

TOWN OF PHILLIPSBURG
COUNCIL MEETING AGENDA
FEBRUARY 7, 2023 — 7:00 P.M.

- 1. CALL TO ORDER**
- 2. OPEN PUBLIC MEETING ACT STATEMENT**
- 3. PLEDGE OF ALLEGIANCE**
- 4. INVOCATION**
- 5. ROLL CALL**
- 6. APPROVAL OF MINUTES**

December 20, 2022; January 3, 2023

- 7. BILLS LIST**
- 8. EXECUTIVE SESSION**
- 9. HABITABILITY HEARING**

109 Chambers Street; 17 Union Square

- 10. ANNOUNCEMENTS/PRESENTATIONS**
- 11. MAYOR'S REPORT/ADMINISTRATIVE OFFICERS**
- 12. PUBLIC DISCUSSION ON AGENDA ITEMS**
- 13. ORDINANCES FOR 1ST READING**

ORDINANCE 2023-02

AN ORDINANCE BY THE TOWN COUNCIL AMENDING THE TOWN OF PHILLIPSBURG SALARY ORDINANCE

**** 2ND Reading and public hearing to be held February 21ST, 2023 at 7:00 p.m.****

- 14. ORDINANCES FOR 2ND READING**

ORDINANCE 2023-01

AN ORDINANCE BY THE TOWN COUNCIL AMENDING THE TOWN OF PHILLIPSBURG CODE OF ORDINANCES TO REPEAL CHAPTER 318 FLOOD DAMAGE PREVENTION; TO ADOPT A NEW CHAPTER 318 ENTITLED FLOODPLAIN MANAGEMENT & FLOOD PLAN DAMAGE PREVENTION TO ADOPT FLOOD HAZARD MAPS; TO DESIGNATE A FLOODPLAIN ADMINISTRATOR; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

15. RESOLUTIONS ** CONSENT AGENDA **

Matters listed on the Consent Agenda Resolutions are considered routine and will be enacted by one motion of the Council and one roll call vote. There will be no separate discussion of these items unless a Council member requests an item to be removed for consideration

R2023-26

RESOLUTION DESIGNATING HANDICAP PARKING SPACES WITHIN THE TOWN OF PHILLIPSBURG

R2023-27

RESOLUTION AUTHORIZING THE TOWN OF PHILLIPSBURG TO APPLY FOR A GRANT FROM THE STATE OF NEW JERSEY TO IMPROVE PUBLIC SPACE AND ADD TO RECREATIONAL OPPORTUNITIES

R2023-28

RESOLUTION AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH HAWKINS, DELAFIELD & WOOD, LLP FOR SERVICES RELATED TO THE NEW JERSEY WATER INFRASTRUCTURE PROTECTION ACT N.J.S.A. 58:30-1

R2023-29

RESOLUTION AUTHORIZING AWARD OF A CONTRACT FOR PROFESSIONAL SERVICES WITH RT ENVIRONMENTAL SERVICES, INC FOR MADISON PARK PHASE II

R2023-30

RESOLUTION OF THE TOWN OF PHILLIPSBURG, APPROVING A PAYMENT IN THE AMOUNT OF \$497,475.00 TO ALL STATE TECHNOLOGY, INC FOR THE WALTERS PARK POOL PROJECT

R2023-31

RESOLUTION TOWN OF PHILLIPSBURG COUNTY OF WARREN, STATE OF NEW JERSEY DIRECTING THE WARREN COUNTY CLERK TO PLACE ON THE BALLOT FOR THE 2023 GENERAL ELECTION FOR THE VOTERS CONSIDERATION THE QUESTION OF WHETHER THE PHILLIPSBURG FREE PUBLIC LIBRARY TAX SHOULD BE INCREASED TO ONE (1) MILL

R2023-32

A RESOLUTION APPROVING THE ISSUANCE OF A SPECIAL PERMIT FOR A SOCIAL AFFAIR TO SAINTS PHILIP & JAMES SCHOOL

R2023-33

RESOLUTION AUTHORIZING PAYOUT OF ACCRUED SICK, VACATION AND COMPENSATORY LEAVE FOR CAPTAIN TRAVIS ZECHMAN

R2023-34

RESOLUTION AUTHORIZING PAYOUT OF ACCRUED SICK, VACATION AND COMPENSATORY LEAVE FOR PATROLMAN MATTHEW AMEY

R2023-35

RESOLUTION AMENDING RESOLUTION 2023-02: A RESOLUTION TO PROVIDE FOR AN ADOPTION OF A TEMPORARY BUDGET FOR DEBT SERVICE FOR THE YEAR 2023 IN ACCORDANCE WITH THE PROVISIONS OF THE LOCAL BUDGET ACT

R2023-36

RESOLUTION OF THE TOWN OF PHILLIPSBURG, COUNTY OF WARREN, STATE OF NEW JERSEY APPROVING OF AND AUTHORIZING THE MAYOR TO EXECUTE THE DEED OF EASEMENTS, COVENANTS AND RESTRICTIONS WITH CAL RIPKEN, SR. FOUNDATION, INC.

16. NEW BUSINESS

UNFUNDED STATE MANDATE-RENTAL AND BUSINESS INSURANCE REGISTRY

17. OLD BUSINESS

CORLISS AVENUE UPDATE

18. PUBLIC PETITIONS

19. COUNCIL OPEN TIME

20. ADDITIONAL EXECUTIVE SESSION (IF REQUIRED)

21. ADJOURNMENT

Bill List Summary
REGULAR BILL LIST AS OF February 7, 2023

		<u>Check No</u>
1	Current Fund	102,974.94
2	State & Federal Grants	1,131.99
4	Capital Fund	104,421.70
7	Sewage Utility Fund	416,797.85
8	Sewage Capital Fund	896.00
12	Planning Board Trust Fund	2,383.50
12	Bridge Development	1,451.00
13	Dog Trust Fund	1,010.00
16	Section 8	17,741.32
17	General Trust Fund	17,053.00
17	Affordable Housing Trust	0.00
20	Agency Fund	0.00
21	Revolving Loan Fund	0.00
Total Regular Bill List as February 7, 2023		665,861.30


Pre-Paid Bill List as of February 7, 2023

1	Current Fund	36,325.63
2	State & Federal Grants	35,200.00
4	Capital Fund	0.00
7	Sewer Utility Fund	181,684.75
8	Sewer Utility Capital	0.00
12	Planning Board Trust Fund	0.00
16	Section 8	0.00
17	General Trust Fund	0.00
20	Agency Fund	198,887.81
21	Revolving Loan Fund	0.00
		452,098.19

Grand Total All Funds

1,117,959.49

Approved By:



