

**CITY COUNCIL****The City of Orange Township, New Jersey**DATE June 7, 2023NUMBER 243-2023**TITLE:**

**A RESOLUTION OF THE MUNICIPAL COUNCIL OF THE CITY OF ORANGE TOWNSHIP, ESSEX COUNTY, NEW JERSEY, APPROVING AND AUTHORIZING EXECUTION OF A SETTLEMENT AGREEMENT AND A PURCHASE AND SALE AGREEMENT BETWEEN THE CITY OF ORANGE TOWNSHIP, 51 SOUTH DAY STREET LLC AND EXIT11 GENTLEMEN'S CLUB LLC REGARDING VARIOUS CLAIMS ALLEGED BETWEEN THE PARTIES, AS WELL AS THE CITY'S ACQUISITION, IN LIEU OF CONDEMNATION, OF 2 ADJOINING PARCELS DESIGNATED ON THE CITY'S OFFICIAL TAX MAPS AS BLOCK 2805, LOTS 2 AND 3, MORE COMMONLY KNOWN AS 51 SOUTH DAY STREET AND 53 SOUTH DAY STREET.**

**WHEREAS**, 51 South Day Street LLC ("Owner") is the record owner of 2 adjoining parcels designated as Block 2805, Lots 2 and 3 on the official tax maps of the City of Orange Township ("City"), more commonly known as 51 South Day Street and 53 South Day Street (collectively, "Properties"), and currently leased to Exit11 Gentlemen's Club LLC ("Tenant") for operation of an adult nightclub; and,

**WHEREAS**, pursuant to the Local Redevelopment and Housing Law ("LRHL"), *N.J.S.A. 40A:12A-1 et seq.*, the Municipal Council adopted Resolution No. 293-2009 on October 6, 2009, designating the Properties as part of the Reock Street Redevelopment Area ("Redevelopment Area"); and,


**WHEREAS**, on April 20, 2010, the Municipal Council adopted Ordinance No. 6-2010, approving the Reock Street Redevelopment Plan ("Redevelopment Plan"), which established zoning and land use regulations for the Redevelopment Area; and,

**WHEREAS**, the Municipal Council subsequently amended the Redevelopment Plan in 2011 and 2021 to, among other things, expand the Redevelopment Area as a condemnation area in need of redevelopment pursuant to the LRHL; and,

**WHEREAS**, on October 19, 2021, the Municipal Council adopted Ordinance No. 50-2021, authorizing the City to acquire the Properties in accordance with the Eminent Domain Act of 1971 ("EDA"), *N.J.S.A. 20:3-1, et seq.*, which requires the City to attempt to negotiate a voluntary sale of the Properties prior to seeking condemnation and provide relocation assistance to those residing in or operating businesses from the Properties; and,

**WHEREAS**, on December 20, 2021, the Owner and Tenant jointly filed legal action in the Superior Court of New Jersey, Essex County, against the City and other third-parties, captioned as *51 South Day Street LLC et al. v. PEEK Reock II Owner Urban Renewal LLC et al.*, Docket No. ESX-L-009682-21, alleging damages related to construction of a multi-family residential building and related improvements on parcels surrounding the Properties ("Construction Litigation"); and,

**WHEREAS**, the City denies all liability for damages and/or wrongdoing alleged against it in the Construction Litigation; and,



A. M. ZARR

**WHEREAS**, by correspondence dated December 22, 2021, the City formally offered to acquire the Properties based on market value appraisals performed by the City's consultant, Integra Realty Resources Inc., and approved by the Municipal Council through Ordinance No. 50-2021; and,

**WHEREAS**, on October 18, 2022, the Municipal Council adopted Ordinance No. 52-2022, amending the Redevelopment Plan to remove the Properties and 3 other parcels—Block 2805, Lots 4, 5 and 6, commonly known as 55 South Day Street, 59 South Day Street, and 61 South Day Street (“Adjoining Parcels”)—from the Redevelopment Area and to limit the permitted use of the Properties and Adjoining Parcels to parks and open space exclusively; and,

**WHEREAS**, on November 22, 2022, the Owner, Tenant and owner of an Adjoining Parcel, jointly filed an action in lieu of prerogative writs in the Superior Court of New Jersey, Essex County, against the City and its Mayor, Municipal Council and Planning Board, captioned as *Paul Carter et al. v. City of Orange Twp. et al.*, Docket No. ESX-L-006955-22, challenging adoption of Ordinance No. 52-2022 (“Prerogative Writ Action”); and,

**WHEREAS**, the City opposes the Prerogative Writ Action and maintains that the Municipal Council properly adopted Ordinance No. 52-2022; and,

**WHEREAS**, the City's Construction Official cited the Owner for various alleged violations of the Uniform Construction Code and the City's construction and building regulations, which the Owner appealed to the Essex County Construction Board of Appeals (“Code Violations”); and,

**WHEREAS**, notwithstanding the pending Construction Litigation, Prerogative Writ Action, and Code Violations, the Parties have maintained open dialogue regarding voluntary sale of the Properties to the City and relocation assistance for the Tenant; and,

**WHEREAS**, under all of the circumstances, as a matter of business judgment, the Parties now wish to resolve all open issues between them (“Open Matters”), including without limitation: acquisition of the Properties by the City; relocation assistance for the Tenant; the Construction Litigation (only as to claims alleged between City, Owner and Tenant); the Prerogative Writ Action; the Code Violations; and, all other claims the City, Owner and Tenant have and/or could have asserted against one another with respect to the Properties; and,

**WHEREAS**, after extensive arms-length negotiation and consultation with their respective legal counsel, the City, Owner and Tenant reached an agreement to amicably resolve the Open Matters in good faith, without admitting or further alleging any wrongdoing or liability; and,

**WHEREAS**, the City, Owner and Tenant have further documented their mutual promises and covenants regarding the Open Matters in a comprehensive Settlement Agreement and Purchase and Sale Agreement, copies of which are appended hereto.

