for release to the Developer for issuance of Building Permits.
16. **Assignment/Sale of Property**. In the event the Property and Approved Plans are sold or otherwise conveyed by this Developer prior to the installation of all improvements, the Developer and the subsequent qualified developer must execute an Assignment and Assumption Agreement, in writing, and in a form which is acceptable to the Township Attorney, with regard to the conditions, covenants and agreements contained in this Developer's Agreement, providing that this Developer shall remain primarily liable for all the obligations created in this Developer's Agreement, until the subsequent developer assumes same and this Developer is released. At such time the term Developer shall be deemed to refer to the subsequent developer.

17. **Records.** The Township Engineer shall keep records of inspections and related reviews and the costs thereof, and, upon the Developer's written request, said records shall be made available for inspection by the Developer or its representatives, not more than quarterly, and upon reasonable notice, during the regular business hours of the Township Engineer.
18. **Record Drawings.** The Developer shall provide record drawings of all improvements and utilities, including, but not limited to, water, sanitary sewer, storm drainage, street lighting and woodland management as implemented and constructed by the Developer both within the Property and off-tract, if required. Said record drawings shall be in conformance with applicable Township standards and shall be both in hard copy and in pdf format. A final survey of the Property must be submitted at the time of request for a Certificate of Occupancy.
19. **Developer's Conveyances.** If the Developer is required by indication on the Approved Plans, Board approval, or as agreed to by both parties hereto to convey to the Township any rights-of-way, drainage, storm sewers, sanitary sewers, sidewalks easements, conservation or trail easements, sight triangle easements and other similar public rights and/or areas, the same shall be accomplished by a written deed or easement. All such deeds or easements, if any, shall be reviewed and approved by the Township Attorney and Township Engineer as to form and content, which approval shall not be unreasonably withheld, and the same shall be recorded in the Clerk's Office of Union County. All recording costs shall be the responsibility of the Developer.
20. **Compliance with Applicable Laws.** The Developer shall comply with all laws and regulations of the State of New Jersey, County of Union and Township of Berkeley Heights. In addition, Developer shall comply with all environmental laws and regulations

of the Federal and State Governments, including, but not limited to, the State Flood Control Facility Act (N.J.S.A. 58:16A-1 et seq.), Flood Hazard Area Control Act (N.J.S.A. 58:16A-51 et seq.), the Spill Compensation and Control Act (N.J.S.A. 58:1023.11 et seq.), the Industrial Site Recovery Act (N.J.S.A. 13:1K-6 et seq.), the Worker Community Right to Know Act (N.J.S.A. 34:5A-1 et seq.), the Noise Act of 1971, (N.J.S.A. 13:1G-1 et seq.), the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 et seq.), the Water Pollution Control Act (N.J.S.A. 58:10A-1 et seq.), the Safe Drinking Water Act (N.J.S.A. 58:12A-1 et seq.), the Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.), the Realty Improvement and Sewerage Facilities Act (N.J.S.A. 58:1123 et seq.), and any other environmental acts or regulations adopted by the Federal, State, County or local government. Failure to comply with these laws and any violations thereof shall be deemed to be a breach of this Developer's Agreement. To the extent the Township must bring an action for compliance with this Developer's Agreement, defend or participate in any litigation with regard to said laws or regulations related to the Developer's Property and/or actions, whether purposeful or negligent, any such action shall be subject to the provisions set forth in Paragraph 21 below. In addition and as stated in Paragraph 21 below, the Developer shall indemnify and hold harmless the Township, its officials, officers, agents, servants, representatives, employees harmless for any and all such violations and shall reimburse the Township for any and all claims, liabilities, fees, damages, judgments, penalties, costs or expenses of any kind and nature, including, but not limited to court costs and attorneys' fees, entered against the Township as a result of the purposeful or negligent acts of the Developer.

21. **Indemnification and Attorneys' Fees.** Developer agrees to indemnify, defend, and hold harmless the Township, its officials, officers, agents, servants, representatives, and employees from and against any and all claims, liabilities, fees, damages, judgments, penalties, costs or expenses arising from the purposeful or negligent acts of Developer or arising out of Developer's failure to perform its obligations pursuant to this Developer's Agreement, including any action or failure to act by the Developer in violation of this Developer's Agreement. Such indemnification and/or hold harmless obligation shall extend not only to any damages but to all costs and expenses of litigation. When requested by the Township, the Developer agrees to aid and/or defend the Township, its officials, officers, agents, servants, representatives and employees, in the event any or all of same are named as a defendant or defendants in any action concerning the performance of work at the development site pursuant to this Developer's Agreement. This paragraph shall not apply to any actions or litigation filed against the Township where the litigation is attributable to and/or alleges wrongful conduct on the part of the Township, its agents or employees.
22. **Reliance of Township.** The Developer further acknowledges and understands all of the conditions contained in this Developer's Agreement and the record of the proceedings in this matter, including any and all agreements made by the Developer with the Board and incorporated in the Board Approval, as well as the Approved Plans, are hereby deemed to be essential to the Township's decision to enter into this Developer's Agreement. In the event of a breach of any such conditions, the failure of the Developer to adhere to the terms of any agreement incorporated within the Approval or this Developer's Agreement or any deviation from the Approved Plans (except for minor or field changes approved by the Township Engineer) the Township through the Township Engineer may within the limits

of his authority under law, and upon written notice reasonable under the circumstances, and opportunity to cure, suspend the right of the Developer to obtain additional construction permits, certificates of occupancy or any and all other governmental authorizations in order to continue developing the Project until such time as the violation has been corrected. If during the course of construction and installation of the Project, it shall be reasonably determined by the Developer and the Township Engineer that minor revisions to the Developer's Approved Plans are necessary and/or appropriate; the Developer will undertake such reasonable design and construction changes as may be approved by the Township Engineer as field changes.

23. **Deeds and Affidavits of Title.** Developer shall provide to the Township such documents, including, but not limited to, Deeds, Certificates, Affidavits of Title and Corporate Resolutions to, as are necessary, convey valid and marketable easements of fee title, as the case may be, to such dedications of Property or easements, if any, as are revealed in the Approved Plans.
24. **Recording of this Agreement.** The Township Attorney may record this Developer's Agreement, without Exhibits, in the Union County Clerk's Office and submit a fully executed recorded copy to the Developer or to the Developer's attorney. All recording costs shall be borne by the Developer. Upon completion of all obligations hereunder as evidenced by expiration of the two (2) year maintenance bond, the Township agrees to provide Developer with a release of this Developer's Agreement in form suitable for recording with the Union County Clerk.
25. **Severability.** If any terms or conditions herein are determined invalid by a court of competent jurisdiction, the remainder shall remain in full force and effect.

26. **Governing Law, Forum Selection, and Waiver of Jury Trial.** The Parties agree that this Developer's Agreement shall be governed by and interpreted according to the laws of the State of New Jersey, without reference to the choice of law principles thereof. Each of the parties hereto irrevocably submits to the jurisdiction of the Superior Court of New Jersey, Union County, for the purpose of any suit, action, proceeding or judgment relating to or arising out of this Developer's Agreement and the transactions contemplated thereby. Each of the parties hereto irrevocably consents to the jurisdiction of the Superior Court of New Jersey, Union County, in any such suit, action or proceeding and to the laying of venue in such Court. Each party hereto irrevocably waives any objection to the laying of venue of any such action or proceeding brought in said Court and irrevocably waives any claim that any such suit, action or proceeding brought in said Court has been brought in any inconvenient forum. The parties further agree that any claims relating to or arising out of this Developer's Agreement and the transactions contemplated thereby shall be tried before a Judge and without a trial by jury.
27. **Notices.** All notices required or permitted under this Developer's Agreement shall be in writing by certified mail, return receipt requested, to the addresses set forth herein or as otherwise designated by the parties in writing.
28. **Successors.** This Developer's Agreement shall inure to the benefit of and be binding upon the parties, their heirs, successors and/or assigns. If the Developer hereafter transfers title to the subject lands to the name of any individual or corporation, said new owner shall have the rights and obligations afforded by this Developer's Agreement.
29. **Insurance Coverage.** The Developer (In this paragraph only the term "Developer" shall mean the Developer and/or third parties on behalf of the Developer, such as the

Developer's General Contractor) shall purchase and maintain during the construction of the improvements a Comprehensive General Liability Insurance Policy, or be self-insured, with minimum limits of One Million (\$1,000,000.00) Dollars per occurrence, and One Million (\$1,000,000.00) Dollars in the aggregate. Said insurance coverage shall be in accordance with the requirements of the Township Attorney. The policy shall indicate the Township as an additional insured with respect to its interest in work performed by the above-named insured at the above-named Project. The coverage shall include endorsements for Broad Form Property Damage; explosion, collapse and underground hazards; completed operations; and contractual liability. The contractual liability coverage shall specifically apply to the above indemnification clause. It shall indemnify the Township, its officials, officers, agents, servants, representatives and employees. All liability coverage shall be on an occurrence basis. Certificates of Insurance evidencing the foregoing coverage shall be provided to the Township before work on the improvements begins and on an on-going basis, as the insurance is reviewed from time to time.

30. **Voluntary Agreement.** Developer herein represents that it has voluntarily entered this Developer's Agreement, and it has not been executed under duress or coercion imposed by the Township or its representatives, and unequivocally states that the agreements, conditions and amounts to be paid as agreed upon in this Developer's Agreement have not been forced upon it by undue influence, coercion and are not being undertaken or paid under protest. Developer has reviewed all calculations and rationale for the agreements and payments set forth herein and is undertaking them voluntarily. Accordingly, Developer herein covenants and agrees that it will not bring any action against the Township with respect to the obligations assumed by Developer under this Developer's Agreement, which

has been mutually negotiated between the parties, unless the Approval giving rise to this Developer's Agreement is hereinafter amended or modified by proper resolution or action of the Board.

31. **Non-Reliance.** Developer acknowledges that it has not relied upon any cost estimates or opinions furnished by the Township, including the Township Engineer or Consulting Engineer(s), if applicable, and the Developer has satisfied itself as to the anticipated construction costs of the improvements set forth herein prior to the execution of this Developer's Agreement.
32. **Entire Agreement.** This instrument contains the entire agreement between the parties hereto and no statement, promise or endorsement made by any party hereto, or agent of any party hereto, which is not contained in this written contract or the instruments incorporated herein by reference, shall be valid or binding; and this Developer's Agreement may not be enlarged, modified or altered except in writing, signed by the parties and endorsed thereon. Nothing herein shall be deemed a waiver of other existing municipal construction requirements or any conditions contained in the Approval.
33. **Waiver, Modification, Cancellation.** Any waiver, alteration, or modification of any of the provisions of this Developer's Agreement or cancellation or replacement of this Developer's Agreement shall not be valid unless in writing and signed by the parties.
34. **Execution of Additional Documents and Binding Effect.** This agreement shall be binding not only upon the parties hereto, but also their heirs, executors, administrators, representatives, successors and assigns, and the parties hereto agree for themselves and their heirs, executors, administrators, representatives, successors and assigns to execute

any instruments in writing which may be necessary or proper for the carrying out of the intent and purposes of this agreement.

35. **Gender**. In all references made herein to any parties, person, entities or corporations the use of any particular gender or the plural or singular number is intended to include the appropriate gender or number as the text of the usage may require.
36. **Exhibits**. The following “Exhibits” are attached hereto and made a part of this Developer’s Agreement and the Developer shall comply with all terms and conditions stated therein:

EXHIBIT A: Description of Property

EXHIBIT B: Resolution of the Zoning Board Dated October 24, 2024

EXHIBIT C: Settlement Agreement

EXHIBIT D: Approved Plans

EXHIBIT E: Resolution Approving Developer’s Agreement

EXHIBIT F: Township Construction and Insurance Fee Cost Estimate

[SIGNATURES ON THE FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto have duly executed this Developer's Agreement as of the date first above written.

ATTEST:

TOWNSHIP OF BERKELEY HEIGHTS

Angela Lazzari, Township Clerk

By: _____
Angie D. Devanney, Mayor

WITNESS:

OZ CUSTOM BUILDERS, LLC

Name:
Title:

By: _____
Name:
Title:

STATE OF NEW JERSEY)
) ss.
COUNTY OF UNION)

I CERTIFY THAT ON , _____, 2026, Angela Lazzari, personally came before me and this person acknowledged under oath, to my satisfaction, that:

- (A) this person is the Municipal Clerk of The Township of Berkeley Heights, the municipal corporation named in this Developer's Agreement;
- (B) this person is the attesting witness to the signing of this Developers Agreement by the proper corporate officer who is Angie D. Devanney, the Mayor of the municipal corporation of Berkeley Heights Township;
- (C) this Developer's Agreement was signed and delivered by the corporation as its voluntary act duly authorized by a proper resolution of its Township Council;
- (D) this person knows the proper seal of the corporation which was affixed to this Developer's Agreement;
- (E) this person signed this proof to attest to the truth of these facts.

Signed and sworn to before me on

_____, 2026

Notary Public of the State of New Jersey

STATE OF NEW JERSEY)
) ss.
COUNTY OF)

I CERTIFY THAT ON, _____, 2026, _____

personally came before me and acknowledged under oath, to my satisfaction, that:

- (A) this person is _____ of Oz Custom Builders, LLC, named in this document;
- (B) this document was signed and delivered by an authorized representative of Oz Custom Builders, LLC, as its voluntary act and was duly authorized;
- (C) this person signed this proof to attest to the truth of these facts;
- (D) this person knows the proper seal of the limited liability company which was affixed to this Developer’s Agreement;
- (E) this person signed this proof to attest to the truth of these facts.

Signed and sworn to before me on

_____, 2026

Notary Public of the State of New Jersey

EXHIBIT A

Description of Property

EXHIBIT B

Resolution adopted by the Zoning Board on October 24, 2024

EXHIBIT C

Settlement Agreement

EXHIBIT D

Approved Plans

EXHIBIT E

Resolution Approving Developer's Agreement

EXHIBIT F

Township Construction and Insurance Fee Cost Estimate

TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY

RESOLUTION

**A RESOLUTION AMENDING THE ADOPTED BUDGET FOR ADDITIONAL ITEM OF REVENUE
AND OFFSETTING APPROPRIATION FOR ALCOHOL EDUCATION, REHABILITATION AND
ENFORCEMENT FUND GRANT**

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any Municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of any item of appropriation for equal amount.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, that the Township of Berkeley Heights hereby requests the Director of the Division of Local Government Services to approve the insertion of items of revenue in the budget for the year 2026 in the sum \$1,487.53 of which items are now available as a revenue from:

Miscellaneous Revenues:

Special Items of General Revenue Anticipated with Prior Written Consent of the Director of the Division of Local Government Services: State and Federal Revenues Off-set with Appropriations:

Alcohol Education, Rehabilitation and Enforcement Fund

BE IT FURTHER RESOLVED, that a like sum of \$1,487.53 is hereby appropriated under the caption of:

General Appropriations:

(a) Operations Excluded from CAPS
State and Federal Programs Off-Set by Revenues

Alcohol Education, Rehabilitation and Enforcement Fund

BE IT FURTHER RESOLVED, that the Chief Financial Officer shall file an electronic copy of this resolution with the Division of Local Government Services for approval.

Approved this 30th day of June, 2026.

ATTEST:

Angela Lazzari, RMC
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY

RESOLUTION

**A RESOLUTION AMENDING THE ADOPTED BUDGET FOR ADDITIONAL ITEM OF REVENUE
AND OFFSETTING APPROPRIATION FOR BERKELEY HEIGHTS SENIOR CITIZEN PUBLIC
SERVICES PROGRAM (CDBG YR 52)**

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any Municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of any item of appropriation for equal amount.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, that the Township of Berkeley Heights hereby requests the Director of the Division of Local Government Services to approve the insertion of items of revenue in the budget for the year 2026 in the sum \$17,000.00 of which items are now available as a revenue from:

Miscellaneous Revenues:

Special Items of General Revenue Anticipated with Prior Written Consent of the Director of the Division of Local Government Services: State and Federal Revenues Off-set with Appropriations:

Berkeley Heights Senior Citizen Public Services Program (CDBG YR 52)

BE IT FURTHER RESOLVED, that a like sum of \$17,000.00 is hereby appropriated under the caption of:

General Appropriations:

(a) Operations Excluded from CAPS
State and Federal Programs Off-Set by Revenues

Berkeley Heights Senior Citizen Public Services Program (CDBG YR 52)

BE IT FURTHER RESOLVED, that the Chief Financial Officer shall file an electronic copy of this resolution with the Division of Local Government Services for approval.

Approved this 30th day of June, 2026.

ATTEST:

Angela Lazzari, RMC
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY

RESOLUTION

**A RESOLUTION AMENDING THE ADOPTED BUDGET FOR ADDITIONAL ITEM OF REVENUE
AND OFFSETTING APPROPRIATION FOR 2026 SUSTAINABLE JERSEY GRANT**

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any Municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of any item of appropriation for equal amount.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, that the Township of Berkeley Heights hereby requests the Director of the Division of Local Government Services to approve the insertion of items of revenue in the budget for the year 2026 in the sum \$2,000.00 of which items are now available as a revenue from:

Miscellaneous Revenues:

Special Items of General Revenue Anticipated with Prior Written Consent of the Director of the Division of Local Government Services: State and Federal Revenues Off-set with Appropriations:

2026 Sustainable Jersey Grant

BE IT FURTHER RESOLVED, that a like sum of \$2,000.00 is hereby appropriated under the caption of:

General Appropriations:

(a) Operations Excluded from CAPS
State and Federal Programs Off-Set by Revenues

2026 Sustainable Jersey Grant

BE IT FURTHER RESOLVED, that the Chief Financial Officer shall file an electronic copy of this resolution with the Division of Local Government Services for approval.

Approved this 30th day of June, 2026.

ATTEST:

Angela Lazzari, RMC
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY

RESOLUTION

**A RESOLUTION AMENDING THE ADOPTED BUDGET FOR ADDITIONAL ITEM OF REVENUE
AND OFFSETTING APPROPRIATION FOR NEW JERSEY HISTORIC TRUST GRANT**

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any Municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of any item of appropriation for equal amount.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, that the Township of Berkeley Heights hereby requests the Director of the Division of Local Government Services to approve the insertion of items of revenue in the budget for the year 2026 in the sum \$384,067.00 of which items are now available as a revenue from:

Miscellaneous Revenues:

Special Items of General Revenue Anticipated with Prior Written Consent of the Director of the Division of Local Government Services: State and Federal Revenues Off-set with Appropriations:

New Jersey Historic Trust

BE IT FURTHER RESOLVED, that a like sum of \$384,067.00 is hereby appropriated under the caption of:

General Appropriations:

(a) Operations Excluded from CAPS
State and Federal Programs Off-Set by Revenues

New Jersey Historic Trust

BE IT FURTHER RESOLVED, that the Chief Financial Officer shall file an electronic copy of this resolution with the Division of Local Government Services for approval.

Approved this 30th day of June, 2026.

ATTEST:

Angela Lazzari, RMC
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

A RESOLUTION AMENDING THE ADOPTED BUDGET FOR ADDITIONAL ITEM OF REVENUE AND OFFSETTING APPROPRIATION FOR NEW JERSEY HISTORIC TRUST GRANT

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any Municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of any item of appropriation for equal amount.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, that the Township of Berkeley Heights hereby requests the Director of the Division of Local Government Services to approve the insertion of items of revenue in the budget for the year 2026 in the sum \$228,247.00 of which items are now available as a revenue from:

Miscellaneous Revenues:

Special Items of General Revenue Anticipated with Prior Written Consent of the Director of the Division of Local Government Services: State and Federal Revenues Off-set with Appropriations:

New Jersey Historic Trust

BE IT FURTHER RESOLVED, that a like sum of \$228,247.00 is hereby appropriated under the caption of:

General Appropriations:

(a) Operations Excluded from CAPS
State and Federal Programs Off-Set by Revenues

New Jersey Historic Trust

BE IT FURTHER RESOLVED, that the Chief Financial Officer shall file an electronic copy of this resolution with the Division of Local Government Services for approval.

Approved this 30th day of June, 2026.

ATTEST:

**Angela Lazzari, RMC
Township Clerk**

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, in September 2020, as part of an application for work performed at 596 Mountain Avenue, a Cash Performance bond was posted in the amount of \$3,000.00; and

WHEREAS, in a letter dated June 16, 2026, the Township Engineer has recommended that the Cash Performance Bond in connection with work performed at 596 Mountain Avenue, Edmunds Account ENGBOND007, in the amount of \$3,000.00 be released, together with any applicable interest.

NOW, THEREFORE BE IT RESOLVED, by the Township Council, Township of Berkeley Heights, County of Union, hereby authorizes the Township Treasurer to release and return the forementioned cash performance bond, together with any applicable interest, to the applicant, as per the Engineer’s recommendation.

BE IT FURTHER RESOLVED, that a copy of this Resolution is to be forwarded to the Township Engineer.

Approved this 30th day of June, 2026.

ATTEST:

Angela Lazzari, RMC
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, in April 2026, as part of an application for work performed at 157 Pearl Street related to a rain garden, a Cash Performance bond was posted in the amount of \$4,000.00; and

WHEREAS, in a letter dated June 10, 2026, the Township Engineer has recommended that the Cash Performance Bond in connection with work performed at 157 Pearl Street, Edmunds Account ENGBD26-04, in the amount of \$4,000.00 be released, together with any applicable interest.

NOW, THEREFORE BE IT RESOLVED, by the Township Council, Township of Berkeley Heights, County of Union, hereby authorizes the Township Treasurer to release and return the forementioned cash performance bond, together with any applicable interest, to the applicant, as per the Engineer’s recommendation.

BE IT FURTHER RESOLVED, that a copy of this Resolution is to be forwarded to the Township Engineer.

Approved this 30th day of June, 2026.

ATTEST:

**Angela Lazzari, RMC
Township Clerk**

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

AMENDING RESOLUTION 2026-216

**A RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE NEW JERSEY
DEPARTMENT OF TRANSPORTATION'S
SAFE STREETS TO TRANSIT ~~AND ROADS FOR ALL (SS4A)~~ GRANTS PROGRAM FY27**

WHEREAS, the Township of Berkeley Heights, County of Union, and State of New Jersey, will submit a grant application to the New Jersey Department of Transportation's (NJDOT) Safe Streets to Transit ~~and Roads for All (SS4A)~~ Grants Program FY27; and

WHEREAS, the Township desires to apply these funds for the for the Sherman Avenue Revitalization Project, Phase III; and

WHEREAS, there is no local match required of this grant program.

NOW THEREFORE BE IT RESOLVED that the Mayor and Council of Berkeley Heights, State of New Jersey, formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED that the Mayor and Council of Berkeley Heights, State of New Jersey, formally authorize submission of the electronic grant application identified as **SST-2027-Berkeley Heights Township-00015** to the New Jersey Department of Transportation for funding under the Safe Streets to Transit ~~and Roads for All (SS4A)~~ Grants Program on behalf of the Township of Berkeley Heights. Certified as a true copy of the Resolution adopted by the Council on this 9th day of June 2026.

BE IT FURTHER RESOLVED that the Mayor and/or her designee are hereby authorized to sign the grant agreement on behalf of the Township of Berkeley Heights and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

ATTEST and AFFIX SEAL _____
(Clerk) (Mayor or designee)

Approved this 30th day of June, 2026.

ATTEST:

**Angela Lazzari, RMC
Township Clerk**

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, a request was made requesting permission from the Township Council to hold a neighborhood block party on 17-34 Ridge Drive, on Saturday, September 12, 2026, from 4:00 – 8:00 p.m., with a rain date of Sunday, September 13th from 2:00 – 7:00 p.m. which would involve erecting barricades on a public street; and

WHEREAS, the Township Council wishes to support the request for a neighborhood block party subject, however, to the special requirements of the appropriate local Township Officials.

NOW, THEREFORE BE IT RESOLVED by the Township Council of the Township of Berkeley Heights that it does hereby approve of a neighborhood block party on Ridge Drive, on Saturday, September 12, 2026, with a rain date of Sunday, September 13th.

BE IT FURTHER RESOLVED that a copy of this Resolution is to be forwarded to the Department of Public Works.

Approved this 30th day of June, 2026.

ATTEST:

**Angela Lazzari, RMC
Township Clerk**

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, pursuant to the Invitation to Bid provided to all pre-qualified bidders, the Township of Berkeley Heights (“Township”) received bids on June 24, 2026, for the “Phase II-Exterior Restoration & Structural Stabilization at the Littell-Lord Farmhouse” project; and

WHEREAS, two bids were received and opened on June 24, 2026, for the Project, as follows:

1. Paragon Restoration, of 292 Monroe Ave, Kenilworth, NJ 07033, Bid Amount \$812,120.00, and
2. Spartan Construction, 399 Oak St, Suite C, South Amboy, NJ 08879, Bid Amount \$1,076,000.00; and

WHEREAS, Township recommends that the responsive lowest bid, received from Paragon Restoration, be rejected in accordance with N.J.S.A. 40A:11-13.2(b) because it exceeds the appropriation for the goods or services which are the subject of the bid.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Berkeley Heights that the responsive lowest bid received as referenced herein above for the “Phase II-Exterior Restoration & Structural Stabilization at the Littell-Lord Farmhouse” contract for the Township of Berkeley Heights, which was received and opened on June 24, 2026, be rejected at this time because (1) such bid exceeded the Township’s appropriations as set forth herein above.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately and all bidders shall be notified of this action.

Approved this 30th day of June, 2026.

ATTEST:

**Angela Lazzari, RMC
Township Clerk**

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, the Township of Berkeley Heights, pursuant to N.J.S.A. 40A:11-12a and N.J.A.C. 5:34-7.29, may by resolution and without advertising for bids, purchase any goods and services under the State of New Jersey Cooperative Purchasing Program for any State contracts entered into on behalf of the State by the Division of Purchase and Property in the Department of the Treasury; and

WHEREAS, the Township of Berkeley Heights Police Department has the need to purchase APX 6500 vehicle-mounted radios with accessories; and

WHEREAS, **Motorola Solutions, Inc.**, has been awarded Contract #25-TELE-132995, under the State Contract for T0109 - Radio Communication Equipment and, for a period expiring April 30, 2031; and

WHEREAS, the Township of Berkeley Heights intends to purchase APX 6500 vehicle-mounted radios with accessories from Motorola Solutions, Inc., 123 Tices Boulevard, Woodcliff Lake, NJ 07677, through this resolution, which shall be subject to all the conditions applicable to the current State Cooperative Purchasing contracts.

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, does hereby authorize the Police Chief to purchase APX 6500 vehicle-mounted radios with accessories through the New Jersey State Cooperative Purchasing Contract #25-TELE-132995 for the total amount of \$13,802.22 pursuant to all conditions of the individual State contracts.

BE IT FURTHER RESOLVED that the Chief Finance Officer for the Township of Berkeley Heights has certified that sufficient uncommitted funds are available in an amount not to exceed \$13,802.22 from account # C-04-26-007-B02 - Ord 26-07 Police-Radios.

Approved this 30th day of June, 2026.

ATTEST:

Angela Lazzari, RMC
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY

RESOLUTION

**A RESOLUTION AUTHORIZING THE CANCELLATION OF CERTAIN UNEXPENDED
IMPROVEMENT AUTHORIZATION BALANCES IN THE GENERAL CAPITAL FUND**

WHEREAS, there exist unexpended balances in certain improvement authorizations in the General Capital Fund; and

WHEREAS, it as been determined that these projects have been completed and that the funds are no longer needed.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Township of Berkeley Heights, County of Union, State of New Jersey, that the following improvement authorization be cancelled:

<u>Ordinance No.</u>	<u>Funded</u>
09-2020 Various Capital Improvements	\$132,713.55

Approved this 30th day of June, 2026.

ATTEST:

Angela Lazzari, RMC
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, the Township of Berkeley Heights desires to continue its efforts to better effectuate water flow and attempt to mitigate flooding; and

WHEREAS the Township received a grant from the State of New Jersey to replace headwalls and install valves at outfalls along Riverbend Road to help reduce flooding; and

WHEREAS, the Township wishes to receive bids for doing the construction portion of this project.

NOW THEREFORE, BE IT RESOLVED, that the Governing Body of the Township of Berkeley Heights authorizes the Clerk to proceed with going out to bid in accordance with New Jersey Local Contracts Law N.J.S.A. 40:11-1 et seq. for headwall replacement, valve installation, and related work for this project.

Approved this 30th day of June, 2026.

ATTEST:

**Angela Lazzari, RMC
Township Clerk**

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

**A RESOLUTION TO ADOPT THE TOWNSHIP OF BERKELEY HEIGHTS COMMUNITY ENERGY PLAN (CEP)
AS PART OF THE NEW JERSEY BOARD OF PUBLIC UTILITIES CEP GRANT PROGRAM**

WHEREAS, New Jersey Board of Public Utilities (NJBPU) authorizes and oversees the NJCEP program and has created a Community Energy Plan Grant program for municipalities to develop a community energy plan (CEP) to meet the goals of New Jersey’s Energy Master Plan; and

WHEREAS, New Jersey’s Energy Master Plan: Pathway to 2050 (“EMP”) established that community-level action is necessary to achieve the state’s goal of 100% clean energy by 2050; and

WHEREAS, Community Energy Planning is the process by which communities collaboratively select and strategically implement emissions-reducing initiatives that fulfill the EMP goals (“Process”); and

WHEREAS, the Township was awarded a grant from the NJBPU to formulate a Community Energy Plan; and

WHEREAS, the Berkeley Heights Township Community Energy Plan (CEP) commits to reducing greenhouse gas emissions and increase energy efficiency and establishes how the municipality will promote the transition to sustainable energy over the next several years; and

WHEREAS, the Township of Berkeley Heights is committed to doing its part to help the state achieve its goal of 100% clean energy by 2050; and

WHEREAS, a public engagement meeting was held on June 9, 2026 to discuss the proposed Berkeley Heights CEP and to present the shared goals, after the Township worked with various municipal employees, environmental leaders, and other stakeholders members on the plan; and,

WHEREAS, the resulting CEP will help the Township of Berkeley Heights plan for and invest in renewable energy and to work towards a better environment for all residents by using the state's Energy Master Plan (“EMP”) as a guide to develop sustainable strategies that increase clean energy production, reduce energy use, and cut emissions.

NOW, THEREFORE, BE IT RESOLVED, the Berkeley Heights Township Council officially adopts the Berkeley Heights Community Energy Plan as the guiding document to continue to improve energy efficiency in the Township.

Approved this 30th day of June, 2026.

