

REDEVELOPMENT AGREEMENT

BY AND BETWEEN

TOWNSHIP OF BERKELEY HEIGHTS

AND

LOCKHERN PROPERTY II BH URBAN RENEWAL LLC

FOR

BLOCK 702, LOTS 4, 6 AND 17.01

IN THE

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

DATED AS OF JULY 1, 2026

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This **REDEVELOPMENT AGREEMENT** (the “**Agreement**”) is made as of the 1st day of July, 2026, by and between the **TOWNSHIP OF BERKELEY HEIGHTS** with offices located at Municipal Building, 29 Park Avenue, Berkeley Heights, New Jersey 07922 (the “**Township**”) and **LOCKHERN PROPERTY II BH URBAN RENEWAL LLC** with offices located at P.O. Box 39, Livingston, New Jersey 07039 (the “**Redeveloper**”; each of the Township and the Redeveloper hereinafter a “**Party**”, and collectively, the “**Parties**”).

SECTION 1. RECITALS

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

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

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

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

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

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

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

WHEREAS, the Redeveloper has proposed to undertake the following actions, in accordance with the terms of this Agreement and the Redevelopment Plan: (i) demolish the existing structures on the Project Site; (ii) design, develop, finance, construct, operate and maintain a mixed-use development including one three-story building containing thirty-three (33) residential rental units, including seven (7) units affordable to persons of very low-, low-, and moderate-incomes and twenty-six (26) market-rate units, a minimum of 1,500 square feet of ground floor retail space, a minimum of 37 off-street parking spaces on-site on Block 702, Lots 4 and 6, with any remaining required parking spaces provided off-site at the existing surface parking located on Block 702, Lot 17.01, along with associated amenities and site improvements; and (iii) construct all necessary on- and -off-site infrastructure improvements, as more specifically described in Section 4.1 herein (collectively, and as more fully defined in Section 4.1, the “**Redevelopment Project**”); and

WHEREAS, in order to effectuate the Redevelopment Plan, the Redevelopment Project and the redevelopment of the Redevelopment Area, the Township has determined to enter into this Agreement with the Redeveloper, which Agreement designates Redeveloper as the “redeveloper” of the Redevelopment Project in accordance with the Redevelopment Law, and which specifies the respective rights and responsibilities of the Parties with respect to the Redevelopment Project,

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

SECTION 2. DEFINITIONS

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

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

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

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

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

Agreement shall have the meaning set forth in the Recitals.

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

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

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

Bond shall have the meaning set forth in Section 4.3.

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

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

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

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

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

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

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

Declaration shall have the meaning set forth in Section 16.12.

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

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

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

DEP shall mean the New Jersey Department of Environmental Protection.

Effective Date shall mean the date first written above.

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

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

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

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

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

Foreclosure shall have the meaning set forth in Section 13.6.

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

Holder shall have the meaning set forth in Section 13.1.

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

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

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

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

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

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

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

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

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

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

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

Project Schedule shall mean Exhibit C attached hereto.

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

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

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

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

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

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

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

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

State shall have the meaning set forth in the Recitals.

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

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

Township shall have the meaning set forth in the Recitals.

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

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

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

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

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

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

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

SECTION 3. OVERVIEW

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

SECTION 4. THE REDEVELOPMENT PROJECT

4.1 Redevelopment Project. The “Redevelopment Project” shall consist of: (i) the demolition of the existing structures on the Project Site; (ii) design, develop, finance, construct, operate and maintain a mixed-use development including one three-story building containing thirty-three (33) residential rental units, including seven (7) units affordable to persons of very low-, low-, and moderate-incomes and twenty-six (26) market-rate units; (iii) construction of amenities for residents including a lobby, gym, package room, and trash and recycling facilities to be located on the ground floor and a club room to be located on the third floor; (iv) a minimum of 1,500 square feet of ground floor retail space fronting on Springfield Avenue, along with a

minimum of 650 square feet of outdoor amenity space serving the retail use fronting Springfield Avenue; (v) a minimum of 2,400 square feet of indoor amenity space and 4,100 square feet of outdoor amenity space serving the residential use; (vi) construction of sixty-four (64) parking spaces for the Redevelopment Project, consisting of a minimum of thirty-seven (37) garage parking spaces located on Block 702, Lots 4 and 6 and twenty-seven (27) surface parking spaces located off-site at the existing surface parking located on Block 702, Lot 17.01, provided such off-site parking spaces are deed-restricted for the residential and/or retail uses within the Redevelopment Area; and (vii) construction of all necessary on- and -off-site infrastructure improvements; all in accordance with the Redevelopment Plan and the Concept Plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Furthermore, in accordance with Section 6.2.A of the Redevelopment Plan, Redeveloper acknowledges that it will be required to submit proposed site plan applications to the Township Council (or, at the Township's option, to a subcommittee organized by the Township Council) prior to submission to the Planning Board. In accordance with Section 6.2.A of the Redevelopment Plan, confirmation by the Township Council (or a subcommittee organized thereby) stating that the application is consistent with the Redevelopment Plan and this Agreement shall be a required element of any application for site plan approval, and the Planning Board shall deem any application for site plan approval lacking such confirmation to be incomplete.

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

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

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

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

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

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

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

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

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

SECTION 5. EASEMENTS/NO RELIANCE ON OTHER INVESTIGATIONS

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

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

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

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

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

SECTION 6. ENVIRONMENTAL

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

SECTION 7. REDEVELOPMENT PROJECT OVERSIGHT

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

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

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

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

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

SECTION 8. REPRESENTATIONS AND WARRANTIES

8.1 The Redeveloper. Redeveloper represents and warrants as follows:

- (a) it is a limited liability company duly created under the laws of the State and is duly organized and existing in good standing;
- (b) it has full power and authority to enter into this Agreement, to consummate the transactions contemplated herein and to perform all of its obligations hereunder;
- (c) the execution, delivery and performance by Redeveloper of this Agreement has been duly authorized and the person executing this Agreement on its behalf is authorized to do so and that this Agreement constitutes a valid and legally binding obligation of Redeveloper, enforceable in accordance with its terms;
- (d) subject to obtaining Institutional Financing, it is financially capable to undertake and fulfill the obligations of Redeveloper hereunder;
- (e) Redeveloper has the necessary expertise, qualifications, staff and resources to undertake and fulfill the obligations hereunder;
- (f) there is no action, proceeding or investigation now pending or threatened, nor any basis therefore, known or believed to exist which (i) questions the validity of this Agreement or any action or act taken or to be taken by them pursuant to this Agreement; or (ii) is likely to result

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

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

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

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

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

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

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

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

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

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

SECTION 9. REDEVELOPER COVENANTS

9.1 Redeveloper Covenants. Redeveloper covenants and agrees that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 10. REDEVELOPER'S FINANCIAL OBLIGATIONS

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

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

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

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

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

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

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

SECTION 11. INDEMNIFICATION

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

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

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

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

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

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

SECTION 12. DEFAULT PROVISIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 13. FINANCING PROVISIONS

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

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

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

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

13.4 Notice of Default to Holder and Right to Cure.

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

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

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

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

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

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

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

SECTION 14. COMPLIANCE

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

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

SECTION 15. ADDITIONAL PROVISIONS

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

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

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

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

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

SECTION 16. MISCELLANEOUS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

As to the Township:

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

With copies to:

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

and

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

As to the Redeveloper:

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

With a copy to:

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

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

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

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

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

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

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

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

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

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

Attest:

TOWNSHIP OF BERKELEY HEIGHTS

Angela Lazzari
Registered Municipal Clerk

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

Attest:

LOCKHERN PROPERTY II BH URBAN
RENEWAL LLC

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

EXHIBIT A

METES AND BOUNDS/SURVEY OF PROJECT SITE
[attached]