**NOW, WHEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE CITY OF ORANGE TOWNSHIP, ESSEX COUNTY, NEW JERSEY**, that the Settlement Agreement and Purchase and Sale Agreement (collectively, “Agreements”)

appended hereto and incorporated herein by reference, shall be and hereby are approved;  
and,

**BE IT FURTHER RESOLVED** that the Mayor and all other appropriate City officials are hereby authorized to execute the Agreements and take all such other actions as necessary to carry out the terms thereof.

Adopted: June 7, 2023

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Joyce L. Lanier  
City Clerk

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Tency A. Eason  
Council President

## **SETTLEMENT AGREEMENT**

**THIS SETTLEMENT AGREEMENT** ("Agreement") is made as of June \_\_\_\_, 2023, among:

**City of Orange Township,**  
**a New Jersey Municipal Corporation,**  
with offices at 29 North Day Street, Orange, New Jersey, 07050;

**51 South Day Street LLC**  
**a New Jersey Limited Liability Company,**  
with offices at 51 South Day Street, Orange, New Jersey, 07050; and,

**Exit11 Gentlemen's Club LLC**  
**a New Jersey Limited Liability Company,**  
with offices at 51 South Day Street, Orange, New Jersey, 07050.

### **RECITALS**

**WHEREAS**, 51 South Day Street LLC ("Owner") is the record owner of 2 adjoining parcels designated as Block 2805, Lots 2 and 3 on the official tax maps of the City of Orange Township ("City"), more commonly known as 51 South Day Street and 53 South Day Street (collectively, "Properties"), and currently leased to Exit11 Gentlemen's Club LLC ("Tenant", together with the City and the Owner, "Parties") for operation of an adult nightclub; and,

**WHEREAS**, pursuant to the Local Redevelopment and Housing Law ("LRHL"), *N.J.S.A. 40A:12A-1 et seq.*, the City's governing body ("Municipal Council") adopted Resolution No. 293-2009 on October 6, 2009, designating the Properties as part of the Reock Street Redevelopment Area ("Redevelopment Area"); and,

**WHEREAS**, on April 20, 2010, the Municipal Council adopted Ordinance No. 6-2010, approving the Reock Street Redevelopment Plan ("Redevelopment Plan"), which established zoning and land use regulations for the Redevelopment Area; and,

**WHEREAS**, the Municipal Council subsequently amended the Redevelopment Plan in 2011 and 2021 to, among other things, expand the Redevelopment Area as a condemnation area in need of redevelopment pursuant to the LRHL; and,

**WHEREAS**, on October 19, 2021, the Municipal Council adopted Ordinance No. 50-2021, authorizing the City to acquire the Properties in accordance with the Eminent Domain Act of 1971 ("EDA"), *N.J.S.A. 20:3-1, et seq.*, which requires the City to attempt to negotiate a voluntary sale of the Properties prior to seeking condemnation and provide relocation assistance to those residing in or operating businesses from the Properties; and,

**WHEREAS**, on December 20, 2021, the Owner and Tenant jointly filed legal action in the Superior Court of New Jersey, Essex County, against the City and several other third-parties, captioned as *51 South Day Street LLC et al. v. PEEK Reock II Owner Urban Renewal LLC et al.*, Docket No. ESX-L-009682-21, alleging damages related to construction of a multi-family residential building and related improvements on parcels surrounding the Properties ("Construction Litigation"); and,

**WHEREAS**, the City denies all liability for damages and/or wrongdoing alleged against it in the Construction Litigation; and,

**WHEREAS**, by correspondence dated December 22, 2021, the City formally offered to acquire the Properties based on market value appraisals performed by the City's consultant, Integra Realty Resources Inc., and approved by the Municipal Council through Ordinance No. 50-2021; and,

**WHEREAS**, on October 18, 2022, the Municipal Council adopted Ordinance No. 52-2022, amending the Redevelopment Plan to remove the Properties and 3 other parcels—Block 2805, Lots 4, 5 and 6, commonly known as 55 South Day Street, 59 South Day Street, and 61 South Day Street (“Adjoining Parcels”)—from the Redevelopment Area and to limit the permitted use of the Properties and Adjoining Parcels to parks and open space exclusively; and,

**WHEREAS**, on November 22, 2022, the Owner, Tenant and owner of an Adjoining Parcel, jointly filed an action in lieu of prerogative writs in the Superior Court of New Jersey, Essex County, against the City and its Mayor, Municipal Council and Planning Board, captioned as *Paul Carter et al. v. City of Orange Township et al.*, Docket No. ESX-L-006955-22, challenging adoption of Ordinance No. 52-2022 (“Prerogative Writ Action”); and,

**WHEREAS**, the City opposes the Prerogative Writ Action and maintains that the Municipal Council properly adopted Ordinance No. 52-2022; and,

**WHEREAS**, the City's Construction Official cited the Owner for various alleged violations of the Uniform Construction Code and the City's construction and building regulations, which the Owner appealed to the Essex County Construction Board of Appeals (“Code Violations”); and,

**WHEREAS**, notwithstanding the pending Construction Litigation, Prerogative Writ Action, and Code Violations, the Parties have maintained open dialogue regarding voluntary sale of the Properties to the City and relocation assistance for the Tenant; and,

**WHEREAS**, under all of the circumstances, as a matter of business judgment, the Parties now wish to resolve all open issues between them (“Open Matters”), including without limitation: acquisition of the Properties by the City; relocation assistance for the Tenant; the Construction Litigation (only as to claims alleged between the Parties); the Prerogative Writ Action; the Code Violations; and, all other claims the Parties have and/or could have asserted against one another with respect to the Properties; and,

**WHEREAS**, after extensive arms-length negotiation and consultation with their respective legal counsel, the Parties reached an agreement to amicably resolve the Open Matters in good faith, without admitting or further alleging any wrongdoing or liability; and,

**WHEREAS**, the Parties agreed to further memorialize their mutual promises and covenants regarding the Open Matters in a comprehensive formal document and, therefore, enter into this Agreement so as to fully and finally resolve same; and,

**NOW, THEREFORE**, for good and valuable consideration, receipt of which is hereby acknowledged, the Parties agree to the terms and conditions as set forth in further detail herein.