 Robert J. Merlo, CFO



_____ **Matthew Hall, Business Admin**

List of Bills - CLAIMS CHECKING ACCOUNT

Meeting Date: 02/07/2023 For bills from 01/18/2023 to 02/06/2023

Check#	Vendor	Description	Payment	Check Total
88495	6 - MATTHEW AMEY	PO 39519 2023 Eyecare Reimbursement	300.00	300.00
88496	29 - WILSON PRODUCTS	PO 39558 Welder	4,817.75	4,817.75
88497	52 - STAR DOLLAR CLEANERS INC	PO 39551 January Uniform Cleaning	995.00	995.00
88498	81 - P H BARRON WELDING	PO 39052 Weld repair hopper of truck #28	1,187.50	1,187.50
88499	89 - GRAINGER	PO 37818 Underground enclosure cover	818.32	818.32
88500	97 - BAKER & TAYLOR BOOKS INC	PO 38936 203 - Juvenile Books	125.41	125.41
88501	118 - WEST GROUP PAYMENT CENTER	PO 39521 NJ Statutes January 2023	480.84	480.84
88502	129 - AMERIGAS CLINTON 7510	PO 39487 Propane for Walters Park garage	279.88	279.88
88503	130 - CINTAS FAS LOCKBOX 636525	PO 39429 Supplies for medical cabinets	738.17	
		PO 39430 Eyewash station check	262.39	
		PO 39447 AED Agreement	545.00	
		PO 39540 Medical supplies for cabinets	908.32	2,453.88
88504	133 - COOPERFRIEDMAN ELECT.SUPPLY CO INC	PO 38696 Street light pole replacements	17,580.00	17,580.00
88505	139 - VAN CLEEF ENGINEERING ASSOC., LLC	PO 35308 R:2021-110 COF - Engineering svcs Warren	168.00	168.00
88506	139 - VAN CLEEF ENGINEERING ASSOC., LLC	PO 36336 R:2021-248 COF Preparation of Grant Ap	896.00	896.00
88507	139 - VAN CLEEF ENGINEERING ASSOC., LLC	PO 37527 R:2022-44 CoF Meeting Retainer	4,100.00	4,100.00
88508	139 - VAN CLEEF ENGINEERING ASSOC., LLC	PO 37949 R:2022-142 COF Engineering Services for	7,593.50	7,593.50
88509	139 - VAN CLEEF ENGINEERING ASSOC., LLC	PO 38111 R:2022-139 COF Engineering Hudson St Pha	2,866.50	2,866.50
88510	139 - VAN CLEEF ENGINEERING ASSOC., LLC	PO 39528 Professional Services Rendered	483.00	483.00
88511	139 - VAN CLEEF ENGINEERING ASSOC., LLC	PO 39543 Bridge Point 78 Phase II	1,451.00	1,451.00
88512	139 - VAN CLEEF ENGINEERING ASSOC., LLC	PO 39544 Avantor Solar	588.00	588.00
88513	139 - VAN CLEEF ENGINEERING ASSOC., LLC	PO 39545 180 North Riverview	434.00	434.00
88514	139 - VAN CLEEF ENGINEERING ASSOC., LLC	PO 39546 34 Colby Place	147.00	147.00
88515	139 - VAN CLEEF ENGINEERING ASSOC., LLC	PO 39568 Manor House Bl 5.04 Lot 8 & 9	269.50	269.50
88516	139 - VAN CLEEF ENGINEERING ASSOC., LLC	PO 39569 577 Memorial Parkway Grove Place LLC	945.00	945.00
88517	215 - NAZARETH FORD INC	PO 39504 Parts for garage	274.68	
		PO 39541 Parts for garage	295.46	570.14
88518	281 - ELECTRONIC MEASUREMENT LABS INC	PO 39496 Calibration and Repair of Hazard Gas Det	378.79	378.79
88519	290 - FIRTH YOUTH CENTER	PO 39554 Face Painter, Pizza, Supplies, & Staff f	871.99	871.99
88520	346 - ST LUKE'S OCCUPATIONAL MEDICINE	PO 38810 2022 Medical Evaluations for FD Respirat	975.00	975.00
88521	373 - VASSO WASTE SYSTEMS, INC	PO 39417 Parts for truck 26	568.81	
		PO 39538 Tube slidecyl	111.42	680.23
88522	390 - RT ENVIRONMENTAL SERVICES INC	PO 38274 R:2022-164 COF Preliminary assessment an	12,145.00	12,145.00
88523	392 - ANTHONY GOODELL	PO 39525 2022 Eyecare Reimbursement	300.00	300.00
88524	412 - BROWN'S HUNTERDON MACK	PO 39405 Repair of 94-74	1,440.15	1,440.15
88525	492 - MICHAEL CONNAUGHTON	PO 39440 2022 Eyecare Reimbursement	254.97	254.97
88526	495 - QUADIENT LEASING USA, INC	PO 39559 Postage machine lease 2/18/23 -5/17/23	999.00	999.00
88527	499 - NATURAL SYSTEMS UTILITIES	PO 39469 COF - 2023 Monthly Service Fee	415,785.76	415,785.76
88528	537 - TP CONSTRUCTION COMPANY	PO 39485 Aluminum flashing for #1 Firehouse	1,045.00	1,045.00
88529	546 - GRAPHIC ACTION INC	PO 39149 Purchase of Signs	278.64	278.64
88530	687 - INDUSTRIAL COMMUNICATIONS INC	PO 39148 Purchase of Pager Batteries	60.00	
		PO 39242 Purchase of Re-Conditioned Portable Radi	575.00	
		PO 39494 Radio Maintenance Contract for January 2	825.00	
		PO 39560 Purchase of Belt Clips for Pagers	72.00	1,532.00
88531	703 - FIRE LINE EQUIPMENT INC	PO 39499 Repair of 9469	397.50	397.50
88532	706 - Current Fund	PO 39522 AQUA WATER PERMITS	1,425.00	1,425.00
88533	706 - Current Fund	PO 39523 AQUA WATER PERMITS	1,500.00	1,500.00
88534	706 - Current Fund	PO 39524 AQUA WATER PERMITS	1,500.00	1,500.00
88535	733 - NJ ADVANCE MEDIA, LLC	PO 39547 NJ Advance reorganization mtg, O-2022-33	177.20	
		PO 39547 NJ Advance reorganization mtg, O-2022-33	397.85	
		PO 39550 NJ Advance Re-organization Mtg / Star L	109.89	684.94
88536	741 - COOPER ALARM SYSTEMS INC	PO 39436 Lesson on access control system	125.00	125.00
88537	772 - ULINE INC	PO 39497 Purchase of Inspection Tags	102.67	102.67
88538	803 - PRO PRINT GRAPHICS LLC	PO 39209 Academy Gear for Tinsman	203.00	203.00
88539	843 - LAURI KAULIUS	PO 39555 TCMAA Winter Retreat Seminar Jan 2023 &	93.52	93.52
88540	844 - PBURG FIRE LADIES AUXILIARY	PO 38916 Refreshments for Extrication Class	190.40	190.40
88541	864 - PDB PROPERTY MAINTENANCE INC	PO 39516 Footwear for Tinsman	259.00	259.00
88542	879 - MAYBERRY SALES & SERVICE INC	PO 39493 Repair of Portable Generator	208.22	208.22
88543	953 - NORTHEAST PARTS GROUP LLC	PO 39233 Parts for garage	201.59	
		PO 39412 Parts for garage	528.47	
		PO 39449 Parts for garage	219.58	
		PO 39486 Speedy dri	1,039.20	
		PO 39505 Parts for garage	306.60	2,295.44
88544	961 - DEVO & ASSOCIATES LLC	PO 39530 Kiosk air time	127.10	127.10
88545	972 - BLOSKY & ASSOCIATES LLC	PO 39219 VMS	110.00	110.00
88546	998 - GRIFFITH-ALLIED TRUCKING LLC	PO 39529 Gasoline usage	4,713.37	
		PO 39529 Gasoline usage	399.20	
		PO 39557 Gasoline usage	435.69	
		PO 39557 Gasoline usage	5,671.34	11,219.60

List of Bills - CLAIMS CHECKING ACCOUNT
Meeting Date: 02/07/2023 For bills from 01/18/2023 to 02/06/2023

Check#	Vendor	Description	Payment	Check Total
88547	1019 - MICHAEL MOUSSA	PO 39552 10 Large Plain Pizzas for Youth at 1/6/2	130.00	
		PO 39553 10 Large Plain Pizzas for Youth at 1/20/	130.00	260.00
88548	1024 - LEE MONDAY PH.D	PO 39139 Psychological Evaluations for Mirenda an	850.00	850.00
88549	1050 - ROBERT R BLEASE	PO 38409 COF - Monthly Retainer	800.00	
		PO 39562 Boarding for Strays	210.00	1,010.00
88550	1053 - TRIUS, INC	PO 39237 Pro plus cutting edge	450.00	450.00
88551	1060 - HORWITH TRUCKS INC	PO 39491 Repairs for truck 27	4,173.32	4,173.32
88552	1072 - DAVID WEBER OIL CO	PO 39511 Motor Oil	1,344.40	1,344.40
88553	1073 - FIRE & SAFETY SERVICES LTD	PO 39404 Service and Repairs to 9463	4,138.33	
		PO 39445 Annual Pump Service on 94-64	806.00	
		PO 39564 Repair of 9469	2,182.10	
		PO 39565 Service and Repair of 9484	550.00	
		PO 39566 Service and Repairs to 9485	2,337.42	10,013.85
88554	1100 - ADVANCE LOCAL HOLDINGS CORP	PO 39229 Land Use Bill	208.80	208.80
88555	1108 - OFFICE CONCEPTS GROUP INC	PO 39590 Office Supply	204.45	204.45
88556	1140 - STRATIX SYSTEMS, INC	PO 39492 Ink for map copier	362.00	362.00
88557	1143 - THOMAS J MORRIS JR	PO 39252 Annual Ammunition Purchase & Cleaning Su	447.20	447.20
88558	1146 - H & K GROUP, INC	PO 39424 Stone	129.32	
		PO 39535 Macadam	144.61	273.93
88559	1165 - STEVEN M SIEGEL	PO 39484 Monthly Payment for Municipal Prosecutor	3,333.33	3,333.33
88560	1176 - ROBERT J MERLO	PO 39549 2023 Eyecare reimbursement	119.90	119.90
88561	1180 - SERVICE ELECTRIC CABLE TV AND COMMUNICAT	PO 39495 First Quarter Payment on Fiber Circuits	2,400.00	2,400.00
88562	1198 - MOTOROLA SOLUTIONS	PO 37142 R:2022-48 COF Body Worn Cameras	16,595.00	16,595.00
88563	1202 - RRJ AUTOMOTIVE LLC	PO 39247 Paint New Vehicle Black & White	1,200.00	1,200.00
88564	1212 - IBN CONSTRUCTION CORP	PO 37947 R:2022-124 COF Demo of 159 Mercer St & 2	59,618.70	59,618.70
88565	1281 - SIGNS & SAFETY DEVICES SALES & SERVICE D	PO 39444 Street Signs	2,310.00	
		PO 39533 Street signs	706.30	3,016.30
88566	1311 - AMAZON CAPITAL SERVICES	PO 39243 Office Supplies	380.16	380.16
88567	1311 - AMAZON CAPITAL SERVICES	PO 39403 Purchase of Desk Calendars	30.75	30.75
88568	1311 - AMAZON CAPITAL SERVICES	PO 39509 Office Supplies	575.87	575.87
88569	1311 - AMAZON CAPITAL SERVICES	PO 39512 Desk Calendar	13.68	13.68
88570	1311 - AMAZON CAPITAL SERVICES	PO 39526 Equipment for K9 Program	214.83	214.83
88571	1311 - AMAZON CAPITAL SERVICES	PO 39527 cardstock for permits to carry	18.90	18.90
88572	1311 - AMAZON CAPITAL SERVICES	PO 39561 Purchase of Batteries for SCBA Units	236.86	236.86
88573	1372 - REEGS INC	PO 39448 Batteries for garage	129.95	
		PO 39502 Batteries for garage	259.90	389.85
88574	1374 - FRED BEANS PARTS INC	PO 39232 Parts for garage	271.13	
		PO 39413 Parts for garage	343.53	
		PO 39503 Parts for garage	33.82	648.48
88575	1386 - EASTERN WAREHOUSE DISTRIBUTORS LLC	PO 39508 Parts for garage	199.47	199.47
88576	1413 - DEAN L BURRELL	PO 38678 Arbitration fee	1,000.00	1,000.00
88577	1416 - CRS LLC	PO 39506 Battery backup for server	587.67	587.67
88578	1419 - MARIOLA SZCZESNY	PO 39537 2023 Eyecare Reimbursement	397.40	397.40
88579	1421 - EAST COAST K-9 ACADEMY LLC	PO 39009 Police Canine	8,950.00	8,950.00
88580	1492 - OPDYKE'S SERVICES	PO 39414 Parts for garage	100.27	
		PO 39507 Parts for garage	21.05	121.32
88581	1679 - CHRIN'S BROS INC	PO 39501 Weekly disposal fees - 1/9/23 - 1/13/23	9,466.60	
		PO 39539 Weekly disposal fees - 1/17/23-1/20/23	8,196.50	17,663.10
88582	1681 - BOROUGH OF ALPHA	PO 39462 DECEMBER 2022 POSTAGE REIMBURSEMENT	528.91	528.91
88583	1758 - METZ INC	PO 39423 Heating repairs - Reliance Firehouse	399.65	399.65
88584	1902 - U S MUNICIPAL SUPPLY, INC	PO 39419 Parts for garage	191.02	
		PO 39490 Gutter broom	267.60	458.62
88585	1954 - SUMMIT DOOR LLC	PO 39406 Door Operators	225.00	225.00
88586	2122 - JAMES STETTNER	PO 39402 2022 Eyecare Reimbursement	277.08	277.08
88587	2172 - NORTHEAST JANITORIAL SUPPLY LLC	PO 39556 Janitorial supplies	2,065.05	2,065.05
88588	2303 - DIVISION OF STATE POLICE-SBI	PO 39254 Requests for Criminal History Record	216.00	216.00
88589	2355 - LEXIS-NEXIS RISK DATA MGMT. C/O	PO 39518 December Monthly contract	113.56	113.56
88590	3089 - SUNSHINE TREE & LANDSCAPE	PO 39498 Repair of Partner Saw	171.97	171.97
88591	6917 - R & R LAWN SERVICE INC	PO 39439 Yearly lawn service - Shappell Park	782.80	782.80
88592	7066 - MRI SOFTWARE INC	PO 38504 Renewal of Software Services	15,145.00	15,145.00
88593	7143 - CARMEN CORREA	PO 39226 Utility Reimbursement	108.00	108.00
88594	7144 - PRUDENCE BURD	PO 39223 Utility Reimbursement	100.00	100.00
88595	9069 - COURTNEY FROST	PO 39225 Utility Reimbursement	214.00	214.00
88596	9093 - CRYSTAL DIANE SCHNELL	PO 39228 Utility Reimbursement	57.00	57.00
88597	9172 - BRIANNA LEPOIDEVIN	PO 39224 Utility Reimbursement	140.00	140.00
88598	9196 - TAWANNA T NICHOLS	PO 39221 Utility Reimbursement	316.00	316.00
88599	9197 - SILVIA DEJESUS	PO 39220 Utility Reimbursement	282.00	282.00
88600	9210 - APRIL CAPEL	PO 39227 Utility Reimbursement	273.00	273.00