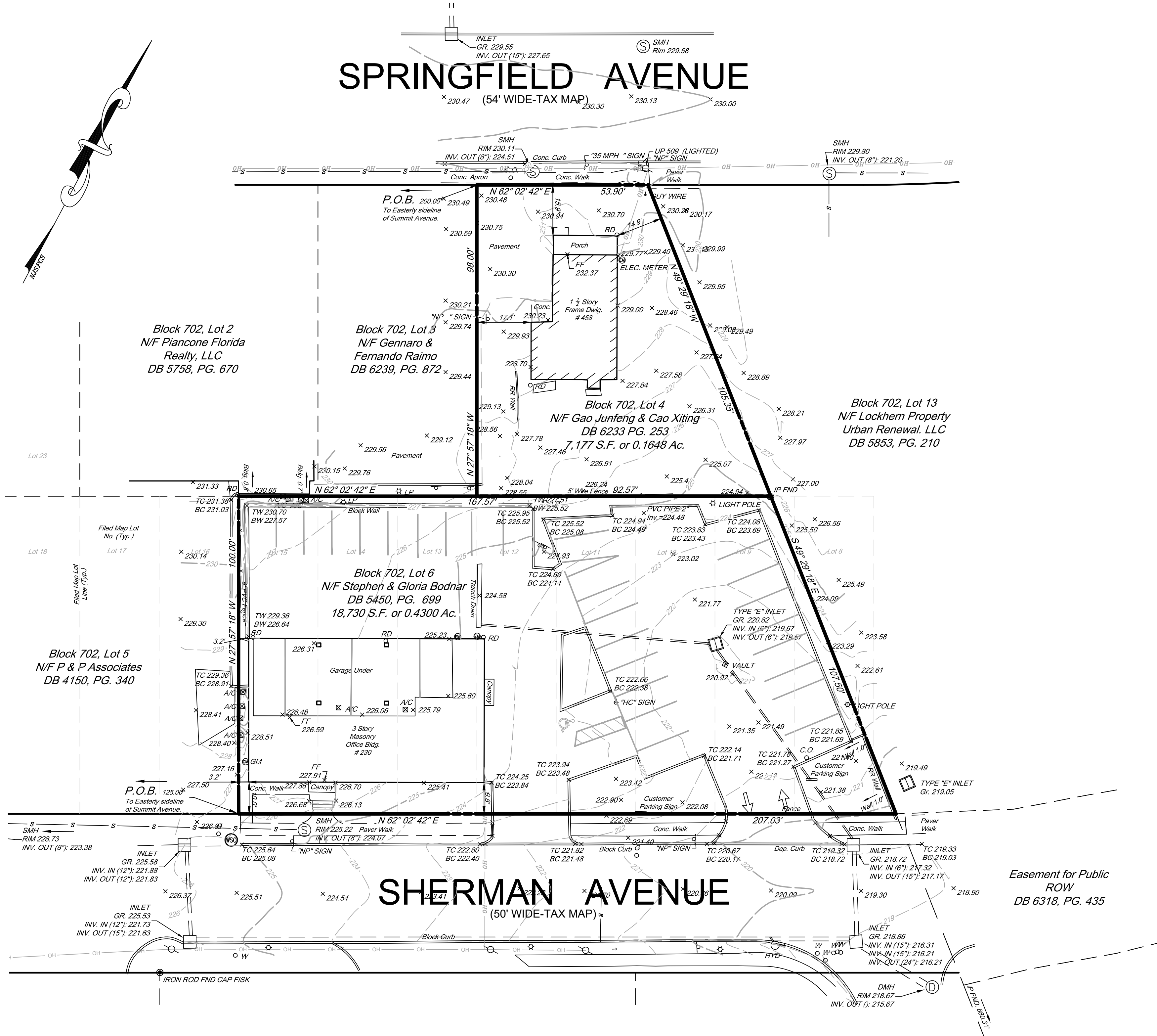
REFERENCE PLANS:

1. SURVEY ENTITLED "BOUNDARY SURVEY, BERKELEY HEIGHTS DEVELOPMENT, LLC, BLOCK 702, LOT 17, TOWNSHIP OF BERKELEY HEIGHTS, UNION COUNTY, NEW JERSEY" PREPARED BY BOWMAN CONSULTING DATED TO FEBRUARY 7, 2019.
2. SURVEY ENTITLED "BOUNDARY AND TOPOGRAPHIC SURVEY, BLOCK 702, LOT 13, TOWNSHIP OF BERKELEY HEIGHTS, UNION COUNTY, NEW JERSEY" PREPARED BY OMLAND ENGINEERING ASSOCIATES DATED AUGUST 13, 2015.
3. "MAP NO. 1 OF PROPERTY OF BERKELEY HEIGHTS IMPROVEMENT COMPANY, BERKELEY HEIGHTS, UNION CO., NJ" FILED IN THE UNION COUNTY CLERK'S OFFICE FEBRUARY 19, 1891 AS MAP NO. 66A.
4. TAX MAPS OF THE TOWNSHIP OF BERKELEY HEIGHTS, UNION COUNTY, NEW JERSEY SHEETS 5 & 6.
5. TITLE INSURANCE COMMITMENT NUMBER: 23-000521LOC, DATED MAY 25, 2023 BY CHICAGO TITLE INSURANCE COMPANY (FOR LOT 6).
6. DEEDS AS SHOWN HEREON.

NOTES:

I DECLARE THAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THIS MAP AND SURVEY WERE MADE BY ME OR UNDER MY IMMEDIATE SUPERVISION IN ACCORDANCE WITH N.J.S.A. 13:40-5.1 AND THE INFORMATION SHOWN HEREON CORRECTLY REPRESENTS THE CONDITIONS FOUND AT THE DATE OF THE SURVEY EXCEPT SUCH IMPROVEMENTS OR EASEMENTS, IF ANY, BELOW THE SURFACE AND NOT VISIBLE AND IS SUBJECT TO FEDERAL, STATE, COUNTY, AND/OR MUNICIPAL RESTRICTIONS. INCLUDED IN THIS DECLARATION ARE THE FOLLOWING NOTES:

1. THE MAKER OF THIS MAP IS NOT QUALIFIED TO MAKE A DETERMINATION AS TO THE ABSENCE OR PRESENCE OF ANY WETLANDS, CONTAMINATION OR OTHER ENVIRONMENTAL CONDITION WHICH MAY AFFECT THIS PROPERTY. THEREFORE, NO STATEMENT IS BEING MADE OR IMPLIED BY THE FACT THAT NO EVIDENCE OF WETLANDS, CONTAMINATION OR OTHER ENVIRONMENTAL CONDITION IS BEING SHOWN ON THIS MAP EXCEPT AS NOTED BELOW.
2. IF THIS SURVEY DOES NOT CONTAIN THE RAISED SEAL OF THE SURVEYOR, IT IS AN UNAUTHORIZED REPRODUCTION OF THE SURVEY.
3. UTILITIES SHOWN HEREON ARE BASED ON ABOVE GROUND OBSERVATIONS ONLY IN ACCORDANCE WITH FIELD MARK-OUTS AND/OR PHYSICAL LOCATIONS. CONNECTIONS BETWEEN STRUCTURES, IF SHOWN, ARE BASED ON SAID MARK-OUTS, OCCUPATIONS AND REFERENCES NOTED HEREON AND MAY NOT REPRESENT ACTUAL BELOW GROUND CONDITIONS.
4. A WRITTEN WAIVER AND DIRECTION NOT TO SET CORNER MARKERS HAS BEEN OBTAINED FROM THE ULTIMATE USER PURSUANT TO P.L. 2003, c.14 (N.J.S.A. 45:8-36.3) AND N.J.A.C. 13:40-5.1(d).
5. PROPERTY BEING KNOWN AS BLOCK 702, LOTS 4 & 6, TOWNSHIP OF BERKELEY HEIGHTS, UNION COUNTY, NEW JERSEY.
6. THIS SURVEY IS MADE SOLELY FOR THE PARTIES NAMED HEREON AND IS NOT TRANSFERABLE, EXCEPT TO THE MORTGAGE HOLDER, WHICH SHALL SURVIVE TO ITS SUCCESSOR OR ASSIGN.
7. THE PROPERTY OFFSETS SHOWN ON THIS PLAN SHALL NOT BE USED AS THE BASIS FOR THE CONSTRUCTION OF FENCES OR ANY OTHER PERMANENT STRUCTURES.
8. NO INVESTIGATION OR DELINEATION OF WETLANDS WAS PERFORMED AS PART OF THIS SURVEY.
9. IF THIS PLAN DOES NOT CONTAIN THE RAISED SEAL OF THE SURVEYOR, IT IS AN UNAUTHORIZED REPRODUCTION OF THE PLAN.
10. HORIZONTAL DATUM IS BASED UPON THE NEW JERSEY STATE PLANE COORDINATE SYSTEM (NAD83), VERTICAL DATUM IS NAVD88 PER GPS OBSERVATIONS.
11. THIS SURVEY WAS PREPARED FOR:
-Lockhern Property 2 LLC



