

BOROUGH OF BERNARDSVILLE
Mayor & Borough Council Meeting Agenda
October 23, 2023 – 7:00 p.m.

1. CALL MEETING TO ORDER

Mayor Mary Jane Canose
Council Member Jay Ambelang
Council Member Diane Greenfield
Council Member Jena McCredie
Council Member Chad McQueen
Council Member Al Ribeiro
Council Member Christine Zamarra

2. STATEMENT OF PRESIDING OFFICER

Notice of this meeting was provided to the Bernardsville News and Courier News, filed with the Municipal Clerk and posted on the Municipal Bulletin Board on December 15, 2022.

3A. PLEDGE OF ALLEGIANCE

3B. MAYOR'S WELCOME

Welcome to the October 23, 2023 meeting of the Bernardsville Borough Council. This meeting is being conducted in person in the council chambers in Borough Hall and it is being broadcast live on YouTube and on Zoom to make it as convenient as possible for residents to attend the meeting. Members of the public who are here in person and those attending remotely on Zoom will be given the opportunity to comment at appropriate times during the meeting in accordance with the following guidelines:

- Members of the public will be allowed to speak during the “Open Session(s)” and during formal “public hearings” on the agenda including public hearings on ordinances
- Comments will be limited to three minutes per speaker, which will be monitored and enforced by the Borough Clerk
- Comments containing offensive, profane or indecent language or language constituting hate speech, will not be permitted.
- Remote participants will be muted unless they are unmuted by the Clerk, and remote participants will not be able to unmute themselves. The Clerk will mute remote speakers at the expiration of their three minutes of allotted time, or if they make any inappropriate or offensive comments.

- All speakers, whether in person or on Zoom, shall state their names and addresses before making their comments. Speakers on Zoom shall activate their cameras so that they can be seen by members of the governing body and audience.
- Failure of the governing body to provide a live broadcast of this meeting, or technological problems encountered during the course of the meeting that affect remote viewing and/or participation, will not invalidate this meeting or any action taken including, but not limited to, the adoption of any ordinance, resolution or motion.

4. **PRESENTATIONS**

4A. Swearing In of Police Officers, Briana Stednick and Connor Roehr

5. **APPROVAL OF MINUTES**

August 28, 2023 and September 1, 2023

Motion:

Second:

Voice Vote:

6. **OPEN SESSION (FOR ITEMS NOT LISTED FOR A PUBLIC HEARING)**

Spoken comments will be limited to three minutes per speaker.

7. **ORDINANCES (Public Hearing)**

Spoken comments will be limited to three minutes per speaker.

Mayor to continue public hearing from October 10th on Ordinance #2023-1979,
**PROHIBITING SMOKING IN OUTDOOR DINING AREAS IN THE
DOWNTOWN DISTRICT AND AMENDING ARTICLE 12 OF THE BOROUGH
CODE ENTITLED "ZONING"**

Mayor to close public hearing

I move to pass Ordinance #2023-1979 on final reading and adopt as published.

Second:

Roll call vote:

Mayor to continue public hearing from October 10th on Ordinance #2023-1981,
**MAKING DETACHED ACCESSORY DWELLING UNITS A PERMITTED
ACCESSORY USE IN THE R-1 AND R-1-10 ZONES AND SUPPLEMENTING
AND AMENDING ARTICLE 12 OF THE BOROUGH LAND DEVELOPMENT
REGULATIONS ENTITLED “ZONING”**

Mayor to close public hearing

I move to pass Ordinance #2023-1981 on final reading and adopt as published.

Second:
Roll call vote:

Mayor to open the public hearing on Ordinance #2023-1983, **ORDINANCE OF THE
BOROUGH OF BERNARDSVILLE, COUNTY OF SOMERSET, NEW JERSEY,
GRANTING A TAX EXEMPTION WITH RESPECT TO CERTAIN PROPERTY
IDENTIFIED ON THE BOROUGH’S TAX MAP AS BLOCK 125, LOTS 1, 2 AND
3 (35-39 OLCOTT SQUARE AND 5 MORRISTOWN ROAD) AND
AUTHORIZING THE EXECUTION OF A FINANCIAL AGREEMENT WITH
AR AT BERNARDSVILLE URBAN RENEWAL LLC**

Mayor to close public hearing

I move to pass Ordinance #2023-1983 on final reading and adopt as published.

Second:
Roll call vote:

Mayor to open the public hearing on Ordinance #2023-1984, **AN ORDINANCE
ADOPTING REGULATIONS FOR PRIVATELY-OWNED SALT STORAGE
AND SUPPLEMENTING AND AMENDING CHAPTER 22 OF THE BOROUGH
CODE ENTITLED “STORMWATER REGULATIONS”**

Mayor to close public hearing

I move to pass Ordinance #2023-1984 on final reading and adopt as published.

Second:
Roll call vote:

ORDINANCES (Introduction)

I move that Ordinance #2023-1985, **AMENDING ORDINANCE #2023-1977, WHICH APPROPRIATED \$150,000 FOR LIBRARY BUILDING PUBLIC RESTROOM RENOVATIONS** be introduced by title, passed on first reading, published according to law, and that a public hearing be scheduled for a meeting beginning at 7:00 p.m., Monday, November, 13, 2023.

Second:
Voice Vote:

8. RESOLUTIONS

#23-196 AUTHORIZING PAYMENT OF BILLS

#23-197 RESOLUTION AUTHORIZING THE PROVISION OF A GRANT PURSUANT TO THE BOROUGH OF BERNARDSVILLE AFFORDABILITY ASSISTANCE PROGRAM FOR CODE COMPLIANCE / EMERGENCY REPAIRS OF AN AFFORDABLE HOUSING UNIT LOCATED AT 19E FOX HOLLOW TRAIL, BERNARDSVILLE, NJ 07924

#23-198 ACCEPTING THE 2023 EMERGENCY OPERATION PLAN (EOP) FOR THE BOROUGH OF BERNARDSVILLE

#23-199 AMENDING THE HOURLY RATE OF SLEO III's

#23-200 REGARDING EMPLOYEE APPOINTMENTS FOR QPA, PAYROLL, FINANCE, AND PLANNING/ZONING

#23-201 MEMORIALIZING THE APPOINTMENT OF JULIE MISTOVE AS TAX CLERK/ADMINISTRATIVE ASSISTANT

#23-202 MEMORIALIZING THE APPOINTMENT OF CHIANA ARMENTI AS CONSTRUCTION DEPARTMENT ASSISTANT

#23-203 ACCEPTING A DONATION TO THE BERNARDSVILLE POLICE DEPARTMENT

#23-204 APPOINTING CLASS III SPECIAL POLICE OFFICER

- #23-205 AUTHORIZING A TRANSFER OF FUNDS**
- #23-206 AWARDED A CONTRACT FOR EXCAVATION OF TEST PITS**
- #23-207 AUTHORIZING THE PURCHASE OF A 2024 FORD F250 PICKUP TRUCK THROUGH STATE CONTRACT**
- #23-208 APPOINTING DENISE CHARLTON AS TEMPORARY, PART TIME, TECHNICAL ASSISTANT TO THE CONSTRUCTION OFFICIAL (TACO)**
- #23-209 A RESOLUTION AUTHORIZING THE BOROUGH OF BERNARDSVILLE TO ESTABLISH A COMMODITY RESALE SYSTEM AND TO ENTER INTO A COMMODITY RESALE AGREEMENT WITH THE SOMERSET HILLS BOARD OF EDUCATION**
- #23-210 RESOLUTION TERMINATING SHARED SERVICES AGREEMENT WITH BERNARDS TOWNSHIP FOR FIRE PREVENTION**
- #23-211 AWARDED A CONTRACT FOR MUNICIPAL PARKING LOT SNOW PLOWING AND SIDEWALK CLEARING**
- #23-212 AUTHORIZING THE MAYOR AND CLERK TO SIGN A SHARED SERVICES AGREEMENT WITH LONG HILL TOWNSHIP FOR STYROFOAM RECYCLING**
- #23-213 AUTHORIZING THE MAYOR TO SIGN A GRANT APPLICATION FOR AN ELECTRIC VEHICLE**
- #23-214 AMENDING THE PROFESSIONAL SERVICES CONTRACT WITH STORMWATER COMPLIANCE SOLUTIONS**
- #23-215 AUTHORIZING A GRANT APPLICATION TO NJDEP FOR STORMWATER MANAGEMENT**

I move that Resolutions #23-196 to #23-215 be adopted:

Second:

Roll call vote:

9. REPORTS

9A. Mayor's Update

9B. Administrator's Report

- **ACCEPTING DEPARTMENT MONTHLY REPORTS**

- Animal Control (September)

- Construction (September)

- Court (September)

- Facilities/Public Works (September)

- Police (September)

- Zoning Applications (September)

- Zoning Enforcement/Violations (September)

- Rental Inspections (September)

- Motion:

- Second:

- Voice Vote:

9C. Municipal Attorney

9D. Council Public Safety Committee

9E. Council Finance Committee

9F. Council Organization Development and Personnel Committee

9G. Council Engineering, Technology & Public Works Committee

9H. Land Use Committee

9I. Other committee/commission reports

9I1. Council Liaison Reports

10. ITEMS OF BUSINESS

10A. Holly Days/Tree Lighting

10B. Parking Lots (ParkMobile)

10C. Request for Crosswalk Across Essex Avenue

10D. Best Practices

10E. Correspondence

10E (1). Letter from Aaron Duff, re: PILOT ordinance

10E (2). Letter from Daniel Woods, re: PILOT ordinance & redevelopment

10F. Unfinished Business

10G. New Business

11. **OPEN SESSION (FOR ITEMS NOT LISTED FOR A PUBLIC HEARING)**

See instructions in #6 first open session

12. **CLOSED SESSION**

Council Member _____ moves, to adjourn to an executive session to consider:

Personnel Matters, Contract Negotiations, and Property Acquisition

(Collective Bargaining, Contract negotiations, Personnel Matters, Pending or Anticipated Litigation, Property Acquisition, Attorney/Client Privilege), and that the time when and circumstances under which the matter can be disclosed to the public is when it (they) are finally resolved.

Seconded:

Vote:

13. **REOPEN AND ADJOURNMENT**

**BERNARDSVILLE BOROUGH
ORDINANCE 2023-1979**

**PROHIBITING SMOKING IN OUTDOOR DINING AREAS IN THE
DOWNTOWN DISTRICT AND AMENDING ARTICLE 12 OF THE
BOROUGH CODE ENTITLED “ZONING”**

WHEREAS, section LD-12-12.9 of the Borough Land Development Regulations which regulates outdoor dining does not currently prohibit smoking; and

WHEREAS, the governing body believes that smoking in outdoor dining areas affects the health, comfort and convenience of staff members and other patrons of the restaurant and should be prohibited;

NOW THEREFORE, BE IT ORDAINED by the Council of the Borough of Bernardsville in the County of Somerset, State of New Jersey that the Borough Land Development Regulations are hereby supplemented and amended as follows:

Section 2. Paragraph “b” of section LD-12-12.9 entitled “Outdoor Dining” is hereby supplemented and amended by adding a new paragraph “g”, which reads as follows:

“§ LD-12-12.9 Outdoor Dining.

Outdoor Dining shall be permitted within the Downtown District as accessory to an existing indoor restaurant only subject to the following regulations:

g. Smoking and the use of smokeless tobacco products is prohibited in all outdoor dining areas. For purposes of this section, “smoking” shall mean the inhaling, exhaling, burning, or carrying of a lighted or heated cigar, cigarette, pipe, electronic smoking device, or any other tobacco or plant product intended for human consumption through inhalation, in any manner or in any form.

Section 2. Any or all other ordinances or parts thereof in conflict or inconsistent with any of the terms hereof are hereby repealed to such extent as they are so in conflict or inconsistent.

Section 3. In case any article, section or provision of this ordinance shall be held invalid in any court of competent jurisdiction, the same shall not affect any other article, section or provision of this ordinance except insofar as the article, section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

Section 4. This ordinance shall become effective immediately upon final passage and publication as required by law.

ATTEST:

COUNCIL OF THE BOROUGH OF
BERNARDSVILLE IN THE COUNTY
OF SOMERSET

Anthony Suriano, Borough Clerk

By: _____
Mary Jane Canose, Mayor

1st Reading and Introduction: _____

1st Publication: _____

Referral to Planning Board: _____

Notice to County Planning Board Prior to Adoption: _____

Notice to Clerks of Adjoining Municipalities (if required): _____

Notice to Affected Property Owners (if required): _____

2nd Reading and Adoption: _____

2nd Publication: _____

Filing with County Planning Board: _____

**THE PLANNING BOARD OF THE
BOROUGH OF BERNARDSVILLE**

**RESOLUTION #2023-17 OF THE PLANNING BOARD OF THE
BOROUGH OF BERNARDSVILLE FINDING THAT ORDINANCE
NO. 2023-1979, PROHIBITING SMOKING IN OUTDOOR DINING
AREAS IN THE DOWNTOWN DISTRICT AND AMENDING
ARTICLE 12 OF THE BOROUGH CODE ENTITLED "ZONING",
IS NOT INCONSISTENT WITH THE BOROUGH'S MASTER PLAN**

WHEREAS, on September 11, 2023, at a duly noticed and constituted public meeting, the Borough Council of the Borough of Bernardsville (the "Borough Council") introduced, on first reading, proposed Ordinance No. 2023-1979 (the "Proposed Ordinance"), which would amend the zoning ordinance to prohibit smoking in outdoor dining areas in the downtown zone districts; and

WHEREAS, after introduction, the Borough Council referred the Proposed Ordinance to the Planning Board of the Borough of Bernardsville (the "Board") for Master Plan consistency review, pursuant to N.J.S.A. 40:55D-26(a) and N.J.S.A. 40:55D-64; and

WHEREAS, on October 12, 2023, at a duly noticed and constituted public meeting, the Board considered the testimony of the Board Planner and any comments from members of the public and determined that the Proposed Ordinance is not inconsistent with the Borough's Master Plan.

NOW, THEREFORE, BE IT RESOLVED by the Board as follows:

Section 1. The foregoing recitals are incorporated herein as if set forth in full;

Section 2. The Board hereby finds and determines that Ordinance No. 2023-1979, which is attached hereto as **Exhibit A**, is not inconsistent with the Borough's Master Plan;

Section 3. The Recording Secretary of the Board shall forward a copy of this Resolution with the attached Ordinance to the Borough Council. This Resolution shall serve as the report to the governing body in accordance with N.J.S.A. 40:55D-26(a) and N.J.S.A. 40:55D-64; and

Section 4. This Resolution shall take effect immediately.

ROLL CALL VOTE:

Those in Favor: Canose, Graham, Kellogg, McQueen, Otteau, and Simoff

Those Opposed: None.

The foregoing is a true copy of a Resolution adopted by the Planning Board of the Borough of Bernardsville at its meeting on October 12, 2023.



Denise Filardo, Recording Secretary

Dated: October 20, 2023

**BERNARDSVILLE BOROUGH
ORDINANCE #2023-1981**

**MAKING DETACHED ACCESSORY DWELLING UNITS A PERMITTED
ACCESSORY USE IN THE R-1 AND R-1-10 ZONES AND SUPPLEMENTING AND
AMENDING ARTICLE 12 OF THE BOROUGH LAND DEVELOPMENT
REGULATIONS ENTITLED “ZONING”**

WHEREAS, the Borough Planning Board in its Resolution #2023-14 finding that Ordinance No. 2023-1974 is not inconsistent with the master plan went on to recommend that “the Borough Council consider, from a policy perspective, whether it desires to continue treating detached accessory dwelling units as conditional uses, which requires Planning Board application even for fully conforming conditional uses, or alternatively to designate same as permitted accessory uses, which would only require a land use board application in the event of some other relief being necessitated by the development project”; and

WHEREAS, the governing body has determined that detached accessory dwelling units should be a permitted accessory use in the R-1 and R-1-10 zones;

NOW THEREFORE, BE IT ORDAINED by the Council of the Borough of Bernardsville in the County of Somerset, State of New Jersey that Article 12 of the Borough Land Regulations entitled “Zoning” are hereby amended as follows:

Section 1. Section LD-12-5.1 entitled “Permitted Primary Use [in the R-1 Residence District] is hereby amended as follows:

§ LD-12-5 R-1 RESIDENCE DISTRICT.

§ LD-12-5.1 Primary Intended Use.

This zone district is designed for single family residential use but permits:

f. Accessory Dwelling Units, Detached.

Accessory Dwelling Unit, Detached. Accessory dwelling units created pursuant to

this section shall comply with the provisions of the New Jersey Uniform Construction Code (N.J.A.C. 5:23). For purposes of this section, "living area" shall mean all rooms and enclosed floor space within a dwelling unit used or designed to be used for living, sleeping, cooking or eating purposes, including bathrooms, laundries, pantries, foyers, communicating corridors, closets and storage space, excluding unfinished basements, garages, unfinished storage areas and other unfinished areas. The following conditions shall be met:

1. A detached accessory dwelling unit shall only be permitted on lots containing at least double the minimum area required by Subsection 12-5.3g.
2. There shall be no more than one principal residence and one detached accessory dwelling unit on any one property.
3. The detached accessory dwelling unit shall not be occupied by more than four persons.
4. The living area of a newly constructed or converted detached accessory dwelling unit shall not exceed 1,500 square feet.
5. A newly constructed accessory dwelling unit or proposed conversion of an existing building to an accessory dwelling unit must meet the setback requirements of a principal building.
6. No lot containing a principal residence and a detached accessory dwelling unit shall be subdivided unless each resulting lot with its improvements complies in all respects with the requirements of this section and the requirements of the R-1 Residence District.
9. Prior to issuance of a building permit for the detached accessory dwelling unit, a new deed shall be recorded in the Somerset County Clerk's Office containing a restriction stating that the detached accessory dwelling unit must be used in strict compliance with this section.

