

**TOWNSHIP OF NORTH BERGEN
RESOLUTION**

WHEREAS, the Zoning Board of Adjustment of the Township of North Bergen adopted a resolution approving a development by **7711-7815 River Road Urban Renewal Associates, LLC**, for property located at **Block 316, Lots 22.02, 23 and 24** commonly known as **7711-7815 River Road, North Bergen, New Jersey**; and

WHEREAS, the Resolution was conditioned upon developer entering into a Developer's Agreement with the Township of North Bergen and the posting of the necessary performance guarantees; and

WHEREAS, the Developer's Agreement has been executed by **7711-7815 River Road Urban Renewal Associates, LLC** and all other documentation required, with the exception of the performance bond, in accordance with the provisions of the Developer's Agreement has been reviewed and approved by the Special Counsel;

NOW THEREFORE, BE IT RESOLVED by the Township of North Bergen that the Mayor and Township Clerk be are hereby authorized to execute the Developer's Agreement with **7711-7815 River Road Urban Renewal Associates, LLC**.

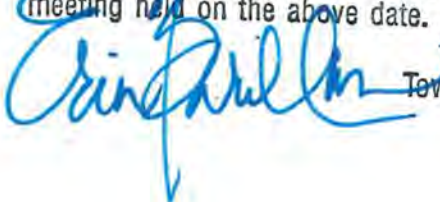
BE IT FURTHER RESOLVED that no building permits are to be issued until such time as the performance bond is submitted and approved by Special Counsel.

BE IT FURTHER RESOLVED that certified copies of this Resolution shall be provided to: (i) Robert Pittfield, Chief Financial Officer; (ii) North Bergen Construction Code Official; (iii), 7711-7815 River Road Urban Renewal Associates, LLC, the Developer and (iv) Brian M. Chewcaskie, Esq., Special Counsel.

Date: September 6, 2023

	YES	NO	NOT VOTING
Cabrera	☒	☐	☐
Pascual	☒	☐	☐
Rodriguez	☒	☐	☐
Vainieri	☒	☐	☐
Sacco	☒	☐	☐
(President)	☐	☐	☐

I HEREBY CERTIFY the foregoing to be a True and Correct copy of Resolution passed and adopted by the Board of Commissioners of the Township of North Bergen in the County of Hudson, in the State of New Jersey, at a meeting held on the above date.

 Township Clerk

DEVELOPER'S AGREEMENT

AGREEMENT made this day of , 2023, by **7711-7715 RIVER ROAD ASSOCIATES URBAN RENEWAL, LLC**, located at c/o, David Carmel, Esq., 1 Bridge Plaza, Fort Lee, New Jersey (hereinafter called the "Developer") and the **TOWNSHIP OF NORTH BERGEN**, a Municipal Corporation of the State of New Jersey, County of Hudson, located at 4233 Kennedy Boulevard, North Bergen, NJ 07047, (hereinafter called the "Township");

W I T N E S S E T H :

WHEREAS, the Developer is the owner of the property as shown on the Tax Map of the Township of North Bergen known as Block 316, Lots 22.02, 23 and 24, commonly known as 7718, 7801 and 7809 River Road, North Bergen, New Jersey.

WHEREAS, the Developer is desirous of constructing twelve (12) story multi-family residential complex plus amenity deck on the premises in accordance with the drawings attached hereto as Exhibit "A" (the "Plans").

And in conformity with the Zoning Ordinance, Building and Health Codes of the Township as well as other applicable statutes, ordinances, laws, rules, regulations, the Zoning Board of Adjustment Resolution adopted November 3, 2021, as amended by Resolution adopted July 7, 2023 and the reports of the Board Engineer dated April 23, 2021, June 8, 2021, August 16, 2021, April 17, 2023 and June 30, 2023 and the reports of the Board Planner dated April 27, 2021; June 9, 2021, August 18, 2021 and April 18, 2023; and

WHEREAS, the Developer is desirous of entering into a Developer's Agreement with the Township as to said premises in view of the provisions of the Township's Ordinances which, among other things, requires that prior to the granting of a building permit, the Developer shall have installed or shall have furnished performance guarantees for the ultimate installation of the several improvements therein mentioned, and that no final plat shall be approved by the Board until the completion of all such required improvements has been certified to the Board by the Board Engineer, unless satisfactory performance guarantees to cover the cost of all such improvements or the incomplete portions thereof and deposits for Township professional costs are filed by the Developer; and

WHEREAS, it is mutually desired by the parties hereto that the premises shown on the site plans as aforesaid shall be improved and developed in such a manner as will insure protection to the surrounding and neighboring properties, as well as the public roads in and about said area to the end that said development shall result in a desirable development within the Township of North Bergen.

NOW, THEREFORE, in consideration of the mutual covenants, conditions, and agreements contained herein, it is hereby agreed as follows:

That the Developer will:

**1. OWNERSHIP OF LANDS; COMPLIANCE
WITH N.J.S.A. 40:55D-48.1**

Upon execution and delivery of this Agreement, the Developer will file with the Board a certificate issued by an attorney at law of the State of New Jersey certifying to the Township and the Board the interest of the Developer. Upon execution hereof, a list of stockholders holding ten

percent (10%) or more of the stock of the Developer will also be filed in accordance with N.J.S.A. 40:55D-48.1, or in the event Developer is a partnership, a certified list of all partners owning ten percent (10%) or more of the partnership shall be furnished to the Township.

2. IMPROVEMENTS AND WORK TO BE DONE

(a) The Developer shall make, install, and perform, at its sole cost and expense all the improvements and work shown on the plans, as may be revised with the consent of the Board Engineer;

(b) In accordance with and conditioned upon compliance with the Resolution and specifically any and all conditions contained therein of the Board adopted, November 3, 2021 as amended by Resolution adopted on July 7, 2023 (a copies of which are annexed hereto and made a part hereof as Exhibit "B");

(c) In the event that after execution of this Agreement or during the course of the installation of any improvements, a condition develops adversely affecting the public health or safety or constituting a threat thereto, or a condition develops inimical to the general welfare, Developer agrees to take all necessary steps and make all installations that may be necessary to abate said threat or condition; and

(d) Required by any governmental agency, board, department, bureau or other unit, including the State of New Jersey (and specifically, but not limited to the Department of Environmental Protection), the County of Hudson and Township agencies and departments.

3. TIME FOR COMPLETION

All of the improvements and work referred to in Paragraph 2 hereof, shall be completed within two (2) years from the date of this Agreement, and, in the event the work is not so

completed within two (2) years from the date of this Agreement, the Township may require that additional performance guarantees be provided in light of the then prevailing costs, if necessary, to adequately secure the Township.

4. COMPLIANCE WITH LAW

All of the improvements referred to in Paragraph 2 hereof shall be performed in accordance with any applicable Township specifications, State and County laws and specifications as set forth in Ordinances, Rules, and Regulations and the Board Resolutions and shall be inspected by the Board Engineer, or someone designated in writing by the Board Engineer for that purpose, and a signed copy of said designation by the Board Engineer shall be furnished to the Developer prior to said inspection and approval by such designee of the Board Engineer.

5. DRAINAGE AND SANITARY FACILITIES.

The Developer shall install all sanitary and storm drainage facilities, manholes, inlets, pipes, connections and curb lines, and all other appurtenances necessary for proper construction and operation of the storm drain and sanitary sewer system as shown on the site plan and/or other drawings referred to herein together with such necessary changes as shall reasonably be required by the Board Engineer, all of which shall be installed and laid out in such manner as may be approved by the Board Engineer. Nothing herein shall impair, abridge, restrict or modify the lawful jurisdiction of the Board of Health of the Township of North Bergen, Board of Health of the County of Hudson and/or the New Jersey Department of Environmental Protection to require, subject to their respective jurisdictions, the installation of additional sanitary and/or storm

sewers, drains or facilities which they may lawfully require in connection with the development and as to all matters over which it has lawful jurisdiction.

Notwithstanding the foregoing, Developer or its successors and assigns shall be responsible for the maintenance of the storm sewer system to be installed on site. The Developer or its successors and assigns shall also perform such required inspections of the storm sewer systems and provide copies of such inspection to the Building Department.

6. UTILITIES

Developer shall construct all utilities servicing the property in accordance with the specifications of the respective utility companies and the Township, including but not limited to electric, gas, water, telephone and CATV. Nothing herein shall require the Township to install utilities for this project.

7. EASEMENTS

Developer shall provide for easements subject to the approval of the Board Engineer, wherever necessary, for drainage, public utilities, sanitary sewerage or for any other purpose as per the approval of the Board. Developer shall submit to the Board Engineer and Attorney a drawing and description of all easements for their approval prior to filing of same.

8. BUILDING PERMITS REQUIRED

The Developer agrees that no building shall be commenced until a Building Permit and all other necessary permits and approvals have been duly issued.

9. BREACH OF AGREEMENT

In no case shall a Certificate of Occupancy be issued if a material breach or default in this Agreement has occurred and has not been cured. Without limitation upon any other remedy

provided herein or by law, the Board of Commissioners may order that no further building permits or certificates of occupancy shall be issued until any material breach or default in this Agreement is cured.

10. SUBMISSION OF DETAILED PLANS

In the event that the Board Engineer, in his opinion, reasonably requires any further details for the plans submitted and approved, Developer shall furnish said details on reasonable written notice within a reasonable time. Developer agrees also to submit, upon request, detailed drainage and topographic plans as may be required by the Board Engineer, Township Health Officer, and any other Township, County, State or Federal Governmental Agency.

11. INSPECTION OF IMPROVEMENTS

The Township contemplates the inspection of all site improvements and/or facilities, including, but not limited to, those set forth in the bond estimate prepared by Boswell Engineering dated August 16, 2023, which is attached hereto as Exhibit "C". The Board Engineer shall inspect the installation of storm drains, sanitary sewers, private roads or driveways, fences, retaining walls higher than four feet, landscaping, and all other site improvements exclusive of utility items. The Developer shall notify the Engineer and Public Works Department at least forty-eight (48) hours or two full working days prior to the commencement of each phase of construction of any such facilities. In the event of a temporary suspension of construction, the Engineer and Department of Public Works shall be notified of the renewed starting date of construction. Backfilling, after the laying of any drainage pipes, sanitary sewers, manholes, or other facilities in connection therewith, shall be absolutely forbidden except after the inspection and approval by the Board Engineer or his duly authorized representative.