ATTEST:

Angela Lazzari, RMC
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY

RESOLUTION

RESOLUTION APPROVING THE EXECUTION OF A SIDEBAR AGREEMENT BETWEEN THE TOWNSHIP OF BERKELEY HEIGHTS AND PBA LOCAL 144 SETTING AN ACADEMY RATE OF PAY

WHEREAS, the Township of Berkeley Heights and Police Benevolent Association Local No. 144 have in place a collective bargaining agreement effective between January 1, 2022 through December 31, 2026; and

WHEREAS, the Township and the PBA have agreed to amend the current agreement whereby setting an Academy rate of pay; and

WHEREAS, police recruits hired by the Township and sent to a police academy for training will be paid the Academy rate of pay until graduation and the start of their probationary period.

NOW, THEREFORE BE IT RESOLVED, that the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, does hereby authorized the Mayor to execute said Sidebar Agreement attached hereto.

BE IT FURTHER RESOLVED that this Resolution shall take effect pursuant to law.

Approved this 30th day of June, 2026.

ATTEST:

Angela Lazzari, RMC
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**SIDE BAR TO THE PARTIES'
COLLECTIVE NEGOTIATIONS AGREEMENT**

WHEREAS, the Township of Berkeley Heights (“Township”) and Police Benevolent Association Local No. 144 (“PBA”) are parties to a collective bargaining agreement (hereinafter “Agreement”) effective January 1, 2022 through December 31, 2026; and

WHEREAS, Article XI and Schedule A of the CNA sets forth Compensation for officers; and

WHEREAS, when a recruit is hired and sent to a police academy for training and PTC certification that recruit has been placed at the probationary step on Schedule A; and

WHEREAS, due to budgetary constraints, the Township is not in position to hire recruits and send them to the academy absent a reduction in the pay received while in the academy and training for full PTC certification; and

WHEREAS, the Township and the PBA recognize the need to hire new officers; and

WHEREAS, police recruits hired by the Township and sent to a police academy for training will be paid at an Academy rate of pay until graduation and the start of their probationary period; and

WHEREAS, all terms of the existing CNA shall remain in full force and effect except as modified by this Side Bar.

NOW, THEREFORE, the parties hereby agree to this Side Bar Agreement and amend Article XI and Schedule A of the parties’ Collective Negotiations Agreement as follows:

1. Police Recruits hired by the Township and sent to a police academy for PTC certification will be paid a salary of \$40,000 per annum, but without pay for holidays.

2. Recruits will be paid every two weeks at normal Township pay intervals for all weeks in the police academy.

3. Upon graduation from the police academy with full PTC certification, a recruit shall be placed on the probationary step of Schedule A.

4. Recruits will move to the next step of Schedule A consistent with the collective negotiations agreement.

So agreed.

_____ President, PBA Local No. 144

_____ Date

_____ Chief Frank Mea

_____ Date

_____ Mayor Angie Devanney

_____ Date

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, the Owner is the fee simple owner of certain real property designated as Lot 6, Block 615 on the Official Tax Map of the Township of Berkeley Heights, commonly known as 251 Plainfield Avenue, Berkeley Heights, New Jersey 07922 (the "Property"), which is a triangular shaped parcel with frontage on both Plainfield Avenue and Bolton Boulevard; and

WHEREAS, Bolton Boulevard is a public street within the Township, the right-of-way for which is seventy-five (75) feet in width (the "Bolton Boulevard Right-of-Way"); and

WHEREAS, the existing residential structure on the Property encroaches into the Bolton Boulevard Right-of-Way by approximately 1.90 feet along its northwestern wall (the "Encroachment"), as depicted on the survey prepared in connection with Zoning Board of Adjustment Application No. 8-17; and

WHEREAS, the Township Zoning Board of Adjustment granted bulk variance relief in connection with Owner's construction of a two-story rear addition and connector to the detached garage on the Property by Resolution adopted May 25, 2017, memorialized June 8, 2017 (Application No. 8-17), which Resolution acknowledged the existence of the Encroachment of the pre-existing structure; and

WHEREAS, the Township desires to grant, and Owner desires to accept, a license permitting the Encroachment to remain in the Bolton Boulevard Right-of-Way.

NOW, THEREFORE, BE IT RESOLVED by the Township Council, Township of Berkeley Heights, County of Union, hereby authorizes the Mayor, and/or her designee, and the Township Clerk to execute the Right-of-Way Encroachment License Agreement, in substantially the form attached hereto.

Approved this 30th day of June, 2026.

ATTEST:

**Angela Lazzari, RMC
Township Clerk**

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

RIGHT-OF-WAY ENCROACHMENT LICENSE AGREEMENT

251 Plainfield Avenue, Berkeley Heights, New Jersey

Lot 6, Block 615 on the Tax Map of the Township of Berkeley Heights

THIS RIGHT-OF-WAY ENCROACHMENT LICENSE AGREEMENT is entered into as of the ___ day of _____, 2026, by and between the **TOWNSHIP OF BERKELEY HEIGHTS**, a municipal corporation of the State of New Jersey, with its principal offices located at 29 Park Avenue, Berkeley Heights, New Jersey 07922 (the "Township"), and **DAVE AUGENSTEIN and ANNE MARIE AUGENSTEIN**, husband and wife, with a mailing address of 251 Plainfield Avenue, Berkeley Heights, New Jersey 07922 (collectively, the "Owner").

RECITALS

WHEREAS, the Owner is the fee simple owner of certain real property designated as Lot 6, Block 615 on the Official Tax Map of the Township of Berkeley Heights, commonly known as 251 Plainfield Avenue, Berkeley Heights, New Jersey 07922 (the "Property"), which is a triangular shaped parcel with frontage on both Plainfield Avenue and Bolton Boulevard; and

WHEREAS, Bolton Boulevard is a public street within the Township, the right-of-way for which is seventy-five (75) feet in width (the "Bolton Boulevard Right-of-Way"); and

WHEREAS, the existing residential structure on the Property encroaches into the Bolton Boulevard Right-of-Way by approximately 1.90 feet along its northwestern wall (the "Encroachment"), as depicted on the survey prepared in connection with Zoning Board of Adjustment Application No. 8-17; and

WHEREAS, the Township Zoning Board of Adjustment granted bulk variance relief in connection with Owner's construction of a two-story rear addition and connector to the detached garage on the Property by Resolution adopted May 25, 2017, memorialized June 8, 2017 (Application No. 8-17), which Resolution acknowledged the existence of the Encroachment of the pre-existing structure; and

WHEREAS, the Township desires to grant, and Owner desires to accept, a license permitting the Encroachment to remain in the Bolton Boulevard Right-of-Way on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Grant of License.

The Township hereby grants to Owner a non-exclusive, revocable license to maintain the Encroachment within the Bolton Boulevard Right-of-Way solely as it exists as of the date of this Agreement, consisting of approximately 1.90 linear feet of the existing residential structure

extending beyond the property line into the Bolton Boulevard Right-of-Way, as depicted in the survey on file with the Township in connection with Board of Adjustment Application No. 8-17 (the "Licensed Area") and attached hereto as **Exhibit A**. This license does not authorize Owner to expand, enlarge, or extend the Encroachment or construct any additional improvements within the Right-of-Way beyond what is expressly described herein.

2. Term.

This license shall be effective upon execution by both parties and shall remain in effect for so long as the Encroachment lawfully exists, unless sooner terminated pursuant to Section 7 of this Agreement. This license is personal to Owner and does not create any estate in real property.

3. Consideration.

In consideration for the license granted herein, Owner shall comply with all terms and conditions of this Agreement. The parties acknowledge that the Township's grant of this license constitutes adequate consideration.

4. Maintenance; Condition of Licensed Area.

Owner shall, at Owner's sole cost and expense: (a) maintain the Encroachment and the Licensed Area in good repair and in a safe, clean, and orderly condition; (b) promptly remedy any condition arising from the Encroachment that poses a hazard to the public or to Township infrastructure; and (c) comply with all applicable federal, state, and local laws, ordinances, regulations, and codes in connection with the Encroachment.

Owner shall not perform any excavation, construction, or installation within the Right-of-Way without the prior written consent of the Township Engineer and all other applicable governmental approvals.

5. Indemnification; Hold Harmless.

Owner shall defend, indemnify, and hold harmless the Township, its elected and appointed officials, employees, agents, and representatives (collectively, "Township Indemnitees") from and against any and all claims, suits, actions, damages, losses, liabilities, costs, and expenses, including reasonable attorneys' fees, arising out of or resulting from: (a) the existence, maintenance, use, or condition of the Encroachment or the Licensed Area; (b) any act or omission of Owner, Owner's contractors, agents, or invitees in connection with the Encroachment; or (c) any breach by Owner of this Agreement.

The obligation to indemnify shall survive the termination or expiration of this Agreement.

6. Insurance.

Owner shall maintain, at Owner's sole cost and expense, throughout the term of this Agreement, a policy of commercial general liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate, covering bodily injury, property damage, and personal injury arising in connection with the Encroachment. The Township shall be named as an additional insured on such policy.

Owner shall provide the Township Clerk with a certificate of insurance evidencing the required coverage within thirty (30) days of execution of this Agreement and annually thereafter upon request. Failure to maintain required insurance shall constitute a material breach of this Agreement.

7. Revocation; Termination.

The Township reserves the right, in its sole discretion, to revoke this license upon not less than one hundred eighty (180) days' prior written notice to Owner, if the Township determines that the Right-of-Way is needed for a public purpose, including but not limited to road construction, widening, utility installation, or other public improvement. Owner shall not be entitled to compensation for any improvements within the Licensed Area upon revocation.

This license shall automatically terminate without notice upon: (a) the removal or destruction of the Encroachment; (b) the voluntary abandonment of the license by Owner; or (c) a material breach of this Agreement by Owner that remains uncured for thirty (30) days after written notice from the Township.

Upon termination or revocation, Owner shall, at Owner's sole cost and expense and within the time specified in the Township's notice, remove all portions of the structure located within the Licensed Area and restore the Right-of-Way to a condition satisfactory to the Township Engineer. If Owner fails to do so, the Township may perform such work and Owner shall reimburse the Township for all costs incurred within thirty (30) days of demand.

8. No Dedication; Reservation of Rights.

Nothing in this Agreement shall be construed as a dedication of any portion of the Right-of-Way to Owner or the public, or as a waiver or limitation of the Township's rights in and to the Bolton Boulevard Right-of-Way. The Township reserves all rights in and to the Right-of-Way not expressly granted herein, including but not limited to the right to install, maintain, repair, and replace utilities and other public infrastructure.

9. No Warranty.

The Township makes no warranty, express or implied, as to the condition, suitability, or fitness of the Licensed Area for any purpose. Owner accepts the Licensed Area in its "as is" condition.

10. Binding Effect; Runs with the Land.

This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, successors, and assigns. Owner covenants and agrees that upon any sale, transfer, conveyance, or other disposition of the Property, Owner shall: (a) notify any purchaser or transferee of the existence and terms of this Agreement as a condition of any such conveyance; and (b) assign this Agreement to such purchaser or transferee, who shall, as a condition of taking title, assume in writing all obligations of Owner hereunder. Owner acknowledges and agrees that this Agreement and the obligations contained herein constitute a covenant running with the land and are binding upon all future owners of the Property.

11. Recording.

This Agreement shall be recorded in the Office of the Union County Clerk against the Property by Owner, at Owner's expense, within thirty (30) days of execution by both parties. Owner shall provide the Township Clerk with a file-stamped copy of the recorded Agreement within ten (10) days of recordation.

12. Governing Law; Venue.

This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey. Venue for any dispute arising hereunder shall lie exclusively in the Superior Court of New Jersey, Union County Vicinage.

13. Entire Agreement; Amendments.

This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations, warranties, and understandings of the parties with respect thereto. This Agreement may not be amended, modified, or supplemented except by a written instrument executed by both parties.

14. Authorization.

The parties represent and warrant that the persons executing this Agreement on their behalf are duly authorized to do so and to bind the respective party to the terms hereof. The Township's execution of this Agreement shall be authorized by Resolution of the Township Council.

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

TOWNSHIP OF BERKELEY HEIGHTS

OWNER:

By: _____
Name: _____
Title: _____
Date: _____

Dave Augenstein
Date: _____

ATTEST:

Township Clerk

Anne Marie Augenstein
Date: _____

TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY

RESOLUTION

**RESOLUTION AUTHORIZING THE AWARD OF A PROFESSIONAL SERVICES CONTRACT TO
CONNOLLY & HICKEY HISTORICAL ARCHITECTS FOR BIDDING AND CONTRACT
ADMINISTRATION SERVICES FOR EXTERIOR AND INTERIOR RESTORATION AND
REHABILITATION OF THE LITTELL-LORD FARMHOUSE**

WHEREAS, the Township of Berkeley Heights is in need of professional architectural and historic preservation services for the Littell-Lord Farmhouse for bidding and contract administration services for the interior restoration and rehabilitation of the Littell-Lord Farmhouse; and

WHEREAS, Professional Services are exempt from the requirements of public bidding pursuant to the Local Public Contracts Law, more specifically, N.J.S.A. 40A:11-5(1)(a)(i); and

WHEREAS, **Connolly & Hickey Historical Architects** provided an original proposal dated April 11, 2023, which was further updated on July 7, 2025, for bidding and contract administration services for the exterior and interior restoration and rehabilitation of the Littell-Lord Farmhouse for the amount not to exceed **\$44,200.00**; and

WHEREAS, the Township wishes to enter into a Professional Services Contract with **Connolly & Hickey Historical Architects**, P.O. Box 1726, Cranford, New Jersey 07016, to provide bidding and contract administration services for the exterior and interior restoration and rehabilitation of the Littell-Lord Farmhouse for the amount not to exceed **\$44,200.00**; and

WHEREAS, this contract is for an amount over \$17,500.00 and is being awarded pursuant to a "Non-Fair and Open Process" pursuant to N.J.S.A. 19:44A-20.5; and

WHEREAS **Connolly & Hickey Historical Architects**, has completed and submitted a Business Entity Disclosure Certification, which certifies that **Connolly & Hickey Historical Architects** has not made any reportable contributions to a political or a candidate committee in the Township of Berkeley Heights in the previous one (1) year prior to award, and that the contract will prohibit **Connolly & Hickey Historical Architects** from making any reportable contributions through the term of the contract.

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of Berkeley Heights, County of Union, New Jersey, that the Mayor is hereby authorized and directed on behalf of the Township of Berkeley Heights to enter into and execute a contract with **Connolly & Hickey Historical Architects** to provide bidding and contract administration services for the exterior and interior restoration and rehabilitation of the Littell-Lord Farmhouse as per their proposal updated July 7, 2025 for an amount not to exceed **\$44,200.00**.

BE IT FURTHER RESOLVED, that the Chief Finance Officer of the Township of Berkeley Heights has certified that sufficient uncommitted funds are available in an amount not to exceed **\$44,200.00** as follows:

Account Number	Amount	Description
-----------------------	---------------	--------------------

Approved this 30th day of June, 2026.

ATTEST:

Angela Lazzari, RMC
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY

RESOLUTION

WHEREAS, the Township of Berkeley Heights is in need of animal control services as mandated by N.J.S.A. 4:19-15.16, *et seq.*; and

WHEREAS, the Township of Berkeley Heights and Animal Control Solutions, LLC negotiated an Agreement for the provision of animal control services, which is attached hereto and made a part hereof; and

WHEREAS, the Township Council of the Township of Berkeley Heights find it to be in the best interest of the Township and its residents to enter into this Agreement with Animal Control Solutions, LLC for the provision of animal control services for the Township for the period of July 1, 2026 through December 31, 2026.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Township Council of the Township of Berkeley Heights, in the County of Union, and the State of New Jersey that the Agreement with Animal Control Solutions, LLC for the provision of animal control services for the Township is hereby approved; and that the Mayor and Township Clerk are authorized and directed to execute the attached Agreement.

BE IT FURTHER RESOLVED that the Chief Finance Officer for the Township of Berkeley Heights has certified that sufficient uncommitted funds are available in an amount not to exceed \$11,556.00 from account # A-15-42-100-100, Animal Control Trust.

Approved this 30th day of June, 2026.

ATTEST:

Angela Lazzari, RMC
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**SERVICES CONTRACT BETWEEN ANIMAL CONTROL SOLUTIONS LLC, AND
THE TOWNSHIP OF BERKLEY HEIGHTS**

THIS AGREEMENT, made this 1st day of July, 2026 between the **Township of Berkley Heights** having its municipal offices at 29 Park Avenue Berkeley Heights, NJ 07922 and hereinafter referred to as the "Municipality" and **Animal Control Solutions, LLC** having its principal place of business at 349 State Route 31 #B9, Flemington, New Jersey 08822 hereinafter referred to as the "Contractor";

WITNESSETH:

WHEREAS, the Municipality requires professional animal control services; and

WHEREAS, the Contractor is available to perform the necessary services for the Municipality and has the expertise and staff to provide these services; and

WHEREAS, the Municipality desires the Contractor to undertake services as outlined in Appendix A; and

WHEREAS, said services are professional in nature and are therefore excluded from the Bidding Laws of the State of New Jersey;

NOW, THEREFORE, in consideration of the promises and the mutual covenants, conditions and agreements contained herein, the parties hereto agree that the Contractor shall provide the services outlined in the proposal attached hereto as Appendix A.

SECTION 1 – MUNICIPALITY’S RESPONSIBILITIES

The Municipality Shall:

1. Provide full information as to its requirements.
2. Assist the Contractor by placing at its disposal all available information in regard to animal control activities.
3. Designate a person to act as the Municipality’s representative with respect to the work to be performed under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define Municipality’s policies and decisions with respect to Contractor’s services. Such person shall not have authority to modify the Scope of Work nor amend or modify this Agreement.
4. Designate a person or persons that shall conduct all official correspondence with residents. This shall include, but is not limited to mailing of ordinance warnings and summonses. They shall also notify residents of all health alerts as directed by the New Jersey and County health departments.
5. Give prompt written notice to the Contractor whenever the Municipality observes or otherwise becomes aware of any development that affects the scope, timing, or issues

with services. Municipality must give direction and ample time to correct and modify changes in services.

6. Maintain and grant access to a designated holding facility for the drop off of impounded animals either through the Contractor when available or on their own.
7. Maintain a contract with an after-hours emergency veterinarian for the purpose of caring for severely injured impounded domestic animals either through the Contractor when available or on their own.
8. Maintain and grant access to a dumpster for the purpose of disposing dead wildlife found in the borders of the municipality either through the contractor or on their own.
9. Be billed directly from the designated holding facility, or Contractor and any veterinarians for all costs of animal impoundment, treating injured animals, or preparing animals for rabies testing, and shall indemnify and hold harmless the Contractor from any and all such charges. This is to include but is not limited to impounding and veterinary fees for animals whose owner refuses or is unable to pay, Dangerous Dog impoundments, evictions, owner arrest, or any other owned animal impoundment. Under state statute, all aforementioned impoundments the municipality shall be able to recoup said costs through summons. The Contractor shall issue appropriate summons on the behalf of the Municipality to recoup said fees.

SECTION 2 - PERIOD OF SERVICE

1. The Contractor shall proceed with the performance of services as outlined in Appendix A attached. The term of this Agreement shall be from July 1, 2026 through December 31, 2026. Upon the expiration of this contract the Municipality may request a three-month emergency extension to allow for a new contract to be awarded. The cost of the emergency extension will be 15% above the current contract rate.
2. This Agreement may be terminated by either party upon ninety (90) days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. In the event either party fails to substantially perform their duties and obligations under the terms of this Agreement, they shall provide written notice to the other party of the alleged failure. In the event the grounds set forth for termination are disputed, the parties may agree to submit the dispute to independent mediator with each party bearing all costs and expenses, including attorney fees, incurred by each party for such mediation. In the event the parties do not agree to submit the matter to independent mediation, the parties will submit the dispute to an independent arbitrator who shall determine if a substantial failure to perform has occurred. Each party will bear their own costs and expenses, including attorney fees, for such arbitration. Failure of the Municipality to pay the Contractor shall not be grounds to terminate the contract. Contractor shall be paid in full for services rendered and expenses incurred during the contract and to the termination date.
3. The Contractor reserves the right to assess a 10% late fee compounding each month if

payments or any part thereof are not received within 45 days from invoice date. The Contractor reserves the right to suspend all services if payments or any part thereof are not received within 45 days from invoice date. The Contractor shall notify the Municipality in writing prior to any suspension of services. During the suspension the contract shall remain in full force and effect and monthly payments shall continue to accrue. During the suspension the contractor is not responsible for responding to any calls for service. During the suspension the municipality shall hold the contractor harmless from any liability for not responding to any request for service. It is expressly agreed that the Contractor is not obligated to incur any costs, expense, and/or legal fees as a consequence of the failure of the Municipality timely and fully remit all payments due hereunder, such costs, expenses, and/or legal fees shall be the sole responsibility of the Municipality.

SECTION 3 – PAYMENTS TO ANIMAL CONTROL SOLUTIONS, LLC

1. Service costs are listed under the following table for any and all services listed in Appendix A during the contract term.
 - a. 2026 \$11,556.00 or \$1,926.00 per month
2. The contract fee shall be paid in monthly installments factored by each year of the table.
3. Kenneling and Veterinarian fees billed by the Contractor shall be paid monthly and in accordance with Appendices B. A 5% increase maybe be charged each year of the contract for kenneling and veterinarian fees. Municipality can avoid these fees if they contact directly with a holding facility.
4. The Municipality may request services outside of this contract; however, the costs and scope of service must be agreed upon by Contractor.

SECTION 4 – INSURANCE

1. The Contractor shall maintain general liability insurance in minimum amounts of \$2 million general aggregate, \$1 million per occurrence, and \$1 million for bodily injury and property damage.
2. In addition, the Contractor shall maintain automobile liability insurance in the minimum of \$1 million per occurrence, and worker's compensation insurance coverage shall be maintained for all employees.
3. The Contractor shall name the Municipality as an additional insured on all policies other than worker's compensation and will provide a waiver of subrogation upon request. The Contractor will provide a Certificate of Insurance and the appropriate policy endorsements as evidence of such insurance upon request. Acceptance by the municipality of deficient evidence of insurance shall not constitute a waiver of the insurance requirements of this contract.

SECTION 5 – EQUIPMENT AND VEHICLES

1. The Contractor shall provide all equipment necessary to perform all duties listed in

Appendix A.

2. The Contractor shall provide vehicles fully compliant with New Jersey State regulations.

SECTION 6 - ADDITIONAL CONDITIONS

1. Animal Control Solutions, LLC shall reserve the right to enter into an agreement similar to this with any other Municipalities in the State of New Jersey.

SECTION 6 – AFFIRMATIVE ACTION

1. The parties to this Contract agree to incorporate into this Contract the mandatory language of subsection 3.4(a) of the Regulations promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time-to-time and the Contractor agrees to comply fully with the terms, provisions and obligations of said subsection which shall be applied subject to the terms of subsection 3.4(d) of said Regulations.
2. The parties to this contract agree to incorporate into this Contract the mandatory language of Section 5.3 of the Regulations promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time-to-time and the contractor agrees to comply fully with the terms, provisions and obligations of said section 5.3. A copy of the mandatory language and the Contractor’s certificate of compliance are attached hereto.

IN WITNESS WHEREOF, we have set our hands and seals the date first written above.

ATTEST:

ANIMAL CONTROL SOLUTIONS, LLC

Bethany Engleman, VP

BY: _____
Thomas Dodd, President

ATTEST:

Municipal Clerk

BY: _____
Municipal Mayor or Representative

“Appendix A”

ANIMAL CONTROL SERVICES TO BE PROVIDED BY THE CONTRACTOR

Definitions

Owner: Any person or persons to include property owners and private businesses owners who have shown an interest or permitted their tenants or employees to show interest in a domestic animal by having the domestic animal in their keeping or allowing the domestic animal to remain on their property, or provided food, water, shelter, or veterinary care to a domestic animal for a period of time exceeding 7 days without notifying the municipality or the municipal animal control agency at the time when the domestic animal was first discovered and requested removal.

Stray Animal: Any animal with no apparent owner that is observed by the animal control officer to not be fed, sheltered, or otherwise provided care by a person or persons or has not been permitted to remain on private property.

Owned Animal: Any animal which the owner is known licensed or not, or has been provided food or shelter or permitted to remain on private property for a time period exceeding 7 days, or has distinguishing ownership markings such as collar, or ear notches commonly seen in TNR cats.

Stray Domestic Animal Apprehension and Impoundment

1. Animal Control Solutions, LLC shall respond and when possible, impound dogs that are running loose within the borders of the contracting municipality when the animal is in view of the complainant. The impounded animals shall be transported and sheltered at the designated holding facility for a time period prescribed by law.
2. Animal Control Solutions, LLC shall respond and impound all stray dogs that have been found and confined within the borders of the contracting municipality. If picked up or dropped off directly with municipality identification to include drivers license of the person turning over the dog or other animal must be given or the dog or other animal will be considered owned. (See kenneling fees for owned animals.). The impounded animals shall be transported and sheltered at the designated holding facility for a time period prescribed by law.
3. Animal Control Solutions, LLC shall respond, impound, and transport to a veterinarian all severely injured stray dogs and cats found within the borders of the contracting municipality.
4. Animal Control Solutions, LLC shall respond, impound, and transport to a designated holding facility all dogs under the New Jersey Potentially Dangerous and Vicious Dog Act in conjunction with the Municipal Department of health and local law enforcement. If the offending dog is found guilty or an agreement of ownership is made between the Municipality and the owner, it shall be the responsibility of the Municipality to enforce the court order or agreement. This includes but is not limited to conducting inspections, compliance checks, and ensuring any kenneling or veterinary bills are paid.
5. Under the direction of the Municipality, Animal Control Solutions, LLC shall respond and investigate stray cat complaints within the borders of the contracting municipality. Animal Control Solutions, LLC shall require the complaining party to wait a period of 3 days prior to any attempts in capturing the cat unless the animal is reported to be sick or injured. This allows the animal to return to its owner.
1. Animal Control Solutions, LLC shall conduct a site visit (welfare check) to determine if the cat(s) are owned or truly stray based on the Municipalities ordinances and ACS contract. Upon completion of the site visit a report will be forwarded to the municipality for approval prior to any action taken unless the cat(s) in question is stray and is severely injured. If the Municipality or ACS determines a cat is owned, we will give the resident a timeframe set forth by the Municipality to become compliant with whatever ordinances are relevant, and enforce them as needed. Only under a direct Health Order or Approved Seizure by the Humane Law Enforcement offer or their Municipal Representative will we impound and remove an owned cat. (See kenneling fees for owned animals)

2. If traps are required, the duration of the trapping will not exceed five (5) days unless cats are activity being captured. Animal Control Solutions, LLC. will provide the trap and bait, however the complaining party will be responsible for setting, monitoring, and re-baiting the trap daily unless the complaining party is handicapped, elderly, or has a physical ailment. The complaining party shall call when the cat is trapped for pick-up. Animal Control Solutions will pick up the trapped cat and transport it to a holding facility. Complaining parties are required to trap only during hours which will be provided to them. If the complaining party refuses to set and monitor traps Animal Control Solutions can do it for a nominal fee. This fee is assessed each trip Animal Control Solutions takes. The municipality may choose to cover these costs on a case-by-case basis (See Section 3, Paragraph 4)
3. Animal Control Solutions reserves the right to require a deposit for each trap loaned to the complaining party depending on the location of the trapping. This deposit will be returned once the trap is returned in good working order. If at any time the trap is damaged or missing the Contractor reserves the right to use the deposit. The municipality can agree to cover the cost of a missing or damaged trap in-lieu of requiring said deposit.
4. In situations where the municipality approves TNR (Trap Neuter Return) of feral owned cats Animal Control Solutions may offer that service to residents in accordance with Appendix C if available.
5. Any cat that has been provided food, shelter, or any care whatsoever shall not be considered stray and the resident shall be responsible for the costs of the animal removal (surrender, TNR, etc). The municipality may choose to cover these costs on a case-by-case basis (See Section 3, Paragraph 4 of this Contract).
6. Animal Control Solutions, LLC shall reserve the right to charge residents or businesses requesting services not included in the contract. These services include but are not limited to owned feral and unwanted cat removal on private property.
7. Animal Control Solutions, LLC networks with several area rescue groups and shelters for the placement of their unclaimed stray animals taken impounded by Animal Control.

Rabies Quarantine and Testing

1. At the direction of the local, county, or state Board of Health or Health Officer, Animal Control Solutions, LLC shall respond and attempted to take appropriate action under New Jersey Health Code to all reported animal bites within the borders of the contracting municipality under the following requirements:
 1. The health department shall forward a proper animal confinement notice as required under 26:4-82 advising Animal Control Solutions, LLC if the confinement will be conducted at the animal owner's residents or other location. This notice will give Animal Control Solutions, LLC the authority to confine and/or release confinement the animal on behalf of the health department. Police reports will not be accepted as a confinement notice.
 2. The confinement notice shall list at minimum the contact information of the owner and victim (if applicable). This will include their full names, addresses, and telephone numbers. If there is no owner information listed, Animal Control Solution, LLC shall return the confinement notice to the issuing authority and take no further action until the information is provided.
 3. It is expressly understood that Animal Control Solutions, LLC will not conduct the animal confinement under 26:4-82 without a properly executed confinement notice. Any notice received without the owner/victim contact information will be sent back to the issuing authority.
 4. Once the confinement notice is received Animal Control Solutions, LLC will conduct confinements as per New Jersey Health Code during normal business hours M-F 8:30am to 4:30pm. Quarantines and releases can be done by dated photograph, video call or by the owner's veterinarian.
 5. Animal Solutions, LLC shall make attempts over a 3-day period to contact the owner of the animal that is required to be placed under confinement or being released from confinement. One of these attempts shall be a physical visit to the residence as long as that residence is in the jurisdiction of this contract.
 6. If the owner isn't able to be reached or is uncooperative Animal Control Solutions, LLC shall return the confinement notice back to the issuing authority. Any further action will be competed directly by the municipality.

2. If rabies testing is required, Animal Control Solutions, LLC shall transport the biting animal to a local veterinarian to be prepared for testing.
3. Animal Control Solutions, LLC will transport rabies specimens to local and county health offices for transport or utilize state courier.
4. Animal Control Solutions, LLC will not transport rabies specimens to State Health offices.
5. Animal Control Solutions, LLC shall keep and maintain accurate records of each animal confined as per New Jersey Law.