~~g.h.~~ Conditional Uses pursuant to § 12-25, limited to the following:

~~6. Accessory Dwelling Unit, Detached.~~

Section 2. Section LD-12-6.1 entitled "Permitted Primary Use [in the R-1A Residence District] is hereby amended as follows:

§ LD-12-6 R-1A RESIDENCE DISTRICT.

§ LD-12-6.1 Primary Intended Use.

This zone district is designed for single family residential use but permits any use as permitted and regulated in R-1 Residence District, except for detached accessory dwelling units, including conditional uses pursuant to § 12-25 limited to the following:

§ LD-12-6.2 Prohibited Uses.

*Any use other than those permitted in Subsection ~~12-5.1~~ **12-6.1** is prohibited.*

Section 4. Section LD-12-22.1 entitled “Permitted Primary Uses [in the R-1-10 Residence District] is hereby amended as follows:

§ LD-12-22 R-1-10 RESIDENCE DISTRICT.

§ LD-12-22.1 Primary Intended Uses.

This zone district is designed for single family residential use but permits:

f. Accessory Dwelling Units, Detached.

Accessory Dwelling Unit, Detached. Accessory dwelling units created pursuant to this section shall comply with the provisions of the New Jersey Uniform Construction Code (N.J.A.C. 5:23). For purposes of this section, "living area" shall mean all rooms and enclosed floor space within a dwelling unit used or designed to be used for living, sleeping, cooking or eating purposes, including bathrooms, laundries, pantries, foyers, communicating corridors, closets and storage space, excluding unfinished basements, garages, unfinished storage areas and other unfinished areas. The following conditions shall be met:

1. A detached accessory dwelling unit shall only be permitted on lots containing at least double the minimum area required by Subsection 12-22.3g.
2. There shall be no more than one principal residence and one detached accessory dwelling unit on any one property.
3. The detached accessory dwelling unit shall not be occupied by more than four persons.

4. The living area of a newly constructed or converted detached accessory dwelling unit shall not exceed 1,500 square feet.

5. A newly constructed accessory dwelling unit or proposed conversion of an existing building to an accessory dwelling unit must meet the setback requirements of a principal building.

6. No lot containing a principal residence and a detached accessory dwelling unit shall be subdivided unless each resulting lot with its improvements complies in all respects with the requirements of this section and the requirements of the R-1 Residence District.

9. Prior to issuance of a building permit for the detached accessory dwelling unit, a new deed shall be recorded in the Somerset County Clerk's Office containing a restriction stating that the detached accessory dwelling unit must be used in strict compliance with this section.

f.g. Other accessory uses customarily incident to the above uses provided they do not include any activity commonly conducted for gain unless specifically permitted in this Article.

g.h. Conditional Uses pursuant to § 12-25, limited to the following:

6. *Accessory Dwelling Unit, Detached.*

Section 5. Paragraph “m” of is hereby repealed:

§ LD-12-25.2 Conditional Uses Permitted.

m. [Reserved]

Accessory Dwelling Unit, Detached. Accessory dwelling units created pursuant to this chapter shall comply with the provisions of the New Jersey Uniform Construction Code (N.J.A.C. 5:23). For purposes of this section, "living area" shall mean all rooms and enclosed floor space within a dwelling unit used or

designed to be used for living, sleeping, cooking or eating purposes, including bathrooms, laundries, pantries, foyers, communicating corridors, closets and storage space, excluding unfinished basements, garages, unfinished storage areas and other unfinished areas. The following conditions shall be met:

1. — A detached accessory dwelling unit shall only be permitted in the R-1 and R-1-10 Residence Districts on lots containing at least double the minimum area required by Subsections 12-5.3g and 12-22.3g.

2. — There shall be no more than one principal residence and one detached accessory dwelling unit on any one property.

3. — The detached accessory dwelling unit shall be for the sole use of the on-site domestic employees, members of the immediate family or nonpaying short-term guests of the resident of the principal residence, except when the Owner is approved to rent units under the Borough's Accessory Apartment Program. In any event, the detached accessory dwelling unit shall not be occupied by more than four persons.

4. — The living area of a newly constructed or converted detached accessory dwelling unit shall not exceed 1,500 square feet.

5. — A newly constructed accessory dwelling unit or proposed conversion of an existing building to an accessory dwelling unit must meet the setback requirements of a principal building.

6. — The dwelling structure shall comply with the Uniform Construction Code and Uniform Fire Code Requirements to the extent required by the Construction Official.

7. — No lot containing a principal residence and a detached accessory dwelling unit shall be subdivided unless each resulting lot with its improvements complies in all respects with the requirements of this section and the requirements of the R-1 Residence District or R-1-10 District.

8. — The applicant shall submit at the time of seeking conditional use approval, and annually thereafter, a certification on forms provided by the Borough, as follows:

(a) — That the detached accessory dwelling unit is occupied by on-site domestic employees of the residents of the principal residence or by members of the immediate family or short-term, nonpaying guest of the residents of the principal residence, except when the Owner is approved to rent units under the Borough's Accessory Apartment Program. In any

~~event, the detached accessory dwelling unit shall be occupied by no more than four persons.~~

~~(b) — That the detached accessory dwelling unit is not a rental unit and no rent is paid on account of the occupancy of the accessory apartment, except when the Owner is approved to rent units under the Borough's Accessory Apartment Program.~~

~~(c) — That the living area of the detached dwelling unit is not a rental unit and no rent is paid on account of the occupancy of the accessory apartment, except when the Owner is approved to rent units under the Borough's Accessory Apartment Program.~~

~~(d) — That upon any violation of this section or the certification, determined by the appropriate Borough official, the violation shall be abated and the owner shall be subject to the penalties set forth in Article 16 of this Code.~~

~~9. — Prior to issuance of a building permit for the detached accessory dwelling unit, a new deed shall be recorded in the Somerset County Clerk's Office containing a restriction stating that the detached accessory dwelling unit must be used in strict compliance with this section.~~

Section 6. Any or all other ordinances or parts thereof in conflict or inconsistent with any of the terms hereof are hereby repealed to such extent as they are so in conflict or inconsistent.

Section 7. In case any article, section or provision of this ordinance shall be held invalid in any court of competent jurisdiction, the same shall not affect any other article, section or provision of this ordinance except insofar as the article, section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

Section 8. This ordinance shall become effective immediately upon final passage and publication as required by law.

COUNCIL OF THE BOROUGH OF
BERNARDSVILLE IN THE COUNTY
OF SOMERSET

ATTEST:

Anthony Suriano, Borough Clerk

By: _____
Mary Jane Canose, Mayor

1st Reading and Introduction:

1st Publication:

Referral to Planning Board: _____

Amended: _____

Notice to County Planning Board Prior to Adoption:

*Notice to Clerks of Adjoining Municipalities (if
required):* _____

Notice to Affected Property Owners (if required):

2nd Reading of Ordinance as Amended and Adoption:

2nd Publication:

Filing with County Planning Board:

**THE PLANNING BOARD OF THE
BOROUGH OF BERNARDSVILLE**

**RESOLUTION #2023-18 OF THE PLANNING BOARD OF THE BOROUGH
OF BERNARDSVILLE FINDING THAT ORDINANCE NO. 2023-1981,
MAKING DETACHED ACCESSORY DWELLING UNITS A
PERMITTED ACCESSORY USE IN THE R-1 AND R-1-10 ZONES AND
SUPPLEMENTING AND AMENDING ARTICLE 12 OF THE BOROUGH
LAND DEVELOPMENT REGULATIONS ENTITLED "ZONING", IS
NOT INCONSISTENT WITH THE BOROUGH'S MASTER PLAN**

WHEREAS, on September 11, 2023, at a duly noticed and constituted public meeting, the Borough Council of the Borough of Bernardsville (the "Borough Council") introduced, on first reading, proposed Ordinance No. 2023-1981 (the "Proposed Ordinance"), which would amend the zoning ordinance making detached accessory dwelling units a permitted accessory use in the R-1 and R-1-10 zones; and

WHEREAS, after introduction, the Borough Council referred the Proposed Ordinance to the Planning Board of the Borough of Bernardsville (the "Board") for Master Plan consistency review, pursuant to N.J.S.A. 40:55D-26(a) and N.J.S.A. 40:55D-64; and

WHEREAS, on October 12, 2023, at a duly noticed and constituted public meeting, the Board considered the testimony of the Board Planner and any comments from members of the public and determined that the Proposed Ordinance is not inconsistent with the Borough's Master Plan.

NOW, THEREFORE, BE IT RESOLVED by the Board as follows:

Section 1. The foregoing recitals are incorporated herein as if set forth in full;

Section 2. The Board hereby finds and determines that Ordinance No. 2023-1981, which is attached hereto as **Exhibit A**, is not inconsistent with the Borough's Master Plan; and the Board made a recommendation that a supplemental ordinance be prepared removing "Detached Accessory Dwelling Unit" from the Conditional Use Section of the Ordinance (LD12-25.2.m) to the Permitted Accessory Use sections of the respective R-1 and R-1-10 Zones.

Section 3. The Recording Secretary of the Board shall forward a copy of this Resolution with the attached Ordinance to the Borough Council. This Resolution shall serve as the report to the governing body in accordance with N.J.S.A. 40:55D-26(a) and N.J.S.A. 40:55D-64; and

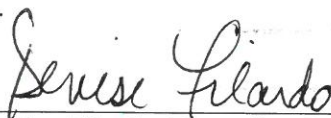
Section 4. This Resolution shall take effect immediately.

ROLL CALL VOTE:

Those in Favor: Canose, Graham, McQueen, Otteau, and Simoff.

Those Opposed: Kellogg.

The foregoing is a true copy of a Resolution adopted by the Planning Board of the Borough of Bernardsville at its meeting on October 12, 2023.



Denise Filardo, Recording Secretary

Dated: October 20, 2023

ORDINANCE #2023-1983

ORDINANCE OF THE BOROUGH OF BERNARDSVILLE, COUNTY OF SOMERSET, NEW JERSEY, GRANTING A TAX EXEMPTION WITH RESPECT TO CERTAIN PROPERTY IDENTIFIED ON THE BOROUGH'S TAX MAP AS BLOCK 125, LOTS 1, 2 AND 3 (35-39 OLCOTT SQUARE AND 5 MORRISTOWN ROAD) AND AUTHORIZING THE EXECUTION OF A FINANCIAL AGREEMENT WITH AR AT BERNARDSVILLE URBAN RENEWAL LLC

WHEREAS, the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.*, as amended and supplemented (the “**Redevelopment Law**”), authorizes municipalities to determine whether certain parcels of land in the municipality constitute areas in need of rehabilitation or redevelopment; and

WHEREAS, on September 12, 2022, the Borough Council of the Borough of Bernardsville (the “**Borough Council**”) adopted Resolution #22-185 designating certain properties located within the downtown core area of the Borough of Bernardsville (the “**Borough**”) located at 35-39 Olcott Square and 5 Morristown Road and further identified as Block 125, Lots 1, 2 and 3 (a/k/a Lots 1 and 3) (the “**Property**”) as “an area in need of redevelopment” without condemnation; and

WHEREAS, subsequently Resolution #22-209 adopted by the Borough Council on October 24, 2022 authorized Burgis Associates to prepare a redevelopment plan on its behalf; and

WHEREAS, the Borough Council by Ordinance #2023-1960 adopted the redevelopment plan for the Property titled “Palmer Square Redevelopment Plan” (the “**Redevelopment Plan**”) in order to effectuate a plan that is consistent with the goals and objectives of the Borough for the redevelopment of the Property; and

WHEREAS, pursuant to N.J.S.A. 40A:12-4, the Borough is acting as the Redevelopment Entity (as such term is defined in the Redevelopment Law) for the Property; and

WHEREAS, an affiliate of AR at Bernardsville Urban Renewal LLC (the “**Entity**”) has an interest in the Property pursuant to a ground lease between Palmer Enterprises, L.L.C. as Lessor, and AR at Bernardsville LLC (the “**Redeveloper**”) as Lessee, dated as of November 10, 2021, a memorandum of which is recorded with the Somerset County Office of the Clerk at Book 7400, Page 2403; and

WHEREAS, the Redeveloper and the Borough entered into a redevelopment agreement dated August 29, 2023 (the “**Redevelopment Agreement**”) to provide the terms and conditions for a redevelopment project on the Property generally consisting of (i) a multi-family residential component with a maximum of 68 dwelling units, including approximately 12 one-bedroom units, approximately 47 two-bedroom units, and approximately 9 three-bedroom units, or such other appropriate mix of one-bedroom, two-bedroom, and three-bedroom units as approved by the Parties and in compliance with the Redevelopment Plan; (ii) a minimum of 8,000 square feet

of Frontage (as defined in the Redevelopment Plan); (iii) public and privately owned landscaped and hardscaped improvements to be further detailed in the site plan application; (iv) related improvements and amenities; and (v) a commercial component with a minimum of 8,000 square feet, located primarily on the ground level (the “**Project**”); and

WHEREAS, in order to ensure the financial feasibility of the Project, the Entity made application to the Borough requesting a long-term tax exemption and financial agreement pursuant to the Long-Term Tax Exemption Law, *N.J.S.A. 40A:20-1 et seq.*, which application is on file with the Borough Clerk (the “**Application**”); and

WHEREAS, upon review of the Application and the Project, the Township has made the following findings:

A. Relative Benefits of the Project:

The Property is currently underutilized and will benefit from the construction of the Project, which will generate revenue and create jobs. Furthermore, the Property currently generates approximately \$67,622 annually in real estate taxes. Upon completion, the Project would generate an initial annual service charge of approximately \$393,000 at stabilization, as well as total annual service charges of more than \$17,400,000.00 over the thirty (30) year term of the tax exemption.

B. Assessment of the importance of the tax exemption in obtaining development of the Project and influencing the locational decisions of probable occupants:

The Entity is making a significant equity contribution toward the cost of the Project. In order to improve the economic viability of the development of the Project so that the Project can compete on an equitable footing with comparable projects within the Borough and surrounding market, the Borough has agreed to provide the tax exemption for the Project pursuant to the Financial Agreement. The stability and predictability of the tax exemption and payment of the annual service charge will make the Project more competitive thereby contributing to the overall success of the Project; and

WHEREAS, the Entity has represented to the Borough that the Project would not be feasible in its intended scope but for the provision of financial assistance by the Borough; and

WHEREAS, after review of the Application, the Mayor recommended that the Application be approved; and

WHEREAS, after review of the Application, the Borough Council now desires to approve the Application and to authorize the execution of the proposed form of financial agreement in substantially the form attached hereto as Exhibit A (the “**Financial Agreement**”); and

WHEREAS, the Borough hereby determines that the assistance provided to the Project pursuant to the Financial Agreement will be a significant inducement for the Entity to proceed with the Project and that based on information set forth in the Application, the Project would not be feasible without such assistance,

NOW, THEREFORE, BE IT ORDAINED by the Municipal Council of the Borough of Bernardsville, in the County of Somerset, New Jersey, as follows:

I. GENERAL

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

II. APPLICATION FOR EXEMPTION APPROVED

The Application, which is on file with the Borough Clerk and which has been recommended for approval to the Borough Council by the Mayor, is hereby accepted and approved.

III. EXECUTION OF FINANCIAL AGREEMENT AUTHORIZED

- (a) The Mayor is hereby authorized to execute the Financial Agreement, substantially in the form attached hereto as **Exhibit A**, subject to modification or revision deemed necessary or appropriate by the Borough in consultation with counsel, and to take all other necessary or appropriate action to effectuate such Financial Agreement.
- (b) The Borough Clerk is hereby authorized and directed, upon the execution of the Financial Agreement in accordance with the terms of Section III(a) hereof, to attest to the signature of the Mayor upon such document and is hereby further authorized and directed to affix the corporate seal of the Borough upon such document.
- (c) In accordance with N.J.S.A. 40A:20-12, within ten (10) calendar days following the later of the effective date of this Ordinance or the execution of the Financial Agreement by the Entity, the Borough Clerk shall transmit a certified copy of this Ordinance and the Financial Agreement to the chief financial officer of Somerset County and to the Somerset County Counsel for informational purposes, as well as to the Tax Assessor of the Borough.

IV. SEVERABILITY

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

V. AVAILABILITY OF THE ORDINANCE

A copy of this Ordinance shall be available for public inspection at the offices of the Borough.

VI. EFFECTIVE DATE

This Ordinance shall take effect according to law.

EXHIBIT A

Form of Financial Agreement

FINANCIAL AGREEMENT

By and Between

THE BOROUGH OF BERNARDSVILLE

and

AR AT BERNARDSVILLE URBAN RENEWAL LLC

Dated: _____, 2023

THIS FINANCIAL AGREEMENT (the “**Agreement**” or “**Financial Agreement**”) is made this ____ day of _____, 2023 (the “**Effective Date**”), by and between **AR AT BERNARDSVILLE URBAN RENEWAL LLC**, a New Jersey limited liability company organized under the laws of the State of New Jersey, having its principal office at 1430 U.S. 206, Suite 100, Bedminster, New Jersey 07921 (the “**Entity**”); and the **BOROUGH OF BERNARDSVILLE**, a municipal corporation of the State of New Jersey with an address at Borough Hall located at 166 Mine Brook Road, Bernardsville, New Jersey 07924 (the “**Borough**”, and together with the Entity, the “**Parties**” or “**Party**”).