The Board Engineer shall have the right to reject any of the improvements constructed which do not meet his approval in accordance with engineering standards.

12. SUCCESSORS BOUND AND RECORDING

This Agreement shall be binding upon the successors and assigns of the parties hereto. This Agreement may be recorded in the Office of the Hudson County Register by the Township at the expense of the Developer. Upon completion of all improvements and the terms and conditions of this Agreement, this Agreement will terminate and the Township will execute documents reasonably required to discharge this Agreement, in a form suitable for recordation.

13. AGREEMENT NOT CONSTRUED AS WAIVER

Nothing herein contained shall be construed as preventing the Township from exercising in any court of law or elsewhere any right or duties which it may have by statute, ordinance or other law. Nothing herein contained shall be deemed a waiver by any part of any ordinance or state statute or other law, or be construed as an abridgment, pre-emption or waiver of the powers of any Township Board, Agency or Public Body. This Agreement shall not operate to confer upon any such public body any powers, rights or duties it does not now possess, nor abridge the right of the Developer vis-a-vis any such public body.

14. MUNICIPAL OFFICIALS ETC. NOT LIABLE ON CONTRACT

The covenants, undertakings, agreements and other obligations mentioned in this Agreement shall not be construed as representations by the Board of Commissioners, the Board or by any Township officer, agent or employee to have or to assume any contractual or other liability to or with any persons, firms or corporations purchasing any land, buildings, or improvements from the Developer or otherwise using or having any interest in the same, nor

shall this Agreement be construed to place any liability on the Township or Board to these persons.

15. TOWNSHIP NOT LIABLE FOR IMPROVEMENT COSTS

Nothing herein contained shall be construed to render the Township or any of its officers, boards, or employees liable for any charges, costs, or debts for material, labor or other expenses incurred in the making of the improvements.

16. INDEMNIFICATION OF MUNICIPALITY

Developer shall be and remain liable for any and all damage or money loss (including but not limited to attorney's fees) occasioned to the Township or the Board or their officers or agents by any neglect, wrongdoing, omission or commission of any act by the Developer or any person, firm or corporation acting for the Developer hereunder arising from the making of the improvements, the performance of the terms hereof or from or out of this Agreement. The Developer shall also defend, save, indemnify, and hold harmless the Township, its officers, agents, boards and employees for any and all claims, actions at law or in equity, charges, debts, liens, encumbrances, costs and counsel fees which may arise from any such damage or loss, from the making of the improvements, the performance of the terms hereof or from or out of this Agreement, except where the Township or its agents have been judicially determined to have acted contrary to law or failed to perform acts required by law or by this Agreement or have been guilty of negligence.

When and in the event that by reason of the negligence of the Developer in the Construction of the improvements to this property, or for any other reason, litigation arises and the Township is made a party Defendant to any lawsuit so instituted and by reason of the

^{1st} Draft 2.18.22; 2.23.22; 8.16.23; 8.21.23; 8.24.23 Redlined; 8.25.23

necessity of the Township to defend such suit, the escrow funds provided for in Paragraph Twenty-Nine (29) hereof are deemed to be insufficient to pay the continuing bills for services rendered to the Township by its attorney and/or engineer, or other expenses or cost incurred in said litigation, the Township may serve a written notice by Certified Mail, Return Receipt, upon the Developer at the address set forth herein, requiring the Developer to deposit within ten (10) days thereof, such additional funds that the Township may deem necessary for the completion of the development and the defense of any such litigation. The Developer shall, within ten (10) days, deposit such additional funds with the Township as reasonably required. Should the Developer fail to do so within the required time period, the Township may direct the appropriate officials to place a stop work order on all development within and premises as depicted on the subdivision and/or site plan.

17. INTENTIONALLY OMITTED.

18. MODIFICATION IN WRITING

This Agreement may only be changed, modified or amended by a written instrument signed by all the parties hereto.

19. DUST AND NUISANCE PROVISIONS

Developer agrees not to commit a public or private nuisance by reason of dirt, dust, debris, air-pollution, gas, smoke or other annoyance resulting from construction, trucking or other operations.

20. CONTRACT PROVISIONS CONSTRUED AS CONDITIONS

Each of the provisions hereof shall have the same force and effect as if set forth at length as conditions of the grant of subdivision and/or site plan approval.

21. COUNTY AND STATE REQUIREMENTS

Developer represents that it has heretofore complied and that it will in the future comply with all, if any, requirements and/or regulations of the Hudson County Planning Board, the Hudson County Engineer, Hudson County Road Department, Hudson County Department of Public Works, Hudson, Essex, Passaic Soil Conservation District, New Jersey Department of Environmental Protection, North Bergen Municipal Utilities Authority, Hudson County Utilities Authority, and any other Governmental Agency if same are mandated by law, and hereby further represent that before commencing work, it will secure all county, state and federal approvals required for such work. A listing of all required permits and/or approvals is attached hereto as Exhibit "D".

22. DUTY RE: UNSAFE CONDITIONS

The Developer shall correct and make safe any dangerous or unsafe condition created, caused or suffered to exist by the Developer (or by those acting for it) affecting public safety or general welfare, if such condition develops. In the event that such condition exists, notice shall be given by certified mail to the Developer, whereupon Developer shall correct such condition within such reasonable period of time as the Township, in its notice shall specify. In the event such condition is not corrected by the Developer, the Board of Commissioners may order the corrective work to be done and the Developer and its surety shall reimburse and indemnify the Township for all costs and expenses incurred thereby.

23. CERTIFICATE OF CONTINUED OCCUPANCY PRIOR TO USE

Nothing contained in this Agreement shall authorize the use or occupancy of any building or unit in any building that is the subject of this Agreement prior to the issuance of a Certificate

of Occupancy (temporary or final) for said building or unit in said building and prior to the installation of an approved sanitary sewer system in accordance with all applicable laws, rules, regulations, codes and ordinances.

24. DEVELOPER RESPONSIBLE TO THIRD PARTIES

Nothing contained in this Agreement shall be construed to give any person or legal entity, not a party to this Agreement, any claims against the Township or any of its agents or agencies with respect to the matter of the installation or improvements, or for any damages arising therefrom.

25. MUNICIPAL CONSENT FOR ASSIGNMENT OR SALE

It is agreed that any assignment hereof or sale of the premises in whole or in part shall not operate to relieve the Developer from its obligations hereunder, without the express written consent of the Township, which consent shall not be unreasonably withheld. No assignment of this Agreement or of the approvals granted herein shall be effective without prior written Township consent. The provisions of this paragraph shall not apply provided that the principals of the developer maintain a controlling ownership interest in any assignee.

26. PERFORMANCE GUARANTEES

Upon execution of this Agreement by Developer, the Developer shall file with the Township Clerk a performance bond with surety, irrevocable letter of credit, or other collateral satisfactory to the Township and approved by the attorney for the Township for the following items and in the following amounts:

(a) Site improvements in accordance with the report of the Board Engineer dated August 16, 2023 (Exhibit "C") in the total amount of Three Hundred Forty-four Thousand One

Hundred Forty-eight Dollars (\$344,148.00); Thirty-four Thousand Four Hundred Fourteen Dollars and Eighty Cents (\$34,414.80) to be in the form of a cash deposit or certified check in accordance with Paragraph Twenty-Seven (27); the sum of Three Hundred Nine Thousand Seven Hundred Thirty-three Dollars and Twenty Cents (\$309,733.20) to be in the form of a performance bond with surety or other collateral as approved by the Special Counsel.

(b) In accordance with the report of the Board Engineer dated August 16, 2023 (Exhibit "C") a Safety and Stabilization Guarantee in the amount of Twenty-two Thousand Seven Hundred Dollars (\$22,700.00); Two Thousand Two Hundred Seventy Dollars (\$2,270.00) to be in the form of a cash deposit or certified check; and Twenty Thousand Four Hundred Thirty Dollars (\$20,430.00) to be in the form of a performance bond with surety or other collateral as approved by Special Counsel.

The foregoing performance guarantee is conditioned for the satisfactory installation of the improvements required hereunder, and for the performance of the terms and conditions of this Agreement within the time specified thereunder and compliance with all Township Ordinances and applicable rules and regulations of the Township and its agencies. The Developer further agrees to post such additional performance guarantees in the required amounts as may be necessary if the improvements are not completed within the time specified. If a portion of said improvements shall have been installed by the Developer, approved and certified by the Board Engineer, the Developer may apply for a reduction in the amount of such performance guarantees and action upon such application shall be taken in accordance with the certification of the Board Engineer, in accordance with N.J.S.A. 40:55D-53. It is specifically understood and agreed by the

Developer that the reduction in the amount of any performance guarantee will not constitute an acceptance or approval of any improvements.

Upon default by the Developer, the Township shall be entitled to all the rights and remedies as provided in N.J.S.A. 40:55D-53 as well as the rights and remedies as provided by general law and case law. It is also agreed that at the option of the Township, the Township can demand specific performance of the within Agreement or, in the alternative, payment of reasonable costs, expenses, fees and damages in order to fulfill the terms of this Agreement and the requirements of all applicable Township ordinances and rules and regulations of the Township and its agencies, without first doing the work at its own cost and expense. Said guarantee shall also cover all reasonable attorneys fees, costs of suit, and any other reasonable municipal expenses incurred as a result of the enforcement of this Agreement.

27. CASH DEPOSIT.

In addition to all other monies posted with the Township, the Developer shall post with the Township, at the time of execution of this Agreement, the total sum of Thirty-four Thousand Four Hundred Fourteen Dollars and 80 Cents (\$34,414.80) in cash or certified check as representing 10% of the bond and Two Thousand Two Hundred Seventy Dollars (\$2,270.00) in cash or certified check as representing 10% of the Safety and Stabilization Guarantee required under Section 26(a).