DESCRIPTION LOT 4:

BEING TAX LOT 4, BLOCK 702 AS SHOWN ON A MAP ENTITLED "BOUNDARY AND TOPOGRAPHIC SURVEY, BLOCK 702, LOTS 4 AND 6, TOWNSHIP OF BERKELY HEIGHTS, UNION, NEW JERSEY", DATED JUNE 6, 2023 AND PREPARED BY BOWMAN CONSULTING, HEREIN REFERRED TO AS MAP, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHEASTERLY SIDELINE OF SPRINGFIELD AVENUE, 54 FEET WIDE, WHERE SAME IS INTERSECTED BY THE DIVISION LINE BETWEEN SAID LOT 4 AND LOT 3, BLOCK 702, SAID POINT BEING DISTANT ALONG SAID SIDELINE, NORTH 62°02'42" EAST, 200.00 FEET FROM A POINT WHERE SAME IS INTERSECTED BY THE EASTERLY SIDELINE OF SUMMIT AVENUE, AND RUNNING; THENCE

- 1) ALONG SAID SIDELINE OF SPRINGFIELD AVENUE, N 62°02'42" E, 53.90 FEET TO A POINT WHERE SAME IS INTERSECTED BY THE DIVISION LINE BETWEEN SAID LOT 4 AND LOT 13, BLOCK 702; THENCE
- 2) ALONG SAID DIVISION LINE, S 49°29'18" E, 105.35 FEET TO A POINT WHERE SAME IS INTERSECTED BY THE DIVISION LINE BETWEEN SAID LOT 4 AND LOT 6, BLOCK 702; THENCE
- 3) ALONG SAID DIVISION LINE, S 62°02'42" W, 92.57 FEET TO A POINT WHERE SAME IS INTERSECTED BY THE AFORESAID DIVISION LINE BETWEEN LOTS 3 AND 4; THENCE
- 4) ALONG SAID DIVISION LINE, N 27°57'18" W, 98.00 FEET TO THE AFORESAID POINT OF BEGINNING.

CONTAINING 7,177 SQUARE FEET OR 0.1648 ACRES MORE OR LESS. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

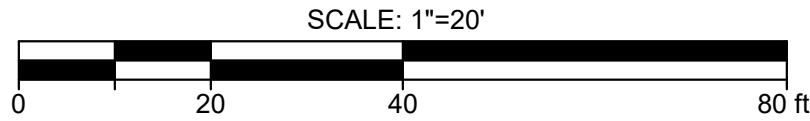
DESCRIPTION LOT 6:

BEING TAX LOT 6, BLOCK 702 AS SHOWN ON A MAP ENTITLED "BOUNDARY AND TOPOGRAPHIC SURVEY, BLOCK 702, LOTS 4 AND 6, TOWNSHIP OF BERKELY HEIGHTS, UNION, NEW JERSEY", DATED JUNE 6, 2023 AND PREPARED BY BOWMAN CONSULTING, HEREIN REFERRED TO AS MAP, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTHWESTERLY SIDELINE OF SHERMAN AVENUE, 50 FEET WIDE, WHERE SAME IS INTERSECTED BY THE DIVISION LINE BETWEEN SAID LOT 6 AND LOT 5, BLOCK 702, SAID POINT BEING DISTANT ALONG SAID SIDELINE, NORTH 62°02'42" EAST, 125.00 FEET FROM A POINT WHERE SAME IS INTERSECTED BY THE EASTERLY SIDELINE OF SUMMIT AVENUE, AND RUNNING; THENCE

- 1) ALONG SAID DIVISION LINE, N 27°57'18" W, 100.00 FEET TO A POINT WHERE SAME IS INTERSECTED BY THE DIVISION LINE BETWEEN SAID LOT 6 AND LOT 2, BLOCK 702; THENCE
- 2) ALONG SAID DIVISION LINE AND THEN THE DIVISION LINE BETWEEN SAID LOT 6 AND LOTS 3 AND 4, BLOCK 702 RESPECTIVELY, N 62°02'42" E, 167.57 FEET TO A POINT WHERE SAME IS INTERSECTED BY THE DIVISION LINE BETWEEN SAID LOT 6 AND LOT 13, BLOCK 702; THENCE
- 3) ALONG SAID DIVISION LINE, S 49°29'18" E, 107.50 FEET TO A POINT WHERE SAME IS INTERSECTED BY THE AFORESAID NORTHWESTERLY SIDELINE OF SHERMAN AVENUE; THENCE
- 4) ALONG SAID SIDELINE, S 62°02'42" W, 207.03 FEET TO THE AFORESAID POINT OF BEGINNING.

CONTAINING 18,730 SQUARE FEET OR 0.4300 ACRES MORE OR LESS. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.



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EXCAVATORS, DESIGNERS, OR ANY PERSON
PREPARING TO DISTURB THE EARTH'S
SURFACE ANYWHERE IN ANY STATE

LEGEND

SYMBOL	DESCRIPTION
	A/C Box
	Detectable Warning
	Area Light
	Bollard
	Bush/Shrub
	Catch Basin
	Clean Out
	Coniferous Tree
	Control Box
	Drill Hole Found
	Drainage Manhole
	Deciduous Tree
	Elec. Box
	Elec. Meter
	Fire Dept. Connect
	Gas Meter
	Guy Pole
	Grate or Inlet
	Inlet Round Grate
	Gas Valve (DOT)
	Guy Wire
	Handi Cap
	Hydrant
	Irrigation Control Box
	Iron Pipe Found
	Iron Rod Found
	Light Pole
	Mailbox
	Monument Found
	Monitoring Well
	Nail Found
	Util. Pedestal
	PK Nail Found
	Roof Drain
	San Sewer Manhole
	Signs
	Storm Box
	Traffic Control Box
	Traffic Light Pole
	Utility Manhole
	Utility Pole
	Utility Manhole
	Water Valve
	Yard Inlet

NO.	REVISION	DATE	CHKD.
6			
5			
4			
3			
2			
1			

PROJ: 081373-01-001
DATE: June 6, 2023
CHKD.:
Bowman Consulting Group, LLC
303 W. Main Street
New Jersey 07728
bowlman.com
E-mail: N.J.Bowman.com
No. 24GAG222600
MARTIN F. TIRELLA, N.J. Professional Land Surveyor Lic. 24GS0274700