Wildlife

1. Animal Control Solutions, LLC shall respond to all incidents involving wildlife that has bitten any human or companion animal within the borders of the municipality. Municipal Police may be required to euthanize the suspect animal at the request of the Contractor. If the Police is unable or unwilling the animal will be transported to a veterinarian for euthanasia under Appendix B of this contract. The biting animal's remains will be transported to a veterinarian to be prepared for rabies testing.
2. Animal Control Solutions, LLC shall respond, attempt to remove, and release all small wildlife that the Animal Control Officer feels is not sick or injured, that has entered and is occupying the immediate living space of a residence. Examples of areas not considered immediate living spaces are but not limited to attic, basement, crawlspace, chimneys, walls, ductwork, roofs, garages, out buildings, commercial property, trashcans, traps, trees, front or back porches, dumpsters, or any other property that is not inhabited. All other wild animal issues will be considered nuisance wildlife.
3. Animal Control Solutions, LLC shall respond and attempt to capture and transport to a wildlife rehab all orphaned, sick or injured small wildlife during the rehab's hours of operation. Though uncommon due to the restricted hours and rules of local wildlife rehabs and employee safety concerns Municipal Police may be required to euthanize the suspect animal if the animal is hopelessly suffering. The request to euthanize the animal may be given via telephone. If the Municipal Police are unable or unwilling to euthanize the animal an additional veterinary euthanasia fee shall be charged under Appendix B.
4. Wild animals injured due to a resident's or their representatives carelessness or deliberate actions shall not be the responsibility of Animal Control Solutions, LLC. The resident or their representative shall be directed to contact a Wildlife rehab or New Jersey State Fish and Game. The resident or their representative shall be responsible for transport of the animal to the rehab or other state approved location. They can do this through private contractor such as a pest control service. This includes but is not limited to trapping, snaring, poisoning, cutting down trees habited by wildlife, sealing up wildlife dens or holes wildlife has created to access living areas, and improper exclusion.
5. All Deer, Bear, Bob Cat, Coyotes, birds covered under the US Migratory Bird Act, exotic animals under the NJ Department of Environmental Protection and Snakes incidents are regulated by New Jersey Department of Fish and game, department of Wildlife Conservation. Residents with issues with these animals shall be directed to contact them for assistance.
6. Under NJ Wildlife Conservation Guidelines wildlife cannot be removed from a property unless it has caused over \$500 worth of property damage. Certain species of wildlife are protected under state statute and cannot be removed unless it poses a threat of immediate danger. Other species are protected during certain times of the year and cannot be removed during those times for any reason. Residents requesting nuisance wildlife removal shall be directed to call a licensed wildlife removal service or the NJ Dept. of Fish and Game.
7. Animal Control Solutions, LLC shall respond and remove all dead small wildlife to include raccoons, opossums, squirrels, fox, large birds such as raptors, and skunks from public roadways and Municipal owned property. Skunks will be picked up 72 hours from the date they are reported. This is to allow the smell to naturally dissipate. All other dead wild animals will not be the responsibility of the contractor, this includes but is not limited to deer, bear, coyote, small birds, vermin, livestock, equine, and fish. This service shall be conducted once per week at the discretion of Animal Control Solutions, LLC
8. Animal Control Solutions, LLC shall reserve the right to charge residents or businesses requesting services

not included in the contract. These services include, but are not limited to, nuisance wildlife removal.

9. For Contractual purposes all Wild Birds shall be considered Wildlife and restrictions listed above shall also apply to them.

Livestock

1. Animal Control Solutions, LLC will respond to incidents regarding stray Livestock when the animal is in view of the complainant and the owner is not known.
2. If unable to locate owner, Animal Control Solutions, LLC may attempt to capture and transport all stray livestock to a holding farm only if the farm is available. This service can be limited due to the size of animals and the availability of a farm capable to housing animal. If a farm is unavailable the Municipality will be directed to call the NJ Dept. of Agriculture and may request temporary holding of the stray livestock at their location.
3. Sick, Injured, or Dead livestock shall be the responsibility of the owner. If the owner is unknown it shall be the responsibility of the Municipality.
4. Cost for the boarding and feed of livestock shall be borne by the owner. After seven (7) days if the livestock goes unclaimed it shall become the property of the farm/person holding the animal.

Pet Census and Licensing

1. Animal Control Solutions, LLC shall conduct a pet census. This census shall be administered while answering calls from residents and police (not door to door). A list of all unlicensed pets shall be given to the contracting municipality via monthly reports. The municipality shall decide to either send out warnings to the offenders or to issue summons immediately. If warnings are sent it will be up to the municipality to contact the contractor once the warning time limit has expired to issue summons (see #2 in this section)
2. Animal Control Solutions, LLC shall at its discretion sign summons against residents that are noncompliant with pet licensing. Yearly summoning from the unlicensed pet list provided by the municipality will be conducted after October 1st. The municipality shall be required to fill out each summons and notify Animal Control Solutions when completed. Animal Control Solutions will then send an ACO to sign each summons. The municipality shall mail the summons to the offender. (Section 1 paragraph 4)

Court, Ordinance and Law Violations

1. Animal Control Solutions, LLC shall issue summons at the discretion of the Municipality under local ordinances and State Statutes. (See e.g., Pet Census and Licensing Paragraph 2)
2. Animal Control Solutions, LLC shall appear to all mandated court hearings under the following restrictions:
 1. Animal Control Solutions shall only send one ACO to court on any given day. This allows Animal Control Solutions the ability to continue to provide emergency services.
 2. If the court mandates that more than one ACO is required to attend a hearing at the same time the court must subpoena and notify the required ACO's at least one week prior to the court hearing. This will give Animal Control Solutions time to correct any scheduling conflicts.
 3. If the court mandates that more than one ACO is required to attend a hearing at the same time the municipality will be charged \$100 per hour fee for each ACO mandated to court over the one ACO limit.
 4. If at any time Animal Control Solutions feels that the court or municipality is causing a hardship by monopolizing its staff or otherwise preventing them from providing its contracted emergency Animal control services, they reserve the right to dismiss the case without repercussion.
3. Animal Control Solutions, LLC shall seek restitution in court incidents in which a contractor has responded to court more than 3 times for the same case. A \$100 appearance fee thereafter in accordance with Section 3, paragraph 4 of this Contract shall be requested from the court for restitution. If the court decides not to allow the

restitution the fee shall be paid by the municipality. Failure to appear by the defendant, adjournments, status conferences, depositions, and meetings are all examples of situations that may cause the contractor to exceed 3 appearances in court.

Animal Cruelty

Animal Control Solutions, LLC shall forward all animal cruelty complaints to the municipal Humane Law Enforcement Officer. The Humane Law Enforcement Officer will handle the complaint from that time forward. Responding to animal cruelty incidents will be the responsibility of the Municipal Humane Law Enforcement Officer, the County Prosecutors Office, and the designated County SPCA under state statute. Under NJ Statue the designated County SPCA is responsible for the care of all animals seized under the animal cruelty statutes. If the designated County SPCA is unavailable, Animal Control Solutions may help in transporting the dogs and cats that are seized if they choose to use a holding facility or Vet used by Animal Control Solutions (see Appendix B for costs). Any animals held at a holding facility or Vet used by Animal Control Solutions shall remain in holding until directed by the Humane Law Enforcement Officer. If the animal(s) in questions are surrendered or custody is transferred to the Municipality or the entity on behalf of the Municipality, it shall be the responsibility of the Municipality to facilitate the placement of the animal. At not time will any animal be surrendered directly to Animal Control Solutions, LLC or any of our holding facilities. The Municipality shall be billed for the cost of the care of the animal in accordance with Appendix B of this contract until the animal is removed from the holding facility or Vet. The treating Veterinarian shall have full authority to provide care to the animal that the Veterinarian feels is necessary to relieve any suffering in accordance with state law. The Humane Law Enforcement Office shall be the direct contact for any additional treatments outside the basic care necessity as well as the outcome of the animal and case. For billing and resource assistance purposes, the Humane Law Enforcement Officer shall report to Animal Control Solutions, LLC the outcome at the conclusion of their investigation. Animal Control Solutions, LLC is not obligated to provide care for animals that have been seized or held under the animal cruelty statutes unless the animals are in the care of a holding facility through Animal Control Solutions. This includes providing food and water to animals that reside on any property other than a holding facility contracted by Animal Control Solutions.

Typical Animal Cruelty Incidents include but are not limited to:

1. **Animal hoarding:** Animal hoarding is defined as any abundance of animals that exceeds normal ownership and is averse to the health of the occupant of the home, to the animal, or to the residents of the municipality. NJSA 4:22-17.8
2. **Animal Abandonment:** Animal abandonment is defined as any owned animal left behind or permitting an animal to be abandoned in circumstances that can cause harm to the animal if not attended. A common example is an animal left behind during a property eviction or an owner refusing to claim their pet from a kennel, vet, or shelter. NJSA 4:22-20
3. **Failure to provide shelter / Tethering Law:** Tethering an animal for an extended period of time or failure to provide an animal with proper shelter if outside during adverse conditions. NJSA 4:22-17.2, NJSA 4:22-17.5
4. **Leaving an animal in a motor vehicle or transporting an animal in an unsafe manner.** NJSA 4:22-18

Owned Animal Incidents

Notwithstanding the New Jersey Dangerous Dog Act, it is expressly agreed, Animal Control does not have the statutory authority to seize or impound owned animals from their owner's property or property that they reside at without the owner's permission. This includes but is not limited to situations where the owner is evicted, arrested, or hospitalized. If the owner is unable to take care of their animal, they need to make arrangements with another party for the care of their animals. Upon request Animal Control will provide a list of rescue organizations or boarding kennels that may temporarily house the animal. If the owner refuse or is otherwise unable to find suitable housing the Contractor will notify the Municipal Humane Law Enforcement Officer for direction. Animal Control Solutions is not responsible for responding to owned animal housing incidents except to help the law enforcement officers in transporting the dogs and cats they seize if they choose to use a holding facility through Animal Control Solutions.

In the event of the owner's arrest, or hospitalization where they are occupying a motor vehicle with their pet Animal Control Solutions shall transport the pet to a designated holding facility. As applicable by law upon taking the animal the municipality shall send a certified letter to the owner advising them that they have at least 7 days to claim or have someone claim the animal(s) from the designated holding facility. If the time limit has elapsed the incident shall be considered animal abandonment under the animal cruelty statutes. Therefore, the case will be transferred to the Municipal Humane Law Enforcement officer for direction.

1. the event of the owner's arrest or hospitalization at their residential property the animal should remain on the property if another party resides at the same residents. If no other person resides at the property, the animal may remain alone at the owner's property for a period not to exceed 24 hours unless the property is deemed by the Humane Law Enforcement Officer to have hazardous living conditions. This guards against unreasonable seizures in the event the owner is released within a safe time period. If the time frame exceeds 24 hours the Municipal Humane Law Enforcement Officer or County Prosecutors Office should seize the dog or cat under the animal cruelty laws for their well-being.
2. In the event of an eviction a signed copy of a fully executed eviction warrant (Warrant of Removal) should be provided to the Municipal Humane Law Enforcement Officer by the person requesting said eviction prior to the removal of the animal. The Municipal Humane Law Enforcement Officer or County Prosecutors office should contact the owner of the animal(s) and arrange a time for them to take custody of the animal. If the owner is unwilling or unable to claim their animal, it would be considered animal abandonment under the animal cruelty statutes and the animal(s) should be removed and taken to the designated county SPCA. If the municipality or County Prosecutors office requests the removal of animal(s) and transport to a holding facility through Animal Control Solutions they must provide a copy of the executed warrant of removal to Animal Control Solutions prior to any employee of Animal Control Solutions entering the premises and removing the animal.
3. In the event of the owner's death any relatives, partners, executors, or roommates should be responsible for the care of the animal. Animals are considered property and are part of the estate. If there is no one able to care for the animal, then the Municipal Humane Law Enforcement Officer or County Prosecutors office should seize the animal(s) for their well-being until a responsible party is located.
4. Under NJSA 4:22-48.2 any fees incurred due to seizing animals under the animal cruelty statutes by the Humane Law Enforcement Officer or County Prosecutor's Office can be recovered through the court. It is highly recommended that the municipality pursue ordinances that allow liens to be placed on monetary property of violators. It is also recommended that the municipality designate all fines received under the animal cruelty statutes to enter into the municipal animal welfare fund.

Pet Surrender

Animal Control Solutions, LLC offers animal rescue referrals to assist with the re-homing of adoptable animals. In emergent situations we will accept pet surrenders that are deemed suitable for adoption by ACS from residents of ACS contracted municipalities, however accepting animals for this service will depend on animal's temperament, age, health, and availability of space. Surrender fee applies and is determined on the medical care the animal will need. Animal Control Solutions, LLC will not accept any owned animal for euthanasia only. Owners seeking euthanasia only shall be directed to contact a veterinarian. A list of veterinarians willing to perform euthanasia will be given upon request.

Record Keeping

1. Animal Control Solutions, LLC shall keep and maintain accurate records of all actions performed within the borders of the contracting municipality and forward these records to the contracting municipality as indicated below. Once these reports are forwarded to the Municipality Animal Control Solutions, LLC shall not be required to keep or forward additional copies. It is up to each Municipality to keep records in accordance with State and Federal Law.
 1. Animal Control Solutions, LLC shall provide a monthly report of these records no later than the 10th day of following month to the contracting municipality. The monthly report will include a case detail report which lists the type of incident, the date of incident, the person(s) info, type of animal involved, and the outcome of the case. They will also include an intake and outcome report on the individual animal if it was impounded or seized. These reports shall be kept by the Municipality to fulfill any

OPRA or Discovery requests.

2. Animal Control Solutions, LLC shall provide an annual report of these records no later than the 10th day of the January of the following year. These reports shall be kept by the Municipality to fulfill any OPRA or Discovery requests.
2. Under NJ Dept. of Health regulations all holding facilities may (not required) provide animal intake and outcome numbers to the State of NJ. This is commonly known as the New Jersey Shelter and Pound Survey. As strictly an animal control agency, the NJ Dept. of Health will not allow Animal Control Solutions, LLC to participate in this survey. Our monthly reports contain all information that would be found on the survey. Non-veterinary holding facilities used by Animal Control Solutions, LLC may participate in the survey but the animals are listed under the specific facility along with other animal control agencies and animal rescues in which they care for animals.

Emergency Disaster Response

During a “State of Emergency” under the direction of the municipality and Emergency Management Coordinator Animal Control Solutions, LLC. shall attempt rescue and transport all displaced and injured animals to a holding facility designated by the municipality. Animal Control Solutions, LLC shall be classified by the County OEM coordinator as a first responder prior to responding to an incident during a “State of Emergency”. Due to the emergent disposition of these events, Animal Control Solutions, LLC reserves the right to prioritize requests for assistance. During major incidents the municipality shall first request support from the County Animal Emergency Response Team. If under an emergency fuel ration the municipality shall permit Animal Control Solutions, LLC to refuel at their municipal fuel depot if they require Animal Control Solutions to respond to incidents during that time. Any damage to equipment or loss while responding to a incident under a “State of Emergency Shelter in Place” order shall be the responsibility of the Municipality requesting the response.

Other

Due to the scope of work, legality, and unpredictability of handling domestic and wild animals there maybe requests that Animal Control Solutions, LLC may not be able to perform such as rescuing an animal when the act of rescuing it puts human life in danger. Examples of this are but are not limited to rescuing animals from trees, roofs of structures, in swift moving or deep water, areas which require climbing or repelling, or areas which are inaccessible without causing damage or harm to person or property. For these types of incidents Animal Control Solutions, LLC will direct the Municipality to contact the County Animal Emergency Response Team who has the equipment to rescue the animal safely. Animal Control Solutions, LLC shall make a reasonable attempt to handle all contractual obligations within reasonable means.

“Appendix B”

Kenneling Fees for Stray Animals

The following is the schedule of fees that will apply for the impounding of stray animals through Animal Control Solutions, LLC if the animal does not require emergency medical care defined under NJAC 8:23A-1.9D1. In unclaimed stray animal cases (no known owner) and where the animal does not need emergency vet care the municipality will be charged a flat intake fee which covers all basic non-veterinary care of the animal under NJAC 8:23A-1.10 and NJSA 4:19-15.16 This includes: Basic examination by the veterinarian (includes microchip scan), intake shots, state mandated stray hold, disposition fee (for adoption prep or euthanasia), placement fee (required by most rescues and shelters). If the owner is located during the stray hold fees shall switch to the Owned Animal section of this Appendix.

The Municipality may choose to contract directly with a holding facility, vet, or shelter to house their animals. Animal Control Solutions, LLC will transport any stray impounded animal to the municipal designated holding facility free of charge however policy and billing will be between the municipality and said facility.

Stray Dogs and Puppies:	\$800.00
Stray Cats and Kittens:	\$650.00
Stray Exotic Pets: (snakes, hamsters, iguanas, etc.)	\$900.00
Stray Livestock: (all farm animals to include fowl.)	\$950.00
Stray Dead Domestic Animal Disposal:	\$75.00

Kenneling Fees for Owned Animals

The following is the schedule of fees that will apply for the care of owned animals seized by the Municipal Humane Law Enforcement officer, Municipal Police, or Health Department. Fees also apply to any animal originally impounded by Animal Control as a stray but identification of owner is located or known later.

In all owned animal cases the animal will be held for a time period mandated by state law, the court, Humane Law Enforcement Officer, or Health Officer and is adopted, transferred to rescue, or returned to owner. It is expressly understood that if the animal is surrendered to the municipality or another entity on behalf of the municipality, the municipality shall be responsible for all costs for the animal's care until the animal is removed from the holding facility (adopted/euthanized/transferred to rescue).

In all owned animal cases if owner is permitted to claim their animal they will be responsible for all costs incurred due to their animals impoundment / seizure (rates listed below). Upon claiming their pet if the owner refuses to pay the Vet/Kennel/Shelter, Animal Control Solutions, LLC reserves the right to add a 10% convenience fee to the invoice. The municipality will be billed for these costs but Animal Control or the Humane Law Enforcement Officer can seek restitution from the owner through court at the municipality's direction.

The Municipality may choose to contract directly with a holding facility, vet, or shelter to house their animals. Animal Control Solutions, LLC will transport any stray impounded animal to the municipal designated holding facility free of charge however policy and billing will be between the municipality and said facility.

Dogs and Puppies:

Intake Shots (given unless dog has valid tags on) (per shot)	\$25.00
1 Day Care	\$60.00

Dogs Held Under the Dangerous Dog Act (per day)	\$75.00
Prep Rabies Specimen	\$100.00
Dead Dog Disposal	\$100.00
Disposition Fee (Adoption prep or Euthanasia)	\$300.00
<u>Cats and Kittens:</u>	
Intake Shots (given unless cat has valid tags on) (per shot)	\$25.00
1 Day Care	\$50.00
Prep Rabies Specimen	\$100.00
Dead Cat Disposal	\$100.00
Disposition Fee (Adoption prep or Euthanasia)	\$250.00
<u>Livestock:</u>	
1 Day Care Large (all farm animals to include fowl)	\$150.00
Disposition Fee (Adoption prep or Euthanasia)	\$350.00
<u>Exotic:</u>	
1 Day Care (snakes, hamsters, iguanas, etc.)	\$100.00
Disposition Fee (Adoption prep or Euthanasia)	\$250.00

Emergency Vet and Other Vet fees

Notwithstanding emergency veterinarian care required under NJAC 8:23A-1.9.D1 and services required by the NJ Dept. of Health for rabies testing and prevention, any additional treatment shall be at the sole discretion of the municipality and will be billed on a case by case basis.

An Emergency vet will only be used when all other veterinarians used by Animal Control Solutions and the municipality are closed. Emergency Veterinarian care shall be determined on a case by case basis. Animal Control Solutions, LLC shall advise the Veterinarian to only provide minimal care applicable with state law while the animal is in their care. Any other care must be approved by the municipality. Only when a licensed Veterinarian has deemed the animal to be beyond reasonable care shall the animal be euthanized prior to the state required 7 day hold or as applicable by law.

Domestic Animals:

Basic Exam	\$200.00
Euthanasia	\$200.00
Rabies Prep	\$100.00
Disposal	\$75.00
Monitored 1 day care (Infant Kittens)	\$100.00

Required X-Ray, Pain Meds, Fluids, and other care under NJAC 8:23A-1.9D1 \$TBD

Wildlife:

Euthanasia \$200.00

Rabies Prep \$100.00

Disposal \$75.00

“Appendix C”

Fix The Cats (FTC) a Low-Cost Feral Cat Mitigation Solution

The following is a schedule of fees that will apply for TNR (Trap, Neuter, and Return) services for feral cats only. All requests from residents for these services must first be approved by the Municipality. If approved, the resident shall be considered the owner of the cat(s) and shall be responsible for maintaining the cat(s) under State and Municipal Ordinance. In addition, the cat(s) will only be released on property owned by the person requesting the service. Resident will be required to capture the cat and transport the cat to an ACS approved veterinarian. ACS can provide trap/transport service for a fee.

Low-Cost FTC service includes:

- Spay/Neuter of cat
- Rabies and Distemper Vaccines
- Microchip (to link ownership)
- Ear Notch (a universal identification method for TNR)

Cost:

\$75-\$150 per cat depending on facility availability. This fee is normally paid by the person requesting the service, but the Municipality may choose to cover these costs on a case-by-case basis.

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

AMENDING RESOLUTION 2026-203

WHEREAS, the Township of Berkeley Heights, pursuant to N.J.S.A. 40A:11-12a and N.J.A.C. 5:34-7.29, may by resolution and without advertising for bids, purchase any goods and services under the State of New Jersey Cooperative Purchasing Program for any State contracts entered into on behalf of the State by the Division of Purchase and Property in the Department of the Treasury; and

WHEREAS, the Township of Berkeley Heights Police Department has the need to purchase APX NEXT portable radios with accessories; and

WHEREAS, Motorola Solutions, Inc., has been awarded Contract #25-TELE-132995, under the State Contract for T0109 - Radio Communication Equipment and, for a period expiring April 30, 2031; and

WHEREAS, the Township of Berkeley Heights intends to purchase APX NEXT portable radios with accessories from Motorola Solutions, Inc., 123 Tices Boulevard, Woodcliff Lake, NJ 07677, through this resolution, which shall be subject to all the conditions applicable to the current State Cooperative Purchasing contracts.

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, does hereby authorize the Police Chief to purchase APX NEXT portable radios with accessories through the New Jersey State Cooperative Purchasing Contract #25-TELE-132995 for the total amount of ~~\$76,577.18~~ **\$78,092.67** pursuant to all conditions of the individual State contracts.

BE IT FURTHER RESOLVED that the Chief Finance Officer for the Township of Berkeley Heights has certified that sufficient uncommitted funds are available in an amount not to exceed ~~\$76,577.18~~ **\$78,092.67** from the following accounts:

Account Number	Amount	Description
C-04-26-007-B02	\$75,000.00	Ord 26-07 Police-Radios
C-04-20-009-312	954.95	Ord 9-2020 Police Radio Comm
6-01-25-240-026	2,137.72	PD Communications
TOTAL:	\$78,092.67	

Approved this 30th day of June, 2026.

ATTEST:

Angela Lazzari, RMC
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-13

**AN ORDINANCE TO DESIGNATE DATA CENTERS AS A
PROHIBITED USE IN ALL ZONES WITHIN THE TOWNSHIP**

WHEREAS, the Township of Berkeley Heights's Master Plan emphasizes protection of the Township's environmental resources and historic and cultural heritage; and

WHEREAS, data centers present a form of land use that poses harmful effects to both the environment and to residents' health and quality of life, such as excessive and costly electricity consumption, loud noise, air pollution, excessive water use, and water pollution; and

WHEREAS, as of March 2024, there were 5,381 data centers located in the United States, 73 of which were located in New Jersey; and

WHEREAS, on March 27, 2026, Governor Sherrill identified data centers as among the biggest drivers of energy costs in New Jersey; and

WHEREAS, Governor Sherrill, Executive Order No. 2 details that from June 2023 to June 2025 the average residential electricity price in the State rose by well over 33 percent, and the average electricity price for all customers in the State, including commercial customers, rose by nearly 30 percent; and

WHEREAS, preliminary data cited by Members of the New Jersey State Legislature has cautioned that large-scale data centers can use as much as 3 to 5 million gallons of water in a single day between liquid cooling and water consumed to generate the energy that powers them; and

WHEREAS, this extreme volume of water usage negatively impacts homes and businesses within the Township and the surrounding communities; and

WHEREAS, preliminary studies noted by the State Legislature also indicate that some data centers require 300 MW of electricity, which is roughly equivalent to the output of a small modular nuclear reactor; and

WHEREAS, it is well established that data centers bring overdevelopment and overuse of environmental resources negatively impacting subterranean aquifers, potable drinking water and other water resources; and

WHEREAS, the Township is conscious of the hazards of data centers, such as depletion of critical groundwater resources, and the impact to the environmental and natural resources posed by the scope, depth and pervasiveness of large-scale commercial data center operations; and

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-13

WHEREAS, municipal regulations designed for the preservation of the environment and the protection of ecological values are a well-recognized, legitimate and proper exercise of municipality authority; and

WHEREAS, the construction of data centers often results in the cutting and removal of trees causing increased soil erosion and dust, instability and deterioration in the value of surrounding property, and other adverse environmental and geographical conditions; and

WHEREAS, the environmental hazards, pollution of potable drinking water, and increase electricity costs of certain data center operations on residents, businesses, the environment, and private and public property imposes significant burdens on municipal resources thus creating a need to assess the rights, health and safety, and interests of the residents and the community; and

WHEREAS, the Township Committee has determined it necessary and appropriate to amend and update its ordinances to adequately address data center uses in a manner that best reflects present needs and realities; and

WHEREAS, the Township Committee has determined that it is in the best interest of the health, safety and welfare of its residents and members of the public who visit, travel or conduct business in the Township, to amend the Municipal Code of the Township to prohibit data centers as a land use within the Township.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Township of Berkeley Heights, County of Union, State of New Jersey as follows:

SECTION I. Section 6.4.1, "Uses Prohibited to All Zones," of Article 6.4, "Prohibited Uses," of Part 6, "Zoning," of Appendix A, "Municipal Land Use Procedures Ordinance," is hereby amended as follows:

Section 6.4.1 - Uses Prohibited to All Zones

The following uses and activities are specifically prohibited in all zones:

- A. Sales or rentals of new or used motor vehicles or trailers.
- B. Coin-operated dispensers, including mechanical and automatic machines in which a product is returned, except when located in a principal building in other than a residential zone.
- C. Retail laundries, cleaning or dyeing establishments employing more than four (4) persons and all non-retail establishments.

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-13

- D. The storage of crude oil or any volatile products or any highly flammable liquids or gas above ground in tanks having a capacity of more than three hundred (300) gallons.
- E. Drive-through facilities, road stands or refreshment stands.
- F. Pipelines which are not public utilities that distribute services to end users and are unregulated by the State of New Jersey Board of Public Utilities are prohibited within any zone in the Township.
- G. All classes of cannabis establishments or cannabis distributors or cannabis delivery services as said terms are defined in section 3 of P.L. 2021, c. 16, but not the delivery of cannabis items and related supplies by a delivery service located outside of the Township.
- H. Without any way limiting the specific prohibitions, restrictions or limitations contained anywhere else in this Ordinance, in all zones of the Township any uses not specifically permitted in Article 6.3 herein are prohibited.
- I. Vape shops and smoke shops.
- J. Sexually-oriented businesses.
- K. **Data centers, which shall include any facility, or portion thereof, primarily used for housing, operating, and maintaining computer servers and associated power distribution and cooling infrastructure, for the purpose of storing, processing, or transmitting digital data for third parties. The term includes co-location, cloud computing, and artificial intelligence training or inference facilities. This prohibited use does not include server rooms or equipment spaces that are incidental and subordinate to a primary permitted use on the same lot.**

SECTION III. All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

SECTION IV. If any section, provision, or part of provision of this Ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this Ordinance, or any part thereof, other than the part so held unenforceable or invalid.

SECTION V. This Ordinance shall take effect after passage and publication in the manner provided by law.

Angie Devanney, Mayor

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-13

Introduction						Councilperson	Final Adoption					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
						John Foster						
						Margaret Illis						
						Bill Machado						
						Alvaro Medeiros						
						Andrew Moran						
						Susan Poage						
Introduced: <p style="text-align: center;">June 30, 2026</p>						I hereby certify the above ordinance was adopted by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey on the aforementioned date.						
Final Adoption: <p style="text-align: center;">July 21, 2026</p>												
						_____ Angela Lazzari, Township Clerk						

TOWNSHIP OF BERKELEY HEIGHTS

**NOTICE OF INTRODUCTION
ORDINANCE 2026-13**

PUBLIC NOTICE is hereby given that the Ordinance entitled

**AN ORDINANCE TO DESIGNATE DATA CENTERS AS A PROHIBITED
USE IN ALL ZONES WITHIN THE TOWNSHIP**

was introduced and passed on First Reading at the Regular Meeting of the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, held on **June 30, 2026 at 6:30 p.m.** The within Ordinance will be further considered for Final Passage, after public hearing thereon, at the Regular Meeting of the Township Council to be held in the Council Chamber at the Berkeley Heights Municipal Complex, 29 Park Avenue, Berkeley Heights, NJ, on **July 21, 2026 at 6:30 p.m.**, or as soon thereafter, as said matter can be reached. At which time and place, all persons who are interested therein will be given an opportunity to be heard and ask questions concerning the same.

During the week prior to and up to the time of Public Hearing, copies of said Ordinance will be available at no cost in the Municipal Clerk's office in said Municipal Complex, 29 Park Avenue, Berkeley Heights, NJ 07974, and to the members of the general public who shall request the same.

**Angela Lazzari
Township Clerk**

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-14

ORDINANCE AMENDING CHAPTER 10.08, "THROUGH STREETS, STOP INTERSECTIONS, TRAFFIC CONTROL SIGNALS AND CROSSWALKS," OF THE TOWNSHIP CODE TO REFLECT STOP INTERSECTIONS AT ALL APPROACHES AT WASHINGTON STREET AND BERKELEY AVENUE

WHEREAS, the Township of Berkeley Heights (the "Township") Code, §10.08.020, entitled "Stop intersections," lists every stop sign within the Township, in alphabetical order, aside from those stop signs that intersect through streets, which are identified and listed in §10.08.010, entitled "Through streets"; and

WHEREAS, the identification and listing of all stop signs within the Township in the Township Code is imperative for the Township to be able to effectively enforce rules and laws governing vehicles and traffic within the Township; and

WHEREAS, the Township wishes to amend the Code to reflect stop intersections at all approaches of Washington Street and Berkeley Avenue.

NOW, THEREFORE, BE IT ORDAINED, by the governing body of the Township of Berkeley Heights, County of Union, and State of New Jersey, that:

SECTION I. Section 10.08.020 "Stop intersections," of Chapter 10.08 "THROUGH STREETS, STOP INTERSECTIONS, TRAFFIC CONTROL SIGNALS AND CROSSWALKS," of the Township Code of the Township of Berkeley Heights shall be and is hereby amended as follows: [New language **bold and underlined**; deletions ~~stricken through~~.]