28. INTENTIONALLY OMITTED.

29. TOWNSHIP'S PROFESSIONAL COSTS

The engineering, planning and legal fees or charges for services rendered to the Board and to the Township in connection with this Agreement and in connection with improvements made

hereunder shall be paid by the Developer. For this purpose, the Developer shall deposit upon the execution of this Agreement:

(a) A cash deposit in the sum Forty Thousand Four Hundred Dollars (\$40,400.00) for engineering services, which shall be made in quarterly installments in accordance with N.J.S.A. 40:55D-53h.(3). The initial deposit shall be Twenty Thousand Dollars (\$20,000.00); and

(b) A cash deposit in the sum of Three Thousand Dollars (\$3,000.00) for legal services.

It being specifically agreed, that if during the course of the development it appears that the amount of deposit made is inadequate to meet such costs, the Township may require such additional sums to be deposited with it as it might determine necessary and reasonable; and the Developer agrees forthwith to provide same. No building permits or certificates of occupancy shall be issued until such additional deposit shall be made.

The Township shall be and is hereby authorized by the Developer to disburse the said deposit in payment of such services as are rendered upon proper vouchers therefor in accordance with N.J.S.A. 40:55D-53.2, duly sworn to by the person or persons rendering the services and the unused portion of any such deposit shall be returned to the Developer by the Township upon completion of the improvement undertaken and certification of such completion to the Township by the Board Engineer.

In accordance with N.J.S.A. 40:55D-53.2, a developer shall be provided with notice of any deficiency in the escrow account. Any deficiency in the escrow account shall be paid by the developer within fourteen (14) days of the date of the notice in order for professional services and any reviews to continue on the development.

30. DEFAULT

Upon a default by the Developer under the terms and/or conditions of this Agreement, the Township shall provide the Developer with twenty (20) days written notice within which period of time the Developer shall be required to comply with all the terms of this agreement and appropriate ordinances and rules and regulations of the Township and its agencies.

Notwithstanding the foregoing sentence, if the Default is of a nature that it cannot, with the exercise of reasonable diligence, be cured within said 20 day period, then said 20 day period shall be extended to a period of time as agreed by the parties to enable the Developer to cure the default with the exercise of reasonable diligence. At the expiration of the period to cure where the Developer has failed to perform in accordance with this Agreement and in accordance with all applicable Township ordinances and rules and regulations of the Township and its agencies, the Township, without further notice to the Developer, may utilize the deposited performance guarantees for the full, complete and adequate performance of this Agreement in compliance with all Township ordinances and rules and regulations of the Township and its agencies. In addition, the Township may bring an action on the Performance Guaranty; expend the cash guarantee funds; bring an action for specific performance; or seek to effect completion on the basis of any other remedy available to the Township.

31. INSURANCE

The Developer shall procure insurance for public personal injury liability and property damage liability including contingent liability and contractual liability which might result from the performance of the work required under this Agreement and shall provide the Township with a Certificate of Insurance designating the Township as an additional insured under each said policy in which insurance coverage shall be in at least the following amounts:

^{1st} Draft 2.18.22; 2.23.22; 8.16.23; 8.21.23; 8.24.23 Redlined; 8.25.23

One person in any one occurrence	\$2,000,000.00
Two or more persons in any one occurrence	\$5,000,000.00
Property damage in any one occurrence	\$2,000,000.00
Aggregate property damage limit	\$5,000,000.00

The Developer further covenants and agrees that it will provide automobile liability and property damage insurance coverage and provide the Township with a Certificate of Insurance designating the Township as an additional insured under said policy, which insurance coverage shall be in at least the following amounts:

Bodily injury, each person	\$1,000,000.00
Bodily injury, each occurrence	\$3,000,000.00
Property damage	\$1,000,000.00

The Developer further covenants and agrees that it will provide workman's compensation coverages for employees and will require evidence of such coverages to be supplied by a sub-contractor who may be employed to perform the work under this Agreement.

32. MAINTENANCE GUARANTEE

At the time of the completion of all improvements and the formal acceptance thereof by the Township, the Developer shall be required to post a maintenance guarantee in the amount of Forty-three Thousand Fifty Dollars (\$43,050.00). Said maintenance guarantee shall extend for a period of two (2) years from the date of completion of the development. The maintenance guarantee will cover all bonded improvements constructed by the Developer in connection with the subdivision and/or site plan as more particularly referred to in Resolution of the Zoning Board of Adjustment of the Township of North Bergen memorialized on November 3, 2021 and as amended by Resolution memorialized on July 7, 2023 (Exhibit "B") and the report of the Board Engineer dated August 16, 2023 (Exhibit "C").

33. INCORPORATION OF PLAN AND PROFILE

In addition to anything herein contained, anything shown on the approved preliminary plans, or on the approved profiles, etc., and not specifically included in this Agreement, or mentioned herein, shall be considered as part of this Agreement, the plans being made a part hereof by reference except for such necessary changes as may be required and approved by the Board Engineer as work progresses.

34. AS BUILT PLANS

The Developer shall furnish to the Board Engineer, the Department of Public Works and the North Bergen Building Department two (2) sets of as-built plans, prepared, signed and sealed by a P.L.S., showing alignment and elevations of, including but not limited to, all utilities, roadways and water and sewer improvements prior to the release of performance bonds. Further, the as built plans shall include two (2) permanent ties to each manhole, cleanout or the like. The as built plans shall be in the form required by the Board Engineer, the North Bergen Building Department and Department of Public Works. The submission of Final As-Built survey triggers the Board Engineer's TCO/CO inspections.

35. RESTORATION OF ROADWAYS AND ADJACENT PROPERTIES

Developer must restore any damages to areas of roadways and properties adjacent to the subject site or within the subject site and owned by someone other than the Developer, all in accordance with the reasonable direction of the Board Engineer, Construction Code Official and/or Hudson County Engineer. If the Developer fails to undertake such restoration as reasonably required by the Board Engineer, the Construction Code Official and/or Hudson

County Engineer, the Construction Code Official may withhold the issuance of building permits or issue appropriate stop work orders until such restoration work is undertaken.

36. COMPLIANCE WITH CONDITIONS AND RESOLUTIONS

Developer agrees to comply with each of the conditions and matters set forth in the Resolution of the Board adopted November 3, 2021 and as amended by Resolution adopted July 7, 2023 (Exhibit "B") granting site plan approval and additionally agrees to comply with the conditions set forth in all reports of the Board's Engineer and Planner.

37. SEVERABILITY

The provisions of this Contract are severable; if any one provision be determined unenforceable, this shall have no effect on the balance of the provisions hereof which shall remain in full force and effect.

38. INSOLVENCY OR ABANDONMENT OF THE WORK

If, before the completion of the work, the Developer abandons the job, files a petition in bankruptcy or insolvency, or is declared bankrupt or insolvent or suffers any type of receivership, insolvency, bankruptcy, or other similar proceeding to be filed against it, or ceases work for a period of twenty (20) consecutive days without notice to or the permission of the Board Engineer and fails to resume work within twenty (20) days after receipt of notice by certified mail at the address stated in this Agreement, then it shall be the duty of the surety immediately to undertake the completion of the work at the expense of the Developer and its surety, or to pay to the Township the cost of completion of the work as a local improvement pursuant to the provisions of N.J.S.A. 40:56, et seq.

39. NOTICES: Wherever notice is required to be given under any terms of the within Agreement, the terms requiring such notice shall be deemed to have been satisfied by serving such notice upon the other party by United States Certified, Registered or Express Mail, Return Receipt Requested and Postage Prepaid, to the Parties at the addresses set forth below and/or to such other parties or addresses either Party may designate by written notice to the other. Use of one of the major overnight delivery services and/or the facsimile transmission of such notices, receipt of which is confirmed in writing, shall also constitute compliance with this Agreement. A copy of any such notice is to be forwarded to the other party's attorney by the same manner or by fax transmittal and regular mail. Notices shall be directed to the following address unless subsequently changed by written notice:

Upon 7711-7815 River Road Associates Urban Renewal, LLC:

7711-7815 River Road Associates Urban Renewal, LLC

c/o David Carmel, Esq.
One Bridge Plaza
Fort Lee, NJ 07024

With a copy to:

David Carmel, Esq.
One Bridge Plaza
Fort Lee, NJ 07024

Upon Township:

Janet Castro, Administrator
Township of North Bergen
4233 Kennedy Boulevard
North Bergen, NJ 07047

With a copy to:

Brian M. Chewcaskie, Esq.
Cleary Giacobbe Alfieri Jacobs, LLC
169 Ramapo Valley Road, UL 105
Oakland, NJ 07436

Except as to any notice pertaining to the change of a party's address, all notices hereunder shall be effective upon the date of any confirmed delivery (whereby such confirmation is either by signature received by an overnight delivery service or by the return receipt card used by the U.S. Postal Service) or shall be deemed effective three days after depositing any such notice for delivery with the U. S. Postal Service, where such deposit can be confirmed by a proof of mailing certificate obtained from the U. S. Postal Service or a signed return receipt card is received from the addressee. Any notice pursuant to which the address for notices to any of the named addressees is to be changed shall be effective only upon receipt thereof.

40. AMENDMENT

It is mutually understood and agreed by the parties hereto that any amendment, extension, modification, or alteration in any terms and conditions or requirements by the Township shall not relieve any surety from its obligations on any performance or maintenance guarantee.

41. AFFORDABLE HOUSING

There is presently no affordable housing obligation for this development. Developer shall be required to comply with all ordinances addressing the Township's affordable housing obligation presently enacted or to be enacted including, but not limited to development fees or growth share where applicable at the time that building permits are issued for this development.

42. DEMOLITION / RECYCLING ACTIVITIES

If development of the site requires demolition of existing structures, the Developers shall report all materials that are removed from the property, including any material that is recycled as the result of such demolition to the Township. Copies of all logs or other documentation demonstrating that such material was removed and any material that was recycled shall be provided to the North Bergen Municipal Utilities Authority to the attention of John Shaw, Recycling Coordinator.