## **TERMS**

- 1. Recitals.** All Recitals set forth above are hereby incorporated herein by reference.
- 2. Municipal Council Approval.** In accordance with the Optional Municipal Charter Law, N.J.S.A. 40:69A-1 *et seq.*, this Agreement was considered and approved by the Municipal Council through Resolution No. \_\_\_\_-2023 adopted on June \_\_\_\_, 2023. The Owner and Tenant understand

and acknowledge that any oral or written representations by any City official or employee differing from the terms expressly set forth herein shall not bind the City unless formally approved by the Municipal Council.

**3. Property Acquisition; Tenant Relocation.** In lieu of condemnation and involuntary relocation pursuant to the EDA, the Parties agree to the following foundational terms:

**a. Conveyance of the Properties.** The Owner shall sell and the City shall purchase the Owner's entire interest in the Properties, as-is, where-is and with all faults, in exchange for a single lump sum payment by the City totaling \$611,340.00 ("Purchase Price") pursuant to the terms of a Purchase and Sale Agreement ("PSA") negotiated between the Owner and the City, in substantially the same form as appended hereto under *Schedule A*. At closing of title, the City shall also provide the Owner with a release from all environmental liability relating to the Properties.

The Parties acknowledge that none of them have entered into any contracts for or otherwise utilized the services of any real estate broker with regard to this transaction, and that no commission, finder's fee or other remuneration was promised or will be owed to any third party as a result of same.

**b. Business Relocation Assistance.** At closing of title to the Properties, and in lieu of relocation assistance under the EDA, the City shall issue a single lump sum relocation payment totaling \$331,000.00 ("Relocation Payment") separately to the Tenant (or an affiliated entity designated by the Tenant), with the Owner and Tenant concurrently releasing the City from all claims for relocation assistance regarding the Properties.

In the event the Tenant (or an affiliated entity approved by the City) relocates its current or similar business within the City's municipal borders, the City's officials and employees shall exercise best lawful efforts to assist with satisfying any local administrative conditions incidental to relocation, including without limitation transfer of the Tenant's plenary retail alcoholic beverage consumption license and/or other municipal business licenses. To the extent permitted by law, the City shall also waive administrative fees required for municipal land use and/or construction approvals related to relocation of the Tenant's current or similar business.

The Parties acknowledge that if the Tenant chooses to relocate its business to a different municipality, or chooses to shutter its business entirely, the City's obligations relating to relocation assistance shall be limited to the Relocation Payment only.

**4. Other Open Matters.** With respect to the Construction Litigation, Prerogative Writ Action and Code Violations, the Parties agree as follows:

**a. Dismissal of the Construction Litigation.** Upon payment of the Purchase Price at closing of title to the Properties and issuance of the Relocation Payment ("Financial Terms"), the Owner and Tenant shall dismiss all claims alleged against the City in the Construction Litigation, with prejudice. To that end, concurrent with execution of this Agreement, the Parties shall execute a Stipulation of Dismissal with Prejudice regarding the Construction Litigation, which shall be held in escrow by counsel for the Owner and Tenant and filed with the Superior Court of New Jersey immediately following satisfaction of the Financial Terms. The City shall have no obligation to facilitate or recommend settlement regarding claims alleged among the parties remaining in the Construction Litigation.

**b. Dismissal of the Prerogative Writ Action.** Following closing of title to the Properties, the Owner and Tenant shall no longer have standing to maintain the Prerogative Writ Action, and, therefore, shall withdraw all claims alleged by them in that action with prejudice. In the interests of efficiency and expediency, concurrent with execution of this Agreement, the Parties shall execute a

Stipulation of Dismissal with Prejudice regarding the Prerogative Writ Action, which shall be held in escrow by counsel for the Owner and Tenant and filed with the Superior Court of New Jersey immediately following closing of title to the Properties.

**c. Dismissal of the Code Violations.** Upon closing of title to the Properties, the City shall dismiss the Code Violations, with prejudice, and without any determination or implication as to liability for same and without any fine or penalty owed by the Owner or Tenant as a result thereof.

**d. Mutual Releases.** Concurrent with closing of title to the Properties, the Parties shall execute mutual general releases incorporating releases of all claims alleged against one another regarding the Properties, the Open Matters and all other related issues ("Mutual Releases").

**e. Maintenance of Status Quo.** Pending dismissal of the Construction Litigation, Prerogative Writ Action and Code Violations, the Parties shall jointly seek a stay of each proceeding so as not to alter the *status quo*. In the event any court or tribunal having jurisdiction over the Construction Litigation, Prerogative Writ Action or Code Violations refuses to stay any individual matter, the Parties may terminate this Agreement and proceed with that matter before that court or tribunal.

**5. City Funding Contingency.** The Parties acknowledge that satisfaction of the Financial Terms is contingent upon the City obtaining bond financing, which is estimated to require 90 days from execution of this Agreement for Municipal Council approval, offering/placement and funding. In the event the City is reasonably unable to obtain the required funding, the Parties may agree to extend this contingency period or terminate this Agreement and return to their respective positions prior to execution of same.

