

BOROUGH OF HIGHLAND PARK
REGULAR MEETING
SEPTEMBER 6, 2022 – 7:00 PM

The Borough is using the telephone meeting format in an effort to mitigate the chance of exposure to COVID-19, as a part of the Borough's ongoing effort to slow the rate of transmission and avoid overwhelming our treatment centers.

The public is invited to attend and participate by way of a call-in number and password:

Please click the link below to join the webinar:

<https://zoom.us/j/94688798576>

Or Telephone: 1 929 205 6099

Webinar ID: 946 8879 8576

MISSION STATEMENT OF THE BOROUGH OF HIGHLAND PARK:

The Mission of the Highland Park Borough Council is to establish a government based upon the principles of good government: ethics, efficiency and the effective provision of services.

The Borough Council is committed to creating a thriving community, which is sustainable economically, environmentally and socially.

The Borough Council is further committed to creating a community which values its unique and diverse populations and encourages direct public participation in the governing process.

AGENDA

* Denotes Consent Agenda Posted Items. Ordinarily, consent agenda items, pursuant to Ordinance No. 920, are not read nor debated unless there is a request by a member of Council or the public. Furthermore, unless requested by a member of Council for a separate vote, all consent agenda items, as per Council's Rules of Order, Article IV, shall be considered in the form of one **MOTION**.

1. Call to Order and Open Public Meetings Statement.
2. Pledge of Allegiance.
3. Roll Call.
4. Agenda Questions by Council Members.
5. Honors, Awards and Presentations.
 - Professional Property Appraisers - Revaluation Update
6. Approval of Minutes.

- 7. Council Reports.
- 8. Borough Administrator's Report.
- 9. Borough Attorney's Report.
- 10. Mayor's Report.
- 11. Public Participation.
(21 minutes total; 3 minutes each speaker limited to items on this Agenda, including Work Session).
- 12. Ordinances Requiring a Second Reading.

12.a Clerk reports advertising Ordinance Amending Chapter 230 Concerning Deed Restricted Control Periods and Mandatory Set-aside Requirements for Affordable Housing for consideration of passage on final reading by title.

To be tabled, see Ordinance below for introduction

- a. MOTION to take up ordinance on final reading by title.
- b. Public Hearing.
- c. 9-22-204 Resolution to adopt/reject and advertise ordinance on final reading by title.
MOTION adopt/reject **ROLL CALL VOTE**

12.b Clerk reports advertising Ordinance Amending Chapter 9 Concerning the Shade Tree Advisory Committee for consideration of passage on final reading by title.

- a. MOTION to take up ordinance on final reading by title.
- b. Public Hearing.
- c. 9-22-205 Resolution to adopt/reject and advertise ordinance on final reading by title.
MOTION adopt/reject **ROLL CALL VOTE**

12.c Clerk reports advertising Ordinance Amending Chapter 197 Flood Damage Prevention for consideration of passage on final reading by title.

- a. MOTION to take up ordinance on final reading by title.
- b. Public Hearing.
- c. 9-22-206 Resolution to adopt/reject and advertise ordinance on final reading by title.
MOTION adopt/reject **ROLL CALL VOTE**

12.d Clerk reports advertising Ordinance Prohibiting Firearms in Public Buildings for consideration of passage on final reading by title.

- a. MOTION to take up ordinance on final reading by title.
- b. Public Hearing.
- c. 9-22-207 Resolution to adopt/reject and advertise ordinance on final reading by title.
MOTION adopt/reject **ROLL CALL VOTE**

13. Ordinances Requiring a First Reading.

13.a Clerk reports introduction on an Ordinance Amending Chapter 230 Concerning Deed Restricted Control Periods and Mandatory Set-aside Requirements for Affordable Housing for consideration of passage on first reading by title.

a. **MOTION** to adopt/reject and advertise ordinance on first reading by title.

(Resolution No. 9-22-208)

ROLL CALL VOTE

14. Consent Agenda Items - Resolutions.

ROLL CALL VOTE

14.a *9-22-209 Resolution to Execute Agreement with Gabel Associates for Microgrid Design Services for Phase II TCDER Microgrid Project

14.b *9-22-210 Resolution Approving Taxi Driver Licenses

14.c *9-22-211 Resolution to Authorize Contract with Rok Industries/Real Auction.com for On-Line Tax Sale Services

14.d *9-22-212 Resolution Authorizing Payment to PSEG for Upgrade of Woodbridge Avenue Light Poles to Accommodate Holiday Lighting

14.e *9-22-213 Resolution to Amend Annual Salary Resolution

14.f *9-22-214 Resolution to Approve Wrecker Licenses

14.g *9-22-215 Resolution Authorizing Purchase and Installation of Fencing at the Municipal Recreation Complex using ESCNJ Contract

14.h *9-22-216 Resolution to Approve Pay Estimate No. 4 and Change Order No. 2 with Hellas Construction for the Improvements to the Recreation Complex

14.i *9-22-217 Resolution Amending Professional Services Agreement for Special Environmental Council related to Litigation - JSM vs. Highland Park

14.j *9-22-218 Resolution Amending Professional Services Agreement with GEI Consultants, Inc. for Expert Witness Services related to Litigation - JSM vs. Highland Park

14.k *9-22-219 Resolution Authorizing Purchase, Programming and Installation of Communications Equipment for the Fire Department

14.l *9-22-220 Resolution to Approve Bills List

15. Resolutions requiring a Separate Reading.

15.a 9-22-221 Resolution Authorizing the Planning Board to Conduct an Area in Need of

Redevelopment Investigation of Certain Property Identified as Block 3002, Lots 1, 2, 3, 4, 5, 6, 7, 8, 30, 34, 35, and 37 on the Borough's Tax Map to Determine Whether the Planning Board Finds that the Property Satisfies the Local Redevelopment and Housing Law In Need Criteria and Should be Declared in Need of Redevelopment

MOTION

ROLL CALL

- 15.b 9-22-222 Resolution Authorizing LRK to Conduct A Preliminary Investigation to Determine if Block 3002, Lots 1, 2, 3, 4, 5, 6, 7, 8, 30, 34, 35, and 37 on the Borough's Tax Map Satisfies the Local Redevelopment and Housing Law 'In Need' Criteria and should be Declared in Need of Redevelopment Without Condemnation Powers and Prepare a Redevelopment Plan for Such Area

MOTION

ROLL CALL

16. Appointments.

Jeffrey Perlman, Class IV

Planning Board

17. Second Public Participation.

(3 minutes per speaker on any items; subject to 9PM conclusion prior to Work Session)

18. Recess (5 minutes).

19. Work Session Items: No formal action to be taken.

a. Drought restrictions (PG).

20. Executive Session (if necessary).

- 20.a 9-22-223 Executive Session: Attorney-Client Privilege Briefing

MOTION adopt/reject

ROLL CALL VOTE

21. MOTION to adjourn.

22. **Next Scheduled Meeting:** September 20, 2022 @ 7PM

**BOROUGH OF HIGHLAND PARK
RESOLUTION NO. 9-22-204**

BE IT RESOLVED by the Borough Council of the Borough of Highland Park that the Ordinance entitled, ORDINANCE NO. 2053: “AN ORDINANCE CONCERNING THE BOROUGH OF HIGHLAND PARK AFFORDABLE HOUSING PROGRAM AND AMENDING CHAPTER 230 OF THE “CODE OF THE BOROUGH OF HIGHLAND PARK” CONCERNING DEED RESTRICTED CONTROL PERIODS AND MANDATORY SET-ASIDE REQUIREMENTS”, passed on final reading at this meeting be delivered to the Mayor for his/her approval, and if approved by her, that the same be recorded in full by the Borough Clerk in a proper book kept for that purpose, and be advertised by publishing the same by title in the “Home News Tribune”, of Neptune, New Jersey, a newspaper published in the County of Middlesex and circulating in this municipality, there being no newspaper published in this municipality, in the manner prescribed by law.

ADOPTED: September 6, 2022

ATTEST:

Jennifer Santiago, Borough Clerk

I, Jennifer Santiago, Borough Clerk of the Borough of Highland Park, New Jersey, do hereby certify the above to be a true copy of a resolution adopted by the Borough Council of said Borough on the 6th day of September 2022.

Jennifer Santiago, Borough Clerk

RECORD OF COUNCIL VOTES

Council Member	Ayes	Nays	Abstain	Absent
Canavera				
Foster				
George				
Hale				
Hersh				
Kim-Chohan				

**BOROUGH OF HIGHLAND PARK
ORDINANCE NO. 22-2053**

**AN ORDINANCE CONCERNING THE BOROUGH OF HIGHLAND PARK
AFFORDABLE HOUSING PROGRAM AND AMENDING CHAPTER 230 OF THE
“CODE OF THE BOROUGH OF HIGHLAND PARK” CONCERNING DEED
RESTRICTED CONTROL PERIODS AND MANDATORY SET-ASIDE
REQUIREMENTS**

BE IT ORDAINED by the Borough Council of The Borough of Highland Park, County of Middlesex, State Of New Jersey as follows:

Section 1. Sections 86-13 and 86-17 of the “Code of the Borough of Highland Park” which establish control periods for ownership and rental units is amended to read as follows: (underlined material is new).

Section 86-13, “Control periods for restricted ownership units and enforcement mechanisms” is hereby amended to read as follows:

- A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:8—26.5, and each restricted ownership shall remain subject to the controls on affordability for a period of at least 30 years and until the municipality takes action thereafter to release the controls on affordability. After thirty years, the Borough shall have unilateral authority to extend such affordability controls.

Section 86-17, “Control periods for restricted rental units” is hereby amended to read as follows:

- A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, and each restricted rental unit shall remain subject to the controls on affordability for a period of at least 30 years, until the municipality takes action to release the controls on affordability. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1 et seq., as may be amended and supplemented. After thirty years, the Borough shall have unilateral authority to extend such affordability controls.

Section 2. A **NEW** Article XXIII of Chapter 230 is hereby added to said Code to establish affordable housing mandatory set-aside requirement and shall read as follows:

Article XXIII. Affordable Housing Requirements

§ 230-207. Affordable Housing Mandatory Set-Aside

A. Purpose

This Article is intended to ensure that any site that benefits from a rezoning, variance or redevelopment plan approved by the Borough or the Borough Planning/Zoning Board that results

in multi-family residential development of five (5) dwelling units or more produces affordable housing at a set-aside rate of twenty percent (20%). This section shall apply except where inconsistent with applicable law. This ordinance shall not apply to existing affordable housing inclusionary zones, which predate the effective date of this ordinance.

B. Affordable Housing Mandatory Set-Aside Requirement

If the Borough or the Borough Planning Board/Zoning Board permits the construction of multi-family or single-family attached residential development that is “approvable” and “developable,” as defined at N.J.A.C. 5:93-1.3, the Borough or the Borough’s Planning Board/Zoning Board shall require that an appropriate percentage of the residential units be set aside for very low, low- and moderate-income households. This requirement shall apply beginning with the effective date the Article creating this section was adopted to any multi-family or single-family attached residential development, including the residential portion of a mixed-use project, which consists of five (5) or more new residential units, whether permitted by a zoning amendment, a variance granted by the Borough’s Planning Board or Zoning Board. For any such development for which the Borough’s land use ordinances already permitted residential development as of the effective date of this Article, this requirement shall only apply if the Borough or the Borough’s Planning Board or Zoning Board permits an increase in approvable and developable gross residential density to at least twice the permitted approvable and developable gross residential density as of the effective date of this Article. Nothing in this paragraph precludes the Borough or the Borough’s Planning Board or Zoning Board from imposing an affordable housing set-aside in a development not required to have a set-aside pursuant to this paragraph consistent with N.J.S.A. 52:27D-311(h) and other applicable law. For all inclusionary projects, the appropriate set-aside percentage will be twenty percent (20%) regardless of tenure. This requirement does not create any entitlement for a property owner or applicant for a zoning amendment or variance, or for approval of any particular proposed project. This requirement does not apply to any sites or specific zones otherwise identified in the Borough’s Settlement Agreement with FSHC, which was executed on December 22, 2017, or in the Borough’s Adopted Housing Element and Fair Share Plan dated December 18, 2018, for which density and set-aside standards shall be governed by the specific standards set forth therein.

Furthermore, this Article shall not apply to developments containing four (4) or less dwelling units. All subdivision and site plan approvals of qualifying residential developments shall be conditioned upon compliance with the provisions of this section. Where a developer demolishes existing dwelling units and builds new dwelling units on the same site, the provisions of this section shall apply only if the next number of dwelling units is five (5) or more.

All affordable units produced as a result of this Article shall comply with the Borough’s Affordable Housing Ordinance, Chapter 86 of this Code, COAH and UHAC regulations and applicable laws, including, but not limited to bedroom and income distributions and income distributions requirements within each bedroom category. This obligation also includes compliance with the Fair Housing Act’s (“FHA”) very low-income requirements, including the requirement that at least 13% very low-income units as defined by the FHA (households earning no more than 30% of the region’s median income).

§230-208. Conflicts; Severability.

- A. If any article, section, subsection, sentence, clause or phrase of this Article is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Article and they shall remain in full force and effect.
- B. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of Highland Park, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the General Ordinances of the Borough of Highland Park are hereby ratified and confirmed, except where inconsistent with the terms hereof.

Section 3.

This Ordinance shall take effect immediately upon (1) adoption; (2) approval by the Mayor pursuant to N.J.S.A. 40:69A-149.7; (3) publication in accordance with the laws of the State of New Jersey; and (4) filing of the final form of adopted ordinance by the Clerk with (a) the Middlesex County Planning Board pursuant to N.J.S.A. 40:55D-16, and the Borough Tax Assessor as required by N.J.S.A. 40:49-2.1.

Introduced at the meeting on May 17, 2022

Adopted: August 2, 2022

Attest:

Approved: August 2, 2022

Jennifer Santiago
Borough Clerk

Gayle Brill Mittler
Mayor

**BOROUGH OF HIGHLAND PARK
RESOLUTION NO. 9-22-205**

BE IT RESOLVED by the Borough Council of the Borough of Highland Park that the Ordinance entitled, ORDINANCE NO. 2056: "AN ORDINANCE OF THE BOROUGH OF HIGHLAND PARK IN MIDDLESEX COUNTY AMENDING CHAPTER 9 OF THE "CODE OF THE BOROUGH OF HIGHLAND PARK" CONCERNING THE SHADE TREE ADVISORY COMMITTEE.", passed on final reading at this meeting be delivered to the Mayor for his/her approval, and if approved by her, that the same be recorded in full by the Borough Clerk in a proper book kept for that purpose, and be advertised by publishing the same by title in the "Home News Tribune", of Neptune, New Jersey, a newspaper published in the County of Middlesex and circulating in this municipality, there being no newspaper published in this municipality, in the manner prescribed by law.

ADOPTED: September 6, 2022

ATTEST:

Jennifer Santiago, Borough Clerk

I, Jennifer Santiago, Borough Clerk of the Borough of Highland Park, New Jersey, do hereby certify the above to be a true copy of a resolution adopted by the Borough Council of said Borough on the 6th day of September 2022.

Jennifer Santiago, Borough Clerk

RECORD OF COUNCIL VOTES

Council Member	Ayes	Nays	Abstain	Absent
Canavera				
Foster				
George				
Hale				
Hersh				
Kim-Chohan				

**BOROUGH OF HIGHLAND PARK
ORDINANCE NO. 22-2056**

**AN ORDINANCE OF THE BOROUGH OF HIGHLAND PARK IN MIDDLESEX
COUNTY AMENDING CHAPTER 9 OF THE “CODE OF THE BOROUGH OF
HIGHLAND PARK” CONCERNING THE SHADE TREE ADVISORY
COMMITTEE.**

BE IT ORDAINED by the Borough Council of the Borough of Highland Park, Middlesex County as follows [bracketed] material deleted; underlined material added:

1. The “Code of the Borough of Highland Park” is amended concerning the Shade Tree Advisory Committee and shall read as follows:

Section 9-104. Appointment.

The Shade Tree Advisory Committee (“STAC”) shall consist of up to [fifteen] nine [15] 9 members who are residents of the Borough of Highland Park. All members [including the designation of a chairperson,] shall be appointed by the Mayor with the advice and consent of the Borough Council. Each member of STAC shall at all times be considered a volunteer participating in a community forestry program as provided for by the New Jersey Shade Tree and Community Forestry Assistance Act, P.L. 1996, c. 135 (C.13:1L-17.1 et al.), as amended from time to time, and any successor state statute (the “State Forestry Act”). The members of STAC shall from time to time select from among themselves a chairperson, or co-chairpersons, or a chairperson and vice-chairperson, as well as any other officers that may be deemed by the members to be beneficial to the running of STAC and/or the execution of its duties and responsibilities, including but not limited to a secretary and assistant secretary. The members of STAC may from time to time establish (or discontinue) subcommittees and heads of subcommittees that may be deemed by the members of STAC to be beneficial to the running of STAC and/or the execution of its duties and responsibilities.

Section 9-105. Powers, Duties and Responsibilities.

[The] STAC shall have the following powers, duties and responsibilities:

- A. Advise the [Department of Public Works] Borough on the care and planting of all [shade and ornamental] trees and shrubbery now located or which may hereafter be planted on any street, highway and public place either owned or maintained by the Borough, including the annual tree planting program., [except those areas zoned Central Business District, Commercial District and Professional Office District;]
- B. Advise the [Department of Public Works] Borough on the use of ground surrounding said trees and shrubbery, as may be necessary for their proper growth, care and protection now located or which may hereafter be planted on any street, highway and public place either owned or maintained by the Borough. [except those areas zoned Central Business District, Commercial District and Professional Office District.]
- C. Advise the [Department of Public Works] Borough on the removal of any trees and shrubbery, or part thereof, and advise on subsequent replantings as appropriate for trees and shrubbery now located or which may hereafter be planted on any street,

highway and public place either owned or maintained by the Borough. [except those areas zoned Central Business District, Commercial District and Professional Office District.]

- D. Advise Borough officials on the passage, alteration, amendment and repeal of ordinances necessary for carrying out the provisions hereof, including but not limited to Chapter 388 of this Code.
 - E. Encourage responsible, healthy, site-appropriate arboriculture and horticulture among Borough residents.
 - F. Maintain the municipal street tree inventory. [and]
 - G. Assist in the development and implementation of the Borough's Community Forestry Management Plan to provide for tree planting and the maintenance of a healthy and safe urban forest. To the extent required by the State Forestry Act, a Community Forestry Management Plan shall be adopted by the Borough and updated every five years. [Develop and maintain a comprehensive master plan for planting and maintenance; and]
 - H. Develop and maintain the Mary Denver [Highland Park's] Native Plant Sanctuary [Reserve] located on Borough property near River Road, with sole authority for the care, planting and removal, of any plant, shrub or tree within the boundaries of the Mary Denver Native Plant Sanctuary. [Reserve]
 - I. Advise the Planning Board and the Board of Adjustment on the proposed removal, planting and replacement of trees and shrubbery shown or required to be shown on any site plan submitted to such boards.
 - J. Provide any advice and oversight and fulfill any duties and responsibilities assigned to STAC under Chapter 388 of this Code and under any other provision of this Code relating to trees within the Borough, including without limitation any funding for such trees.
2. This Ordinance shall take effect upon its passage and publication as provided for by law.

Introduced and Passed on First Reading by Title: August 2, 2022

ADOPTED: September 6, 2022

ATTEST:

APPROVED: September 6, 2022

Jennifer Santiago
Borough Clerk

Gayle Brill Mittler
Mayor

**BOROUGH OF HIGHLAND PARK
RESOLUTION NO. 9-22-206**

BE IT RESOLVED by the Borough Council of the Borough of Highland Park that the Ordinance entitled, ORDINANCE NO. 2057: "AN ORDINANCE AMENDING THE "CODE OF THE BOROUGH OF HIGHLAND PARK" CHAPTER 197: FLOOD DAMAGE PREVENTION", passed on final reading at this meeting be delivered to the Mayor for his/her approval, and if approved by her, that the same be recorded in full by the Borough Clerk in a proper book kept for that purpose, and be advertised by publishing the same by title in the "Home News Tribune", of Neptune, New Jersey, a newspaper published in the County of Middlesex and circulating in this municipality, there being no newspaper published in this municipality, in the manner prescribed by law.

ADOPTED: September 6, 2022

ATTEST:

Jennifer Santiago, Borough Clerk

I, Jennifer Santiago, Borough Clerk of the Borough of Highland Park, New Jersey, do hereby certify the above to be a true copy of a resolution adopted by the Borough Council of said Borough on the 6th day of September 2022.

Jennifer Santiago, Borough Clerk

RECORD OF COUNCIL VOTES

Council Member	Ayes	Nays	Abstain	Absent
Canavera				
Foster				
George				
Hale				
Hersh				
Kim-Chohan				

BOROUGH OF HIGHLAND PARK

ORDINANCE NO. 22-2057

AN ORDINANCE AMENDING THE “CODE OF THE BOROUGH OF HIGHLAND PARK” CHAPTER 197: FLOOD DAMAGE PREVENTION, AS FOLLOWS:

SECTION 1. Chapter 197, Flood Damage Prevention of the “Code of the Borough of Highland Park” is repealed in its entirety and replaced with the following:

Chapter 197

FLOOD DAMAGE PREVENTION

WHEREAS, the Legislature of the State of New Jersey has, in N.J.S.A. 40:48 et seq and N.J.S.A. 40:55D et seq., conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the **Borough of Highland Park (hereinafter referred to as the “Borough”)** and such areas may be subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare, and

WHEREAS, the **Borough** was accepted for participation in the National Flood Insurance Program on June 1, 1977 and the **Borough Council of the Borough** desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59, 60, 65, and 70 necessary for such participation; and

WHEREAS, the **Borough** is required, pursuant to N.J.A.C. 5:23 et seq., to administer and enforce the State building codes, and such building codes contain certain provisions that apply to the design and construction of buildings and structures in flood hazard areas; and

WHEREAS, the **Borough** is required, pursuant to N.J.S.A. 40:49-5, to enforce zoning codes that secure safety from floods and contain certain provisions that apply to the development of lands; and

WHEREAS, the **Borough** is required, pursuant to N.J.S.A.58:16A-57, within 12 months after the delineation of any flood hazard area, to adopt rules and regulations concerning the development and use of land in the flood fringe area which at least conform to the standards promulgated by the New Jersey Department of Environmental Protection (NJDEP).

NOW, THEREFORE, BE IT ORDAINED by the **Borough Council for the Borough of Highland Park, Middlesex County, State of New Jersey** that the following floodplain management regulations are hereby adopted.

§ 197-1. RECITALS. The foregoing whereas clauses are incorporated herein by reference and made a part hereof. These regulations specifically repeal and replace the current Chapter 197 of the “Code of the Borough of Highland Park” regulation(s): that will be replaced by these regulations and, if applicable, citation(s) to other sections of said Code that have flood provisions, such as subdivision regulations, that also will be replaced by these regulations.

ARTICLE I. SCOPE AND ADMINISTRATION

§ 197-2 Title. These regulations, in combination with the flood provisions of the Uniform Construction Code (UCC) N.J.A.C. 5:23 (hereinafter “Uniform Construction Code,” consisting of the Building Code, Residential Code, Rehabilitation Subcode, and related codes, and the New Jersey Flood Hazard Area Control Act (hereinafter “FHACA”), N.J.A.C. 7:13, shall be known as the ***Floodplain Management Regulations of the Borough of Highland Park*** (hereinafter “these regulations”).

§ 197-3 Scope. These regulations, in combination with the flood provisions of the Uniform Construction Code and FHACA shall apply to all proposed development in flood hazard areas established in Article II of these regulations.

§ 197-4 Purposes and objectives. The purposes and objectives of these regulations are to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific flood hazard areas through the establishment of comprehensive regulations for management of flood hazard areas, designed to:

- A. Protect human life and health.
- B. Prevent unnecessary disruption of commerce, access, and public service during times of flooding.
- C. Manage the alteration of natural floodplains, stream channels and shorelines;
- D. Manage filling, grading, dredging and other development which may increase flood damage or erosion potential.
- E. Prevent or regulate the construction of flood barriers which will divert floodwater or increase flood hazards.
- F. Contribute to improved construction techniques in the floodplain.
- G. Minimize damage to public and private facilities and utilities.
- H. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas.
- I. Minimize the need for rescue and relief efforts associated with flooding.
- J. Ensure that property owners, occupants, and potential owners are aware of property located in flood hazard areas.
- K. Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events.
- L. Meet the requirements of the National Flood Insurance Program for community participation set forth in Title 44 Code of Federal Regulations, Section 59.22.