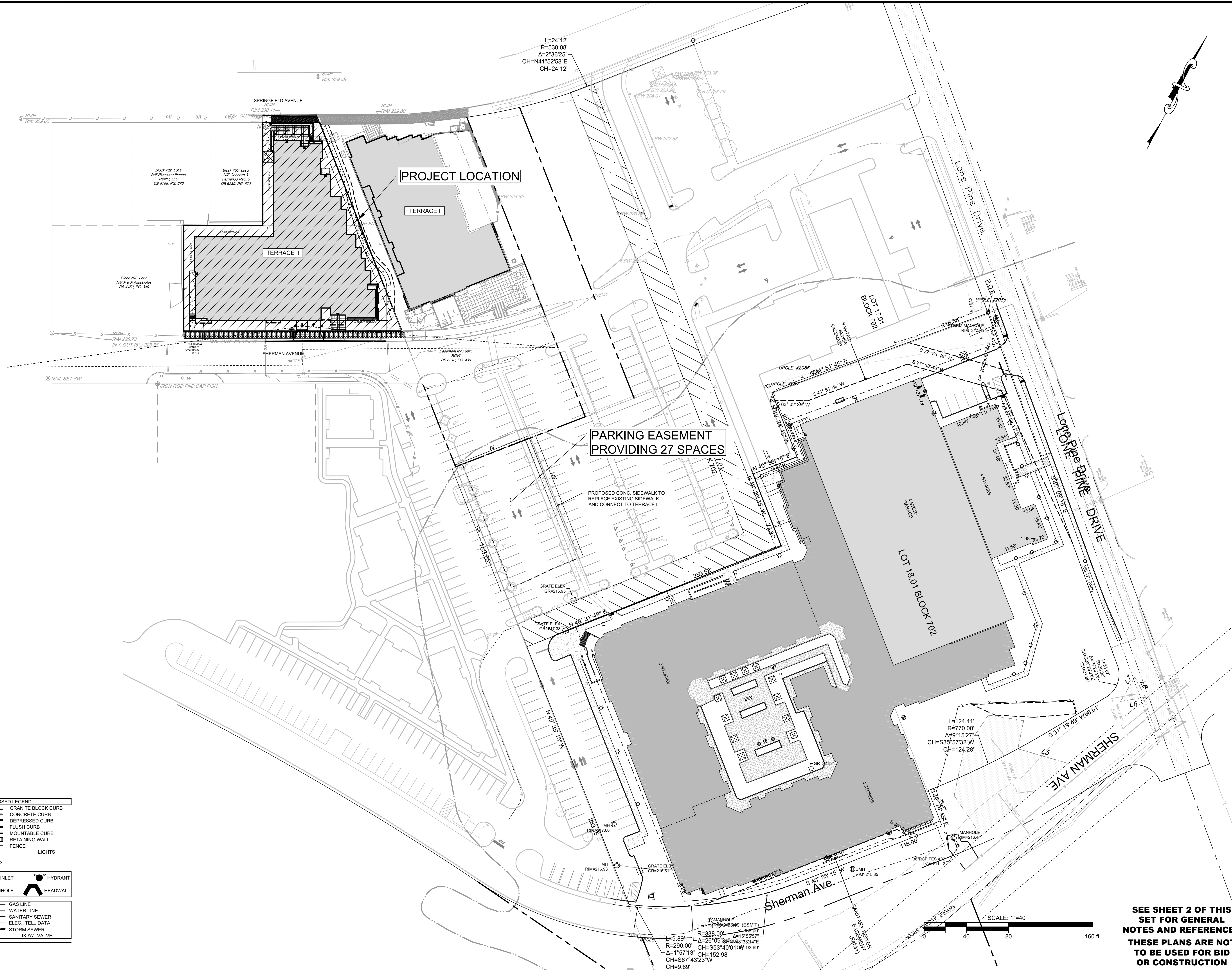
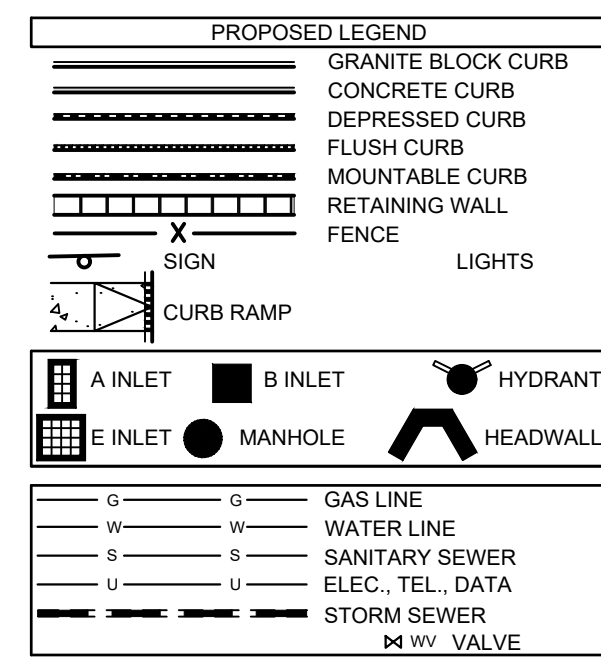
Bowman

BOUNDARY AND TOPOGRAPHIC SURVEY
LOCKHERN PROPERTY II, LLC
BLOCK 702, LOTS 4 & 6
TOWNSHIP OF BERKELEY HEIGHTS, UNION COUNTY, NEW JERSEY

1
OF

EXHIBIT B

CONCEPT PLAN
[attached]



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

PLANS ARE FINAL FOR SANITARY SEWER AND WATER MAIN DESIGN

PRELIMINARY AND FINAL SITE PLAN FOR

OVERALL SITE PLAN

BLOCK 702, LOTS 4 & 6
TOWNSHIP OF BERKELEY HEIGHTS, UNION COUNTY, NEW JERSEY

Bowman Consulting Group Ltd

Bowman Consulting Group Ltd
6 Campus Drive, Suite 302
Parsippany, New Jersey 07054
Phone: 973-359-8400
FAX: 973-359-8455
NJ Certificate of Authorization
No. 24GA2822600
bowman.com
E-mail: NJ@Bowman.com

Erin Z. Hall

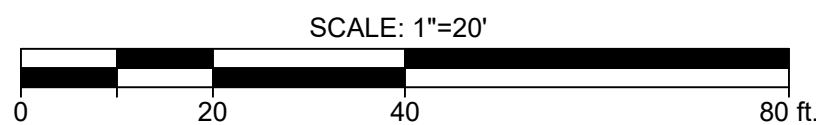
ERIC L. KELLER, N.J. Professional Engineer, Lic. 24GE03205400,

PROJ.: 081373-01-001
DATE: 12/11/25

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Bowman

6		
5		
4		
3		
2		
1	REV PER COMPLETENESS REVIEW	04/24/26
	REVISION	DATE



PLANS ARE FINAL FOR SANITARY SEWER AND WATER MAIN DESIGN

PLAN

BLOCK 702, LOTS 4 & 6

ERIC KELLER N.J. Professional Engineer | ic 24GE03205400

22

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1	REV PER COMPLETENESS REVIEW	04/24/26	CHD

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AMENITY SPACES	
Name	Area

00 GROUND FLOOR	
COMMON	1023 SF
MAINTENANCE	206 SF
ELEVATOR LOBBY	501 SF
1736 SF	

01 FIRST FLOOR	
RETAIL	1492 SF
1492 SF	

03 THIRD FLOOR	
CLUB ROOM	1007 SF
1007 SF	

Grand Total 4235 SF

OUTDOOR AMENITY AREAS	
Level	Area

01 FIRST FLOOR	651 SF
03 THIRD FLOOR	4,081 SF
Grand total 4,736 SF	

3	FOR SITE PLAN RESUBMISSION	6-10-2026
2	FOR SITE PLAN SUBMISSION	4-21-2026
1	FOR SITE PLAN SUBMISSION	12-8-2025
NO.	REVISION	DATE

GROUND FLOOR PLAN
PROPOSED MULTIFAMILY RESIDENTIAL
TERRACE 2
230 SHERMAN AVE. BERKELEY HEIGHTS, NJ 07922

Rotwein+Blake
16 Microlab Road, Suite B Livingston, NJ 07039
PH: 973.740.9755 FAX: 973.740.9766
www.rb-arch.com E-Mail: remail@rb-arch.com

LM 108-34

202305.00	CR	8-9-2023	A1.1
PROJECT NO.	DWN. BY	DATE	
	LB	3/32" = 1'-0"	
	CHECKED	SCALE	DRAWING NO.

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SPRINGFEILD AVE.