**6. Beneficiaries of Agreement.** This Agreement shall be binding on and inure to the benefit of the Parties, their respective present or former parents, subsidiaries, affiliates, departments, officers, directors, members, shareholders, agents, administrators, insurers, attorneys, representatives, past and present employees and all of their respective heirs, representatives, successors and assigns.

**7. Choice of Law.** This agreement shall be governed by the laws of the State of New Jersey without regard to principles of conflict of laws. All contract claims under this Agreement shall be subject to and governed by the provisions of the New Jersey Contractual Liability Act, *N.J.S.A. 59:13-1 et seq.*

**8. Informed Agreement.** The Parties acknowledge that they each read this Agreement in its entirety prior to executing same. The Parties further acknowledge that they are each fully-informed of their respective legal rights and obligations. The Parties further acknowledge that they each enter into this Agreement voluntarily and without force, constraint, compulsion, coercion, intimidation, duress or hardship.

**9. Headings.** The headings of the several paragraphs of this Agreement are solely for the convenience of reference and shall have no further meaning, force or effect.

**10. Construction; Entire Agreement; Modification.**

**a.** The language contained in this Agreement was negotiated and is deemed to have been drafted collaboratively by the Parties.

**b.** This Agreement shall, in all cases, be construed as a whole according to its objective and fair meaning, and shall not be interpreted in favor of or against any of the Parties. Without limitation by the foregoing, interpretation of any provision (in part or in whole) of this Agreement shall not be interpreted against the drafter in any manner.

c. This Agreement supersedes all previous understandings, agreements, statements and representations, whether oral or written, between the parties, and constitutes the complete and final expression of all understandings and agreements between the parties with respect to the subject matter hereof.

d. This Agreement shall only be amended, modified and/or amplified in a writing executed by the Parties and approved by the Municipal Council. Oral statements by any person shall not serve to amend, modify and/or amplify the terms and provisions of this Agreement in any manner.

**11. Severability; Waiver.**

a. If any provision of this Agreement shall for any reason be held invalid or unenforceable by any court, governmental agency or arbitrator of competent jurisdiction, such invalidity or unenforceability shall not affect any other provision of this Agreement, the application of any such provision under circumstances different from those adjudicated by such court, agency or arbitrator, or the validity or enforceability of this Agreement as a whole.

b. The Parties' respective rights and remedies under this Agreement are cumulative and not alternative. No exercise or waiver, in whole or in part, of any right or remedy provided for in this Agreement shall operate as a waiver of any other right or remedy, except as otherwise provided in this Agreement. No delay, forbearance, or neglect on the part of any party in the exercise of any right or remedy shall operate as a waiver thereof. No waiver of any of the conditions of this Agreement by a party shall be effective unless expressly and affirmatively made and given by the party against whom enforcement of the waiver is sought.

**12. Signatures; Counterparts; Electronic Signatures.**

a. The undersigned certify that they execute this Agreement as authorized representatives of the respective parties for which they are signing, and that they have full authority to enter into and bind the respective parties to the terms of this Agreement.

b. This Agreement may be executed in 1 or more counterparts, all of which together shall be considered a single document and the same, and shall become effective when 1 or more counterparts have been signed by each of the Parties. It is understood that the Parties need not sign the same counterpart.

c. This Agreement may be signed electronically by any of the Parties using a digital signature that meets the requirements of the federal Electronic Signatures in Global and National Commerce (ESIGN) Act, 15 U.S.C. §§ 7001 *et seq.*, as amended, and the New Jersey Uniform Electronic Transactions Act, *N.J.S.A. 12A:12-1 et seq.*, as amended. Any digital signature affixed to this Agreement shall constitute the signing-party's intent and agreement to be bound by the terms of this Agreement and shall have the same legal effect as a "wet-ink" signature.

**[REMAINDER OF PAGE INTENTIONALLY BLANK]  
[SIGNATURES FOLLOW ON NEXT PAGE]**



**IN WITNESS WHEREOF**, the Parties hereby execute this Agreement as of the date first written above.

For **CITY OF ORANGE TOWNSHIP**

Witness:

By: \_\_\_\_\_  
Honorable Dwayne D. Warren, Esq.  
Mayor

\_\_\_\_\_  
Joyce Lanier  
City Clerk

Approved as to form and legality:

By: \_\_\_\_\_  
Aaron Mizrahi, Esq.  
Deputy City Attorney

For **51 SOUTH DAY STREET LLC**

Witness:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_

For **EXIT11 GENTLEMEN'S CLUB LLC**

Witness:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_

# **Schedule A**

## **PURCHASE AND SALE AGREEMENT**

**THIS PURCHASE AND SALE AGREEMENT** (“Agreement”) is made as of June \_\_\_\_, 2023, by and between:

**City of Orange Township,  
a New Jersey Municipal Corporation,**  
with offices at 29 North Day Street, Orange, New Jersey, 07050,  
 (“City”); and,

**51 South Day Street LLC  
a New Jersey Limited Liability Company,**  
with offices at 79 South Valley Road, West Orange, New Jersey, 07052,  
 (“Seller”, together with the City, “Parties”).