§ 197-5 Coordination with Building Codes. Pursuant to the requirement established in N.J.A.C. 5:23, the Uniform Construction Code, that the **Borough** administer and enforce the State building codes, the Borough Council of the **Borough** does hereby acknowledge that the Uniform Construction Code contains certain provisions that apply to the design and construction of buildings and structures in flood hazard areas. Therefore, these regulations are intended to be administered and enforced in conjunction with the Uniform Construction Code.

§197-6 Ordinary Building Maintenance and Minor Work. Improvements defined as ordinary

building maintenance and minor work projects by the Uniform Construction Code including non-structural replacement-in-kind of windows, doors, cabinets, plumbing fixtures, decks, walls, partitions, new flooring materials, roofing, etc. shall be evaluated by the Floodplain Administrator through the floodplain development permit to ensure compliance with the Substantial Damage and Substantial Improvement Section 197-28 of these regulations.

§ 197-7 Warning. The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. Enforcement of these regulations does not imply that land outside the special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage.

§ 197-8 Other laws. The provisions of these regulations shall not be deemed to nullify any provisions of local, State, or Federal law.

§ 197-9 Violations and Penalties for Noncompliance. No structure or land shall hereafter be constructed, re-located to, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a violation under N.J.S.A. 40:49-5. Any person who violates this ordinance or fails to comply with any of its requirements shall be subject to one (1) or more of the following: a fine of not more than \$1250; imprisonment for a term not exceeding ninety (90) days or a period of community service not exceeding 90 days.

Each day in which a violation of an ordinance exists shall be considered to be a separate and distinct violation subject to the imposition of a separate penalty for each day of the violation as the Court may determine except that the owner will be afforded the opportunity to cure or abate the condition during a 30 day period and shall be afforded the opportunity for a hearing before the court for an independent determination concerning the violation. Subsequent to the expiration of the 30 day period, a fine greater than \$1250 may be imposed if the court has not determined otherwise, or if upon reinspection of the property, it is determined that the abatement has not been substantially completed.

Any person who is convicted of violating an ordinance within one year of the date of a previous violation of the same ordinance and who was fined for the previous violation, shall be sentenced by a court to an additional fine as a repeat offender. The additional fine imposed by the court upon a person for a repeated offense shall not be less than the minimum or exceed the maximum fine fixed for a violation of the ordinance but shall be calculated separately from the fine imposed for the violation of the ordinance.

§ 197-10 Solid Waste Disposal in a Flood Hazard Area. Any person who has unlawfully disposed of solid waste in a floodway or floodplain who fails to comply with this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$2500 or up to a maximum penalty by a fine not exceeding \$10,000 under N.J.S.A. 40:49-5.

§ 197-11 Abrogation and greater restrictions. These regulations supersede any ordinance in effect in flood hazard areas. However, these regulations are not intended to repeal or abrogate any existing ordinances including land development regulations, subdivision regulations, zoning ordinances, stormwater management regulations, or building codes. In the event of a conflict between these regulations and any other ordinance, Code, or these regulations, the more restrictive shall govern.

ARTICLE II. APPLICABILITY

§ 197-12 General Applicability. These regulations, in conjunction with the Uniform Construction Code, provide minimum requirements for development located in flood hazard

areas, including the subdivision of land and other developments; site improvements and installation of utilities; placement and replacement of manufactured homes; placement of recreational vehicles; new construction and alterations, repair, reconstruction, rehabilitation or additions of existing buildings and structures; substantial improvement of existing buildings and structures, including repair of substantial damage; installation of tanks; temporary structures and temporary or permanent storage; utility and miscellaneous Group U buildings and structures; and certain building work exempt from permit under the Uniform Construction Code; and other buildings and development activities.

§ 197-13 Establishment of Flood Hazard Areas. The **Borough** has been accepted for participation in the National Flood Insurance Program on June 1, 1977.

The National Flood Insurance Program (NFIP) floodplain management regulations encourage that all Federal, State, and Local regulations that are more stringent than the minimum NFIP standards take precedence in permitting decisions. The FHACA requires that the effective Flood Insurance Rate Map, most recent preliminary FEMA mapping and flood studies, and Department delineations be compared to determine the most restrictive mapping. The FHACA also regulates unstudied flood hazard areas in watersheds measuring 50 acres or greater in size and most riparian zones in New Jersey. Because of these higher standards, the regulated flood hazard area in New Jersey may be more expansive and more restrictive than the FEMA Special Flood Hazard Area. Maps and studies that establish flood hazard areas are on file with the Borough Code Enforcement Officer, 221 South Fifth Avenue, Highland Park, New Jersey 08904.

The following sources identify flood hazard areas in this jurisdiction and must be considered when determining the Best Available Flood Hazard Data Area:

- A) **Effective Flood Insurance Study.** Special Flood Hazard Areas (SFHAs) identified by the Federal Emergency Management Agency in a scientific and engineering report entitled Flood Insurance Study, Middlesex County, New Jersey (All Jurisdictions) dated July 6, 2010 and the accompanying Flood Insurance Rate Maps (FIRM) identified in the Table 197-13A below whose effective date is July 6, 2010 are hereby adopted by reference.

Table 197-13A

Map Panel #	Effective Date	Revision Letter	Map Panel #	Effective Date	Revision Letter
34023C0039	July 6, 2010	F			
34023C0043	July 6, 2010	F			
34023C0127	July 6, 2010	F			
34023C0131	July 6, 2010	F			

- B) **Federal Best Available Information.** The **Borough** shall utilize Federal flood information as listed in the table below that provides more detailed hazard information, higher flood elevations, larger flood hazard areas, and results in more restrictive regulations. This information may include but is not limited to preliminary flood elevation guidance from FEMA (such as Advisory Flood Hazard Area Maps, Work Maps or Preliminary FIS and FIRM). Additional Federal Best Available studies issued after the date of this ordinance must also be considered. These studies are listed on FEMA's Map Service Center. This information shall be used for floodplain regulation purposes only.

Table 197-13B

Map Panel #	Preliminary Date	Map Panel #	Preliminary Date
34023C0131G	January 31, 2014		

- C) **Other Best Available Data.** The **Borough** shall utilize high water elevations from flood events, groundwater flooding areas, studies by federal or state agencies, or other information deemed appropriate by the **Borough**. Other “best available information” may not be used which results in less restrictive flood elevations, design standards, or smaller flood hazard areas than the sources described in Sections 197-13A and 197-13B above. This information shall be used for floodplain regulation purposes only.
- D) **State Regulated Flood Hazard Areas.** For State regulated waters, the NJ Department of Environmental Protection (NJDEP) identifies the flood hazard area as the land, and the space above that land, which lies below the “Flood Hazard Area Control Act Design Flood Elevation”, as defined in Article V, and as described in the New Jersey Flood Hazard Area Control Act at N.J.A.C. 7:13. A FHACA flood hazard area exists along every regulated water that has a drainage area of 50 acres or greater. Such area may extend beyond the boundaries of the Special Flood Hazard Areas (SFHAs) as identified by FEMA. The following is a list of New Jersey State studied waters in this community under the FHACA, and their respective map identification numbers.

Table 197-13C List of State Studied Waters

Name of Studied Water	File Name	Map Number
Raritan Rv	D0000017	R-4
Raritan Rv	D0000018	R-6
Raritan Rv	D0000019	R-5

§ 197-14 Establishing the Local Design Flood Elevation (LDFE).

The Local Design Flood Elevation (LDFE) is established in the flood hazard areas determined in Section 197-13, above, using the best available flood hazard data sources, and the Flood Hazard Area Control Act minimum Statewide elevation requirements for lowest floors in A, Coastal A, and V zones, ASCE 24 requirements for critical facilities as specified by the building code, plus additional freeboard as specified by this ordinance.

At a minimum, the Local Design Flood Elevation shall be as follows:

- A) For a delineated watercourse, the elevation associated with the Best Available Flood Hazard Data Area determined in Section 197-13, above plus one foot or as described by N.J.A.C. 7:13 of freeboard; or
- B) For any undelineated watercourse (where mapping or studies described in 197-13A and B above are not available) that has a contributory drainage area of 50 acres or more, the applicants must provide one of the following to determine the Local Design Flood Elevation:

- a. A copy of an unexpired NJDEP Flood Hazard Area Verification plus one foot of freeboard and any additional freeboard as required by ASCE 24; or
 - b. A determination of the Flood Hazard Area Design Flood Elevation using Method 5 or Method 6 (as described in N.J.A.C. 7:13) plus one foot of freeboard and any additional freeboard as required by ASCE 24. Any determination using these methods must be sealed and submitted according to Section 197-37-38.
- C) AO Zones – For Zone AO areas on the municipality’s FIRM (or on preliminary flood elevation guidance from FEMA), the Local Design Flood Elevation is determined from the FIRM panel as the highest adjacent grade plus the depth number specified plus one foot of freeboard. If no depth number is specified, the Local Design Flood Elevation is three (3) feet above the highest adjacent grade.
- D) Class IV Critical Facilities - For any proposed development of new and substantially improved Flood Design Class IV Critical Facilities, the Local Design Flood Elevation must be the higher of the 0.2% annual chance (500 year) flood elevation or the Flood Hazard Area Design Flood Elevation with an additional 2 feet of freeboard in accordance with ASCE 24.
- E) Class III Critical Facilities - For proposed development of new and substantially improved Flood Design Class III Critical Facilities in coastal high hazard areas, the Local Design Flood Elevation must be the higher of the 0.2% annual chance (500 year) flood elevation or the Flood Hazard Area Design Flood Elevation with an additional 1 foot of freeboard in accordance with ASCE 24.

§ 197-15 Floodplain Administrator Designation. The **Borough Code Enforcement Officer** is designated the Floodplain Administrator. The Floodplain Administrator shall have the authority to delegate performance of certain duties to other employees.

§ 197-16 General. The Floodplain Administrator is authorized and directed to administer the provisions of these regulations. The Floodplain Administrator shall have the authority to render interpretations of these regulations consistent with the intent and purpose of these regulations and to establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be consistent with the intent and purpose of these regulations and the flood provisions of the building code and shall not have the effect of waiving specific requirements without the granting of a variance pursuant to Article IV of these regulations.

§ 197-17 Coordination. The Floodplain Administrator shall coordinate with the Construction Official to administer and enforce the flood provisions of the Uniform Construction Code.

§ 197-18 Duties. The duties of the Floodplain Administrator shall include but are not limited to:

- (A) Review all permit applications to determine whether proposed development is located in flood hazard areas established in Article II of these regulations.
- (B) Require development in flood hazard areas to be reasonably safe from flooding and to be designed and constructed with methods, practices and materials that minimize flood damage.
- (C) Interpret flood hazard area boundaries and provide available flood elevation and flood hazard information.
- (D) Determine whether additional flood hazard data shall be obtained or developed.
- (E) Review required certifications and documentation specified by these regulations and the building code to determine that such certifications and documentations are

complete.

- (F) Establish, in coordination with the Construction Official, written procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 197-28 of these regulations.
- (G) Coordinate with the Construction Official and others to identify and investigate damaged buildings located in flood hazard areas and inform owners of the requirement to obtain permits for repairs.
- (H) Review requests submitted to the Construction Official seeking approval to modify the strict application of the flood load and flood resistant construction requirements of the Uniform Construction code to determine whether such requests require consideration as a variance pursuant to Article IV of these regulations.
- (I) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps when the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within 6 months of such data becoming available.
- (J) Require applicants who propose alteration of a watercourse to notify adjacent jurisdictions and the NJDEP Bureau of Flood Engineering, and to submit copies of such notifications to the Federal Emergency Management Agency (FEMA).
- (K) Inspect development in accordance with Section 197-40 of these regulations and inspect flood hazard areas to determine if development is undertaken without issuance of permits.
- (L) Prepare comments and recommendations for consideration when applicants seek variances in accordance with Section Article IV of these regulations.
- (M) Cite violations in accordance with Section 197-50 of these regulations.
- (N) Notify the Federal Emergency Management Agency when the corporate boundaries of the **Borough** have been modified.
- (O) Permit Ordinary Maintenance and Minor Work in the regulated areas discussed in Section 197-13.

§ 197-19 Use of changed technical data. The Floodplain Administrator and the applicant shall not use changed flood hazard area boundaries or base flood elevations for proposed buildings or developments unless the Floodplain Administrator or applicant has applied for a Conditional Letter of Map Revision (CLOMR) to the Flood Insurance Rate Map (FIRM) revision and has received the approval of the Federal Emergency Management Agency. A revision of the effective FIRM does not remove the related feature(s) on a flood hazard area delineation that has been promulgated by the NJDEP. A separate application must be made to the State pursuant to N.J.A.C. 7:13 for revision of a flood hazard design flood elevation, flood hazard area limit, floodway limit, and/or other related feature.

§ 197-20 Other permits. It shall be the responsibility of the Floodplain Administrator to assure that approval of a proposed development shall not be given until proof that necessary permits have been granted by Federal or State agencies having jurisdiction over such development, including section 404 of the Clean Water Act. In the event of conflicting permit requirements, the Floodplain Administrator must ensure that the most restrictive floodplain management standards are reflected in permit approvals.

§ 197-21 Determination of Local Design Flood Elevations. If design flood elevations are not specified, the Floodplain Administrator is authorized to require the applicant to:

- (P) Obtain, review, and reasonably utilize data available from a Federal, State, or other source, or
- (Q) Determine the design flood elevation in accordance with accepted hydrologic and

hydraulic engineering techniques. Such analyses shall be performed and sealed by a licensed professional engineer. Studies, analyses, and computations shall be submitted in sufficient detail to allow review and approval by the Floodplain Administrator. The

accuracy of data submitted for such determination shall be the responsibility of the applicant.

It shall be the responsibility of the Floodplain Administrator to verify that the applicant's proposed Best Available Flood Hazard Data Area and the Local Design Flood Elevation in any development permit accurately applies the best available flood hazard data and methodologies for determining flood hazard areas and design elevations described in 197-13 and 197-14 respectively. This information shall be provided to the Construction Official and documented according to Section 197-29.

§ 197-22 Requirement to submit new technical data. Base Flood Elevations may increase or decrease resulting from natural changes (e.g. erosion, accretion, channel migration, subsidence, uplift) or man-made physical changes (e.g. dredging, filling, excavation) affecting flooding conditions. As soon as practicable, but not later than six months after the date of a man-made change or when information about a natural change becomes available, the Floodplain Administrator shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Title 44 Code of Federal Regulations Section 65.3. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

§ 197-23 Activities in riverine flood hazard areas. In riverine flood hazard areas where design flood elevations are specified but floodways have not been designated, the Floodplain Administrator shall not permit any new construction, substantial improvement or other development, including the placement of fill, unless the applicant submits an engineering analysis prepared by a licensed professional engineer that demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachment, will not increase the design flood elevation more than 0.2 feet at any point within the community.

§ 197-24 Floodway encroachment. Prior to issuing a permit for any floodway encroachment, including fill, new construction, substantial improvements and other development or land-disturbing-activity, the Floodplain Administrator shall require submission of a certification prepared by a licensed professional engineer, along with supporting technical data, that demonstrates that such development will not cause any increase in the base flood level.

A. Floodway revisions. A floodway encroachment that increases the level of the base flood is authorized if the applicant has applied for a Conditional Letter of Map Revision (CLOMR) to the Flood Insurance Rate Map (FIRM) and has received the approval of FEMA.

§ 197-25 Watercourse alteration. Prior to issuing a permit for any alteration or relocation of any watercourse, the Floodplain Administrator shall require the applicant to provide notification of the proposal to the appropriate authorities of all adjacent government jurisdictions, as well as the NJDEP Bureau of Flood Engineering and the Division of Land Resource Protection. A copy of the notification shall be maintained in the permit records and submitted to FEMA.

B. Engineering analysis. The Floodplain Administrator shall require submission of an engineering analysis prepared by a licensed professional engineer, demonstrating that the flood-carrying capacity of the altered or relocated portion of the watercourse will be maintained, neither increased nor decreased. Such watercourses shall be maintained in a manner that preserves the channel's flood-carrying capacity.

§ 197-26 Alterations in coastal areas. The excavation or alteration of sand dunes is governed by the New Jersey Coastal Zone Management (CZM) rules, N.J.A.C. 7:7. Prior to issuing a flood damage prevention permit for any alteration of sand dunes in coastal high hazard areas and Coastal A Zones, the Floodplain Administrator shall require that a New Jersey CZM permit be obtained and included in the flood damage prevention permit application. The applicant shall also provide documentation of any engineering analysis, prepared by a licensed professional engineer, that demonstrates that the proposed alteration will not increase the potential for flood damage.

§ 197-27 Development in riparian zones All development in Riparian Zones as described in N.J.A.C. 7:13 is prohibited by this ordinance unless the applicant has received an individual or general permit or has complied with the requirements of a permit by rule or permit by certification from NJDEP Division of Land Resource Protection prior to application for a floodplain development permit and the project is compliant with all other Floodplain Development provisions of this ordinance. The width of the riparian zone can range between 50 and 300 feet and is determined by the attributes of the waterbody and designated in the New Jersey Surface Water Quality Standards N.J.A.C. 7:9B. The portion of the riparian zone located outside of a regulated water is measured landward from the top of bank. Applicants can request a verification of the riparian zone limits or a permit applicability determination to determine State permit requirements under N.J.A.C. 7:13 from the NJDEP Division of Land Resource Protection.

§ 197-28 Substantial improvement and substantial damage determinations. When buildings and structures are damaged due to any cause including but not limited to man-made, structural, electrical, mechanical, or natural hazard events, or are determined to be unsafe as described in N.J.A.C. 5:23; and for applications for building permits to improve buildings and structures, including alterations, movement, repair, additions, rehabilitations, renovations, ordinary maintenance and minor work, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Construction Official, shall:

- (A) Estimate the market value or require the applicant to obtain a professional appraisal prepared by a qualified independent appraiser, of the market value of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made.
- (B) Determine and include the costs of all ordinary maintenance and minor work, as discussed in Section 197-13, performed in the floodplain regulated by this ordinance in addition to the costs of those improvements regulated by the Construction Official in substantial damage and substantial improvement calculations.
- (C) Compare the cost to perform the improvement, the cost to repair the damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, where applicable, to the market value of the building or structure.
- (D) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage. This determination requires the evaluation of previous permits issued for improvements and repairs over a period of five (5) years prior to the permit application or substantial damage determination as specified in the definition of substantial improvement.
- (E) Notify the applicant in writing when it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the building code is required and notify the applicant in writing when it is determined that work does not constitute

substantial improvement or repair of substantial damage. The Floodplain Administrator shall also provide all letters documenting substantial damage and compliance with flood resistant construction requirements of the building code to the NJDEP Bureau of Flood Engineering.

§ 197-29 Department records. In addition to the requirements of the building code and these regulations, and regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of these regulations and the flood provisions of the Uniform Construction Code, including Flood Insurance Studies, Flood Insurance Rate Maps; documents from FEMA that amend or revise FIRMs; NJDEP delineations, records of issuance of permits and denial of permits; records of ordinary maintenance and minor work, determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required certifications and documentation specified by the Uniform Construction Code and these regulations including as-built Elevation Certificates; notifications to adjacent communities, FEMA, and the State related to alterations of watercourses; assurance that the flood carrying capacity of altered waterways will be maintained; documentation related to variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to these regulations and the flood resistant provisions of the Uniform Construction Code. The Floodplain Administrator shall also record the required elevation, determination method, and base flood elevation source used to determine the Local Design Flood Elevation in the floodplain development permit.

§ 197-30 Liability. The Floodplain Administrator and any employee charged with the enforcement of these regulations, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by these regulations or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of these regulations shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The Floodplain Administrator and any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of these regulations.

§ 197-31 Permits Required. Any person, owner or authorized agent who intends to conduct any development in a flood hazard area shall first make application to the Floodplain Administrator and shall obtain the required permit. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

§ 197-32 Application for permit. The applicant shall file an application in writing on a form furnished by the Floodplain Administrator. Such application shall:

- (A) Identify and describe the development to be covered by the permit.
- (B) Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
- (C) Indicate the use and occupancy for which the proposed development is intended.
- (D) Be accompanied by a site plan and construction documents as specified in Article III of these regulations, grading and filling plans and other information deemed appropriate by the Floodplain Administrator.
- (E) State the valuation of the proposed work, including the valuation of ordinary maintenance and minor work.
- (F) Be signed by the applicant or the applicant's authorized agent.

§ 197-33 Validity of permit. The issuance of a permit under these regulations or the Uniform Construction Code shall not be construed to be a permit for, or approval of, any violation of this appendix or any other ordinance of the jurisdiction. The issuance of a permit based on submitted documents and information shall not prevent the Floodplain Administrator from requiring the correction of errors. The Floodplain Administrator is authorized to prevent occupancy or use of a structure or site which is in violation of these regulations or other ordinances of this jurisdiction.

§ 197-34 Expiration. A permit shall become invalid when the proposed development is not commenced within 180 days after its issuance, or when the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions shall be requested in writing and justifiable cause demonstrated. The Floodplain Administrator is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each.

§ 197-35 Suspension or revocation. The Floodplain Administrator is authorized to suspend or revoke a permit issued under these regulations wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or code of this jurisdiction.

ARTICLE III. SITE PLANS AND CONSTRUCTION DOCUMENTS

§ 197-36 Information for development in flood hazard areas. The site plan or construction documents for any development subject to the requirements of these regulations shall be drawn to scale and shall include, as applicable to the proposed development:

- (A) Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations when necessary for review of the proposed development. For buildings that are located in more than one flood hazard area, the elevation and provisions associated with the most restrictive flood hazard area shall apply.
- (B) Where base flood elevations or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with Section 197-37.
- (C) Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 5 acres and base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with Section 197-37C of these regulations.
- (D) Location of the proposed activity and proposed structures, and locations of existing buildings and structures; in coastal high hazard areas and Coastal A zones, new buildings shall be located landward of the reach of mean high tide.
- (E) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
- (F) Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose. The applicant shall provide an engineering certification confirming that the proposal meets the flood storage displacement limitations of N.J.A.C. 7:13.
- (G) Extent of any proposed alteration of sand dunes.
- (H) Existing and proposed alignment of any proposed alteration of a watercourse.
- (I) Floodproofing certifications, V Zone and Breakaway Wall Certifications, Operations and Maintenance Plans, Warning and Evacuation Plans and other documentation required pursuant to FEMA publications.

The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by these regulations but that are not required to be prepared by a registered design professional when it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance.

§ 197-37 Information in flood hazard areas without base flood elevations (approximate Zone A). Where flood hazard areas are delineated on the effective or preliminary FIRM and base flood elevation data have not been provided, the applicant shall consult with the Floodplain Administrator to determine whether to:

- (A) Use the Approximation Method (Method 5) described in N.J.A.C. 7:13 in conjunction with Appendix 1 of the FHACA to determine the required flood elevation.
- (B) Obtain, review, and reasonably utilize data available from a Federal, State or other source when those data are deemed acceptable to the Floodplain Administrator to reasonably reflect flooding conditions.
- (C) Determine the base flood elevation in accordance with accepted hydrologic and hydraulic engineering techniques according to Method 6 as described in N.J.A.C. 7:13. Such analyses shall be performed and sealed by a licensed professional engineer.

Studies, analyses, and computations shall be submitted in sufficient detail to allow review

and approval by the Floodplain Administrator prior to floodplain development permit issuance. The accuracy of data submitted for such determination shall be the responsibility of the applicant. Where the data are to be used to support a Letter of Map Change (LOMC) from FEMA, the applicant shall be responsible for satisfying the submittal requirements and pay the processing fees.