WITNESSETH:

WHEREAS, pursuant to the provisions of the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A (the “**Redevelopment Law**”), the Borough designated properties located within the downtown core area of the Borough located at 35-39 Olcott Square and 5 Morristown Road and further identified as Block 125, Lots 1, 2 and 3 (a/k/a Lots 1 and 3) by Borough tax assessment records (the “**Property**”) as “an area in need of redevelopment” without condemnation by Council Resolution #22-185 adopted on September 12, 2022; and

WHEREAS, subsequently Resolution #22-209 adopted by the Borough Council on October 24, 2022 authorized Burgis Associates to prepare a redevelopment plan on its behalf; and

WHEREAS, the redevelopment plan for the Property titled “Palmer Square Redevelopment Plan” was prepared by Burgis Associates and submitted to the Borough Council for review (the “**Redevelopment Plan**”); and

WHEREAS, the Borough Council by Ordinance #2023-1960 adopted the Redevelopment Plan in order to effectuate a plan that is consistent with the goals and objectives of the Borough for the redevelopment of the Property; and

WHEREAS, the Entity has an interest in the Property pursuant to a ground lease between Palmer Enterprises, L.L.C., Lessor, and AR at Bernardsville LLC, Lessee, dated as of November 10, 2021, a memorandum of which is recorded with the Somerset County Office of the Clerk at Book 7400, Page 2403 (the “**Ground Lease**”); and

WHEREAS, an Affiliate of the Entity, AR at Bernardsville LLC, and the Borough entered into a Redevelopment Agreement dated August 29, 2023 (the “**Redevelopment Agreement**”) to provide the terms and conditions for a redevelopment project on the Property generally consisting of (i) a multi-family residential component with a maximum of 68 dwelling units, including approximately 12 one-bedroom units, approximately 47 two-bedroom units, and approximately 9 three-bedroom units, or such other appropriate mix of one-bedroom, two-bedroom, and three-bedroom units as approved by the Parties and in compliance with the Redevelopment Plan; (ii) a minimum of 8,000 square feet of Frontage (as defined in the Redevelopment Plan); (iii) public and privately owned landscaped and hardscaped improvements to be further detailed in the site plan application; (iv) related improvements and amenities (i-iv

collectively, the “**Residential Component**”); and (v) a commercial component with a minimum of 8,000 square feet, located primarily on the ground level (the “**Commercial Component**”), all as further detailed in Section 2.03 of the Redevelopment Agreement (the “**Project**”); and

WHEREAS, on September 20, 2023, the Entity filed an application to the Borough for approval of a tax exemption for the Project (the “**Application**”) pursuant to N.J.S.A. 40A:20-1, et seq., the Long Term Tax Exemption Law (the “**Exemption Law**”), which Application is on file in the Office of the Borough Clerk and incorporated herein by reference as if set forth in full herein; and

WHEREAS, on September [●], 2023, the Mayor submitted the Application and a form of financial agreement to the Borough Council with her recommendation of approval (the “**Mayor’s Recommendation**”), a copy of which is on file with the Borough Clerk; and

WHEREAS, on October [●], 2023, the Borough Council finally adopted an ordinance entitled, “Ordinance of the Borough of Bernardsville, County of Somerset, New Jersey, Granting a Tax Exemption with Respect to Certain Property Identified on the Borough’s Tax Map as Block 125, Lots 1, 2 and 3 (35-39 Olcott Square and 5 Morristown Road) and Authorizing the Execution of a Financial Agreement with AR at Bernardsville Urban Renewal, LLC,” a copy of which is on file in the Office of the Borough Clerk and incorporated herein by reference as if set forth in full herein, which Ordinance also approved the Application (the “**Ordinance**”); and

WHEREAS, in order to set forth the terms and conditions under which the Parties shall carry out their respective obligations with respect to the exemption from taxation, by the Borough, of the Project and with respect to payment, by the Entity, of the Annual Service Charges (as defined herein), in lieu of real property taxes in connection with the Project, the Parties desire to enter into this Agreement; and

WHEREAS, the Borough has made the following findings:

1. The Project will result in substantial benefit to the community by alleviating existing blight conditions of the Property and providing a range of benefits to the public;
2. In addition to the inherent community benefits derived from the Project, the Project will include public components, as set forth in the Redevelopment Agreement;
3. Consistent with the Redevelopment Plan, the Project will further the Redevelopment Plan objectives and contribute to the economic growth of the Borough in general and specifically the Property;
4. The Project will contribute \$1,000,000.00 toward the Borough’s affordable housing trust fund;
5. The Project is anticipated to generate approximately 200 construction jobs and a range of opportunities for small business growth and permanent employment in the Project and generally add to the economic viability of the Borough;
6. The aforesaid benefits of the Project exceed the cost, if any, associated with granting the tax exemption provided by this Agreement; and

7. The assistance provided by this Agreement is a significant and critical inducement to the Entity to proceed with the Project.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and for other good and valuable consideration, it is mutually covenanted and agreed as follows:

ARTICLE 1

GENERAL PROVISIONS

1.1 **Governing Law.** The provisions of the laws of the State of New Jersey, the Applicable Laws, the Redevelopment Agreement, and the Ordinance approving this Agreement shall govern this Agreement. It is expressly understood and agreed that the Borough expressly relies upon the facts, data, and presentations contained in the Application, including Exhibits, all of which are incorporated herein by reference, in granting this tax exemption.

1.2 **General Definitions.** Unless specifically provided otherwise, when used in this Agreement, the following terms, when capitalized, shall have the meanings set forth below:

(a) **Administrative Fee** - As defined in Section 4.5 hereof.

(b) **Affiliate** - 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.

(c) **Agreement** - As defined in the preamble hereof.

(d) **Allowable Net Profit** - The amount arrived at by applying the Allowable Profit Rate and the Net Profit, as those terms are hereinafter defined.

(e) **Allowable Profit Rate** - The greater of 12% or the percentage per annum arrived at by adding 1¼% to the annual interest percentage rate payable on the Entity’s initial permanent mortgage financing. If the initial permanent mortgage is insured or guaranteed by a governmental agency, the mortgage insurance premium or similar charge, if payable on a per annum basis, shall be considered as interest for this purpose. If there is no permanent mortgage financing, the allowable profit rate shall be the greater of 12% or the percentage per annum arrived at by adding 1¼% per annum to the interest rate per annum which the Borough determines to be the prevailing rate on mortgage financing on comparable improvements in Somerset County, all in accordance with N.J.S.A. 40A:20-3(b).

(f) Annual Service Charge - The amount the Entity has agreed to pay pursuant Section 4.2 hereof, which shall be prorated in the year in which the Annual Service Charge begins and the year in which the Annual Service Charge terminates. The Annual Service Charge shall commence as of the Annual Service Charge Start Date.

(g) Annual Service Charge Start Date - The first day of the month immediately following the Substantial Completion of the Project.

(h) Applicable Laws - All applicable Federal, State and local laws, ordinances, approvals, rules, regulations and requirements, including, but not limited to, the Ordinance, the Redevelopment Law, the Exemption Law, relevant construction codes including construction codes governing people with disability, and such zoning, sanitary, pollution and other environmental safety ordinances, laws and such rules and regulations thereunder.

(i) Application - As defined in the recitals hereof.

(j) Annual Gross Revenue - Pursuant to N.J.S.A. 40A:20-3(a), the annual gross revenue, gross shelter rent, or annual gross rents, as appropriate, and other income, monies or charges paid to the Entity generated from the Project.

(k) Annual Report - A complete, certified annual financial statement outlining the financial status of the Entity as it relates to the Project and reporting the Annual Gross Revenue, Net Profit and Total Project Cost as defined herein, the contents of which have been prepared in a manner consistent with the current standards of the Financial Accounting Standards Board and which fully details all financial items required to determine that the Entity is complying with the Law and this Agreement and which has been certified as to its conformance with the current standards of the Financial Accounting Standards Board by a certified public accountant, who is licensed to practice that profession in the State of New Jersey.

(l) Borough - As defined in the preamble hereof.

(m) Certificate of Occupancy - The document, whether temporary or permanent, issued by the Borough pursuant to N.J.S.A. 52:27D-133 authorizing occupancy of a building, in whole or in part.

(n) Commercial Component - As defined in the recitals hereof.

(o) Cure Period - As defined in Section 9.3 hereof.

(p) DCA - The New Jersey State Department of Community Affairs, to which the Entity shall report in accordance with the Law.

(q) Default - The failure of the Entity or Borough to perform any obligation imposed by the terms of this Agreement, or under the Exemption Law, beyond any applicable grace or cure periods.

(r) Default Notice - As defined in Section 9.3 hereof.

(s) Effective Date - As defined in the preamble hereof.

(t) Entity - As defined in the preamble hereof.

(u) Exemption Law - As defined in the recitals hereof.

(v) Financial Agreement - As defined in the preamble hereof.

(w) Governmental Body - Any federal, state, county or local agency, department, commission, authority, court, or tribunal and any successor thereto, exercising executive, legislative, judicial, or administrative functions of or pertaining to government, and any public utility, including, without limitation, the Borough and the State of New Jersey or any other quasi-governmental agency having jurisdiction of the subject matter.

(x) Ground Lease - As defined in the recitals hereof.

(y) Improvements - The structural components of the Project described in the Recitals hereof and as further described in and permitted by the Redevelopment Agreement.

(z) In Rem Tax Foreclosure - A summary proceeding by which the Borough may enforce the lien for taxes due and owing by a tax sale, under N.J.S.A. 54:5-1 et seq.

(aa) Interest Holders - As defined in Section 5.2(c) hereof.

(bb) Land - The real property, but not the Improvements, known as Block 125, Lots 1, 2 and 3 as set forth on the tax maps of the Borough, and more particularly described by the metes and bounds description set forth as **Exhibit A** to this Agreement.

(cc) Land Tax Credit - As defined in Section 4.4(b) hereof.

(dd) Land Taxes - The amount of conventional real estate taxes assessed on Land (but not the Improvements) during the term of this Agreement.

(ee) Land Tax Payments - Payments made on the quarterly due dates for Land Taxes as determined by the Tax Assessor and the Tax Collector.

(ff) Material Conditions – As defined in Section 4.6 hereof.

(gg) Mayor's Recommendation - As defined in the recitals hereof.

(hh) Minimum Annual Service Charge - The Minimum Annual Service Charge shall be the amount of the total taxes levied against the Land and existing improvements in the last full tax year in which the Land and existing improvements were subject to taxation. Notwithstanding any provision of the Agreement to the contrary, the Annual Service Charge shall never be reduced below the Minimum Annual Service Charge through any tax appeal on the Land and/or Improvement or any other legal proceeding regarding the Project during the period that this Agreement is in force and effect. See Section 4.03 hereof.

(ii) Net Profit - The Annual Gross Revenue of the Entity less all operating and non-operating expenses of the Entity, all determined in accordance with generally accepted accounting principles and the provisions of N.J.S.A. 40A:20-3(c). Included in expenses shall be an amount sufficient to amortize the Total Project Cost over the life of the Project, which period the Parties agree is 30 years, pursuant to the Law.

(jj) Notice of Termination - As defined in Section 10.1 hereof.

(kk) Ordinance - As defined in the recitals hereof.

(ll) Party and Parties - As defined in the preamble hereof.

(mm) Person - Any individual, sole proprietorship, corporation, partnership, joint venture, limited liability company or corporation, trust, unincorporated association, institution, public or Governmental Body, or any other entity.

(nn) Project - As defined in the recitals hereof.

(oo) Property - As defined in the recitals hereof.

(pp) Redevelopment Agreement - As defined in the recitals hereof.

(qq) Redevelopment Law - As defined in the recitals hereof.

(rr) Redevelopment Plan - As defined in the recitals hereof.

(ss) Residential Component - As defined in the recitals hereof.

(tt) Secured Party(ies) - As defined in Section 7.1.3(a) hereof.

(uu) Security Arrangements - As defined in Section 7.1.3(a) hereof.

(vv) Substantial Completion shall mean the date upon which the Borough issues the Certificate of Occupancy.

(ww) Termination - Any act or omission which by operation of the terms of this Agreement shall cause the Entity to relinquish its tax exemption in accordance with the Exemption Law. Upon termination or expiration, all affected property shall be assessed and subject to taxation as are other taxable properties in the Borough. After termination or expiration, restrictions and limits on the Entity shall terminate upon the Entity's rendering a final accounting to and with the Borough pursuant to N.J.S.A. 40A:20-12.

(xx) Total Project Cost or Total Project Unit Cost - The Entity's good faith estimate of the total cost of constructing the Project through the date of issuance of a Certificate of Occupancy, as more specifically defined in N.J.S.A. 40A:20-3h.

(yy) Transferee Agreement - As defined in Section 7.1(b) hereof.

1.3 **Incorporation of Recitals.** The Recitals (including the defined terms set forth therein) set forth at the beginning of this Agreement are hereby incorporated into this Agreement by reference and made a part of this Agreement as if set forth at length herein.

1.4 **Exhibits and Schedules Incorporated.** All Exhibits referred to in this Agreement and are attached hereto are incorporated herein and made a part hereof.

ARTICLE 2

APPROVAL OF AGREEMENT, USE, OPERATION, MANAGEMENT AND FINANCIAL PLAN OF PROJECT

2.1 **Approval of Tax Exemption.** The Borough has granted and does hereby grant its approval for a tax exemption for the Project in accordance with the provisions of the Exemption Law. Pursuant to the Ordinance, the Improvements to be constructed and maintained by the Entity shall be exempt from taxation as provided for herein.

Approval of the Entity. Approval is

granted to the Entity based on its representation that its Certificate of Formation attached as **Exhibit B** contains all the requisite provisions of law, has been reviewed and approved by the Commissioner of DCA, and has been filed with, as appropriate the Department of Treasury, all in accordance with N.J.S.A. 40A:20-5.

2.3 Use, Operation and Management of Project.

2.3 Use, Operation and Management of Project. The Entity covenants and represents pursuant to N.J.S.A. 40A:20-9 that it shall cause the Project to be constructed and shall manage and operate the Property by leasing the units of the Project. The Improvements shall be those authorized by the Redevelopment Agreement, implemented in accordance with all permits and approvals and pursuant to the schedule agreed upon by the Borough and the Entity.

2.4

Financial Plan

(a) The method for computing gross revenue for the Entity, the plans for financing the Project, the source of funds, the interest rates to be paid on the construction financing, the source and amount of paid-in capital, and the rental schedules and lease terms to be used in the Project are set forth in the Application.

(b) The Entity's good faith estimate of the Total Project Cost is set forth in **Exhibit C** attached hereto.

2.5 Construction Schedule

The Entity agrees to diligently undertake to commence construction and complete the Project in accordance with the Redevelopment Project Schedule, attached as Exhibit B to the Redevelopment Agreement.

ARTICLE 3

DURATION OF AGREEMENT

3.1

3.1 **Term.** This Agreement is effective on the Effective Date. So long as there is compliance with the Exemption Law and this Agreement, it is understood and agreed by the Parties that this Agreement, including the obligation to pay Annual Service Charges under Article 4 and the tax exemption granted and referred to in Section 2.01 hereof, shall remain in effect until the earlier of (i) thirty-five (35) years from the date of the Effective Date or (ii) thirty (30) years from the Annual Service Charge Start Date for the Project.

At the expiration of the term hereof, the tax exemption for the Project shall expire and the Land and Improvements shall thereafter be taxed according to the general law, applicable to other nonexempt property in the Borough. Upon Termination, all restrictions and limitations upon the Entity shall terminate upon the Entity's rendering and the Borough's acceptance of its final accounting, pursuant to N.J.S.A. 40A:2013. Notwithstanding the above, the Borough may terminate this Agreement for the entity's failure to comply with the Redevelopment Project Schedule as set forth in Article 2 above.

ARTICLE 4
EXEMPTION AND ANNUAL SERVICE CHARGE

4.1 **Exemption.** The Borough agrees that an Annual Service Charge shall be levied on the Improvements which shall be exempt from traditional real property taxation, as provided in the Exemption Law, from the Annual Service Charge Start Date to and through the date calculated under Section 3.1 hereof. Prior to the date calculated under Section 3.1 hereof, the Entity shall pay the otherwise applicable real estate taxes on the Property consistent with its Ground Lease.

4.2 Payment of Annual Service Charge

(a) In consideration of the Borough granting the Entity the tax exemption set forth in Section 4.1 hereof, the Entity shall make payment to the Borough for municipal services, as provided in the Exemption Law, by payment to the Borough of the Annual Service Charge pursuant to the schedule set forth in Section 4.2(d) hereof.

(b) The Annual Service Charge shall first begin to accrue on the Annual Service Charge Start Date. In the event the Entity fails to timely pay the Annual Service Charge, the amount unpaid shall bear the highest rate of interest permitted in the case of unpaid taxes or tax liens on the land until paid, and the Borough shall have the same rights and remedies to collect such charges as provided by law for collection of general municipal taxes.

(c) The Annual Service Charge shall not be in lieu of sewer charges, water charges, connection fees, or other special assessments imposed in accordance with Applicable Law.

(d) Payment of the Annual Service Charge shall be made to the Borough on a quarterly basis on February 1, May 1, August 1, and November 1 after the Annual Service Charge Start Date in accordance with the Borough's tax collection schedule, subject, nevertheless, to adjustment for over or underpayment within thirty (30) days after the close of each calendar year. The obligation to pay the Annual Service Charge shall continue until the Termination of this Agreement.

(e) In accordance with the Exemption Law, specifically N.J.S.A. 40A:20-12, in the event of any change in the tax-exemption status as provided herein during any tax year, including but not limited to any Termination, the procedure for the apportionment of any taxes and/or Annual Service Charge, as the case may be, shall be the same as in the case of other changes in tax exemption status to any other property located within the Borough during the tax year, in accordance with Applicable Law.