10.08.020 Stop intersections.

Since main traveled roads are not involved, the following intersections within the township are designated as stop intersections:

1. Angela Way and Cottage Street: stop sign located on Angela Way;
2. Baker Avenue and Honeyman Place: stop sign located on Honeyman Place;
3. Baker Avenue and Kline Place: stop sign located on Kline Place;
4. Baldwin Drive and Farmgate Road: stop sign located on Baldwin Drive;
5. Barnstable Road and Farmgate Road: stop sign located on Barnstable Road;
6. Berkeley Avenue and Scott Avenue: stop sign located on Berkeley Avenue;
7. Brambling Road and Hawfinch Drive: stop sign located on Hawfinch Drive;
8. Brambling Road and Roosevelt Avenue: stop sign located on Brambling Road;
9. Burlington Road and Warren Place: stop sign located at Warren Place;
10. Clover Court and Cottage Street: stop sign located on Clover Court;
11. Columbia Avenue and Bolton Boulevard: stop sign located on Columbia Avenue;
12. Cottage Court and Cottage Street: stop sign located on Cottage Court;
13. Daria Lane and Daisy Road: stop sign located on Daisy Road;

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-14

14. Evergreen Drive and Timber Drive—both ends: stop signs located on Evergreen Drive;
15. Exeter Drive and Timber Drive: stop sign located on Exeter Drive;
16. Fairfax Drive and Exit to Mountain Park School: stop sign located on driveway exit of Mountain Park School;
17. Fairview Avenue and Union Avenue; stop sign located on Fairview Avenue;
18. Farmgate Road and Baldwin Drive: stop sign located on Farmgate Road;
19. Farmgate Road and Union Avenue: stop sign located on Farmgate Road;
20. Fawn Circle and Lawrence Drive: stop sign located on Fawn Circle;
21. Fay Place and Briarwood Drive West: stop sign located on Fay Place;
22. Fern Place and Debbie Place: stop sign located on Fern Place;
23. Fern Place and Hillside Avenue: stop sign located on Hillside Avenue;
24. Ferndale Road and Briarwood Drive West: stop sign located on Ferndale Road;
25. Fickler Place and Fairview Avenue: stop sign located on Fickler Place;
26. Fickler Place and Pearl Street: stop sign located on Pearl Street;
27. Franklin Court and Hamilton Avenue: stop sign located on Franklin Court;
28. Frost Lane and Barnstable Road: stop sign located on Frost Lane;
29. Garfield Street and Berkeley Avenue: stop sign located on Berkeley Avenue;
30. Garfield Street and Passaic Avenue: stop signs located on both approaches on Garfield Street;
31. Garfield Street and Station Street: stop signs located on both approaches on Garfield Street;
32. Garfield Street and Summit Avenue: stop signs located on all four approaches;
33. Grandview and Bolton Boulevard: stop sign located on Grandview Avenue;
34. Grassman Place and Killarney Drive: stop sign located on Grassman Place;
35. Hamilton Avenue and Princeton Avenue: stop sign located on Princeton Avenue;
36. Hamilton Avenue and Roosevelt Avenue: stop sign located on Roosevelt Avenue;
37. Hamilton Avenue and Rutgers Avenue: stop sign located on Rutgers Avenue;
38. Hampshire Road and Baldwin Drive: stop sign located on all four approaches;
39. Hampshire Road and Timber Drive: stop sign located on Hampshire Road;
40. Hawfinch Drive and Hamilton Avenue: stop sign located on Hawfinch Avenue;
41. Hillside Avenue and Timber Drive—both ends: stop signs located at the easterly intersection on Timber Drive, westerly intersection on Hillside Avenue;
42. Hillside Avenue and Wentworth Drive: stop sign located on Wentworth Drive;
43. Holly Glen Lane South and Holly Glen Lane: stop sign located on Holly Glen Lane South;
44. Kingman Road and Old Farm Road: stop sign located on Kingman Road;
45. Kline Boulevard and Union Avenue: stop sign located on Kline Boulevard;
46. Kline Place and Kline Boulevard: stop sign located on Kline Place;
47. Kline Place and Kline Place: stop sign located northbound on Kline Place;

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-14

48. LaGrande Avenue and Berkeley Avenue; stop sign located on LaGrande Avenue;
49. LaGrande Avenue and Columbia Avenue; stop sign located on both approaches of LaGrande Avenue;
50. LaGrand Avenue and Harwood Avenue; stop sign located on LaGrande Avenue;
51. Lawrence Drive and Kline Boulevard; stop signs located on Lawrence Drive on both approaches;
52. Lincoln Street and Berkeley Avenue; stop signs located on all four approaches;
53. Lincoln Street and Plainfield Avenue; stop sign located on Plainfield Avenue;
54. Lincoln Street and River Road; stop sign located on Lincoln Street;
55. Lincoln Street and Passaic Avenue; stop signs located on both approaches on Lincoln Street;
56. Lincoln Street and Station Street; stop signs located on both approaches on Lincoln Street;
57. Lincoln Street and Summit Avenue (Southside of Lincoln Street); stop sign located on all four approaches;
58. Locust Avenue and Timber Drive; stop sign located on Locust Avenue;
59. Lower Columbia Driveway and Hamilton Avenue; stop sign located on Lower Columbia Driveway;
60. Martins Lane and Union Avenue; stop sign located on Martins Lane;
61. Mea Drive and Timber Drive; stop sign located on Mea Drive;
62. Mercer Road and Hunterdon Boulevard; stop sign located on Mercer Road;
63. Mercer Road and Watchung Boulevard; stop sign located on Mercer Road;
64. Old Farm Road, Cedar Green Lane, and Mercier Place; stop signs located on both Cedar Lane and Mercier Place approaches;
65. Peacock Lane and Brambling Road; stop sign located on Peacock Lane;
66. Peacock Lane and Hawfinch Drive; stop sign located on Peacock Lane;
67. Pearl Street and Union Avenue; stop sign located on Pearl Street;
68. Ridgewood Drive and Lawrence Drive; stop sign located on Ridgewood Drive;
69. Robbins Avenue and Lawrence Drive; stop sign located on Robbins Avenue;
70. Russo Place and Locust Avenue; stop sign located on Russo Place;
71. Scott Avenue and Bolton Boulevard; stop sign located on Scott Avenue;
72. Shadow Lane and Riverbend Road; stop sign located on Riverbend Road;
73. Sherman Avenue and South Sherman Avenue; stop sign located on South Sherman Avenue;
74. Somerset Place and Hunterdon Boulevard; stop sign located on Somerset Place;
75. Somerset Place at Watchung Boulevard; stop sign located on Somerset Place;
76. Station Street and Sherman Avenue; stop sign located on Station Street;
77. Station Street and Springfield Avenue; stop signs located on both approaches on Station Street;
78. Station Street and Washington Street; stop signs located on both approaches on Station Street;
79. Summit Avenue and Grant Street; stop signs located on Summit Avenue at both approaches on Summit Avenue;
80. Summit Avenue and Sherman Avenue; stop sign located on Summit Avenue;
81. Ridgewood Drive and Lawrence Drive; stop sign located on Ridgewood Drive;

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-14

- 82. Timothy Field Road and Barnstable Road: stop sign located on Timothy Field Road;
- 83. Timothy Field Road and Union Avenue: stop sign located on Timothy Field Road;
- 84. Tudor Lane and Windsor Way (north intersection): stop sign located on Tudor Lane;
- 85. Tudor Lane and Windsor Way (south intersection): stop sign located on Windsor Way;
- 86. Tudor Lane and Fairfax Drive: stop sign located on Tudor Lane;
- 87. Washington Street and Berkeley Avenue: stop sign located on **all three approaches** ~~Berkeley Avenue~~;
- 88. Washington Street and Passaic Avenue: stop sign located on Washington Street;
- 89. Washington Street and Plainfield Avenue: stop signs located on all four approaches;
- 90. Washington Street and Summit Avenue: stop signs located on all four approaches;
- 91. Whispering Way and Hamilton Avenue: stop sign located on Whispering Way.

SECTION II. Should any clause, sentence, or paragraph of this Ordinance be declared invalid or unconstitutional for any reason, the remaining portions of this Ordinance shall not be affected thereby and shall remain in full force and effect, and, to this end, the provisions of this Ordinance are hereby declared severable.

SECTION III. All Township Ordinances or parts of Ordinances inconsistent with this enactment are hereby repealed to the extent of such inconsistency.

SECTION IV. This Ordinance shall take effect immediately upon its adoption and publication in the manner required by New Jersey law.

Angie Devanney, Mayor

Introduction						Councilperson	Final Adoption					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
						John Foster						
						Margaret Illis						
						Bill Machado						
						Alvaro Medeiros						
						Andrew Moran						
						Susan Poage						
Introduced: June 30, 2026						I hereby certify the above ordinance was adopted by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey on the aforementioned date.						
Final Adoption: July 21, 2026												
						_____ Angela Lazzari, Township Clerk						

TOWNSHIP OF BERKELEY HEIGHTS

**NOTICE OF INTRODUCTION
ORDINANCE 2026-14**

PUBLIC NOTICE is hereby given that the Ordinance entitled

ORDINANCE AMENDING CHAPTER 10.08, "THROUGH STREETS, STOP INTERSECTIONS, TRAFFIC CONTROL SIGNALS AND CROSSWALKS," OF THE TOWNSHIP CODE TO REFLECT STOP INTERSECTIONS AT ALL APPROACHES AT WASHINGTON STREET AND BERKELEY AVENUE

was introduced and passed on First Reading at the Regular Meeting of the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, held on June 30, 2026 at 6:30 p.m. The within Ordinance will be further considered for Final Passage, after public hearing thereon, at the Regular Meeting of the Township Council to be held in the Council Chamber at the Berkeley Heights Municipal Complex, 29 Park Avenue, Berkeley Heights, NJ, on July 21, 2026 at 6:30 p.m., or as soon thereafter, as said matter can be reached. At which time and place, all persons who are interested therein will be given an opportunity to be heard and ask questions concerning the same.

During the week prior to and up to the time of Public Hearing, copies of said Ordinance will be available at no cost in the Municipal Clerk's office in said Municipal Complex, 29 Park Avenue, Berkeley Heights, NJ 07974, and to the members of the general public who shall request the same.

**Angela Lazzari
Township Clerk**

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-15

**ADOPTING AN ORDINANCE TO DISSOLVE THE RECREATION
COMMISSION AND SET FORTH THE RECREATION DEPARTMENT
WITHIN THE TOWNSHIP OF BERKELEY HEIGHTS**

WHEREAS, it is the desire of the Mayor and Township Council for the Township of Berkeley Heights to provide for the recreational needs of all citizens of the Township; and

WHEREAS, the Governing Body has in the past entrusted that important task to the Board of Recreation Commissioners pursuant N.J.S.A. 40:12-1; and

WHEREAS, the Governing Body believes that this structure should be modernized and that these responsibilities could be more efficiently handled if absorbed by the Township within a Recreation Department; and

WHEREAS, the Governing Body instead chooses to establish a Recreation Advisory Committee, to continue to act in an advisory capacity in regards to recreational programs spearheaded by the Township; and

WHEREAS, the power to abolish the Board of Recreation Commissioners is derived pursuant to the Revised Statutes of the State of New Jersey, and as affirmed by Bd. of Recreation Comm'rs v. Rutherford, 166 N.J. Super. 476 (App. Div. 1979).

NOW, THEREFORE, BE IT ORDAINED by the Township Council that:

SECTION I. Section 2.12.010, "Principal Components," of Chapter 2.12, "Administrative Organization," of the Township Code shall be amended as follows:

The Township's government and operations shall be organized into not more than six departments, and other offices and statutory agencies and independent boards to promote the maximum efficiency and effectiveness in this government which has executive and legislative branches defined in the N.J.S.A. 40:69A-149.8. The Township's departments shall be organized as follows:

- A. Department of Finance;
- B. Department of Public Works;
- C. Department of Wastewater Treatment;
- D. Department of Public Safety;
- E. **Department of Recreation**; and
- F. Non-Departmental Entities and Officers.
 1. Office of the Township Administrator;
 2. Township Clerk;
 3. Township Attorney, Municipal Prosecutor, and Public Defender;
 4. Office of the Tax Assessor;
 5. Municipal Court;
 6. Emergency Management Council;
 7. Planning Board;
 8. Zoning Board of Adjustment;

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-15

9. Board of Health;
10. Library Board of Trustees;
- ~~11. Affordable Housing Board;~~
- ~~12. Board of Recreation Commissioners;~~
- ~~13. Municipal Alliance Committee;~~
- ~~14. Communications Committee;~~
15. Office of Social Services;
16. Environmental Commission;
17. Fire Department;
18. Township Engineer;
19. Construction Code Official; and
20. Zoning Officer.

SECTION II. Section 2.72.010, "Affordable Housing Board," of Chapter 2.72, "Non-Departmental Boards and Commissions Generally," of the Township Code shall be repealed and reserved in its entirety.

SECTION III. Section 2.72.080, "Board of Recreation Commissioners," of Chapter 2.72, "Non-Departmental Boards and Commissions Generally," of the Township Code shall be repealed and reserved in its entirety.

SECTION IV. Chapter 2.85, "Municipal Alliance Committee," of the Township Code shall be repealed and reserved in its entirety.

SECTION V. Chapter 2.76, "Board of Recreation Commissioners," of the Township Code shall be repealed in its entirety and replaced as follows:

Chapter 2.76 – DEPARTMENT OF RECREATION

2.76.010 – Purpose

The purpose of this Chapter is to efficiently conduct the affairs of the municipality, and particularly to maintain a system of recreation programs designed to amuse, entertain and improve the physical fitness and to bring into closer harmony and relationship the Berkeley Heights community by establishing the Department of Recreation.

2.76.020 – Establishment of the Department of Recreation

There shall be a Department of Recreation, the head of which shall be the Recreation Administrator. Under the supervision of the Recreation Administrator, the Department shall:

- A. Administer the Township's athletic and recreational programs and activities for residents;**
- B. Administer and operate the municipality's community centers, social centers and recreational functions and activities relating thereto;**

TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY

ORDINANCE 2026-15

- C. Sponsor and administer cultural activities in cooperation with other public and private agencies and organizations;
- D. Use and operate public school property upon the approval and agreement of the Board of Education, to the extent that such property may be adaptable and available for recreational programs and purposes of the Department;
- E. Promote and direct a year-round program of leisure and wellness activities for children, youth and adults of the Township; stimulate the constructive use of leisure time of residents of the Township; and work toward the optimum coordination and development of public and private recreational facilities.

2.76.030 – Department Personnel

- A. Recreation Administrator. The Mayor shall appoint a Recreation Administrator with the advice and consent of the Council, who shall administer the operations of the Recreation Department. The Recreation Administrator shall perform those duties and exercise those responsibilities set forth below and in this Chapter. The Recreation Administrator shall have at least a four-year degree from a college or university. The Recreation Administrator shall take any courses as directed by the Township Administration as necessary to increase their proficiency in any required skills, which shall be paid for by the Township. The duties of the Recreation Administrator include, but are not limited to:
 - 1. Oversee all personnel and volunteers within the Recreation Department.
 - 2. Prepare and manage the yearly capital and operating budget of the Department, in collaboration with the Director of Recreation Programming.
 - 3. In consultation with the Director of Recreation Programming and Recreation Committee, conduct studies of all activities and operations within the Recreation Department and make recommendations to the Township Administrator for any changes for the purpose of increasing efficiency, economy and effectiveness.
 - 4. In collaboration with the Township Administrator, apply for various grants to help offset Recreational programming and infrastructure costs, oversee the appropriate expenditure of grant funds, and submit and ~~and~~ all grant reports and paperwork required for reimbursement.
 - 5. Collaborate with the Director of Recreation Programming and Recreation Committee to maximize Recreation Trust monies, and expand programming choices appropriate to meet the needs of the community.
 - 6. Develop department short- and long-term goals, and prepare reports on facility operations, attendance, and program effectiveness that are in line with the Recreation Master Plan.

TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY

ORDINANCE 2026-15

7. The Recreation Administrator, in consultation with the Township Administrator may hire, as it deems necessary and appropriate, adequate personnel to manage and carry out the duties and responsibilities delegated to the Department by the Township Council. The employees of the Department shall be organized and assigned as the Recreation Administrator deems appropriate with the approval of the Township Administrator.
- B. Director of Recreation Programming. The Mayor shall appoint a Director of Recreation Programming with the advice and consent of the Council, who shall report to the Recreation Administrator and assist in the operations of the Department as described herein. The Director shall perform those duties and exercise those responsibilities set forth below and in this Chapter. The Director shall report directly to the Recreation Administrator and shall be compensated at the rate established in the salary ordinance. The Director shall have either a Bachelor of Arts degree in the field of recreation, sports management, or a similar field, or otherwise have sufficient experience in the field. The Director shall take any courses as directed by the Recreation Administrator as necessary to increase their proficiency in any required skills, which shall be paid for by the Township. Duties include, but are not limited to:
1. Develop year-long programming for residents of all ages.
 2. Work with the Recreation Administrator on annual departmental budget.
 3. Work with the Recreation Administrator to oversee all facets of large recreation related projects-including making sure permits and inspection are obtained as needed.
 4. Collaborate with the Recreation Administrator and Recreation Committee to maximize Recreation Trust monies, and expand programming choices appropriate to meet the needs of the community.
 5. Manage maintenance of Township parks, in conjunction with Department of Public Works Recreation staff.
 6. Oversee all local projects, including but not limited to Eagle Scout projects, in or on municipal parks, including ensuring the appropriate permits are obtained for all structures erected on Township park property.
 7. Oversee scheduling and planning of Township summer concerts, holiday festivities, annual Memorial Day parade, and other Township celebrations as deemed appropriate.
 8. Oversee the operations of any/all Township recreation summer camps.
 9. Oversee the advertisement of Department activities and events through all mediums, including print, electronic newsletters and social media.

TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY

ORDINANCE 2026-15

10. Attend Township Council meetings to present updates and collaborate with outside organizations to maximize resources as needed.

2.76.040 – Recreation Department Operations

The responsibilities and duties within the Recreation Department shall be defined as follows:

- A. The Recreation Department shall be responsible for maintaining, improving and controlling the use of the following:
1. All public playing fields within and owned by the Township, including grass areas and children's playgrounds and grassed areas in the immediate proximity and normally frequented by playing field users or spectators;
 2. All public tennis, pickleball, and basketball courts constructed and operated by the Township;
 3. All appurtenances, sheds, restrooms, outbuildings, fences, bleachers, lights, parking areas, water fountains, etc., associated with the items listed in subsections (A)(1) and (2) above; and
 4. The Recreation Department facilities, playrooms, outdoor play spaces, etc. building and grounds.
- B. As to any recreation space on property owned by the Berkeley Heights Board of Education, the Recreation Department shall coordinate as needed with the Board of Education Administration to assure that the playing fields are maintained and kept in a playable condition, and as required by any agreement between the Township and the Board of Education.
- C. The Recreation Department will be responsible for maintenance and storage of equipment utilized in meeting the Department's responsibilities.
- D. The Recreation Department also shall develop rules and regulations to assist with the management of recreational facilities and programs.
- E. The Department shall be responsible for developing programming, sports leagues, and community events/activities for all members of our community, from toddlers to senior citizens. The Department, in consultation with the Administration and Recreation Committee, shall regularly review programming and activities to determine value to the community and make recommendations for new programs, activities and community events.

TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY

ORDINANCE 2026-15

2.76.050 – Power to Make Rules

The Township Administration shall have full control over all parks, playgrounds and recreation places acquired or leased by the Township and may adopt suitable rules and regulations for the use thereof and the conduct of all persons while on or using the same, and any person who shall violate any of such rules and regulations shall be subject to the penalty provisions contained in Chapter 1.08 of this Code.

2.76.060 – Restricted Programs

The Recreation Department may arrange and provide for the giving of exhibitions, plays, concerts, games and contests, and may use and employ such playgrounds or recreation places for the purpose of giving thereon exhibitions, plays, concerts, games and contests. The Recreation Department may charge and collect a reasonable admission fee during such times from all spectators over the age of twelve years. Any fee charged herein shall be reduced by 25% for military veterans and/or their immediate families (i.e., spouse or children). The special areas and facilities in which such programming is held may require special maintenance, the use of which is restricted to relatively few people in order to assist in the meeting off the operating costs. Any and all admission fees or related charges collected shall be paid over to the Chief Financial Officer of the Township.

2.76.070 – Finances and Expenditures

The Recreation Department may expend such sums as may be appropriated and made available by the Township Council for the use of the Department, which shall include but not be limited by the Recreation Trust Fund. Sums may also be collected by the Department as provided in Section 2.76.080 of this Chapter. All disbursements shall be made by the Chief Financial Officer of the Township in the same manner as the expenditure of other municipal funds.

Annually and upon request by the Administrator, the Recreation Administrator or their designee shall submit to the Administrator and Chief Financial Officer a proposed budget for the following calendar year, showing in detail proposed expenditures and any existing or anticipated sources of funds, as well as the amount requested to be appropriated by the Township Council for use of the Department during the following calendar year.

2.76.080 – Service Charges

The Recreation Department may charge and collect a reasonable service charge for certain recreational facilities such as fields, pavilions, etc. They may also charge reasonable fees to participate in Recreation Department activities. Any service charge charged herein shall be reduced by 25% for military veterans and/or their immediate families (i.e., spouse or children). All service charges collected shall be paid over to the Chief Financial Officer of the Township.

TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY

ORDINANCE 2026-15

2.76.090 – Dissolution of the Recreation Commission

The previously established Recreation Commission of the Township of Berkeley Heights is hereby deemed eliminated and dissolved, and all offices and membership in same which have been created are hereby revoked and dissolved. Any authority or power any person, or persons, had or was otherwise authorized by the existence of the Recreation Commission is hereby revoked. All contracts to which the Recreation Commission is or was a party shall be assigned to the Township. All funds held by the Recreation Commission, barring any legal limitations, shall be immediately turned over by the Recreation Commission to the Chief Financial Officer of the Township, and the Chief Financial Officer shall place such funds in the Recreation Trust Fund of the Township, to the extent not already in that Fund, and shall only be used for Recreation Department programming, infrastructure upgrades, or similar uses.

2.76.100 – Recreation Committee

- A. The Recreation Committee is hereby created pursuant to N.J.S.A. 40:81-13. It shall consist of six members of the public plus a Council member. Members shall serve without compensation and shall be appointed by the Mayor, with the advice and consent of Council. The Council member shall be appointed annually. As to all other members, three persons shall be appointed initially for a one-year term; two persons shall be appointed for a two-year term; and two persons shall be appointed for a three-year term. All annual appointments thereafter shall be for a three-year term, except for the Council member appointment, which shall be annually. In the event of a vacancy, the Mayor shall be entitled to appoint a person to fill the vacancy for the unexpired term.
- B. The Committee may hold regular and special meetings and may make and amend rules and regulations concerning the conduct thereof. The Committee shall serve in an advisory capacity in matters touching on or concerning the Recreation Department and its facilities and programs. The Committee may make recommendations to the Recreation Administrator concerning or touching upon the operation and administration of the Recreation Department. Such recommendations, after study by him or her, shall be approved or disapproved by the Recreation Administrator. If the Recreation Administrator approves such recommendations or any part thereof, the Committee shall be notified of this approval. The Recreation Administrator and Director of Recreation Programming shall carry into effect the approved recommendations.
- C. The Committee shall advise the Recreation Department on matters relating to the following: the renovation and maintenance of facilities including parks, playgrounds, athletic fields, Township recreation programs and special events, and grants.
- D. The Committee shall act as the liaison between the Union County Parks & Recreation departments, the Board of Education, local sports organizations and the

TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY

ORDINANCE 2026-15

Recreation Department for scheduling of athletic fields.

- E. The Committee shall submit annually to Governor Livingston High School any required paperwork to award the Tom Barton Memorial Scholarship, so long as funds for this Scholarship remain under the purview of the Recreation Committee. The Board shall receive and review all scholarship applications and determine recipient(s), and promptly notify the Mayor of said recipient.

SECTION VI. Section 2.94.080, "Powers and Duties," of Chapter 2.94, "Downtown Beautification and Review Committee" of the Township Code shall be amended as follows:

- E. To work with local merchants, associations, and the Township Recreation **Department** to sponsor activities and events in the Township's downtown area.

SECTION VII. Section 2.139.010, "Purpose," of Chapter 2.139, "Complete and Green Streets Committee" of the Township Code shall be amended as follows:

The purpose of this Chapter is to create the Complete and Green Streets Committee to make streets safe for all people using all modes of transportation and encourage travel on foot, by bicycle and by public transit in the Berkeley Heights community.

The Complete and Green Streets Committee will provide the Berkeley Heights community with technical assistance, educational resources, and support to implement road safety programs and initiatives. The Committee will work with existing state and regional experts to develop these programs and initiatives. The Committee will also liaise with Berkeley Heights organizations, including but not limited to Mayor's Wellness Committee, Senior Affairs Committee, Recreation **Department**, BHPS administration and Board of Education, and the Police Department to assist as needed in serving the Berkeley Heights community, including youth and older adults.

The Complete and Green Streets Committee will assist the Township in obtaining grants related to pedestrians and road safety, such as Safe Routes to School, Safe Streets to Transit, Safe Streets and Roads for All, AARP Community Grants, and North Jersey Transportation Planning Authority ("NJTPA") projects.

SECTION VIII. Section 9.12.100, "Trespassing Upon Township Lands," of Chapter 9.12, "Offenses Against Property" of the Township Code shall be amended as follows:

- A. It is unlawful for any person to enter upon the parcels of land and/or enter into the buildings listed below without proper permission or authority from the Township to do so or other lawful purpose:
1. Any Township **or public** building or facility during hours other than those posed or set forth for public use and entry ~~including specifically the wastewater treatment facility, any associated pumping station, town hall, the community center, the engineering office, the recreation department building or garages, the department of public works garage and salt dome or the free public library;~~

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-15

2. Those parcels of land upon which any of those facilities set forth in the preceding subparagraph are located or Lot 7.01 in Block 301 on the Township Tax Maps;
3. Any other Township-owned lands **that** have been posted against entry pursuant to this Chapter or a resolution adopted by the Council.

SECTION IX. Chapter 12.04, “Public Parks and Recreation Areas” of the Township Code shall be amended to replace all instances of the phrase “Recreation Commission” with the phrase “Recreation Department.”

SECTION X. All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

SECTION XI. If any section, provision, or part of provision of this Ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this Ordinance, or any part thereof, other than the part so held unenforceable or invalid.

SECTION XII. This Ordinance shall take effect after passage and publication in the manner provided by law.

Angie Devanney, Mayor

Introduction						Councilperson	Final Adoption					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
						John Foster						
						Margaret Illis						
						Bill Machado						
						Alvaro Medeiros						
						Andrew Moran						
						Susan Poage						
Introduced: June 30, 2026						I hereby certify the above ordinance was adopted by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey on the aforementioned date.						
Final Adoption: June 21, 2026												
						_____ Angela Lazzari, Township Clerk						

TOWNSHIP OF BERKELEY HEIGHTS

**NOTICE OF INTRODUCTION
ORDINANCE 2026-15**

PUBLIC NOTICE is hereby given that the Ordinance entitled

**ADOPTING AN ORDINANCE TO DISSOLVE THE RECREATION
COMMISSION AND SET FORTH THE RECREATION DEPARTMENT
WITHIN THE TOWNSHIP OF BERKELEY HEIGHTS**

was introduced and passed on First Reading at the Regular Meeting of the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, held on **June 30, 2026 at 6:30 p.m.** The within Ordinance will be further considered for Final Passage, after public hearing thereon, at the Regular Meeting of the Township Council to be held in the Council Chamber at the Berkeley Heights Municipal Complex, 29 Park Avenue, Berkeley Heights, NJ, on **July 21, 2026 at 6:30 p.m.**, or as soon thereafter, as said matter can be reached. At which time and place, all persons who are interested therein will be given an opportunity to be heard and ask questions concerning the same.

During the week prior to and up to the time of Public Hearing, copies of said Ordinance will be available at no cost in the Municipal Clerk's office in said Municipal Complex, 29 Park Avenue, Berkeley Heights, NJ 07974, and to the members of the general public who shall request the same.

**Angela Lazzari
Township Clerk**

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE NO. 2026-16

AN ORDINANCE CLARIFYING THE LAND USE PROCEDURES OF THE TOWNSHIP OF BERKELEY HEIGHTS AS IT RELATES TO PERMITTED AND ACCESSORY USES AS WELL AS VIOLATIONS OF THIS ORDINANCE

WHEREAS, the Mayor and Council for the Township of Berkeley Heights desire to update the Township Code related to land use regulations; and

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Township of Berkeley Heights, County of Union, State of New Jersey as follows:

SECTION I. Section 3.1.1, "Use Regulations" of Article 3.1, "Application of General Regulations Applicable to All Districts," of Part 3, "Part 3 – General Regulations," of Appendix A, "Municipal Land Use Procedures Ordinance" of the Township Code shall be amended as follows: [New language **bold and underlined**; deletions ~~stricken through~~.]

Section 3.1.1 - Use Regulations

No building shall hereafter be erected and no existing building shall be moved, structurally altered, added to, or enlarged, or rebuilt nor shall any land be designed, used, or intended to be used for any purpose other than those included among the uses listed as permitted in the applicable zone except as may be specifically permitted in Part 8 of this Ordinance. Nor shall any open space contiguous to any building be encroached upon or reduced in any manner except in conformity to the yard, lot area, building location, building to building dimensions, percentage of impervious coverage, off-street parking space, shared parking provisions, and such other regulations designated in the Schedule of General Regulations and other provisions of this Ordinance for the zone in which such building or space is located.

- A. **Permitted principal uses are permitted by the right upon proper application to the Zoning Officer for a zoning permit provided that said use is a use in conformance with the requirements of this Ordinance in the zone district in which the lots is located and for uses so requiring, subject to Part 10 of this Ordinance.**
- B. **Accessory uses are permitted upon proper application to, and approval by, the Zoning Officer for a zoning permit. The Zoning Officer shall rely on the following for determining the right of the applicant to establish the proposed accessory use:**
 - 1. **The proposed accessory use shall be customarily associated with or provided with the permitted primary use on the lot.**
 - 2. **The extent, size, and intensity of such proposed accessory use shall be in keeping with the scale, nature, and characteristics of the permitted primary use on the lot.**

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE NO. 2026-16

3. Any proposed accessory use or structure which is contrary to the intent of the zone district in which the lot is located shall be prohibited.

4. Accessory buildings or structures front yard, exclusive fences and walls and swimming pools associated with Hotel and/or Fitness Center uses in the OR-B Zone, shall be prohibited.