43. CONTRIBUTION FOR SEWER IMPROVEMENTS

Developer shall make a contribution of Three Hundred Ninety-two Thousand Five Hundred Dollars (\$392,500.00) to the Township of North Bergen for sewer improvements prior to the final Certificate of Occupancy being issued.

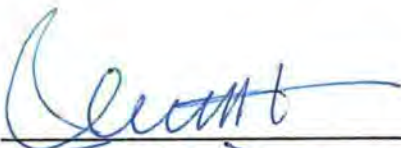
THIS AGREEMENT shall be binding upon the respective heirs, successors, and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be signed by their proper officers and their corporate seals to be affixed the date and year first written above.

WITNESS

7711-7715 RIVER ROAD ASSOCIATES
URBAN RENEWAL, LLC


DAVID CARMEL


JAMES DEMETRALIS
NON-MEMBER MANAGER

WITNESS

TOWNSHIP OF NORTH BERGEN

Erin Barillas, Clerk

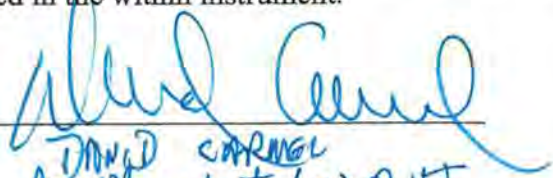
By: _____
Nicholas Sacco, Mayor

STATE OF NEW JERSEY)

:SS

COUNTY OF BERGEN)

BE IT REMEMBERED, that on this 26th day of August, 2023, before me, the subscriber, personally appeared James Demetris, who, being by me duly sworn on his/her oath, did depose and make proof to my satisfaction that he/she is authorized to and did execute this agreement as NON-MEMBER MANAGER of 7711-7715 River Road Associates Urban Renewal, LLC, the entity named in the within instrument.


DAVID CARMEL
An Attorney at Law of NJ

STATE OF NEW JERSEY)

:SS

COUNTY OF HUDSON)

BE IT REMEMBERED, that on this _____ day of _____, 2023, before me, the subscriber, personally appeared **Erin Barillas**, who being by me duly sworn on her oath, deposed and made proof to my satisfaction that she is the Clerk of the Township of North Bergen, a municipal corporation, the corporation named in the within Instrument, that **Nicholas Sacco** is the Mayor of said municipality; that the execution, as well as the making of this instrument has been duly authorized by a proper resolution of the Governing Body of the said municipality; that deponent well and truly knows the corporate seal of said municipality and the seal affixed to said instrument is such seal and was thereto affixed, and said instrument signed and delivered by said Mayor as and for his voluntary act and deed and as and for the voluntary act and deed of said municipality, in the presence of deponent, who thereupon subscribed her name thereto as witness.

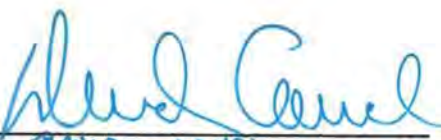
Erin Barillas

Sworn to and subscribed
before me this _____ day
of _____, 2023

IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be signed by their proper officers and their corporate seals to be affixed the date and year first written above.

WITNESS

7711-7715 RIVER ROAD ASSOCIATES
URBAN RENEWAL, LLC


DAVID CARMEL


JAMES DEMETRALIS
NON-MEMBER MANAGER

WITNESS

TOWNSHIP OF NORTH BERGEN


Erin Barillas, Clerk

By: 
Nicholas Sacco, Mayor

STATE OF NEW JERSEY)
:SS
COUNTY OF BERGEN)

BE IT REMEMBERED, that on this 26th day of August, 2023, before me, the subscriber, personally appeared James Dimitrakis, who, being by me duly sworn on his/her oath, did depose and make proof to my satisfaction that he/she is authorized to and did execute this agreement as MEMBER MANAGER of 7711-7715 River Road Associates Urban Renewal, LLC, the entity named in the within instrument.

[Signature]
David Carmel
Attorney at Law of NJ

STATE OF NEW JERSEY)
:SS
COUNTY OF HUDSON)

BE IT REMEMBERED, that on this 22nd day of September, 2023, before me, the subscriber, personally appeared Erin Barillas, who being by me duly sworn on her oath, deposed and made proof to my satisfaction that she is the Clerk of the Township of North Bergen, a municipal corporation, the corporation named in the within Instrument, that Nicholas Sacco is the Mayor of said municipality; that the execution, as well as the making of this instrument has been duly authorized by a proper resolution of the Governing Body of the said municipality; that deponent well and truly knows the corporate seal of said municipality and the seal affixed to said instrument is such seal and was thereto affixed, and said instrument signed and delivered by said Mayor as and for his voluntary act and deed and as and for the voluntary act and deed of said municipality, in the presence of deponent, who thereupon subscribed her name thereto as witness.

[Signature]
Erin Barillas

Sworn to and subscribed
before me this 22nd day
of September, 2023

[Signature]
Luisa M Griggs

Luisa M Griggs
Notary Public State of New Jersey
1st Draft 2.18.22; 2.23.22; 8.16.23; 8.21.23; 8.24.23 Redlined; 8.25.23
My Commission Expires April 30, 2028 23

EXHIBIT "A"

List of Drawings

7711-7815 River Road Urban Renewal Associates, LLC
7718, 7801 & 7809 River Road
Block 316, Lots 22.02, 23 and 24
North Bergen, NJ 07047
ZBA Case Number 04-21
Our File No. NBES-1562A

- a. Site Plans (15 sheets) entitled "Site Plan Application for Proposed Residential Development, 7711 River Road, Block 316, Lots 22.02, 23 & 24, Township of North Bergen, Hudson County, New Jersey", prepared by Simoff Engineering Associates, dated February 23, 2021, last revised June 8, 2023, signed and sealed by Hal Simoff, P.E., P.P.

Drawing No.	Description	Date	Revision Date
1	Cover Sheet	02/23/21	06/08/23
2	Cover Sheet	02/23/21	06/08/23
3	Aerial Photo	04/14/21	06/08/23
4	Existing Conditions Plan	02/23/21	06/08/23
5	Site Plan	02/23/21	06/08/23
6	Grading & Drainage Plan	02/23/21	06/08/23
7	Landscaping & Lighting Plan	02/23/21	06/08/23
8	Construction Details	02/23/21	06/08/23
9	Construction Details	02/23/21	06/08/23
10	Construction Details	02/23/21	06/08/23
11	Soil Erosion and Sediment Control Plan	02/23/21	06/08/23
12	Soil Erosion and Sediment Control Plan Details	02/23/21	06/08/23
13	Profiles	02/23/21	06/08/23
14	Traffic Control Plan	01/26/22	06/08/23
15	Traffic Control Plan	01/26/22	06/08/23

- b. Architectural Plans (6 sheets) entitled, "Proposed 157 Unit Apartment Building 7711 River Road, North Bergen, New Jersey", prepared by Virgona + Virgona Architects, Planners, dated March 8, 2023, signed and sealed by Raymond J. Virgona, R. A.

Drawing No.	Description	Date	Revision Date
SK-1	Exterior View	03/08/23	06/20/23
SK-2	Floor Plan	03/08/23	06/20/23
SK-3	Floor Plan	03/08/23	06/20/23
SK-4	Floor Plan	03/08/23	06/20/23
SK-5	Typical Floor Plan	03/08/23	06/20/23
SK-6	Typical Floor Plan	03/08/23	06/20/23

- a. Survey (1 sheet) entitled, "Topographic/Progress Survey, Car Collectors Club, 7801-7809 River Road, Township of North Bergen, Hudson County, New Jersey", prepared by Schan Associates, dated July 24, 2018, signed and sealed by Andre Schan, P.L.S.

EXHIBIT “B”

RESOLUTION MEMORIALIZED NOVEMBER 3, 2021

**RESOLUTION OF THE BOARD OF ADJUSTMENT
OF THE TOWNSHIP OF NORTH BERGEN
"d(1)" USE", "d(6) HEIGHT" VARIANCE,
and "(C) VARIANCES AND SUCH OTHER VARIANCE RELIEF
#04-21 SUBMITTED BY 7711-7815 RIVER RD. ASSOCIATES, LLC
FOR PROPERTY LOCATED AT
7711, 7801 & 709 RIVER RD.
BLOCK (316) LOT's 22-02 & 23-24**

WHEREAS, an application has been made by applicant, 7711-7815 River Rd., Associates, LLC, for a "d(1)" USE", "d(6) HEIGHT" VARIANCE, and "(C) VARIANCES AND SUCH OTHER VARIANCE RELIEF AS MAY BE NECESSARY to construct a 130 unit residential building in the Block 316 Redevelopment Area and such proposed development as presented is not permitted at the applicable site.

WHEREAS, the Board of Adjustment has reviewed the application and site plan and other variance requests at a hearing on April 29, June 10 and August 18, 2021; and

WHEREAS, it appears that due notice of a hearing in the above application before the Board of Adjustment of the Township of North Bergen on April 29, June 10 and August 23, 2021 at 6:00 PM., and duly conducted by ZOOM with appropriate notice, was duly served upon property owners within a two hundred (200) foot radius of the above described premises as prescribed by the Municipal Land Use Law; and

WHEREAS, the applicant has submitted proof that it has complied with the applicable procedural requirements including payment of fees and public notices; and

WHEREAS, the Board did consider the testimony of the architect, V. Kale, M. Kauker, Planner, H. Simoff, Engineer, F. Daibes, applicant and as well as the testimony and reports of Jill Hartmann PP, Township Planner and Bernard Mirandi Township engineer having marked exhibits ZB-1 through ZB-10, exhibits A-1/A-2/A-2A and further considered the proffer and argument of the attorney, Robert Tavers, Esq.; and

(1) Applicant owns a vacant site comprised of 46,155 ft.² situated on the River Road in the Block 316 Redevelopment zone.