4.3 Calculation of Annual Service Charge.

(a) Pursuant to N.J.S.A. 40A:20-12, the Parties agree that commencing upon the Annual Service Charge Start Date and continuing for a period of ten (10) years, through and inclusive of the tenth (10th) year, the Annual Service Charge for the Project shall be an amount

equal to the greater of ten percent (10%) of Annual Gross Revenue; or (ii) the Minimum Annual Service Charge;

(b) Commencing in the eleventh (11th) year after the Annual Service Charge Start Date and continuing for a period of five (5) years, through and inclusive of the fifteenth (15th) year after the Annual Service Charge Start Date, the Annual Service Charge shall be an amount equal to the greater of (i) eleven percent (11%) of Annual Gross Revenue; or (ii) the Minimum Annual Service Charge;

(c) Commencing in the sixteenth (16th) year after the Annual Service Charge Start Date and continuing for a period of five (5) years, through and inclusive of the twentieth (20th) year after the Annual Service Charge Start Date, the Annual Service Charge shall be an amount equal to the greater of (i) eleven percent (11%) of Annual Gross Revenue; (ii) the Minimum Annual Service Charge; or (iii) twenty percent (20%) of the amount of taxes otherwise due on the value of the Improvements and the Land;

(d) Commencing in the twenty-first (21st) year after the Annual Service Charge Start Date and continuing for a period of one (1) year, the Annual Service Charge shall be an amount equal to the greater of (i) twelve percent (12%) of Annual Gross Revenue; (ii) the Minimum Annual Service Charge; or (iii) twenty percent (20%) of the amount of taxes otherwise due on the value of the Improvements and the Land;

(e) Commencing in the twenty-second (22nd) year after the Annual Service Charge Start Date and continuing for a period of four (4) years, through and inclusive of the twenty-fifth (25th) year after the Annual Service Charge Start Date, the Annual Service Charge shall be an amount equal to the greater of (i) twelve percent (12%) of Annual Gross Revenue; (ii) the Minimum Annual Service Charge; or (iii) forty percent (40%) of the amount of taxes otherwise due on the value of the Improvements and the Land;

(f) Commencing in the twenty-sixth (26th) year after the Annual Service Charge Start Date and continuing for a period of two (2) years, through and inclusive of the twenty-seventh (27th) year after the Annual Service Charge Start Date, the Annual Service Charge shall be an amount equal to the greater of (i) twelve percent (12%) of Annual Gross Revenue; (ii) the Minimum Annual Service Charge; or (iii) sixty percent (60%) of the amount of taxes otherwise due on the value of the Improvements and the Land;

(g) Commencing in the twenty-eighth (28th) year after the Annual Service Charge Start Date and continuing for a period of three (3) years, through and inclusive of the thirtieth (30th) year after the Annual Service Charge Start Date, the Annual Service Charge shall be an amount equal to the greater of (i) twelve percent (12%) of Annual Gross Revenue; (ii) the Minimum Annual Service Charge; or (iii) eighty percent (80%) of the amount of taxes otherwise due on the value of the Improvements and the Land.

(h) The Parties agree that the Minimum Annual Service Charge for the Project shall not be reduced through any tax appeal on the Land and/or Improvements during the period this Agreement is in force and effect.

4.4 **Land Tax Exemption; Land Taxes and Land Tax Credit.**

(a) The Residential Component shall be exempt from Land Taxes from the Annual Service Charge Start Date through the expiration or Termination date in accordance with N.J.S.A. 40A:20-12.

(b) The Entity shall be obligated to make payment of Land Taxes on the Commercial Component according to the general laws applicable to all other tax ratables. Land Taxes on the Commercial Component shall be separately assessed in accordance with Applicable Law. The payment for Land Taxes on the Commercial Component made after the Effective Date shall be applied as a credit against the Annual Service Charge for the subsequent year (the “**Land Tax Credit**”). The Land Tax Credit for the calendar year in which the Annual Service Charge Start Date occurs shall be based on the Land Taxes on the Commercial Component paid in the full year preceding the Annual Service Charge Start Date and shall be pro-rated based on the remaining number of days in such calendar year. In any year that the Entity fails to make any Land Tax Payments when due and owing, such delinquency shall render the Entity ineligible for any land tax credits against the Annual Service Charge. The Entity is required to make payment of both the Annual Service Charge and the Land Taxes on the Commercial Component. The Entity is required to pay the full Land Taxes on the Commercial Component in any given year and no credits will be applied against the Annual Service Charge for partial payment of the Land Taxes. The Entity’s failure to make the requisite Annual Service Charge payment and/or the requisite Land Taxes payment on the Commercial Component in a timely manner shall constitute a violation and breach of this Agreement.

4.5 **Fees.** The Entity shall pay a fee of Five Thousand Dollars (\$5,000.00) to the Borough on the Effective Date to offset the costs and expenses of the Borough associated with this Agreement and the application and analysis and other costs related to the same. The Entity shall also pay annually an administrative fee to the City in addition to the Annual Service Charge. The “**Administrative Fee**” shall be computed as two percent (2%) of the greater of the Annual Service Charge or Minimum Annual Service Charge required pursuant to Section 4.3 hereof. The Administrative Fee shall be payable and due on or before December 31st of each year and collected in the same manner as the Annual Service Charge. In the event the Entity fails to pay the Administrative Fee when due and owing, the amount unpaid shall bear the highest rate of interest permitted under applicable New Jersey law in the case of unpaid taxes or tax liens until paid.

4.6 **Material Conditions.** It is expressly agreed and understood that all payments of Annual Service Charges and any interest payments, penalties or costs of collection due thereon, Land Taxes, and the Administrative Fee are material conditions of this Agreement (the “**Material Conditions**”). If any other term, covenant or condition of this Agreement as to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term, covenant or condition to persons or circumstances other than those held invalid or unenforceable, shall not be affected thereby, and each remaining term, covenant or condition of this Agreement shall be valid and enforced to the fullest extent permitted by Applicable Law.

4.7 **No Reduction in Payment of the Annual Service Charge.** Neither the amounts nor dates established for payment of the Annual Service Charge, as provided in the preceding sections shall be reduced, amended or otherwise modified during the Term of this Agreement.

4.8 **Annual Service Charge as Municipal Lien.** In accordance with the provisions of the Exemption Law, the Annual Service Charge shall be and constitute a continuous municipal lien on the Property and the Improvements.

ARTICLE 5

ANNUAL REPORTS

5.1 **Accounting System.** The Entity agrees to maintain a system of accounting and internal controls established and administered in accordance with Generally Accepted Accounting Principles and pursuant to the Law.

5.2 **Periodic Reports**

(a) **Total Project Cost Report:** Within 90 days after Substantial Completion of the Project, the Entity shall submit to the Borough a report of Total Project Costs, substantially in the form attached hereto as **Exhibit C**, and certify as to actual construction which said certification shall be substantially in the form attached as **Exhibit D** and included in the Annual Report.

(b) **Annual Report:** Annually, within 90 days after the close of each calendar year during the period that this Agreement shall continue in effect, the Entity shall submit to the Borough and the New Jersey Division of Local Government Services within the DCA, its Annual Report for the preceding calendar year in accordance with N.J.S.A. 40A:20-9(d).

(c) **Disclosure Statement:** Within 30 days of each anniversary date of the Parties' execution of this Agreement, if there has been a change in any person or entity owning more than 10% of the Entity, the Entity shall submit to the Borough a Disclosure Statement listing all persons and other entities having a 10% or greater ownership interest in the Project ("**Interest Holders**"), and the extent of the ownership interest held by each.

(d) **Termination of Obligations:** The Entity's obligations under this Section 5.2 shall terminate at the end of the tax exemption period, or upon earlier termination, if any, of this Agreement. Upon termination or expiration, all affected property shall be assessed and subject to taxation as are other taxable properties in the Borough. After termination or expiration, restrictions and limits on the Entity shall terminate, upon the Entity's rendering a final accounting to and with the Borough pursuant to N.J.S.A. 40A:20-12.

5.3 **Inspection.** The Entity shall permit the inspection of its property, equipment, buildings and other facilities of the Entity and shall also permit, upon request, examination and audit of its books, contracts, records, documents and papers by duly authorized representatives of the Borough and the State of New Jersey. Such examination or audit shall be made upon no less than 7 days written notice during regular business hours, in the presence of an officer or agent designated by the Entity. To the extent

reasonably possible, the examination, inspection or audit will not materially interfere with the construction or operation of the Project.

ARTICLE 6

LIMITATION OF PROFITS AND RESERVES

6.1 Limitation of Profits and Reserves.

During the period of this Agreement as provided herein, the Entity shall be subject to a limitation of its profits and, in the case of a corporation, the dividends payable by it, pursuant to the provisions of N.J.S.A. 40A:20-15. Pursuant to N.J.S.A. 40A:20-3(c), this calculation is completed in accordance with generally accepted accounting principles.

The Entity shall have the right to establish a reserve against vacancies, unpaid rentals, and reasonable contingencies in an amount up to ten percent (10%) of the Annual Gross Revenues of the Entity for the last full fiscal year preceding the year and may retain such part of the excess Net Profits as is necessary to eliminate a deficiency in that reserve, as provided in N.J.S.A. 40A:20-15. The reserve shall be noncumulative.

There is expressly excluded from calculation of Annual Gross Revenue and from Net Profit as set forth in N.J.S.A. 40A:20-3 for the purpose of determining compliance with N.J.S.A. 40A:20-15 or N.J.S.A. 40A:20-16, any gain realized by the Entity on the sale of all or a portion of the Project, whether or not taxable under Applicable Laws.

6.2 Annual Payment of Excess Net Profit.

In the event the Net Profits of the Entity, in any fiscal year, shall exceed the allowable Net Profits for such period, then in accordance with N.J.S.A. 40A:20-15, the Entity, within 90 days after the end of such fiscal year, shall pay such excess Net Profits to the Borough as an “**Additional Annual Service Charge**”, provided, however, that the Entity may maintain a reserve as determined pursuant to the aforementioned Section 6.1. The calculation of Net Profit and Allowable Net Profit shall be made in the manner required pursuant to N.J.S.A. 40A:20-3(c) and 40A:20-15.

6.3 Payment of Reserve/Excess Net Profit

Upon Termination, Expiration or Sale. The date of the termination of this Agreement, expiration of this Agreement or the sale of the Project shall be considered to be the close of the fiscal year of the Entity. Within 90 days after such date, the Entity shall pay to the Borough the amount of the reserves, if any, maintained by it pursuant to this Section and the excess Net Profit, if any.

ARTICLE 7

ASSIGNMENT AND/OR ASSUMPTION

7.1 Approval.

Except with the Borough’s written consent, as set forth in Section 7.1(a) hereof, the Entity may not sell, convey, grant, bargain, assign, or otherwise transfer its interest in the Project, or any part thereof, or any direct or indirect interest in the Entity, or permit the Project, or any part thereof, to be sold, conveyed, granted, bargained, assigned, or otherwise transferred, except for the transfer of ownership

interest in the Entity to any Affiliate of the Entity, or related entity or Affiliate, to which transfer the Borough hereby consents, as set forth in Section 7.1(a) hereof, subject to the conditions set forth therein. Notwithstanding anything to the contrary in this Section, (i) a transfer of ownership interests that occurs by inheritance, devise or bequest or by operation of law to the spouse, child, grandchild, or other descendants of Interest Holders, or a trust established for the benefit of such a spouse, child, grandchild, or other descendants; or (ii) a conveyance by the Entity to the ultimate users or tenants of any portion of the Project or the Improvements constructed as a component of the Project shall not be a violation of this restriction.

(a) It is understood and agreed that the Borough, on written application by the Entity, shall not unreasonably withhold, delay or condition its written consent to a transfer of the Project authorized by the Exemption Law.

(b) As permitted by N.J.S.A. 40A:20-10(c), it is understood and agreed, on written application by the Entity after the Annual Service Charge Start Date has occurred, that the Borough will consent to a sale to another urban renewal entity purchasing the Project in fee simple and the transfer of the tax exemption by this Agreement, reflected in a new financial agreement incorporating all the terms of this Agreement for the period remaining on the tax exemption (the “**Transferee Agreement**”), provided: (i) the transferee entity does not own or lease any other Project subject to long term tax exemption at the time of transfer; (ii) the transferee entity is formed and eligible to operate under the Exemption Law; (iii) the Entity is not then in Default of this Agreement or the Exemption Law; (iv) the Entity’s obligations under this Agreement are fully assumed by the transferee entity in the Transferee Agreement; and (v) the transferee entity agrees to all terms and conditions of this Agreement in the Transferee Agreement. Accordingly, the applicable Annual Service Charge will be paid by the transferee entity pursuant to the Transferee Agreement. In the event the transfer contemplated in this Section is for less than the whole of the Project, the Annual Service Charge to be paid each by the Entity and the transferee entity after the transfer shall be pro-rated based on the land area being transferred compared to the total land area for the Project. The Entity shall pay an administrative transfer fee equal to two percent (2%) for the then applicable Annual Service Charge for that portion of the Project being transferred for processing any such application by the Entity.

(c) It is expressly understood and agreed that the Entity has the right, to the extent permitted by the Exemption Law and the Redevelopment Agreement, to encumber and/or assign its interest in the Property and/or Improvements for purposes of: (i) financing the design, development, and construction of the Property, (ii) obtaining mortgage financing, and/or (iii) refinancing a mortgage, and that any such encumbrance or assignment shall not be deemed to be a violation of this Agreement.

(d) The Borough acknowledges that the Entity intends to obtain secured financing. The Borough agrees that the Entity may assign, pledge, hypothecate, or otherwise transfer its applicable rights under this Agreement and/or its interest in the Property to one or more secured parties or any agents therefor (each, a “**Secured Party**” and collectively, the “**Secured Parties**”) as security for obligations of the Entity, and/or its Affiliates and/or its Transferees, incurred in connection with such secured financing (collectively, the “**Security Arrangements**”). The Entity or Affiliate or Transferee, as applicable, shall give the Borough

written notice of any such Security Arrangements, together with the name and address of the Secured Party or Secured Parties. Failure to provide such notice waives any requirement of the Borough hereunder to provide any notice of Default or notice of intent to enforce its remedies under this Agreement.

(e) If the Entity shall Default in any of its obligations hereunder, the Borough shall give written notice of such Default to the Secured Parties and the Borough agrees that, in the event such Default is not waived by the Borough or cured by the Entity, its assignee, designee, or successor, within the period provided for herein, before exercising any remedy against the Entity hereunder, the Borough will provide the Secured Parties not less than fifteen (15) calendar days from the date of such written notice to the Secured Parties with regard to a payment Default by the Entity, and ninety (90) calendar days from the date the Entity was required to cure any other Default.

(f) To the extent permitted by the Long Term Tax Exemption Law, in the absence of a Default by the Entity, the Borough agrees to consent to any collateral assignment by the Entity to any Secured Party or Secured Parties of its interests in this Agreement as they relate to the Property and to permit each Secured Party to enforce its rights hereunder and under the applicable Security Arrangement and shall, upon request of the Secured Party, execute such documents as are typically requested by secured parties to acknowledge such consent. This provision shall not be construed to limit the Borough's right to payment from the Entity, nor shall the priority of such payments be affected by the Secured Party exercising its rights under any applicable Security Arrangement.

ARTICLE 8

COMPLIANCE AND REPRESENTATIONS

8.1 Compliance. The Entity hereby agrees at all times prior to the expiration or Termination of this Financial Agreement to remain bound by the provisions of Applicable Laws and any lawful ordinances and resolutions of the Borough, including, but not limited to, the Exemption Law. The Entity's failure to substantially comply in all material respects with such statutes or ordinances shall constitute a violation and breach of this Agreement.

The Borough represents that it has fully and properly approved this Agreement and the Application of the Entity in accordance with all Applicable Laws, including the Exemption Law. If there is any actual or alleged defect, deficiency, error, mistake or improper exercise of authority with regard to the approval and/or content of this Agreement, the Borough shall take all necessary actions to rectify same and to ensure that this Agreement is effective and shall remain in place, including adoption of any ordinance, resolution or any other rule, regulation or official action; execution of any documents necessary to ensure that same complies with the Exemption Law, as amended; and any other action necessary to cure any alleged defect so that the terms of this Agreement remain in place as agreed upon between the Borough and the Entity. This Section shall survive the expiration or Termination of this Agreement.

ARTICLE 9

DISPUTE/DEFAULT

9.1 **Dispute.** In the event of a breach or Default of this Agreement by either of the Parties or a dispute arising between the Parties in reference to the terms and provisions as set forth herein, then either Party may apply to the Superior Court of New Jersey, Somerset County by an appropriate proceeding, to settle and resolve such dispute in such fashion as will tend to accomplish the purposes of this Agreement under Applicable Law.

9.2 **Default.** Default shall be failure of the Entity or Borough to conform to the terms of this Agreement beyond the notice, cure and grace periods set forth in Section 9.3 hereof.

9.3 **Cure Upon Default.** Should a Party be in Default, the non-defaulting Party shall send written notice to the defaulting Party of the Default (the “**Default Notice**”). The Default Notice shall set forth with particularity the basis of the Default. The defaulting Party or a Party acting on its behalf shall have 15 days from receipt of the Default Notice (the “**Cure Period**”), to cure any monetary Default and a 60-day Cure Period to cure any non-monetary Default. However, if the Default is a non-monetary Default of a nature that cannot be cured within the Cure Period, using reasonable diligence, the time to cure the Default shall be extended beyond the Cure Period for the time period required in order to allow the defaulting Party to cure the Default such period shall not exceed one hundred twenty (120) days, provided that the defaulting Party continues using reasonable diligence to cure the Default. The Parties may extend the Cure Period beyond one hundred twenty (120) days upon mutual agreement of the Parties. Upon the expiration of the Cure Period, or any extension thereof, and providing that the Default is not cured, the non-defaulting Party shall be permitted to invoke the remedies set forth in Section 9.4 hereof.

9.4 **Remedies Upon Default.**

(a) The Entity’s failure to make the requisite Annual Service Charge payment, Land Tax Payment, reserve payment, and/or sewer and water charge payments within the Cure Period or any extensions thereof shall constitute a breach of this Agreement by the Entity, and the Borough shall, among its other remedies, have the right to proceed against the Property pursuant to the In Rem Tax Foreclosure Act, N.J.S.A. 54:55-1 et seq. Whenever the word “Taxes” appears or is implied to mean taxes or municipal liens on land, such statutory provisions shall be read, as far as is pertinent to this Agreement, as if the Annual Service Charges were taxes or municipal liens on land. In addition, the Borough may terminate this Agreement as to the Entity pursuant to Section 10.1 hereof.