C. In the event of unlawful encroachment or reduction, a building or structure shall be deemed to be in violation of the provisions of this Ordinance.

SECTION II. All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

SECTION III. If any section, provision, or part of provision of this Ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this Ordinance, or any part thereof, other than the part so held unenforceable or invalid.

SECTION IV. This Ordinance shall take effect after passage and publication in the manner provided by law.

Angie Devanney, Mayor

Introduction						Councilperson	Final Adoption					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
						John Foster						
						Margaret Illis						
						Bill Machado						
						Alvaro Medeiros						
						Andrew Moran						
						Susan Poage						
Introduced:						I hereby certify the above ordinance was adopted by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey on the aforementioned date.						
June 30, 2026												
Final Adoption:						<div style="text-align: right;"> _____ Angela Lazzari, Township Clerk </div>						
July 21, 2026												

TOWNSHIP OF BERKELEY HEIGHTS

**NOTICE OF INTRODUCTION
ORDINANCE 2026-16**

PUBLIC NOTICE is hereby given that the Ordinance entitled

**AN ORDINANCE CLARIFYING THE LAND USE PROCEDURES OF THE TOWNSHIP
OF BERKELEY HEIGHTS AS IT RELATES TO PERMITTED AND ACCESSORY USES AS
WELL AS VIOLATIONS OF THIS ORDINANCE**

was introduced and passed on First Reading at the Regular Meeting of the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, held on **June 30, 2026 at 6:30 p.m.** The within Ordinance will be further considered for Final Passage, after public hearing thereon, at the Regular Meeting of the Township Council to be held in the Council Chamber at the Berkeley Heights Municipal Complex, 29 Park Avenue, Berkeley Heights, NJ, on **July 21, 2026 at 6:30 p.m.**, or as soon thereafter, as said matter can be reached. At which time and place, all persons who are interested therein will be given an opportunity to be heard and ask questions concerning the same.

During the week prior to and up to the time of Public Hearing, copies of said Ordinance will be available at no cost in the Municipal Clerk's office in said Municipal Complex, 29 Park Avenue, Berkeley Heights, NJ 07974, and to the members of the general public who shall request the same.

**Angela Lazzari
Township Clerk**

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-17

**ORDINANCE APPROPRIATING \$135,000.00 FOR
ROAD CAPITAL IMPROVEMENTS IN AND BY THE
TOWNSHIP OF BERKELEY HEIGHTS, IN THE
COUNTY OF UNION, NEW JERSEY.**

BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF BERKELEY HEIGHTS, IN THE COUNTY OF UNION, NEW JERSEY AS FOLLOWS:

Section 1. The Township of Berkeley Heights, in the County of Union, New Jersey (the "Township") hereby appropriates the sum of \$135,000.00, consisting of the following amounts from Capital Fund Balance to provide for the following various capital improvements in the following amounts:

<u>Improvement or Purpose</u>	<u>Amount</u>
Undertaking of various road, curb, sidewalk, pedestrian safety, traffic signal, signage and street lighting improvements, including work in the right-of-way and drainage work, as required. It is hereby determined and stated that the roads being improved are of "Class B" or equivalent construction as defined in Section 22 of the Local Bond Law (Chapter 2 of Title 40A of the New Jersey Statutes Annotated, as amended; the "Local Bond Law").	\$135,000.00

Section 2. The Township hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Township is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 3. This ordinance shall take effect after final adoption and publication and otherwise as provided by law.

Angie Devanney, Mayor

ORDINANCE 2026-17

Introduction						Councilperson	Final Adoption					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
						John Foster						
						Margaret Illis						
						Bill Machado						
						Alvaro Medeiros						
						Andrew Moran						
						Susan Poage						
Introduced: <div style="text-align: center;">June 30, 2026</div>						I hereby certify the above ordinance was adopted by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey on the aforementioned date.						
Final Adoption: <div style="text-align: center;">July 21, 2026</div>												
						_____ Angela Lazzari, Township Clerk						

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

NOTICE OF PENDING ORDINANCE AND SUMMARY

The ordinance, the summary terms of which are included herein, was introduced and passed upon first reading at a meeting of the governing body of the Township of Berkeley Heights, in the County of Union, State of New Jersey, on **June 30, 2026**. It will be further considered for final passage, after public hearing thereon, at a meeting of the governing body to be held at the Township Municipal Complex, 29 Park Avenue, Berkeley Heights, NJ on **July 21, 2026 at 6:30 p.m.** During the week prior to and up to and including the date of such meeting, copies of the full ordinance will be available at no cost and during regular business hours at the Clerk's office for the members of the general public who shall request the same. The summary of the terms of such ordinance follows:

Title: ORDINANCE APPROPRIATING \$135,000.00 FOR VARIOUS CAPITAL IMPROVEMENTS IN AND BY THE TOWNSHIP OF BERKELEY HEIGHTS, IN THE COUNTY OF UNION, NEW JERSEY

Purposes:

<u>Improvement or Purpose</u>	<u>Amount</u>
Undertaking of various road, curb, sidewalk, pedestrian safety, traffic signal, signage and street lighting improvements, including work in the right-of-way and drainage work, as required. It is hereby determined and stated that the roads being improved are of "Class B" or equivalent construction as defined in Section 22 of the Local Bond Law (Chapter 2 of Title 40A of the New Jersey Statutes Annotated, as amended; the "Local Bond Law").	\$135,000.00

Appropriation: \$135,000

Bonds/Notes Authorized: \$0

Grants (if any) Appropriated: \$0

Section 20 Costs: N/A

Useful Life: N/A

Angela Lazzari, Clerk

This Notice is published pursuant to N.J.S.A. 40A:2-17.

REDEVELOPMENT AGREEMENT

BY AND BETWEEN

TOWNSHIP OF BERKELEY HEIGHTS

AND

LOCKHERN PROPERTY II BH URBAN RENEWAL LLC

FOR

BLOCK 702, LOTS 4, 6 AND 17.01

IN THE

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

DATED AS OF [●], 2026

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EXHIBIT D	DECLARATION

This **REDEVELOPMENT AGREEMENT** (the “**Agreement**”) is made as of the [●] day of [●], 2026, by and between the **TOWNSHIP OF BERKELEY HEIGHTS** with offices located at Municipal Building, 29 Park Avenue, Berkeley Heights, New Jersey 07922 (the “**Township**”) and **LOCKHERN PROPERTY II BH URBAN RENEWAL LLC** with offices located at P.O. Box 39, Livingston, New Jersey 07039 (the “**Redeveloper**”); each of the Township and the Redeveloper hereinafter a “**Party**”, and collectively, the “**Parties**”).

SECTION 1. RECITALS

WHEREAS, the Township is a political subdivision of the State of New Jersey (the “**State**”), located in the County of Union; and

WHEREAS, on December 20, 2016, the Township Council of the Township (the “**Township Council**”) adopted Resolution 274-2016, designating Block 702, Lots 13, 17, and 18 on the official tax maps of the Township and portions of Sherman Avenue, Sherman Avenue South, and Lone Pine Drive Right-of-Way as a non-condemnation area in need of redevelopment in accordance with the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the “**Redevelopment Law**”); and

WHEREAS, the Township Planning Board (the “**Planning Board**”) subsequently subdivided Lot 17 and Lot 18 into Lot 17.01 and Lot 18.01, respectively, per the minor subdivision application approved on January 13, 2021, and recorded by the subdivision deed dated December 10, 2021; and

WHEREAS, on May 21, 2024, the Township Council adopted Resolution No. 135-2024, designating Block 702, Lots 4, 6, and 16 on the official tax maps of the Township as a non-condemnation area in need of redevelopment in accordance with the Redevelopment Law; and

WHEREAS, on November 5, 2025, the Township Council adopted Ordinance No. 2025-32, approving a redevelopment plan for Block 702, Lots 4, 6 and 17.01 on the official tax maps of the Township (collectively, the “**Redevelopment Area**” or “**Project Site**”), entitled, “Terrace II Redevelopment Plan”, prepared by Harbor Consultants, Inc. (as the same may be amended and supplemented from time to time, the “**Redevelopment Plan**”); and

WHEREAS, Redeveloper is formed as a limited liability company and as an urban renewal entity under the laws of the State, and is the owner of the Project Site; and

WHEREAS, the Redevelopment Area is to be developed in accordance with and subject to this Agreement and is depicted in that certain survey and more particularly described in that certain metes and bounds description both attached hereto as Exhibit A and hereby made a part hereof; and

WHEREAS, the Redeveloper has proposed to undertake the following actions, in accordance with the terms of this Agreement and the Redevelopment Plan: (i) demolish the existing structures on the Project Site; (ii) design, develop, finance, construct, operate and maintain a mixed-use development including one four-story building containing thirty-three (33) residential rental units, including seven (7) units affordable to persons of very low-, low-, and moderate-incomes, a minimum of 1,500 square feet of ground floor retail space, a minimum of 37 off-street parking spaces on-site on Block 702, Lots 4 and 6, with any remaining required parking spaces provided off-site at the existing surface parking located on Block 702, Lot 17.01, along with associated amenities and site improvements; and (iii) construct all necessary on- and -off-site infrastructure improvements, as more specifically described in Section 4.1 herein (collectively, and as more fully defined in Section 4.1, the “**Redevelopment Project**”); and

WHEREAS, in order to effectuate the Redevelopment Plan, the Redevelopment Project and the redevelopment of the Redevelopment Area, the Township has determined to enter into this

Agreement with the Redeveloper, which Agreement designates Redeveloper as the “redeveloper” of the Redevelopment Project in accordance with the Redevelopment Law, and which specifies the respective rights and responsibilities of the Parties with respect to the Redevelopment Project,

NOW, THEREFORE, in consideration of the promises and mutual covenants herein contained, the Parties hereto do hereby covenant and agree, each with the other, as follows:

SECTION 2. DEFINITIONS

2.1 Definitions. When used in this Agreement the following words, phrases or terms shall have the following meanings:

Abandonment shall mean the act of relinquishing all right, title and interest in and to the Redevelopment Project without vesting such right, title and interest in any other person pursuant to the terms of this Agreement or a suspension of construction after obtaining a building permit or Commencement of Construction without the prior knowledge and consent of the Township for more than one hundred eighty (180) days (unless such suspension arises out of an event of Force Majeure).

Administrative Agent shall have the meaning set forth in Section 4.9.

Affiliate shall mean with respect to any Person, any other Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such Person. For purposes of this definition, the term “control” (including the correlative meanings of the terms “controlled by” and “under common control with”), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such Person, whether through the ownership of voting securities or by contract or otherwise.

Affordable Units shall have the meaning set forth in Section 4.9.

Agreement shall have the meaning set forth in the Recitals.

Applicable Laws shall mean all federal, State and local laws, ordinances, approvals, rules, regulations and requirements applicable thereto including, but not limited to, the Redevelopment Law, the MLUL, applicable Council on Affordable Housing regulations, UHAC, relevant construction codes including construction codes governing access for people with disabilities, and such other applicable zoning, sanitary, pollution and other environmental safety ordinances, laws

and such rules and regulations promulgated thereunder, and all applicable Environmental Laws and applicable federal and state labor standards.

Approvals shall mean all final and unappealable governmental and quasi-governmental approvals, permits, licenses, agreements and capacity reservations from any and all governmental and quasi-governmental authorities having jurisdiction over the Project Site and/or the Redevelopment Project, and/or utility company serving the Project Site that are required as a condition to the Commencement of Construction of the Redevelopment Project, and as may be required to allow the Redevelopment Project to be fully constructed and made fully operational, including, but not limited to, local and county planning approvals, DEP permits and approvals, construction permits, “will-serve” letters from utility providers, and other various federal, State and local approvals; excluding, however, approvals, permits and the like (i.e. building permits and certificates of occupancy) normally obtained in the ordinary course of construction.

Bond shall have the meaning set forth in Section 4.3.

Certificate of Completion shall have the meaning set forth in Section 4.6.

Certificate of No Default shall have the meaning set forth in Section 12.6.

COAH shall mean the Council on Affordable Housing of the State established by the Fair Housing Act, as the same may be amended from time to time.

Commencement of Construction shall mean the date upon which construction force and machinery are mobilized for the construction of the Redevelopment Project or any building within the Redevelopment Project in accordance with the Approvals, but shall not include demolition.

Concept Plan shall mean concept plans for the Redevelopment of the Project Site, attached hereto as Exhibit B, as same may be amended from time to time.

Contamination shall mean the presence of Hazardous Substances in, on, under, over, or emanating from any property in violation of applicable Environmental Laws.

Court shall mean the Superior Court of New Jersey Law Division, Union County.

Declaration shall have the meaning set forth in Section 16.12.

Deed Restriction Period shall have the meaning set forth in Section 4.9(b).

Default shall mean a Redevelopment Default set forth in Section 12.1 or a Township Default set forth in Section 12.2.

Default Notice shall mean such notice to a defaulting party as defined in Section 12.3.

DEP shall mean the New Jersey Department of Environmental Protection.

Effective Date shall mean the date first written above.

Environmental Laws shall mean any applicable federal, state, local, municipal or other statutes, laws, ordinances, rules, regulations or other legally enforceable requirement, whether presently existing or hereinafter enacted, promulgated or otherwise created for the protection of the environment or human health from Hazardous Substances, as the same may be amended or supplemented from time to time, including, without limitation, (a) the New Jersey Spill Compensation and Control Act, as amended, *N.J.S.A. 58:10-23.11, et seq.*; (b) the New Jersey Industrial Site Recovery Act, as amended, *N.J.S.A. 13:1K-6, et seq.*; (c) the New Jersey Leaking Underground Storage Tank Act, as amended, *N.J.S.A. 58:10-21, et seq.*; (d) The New Jersey Site Remediation Reform Act, *N.J.S.A. 58:10C-1, et seq.*; (e) the Comprehensive Environmental Response, Compensation & Liability Act, as amended, 42 *U.S.C. Section 9601, et seq.*; (f) the Resource Conservation and Recovery Act, as amended, 42 *U.S.C. Section 6901, et seq.*; (g) the Hazardous Material Transportation Act, as amended, 49 *U.S.C. Section 180, et seq.*; or (h) the Occupational Safety and Health Act, as amended, 29 *U.S.C. Section 651, et seq.*

Event of Default shall have the meaning set forth in Section 12.3.

Fair Housing Act shall mean the Fair Housing Act, *N.J.S.A. 52:27D-301 et seq.*

Financial Agreement shall mean an agreement to be entered into by and between the Township and the Redeveloper, pursuant to the Long Term Tax Exemption Law, governing the exemption from taxation of all or a portion of the Redevelopment Project and the payment by Redeveloper to the Township of payments in lieu of taxes.

Force Majeure shall have the meaning set forth in Section 16.1.

Foreclosure shall have the meaning set forth in Section 13.6.

Hazardous Substances shall mean any and all elements, compounds, substances, materials, or wastes, whether solid, liquid or gaseous, which are either defined or referred to as hazardous or toxic or as pollution or a pollutant or contaminant under Environmental Laws.

Holder shall have the meaning set forth in Section 13.1.

Immediate Family Member shall mean a spouse, child or grandchild of Redeveloper.

Infrastructure Improvements shall have the meaning set forth in Section 4.3.

Institutional Financing shall mean the loans from banks, insurance companies, pension funds and other institutional lenders obtained by Redeveloper to fund Redevelopment Project costs.

Long Term Tax Exemption Law shall mean the New Jersey Long Term Tax Exemption Law, codified at *N.J.S.A. 40A:20-1 et seq.*

MLUL shall mean the Municipal Land Use Law, codified at *N.J.S.A. 40:55D-1 et seq.*

Parties shall mean both the Township and Redeveloper together and shall not refer to any other person or entity. Any one of the Parties may be referred to as a “**Party**”.

Permitted Transfers shall have the meaning set forth in Section 9.1(c).

Person shall mean an individual, corporation, limited liability company or other legal entity legally empowered to hold and convey title to real property in its own name under the laws of the State.

Planning Board shall mean the Township of Berkeley Heights Planning Board.

Project Documents shall have the meaning set forth in Section 12.7.

Project Improvements shall mean those buildings, Infrastructure Improvements, amenities or utilities necessitated or required by the implementation of the Redevelopment Project, including those required by the Planning Board (provided same are permitted under Applicable Law), which are located inside or outside of the Project Site, including but not limited to all facilities, amenities, on and off-street parking, landscaping, fencing, enhancements or improvements required to be made to roadways to permit or control the flow of traffic, electric power transmission lines, sewer transmission conduits or pipes, water lines or pipes, storm sewers, telephone transmission lines, television cable lines and other utilities.

Project Schedule shall mean Exhibit C attached hereto.

Project Site shall have the meaning set forth in the Recitals.

Redeveloper shall have the meaning set forth in the Recitals, together with any permitted successors and assigns.

Redevelopment shall mean the design and construction of the Redevelopment Project.

Redevelopment Area shall have the meaning set forth in the Recitals.

Redevelopment Law shall have the meaning set forth in the Recitals.

Redevelopment Plan shall have the meaning set forth in the Recitals.

Redevelopment Project shall have the meaning set forth in the Recitals and more specifically as set forth in Section 4.1.

Remediation when used in this Agreement shall mean all necessary actions to investigate and cleanup or respond to any known, suspected, or threatened discharge, including, as necessary, the preliminary assessment, site investigation, remedial investigation and remedial action.

State shall have the meaning set forth in the Recitals.

Substantial Portion shall have the meaning set forth in Section 16.7.

Third Party means a Person or entity, including but not limited to a governmental entity, other than (a) the Township; (b) any agent, employee, agency, board, elected official or representative of the Township; (c) Redeveloper; (d) any member, shareholder, partner, officer, representative, employee or agent of Redeveloper; or (e) any entity owned or controlled by, under common control with, or that owns or controls, Redeveloper or any member, shareholder or partner of Redeveloper.

Township shall have the meaning set forth in the Recitals.

Township Council shall have the meaning set forth in the Recitals.

Township Default shall have the meaning set forth in Section 12.2.

Township Indemnified Parties shall mean the Township, its Mayor, Township Councilmembers, officers, agents, employees, contractors, boards, departments, officials and consultants.

Transfer shall have the meaning set forth in Section 9.1(b).

UHAC shall mean the Uniform Housing Affordability Controls, *N.J.A.C. 5:80-26.1, et seq.*, as same may be amended, or any successor laws or regulations.

2.2 Interpretation and Construction. In this Agreement, unless the context otherwise requires: (a) the terms “hereby”, “hereof”, “hereto”, “herein”, “hereunder” and any similar terms, as used in this Agreement, refer to this Agreement, and the term “hereafter” means after, and the term “heretofore” means before the Effective Date; (b) words importing a particular gender mean and include correlative words of every other gender and words importing the singular number mean and include the plural number and vice versa; (c) all references to Recitals, Articles, or Sections shall, unless otherwise indicated, mean the Recitals, Articles or Sections hereto; (d) any headings preceding the texts of the several Articles and Sections of this Agreement, any table of

contents or marginal notes appended to copies hereof, and the Recitals hereto shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect; (e) unless otherwise indicated, all approvals, consents and acceptances required to be given or made by any Person hereunder shall be in writing and shall not be unreasonably withheld, conditioned, or delayed; (f) all notices to be given hereunder and responses thereto shall also be in writing and shall be given, unless a certain number of days is specified, within a reasonable time; (g) unless otherwise indicated, any “fees and expenses” shall be required to be customary and reasonable; and (h) “knowledge” shall mean actual knowledge of an officer of the applicable Party after due investigation and inquiry.

SECTION 3. OVERVIEW

3.1 Purpose and Background. The purpose of this Agreement is to set forth the respective rights, obligations, conditions and agreements of the Township and Redeveloper in connection with the Redevelopment of the Project Site. Redeveloper shall be the “redeveloper” of the Project Site for the purpose of undertaking the Redevelopment Project.

SECTION 4. THE REDEVELOPMENT PROJECT

4.1 Redevelopment Project. The “Redevelopment Project” shall consist of: (i) the demolition of the existing structures on the Project Site; (ii) design, develop, finance, construct, operate and maintain a mixed-use development including one three-story building containing thirty-three (33) residential rental units, including seven (7) units affordable to persons of very low-, low-, and moderate-incomes; (iii) construction of amenities for residents including a lobby, gym, package room, and trash and recycling facilities to be located on the ground floor and a club room to be located on the third floor; (iv) a minimum of 1,500 square feet of ground floor retail space fronting on Springfield Avenue, along with a minimum of 650 square feet of outdoor

amenity space serving the retail use fronting Springfield Avenue; (v) a minimum of 2,400 square feet of indoor amenity space and 4,100 square feet of outdoor amenity space serving the residential use; (vi) construction of sixty-four (64) parking spaces for the Redevelopment Project, consisting of a minimum of thirty-seven (37) garage parking spaces located on Block 702, Lots 4 and 6 and twenty-seven (27) surface parking spaces located off-site at the existing surface parking located on Block 702, Lot 17.01, provided such off-site parking spaces are deed-restricted for the residential and/or retail uses within the Redevelopment Area; and (vii) construction of all necessary on- and -off-site infrastructure improvements; all in accordance with the Redevelopment Plan and the Concept Plan.

The Redeveloper agrees to undertake the Redevelopment Project. The Redeveloper further agrees that, notwithstanding the Redevelopment Law, it is its sole responsibility to undertake the appropriate measures to negotiate with, acquire, relocate or otherwise address the existence of existing utilities and easements, if any, in order to complete the Redevelopment Project as provided by this Agreement. Redeveloper shall exercise reasonable efforts to ensure the effective coordination between onsite and offsite Project Improvements and shall cooperate with the Township to ensure that the implementation of the Redevelopment Project does not interfere with the operation of the existing utilities and pedestrian walkways and crosswalks. Redeveloper agrees to provide or cause to be provided all performance and maintenance bonds as required by Applicable Law, as further described at Section 4.3 below.

4.2 Designation of Redeveloper. Redeveloper has been designated as Redeveloper for the Redevelopment Project and Redeveloper shall have the exclusive right to redevelop and implement the Redevelopment Project on the Project Site in accordance with the terms and conditions of this Agreement.

4.3 Infrastructure Improvements. (a) Improvements Defined. Redeveloper acknowledges that certain on- and off-site infrastructure improvements (collectively, the “**Infrastructure Improvements**”) may be necessary in connection with the implementation of the Redevelopment Project. In accordance with Section 6.4.G of the Redevelopment Plan, Redeveloper, at Redeveloper’s sole cost and expense, shall provide all required engineering studies for, and construct and install all necessary on- and off-site municipal infrastructure and capacity enhancements or upgrades required in connection with the provision of water, sanitary sewer, and stormwater sewer service to the Project Site, inclusive of stormwater management improvements on the parking lot located at Block 702, Lot 17.01 as may be required by the Planning Board and/or Township Engineer, in addition to all required tie-in or connection fees. Redeveloper shall also be responsible for providing streetscape improvements along the portion of the property fronting Springfield Avenue and the southern portion of Sherman Avenue, in accordance with the Redevelopment Plan, and said streetscape improvements shall include, but are not limited to, ornamental street lights, hardwood/shade trees, brick paver sidewalks, brick paver crosswalks, bicycle racks, trash receptacles, and benches all in accordance with the Township’s Downtown development standards and Part 19 Design Standards of the Township’s Land Use Procedures Ordinance and the Sherman Avenue Streetscape Plans. The Redeveloper shall also provide a one-time contribution to the Township in the amount of \$150,000 to provide for the construction and/or installation of pedestrian safety improvements in the Township’s downtown area, which may include, but not be limited to, a signaled HAWK pedestrian crossing across Springfield Avenue at the intersection of Springfield Avenue and Summit Avenue, subject to review and approval by the Planning Board Engineer, Township Council and County of Union. Such one-time pedestrian safety improvements contribution shall be payable by the Redeveloper to the Township as a condition to the Township’s issuance of the first building permit for the Project.

(b) Time for Completion. All Infrastructure Improvements shall be completed: (i) prior to the issuance of the first Certificate of Occupancy for the Redevelopment Project; or (ii) at such later time as may be approved by the Township Engineer, in his reasonable discretion.

(c) Performance and Maintenance Bonds. Redeveloper shall post performance and maintenance guarantees and review escrows in accordance with the provisions of *N.J.S.A. 40:55D-53 et seq.* of the MLUL and all Applicable Laws (collectively, the “**Bond**”), in the following manner:

(i) Prior to the Commencement of Construction, a performance bond or irrevocable letter of credit (or such other form of guarantee allowed in accordance with the MLUL) for those Infrastructure Improvements for which a performance guarantee may be required pursuant to the MLUL and as may be required pursuant to the approved site plan and Planning Board resolution, in an amount to be determined by the Township Engineer pursuant to the MLUL.

(ii) A maintenance guarantee in respect of those Infrastructure Improvements required to be bonded in accordance with the MLUL, in the form of a surety bond (or such other form of guarantee allowed in accordance with the MLUL) for a period not to exceed two (2) years after final acceptance of the Infrastructure Improvements, in an amount determined by the Township Engineer according to the method of calculation set forth in *N.J.S.A. 40:55D-53* of the MLUL.

(iii) If applicable, the Bond must name the Township as an obligee and Redeveloper shall deliver a copy of the Bond to the Township prior to Commencement of Construction. To the extent that a surety bond is provided, it shall be provided by a company licensed by the New Jersey Department of Banking and Insurance or otherwise authorized by the New Jersey Department of Banking and Insurance to do business in the State. In the event any

insurance company, financial institution or other entity issuing a performance guarantee herein, shall be insolvent or shall declare bankruptcy or otherwise be subject to reorganization, rehabilitation, or other action, whereby State or federal agencies have taken over the management of the entity, within thirty (30) days after notice from the Township, Redeveloper shall replace the Bond.

(iv) In the event any Bond should lapse, be canceled or withdrawn, or otherwise not remain in full force and effect as a result of any act or omission by Redeveloper, then until an approved replacement of the lapsed Bond has been deposited with the Township, the Township may require Redeveloper to cease and desist any and all work on the Redevelopment Project, unless the Infrastructure Improvements required to be bonded have been completed and approved by the Township. In the event any Bond should lapse, be canceled or withdrawn, or otherwise not remain in full force and effect through no act or omission of Redeveloper, then unless Redeveloper fails to replace the Bond within ten (10) business days of notice given to Redeveloper by the Township, the Township may require Redeveloper to cease and desist work on the Redevelopment Project unless the Infrastructure Improvements required to be bonded have been completed and approved by the Township.

4.4 Project Schedule. Redeveloper will diligently implement and complete the Redevelopment Project in accordance with the Project Schedule, subject to the terms of this Agreement and subject only to relief resulting from events of Force Majeure. Notwithstanding the Project Schedule, Redeveloper may attempt to implement each task whenever possible earlier than the dates set forth for such tasks in the Project Schedule. If Redeveloper fails to meet a completion date set forth on the Project Schedule or determines that it will fail to meet a completion date, Redeveloper shall promptly provide notice to the Township stating: (a) the reason for the failure to complete the applicable task, (b) Redeveloper's schedule for completing such task and (c) the

method or methods by which Redeveloper proposes to achieve subsequent tasks by the relevant extended completion dates.

4.5 Commencement of Redevelopment Project. Redeveloper agrees that Commencement of Construction shall occur in accordance with the Project Schedule and shall progress in accordance with the time frames set forth in the Project Schedule. After Commencement of Construction, Redeveloper will thereafter diligently and continuously prosecute construction of the Redevelopment Project to completion in accordance with the Project Schedule.

4.6 Certificate of Completion. The completion of the Project Improvements shall be evidenced by a certificate issued by the Township (the “**Certificate of Completion**”) stating that: (a) all the Project Improvements have been completed in accordance with the approved final site plan and (b) a Certificate of Occupancy, if required, has been issued for the Project Improvements. If the Township determines that Redeveloper is not entitled to a Certificate of Completion, the Township shall, within ten (10) days of receipt of Redeveloper’s certification, provide Redeveloper with a written statement, specifying in reasonable detail the reasons the Township refused or failed to furnish a Certificate of Completion, and describing the measures or acts reasonably necessary, in the opinion of the Township, that the Redeveloper must take or perform in order to obtain such Certificate of Completion. Upon Redeveloper’s completion of the actions deemed reasonably necessary by the Township, it shall forthwith issue the Certificate of Completion.

The Certificate of Completion shall constitute a recordable conclusive determination of the satisfaction and termination of the agreements and covenants in this Agreement and in the Redevelopment Plan with respect to Redeveloper’s obligation to construct the Project

Improvements within the dates for the commencement and completion of same. Upon issuance of the Certificate of Completion, the conditions determined to exist at the time the Redevelopment Area was determined to be an area in need of redevelopment shall be deemed to no longer exist, and the Declaration shall be released.

4.7 Certificates of Occupancy. The Township, in accordance with its ordinances and regulations then in effect, upon application of Redeveloper, shall issue certificates of occupancy from time to time, as applicable, for individual residential units, as may be necessary to enable Redeveloper to lease same to third parties.

4.8 Approval of Redevelopment Project Concept; Pre-Approval of Site Plan. Subject to review and approval of site plans, the Township approves of the Concept Plan. Any material modifications to the Concept Plan will require approval of the Township and Redeveloper.

Furthermore, in accordance with Section 7.2(i) of the Redevelopment Plan, Redeveloper acknowledges that it will be required to submit proposed site plan applications to the Township Council (or, at the Township's option, to a subcommittee organized by the Township Council) prior to submission to the Planning Board. In accordance with Section 7.2(ii) of the Redevelopment Plan, confirmation by the Township Council (or a subcommittee organized thereby) stating that the application is consistent with the Redevelopment Plan and this Agreement shall be a required element of any application for site plan approval, and the Planning Board shall deem any application for site plan approval lacking such confirmation to be incomplete.

4.9 Affordable Housing Obligation. Pursuant to the Settlement Agreement, the Redevelopment Project is an inclusionary development and shall include seven (7) rental units affordable to very low-, low- and moderate-income households (the "**Affordable Units**"), which the Township agrees to apply towards satisfaction of the Township's obligations under the Fair

Housing Act and applicable COAH regulations. As further described in Section 3.4 of the Redevelopment Plan:

(a) The Affordable Units shall comply with UHAC, the Fair Housing Act, applicable COAH affordable housing regulations and any applicable order of the Court and other Applicable Laws.