§ 197-38 Analyses and certifications by a Licensed Professional Engineer. As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a licensed professional engineer for submission with the site plan and construction documents:

- (A) For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in Section 197-39 of these regulations and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.
- (B) For development activities proposed to be located in a riverine flood hazard area where base flood elevations are included in the FIS or FIRM but floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments will not increase the base flood elevation more than 0.2 feet at any point within the jurisdiction. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.
- (C) For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained, neither increasing nor decreasing the channel's flood-carrying capacity. The applicant shall submit the analysis to FEMA as specified in Section 197-39 of these regulations. The applicant shall notify the chief executive officer of all affected adjacent jurisdictions, the NJDEP's Bureau of Flood Engineering and the Division of Land Resource Protection; and shall provide documentation of such notifications.
- (D) For activities that propose to alter sand dunes in coastal high hazard areas (Zone V) and Coastal A Zones, an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage and documentation of the issuance of a New Jersey Coastal Zone Management permit under N.J.A.C. 7:7.
- (E) For analyses performed using Methods 5 and 6 (as described in N.J.A.C. 7:13) in flood hazard zones without base flood elevations (approximate A zones).

§ 197-39 Submission of additional data. When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change (LOMC) from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

§ 197-40 Inspections: General. Development for which a permit is required shall be subject to inspection. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of these regulations or the building code. Inspections presuming to give authority to violate or cancel the provisions of these regulations or the building code or

other ordinances shall not be valid.

§ 197-41 Inspections of development. The Floodplain Administrator shall inspect all development in flood hazard areas authorized by issuance of permits under these regulations. The Floodplain Administrator shall inspect flood hazard areas from time to time to determine if development is undertaken without issuance of a permit.

§ 197-42 Buildings and structures. The Construction Official shall make or cause to be made, inspections for buildings and structures in flood hazard areas authorized by permit in accordance with the Uniform Construction Code, N.J.A.C. 5:23.

- A) **Lowest floor elevation.** Upon placement of the lowest floor, including the basement, and prior to further vertical construction, certification of the elevation required in Section 197-79 shall be submitted to the Construction Official on an Elevation Certificate.
- B) **Lowest horizontal structural member.** In V zones and Coastal A zones, upon placement of the lowest floor, including the basement, and prior to further vertical construction, certification of the elevation required in Section 197-79 shall be submitted to the Construction Official on an Elevation Certificate.
- C) **Installation of attendant utilities** (electrical, heating, ventilating, air-conditioning, and other service equipment) and sanitary facilities elevated as discussed in Section 197-79.
- D) **Final inspection.** Prior to the final inspection, certification of the elevation required in Section 197-79 shall be submitted to the Construction Official on an Elevation Certificate.

§ 197-43 Manufactured homes. The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of these regulations and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted on an Elevation Certificate to the Floodplain Administrator prior to the final inspection.

ARTICLE IV. VARIANCES

§ 197-44 General. The Borough Planning Board shall hear and decide requests for variances. The Borough Engineer shall base its determination on technical justifications submitted by applicants, the considerations for issuance in Section 197-48 the conditions of issuance set forth in Section 197-49, and the comments and recommendations of the Floodplain Administrator and, as applicable, the Construction Official. The Borough Engineer has the right to attach such conditions to variances as it deems necessary to further the purposes and objectives of these regulations.

§ 197-45 Historic structures. A variance to the substantial improvement requirements of this ordinance is authorized provided that the repair or rehabilitation of a historic structure is completed according to N.J.A.C. 5:23-6.33, Section 1612 of the International Building Code and R322 of the International Residential Code, the repair or rehabilitation will not preclude the structure's continued designation as a historic structure, the structure meets the definition of the historic structure as described by this ordinance, and the variance is the minimum necessary to preserve the historic character and design of the structure.

§ 197-46 Functionally dependent uses. A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use provided the variance is the minimum necessary to allow the construction or substantial

improvement, and that all due consideration has been given to use of methods and materials that minimize flood damage during the base flood and create no additional threats to public safety.

§ 197-47 Restrictions in floodways. A variance shall not be issued for any proposed development in a floodway when any increase in flood levels would result during the base flood discharge, as evidenced by the applicable analysis and certification required in Section 197-38A of these regulations.

§ 197-48 Considerations. In reviewing requests for variances, all technical evaluations, all relevant factors, all other portions of these regulations, and the following shall be considered:

- (A) The danger that materials and debris may be swept onto other lands resulting in further injury or damage.
- (B) The danger to life and property due to flooding or erosion damage.
- (C) The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners.
- (D) The importance of the services provided by the proposed development to the community.
- (E) The availability of alternate locations for the proposed development that are not subject to flooding or erosion and the necessity of a waterfront location, where applicable.
- (F) The compatibility of the proposed development with existing and anticipated development.
- (G) The relationship of the proposed development to the comprehensive plan and floodplain management program for that area.
- (H) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (I) The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwater and the effects of wave action, where applicable, expected at the site.
- (J) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets, and bridges.

§ 197-49 Conditions for issuance. Variances shall only be issued upon:

- (A) Submission by the applicant of a showing of good and sufficient cause that the unique characteristics of the size, configuration or topography of the site limit compliance with any provision of these regulations or renders the elevation standards of the building code inappropriate.
- (B) A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable.
- (C) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (D) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (E) Notification to the applicant in writing over the signature of the Floodplain Administrator that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and that such construction below the base flood level increases risks to life and property.

§ 197-50 Violations. Any development in any flood hazard area that is being performed without an issued permit or that is in conflict with an issued permit shall be deemed a violation. A building or structure without the documentation of elevation of the lowest floor, the lowest horizontal structural member if in a V or Coastal A Zone, other required design certifications, or other evidence of compliance required by the building code is presumed to be a violation until such time as that documentation is provided.

§ 197-51 Authority. The Floodplain Administrator is authorized to serve notices of violation or stop work orders to owners of property involved, to the owner's agent, or to the person or persons doing the work for development that is not within the scope of the Uniform Construction Code, but is regulated by these regulations and that is determined to be a violation.

§ 197-52 Unlawful continuance. Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by N.J.S.A. 40:49-5 as appropriate.

§ 197-53 Review Period to Correct Violations. A 30-day period shall be given to the property owner as an opportunity to cure or abate the condition. The property owner shall also be afforded an opportunity for a hearing before the court for an independent determination concerning the violation. Subsequent to the expiration of the 30-day period, a fine greater than \$1,250.00 may be imposed if a court has not determined otherwise or, upon reinspection of the property, it is determined that the abatement has not been substantially completed.

ARTICLE V. DEFINITIONS

§ 197-54 General. The following words and terms shall, for the purposes of these regulations, have the meanings shown herein. Other terms are defined in the Uniform Construction Code N.J.A.C. 5:23 and terms are defined where used in the International Residential Code and International Building Code (rather than in the definitions section). Where terms are not defined, such terms shall have ordinarily accepted meanings such as the context implies.

§ 197-55

30 DAY PERIOD – The period of time prescribed by N.J.S.A. 40:49-5 in which a property owner is afforded the opportunity to correct zoning and solid waste disposal after a notice of violation pertaining to this ordinance has been issued.

100 YEAR FLOOD ELEVATION – Elevation of flooding having a 1% annual chance of being equaled or exceeded in a given year which is also referred to as the Base Flood Elevation.

500 YEAR FLOOD ELEVATION – Elevation of flooding having a 0.2% annual chance of being equaled or exceeded in a given year.

A ZONES – Areas of ‘Special Flood Hazard in which the elevation of the surface water resulting from a flood that has a 1% annual chance of equaling or exceeding the Base Flood Elevation (BFE) in any given year shown on the Flood Insurance Rate Map (FIRM) zones A, AE, AH, A1–A30, AR, AR/A, AR/AE, AR/A1–A30, AR/AH, and AR/AO. When used in reference to the development of a structure in this ordinance, A Zones are not inclusive of Coastal A Zones because of the higher building code requirements for Coastal A Zones.

AH ZONES– Areas subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Base Flood Elevations (BFEs) derived from detailed hydraulic analyses are shown in this zone.

AO ZONES – Areas subject to inundation by 1-percent-annual-chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet.

ACCESSORY STRUCTURE – Accessory structures are also referred to as appurtenant structures. An accessory structure is a structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure. For example, a residential structure may have a detached garage or storage shed for garden tools as accessory structures. Other examples of accessory structures include gazebos, picnic pavilions, boathouses, small pole barns, storage sheds, and similar buildings.

AGRICULTURAL STRUCTURE - A structure used solely for agricultural purposes in which the use is exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock. Communities must require that new construction or substantial improvements of agricultural structures be elevated or floodproofed to or above the Base Flood Elevation (BFE) as any other nonresidential building. Under some circumstances it may be appropriate to wet-floodproof certain types of agricultural structures when located in wide, expansive floodplains through issuance of a variance. This should only be done for structures used for temporary storage of equipment or crops or temporary shelter for livestock and only in circumstances where it can be demonstrated that agricultural structures can be designed in such a manner that results in minimal damage to the structure and its contents and will create no additional threats to public safety. New construction or substantial improvement of livestock confinement buildings, poultry houses, dairy operations, similar livestock operations and any structure that represents more than a minimal investment must meet the elevation or dry-floodproofing requirements of 44 CFR 60.3(c)(3).

AREA OF SHALLOW FLOODING – A designated Zone AO, AH, AR/AO or AR/AH (or VO) on a community’s Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow. **AREA OF SPECIAL FLOOD HAZARD** – see SPECIAL FLOOD HAZARD AREA

ALTERATION OF A WATERCOURSE – A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the

channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

ASCE 7 – The standard for the Minimum Design Loads for Buildings and Other Structures, referenced by the building code and developed and published by the American Society of Civil Engineers, Reston, VA. which includes but is not limited to methodology and equations necessary for determining structural and flood-related design requirements and determining the design requirements for structures that may experience a combination of loads including those from natural hazards. Flood related equations include those for determining erosion, scour, lateral, vertical, hydrostatic, hydrodynamic, buoyancy, breaking wave, and debris impact.

ASCE 24 – The standard for Flood Resistant Design and Construction, referenced by the building code and developed and published by the American Society of Civil Engineers, Reston, VA. References to ASCE 24 shall mean ASCE 24-14 or the most recent version of ASCE 24 adopted in the UCC Code [N.J.A.C. 5:23].

BASE FLOOD ELEVATION (BFE) – The water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year, as shown on a published Flood Insurance Study (FIS), or preliminary flood elevation guidance from FEMA. May also be referred to as the “100-year flood elevation”.

BASEMENT – Any area of the building having its floor subgrade (below ground level) on all sides.

BEST AVAILABLE FLOOD HAZARD DATA - The most recent available preliminary flood risk guidance FEMA has provided. The Best Available Flood Hazard Data may be depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps, or Preliminary FIS and FIRM.

BEST AVAILABLE FLOOD HAZARD DATA AREA- The aerial mapped extent associated with the most recent available preliminary flood risk guidance FEMA has provided. The Best Available Flood Hazard Data may be depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps, or Preliminary FIS and FIRM.

BEST AVAILABLE FLOOD HAZARD DATA ELEVATION - The most recent available preliminary flood elevation guidance FEMA has provided. The Best Available Flood Hazard Data may be depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps, or Preliminary FIS and FIRM.

BREAKAWAY WALLS – Any type of wall subject to flooding that is not required to provide structural support to a building or other structure and that is designed and constructed such that, below the Local Design Flood Elevation, it will collapse under specific lateral loads such that (1) it allows the free passage of floodwaters, and (2) it does not damage the structure or supporting foundation system. Certification in the V Zone Certificate of the design, plans, and specifications by a licensed design professional that these walls are in accordance with accepted standards of practice is required as part of the permit application for new and substantially improved V Zone and Coastal A Zone structures. A completed certification must be submitted at permit application.

BUILDING – Per the FHACA, “Building” means a structure enclosed with exterior walls or fire walls, erected and framed of component structural parts, designed for the housing, shelter, enclosure, and support of individuals, animals, or property of any kind. A building may have a temporary or permanent foundation. A building that is intended for regular human occupation and/or residence is considered a habitable building.

CONDITIONAL LETTER OF MAP REVISION - A Conditional Letter of Map Revision (CLOMR) is FEMA's comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard

Area (SFHA). The letter does not revise an effective NFIP map, it indicates whether the project, if built as proposed, would be recognized by FEMA. FEMA charges a fee for processing a CLOMR to recover the costs associated with the review that is described in the Letter of Map Change (LOMC) process. Building permits cannot be issued based on a CLOMR, because a CLOMR does not change the NFIP map.

CONDITIONAL LETTER OF MAP REVISION - FILL -- A Conditional Letter of Map Revision - Fill (CLOMR-F) is FEMA's comment on a proposed project involving the placement of fill outside of the regulatory floodway that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). The letter does not revise an effective NFIP map, it indicates whether the project, if built as proposed, would be recognized by FEMA. FEMA charges a fee for processing a CLOMR to recover the costs associated with the review that is described in the Letter of Map Change (LOMC) process. Building permits cannot be issued based on a CLOMR, because a CLOMR does not change the NFIP map.

CRITICAL BUILDING – Per the FHACA, “Critical Building” means that:

- a. It is essential to maintaining continuity of vital government operations and/or supporting emergency response, sheltering, and medical care functions before, during, and after a flood, such as a hospital, medical clinic, police station, fire station, emergency response center, or public shelter; or
- b. It serves large numbers of people who may be unable to leave the facility through their own efforts, thereby hindering or preventing safe evacuation of the building during a flood event, such as a school, college, dormitory, jail or detention facility, day care center, assisted living facility, or nursing home.

DEVELOPMENT – Any manmade change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of materials, mining, dredging, filling, grading, paving, excavations, drilling operations and other land-disturbing activities.

DRY FLOODPROOFING – A combination of measures that results in a non-residential structure, including the attendant utilities and equipment as described in the latest version of ASCE 24, being watertight with all elements substantially impermeable and with structural components having the capacity to resist flood loads.

ELEVATED BUILDING – A building that has no basement and that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns. Solid perimeter foundation walls are not an acceptable means of elevating buildings in V and VE Zones.

ELEVATION CERTIFICATE – An administrative tool of the National Flood Insurance Program (NFIP) that can be used to provide elevation information, to determine the proper insurance premium rate, and to support an application for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F).

ENCROACHMENT – The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

FEMA PUBLICATIONS – Any publication authored or referenced by FEMA related to building science, building safety, or floodplain management related to the National Flood Insurance Program. Publications shall include but are not limited to technical bulletins, desk references, and American Society of Civil Engineers Standards documents including ASCE 24.

FLOOD OR FLOODING

- A. A general and temporary condition of partial or complete inundation of normally dry land areas from:
- (1) The overflow of inland or tidal waters.
 - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
 - (3) Mudslides (I.e., mudflows) which are proximately caused by flooding as defined in (A) (2) of this definition and are akin to a river or liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (A)(1) of this definition.

FLOOD HAZARD AREA DESIGN FLOOD ELEVATION – Per the FHACA, the peak water surface elevation that will occur in a water during the flood hazard area design flood. This elevation is determined via available flood mapping adopted by the State, flood mapping published by FEMA (including effective flood mapping dated on or after January 31, 1980, or any more recent advisory, preliminary, or pending flood mapping; whichever results in higher flood elevations, wider floodway limits, greater flow rates, or indicates a change from an A zone to a V zone or coastal A zone), approximation, or calculation pursuant to the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-3.1 – 3.6 and is typically higher than FEMA's base flood elevation. A water that has a drainage area measuring less than 50 acres does not possess, and is not assigned, a flood hazard area design flood elevation.

FLOOD INSURANCE RATE MAP (FIRM) – The official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS) – The official report in which the Federal Emergency Management Agency has provided flood profiles, as well as the Flood Insurance Rate Map(s) and the water surface elevation of the base flood.

FLOODPLAIN OR FLOOD PRONE AREA – Any land area susceptible to being inundated by water from any source. See "Flood or flooding."

FLOODPLAIN MANAGEMENT REGULATIONS – Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOODPROOFING – Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

FLOODPROOFING CERTIFICATE – Certification by a licensed design professional that the design and methods of construction for floodproofing a non-residential structure are in accordance with accepted standards of practice to a proposed height above the structure's lowest adjacent grade that meets or exceeds the Local Design Flood Elevation. A completed floodproofing certificate is required at permit application.

FLOODWAY – The channel of a river or other watercourse and the adjacent land areas that must

be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.2 foot.

FREEBOARD – A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

FUNCTIONALLY DEPENDENT USE – A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities necessary for the loading or unloading of cargo or passengers, and shipbuilding and ship repair facilities. The term does not include long-term storage or related manufacturing facilities.

HABITABLE BUILDING– Pursuant to the FHACA Rules (N.J.A.C. 7:13), means a building that is intended for regular human occupation and/or residence. Examples of a habitable building include a single-family home, duplex, multi-residence building, or critical building; a commercial building such as a retail store, restaurant, office building, or gymnasium; an accessory structure that is regularly occupied, such as a garage, barn, or workshop; mobile and manufactured homes, and trailers intended for human residence, which are set on a foundation and/or connected to utilities, such as in a mobile home park (not including campers and recreational vehicles); and any other building that is regularly occupied, such as a house of worship, community center, or meeting hall, or animal shelter that includes regular human access and occupation. Examples of a non-habitable building include a bus stop shelter, utility building, storage shed, self-storage unit, construction trailer, or an individual shelter for animals such as a doghouse or outdoor kennel.

HARDSHIP – As related to Section Article IV of this Code, meaning the exceptional hardship that would result from a failure to grant the requested variance. The Borough Council requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed or existing walls of a structure.

HISTORIC STRUCTURE – Any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a State inventory of historic places in States with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By an approved State program as determined by the Secretary of the Interior; or
 2. Directly by the Secretary of the Interior in States without approved programs.

LAWFULLY EXISTING – Per the FHACA, means an existing fill, structure and/or use, which meets all Federal, State, and local laws, and which is not in violation of the FHACA because it was established:

- A. Prior to January 31, 1980; or
- B. On or after January 31, 1980, in accordance with the requirements of the FHACA as it existed at the time the fill, structure and/or use was established.

Note: Substantially damaged properties and substantially improved properties that have not been elevated are not considered “lawfully existing” for the purposes of the NFIP. This definition is included in this ordinance to clarify the applicability of any more stringent statewide floodplain management standards required under the FHACA.

LETTER OF MAP AMENDMENT - A Letter of Map Amendment (LOMA) is an official amendment, by letter, to an effective National Flood Insurance Program (NFIP) map that is requested through the Letter of Map Change (LOMC) process. A LOMA establishes a property's location in relation to the Special Flood Hazard Area (SFHA). LOMAs are usually issued because a property has been inadvertently mapped as being in the floodplain but is actually on natural high ground above the base flood elevation. Because a LOMA officially amends the effective NFIP map, it is a public record that the community must maintain. Any LOMA should be noted on the community's master flood map and filed by panel number in an accessible location.

LETTER OF MAP CHANGE – The Letter of Map Change (LOMC) process is a service provided by FEMA for a fee that allows the public to request a change in flood zone designation in an Area of Special Flood Hazard on a Flood Insurance Rate Map (FIRM). Conditional Letters of Map Revision, Conditional Letters of Map Revision – Fill, Letters of Map Revision, Letters of Map Revision-Fill, and Letters of Map Amendment are requested through the Letter of Map Change (LOMC) process.

LETTER OF MAP REVISION - A Letter of Map Revision (LOMR) is FEMA's modification to an effective Flood Insurance Rate Map (FIRM). Letter of Map Revisions are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). The LOMR officially revises the Flood Insurance Rate Map (FIRM) and sometimes the Flood Insurance Study (FIS) report, and when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM or FIS report. Because a LOMR officially revises the effective NFIP map, it is a public record that the community must maintain. Any LOMR should be noted on the community's master flood map and filed by panel number in an accessible location.

LETTER OF MAP REVISION – FILL -- A Letter of Map Revision Based on Fill (LOMR-F) is FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway may be initiated through the Letter of Map Change (LOMC) Process. Because a LOMR-F officially revises the effective Flood Insurance Rate Map (FIRM) map, it is a public record that the community must maintain. Any LOMR-F should be noted on the community's master flood map and filed by panel number in an accessible location.

LICENSED DESIGN PROFESSIONAL – Licensed design professional shall refer to either a New Jersey Licensed Professional Engineer, licensed by the New Jersey State Board of Professional Engineers and Land Surveyors or a New Jersey Licensed Architect, licensed by the New Jersey State Board of Architects.

LICENSED PROFESSIONAL ENGINEER - A licensed professional engineer shall refer to individuals licensed by the New Jersey State Board of Professional Engineers and Land Surveyors.

LOCAL DESIGN FLOOD ELEVATION (LDFE) – The elevation reflective of the most recent available preliminary flood elevation guidance FEMA has provided as depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps, or Preliminary FIS and FIRM which is also

inclusive of freeboard specified by the New Jersey Flood Hazard Area Control Act and Uniform Construction Codes and any additional freeboard specified in a community's ordinance. In no circumstances shall a project's LDFE be lower than a permit-specified Flood Hazard Area Design Flood Elevation or a valid NJDEP Flood Hazard Area Verification Letter plus the freeboard as required in ASCE 24 and the effective FEMA Base Flood Elevation.

LOWEST ADJACENT GRADE – The lowest point of ground, patio, or sidewalk slab immediately next a structure, except in AO Zones where it is the natural grade elevation.

LOWEST FLOOR – In A Zones, the lowest floor is the top surface of the lowest floor of the lowest enclosed area (including basement). In V Zones and coastal A Zones, the bottom of the lowest horizontal structural member of a building is the lowest floor. An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of other applicable non-elevation design requirements of these regulations.

MANUFACTURED HOME – A structure that is transportable in one or more sections, eight (8) feet or more in width and greater than four hundred (400) square feet, built on a permanent chassis, designed for use with or without a permanent foundation when attached to the required utilities, and constructed to the Federal Manufactured Home Construction and Safety Standards and rules and regulations promulgated by the U.S. Department of Housing and Urban Development. The term also includes mobile homes, park trailers, travel trailers and similar transportable structures that are placed on a site for 180 consecutive days or longer.

MANUFACTURED HOME PARK OR SUBDIVISION – A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MARKET VALUE – The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in these regulations, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value shall be determined by one of the following methods (1) Actual Cash Value (replacement cost depreciated for age and quality of construction), (2) tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser, or (3) established by a qualified independent appraiser.

NEW CONSTRUCTION – Structures for which the start of construction commenced on or after the effective date of the first floodplain regulation adopted by a community; includes any subsequent improvements to such structures. New construction includes work determined to be a substantial improvement.

NON-RESIDENTIAL – Pursuant to ASCE 24, any building or structure or portion thereof that is not classified as residential.

ORDINARY MAINTENANCE AND MINOR WORK – This term refers to types of work excluded from construction permitting under N.J.A.C. 5:23 in the March 5, 2018 New Jersey Register. Some of these types of work must be considered in determinations of substantial improvement and substantial damage in regulated floodplains under 44 CFR 59.1. These types of work include but are not limited to replacements of roofing, siding, interior finishes, kitchen cabinets, plumbing fixtures and piping, HVAC and air conditioning equipment, exhaust fans, built in appliances, electrical wiring, etc. Improvements necessary to correct existing violations of State or local health, sanitation, or code enforcement officials which are the minimum necessary to assure safe living conditions and improvements of historic structures as discussed in 44 CFR 59.1 shall not be included in the determination of ordinary maintenance and minor work.

RECREATIONAL VEHICLE – A vehicle that is built on a single chassis, 400 square feet or less

when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light-duty truck, and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

RESIDENTIAL – Pursuant to the ASCE 24:

- a. Buildings and structures and portions thereof where people live or that are used for sleeping purposes on a transient or non-transient basis;
- b. Structures including but not limited to one- and two-family dwellings, townhouses, condominiums, multi-family dwellings, apartments, congregate residences, boarding houses, lodging houses, rooming houses, hotels, motels, apartment buildings, convents, monasteries, dormitories, fraternity houses, sorority houses, vacation time-share properties; and
- c. institutional facilities where people are cared for or live on a 24-hour basis in a supervised environment, including but not limited to board and care facilities, assisted living facilities, halfway houses, group homes, congregate care facilities, social rehabilitation facilities, alcohol and drug centers, convalescent facilities, hospitals, nursing homes, mental hospitals, detoxification facilities, prisons, jails, reformatories, detention centers, correctional centers, and prerelease centers.