(2) The application proposes to construct a 12 story multi-family residential complex with 72 one bedroom units, 18 studio and 40 two-bedroom units for a total of

130 residential units with 3800 ft.² of retail space. The plan proposes to provide 157 off-street parking spaces (149 req'd) on two levels of parking. Access to the parking level will be on-site from River Road and providing for a right turn into the site and a right turn away from the site. The architectural plan has been revised to provide the typical floor plan for the proposed studio, one bedroom and two bedroom units. Each apartment will have a washer/dryer combination unit. The one bedroom /studio units range in size from 750 sf to 1,355 sf and the two bedroom units range in size from 1,305 sf to 1,410 sf. A minority of units have balconies. The revised plan indicates a superintendent's apartment will be located at parking level 2 with 3 staff offices/rooms adjacent to the apartment.

(3) The proposed residential building has a height of 120.4 feet. A building height of 60 feet is permitted in the zone and five stories. The proposed height is in excess of 10' and 10% of the permitted height. On advise of the Board's attorney, it is our opinion that a d(6) height variance is required.

(4) In addition the following "C" variances are required:

• Side Yard Setback	10' 0'0'	Required Proposed
• Rear Yard Setback	20' 0'	Required Proposed
• Building Coverage	50% 66.51%	Permitted Proposed
• Impervious Coverage	75% 95.95%	Permitted Proposed
• Building Height (stories)	5 stories 12 stories	Permitted Proposed
• Landscaping	15% 4.05%	Required Proposed

The Municipal Land Use Law (MLUL) sets forth the positive and negative criteria for variance relief. It permits the Zoning Board of Adjustment to grant a d(1) use variance in particular cases. When a use or d(1) variance is required, the applicant must satisfy both the positive and the negative criteria. The positive criteria or special reasons include the showing, by the applicant, that the granting of the variance will effectuate the intents and purposes of the MLUL and advance the goals and objectives of the municipal master plan. The negative criteria establishes that the variance can be granted without substantial detriment to the public good; that the benefits of the deviation would outweigh any detriment and that it will not substantially impair the intent and purpose of the zoning plan and zoning ordinance.

Additionally, an applicant for a use variance is required to address the planning issues raised in the New Jersey Supreme Court case Medici v. BPR Co. 107 NJ (1987). The guidelines set forth in Medici require that an applicant, for a use variance, must demonstrate that special reasons are satisfied by either showing that the proposed use is one which, inherently serves the public good or that the proposed use, promotes the general welfare because the site is particularly suited for that use. The Medici decision provides, that along with the demonstration of the negative criteria, an enhanced quality of proof must be demonstrated to indicate that the grant of the requested use variance is not inconsistent with the intent and purpose of the Master Plan or Zoning Ordinance.

Recent case law, namely Larry Price v Himeji LLC and the Union City Zoning Board of Adjustment, provides new guidance on "particular suitability" of a site for a proposed use not permitted in the zone. The Supreme Court upheld more general understanding of particular suitability, which requires the applicant demonstrate that the particular property as developed for the proposed use serves the general welfare, because its location is particularly suited for the use. Therefore, (1) the facts must distinguish the subject site from surrounding sites; and (2) the applicant must demonstrate that the particular property as developed for the proposed use serves the general welfare, because its location is particularly suited for the use.

A "d(6)" height variance is required to show that the height restriction prohibits use of the property for a conforming structure or that a higher structure would not offend the purposes of the height limitation in the zoning ordinance. In addition, the applicant must provide that the variance can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

All variances required that are not classified as "d" variances are classified as "c" variances. As with all "c" variance applications, the applicant must provide testimony as to how the variance requested addresses the statutory requirements of N.J.S.A 40:55D-70c (1) hardship or (2) that

the variances requested benefit the community in that they represent a better zoning alternative for the property.

The c(1) hardship variance must relate to a specific piece of property or in other words the hardship arises out of a condition of the land itself or structures lawfully existing on the site. The c(2) variance does not require the showing of undue hardship. What must be shown is that the application (1) relates to a specific piece of property and (2) that the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance. Essentially, the variances requested must benefit the community in that they represent a better zoning alternative for the property.

The Board considered carefully the proofs required and considered the testimony of Mr. Kauker the Planner as well as Mr. Simoff the Engineer, Mr Kale the architect and Mr. Daibes the applicant. The Board has found as follows. At the 3rd hearing, applicant submitted revised plans which reduced the number of one bedroom's, added 18 studios instead, shrunk the building slightly to allow for a 5 foot setback from the rear property line and northerly line. In addition based on the recommendation from the Board, applicant has provided exterior gates for maintenance access to the Penthouse Gardens. In addition applicant has increased landscaping to 9% and added 18 charging stations for vehicles. Applicant has also stipulated to all of the conditions raised in the Boswell engineering review for drainage and construction. From a planning standpoint this site is particularly suitable for the use by virtue of its condition. It's a large oversized site and also by virtue of the fact that it is vacant land. It is particularly suitable by virtue of the fact that immediately to the south is a project that will be the same height and will mirror its general construction architecture. River Road itself has a series of high-rise's that are at least as high with a good deal of retail. This property has been specifically classified as the Block 316 Redevelopment Zone. This represents one of the few vacant properties left on River Road and the application is consistent with the area as well with new similar construction coming online down the street.

The Board accepts that multiple purposes of the MLUL are advanced here, including the advancement of Purpose A, the promotion of the general welfare with new housing stock. Also the advancement of Purpose G providing for efficient land use dealing with the scarcity of land. The site also provides for a variety of housing choices and, a goal of the master plan, to provide for a balanced housing supply. The Board finds that this application fosters positive aesthetics. This is not only going to be a positive reflection of the neighborhood but a positive reflection on the town as well. In addition this property directly abuts a transit card with many opportunities for public transportation.

Concerning the surrounding neighborhood and potential impacts the board finds that based on all the testimony on the record and the interaction between the board and the applicant here, the conclusion is that the influence on the neighborhood will be positive here, not negative, visually and functionally. The site will function safely and efficiently and have good integration

and sensitivity to the surrounding neighborhood. The Board as well as neighbors had concerns about the Palisades which abuts the property to the rear. The testimony reveals however that the height of the building will be separated from the highest edgecliffe by 40 feet not impairing views from above and to the East.

From a planning standpoint this application is actually consistent with the Master Plan which provided for specific redevelopment zoning in this area. All of the conditions created by the higher residential use can be accommodated on-site. The board specifically finds that the height can be accommodated because this project will be consistent with adjoining properties.

In terms of the lower order of relief, the d(6) height relief, again that's justified by satisfying the Grasso test, which is the test that looks at the purpose of height control. None of those Grasso purposes of height control are violated here to the extent that the added height will not create a negative shadow effect on any homes, will not block scenic views. It will not give this site an unfair height advantage over other sites, and the added height is not going to direct runoff or flooding onto any other properties.

Lastly, the bundle of C relief that the applicant is seeking relative to setbacks on all of the sides, is supported by the reasoning of the architect, engineer and planner which on balance the Board finds the benefits of the application would substantially outweigh the detriments.

Likewise, the building coverage relief, 66 percent versus 50 percent, is justified by consideration of this unusually large site within the district.

For the reasons stated herein, the board is satisfied that the applicant has met their burden with respect to the use variance requested, height variance and associated bulk variances but subject to the following conditions.

1. Subject and as stipulated to all comments of the Borough Engineer and Planner whether contained in their reports, testimony or this Resolution.
- 2 . Applicant shall install a new sidewalk adjoining the property on River Road..
3. Subject to approval by all other entities that may have jurisdiction over the proposed application, federal, state or county.
4. Subject to applicant entering the developer's agreement with the Township of North Bergen.
5. Subject further to all the terms and conditions in the attached addendum "A".

The above referenced Resolution was duly adopted by the North Bergen Board of

Adjustment on August 18, 2021 and memorialized on November 3, 2021.

A handwritten signature in black ink, appearing to be 'F. Pestana', is written over a solid horizontal line.

Frank Pestana, Chairman of the Board

EXHIBIT A

TOWNSHIP OF NORTH BERGEN PLANNING BOARD & ZONING BOARD OF ADJUSTMENT

STANDARD CONDITIONS OF APPROVAL

1. The Applicant(s) will comply with the Township's Construction Code and the comments made by the Board professionals in their report(s) and on the record.
2. Before any permits are applied for, it is the responsibility of the owner to see if there are any open permits or violations and address these before a new permit can be issued.
3. When applying for permits, a copy of the signed resolution and board-approved plans must accompany the permit application.
4. Once a permit has been issued, inspections must be conducted and all inspections must pass before a Certificate of Occupancy can be issued.
5. No Certificate of Occupancy will be issued unless all inspections have been performed, passed, and all prior approvals have been satisfied, which includes compliance with all conditions imposed by the Board. Prior to the issuance of a Certificate of Occupancy, the Applicant shall satisfy all amounts due and owing to the Board's professionals.
6. The Applicants shall maintain an adequate escrow account for the review and construction process, as determined by the Municipal officials.
7. The Applicants shall comply with any and all Federal, State, County and local laws, ordinances, codes, rules and regulations with respect to all aspects of the project, property and proposed use, and with all such applicable laws and codes, and shall be responsible for all costs and fees associated therewith. Notwithstanding the approval granted by the Board, the Applicants shall obtain all other applicable approvals and comply with all applicable laws, codes, ordinances, regulations and the like as to the Property.
8. The Applicants shall obtain all appropriate and applicable approvals and permits as required from all governmental agencies having jurisdiction over the project or the subject matter of this application, shall comply with each and every requirement of every issued permit and shall be responsible for all costs and fees associated with these approvals. As stated herein, before any permits are applied for, the Applicants shall determine whether there are any open permits or violations for the Property and resolve any such issues to the satisfaction of the Zoning Official. If there are any open permits or violations, no new permits shall be issued until the open permits and violations are addressed to the satisfaction of the Zoning Official. All sums, fines and penalties

assessed by the Zoning Official/Building Department shall be paid as may be due or otherwise adjusted, with the Zoning Official/Building Department prior to the issuance of permits.