(b) The Redeveloper shall have an obligation to deed restrict the Affordable Units as very low, low or moderate income affordable units in accordance with subsections (c) and (d) hereof for a period of forty (40) years (the “**Deed-Restriction Period**”) so that the Township may count the Affordable Units against its obligation to provide family rental affordable housing. The deed restriction shall be provided to the Township for its review for compliance with the terms of the Redevelopment Plan, the Settlement Agreement and this Agreement prior to recordation. The Parties agree that the affordability controls shall expire at the end of forty (40) years after the date of the initial occupancy of the respective Affordable Unit. At the end of the Deed Restriction Period, the Township shall cooperate with the Redeveloper, at no cost to the Township, to facilitate the Redeveloper’s ability to exercise its right to have the deed restriction last for only forty (40) years subject to the requirements of *N.J.A.C. 5:80-26.11(b)* of UHAC.

(c) Redeveloper’s obligation includes, but is not limited to, the Redeveloper’s obligation to comply with bedroom and income distribution requirements, including at least 2 three-bedroom low income units (37%) and 1 two-bedroom low income unit (37%), not more than 1 one-bedroom very low unit (13%), and at least 3 two-bedroom moderate units (50%), pricing requirements, integration of affordable units, affirmative marketing requirements, candidate qualification and screening requirements and deed restriction requirements. The affordable units

will not be subject to the minimum unit sizes currently required in the Township's Chapter 19 design standards, however, the Affordable Units shall satisfy the UHAC rules.

(d) Redeveloper shall contract with an experienced and qualified administrative agent ("**Administrative Agent**") for the administration of the Affordable Units and shall have the obligation to pay all costs associated with properly deed restricting the Affordable Units in accordance with UHAC and other applicable laws for the Deed-Restriction Period. Redeveloper and its Administrative Agent shall work with the Township and the Township's administrative agent regarding any affordable housing monitoring requirements imposed by COAH or the Court. Redeveloper shall provide, within thirty (30) days of written notice, detailed information requested by the Township or the Township's administrative agent concerning Redeveloper's compliance with UHAC and other applicable laws.

(e) The Parties agree that the Affordable Units are included in the Township's Fourth Round Housing Element and Fair Share Plan and that the housing credits generated by the Redevelopment Project will be applied against the Township's Third Round Prospective Need obligation.

4.10 Floodplain Area Approvals. The portion of the Project Site located on Block 702, Lot 17.01 is located within a designated flood hazard zone. The Redeveloper shall obtain all necessary flood permits and approvals from the New Jersey Department of Environmental Protection prior to the start of any construction activities.

SECTION 5. EASEMENTS/NO RELIANCE ON OTHER INVESTIGATIONS

5.1 Existing Easements. The Project Site, as well as many of the surrounding contiguous properties, contains numerous easements, rights-of-way and developer's agreements which will play a significant and vital role in the redevelopment of the Redevelopment Area. The

Redeveloper shall be responsible for compiling a comprehensive map illustrating all covenants, restrictions, easements, rights-of-ways and agreements on the Project Site and surrounding contiguous properties which may impact the redevelopment of the Project Site, and providing such map to the Township as a condition of Redeveloper's site plan application being deemed administratively complete by the Planning Board. The Township shall cooperate with a reasonable request by Redeveloper for assistance with respect to the compiling of such comprehensive map, at no cost or expense to the Township. The Parties agree to cooperate with each other in order to cause amendments to such covenants, restrictions, easements, rights-of-ways and agreements in order to permit redevelopment of the Project Site in accordance with the requirements of this Agreement and the Redevelopment Plan, and acknowledge that any such amendments will require the approval of all parties, or their respective successors in interest, to the applicable covenants, restrictions, easements, rights-of-ways and/or agreements.

5.2 No Reliance On Other Investigations. Redeveloper further agrees, acknowledges and represents that, subject to the terms hereof, Redeveloper is entering into this Agreement and shall perform all of its obligations hereunder and consummate the transaction contemplated by this Agreement solely in reliance on and as a result of Redeveloper's own investigations and efforts and at Redeveloper's sole risk, understanding that any such investigations, examinations and inspections may not reveal any or all adverse or existing conditions, aspects or attributes of any such property.

5.3 Failure of the Township to Effectuate this Section. In the event that the existing easements cannot be amended or modified and, as a result, the Redevelopment Project cannot be built without substantial redesign, increased Redevelopment Project costs, new Governmental Approvals and/or in accordance with an amended Project Schedule substantially similar to the

original Project Schedule, then either Party may terminate this Agreement upon written notice to the other Party. Except as otherwise set forth herein, all obligations of the Parties shall terminate.

SECTION 6. ENVIRONMENTAL

6.1 Environmental Obligations and Indemnification. The Parties hereby expressly acknowledge that the Township has made no representation as to the environmental condition of any part of the Project Site. The Parties further expressly acknowledge and agree that to the extent any portion of the Project Site requires Remediation, or the Project Site or actions/inactions of the Redeveloper and its responsible parties causes any other property to require Remediation, the Township shall have no responsibility therefor. The Parties expressly agree and acknowledge that it shall be the sole responsibility of the Redeveloper to undertake and pay the cost of any and all Remediation, compliance, environmental testing, and/or other analyses for the Project Site, and that the Township has no obligation or liability whatsoever with respect to the environmental condition of the Project Site, or any other parcels which may claim Contamination arising from the Project Site or the Redevelopment Project. Redeveloper shall defend, protect, indemnify and hold harmless the Township and its agents from any claims which may be sustained as a result of any environmental conditions on, in, under or migrating from the Project Site, including, without limitation, claims against the Township and its agents by any Third Party.

SECTION 7. REDEVELOPMENT PROJECT OVERSIGHT

7.1 Progress Meetings. Redeveloper agrees to attend and participate in progress meetings every six (6) months with representatives of the Township to report on the status of the Redevelopment Project and to review the progress under the Project Schedule. The meetings shall be held at the Township's Municipal Building or other convenient location in the Township, or may be held virtually. Prior to the meeting, subject to the terms of Section 7.3 below,

representatives of the Township may visit the Project Site to inspect the progress of the work on the Redevelopment Project. Redeveloper shall prepare the agenda for the progress meeting in advance of the meeting (which shall include, *inter alia*, any agenda items reasonably requested by the Township) and shall provide information to the Township at the meetings regarding the Redevelopment Project progress including but not limited to, Approval submissions, financial commitments, construction of Project Improvements, compliance with the Redevelopment Plan and activities concerning marketing and leasing, if applicable. At the meeting, this information will be evaluated by the Township to determine compliance with the terms and conditions of this Agreement and the Project Schedule.

7.2 Progress Reports. Commencing on the first day of the second month after the Effective Date of this Agreement, Redeveloper shall submit to the Township a quarterly written progress report which shall include a description of activities completed, the activities to be undertaken prior to the next quarterly progress report, the status of all Approvals, an explanation of each activity, if any, which is showing delay, a description of problem areas, current and anticipated delaying factors and their estimated impact on performance of other activities and completion dates in the Project Schedule and an explanation of corrective action taken or proposed.

7.3 Access to Project Site. Upon reasonable advance written notice (except for Township construction code officials, fire officials, public safety personnel and the like performing their duties in the ordinary course, who shall not be obligated to provide advance written notice) the Township and its authorized representatives shall have the right to enter the Project Site to inspect the site and any and all work in progress for the purpose of furthering its interest in this Agreement. Such entrance shall be for informational purposes and shall not relieve Redeveloper of its obligation to implement the Redevelopment Project in accordance with this Agreement. In no event shall the Township's inspection of the Redevelopment Project be deemed acceptance of

the work or be deemed to waive any right the Township has under this Agreement. Any such entry shall be subject to reasonable restrictions by Redeveloper typical of an active construction site and any persons present at the Project Site shall comply with all applicable health and safety rules established by the Redeveloper or the general contractor for personnel present on the Project Site. Such measures may include a need to be accompanied by Redevelopment Project personnel when visiting the Project Site.

SECTION 8. REPRESENTATIONS AND WARRANTIES

8.1 The Redeveloper. Redeveloper represents and warrants as follows:

(a) it is a limited liability company duly created under the laws of the State and is duly organized and existing in good standing;

(b) it has full power and authority to enter into this Agreement, to consummate the transactions contemplated herein and to perform all of its obligations hereunder;

(c) the execution, delivery and performance by Redeveloper of this Agreement has been duly authorized and the person executing this Agreement on its behalf is authorized to do so and that this Agreement constitutes a valid and legally binding obligation of Redeveloper, enforceable in accordance with its terms;

(d) subject to obtaining Institutional Financing, it is financially capable to undertake and fulfill the obligations of Redeveloper hereunder;

(e) Redeveloper has the necessary expertise, qualifications, staff and resources to undertake and fulfill the obligations hereunder;

(f) there is no action, proceeding or investigation now pending or threatened, nor any basis therefore, known or believed to exist which (i) questions the validity of this Agreement or any action or act taken or to be taken by them pursuant to this Agreement; or (ii) is likely to result

in a material adverse change in its property, assets, liabilities or condition or which will materially and substantially impair its ability to perform pursuant to the terms of this Agreement;

(g) the execution, delivery, or performance of this Agreement will not constitute a violation of any of Redeveloper's organizational documents, or of any mortgage, indenture, instrument, judgment or other agreement to which it is a party or by which it is bound;

(h) that, as of the date hereof, Redeveloper is majority owned and controlled by Foun-Chung Fan; and

(i) that Redeveloper is the fee owner of the Project Site.

8.2 The Township. The Township represents and warrants as follows:

(a) the designation of the Redevelopment Area, the adoption of the Redevelopment Plan and the designation of Redeveloper were done (and any amendment thereto will be done) in conformance with the Redevelopment Law, the adoption of the Redevelopment Plan was duly authorized in accordance with Redevelopment Law and the Township Council is duly and properly acting as the redevelopment entity for the Township pursuant to the Redevelopment Law;

(b) it is executing this Agreement in its capacity as a political subdivision of the State and the County of Union, as the designated redevelopment entity; the execution, delivery and performance by the Township of this Agreement has been duly authorized and the person executing this Agreement on its behalf is authorized to do so; and this Agreement constitutes a valid and legally binding obligation of the Township, enforceable in accordance with its terms;

(c) there is no action, proceeding or investigation now pending or threatened, nor any basis therefore, known or believed to exist, which (i) questions the validity of this Agreement or any action or act taken or to be taken by them pursuant to this Agreement; or (ii) is likely to result in a material adverse change in its agency, property, assets, liabilities or condition or which will

materially and substantially impair its ability to perform pursuant to the terms of this Agreement;
and

(d) it has full power and authority to enter into this Agreement, to consummate the transactions contemplated herein and to perform all of its obligations hereunder.

SECTION 9. REDEVELOPER COVENANTS

9.1 Redeveloper Covenants. Redeveloper covenants and agrees that:

(a) Redeveloper shall not use the Project Site or any part thereof in a manner that is not in all material respects consistent with the Redevelopment Plan, the Approvals and this Agreement. Redeveloper will construct only those uses established in the Redevelopment Plan or as the Redevelopment Plan may be modified, in writing, by the Township from time to time in accordance with the Redevelopment Law.

(b) Except as permitted in Section 9.1(c) below, prior to the issuance of a Certificate of Completion for the Redevelopment Project or any part thereof, pursuant to *N.J.S.A. 40A:12A-9(a)*, Redeveloper shall not, without the prior written consent of the Township in its reasonable discretion: (i) effect or permit any change, directly or indirectly, in the majority ownership of more than fifty percent (50%) or control of Redeveloper (whether in one transaction or by virtue of the combined effect of more than one transaction), provided, however, that the Township will not unreasonably withhold consent to a transfer of a majority or greater interest in Redeveloper (or in an Affiliate of Redeveloper) to a reputable financial institution for *bona fide* financing purposes, provided that the current members of Redeveloper remain in control of the entity, (ii) assign or attempt to assign this Agreement or any rights herein, (iii) make any total or partial sale, lease, transfer or conveyance of the whole or any part of its interest in the Project Site or the Redevelopment Project; or (iv) pledge, or transfer all or substantially all of its assets (collectively,

a “**Transfer**”). If Redeveloper proposes a Transfer, other than as set forth above, Redeveloper will promptly provide to the Township for its consideration information concerning the proposed transferee, including, but not limited to, documentation reasonably requested by the Township pertaining to the transferee’s identity, principals, qualifications, reputation and financial condition. If a Transfer is approved by the Township, the transferee, by written document acceptable in form and substance to the Township, for itself and its successors and assigns, and for the benefit of the Township, shall expressly assume all of the obligations of Redeveloper under this Agreement applicable to the property interest conveyed with such sale, assignment or transfer and shall agree to be subject to all the conditions and restrictions to which Redeveloper is subject hereunder, including the restrictions regarding the right to subsequent transfers. All relevant instruments and other legal documents proposed to effect any such transfer shall be submitted to the Township, and if the transferee is approved by the Township, such approval shall be indicated to Redeveloper in writing.

(c) Redeveloper, without violating the provisions of Section 9.1(b), may, subject to the requirements of *N.J.S.A. 40A:12A-9(a)* effect the following Transfers, to which the Township hereby consents upon receipt of notice thereof, without the necessity of further action by the Township (the “**Permitted Transfers**”): (i) Transfers to an Affiliate of Redeveloper; (ii) leases to residential tenants; (iii) mortgages to secure Institutional Financing for acquisition of the Project Site and/or the construction of the Redevelopment Project; (iv) environmental covenants and restrictions imposed by DEP as a condition of any permit or Approval; (v) any direct or indirect transfer of any interest in Redeveloper to a Person not presently holding an interest in Redeveloper, provided that the transfer is for less than fifty percent (50%) of the ownership interest of Redeveloper and otherwise does not change the control of Redeveloper; (vi) granting of easements, deed restrictions and licenses, or any amendments thereto, required for utilities or in connection

with development approvals; (vii) transfers by means of inheritance, devise or bequest or by operation of law upon an Immediate Family Member, or a trust established for the benefit of such Immediate Family Member; (viii) any direct or indirect transfer to a Person of an interest in excess of fifty percent (50%) of the ownership interest of Redeveloper, provided the transferee has the financial capacity and development experience equal to or greater than that of the majority member of Redeveloper as set forth in Section 8.1(h); and (ix) any contract or agreement which effectuates any of the foregoing exceptions. With respect to any of the Permitted Transfers listed in this Section 9.1(c), Redeveloper shall provide to Township written notice within thirty (30) days of such Permitted Transfer, including a description of the nature of such Permitted Transfer, and the name(s) and address(es) of the transferee parties, individuals and/or entities involved.

(d) Redeveloper shall design, implement, complete and operate the Redevelopment Project in compliance with this Agreement and all other Applicable Laws, ordinances, Approvals, rules, regulations and requirements applicable thereto including, but not limited to, such zoning, sanitary, pollution, health, environmental and safety ordinances, laws and such rules and regulations thereunder as shall be binding upon Redeveloper under Applicable Laws. Without limiting the foregoing, Redeveloper shall comply at its own expense with all applicable stormwater regulations, including but not limited to, those pertaining to detention, recharge and water quality.

(e) Redeveloper shall not unlawfully discriminate against or segregate any person, or group of persons, on account of race, color, religion, creed, national origin, ancestry, physical handicap, age, marital status, sex, affectional or sexual orientation in the sale, lease, sublease, rental, transfer, use, occupancy, tenure or enjoyment of the Project Site, nor shall Redeveloper itself, or any person claiming under or through Redeveloper, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use of occupancy of tenants, lessees, subtenants, sublessees, or vendees on the Project Site.

(f) Redeveloper shall not use the Project Site, or any part thereof, as security or collateral for an unrelated transaction.

9.2 Compliance with Redevelopment Plan. Redeveloper shall take all necessary steps so that the development of the Project Site and the construction, use, operation, and maintenance of the Redevelopment Project thereon shall be in accordance with the provisions of this Agreement and Redevelopment Plan.

9.3 Redevelopment Project Completion. Redeveloper agrees to diligently undertake and implement the Redevelopment Project throughout the term of this Agreement and shall complete the Redevelopment Project within the time frames set forth in the Project Schedule.

9.4 Execution of Documents. Redeveloper shall, in order to effectuate the purposes of this Agreement, make, execute, acknowledge and deliver any commercially reasonable contracts, orders, receipts, writings and instructions with any other persons, firms or corporations and in general do all things which may be requisite or proper for the acquisition, construction and development of the Redevelopment Project in accordance with the terms of this Agreement and all necessary Approvals.

9.5 Fees. Subject to Section 10.02 hereof, Redeveloper shall be subject to normal and customary application fees for Township approvals and review processes for the Approvals for the Redevelopment Project, as well as normal and customary building and construction permit fees.

9.6 Construction Assurances. Redeveloper shall, upon Commencement of Construction, proceed diligently to complete construction.

9.7 Delivery of Consultants' Reports. Redeveloper agrees to promptly deliver to the Township one electronic copy of every survey, report, analysis, test result and other written report or document prepared for Redeveloper by any Third Party consultant with respect to any property in the Project Site, including, but not limited to, wetlands investigations, environmental

assessments, soil tests, surveys, title commitments, engineering analyses, utility capacity analyses and the like, all reports and other documents to be delivered without representation or warranty.

SECTION 10. REDEVELOPER'S FINANCIAL OBLIGATIONS

10.1 Redeveloper's Equity. Redeveloper represents that it will use commercially reasonable efforts to obtain and commit the requisite equity and debt financing in order to finance the Redevelopment Project. It is the intention of the Parties that the Redeveloper's obligation to Commence Construction of the Redevelopment Project is contingent upon the Redeveloper obtaining the financing necessary to undertake the Redevelopment Project. Such contingency shall be deemed satisfied if the Redeveloper is able to secure financing in a commercially reasonable amount and on commercially reasonable terms for the nature of the Redevelopment Project.

10.2 Payment to Township. Redeveloper agrees that simultaneously with the execution of this Agreement it will make payment to the Township, in the amount of Thirty Thousand Dollars (\$30,000.00). Such payment shall be held by the Township in a segregated non-interest bearing account that meets the requirements of the Local Fiscal Affairs Law, N.J.S.A. 40A:5-1 et seq. The Township shall use such funds to pay for: (a) all reasonable out of pocket costs it has incurred or will incur in connection with the Redevelopment Project, including, but not limited to, the professional, legal, technical and other consultant fees incurred in connection with the designation of the Redevelopment Area as an area in need of redevelopment, the adoption of the Redevelopment Plan, the review, preparation and negotiation of this Agreement and the Financial Agreement, and the implementation and oversight of the Redevelopment Project; and (b) any other such costs as the Township shall determine, in its discretion, are necessary and proper. If at any time the balance of the funds deposited with the Township falls below Seven Thousand Five Hundred Dollars (\$7,500.00) or is insufficient to fund work to be performed, the Township shall

provide the Redeveloper with a notice of the insufficient deposit balance. The Redeveloper shall replenish the account with additional funds such that the amount on deposit therein is Twenty-Five Thousand Dollars (\$25,000.00) and such deposit shall be made within five (5) business days of the Township's notice, failing which the Township may unilaterally cease work without liability to the Redeveloper.

The Township shall, on a periodic basis of not less than once per month, prepare and send to the Redeveloper copies of bills, invoices, or vouchers for such professional, legal, technical or other consultants the Township has engaged. The Township shall, upon request of the Redeveloper not more than twice per year, prepare and deliver statements which shall include an accounting of funds listing all deposits, disbursements, and the cumulative balance of the account. The Redeveloper may, within thirty (30) days of receipt of such invoices, dispute the propriety or reasonableness of any such charge to be paid out of the deposit account. In the event of a dispute, the Parties shall act in good faith to determine a mutually-beneficial solution.

Except for any fee due in connection with any Approval, any fee required to be paid by statute, rule or ordinance (for example, for building permits or certificates of occupancy), or any tax, assessment, payment-in-lieu-of-tax or similar payment, Redeveloper shall not be required to make any other payment in connection with the Redevelopment Agreement or Financial Agreement.

10.3. Application for Tax Exemption. The Redeveloper expects to submit to the Township an application for tax exemption in accordance with the Long Term Tax Exemption Law and the terms of a Financial Agreement. If approved by ordinance of the Township, the Financial Agreement shall provide, among other things, that the Redevelopment Project shall be exempt from *ad valorem* taxation and, in lieu of taxes otherwise due thereon, the Redeveloper shall make annual payments to the Township in an amount set forth in the Financial Agreement. It is the

intention of the Parties that this Agreement be contingent upon subsequent approval by the Township of such application, adoption by the Township Council of an ordinance approving the terms of the Financial Agreement, and the execution of the Financial Agreement by the Redeveloper and the Township. In the event the Financial Agreement is not executed within one-hundred twenty (120) days of the Effective Date (unless such deadline is extended by mutual agreement of the Parties), the Redevelopment Agreement, and Redeveloper's designation as redeveloper of the Project Site, will automatically terminate without any further action by either party.

SECTION 11. INDEMNIFICATION

11.1 Indemnification. (a) Redeveloper agrees to indemnify and hold harmless and defend the Township and hold harmless and defend the Township Indemnified Parties, and Redeveloper shall pay any and all liability, actual loss, costs, damages, claims, judgments or expenses, of any and all kinds or nature and however arising, imposed by law, including but not limited to, claims for personal injury, death and property damage, which the Township and/or the Township Indemnified Parties may sustain, be subject to or be caused to incur relating to, based upon or arising from (i) Redeveloper's activities in connection with the Redevelopment Project, or any portion thereof, (ii) contracts entered into by the Redeveloper which relate to such activities, including but not limited to any and all claims by workmen, employees and agents of the Redeveloper, its contractor and subcontractors and unrelated third parties, (iii) the maintenance and functioning of the Project Improvements, or any other activities of Redeveloper within the Project Site, (iv) the current or former environmental condition of the Project Site and including but not limited to any third-party claim with respect to other properties alleging harm emanating from such environmental condition of the Project Site, (v) a material breach of this Agreement by

Redeveloper, or (vi) any violation of applicable law by Redeveloper, unless any such loss, liability claim or suit arising from the grossly negligent or intentional wrongful acts of the Township, its employees, agents and contractors.

(b) Redeveloper, at its own cost and expense, shall defend any and all such claims, suits and actions which may be brought or asserted against the Township, and/or the Township Indemnified Parties; but this provision shall not be deemed to relieve any insurance company which has issued a policy of insurance as may be provided for in this Agreement from its obligation to defend Redeveloper, the Township and any other insured named or named as an additional insured in such policy of insurance in connection with claims, suits or actions covered by such policy. Any cost for reasonable fees in situations where it is required that the Township engage its own attorneys, experts' testimony costs and all actual costs to defend the Township or any Township Indemnified Party, agents, servants, or employees shall be reimbursed to it by Redeveloper in connection with such defense and indemnification claim.

(c) In any situation in which the Township Indemnified Parties are entitled to receive and desire defense and/or indemnification by Redeveloper, the Township Indemnified Parties shall give prompt notice of such situation to Redeveloper. Failure to give prompt notice to Redeveloper shall not relieve Redeveloper of any liability to indemnify the Township Indemnified Parties. Upon receipt of such notice, Redeveloper shall resist and defend any action or proceeding on behalf of the Township Indemnified Parties, including the employment of counsel reasonably acceptable to the Township Indemnified Parties, the payment of all reasonable expenses and the right to negotiate and consent to settlement. The Township shall have the right to retain counsel of its choosing, the cost of which shall be borne by Redeveloper. All of the other Township Indemnified Parties shall have the right to employ separate counsel in any such action and to participate in the defense thereof at their own expense. Redeveloper shall not be liable for any settlement of any

such action effected without its consent, but if settled with the consent of Redeveloper or if there is a final judgment against Redeveloper or the Township Indemnified Parties in any such action, Redeveloper shall indemnify and hold harmless the Township Indemnified Parties from and against any loss or liability by reason of such settlement or judgment. Further, Redeveloper shall have the right to settle any such action on behalf of itself and all Township Indemnified Parties, provided that such settlement (i) is solely a monetary payment, (ii) does not involve the entry of a judgment against Township or any Township Indemnified Parties and (iii) does not expose the Township Indemnified Parties to any liability, contingent or otherwise. Redeveloper shall indemnify and hold harmless the Township Indemnified Parties from and against any loss or liability by reason of such settlement.

11.2 Survival of Indemnity. The provisions of Section 11 shall survive the termination of this Agreement.

SECTION 12. DEFAULT PROVISIONS

12.1 Redeveloper Default. Subject to the terms of this Agreement, the Township shall have the right to declare Redeveloper in default of this Agreement in the event of the occurrence of any of the following (each, a “**Redeveloper Default**”):

(a) Redeveloper’s failure to substantially perform any of its obligations under the terms of this Agreement or under the Financial Agreement, including the failure to cure such default during any applicable cure periods; or

(b) A final and unappealable determination by a court of competent jurisdiction that Redeveloper is insolvent; or

(c) (i) Redeveloper shall have applied for or consented to the appointment of a custodian, receiver, trustee or liquidator of all or a substantial part of its assets; (ii) a custodian shall have

been legally appointed with or without consent of Redeveloper; (iii) Redeveloper (A) has made a general assignment for the benefit of creditors, or (B) has filed a voluntary petition in bankruptcy or a petition or an answer seeking an arrangement with creditors or has taken advantage of any insolvency law; (iv) Redeveloper has filed an answer admitting the material allegations of a petition in any bankruptcy or insolvency proceeding; or (v) Redeveloper shall take any action for the purpose of effecting any of the foregoing; (vi) a petition in bankruptcy shall have been filed against Redeveloper and shall not have been dismissed for a period of sixty (60) consecutive days; (vii) an Order for Relief shall have been entered with respect to or for the benefit of Redeveloper under the Bankruptcy Code; (viii) an order, judgment or decree shall have been entered, without the application, approval or consent of Redeveloper by any court of competent jurisdiction appointing a receiver, trustee, custodian or liquidator of Redeveloper or a substantial part of its assets and such order, judgment or decree shall have continued unstayed and in effect for any period of sixty (60) consecutive days; or (ix) Redeveloper shall have abandoned the transaction of its usual business; or

(d) A notice to the Township by Redeveloper that it has determined not to proceed with the Redevelopment Project, unless Redeveloper has the right not to proceed, under the terms of this Agreement; or

(e) Failure by Redeveloper to make any payments owed to the Township when due; or

(f) Abandonment of the Redevelopment Project by Redeveloper; or

(g) Failure by Redeveloper to comply with the Project Schedule, subject to delays caused by the Township's failure to timely perform its obligations under this Agreement and further subject to any delays caused by a Third Party(s) related to the Remediation of the Project Site, including but not limited to, delays caused by other party(s) obligated pursuant to Environmental Laws for Remediation of all or a part of the Project Site; or

(h) Redeveloper or its successor in interest shall fail to pay, when due, any real estate taxes, payments in lieu of taxes or other assessments on the Project Site; or

(i) Redeveloper shall implement a Transfer in violation of this Agreement; or

(j) Failure by Redeveloper to comply with its obligations, or default by Redeveloper in any of its representations, warranties or covenants under this Agreement.

12.2 Township Default. Redeveloper shall have the right to declare the Township in default of this Agreement in the event of the failure by the Township to substantially perform any covenant, condition or obligation under this Agreement when performance is due, and if no time is specified then within a reasonable time (the “**Township Default**”).

12.3 Default Notice. Upon the occurrence of a Redeveloper Default or Township Default, the non-defaulting party shall notify the defaulting party in writing that it has declared that party in Default (the “**Default Notice**”). Absent such Default Notice, no declaration of Default shall be deemed binding against the defaulting party. The Default Notice shall state the basis for the determination that a Default has occurred. Upon receipt of the Default Notice, the defaulting party shall have, in the case of a financial obligation, ten (10) days to cure such Default; or in the case of any failure to perform any other obligation set forth in this Agreement, forty-five (45) days to commence to cure said Default. With respect to a failure to perform any obligation other than a financial obligation, provided the defaulting party shall thereafter diligently and continuously proceed to correct same, the defaulting party shall have an additional one hundred eighty (180) days to complete the cure. In the event that the defaulting party does not cure a Default as set forth herein, the non-defaulting party shall have the right to exercise the remedies set forth below. The Parties may agree in writing, notwithstanding the provisions of this paragraph, to extend the period of time by which the defaulting party must respond to the Default Notice or the period of time in

which the defaulting party must cure the Default. Any Default by either Party hereto that remains uncured following any Default Notice and applicable cure period shall be an “**Event of Default**”.

12.4 Default Rights and Remedies. Except as may otherwise be provided in this Agreement, upon the occurrence of a Redeveloper Default, the Township may terminate this Agreement and/or take whatever action, at law or in equity, it may deem desirable, including the seeking of damages, or institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including but not limited to, proceedings to compel specific performance by the Redeveloper or breach of its obligations. In the event that the Township terminates this Agreement following an Event of Default by Redeveloper, Redeveloper’s designation as the redeveloper of the Project Site shall immediately terminate, together with Redeveloper’s rights as Redeveloper. In that event, any tax exemption and Financial Agreement applicable to the Redevelopment Project, or any portion thereof, shall also immediately terminate. Upon the occurrence of a Township Default, the Redeveloper’s recourse shall be limited to compelling specific performance by the Township, or in the event specific performance cannot cure such remedy, termination of this Agreement.

12.5 Rights and Remedies Cumulative; No Waiver by Delay. The rights and remedies of the Parties whether provided by this Agreement or by law or in equity, shall be cumulative, and except as otherwise specifically provided by this Agreement, the exercise by either Party of any one or more of such rights or remedies shall not preclude the exercise, at the same or at different times, of any other such rights or remedies for the same Default, or for the same failure in respect to any of the terms, covenants, conditions or provisions of this Agreement or any of its remedies for any other default or breach. No delay by either Party in asserting any rights or exercising any remedy shall operate as a waiver of such rights or remedy or otherwise deprive it of, or limit such rights and remedies in any way (it being the intent of this provision that such Party shall not be

constrained, so as to avoid the risk of being deprived of or limited in the exercise of the remedy provided in this Section because of concepts of waiver, laches, or otherwise, to exercise such remedy at a time when it may still hope otherwise to resolve the problems created by the default involved); nor shall any waiver by either Party with respect to any specific Default be considered or treated as a waiver of the rights of either Party with respect to any other defaults except to the extent specifically waived in writing.

12.6. Certificate of No Default. Either Party hereto shall deliver to the other, upon written request, a certificate signed by a duly authorized officer to the effect that the certifying Party is not aware of any condition, event or act which constitutes a violation of this Agreement or which would constitute a Default hereunder and no condition, event or act exists which, with notice or lapse of time, or both, would constitute such a violation, or Default, or if any such condition, event or act exists, specifying the same (“**Certificate of No Default**”).