SOLID WASTE DISPOSAL – “Solid Waste Disposal” shall mean the storage, treatment, utilization, processing or final disposition of solid waste as described in N.J.A.C. 7:26-1.6 or the storage of unsecured materials as described in N.J.A.C. 7:13-2.3 for a period of greater than 6 months as specified in N.J.A.C. 7:26 which have been discharged, deposited, injected, dumped, spilled, leaked, or placed into any land or water such that such solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

SPECIAL FLOOD HAZARD AREA – The greater of the following: (1) Land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, shown on the FIRM as Zone V, VE, V1-3-, A, AO, A1-30, AE, A99, or AH; (2) Land and the space above that land, which lies below the peak water surface elevation of the flood hazard area design flood for a particular water, as determined using the methods set forth in the New Jersey Flood Hazard Area Control Act in N.J.A.C. 7:13; (3) Riparian Buffers as determined in the New Jersey Flood Hazard Area Control Act in N.J.A.C. 7:13. Also referred to as the AREA OF SPECIAL FLOOD HAZARD.

START OF CONSTRUCTION – The Start of Construction is as follows:

- A. For other than new construction or substantial improvements, under the Coastal Barrier Resources Act (CBRA), this is the date the building permit was issued, provided that the actual start of construction, repair, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a building on site, such as the pouring of a slab or footing, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured (mobile) home on a foundation. For a substantial improvement, actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- B. For the purposes of determining whether proposed construction must meet new requirements when National Flood Insurance Program (NFIP) maps are issued or revised and Base Flood Elevation's (BFEs) increase or zones change, the Start of Construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of

permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. Such development must also be permitted and must meet new requirements when National Flood Insurance Program (NFIP) maps are issued or revised and Base Flood Elevation's (BFEs) increase or zones change.

For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

For determining if new construction and substantial improvements within the Coastal Barrier Resources System (CBRS) can obtain flood insurance, a different definition applies.

STRUCTURE – A walled and roofed building, a manufactured home, or a gas or liquid storage tank that is principally above ground.

SUBSTANTIAL DAMAGE – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT – Any reconstruction, rehabilitation, addition, or other improvement of a structure taking place over a five (5) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. The period of accumulation for determining whether an improvement is a substantial improvement requires a review of all improvements over a 5-year period prior to the date of any proposed improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

UTILITY AND MISCELLANEOUS GROUP U BUILDINGS AND STRUCTURES – Buildings and structures of an accessory character and miscellaneous structures not classified in any special occupancy, as described in ASCE 24.

VARIANCE – A grant of relief from the requirements of this section which permits construction in a manner otherwise prohibited by this section where specific enforcement would result in unnecessary hardship.

VIOLATION – A development that is not fully compliant with these regulations or the flood provisions of the building code. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION – the height, in relation to the North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

WATERCOURSE. A river, creek, stream, channel, or other topographic feature in, on, through, or over which water flows at least periodically.

WET FLOODPROOFING – Floodproofing method that relies on the use of flood damage resistant materials and construction techniques in areas of a structure that are below the Local Design Flood Elevation by intentionally allowing them to flood. The application of wet floodproofing as a flood protection technique under the National Flood Insurance Program (NFIP) is limited to enclosures below elevated residential and non-residential structures and to accessory and agricultural structures that have been issued variances by the community.

ARTICLE VI. SUBDIVISIONS AND OTHER DEVELOPMENTS

§ 197-56 General. Any subdivision proposal, including proposals for manufactured home parks and subdivisions, or other proposed new development in a flood hazard area shall be reviewed to assure that:

- (A) All such proposals are consistent with the need to minimize flood damage.
- (B) All public utilities and facilities, such as sewer, gas, electric and water systems are located and constructed to minimize or eliminate flood damage.
- (C) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwater around and away from structures.

§ 197-57 Subdivision requirements. Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:

- (A) The flood hazard area, including floodways, coastal high hazard areas, and Coastal A Zones, and base flood elevations, as appropriate, shall be delineated on tentative subdivision plats.
- (B) Residential building lots shall be provided with adequate buildable area outside the floodway.
- (C) The design criteria for utilities and facilities set forth in these regulations and appropriate codes shall be met.

ARTICLE VII. SITE IMPROVEMENT

§ 197-58 Encroachment in floodways. Development, land disturbing activity, and encroachments in floodways shall not be authorized unless it has been demonstrated through hydrologic and hydraulic analyses required in accordance with Section 197-38A of these regulations, that the proposed encroachment will not result in any increase in the base flood level during occurrence of the base flood discharge. If Section 197-38A is satisfied, proposed elevation, addition, or reconstruction of a lawfully existing structure within a floodway shall also be in accordance with Section 197-79 of these regulations and the floodway requirements of N.J.A.C. 7:13.

§ 197-59 Prohibited in floodways. The following are prohibited activities:

- (A) The storage of unsecured materials is prohibited within a floodway pursuant to N.J.A.C. 7:13.
- (B) Fill and new structures are prohibited in floodways per N.J.A.C. 7:13.

§ 197-61 Sewer facilities. All new and replaced sanitary sewer facilities, private sewage treatment plants (including all pumping stations and collector systems) and on-site waste disposal systems shall be designed in accordance with the New Jersey septic system regulations contained in N.J.A.C. 14A and N.J.A.C. 7:9A, the UCC Plumbing Subcode (N.J.A.C. 5:23) and Chapter 7, ASCE 24, to minimize or eliminate infiltration of floodwater into the facilities and discharge from the facilities into flood waters, or impairment of the facilities and systems.

§ 197-62 Water facilities. All new and replacement water facilities shall be designed in accordance with the New Jersey Safe Drinking Water Act (N.J.A.C. 7:10) and the provisions of Chapter 7 ASCE 24, to minimize or eliminate infiltration of floodwater into the systems.

§ 197-63 Storm drainage. Storm drainage shall be designed to convey the flow of surface waters to minimize or eliminate damage to persons or property.

§ 197-64 Streets and sidewalks. Streets and sidewalks shall be designed to minimize potential for increasing or aggravating flood levels.

§ 197-65 Limitations on placement of fill. Subject to the limitations of these regulations, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwater, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, when intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the UCC (N.J.A.C. 5:23). Proposed fill and encroachments in flood hazard areas shall comply with the flood storage displacement limitations of N.J.A.C. 7:13.

§ 197-67 Hazardous Materials. The placement or storage of any containers holding hazardous substances in a flood hazard area is prohibited unless the provisions of N.J.A.C. 7:13 which cover the placement of hazardous substances and solid waste is met.

ARTICLE VIII. MANUFACTURED HOMES

§ 197-68 General. All manufactured homes installed in flood hazard areas shall be installed pursuant to the Nationally Preemptive Manufactured Home Construction and Safety Standards Program (24 CFR 3280).

§ 197-69 Elevation. All new, relocated, and replacement manufactured homes to be placed or substantially improved in a flood hazard area shall be elevated such that the bottom of the frame is elevated to or above the elevation specified in Section 197-79.

§ 197-70 Foundations. All new, relocated, and replacement manufactured homes, including substantial improvement of existing manufactured homes, shall be placed on permanent, reinforced foundations that are designed in accordance with Section R322 of the Residential Code.

§ 197-71 Anchoring. All new, relocated, and replacement manufactured homes to be placed or substantially improved in a flood hazard area shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

§ 197-72 Enclosures. Fully enclosed areas below elevated manufactured homes shall comply with the requirements of Section 197-79.

§ 197-73 Protection of mechanical equipment and outside appliances. Mechanical equipment and outside appliances shall be elevated to or above the elevation of the bottom of

the frame required in Section 197-79 of these regulations.

(A) Exception. Where such equipment and appliances are designed and installed to prevent water from entering or accumulating within their components and the systems are constructed to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding up to the elevation required by Section 197-79, the systems and equipment shall be permitted to be located below that elevation. Electrical wiring systems shall be permitted below the design flood elevation provided they conform to the provisions of NFPA 70 (National Electric Code).

ARTICLE IX. RECREATIONAL VEHICLES

§ 197-74 Placement prohibited. The placement of recreational vehicles shall not be authorized in coastal high hazard areas and in floodways.

§ 197-75 Temporary placement. Recreational vehicles in flood hazard areas shall be fully licensed and ready for highway use and shall be placed on a site for less than 180 consecutive days.

§ 197-76 Permanent placement. Recreational vehicles that are not fully licensed and ready for highway use, or that are to be placed on a site for more than 180 consecutive days, shall meet the requirements of Section 197-79 of these regulations for habitable buildings.

ARTICLE X. TANKS

§ 197-77 Tanks. Underground and above-ground tanks shall be designed, constructed, installed, and anchored in accordance with ASCE 24 and N.J.A.C. 7:13.

ARTICLE XI. OTHER DEVELOPMENT AND BUILDING WORK

§ 197-78 General requirements for other development and building work. All development and building work, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in these regulations or the Uniform Construction Code (N.J.A.C. 5:23), shall:

- (A) Be located and constructed to minimize flood damage;
- (B) Meet the limitations of Section 197-38A of these regulations when located in a regulated floodway;
- (C) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic and hydrodynamic loads, including the effects of buoyancy, during the conditions of flooding up to the Local Design Flood Elevation determined according to Section 197-14 of these regulations;
- (D) Be constructed of flood damage-resistant materials as described in ASCE 24 Chapter 5;
- (E) Have mechanical, plumbing, and electrical systems above the Local Design Flood Elevation determined according to Section 197-14 of these regulations or meet the requirements of ASCE 24 Chapter 7 which requires that attendant utilities are located above the Local Design Flood Elevation unless the attendant utilities and equipment are:
 - 1. Specifically allowed below the Local Design Flood Elevation; and
 - 2. Designed, constructed, and installed to prevent floodwaters, including any backflow through the system from entering or accumulating within the components.
- (F) Not exceed the flood storage displacement limitations in fluvial flood hazard areas in accordance with N.J.A.C. 7:13; and

(G) Not exceed the impacts to frequency or depth of offsite flooding as required by N.J.A.C. 7:13 in floodways.

§ 197-79 Requirements for Habitable Buildings and Structures.

A) Construction and Elevation in A Zones not including Coastal A Zones.

1. No portion of a building is located within a V Zone.
2. No portion of a building is located within a Coastal A Zone, unless a licensed design professional certifies that the building's foundation is designed in accordance with ASCE 24, Chapter 4.
3. All new construction and substantial improvement of any habitable building (as defined in Article V of these regulations) located in flood hazard areas shall have the lowest floor, including basement, together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated to or above the Local Design Flood Elevation as determined in Section 197-14 of these regulations, be in conformance with ASCE 24 Chapter 7, and be confirmed by an Elevation Certificate.
4. All new construction and substantial improvements of non-residential structures shall:
 - (a) Have the lowest floor, including basement, together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated to or above the Local Design Flood Elevation as determined in Section 197-14 of these regulations, be in conformance with ASCE 24 Chapter 7, and be confirmed by an Elevation Certificate; or
 - (b) Together with the attendant utility and sanitary facilities, be designed so that below the Local Design Flood Elevation, the structure:
 - (i) Meets the requirements of ASCE 24 Chapters 2 and 7; and
 - (ii) Is constructed according to the design plans and specifications provided at permit application and signed by a licensed design professional, is certified by that individual in a Floodproofing Certificate, and is confirmed by an Elevation Certificate.
5. All new construction and substantial improvements with fully enclosed areas below the lowest floor shall be used solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding. Enclosures shall:
 - (a) For habitable structures, be situated at or above the adjoining exterior grade along at least one entire exterior wall, in order to provide positive drainage of the enclosed area in accordance with N.J.A.C. 7:13; enclosures (including crawlspaces and basements) which are below grade on all sides are prohibited;
 - (b) Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters unless the structure is non-residential and the requirements of 197-79A(4)(b) of these regulations are met;
 - (c) Be constructed to meet the requirements of ASCE 24 Chapter 2;

- (d) Have openings documented on an Elevation Certificate; and
- (e) Have documentation that a deed restriction has been obtained for the lot if the enclosure is greater than six feet in height. This deed restriction shall be recorded in the Office of the County Clerk or the Registrar of Deeds and Mortgages in which the building is located, shall conform to the requirements in N.J.A.C. 7:13, and shall be recorded within 90 days of receiving a Flood Hazard Area Control Act permit or prior to the start of any site disturbance (including pre-construction earth movement, removal of vegetation and structures, or construction of the project), whichever is sooner. Deed restrictions must explain and disclose that:

- (i) The enclosure is likely to be inundated by floodwaters which may result in damage and/or inconvenience.
- (ii) The depth of flooding that the enclosure would experience to the Flood Hazard Area Design Flood Elevation;
- (iii) The deed restriction prohibits habitation of the enclosure and explains that converting the enclosure into a habitable area may subject the property owner to enforcement;

§ 197-80 Garages and accessory storage structures. Garages and accessory storage structures shall be designed and constructed in accordance with the Uniform Construction Code.

§ 197-81 Fences. Fences in floodways that have the potential to block the passage of floodwater, such as stockade fences and wire mesh fences, shall meet the requirements of Section 197-38A of these regulations. Pursuant to N.J.A.C. 7:13, any fence located in a floodway shall have sufficiently large openings so as not to catch debris during a flood and thereby obstruct floodwaters, such as barbed-wire, split-rail, or strand fence. A fence with little or no open area, such as a chain link, lattice, or picket fence, does not meet this requirement. Foundations for fences greater than 6 feet in height must conform with the Uniform Construction Code. Fences for pool enclosures having openings not in conformance with this section but in conformance with the Uniform Construction Code to limit climbing require a variance as described in Article IV of these regulations.

§ 197-82 Retaining walls, sidewalks, and driveways. Retaining walls, sidewalks and driveways that involve placement of fill in floodways shall meet the requirements of Section 197-38A of these regulations and N.J.A.C. 7:13.

§ 197-83 Swimming pools. Swimming pools shall be designed and constructed in accordance with the Uniform Construction Code. Above-ground swimming pools and below-ground swimming pools that involve placement of fill in floodways shall also meet the requirements of Section 197-38A of these regulations. Above-ground swimming pools are prohibited in floodways by N.J.A.C. 7:13.

§ 197-84 Roads and watercourse crossings.

(A) For any railroad, roadway, or parking area proposed in a flood hazard area, the travel surface shall be constructed at least one foot above the Flood Hazard Area Design Elevation in accordance with N.J.A.C. 7:13.

(B) Roads and watercourse crossings that encroach into regulated floodways or riverine waterways with base flood elevations where floodways have not been designated, including roads, bridges, culverts, low- water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, shall meet the requirements of Section 197-38A of these regulations.

ARTICLE XII. TEMPORARY STRUCTURES AND TEMPORARY STORAGE

§ 197-87 Temporary structures. Temporary structures shall be erected for a period of less than 180 days. Temporary structures shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the base flood. Fully enclosed temporary structures shall have flood openings that are in accordance with ASCE 24 to allow for the automatic entry and exit of flood waters.

§ 197-88 Temporary storage. Temporary storage includes storage of goods and materials for a period of less than 180 days. Stored materials shall not include hazardous materials.

§ 197-89 Floodway encroachment. Temporary structures and temporary storage in floodways shall meet the requirements of Section 197-38A of these regulations.

ARTICLE XIII. UTILITY AND MISCELLANEOUS GROUP U

§ 197-90 Utility and Miscellaneous Group U. In accordance with Section 312 of the International Building Code, Utility and Miscellaneous Group U includes buildings and structures that are accessory in character and miscellaneous structures not classified in any specific occupancy in the Building Code, including, but not limited to, agricultural buildings, aircraft hangars (accessory to a one- or two-family residence), barns, carports, communication equipment structures (gross floor area less than 1,500 sq. ft.), fences more than 6 feet (1829 mm) high, grain silos (accessory to a residential occupancy), livestock shelters, private garages, retaining walls, sheds, stables, tanks and towers.

§ 197-91 Flood loads. Utility and miscellaneous Group U buildings and structures, including substantial improvement of such buildings and structures, shall be anchored to prevent flotation, collapse or lateral movement resulting from flood loads, including the effects of buoyancy, during conditions up to the Local Design Flood Elevation as determined in Section 197-14.

§ 197-92 Elevation. Utility and miscellaneous Group U buildings and structures, including substantial improvement of such buildings and structures, shall be elevated such that the lowest floor, including basement, is elevated to or above the Local Design Flood Elevation as determined in Section 197-14 of these regulations and in accordance with ASCE 24. Utility lines shall be designed and elevated in accordance with N.J.A.C. 7:13.

§ 197-93 Enclosures below base flood elevation. Fully enclosed areas below the design flood elevation shall be constructed in accordance with Section 197-79 of these regulations and with ASCE 24 for new construction and substantial improvements. Existing enclosures such as a basement or crawlspace having a floor that is below grade along all adjoining exterior walls shall be abandoned, filled-in, and/or otherwise modified to conform with the requirements of N.J.A.C. 7:13 when the project has been determined to be a substantial improvement by the Floodplain Administrator.

§ 197-94 Flood-damage resistant materials. Flood-damage-resistant materials shall be used below the Local Design Flood Elevation determined in Section 197-14 of these regulations.

§ 197-95 Protection of mechanical, plumbing, and electrical systems. Mechanical, plumbing, and electrical systems, equipment and components, heating, ventilation, air conditioning, plumbing fixtures, duct systems, and other service equipment, shall be elevated to or above the Local Design Flood Elevation determined in Section 197-14 of these regulations.

(A) Exception: Electrical systems, equipment and components, and heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment shall be permitted to be located below the Local Design Flood Elevation provided that they are designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to the Local Design Flood Elevation in compliance with the flood-resistant construction requirements of ASCE 24. Electrical wiring systems shall be permitted to be located below

the Local Design Flood Elevation provided they conform to the provisions of NFPA 70 (National Electric Code).

SECTION 2. SEVERABILITY.

Where any section, subsection, sentence, clause, or phrase of these regulations is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof, other than the part so declared.

SECTION 3. EFFECTIVE DATE.

This ordinance shall take effect upon its passage and publication, as required by law.

Introduced at the meeting on August 2, 2022

ADOPTED: September 6, 2022

ATTEST:

APPROVED: September 6, 2022

Jennifer Santiago
Borough Clerk

Gayle Brill Mittler
Mayor

**BOROUGH OF HIGHLAND PARK
RESOLUTION NO. 9-22-207**

BE IT RESOLVED by the Borough Council of the Borough of Highland Park that the Ordinance entitled, ORDINANCE NO. 2058: "AN ORDINANCE PROHIBITING FIREARMS IN PUBLIC BUILDINGS AND AMENDING THE "CODE OF THE BOROUGH OF HIGHLAND PARK"", passed on final reading at this meeting be delivered to the Mayor for his/her approval, and if approved by her, that the same be recorded in full by the Borough Clerk in a proper book kept for that purpose, and be advertised by publishing the same by title in the "Home News Tribune", of Neptune, New Jersey, a newspaper published in the County of Middlesex and circulating in this municipality, there being no newspaper published in this municipality, in the manner prescribed by law.

ADOPTED: September 6, 2022

ATTEST:

Jennifer Santiago, Borough Clerk

I, Jennifer Santiago, Borough Clerk of the Borough of Highland Park, New Jersey, do hereby certify the above to be a true copy of a resolution adopted by the Borough Council of said Borough on the 6th day of September 2022.

Jennifer Santiago, Borough Clerk

RECORD OF COUNCIL VOTES

Council Member	Ayes	Nays	Abstain	Absent
Canavera				
Foster				
George				
Hale				
Hersh				
Kim-Chohan				

**BOROUGH OF HIGHLAND PARK
ORDINANCE NUMBER 22-2058**

**AN ORDINANCE PROHIBITING FIREARMS IN PUBLIC BUILDINGS AND
AMENDING THE “CODE OF THE BOROUGH OF HIGHLAND PARK”.**

WHEREAS, the United States Supreme Court in the Matter of New York State Rifle & Pistol Ass’n, Inc. v. Bruen, 20-843, 2022 WL 2251305 (June 23, 2022) issued a ruling that a New York law banning the open carrying of firearms was unconstitutional; and

WHEREAS, said opinion did indicate that the carrying of firearms can be banned in “sensitive” areas such as government buildings; and

WHEREAS, the Borough Council of the Borough of Highland Park wishes to address this issue by banning the carrying of firearms within any public building owned by the Borough or Board of Education unless the person carrying the firearm is a law enforcement officer.

BE IT ORDAINED by the Council of the Borough of Highland Park as follows:

1. Chapter 185 of the “Code of the Borough of Highland Park” which regulates firearms and explosives is amended by adding thereto the following new Section 185-2 and shall read as follows:

Section 185-2 Carrying Firearms in Public Buildings. No person shall be permitted to carry any firearm, concealed or otherwise, in any public building at any time, including all public spaces owned, controlled or otherwise under the jurisdiction of the Borough of Highland Park, and in any school building or any spaces owned, controlled or otherwise under the jurisdiction of the Board of Education of the Borough of Highland Park except for any duly appointed law enforcement officer in the course of his or her official duties.

2. Section 185-2 of the current Code is hereby renumbered Section 185-3.
3. This Ordinance shall take effect upon its passage and publication as provided for by law.

Introduced and Passed on First Reading: August 2, 2022

Adopted: September 6, 2022

Approved: September 6, 2022

Attest: _____
Jennifer Santiago, Municipal Clerk

Gayle Brill-Mittler, Mayor

**BOROUGH OF HIGHLAND PARK
RESOLUTION NO. 9-22-208**

WHEREAS, an Ordinance entitled, AN ORDINANCE CONCERNING THE BOROUGH OF HIGHLAND PARK AFFORDABLE HOUSING PROGRAM AND AMENDING CHAPTERS 86 AND 230 OF THE “CODE OF THE BOROUGH OF HIGHLAND PARK” CONCERNING DEED RESTRICTED CONTROL PERIODS AND MANDATORY SET-ASIDE REQUIREMENTS, has been introduced and duly passed on first reading;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Highland Park that this Council meet at the Borough Hall, 221 South Fifth Avenue, Highland Park, New Jersey, on Wednesday, October 19, 2022, at 7:00 PM, for the purpose of considering said Ordinance on final passage after public hearing thereon.

BE IT FURTHER RESOLVED that said a Notice of Pending Ordinance and Summary of said Ordinance be published once at least one (1) week prior to the time fixed for further consideration of said Ordinance for final passage in the “Home News Tribune”, of East Brunswick, New Jersey, a newspaper published in the County of Middlesex and circulating in this municipality, there being no newspaper published daily in this municipality, together with a notice of the introduction thereof and of the time and place when and where said Ordinance will be further considered for final passage as aforesaid.

BE IT FURTHER RESOLVED that a copy of said Ordinance shall be posted on the bulletin board at Borough Hall, 221 South Fifth Avenue, Highland Park, New Jersey, forthwith and that the Borough Clerk have available in her office for the members of the general public of Highland Park copies of said Ordinance for those members of the general public who may request the same.

ADOPTED: September 6, 2022

ATTEST:

Jennifer Santiago, Borough Clerk

I, Jennifer Santiago, Borough Clerk of the Borough of Highland Park, New Jersey, do hereby certify the above to be a true copy of a resolution adopted by the Borough Council of said Borough on the 6th day of September 2022.

Jennifer Santiago, Borough Clerk

RECORD OF COUNCIL VOTES

Council Member	Ayes	Nays	Abstain	Absent
Canavera				
Foster				
George				
Hale				
Hersh				
Kim-Chohan				

**BOROUGH OF HIGHLAND PARK
ORDINANCE NO. 22-2059**

**AN ORDINANCE CONCERNING THE BOROUGH OF HIGHLAND PARK
AFFORDABLE HOUSING PROGRAM AND AMENDING CHAPTERS 86 AND 230 OF
THE “CODE OF THE BOROUGH OF HIGHLAND PARK” CONCERNING DEED
RESTRICTED CONTROL PERIODS AND MANDATORY SET-ASIDE
REQUIREMENTS**

BE IT ORDAINED by the Borough Council of The Borough of Highland Park, County of Middlesex, State Of New Jersey as follows:

Section 1. Sections 86-13 and 86-17 of the “Code of the Borough of Highland Park” which establish control periods for ownership and rental units is amended to read as follows: (underlined material is new).

Section 86-13, “Control periods for restricted ownership units and enforcement mechanisms” is hereby amended to read as follows:

- A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:8—26.5, and each restricted ownership shall remain subject to the controls on affordability for a period of at least 30 years and until the municipality takes action thereafter to release the controls on affordability. After thirty years, the Borough shall have unilateral authority to extend such affordability controls.