9. If other agency approvals modify the plan, same will require further review by the Board.
10. If this is a conversion from a one and two family to multi-family dwelling, proof of registration to the State Department of Housing must be provided to the Board. That is in addition to the units that are already registered per the drawing. The first registration must be amended to include the new unit and must be provided to the Board and Board Attorney.
11. If the Application involves a one to four family non-owner occupied dwelling, same is subject to the Township's rent control ordinance. No certificate of occupancy is to be issued unless the dwelling is registered with the Township's Rent Control Board or certification provided that the dwelling is to be owner occupied.
12. The Applicants shall comply with the comments and conditions of the Planning Board/Zoning Board of Adjustment Engineer, Planning Board/Zoning Board of Adjustment Planner, Planning Board/Zoning Board of Adjustment Attorney and Board as stated in this Resolution and on the record.
13. The Applicants shall comply with all applicable laws and regulations, including the payment of the non-residential development fee, if applicable, pursuant to the Municipal Land Use Law.
14. This resolution does not sanction any occupancy that may have been illegal prior to the action of the Board. Any outstanding violation relating to illegal occupancy and fines are to be paid as assessed by the Municipal Court.

RESOLUTION MEMORIALIZED JULY 7, 2023

**RESOLUTION OF THE BOARD OF ADJUSTMENT
OF THE TOWNSHIP OF NORTH BERGEN
"d(1)" USE", "d(6) HEIGHT" VARIANCE,
and "(C) VARIANCES AND SUCH OTHER VARIANCE RELIEF
#10-23 BY 7711-7815 RIVER RD. URBAN RENEWAL ASSOCIATES, LLC AMENDING A PRIOR
APPROVAL FOR THE SUBJECT PROPERTY AS CONTAINED IN RESOLUTION #04-21
FOR PROPERTY LOCATED AT
7711, 7801 & 709 RIVER RD.
BLOCK (316) LOTS 22.02, 23 and 24**

WHEREAS, an application has been made by applicant, 7711-7815 River Rd. Urban Renewal Associates LLC, for a "d(1)" USE", "d(6) HEIGHT" VARIANCE, and "(C) VARIANCES AND SUCH OTHER VARIANCE RELIEF AS MAY BE NECESSARY to amend the prior approval #04-21 Increasing the number of residential units from 130 to 157 and increasing the parking to 170 spaces, eliminating the proposed 3800 ft.² commercial space, eliminating the indoor and outdoor amenities that were approved on the mezzanine level, and the 10th floor penthouse units have been eliminated and replaced with the gym, community room and rooftop pool. Such proposed development as presented is not permitted at the applicable site.

WHEREAS, the Board of Adjustment has reviewed the application and site plan and other variance requests at a hearing on April 19, 2023; and

WHEREAS, it appears that due notice of a hearing in the above application before the Board of Adjustment of the Township of North Bergen on April 19, 2023 at 6:00 PM., and duly conducted in person with appropriate notice, was duly served upon property owners within a two hundred (200) foot radius of the above described premises as prescribed by the Municipal Land Use Law; and

WHEREAS, the applicant has submitted proof that it has complied with the applicable procedural requirements including payment of fees and public notices; and

WHEREAS, the Board did consider the testimony of the architect, Raymond Vergona, H. Simoff, Engineer, James Demetrakis, applicant and as well as the testimony and reports of Jill Hartmann PP, Township Planner and Bernard Mirandi Township engineer having marked exhibits ZB-1 through ZB-2, applicant's exhibits A-1 & A-2 and further considered the proffer and argument of the attorney, David Carmel, Esq.; and

(1) Applicant owns a vacant site comprised of 46,155 ft.² situated on River Road in the Block 316 Redevelopment zone.

(2) By previous resolution #04-21 approval was granted to construct a 12 story multi-family residential complex with 72 one bedroom units, 18 studio and 40 two-bedroom units for a total of 130 residential units with 3800 ft.² of retail space. The plan proposes to provide 157 off-street parking spaces (149 req'd) on two levels of parking. Access to the parking level will be on-site from River Road and providing for a right turn into the site and a right turn away from the site. The applicant now comes before the Board requesting an amendment to the previous approval; incorporated by reference herein to now build 157 units which would consist of 27 studio units, 47 one-bedroom units, 36 one-bedroom units with dens, 38- 2 bedroom units and 9- 2 bedroom units with dens . In addition, the amended site plan proposes a eliminating 3800 ft.² of previously approved commercial space which will be used to increase the lobby with a lobby entrance, mailbox area, package area elevators and stairs to the floors above. In addition, indoor and outdoor amenities previously approved on the mezzanine level have been eliminated and relocated. The 10th floor penthouse units have been eliminated and replaced with a gym, community room and rooftop pool. A technical height variance is required since the calculated height for this application is 122.74' and the approved height had been 120.04'. This dimensional aberration was caused as a result of additional soil removal around the site. The total number of parking spaces has now been increased to 170 requiring no variance at all but is further mitigated by the use of the electrical charge and station credit. Within the garage changes have been made to better improve the flow of traffic and as a result of Hudson County Planning Board approval changes had to be made to the original proposed entrance and exit.

On April 19, 2023 the Board heard with interest the applicant's architect describe how the previous approval did not reflect market conditions for the types of units needed. They also explained that what was proposed in some respects needed to be revised because of building code issues. The Board heard testimony from the architect describing the features of each of the model types of units now being offered. They consisted of studio units with a bed alcove, one-bedroom units, one-bedroom units with a den, 2 bedroom units and 2 bedroom units with dens. The architect explained that the dens could not be used as sleeping quarters because there were no windows and further advised that the dens did not have access to closets. The Board carefully reviewed the plans and found that in reality the dens had a "side return" that was easily capable of being enclosed by a door. In addition there were several dens that did have access to closets. The applicant stipulated that the side returns would be removed on all dens and all closets would be removed from offending dens. On the 10th floor where the penthouses had been located,

they were now replaced by a gym, community room and a pool. The applicant testified that all of these features were moved forward towards River Road so not to impair the view of residents on Boulevard East. The Architect testified that there will be no gas grills but around the pool there will be seating areas and comfort lounges, all of which will be appropriately anchored. For safety reasons the applicant agreed with the Board that the proposed railing on the 10th floor would be increased to 6 feet for safety reasons. The engineer testified consistently about stormwater management and mitigation strategies and also opined that the increase in the number of parking spaces would have a de minimis effect on traffic. Most importantly, the architect testified that the mass of the building itself was not being changed and that virtually all of the changes were interior design changes and modifications. Except for minor changes to the architectural cladding, this development would very much be in keeping with the "Dutchess" a project next-door. The lobby area would be much improved by the elimination of the commercial space and providing a true lobby entrance, mailbox area, package area elevators and stairs to upper floors. The Board was satisfied with the engineer's testimony concerning the new height as it applied to this particular building which in all respects remained exactly as the prior approval. The Board did find that the plans in some respect were not detailed enough for purposes of the review and would require detailed plans as referenced in conditions below. The new plan with the additional parking spaces, all of which are conforming in size, are more than adequate to address the increase in units. There was some changes that had to be made to the entrance as a result of the Hudson County review. As a result of the applicants review of the previous approval and code compliance they had to add an additional stairwell. Their entire purpose for this application was to improve the project. The previous approval had dead ends in the parking area which this application eliminates and provides flow-through circulation for the vehicle traffic. The new proposal has centered the entrance in the middle of the building into the lobby. This allows access for trash removal and other features necessary for a project of this size. The applicant agrees that trash and recycling would have to be through a private carrier and not Township resource. Previous plans had shown a "subbasement" which is now been removed since mechanicals and trash removal have been moved up to the main floor. At the request of the Board, the engineer and architect will try to relocate handicapped spaces so that those residents do not have to move into drive aisles to access the lobby and elevators. Importantly, the side yard setback has been increased from 0' to 7'. As a result of county input, the northern driveway allows movement in all directions but the southern driveway now will allow only a right

turn in and right turn out. Applicant now proposes that the sprinklers will use recycled water that's captured on-site mitigating water usage for the plantings.

The Municipal Land Use Law (MLUL) sets forth the positive and negative criteria for variance relief. It permits the Zoning Board of Adjustment to grant a d(1) use variance in particular cases. When a use or d(1) variance is required, the applicant must satisfy both the positive and the negative criteria. The positive criteria or special reasons include the showing, by the applicant, that the granting of the variance will effectuate the intents and purposes of the MLUL and advance the goals and objectives of the municipal master plan. The negative criteria establishes that the variance can be granted without substantial detriment to the public good; that the benefits of the deviation would outweigh any detriment and that it will not substantially impair the intent and purpose of the zoning plan and zoning ordinance.

Additionally, an applicant for a use variance is required to address the planning issues raised in the New Jersey Supreme Court case Medici v. BPR Co. 107 NJ (1987). The guidelines set forth in *Medici* require that an applicant, for a use variance, must demonstrate that special reasons are satisfied by either showing that the proposed use is one which, inherently serves the public good or that the proposed use, promotes the general welfare because the site is particularly suited for that use. The *Medici* decision provides, that along with the demonstration of the negative criteria, an enhanced quality of proof must be demonstrated to indicate that the grant of the requested use variance is not inconsistent with the intent and purposes of the Master Plan or Zoning Ordinance.

Recent case law, namely Larry Price v Himeji LLC and the Union City Zoning Board of Adjustment, provides new guidance on "particular suitability" of a site for a proposed use not permitted in the zone. The Supreme Court upheld more general understanding of particular suitability, which requires the applicant demonstrate that the particular property as developed for the proposed use serves the general welfare, because its location is particularly suited for the use. Therefore, (1) the facts must distinguish the subject site from surrounding sites; and (2) the applicant must demonstrate that the particular property as developed for the proposed use serves the general welfare, because its location is particularly suited for the use.