### **RECITALS**

**WHEREAS**, Seller is the record owner of 2 adjoining parcels designated as Block 2805, Lots 2 and 3 on the official tax maps of the City of Orange Township, County of Essex, State of New Jersey, more commonly known as 51 South Day Street and 53 South Day Street (collectively, “Properties”); and,

**WHEREAS**, pursuant to the Local Redevelopment and Housing Law (“LRHL”), *N.J.S.A. 40A:12A-1 et seq.*, the City’s governing body (“Municipal Council”) adopted Resolution No. 293-2009 on October 6, 2009, designating the Properties as part of the Reock Street Redevelopment Area (“Redevelopment Area”); and,

**WHEREAS**, on April 20, 2010, the Municipal Council adopted Ordinance No. 6-2010, approving the Reock Street Redevelopment Plan (“Redevelopment Plan”), which established zoning and land use regulations for the Redevelopment Area; and,

**WHEREAS**, the Municipal Council subsequently amended the Redevelopment Plan in 2011 and 2021 to, among other things, expand the Redevelopment Area as a condemnation area in need of redevelopment pursuant to the LRHL; and,

**WHEREAS**, on October 19, 2021, the Municipal Council adopted Ordinance No. 50-2021, authorizing the City to acquire the Properties in accordance with the Eminent Domain Act of 1971 (“EDA”), *N.J.S.A. 20:3-1, et seq.*, which requires the City to attempt to negotiate a purchase prior to seeking condemnation; and,

**WHEREAS**, by correspondence dated December 22, 2021, the City formally offered to acquire the Properties based on market value appraisals performed by the City’s consultant, Integra Realty Resources Inc., and approved by the Municipal Council through Ordinance No. 50-2021; and,

**WHEREAS**, on October 18, 2022, the Municipal Council adopted Ordinance No. 52-2022, amending the Redevelopment Plan to remove the Properties from the Redevelopment Area and to limit the permitted use of the Properties to “parks and open space” exclusively; and,

**WHEREAS**, after extensive arms-length negotiation and consultation with their respective legal counsel, the Parties reached an agreement to with respect to the purchase and sale of the Properties; and,

**WHEREAS**, the Parties agreed to further memorialize their mutual promises and covenants regarding the purchase and sale of the Properties; and,

**NOW, THEREFORE**, in consideration of the mutual promises and covenants herein contained, the Parties to the terms and conditions as set forth in further detail herein.

## **TERMS**

**1. Recitals.** All Recitals set forth above are hereby incorporated herein by reference.

**2. Municipal Council Approval.** In accordance with the Optional Municipal Charter Law, *N.J.S.A. 40:69A-1 et seq.*, this Agreement was considered and approved by the Municipal Council through Resolution No. \_\_\_\_-2023 adopted on June \_\_, 2023. Seller understands and acknowledges that any oral or written representations by any City official or employee differing from the terms expressly set forth herein shall not bind the City unless formally approved by the Municipal Council.

**3. Agreement to Sell.** Seller hereby agrees to sell and the City hereby agrees to purchase the Properties—approximately 0.09 acres within the City of Orange Township, County of Essex, and State of New Jersey, designated on the City’s official tax maps as Block 2805, Lots 2 and 3, more commonly known as 51 South Day Street and 53 South Day Street, Orange, New Jersey.

**4. Condition of the Properties.** Subject to Paragraph 14 below, the City agrees to purchase the Properties as-is, where-is, and with all faults. Notwithstanding, Seller agrees that, at closing of title, the Properties shall be transferred vacant and free of any tenancy interests.

**5. Purchase Price.** The total purchase price for the Properties (“Purchase Price”) shall be \$611,340.00, subject to adjustments as set forth in Paragraph 10 below, and payable to Seller at closing of title by certified or attorney trust account check, or pursuant to Seller’s wire instructions.

**6. City’s Intended Use.** Seller acknowledges that the City is purchasing the Properties for the purpose of developing same and other adjoining parcels into public open park space (“Intended Use”).

**7. Title; Permitted Exceptions.**

**7.1.** Title to the Properties shall be good, marketable, with title valid of record, and insurable by a title insurance company of the City’s choice authorized to do business in the State of New Jersey, subject to the following exceptions which shall be deemed “Permitted Exceptions”: any and all claims alleged against Seller in litigation pending before the Superior Court of New Jersey, Essex County, captioned as *51 South Day Street LLC et al. v. PEEK Reock II Owner Urban Renewal LLC et al.*, Docket No. ESX-L-009682-21, all of which are denied by the Seller.

**7.1.1.** Mortgages on the Properties, provided the outstanding principal balance and accrued interest due and owing thereon is less than the Purchase Price. In the event the amounts due under such mortgages are less than the Purchase Price and remain outstanding at closing of title, then such amounts shall be satisfied at closing through direct disbursement from Seller’s proceeds. If any such mortgage is not held by an institutional lender, then at closing, Seller shall present a fully executed discharge in recordable form or a mortgage properly endorsed for cancellation.

**7.1.2.** Laws, regulations or ordinances of federal, state, county or local entities or agencies having jurisdiction over the premises.

**7.1.3.** Easements, covenants, and restrictions of record, provided the same have not been violated, would not render title to the premises unmarketable, and would not materially interfere with the Intended Use.

**7.1.4.** Such state of facts as would be shown on an accurate survey of the Properties, provided such facts do not render title to the Properties unmarketable, would not materially interfere with the Intended Use, and would not reveal encroachments onto the Properties from adjoining parcels or from the Properties onto adjoining parcels.

**7.2.** Within 60 calendar days after this Agreement is fully signed by the Parties, the City shall procure a preliminary certificate of title from a title insurance company of its choice licensed to do business in the State of New Jersey. Not more than 10 calendar days after receipt of said preliminary certificate, or any amendment thereto, the City shall notify Seller, in writing, of any title exceptions listed therein that do not qualify as Permitted Exceptions. Seller shall then have 30 calendar days from the date of such notice to clear or remove the non-Permitted Exceptions to the satisfaction of the City and its title insurance company. If Seller is unable, after due diligence, to remove the non-Permitted Exceptions and deliver title as required in Subparagraph 7.1 above, the City shall have the option to either accept such title as Seller is able to convey without abatement of the Purchase Price, or terminate this Agreement.