Section 86-17, “Control periods for restricted rental units” is hereby amended to read as follows:

- A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, and each restricted rental unit shall remain subject to the controls on affordability for a period of at least 30 years, until the municipality takes action to release the controls on affordability. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1 et seq., as may be amended and supplemented. After thirty years, the Borough shall have unilateral authority to extend such affordability controls.

Section 2. A **NEW** Article XXIII of Chapter 230 is hereby added to said Code to establish affordable housing mandatory set-aside requirement and shall read as follows:

Article XXIII. Affordable Housing Requirements

§ 230-207. Affordable Housing Mandatory Set-Aside

A. Purpose

This Section is intended to ensure that any site that benefits from a rezoning, variance or redevelopment plan approved by the Borough or the Borough Planning/Zoning Board that results in multi-family residential development of five (5) dwelling units or more produces affordable housing at a set-aside rate of at least fifteen percent (15%) for multi-family rental projects and at least twenty percent (20%) for all other multi-family projects. This section shall apply except where inconsistent with applicable law. This ordinance shall not apply to existing affordable housing inclusionary zones, which predate the effective date of this ordinance.

B. Affordable Housing Mandatory Set-Aside Requirement

If the Borough or the Borough Planning Board/Zoning Board permits the construction of multi-family or single-family attached residential development that is “approvable” and “developable,” as defined at N.J.A.C. 5:93-1.3, the Borough or the Borough’s Planning Board/Zoning Board shall require that an appropriate percentage of the residential units be set aside for low-and moderate-income households. This requirement shall apply beginning with the effective date the Ordinance creating this section was adopted to any multi-family or single-family attached residential development, including the residential portion of a mixed-use project, which consists of five (5) or more new residential units, whether permitted by a zoning amendment, a variance granted by the Borough’s Planning Board or Zoning Board. For any such development for which the Borough’s land use ordinances already permitted residential development as of the effective date of the Ordinance creating this section was adopted, this requirement shall only apply if the Borough or the Borough’s Planning Board or Zoning Board permits an increase in approvable and developable gross residential density to at least twice the permitted approvable and developable gross residential density as of the effective date the Ordinance created this section was adopted. Nothing in this paragraph precludes the Borough or the Borough’s Planning Board or Zoning Board from imposing an affordable housing set-aside in a development not required to have a set-aside pursuant to this paragraph consistent with N.J.S.A. 52:27D-311(h) and other applicable law. For all inclusionary projects, the appropriate set-aside percentage will be at least fifteen percent (15%) for multi-family rental projects and at least twenty percent (20%) for all other multi-family projects. This requirement does not create any entitlement for a property owner or applicant for a zoning amendment or variance, or for approval of any particular proposed project. This requirement does not apply to any sites or specific zones otherwise identified in the Borough’s Settlement Agreement with FSHC, which was executed on December 22, 2017, or in the Borough’s Adopted Housing Element and Fair Share Plan dated December 18, 2018, for which density and set-aside standards shall be governed by the specific standards set forth therein.

Furthermore, this Section shall not apply to developments containing four (4) or less dwelling units. All subdivision and site plan approvals of qualifying residential developments shall be conditioned upon compliance with the provisions of this Section. Where a developer demolishes existing dwelling units and builds new dwelling units on the same site, the provisions of this section shall apply only if the number of net new dwelling units is five (5) or more.

All affordable units produced as a result of this Ordinance shall comply with the Borough’s Affordable Housing Ordinance, COAH and UHAC regulations and applicable laws, including, but not limited to bedroom and income distributions and income distributions requirements within each bedroom category. This obligation also includes compliance with the Fair Housing Act’s

(“FHA”) very low-income requirements, including the requirement that at least 13% very low-income units as defined by the FHA (households earning no more than 30% of the region’s median income).

C. Redevelopment Projects

The Borough may, if it determines appropriate, require affordable housing in redevelopment projects that deviates from the requirements of Sections 230-207 (A) and (B). Such requirement shall be included in applicable redevelopment agreements provided that such requirements must comply with the Borough’s Settlement Agreement with FSHC, which was executed on December 22, 2017 and the Borough’s Adopted Housing Element and Fair Share Plan dated December 18, 2018.

Section 3. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

Section 4. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of Highland Park, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the General Ordinances of the Borough of Highland Park are hereby ratified and confirmed, except where inconsistent with the terms hereof.

Section 5. The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this ordinance to the Middlesex County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15, and N.J.S.A. 40:55D-63 (if required).

Section 6. After introduction, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Borough of Highland Park for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Borough Council, within 35 days after referral, a report including identification of any provision in the proposed ordinance which are inconsistent with the master plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

Section 7. This Ordinance shall take effect immediately upon (1) adoption; (2) approval by the Mayor pursuant to N.J.S.A. 40:69A-149.7; (3) publication in accordance with the laws of the State of New Jersey; and (4) filing of the final form of adopted ordinance by the Clerk with (a) the Middlesex County Planning Board pursuant to N.J.S.A. 40:55D-16, and the Borough Tax Assessor as required by N.J.S.A. 40:49-2.1.

Introduced at the meeting on September 6, 2022

Adopted: _____, 2022

Attest:

Approved: _____, 2022

Jennifer Santiago
Borough Clerk

Gayle Brill Mittler
Mayor

**BOROUGH OF HIGHLAND PARK
RESOLUTION NO. 9-22-209**

**RESOLUTION TO EXECUTE AGREEMENT
WITH GABEL ASSOCIATES FOR MICROGRID DESIGN SERVICE
FOR PHASE II TCDER MICROGRID PROJECT**

WHEREAS, "The Electric Discount and Energy Competition Act," P.L. 1999, c. 23 ("EDECA") authorizes the New Jersey School Boards' Association ("NJSBA" or "Lead Agency") to obtain electricity and other energy-related services for local boards of education and municipalities; and

WHEREAS, NJSBA has formed the Alliance for a Competitive Energy Services, hereinafter referred to as "ACES," a Cooperative Pricing System (E88-01-ACESCPS) to effectively obtain electricity and other energy-related services for its members; and

WHEREAS, N.J.S.A. 40a:11-10(b) authorizes municipalities to enter into cooperative pricing agreements; and

WHEREAS, ACES, has offered voluntary participation in a cooperative pricing system for the energy-related services to municipalities and counties; and

WHEREAS, the Borough of Highland Park ("Participant") is a current participant in the ACES Cooperative Pricing System;

WHEREAS, NJSBA and the New Jersey Association of School Administrators ("NJASA") has created, and is also offering, the ACESplus Program, which is designed to assist participating government entities with the evaluation and implementation of certain energy related programs;

WHEREAS, as a member of ACES, Highland Park desires to participate in the ACESplus Program for the purpose of designing a TCDER Microgrid as a part of the NJBPU's Microgrid Design Incentive Program; and,

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

1. This resolution shall be known and may be cited as the "ACES Cooperative Pricing and ACESplus Program Resolution for TCDER Microgrid Design Services."
2. Pursuant to the provisions of N.J.S.A. 40A:11-10(b), the Mayor and Clerk of the Borough of Highland Park are hereby authorized and directed to use the ACES Cooperative Pricing System Agreement and accept and execute a proposal from Gabel Associates which will be kept on file in the Office of the Borough Clerk.
3. Teri Jover, Administrator, or her designee is hereby authorized and directed to work with the Lead Agency, via its professional energy consultant Gabel Associates for the Participant under the ACESplus Program, as authorized by, and in accordance with the requirements of, the Local Public Contracts Law (N.J.S.A. 40A:11-4.6 and 4.1), EDECA and the Proposal at a cost not to exceed \$196,450.00.

- 4. The New Jersey School Boards Association, through ACES and its professional energy consultant, shall be responsible for complying with the "Local Public Contracts Law," N.J.S.A. 40A:11-1.1 *et seq.* and all other applicable laws in connection with the preparation, bidding, negotiation and execution of contracts in connection with the ACES Cooperative Pricing System and the ACESplus Program.

ADOPTED: September 6, 2022

ATTEST:

Jennifer Santiago, Borough Clerk

I, Jennifer Santiago, Borough Clerk of the Borough of Highland Park, New Jersey, do hereby certify the above to be a true copy of a resolution adopted by the Borough Council of said Borough on the 6th day of September 2022.

Jennifer Santiago, Borough Clerk

RECORD OF COUNCIL VOTES

Council Member	Ayes	Nays	Abstain	Absent
Canavera				
Foster				
George				
Hale				
Hersh				
Kim-Chohan				



Microgrid Phase 2 Study for the Borough of Highland Park: Statement of Work

July 19, 2022

Introduction

Gabel Associates (Gabel Associates or Gabel) is pleased to provide this Scope of Work (SOW) to the Borough of Highland Park (Highland Park or the Borough) to provide energy consulting services in relation to Phase 2 of its microgrid project: **Highland Park - BRITE: Being Resilient In Temporary Emergencies (HP-BRITE)**.

The firm has an established working relationship with the Borough through its support on various clean energy initiatives, including Phase 1 of its microgrid study. The initial study evaluated feasibility based on regulatory factors, technical considerations, and a commercial/financing framework developed as part of the project.

As a follow-up to Phase 1, on March 3, 2021, the New Jersey Board of Public Utilities (BPU) approved the Borough's application for Phase 2 of the Town Center Distributed Energy Resource (TCDER) Microgrid Design Incentive Program. An MOU memorializing that grant award was executed in May of 2021. The Phase 2 program defined in this SOW is intended to help move projects towards a more complete design, and builds on the recommendations made in the Phase 1 study.

Similar to Phase 1, Burns Engineering (Burns) will be utilized on a subcontractor basis. Burns is a nationally respected provider of specialized engineering services who has a deep understanding of microgrid issues. Burns was a key contributor on the Phase 1 study, and will provide the detailed engineering work required. Gabel will be the project lead, will provide most project management and coordination, and will focus on the financial and regulatory matters within the study.

Since the Borough is already part of the Alliance for Competitive Energy Services (ACES) program, these consulting services can be procured easily through the ACESplus program. This was the approach taken with the Phase 1 study. ACESplus is sponsored by the New Jersey School Boards Association (NJSBA) as the lead agency and the New Jersey Association of School Administrators (NJASA). Our consulting services are provided through a long-standing cooperative purchasing program created by those organizations, as approved by the New Jersey Department of Community Affairs (DCA), and is overseen by the sponsoring organizations.

Engaging the services proposed below requires only the passing of a standardized ACESplus resolution, which was already accomplished by the Borough at its September 12, 2021 meeting. For more information about ACES and ACESplus, please refer to www.nj-aces.com.

This proposal provides the following information for your consideration:

- 1) Scope of Services
- 2) Fee Proposal
- 3) General Terms and Conditions

1) Scope of Services

Gabel, with Burns' assistance, proposes to support the next phase of microgrid planning work, consistent with the funding proposal accepted by the BPU in the Phase 2 award grant. This more detailed design and planning work will be focused on preparing the project for implementation.

HP-BRITE Phasae-2 proposes the creation of a small but highly impactful core of critical municipal infrastructure in a Level Three Community Microgrid configuration. This "island of resiliency" will be able to operate virtually indefinitely during an extended outage of the public grid, providing critical services to residential areas within convenient walking distance.

Gabel/Burns will perform the following tasks and work plan, with the goal of developing a 60% - 65% design baseline. Tasks for the overall project, including contributions by both Gabel and Burns in concert, will include:

1. **Baseline Data Collection:** We will collect additional energy usage and facility information as needed for more detailed design and operational modeling. Where actual data is not available, proxy assumptions will be identified.
2. **Infrastructure Assessment with PSE&G:** We will work with the utility to understand local infrastructure assets, current condition, and possible role during microgrid operation. We will also identify interoperability requirements between the microgrid and the utility. Burns will have primary responsibility for engaging with the utility technically to develop the detailed design.
3. **Detailed Load Characterization:** Based on more detailed baseline information collected, we will quantify load characteristics for all load sites, during normal operation, and during an outage scenario where additional support functions are being provided. In cases where more detailed baseline information is not available, we will develop representative proxy profiles that can be used as working assumptions to inform the design.

4. **Detailed Generation Asset Requirements:** We will quantify existing generation assets and their operating profiles, and identify new generation assets already planned, or as potentially new assets, to support microgrid function. The primary focus will be on a new dispatchable generator as anticipated in previous conceptual studies.
5. **Microgrid Architecture Development:** We will combine loading requirements, generation asset plans, existing infrastructure details, and requirements for a new resiliency function to define an overall microgrid solution architecture. All key solution elements will be defined, as well as their manner of connection and basic use cases and operating profile.
6. **Detailed Design:** Based on the architecture defined by the team, as informed by updated energy data and interactions with the Utility, we will pursue detailed design on the proposed solution, including technical specifications, component identification and sizing, and estimated labor and material costs. An ownership model will be proposed for the solution, along with an operating plan for the system under “grid-up”, transition, and “grid-down” conditions. The Phase-2 project is focused on taking design to “60-65%” design completion.
7. **DCFC Solution Development:** Development of high-powered DC Fast Charging (DCFC) project for electric vehicles, available for public use, was proposed as part of the Phase 1 study. Should funding become available to help offset the costs of this installation, the team will support the Borough in making a grant application, and in otherwise assisting with the design, procurement, and implementation of a public DCFC solution.
8. **Financial Planning:** We will identify potential financing strategies that can be used to make the project viable. Many solution elements will provide value during “grid-up” conditions, which provides a basis for project financing. This financing strategy will need to be integrated with a “procurement plan” (being developed by Gabel) suitable for a municipal entity.
9. **Identify Next Steps:** We will work with the multi-disciplinary project team to identify key “next steps” required for full project implementation.
10. **Results Documentation and Communication:** Development of documents and presentation materials for communication to all interested parties. The study grant requires both quarterly progress reports, and a final study report, which will be developed jointly by the project team. More generally, key project results will be organized and delivered in a form that would facilitate use in a subsequent project implementation procurement process.

11. **Ongoing Project Management:** We will provide direct support for the project partners, and overall project management of schedule, work plan, milestones, and resourcing.

For all phases of the project, our team will collaborate and work closely with Borough staff. Gabel will serve as the Project Lead, and will coordinate with Burns as a subcontractor. The above scope of work is expected to fully satisfy the detailed proposed to the BPU as part of the Phase-2 funding proposal.

2) Fee Proposal

For the work described above, Gabel and Burns propose to bill on an hourly basis in accordance with the fee schedules found in Attachment 1, with a total not-to-exceed amount of \$196,450. Invoices will be provided monthly with payment due in full within thirty days of invoice receipt. Unless mutually agreed upon, the BPU grant funds will pay fully for all work by Gabel and Burns on the project.

3) General Terms and Conditions

Liability

Gabel Associates is acting in a consulting capacity and any opinions, advice or analysis presented, or activities undertaken, by Gabel Associates are based on its professional judgment and do not constitute a guarantee. Gabel Associates is not an engineering firm and will not be responsible for any design, engineering, or construction activities. IN NO EVENT SHALL GABEL ASSOCIATES' AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS PROPOSAL, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO GABEL ASSOCIATES PURSUANT TO THIS PROPOSAL. NEITHER PARTY (OR ITS AFFILIATES, DIRECTORS, OFFICERS, AGENTS OR EMPLOYEES), UNDER ANY CIRCUMSTANCES, WILL BE LIABLE TO THE OTHER PARTY (OR ITS AFFILIATES, OWNERS, DIRECTORS, MANAGERS, OFFICERS, AGENTS OR EMPLOYEES) FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, OR PUNITIVE DAMAGES, OR LOST OR IMPUTED PROFITS AND/OR SALES, OR FOR DAMAGES BASED UPON ANY TYPE OF MULTIPLE ARISING OUT OF THIS AGREEMENT OR ITS TERMINATION OR EXPIRATION, WHETHER LIABILITY IS ASSERTED IN CONTRACT OR TORT AND IRRESPECTIVE OF WHETHER ANY PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH LOSS OR DAMAGE. EACH PARTY HEREBY WAIVES ANY CLAIM THAT THESE EXCLUSIONS DEPRIVE IT OF ANY ADEQUATE REMEDY.

Confidentiality

In the course of its performance under this Agreement, each party may acquire certain confidential information from the other in regard to the nature of the services performed. All such confidential information shall not be disclosed or revealed by Gabel Associates or Highland Park, as applicable, to any other person or entity, nor shall any such information be utilized in any way in the performance of any work for any other person or entity, without

prior written approval from the other Party or by order of a government agency with jurisdiction. This confidentiality paragraph shall survive termination of this Agreement.

Work Product

For avoidance of doubt, the results of the modeling associated with any services will be provided to and owned by Highland Park, however, the underlying tools, methodologies, datasets, and modeling systems will remain proprietary, confidential, and the property of Gabel Associates.

Termination

Either party may terminate this agreement upon the giving of not less than thirty (30) days notice in writing (which may be via email). All payment obligations and the liability and confidentiality provisions shall survive termination. Upon termination, Gabel Associates will render a final invoice for the compensation and expenses due for the actual period of time that services were performed based on the fee schedule provided in Attachment 1, and such invoice will be paid by Highland Park and is due within thirty days of invoice receipt.

We appreciate the opportunity to provide this proposal to Highland Park. Please feel free to call me at (732) 296-0770 with any questions regarding this proposal.

Sincerely,

Mark

Mark Warner
Vice President

Countersign by official with authority to bind the Borough of Highland Park:

Signature

Date

Name

Title



Attachment 1: Hourly Fee Schedules

Gabel Associates

Fee Schedule

Principal Level Steven Gabel Robert Chilton	\$305 per hour
Executive Level	\$295 per hour
Director Level	\$285 per hour
Senior Associate Level	\$270 per hour
Associate level	\$225 per hour

These rates represent an average discount of over 25% from our current commercial rates.

Time charges: all time is billed on an hourly basis at the rates set forth above. All time is rounded to the nearest quarter hour. Payment is due within 30 days of receipt of invoice.

Expenses: all direct expenses incurred are billed at cost. Direct expenses include travel, overnight expenses, Federal Express, and bulk copying as well as other expenses approved in advance by the client.

Hourly Rates For Burns Engineering

- Project Manager \$278.34
- Project Technical Lead \$248.88
- Electrical Engineer \$168.58
- Electrical Engineer \$147.73
- Sr. Electrical Engineer \$175.91
- Electrical Engineering Specialist \$146.91
- Electrical Associate \$97.61

**BOROUGH OF HIGHLAND PARK
RESOLUTION NO. 9-22-210**

**RESOLUTION AUTHORIZING ISSUANCE OF TAXI OPERATOR LICENSE FOR
THE PURPOSE OF OPERATING TAXI CAB IN THE BOROUGH OF HIGHLAND
PARK**

WHEREAS, Shyamal K. Ghosh, and David Angel Jr. have filed with the Clerk of this Borough an application for a License to operate taxicabs under the provisions of the Ordinance providing for such License for the year 2022; and

WHEREAS, the Chief of Police and/or his designee has investigated said applicant and has reported favorably upon said application;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Highland Park that said applicants are qualified and that public necessity and convenience would be served by the issuance of said License.

BE IT FURTHER RESOLVED that the Borough Clerk be and is hereby authorized and directed to issue an Operator Licenses to the aforesaid applicant.

ADOPTED: September 6, 2022

ATTEST:

Jennifer Santiago, Borough Clerk

I, Jennifer Santiago, Borough Clerk of the Borough of Highland Park, New Jersey, do hereby certify the above to be a true copy of a resolution adopted by the Borough Council of said Borough on the 6th day of September 2022.

Jennifer Santiago, Borough Clerk

RECORD OF COUNCIL VOTES

Council Member	Ayes	Nays	Abstain	Absent
Canavera				
Foster				
George				
Hale				
Hersh				
Kim-Chohan				

PRICE QUOTATION FOR SERVICES

Procurement of an online tax sale vendor is subject to the Local Public Contracts Law (LPCL), N.J.S.A. 40A:11-1 et seq., and does not fall under one of the LPCL statutory exceptions to public bidding.

WE THE UNDERSIGNED PROPOSE TO HOST ONLINE TAX SALES SERVICES FOR THE BOROUGH OF HIGHLAND PARK PURSUANT TO THE SCOPE OF SERVICES AND REQUIREMENTS AND MADE PART HEREOF:

PRICE PER ITEM

\$15 Per Certificate Advertised

The undersigned is a Limited Liability Company under the laws of the State of Florida having its principal office at Realauction.com, LLC, 861 SW 78 Ave., #102, Plantation, Florida 33324.

SIGNATURE _____



Lloyd E. McClendon

Chief Executive Officer

Realauction.com LLC

(954) 734-7400 x206

lmclendon@realauction.com

**BOROUGH OF HIGHLAND PARK
RESOLUTION NO. 9-22-211**

**RESOLUTION TO AUTHORIZE CONTRACT WITH ROK INDUSTRIES/REAL
AUCTION.COM FOR ON-LINE TAX SALE SERVICES**

WHEREAS, pursuant to P.L. 1997, Chapter 99, a municipality may hold a tax lien sale within the last month of a calendar year for any unpaid taxes or other municipal liens or charges that are delinquent as of the 11th day of the eleventh month of the calendar year; and,

WHEREAS, an electronic tax sale provides a greater pool of potential lien buyers, thus creating a more complete tax sale process.

WHEREAS, the Tax Collector has solicited a quote for online tax lien services from ROK Industries, Inc. Agent/Realauction.com; and

WHEREAS, ROK Industries Inc./Realauction.com has the capability to conduct the sale according to the rules and regulations promulgated by the Division of Local Government Services.

WHEREAS, funds are available for this purpose in Current Fund Account No. 2-01-20-145-235 in the amount of \$7,500.00 and Current Account No. 2-05-55-500-233 in the amount of \$7,500.00 for a total amount not to exceed \$15,000.00, as reflected by the certification of funds available by the Chief Financial Officer, no. 2022-27.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Highland Park, New Jersey, that the Administrator is hereby authorized and directed to contract ROK Industries/Realauction.com as the vendor for the online tax sale and the amount not to exceed \$15,000.

BE IT FURTHER RESOLVED that a certified copy of this resolution is forwarded to the Finance Director and Tax Collector forthwith.

ADOPTED: September 6, 2022

ATTEST:

Jennifer Santiago, Borough Clerk

I, Jennifer Santiago, Borough Clerk of the Borough of Highland Park, New Jersey, do hereby certify the above to be a true copy of a resolution adopted by the Borough Council of said Borough on the 6th day of September 2022.

Jennifer Santiago, Borough Clerk

RECORD OF COUNCIL VOTES

Council Member	Ayes	Nays	Abstain	Absent
Canavera				
Foster				
George				
Hale				
Hersh				
Kim-Chohan				

**BOROUGH OF HIGHLAND PARK
RESOLUTION NO. 9-22-212**

**RESOLUTION AUTHORIZING PAYMENT TO PSEG FOR UPGRADE OF WOODBRIDGE
AVENUE LIGHT POLES TO ACCOMMODATE HOLIDAY LIGHTING**

WHEREAS, Highland Park’s Neighborhood Preservation Program (NPP) Stakeholder Engagement Team desires to upgrade the poles along Woodbridge Avenue to enable the installation and illumination of annual holiday decorations; and

WHEREAS, PSEG has a program which allows municipalities to install and illuminate decorations during the winter holidays; and

WHEREAS, the Borough has funds available to pay for the upgrade of 44 light poles to accommodate holiday decorations in an amount not to exceed \$17,000.00 in Grant Account No. G-02-41-749-001 as reflected by the certification of funds available by the Chief Financial Officer, certification no. 2022-28; and

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Highland Park that the Borough Administrator is hereby authorized and directed to accept the quote for pole upgrades from PSEG, P.O. Box 14444, New Brunswick, NJ 08906-4444, at a cost not to exceed \$17,000.00.

BE IT FURTHER RESOLVED that certified copies of this Resolution be forwarded to the Borough Administrator Chief Financial Officer forthwith.

ADOPTED: September 6, 2022

ATTEST:

Jennifer Santiago, Borough Clerk

I, Jennifer Santiago, Borough Clerk of the Borough of Highland Park, New Jersey, do hereby certify the above to be a true copy of a resolution adopted by the Borough Council of said Borough on the 6th day of September 2022.