(b) All of the remedies provided in this Agreement, and all rights and remedies granted by Law and equity shall be cumulative and concurrent. No termination of any provision within this Agreement shall deprive either Party of any of its remedies in accordance with Law or any action by the Borough against the Entity because of its failure to pay Taxes, Annual Service Charges, Land Taxes, reserve payments, and/or water and sewer charges with interest payments. The bringing of any action for any Taxes, Annual Service Charges, or other charges due hereunder, or in connection with another Default hereunder, or the resort to any other remedy herein provided for the recovery of such Taxes, any Annual Service Charges, Land Taxes, reserve payments, and/or water and sewer charges or other charges due hereunder, shall

not be construed as a waiver of the right to terminate the exemption granted hereby or proceed with an In Rem Tax Foreclosure or any other remedy as provided for in this Agreement or by Law.

ARTICLE 10 **TERMINATION**

10.1

Termination Upon Default of the Entity.

In the event the Entity or a Party acting on its behalf fails to cure or remedy the Default within the Cure Period as provided in Section 9.2, the Borough may terminate this Agreement upon 30 days written notice to the Entity (the “**Notice of Termination**”) or may apply to the Superior Court of New Jersey, Somerset County by an appropriate proceeding to seek specific performance.

10.2

Voluntary Termination by the Entity.

The Entity may, after the expiration of one year from the Substantial Completion of the Project, notify the Borough in writing that, as of a date certain designated in such Notice, it relinquishes its status as an Urban Renewal Entity. As of such date, continuation of the tax exemption, the Annual Service Charges hereunder, and the profit and dividend restriction shall terminate, and Section 10.3 hereof shall control. A final accounting pursuant to N.J.S.A. 40A:20-12 shall be a requirement of termination.

10.3

Conventional Taxes.

Upon the termination or expiration of this Agreement and thereafter, the Land and Improvements shall be assessed and conventionally taxed according to the general law applicable to other taxable property within the Borough, and the Entity is bound by this Agreement and by the Law until expiration or Termination shall occur.

ARTICLE 11 **NOTICE**

11.1

Certified Mail.

Any notice required hereunder to be sent by either Party to the other shall be sent by certified or registered mail, return receipt requested or by recognized overnight courier, with proof of delivery.

11.2

Sent by Borough.

When sent by the Borough to the Entity, it shall be addressed to:

AR at Bernardsville Urban Renewal LLC
c/o Advance Realty Investors
1430 U.S. 206, Suite 100
Bedminster, New Jersey 07921

Attn: Peter J, Cocoziello, Jr (peterjohnnc@advancere.com and General Counsel
(richc@advancere.com))

WITH A COPY TO:

John P. Inglesino, Esq.
Inglesino Taylor, LLC
600 Parsippany Road, Suite 204
Parsippany, New Jersey 07054

Unless prior to giving of notice, the Entity shall have notified the Borough in writing otherwise. In addition, provided the Borough is sent a formal written notice in accordance with this Agreement, of the name and address of Entity's mortgagee, the Borough agrees to provide such mortgagee with a copy of any notice required to be sent to the Entity.

11.3 **Sent by Entity.** When sent by the Entity to the Borough, it shall be addressed to:

Borough of Bernardsville
Attn: Mayor and Borough Clerk
Borough Hall, 166 Mine Brook Road
Bernardsville, New Jersey 07924

WITH A COPY TO:

Matthew D. Jessup, Esq.
McManimon Scotland & Baumann, LLC
75 Livingston Avenue, 2nd Floor
Roseland, New Jersey 07068

The notice to the Borough shall fully identify the Project to which it relates, including the full name of the Entity and the Property's Block and Lot numbers.

ARTICLE 12
MISCELLANEOUS

12.1 **Severability.** If any term, covenant or condition of this Agreement, Ordinance or the Application shall be judicially declared to be invalid or unenforceable, the remainder of this Agreement or the Application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

12.2 **Construction.** This Agreement shall be construed and enforced in accordance with the laws of the State of New Jersey, except for those provisions governing choice of law, and without regard to or aid of any presumption or other rule requiring construction against the Party drawing or causing this Agreement to be drawn since counsel for both the Entity and the Borough have combined in their review and approval of same.

12.3 **Captions.** The marginal captions after the Article, Section and Paragraph numbers of this Agreement are for convenience of reference

purposes only and do not in any way define, limit or amplify the terms of this Agreement and are to be given no weight in its interpretation.

12.4 **Oral Representations.** There have been no oral representations made by either of the Parties hereto which are not contained in this Agreement. This Agreement including all Exhibits, the Ordinance authorizing this Agreement, and the Application including all Exhibits, shall constitute the entire Agreement between the Parties, and there shall be no modifications thereto other than by a written instrument approved and executed by and delivered to each.

12.5 **Remittance to County.** The Borough shall remit to the County of Somerset on a quarterly basis, five percent (5%) of the Annual Service Charge received from the Entity in accordance with N.J.S.A. 40A:20-12(b).

12.6 **Compliance with Laws.** The Entity represents and warrants that this Agreement complies with N.J.S.A. 40A:20-1 et. seq. and applicable regulations. The Land and Improvements shall be subject to any and all laws promulgated by the State of New Jersey with respect to tax assessments.

12.7 **Amendments.** Any amendments or modifications to this Agreement made after the Effective Date shall be by mutual consent of the Borough and the Entity and shall be subject to written approval in accordance with the Law.

12.8 **Certification.** The Borough Clerk shall certify to the Tax Assessor, pursuant to N.J.S.A. 40A:20-12, that a financial agreement with an urban renewal entity, i.e., the Entity, for the development of the Property, has been entered into and is in effect as required by the Exemption Law. Delivery by the Borough Clerk to the Tax Assessor of a certified copy of the Ordinance shall constitute the required certification. Upon certification as required hereunder, the Tax Assessor shall implement the exemption and continue to enforce that exemption without further certification by the Borough Clerk until the expiration of the entitlement to exemption by the terms of this Agreement or until the Tax Assessor has been duly notified by the Borough Clerk that the exemption has been terminated. Further, within ten (10) days of the execution of this Agreement, the Borough Clerk shall provide a copy of this Agreement and the Ordinance authorizing the same to the Somerset County Counsel and the Somerset County Chief Financial Officer for informational purposes in accordance with N.J.S.A. 40A:20-12.

ARTICLE 13

INDEMNIFICATION

13.1 **Indemnification.** It is understood and agreed that in the event the Borough shall be named as a party in any action brought against the Borough or Entity by allegation of any breach, Default or a violation of any of the provisions of this Agreement and/or the provisions of the Exemption Law or any other Applicable Law, the Entity shall indemnify and hold the Borough harmless from and against all liability, losses, damages, demands, costs, claims, actions or reasonable expenses (including reasonable attorneys' fees and expenses) of every kind, character and nature arising out of or resulting from the action or inaction of the Entity and/or by reason of any breach, Default or a violation of any of the provisions of this Agreement, the provisions of

the Exemption Law and/or any other Applicable Law by the Entity, except for any gross negligence or willful misconduct by the Borough or any of its officers, officials, employees or agents, and the Entity shall defend the suit at its own expense. [To the extent practical and ethically permissible, the Entity's attorneys shall jointly defend and represent the interests of the Borough and the Entity as to all claims indemnified in connection with this Agreement. Notwithstanding the foregoing and if deemed necessary in the reasonable discretion of the Borough, the Borough maintains the right to retain its own counsel to defend the Borough or to intervene, if not already a party, with the expense thereof to be borne by the Entity.]

ARTICLE 14 **EXHIBITS AND SCHEDULES**

The following Exhibits and Schedules are attached hereto and incorporated herein as set forth at length herein:

Exhibit A - Land Description

Exhibit B - Certificate of Formation of Entity

Exhibit C - Entity's Estimate of Total Project Cost

Exhibit D - Form of Certification of Final Construction Cost

{SIGNATURES ON FOLLOWING PAGE}

Witness/Attest:

By: _____
Name: _____
Title: _____

4876-0748-9150, v. 5

Exhibit A

Land Description

ALL that certain lot, parcel or tract of land, situate and lying in the Borough of Bernardsville, County of Somerset, State of New Jersey, and being more particularly described as follows:

TRACT I

BEGINNING at an old concrete monument in the Northerly line of lands of the Erie Lackawanna Railway Company (now Conrail) at the Southwesterly corner of the former "Parsonage lot", later belonging to Liddy, and now Palmer, and running thence

(1) along the Railroad lands, South 75 degrees 36 minutes West 68.17 feet to a point in Mt. Airy Road (formerly road leading from Bernardsville to Liberty Corner); thence

(2) along said lot North 2 degrees 58 minutes West 180.18 feet to a point in New Jersey State Highway Route #202 (formerly Route #32 and earlier known as Route #16); thence

(3) along said highway, North 50 degrees 12 minutes East 144.87 feet to a point in said highway; thence

(4) South 8 degrees 00 minutes West 2.38 feet to a point; thence

(5) South 77 degrees 21 minutes 20 seconds East 95.57 feet to a point; thence

(6) along line of lands of David C. and Peter S. Palmer to the east, South 3 degrees 30 minutes West 218.46 feet to a concrete monument in the northerly right of way of Erie Lackawanna Railway Company, now Conrail, (said course 24.98 feet from its beginning passes over a railroad spike on line); thence

(7) along said railway company right of way South 82 degrees 53 minutes 40 seconds West 116.40 feet to the point and place of BEGINNING.

FOR INFORMATIONAL PURPOSES ONLY: Also known as Lot 1, formerly Lots 1 & 2, in Block 125 on the Borough of Bernardsville Tax Map.

TRACT II

BEGINNING at a point in the center of Morristown Road (Route 202), being the northeast corner of lands formerly Arthur A. Palmer, Jr.; thence

(1) South 73 degrees 46 minutes East 94.52 feet to a point in Morristown Road; thence

(2) South 06 degrees 44 minutes West along line of lands of Craftman's Club Masonic Lodge 181.51 feet to an iron pipe set in the northerly right of way line of the Erie Lackawanna Railway Co. (now Conrail); thence

(3) along said Railway Co. South 79 degrees 06 minutes West 84.62 feet to a concrete monument set in the most southeasterly corner of lands formerly of Arthur A. Palmer, Jr.; thence

(4) along lands formerly of Arthur A. Palmer, Jr. North 03 degrees 30 minutes East 223.10 feet to the point and place of BEGINNING.

FOR INFORMATIONAL PURPOSES ONLY: Also known as Lot 3 in Block 125 on the Borough of Bernardsville Tax Map.

Being further described in accordance with an ALTA/NSPS Land Title Survey prepared by PS&S dated September 3, 2021 as follows:

BEGINNING AT A POINT IN THE SOUTHERLY RIGHT-OF-WAY OF MORRISTOWN ROAD (U.S. ROUTE 202) (66 FOOT WIDE RIGHT-OF-WAY) SAID POINT BEING THE INTERSECTION OF THE WESTERLY LINE OF LOT 4, BLOCK 125 WITH SAID SOUTHERLY RIGHT-OF-WAY, AND RUNNING, THENCE;

1. ALONG SAID WESTERLY LINE, SOUTH 02°39'12" EAST A DISTANCE OF 149.85 FEET TO A POINT IN THE NORTHERLY RIGHT-OF-WAY OF THE ERIE-LACKAWANNA RAILROAD COMPANY (VARIABLE WIDTH RIGHT-OF-WAY), THENCE, THE FOLLOWING THREE (3) COURSES ALONG SAID RIGHT-OF-WAY;

2. SOUTH 69°42'48" WEST A DISTANCE OF 84.62 FEET TO A POINT; THENCE

3. SOUTH 73°30'28" WEST A DISTANCE OF 116.40 FEET TO A POINT; THENCE

4. SOUTH 66°12'48" WEST A DISTANCE OF 36.99 FEET TO A POINT OF CUSP IN THE EASTERLY RIGHT-OF-WAY OF MT. AIRY ROAD (VARIABLE WIDTH RIGHT-OF-WAY), THENCE, THE FOLLOWING FOUR (4) COURSES ALONG SAID EASTERLY RIGHT-OF-WAY;

5. ON A CURVE TO THE RIGHT HAVING A RADIUS OF 775.00 FEET, AN ARC LENGTH OF 92.14 FEET, A CENTRAL ANGLE OF 06°48'43", WHOSE CHORD BEARS NORTH 14°15'58" WEST A CHORD DISTANCE OF 92.09 FEET TO A POINT OF TANENCY; THENCE

6. NORTH 10°51'37" WEST A DISTANCE OF 19.35 FEET TO A POINT; THENCE

7. SOUTH 82°15'33" WEST A DISTANCE OF 2.52 FEET TO A POINT; THENCE

8. NORTH 07°44'27" WEST A DISTANCE OF 62.96 FEET TO A POINT IN THE SOUTHERLY RIGHT-OF-WAY OF MORRISTOWN ROAD (U.S. ROUTE 202), THENCE, THE FOLLOWING THREE COURSES ALONG SAID SOUTHERLY RIGHT-OF-WAY;

9. NORTH 46°28'16" EAST A DISTANCE OF 62.17 FEET TO A POINT OF CURVATURE; THENCE

10. ON A CURVE TO THE RIGHT HAVING A RADIUS OF 97.00 FEET, AN ARC LENGTH OF 82.61 FEET, A CENTRAL ANGLE OF $48^{\circ}47'45''$, WHOSE CHORD BEARS NORTH $70^{\circ}52'09''$ EAST A CHORD DISTANCE OF 80.14 FEET TO A POINT OF TANGENCY, THENCE

11. SOUTH $84^{\circ}43'57''$ EAST A DISTANCE OF 134.99 FEET TO THE POINT OF BEGINNING.

Exhibit B

Certificate of Formation of Entity

Exhibit C

Entity's Estimate of Total Project Cost

Development Budget				
Line Item	Amount	Per Building GSF	Per GSF (Componentized)	Narrative
Land Acquisition	\$4,000,000	\$24.12		Land acquisition costs
Site Work and Offsite Improvements	\$3,000,000	\$18.09		Site demolition, site clearing, site work, offsite improvements
Total Land Costs	\$7,000,000	\$42.22		
Hard Costs - Retail	\$1,624,800	\$9.80	\$200.00	\$200 per SF for retail component (new space and renovation space)
Hard Costs - Residential	\$23,798,500	\$143.52	\$250.00	\$250 per SF for residential component
Hard Costs - Parking	\$6,255,000	\$37.72	\$45,000	\$45,000 per parking stall
Total Hard Costs	\$31,678,300	\$191.04		
Architectural & Engineering Costs	\$1,326,528	\$8.00		Architecture (General, Structural, Mechanical, Civil), Interior Design, Etc
Furniture, Fixtures, and Equipment	\$688,136	\$4.15		Building Furniture, Exercise Equipment, Amenity Area Furniture, Etc
Insurance, Taxes, and Admin Costs	\$1,202,166	\$7.25		OCIP, Real Estate Taxes, Offsite bonds, Etc
Affordable Housing Trust Fund Contribution	\$1,000,000	\$6.03		
Leasing and Marketing Costs	\$1,019,768	\$6.15		Lease Up Operating Reserve, Marketing Costs, Brokerage Commissions, Etc
Legal Costs	\$257,015	\$1.55		General, Entitlement, Environmental
Permits & Fees Costs	\$1,160,712	\$7.00		Sewer Connection Fees, Building Permits, Etc
Developer Fee	\$1,875,256	\$11.31		4% on all development costs except Land Acquisition
Contingency	\$2,232,447	\$13.46		5.0% on all soft costs except Land and Developer Fee
Total Soft Costs	\$10,762,029	\$64.90		
Financing Costs	\$3,316,320	\$20.00		60% LTC/LTV for Construction and Permanent Financing, SOFR + 350, Tsy +185, 2.50% closing costs
Total Investment	\$52,756,649	\$318.16		

Exhibit D

Form of Certification of Final Construction Cost

Palmer Site Redevelopment Project
Bernardsville, New Jersey

I, _____, do certify the following:

I am the _____ of _____, for the _____
Project in _____.

2. To the extent that I have been involved in the construction of the _____
Project and based on those records and contracts that have been supplied to me by
_____, I certify that the total construction cost forth above referenced project
is \$_____.

I hereby certify that the foregoing statements made by me are true. I am aware that if any
of the foregoing statements are willfully false, I am subject to punishment.

Date: _____

**BERNARDSVILLE BOROUGH
ORDINANCE #2023-1984**

**AN ORDINANCE ADOPTING REGULATIONS FOR PRIVATELY-OWNED SALT
STORAGE AND SUPPLEMENTING AND AMENDING CHAPTER 22 OF THE
BOROUGH CODE ENTITLED “STORMWATER REGULATIONS”**

WHEREAS, the Borough is required to adopt a privately-owned salt storage ordinance in response to NJDEP’s recent action to designate all municipalities as TIER A as part of the updated MS4 Tier A Stormwater Permit;

NOW THEREFORE, BE IT ORDAINED by the Council of the Borough of Bernardsville in the County of Somerset, State of New Jersey that Chapter 22 of the Borough Coed, entitled, “Stormwater Regulations” is hereby supplemented and amended as follows:

Section 1. There is hereby added a new section 22-9 entitled “Privately-Owned Salt Storage” which read as follows:

§22-9 PRIVATELY-OWNED SALT STORAGE

§22-9.1 Purpose.

The purpose of this ordinance is to prevent stored salt and other solid de-icing materials from being exposed to stormwater.

This ordinance establishes requirements for the storage of salt and other solid de-icing materials on properties not owned or operated by the municipality (privately-owned), including residences, in the Borough of Bernardsville to protect the environment, public health, safety and welfare, and to prescribe penalties for failure to comply.

§22-9.2 Definitions.

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this Section clearly demonstrates a different meaning. When consistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

- A. “De-icing materials” means any granular or solid material such as melting salt or any other granular solid that assists in the melting of snow.
- B. “Impervious surface” means a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.
- C. Storm drain inlet” means the point of entry into the storm sewer system.
- D. Permanent structure” means a permanent building or permanent structure that is anchored to a permanent foundation with an impermeable floor, and that is completely roofed and walled (new structures require a door or other means of sealing the access way from wind driven rainfall).