List of Bills - CLAIMS CHECKING ACCOUNT
 Meeting Date: 02/07/2023 For bills from 01/18/2023 to 02/06/2023

Check#	Vendor	Description	Payment	Check Total	
TOTAL				665,861.30	
Summary By Account					
ACCOUNT	DESCRIPTION	CURRENT YR	APPROP. YEAR	NON-BUDGETARY	CREDIT
01-201-20-100-050	Business Administrator - O/E	999.00			
01-201-20-120-050	Municipal Clerk - O/E	988.58			
01-201-20-130-050	Financial Administration - O/E	601.35			
01-201-23-220-050	Employee Group Insurance	817.30			
01-201-25-240-050	Police Department - O/E	1,641.23			
01-201-25-265-050	Fire Department - O/E	1,980.51			
01-201-25-275-050	Municipal Prosecutor O/E	3,333.33			
01-201-26-290-050	Street & Roads - O/E	4,200.11			
01-201-26-300-050	Public Works Administration - O/E	362.00			
01-201-26-301-050	PEOSHA	1,453.32			
01-201-26-310-050	Building & Grounds - O/E	2,847.85			
01-201-26-315-050	Vehicle Maintenance - O/E	8,281.68			
01-201-31-440-050	Switchboard Expenses - O/E	2,527.10			
01-201-31-446-050	Utility Expenses - Natural Gas	279.88			
01-201-31-460-050	Bulk Purchases - Gasoline	10,384.71			
01-201-32-465-050	Landfill/Solid Waste Disposal Costs	17,663.10			
01-201-33-490-050	Municipal Court - O/E	93.52			
01-203-20-150-050	(2022) Tax Assessment Administration OE		380.16		
01-203-20-155-050	(2022) Legal Services		1,000.00		
01-203-20-165-050	(2022) Engineering services		4,100.00		
01-203-21-180-050	(2022) Land Use Administration		208.80		
01-203-23-220-050	(2022) Employee Group Insurance		832.05		
01-203-25-240-050	(2022) Police Department - O/E		12,022.76		
01-203-25-265-050	(2022) Fire Department - O/E		13,788.79		
01-203-26-290-050	(2022) Street & Roads - O/E		4,302.64		
01-203-26-301-050	(2022) PEOSHA		1,000.56		
01-203-26-310-050	(2022) Building & Grounds - O/E		2,387.97		
01-203-26-315-050	(2022) Vehicle Maintenance - O/E		3,842.32		
01-203-33-490-050	(2022) Municipal Court - O/E		528.91		
01-203-47-390-050	(2022) Maintenance of Free Public Library		125.41		
01-260-05-100	Current Fund - Due to Claims			0.00	102,974.94
TOTALS FOR	CURRENT FUND	58,454.57	44,520.37	0.00	102,974.94
02-213-41-506-000	Public Safety - State Grants			1,131.99	
02-260-05-100	St/Fed Grants - Due to Claims Fund			0.00	1,131.99
TOTALS FOR	STATE & FEDERAL GRANTS	0.00	0.00	1,131.99	1,131.99
04-215-55-940-000	O:2020-12 Improvements Authorized			13,251.24	
04-215-55-941-000	2021 Improvements Authorized			80,710.46	
04-215-55-942-000	O:2022-17 NJDOT Improvements Authorized			2,866.50	
04-215-55-943-000	O:2022-19 Improvements Authorized			7,593.50	
04-260-05-100	Capital - Due to Claims Fund			0.00	104,421.70
TOTALS FOR	CAPITAL FUND	0.00	0.00	104,421.70	104,421.70
07-201-55-510-050	Sewer Utility OE	416,797.85			
07-260-05-100	Sewer Utility - Due to Claims Fund			0.00	416,797.85
TOTALS FOR	SEWER UTILITY	416,797.85	0.00	0.00	416,797.85
08-216-55-574-000	O:2018-32 Various Imp & Acq			896.00	
08-260-05-100	Sewer Capital - Due to Claims Fund			0.00	896.00
TOTALS FOR	SEWER CAPITAL	0.00	0.00	896.00	896.00

Summary By Account

ACCOUNT	DESCRIPTION	CURRENT YR	APPROP. YEAR	NON-BUDGETARY	CREDIT
12-260-05-100	Planning Board - Due to Claims Fund			0.00	3,834.50
12-286-56-851-000	Land Use Escrows			2,383.50	
12-288-56-102-000	Escrow - Bridge Development			1,451.00	
TOTALS FOR	Land Use Board Escrow	0.00	0.00	3,834.50	3,834.50
13-260-05-100	Dog Trust - Due To Claims Fund			0.00	1,010.00
13-288-56-000-851	Animal Control Expenditures			1,010.00	
TOTALS FOR	DOG TRUST FUND	0.00	0.00	1,010.00	1,010.00
16-260-05-100	Section 8 - Due to Claims Fund			0.00	17,741.32
16-289-56-081-000	Section 8 Spending Reserves			17,741.32	
TOTALS FOR	SECTION 8 PROGRAM	0.00	0.00	17,741.32	17,741.32
17-260-05-100	Trust - Due to Claims Fund			0.00	17,053.00
17-286-56-858-000	Engineers Inspections			483.00	
17-292-56-025-000	Dedicated by Rider			12,145.00	
17-293-56-000-000	Reserve for:			4,425.00	
TOTALS FOR	GENERAL TRUST FUND	0.00	0.00	17,053.00	17,053.00

Total to be paid from Fund 01 CURRENT FUND	102,974.94
Total to be paid from Fund 02 STATE & FEDERAL GRANTS	1,131.99
Total to be paid from Fund 04 CAPITAL FUND	104,421.70
Total to be paid from Fund 07 SEWER UTILITY	416,797.85
Total to be paid from Fund 08 SEWER CAPITAL	896.00
Total to be paid from Fund 12 Land Use Board Escrow	3,834.50
Total to be paid from Fund 13 DOG TRUST FUND	1,010.00
Total to be paid from Fund 16 SECTION 8 PROGRAM	17,741.32
Total to be paid from Fund 17 GENERAL TRUST FUND	17,053.00
	665,861.30

Checks Previously Disbursed

88366	N J YOUTH CORP OF PHILLIPSBURG	PO# 39577	Reimbursement NJYC-2023-12/13/22-1	35,200.00	1/31/2023
296596	AFLAC	PO# 39579	Monthly Invoice	1,876.38	1/19/2023
1000582	St of NJ - Dept of Treasury	PO# 39396	January 2023 SHBP	197,011.43	1/13/2023
422254499	NJEIT	PO# 39433	NJEIT Principal & Interest for S34	20,015.26	1/31/2023
498779487	The Depository Trust Company	PO# 39578	General obligation bond interest	36,325.63	1/31/2023
544971254	NJEIT	PO# 39432	NJEIT series 2014A loan agreement	123,462.16	1/31/2023
954139702	NJEIT	PO# 39431	NJEIT series 2010A loan agreement	38,207.33	1/31/2023
				452,098.19	

Totals by fund	Previous Checks/Voids	Current Payments	Total
Fund 01 CURRENT FUND	36,325.63	102,974.94	139,300.57
Fund 02 STATE & FEDERAL GRANTS	35,200.00	1,131.99	36,331.99
Fund 04 CAPITAL FUND		104,421.70	104,421.70
Fund 07 SEWER UTILITY	181,684.75	416,797.85	598,482.60
Fund 08 SEWER CAPITAL		896.00	896.00
Fund 12 Land Use Board Escrow		3,834.50	3,834.50
Fund 13 DOG TRUST FUND		1,010.00	1,010.00

Summary By Account

ACCOUNT	DESCRIPTION	CURRENT YR	APPROP. YEAR	NON-BUDGETARY	CREDIT
Fund 16	SECTION 8 PROGRAM	17,741.32	17,741.32		
Fund 17	GENERAL TRUST FUND	17,053.00	17,053.00		
Fund 20	PAYROLL AGENCY FUND	198,887.81	198,887.81		
	BILLS LIST TOTALS	452,098.19	665,861.30	1,117,959.49	

MICHAEL B. LAVERY
MICHAEL S. SELVAGGI*
JOHN J. ABROMITIS
LAWRENCE P. COHEN*
KATHERINE E. INGRASSIA*
JAMES F. MOSCAGIURI
RICHARD W. WENNER*
WILLIAM H. PANDOS*
PAUL D. MITCHELL
WADE T. BALDWIN
IGOR V. BYKOV
KRISTEN A. ROTHE

*CERTIFIED BY THE SUPREME COURT OF
NEW JERSEY AS A CIVIL TRIAL ATTORNEY
*MEMBER OF NJ AND PA BAR
*MEMBER OF NJ AND NY BAR

LAW OFFICES
LAVERY, SELVAGGI, ABROMITIS & COHEN

A PROFESSIONAL CORPORATION
1001 ROUTE 517
HACKETTSTOWN, NEW JERSEY 07840
(908) 852-2600
FAX (908) 852-8225
WWW.LSACLAW.COM

23 CATTANO AVENUE
AT CHANCERY SQUARE
MORRISTOWN, NJ 07960
Telephone (973) 285-1281
Fax (973) 285-0271

OF COUNSEL:

JAMES A. COURTER
JOEL A. KOBERT
PETER J. COSSMAN
ROBERT V. STILES
RICHARD R. KEILING

SENDERS DIRECT EMAIL
RWENNER@LSACLAW.COM

January 4, 2023

Via Regular and Certified Mail, RRR

Par Holdings 17 LLC
444-446 Hickory Street
Kearny, NJ 07032

Par Holdings 17 LLC
17 Union Square
Phillipsburg, New Jersey 08865

**Re: Block 903, Lot 30
17 Union Square, Phillipsburg, Warren County, New Jersey**

Dear Sir/Madam:

Please be advised the Hearing to Determine the fitness of the building located at Block 903 Lot 30 with a street address of 17 Union Square, Phillipsburg, New Jersey, has been continued to **Tuesday, February 7, 2023, at 7:00 p.m.** at the **Phillipsburg Housing Authority, 530 Heckman Street, Phillipsburg, New Jersey 08865.**

Please be guided accordingly.