A "d(6)" height variance is required to show that the height restriction prohibits use of the property for a conforming structure or that a higher structure would not offend the purposes of the height limitation in the zoning ordinance. In addition, the applicant must provide that the

variance can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

All variances required that are not classified as "d" variances are classified as "c" variances. As with all "c" variance applications, the applicant must provide testimony as to how the variance requested addresses the statutory requirements of N.J.S.A 40:55D-70c (1) hardship or (2) that the variances requested benefit the community in that they represent a better zoning alternative for the property.

The c(1) hardship variance must relate to a specific piece of property or in other words the hardship arises out of a condition of the land itself or structures lawfully existing on the site. The c(2) variance does not require the showing of undue hardship. What must be shown is that the application (1) relates to a specific piece of property and (2) that the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance. Essentially, the variances requested must benefit the community in that they represent a better zoning alternative for the property.

The Board considered carefully the proofs required and considered the testimony of Mr. Virgona, Mr. Simoff and Mr. Demetrakis. The Board has found as follows. Applicant has also stipulated to all of the conditions raised in the Boswell Engineering review for drainage and construction. From a planning standpoint this site is particularly suitable for the use by virtue of its condition. It's a large oversized site and also by virtue of the fact that it is vacant land. It is particularly suitable by virtue of the fact that immediately to the south is a project that will be the same height and will mirror its general construction architecture. River Road itself has a series of high-rise's that are at least as high as the proposed project. This property has been specifically classified as the Block 316 Redevelopment Zone. This represents one of the few vacant properties left on River Road and the application is consistent with the area as well with new similar construction coming online down the street.

The Board accepts that multiple purposes of the MLUL are advanced here, including the advancement of Purpose A, the promotion of the general welfare with new housing stock. Also the advancement of Purpose G providing for efficient land use dealing with the scarcity of land. The site also provides for a variety of housing choices and, a goal of the master plan, to provide for a balanced housing supply. The Board finds that this application fosters positive aesthetics. This is not only going to be a positive reflection of the neighborhood but a positive reflection on

the town as well. In addition this property directly abuts a transit corridor with many opportunities for public transportation.

Concerning the surrounding neighborhood and potential impacts the Board finds that based on all the testimony on the record and the interaction between the Board and the applicant here, the conclusion is that the influence on the neighborhood will be positive here, not negative, visually and functionally. The site will function safely and efficiently and have good integration and sensitivity to the surrounding neighborhood.

From a planning standpoint this application is a considerable improvement over the previous approval. Applicant has fitted the previous plans and approval and made changes consistent with market but at the same time improving the site in general which is actually consistent with the Master Plan which provided for specific redevelopment zoning in this area. All of the conditions created by the higher residential use can be accommodated on-site. The Board specifically finds that the height can be accommodated because this project will be consistent with adjoining properties.

In terms of the lower order of relief, the d(6) height relief, again that's justified by satisfying the Grasso test, which is the test that looks at the purpose of height control. None of those Grasso purposes of height control are violated here to the extent that the added height will not create a negative shadow effect on any homes, will not block scenic views. It will not give this site an unfair height advantage over other sites, and the added height is not going to direct runoff or flooding onto any other properties.

Lastly, the bundle of C relief that the applicant is seeking, reducing some side yard setback, is supported by the reasoning of the architect, engineer and planner which on balance the Board finds the benefits of the application would substantially outweigh the detriments.

Likewise, the building coverage relief, 66 percent versus 50 percent, is justified by consideration of this unusually large site within the district.

For the reasons stated herein, the Board is satisfied that the applicant has met their burden with respect to the amendment to the prior approval all of which are incorporated by reference herein the use variance requested, height variance and associated bulk variances but subject to the following conditions.

1. Subject and as stipulated to all comments of the Borough Engineer and Planner whether contained in their reports, testimony or this Resolution.

2. Incorporating by reference all elements of the prior approval not inconsistent with this amended approval.

3. Subject to approval by all other entities that may have jurisdiction over the proposed application, federal, state or county.

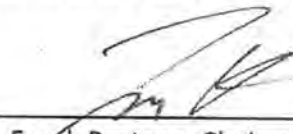
4. Subject to applicant entering the developer's agreement with the Township of North Bergen.

5. Subject further to all the terms and conditions in the attached addendum "A".

6. Subject to applicant providing to the planner and engineer detail plans identifying each unit, size and configuration and detailing features relative to those units as well as detail plans of the roof, trash room, mechanical Rooms, garage and other features as well as a detailed landscape and planting plan.

7. Subject to applicant removing returns on den's, removing all closets in den's and subject to the prior approval of the planner and the engineer of all plans to be submitted.

The above referenced Resolution was duly adopted by the North Bergen Board of Adjustment on April 19, 2023 and memorialized on July 7, 2023.



Frank Pestana, Chairman of the Board

EXHIBIT A

**TOWNSHIP OF NORTH BERGEN
PLANNING BOARD & ZONING BOARD OF ADJUSTMENT**

STANDARD CONDITIONS OF APPROVAL

1. The Applicant(s) will comply with the Township's Construction Code and the comments made by the Board professionals in their report(s) and on the record.
2. Before any permits are applied for, it is the responsibility of the owner to see if there are any open permits or violations and address these before a new permit can be issued.
3. When applying for permits, a copy of the signed resolution and board-approved plans must accompany the permit application.
4. Once a permit has been issued, inspections must be conducted and all inspections must pass before a Certificate of Occupancy can be issued.
5. No Certificate of Occupancy will be issued unless all inspections have been performed, passed, and all prior approvals have been satisfied, which includes compliance with all conditions imposed by the Board. Prior to the issuance of a Certificate of Occupancy, the Applicant shall satisfy all amounts due and owing to the Board's professionals.
6. The Applicants shall maintain an adequate escrow account for the review and construction process, as determined by the Municipal officials.
7. The Applicants shall comply with any and all Federal, State, County and local laws, ordinances, codes, rules and regulations with respect to all aspects of the project, property and proposed use, and with all such applicable laws and codes, and shall be responsible for all costs and fees associated therewith. Notwithstanding the approval granted by the Board, the Applicants shall obtain all other applicable approvals and comply with all applicable laws, codes, ordinances, regulations and the like as to the Property.
8. The Applicants shall obtain all appropriate and applicable approvals and permits as required from all governmental agencies having jurisdiction over the project or the subject matter of this application, shall comply with each and every requirement of every issued permit and shall be responsible for all costs and fees associated with these approvals. As stated herein, before any permits are applied for, the Applicants shall determine whether there are any open permits or violations for the Property and resolve any such issues to the satisfaction of the Zoning Official. If there are any open permits or violations, no new permits shall be issued until the open permits and violations are addressed to the satisfaction of the Zoning Official. All sums, fines and penalties

assessed by the Zoning Official/Building Department shall be paid as may be due or otherwise adjusted, with the Zoning Official/Building Department prior to the issuance of permits.

9. If other agency approvals modify the plan, same will require further review by the Board.
10. If this is a conversion from a one and two family to multi-family dwelling, proof of registration to the State Department of Housing must be provided to the Board. That is in addition to the units that are already registered per the drawing. The first registration must be amended to include the new unit and must be provided to the Board and Board Attorney.
11. If the Application involves a one to four family non-owner occupied dwelling, same is subject to the Township's rent control ordinance. No certificate of occupancy is to be issued unless the dwelling is registered with the Township's Rent Control Board or certification provided that the dwelling is to be owner occupied.
12. The Applicants shall comply with the comments and conditions of the Planning Board/Zoning Board of Adjustment Engineer, Planning Board/Zoning Board of Adjustment Planner, Planning Board/Zoning Board of Adjustment Attorney and Board as stated in this Resolution and on the record.
13. The Applicants shall comply with all applicable laws and regulations, including the payment of the non-residential development fee, if applicable, pursuant to the Municipal Land Use Law.
14. This resolution does not sanction any occupancy that may have been illegal prior to the action of the Board. Any outstanding violation relating to illegal occupancy and fines are to be paid as assessed by the Municipal Court.
15. Enter into a Developers Agreement with the Township of North Bergen, if required.
16. If Approval is for application where multiple lots combine to function as a single unit then the lots must be legally merged.

EXHIBIT “C”