01FIRST FLOOR

SCALE: 3/32" = 1'-0"



UNIT COUNT BY TYPE		
Name	Count	

1 BR	
A1	1
A7	1
2	

1 BR COAH	
A5	1
A6	1
2	

1 BR DEN	
A1	1
A2	2
A3	2
A4	1
A8	1
7	

2 BR	
B3	2
B7	1
B9.1	1
B9.2	1
B11	1
6	

2 BR COAH	
B5	3
B10	1
4	

2 BR DEN	
B1	2
B2	2
B4	2
B6	2
B8	3
11	

3 BR COAH	
C1	1

TOTAL UNITS: 33

UNIT COUNT BY SQUARE FOOTAGE		
Name	Count	Avg. Gross Area (SF)

A1	1	895
A1	1	1085
A2	2	1060
A3	1	1205
A3	1	1220
A4	1	1105
A5	1	890
A6	1	710
A7	1	890
A8	1	1110
B1	1	1475
B1	1	1440
B2	1	1615
B2	1	1620
B3	2	1115
B4	2	1575
B5	2	920
B5	1	930
B6	2	1465
B7	1	1230
B8	2	1335
B8	1	1340
B9.1	1	1285
B9.2	1	1235
B10	1	1045
B11	1	1250
C1	1	1120

TOTAL UNITS: 33

UNIT COUNT BY FLOOR		
TYPE	Count	

01 FIRST FLOOR	
1 BR	1
1 BR COAH	2
1 BR DEN	2
2 BR COAH	1
2 BR DEN	5
3 BR COAH	1
01 FIRST FLOOR:	12

02 SECOND FLOOR	
1 BR DEN	4
2 BR	3
2 BR COAH	2
2 BR DEN	4
02 SECOND FLOOR:	13

03 THIRD FLOOR	
1 BR	1
1 BR DEN	1
2 BR	3
2 BR COAH	1
2 BR DEN	2
03 THIRD FLOOR:	8
TOTAL UNITS:	33

AMENITY SPACES		
Name	Area	

00 GROUND FLOOR	
COACH	1023 SF
MAINTENANCE	206 SF
ELEVATOR LOBBY	501 SF
	1736 SF

01 FIRST FLOOR	
RETAIL	1492 SF
	1492 SF

03 THIRD FLOOR	
CLUB ROOM	1007 SF
	1007 SF
Grand Total	4235 SF

OUTDOOR AMENITY AREAS		
Level	Area	

01 FIRST FLOOR	657 SF
03 THIRD FLOOR	4,081 SF
Grand total	4,738 SF

3	FOR SITE PLAN RESUBMISSION	6-10-2026
2	FOR SITE PLAN SUBMISSION	4-21-2026
1	FOR SITE PLAN SUBMISSION	12-8-2025
NO.	REVISION	DATE

FIRST FLOOR PLAN

PROPOSED MULTIFAMILY RESIDENTIAL

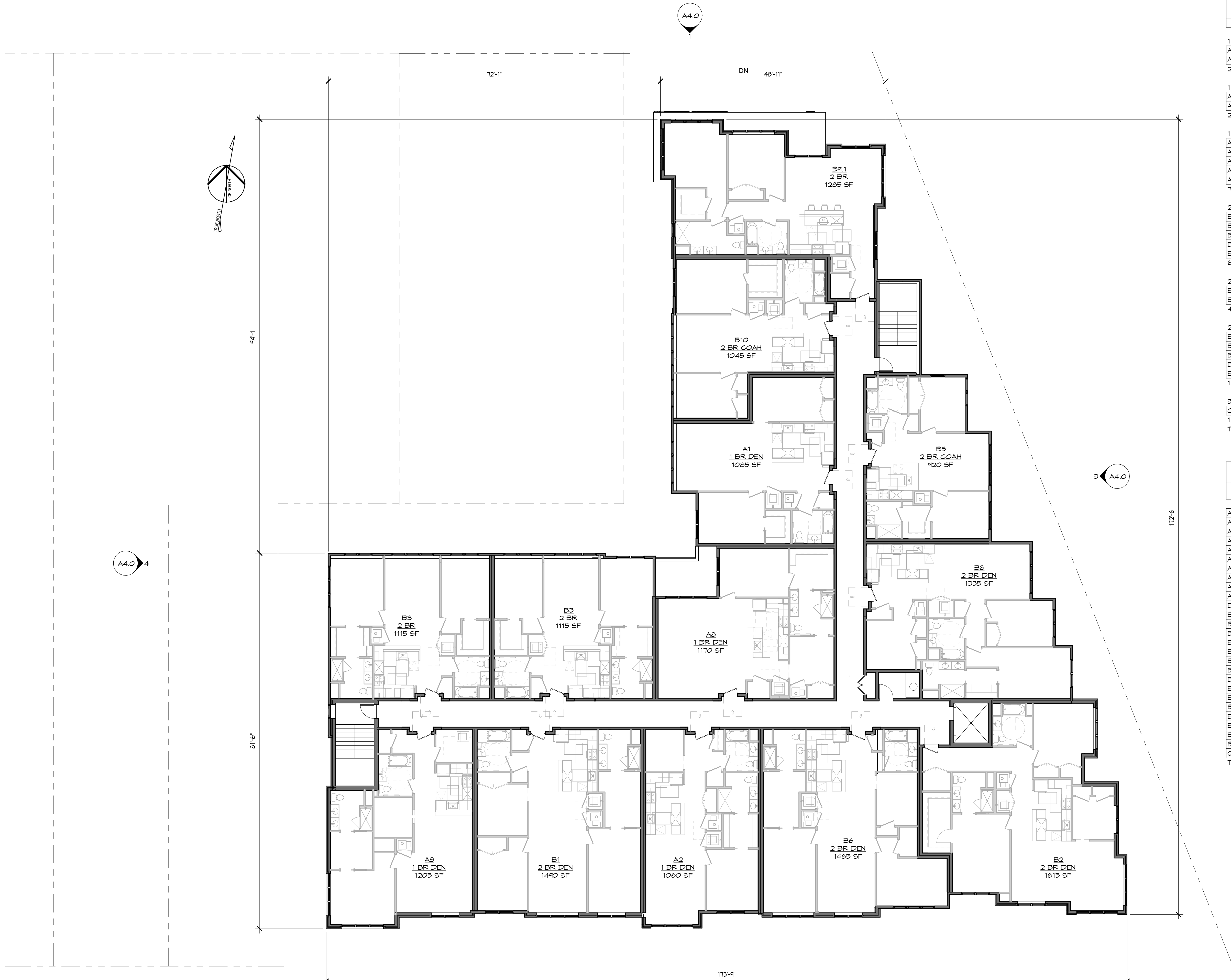
TERRACE 2

230 SHERMAN AVE. BERKELEY HEIGHTS, NJ 07922

Rotwein+Blake
16 Microlab Road, Suite B Livingston, NJ 07039
PH: 973.740.9755 FAX: 973.740.9766
www.rb-arch.com E-Mail: remail@rb-arch.com

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PROJECT NO.	DWN. BY	DATE	
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	CHECKED	SCALE	DRAWING NO.