12.7 Effect of Termination of Redeveloper. Upon termination, the designation of Redeveloper as redeveloper shall automatically cease, and neither party shall have any further rights or obligations under this Agreement, except as expressly provided otherwise herein. In the event of a termination of Redeveloper as redeveloper, Redeveloper shall promptly deliver to the Township, and assign to the Township, to the extent assignable or transferable in accordance with applicable law, all of its right, title and interest in and to any Approvals, plans, drawings, surveys, studies, tests, investigations, permits, approvals, and applications for permits, approvals or utility capacity including, but not limited to, electronic versions where applicable (the “**Project Documents**”) prepared by or for Redeveloper in connection with the Redevelopment Project and/or the Project Site, without representation or warranty. Project Documents shall not include documents that are proprietary to the Redeveloper.

12.8 Termination for Failure to Obtain Approvals. Notwithstanding anything herein to the contrary, Redeveloper shall have the right to terminate this Agreement at any time upon written notice to the Township in the event any Approval is denied or the obtaining of any one or more Approvals appears without reasonable likelihood for success, in Redeveloper's good faith and reasonable judgment.

SECTION 13. FINANCING PROVISIONS

13.1 Rights of Institutional Mortgagee. Except to the extent that the Project Site may be subject to a mortgage or other encumbrance or lien on the Effective Date, Redeveloper shall not engage in any financing or any other transaction creating any mortgage or other encumbrance or lien upon the Project Site, whether by express agreement or operation of law, or suffer any encumbrance or lien (other than liens for governmental impositions) to be made or attach to the Project Site, except as may be reasonably required for the construction of the Redevelopment Project or the continued operation of the Redevelopment Project or portion thereof after the completion of construction, provided, however, that upon the issuance of a Certificate of Completion, such prohibition shall no longer apply with respect to the corresponding portion of the Redevelopment Project. Redeveloper shall notify the Township in writing no less than ten (10) days in advance of any such financing secured by a mortgage or other lien instrument which it proposes to enter into with respect to the Redevelopment Project or any part thereof (the mortgagee thereunder or its affiliate, a "**Holder**"). The provisions of this Agreement shall not be deemed to grant to the Township the right to approve or review the terms of any such proposed financing.

13.2 No Termination for Mortgage Default. This Agreement, as an arrangement made by a governmental body or agency of the State pursuant to statutes in connection with a project for redevelopment, renewal or rehabilitation, shall continue in full force and effect beyond any default

in or foreclosure of any mortgage loan made to finance the Redevelopment Project, as though such default or foreclosure had not occurred, except as specifically provided herein.

13.3 Cooperation. To the extent reasonably requested by Redeveloper or any Holder, the Township shall execute an estoppel certificate, recognition agreement, attornment agreement and or such other agreements and/or documents (to the extent same are in commercially reasonable form) as may be requested or required by any Holder; provided, however, that any such agreement or document shall not materially and adversely alter any of the rights or obligations of Redeveloper or the Township under this Agreement. The Township shall provide such estoppel within twenty (20) days of the written request therefor.

13.4 Notice of Default to Holder and Right to Cure.

(a) Whenever the Township shall deliver any notice or demand to Redeveloper with respect to any breach or default by Redeveloper under this Agreement, the Township shall at the same time deliver to each Holder a copy of such notice or demand, provided that Redeveloper has delivered to the Township a written notice of the name and address of such Holder. Each such Holder shall have the right at its option within ninety (90) days after the receipt of such notice, to cure or remedy, or to commence to cure or remedy, any such default which is subject to being cured and to add the cost thereof to the debt and the lien which it holds.

(b) To the extent that any Holder is required to foreclose against any lien it has with respect to the Redevelopment Project (as a result of a Redeveloper Event of Default or a default by Redeveloper under any agreements executed by Redeveloper and its project lenders), the Township agrees to forbear from the enforcement of any remedies provided under this Agreement that it may have against Redeveloper in order to permit such Holder to foreclose and assume or cause a Third Party to assume the obligations of Redeveloper under this Agreement; provided, however, that the Township shall not be obligated to forbear from the exercise of any

remedies available to it hereunder if such forbearance will result (or may result, in the reasonable judgment of the Township) in a waiver of the Township's rights under this Agreement.

13.5 No Guarantee of Development, Construction or Completion of the Redevelopment Project. A Holder shall in no manner be obligated by the provisions of this Agreement to develop, construct or complete the Redevelopment Project (or portion to which its mortgage relates), or to guarantee such development, construction or completion; nor shall any covenant or any other provisions be construed to so obligate a Holder. Notwithstanding the foregoing, nothing contained in this Agreement shall be deemed to permit or authorize such Holder to undertake or continue the development, construction or completion of the Redevelopment Project, or portion to which its mortgage relates (beyond the extent necessary to conserve or protect the Holder's security, including the improvements or construction already made), without the Holder first having expressly assumed Redeveloper's obligations to the Township going forward from and after the date of such assumption with respect to the Redevelopment Project (or portion to which its mortgage relates) by written agreement reasonably satisfactory to the Township and the Holder.

13.6 Foreclosure. If a Holder forecloses its mortgage secured by the Project Site (or portion to which its mortgage relates), or takes title to the Project Site (or portion to which its mortgage relates) by deed-in-lieu of foreclosure or similar transaction (collectively a "**Foreclosure**"), the Holder shall have the option to either (a) sell the Project Site and the Redevelopment Project to a responsible Person reasonably acceptable to the Township, which Person shall assume the obligations of Redeveloper under this Agreement in accordance with applicable law, and/or (b) assume the obligations of Redeveloper under this Agreement in accordance with applicable law. In the event of a Foreclosure and provided the Holder or the purchaser is in compliance with this Agreement, the Township shall not seek to enforce against the Holder or purchaser of such parcel any of the remedies available to the Township pursuant to

the terms of this Agreement available in connection with the events preceding the Foreclosure. The Holder, or the Person assuming the obligations of Redeveloper as to the parcel affected by such Foreclosure or sale, in that event must agree to complete the Redevelopment Project in the manner provided in this Agreement, but subject to reasonable extensions of the Project Schedule, and shall submit evidence reasonably satisfactory to the Township that it has the qualifications and financial responsibility necessary to perform such obligations. Any such Holder or Person assuming such obligations of Redeveloper, properly completing the Redevelopment Project, or any portion thereof, shall be entitled to Certificates of Completion in accordance herewith. Nothing in this Agreement shall be construed or deemed to permit or to authorize any Holder, or such other Person assuming such obligations of Redeveloper, to devote the Project Site, or any part thereof, to any uses, or to construct any improvements thereon, other than those uses or improvements consistent with the Concept Plan or other provided for or authorized by this Agreement.

13.7 Lender Changes. If Redeveloper's lender requires a change in the terms of this Agreement, the Township shall reasonably cooperate with Redeveloper in approving and implementing such change, so long as such change does not increase the Township's obligations or decrease the Township's rights as set forth in the Agreement, or materially change the Concept Plan. In addition, the Township agrees to enter into such agreement as Redeveloper's lender (or its equity participants) may reasonably require provided that such agreement shall not increase the Township's obligations or decrease the Township's rights in connection with this Agreement, or materially change the Concept Plan.

SECTION 14. COMPLIANCE

14.1 Compliance with Township Ordinances, State Laws, Regulations and Standards.

Redeveloper shall comply with all applicable Township ordinances with regard to traffic, traffic safety, parking during construction, illumination, noise, pollution, and rodent, insect and animal control. Redeveloper commits to follow all applicable construction laws, regulations and standards in the industry to address these concerns and furthermore commits to having a program in place, prior to the Commencement of Construction, to reasonably address such concerns.

SECTION 15. ADDITIONAL PROVISIONS

15.1 Township Cooperation. The Township shall cooperate with and assist Redeveloper so as to enable Redeveloper to implement, develop and complete the Redevelopment Project in accordance with the Concept Plan and to otherwise perform Redeveloper's obligations and responsibilities under this Agreement. This cooperation shall include, but not be limited to, (a) causing all construction and building permits over which the Township or any of its agencies or offices has jurisdiction to be granted to Redeveloper provided the applications for same comply with applicable law; (b) assisting Redeveloper in obtaining Approvals, in expediting required action by the Planning Board in connection with site plan and subdivision applications filed by Redeveloper in connection with this Agreement; and (c) the exercise of such other actions pursuant to Redevelopment Law as may be reasonably necessary to carry out the purpose and intent of this Agreement.

15.2 Maintenance and Landscaping. Redeveloper shall keep the Project Site free from any substantial accumulation of debris or waste materials and shall maintain in good condition any landscaping and amenities required under any applicable approved final site plan.

15.3 Speculative Development. Redeveloper represents its undertakings pursuant to this Agreement are for the purpose of Redevelopment of the Project Site and not for speculation in

land holding. Redeveloper shall not use the Project Site, or any part thereof, as collateral for an unrelated transaction.

15.4 Compliance with Agreement. Redeveloper shall use reasonable efforts to ensure that all consultants, professionals, employees, agents, and contractors engaged by Redeveloper or any of Redeveloper's subcontractors shall have the skill and judgment necessary to implement the Redevelopment Project in compliance with the terms and conditions of this Agreement.

SECTION 16. MISCELLANEOUS

16.1 Force Majeure. For the purposes of any of the provisions of this Agreement, neither the Township nor Redeveloper, as the case may be, nor any successor in interest, shall be considered in breach of, or in Default with respect to its obligations hereunder because of any delay in the performance of such obligations, including commencement or completion of construction, arising from causes beyond its reasonable control and without its fault or negligence, including, but not limited to, acts of God, acts of public enemy, acts or omissions of other parties (including litigation by Third Parties), unavailability of materials, fires, floods, epidemics, pandemics, moratoriums, quarantine restrictions, strikes, freight shortages, energy shortages, embargoes, unusual or severe weather, or delays of subcontractors due to any of the forgoing such causes, actions or inactions by any federal, state or local governmental or quasi-governmental entity, including the Township, with respect to the Approvals or the development of the Redevelopment Project (including, without limitation, a failure of the Township to perform in accordance with the terms of this Agreement, or any denial of or substantial delays in obtaining any Approval), legal action or lawsuits filed in challenge of the issuance, grant or denial of any Approval and a change in laws, if such actions or inactions are not caused by Redeveloper (collectively "**Force Majeure**"). It is the purpose and intent of this provision that in the event of

the occurrence of any such delay due to Force Majeure, the time or times for performance of the obligations of the Township or Redeveloper shall be extended for such period(s) as may be reasonable in the circumstances but in no event less than the period of the delay.

16.2 Section Headings. The headings and numbering of paragraphs and sections of this Agreement are set forth for ease of reference only and are not to be construed or considered to impart meaning to any provision of this Agreement.

16.3 Governing Law. This Agreement shall be governed by and construed under the laws of the State and any litigation relating to this Agreement shall be brought in the Superior Court of New Jersey and venued in the County of Union.

16.4 Amendments to Agreement. This Agreement represents the entire agreement by and between the Parties with respect to the development of the Project Site and the construction of the Redevelopment Project. No amendment to this Agreement shall be considered binding on either of the Parties unless such amendment is in writing and specifically recites that it is being entered into by and between the Township and Redeveloper with the specific intention to modify the terms of this Agreement. In the event that any such amendment is agreed to by the Parties, such amendment shall not modify, change or amend any portion of this Agreement except those specific portions that are recited in the amendment as being modified by such amendment. All other portions of this Agreement not so specifically amended in writing shall remain in full force and effect.

16.5 Severability. Should any provision, term, section or other portion or portions of this Agreement be held by any court of competent jurisdiction to be in violation of any applicable law, or against public policy or held to be null and void for any reason whatsoever, such portion shall be deemed severable so that such determination, unless it prohibits or otherwise prevents the performance of this Agreement or materially alters the rights or obligations of the Parties (in such

event this Agreement is to be reformed to reflect as nearly as possible the original stated terms), shall not affect the validity of any other provisions of this Agreement, and such other provisions shall be deemed to be in full force and effect and binding on the Parties unless amended in accordance with Section 16.4.

16.6 Incorporation of Recitals and Exhibits. The recitals set forth in Section 1 and the Exhibits attached hereto are hereby incorporated by reference and are considered part of this Agreement.

16.7 Condemnation/Casualty. In the event that all or any substantial portion of the Project Site is condemned or taken by eminent domain by any condemning authority or is damaged or destroyed by casualty prior to Commencement of Construction, Redeveloper may, at its option, terminate this Agreement by written notice to the Township within thirty (30) days after Redeveloper is notified of the condemnation, taking, damage or casualty. For purposes of this provision “**Substantial Portion**” shall be defined as any portion which is equal to or in excess of ten percent (10%) of the total acreage of the Project Site or that portion which, in the reasonable opinion of Redeveloper, would prevent the successful completion of construction or operation of the Redevelopment Project as envisioned by this Agreement. The Township acknowledges that it has no right to the proceeds resulting from a condemnation of the fee simple interest in the Project Site.

16.8 Litigation. Redeveloper shall have the right, but not the obligation, to undertake litigation in order to obtain Approvals with conditions reasonably satisfactory to Redeveloper including, without limitation, the right to litigate to the ultimate decision maker. Any litigation undertaken shall toll the relevant time periods set forth in the Project Schedule.

16.9 Waivers. Any right or remedy which any party may have under this Agreement may be waived in writing by the relevant party without the execution of a new or supplemental

agreement. Except as otherwise provided in this Agreement, said right of waiver shall include the right to waive a default. No waiver made by any party with respect to the performance, or manner or time thereof, of any obligation of any other party or any condition to its own obligation under this Agreement shall be considered a waiver of any rights of the party making the waiver with respect to the particular obligation of the other party or condition of its own obligation beyond those expressly waived and to the extent thereof, or a waiver in any respect in regard to any other rights of the party making the waiver.

16.10 Commissions. The Parties agree that no commissions to any broker, agent, or any other intermediary are due hereunder, and further agree to indemnify and save harmless the other party in the event of any claim whatsoever for any commission or other remuneration payable or alleged to be payable by any broker, agent or other intermediary by virtue of the acts or agreements of the indemnifying party.

16.11 No Significance of Party Drafting. The Parties agree that in the construction or interpretation of this Agreement no significance shall be attributed in presumption or otherwise to the identity of the party drafting the provision or provisions in question.

16.12 Recordation. In accordance with the Redevelopment Law, a short form memorandum of this Agreement, in the form attached hereto as Exhibit D (the “**Declaration**”), shall be duly recorded by Redeveloper in the land records of Union County and the cost of such recordation shall be paid by Redeveloper.

16.13 Notices. Any notice provided or required to be given under this Agreement must be in writing and shall be served (and shall be deemed to have been served) (a) by hand delivering a copy thereof to the party being served in person or by commercial courier, (b) by registered or certified mail, postage prepaid, return receipt requested, or (c) by a commercial overnight delivery service with package tracking capability and for which proof of delivery is available, to the person

or persons set forth below for each party to this Agreement. Minor communications between the Parties that are other than formal notices of action may be sent by regular mail, facsimile or e-mail. Notifications are deemed to be given (a) on the date of delivery if hand delivered, (b) on the third business day following their deposit in the United States Mail, postage prepaid, return receipt requested, or (c) on the next business day following their deposit with a commercial overnight delivery service.

As to the Township:

Mayor and Township Council of Township of Berkeley Heights
Municipal Building
29 Park Avenue
Berkeley Heights, New Jersey 07922

With copies to:

Jardim Meisner Salmon Sprague & Susser
30B Vreeland Road, Suite 100
Florham Park, New Jersey 07932
Attn: Scott D. Salmon, Esq.

and

McManimon, Scotland & Baumann, LLC
75 Livingston Avenue
Roseland, New Jersey 07068
Attn: Matthew D. Jessup, Esq.

As to the Redeveloper:

Lockhern Property II BH Urban Renewal LLC
P.O. Box 39
Livingston, New Jersey 07039
Attn: Foun-Chung Fan, Managing Member

With a copy to:

Bisgaier Hoff, LLC
25 Chestnut Street, Suite 3
Haddonfield, New Jersey 08033
Attn: Peter M. Flannery, Esq.

From time to time either party may designate a different person or address for all the purposes of this notice provision by giving the other party no less than ten (10) days notice in advance of such change of address in accordance with the provisions hereof.

16.14 Further Assurances. Each party shall execute such further documents, papers and instruments and shall use good faith efforts to take such further actions as are contemplated by and reasonably necessary to carry out the expressed intent of this Agreement as may be reasonably requested by the other Party.

16.15 Counting of Days. Unless otherwise specifically set forth, all references to counting of days shall be calendar days.

16.16 Successors Bound. The Agreement shall be binding upon the respective Parties hereto, and, subject to the limitations on transfer set forth in Section 9.1(b), their successors and assigns.

16.17 No Obligation. The Parties agree that the submission of this Agreement (or any draft, re-draft, or other copy) by one party to another is not intended by either party to be an offer to enter into a legally binding contract. Notwithstanding any discussions, memorandum or exchange of correspondence or emails, the Parties shall be legally bound pursuant to the terms of this Agreement only if and when the Parties have been able to negotiate all of the terms and provisions of this Agreement in a manner acceptable to each of the Parties in their respective sole discretion, including, without limitation, all of the exhibits hereto, and each of the Township and Redeveloper have fully executed and delivered to the other (or its attorney) an executed counterpart of this Agreement. Unless and until each of the Township and Redeveloper have fully executed and delivered a counterpart of this Agreement to the other, neither shall have any obligation whatsoever to the other.

16.18 No Restriction on Police Powers. Nothing in this Agreement will in any way limit or affect the right of the Township or any municipal board, department, agency, authority, official, or representative to enforce any generally applicable municipal ordinance, regulation, rule, procedure or other requirement, including, but not limited to, with respect to the Redevelopment Project, the Project Site or Redeveloper.

16.19 Prior Agreements Superseded. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof, except for the terms and conditions of the Settlement Agreement, which continue to be in full force and effect.

**[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.
SIGNATURES APPEAR ON THE FOLLOWING PAGE].**

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date first written above.

Attest:

TOWNSHIP OF BERKELEY HEIGHTS

Angela Lazzari
Registered Municipal Clerk

By: _____
Name: Angie D. Devanney
Title: Mayor

Attest:

LOCKHERN PROPERTY II BH URBAN
RENEWAL LLC

By: _____
Name: Foun-Chung Fan
Title: Managing Member

EXHIBIT A

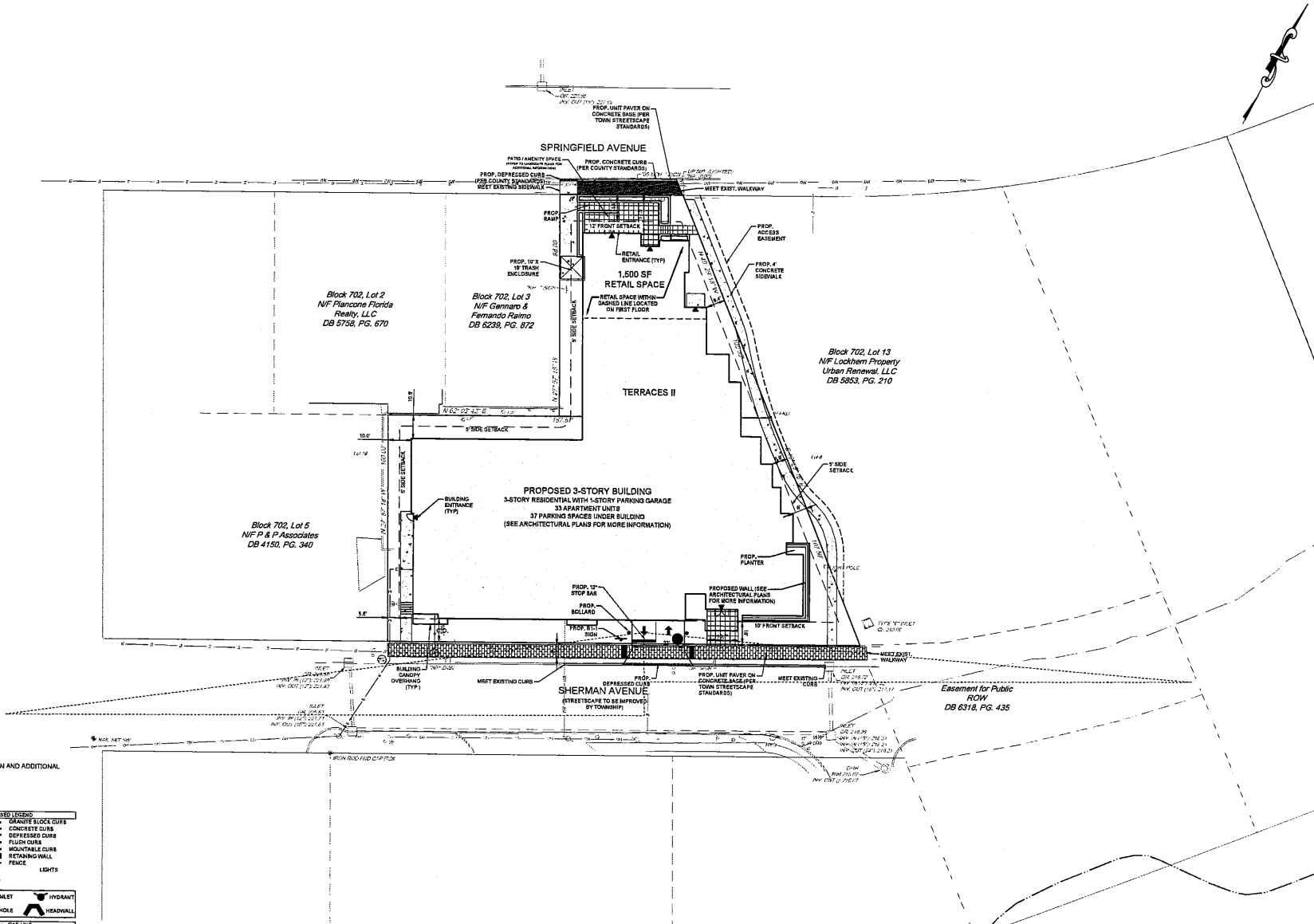
METES AND BOUNDS/SURVEY OF PROJECT SITE
[attached]

EXHIBIT B

CONCEPT PLAN
[attached]

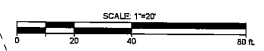
PROJECT NO. 2024-001
 DATE: 10/20/24
 DRAWN BY: J. KELLEY
 CHECKED BY: M. SMITH
 SCALE: AS SHOWN

PROJECT NO. 2024-001
 DATE: 10/20/24
 DRAWN BY: J. KELLEY
 CHECKED BY: M. SMITH
 SCALE: AS SHOWN



NOTE:
 SEE SHEET 4 FOR TIE-IN AND ADDITIONAL
 PARKING PLAN.

PROPOSED LEGEND	
[Symbol]	GRANITE BLOCK CURBS
[Symbol]	CONCRETE CURBS
[Symbol]	DEPRESSED CURBS
[Symbol]	FLUSH CURBS
[Symbol]	MOUNTAIN CURBS
[Symbol]	RETAINING WALL
[Symbol]	FENCE
[Symbol]	LIGHTS
[Symbol]	CURB RAMP
[Symbol]	WATER INLET
[Symbol]	SEWER INLET
[Symbol]	STORM INLET
[Symbol]	MANHOLE
[Symbol]	HEADWALL
[Symbol]	GAS LINE
[Symbol]	WATER LINE
[Symbol]	SANITARY SEWER
[Symbol]	ELEC. TEL. DATA
[Symbol]	STORM SEWER
[Symbol]	NEW VALVE



SEE SHEET 2 OF THIS SET FOR GENERAL NOTES AND REFERENCES
THESE PLANS ARE NOT TO BE USED FOR BID OR CONSTRUCTION

NO.	DATE	REVISION
1		NEW PER COUNTY ENGINEER REVIEW

Bowman

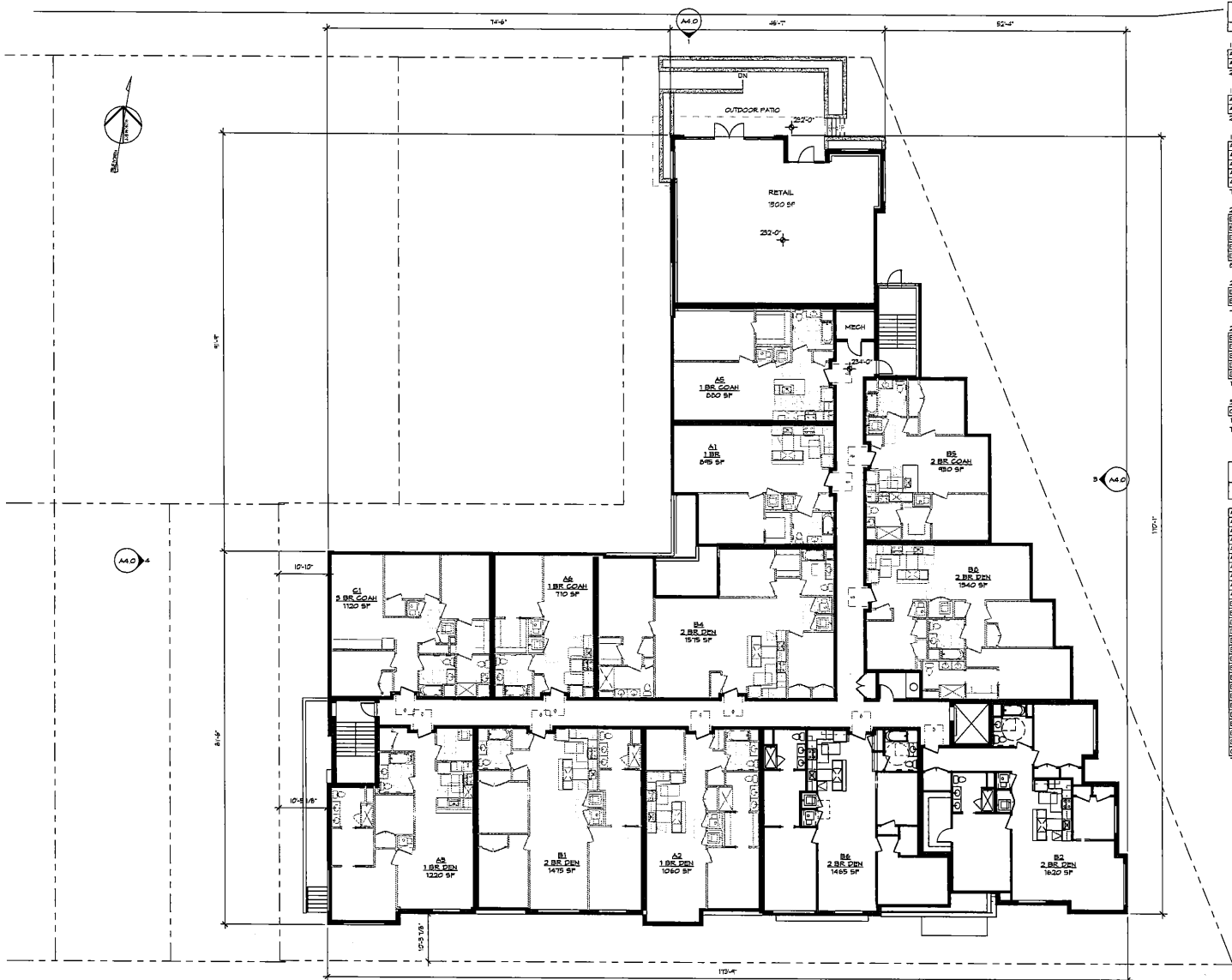
Professional Engineer License No. 26282 (2015-2025)

Bowman Consulting Group, LLC
 1000 N. ...
 ...
 ...

PLANS ARE FINAL FOR SANITARY, SEWER, AND WATER MAIN DESIGN
 PRELIMINARY AND FINAL SITE PLAN FOR
LOCKHERN PROPERTY II, LLC
LAYOUT & DIMENSIONING
 BLOCK 702, LOTS 4 & 6
 TOWNSHIP OF SHERBORN, HIGHLAND COUNTY, FLORIDA

SHEET No.
5
 OF **17**

SPRINGFIELD AVE.