Jennifer Santiago, Borough Clerk

RECORD OF COUNCIL VOTES

Council Member	Ayes	Nays	Abstain	Absent
Canavera				
Foster				
George				
Hale				
Hersh				
Kim-Chohan				



Emma Von Thun <evonthun@hpboro.com>

Electrifying Poles Along Woodbridge Avenue, Highland Park

Nicholas, Paul B. <Paul.Nicholas@pseg.com>
To: Emma Von Thun <evonthun@hpboro.com>
Cc: "Brown, Scott M." <Scott.Brown@pseg.com>

Wed, Jul 20, 2022 at 2:27 PM

Emma depending on what type of pole {overhead or underground} the outlets are approximately \$250 or \$400. The lesser expensive one is the one that gets installed on the overhead wood poles.

[Quoted text hidden]

[Quoted text hidden]

**BOROUGH OF HIGHLAND PARK
RESOLUTION No. 9-22-213**

RESOLUTION AUTHORIZING AMENDMENT TO ANNUAL SALARY RESOLUTION

BE IT RESOLVED by the Borough Council of the Borough of Highland Park that the Borough Clerk be and is hereby authorized and directed to notify the Borough Finance Director that since the adoption of a resolution on January 4, 2022 showing the names of the officers and employees of the Borough of Highland Park whose salaries are on an annual basis, there have been the following changes, to wit:

- Henry Carle, Crossing Guard, at an hourly rate of \$19.75, effective 09/06/2022
- O'Dell Russell, Crossing Guard, at an hourly rate of \$19.75, effective 09/06/2022
- Symone Banks, Recreation Asst II, at an hourly rate of \$20.81, effective 09/01/2022
- Divir Ravee, Recreation Assistant II, at an hourly rate of \$20.81, effective 09/01/2022
- Charles Jackson, Laborer, at an annual salary of \$41,620.80, effective 09/19/2022
- Christopher Rampacek, Part-Time Firefighter, at an hourly rate of \$21.79, effective 06/02/2022

BE IT FURTHER RESOLVED that the Finance Director be and is hereby directed to make the necessary changes in the payroll records of the Finance Department in accordance with the changes established by this resolution.

ADOPTED: September 6, 2022

ATTEST:

Jennifer Santiago, Borough Clerk

I, Jennifer Santiago, Borough Clerk of the Borough of Highland Park, New Jersey, do hereby certify the above to be a true copy of a resolution adopted by the Borough Council of said Borough on the 6th day of September 2022.

Jennifer Santiago, Borough Clerk

RECORD OF COUNCIL VOTES

Council Member	Ayes	Nays	Abstain	Absent
Canavera				
Foster				
George				
Hale				
Hersh				
Kim-Chohan				

**BOROUGH OF HIGHLAND PARK
RESOLUTION NO. 9-22-214**

RESOLUTION TO APPROVE WRECKER LICENSES

WHEREAS, Rich’s Towing Service Inc., has filed with the Clerk of this Borough for a Wrecker/Towing License to operate heavy duty wreckers in this Borough under the provisions of the Ordinance providing for such license; and

WHEREAS, the Chief of Police has investigated said applicants and has reported favorably upon said applications;

NOW, THEREFORE, BE IT RESOLVED that this Council hereby determines that said applicants are qualified and that public necessity and convenience would be served by the issuance of such Licenses.

BE IT FURTHER RESOLVED that the Borough Clerk be and is hereby authorized and directed to issue Heavy Duty Wrecker/Towing Licenses to the aforesaid applicants.

ADOPTED: September 6, 2022

ATTEST:

Jennifer Santiago, Borough Clerk

I, Jennifer Santiago, Borough Clerk of the Borough of Highland Park, New Jersey, do hereby certify the above to be a true copy of a resolution adopted by the Borough Council of said Borough on the 6th day of September 2022.

Jennifer Santiago, Borough Clerk

RECORD OF COUNCIL VOTES

Council Member	Ayes	Nays	Abstain	Absent
Canavera				
Foster				
George				
Hale				
Hersh				
Kim-Chohan				

**BOROUGH OF HIGHLAND PARK
RESOLUTION NO. 9-22-215**

**RESOLUTION AUTHORIZING PURCHASE AND INSTALLATION OF
FENCING AT THE MUNICIPAL RECREATION COMPLEX USING
ESCNJ COOPERATIVE CONTRACT**

WHEREAS, N.J.S.A. 52:34-6.2 authorizes contracting units, including the Borough of Highland Park, to make purchases and contract for services through the use of nationally recognized and accepted cooperative purchasing agreements that have been developed utilizing a competitive bidding process by another contracting units within the State of New Jersey or within any other state; and

WHEREAS, by Resolution 5-09-166, adopted May 5, 2009, the Borough of Highland park entered into an agreement with a local cooperative called ESCNJ; and

WHEREAS, ESCNJ enters into contracts for a wide variety of goods and services; and

WHEREAS, the purpose of entering the contract with ESCNJ was to obtain better prices than the Borough would be able to obtain individually, and to save the Borough the expense of bidding; and

WHEREAS, there is a need for new fencing at the Municipal Recreation Complex to protect the new track, turf and lighting that was installed in collaboration with the Board of Educations; and

WHEREAS, the Borough Administrator has done research and recommends that the Borough utilize the following contract with ESCNJ for the purchase and installation of fencing at the Municipal Recreation Complex:

Item Description	Vendor	Amount	Contract No.
Fencing, Purchase, Installation and Repair	Rosando Fence Inc. T/A Fox Fence	\$65,840.00	ESCNJ #20/21-37

WHEREAS, the Borough has \$65,840.00 in funds available for this purpose in Capital Account No. C-04-55-830-001 as reflected by the certification of funds by the Chief Financial Officer, no. 2022-29; and

BE IT FURTHER RESOLVED, that the Borough of Highland Park be and is hereby authorized to executive and the Borough Clerk to witness any Contract with the above referenced vendor for the items and the amounts listed above.

ADOPTED: September 6, 2022

ATTEST:

Jennifer Santiago, BOROUGH CLERK

I, Jennifer Santiago, Borough Clerk of the Borough of Highland Park, New Jersey, do hereby certify the above to be a true copy of a resolution adopted by the Borough Council of said Borough on the 6th day of September 2022.

Jennifer Santiago, Borough Clerk

RECORD OF COUNCIL VOTES

Council Member	Ayes	Nays	Abstain	Absent
Canavera				
Foster				
George				
Hale				
Hersh				
Kim-Chohan				



All types of Gates, Manual & Electric
 Steel Bollards with Plastic Covers
 Aluminum & steel Ornamental Fence
 Tennis Court Fence & Screening
 Baseball Backstops
 Trash Enclosures

DOT Chain Link Fence
 Turnstiles, Manual & Electric
 Highway Guardrail, Steel or Timber
 PVC-Vinyl Fence, All colors
 High Rise Railing
 Wood Fence

**New Jersey State Approved Co-op #65MCESCCPS
 NJ Contractors License No. 13VH02534400
 ESCNJ 20/21-37 Fencing Purchase Installation and Repair
 US Homeland Security Approved Fence Contractor (TWIC)**

August 23 2022
 Borough of Highland Park
 221 South 5th Ave
 Highland Park
 Contact Phone: 973 698 1671
 Borough Administrator
 Email Terri Jover tjover@hpboro.com

Job Site: 332 Wayne St
 Highland Park NJ

Track

Description:

Remove and Cart Away Approx. 1,455LF 4H Black Chain Link Mesh
 Remove and Cart Away Approx. 215LF 6H Black Chain Link Mesh
 Furnish and Install Approx. 1,455LF 4H Black Chain Link Mesh
 Furnish and Install Approx. 215LF 6H Black Chain Link Mesh
 Furnish and Install 1,680LF 1 5/8" Galvanized Bottom Rail
 Furnish and Install (1) 4Hx4W Walk Gate
 - Ties to be Spaced 10"
 - Re-Use Existing Framework
 (2x6 Gaugex4 Height Black Fused Bonded Wire, 2x6 Gauge x6 Height Black Fused Bonded Wire, SCH#40 Post)

Materials \$36,440.25
 5 % Discount Applied \$34,705.00

Labor

Category: FENCE TYPE 2 Vinyl Coated Wire, Powder Coated Frame with Top Rail
 4' High Fence 1,455LF @ \$12.00 = \$17,460.00
 6' High Fence 215LF @\$17.00 = \$3,655.00

Category: FENCE TYPE 10 Existing Fence Removal and Disposal
 Chain Link Dispose 1,670LF @ \$6.00 = \$10,020.00

Subtotal \$65,840.00

A DIVISION OF ROSANDO FENCE CO., INC
 MORE THAN 70 YEARS
 Serving New Jersey, Eastern Pennsylvania, Northern New York & the 5-Boroughs of NYC

417 CROOKS AVE CLIFTON NJ, 07011
 Phone: 973-779-9592 Fax: 973-340-3935 Email: fxfence417@aol.com



All types of Gates, Manual & Electric
Steel Bollards with Plastic Covers
Aluminum & steel Ornamental Fence
Tennis Court Fence & Screening
Baseball Backstops
Trash Enclosures

DOT Chain Link Fence
Turnstiles, Manual & Electric
Highway Guardrail, Steel or Timber
PVC-Vinyl Fence, All colors
High Rise Railing
Wood Fence

**New Jersey State Approved Co-op #65MCESCCPS
NJ Contractors License No. 13VH02534400
ESCNJ 20/21-37 Fencing Purchase Installation and Repair
US Homeland Security Approved Fence Contractor (TWIC)**

Thank you;
Wilby Tapia,
INDUSTRIAL & COMMERCIAL ESTIMATOR
wtapia@foxfenceeneterprisesinc.com

Accepted by: _____

Print Name: _____

Date: _____

A DIVISION OF ROSANDO FENCE CO., INC
MORE THAN 70 YEARS
Serving New Jersey, Eastern Pennsylvania, Northern New York & the 5-Boroughs of NYC

417 CROOKS AVE CLIFTON NJ, 07011
Phone: 973-779-9592 Fax: 973-340-3935 Email: fxfence417@aol.com

**BOROUGH OF HIGHLAND PARK
RESOLUTION NO. 9-22-216**

**RESOLUTION TO APPROVE PAY ESTIMATE NO. 4 AND CHANGE ORDER NO. 2
FOR IMPROVEMENTS TO THE HIGHLAND PARK RECREATION COMPLEX WITH
HELLAS CONSTRUCTION INC.**

RESOLUTION: Public Works and Public Utilities Committee

WHEREAS, pursuant to Resolution No. 3-22-86, adopted March 15, 2022, the Borough Council authorized execution of a contract with Hellas Construction, Inc. for Improvements to Highland Park Recreation Complex (Athletic Field), in an amount not to exceed \$1,974,540.00, without further resolution of Council; and

WHEREAS, pursuant to said resolution a contract was duly executed; and

WHEREAS, it appears from Pay Estimate No. 4, filed by CME Associates, that certain work under said contract has been completed and approved, and there is due to Hellas Construction Inc. the sum of \$166,701.77 in accordance with said Pay Estimate for work performed from July 26, 2022 to August 23, 2022; and

WHEREAS, funds for this purpose are available in Capital Account No. C-04-55-830-001, in an amount not to exceed \$166,701.77, as reflected by the Certification of Funds Available by the Chief Financial Officer Lori Majeski, certification no. 2022-30; and

WHEREAS, the Borough Engineer has prepared the attached Change Order No. 2 to the said contract to allow for the deletion of the PA System with an overall decrease of \$7,500.00 in the contract amount; and

WHEREAS, Council has reviewed the proposed Change Order No. 2 for this contract and has approved the same subject to satisfaction of N.J.A.C. 5:30-11.9 relating to change orders;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Highland Park that the Chief Financial Officer be and is hereby authorized and directed to pay Hellas Construction Inc. the sum of \$116,701.77, as certified by the Engineer in Pay Estimate No. 4, subject to the Clerk's receipt of the Certified Payroll and Project Manning Reports and additional documents as necessary;

BE IT FURTHER RESOLVED by the Borough Council of the Borough of Highland Park that Mayor Gayle Brill Mittler be and is hereby authorized and directed to execute Change Order No. 2, dated August 24, 2022, to the contract of Hellas Construction, Inc. upon satisfaction of N.J.A.C. 5:30-11.9 relating to the submission of a certification relating to the change orders to date, to the satisfaction of the Borough Attorney and Engineer; and

BE IT FURTHER RESOLVED that certified copies of this resolution be forwarded to the Borough Administrator, Chief Financial Officer and Hellas Construction Inc.

ADOPTED: September 6, 2022

ATTEST:

Jennifer Santiago, Borough Clerk

I, Jennifer Santiago, Borough Clerk of the Borough of Highland Park, New Jersey, do hereby certify the above to be a true copy of a resolution adopted by the Borough Council of said Borough on the 6th day of September 2022.

Jennifer Santiago, Borough Clerk

RECORD OF COUNCIL VOTES

Council Member	Ayes	Nays	Abstain	Absent
Canavera				
Fine				
Foster				
George				
Hale				
Kim-Chohan				

Date: August 24, 2022 Certificate No.: 4
Job: HIGHLAND PARK HS TRACK AND FIELD

FTF # _____

To: BOROUGH OF HIGHLAND PARK Owner

This is to certify that HELLAS CONSTRUCTION, INC.

Contractor for HIGHLAND PARK HS TRACK AND FIELD is entitled to

payment in the amount of ONE HUNDRED SIXTY-SIX THOUSAND SEVEN HUNDRED AND ONE AND 77/100
\$166,701.77

for the period ending August 23, 2022 Payment No.: 4

Original Contract Amount	.....	<u>\$1,974,540.00</u>
Net Change Orders to Date	.....	<u>-\$84,896.00</u>
Revised Contract Amount	.....	<u>\$1,889,644.00</u>
Total Value of Work Performed to Date	.....	<u>\$1,867,923.25</u>
Less Retainage (2% )	.....	<u>(\$37,358.47)</u>
Net Value of Work Performed to Date	.....	<u>\$1,830,564.78</u>
Amount Previously Paid	.....	<u>(\$1,663,863.01)</u>
Net Amount Due	.....	<u>\$166,701.77</u>
Balance to Complete	.....	<u>\$59,079.22</u>

VENDOR CERTIFICATION AND DECLARATION		APPROVED BY	
I do solemnly declare and certify under the penalties of the law that the within bill is correct in all its particulars: that the articles have been furnished or services rendered as stated therein; that no bonus has been given or received by any person or persons within the knowledge of this claimant in connection with the above claim; that the amount therein stated is justly due and owing; and that the amount charged is a reasonable one.		Signature _____	
		Title _____	
CLAIMANT		BOROUGH OFFICER'S OR EMPLOYEE'S CERTIFICATION	
Signature <u>Tim Baskerville</u>		Having knowledge of the facts in the course of regular procedures, I certify that the materials and supplies have been received or the services rendered; said certification is based on delivery slips acknowledged by a municipal official or employee or other reasonable procedures.	
Title <u>Sr. Project Manager</u>			
<u>27-0074538</u>	<u>8/24/22</u>		
FEDERAL ID NO.	DATE	<u>Burt M. Koch</u>	BOROUGH ENGINEER
		SIGNATURE	TITLE

DO NOT WRITE BELOW THIS LINE

CWE ASSOCIATES
 3141 BORDENTOWN AVENUE
 PARLIN, NEW JERSEY 08859

DATE: AUGUST 24, 2022
 OUR FILE NO.: PHP00546.02

CHANGE ORDER NO. 2

PROJECT NAME: HIGHLAND PARK HS TRACK AND FIELD

OWNER: BOROUGH OF HIGHLAND PARK

CONTRACTOR: HELLAS CONSTRUCTION, INC.

You are hereby advised of the following changes in contract quantities or in the case of supplemental work, you agree to its performance by your firm at the prices stated herein.

LOCATION OF CHANGE
 HS TRACK AND FIELD

NATURE AND REASON FOR CHANGE
 DELETION OF PROPOSED WORK

The work would appear to qualify as a minor modification to affect economies, improve service and resolve minor problems. It does not appear to materially expand upon the size, nature, or scope of the project as it was originally described in the bid specification nor could the extra work reasonably be effectuated by a separate bid contract without imposing adverse cost consequences.

ITEM	DESCRIPTION	ORIGINAL QUANTITY U/M	UNIT PRICE	AMENDED QUANTITY	AMENDED EXTENSION	INCREASE/DECREASE
S-5	HIGHLAND PARK HS TRACK AND FIELD DELETION OF PA SYSTEM	0 L.S.	\$7,500.00	-1.00	(\$7,500.00)	(\$7,500.00)

CHANGE ORDER NO. 2 TOTAL:
 ORIGINAL CONTRACT AMOUNT:
 ADJUSTED CONTRACT AMOUNT BASED ON CHANGE ORDER NO.1
 ADJUSTED CONTRACT AMOUNT BASED ON CHANGE ORDER NO. 2

(\$7,500.00)
 \$1,974,540.00
 \$1,897,144.00
 \$1,888,644.00

Tim Backerwill
 CONTRACTOR Hellas Construction

Burt M. Koch
 BOROUGH ENGINEER

MAYOR

AUTHORIZED BY RESOLUTION NO.:

DATED:

PROJECT NO.: PHP00646.02
 PROJECT: HIGHLAND PARK HS TRACK AND FIELD
 DATE: August 24, 2022
 PAYMENT ESTIMATE NO. 4
 PERIOD: JULY 26, 2022 TO AUGUST 23, 2022
 OWNER: BOROUGH OF HIGHLAND PARK
 CONTRACTOR: HELLAS CONSTRUCTION, INC.

ITEM DESCRIPTION	BID QUANTITIES			PREVIOUS ESTIMATE			WORK COMPLETED		
	QUANTITY	UNIT	UNIT PRICE	TOTAL EXTENSION	PREVIOUS QUANTITY	TOTAL PRICE	CURRENT QUANTITY	TOTAL PRICE	
1 MOBILIZATION	1 L.S.		\$37,766.00	\$37,766.00	0.75	\$28,324.50	0.88	\$33,045.25	
2 SUBMITTALS, SHOP DRAWINGS, GEOTECH	1 L.S.		\$18,975.00	\$18,975.00	1.00	\$18,975.00	1.00	\$18,975.00	
3 BONDS AND INSURANCE	1 L.S.		\$31,429.00	\$31,429.00	1.00	\$31,429.00	1.00	\$31,429.00	
4 TURF REMOVAL AND DISPOSAL	1 L.S.		\$97,156.00	\$97,156.00	1.00	\$97,156.00	1.00	\$97,156.00	
5 DEMOLITION	1 L.S.		\$3,008.00	\$3,008.00	1.00	\$3,008.00	1.00	\$3,008.00	
6 CAMERA COLLECTOR LINES	1 L.S.		\$4,032.00	\$4,032.00	1.00	\$4,032.00	1.00	\$4,032.00	
7 REGRADING OF FIELD	1 L.S.		\$33,989.00	\$33,989.00	1.00	\$33,989.00	1.00	\$33,989.00	
8 TRACK SURFACE REMOVAL	1 L.S.		\$59,200.00	\$59,200.00	1.00	\$59,200.00	1.00	\$59,200.00	
9 MILLING AND REPAVING OF TRACK	1 L.S.		\$260,683.00	\$260,683.00	0.80	\$260,683.00	1.00	\$260,683.00	
10 REMOVING AND REPLACING LIGHT POLES	1 L.S.		\$327,158.00	\$327,158.00	0.00	\$261,726.00	1.00	\$327,158.00	
11 FINAL ELECTRICAL CONNECTION	1 L.S.		\$52,250.00	\$52,250.00	0.00	\$0.00	1.00	\$52,250.00	
12 TURF MATERIALS	1 L.S.		\$526,287.00	\$526,287.00	1.00	\$526,287.00	1.00	\$526,287.00	
13 TURF INSTALLATION	1 L.S.		\$87,933.00	\$87,933.00	1.00	\$87,933.00	1.00	\$87,933.00	
14 TRACK SURFACING MATERIALS	1 L.S.		\$369,472.90	\$369,472.90	1.00	\$369,472.90	1.00	\$369,472.90	
15 TRACK SURFACING INSTALLATION	1 L.S.		\$65,201.10	\$65,201.10	0.00	\$0.00	0.85	\$55,201.10	
ORIGINAL CONTRACT TOTAL			\$1,974,540.00	\$1,974,540.00	TOTAL:	\$1,782,215.40	TOTAL:	\$1,969,819.25	
9 CREDIT FOR MILLING AND PAVING 1.5" DEEP*	-1 L.S.		\$104,000.00	-\$104,000.00	-1.00	-\$104,000.00	-1.00	-\$104,000.00	
S-1 ADDITIONAL SOCCER MARKINGS*	1 L.S.		\$15,350.00	\$15,350.00	1.00	\$15,350.00	1.00	\$15,350.00	
S-2 FUEL AND ASPHALT INDEX MATERIAL ESCALATION*	1 L.S.		\$1,594.00	\$1,594.00	1.00	\$1,594.00	1.00	\$1,594.00	
S-3 UNDERCUT SOFT AREAS (15X7, 30X20)*	1 L.S.		\$2,660.00	\$2,660.00	1.00	\$2,660.00	1.00	\$2,660.00	
S-4 GOAL POST PAINTING*	1 L.S.		\$7,000.00	\$7,000.00	0.00	\$0.00	0.00	\$0.00	
S-5 DELETION OF PA SYSTEM**	-1 L.S.		\$7,500.00	-\$7,500.00	0.00	\$0.00	-1.00	-\$7,500.00	
CONTRACT TOTAL:			\$1,889,644.00	\$1,889,644.00	TOTAL:	\$1,697,819.40	TOTAL:	\$1,687,923.25	

The undersigned CONTRACTOR certifies that (1) all previous Progress payments received from OWNER in
 accounts of Work done under the Contract referred to above have been applied to discharge in full
 all obligations of CONTRACTOR incurred in connection with Work covered by Prior Payment Estimate;
 and (2) that all materials and equipment incorporated in said Work or otherwise listed in or
 covered by this Payment Estimate will pass to OWNER at time of payment, free and clear of all liens,
 claims, security interests and encumbrances (except such as covered by Bond acceptable to OWNER).

PREPARED BY: *Tim Bakerville*
 CONTRACTOR: HELLAS CONSTRUCTION, INC.
 APPROVED BY: *Bruce M. Koch*
 BOROUGH ENGINEER'S OFFICE/OfficE Associates
 CURRENT TO-DATE TOTAL \$1,887,923.25
 LESS RETAINAGE @ 2% (\$37,358.47)
 BALANCE \$1,830,564.78
 LESS PREVIOUS PAYMENTS (\$1,663,863.01)
 BALANCE DUE \$166,701.77

**BOROUGH OF HIGHLAND PARK
RESOLUTION NO. 9-22-217**

RESOLUTION AMENDING PROFESSIONAL SERVICES AGREEMENT FOR SPECIAL ENVIRONMENTAL COUNSEL – JSM VS. HIGHLAND PARK

WHEREAS, on March 3, 2020, the Borough of Highland Park engaged McManimon, Scotland & Baumann to serve as Special Environmental Counsel to assist the Borough in its representation in the matter known as JSM at Highland Park, LLC v. the Borough of Highland Park, Docket No. MID-L-4958-17; and

WHEREAS, there is a need to authorize an additional work on this case beyond the \$200,000.00 previously authorized by Borough Council and that additional amount is not to exceed \$50,000.00; and

WHEREAS, the Borough has funds available for this purpose in Current Fund Account No. 2-01-20-155-235, as reflected by the Certification of Funds Available by the Chief Financial Officer, no. 2022-32.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Highland Park in the County of Middlesex that the Council does hereby authorize an increase to the contract with McManimon, Scotland and Baumann, in accordance with the above-stated limitations.

BE IT FURTHER RESOLVED that certified copies of this resolution shall be forwarded to the Borough Administrator and Assistant Finance Officer.

ADOPTED: September 6, 2022

ATTEST:

Jennifer Santiago, Borough Clerk

I, Jennifer Santiago, Borough Clerk of the Borough of Highland Park, New Jersey, do hereby certify the above to be a true copy of a resolution adopted by the Council of said Borough on the 6th day of September, 2022.