**8. Funding Contingency.** It is understood and agreed that the City's obligation to purchase the Properties under this Agreement is expressly contingent on approval by the Municipal Council and successful placement/funding of a municipal bond in at least the amount of the Purchase Price ("Funding Contingency"). Seller agrees to fully cooperate with the City and execute all documents necessary for the City to satisfy the Funding Contingency, without assuming any financial obligation.

The City agrees to diligently pursue satisfaction of the Funding Contingency in good faith, and shall notify Seller in writing within 90 calendar days after this Agreement is fully signed ("Contingency Period"), whether it: (a) satisfied or is waiving the Funding Contingency and is prepared to move forward with the transaction; (b) requires a reasonable extension to satisfy the Funding Contingency, which Seller agrees to consider in good faith; or, (c) is unable to satisfy the Funding Contingency and is terminating this Agreement. In the event the Contingency Period is extended, the City shall notify Seller of the updated status of the Funding Contingency prior to conclusion of that extended period. If the City has not issued notice to Seller in accordance with this Paragraph, Seller may immediately terminate this Agreement by written notice to the City at any time following expiration of the Contingency Period, as extended. Notwithstanding, this Agreement shall not automatically terminate nor shall the Funding Contingency automatically be deemed satisfied at the conclusion of the Contingency Period, or any extension thereof, unless and until the City and/or Seller, as applicable, affirmatively notifies the other party as to the status of the matter.

**9. Closing of Title; Delivery of Documents.** Closing of title shall take place not later than 10 days after the City notifies Seller that it either has satisfied or is waiving the Funding Contingency, on such date and time as is convenient for and agreed to by the Parties. Unless otherwise agreed upon by the Parties, closing shall be held in the City's offices located at the address listed in Paragraph 15 below.

At the closing, Seller shall deliver to the City a Bargain & Sale Deed, Seller's Residency Certification/Exemption (GIT/REP-3), Affidavit of Consideration (RTF-1), Affidavit of Title, corporate resolution authorizing the sale if applicable, and all such other documents as the City's title insurance company may reasonably request or require. In the event the City obtains a survey of the premises from a surveyor licensed in the State of New Jersey, Seller agrees to use a legal description in accordance with such survey, a copy of which shall be provided to Seller by the City in advance of closing. The Parties agree to exchange copies of all required closing documents not less than 3 days prior to closing.

Also at the closing, the City shall provide Seller with a release from all environmental liability relating to the Properties.

**10. Adjustments at Closing.** At the time of closing, taxes, water and sewer charges, if applicable, shall be adjusted between the City and Seller as of the closing date with charges for the day of closing attributable to Seller. Real estate taxes shall be apportioned on the basis of the calendar year for which assessed, using the final tax rate or the Parties' best knowledge of the current year's assessments if the closing occurs before the final tax rate is fixed. The Parties acknowledge that this transaction is fully exempt from the Realty Transfer Fee, as the Properties are being conveyed to the City, a municipal subdivision of the State of New Jersey.

**11. Assignment.** Assignment of this Agreement by any of the Parties is expressly prohibited.

**12. Possession; Pre-Closing Entry.** Following closing of title, the City may enter into and upon the Properties and from thence take all rents, issues and profits for its own use. Prior to the closing, however, the City shall be entitled, from time to time and upon 48-hours' advance notice, to enter the Properties for the purpose of conducting inspections, surveys and tests related to the Intended Use and/or satisfaction of the Financing Contingency. The City shall indemnify and hold Seller harmless from all liability for damage to persons or property caused by the City or its representatives or agents, arising from such entry prior to the closing.

**13. Real Estate Brokers; Commissions, Finder's Fees, Etc.** The Parties represent and warrant to each other that the no real estate brokers or salespersons were involved with the negotiation of this Agreement or the sale of the Properties to the City and that no real estate commissions, finder's fees or other remuneration was promised or will be owed to any third party relating to the Properties or this transaction, prior to, at or after closing of title. The Parties agree to hold one another harmless and indemnify one another from any losses, damages, judgments and costs, including legal fees, one may suffer if the other's representation herein proves untrue.

**14. Risk of Loss.** Risk of loss to the Properties by fire or other casualty shall remain with Seller until the time of closing. In the event of fire or other casualty to the Properties, Seller shall advise the City within 48-hours thereof; however, loss or damage to the Properties as a result of fire or other casualty shall not be cause for the City to terminate this Agreement. Rather, if Seller is entitled to any recovery for said loss or damage pursuant to an insurance policy Seller maintained on the Properties, the total amount of that recovery shall be assigned and paid to the City at closing. In the event this Agreement is terminated for any reason, the City shall not be entitled to any insurance recovery from Seller for loss or damage to the Properties.

**15. Notices.** All notices, demands or communications hereunder shall be sent by registered or certified mail, postage prepaid, return receipt requested, as follows:

To Seller  
51 South Day Street LLC  
79 South Valley Road  
West Orange, New Jersey 07052

with copy to  
Michael J. Ash, Esq.  
Carlin Ward Ash & Heiart LLC  
25B Vreeland Road, Suite 102  
P.O. Box 751  
Florham Park, New Jersey 07932

To the City  
Christopher Hartwyk, Business Administrator  
City of Orange Township  
29 North Day Street  
Orange, New Jersey 07050

with copy to  
Aaron Mizrahi, Esq., Deputy City Attorney  
City of Orange Township  
29 North Day Street  
Orange, New Jersey 07050

**16. Seller Records.** Not later than 10 days after this Agreement is fully signed by the Parties, Seller shall provide the City with copies of all prior title insurance binders/policies, surveys, deeds, and/or other real estate records in its possession relating to the Properties.

**17. Calculation of Time.** With respect to any time periods set forth herein that are calculated from the date of this Agreement, it is understood and agreed that such time period commences from the date the last party signs this Agreement and any such riders or amendments hereto.