UNIT COUNT BY TYPE	
Name	Count
1 BR	1
A1	1
A2	1
2	2
1 BR COAH	1
A6	1
2	2
1 BR DEN	1
A1	1
A2	2
A3	2
A4	1
A5	1
2 BR	2
B7	1
B8	1
B9	1
B10	1
2 BR COAH	1
B10	1
2 BR DEN	2
B7	2
B8	2
B9	2
B10	2
3 BR COAH	1
C1	1
TOTAL UNITS:	33

UNIT COUNT BY FLOOR	
Type	Count
01 FIRST FLOOR	1
1 BR	1
1 BR COAH	2
1 BR DEN	2
2 BR COAH	2
2 BR DEN	3
3 BR COAH	1
01 FIRST FLOOR: 12	12
02 SECOND FLOOR	4
1 BR	4
2 BR	3
2 BR COAH	2
2 BR DEN	4
02 SECOND FLOOR: 13	13
03 THIRD FLOOR	8
1 BR	1
1 BR DEN	1
2 BR	3
2 BR COAH	1
2 BR DEN	2
03 THIRD FLOOR: 8	8
TOTAL UNITS:	33

UNIT COUNT BY SQUARE FOOTAGE		
Name	Count	Avg. Gross Area (SF)
A1	1	675
A2	1	1100
A3	2	1060
A4	1	1100
A5	1	600
A6	1	1100
A7	1	675
A8	1	1170
A9	1	1470
A10	1	1470
A11	1	1575
A12	1	1575
A13	2	119
A14	2	1575
A15	2	150
A16	1	150
A17	2	355
A18	1	1540
A19	1	1575
A20	1	1022
A21	1	1022
TOTAL UNITS:	33	

AMENITY SPACES	
Name	Area
02 GRAND FLOOR	
CONCRETE	1033 SF
MAINTENANCE	200 SF
ELEVATOR LOBBY	501 SF
01 FIRST FLOOR	1786 SF
RETAIL	1500 SF
02 THIRD FLOOR	1001 SF
CLUB ROOM	1001 SF
Grand Total	4289 SF

OUTDOOR AMENITY AREAS	
Name	Area
01 FIRST FLOOR	651 SF
02 THIRD FLOOR	1401 SF
Grand Total	4152 SF

01 FIRST FLOOR
SCALE: 3/32" = 1/4"

3	FOR SITE PLAN RESUBMISSION	8-10-2024
2	FOR SITE PLAN SUBMISSION	4-21-2024
1	FOR SITE PLAN SUBMISSION	12-8-2023
NO.	REVISION	DATE

FIRST FLOOR PLAN
PROPOSED MULTIFAMILY RESIDENTIAL
TERRACE 2
230 SHERMAN AVE, BERKELEY HEIGHTS, NJ 07822



J.M.B. 10/24

202305.00	CR	6-5-2023	A1.2 DRAWING NO.
PROJECT NO.	DWG. BY	DATE	
CHECKED	SCALE	3/32" = 1/4"	

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AMOUNT SPACES	
TYPE	AMOUNT
00 OUTSIDE FLOOR	1
01 FIRST FLOOR	1
02 SECOND FLOOR	1
03 THIRD FLOOR	1
Grand Total	4

UNIT COUNT BY FLOOR		
FLOOR	TYPE	COUNT
01 FIRST FLOOR	1 BK CON	1
	2 BK CON	2
	3 BK CON	2
	4 BK CON	2
02 SECOND FLOOR	1 BK CON	1
	2 BK CON	2
	3 BK CON	2
	4 BK CON	2
03 THIRD FLOOR	1 BK CON	1
	2 BK CON	2
	3 BK CON	2
	4 BK CON	2
TOTAL UNITS: 20		

UNIT COUNT BY TYPE	
TYPE	COUNT
1 BK CON	1
2 BK CON	2
3 BK CON	2
4 BK CON	2
TOTAL UNITS: 20	

CIRCULAR VENTILATION AREAS	
LOCATION	AREA
01 FIRST FLOOR	1.00 SQ FT
02 SECOND FLOOR	1.00 SQ FT
03 THIRD FLOOR	1.00 SQ FT
Grand Total	3.00 SQ FT

CIRCULAR VENTILATION AREAS	
FLOOR	AREA
01 FIRST FLOOR	1.00 SQ FT
02 SECOND FLOOR	1.00 SQ FT
03 THIRD FLOOR	1.00 SQ FT
TOTAL UNITS: 20	

UNIT COUNT BY SQUARE FOOTAGE	
NO. OF UNITS	SQ. FT.
1	1,100
2	1,100
3	1,100
4	1,100
TOTAL UNITS: 20	

UNIT COUNT BY SQUARE FOOTAGE	
NO. OF UNITS	SQ. FT.
1	1,100
2	1,100
3	1,100
4	1,100
TOTAL UNITS: 20	

UNIT COUNT BY SQUARE FOOTAGE	
NO. OF UNITS	SQ. FT.
1	1,100
2	1,100
3	1,100
4	1,100
TOTAL UNITS: 20	

UNIT COUNT BY SQUARE FOOTAGE	
NO. OF UNITS	SQ. FT.
1	1,100
2	1,100
3	1,100
4	1,100
TOTAL UNITS: 20	

FOR SITE PLAN SUBMISSION	
NO.	DATE
1	10-10-2024
2	11-20-2024
3	12-10-2024

FOR SITE PLAN SUBMISSION	
NO.	DATE
1	10-10-2024
2	11-20-2024
3	12-10-2024

FOR SITE PLAN SUBMISSION	
NO.	DATE
1	10-10-2024
2	11-20-2024
3	12-10-2024

SECOND FLOOR PLAN
 PROPOSED MULTIFAMILY RESIDENTIAL
 TERRACE 2
 205 SHERMAN AVE. BERKELEY HEIGHTS,
 NJ 07003

SECOND FLOOR PLAN
 PROPOSED MULTIFAMILY RESIDENTIAL
 TERRACE 2
 205 SHERMAN AVE. BERKELEY HEIGHTS,
 NJ 07003

SECOND FLOOR PLAN
 PROPOSED MULTIFAMILY RESIDENTIAL
 TERRACE 2
 205 SHERMAN AVE. BERKELEY HEIGHTS,
 NJ 07003

Rotwein+Blake
 ARCHITECTS
 1000 10TH AVENUE, SUITE 1100
 NEW YORK, NY 10018
 TEL: 212-691-1000
 WWW.ROTWEINBLAKE.COM

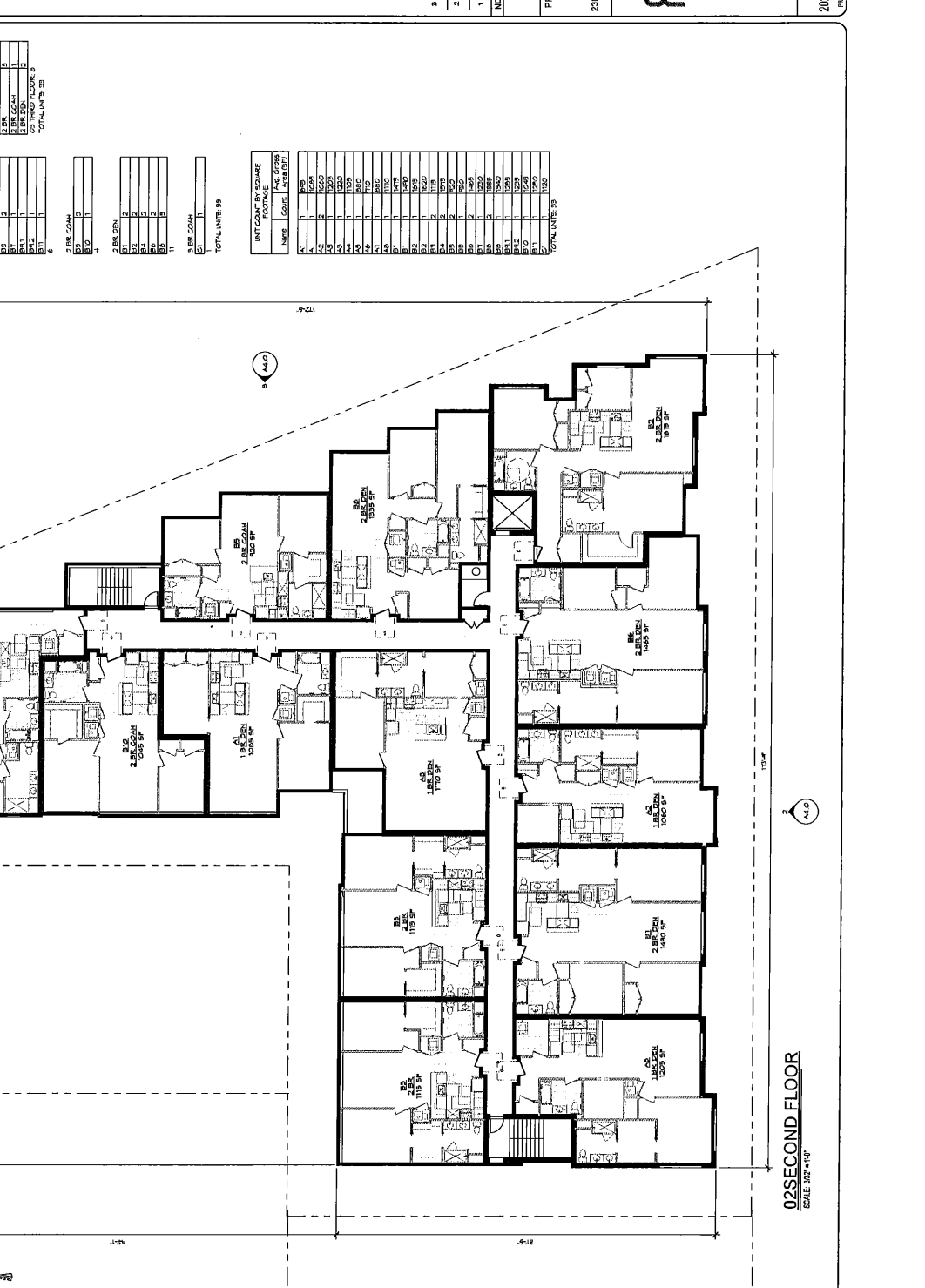
Rotwein+Blake
 ARCHITECTS
 1000 10TH AVENUE, SUITE 1100
 NEW YORK, NY 10018
 TEL: 212-691-1000
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Rotwein+Blake
 ARCHITECTS
 1000 10TH AVENUE, SUITE 1100
 NEW YORK, NY 10018
 TEL: 212-691-1000
 WWW.ROTWEINBLAKE.COM

PROJECT INFO	
CR	DATE
202305.00	10/10/24
PROJECT NO.	DATE

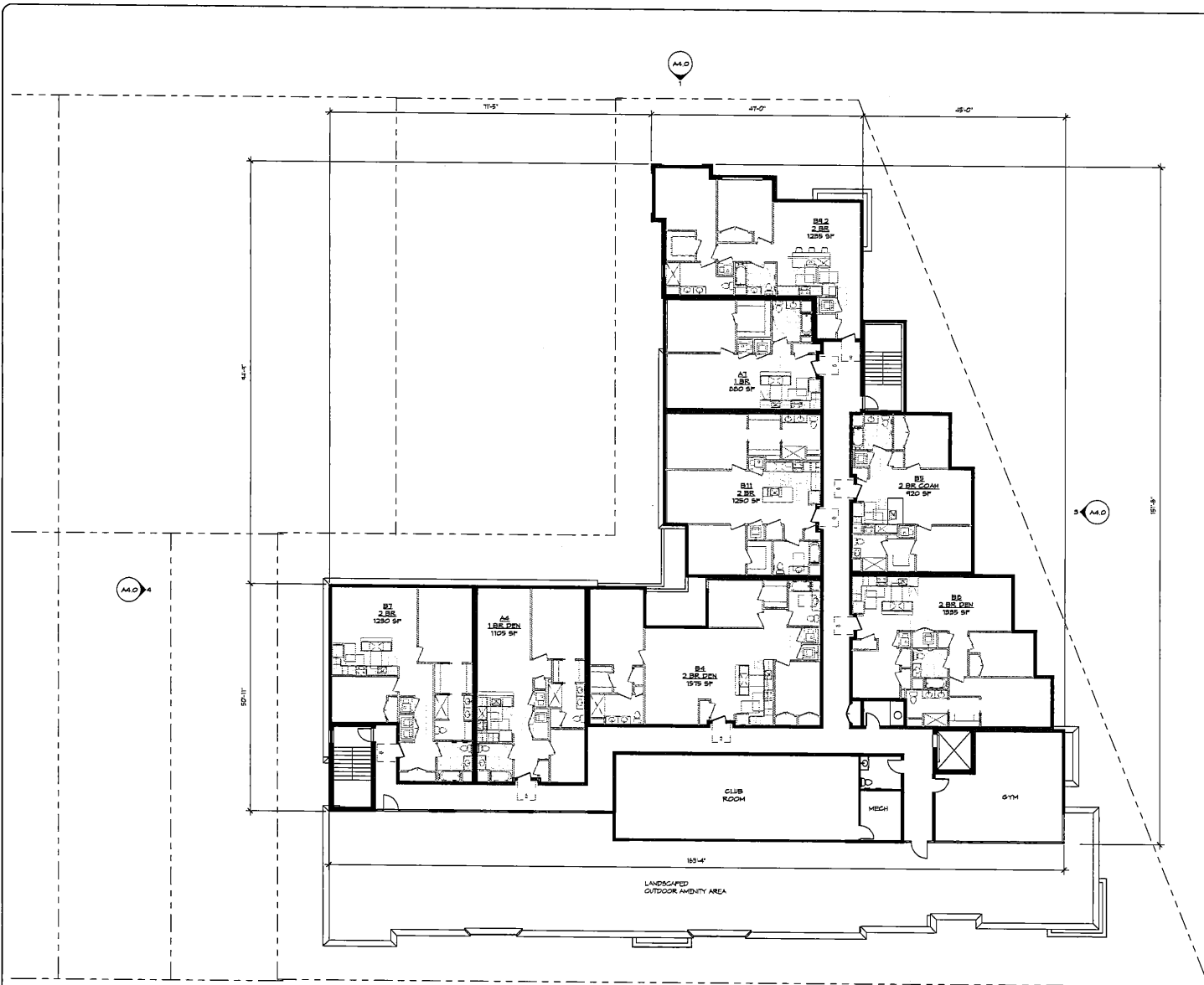
PROJECT INFO	
CR	DATE
202305.00	10/10/24
PROJECT NO.	DATE

PROJECT INFO	
CR	DATE
202305.00	10/10/24
PROJECT NO.	DATE



02 SECOND FLOOR
 SCALE 1/8" = 1'-0"

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03 THIRD FLOOR
SCALE 3/32" = 1'-0"

UNIT COUNT BY TYPE	
Name	Count
1 BR	1
A1	1
2	2
1 BR COAH	1
A5	1
A6	1
2	2

1 BR DEN	1
A1	1
A2	2
A3	2
A4	1
A5	1
2 BR	2
B3	2
B4	1
B5	1
B6	2
B7	1
B8	1
2 BR COAH	1
C1	1

2 BR	2
B3	2
B4	1
B5	1
B6	2
B7	1
B8	1
2 BR COAH	1
B9	1
B10	1
2 BR DEN	2
B1	2
B2	2
B3	2
B4	2
B5	2
1	1

2 BR COAH	1
C1	1

TOTAL UNITS: 33

2 BR COAH	1
B9	1
B10	1
1	1

TOTAL UNITS: 33

UNIT COUNT BY SQUARE FOOTAGE		
Name	Count	Avg Gross Area (SF)

A1	1	1025
A2	2	1250
A3	1	1325
A4	1	1225
A5	1	1105
A6	1	880
A7	1	1170
A8	1	1475
B1	1	1470
B2	1	875
B3	1	1025
B4	2	1115
B5	2	1175
B6	1	820
B7	1	780
B8	2	1465
B9	1	1230
B10	1	1340
B11	1	1235
B12	1	1235
B13	1	1245
B14	1	1250
C1	1	1120

TOTAL UNITS: 33

UNIT COUNT BY FLOOR	
Type	Count

01 FIRST FLOOR	1
1 BR COAH	2
1 BR DEN	2
2 BR COAH	1
2 BR DEN	5
2 BR COAH	1
01 FIRST FLOOR: 12	12

02 SECOND FLOOR	4
1 BR DEN	4
2 BR	5
2 BR COAH	2
2 BR DEN	4
02 SECOND FLOOR: 13	13

03 THIRD FLOOR	1
1 BR	1
1 BR DEN	1
2 BR	9
2 BR COAH	1
2 BR DEN	2
03 THIRD FLOOR: 6	6

TOTAL UNITS: 33

AMENITY SPACES	
Name	Area

00 GROUND FLOOR	
CORNER	1020 SF
MAINTENANCE	200 SF
ELEVATOR LOBBY	801 SF
	1786 SF
01 FIRST FLOOR	1786 SF
RETAIL	1342 SF
	1492 SF
02 SECOND FLOOR	1001 SF
CLUB ROOM	1001 SF
	1001 SF
Ground Total	4229 SF

OUTDOOR AMENITY AREAS	
Level	Area

01 FIRST FLOOR	621 SF
02 SECOND FLOOR	4,061 SF
Ground Total	4,682 SF

3	FOR SITE PLAN RESUBMISSION	9-10-2024
2	FOR SITE PLAN SUBMISSION	4-21-2024
1	FOR SITE PLAN SUBMISSION	12-5-2023
NO.	REVISION	DATE

THIRD FLOOR PLAN
 PROPOSED MULTIFAMILY RESIDENTIAL
TERRACE 2
 230 SHERMAN AVE, BERKELEY HEIGHTS, NJ 07822



J.M.B. 10/23/24

202305.00	CR	8-3-2023	A1.4
	DATE		
PROJECT NO.	CHKD BY	SCALE	DWG NO.



NO.	REVISION	DATE
3	FOR SITE PLAN RESUBMISSION	10-10-2024
2	FOR SITE PLAN SUBMISSION	4-21-2024
1	FOR SITE PLAN SUBMISSION	12-18-2023

SOUTHEAST CORNER
SHERMAN AVENUE
 PROPOSED MULTIFAMILY RESIDENTIAL
TERRACE 2
 230 SHERMAN AVE. BERKELEY HEIGHTS,
 NJ 07922

Rotwein+Blake
 ARCHITECTS
 1000 W. 10TH ST. SUITE 100
 BERKELEY HEIGHTS, NJ 07922
 WWW.ROTWEINBLAKE.COM

J. Rotwein 10/10/24

CR	DATE	SCALE	DRAWING
202305.00			S2.0
PROJECT NO.	CHECKED	SCALE	DRAWING

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3	FOR SITE PLAN RESUBMISSION	6-10-2024
2	FOR SITE PLAN SUBMISSION	4-21-2024
1	FOR SITE PLAN SUBMISSION	12-9-2023
NO.	REVISION	DATE

**NORTHEAST CORNER -
 SPRINGFIELD AVENUE**
 PROPOSED MULTIFAMILY RESIDENTIAL
TERRACE 2
 230 SHERMAN AVE, BERKELEY HEIGHTS,
 NJ 07922

Rotwein+Blake
 14 Morris Road, Suite 8 Livingston, NJ 07033
 PH: 973.763.0701 FAX: 973.763.0714
 www.rwb-ny.com E-MAIL: rwb@rwb-ny.com

J. M. Rotwein 10-2-24

202305.00	CR	09/10/24	S2.1
PROJECT NO.	DRAWN BY	DATE	
	CS		
	CHECKED	SCALE	DRAWING NO.

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3	FOR SITE PLAN RESUBMISSION	8-10-2024
2	FOR SITE PLAN SUBMISSION	4-21-2024
1	FOR SITE PLAN SUBMISSION	12-6-2023

NO.	REVISION	DATE
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**SOUTHWEST CORNER -
SHERMAN AVENUE**
PROPOSED MULTIFAMILY RESIDENTIAL

TERRACE 2
230 SHERMAN AVE, BERKELEY HEIGHTS,
NJ 07822

Rotwein+Blake
41 Morris Road, Suite 9 Livingston, NJ 07033
974.972.1623 FAX 974.972.1700
www.rwb-arch.com EMail rwb@rwb-arch.com

J.M.B. 10/24

202305.00	CR	08/10/24	S2.2
PROJECT NO.	DRAWN BY	DATE	
	LB		
	CHECKED	SCALE	DRAWING NO.

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3	FOR SITE PLAN RESUBMISSION	9-10-2024
2	FOR SITE PLAN SUBMISSION	4-21-2024
1	FOR SITE PLAN SUBMISSION	12-6-2023
NO.	REVISION	DATE

**NORTHWEST CORNER - OFF
 SPRINGFIELD AVENUE**
 PROPOSED MULTIFAMILY RESIDENTIAL
TERRACE 2
 230 SHERMAN AVE, BERKELEY HEIGHTS,
 NJ 07922

RB Rotwein+Blake
 11 Morris Road, Suite 211, Princeton, NJ 08542
 P: 609.778.1415 F: 609.778.0788
 www.rotweinblake.com E: info@rotweinblake.com

J. Blake 10/24

202305.00	DR	09/12/24	S2.3
PROJECT NO.	DRAWN BY	DATE	
	LS	SCALE	DRAWING NO.
	CHECKED		

EXHIBIT C

PROJECT SCHEDULE

<u>Task</u>	<u>Deadline</u>
Redeveloper to apply for the Approvals	Within 3 months of the Effective Date
Redeveloper to apply for a building permit for the Project Improvements	Within 3 months of obtaining all Approvals
Commencement of Construction of the Project Improvements	Within 60 days of obtaining the building permit for the Project Improvements
Completion of construction of the Project Improvements	Within 36 months of Commencement of Construction of the Project Improvements

EXHIBIT D

DECLARATION

Record and Return to:
Matthew D. Jessup, Esq.
McManimon, Scotland & Baumann, LLC
75 Livingston Avenue
Roseland, New Jersey 07068

Prepared by:

Matthew D. Jessup, Esq.

DECLARATION OF COVENANTS AND RESTRICTIONS

Block 702, Lots 4, 6 and 17.01 in the Township of Berkeley Heights, New Jersey (the
“Property”)

This Declaration of Restrictions is made this _____ day of _____, 2026 by and between the **TOWNSHIP OF BERKELEY HEIGHTS** (the “Township”), a municipal corporation of the State of New Jersey having its offices at 29 Park Avenue, Berkeley Heights, New Jersey 07922, in its capacity as redevelopment entity pursuant to *N.J.S.A. 40A:12A-4(c)*;

and

LOCKHERN PROPERTY II BH URBAN RENEWAL LLC, a limited liability company of the State of New Jersey, having its offices at 458 Springfield Avenue, Berkeley Heights, New Jersey 07922 (together with permitted successors or assigns hereinafter provided, referred to as the “Redeveloper”).

W I T N E S S E T H

WHEREAS, on December 20, 2016, the Township Council of the Township (the “Township Council”) adopted Resolution 274-2016, designating Block 702, Lots 13, 17, and 18 on the official tax maps of the Township and portions of Sherman Avenue, Sherman Avenue South, and Lone Pine Drive Right-of-Way as a non-condemnation area in need of redevelopment in accordance with the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the “Redevelopment Law”); and

WHEREAS, the Township Planning Board (the “Planning Board”) subsequently subdivided Lot 17 and Lot 18 into Lot 17.01 and Lot 18.01, respectively, per the minor subdivision application approved on January 13, 2021, and recorded by the subdivision deed dated December 10, 2021; and

WHEREAS, on May 21, 2024, the Township Council adopted Resolution No. 135-2024, designating Block 702, Lots 4, 6, and 16 on the official tax maps of the Township as a non-condemnation area in need of redevelopment in accordance with the Redevelopment Law; and

WHEREAS, on November 5, 2025, the Township Council adopted Ordinance No. 2025-32, approving a redevelopment plan for Block 702, Lots 4, 6 and 17.01 on the official tax maps of the Township (collectively, the “Redevelopment Area” or “Project Site”), entitled, “Terrace II

Redevelopment Plan”, prepared by Harbor Consultants, Inc. (as the same may be amended and supplemented from time to time, the “Redevelopment Plan”); and

WHEREAS, Redeveloper is formed as a limited liability company and as an urban renewal entity under the laws of the State, and is the owner of the Project Site; and

WHEREAS, the Redeveloper entered an agreement in order to develop, construct and implement that certain Project defined in the redevelopment agreement executed by and between the Township and the Redeveloper dated [●], 2026 (the “**Redevelopment Agreement**”) in accordance with *N.J.S.A.* 40A:12A-8(f) of the Redevelopment Law; and

WHEREAS, *N.J.S.A.* 40A:12A-9(a) of the Redevelopment Law requires that all agreements, leases, deeds and other instruments between a municipality and a redeveloper shall contain a covenant running with the land requiring, among other things, that “...the owner shall construct only the uses established in the current redevelopment plan...”; and

WHEREAS, the Redevelopment Agreement requires that such covenants be memorialized in a Declaration of Restrictions and said declaration be recorded in the office of the Union County Clerk,

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

Section 1. Defined terms not otherwise defined herein shall have the meaning assigned to such terms in the Redevelopment Agreement

Section 2. Redeveloper covenants and agrees that, subject to the terms of the Redevelopment Agreement:

(a) Redeveloper shall construct the Project on the Project Site in accordance with, and subject to the terms of, the Redevelopment Plan, the Redevelopment Agreement, and all Applicable Laws.

(b) Redeveloper shall not use the Project Site or any part thereof in a manner that is not in all material respects consistent with the Redevelopment Plan, the Approvals and the Redevelopment Agreement. Redeveloper will construct only those uses established in the Redevelopment Plan or as the Redevelopment Plan may be modified, in writing, by the Township from time to time in accordance with the Redevelopment Law.

(c) Except as permitted in paragraph (d) below, prior to the issuance of a Certificate of Completion for the Project or any part thereof, pursuant to *N.J.S.A.* 40A:12A-9(a), Redeveloper shall not, without the prior written consent of the Township in its reasonable discretion: (i) effect or permit any change, directly or indirectly, in the majority ownership of more than fifty percent (50%) or control of Redeveloper (whether in one transaction or by virtue of the combined effect of more than one transaction), provided, however, that the Township will not unreasonably withhold consent to a transfer of a majority or greater interest in Redeveloper (or in an Affiliate of Redeveloper) to a reputable financial institution for *bona fide* financing purposes, provided that

the current members of Redeveloper remain in control of the entity, (ii) assign or attempt to assign the Redevelopment Agreement or any rights herein, (iii) make any total or partial sale, lease, transfer or conveyance of the whole or any part of its interest in the Project Site or the Redevelopment Project; or (iv) pledge, or transfer all or substantially all of its assets (collectively, a “**Transfer**”). If Redeveloper proposes a Transfer, other than as set forth above, Redeveloper will promptly provide to the Township for its consideration information concerning the proposed transferee, including, but not limited to, current audited financial statements for the proposed transferee and any other documentation reasonably requested by the Township pertaining to the transferee’s identity, principals, qualifications, reputation and financial condition. If a Transfer is approved by the Township, the transferee, by written document acceptable in form and substance to the Township, for itself and its successors and assigns, and for the benefit of the Township, shall expressly assume all of the obligations of Redeveloper under the Redevelopment Agreement applicable to the property interest conveyed with such sale, assignment or transfer and shall agree to be subject to all the conditions and restrictions to which Redeveloper is subject hereunder, including the restrictions regarding the right to subsequent transfers. All relevant instruments and other legal documents proposed to effect any such transfer shall be submitted to the Township, and if the transferee is approved by the Township, such approval shall be indicated to Redeveloper in writing.

(d) Redeveloper, without violating the provisions of paragraph (c), may, subject to the requirements of N.J.S.A. 40A:12A-9(a) effect the following Transfers, to which the Township hereby consents upon receipt of notice thereof, without the necessity of further action by the Township (the “**Permitted Transfers**”): (i) Transfers to an Affiliate of Redeveloper; (ii) leases to residential tenants; (iii) mortgages to secure Institutional Financing for acquisition of the Project Site and/or the construction of the Redevelopment Project; (iv) environmental covenants and restrictions imposed by DEP as a condition of any permit or Approval; (v) any direct or indirect transfer of any interest in Redeveloper to a Person not presently holding an interest in Redeveloper, provided that the transfer is for less than fifty percent (50%) of the ownership interest of Redeveloper and otherwise does not change the control of Redeveloper; (vi) granting of easements, deed restrictions and licenses required for utilities or in connection with development approvals; (vii) transfers by means of inheritance, devise or bequest or by operation of law upon an Immediate Family Member, or a trust established for the benefit of such Immediate Family Member; and (viii) any direct or indirect transfer to a Person of an interest in excess of fifty percent (50%) of the ownership interest of Redeveloper, provided the transferee has the financial capacity and development experience equal to or greater than that of the majority member of Redeveloper as set forth in Section 8.1(h) of the Redevelopment Agreement; and (ix) any contract or agreement which effectuates any of the foregoing exceptions. With respect to any of the Permitted Transfers listed in this Section, Redeveloper shall provide to Township written notice within thirty (30) days of such Permitted Transfer, including a description of the nature of such Permitted Transfer, and the name(s) and address(es) of the transferee parties, individuals and/or entities involved.

(e) Upon issuance of a Certificate of Completion for the Redevelopment Project, Redeveloper shall have the right to sell its interest in the real property.

(f) Redeveloper shall design, implement, complete and operate the Redevelopment Project in compliance with the Redevelopment Agreement and all other Applicable Laws,

ordinances, Approvals, rules, regulations and requirements applicable thereto including but not limited to, such zoning, sanitary, pollution, health, environmental and safety ordinances, laws and such rules and regulations thereunder as shall be binding upon Redeveloper under Applicable Laws. Without limiting the foregoing, Redeveloper shall comply at its own expense with all stormwater regulations, including but not limited to, those pertaining to detention, recharge and water quality.

(g) Redeveloper shall not unlawfully discriminate against or segregate any person, or group of persons, on account of race, color, religion, creed, national origin, ancestry, physical handicap, age, marital status, sex, affectional or sexual orientation in the sale, lease, sublease, rental, transfer, use, occupancy, tenure or enjoyment of the Project Site, nor shall Redeveloper itself, or any person claiming under or through Redeveloper, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location number, use of occupancy of tenants, lessees, subtenants, sublessees, or vendees on the Project Site.

(h) Redeveloper shall not use the Project Site, or any part thereof, as security or collateral for an unrelated transaction.

(i) Redeveloper shall include as part of the Project, affordable housing rental units, which shall be deed restricted in accordance with the terms and conditions of the Redevelopment Agreement.

Section 3. It is intended and agreed that the covenants and restrictions set forth in Section 2 shall be covenants running with the land. All covenants in Section 2, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in the Redevelopment Agreement, shall be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by the Township and its successors and assigns, and any successor in interest to the Property, or any part thereof, against Redeveloper, its successors and assigns and every successor in interest therein, and any party in possession or occupancy of the Property or any part thereof. Notwithstanding the foregoing, the agreements and covenants set forth in Section 2 shall cease and terminate upon the issuance of a Certificate of Completion for such Improvements, provided however, that the covenants in 2(f), (g) and (i) shall remain in effect without limitation as to time.

Section 4. It is intended and agreed that the Township and its successors and assigns shall be deemed beneficiaries of the agreements and covenants set forth in Section 2 both for and in their own right but also for the purposes of protecting the interests of the community and other parties, public or private, in whose favor or for whose benefit such agreements and covenants shall run in favor of the Township for the entire period during which such agreements and covenants shall be in force and effect, without regard to whether the Township has at any time been, remains, or is an owner of any land or interest therein to or in favor of which such agreements and covenants relate.

IN WITNESS WHEREOF, the parties hereto have caused this Declaration of Covenants and Restrictions to be executed in their names by their duly authorized officials or managers, as the case may be, and their corporate seals to be hereunto affixed attested to by their duly authorized officers all as of the date first written above.

Attest:

TOWNSHIP OF BERKELEY HEIGHTS

Angela Lazzari
Township Clerk

By: _____
Angie D. Devanney, Mayor

Witness:

**LOCKHERN PROPERTY II BH URBAN
RENEWAL LLC**

By: _____
Name: Foun-Chung Fan
Title: Managing Member

STATE OF NEW JERSEY :

ss.:

COUNTY OF UNION :

BE IT REMEMBERED, that on this ____ day of _____, 2026 before me, the subscriber, a Notary Public of New Jersey, personally appeared Angie D. Devanney, who, being by me duly sworn on his oath, deposes and makes proof to my satisfaction that he is the Mayor of the **TOWNSHIP OF BERKELEY HEIGHTS, NEW JERSEY**, the entity named in the within Instrument; that the execution, as well as the making of this Instrument, have been duly authorized by the Township of Berkeley Heights and said Instrument was signed and delivered by said Mayor as and for the voluntary act and deed of said entity.

Notary or Attorney At Law
The State of New Jersey

STATE OF NEW JERSEY :

ss.:

COUNTY OF UNION :

BE IT REMEMBERED, that on this ___ day of _____, 2026 before me, the subscriber, a Notary Public of New Jersey, personally appeared Foun-Chung Fan, who, being by me duly sworn on his/her oath, deposes and makes proof to my satisfaction that he is the Managing Member of **LOCKHERN PROPERTY II BH URBAN RENEWAL LLC** the entity named in the within Instrument; that the execution, as well as the making of this Instrument, have been duly authorized by the entity and said Instrument was signed and delivered by said Managing Member as and for the voluntary act and deed of said entity.

Notary or Attorney at Law
The State of New Jersey