Very truly yours,



Richard W. Wenner

cc: Service List

MICHAEL B. LAVERY
MICHAEL S. SELVAGGI*
JOHN J. ABROMITIS
LAWRENCE P. COHEN*
KATHERINE E. INGRASSIA*
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RWENNER@LSACLAW.COM

January 4, 2023

Via Regular and Certified Mail, RRR

Nelson Trembler
109 Chambers Street
Phillipsburg, New Jersey 08865

Nelson Trembler
1782 Chestnut St., Apt. 2
New Ringgold, PA 17960

Re: **Block 1404, Lot 9**
109 Chambers Street, Phillipsburg, Warren County, New Jersey

Dear Mr. Trembler:

Please be advised the Hearing to Determine the fitness of the building located at Block 1404 Lot 9 with a street address of 109 Chambers Street, Phillipsburg, New Jersey, has been continued to **Tuesday, February 7, 2023, at 7:00 pm** at the **Phillipsburg Housing Authority, 530 Heckman Street, Phillipsburg, New Jersey 08865.**

Please be guided accordingly.

Very truly yours,



Richard W. Wenner

cc: Service List

ORDINANCE NO. 2023-02

**AN ORDINANCE BY THE TOWN COUNCIL AMENDING THE TOWN OF
PHILLIPSBURG SALARY ORDINANCE**

WHEREAS, the Town Council of the Town of Phillipsburg, Warren County, New Jersey, in the interest of operational efficiency and proper organizational structure may from time to time examine the existing classifications of employees and make changes in accordance with the Code of the Town of Phillipsburg and **N.J.A.C. 4A**; and

WHEREAS, the Town Council wishes to codify Civil Service Title #05895 (“Municipal Department Head”);

NOW, THEREFORE, BE IT RESOLVED, that the salary ordinance of the Town of Phillipsburg be amended to include Civil Service Title #05895 with a range as follows:

\$50,000.00 PER ANNUM - \$120,000.00 PER ANNUM

ORDINANCE NO. 2023-01

AN ORDINANCE BY THE TOWN COUNCIL AMENDING THE TOWN OF PHILLIPSBURG CODE OF ORDINANCES TO REPEAL CHAPTER 318 FLOOD DAMAGE PREVENTION; TO ADOPT A NEW CHAPTER 318 ENTITLED FLOODPLAIN MANAGEMENT & FLOOD PLAN DAMAGE PREVENTION TO ADOPT FLOOD HAZARD MAPS; TO DESIGNATE A FLOODPLAIN ADMINISTRATOR; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

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 **Town of Phillipsburg** 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 **Town of Phillipsburg** was accepted for participation in the National Flood Insurance Program on **January 16, 1981** and the **Town Council** 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 **Town of Phillipsburg** 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 **Town of Phillipsburg** 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 **Town of Phillipsburg** 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 **Town Council** of **Town of Phillipsburg** that the following floodplain management regulations are hereby adopted.

SECTION 1. RECITALS.

R2023-26
RESOLUTION DESIGNATING HANDICAP PARKING SPACES WITHIN THE TOWN
OF PHILLIPSBURG

BE IT RESOLVED by the Town Council of the Town of Phillipsburg that the following locations be designated as “Handicapped Parking Space” within the Town of Phillipsburg as permitted under Chapter 414 of the Town Code:

<u>Name of Street</u>	<u>Side</u>	<u>Location</u>
Mercer Street	West Side	In front of 100 Mercer Street
Mercer Street	East Side	In front of 179 Mercer Street
Reese Court	North Side	In front of 24 Reese Court
Railroad Avenue	East Side	In front of 19.5 Railroad Avenue

R2023-27

RESOLUTION AUTHORIZING THE TOWN OF PHILLIPSBURG TO APPLY FOR A GRANT FROM THE STATE OF NEW JERSEY TO IMPROVE PUBLIC SPACE AND ADD TO RECREATIONAL OPPORTUNITIES

WHEREAS, the Town of Phillipsburg desires to apply for and obtain a grant from the New Jersey Department of Community Affairs for approximately \$100,000 to carry out a project to improve public space conditions in Phillipsburg, add to recreation opportunities for youth and adults and enhance access to Walters Park by implementing improvements including adding pickleball court to the park;

NOW THEREFORE BE IT RESOLVED, that the Town of Phillipsburg does hereby authorize the application for such a grant; and, recognizes and accepts that the Department may offer a lesser or greater amount and therefore, upon receipt of the grant agreement from the New Jersey Department of Community Affairs, does further authorize the execution of any such grant agreement; and also, upon receipt of the fully executed agreement from the Department, does further authorize the expenditure of funds pursuant to the terms of the agreement between Town of Phillipsburg and the New Jersey Department of Community Affairs.

BE IT FURTHER RESOLVED, that the persons whose names, titles, and signatures appear below are authorized to sign the application, and that they or their successors in said titles are authorized to sign the agreement, and any other documents necessary in connection therewith.

R2023-28

RESOLUTION AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH HAWKINS, DELAFIELD & WOOD, LLP FOR SERVICES RELATED TO THE NEW JERSEY WATER INFRASTRUCTURE PROTECTION ACT N.J.S.A. 58:30-1

WHEREAS, the Town of Phillipsburg has a need to acquire professional services relative to the New Jersey Water Infrastructure Protection Act N.J.S.A. 58:30-1; and

WHEREAS, pursuant to N.J.S.A. 40A:11-5(1)(a)(i), a contract for such services may be awarded without competitive bidding by reason that such services constitute "professional services" which are services rendered or performed by a person authorized by law to practice a recognized profession, whose practice is regulated by law and the performance of which services requires knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction and study as distinguished from general academic instruction or apprenticeship; and

WHEREAS, the Town of Phillipsburg wishes to retain Hawkins, Delafield & Wood LLP subject to the proposal made a part hereof and attached hereto at a cost NOT TO EXCEED the sum of \$250,000; and

WHEREAS, the Town Council finds it to be in the best interest of the Town of Phillipsburg to authorize said work, which work is not subject to public bidding; and

WHEREAS, sufficient funds are available as evidenced by the attached certification of funds.

NOW THEREFORE BE IT RESOLVED, THIS RETAINER AGREEMENT, made and entered into as of February 7, 2023, by and between the Town of Phillipsburg, New Jersey (the "Municipality") and Hawkins, Delafield & Wood LLP, a limited liability partnership (the "Firm").

WITNESSETH:

WHEREAS, the Municipality intends to sell its wastewater system pursuant to the procurement procedures, and authority set forth in either the New Jersey Water Infrastructure Protection Act (N.J.S.A. 58:30-1 et seq.) or the "Referendum Law" (N.J.S.A. 40:62-3 – 40:62-6); and

WHEREAS, the Firm has a national reputation for expertise in the field of water and wastewater system contract negotiations, procurements and financings; and

WHEREAS, the Municipality is authorized by law to employ attorneys and to fix their compensation, and desires to retain the professional services of the Firm in connection with the sale of its wastewater system; and

WHEREAS, the Firm has determined to accept the retainer and provide to the Municipality the services described herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

Section 1. Retainer. The Municipality hereby retains the Firm to render legal advice and assistance to the Municipality pertaining to the sale of the Municipality's wastewater system on the terms and conditions set forth herein. The Firm hereby accepts the Municipality's retainer and agrees to provide such advice and assistance.

Section 2. Scope of Services. (A) The Firm agrees to provide all legal services requested by the Municipality from time to time under this Agreement in relation to the sale of the wastewater system. Such services may include those services set forth on Attachment A.

(B) Services under this Agreement shall be performed under the direction of the Municipality's Business Administrator. In light of the variability of the time and complexity of the issues involved in transactions of this nature, the Firm and the Municipality agree to consult regularly as to the level of effort which is appropriate to the carrying out of services hereunder and the Firm shall provide a monthly statement to the Municipality with the total amount billed from the inception of the engagement to the current month.

(C) Professional Judgment and Legal Advice. The Firm acknowledges that the Municipality has engaged it to render legal advice at a reasonable price in a manner that is consistent with the Firm's professional responsibilities. The Firm agrees to perform legal services on behalf of the Municipality in accordance with professional standards. The Firm does not make any representations, warranties or guarantees regarding the outcome of any aspect of the proposed transaction. The Firm will be compensated for the time and effort it devotes on the Municipality's behalf and not for any particular result. The Firm's engagement is limited to the workscope set forth in paragraph (A) above and is not engaged to provide advice with respect to other areas of law, or with respect to credit standing, financing statements, price proposals, technical qualifications or merit, or other similar financial, technical or other non-legal matters or conditions pertaining to any proposer, to any proposal, or to the company executing any agreement. The Firm advises the Municipality to seek qualified independent professional advice concerning all such matters.

Section 3. Compensation. (A) The Municipality agrees to pay the Firm for services rendered hereunder at a blended rate of \$450 per hour for each attorney rendering services hereunder. Partners Rick Sapir and Counsel Megan Sartor will be the primary attorneys working on the engagement.

(B) The Municipality further agrees to reimburse the Firm for actual out-of-pocket expenses incurred in rendering services under this Agreement. These include expenses for travel, telephone tolls, postage, messenger, courier and delivery services, document reproduction (only if an outside service is required), conference call expenses, and similar out-of-pocket items. In any billing for disbursements, the Firm shall provide the Municipality with a statement breaking down the amounts for each category of expense.

(C) The individual time and disbursement records customarily maintained by the Firm for billing evaluation and review purposes shall be made available to the Municipality in connection with bills rendered by the Firm.

(D) The Firm agrees to forward to the Municipality a statement of account for each one month period of services under this Agreement, and the Municipality agrees to compensate the Firm on this basis.