02 SECOND FLOOR
SCALE: 3/32" = 1'-0"

UNIT COUNT BY TYPE		
Name	Count	

1 BR	
A1	1
A7	1
2	

1 BR COAH	
A5	1
A6	1
2	

1 BR DEN	
A1	1
A2	2
A3	2
A4	1
A8	1
7	

2 BR	
B3	2
B7	1
B9.1	1
B9.2	1
B11	1
6	

2 BR COAH	
B5	3
B10	1
4	

2 BR DEN	
B1	2
B2	2
B4	2
B6	2
B8	3
11	

3 BR COAH	
C1	1
1	

TOTAL UNITS: 33

UNIT COUNT BY SQUARE FOOTAGE		
Name	Count	Avg. Gross Area (SF)

A1	1	895
A1	1	1085
A2	2	1060
A3	1	1205
A3	1	1220
A4	1	1105
A5	1	890
A6	1	710
A7	1	890
A8	1	1110
B1	1	1475
B1	1	1490
B2	1	1615
B2	1	1620
B3	2	1115
B4	2	1575
B5	2	920
B5	1	930
B6	2	1465
B7	1	1230
B8	2	1395
B8	1	1340
B9.1	1	1285
B9.2	1	1235
B10	1	1045
B11	1	1250
C1	1	1120

TOTAL UNITS: 33

UNIT COUNT BY FLOOR	
TYPE	Count

01 FIRST FLOOR	
1 BR	1
1 BR COAH	2
1 BR DEN	2
2 BR COAH	1
2 BR DEN	5
3 BR COAH	1
01 FIRST FLOOR: 12	

02 SECOND FLOOR	
1 BR DEN	4
2 BR	3
2 BR COAH	2
2 BR DEN	4
02 SECOND FLOOR: 13	

03 THIRD FLOOR	
1 BR	1
1 BR DEN	1
2 BR	3
2 BR COAH	1
2 BR DEN	2
03 THIRD FLOOR: 8	
TOTAL UNITS: 33	

AMENITY SPACES	
Name	Area

00 GROUND FLOOR	
COACH	1023 SF
MAINTENANCE	206 SF
ELEVATOR LOBBY	501 SF
	1736 SF

01 FIRST FLOOR	
RETAIL	1492 SF
	1492 SF

03 THIRD FLOOR	
CLUB ROOM	1007 SF
	1007 SF
Grand Total	4235 SF

OUTDOOR AMENITY AREAS	
Level	Area

01 FIRST FLOOR	657 SF
03 THIRD FLOOR	4,081 SF
Grand total	4,738 SF

3	FOR SITE PLAN RESUBMISSION	6-10-2026
2	FOR SITE PLAN SUBMISSION	4-21-2026
1	FOR SITE PLAN SUBMISSION	12-8-2025
NO.	REVISION	DATE

SECOND FLOOR PLAN

PROPOSED MULTIFAMILY RESIDENTIAL

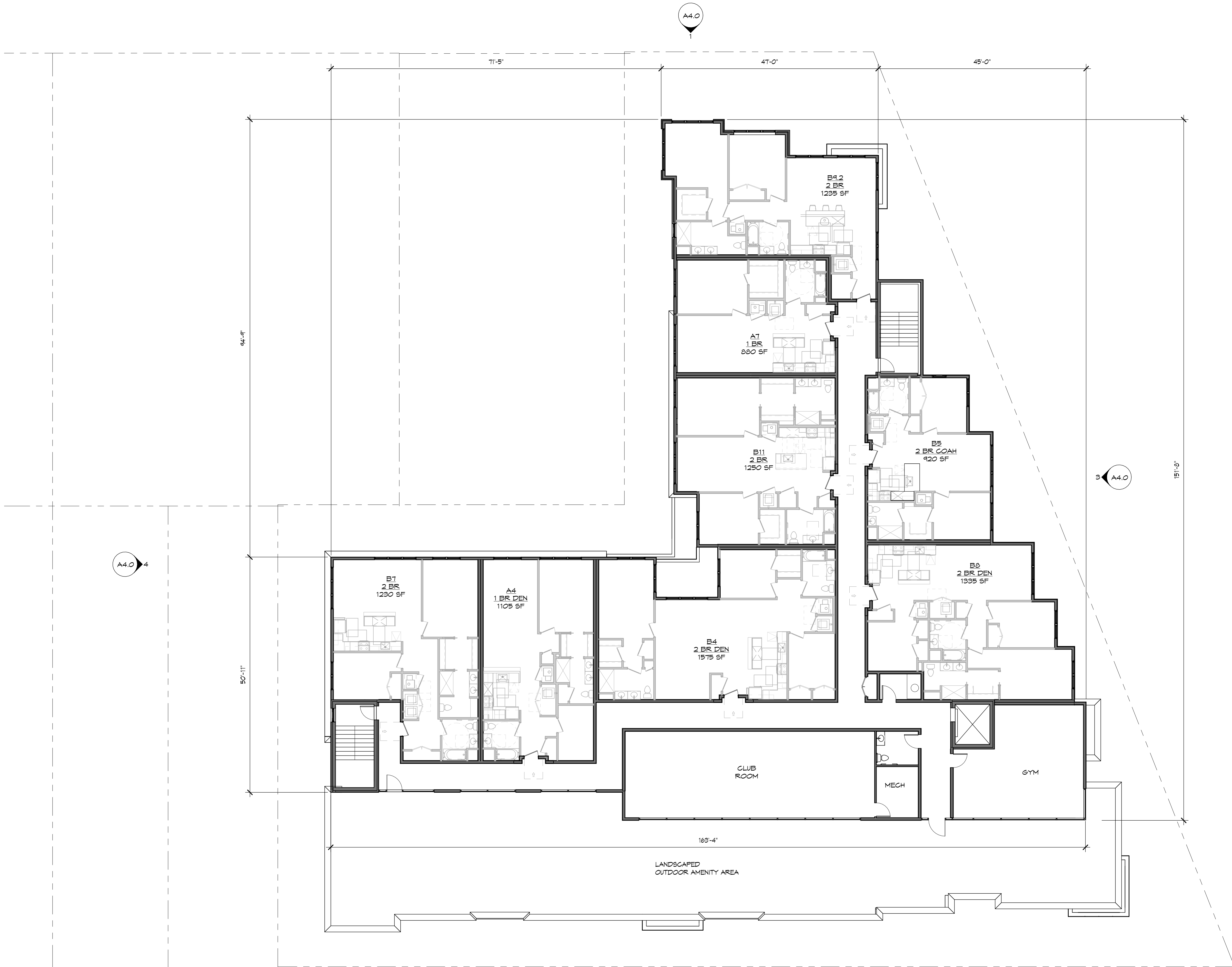
TERRACE 2

230 SHERMAN AVE. BERKELEY HEIGHTS, NJ 07922

Rotwein+Blake
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PROJECT NO.	DWN. BY	DATE	
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	CHECKED	SCALE	DRAWING NO.



03 THIRD FLOOR
SCALE: 3/32" = 1'-0"

UNIT COUNT BY TYPE	
Name	Count

1 BR	
A1	1
A7	1
2	

1 BR COAH	
A5	1
A6	1
2	

1 BR DEN	
A1	1
A2	2
A3	2
A4	1
A8	1
7	

2 BR	
B3	2
B7	1
B9.1	1
B9.2	1
B11	1
6	

2 BR COAH	
B5	3
B10	1
4	

2 BR DEN	
B1	2
B2	2
B4	2
B6	2
B8	3
11	

3 BR COAH	
C1	1

TOTAL UNITS: 33

UNIT COUNT BY FLOOR	
TYPE	Count

01 FIRST FLOOR	
1 BR	1
1 BR COAH	2
1 BR DEN	2
2 BR COAH	1
2 BR DEN	5
3 BR COAH	1
01 FIRST FLOOR: 12	

02 SECOND FLOOR	
1 BR DEN	4
2 BR	3
2 BR COAH	2
2 BR DEN	4
02 SECOND FLOOR: 13	

03 THIRD FLOOR	
1 BR	1
1 BR DEN	1
2 BR	3
2 BR COAH	1
2 BR DEN	2
03 THIRD FLOOR: 8	
TOTAL UNITS: 33	

UNIT COUNT BY SQUARE FOOTAGE		
Name	Count	Avg. Gross Area (SF)

A1	1	895
A1	1	1085
A2	2	1060
A3	1	1205
A3	1	1220
A4	1	1105
A5	1	880
A6	1	710
A7	1	880
A8	1	1110
B1	1	1475
B1	1	1440
B2	1	1615
B2	1	1620
B3	2	1115
B4	2	1575
B5	2	920
B5	1	930
B6	2	1465
B7	1	1230
B8	2	1335
B8	1	1340
B9.1	1	1285
B9.2	1	1235
B10	1	1045
B11	1	1250
C1	1	1120
TOTAL UNITS: 33		