**18. Termination of Agreement.** To the extent this Agreement is terminated pursuant to Paragraphs 7 or 8 above, the Parties shall not be entitled to compensation from one another as a result of said termination and shall be returned to their respective positions prior to entering into same.

**19. Beneficiaries of Agreement.** This Agreement shall be binding on and inure to the benefit of the Parties, their respective present or former parents, subsidiaries, affiliates, departments, officers, directors, members, shareholders, agents, administrators, insurers, attorneys, representatives, past and present employees and all of their respective heirs, representatives, successors and assigns.

**20. Choice of Law.** This agreement shall be governed by the laws of the State of New Jersey without regard to principles of conflict of laws. All contract claims under this Agreement shall be subject to and governed by the provisions of the New Jersey Contractual Liability Act, *N.J.S.A. 59:13-1 et seq.*

**21. Informed Agreement.** The Parties acknowledge that they each read this Agreement in its entirety prior to executing same. The Parties further acknowledge that they are each fully-informed of their respective legal rights and obligations. The Parties further acknowledge that they each enter into this Agreement voluntarily and without force, constraint, compulsion, coercion, intimidation, duress or hardship.

**22. Headings.** The headings of the several paragraphs of this Agreement are solely for the convenience of reference and shall have no further meaning, force or effect.

**23. Construction; Entire Agreement; Modification.**

**23.1.** The language contained in this Agreement was negotiated and is deemed to have been drafted collaboratively by the Parties.

**23.2.** This Agreement shall, in all cases, be construed as a whole according to its objective and fair meaning and shall not be interpreted in favor of or against any of the Parties. Without limitation by the foregoing, interpretation of any provision (in part or in whole) of this Agreement shall not be interpreted against the drafter in any manner.

**23.3.** This Agreement supersedes all previous understandings, agreements, statements and representations, whether oral or written, between the parties, and constitutes the complete and final expression of all understandings and agreements between the parties with respect to the subject matter hereof.

**23.4.** This Agreement shall only be amended, modified and/or amplified in a writing executed by the Parties and approved by the Municipal Council. Oral statements by any person shall not serve to amend, modify and/or amplify the terms and provisions of this Agreement in any manner.

**24. Severability; Waiver.**

**24.1.** If any provision of this Agreement shall for any reason be held invalid or unenforceable by any court, governmental agency or arbitrator of competent jurisdiction, such invalidity or

unenforceability shall not affect any other provision of this Agreement, the application of any such provision under circumstances different from those adjudicated by such court, agency or arbitrator, or the validity or enforceability of this Agreement as a whole.

**24.2.** The Parties' respective rights and remedies under this Agreement are cumulative and not alternative. No exercise or waiver, in whole or in part, of any right or remedy provided for in this Agreement shall operate as a waiver of any other right or remedy, except as otherwise provided in this Agreement. No delay, forbearance, or neglect on the part of any party in the exercise of any right or remedy shall operate as a waiver thereof. No waiver of any of the conditions of this Agreement by a party shall be effective unless expressly and affirmatively made and given by the party against whom enforcement of the waiver is sought.

**25. Recording.** The Parties agree that, if requested by either of them, a short-form memorandum of this Agreement may be prepared and recorded in the Office of the Essex County Register of Deeds and Mortgages. The requesting party shall be responsible for all fees and costs associated with preparation and recording of said instrument.

**26. Signatures; Counterparts; Electronic Signatures.**

**26.1.** The undersigned certify that they execute this Agreement as authorized representatives of the respective parties for which they are signing, and that they have full authority to enter into and bind the respective parties to the terms of this Agreement.

**26.2.** This Agreement may be executed in 1 or more counterparts, all of which together shall be considered a single document and the same, and shall become effective when 1 or more counterparts have been signed by each of the Parties. It is understood that the Parties need not sign the same counterpart.

**26.3.** This Agreement may be signed electronically by any of the Parties using a digital signature that meets the requirements of the federal Electronic Signatures in Global and National Commerce (ESIGN) Act, 15 U.S.C. §§ 7001 *et seq.*, as amended, and the New Jersey Uniform Electronic Transactions Act, *N.J.S.A. 12A:12-1 et seq.*, as amended. Any digital signature affixed to this Agreement shall constitute the signing-party's intent and agreement to be bound by the terms of this Agreement and shall have the same legal effect as a "wet-ink" signature.

**[REMAINDER OF PAGE INTENTIONALLY BLANK]  
[SIGNATURES FOLLOW ON NEXT PAGE]**



**IN WITNESS WHEREOF**, the Parties hereby execute this Agreement as of the date first written above.

For **CITY OF ORANGE TOWNSHIP**

Witness:

By: \_\_\_\_\_  
Honorable Dwayne D. Warren, Esq.  
Mayor

\_\_\_\_\_  
Joyce Lanier  
City Clerk

Approved as to form and legality:

By: \_\_\_\_\_  
Aaron Mizrahi, Esq.  
Deputy City Attorney

For **51 SOUTH DAY STREET LLC**

Witness:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_

**CITY COUNCIL****The City of Orange Township, New Jersey**DATE October 6, 2009NUMBER 293-2009**TITLE:****A RESOLUTION DECLARING THE REOCK STREET STUDY AREA TO BE AN AREA IN NEED OF REDEVELOPMENT**

WHEREAS, the Municipal Council of the City of Orange Township ("Municipal Council"), by resolution 107-2009, authorized the City of Orange Planning Board ("Planning Board") to conduct a preliminary investigation to determine if the Reock Street Study Area ("Study Area"), as described below, meets the criteria of New Jersey's Local Redevelopment and Housing Law (LRHL), N.J.S.A. 40A:12A-1 et seq., for designation as an area in need of redevelopment; and,