Jennifer Santiago, Borough Clerk

RECORD OF COUNCIL VOTES

Council Member	Ayes	Nays	Abstain	Absent
Canavera				
Foster				
George				
Hale				
Hersh				
Kim-Chohan				

**BOROUGH OF HIGHLAND PARK
RESOLUTION NO. 9-22-218**

**RESOLUTION AMENDING PROFESSIONAL SERVICES AGREEMENT WITH
GEI CONSULTANTS FOR GEOTECHNICAL EXPERT WITNESS SERVICES
RELATED TO LITIGATION – JSM vs. HIGHLAND PARK**

WHEREAS, on June 14, 2022, the Borough of Highland Park engaged GEI Consultants to provide geotechnical engineering expert witness services in connection with litigation entitled JSM at Highland Park, LLC v. The Borough of Highland Park, Docket No. MID-L-4958-17; and

WHEREAS, there is a need to authorize additional work on this case beyond the \$13,000 previously authorized by Borough Council by Resolution 6-22-157 adopted on June 14, 2022 and that additional amount is not to exceed \$12,000 as outlined in the attached proposal; and

WHEREAS, funds are available for this purpose in the amount of \$12,000.00 in account no. 2-01-20-155-235 provided for by the 2022 Municipal Budget, as reflected by the Certification of Funds Available by Chief Financial Officer Certification no 2022-31.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Highland Park in the County of Middlesex that the Council does hereby authorize an increase to the contract with GEI Consultants, in accordance with the above-stated limitations; and

BE IT FURTHER RESOLVED that certified copies of this resolution shall be forwarded to the Borough Administrator and Assistant Finance Officer.

ADOPTED: September 6, 2022

ATTESTED:

Jennifer Santiago, Borough Clerk

I, Jennifer Santiago, Borough Clerk of the Borough of Highland Park, New Jersey, do hereby certify the above to be a true copy of a resolution adopted by the Borough Council of said Borough on the 6th day of September, 2022.

Jennifer Santiago, Borough Clerk

RECORD OF COUNCIL VOTES

Council Member	Ayes	Nays	Abstain	Absent
Canavera				
Foster				
George				
Hale				
Hersh				
Kim-Chohan				



Consulting
Engineers and
Scientists

Revised August 12, 2022
August 6, 2022
Project 2201947

VIA EMAIL: etomaszewski@msbnj.com

Borough of Highland Park
c/o Mr. Eric E. Tomaszewski, Esq.
McManimon, Scotland & Baumann, LLC
75 Livingston Avenue
Roseland, NJ 07068

Dear Eric:

**Re: Revised Proposal for Supplemental Professional Engineering Expert Services
JSM at Highland Park, LLC v. Borough of Highland Park**

GEI Consultants, Inc. appreciates the opportunity to provide you with this revised proposal for supplemental expert services related to the defense against plaintiff claims in the case of JSM at Highland Park, LLC v. Borough of Highland Park.

Supplemental Scope of Services

GEI's work for this project included the following:

- Initial proposal, scope, and project budget estimate. [~5 hours]
- Effort expended from beginning of project through finalization of report (includes project management, review of documents, a site visit, development of expert opinions and scenario cost estimates, and expert report). [~70 hours]

Our initial budget of \$10,000 covers approximately 38 hours of the above work effort with an overage of about 37 hours. We recommend increasing our budget by \$15,000 for supplemental services, which will be drawn against to provide the following:

- Effort expended in excess of our initial budget as indicated above. [~37 hours]
- Effort to prepare for and participate in depositions related to expert opinions as well as project management of that effort. [~16 hours]

We will notify you when we are close to reaching this budget amount to discuss the scope of services and any needed additional budget authorizations.

GEI's services will be provided according to our executed Standard Professional Services Agreement with you. If this proposal is acceptable, please sign below and return to us, which will serve as our authorization to proceed with this additional work.

Thank you for the opportunity to provide these services. We look forward to continued work on this project with you. If you have any questions, please call Sean DiBartolo at 973-873-7115.

Sincerely,

GEI CONSULTANTS, INC.



Sean T. DiBartolo, P.E., CFM, LEED AP
Senior Geotechnical Engineer/Project Manager



Joseph G. Engels, P.E.
Vice President

STD/JGE:cem
Enclosures

\\bos1v-FS02\Data_Storage\Working\HIGHLAND PK NJ BOROUGH\2201947 Highland Pk Litigation Support\02_PM\Additional Scope_2022-08-06\Proposal Supp Services - Highland Park v. JSM at Highland Park LLC v1.docx

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Accepted by:

BOROUGH OF HIGHLAND PARK

(Signature)

(Title)

(Typed/Printed Name)

(Date)

**BOROUGH OF HIGHLAND PARK
RESOLUTION NO. 9-22-219**

RESOLUTION AUTHORIZING PURCHASE, PROGRAMMING AND INSTALLATION OF
COMMUNICATIONS EQUIPMENT FOR THE HIGHLAND PARK FIRE DEPARTMENT
UNDER STATE CONTRACT

WHEREAS, under the terms and conditions of the Public Contracts Law of the State of New Jersey, a municipality may purchase and/or rent items without competitive bidding from a firm or corporation currently under contract with the State of New Jersey; and

WHEREAS, the Borough of Highland Park Fire Department is in need communications equipment, specifically a desktop base station for the firehouse dispatch office, mobile radio units for vehicles capable of multiband talk groups, and 30 portable radios; and

WHEREAS, the Borough of Highland Park Police Department has 30 portable radios available for use by the Fire Department pending reprogramming; and

WHEREAS, under State Contract No. 83932, the Borough may contract with Tactical Public Safety for the purchase and installation of a Harris desktop station for a cost of \$3,883.10, purchase and installation of four (4) Harris mobile radio units for a cost of \$24,963.72, and reprogramming services for 30 Borough-owned Harris portable radios for a cost of \$1,875.00; and

WHEREAS, funds for this purpose are available in Current Fund Account No. 2-01-25-265-227, for an amount not to exceed \$30,721.82 as reflected by the certification of funds by the Chief Financial Officer, no. 2022-33.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Highland Park that the Borough Administrator and Borough Clerk are hereby authorized and directed to arrange for the purchase, installation and reprogramming of the aforesaid communications equipment from Tactical Public Safety, 1036 Industrial Drive, West Berlin, NJ 08091.

BE IT FURTHER RESOLVED that certified copies of this resolution be forwarded to Borough Administrator, Chief Financial Officer and Fire Supervisor.

ADOPTED: September 6, 2022

ATTEST:

Jennifer Santiago, Borough Clerk

I, Jennifer Santiago, Borough Clerk of the Borough of Highland Park, New Jersey, do hereby certify the above to be a true copy of a resolution adopted by the Borough Council of said Borough on the 6th day of September 2022.

Jennifer Santiago, Borough Clerk

RECORD OF COUNCIL VOTES

Council Member	Ayes	Nays	Abstain	Absent
Canavera				
Foster				
George				
Hale				
Hersh				
Kim-Chohan				

Tactical Public Safety

Next Generation Technologies for Today's Public Safety Agencies

Quotation

Highland Park Fire
 Desktop Station
 August 30, 2022



The following quote is per the Harris NJ state contract 83932

Sales Person		Quote Guarantee	Cust. Contact	Contact Phone	PO Required	Quote #	State Contract	Terms
Peter Donato			Mike Gallagher	732-316-7171	Yes			Net-30
Qty	Part Number	Description			Unit List	Discount	Unit Price	Ext. Price
1	DM-M78B	XG-25 MOBILE, SCAN 700/800 MHZ			\$ 2,100.00	24%	\$ 1,596.00	\$ 1,596.00
1	DM-PKGPT	FEATURE SET, P25 TRUNKING			\$ 750.00	24%	\$ 570.00	\$ 570.00
1	DM-PL4F	FEATURE SET, P25 PHASE 2 TDMA			\$ 250.00	24%	\$ 190.00	\$ 190.00
1	DM-PL8Y	FEATURE, ENCRYPTION LITE			\$ 0.01	24%	\$ 0.01	\$ 0.01
1	DM-PL9E	FEATURE, SINGLE KEY AES ENCRYPTION			\$ 0.01	24%	\$ 0.01	\$ 0.01
1	DM-PL4U	FEATURE, SINGLE KEY DES ENCRYPTION			\$ 0.01	24%	\$ 0.01	\$ 0.01
1	DM-PKG8F	Feature, 256-AES, 64-DES Encryption			\$ 595.00	24%	\$ 452.20	\$ 452.20
1	DM-ZN9X	KIT, ACCESSORIES			\$ 195.00	24%	\$ 148.20	\$ 148.20
2	LABOR	INSTALLATION			\$ 125.00	0%	\$ 125.00	\$ 250.00
1	PS-HDPS2X	POWER SUPPLY			\$ 383.00	24%	\$ 291.08	\$ 291.08
1	DM-MC9U	DESKTOP MICROPHONE			\$ 295.00	24%	\$ 224.20	\$ 224.20
1	AN-225001-004	ANTENNA ELEMENT 700/800 LOW PROFILE 2db			\$ 60.00	24%	\$ 45.60	\$ 45.60
1	AN-125001-007	ANTENNA, BASE, MAGNETIC			\$ 70.00	24%	\$ 53.20	\$ 53.20
1		PROGRAMMING			\$ 62.59	0%	\$ 62.59	\$ 62.59
TOTAL:							\$	3,883.10

Tactical Public Safety

Next Generation Technologies for Today's Public Safety Agencies

Quotation

Highland Park Fire
 XL-200 Portable and Mobile
 November 11, 2021



The following quotation is per the Harris New Jersey State Contract # A 83932

Sales Person		Quote Guarantee	Cust. Contact	Contact Phone	PO Required	Quote #	State Contract	Terms
Peter Donato		NJ St Contract	Mike Gallagher	732-316-7171	Yes			Net-30
Qty	Part Number	Description			Unit List	Discount	Unit Price	Ext. Price
4	XL-PFM1M	XL-200 PORTABLE			\$ 2,900.00	24%	\$ 2,204.00	\$ 8,816.00
4	XL-PKGF1	FEATURE, ALL BANDS			\$ 1,500.00	24%	\$ 1,140.00	\$ 4,560.00
4	XL-PKGPT	Feature Package, P25 Trunking			\$ 1,500.00	24%	\$ 1,140.00	\$ 4,560.00
4	XL-PL4F	Feature Package, P-25 Phase2 TDMA			\$ 250.00	24%	\$ 190.00	\$ 760.00
4	XL-NC5Z	Antenna, All Band			\$ 100.00	24%	\$ 76.00	\$ 304.00
4	XL-HC3L	Belt Clip			\$ 25.00	24%	\$ 19.00	\$ 76.00
4	XL-AE4B	Speaker Microphone			\$ 175.00	24%	\$ 133.00	\$ 532.00
8	XL-PA3V	Battery LI-ION			\$ 150.00	24%	\$ 114.00	\$ 912.00
4	XL-PL8Y	Feature, Encryption Lite (ADP)			\$ 0.01	0%	\$ 0.01	\$ 0.04
4	XL-PL4U	Feature, Single Key DES Encryption			\$ 0.01	0%	\$ 0.01	\$ 0.04
4	XL-PL9E	Feature, Single Key AES Encryption			\$ 0.01	0%	\$ 0.01	\$ 0.04
4	XL-CH4X	Desk Charger			\$ 150.00	24%	\$ 114.00	\$ 456.00
4	XL-PKG8F	P25 Encryption			\$ 695.00	24%	\$ 528.20	\$ 2,112.80
4	XL-CH4W	Charger, Vehicular			\$ 175.00	24%	\$ 133.00	\$ 532.00
4	XL-HC4L	Case, Leather, Premium, Shoulder Strap			\$ 140.00	24%	\$ 106.40	\$ 425.60
4	XL-HC3J	Strap, Leather			\$ 55.00	24%	\$ 41.80	\$ 167.20
4		Programming			\$ 62.50	0%	\$ 62.50	\$ 250.00
4	LABOR	Installation of Vehicular Chargers			\$ 125.00	0%	\$ 125.00	\$ 500.00
CONTINUED ON PAGE 2							TOTAL:	\$ 24,963.72

Tactical Public Safety

Next Generation Technologies for Today's Public Safety Agencies

Quotation

Highland Park Fire
PROGRAMMING
August 9, 2022



The Following Quotation is Per The Harris NJ State Contract A83932

Quotation

Sales Person		Quote Guarantee	Cust. Contact	Contact Phone	PO Required	Terms
Peter Donato		NJ St Contract	Mike Gallagher	732-316-7171	Yes	Net-30
Qty	Part Number	Description			Unit Price	Ext. Price
30	Programming	Programming of existing customer owned radios			\$ 62.50	\$ 1,875.00
					TOTAL:	\$ 1,875.00

**BOROUGH OF HIGHLAND PARK
RESOLUTION NO. 9-22-220**

RESOLUTION AUTHORIZING APPROVAL OF BILLS LIST

BE IT RESOLVED by the Borough Council of the Borough of Highland Park that all claims presented prior to this meeting as shown on a detailed list prepared by the Borough Treasurer, and which have been submitted and approved in accordance with Highland Park Ordinance No. 1004, shall be and the same are hereby approved; and

BE IT FURTHER RESOLVED that the Borough Clerk shall include in the minutes of this meeting a statement as to all such claims approved as shown in a Bills List Journal in accordance with said Ordinance.

The bills approved for payment at this meeting, Bills List 9/6/2022 can be found in the Bills List Journal Book No. 42.

ADOPTED: September 6, 2022

ATTEST:

Jennifer Santiago, Borough Clerk

I, Jennifer Santiago, Deputy Clerk of the Borough of Highland Park, New Jersey, do hereby certify the above to be a true copy of a resolution adopted by the Borough Council of said Borough on the 6th day of September 2022.

Jennifer Santiago, Borough Clerk

RECORD OF COUNCIL VOTES

Council Member	Ayes	Nays	Abstain	Absent
Canavera				
Foster				
George				
Hale				
Hersh				
Kim-Chohan				

[Type here]

**BOROUGH OF HIGHLAND PARK
NO. 9-22-221**

RESOLUTION AUTHORIZING THE PLANNING BOARD TO CONDUCT AN AREA IN NEED OF REDEVELOPMENT INVESTIGATION OF CERTAIN PROPERTY IDENTIFIED AS BLOCK 3002, LOTS 1, 2, 3, 4, 5, 6, 7, 8, 30, 34, 35, AND 37 ON THE BOROUGH'S TAX MAP TO DETERMINE WHETHER THE PLANNING BOARD FINDS THAT THE PROPERTY SATISFIES THE LOCAL REDEVELOPMENT AND HOUSING LAW 'IN NEED' CRITERIA AND SHOULD BE DECLARED IN NEED OF REDEVELOPMENT WITHOUT CONDEMNATION POWERS

WHEREAS, the Local Redevelopment and Housing Law (the "LRHL"), N.J.S.A. 40A:12A-1 et seq., as amended and supplemented authorizes municipalities to determine whether certain parcels of land within the municipality constitute an area in need of redevelopment; and

WHEREAS, the Borough Council has determined to authorize the Highland Park Planning Board (the "**Planning Board**") to conduct a preliminary investigation of the grocery store property and certain other parcels adjacent to same identified on the Borough Tax Maps as BLOCK 3002, LOTS 1, 2, 3, 4, 5, 6, 7, 8, 30, 34, 35, and 37, along with all streets and rights of way appurtenant thereto (collectively, the "**Study Area**") to determine whether all or a portion of the Study Area meets the criteria set forth in the LRHL, and whether all or a portion of said Study Area should be designated as an area in need of redevelopment; and

WHEREAS, the Study Area is currently designated as an "area in need of rehabilitation"; and

WHEREAS, the redevelopment area determination requested hereunder, in connection with the Study Area authorizes Borough Council to use all those powers provided by the LRHL for use in a redevelopment area except the power of eminent domain (a "**Non-Condemnation Redevelopment Area**"); and

WHEREAS, the Borough Council therefore authorizes and directs the Planning Board to conduct a preliminary investigation of the Study Area and to make recommendations to the Borough Council all in accordance with the LRHL,

NOW THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Highland Park, New Jersey as follows:

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

Section 2. The Planning Board is hereby authorized and directed to conduct an investigation, pursuant to the LRHL to determine if the Study Area satisfies the criteria set forth in the LRHL and should be designated a "Non-condemnation Redevelopment Area."

Section 3. As part of its investigation, the Planning Board shall prepare a map showing the boundaries of the Study Area and the location of the parcel contained therein and appended thereto shall be a statement setting forth the basis of investigation.

Section 4. The Planning Board shall conduct a public hearing in accordance with the LRHL, after giving due notice of the proposed boundaries of the Study Area and the date of the hearing to any persons who are interested in or would be affected by a determination that the Study Area shall be an area in need of redevelopment.

Section 5. At the public hearing, the Planning Board shall hear from all persons who are interested in or would be affected by a determination that the Study Area is an area in need of redevelopment and evidence in support of those objection shall be received and considered by the Planning Board and shall be made part of the public record.

Section 6. After conducting its investigation, preparing a map of the Study Area and conducting a public hearing at which all objections to the proposed designation are received and considered, the Planning Board shall make a recommendation to the Borough Council as to whether the Borough Council should designate all or a portion of the Study Area as a Non-condemnation Redevelopment Area.

Section 7. If any part of this resolution shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Resolution.

Section 8. A copy of this resolution shall be filed in the Office of the Borough Clerk.

ADOPTED: September 6, 2022

ATTEST:

Jennifer Santiago, Borough Clerk

I, Jennifer Santiago, Borough Clerk of the Borough of Highland Park, New Jersey, do hereby certify the above to be a true copy of a resolution adopted by the Borough Council of said Borough on the 6th day of September 2022.

Jennifer Santiago, Borough Clerk

RECORD OF COUNCIL VOTES

Council Member	Ayes	Nays	Abstain	Absent
Canavera				
Foster				
George				
Hale				
Hersh				
Kim-Chohan				

BOROUGH OF HIGHLAND PARK
NO. 9-22-222

RESOLUTION AUTHORIZING LRK TO CONDUCT A PRELIMINARY INVESTIGATION TO DETERMINE IF BLOCK 3002, LOTS 1, 2, 3, 4, 5, 6, 7, 8, 30, 34, 35, AND 37 ON THE BOROUGH'S TAX MAP SATISFIES THE LOCAL REDEVELOPMENT AND HOUSING LAW 'IN NEED' CRITERIA AND SHOULD BE DECLARED IN NEED OF REDEVELOPMENT WITHOUT CONDEMNATION POWERS AND PREPARE A REDEVELOPMENT PLAN FOR SUCH AREA

WHEREAS, the Local Redevelopment and Housing Law (the "LRHL"), N.J.S.A. 40A:12A-1 et seq., as amended and supplemented authorizes municipalities to determine whether certain parcels of land within the municipality constitute an area in need of redevelopment; and

WHEREAS, the Borough Council has determined to authorize the Highland Park Planning Board (the "**Planning Board**") to conduct a preliminary investigation of the grocery store property and certain other parcels adjacent to same identified on the Borough Tax Maps as BLOCK 3002, LOTS 1, 2, 3, 4, 5, 6, 7, 8, 30, 34, 35, and 37, along with all streets and rights of way appurtenant thereto (collectively, the "**Study Area**") to determine whether all or a portion of the Study Area meets the criteria set forth in the LRHL, and whether all or a portion of said Study Area should be designated as an area in need of redevelopment; and

WHEREAS, the Study Area is currently designated as an "area in need of rehabilitation"; and

WHEREAS, because the Study Area is currently in an "area in need of rehabilitation" the Borough Council also authorized the preparation of a redevelopment plan; and

WHEREAS, LRK provided the Borough with a proposal, attached hereto as Exhibit A (the "**Area in Need Study Proposal**"), setting forth the manner and costs of the preparation of an area in need study for the Study Area; and

WHEREAS, LRK provided the Borough with a proposal, attached hereto as Exhibit B (the "**Redevelopment Plan Proposal**"), setting forth the manner and costs of the preparation of a redevelopment plan for the Study Area; and

WHEREAS, the Borough wishes to enter into an agreement with LRK for a term to expire either within one (1) year after the effective date of such agreement, or upon the completion the area in need study for the Study Area, whichever is earlier, and for a contract amount not to exceed Seventeen Thousand Dollars (\$17,000.00), to be paid in accordance with the rates set forth in the Area in Need Study Proposal; and

WHEREAS, the Borough wishes to enter into an agreement with LRK for a term to expire either within one (1) year after the effective date of such agreement, or upon the completion of a redevelopment plan for the Study Area, whichever is earlier, and for a contract amount not to exceed Thirty-Six Thousand Dollars (\$36,000.00), to be paid in accordance with the rates set forth in the Redevelopment Plan Proposal; and

WHEREAS, the Borough hereby certifies that it has funds available to compensate LRK for the preparation of an area in need study and the preparation of a redevelopment plan for the Study Area in Account No. C-04-55-814-001 for an amount not to exceed \$53,000, as reflected by the certification of funds by the Chief Financial Officer, no. 2022-33; and

WHEREAS, said services are of a professional nature as to come within the purview of the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., as being contracts for rendition of professional services that do not require competitive bidding; and

WHEREAS, notice of the award of these contracts shall be published in a newspaper of general circulation in accordance with N.J.S.A. 40A:11-5(1)(a)(i),

NOW THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Highland Park, New Jersey:

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

Section 2. The Borough Council hereby authorizes a professional services contract with LRK for a term to expire either within one (1) year after the effective date of such agreement, or upon the completion of the area in need study for the Study Area, whichever is earlier, and for a contract amount not to exceed Seventeen Thousand Dollars (\$17,000.00), to be paid in accordance with the rates set forth in the Area in Need Study Proposal, all subject to the terms and conditions of the Borough’s form professional services agreement.

Section 3. The Borough Council hereby authorizes a professional services contract with LRK for a term to expire either within one (1) year after the effective date of such agreement, or upon the completion of a redevelopment plan for the Study Area, whichever is earlier, and for a contract amount not to exceed Thirty-Six Thousand Dollars (\$36,000.00), to be paid in accordance with the rates set forth in the Redevelopment Plan Proposal, all subject to the terms and conditions of the Borough’s form professional services agreement.

Section 4. The Mayor is hereby authorized and directed to execute professional services contracts in the form of the Area in Need Study Proposal and Redevelopment Plan Proposal attached hereto as Exhibit A and Exhibit B, with such changes, omissions or amendments as the Mayor deems appropriate in consultation with the Borough’s counsel and professionals.

Section 5. The Borough Clerk is hereby authorized and directed, upon execution of the Area in Need Study Proposal and Redevelopment Plan Proposal in accordance with Section 4 hereof, to attest to the signature of the Mayor upon such documents and is hereby further authorized and directed to affix the corporate seal of the Borough upon such documents.

Section 6. This Resolution shall take effect immediately.

Section 7. A copy of this resolution shall be filed in the Office of the Borough Clerk.

ADOPTED: September 6, 2022

ATTEST:

Jennifer Santiago, Borough Clerk

I, Jennifer Santiago, Borough Clerk of the Borough of Highland Park, New Jersey, do hereby certify the above to be a true copy of a resolution adopted by the Borough Council of said Borough on the 6th day of September 2022.

Jennifer Santiago, Borough Clerk

RECORD OF COUNCIL VOTES

Council Member	Ayes	Nays	Abstain	Absent
Canavera				
Foster				
George				
Hale				
Hersh				
Kim-Chohan				

**Professional Services Agreement to
Perform a Preliminary Investigation of
Stop & Shop and Adjacent Commercial Properties
Block 3002, Lots 3, 4, 5, 6, 8, 30 & 37;
Block 3002, Lot 2; and Block 3002, Lots 1, 34, 35 & 36
as a Non-Condemnation Redevelopment Area**

This agreement made and entered into this 6TH day of September, 2022, by and between the Borough of Highland Park, a municipal corporation of the State of New Jersey, hereinafter referred to as the "Borough," and LRK Inc. (LRK), a planning and community design firm whose address is Public Ledger Building, Suite 756, 150 S. Independence Mall West, Philadelphia, PA 19106, hereinafter referred to as the "Contractor."