Section 4. Budget Limit. The initial budget limit for the services of the Firm described in Attachment A is \$250,000. The Firm shall not be compensated for services in excess of the initial budget for such services without the approval of the Municipality. The budget may be increased from time to time in the Municipality's discretion if the Municipality desires to have the Firm undertake services that would exceed the initial budget.

Section 5. Termination. This Agreement may be terminated (i) at any time by mutual consent of both parties, or (ii) by either party in its discretion effective on 30-days written notice to the other.

Section 6. Counterparts. This agreement may be executed in counterparts, which together will constitute the entire agreement.

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

THE TOWN OF PHILLIPSBURG, NEW
JERSEY

BY _____
Name:
Title:

HAWKINS DELAFIELD & WOOD LLP

BY _____
Name: Eric J. Sapir
Title: Partner

ATTACHMENT A

WORK SCOPE

- (i) perform all necessary legal research associated with the sale by the Municipality;
- (ii) attend meetings with the Municipality's Town Attorney, business administrator, officials, and board to discuss issues associated with the sale;
- (iii) provide advice with respect to structure of the procurement;
- (iv) prepare certification of Emergent Conditions;
- (v) provide assistance with procurement of Independent Financial Advisor;
- (vi) review and comment upon Independent Financial Advisor report;
- (vii) assist with preparation of notice of public hearing;
- (viii) prepare for and attend public hearing on proposed Emergent Conditions certification;
- (ix) prepare resolution certifying Emergent Conditions;
- (x) submit request for approval of Emergent Conditions certification from DEP, respond to DEP questions and prepare correspondence to BPU and DLGS;
- (xi) assistance with notice of DEP approval;
- (xii) attend to issues necessary to prepare the solicitation documents and the Sales Contract (e.g. identifying all assets, specific Municipality requirements, status of existing related contracts, ongoing and planned capital improvements, permits...);
- (xiii) prepare notice of intent to Office of the State Comptroller ("OSC");
- (xiv) provide assistance with the preparation of Request for Qualifications ("RFQ") and discussions with Municipality Team as necessary to issue final RFQ;
- (xv) submit draft RFQ to OSC for approval, address any issues raised by the OSC and revise draft RFQ as necessary;
- (xvi) prepare resolution authorizing issuance of RFQ and assist with publication of Notice of RFQ availability;
- (xvii) attend to potential respondent questions regarding RFQ and preparation of addenda;

(xviii) assist with review of Statements of Qualifications and shortlisting process including preparation of clarification questions (if necessary);

(xix) prepare and discuss issues list related to Request for Proposals (“RFP”) and draft Sales Contract;

(xx) prepare draft RFP and Sales Contract and discuss with Municipality Team;

(xxi) revise documents as necessary to issue final RFP and draft Sales Contract;

(xxii) submit draft RFP to Office of State Comptroller for approval, address any issues raised by the OSC and revise draft RFP as necessary;

(xxiii) attend to Proposers’ questions regarding RFP and draft Sales Contract and preparation of addenda;

(xxiv) assist with review of Proposals and selection process;

(xxv) preparation of report supporting selection of the most advantageous proposer;

(xxvi) negotiate and prepare final Sales Contract, assistance with obtaining statutorily required State approvals;

(xxvii) prepare resolution approving submission of contract to BPU and use of proceeds to DLGS; assist Municipality with preparation of submittals, and attend to questions from BPU and DLGS;

(xxviii) prepare resolution authorizing execution of Sales Contract and prepare submission of final Sales Contract to OSC;

(xxix) assistance with real estate related matters; and

(xxx) assistance with Closing.

R2023-29

RESOLUTION AUTHORIZING AWARD OF A CONTRACT FOR PROFESSIONAL SERVICES WITH RT ENVIRONMENTAL SERVICES, INC FOR MADISON PARK PHASE II

WHEREAS, the Town of Phillipsburg has a need to acquire professional services relative to the conducting of preliminary investigation and site assessment for Madison Park (“Project”); and

WHEREAS, pursuant to N.J.S.A. 40A:11-5(1)(a)(i), a contract for such services may be awarded without competitive bidding by reason that such services constitute "professional services" which are services rendered or performed by a person authorized by law to practice a recognized profession, whose practice is regulated by law and the performance of which services requires knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction and study as distinguished from general academic instruction or apprenticeship; and

WHEREAS, The Town of Phillipsburg had previously retained RT Environmental Services, Inc., pursuant to a proposal dated July 21, 2022, to provide environmental engineering services relative to the Project; and

WHEREAS, pursuant to the findings and recommendations of RT Environmental Services, Inc. contained in a subsequent proposal for Phase II, the Town of Phillipsburg wishes to further retain RT Environmental Services, Inc. subject to the proposal submitted January 27, 2023 at a cost NOT TO EXCEED the sum of \$11,225.00; and

WHEREAS, the Town Council finds it to be in the best interest of the Town of Phillipsburg to authorize said work, which work is not subject to public bidding; and

WHEREAS, sufficient funds are available as evidenced by the attached certification of funds.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Phillipsburg, County of Warren, State of New Jersey, that the Mayor and Acting Municipal Clerk are authorized to enter into a Contract with RT Environmental Services, Inc., for an amount NOT TO EXCEED the sum of \$11,225.00.

BE IT FURTHER RESOLVED that the Acting Clerk is hereby authorized and directed to cause a notice to be published in the manner provided by law setting forth the nature, duration, service and amount of the Contract and that the resolution and Contract are on file in the Office of the Clerk and are available for public inspection.

R2023-30

RESOLUTION OF THE TOWN OF PHILLIPSBURG, APPROVING A PAYMENT IN THE AMOUNT OF \$497,475.00 TO ALL STATE TECHNOLOGY, INC FOR THE WALTERS PARK POOL PROJECT

WHEREAS, the Town of Phillipsburg previously awarded a contract to All State Technology, Inc. for the Walters Park Pool Project (“Project”) in the amount of \$2,406,000.00; and

WHEREAS, All State has submitted Payment Request No. 5 for work performed for the above referenced project which reflects completion of \$552,750.00; and

WHEREAS, this payment would result in a payment of \$497,475.00, which reflects withholding \$55,275.00 for retainage; and

WHEREAS, the Town Engineer certifies the completion of this work and recommends payment for same in the Payment No. 5 certification letter and voucher made a part hereof and attached hereto;

NOW THEREFORE BE IT RESOLVED, by the Town Council of the Town of Phillipsburg, County of Warren, State of New Jersey, that Payment Request No. 5 in the amount of \$497,475.00 is hereby approved.

R2023-31
RESOLUTION TOWN OF PHILLIPSBURG
COUNTY OF WARREN, STATE OF NEW JERSEY
DIRECTING THE WARREN COUNTY CLERK TO PLACE ON THE BALLOT FOR
THE 2022 GENERAL ELECTION FOR THE VOTERS CONSIDERATION THE
QUESTION OF WHETHER THE PHILLIPSBURG FREE PUBLIC LIBRARY TAX
SHOULD BE INCREASED TO ONE (1) MILL

WHEREAS, the Phillipsburg Free Public Library is funded in part by a library tax which rate is set at the statutory minimum of 1-3 of a mill; and

WHEREAS, the amount raised by the current library tax annually is approximately \$272,000.00; and

WHEREAS, the amount raised by the current library tax is insufficient to cover the operating expenses of the free public library; and

WHEREAS, the County of Warren previously contributed approximately \$600,000.00 towards the Free Public Library budget, which contribution is no longer being made; and

WHEREAS, due to lack of funding from the County, the Town of Phillipsburg has been forced to contribute from the municipal budget monies sufficient to help fund the Free Public Library budget; and

WHEREAS, the governing body has decided that rather than continue to fund the library shortfall through the municipal budget, it makes more sense to place the question before the voters as to whether the library tax should be increased in an amount sufficient to cover fully the Free Public Library budget without the use of municipal funds; and

WHEREAS, in order to increase the Free Public Library tax, the governing body must adopt a Resolution directing the question of whether to change the rate of tax required to be annually raised for the proper maintenance of the Free Public Library be placed on the ballot at the general election in accordance with N.J.S.A. 40:54-8(b)(1); and

WHEREAS, pursuant to said statute, “Upon approval of the proposition by a majority of the votes cast by the voters of the municipality [to increase the library tax] the governing body shall implement [the increased tax amount] in the manor set forth [in the statute].”; and

WHEREAS, the governing body does so desire to place the question as to whether to increase the Free Public Library tax to the voters of the 2023 general election.

NOW, THEREFORE, BE IT RESOLVED, by the governing body of the Town of Phillipsburg, County of Warren, State of New Jersey, that the following question be placed on the ballot of the 2023 general election for consideration by the voters:

Shall the rate of the tax annually levied for the support of the Free
Public Library in the Town of Phillipsburg be increased from .033

cents per \$100.00 of assessed equalized value of real property to 1
cents per \$100.00 of assessed equalized value of real property?

BE IT FURTHER RESOLVED, that the following explanatory statement shall be included with the question above and shall be printed on the official ballots for such general election in 2023 as follows:

1. The minimum amount required to annually be raised by taxation for the support of the Phillipburg Free Public Library pursuant to subsection A of **N.J.S.A. 40:54-8** is .033 cents per \$100.00 of assessed equalized value of real property.
2. The proposed change in the amount to annually be raised by taxation for support of the Free Public Library is .33 cents per \$100.00 of assessed equalized value for a total proposed amount to be raised annually by taxation for support of the Free Public Library to be 1 cent per \$100.00 of assessed equalized value of real property.
3. If approved by the majority of voters, the proposed increase will result in an average increase in annual taxation of a residential property assessed at the average assessed value of \$94.16 dollars annually; and
4. If approved, the higher tax rate will be in effect for a period of Ten (10) years.

R2023-32

**A RESOLUTION APPROVING THE ISSUANCE OF A SPECIAL PERMIT FOR A
SOCIAL AFFAIR TO SAINTS PHILIP & JAMES SCHOOL**

BE IT RESOLVED by the Council of the Town of Phillipsburg that there is no objection to the issuance of a SPECIAL PERMIT for SOCIAL AFFAIR applied for by:

Saints Philip & James School, 137 Roseberry Street, Phillipsburg, New Jersey, for:

March 25, 2023 from 5:00 P.M. to 9:00 P.M. in accordance with all local ordinances.

The above stated Special Permit is for premises known as 137 Roseberry Street, Phillipsburg, New Jersey.