A fabric frame structure is a permanent structure if it meets the following specifications:

- 1. Concrete blocks, jersey barriers or other similar material shall be placed around the interior of the structure to protect the side walls during loading and unloading of de-icing materials;
 - 2. The design shall prevent stormwater run-on and run through, and the fabric cannot leak;
 - 3. The structure shall be erected on an impermeable slab;
 - 4. The structure cannot be open sided; and
 - 5. The structure shall have a roll up door or other means of sealing the access way from wind driven rainfall.
- E. “Person” means any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.
 - F. “Resident” means a person who resides on a residential property where de-icing material is stored.

§22-9.3 Deicing Material Storage Requirements:

- A. Temporary outdoor storage of de-icing materials in accordance with the requirements below is allowed between October 15th and April 15th:
 - 1. Loose materials shall be placed on a flat, impervious surface in a manner that prevents stormwater run-through;
 - 2. Loose materials shall be placed at least 50 feet from surface water bodies, storm drain inlets, ditches and/or other stormwater conveyance channels;
 - 3. Loose materials shall be maintained in a cone-shaped storage pile. If loading or unloading activities alter the cone-shape during daily activities, tracked materials shall be swept back into the storage pile, and the storage pile shall be reshaped into a cone after use;

4. Loose materials shall be covered as follows:
 - a. The cover shall be waterproof, impermeable, and flexible;
 - b. The cover shall extend to the base of the pile(s);
 - c. The cover shall be free from holes or tears;
 - d. The cover shall be secured and weighed down around the perimeter to prevent removal by wind; and
 - e. Weight shall be placed on the cover(s) in such a way that minimizes the potential of exposure as materials shift and runoff flows down to the base of the pile.
 - (1) Sandbags lashed together with rope or cable and placed uniformly over the flexible cover, or poly-cord nets provide a suitable method. Items that can potentially hold water (e.g., old tires) shall not be used;
 5. Containers must be sealed when not in use; and
 6. The site shall be free of all de-icing materials between April 16th and October 14th.
- B. De-icing materials should be stored in a permanent structure if a suitable storage structure is available. For storage of loose de-icing materials in a permanent structure, such storage may be permanent, and thus not restricted to October 15 -April 15.
- C. Any such temporary and/or permanent structures must also comply with all other local ordinances, including building and zoning regulations.
- D. The property owner, or owner of the de-icing materials if different, shall designate a person(s) responsible for operations at the site where these materials are stored outdoors, and who shall document that weekly inspections are conducted to ensure that the conditions of this ordinance are met. Inspection records shall be kept on site and made available to the municipality upon request.
1. Residents who operate businesses from their homes that utilize de-icing materials are required to perform weekly inspections.

§22-9.4 Exemptions:

Residents may store de-icing materials outside in a solid-walled, closed container that prevents precipitation from entering and exiting the container, and which prevents the de-icing materials from leaking or spilling out. Under these circumstances, weekly inspections are not necessary, but repair or replacement of damaged or inadequate containers shall occur within 2 weeks.

If containerized (in bags or buckets) de-icing materials are stored within a permanent structure, they are not subject to the storage and inspection requirements in Section III above. Piles of de-icing materials are not exempt, even if stored in a permanent structure.

This ordinance does not apply to facilities where the stormwater discharges from de-icing

material storage activities are regulated under another NJPDES permit.

§22-9.5 Enforcement:

This ordinance shall be enforced by the Code Enforcement Officer and the Zoning Enforcement Officer and their deputies.

§22-9.6 Violations and Penalties:

Any person(s) who is found to be in violation of the provisions of this ordinance shall have 72 hours to complete corrective action. Any person who fails to take corrective action within that time shall be liable, upon conviction, to the penalties stated in Chapter 1, Section 1-5.

Section 2. Any or all other ordinances or parts thereof in conflict or inconsistent with any of the terms hereof are hereby repealed to such extent as they are so in conflict or inconsistent.

Section 3. In case any article, section or provision of this ordinance shall be held invalid in any court of competent jurisdiction, the same shall not affect any other article, section or provision of this ordinance except insofar as the article, section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

Section 4. This ordinance shall become effective immediately upon final passage and publication as required by law.

ATTEST:

COUNCIL OF THE BOROUGH OF
BERNARDSVILLE IN THE COUNTY
OF SOMERSET

Anthony Suriano, Borough Clerk

By: _____
Mary Jane Canose, Mayor

Introduction: _____

1st Publication: _____

Public Hearing and Adoption: _____

2nd Publication: _____

**BERNARDSVILLE BOROUGH
ORDINANCE #2023-1985**

**AMENDING ORDINANCE #2023-1977, WHICH APPROPRIATED \$150,000 FOR
LIBRARY BUILDING PUBLIC RESTROOM RENOVATIONS**

BE IT ORDAINED by the Borough Council of the Borough of Bernardsville, in the County of Somerset, New Jersey, as follows:

Section 1. The sum of \$150,000 as appropriated in Ordinance #2023-1977 for renovations to the public restrooms at the Bernardsville Public Library is hereby amended as follows:

Library Restroom Renovations - \$180,000

Section 2. The additional funding of \$30,000 shall be funded by the Bernardsville Public Library to be paid in full to the Borough of Bernardsville upon adoption of this ordinance.

Section 3. This ordinance shall take effect immediately upon final passage and publication as required by law.

Attest:

COUNCIL OF THE BOROUGH OF
BERNARDSVILLE IN THE COUNTY
OF SOMERSET

Anthony Suriano, Borough Clerk

Mary Jane Canose, Mayor

Introduced:
1st Publication:
Adopted:
2nd Publication:

RESOLUTION 23- 196

AUTHORIZING PAYMENT OF BILLS

RESOLVED, that the list of bills, copies attached hereto,
are hereby approved for payment.

01 State & Federal Grants	\$	2,122.50
04 Escrow	\$	1,500.00
06 Outside Employment	\$	-
10 Current Fund	\$	158,849.96
19 Other Trusts	\$	6,431.00
20 Payroll	\$	-
33 Capital Fund	\$	150,381.82
40 Sewer Utility Fund	\$	12,798.30
55 Sewer Capital	\$	-
70 COAH Trust	\$	4,007.01
71 Fire Prevention Trust	\$	-
72 Open Space Trust		
73 Police Law Enforcement	\$	-
85 Recreation Trust	\$	209.00
 TOTAL	 \$	 336,299.59

Council Approval at regular meeting:

I, Anthony J. Suriano, Borough Clerk of the Borough of Bernardsville, hereby
certify the forgoing to be a true and exact copy of a resolution adopted by
the Borough Council at a duly convened meeting held on October 23, 2023.

Anthony Suriano
Borough Clerk

**List of Bills - (0110101002000) CASH - STATE & FEDERAL GRANTS
STATE & FEDERAL GRANTS**

Meeting Date: 10/23/2023 For bills from 10/11/2023 to 10/19/2023

Check#	Vendor	Description	Account	PO Payment	Check Total
2427	358 - LUDLOW HEATING & COOLING CO.	PO 114451 Reclaim and Recycle Refrigerant from AC,		2,000.00	
	01-G22-0110-0380	RECYCLING TONNAGE GRANT (2019)	2,000.00		2,000.00**
2428	4213 - SHERRIE CALISH	PO 114456 PROGRAM COORDINATOR SALARY - SEPT 2023*		122.50	
	01-G23-0110-0367	2023 MUNICIPAL ALLIANCE (23/24)	122.50		122.50**
TOTAL					----- 2,122.50

**** = Payment(s) need to be approved before check can be printed.**

Total to be paid from Fund 01 STATE & FEDERAL GRANTS	2,122.50
	=====
	2,122.50

List of Bills - (0410101001000) CASH - ESCROW

ESCROW

Meeting Date: 10/23/2023 For bills from 10/11/2023 to 10/19/2023

Check#	Vendor	Description	Account	PO Payment	Check Total
2779	7593 - CHRISTOPHER LACKO	PO 114502 RELEASE OF STORMWATER ESCROW - RESOLUTIO		1,500.00	
	04-280-9000-0002 ST OPENING #3292 LACKO		1,500.00		1,500.00
TOTAL					----- 1,500.00
Total to be paid from Fund 04 ESCROW		1,500.00			
		=====			
		1,500.00			

List of Bills - (1010101006000) CASH - CURRENT FUND **CURRENT FUND**

Meeting Date: 10/23/2023 For bills from 10/11/2023 to 10/19/2023

Check#	Vendor	Description	Account	PO Payment	Check Total
65826	7592 - 4MB1 LLC & 4MB2 LLC	PO 114501 REFUND OF STATE LEAD FEES - RESOLUTION 2		490.00	
	10-192-0810-5014 FEES & PERMITS - HOUSING		490.00		490.00
65827	5098 - AA CHEMDRY OF NORTH JERSEY	PO 112675 Borough Hall Carpet Cleaning		866.13	
	10-C00-0145-0225 BUILD. & GROUNDS - CLEANING SERVICES		866.13		866.13
65828	6311 - ACTION DATA SERVICES	PO 113798 PAYROLL BLANKET		227.25	
	10-C00-0110-0205 FINANCE - GENERAL EXPENSE		227.25		227.25
65829	5398 - ADORAMA, INC	PO 112296 Sirchie Evidence Tape - Bl. on Red - 2 X		117.61	
	10-A00-0195-0223 (2022) POLICE - DETECTIVE SUPPLIES		117.61		117.61
65830	179 - AIRGAS USA, LLC	PO 114230 Supples Blanket		59.40	
	10-C00-0220-0205 STREETS & ROADS - GEN. EXPENSE		59.40		59.40
65831	1806 - ALLIED OIL LLC	PO 114320 GASOLINE - SEPTEMBER 2023(ACCOUNT #10-7		2,359.41	
	10-C00-0315-0220 GASOLINE - PREMIUM GAS		2,359.41		
		PO 114495 GASOLINE - OCTOBER 2023		3,467.95	
	10-C00-0315-0220 GASOLINE - PREMIUM GAS		3,467.95		5,827.36
65832	7390 - AMAZON CAPITAL SERVICES	PO 114472 OFFICE SUPPLIES		134.26	
	10-C00-0100-0201 ADMIN. & EXEC. - OFFICE SUPPLIES		107.67		
	10-C00-0120-0201 TAX COLLECTOR - OFFICE SUPPLY		26.59		134.26
65833	4214 - ATLANTIC TACTICAL OF NJ	PO 110172 Mis. Police Supplies and Equipment		11.99	
	10-204-5500-0 ACCOUNTS PAYABLE		11.99		
		PO 114415 Briana Stednick Uniforms		781.93	
	10-C00-0195-0206 POLICE - UNIFORMS		781.93		793.92
65834	6836 - ATLANTIC VISITING NURSE	PO 114496 4TH Quarter Contract 2023*		1,332.76	
	10-C00-0250-0215 BOARD OF HEALTH-VISITING NURSE		1,332.76		1,332.76
65835	761 - BERNARDSVILLE AUTO REPAIR, INC	PO 114288 Police Vehicle Inspection		77.50	
	10-C00-0246-0206 VEHICLE MAINT. - POLICE		77.50		77.50
65836	2873 - BERNARDSVILLE CAR WASH	PO 114403 CAR WASH TICKETS		594.00	
	10-C00-0246-0206 VEHICLE MAINT. - POLICE		594.00		594.00
65837	4239 - COMCAST	PO 114500 HD TV CONNECTION- POLICE DEPT- ACCT# 84		20.80	
	10-C00-0305-0215 TELEPHONE - PHONE BILLS		20.80		20.80
65838	4239 - COMCAST	PO 114522 HIGH SPEED INTERNET - ACCT 8499052890037		126.85	
	10-C00-0305-0215 TELEPHONE - PHONE BILLS		126.85		126.85
65839	386 - DELTA DENTAL OF NEW JERSEY, INC	PO 114327 DENTAL INSURANCE - 11/1-11/30		2,711.60	
	10-C00-0175-0225 GROUP INSURANCE - DENTAL BNFTS		2,711.60		2,711.60
65840	6997 - DIRECT ENERGY	PO 114503 ELECTRIC SERVICE - 1 PILL HILL ROAD - AC		47.71	
	10-C00-0310-0220 ELECTRICITY - BILLS		47.71		
		PO 114517 ELECTRIC 8/19-9/20		3,303.95	
	10-C00-0310-0220 ELECTRICITY - BILLS		3,303.95		
		PO 114521 ELECTRICITY - 8/19-9/20		3.00	
	10-C00-0310-0220 ELECTRICITY - BILLS		3.00		3,354.66
65841	6167 - DIRECT ENERGY BUSINESS	PO 114533 ELECTRIC SERVICE		644.63	
	10-C00-0310-0220 ELECTRICITY - BILLS		644.63		644.63
65842	4353 - GALLS, LLC	PO 114390 DA1106 - Nike Women's Quest 4 Running Sh		85.95	

List of Bills - (1010101006000) CASH - CURRENT FUND

CURRENT FUND

Meeting Date: 10/23/2023 For bills from 10/11/2023 to 10/19/2023

Check#	Vendor	Description	Account	PO Payment	Check Total
	10-C00-0195-0206	POLICE - UNIFORMS	85.95		85.95
65843	185 - GRAINGER	PO 114473 Chainsaw sharpener + blades		270.05	
	10-C00-0220-0205	STREETS & ROADS - GEN. EXPENSE	270.05		270.05
65844	3864 - GTBM INC	PO 114141 Open PO for 2023 E-Ticket Charges		243.00	
	10-C00-0195-0230	POLICE - MAINTENANCE CONTRACTS	243.00		243.00
65845	7587 - InfoUSA MARKETING	PO 114485 Genie - US Business Yearly Access		550.00	
	10-C00-0195-0202	POLICE - DUES & SUBSC.	550.00		550.00
65846	214 - INSTITUTE FOR PROF. DEVELO	PO 114335 10/12/23 WEBINAR - PAY TO PLAY UPDATE -		50.00	
	10-C00-0100-0203	ADMIN. & EXEC. - EDUCATION	50.00		50.00
65847	87 - JCP&L	PO 114493 ELECTRIC - SUMMARY ACCOUNT 200 001 546 0		2,074.34	
	10-C00-0310-0220	ELECTRICITY - BILLS	2,074.34		2,074.34
65848	87 - JCP&L	PO 114523 JCP&L - MASTER ACCOUNT 200000970000		310.51	
	10-C00-0225-0202	STREET LIGHTING	310.51		310.51
65849	87 - JCP&L	PO 114524 STREET LIGHTING - MASTER ACCOUNT 2000015		3,626.39	
	10-C00-0225-0202	STREET LIGHTING	3,626.39		3,626.39
65850	87 - JCP&L	PO 114525 STREET LIGHTING - MASTER ACCOUNT 2000015		519.43	
	10-C00-0225-0202	STREET LIGHTING	519.43		519.43
65851	6247 - JOY AUTO PARTS	PO 113691 Open P.O. for Police Vehicle Parts		241.75	
	10-C00-0246-0206	VEHICLE MAINT. - POLICE	241.75		
		PO 114191 Parts Blanket		133.45	
	10-C00-0246-0207	VEHICLE MAINT.-STREETS & ROADS	133.45		375.20
65852	6799 - MARCO TECHNOLOGIES	PO 113314 2023 SERVICE CONTRACT #006433-08 - BLANK		176.81	
	10-C00-0112-0206	INFORMATION TECHNOLOGY - MAINTENANCE CONTRACT	141.47		
	10-C00-0100-0201	ADMIN. & EXEC. - OFFICE SUPPLIES	35.34		176.81
65853	7556 - MCMANIMON, SCOTLAND & BAUMANN, LLC	PO 114261 REDEVELOPMENT ATTORNEY - PROFESSIONAL SE		8,775.00	
	10-C00-0100-0221	ADMIN. & EXEC. - DOWNTOWN REVITALIZATION	8,775.00		8,775.00
65854	6728 - NAPA OF CHESTER, INC	PO 111857 OPEN P.O. FOR POLICE VEHICLE PARTS		180.46	
	10-A00-0246-0206	(2022) VEHICLE MAINT. - POLICE	180.46		
		PO 112685 Parts blanket		212.36	
	10-C00-0246-0207	VEHICLE MAINT.-STREETS & ROADS	212.36		392.82
65855	31 - NEW JERSEY HILLS MEDIA GROUP	PO 112878 2023 BLANKET PO FOR BERNARDSVILLE NEWS L		129.81	
	10-C00-0102-0207	MUNICIPAL CLERK - ADVERTISING	129.81		129.81
65856	57 - NJ AMERICAN WATER CO.	PO 114498 WATER SERVICE - 1 PINE STREET FIELD - 10		1,321.10	
	10-C00-0145-0219	BUILD. & GROUNDS - WATER BILLS	1,321.10		1,321.10
65857	57 - NJ AMERICAN WATER CO.	PO 114499 WATER SERVICE - 10 FOX HOLLOW#14 TR- 101		53.21	
	10-C00-0145-0219	BUILD. & GROUNDS - WATER BILLS	53.21		53.21
65858	57 - NJ AMERICAN WATER CO.	PO 114530 WATER SERVICE		876.76	
	10-C00-0145-0219	BUILD. & GROUNDS - WATER BILLS	876.76		876.76
65859	57 - NJ AMERICAN WATER CO.	PO 114531 NJ AMERICAN WATER - 8/12-10/10		1,051.07	