WHEREAS, the Borough Council, at its regular meeting of September 6, 2022 passed Resolution No. 9-22-222 authorizing the Planning Board to undertake a Preliminary Investigation to determine whether certain properties under various ownership and having various addresses on Raritan Avenue, which also have frontage on South Fifth Avenue and South Fourth Avenue, and specifically designated as **Block 3002, Lots 3, 4, 5, 6, 8, 30 & 37; Block 3002, Lot 2; and, Block 3002, Lots 1, 34, 35 & 36** as shown on the official Tax Map of the Borough of Highland Park, hereinafter referred to as "Study Area," qualifies under New Jersey's Local Redevelopment and Housing Law (N.J.S.A. 40A:12A-1 et seq.) as a "Non-Condemnation Area in Need of Redevelopment."

NOW, THEREFORE, BE IT AGREED between the Borough and the Contractor that the Borough Council will retain the services of the Contractor to perform a Preliminary Investigation to determine whether part of the entirety of the Study Area as defined above is a "Non-Condemnation Area in Need of Redevelopment Area" in accordance with statutory criteria as set forth in the Local Redevelopment and Housing Law.

COMPENSATION

Services for the Preliminary Investigation of the Study Area will be provided for a **fixed fee of \$13,500**. Additionally, services related to the preparation for and attendance at Planning Board meeting(s) and Redevelopment Entity / Borough Council meeting(s) in support of the project will be provided as **time and materials not to exceed \$3,500**, with hourly rates and reimbursable expenses as outlined in Exhibit B.

In summary, the TOTAL fee will not exceed \$17,000.

SERVICES RELATING TO ANY ARBITRATION, MEDIATION, OR LAWSUIT

Any and all efforts, reports, reviews, meetings, consultations, depositions, appearances, etc. requested of the Contractor or its forces and subconsultants relating or pertaining to any form of arbitration, mediation or lawsuit between the Borough and any third party will be provided; and compensation will be invoiced to the Borough at then current LRK hourly rates.

MANDATORY LANGUAGE

The Contractor and the Borough hereby incorporate into this Agreement the mandatory language of N.J.A.C. 17:27-1 et seq., promulgated pursuant to N.J.S.A. 10:5-31 et seq. (P.L. 1975, c. 127, as it shall be amended and supplemented from time to time), and the Contractor agrees to comply fully with the terms, provisions and conditions regarding affirmative action which are included herein as Exhibit A to this Agreement. The Contractor has previously filed with the Borough Clerk, the employee information report (Form AA302), which is still in effect.

PROFESSIONAL LIABILITY

Due to the nature of providing planning consulting services, it is understood and agreed that any and all liabilities of the Contractor relating to or arising out of this Agreement shall be limited to a maximum of the net fee received by the Contractor for all services rendered for each respective Project or part thereof, not including reimbursable expenses and subconsultants.

INDEMNIFICATION

The Contractor hereby agrees and covenants to indemnify the Borough against any and all obligations or liabilities, indebtedness, claims, demands, suits or causes of action resulting from the performance of the within contract insofar as such consequences result from acts which constitute professional negligence or intentional torts of The Contractor, its agents, servants or employees.

INSURANCE

The Contractor shall maintain or cause to be maintained in full force and effect insurance in such amounts and against such risks as follows:

- (a) Special form, comprehensive, or commercial General Liability Insurance coverage against claims for personal injury, death or property damage in an amount of not less than One Million Dollars and Zero Cents (\$1,000,000.00) with respect to injury or death of a single person and in the aggregate, and One Million Dollars and Zero Cents (\$1,000,000.00) with respect to property damage.
- (b) Workers Compensation Insurance coverage in the statutory amount. Employer's Liability Insurance coverage in an amount not less than Five Hundred Thousand Dollars and Zero Cents (\$500,000.00) each accident; and,
- (c) Professional Liability Insurance coverage in an amount of not less than One Million Dollars and Zero Cents (\$1,000,000.00) for each claim.

Upon the execution of this Agreement, as well as upon the Borough's request from time to time, the Contractor shall provide to the Borough a certificate of insurance evidencing the coverages set forth above in (a) through (c) from an insurance company authorized to do business in New Jersey and having an A.M. Best Rating of

at least an "A-". The Contractor shall also provide, upon the Borough's reasonable request, complete copies of the above policies of insurance.

WRITTEN NOTICE

Any notices required to be given hereunder shall be in writing and, unless notified to the contrary, personally served or delivered, by registered mail, to the party's address as follows:

To the Borough: BOROUGH OF HIGHLAND PARK
 221 SOUTH FIFTH AVENUE
 HIGHLAND PARK, NEW JERSEY 08904
 ATTN: TERI JOVER, BOROUGH ADMINISTRATOR

To Contractor: LRK INC.
 PUBLIC LEDGER BUILDING, SUITE 756
 150 S. INDEPENDENCE MALL WEST
 PHILADELPHIA, PA 19106
 ATTN: JAMES CONSTANTINE, PP, PRINCIPAL

IN WITNESS THEREOF, the Borough of Highland Park and the Contractor have caused this Agreement to be duly executed by their proper agents who have been expressly authorized to execute this Agreement on their behalf as of the day and year first above written.

ATTEST:

Borough of Highland Park

By: _____

By: _____

JENNIFER SANTIAGO, Municipal Clerk

GAYLE BRILL MITTLER, Mayor

LRK INC.

By: _____

JAMES CONSTANTINE, PP, Principal

Exhibit A

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

N.J.S.A. 10:5-31 et seq. (P.L. 1975, C. 127)

N.J.A.C. 17:27

GOODS AND SERVICES CONTRACTS

(Mandatory Language pursuant to N.J.A.C. 17:27-3.5)

[The] contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

- i. Appropriate evidence that the contractor is operating under an existing federally approved or sanctioned affirmative action program;
- ii. A certificate of employee information report approval, issued in accordance with N.J.A.C. 17:27-4; or
- iii. An employee information report (Form AA302) electronically provided by the Division and distributed to the public agency, through the Division's website, to be completed by the contractor, in accordance with N.J.A.C. 17:27-4.

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that all employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the public agency compliance officer setting forth provisions of this nondiscrimination clause;

The contractor or subcontractor, where applicable, will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age,

race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor, where applicable, will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time.

(Mandatory Language pursuant to N.J.A.C. 17:27-3.7)

The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

(Reference Language pursuant to N.J.A.C. 17:27-11.1)

The contractor and its subcontractors shall furnish such reports and other documents to the Division or the Department as may be requested by the Division or the Department from time to time in order to carry out the purposes of these rules, and

public agencies shall furnish such information as may be requested by the Division or the Department for conducting a compliance investigation pursuant to N.J.A.C. 17:27-10.

ACKNOWLEDGEMENTS

PRINT NAME _____

SIGNATURE _____

TITLE _____

COMPANY NAME _____

ADDRESS _____

EXHIBIT B

COMPENSATION FOR SERVICES

The Contractor and staff shall be compensated by the Borough as per the Borough Planner Professional Services Agreement, at \$220/hour. It is noted that this hourly rate is subject to change as of January 1st, 2023.

Reimbursable expenses will be invoiced at direct cost multiplied by a 10% handling fee and will include travel expense, document printing and reproduction, overnight delivery service (such as FedEx), and all other authorized expenditures. Reimbursable expense shall be included in invoices for professional fees.

Such payment shall be full compensation for work performed or services rendered necessary, including reimbursable expenses, to complete the scope of work. Payments to the Contractor shall follow submission of the Contractor's monthly invoices and shall be made within 30 days from submission of each invoice.

**Professional Services Agreement to
Prepare a Redevelopment Plan for
Stop & Shop and Adjacent Commercial Properties
Block 3002, Lots 3, 4, 5, 6, 8, 30 & 37;
Block 3002, Lot 2; and Block 3002, Lots 1, 34, 35 & 36**

This agreement made and entered into this 6th day of September, 2022, by and between the Borough of Highland Park, a municipal corporation of the State of New Jersey, hereinafter referred to as the “Borough,” and LRK Inc. (LRK), a planning and community design firm whose address is Public Ledger Building, Suite 756, 150 S. Independence Mall West, Philadelphia, PA 19106, hereinafter referred to as the “Contractor.”

WHEREAS, the Borough Council, at its regular meeting of September 6, 2022 passed Resolution No. 9-22-222 authorizing a Redevelopment Plan for certain properties under various ownership and having various addresses on Raritan Avenue, which also have frontage on South Fifth Avenue and South Fourth Avenue, and specifically designated as **Block 3002, Lots 3, 4, 5, 6, 8, 30 & 37; Block 3002, Lot 2; and, Block 3002, Lots 1, 34, 35 & 36** as shown on the official Tax Map of the Borough of Highland Park, hereinafter referred to as “Project Area,” under New Jersey’s Local Redevelopment and Housing Law (N.J.S.A. 40A:12A-1 et seq.).

It is noted that the Project Area is presently designated as an “Area in Need of Rehabilitation,” and may be further designated as a “Non-Condemnation Area in Need of Redevelopment” if the Redevelopment Entity / Borough Council determines that the Project Area qualifies as such.

NOW, THEREFORE, BE IT AGREED between the Borough and the Contractor that the Borough Council will retain the services of the Contractor to prepare a Redevelopment Plan for the Project Area, which involves planning, development, redevelopment, or rehabilitation of the Project Area as defined above within the context of the North Raritan Avenue Corridor, including the following:

- Goals for the Redevelopment Plan and its relationship to definite local objectives as to appropriate land uses, density of population and improved traffic and public transportation, public utilities, recreational and community facilities and other public improvements;
- Proposed land uses and building requirements in the project area;
- Adequate provision for the temporary and permanent relocation as necessary of residents in the project area including an estimate of the extent to which decent, safe and sanitary dwelling units affordable to displaced residents will be available to them in the existing local housing market;
- An identification of any property within the redevelopment area proposed to be acquired in accordance with the redevelopment plan;

- Any significant relationship of the redevelopment plan to the master plans of contiguous municipalities, the master plan of the County in which the municipality is located, and the State Development and Redevelopment Plan adopted pursuant to the "State Planning Act" P.L. 1985, c. 398 (N.J.S.A. 52:18A-196, et seq.).
- As of the date of the adoption of the resolution finding the area to be in need of redevelopment, an inventory of all housing units affordable to low- and moderate-income households, as defined pursuant to section 4 of P.L. 1985 c. 222 (N.J.S.A. 52:27D-304), that are to be removed as a result of implementation of the redevelopment plan, whether as a result of subsidies or market conditions listed by affordability level, number of bedrooms, and tenure.
- A plan for the provision, through new construction or substantial rehabilitation of one comparable, affordable replacement housing unit for each affordable housing unit that has been occupied at any time within the last 18 months, that is subject to affordability controls and that is identified as to be removed as a result of implementation of the redevelopment plan.

Additionally, the Redevelopment Plan shall describe its relationship to pertinent municipal development regulations as defined in the "Municipal Land Use Law," P.L.1975, c. 291 (C. 40:55D-1 et seq.) and be prepared to clearly indicate whether the redevelopment plan shall supersede applicable provisions of the development regulations of the municipality or constitute an overlay zoning district within the Project Area. In the case of a superseding plan, the ordinance adopting the redevelopment plan shall contain an explicit amendment to the zoning district map included in the zoning ordinance.

COMPENSATION

Services for the Preliminary Investigation of the Study Area will be provided for a **fixed fee of \$28,000**, as outlined in Exhibit B. Additionally, services related to the preparation for and attendance at all additional meetings beyond those outlined in Exhibit B, including additional internal coordination meetings, community meetings and workshops, public presentations and hearings, Planning Board meeting(s), Redevelopment Entity / Borough Council meeting(s) as well as any revisions to the Redevelopment Plan as a result from comments received from the Planning Board and/or Redevelopment Entity / Borough Council, will be provided as **time and materials not to exceed \$8,000**, with hourly rates and reimbursable expenses as outlined in Exhibit C.

In summary, the TOTAL fee will not exceed \$36,000.

SERVICES RELATING TO ANY ARBITRATION, MEDIATION, OR LAWSUIT

Any and all efforts, reports, reviews, meetings, consultations, depositions, appearances, etc. requested of the Contractor or its forces and subconsultants relating or pertaining to any form of arbitration, mediation or lawsuit between the Borough and any third party will be provided; and compensation will be invoiced to the Borough at then current LRK hourly rates.

MANDATORY LANGUAGE

The Contractor and the Borough hereby incorporate into this Agreement the mandatory language of N.J.A.C. 17:27-1 et seq., promulgated pursuant to N.J.S.A. 10:5-31 et seq. (P.L. 1975, c. 127, as it shall be amended and supplemented from time to time), and the Contractor agrees to comply fully with the terms, provisions and conditions regarding affirmative action which are included herein as Exhibit A to this Agreement. The Contractor has previously filed with the Borough Clerk, the employee information report (Form AA302), which is still in effect.

PROFESSIONAL LIABILITY

Due to the nature of providing planning consulting services, it is understood and agreed that any and all liabilities of the Contractor relating to or arising out of this Agreement shall be limited to a maximum of the net fee received by the Contractor for all services rendered for each respective Project or part thereof, not including reimbursable expenses and subconsultants.

INDEMNIFICATION

The Contractor hereby agrees and covenants to indemnify the Borough against any and all obligations or liabilities, indebtedness, claims, demands, suits or causes of action resulting from the performance of the within contract insofar as such consequences result from acts which constitute professional negligence or intentional torts of The Contractor, its agents, servants or employees.

INSURANCE

The Contractor shall maintain or cause to be maintained in full force and effect insurance in such amounts and against such risks as follows:

- (a) Special form, comprehensive, or commercial General Liability Insurance coverage against claims for personal injury, death or property damage in an amount of not less than One Million Dollars and Zero Cents (\$1,000,000.00) with respect to injury or death of a single person and in the aggregate, and One Million Dollars and Zero Cents (\$1,000,000.00) with respect to property damage.
- (b) Workers Compensation Insurance coverage in the statutory amount. Employer's Liability Insurance coverage in an amount not less than Five Hundred Thousand Dollars and Zero Cents (\$500,000.00) each accident; and,
- (c) Professional Liability Insurance coverage in an amount of not less than One Million Dollars and Zero Cents (\$1,000,000.00) for each claim.

Upon the execution of this Agreement, as well as upon the Borough's request from time to time, the Contractor shall provide to the Borough a certificate of insurance evidencing the coverages set forth above in (a) through (c) from an insurance company authorized to do business in New Jersey and having an A.M. Best Rating of

at least an "A-". The Contractor shall also provide, upon the Borough's reasonable request, complete copies of the above policies of insurance.

WRITTEN NOTICE

Any notices required to be given hereunder shall be in writing and, unless notified to the contrary, personally served or delivered, by registered mail, to the party's address as follows:

To the Borough: BOROUGH OF HIGHLAND PARK
 221 SOUTH FIFTH AVENUE
 HIGHLAND PARK, NEW JERSEY 08904
 ATTN: TERI JOVER, BOROUGH ADMINISTRATOR

To Contractor: LRK INC.
 PUBLIC LEDGER BUILDING, SUITE 756
 150 S. INDEPENDENCE MALL WEST
 PHILADELPHIA, PA 19106
 ATTN: JAMES CONSTANTINE, PP, PRINCIPAL

IN WITNESS THEREOF, the Borough of Highland Park and the Contractor have caused this Agreement to be duly executed by their proper agents who have been expressly authorized to execute this Agreement on their behalf as of the day and year first above written.

ATTEST:

Borough of Highland Park

By: _____

By: _____

JENNIFER SANTIAGO, Municipal Clerk

GAYLE BRILL MITTLER, Mayor

LRK INC.

By: _____

JAMES CONSTANTINE, PP, Principal

Exhibit A

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

N.J.S.A. 10:5-31 et seq. (P.L. 1975, C. 127)

N.J.A.C. 17:27

GOODS AND SERVICES CONTRACTS

(Mandatory Language pursuant to N.J.A.C. 17:27-3.5)

[The] contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

- i. Appropriate evidence that the contractor is operating under an existing federally approved or sanctioned affirmative action program;
- ii. A certificate of employee information report approval, issued in accordance with N.J.A.C. 17:27-4; or
- iii. An employee information report (Form AA302) electronically provided by the Division and distributed to the public agency, through the Division's website, to be completed by the contractor, in accordance with N.J.A.C. 17:27-4.

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that all employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the public agency compliance officer setting forth provisions of this nondiscrimination clause;

The contractor or subcontractor, where applicable, will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age,

race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor, where applicable, will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time.

(Mandatory Language pursuant to N.J.A.C. 17:27-3.7)

The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

(Reference Language pursuant to N.J.A.C. 17:27-11.1)

The contractor and its subcontractors shall furnish such reports and other documents to the Division or the Department as may be requested by the Division or the Department from time to time in order to carry out the purposes of these rules, and

public agencies shall furnish such information as may be requested by the Division or the Department for conducting a compliance investigation pursuant to N.J.A.C. 17:27-10.

ACKNOWLEDGEMENTS

PRINT NAME _____

SIGNATURE _____

TITLE _____

COMPANY NAME _____

ADDRESS _____

EXHIBIT B

SCOPE OF SERVICES

The proposed scope of services is structured into two (2) distinct phases, with each phase consisting of specific tasks that follow a proven planning process related to the development of a Redevelopment Plan, as more specifically described below.

Phase 1. Project Coordination.

Task 1. Project Coordination & Kick-Off. The Contractor will provide general project coordination with the Borough, prepare base maps, outline the overall redevelopment planning process, and generally discuss initial analysis / programming and potential redevelopment concepts.

Fixed Fee: \$2,000.

Meetings: One (1) meeting.

Task 2. Initial Analysis & Programming. The Contractor will coordinate with the Borough to review applicable provisions of the Master Plan, generally review existing conditions, analyze as-of-right build-out potential under existing zoning, analyze potential development consistent with the Downtown Redevelopment Plan, prepare and review potential redevelopment sketch concepts and discuss potential zoning classifications for the Project Area.

Fixed Fee: \$2,500.

Meetings: One (1) internal review/coordination meeting.

Task 3. Preferred Redevelopment Concept(s). The Contractor will coordinate with the Borough to review potential redevelopment concepts for the Project Area, including sketch plan(s) and a 3D SketchUp model depicting potential infill development patterns, and developing potential zoning classifications / bulk regulations / detailed development and design standards. Ultimately, the purpose of this task is to build consensus on a redevelopment concept and zoning classifications / bulk regulations / design standards that are consistent with or otherwise designed to effectuate the goals & objectives of the Master Plan.

Fixed Fee: \$4,000.

Meetings: One (1) internal review/coordination meeting.

Task 4. Before & After Rendering(s). The Contractor will refine the 3D SketchUp Model to finalize potential redevelopment concepts for the Project Area, including developing potential design standards and overlaying associated design vocabulary on the 3D SketchUp model for the purposes of creating three (3) “before” and “after”

renderings at the following locations: 1) View Along Raritan Avenue, 2) View From South Fifth Avenue; and, 3) View From South Fourth Avenue.

Fixed Fee: Renderings: First rendering at \$3,500, and each additional rendering at \$1,500 each, for a total of \$6,500.

Meetings: One (1) internal review/coordination meeting.

Phase 2. Redevelopment Plan.

Following review of comments and feedback received from prior tasks, the Contractor will prepare the Redevelopment Plan, which is more specifically outlined below:

- **Chapter 1.0 Introduction** – This chapter will provide a general description of the municipality, including a brief overview of the municipal master plan, the rehabilitation designation, the Project Area and the role that the redevelopment planning process could play in the Project Area and the municipality as a whole.
- **Chapter 2.0 Redevelopment Statute** – This chapter will indicate the purpose of the Redevelopment Statute, describe the benefits of a redevelopment plan, an overview of the necessary procedures for adoption of a redevelopment plan, an overview of the redevelopment actions taken to date that apply to the Project Area, and identify the statutory requirements of a redevelopment plan in accordance with N.J.S.A. 40A:12A-7. Alternatively, the statutory requirements of a redevelopment plan may be separately provided in a standalone chapter following this chapter.
- **Chapter 3.0 Planning Context** – This chapter will briefly describe the existing conditions of the Project Area, including pertinent planning issues as identified during the master planning process, the development of this redevelopment plan, and/or site visit(s) as well as or identify existing land use and zoning designations. Alternatively, this chapter may be consolidated in a subsection within Chapter 1.0 Introduction.
- **Chapter 4.0 Statement of Goals & Objectives** – This chapter will provide for the primary purpose of the redevelopment plan which will serve the public health, safety and welfare of the community, and will provide for a list and description of various goals and objectives specific to the Project Area and, if applicable, potential community benefits that improve off-site or off-tract conditions.
- **Chapter 5.0 Proposed Land Uses & Building Requirements** – This chapter will provide an overview of basic requirements that effectuates the goals & objectives of the redevelopment plan, provide an overview of planned development within the Project Area, including a Project Area map and, if applicable, a Concept Plan generally illustrating the planned development within the Project Area.

This chapter will lay the framework of the various redevelopment requirements, including Land Use Standards (e.g., permitted principal and accessory uses), Bulk Standards (e.g., lot dimensional standards, building setbacks, coverage requirements and height requirements), Supplementary Standards (e.g., permitted projections and height exceptions), Development & Design Standards (e.g., Overall Circulation Standards, Parking, Streets, Sidewalks, Refuse & Recycling, Buffering & Screening, Landscaping, Lighting, Signage and Stormwater Management & Green Infrastructure), and Building Design Standards (e.g., Architectural

Design, Green Building and Environmental Sustainable Design, and Accessibility & Universal Design).

- **Chapter 6.0 General Provisions** – This chapter describes the various administrative procedures and other technical requirements pertaining to the redevelopment plan, including Redevelopment Entity, Redeveloper Selection, Redeveloper Agreement, public electric vehicle charging infrastructure, affordable housing and others.
- **Chapter 7.0 Development Plan Review & Approval** – This chapter describes the various administrative procedures pertaining to submission of an application for development as well as the Planning Board's purview.
- **Chapter 8.0 Relationship to of the Redevelopment Plan to Other Plans** – This chapter indicates the relationship of the redevelopment plan including the municipal zoning ordinance, municipal master plan, master plans of neighboring municipalities, master plan of Middlesex County, New Jersey State Development & Redevelopment Plan (including State Policy Map), North Jersey Transportation Planning Authority and any other relevant reports.

Fixed Fee: \$13,000

Meetings: Up to two (2) internal review/coordination meetings to review draft version Redevelopment Plan prior to its adoption.

EXHIBIT C

COMPENSATION FOR SERVICES

The Contractor and staff shall be compensated by the Borough as per the Borough Planner Professional Services Agreement, at \$220/hour. It is noted that this hourly rate is subject to change as of January 1st, 2023.

Reimbursable expenses will be invoiced at direct cost multiplied by a 10% handling fee and will include travel expense, document printing and reproduction, overnight delivery service (such as FedEx), and all other authorized expenditures. Reimbursable expense shall be included in invoices for professional fees.

Such payment shall be full compensation for work performed or services rendered necessary, including reimbursable expenses, to complete the scope of work. Payments to the Contractor shall follow submission of the Contractor's monthly invoices and shall be made within 30 days from submission of each invoice.

BOROUGH OF HIGHLAND PARK
NO. 9-22-223

RESOLUTION AUTHORIZING EXECUTIVE SESSION

RESOLUTION: Council as a Whole

WHEREAS, Section 8 of the Open Public Meetings Act permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, the Borough Council is of the opinion that such circumstances exist.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Highland Park, in the County of Middlesex, State of New Jersey, as follows:

1. The public shall be excluded from the closed session at close of tonight's open session.
2. The general nature of the subject matter to be discussed is as follows:

Attorney-Client Privilege Briefing
3. It is anticipated at this time that the above stated subject matter will be made public when these matters are resolved or as soon thereafter as it is deemed to be in the public interest to do so.
4. This Resolution shall take effect immediately.

ADOPTED: September 6, 2022

ATTEST:

Jennifer Santiago, Borough Clerk

I, Jennifer Santiago, Borough Clerk of the Borough of Highland Park, New Jersey, do hereby certify the above to be a true copy of a resolution adopted by the Borough Council of said Borough on the 6th day of September 2022.

Jennifer Santiago, Borough Clerk

RECORD OF COUNCIL VOTES

Council Member	Ayes	Nays	Abstain	Absent
Canavera				
Foster				
George				
Hale				
Hersh				
Kim-Chohan				