R2023-33

**RESOLUTION AUTHORIZING PAYOUT OF ACCRUED SICK, VACATION
AND COMPENSATORY LEAVE FOR CAPTAIN TRAVIS ZECHMAN**

WHEREAS, Captain Travis Zechman retired from the Town of Phillipsburg, effective January 31, 2023; and

WHEREAS, Captain Travis Zechman has been a member of the Town of Phillipsburg Police Department since 2000, serving the citizens of the Town of Phillipsburg admirably; and

WHEREAS, Captain Travis Zechman is entitled to certain accrued sick, vacation and compensatory time for which pursuant to Contract he is entitled to reimbursement; and

WHEREAS, pursuant to the collective bargaining agreements governing the Town of Phillipsburg and the laws of the State of New Jersey, the Town of Phillipsburg agrees to compensate Travis Zechman for accumulated sick, vacation and compensatory time as follows in accordance with the tabulation made a part hereof and attached hereto;

NOW, THEREFORE, BE IT RESOLVED by the Town Council, the Town of Phillipsburg, County of Warren, State of New Jersey, that the payment of accumulated sick, vacation and compensatory time as detailed above is hereby authorized and directed to be paid to Travis Zechman in the manner detailed above.

R2023-34

**RESOLUTION AUTHORIZING PAYOUT OF ACCRUED SICK, VACATION
AND COMPENSATORY LEAVE FOR PATROLMAN MATTHEW AMEY**

WHEREAS, Patrolman Matthew Amey retired from the Town of Phillipsburg, effective January 31, 2023; and

WHEREAS, Patrolman Matthew Amey has been a member of the Town of Phillipsburg Police Department since 2006, serving the citizens of the Town of Phillipsburg admirably; and

WHEREAS, Patrolman Matthew Amey is entitled to certain accrued sick, vacation and compensatory time for which pursuant to Contract he is entitled to reimbursement; and

WHEREAS, pursuant to the collective bargaining agreements governing the Town of Phillipsburg and the laws of the State of New Jersey, the Town of Phillipsburg agrees to compensate Matthew Amey for accumulated sick, vacation and compensatory time as follows in accordance with the tabulation made a part hereof and attached hereto;

NOW, THEREFORE, BE IT RESOLVED by the Town Council, the Town of Phillipsburg, County of Warren, State of New Jersey, that the payment of accumulated sick, vacation and compensatory time as detailed above is hereby authorized and directed to be paid to Matthew Amey in the manner detailed above.

R2023-35

RESOLUTION AMENDING RESOLUTION 2023-02: A RESOLUTION TO PROVIDE FOR AN ADOPTION OF A TEMPORARY BUDGET FOR DEBT SERVICE FOR THE YEAR 2023 IN ACCORDANCE WITH THE PROVISIONS OF THE LOCAL BUDGET ACT

WHEREAS, the Council of the Town of Phillipsburg passed Resolution 2023-02 on January 3, 2023 in accordance with the local budget act; and

WHEREAS, the CFO of the Town of Phillipsburg has found it necessary to amend Resolution 2023-02 due to an accounting error;

WHEREAS, the CFO has provided an updated and corrected temporary budget for debt service made a part hereof and attached hereto;

NOW, THEREFORE, BE IT RESOLVED by the Town Council, the Town of Phillipsburg, County of Warren, State of New Jersey, that the proposed amendment be adopted as presented.

R2023-36

RESOLUTION OF THE TOWN OF PHILLIPSBURG, COUNTY OF WARREN, STATE OF NEW JERSEY APPROVING OF AND AUTHORIZING THE MAYOR TO EXECUTE THE DEED OF EASEMENTS, COVENANTS AND RESTRICTIONS WITH CAL RIPKEN, SR. FOUNDATION, INC.

WHEREAS, the Town of Phillipsburg (Town) desires to enter into a Deed of Easement, Covenants and Restrictions with Cal Ripken, Sr. Foundation, Inc. (Foundation) for the development of a youth multi-purpose field; and

WHEREAS, the Foundation will be responsible for obtaining adequate funding for the project; and

WHEREAS, there is no financial obligation on the Town with regard to the development of the project; and

WHEREAS, the project is aimed at developing youth sports and athletics in the Town and will significantly benefit the health, safety and general wellbeing of the residents of the Town.

NOW THEREFORE BE IT RESOLVED by the Mayor and the Town Council of the Town of Phillipsburg, County of Warren, State of New Jersey, that the Deed of Easements, Covenants and Restrictions with Cal Ripken Sr. Foundation, Inc. is hereby approved; and

BE IT FURTHER RESOLVED by the Mayor and the Town Council of the Town of Phillipsburg, County of Warren, State of New Jersey, Mayor is hereby authorized to sign the Deed of Easements, Covenants and Restrictions with Cal Ripken Sr. Foundation, Inc. as required.

DEED OF EASEMENTS, COVENANTS AND RESTRICTIONS

THIS DEED OF EASEMENTS, COVENANTS AND RESTRICTIONS AGREEMENT (this “Agreement”) is made as of the ____ day of _____, 2023, by and between, **TOWN OF PHILLIPSBURG**, a municipal corporation of the State of New Jersey (the “Owner”), and **CAL RIPKEN, SR. FOUNDATION, INC.**, a Maryland nonprofit corporation (the “Foundation”). Owner and Foundation are sometimes referred to individually as “Party” and collectively as “Parties.”

WITNESSETH

WHEREAS, Owner is the owner of a fee simple interest in certain real property located at _____ (the “Property”), as more particularly described in **Exhibit A** hereto; and

WHEREAS, pursuant and subject to the terms and conditions of this Agreement, the Owner and the Foundation desire for the Foundation to construct a youth multi-purpose field on the Property (the “Project”), and for the Owner to operate and manage the Project.

NOW THEREFORE, in consideration of the mutual covenants and agreements of the Parties, and for other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, it is agreed as follows:

1. **Term of Agreement.** The initial term hereof (the “Initial Term”) shall commence on the date hereof, (the “Commencement Date”), and shall end, unless earlier terminated pursuant to the terms hereof, at midnight on the twentieth (20th) anniversary of the date of Substantial Completion (defined below) (the “Expiration Date”). Subsequent to the Expiration Date, for so long as the Foundation (or an affiliate of the Foundation) is conducting programs consistent with the mission of helping underserved youth through sports-themed programs (the “Mission”), this Agreement shall automatically renew on a year to year basis, effective as of the Expiration Date, and annually thereafter. The foregoing notwithstanding, the Foundation or the Owner may terminate this Agreement after the Expiration Date by written notice to the other Party no later than six (6) months in advance of the next succeeding renewal date.

2. **Construction of Improvements.**

(a) **Adequate Funding.** The Foundation shall be solely responsible for obtaining all funding for the Project (“Funding”). If the Foundation is unable to obtain adequate funding for the Project, it may notify the Owner in writing. The Owner may, at its sole discretion, offer to provide the necessary funds required or terminate the Agreement by giving written notice to the Foundation, in which event the Owner and the Foundation shall have no further rights or obligations under this Agreement except as set forth herein. The Foundation shall not commence the construction of the Improvements prior to obtaining the Funding, unless otherwise agreed to by the Parties in writing.

(b) **Performance Bonds.** Prior to the commencement of any construction, the Foundation shall post a Performance Bond appropriately secured in form and amount satisfactory

to the Town Attorney. Said Performance Bond shall be released by the Town upon completion of the project.

(b) Plans. The Owner has previously approved the conceptual design plan (the “Concept Plan”) for the Project provided by the Foundation, a copy of which is attached hereto as **Exhibit C**. Upon the Foundation having obtained the Funding (or earlier in the Foundation’s sole discretion), the Foundation shall have prepared the architectural plans, construction documents and drawings and such other documents for the Improvements (the “Plans”), substantially consistent with the Concept Plan, and provide copies thereof to the Owner for its input. The Owner shall have the right to review the Plans and to provide the Foundation with comments and suggested changes thereto. The Foundation may make changes to the Plans whose costs do not exceed ten thousand dollars (\$10,000.00) without the Owner’s approval; however any changes to the Plans whose costs are estimated to exceed ten thousand dollars (\$10,000.00) must be agreed to by both the Foundation and the Owner.

(c) Permits. The Owner shall assist the Foundation in obtaining all licenses, permits and other approvals for the construction of the Improvements on the Property (collectively, the “Permits”) in accordance with the applicable laws, regulations and ordinances. The Foundation’s obligation to construct the Improvements is subject to the condition precedent that the Permits have been obtained. Additionally, the Owner shall, at its sole cost and expense, execute and deliver any and all public utility easements and other such instruments that may be required to construct the Improvements.

(d) Construction. Provided that the funding has been obtained, and the Permits have been obtained, the Foundation shall cause to be constructed upon the Property the site improvements (including, but not limited to, grading, installation of storm water management facilities, utilities, and other infrastructure work), buildings, structures, and other improvements comprising the Project as shown in the Plans (collectively, the “Improvements”). Such construction shall commence within ninety (90) calendar days after the later to occur of the date that all Permits have been obtained and the date that the Foundation has obtained the Funding, and shall achieve Substantial Completion (defined below) within one hundred and eighty (180) calendar days of the commencement of construction, subject to force majeure. For purposes of this Agreement, “force majeure” is defined as labor or materials shortages, work stoppages, strikes, acts of terrorism, pandemics, disruptions attributable to the COVID-19 virus, and acts of God. As used herein, the term “Substantial Completion” shall mean the stage in the progress of the Improvements when the Improvements or designated portion thereof are sufficiently complete in accordance with the Plans such that they may be utilized for their intended use. Should there exist any subsurface conditions, contamination, casualties or natural disasters that the Owner has not disclosed to and is aware of the Foundation (“Unexpected Events”) which causes any delay of the construction, the date for Substantial Completion shall be extended under the provisions of Force Majeure for such period of time until the Owner has corrected the hindering condition. The Owner shall have the option of correcting such condition within sixty (60) days of becoming aware of the existence of such conditions or terminating the agreement upon written notice to the Foundation.

(e) Prevailing Wage Act. Due to the construction occurring on public lands, New Jersey’s Prevailing Wage Act shall apply. Pursuant to N.J.S.A. 34:11-56.25 et seq.,

contractors on projects for public work shall adhere to all requirements of the New Jersey Prevailing Wage Act. All Contractors shall be required to submit a certified payroll record to the owner within ten (10) days of the payment of the wages. All Contractors is also responsible for obtaining and submitting all subcontractors' certified payroll records within the aforementioned time period. All Contractors shall submit said certified payrolls in the form set forth in N.J.A.C. 12:60-5.1(c). It is the Contractors' responsibility to obtain any additional copies of the certified payroll form to be submitted by contacting the New Jersey Department of Labor and Workforce Development, Division of Workplace Standards. Additional information is available at https://www.state.nj.us/labor/wagehour/wagerate/wage_rates.html.