List of Bills - (1010101006000) CASH - CURRENT FUND **CURRENT FUND**

Meeting Date: 10/23/2023 For bills from 10/11/2023 to 10/19/2023

Check#	Vendor	Description	Account	PO Payment	Check Total
	10-C00-0145-0219	BUILD. & GROUNDS - WATER BILLS	1,051.07		1,051.07
65860	4926 - NJSACOP	PO 114469 Accreditation Fee		4,000.00	
	10-C00-0195-0204	POLICE - MISCELLANEOUS	4,000.00		4,000.00
65861	7271 - NORTH JERSEY TREE EXPERTS	PO 113045 Honey Locust Fertilization and Pest Trea		272.00	
	10-C00-0145-0233	BUILD. & GROUNDS - LIBRARY PROPERTY MNT.	272.00		272.00
65862	7575 - NW FINANCIAL GROUP LLC	PO 114262 FINANCIAL REDEVELOPMENT CONSULTING SERVI		6,356.25	
	10-C00-0100-0221	ADMIN. & EXEC. - DOWNTOWN REVITALIZATION	6,356.25		6,356.25
65863	6085 - ONE SOURCE OF NEW JERSEY, LLC	PO 114466 Electrical connectors		550.96	
	10-C00-0220-0224	STREETS & ROADS - SUPPLIES	550.96		550.96
65864	6714 - PAYBYPHONE TECHNOLOGIES INC	PO 112738 2023 PARKING METER SERVICE FEES		150.00	
	10-279-5500-1001	RESERVE FOR RAILROAD STATION	38.00		
	10-C00-0145-0254	BUILD. & GROUNDS - PARKING LOTS	112.00		150.00
65865	7429 - POLICE AND SHERIFFS PRESS, INC	PO 114487 PASP ID Cards for Officers		63.05	
	10-C00-0195-0205	POLICE - GENERAL EQUIPMENT	63.05		63.05
65866	6042 - PSE&G	PO 114516 PSE&G - ACCOUNT NUMBER 1301152803 - 8/2		131.66	
	10-C00-0320-0225	GAS - NATURAL	131.66		131.66
65867	104 - R&B PRINTING INC	PO 113364 Blanket P.O. for Miscellaneous Printing		7.90	
	10-C00-0220-0205	STREETS & ROADS - GEN. EXPENSE	7.90		7.90
65868	1042 - READY REFRESH	PO 112715 2023 Bottled Water Borough Hall, DPW, Se		429.26	
	10-C00-0145-0218	BUILD. & GROUNDS - BOTTLED H2O	382.12		
	10-C00-0145-0234	BUILD. & GROUNDS - CONSTRUCTION OFFICE	8.89		
	10-C00-0145-0240	BUILD. & GROUNDS - REC. BUILDING MAINT.	38.25		429.26
65869	5562 - REAL TIME TRANSLATION, INC	PO 113537 Open P.O. for Elsa Translation Services		184.80	
	10-C00-0195-0230	POLICE - MAINTENANCE CONTRACTS	184.80		184.80
65870	4955 - REEGS, INC	PO 114231 Batteries Blanket		142.95	
	10-C00-0246-0207	VEHICLE MAINT.-STREETS & ROADS	142.95		142.95
65871	5906 - REPUBLIC SERVICES OF NJ	PO 113380 Garbage Container Removal and Disposal -		1,086.80	
	10-C00-0235-0213	LANDFILL - DISPOSAL OF WASTE	1,086.80		
		PO 114225 Garbage Container Removal and Disposal -		772.45	
	10-C00-0235-0213	LANDFILL - DISPOSAL OF WASTE	772.45		1,859.25
65872	5761 - ROBERTS & SON	PO 114425 Valeo Starter for Car 304		209.00	
	10-C00-0246-0206	VEHICLE MAINT. - POLICE	209.00		209.00
65873	7588 - RSC INSURANCE BROKERAGE INC	PO 114483 GROUP ACCIDENT POLICY # 64097154 EXPIRAT		2,185.00	
	10-C00-0170-0220	LIABILITY INSURANCE	2,185.00		2,185.00
65874	5108 - SERVICEMASTER ABSOLUTE CLEANING LLC	PO 112680 2023 Janitorial Services Borough Hall +		1,741.69	
	10-C00-0145-0225	BUILD. & GROUNDS - CLEANING SERVICES	1,741.69		
		PO 112681 2023 Janitorial Services Suite 103, Suit		999.64	
	10-C00-0145-0234	BUILD. & GROUNDS - CONSTRUCTION OFFICE	433.33		
	10-C00-0145-0240	BUILD. & GROUNDS - REC. BUILDING MAINT.	283.16		
	10-C00-0145-0231	BUILD. & GROUNDS - LIBRARY TENANTS EXP.	283.15		
		PO 113765 2023 Cleaning of Commuter Area/Restrooms		325.00	
	10-C00-0145-0250	BUILD. & GROUNDS - TRAIN STATION	325.00		3,066.33

List of Bills - (1010101006000) CASH - CURRENT FUND **CURRENT FUND**

Meeting Date: 10/23/2023 For bills from 10/11/2023 to 10/19/2023

Check#	Vendor	Description	Account	PO Payment	Check Total
65875	7138 - SMITH TRACTOR & EQUIPMENT INC	PO 114291 New Holland front bearings repair		3,987.24	
	10-C00-0246-0207 VEHICLE MAINT.-STREETS & ROADS		3,987.24		3,987.24
65876	196 - SOMERSET COUNTY, TREASURER	PO 113567 2023 Municipal Pavement Striping and Mar		5,789.10	
	10-C00-0220-0222 STREETS & ROADS - ST. MARKING		5,789.10		5,789.10
65877	7446 - TREASURER, STATE OF NJ	PO 114534 LEAD FEES - SEPTEMBER 2023		240.00	
	10-214-5502-0000 DUE TO STATE - LEAD FEES (HOUSING)		240.00		240.00
65878	5802 - TRUGREEN	PO 113779 2023 Kiwanis Field Lawn Maintenance - So		250.17	
	10-C00-0145-0241 BUILD. & GROUNDS - REC. FIELD MAINT.		250.17		250.17
65879	61 - VERIZON	PO 113816 TELEPHONE BILL 908-221-9611 - BLANKET**		581.46	
	10-C00-0305-0215 TELEPHONE - PHONE BILLS		581.46		581.46
65880	3488 - VERIZON	PO 114520 FIOS - ACCT# 354-642-517-0001-63 - 10/10		129.99	
	10-C00-0305-0215 TELEPHONE - PHONE BILLS		129.99		129.99
65881	5318 - W.B.MASON CO,INC	PO 114471 OFFICE SUPPLIES		86.97	
	10-C00-0100-0201 ADMIN. & EXEC. - OFFICE SUPPLIES		86.97		86.97
65882	1264 - WELDON ASPHALT CO.	PO 114199 BITUMINOUS CONCRETE & STONE - JULY-DEC 2		985.96	
	10-C00-0220-0218 STREETS & ROADS - ROAD REPAIR		985.96		985.96
65883	4945 - WURTH USA INC	PO 114506 Shop supplies [Mike]		314.39	
	10-C00-0220-0224 STREETS & ROADS - SUPPLIES		314.39		314.39
TOTAL					70,233.87
Total to be paid from Fund 10 CURRENT FUND		70,233.87			
		=====			
		70,233.87			

Checks Previously Disbursed

231068	STATE OF NJ PENSIONS & BENEFITS	PO# 114461 HEALTH BENEFITS 10/1-10/31/23	88,616.09 10/13/2023

			88,616.09

Totals by fund	Previous Checks/Voids	Current Payments	Total
Fund 10 CURRENT FUND	88,616.09	70,233.87	158,849.96
BILLS LIST TOTALS	88,616.09	70,233.87	158,849.96
			=====

**List of Bills - (1910101001000) CASH - OTHER TRUSTS
OTHER TRUSTS**

Meeting Date: 10/24/2023 For bills from 10/11/2023 to 10/19/2023

Check#	Vendor	Description	Account	PO Payment	Check Total
472	5595 - ANIMAL CONTROL SOLUTIONS, LLC 19-285-0500-3001 RESERVE FOR ANIMAL CONTROL	PO 112956 KENNELING EMERGENCY BLANKET	540.00	540.00	540.00
473	322 - MGL FORMS PRINTING SOLUTIONS,LLC 19-285-0500-3001 RESERVE FOR ANIMAL CONTROL	PO 114112 2024 Dog/Cat Tags	521.00	521.00	521.00
474	2186 - TREASURER-STATE OF NEW JERSEY 19-285-0500-2002 DUE TO STATE - DCA	PO 114507 3RD QUARTER 2023 CONSTRUCTION DCA FEES*	5,370.00	5,370.00	5,370.00
TOTAL					6,431.00
Total to be paid from Fund 19 OTHER TRUSTS		6,431.00			
		=====			
		6,431.00			

List of Bills - (3310101004000) CASH - CAPITAL

CAPITAL FUND

Meeting Date: 10/23/2023 For bills from 10/11/2023 to 10/19/2023

Check#	Vendor	Description	Account	PO Payment	Check Total
6358	7390 - AMAZON CAPITAL SERVICES	PO 114434 Scanners for paper file conversion: 2x s		1,528.98	
	33-215-2921-1011	2021-1880 - ADMIN - VARIOUS CAPITAL ITEMS	1,528.98		1,528.98
6359	1322 - JESCO, INC.	PO 113811 2023 John Deere 320P Backhoe - ESCNJ Co		148,852.84	
	33-215-2934-1013	CAP ORD 2023-1968 - ROAD DEPT BACKHOE	148,852.84		148,852.84
TOTAL					----- 150,381.82
Total to be paid from Fund 33 CAPITAL FUND		150,381.82	=====		
		150,381.82			

List of Bills - (4010101002000) CASH - SEWER UTILITY SEWER UTILITY FUND

Meeting Date: 10/23/2023 For bills from 10/11/2023 to 10/19/2023

Check#	Vendor	Description	Account	PO Payment	Check Total
10980	386 - DELTA DENTAL OF NEW JERSEY, INC 40-C00-0101-0230 SEWER - GROUP INSURANCE	PO 114327 DENTAL INSURANCE - 11/1-11/30	381.71	381.71	381.71
10981	1619 - GARDEN STATE LABORATORIES INC 40-C00-0101-0215 SEWER - TESTING	PO 114474 2023, blanket, 4th quarter	990.00	990.00	990.00
10982	57 - NJ AMERICAN WATER CO. 40-C00-0101-0229 SEWER - WATER BILLS	PO 114526 WATER SERVICE - 7 CHILDS ROAD PUMP STATI	12.78	12.78	12.78
10983	57 - NJ AMERICAN WATER CO. 40-C00-0101-0229 SEWER - WATER BILLS	PO 114531 NJ AMERICAN WATER - 8/12-10/10	5,956.09	5,956.09	5,956.09
10984	57 - NJ AMERICAN WATER CO. 40-C00-0101-0229 SEWER - WATER BILLS	PO 114532 WATER SERVICE	21.27	21.27	21.27
10985	4835 - ONE CALL CONCEPTS 40-C00-0101-0204 SEWER - MISCELLANEOUS	PO 114055 Blanket PO for 2023 Markout services - 2	110.11	110.11	110.11
10986	4335 - PASSAIC VALLEY SEWERAGE COMMISSION 40-C00-0101-0226 SEWER - SLUDGE REMOVAL	PO 112727 1st. Qtr. 2023 Sludge Disposal	1,579.20	1,579.20	1,579.20
10987	6042 - PSE&G 40-C00-0101-0224 SEWER - NATURAL GAS/DIESEL	PO 114516 PSE&G - ACCOUNT NUMBER 1301152803 - 8/2	86.34	86.34	86.34
10988	1994 - RUSSELL REID 40-C00-0101-0226 SEWER - SLUDGE REMOVAL	PO 113457 Sludge hauling blanket 2023	3,302.25	3,302.25	3,302.25
10989	61 - VERIZON 40-C00-0101-0301 SEWER -TELEPHONE	PO 114494 TELEPHONE BILLS - SEPT 2023 - 201 X52-12	358.55	358.55	358.55
TOTAL					----- 12,798.30
Total to be paid from Fund 40 SEWER UTILITY FUND		12,798.30	=====		
		12,798.30			

**List of Bills - (7010101002000) CASH - COAH
COAH TRUST**

Meeting Date: 10/23/2023 For bills from 10/11/2023 to 10/19/2023

Check#	Vendor	Description	Account	PO Payment	Check Total
2267	5366 - CGP&H, LLC	PO 112850 ADMINISTRATIVE AGENT & PLANNING SERVICES		1,557.75	
	70-286-5685-4013	COAH - ADMINISTRATIVE COSTS	1,557.75		1,557.75
2268	8 - FEDERAL EXPRESS CORP.	PO 114497 SHIPMENT FROM FINANCE T MARAZITI FALCON		27.31	
	70-286-5685-4013	COAH - ADMINISTRATIVE COSTS	27.31		27.31
2269	6830 - MARAZITI FALCON, LLP	PO 114074 PROFESSIONAL SERVICES CONTRACT - 210 NOR		2,421.95	
	70-286-5685-4013	COAH - ADMINISTRATIVE COSTS	2,421.95		2,421.95
TOTAL					----- 4,007.01
Total to be paid from Fund 70 COAH TRUST		4,007.01	=====		
		4,007.01			

List of Bills - (8510101002000) CASH - RECREATION TRUST
RECREATION TRUST

Meeting Date: 10/23/2023 For bills from 10/11/2023 to 10/19/2023

Check#	Vendor	Description	Account	PO Payment	Check Total
599	5063 - CHEMUNG SUPPLY CORPORATION	PO 114440 4' x 50' Rolls of Snow Fence		209.00	
	85-286-5685-4008 CYCLOCROSS - BIKE		209.00		209.00
TOTAL					----- 209.00
Total to be paid from Fund 85 RECREATION TRUST		209.00			
		=====			
		209.00			

**BOROUGH OF BERNARDSVILLE
RESOLUTION #23-197**

**RESOLUTION AUTHORIZING THE PROVISION OF A GRANT
PURSUANT TO THE BOROUGH OF BERNARDSVILLE
AFFORDABILITY ASSISTANCE PROGRAM FOR CODE
COMPLIANCE / EMERGENCY REPAIRS OF AN AFFORDABLE
HOUSING UNIT LOCATED AT
19 E FOX HOLLOW TRAIL, BERNARDSVILLE, NJ 07924**

WHEREAS, Lila Greenstone (“Owner”) whose address is 19 E Fox Hollow Road, Bernardsville, NJ 07924, a property governed by the statuses, ordinances, rules and regulations restricting occupancy and use of the property as an affordable housing unit; and

WHEREAS, the Owner has been assessed a \$15,000.00 fee by the homeowner’s association for Emergency Repairs / Code Compliance Repairs, and requested a grant through Bernardsville Borough’s Affordability Assistance Program; and

WHEREAS, the Borough’s Affordable Housing Administrative Agent, CGP&H, LLC, has reviewed the Owner’s application and qualified the Owner for the requested assistance; and

WHEREAS, the amount of the requested Grant for Emergency Repairs / Code Compliance Repairs is \$15,000.00, and

WHEREAS, the Borough is willing, pursuant to the Affordable Assistance Program, to extend a Grant to the Owner in the amount of \$15,000.00; and

WHEREAS, the funding for the Grant will be from the Bernardsville Borough Affordable Housing Trust Fund.

NOW THEREFORE BE IT RESOLVED on this 23rd day of October 2023, by the Borough Council of Bernardsville, County of Somerset, State of New Jersey, that:

1. The Mayor and Clerk are hereby authorized, pursuant to the Borough’s Affordability Assistance Program, to enter into an Affordability Assistance Program Repayment Agreement with Owner and provide Owner with a Grant, payable directly to the Homeowners Association, to be used to bring the property up to code located at 19 E Fox Hollow Road, Bernardsville, NJ 07924.
2. The Mayor, Administrator, Clerk, Borough Attorney, CFO, and such other staff and officials as may be appropriate are authorized to take such steps as may be reasonably required to implement this resolution, including issuance of the Grant amount.

3. The Treasurer is hereby authorized to process a payment in the amount of \$15,000.00 to:

Rolling Hills at Bernardsville Condominium Association
Attn: Christine Wettasinghe
80 Morristown Road, PMB #331
Bernardsville NJ 07924

CERTIFICATION

I, Anthony Suriano, Clerk of the Borough of Bernardsville, certify that the foregoing resolution was adopted by the Borough Council of the Borough of Bernardsville at its meeting held on the 23rd day of October, 2023.

Anthony Suriano, Clerk

RESOLUTION #23-198

**ACCEPTING THE 2023 EMERGENCY OPERATION PLAN (EOP)
FOR THE BOROUGH OF BERNARDSVILLE**

BE IT RESOLVED by the Borough Council to accept the 2023 Borough of Bernardsville EOP and its approval letter from the NJ State Police OEM.

I, Anthony Suriano, Borough Clerk of the Borough of Bernardsville, hereby certify the foregoing to be a true and exact copy of a resolution adopted by the Borough Council at a duly convened meeting held October 23, 2023.

EOP

RESOLUTION #23-199

AMENDING THE HOURLY RATE OF SLEO III's

WHEREAS, Resolution #22-229, adopted on November 28, 2022, authorized an agreement with the Somerset Hills Regional School District to provide special police officers in district schools; and

WHEREAS, said contract indicates a rate of \$35/hour for SLEO III's.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Bernardsville to amend the contract to set the hourly rate of SLEO III's to \$40/hour beginning on November 15, 2023.

I, Anthony Suriano, Clerk of the Borough of Bernardsville, hereby certify the foregoing to be a true and exact copy of a resolution adopted by the Borough Council at a duly convened meeting held on October 23, 2023.

RESOLUTION #23-200

**REGARDING EMPLOYEE APPOINTMENTS FOR QPA, PAYROLL,
FINANCE, AND PLANNING/ZONING**

BE IT RESOLVED by the Borough Council of the Borough of Bernardsville to appoint the following employees as noted and to increase their salaries by the amount indicated for the remainder of 2023 or January 1, 2024 as noted:

Nancy Malool – QPA \$12,000, (effective October 16, 2023)

Leslie Roberson – Payroll \$12,000, (effective January 1, 2024)

Anthony Suriano – Payroll Alternate, \$4,000 (effective January 1, 2024)

Christine Tseles – Finance/Payroll Assistant/Recreation Purchasing Assistant, \$12,000 (effective October 16, 2023)

Denise Filardo – Planning Board/Board of Adjustment Secretary/Zoning Officer, \$12,000 (no longer Recreation Purchasing Assistant, effective October 16, 2023)

I, Anthony Suriano, Clerk of the Borough of Bernardsville, hereby certify the foregoing to be a true and exact copy of a resolution adopted by the Borough Council at a duly convened meeting held on October 23, 2023.