BOND ESTIMATE CONSTRUCTION COST ESTIMATE Developer's Agreement 7711-7815 River Road Urban Renewal Associates, LLC 7718, 7801 & 7809 River Road Block 316, Lots 22.02, 23 and 24 North Bergen, NJ 07047 ZBA Case Number 04-21 Our File No. NBES-1562A					
8/15/2023					
Item No.	Description	Quantity	Unit Measure	Unit Price	Amount
DEMOLITION, CLEARING, AND GRUBBING					
1	Clear and Grub	1	LS	\$30,000.00	\$ 30,000.00
2	Remove existing curb, sidewalk and retaining walls	1	LS	\$15,000.00	\$ 15,000.00
3	Soil Erosion & Sediment Control Measures	1	LS	\$20,000.00	\$ 20,000.00
EARTHWORK					
4	Grading, Earth work and Fill Stockpile	1	LS	\$30,000.00	\$ 30,000.00
STORMWATER MANAGEMENT					
5	Type 'B' Inlet	1	EA	\$3,500.00	\$ 3,500.00
6	Type 'E' Inlet	4	EA	\$4,000.00	\$ 16,000.00
7	Storm Manhole	4	EA	\$3,000.00	\$ 12,000.00
8	Storm Manhole (Drop)	1	EA	\$3,500.00	\$ 3,500.00
9	Access Manhole	3	EA	\$1,500.00	\$ 4,500.00
10	Trench Drain	60	LF	\$100.00	\$ 6,000.00
11	Stormwater Valves	5	EA	\$1,000.00	\$ 5,000.00
12	Stormwater Cleanout	1	EA	\$1,000.00	\$ 1,000.00
13	6" PVC SDR-35 Pipe	13	LF	\$30.00	\$ 390.00
14	15" PVC SDR-35 Pipe	30	LF	\$45.00	\$ 1,350.00
15	4" HDPE Pipe	68	LF	\$35.00	\$ 2,310.00
16	12" RCP Storm Pipe	200	LF	\$55.00	\$ 11,000.00
17	15" RCP Storm Pipe	135	LF	\$60.00	\$ 8,100.00
18	18" RCP Storm Pipe	410	LF	\$65.00	\$ 26,650.00
19	Underground Detention System	1	LS	\$25,000.00	\$ 25,000.00
20	Outflow Structure	1	LS	\$5,000.00	\$ 5,000.00
21	Up-Flo Filter	1	LS	\$55,000.00	\$ 55,000.00
22	Stormwater Connection	2	EA	\$5,000.00	\$ 10,000.00
23	Irrigation Laterals	1	LS	\$3,000.00	\$ 3,000.00
24	Rainwater Harvesting System (2,000 Gallon Cistern Tank)	1	LS	\$5,000.00	\$ 5,000.00
25	8" Outlet Vortex Rainwater Fine Filter	1	LS	\$1,000.00	\$ 1,000.00
SANITARY SEWER					
26	8" PVC sewer pipe	80	LF	\$75.00	\$ 6,000.00
27	Sanitary Cleanout	1	EA	\$1,500.00	\$ 1,500.00
28	Connection to Existing Manhole	1	EA	\$4,500.00	\$ 4,500.00
SITE WORK					
29	Sawcut	315	LF	\$6.00	\$ 1,890.00
30	Pavement Repair	1	LS	\$2,500.00	\$ 2,500.00
31	Surface Course I-5	100	TON	\$100.00	\$ 10,000.00
32	Base Course I-2	175	TON	\$100.00	\$ 17,500.00
33	DGA Subbase	110	CY	\$25.00	\$ 2,750.00
34	Concrete Curb	670	LF	\$25.00	\$ 16,750.00
35	Mountable Concrete Curb	30	LF	\$25.00	\$ 750.00
36	Pervious Pavement	380	SY	\$65.00	\$ 24,700.00
37	Stamped Concrete	2750	SF	\$50.00	\$ 137,500.00
38	Concrete Sidewalk	3135	SF	\$35.00	\$ 109,725.00
39	HC Curb Ramps	4	EA	\$500.00	\$ 2,000.00
40	Wheelstops	1	EA	\$250.00	\$ 250.00
41	Water Fountain	1	EA	\$8,000.00	\$ 8,000.00
42	Retaining wall	1	LS	\$80,000.00	\$ 80,000.00
LANDSCAPING					
43	Trees	16	EA	\$1,500.00	\$ 24,000.00
44	Shrubs	3	EA	\$45.00	\$ 135.00
45	Ground Cover	80	EA	\$30.00	\$ 2,400.00
46	Pole Lights	5	EA	\$2,500.00	\$ 12,500.00
47	Wall Lights	12	EA	\$1,500.00	\$ 18,000.00
MISCELLANEOUS					
48	Traffic Striping	1	LS	\$10,000.00	\$ 10,000.00
49	ADA Symbols	3	EA	\$300.00	\$ 900.00
50	ADA Signs	3	EA	\$300.00	\$ 900.00
51	Traffic Signs	3	EA	\$200.00	\$ 600.00
52	Monument Sign	1	EA	\$3,500.00	\$ 3,500.00
52	Generator Pad	1	EA	\$2,500.00	\$ 2,500.00
53	Transformer Pad	1	EA	\$5,000.00	\$ 5,000.00
Total					\$ 807,050.00

BOND ESTIMATE CONSTRUCTION COST ESTIMATE Developer's Agreement 7711-7815 River Road Urban Renewal Associates, LLC 7718, 7801 & 7809 River Road Block 316, Lots 22.02, 23 and 24 North Bergen, NJ 07047 ZBA Case Number 04-21 Our File No. NBES-1562A	
Total Estimated Construction Cost	\$ 808,000.00
Engineering Escrow (5%)	\$ 40,400.00

REQUIRED PERFORMANCE GUARANTEE PUBLIC IMPROVEMENT					
8/15/2023					
ITEM NO.	DESCRIPTION	UNITS	QUANTIT Y	UNIT PRICE	AMOUNT
1	Type 'B' Inlet	1	EA	\$3,500.00	\$ 3,500.00
2	Type 'E' Inlet	4	EA	\$4,000.00	\$ 16,000.00
3	Storm Manhole	4	EA	\$3,000.00	\$ 12,000.00
4	Storm Manhole (Drop)	1	EA	\$3,500.00	\$ 3,500.00
5	Access Manhole	3	EA	\$1,500.00	\$ 4,500.00
6	Trench Drain	60	LF	\$100.00	\$ 6,000.00
7	Stormwater Valves	5	EA	\$1,000.00	\$ 5,000.00
8	Stormwater Cleanout	1	EA	\$1,000.00	\$ 1,000.00
9	6" PVC SDR-35 Pipe	13	LF	\$30.00	\$ 390.00
10	15" PVC SDR-35 Pipe	30	LF	\$45.00	\$ 1,350.00
11	4" HDPE Pipe	66	LF	\$35.00	\$ 2,310.00
12	12" RCP Storm Pipe	200	LF	\$55.00	\$ 11,000.00
13	15" RCP Storm Pipe	135	LF	\$60.00	\$ 8,100.00
14	18" RCP Storm Pipe	410	LF	\$65.00	\$ 26,650.00
15	Underground Detention System	1	LS	\$25,000.00	\$ 25,000.00
16	Outflow Structure	1	LS	\$5,000.00	\$ 5,000.00
17	Up-Flo Filter	1	LS	\$55,000.00	\$ 55,000.00
18	Stormwater Connection	2	EA	\$5,000.00	\$ 10,000.00
19	Irrigation Laterals	1	LS	\$3,000.00	\$ 3,000.00
20	Rainwater Harvesting System (2,000 Gallon Cistern Tank)	1	LS	\$5,000.00	\$ 5,000.00
21	8" Outlet Vortex Rainwater Fine Filter	1	LS	\$1,000.00	\$ 1,000.00
22	8" PVC sewer pipe	80	LF	\$75.00	\$ 6,000.00
23	Sanitary Cleanout	1	EA	\$1,500.00	\$ 1,500.00
24	Connection to Existing Manhole	1	EA	\$4,500.00	\$ 4,500.00
25	Sawcut	315	LF	\$6.00	\$ 1,890.00
26	Pavement Repair	1	LS	\$2,500.00	\$ 2,500.00
27	Surface Course I-5	20	TON	\$100.00	\$ 2,000.00
28	Base Course I-2	35	TON	\$100.00	\$ 3,500.00
29	DGA Subbase	22	CY	\$25.00	\$ 550.00
30	Concrete Curb	230	LF	\$25.00	\$ 5,750.00
31	Mountable Concrete Curb	30	LF	\$25.00	\$ 750.00
32	Concrete Sidewalk	1430	SF	\$35.00	\$ 50,050.00
33	HC Curb Ramps	4	EA	\$500.00	\$ 2,000.00
34	Traffic Striping	1	LS	\$500.00	\$ 500.00
TOTAL ESTIMATED CONSTRUCTION COST					\$286,790.00
					SAY \$287,000.00

PERFORMANCE GUARANTEE	
TOTAL PERFORMANCE GUARANTEE REQUIRED (120% OF CONSTRUCTION COST)	\$344,148.00
CASH PERFORMANCE GUARANTEE REQUIRED (10% OF TOTAL PERFORMANCE GUARANTEE)	\$34,414.80
SURETY PERFORMANCE GUARANTEE REQUIRED (90% OF TOTAL PERFORMANCE GUARANTEE)	\$309,733.20
MAINTENANCE GUARANTEE	
MAINTENANCE GUARANTEE (15% OF PUBLIC IMPROVEMENT CONSTRUCTION COST)	\$43,050.00

Developer's Agreement
7711-7816 River Road Urban Renewal Associates, LLC
7718, 7801 & 7809 River Road
Block 316, Lots 22.02, 23 and 24
North Bergen, NJ 07047
ZBA Case Number 04-21
Our File No. NBES-1562A

SAFETY AND STABILIZATION GUARANTEE	
Total Estimated Construction Cost	\$ 808,000.00
For first \$100,000 of Construction Cost	\$5,000.00
2.5% for Construction Cost \$100,000 to \$1,000,000	\$17,700.00
TOTAL SAFETY AND STABILIZATION GUARANTEE	\$22,700.00
CASH SAFETY AND STABILIZATION GUARANTEE REQUIRED (10% OF GUARANTEE)	\$2,270.00
SURETY SAFETY AND STABILIZATION GUARANTEE REQUIRED (90% OF GUARANTEE)	\$20,430.00

EXHIBIT “D”

List of Permits
7711-7815 River Road Urban Renewal Associates, LLC
7718, 7801 & 7809 River Road
Block 316, Lots 22.02, 23 and 24
North Bergen, NJ 07047
ZBA Case Number 04-21
Our File No. NBES-1562A

Below is a List of Required Permits/Approvals for Capital Box Corp.

Our File No. NBES-1562A

Date August 15, 2023

- | | |
|---------------|--|
| <u> X </u> | All Municipal Permits including Building, Plumbing and Electrical |
| <u> X </u> | Municipal Soil Moving Permit |
| <u> X </u> | DPW Sewer Connection/Disconnection Permit |
| <u> X </u> | Written Verification of Approval or Waiver from Hudson County Planning Board |
| <u> X </u> | Hudson County Road Opening Permit |
| <u> X </u> | Certified Hudson Essex Passaic County Soil Conservation District Permit |
| <u> X </u> | Written Verification of NBMUA Approval to Connect to Sanitary Sewer |
| <u> </u> | New Jersey Department of Transportation Road Opening Permit |
| <u> </u> | NJDOT Stormwater Connection Permit |
| <u> </u> | NJDOT Highway Access Permit |
| <u> X </u> | NJDEP TWA CP-1 Permit Application |
| <u> X </u> | NJDEP Stormwater Permit |
| <u> </u> | NJSEA Approval and Certified Site Plans |
| <u> X </u> | Any Other Permits/Approvals, as Required |