AMENITY SPACES	
Name	Area

00 GROUND FLOOR	
COACH	1023 SF
MAINTENANCE	206 SF
ELEVATOR LOBBY	501 SF
	1736 SF

01 FIRST FLOOR	
RETAIL	1492 SF
	1492 SF

03 THIRD FLOOR	
CLUB ROOM	1007 SF
	1007 SF
Grand Total	4235 SF

OUTDOOR AMENITY AREAS	
Level	Area

01 FIRST FLOOR	657 SF
03 THIRD FLOOR	4,081 SF
Grand total	4,738 SF

3	FOR SITE PLAN RESUBMISSION	6-10-2026
2	FOR SITE PLAN SUBMISSION	4-21-2026
1	FOR SITE PLAN SUBMISSION	12-8-2025
NO.	REVISION	DATE

THIRD FLOOR PLAN

PROPOSED MULTIFAMILY RESIDENTIAL

TERRACE 2

230 SHERMAN AVE. BERKELEY HEIGHTS, NJ 07922

Rotwein+Blake
16 Microlab Road, Suite B Livingston, NJ 07039
PH: 973.740.9755 FAX: 973.740.9766
www.rb-arch.com E-Mail: remail@rb-arch.com

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PROJECT NO.	DWN. BY	DATE	
	LB	3/32" = 1'-0"	
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EAST ELEVATION

SCALE: 1/16" = 1'-0"

3
A4.0



WEST ELEVATION

SCALE: 1/16" = 1'-0"

4
A4.0



SOUTH ELEVATION

SCALE: 1/16" = 1'-0"

2
A4.0



NORTH ELEVATION

SCALE: 1/16" = 1'-0"

1
A4.0

3	FOR SITE PLAN RESUBMISSION	6-10-2026
2	FOR SITE PLAN SUBMISSION	4-21-2026
1	FOR SITE PLAN SUBMISSION	12-8-2025
NO.	REVISION	DATE

ELEVATIONS

PROPOSED MULTIFAMILY RESIDENTIAL

TERRACE 2

230 SHERMAN AVE. BERKELEY HEIGHTS, NJ 07922



LM 10834

202305.00	CR DWN. BY	8-9-2023 DATE	A4.0
	LB CHECKED	1/16" = 1'-0" SCALE	
PROJECT NO.			

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3	FOR SITE PLAN RESUBMISSION	6-10-2026
2	FOR SITE PLAN SUBMISSION	4-21-2026
1	FOR SITE PLAN SUBMISSION	12-8-2025
NO.	REVISION	DATE

**SOUTHEAST CORNER -
SHERMAN AVENUE**
PROPOSED MULTIFAMILY RESIDENTIAL
TERRACE 2
230 SHERMAN AVE. BERKELEY HEIGHTS,
NJ 07922

RB Rotwein+Blake
16 Microlab Road, Suite B Livingston, NJ 07039
PH: 973.740.9755 FAX: 973.740.9766
www.rb-arch.com E-Mail: remail@rb-arch.com

LM 10834

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PROJECT NO.	LB CHECKED	DATE SCALE	
			DRAWING NO.

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3	FOR SITE PLAN RESUBMISSION	6-10-2026
2	FOR SITE PLAN SUBMISSION	4-21-2026
1	FOR SITE PLAN SUBMISSION	12-8-2025
NO.	REVISION	DATE

**NORTHEAST CORNER -
SPRINGFIELD AVENUE**
PROPOSED MULTIFAMILY RESIDENTIAL

TERRACE 2
230 SHERMAN AVE. BERKELEY HEIGHTS,
NJ 07922

Rotwein+Blake
16 Microlab Road, Suite B Livingston, NJ 07039
PH: 973.740.9755 FAX: 973.740.9766
www.rb-arch.com E-Mail: remail@rb-arch.com

LM 10834

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PROJECT NO.	LB CHECKED	DATE SCALE	
			DRAWING NO.

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3	FOR SITE PLAN RESUBMISSION	6-10-2026
2	FOR SITE PLAN SUBMISSION	4-21-2026
1	FOR SITE PLAN SUBMISSION	12-8-2025
NO.	REVISION	DATE

**SOUTHWEST CORNER -
SHERMAN AVENUE**
PROPOSED MULTIFAMILY RESIDENTIAL
TERRACE 2
230 SHERMAN AVE. BERKELEY HEIGHTS,
NJ 07922

RB Rotwein+Blake
16 Microlab Road, Suite B Livingston, NJ 07039
PH: 973.740.9755 FAX: 973.740.9766
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202305.00	CR DWN. BY	09/12/24	S2.2
PROJECT NO.	LB CHECKED	DATE SCALE	
			DRAWING NO.

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3	FOR SITE PLAN RESUBMISSION	6-10-2026
2	FOR SITE PLAN SUBMISSION	4-21-2026
1	FOR SITE PLAN SUBMISSION	12-8-2025
NO.	REVISION	DATE

**NORTHWEST CORNER - OFF
SPRINGFIELD AVENUE**
PROPOSED MULTIFAMILY RESIDENTIAL
TERRACE 2
230 SHERMAN AVE. BERKELEY HEIGHTS,
NJ 07922

RB Rotwein+Blake
16 Microlab Road, Suite B Livingston, NJ 07039
PH: 973.740.9755 FAX: 973.740.9766
www.rb-arch.com E-Mail: remail@rb-arch.com

LM 10834

202305.00	CR DWN. BY	09/12/24	S2.3
PROJECT NO.	LB CHECKED	DATE SCALE	
			DRAWING NO.

EXHIBIT C

PROJECT SCHEDULE

<u>Task</u>	<u>Deadline</u>
Redeveloper to apply for the Approvals	Within 3 months of the Effective Date
Redeveloper to apply for a building permit for the Project Improvements	Within 3 months of obtaining all Approvals
Commencement of Construction of the Project Improvements	Within 60 days of obtaining the building permit for the Project Improvements
Completion of construction of the Project Improvements	Within 36 months of Commencement of Construction of the Project Improvements

EXHIBIT D

DECLARATION

Record and Return to:
Matthew D. Jessup, Esq.
McManimon, Scotland & Baumann, LLC
75 Livingston Avenue
Roseland, New Jersey 07068

Prepared by:

Matthew D. Jessup, Esq.

DECLARATION OF COVENANTS AND RESTRICTIONS

Block 702, Lots 4, 6 and 17.01 in the Township of Berkeley Heights, New Jersey (the
“**Property**”)

This Declaration of Restrictions is made this _____ day of _____, 2026 by and between the **TOWNSHIP OF BERKELEY HEIGHTS** (the “**Township**”), a municipal corporation of the State of New Jersey having its offices at 29 Park Avenue, Berkeley Heights, New Jersey 07922, in its capacity as redevelopment entity pursuant to *N.J.S.A. 40A:12A-4(c)*;

and

LOCKHERN PROPERTY II BH URBAN RENEWAL LLC, a limited liability company of the State of New Jersey, having its offices at 458 Springfield Avenue, Berkeley Heights, New Jersey 07922 (together with permitted successors or assigns hereinafter provided, referred to as the “**Redeveloper**”).

W I T N E S S E T H

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

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

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

WHEREAS, on November 5, 2025, the Township Council adopted Ordinance No. 2025-32, approving a redevelopment plan for Block 702, Lots 4, 6 and 17.01 on the official tax maps of the Township (collectively, the “Redevelopment Area” or “Project Site”), entitled, “Terrace II

Redevelopment Plan”, prepared by Harbor Consultants, Inc. (as the same may be amended and supplemented from time to time, the “Redevelopment Plan”); and

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

WHEREAS, the Redeveloper entered an agreement in order to develop, construct and implement that certain Project defined in the redevelopment agreement executed by and between the Township and the Redeveloper dated as of July 1, 2026 (the “**Redevelopment Agreement**”) in accordance with *N.J.S.A. 40A:12A-8(f)* of the Redevelopment Law; and

WHEREAS, *N.J.S.A. 40A:12A-9(a)* of the Redevelopment Law requires that all agreements, leases, deeds and other instruments between a municipality and a redeveloper shall contain a covenant running with the land requiring, among other things, that “...the owner shall construct only the uses established in the current redevelopment plan...”; and

WHEREAS, the Redevelopment Agreement requires that such covenants be memorialized in a Declaration of Restrictions and said declaration be recorded in the office of the Union County Clerk,

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

Section 1. Defined terms not otherwise defined herein shall have the meaning assigned to such terms in the Redevelopment Agreement

Section 2. Redeveloper covenants and agrees that, subject to the terms of the Redevelopment Agreement:

(a) Redeveloper shall construct the Project on the Project Site in accordance with, and subject to the terms of, the Redevelopment Plan, the Redevelopment Agreement, and all Applicable Laws.