RESOLUTION #23-201

**MEMORIALIZING THE APPOINTMENT OF JULIE MISTOVE
TAX CLERK/ADMINISTRATIVE ASSISTANT**

BE IT RESOLVED, by the Borough Council of the Borough of Bernardsville to appoint Julie Mistove as Tax Clerk/Administrative Assistant, effective October 16, 2023, at a salary of \$55,000.

BE IT FURTHER RESOLVED, that this is a full time position, 35 hours per week, payable bi-weekly, salary pro-rated for the balance of 2023, and the position is subject to provisions of the Employee Handbook of the Borough of Bernardsville.

I, Anthony Suriano, Clerk of the Borough of Bernardsville, hereby certify the foregoing to be a true and exact copy of a resolution adopted by the Borough Council at a duly convened meeting held October 23, 2023.

RESOLUTION #23-202

**MEMORIALIZING THE APPOINTMENT OF CHIANA ARMENTI
AS CONSTRUCTION DEPARTMENT ASSISTANT**

BE IT RESOLVED, by the Borough Council of the Borough of Bernardsville to appoint Chiana Armenti as Construction Department Assistant, effective October 16, 2023, at a salary of \$52,000 and to be increased to \$57,000 upon receiving TACO certification.

BE IT FURTHER RESOLVED, that this is a full time position, 35 hours per week, payable bi-weekly, salary pro-rated for the balance of 2023, and the position is subject to provisions of the Employee Handbook of the Borough of Bernardsville.

I, Anthony Suriano, Clerk of the Borough of Bernardsville, hereby certify the foregoing to be a true and exact copy of a resolution adopted by the Borough Council at a duly convened meeting held October 23, 2023.

RESOLUTION #23-203

ACCEPTING A DONATION TO THE BERNARDSVILLE POLICE DEPARTMENT

BE IT RESOLVED, by the Borough Council of the Borough of Bernardsville to accept a donation to the Bernardsville Police Department in the amount of \$10,000 from the Paragano Family Foundation.

I, Anthony Suriano, Clerk of the Borough of Bernardsville, hereby certify the foregoing to be a true and exact copy of a resolution adopted by the Borough Council at a duly convened meeting held on October 23, 2023.

RESOLUTION #23-204

APPOINTING CLASS III SPECIAL POLICE OFFICER

WHEREAS, the *Special Law Enforcement Officers Act, N.J.S.A. 40A:14-146.8 et seq. (the "Act")* provides in relevant part that:

"a. Any local unit may, as it deems necessary, appoint special law enforcement officers sufficient to perform the duties and responsibilities permitted by local ordinances authorized by N.J.S. 40A: 14-118 and within the conditions and limitations as may be established pursuant to this Act" (*N.J.S.A. 40A:14-146.10*); and

WHEREAS, *N.J.S.A. 40A:14-146.10* goes on to provide that:

"Before any special law enforcement officer is appointed pursuant to this Act, the chief of police... shall ascertain the eligibility and qualifications of the applicant and report these determinations in writing to the appointing authority ..."; and

WHEREAS, the Act was amended, effective June 1, 2017, to create a new Class III of special police officers, as follows:

"Class Three. Officers of this class shall be authorized to exercise full powers and duties similar to those of a permanent, regularly appointed full-time police officer while providing security at a public or nonpublic school or a county college on the school or college premises during hours when the public or nonpublic school or county college is normally in session or when it is occupied by public or nonpublic school or county college students or their teachers or professors. While on duty in the jurisdiction of employment, an officer may respond to offenses or emergencies off school or college grounds if they occur in the officer's presence while traveling to a school facility or county college, but an officer shall not otherwise be dispatched or dedicated to any assignment off school or college property. The use of a firearm by an officer of this class shall be authorized pursuant to the provisions of subsection b. of section 7 of P.L.1985, c.439 (C.40A:14-146.14).

An officer of this class shall not be authorized to carry a firearm while off duty unless the officer complies with the requirements set forth in subsection 1. of N.J.S.2C:39-6 authorizing a retired law enforcement officer to carry a handgun." (*N.J. Stat. § 40A:14-146.11*); and

WHEREAS, *N.J.S.A. 40A:14-146.10*, as amended also provides that:

g. In addition to the qualifications established in subsection b. of this section, a person shall not be appointed as a Class Three special law enforcement officer unless the person:

(1) is a retired law enforcement officer who is less than 65 years of age; for the purposes of this paragraph, a law enforcement officer shall not be considered

retired if the officer's return to employment violates any federal or State law or regulation which would deem the officer's retirement as not being bona fide;

(2) had served as a duly qualified, fully-trained, full-time officer in any municipality or county of this State or as a member of the State Police and was separated from that prior service in good standing, within three years of appointment, except during the first year following the effective date [June 1, 2017] of P.L.2016, c.68, was separated from that prior service within five years of appointment;

(3) is physically capable of performing the functions of the position, determined in accordance with Police Training Commission guidelines;

(4) possesses a New Jersey Police Training Commission Basic Police Officer Certification or New Jersey State Police Academy Certification;

(5) has completed the training course for safe schools resource officers developed pursuant to subsection a. of section 2 of P.L.2005, c.276 (C.52:17B-71.8); and

(6) is hired in a part-time capacity.

WHEREAS, Edwin Maldonado, a retired police officer, meets the qualifications set forth in N.J.S.A. 40A:14-146.10; and

WHEREAS, Chief of Police John Remian has recommended that Edwin Maldonado be appointed as a Class **III** Special Police Officer, subject to satisfactory completion of his medical and psychological examinations and background investigations;

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Borough of Bernardsville in the County of Somerset, New Jersey as follows:

1. In accordance with state law, Edwin Maldonado is hereby appointed as Class **III** Special Police Officer for a one-year term, at \$40.00 an hour, and conditioned upon receipt of a satisfactory background investigation and police employment medical and psychological examinations.

2. Special Police Officer Edwin Maldonado shall perform his duties only upon the direction of Chief of Police John Remian, or his designee.

I, Anthony Suriano, Clerk of the Borough of Bernardsville, hereby certify the foregoing to be a true and exact copy of a resolution adopted by the Governing Body at a duly convened meeting held October 23, 2023.

C:\Users\asuriano\Downloads 2018-08-13 RES appointing SLEO III (3).wpd

RESOLUTION #23-205
RESOLUTION AUTHORIZING TRANSFER OF FUNDS

WHEREAS, it has been determined that the following appropriations will be in need of additional funding prior to December 31, 2023 and NJSA 40A:4-58 and 59 permits the transfer of funds from those line items where an excess exists to those appropriations that are expected to be insufficient,

NOW THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Bernardsville, County of Somerset, that the following budget transfers be made effective November 1, 2023:

CURRENT FUND:

<u>Account Number</u>	<u>Account Name</u>	<u>S&W/OE</u>	<u>FROM</u>	<u>TO</u>
10-C00-0195-0100	POLICE	S&W	\$ 19,000.00	XXXXXX
10-C00-0300-0201	SAL & WAGE ADJUSTMENT	S&W	\$ 32,000.00	XXXXXX
10-C00-0230-0100	MUNICIPAL SERVICES	S&W	\$ 3,000.00	XXXXXX
10-C00-0230-0200	MUNICIPAL SERVICES	OE	\$ 8,000.00	XXXXXX
10-C00-0101-0200	HUMAN RESOURCES	OE	\$ 5,000.00	XXXXXX
10-C00-0135-0200	LEGAL SERVICES	OE	\$ 5,000.00	XXXXXX
10-C00-0100-0200	ADMIN & EXEC	OE	XXXXXX	\$ 20,000.00
10-C00-0160-0200	SHADE TREE	OE	XXXXXX	\$ 15,000.00
10-C00-0195-0200	POLICE	OE	XXXXXX	\$ 14,000.00
10-C00-0102-0100	MUNICIPAL CLERK	S&W	XXXXXX	\$ 3,000.00
10-C00-0334-0200	DCRP	OE	XXXXXX	\$ 5,000.00
10-C00-0340-0200	SOCIAL SECURITY	OE	XXXXXX	\$ 15,000.00
			\$ 72,000.00	\$ 72,000.00

I, Anthony Suriano, Borough Clerk of the Borough of Bernardsville in the County of Somerset in the State of New Jersey, do hereby certify that the foregoing is a correct and true copy of a resolution adopted by the Borough Council of the Borough of Bernardsville in the County of Somerset in the State of New Jersey on October 23, 2023.

Anthony Suriano
Borough Clerk

RESOLUTION #23-206

**AWARDING A CONTRACT FOR
EXCAVATION OF TEST PITS**

WHEREAS, bids were received on October 13, 2023, supported by the required documentation, for the 2023-24 Excavation of Test Pits; and

WHEREAS, the low bid was submitted by Messercola Excavating of Plainfield, NJ at the unit price of \$848.00 per test pit.

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

- (1) A contract is hereby awarded to Messercola Excavating at the unit price of \$848.00 per test pit.
- (2) The Mayor and Clerk are hereby authorized to sign a contract for 2023-24 Excavation of Test Pits, which has been approved in form by the Borough Attorney.

I, Leslie Roberson, C.M.F.O., hereby certify, in accordance with requirements of N.J.A.C. 5:30-14.5, that funds for the project discussed herein are available in Acct No. 10-C00-0140-0200, General Engineering.

I, Anthony Suriano, Clerk of the Borough of Bernardsville, hereby certify the foregoing to be a true and exact copy of a resolution adopted by the Borough Council at a duly convened meeting held October 23, 2023.

RESOLUTION #23-207

**AUTHORIZING THE PURCHASE OF A 2024 FORD F250 PICKUP TRUCK
THROUGH STATE CONTRACT**

WHEREAS, the Borough of Bernardsville is looking to purchase a 2024 Ford F250 Pickup Truck with options as recommended by the Public Works Manager in a memo dated October 13, 2023; and

WHEREAS, adequate funds exist for the pickup truck in the amount of \$69,106.40.

BE IT RESOLVED by the Borough Council to authorize as follows:

- (1) The purchase of a 2024 Ford F250 Pickup Truck with options in the amount of \$69,106.40.
- (2) The contract is awarded through New Jersey State Contract #23-FLEET-34922 with Nielsen Ford of Morristown, NJ.
- (3) The Public Works Manager, and if necessary, Mayor & Clerk, and/or CFO are hereby authorized to sign any necessary documents.

I, Leslie Roberson, C.M.F.O., hereby certify, in accordance with requirements of N.J.A.C. 5:30-14.5, that funds for the purchase discussed herein are available in Ordinance #2023-1972 in the \$69,106.40.

I, Anthony Suriano, Borough Clerk of the Borough of Bernardsville, hereby certify the foregoing to be a true and exact copy of a resolution adopted by the Borough Council at a duly convened meeting held October 23, 2023.

RESOLUTION #23-208

**APPOINTING DENISE CHARLTON AS TEMPORARY, PART TIME, TECHNICAL
ASSISTANT TO THE CONSTRUCTION OFFICIAL (TACO)**

BE IT RESOLVED, by the Borough Council of the Borough of Bernardsville to appoint Denise Charlton as Temporary Part Time Technical Assistant to the Construction Official (TACO), effective October 30, 2023, at a salary of \$35/hr. and a stipend of \$2,000.

BE IT FURTHER RESOLVED, that this is a temporary position, up to 8 hours per week, payable bi-weekly, and the position is subject to provisions of the Employee Handbook of the Borough of Bernardsville.

I, Anthony Suriano, Clerk of the Borough of Bernardsville, hereby certify the foregoing to be a true and exact copy of a resolution adopted by the Borough Council at a duly convened meeting held October 23, 2023.

**BOROUGH OF BERNARDSVILLE
RESOLUTION #23-209**

**A RESOLUTION AUTHORIZING THE BOROUGH OF BERNARDSVILLE TO
ESTABLISH A COMMODITY RESALE SYSTEM AND TO ENTER INTO A
COMMODITY RESALE AGREEMENT WITH THE SOMERSET HILLS
BOARD OF EDUCATION**

WHEREAS, *N.J.A.C. 5:34-7.15* authorizes contracting units to establish a Commodity Resale System; and

WHEREAS, the Borough of Bernardsville, in the County of Somerset, State of New Jersey (the “Borough”) is desirous of establishing a Commodity Resale System for the resale of gasoline and rock salt to the Somerset Hills Board of Education; and

WHEREAS, the Borough has agreed to serve as the Lead Agency for a Commodity Resale System with the Somerset Hills Board of Education;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Bernardsville, in the County of Somerset, State of New Jersey as follows:

1. The Council hereby authorizes creation of a Commodity Resale System to be known as the Bernardsville Borough Gasoline and Rock Sale Resale System with the Borough serving as the Lead Agency.
2. The Council hereby approves the agreement for the resale of gasoline and rock salt to the Somerset Hills Board of Education.
3. The Borough Clerk is hereby directed to submit a certified copy of this Resolution along with a copy of the fully executed Commodity Resale Agreement; and a copy of the Request for Registration or Modification of a Commodity Resale System Form (Cooperative Purchasing Form PO-2060) to the Director of the Division of Local Government Services within the State Department of Community Affairs for her approval in accordance with the provisions of *N.J.A.C. 5:34-7.15*.

I, Anthony Suriano, Clerk of the Borough of Bernardsville, hereby certify the foregoing to be a true and exact copy of a resolution adopted by the Governing Body at a duly convened meeting held Monday, October 23, 2023.

Anthony Suriano, Clerk

**BOROUGH OF BERNARDSVILLE
RESOLUTION #23-210**

**RESOLUTION TERMINATING SHARED SERVICES AGREEMENT WITH
BERNARDS TOWNSHIP FOR FIRE PREVENTION**

WHEREAS, the governing body adopted Resolution #22-147 on November 28, 2022, authorizing a shared services agreement with Bernards Township for fire prevention; and

WHEREAS, the governing body wishes to terminate that agreement as of December 31, 2023;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Bernardsville, in the County of Somerset, State of New Jersey, that the shared services agreement with Bernards Township for fire prevention as described in the preamble is hereby terminated effective December 31, 2023.

I, Anthony Suriano, Clerk of the Borough of Bernardsville, hereby certify the foregoing to be a true and exact copy of a resolution adopted by the Governing Body at a duly convened meeting held Monday, October 23, 2023.

Anthony Suriano, Clerk

RESOLUTION #23-211

**AWARDING A CONTRACT FOR
MUNICIPAL PARKING LOT SNOW PLOWING
AND SIDEWALK CLEARING**

WHEREAS, bids were received for municipal parking lot snow plowing and sidewalk clearing, supported by the required documentation, as discussed in a memo from the Public Works Manager dated October 18, 2023.

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

(1) A contract is hereby awarded to the low bidder, Research and Design Landscaping of Bernardsville, NJ, at the respective unit prices indicated in their bid for October 23, 2023 to April 30, 2024.

(2) The Mayor and Clerk are hereby authorized to sign a contract with Research and Design Landscaping which has been approved in form by the Borough Attorney.

I, Leslie Roberson, C.M.F.O., hereby certify, in accordance with requirements of N.J.A.C. 5:30-14.5, that funds for the project discussed herein are available in Streets and Roads - Snow Removal.

I, Anthony Suriano, Clerk of the Borough of Bernardsville, hereby certify the foregoing to be a true and exact copy of a resolution adopted by the Borough Council at a duly convened meeting held October 23, 2023.

RESOLUTION #23-212

**AUTHORIZING THE MAYOR AND CLERK TO SIGN A SHARED SERVICES
AGREEMENT WITH LONG HILL TOWNSHIP FOR STYROFOAM RECYCLING**

BE IT RESOLVED, by the Borough Council of the Borough of Bernardsville to authorize a shared services agreement with Long Hill Township for Styrofoam recycling.

I, Anthony Suriano, Clerk of the Borough of Bernardsville, hereby certify the foregoing to be a true and exact copy of a resolution adopted by the Borough Council at a duly convened meeting held October 23, 2023.

RESOLUTION #23-213

**AUTHORIZING THE MAYOR TO SIGN A GRANT APPLICATION
FOR AN ELECTRIC VEHICLE**

BE IT RESOLVED, by the Borough Council to authorize the Mayor to sign a grant application for an electric vehicle for use by the Public Works Department, as noted in a request for a grant by John Macdowall, Public Works Manager, dated October 19, 2023.

I, Anthony Suriano, Clerk of the Borough of Bernardsville, hereby certify the foregoing to be a true and exact copy of a resolution adopted by the Borough Council at a duly convened meeting held on October 23, 2023.

RESOLUTION #23-214

**AMENDING THE PROFESSIONAL SERVICES CONTRACT WITH
STORMWATER COMPLIANCE SOLUTIONS**

WHEREAS, the Borough of Bernardsville adopted Resolution #23-5 on January 3, 2023 entered into a Professional Services Contract with Stormwater Compliance Solutions for NJDEP stormwater compliance; and

WHEREAS, the resolution stated that compensation was not to exceed \$40,000 unless authorized by the governing body.

BE IT RESOLVED by the Borough Council of the Borough of Bernardsville, to amend said contract to increase the amount not to exceed by an additional \$20,000 for a total of \$60,000 for 2023.

I, Anthony Suriano, Clerk of the Borough of Bernardsville, hereby certify the foregoing to be a true and exact copy of a resolution adopted by the Borough Council at a duly convened meeting held on October 23, 2023.

RESOLUTION #23-215

**AUTHORIZING A GRANT APPLICATION TO
NJDEP FOR STORMWATER MANAGEMENT**

BE IT RESOLVED by the Borough Council of the Borough of Bernardsville, to apply to NJDEP for a stormwater management grant in the amount of \$10,000.

I, Anthony Suriano, Clerk of the Borough of Bernardsville, hereby certify the foregoing to be a true and exact copy of a resolution adopted by the Borough Council at a duly convened meeting held on October 23, 2023.