(f) Construction Easement. The Owner does hereby grant and convey to the Foundation, its agents, contractors, employees, successors and assigns, an easement and right of ingress and egress to access the Property during the initial term of this Agreement or any renewal thereof for the performance of the Foundation's obligations described in Section 2 above, and for the performance of the Foundation's further obligations under this Agreement.

(g) Concealed or Unknown Circumstances. If the Foundation encounters conditions at the Project site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Plans or (2) unknown physical conditions of an unusual nature, that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Plans, the Foundation shall promptly provide written notice to the Owner before such conditions are disturbed and in no event later than twenty-one (21) days after first observance of such conditions. The Foundation shall have the option to obtain increase funding to offset the increased cost caused by the irregular condition, request funding from the Owner, or terminate the Agreement. Owner has no obligation to provide additional financial assistance in the event of such irregular condition. Should the Foundation choose to terminate the Agreement upon written notice, in that event the Owner and the Foundation shall have no further rights or obligations under this Agreement except as set forth herein. The Foundation shall not commence the construction of the Improvements prior to obtaining the Funding, unless otherwise agreed to by the Parties in writing.

(h) Other Approvals. The Owner shall assist the Foundation in requesting and obtaining any and all other approvals, consents, and other conditions precedent to the development of the Project as contemplated by this Agreement, whether pursuant to any instrument of record or otherwise binding upon the Property, if any. The Foundation, as a part of its preparation of the Plans, shall, at the Foundation's expense, prepare and provide the Owner with all documents and drawings required in connection with obtaining such approvals and consents.

(i) Insurance. Prior to commencing any construction on the Property the Foundation shall (a) deliver to Owner a statement of the names of all contractors and subcontractors and the estimated cost of all labor and material to be furnished by them; (b) cause each contractor to carry (i) workers' compensation insurance in statutory amounts covering all the contractor's and subcontractor's employees, and (ii) Comprehensive General Liability Insurance

coverage (bodily injury and property damage) including automobile, with limits of \$1,000,000 per each occurrence and \$2,000,000 aggregate, written on an aggregate basis, if obtainable, insuring both Parties as well as the contractors, and containing an appropriate clause whereby the contractor agrees to indemnify and keep harmless the Parties from any and all liability, damage or expense by reason of injury or loss to person or property occurring by reason of work performed by the contractor, his employees, agents, subcontractors and others invited on the Property by him; (c) cause Builder's Risk Insurance to be carried (including fire, extended coverage, vandalism and malicious mischief); (d) deliver to Owner certificates of insurance evidencing the above insurance (including the above-mentioned contractual, hold harmless agreement) which certificates shall indicate limits and contain a waiver of subrogation clause and a clause giving Owner thirty (30) days advance notice prior to the termination or modification of said insurance; and (e) furnish at least fifteen (15) days before any such insurance expires or is canceled, appropriate evidence of continuation of coverage. The Foundation shall provide proof that the COIs have been renewed at the same or better coverage limits on an annual basis and failure to do so, or a lapse in coverage, shall constitute an Event of Default, as defined below.

(j) Removal of Liens. In the event any mechanic's or materialmen's lien shall at any time be filed against the Property allegedly by reason of work, labor, services or materials performed or furnished to the Foundation for work or materials performed or used with respect to the Project, the Foundation shall within ten (10) business days cause the same to be discharged or bonded.

3. Representations and Warranties.

(a) By the Owner. The Owner hereby represents and warrants that:

(i) the Owner has the full right and legal authority to enter into and perform its obligations under this Agreement;

(ii) the Owner owns good and marketable fee simple title to the Property, free and clear of all contracts, agreements, leases, tenancies, occupancies, covenants, restrictions, liens, violations, encumbrances or defects in title of any kind or nature whatsoever;

(iii) no easements are required for vehicular and pedestrian access to and from the Property and the Property has a means of ingress and egress directly to and from each public roadway abutting the Property;

(iv) there are no violations of any zoning or building laws which affect the Property or the use thereof for the Project;

(v) neither the Owner nor any other person or entity, has caused or permitted the generation, treatment, storage, disposal or release of Hazardous Materials in, on or under the Property, and the Owner knows of no violation or alleged violation of any Environmental Laws (defined below), at, to, or from the Property. For purposes of this Agreement, the term "Hazardous Materials" shall mean any oil, flammable explosives, asbestos, urea formaldehyde, radioactive materials or waste, or other hazardous, toxic, contaminated or polluting materials,

substances or wastes, including, without limitation, any “hazardous substances,” “hazardous wastes,” “hazardous materials” or “toxic substances” as defined under federal, state or local laws, ordinances and regulations relating to environmental protection (collectively, “Environmental Laws”). The Owner shall, within five (5) business days after full execution of this Agreement, provide the Foundation with a copy of any and all environmental reports, inspections, investigations, studies, audits, tests, reviews, governmental communications or other analyses in the Owner's possession or control relating to the Property or any portion thereof;

(vi) there are no underground storage tanks, active or abandoned, in, on or under the Property;

(vii) there is no pending, nor, to the best of the Owner’s knowledge, threatened, litigation or other legal or administrative proceeding or investigation affecting or related to the Property; and

(viii) the Owner has not received any notice and has no knowledge of the commencement of eminent domain proceedings affecting the Property.

(b) By the Foundation. The Foundation hereby represents and warrants that:

(i) the Foundation has the full right and legal authority to enter into and perform its obligations under this Agreement;

(ii) should the Foundation use the Project, such use shall be consistent with the Foundation’s Mission; and

(iii) once commenced the Project will be completed in a good and workmanlike manner in accordance with the Plans.

4. **Management and Operation Duties.** Upon Substantial Completion of the Improvements, or such earlier date as is provided below, the Owner shall, at its sole cost and expense, be fully and solely responsible for the management, maintenance, and operation of the Project, and shall carry out the duties as set forth below:

(a) Day to day management and operation of the Project, including, but not limited to, the scheduling and management of events at the Project, in compliance with all applicable laws, ordinances, rules and regulations, and this Agreement, and consistent with the mission of serving at-risk and underserved youth, and for no other use or purpose without the prior written consent of the Foundation.

(b) At all times keep and maintain the Project, and all features, aspects and components thereof, clean and in good order and repair and operating condition, including, without limitation:

(i) routine cleaning and maintenance of the Improvements, provision of security to the Project, the provision of utilities to the Project, and all other aspects of the day to day management and operation of the Project and the programs conducted thereon; and

(ii) long term maintenance of the Improvements, including, but not limited to, repairs, replacements and capital improvements. The Foundation shall have no maintenance, repair or replacement responsibilities under this Agreement with respect to the Project or any aspect thereof, except resulting from damages caused by the sole gross negligence or willful misconduct of the Foundation or the Foundation's agents, contractors and employees.

(c) Maintaining insurance coverage with respect to the Project and Improvements, issued by one or more insurance companies qualified or authorized by the State of New Jersey to issue such coverage and an A.M. Best Company financial and performance rating of A-IX or better, including:

(i) a policy of property and casualty insurance insuring against loss or damage by fire or other hazards, under a policy or policies covering such risks as are presently included in "special form" (also known as "all risk") coverage, but in any event including fire, lightning, windstorm, hail, explosion, riot, riot attending a strike, civil commotion, damage from aircraft, smoke, vandalism, and malicious mischief, in an amount not less than the full replacement value of the Improvements. No policy of insurance shall be written such that the proceeds thereof will produce less than the minimum coverage required by this Section by reason of co-insurance provisions or otherwise; and

(ii) either evidence that the Owner is self-insured or comprehensive (also known as commercial) general liability insurance on an "occurrence" basis against claims for "personal injury" liability and liability for death, bodily injury and damage to property, products and completed operations, with coverage in the minimum amounts of \$1,000,000 per occurrence and \$3,000,000 with respect to the aggregate of all occurrences during any given annual policy period. If such coverage is not commercially available the Owner and Foundation will agree on appropriate limits, based on available alternatives. Such policy shall name the Foundation, its agents, employees, officers, trustees, successors and assigns as additional insureds, effective as of the date of this Agreement.

With respect to all such policies, Owner shall obtain from its insurer(s) a policy clause to the effect that the insurer shall not cancel or change the terms of such insurance policy or policies without first giving the Foundation at least thirty (30) days prior written notice thereof. A certificate of insurance made by the issuer shall be delivered to the Foundation within fifteen (15) days after the date of this Agreement.

(d) Promulgation of appropriate written agreements, reasonable rules and regulations governing the use of the Improvements by parties other than the Owner and the Foundation (which use shall in any event be subject to Section 5, below).

(e) Preparation of an annual operating budget for the operation of the Project consistent with the permitted uses of the Project. Budgets will be prepared on a fiscal year basis to correspond with the Owner's fiscal year.

(f) Collection of operating revenue generated by the Project and payment of associated expenses.

(g) Consultation with the Foundation on a regular basis with regard to discretionary decisions related to the operation and management of the Project. The Parties shall negotiate in good faith to resolve any differences of opinion as to such decisions.

(h) Maintain accurate and complete books and records with regard to its management of the Project, and provide the Foundation with access to such books and records upon reasonable prior notice.

5. **Use of the Improvements.** The Parties agree that the Improvements shall be used exclusively for the following uses, events and programs, unless otherwise agreed to in writing by the Parties from time to time:

(a) Youth activities consistent with both the Foundation's Mission, and the Owner's mission.

(b) The Foundation's "Healthy Choices, Healthy Children", "Badges for Baseball" and similar programs sponsored and conducted by the Foundation from time to time and related activities, including, but not limited to, youth camps.

(c) Sports-related programs, and any other programs to be engaged in by at risk and underserved individuals conducted and/or sponsored by the Owner.

(d) To the extent that scheduling permits, athletic games and tournaments conducted and/or sponsored by private leagues; provided, however, the same shall not take precedence over, or otherwise conflict with, the scheduling of events and programs consistent with subsections 5(a)-(c) above.

(e) The Foundation shall have the right to use the Project for a maximum of ten (10) days each calendar year for activities consistent with its Mission. The Foundation and the Owner shall coordinate their schedules in order to avoid conflicts in dates of usage of the Project.

6. **Reports of Events.** Annually during the term of this Agreement, prior to January 1 of each calendar year, the Owner shall furnish to the Foundation a report which contains the number of at risk children served during the previous calendar year with a summary of the programs anticipated to be conducted by the Owner in the next calendar year.