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

(c) Except as permitted in paragraph (d) below, prior to the issuance of a Certificate of Completion for the Project or any part thereof, pursuant to *N.J.S.A. 40A:12A-9(a)*, Redeveloper shall not, without the prior written consent of the Township in its reasonable discretion: (i) effect or permit any change, directly or indirectly, in the majority ownership of more than fifty percent (50%) or control of Redeveloper (whether in one transaction or by virtue of the combined effect of more than one transaction), provided, however, that the Township will not unreasonably withhold consent to a transfer of a majority or greater interest in Redeveloper (or in an Affiliate of Redeveloper) to a reputable financial institution for *bona fide* financing purposes, provided that

the current members of Redeveloper remain in control of the entity, (ii) assign or attempt to assign the Redevelopment Agreement or any rights herein, (iii) make any total or partial sale, lease, transfer or conveyance of the whole or any part of its interest in the Project Site or the Redevelopment Project; or (iv) pledge, or transfer all or substantially all of its assets (collectively, a “**Transfer**”). If Redeveloper proposes a Transfer, other than as set forth above, Redeveloper will promptly provide to the Township for its consideration information concerning the proposed transferee, including, but not limited to, current audited financial statements for the proposed transferee and any other documentation reasonably requested by the Township pertaining to the transferee’s identity, principals, qualifications, reputation and financial condition. If a Transfer is approved by the Township, the transferee, by written document acceptable in form and substance to the Township, for itself and its successors and assigns, and for the benefit of the Township, shall expressly assume all of the obligations of Redeveloper under the Redevelopment Agreement applicable to the property interest conveyed with such sale, assignment or transfer and shall agree to be subject to all the conditions and restrictions to which Redeveloper is subject hereunder, including the restrictions regarding the right to subsequent transfers. All relevant instruments and other legal documents proposed to effect any such transfer shall be submitted to the Township, and if the transferee is approved by the Township, such approval shall be indicated to Redeveloper in writing.

(d) Redeveloper, without violating the provisions of paragraph (c), may, subject to the requirements of N.J.S.A. 40A:12A-9(a) effect the following Transfers, to which the Township hereby consents upon receipt of notice thereof, without the necessity of further action by the Township (the “**Permitted Transfers**”): (i) Transfers to an Affiliate of Redeveloper; (ii) leases to residential tenants; (iii) mortgages to secure Institutional Financing for acquisition of the Project Site and/or the construction of the Redevelopment Project; (iv) environmental covenants and restrictions imposed by DEP as a condition of any permit or Approval; (v) any direct or indirect transfer of any interest in Redeveloper to a Person not presently holding an interest in Redeveloper, provided that the transfer is for less than fifty percent (50%) of the ownership interest of Redeveloper and otherwise does not change the control of Redeveloper; (vi) granting of easements, deed restrictions and licenses required for utilities or in connection with development approvals; (vii) transfers by means of inheritance, devise or bequest or by operation of law upon an Immediate Family Member, or a trust established for the benefit of such Immediate Family Member; and (viii) any direct or indirect transfer to a Person of an interest in excess of fifty percent (50%) of the ownership interest of Redeveloper, provided the transferee has the financial capacity and development experience equal to or greater than that of the majority member of Redeveloper as set forth in Section 8.1(h) of the Redevelopment Agreement; and (ix) any contract or agreement which effectuates any of the foregoing exceptions. With respect to any of the Permitted Transfers listed in this Section, Redeveloper shall provide to Township written notice within thirty (30) days of such Permitted Transfer, including a description of the nature of such Permitted Transfer, and the name(s) and address(es) of the transferee parties, individuals and/or entities involved.

(e) Upon issuance of a Certificate of Completion for the Redevelopment Project, Redeveloper shall have the right to sell its interest in the real property.

(f) Redeveloper shall design, implement, complete and operate the Redevelopment Project in compliance with the Redevelopment Agreement and all other Applicable Laws,

ordinances, Approvals, rules, regulations and requirements applicable thereto including but not limited to, such zoning, sanitary, pollution, health, environmental and safety ordinances, laws and such rules and regulations thereunder as shall be binding upon Redeveloper under Applicable Laws. Without limiting the foregoing, Redeveloper shall comply at its own expense with all stormwater regulations, including but not limited to, those pertaining to detention, recharge and water quality.

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

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

(i) Redeveloper shall include as part of the Project, affordable housing rental units, which shall be deed restricted in accordance with the terms and conditions of the Redevelopment Agreement.

Section 3. It is intended and agreed that the covenants and restrictions set forth in Section 2 shall be covenants running with the land. All covenants in Section 2, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in the Redevelopment Agreement, shall be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by the Township and its successors and assigns, and any successor in interest to the Property, or any part thereof, against Redeveloper, its successors and assigns and every successor in interest therein, and any party in possession or occupancy of the Property or any part thereof. Notwithstanding the foregoing, the agreements and covenants set forth in Section 2 shall cease and terminate upon the issuance of a Certificate of Completion for such Improvements, provided however, that the covenants in 2(f), (g) and (i) shall remain in effect without limitation as to time.

Section 4. It is intended and agreed that the Township and its successors and assigns shall be deemed beneficiaries of the agreements and covenants set forth in Section 2 both for and in their own right but also for the purposes of protecting the interests of the community and other parties, public or private, in whose favor or for whose benefit such agreements and covenants shall run in favor of the Township for the entire period during which such agreements and covenants shall be in force and effect, without regard to whether the Township has at any time been, remains, or is an owner of any land or interest therein to or in favor of which such agreements and covenants relate.

IN WITNESS WHEREOF, the parties hereto have caused this Declaration of Covenants and Restrictions to be executed in their names by their duly authorized officials or managers, as the case may be, and their corporate seals to be hereunto affixed attested to by their duly authorized officers all as of the date first written above.

Attest:

TOWNSHIP OF BERKELEY HEIGHTS

Angela Lazzari
Township Clerk

By: _____
Angie D. Devanney, Mayor

Witness:

**LOCKHERN PROPERTY II BH URBAN
RENEWAL LLC**

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

STATE OF NEW JERSEY :

ss.:

COUNTY OF UNION :

BE IT REMEMBERED, that on this ____ day of _____, 2026 before me, the subscriber, a Notary Public of New Jersey, personally appeared Angie D. Devanney, who, being by me duly sworn on his oath, deposes and makes proof to my satisfaction that he is the Mayor of the **TOWNSHIP OF BERKELEY HEIGHTS, NEW JERSEY**, the entity named in the within Instrument; that the execution, as well as the making of this Instrument, have been duly authorized by the Township of Berkeley Heights and said Instrument was signed and delivered by said Mayor as and for the voluntary act and deed of said entity.

Notary or Attorney At Law
The State of New Jersey

STATE OF NEW JERSEY :

ss.:

COUNTY OF UNION :

BE IT REMEMBERED, that on this ____ day of _____, 2026 before me, the subscriber, a Notary Public of New Jersey, personally appeared Foun-Chung Fan, who, being by me duly sworn on his/her oath, deposes and makes proof to my satisfaction that he is the Managing Member of **LOCKHERN PROPERTY II BH URBAN RENEWAL LLC** the entity named in the within Instrument; that the execution, as well as the making of this Instrument, have been duly authorized by the entity and said Instrument was signed and delivered by said Managing Member as and for the voluntary act and deed of said entity.

Notary or Attorney at Law
The State of New Jersey