7. **Indemnification.** To the fullest extent permitted by law, the Foundation and the Owner (as applicable, the "Indemnitor") shall each indemnify and hold harmless the other (the "Indemnitee") and its agents, contractors, employees, successors and assigns from and against any

and all liabilities, obligations, demands, causes of action, losses, expenses (including reasonable attorney fees) and damages, arising out of or based upon (i) the Indemnitor's performance of (or failure to perform) its duties hereunder, (ii) the conduct by the Indemnitor at the Project of its programs as specified herein, and (iii) the violation of any laws or negligence or willful misconduct by the Indemnitor or its affiliates, agents, contractors or employees. The provisions of this Section shall survive expiration or any termination of this Agreement.

8. **Condemnation.** If, as a result of eminent domain proceedings, there should be a taking of all or any material portion of the Property or the right of access to the Property, then this Agreement, at the option of either Party, shall terminate upon the giving of written notice to the other. If neither Party so terminates this Agreement, then the Owner shall restore as far as is practicable the Project to a condition permitting a resumption of its intended use. The Owner will advise the Foundation immediately upon receipt of notice of the commencement of proceedings by any authority having eminent domain powers to acquire any part of the area in the Property. In the event of a taking, or a conveyance in lieu of a taking, resulting in the termination of this Agreement, the Owner and the Foundation will cooperate in applying for and prosecuting a claim for that taking and agree that the aggregate net award after deducting expenses and costs, including reasonable attorneys' fees, incurred in connection therewith shall be payable to both the Owner and the Foundation (or if required, to any mortgagee) and distributed as follows: (i) the Foundation shall receive so much of the net award as shall compensate it for the undepreciated value of its monetary contribution to the Improvements; such amount shall be completed using the same formulas set forth in Section 10 in determining the amount the Foundation would receive if the condemnation were a default of the Owner commendation is not a default. and (ii) the Owner shall receive the balance thereof.

9. **Default.**

(a) The failure of either Party to perform its duties hereunder, which default is not cured within thirty (30) days of written notice thereof, shall constitute an "Event of Default" hereunder and a breach of this Agreement by the defaulting Party; provided, however, that if the default is of such a nature that it cannot be cured within such 30-day period, there shall be no Event of Default if a cure is commenced within such 30-day period and thereafter is diligently pursued to completion.

(b) Any delay in performance hereunder by either Party due to force majeure shall be excused and shall not be considered grounds to declare a default hereunder. Cure periods hereunder shall extend in proportion to such delays.

10. **Remedies upon Default.** Upon an Event of Default by the Foundation hereunder, the Owner's sole remedy shall be to terminate this Agreement by written notice to the Foundation. Upon an Event of Default by the Owner hereunder, which default is of such a nature so as to legally or practically deprive the Foundation of the use of the Improvements for the conduct of its programs as contemplated by this Agreement, the Foundation may terminate this Agreement by written notice to the Owner, in which case the Owner shall reimburse the Foundation for the unamortized/undepreciated portion of its contribution to the Improvements, based upon a twenty (20) year amortization of such contribution, computed as of the date of termination of the

Agreement under this Section. The Parties agree that based upon the contributions of the Foundation to the Project, the aforesaid sum constitutes a reasonable estimate of the Foundation's damages in the event of the Owner's default hereunder and is not a penalty. In lieu of terminating this Agreement, the Foundation shall have the right (i) to institute an action as provided for in Section 11 hereof to specifically enforce the Owner's obligations hereunder, and/or (ii) to cure the Event of Default (if susceptible to cure by a party other than the Owner) and to charge the Owner for the out of pocket expenses incurred by the Foundation in exercising such self-help remedy. Neither Party shall be liable for any special, indirect, incidental or consequential damages, of any nature, including, without limitation, loss of actual or anticipated profits or revenues, loss of use, cost of capital, incurred by a Party as the result of an Event of Default, other than the damages specifically provided for herein.

11. **Dispute Resolution.** Any controversy, claim, cause of action or other dispute ("Dispute") relating to this Agreement or the interpretation thereof, which cannot be resolved by negotiations amongst the Parties, shall be resolved through mediation in the state of New Jersey. Unless the Parties shall otherwise agree, mediation shall be conducted by the American Arbitration Association ("AAA"). Any Dispute not resolved by mediation shall be subject to the exclusive jurisdiction of the Superior Court of New Jersey, with venue in Warren County, New Jersey.

12. **Assignment; Successors.** Neither Party shall assign its duties and obligations hereunder without the prior written consent of the other Party.

13. **Effect of Agreement.** This Agreement and the terms hereof shall encumber and run with the title to the Property and shall be binding upon, and inure to the benefit of, the Parties their successors and permitted assigns.

14. **Relationship of the Parties.**

(a) Each Party shall be deemed to be an independent contractor in its performance hereunder such that neither Party nor any employee or agent of either Party shall be deemed an agent of the other Party, unless otherwise agreed in writing by the Parties.

(b) Except as specifically granted herein, no Party shall obtain any rights under this Agreement to use, and shall not use, the names, marks, logos or other intellectual property of any other Party in any manner without the express prior written approval of such other Party in each instance, whether in connection with the subject matter of this Agreement or otherwise.

15. **Notices.** Any notice, request or demand or other communication required or permitted to be given pursuant to this Agreement (each, a "Notice") shall be in writing and shall be deemed sufficiently given if delivered by hand by messenger at the address of the intended recipient (set forth below); sent by Federal Express or a comparable guaranteed overnight delivery service, prepaid, with instructions to deliver on the next business day; or sent by United States first class mail, registered or certified, postage prepaid, with return receipt requested; and addressed as follows (or to such other address as may have been specified by the addressee party in a written notice previously given to the sender party in accordance with this Section):

If to the Owner:

Town of Phillipsburg
Attn: Municipal Clerk
120 Filmore Street
Phillipsburg, New Jersey 08865
With a copy to:
Richard W. Wenner, Esq.
Lavery, Selvaggi, Abromitis & Cohen, P.C.
1001 Route 517
Hackettstown, New Jersey 07840
908-852-2600 (tel)
908-852-8225 (fax)
rwenner@LSACLAW.com

If to the Foundation:

Cal Ripken, Sr. Foundation, Inc.
1427 Clarkview Road, Suite 100
Baltimore, Maryland 21209
Attn: President & CEO

With a copy to:

Lonnie M. Ritzer, Esq.
19 Eastlake Drive
Palm Coast, FL 32137

Any Notice given in accordance with this Section shall be deemed to be given and delivered as of (i) the date of actual delivery, if delivered by hand by messenger; (ii) the first (1st) business day following deposit with Federal Express (or comparable guaranteed overnight delivery service), if sent by such overnight delivery service, prepaid, with instructions to deliver on the next business day; or (iii) the third (3rd) day following deposit with the United States Postal Service, if sent by United States first class mail (registered or certified, postage prepaid, with return receipt requested).

16. **No Waiver.** The failure of a Party at any time to require performance hereunder by the other Party of any provision hereof shall in no way affect the right of such Party to require such performance at any time thereafter, nor shall any waiver by a Party of a breach hereof or default hereunder by the other Party constitute a waiver of any succeeding breach of or default under the same or any other provision hereof.

17. **Entire Agreement.** This Agreement and the exhibits attached hereto and forming a part hereof set forth all the covenants, promises, agreements, conditions and understandings between Parties related to this Agreement, and there are no covenants, promises, agreements, conditions or understandings, either written or oral, between them other than as are set forth herein. No subsequent alteration, amendment, change or addition to this Agreement shall be binding on the Parties unless reduced to writing and signed by both Parties.

18. **Headings and Section Numbers.** The headings and section numbers herein are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections hereof.

19. **Partial Invalidity.** If any term, covenant or condition of this Agreement or the application thereof to any person or circumstances shall be held invalid or unenforceable, the remainder of this Agreement or the application of such term, covenant or condition to persons or circumstances other than those as to whom it is held invalid or unenforceable shall not be affected thereby, and each term, covenant or condition hereof shall be valid and be enforceable to the fullest extent permitted by law.

20. **Miscellaneous.**

(a) This Agreement may be signed in one or more counterparts, each of which will constitute an original and all of which shall comprise the entire Agreement.

(b) This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey.

(c) If any date for the occurrence of an event or act under this Agreement falls on a Saturday or Sunday or legal holiday observed in the State of New Jersey, then the time for the occurrence of such event or act shall be extended to the next succeeding business day.

(d) Upon completion, the Owner shall post, in prominent places around the Project, at least three (3) Zero Tolerance Child Protection signs or a likeness thereof, the content of which must first be provided by the Foundation, and subsequently reviewed by the Owner and approved as to content and form.

(e) It is understood by the Owner that the Foundation may sign this Agreement below prior to approval by the Foundation's Board of Directors for the convenience of the Owner. Foundation will request approval by its Board of Directors prior to the commencement of construction and such approval will not be unreasonably withheld; however, if the Foundation's Board of Directors does not approve this Agreement, the Agreement shall be deemed null and void.

SIGNATURES APPEAR ON THE FOLLOWING PAGE

IN WITNESS WHEREOF, Parties have caused these presents to be executed and sealed as of the day and year first above written.

THE OWNER:

a _____ corporation, by:

By: _____

Date: _____, 202_

STATE OF _____
COUNTY OF _____:

I hereby certify that on this _____ day of _____, 202_, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared _____, who acknowledged himself/herself to be the _____ of _____, a nonprofit entity, and he/she acknowledged the foregoing instrument to be the act of said Owner.

Witness my hand and Notarial Seal.

My Commission expires: _____
_____ Notary Public

SIGNATURES CONTINUED ON THE FOLLOWING PAGE

THE FOUNDATION:

CAL RIPKEN, SR. FOUNDATION, INC.,
a Maryland nonprofit corporation

By: _____

Steve Salem, President & CEO

Date: _____, 202_

STATE OF MARYLAND

CITY COUNTY OF BALTIMORE, to-wit:

I hereby certify that on this ____ day of _____, 202_ before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared Steve Salem, who acknowledged himself to be the President & CEO of **CAL RIPKEN, SR. FOUNDATION, INC.**, a Maryland nonprofit corporation, and he acknowledged the foregoing instrument to be the act of said corporation.

Witness my hand and Notarial Seal.

My Commission expires: _____

Notary Public

EXHIBIT A

Legal Description of Property

EXHIBIT B

Project Budget

EXHIBIT C

Concept Plan