WHEREAS, the Study Area consists of the following Tax Blocks and parcels: Block 86, Lots 3, 4, 5, 6, 6.A, 7, 9, 23 and 24, Block 87, Lots 12, 12.A., 13 and 14; and Block 88, Lots 1, 2, 3, 4, 5, 7, 26 and 27 in the City of Orange Township, New Jersey; and,

WHEREAS, the Planning Board investigated the Study Area, prepared a map of the study area showing its boundaries and the location of parcels within the Study Area, and prepared a "Preliminary Investigation report" in accordance with the LRHL that includes a description of the physical conditions within the study area and of the zoning and master plan designations for the area and an analysis of how the study area meets the statutory criteria; and,

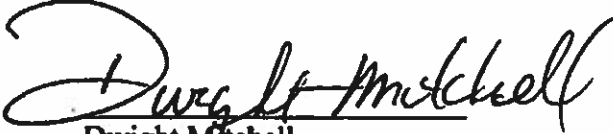
WHEREAS, public notice of a public hearing to be conducted by the City Planning Board on September 23, 2009 was duly published and posted in the office of the Municipal Clerk and a notice of the public hearing and map identifying the Study Area boundaries was mailed to every property owner within the Study Area, a copies of the preliminary investigation have been on file with the Municipal Clerk since Friday, September 3<sup>rd</sup> for public inspection; and,

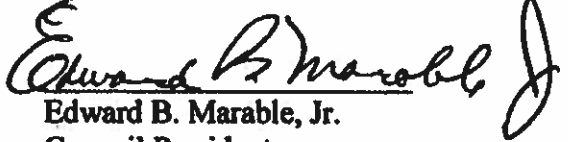
WHEREAS, the aforesaid conducted a public hearing was conducted on September 23, 2009, and after hearing professional testimony and testimony from property owners, individuals and citizens, and based on consideration of all evidence presented, determined that the Reock Street Study Area does meet the statutory criteria presented in N.J.S.A. 40A:12A-5.a and d, and finds substantial evidence to support the designation of the Reock Street Study Area as an area in need of redevelopment as presented; and,

WHEREAS, the Municipal Council has reviewed the Planning Board's recommendation and evidence upon which it was based, and finds that there is substantial evidence to support the designation of the Reock Street Study Area as an area in need of redevelopment.

1. That the Municipal Council hereby accepts the Planning Board's recommendation and the reasons therefore, finding that the Reock Street Study area, as defined herein, meets the criteria established by N.J.S.A. 40A:12A-5.a and d for designation of an area in need of redevelopment; and,
2. The Orange Planning Board is hereby directed to prepare a redevelopment plan for the designated area in need of redevelopment and transmit the proposed plan, along with its recommendations, to the Mayor and City Council for adoption, as appropriate.

ADOPTED: October 6, 2009

  
Dwight Mitchell  
Municipal Clerk

  
Edward B. Marable, Jr.  
Council President

**RESOLUTION NO. 293-2009**

**REGULAR MEETING –OCTOBER 6, 2009**

**ON CONSENT AGENDA**

**MOTION TO ADOPT: Corbitt**

**SECOND: Eason**

**YEAS: Abdul-Rasheed, Corbitt, Eason, Perkins, Williams & Council President Marable**

**NAYS: None**

**ABSTENTIONS: None**

**ABSENCE: Morton**

DATE April 20, 2010NUMBER 6-2010

TITLE:

**AN ORDINANCE ADOPTING THE REOCK STREET REDEVELOPMENT PLAN**

WHEREAS, the Municipal Council of the City of Orange Township ("Municipal Council"), by resolution 107-2009, authorized the City of Orange Planning Board ("Planning Board") to conduct a preliminary investigation to determine if the Reock Street Study Area ("Study Area"), as described below, meets the criteria of New Jersey's Local Redevelopment and Housing Law (LRHL), N.J.S.A. 40A:12A-1 et seq., for designation as an area in need of redevelopment; and,

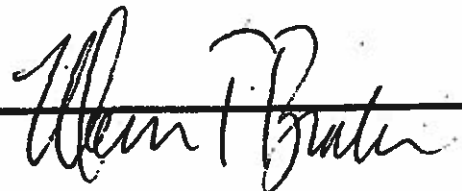
WHEREAS, the Study Area consists of the following Tax Blocks and parcels: Block 86, Lots 3, 4, 5, 6, 6.A, 7, 9, 23 and 24, Block 87, Lots 12, 12.A., 13 and 14; and Block 88, Lots 1, 2, 3, 4, 5, 7, 26 and 27 in the City of Orange Township, New Jersey; and,

WHEREAS, the Planning Board investigated the Study Area, prepared a map of the study area showing its boundaries and the location of parcels within the Study Area, and prepared a "Preliminary Investigation report" in accordance with the LRHL that includes a description of the physical conditions within the study area and of the zoning and master plan designations for the area and an analysis of how the study area meets the statutory criteria; and,

WHEREAS, a public hearing was conducted by the City Planning Board on September 23, 2009 where it was determined that the Reock Street Study Area does meet the statutory criteria presented in N.J.S.A. 40A:12A-5 and found substantial evidence to support the designation of the Reock Street Study Area as an area in need of redevelopment as presented; and,

WHEREAS, the Municipal Council accepted Planning Board's recommendation and passed Resolution 203-2009 designating the area as in need of redevelopment and authorizing the Orange Planning Board to prepare and transmit a redevelopment plan and recommendations for the Reock Street Redevelopment Area to the Mayor and City Council for adoption, as appropriate; and,

WHEREAS, the Orange Planning Board conducted a public hearing on the contents of the proposed *Reock Street Redevelopment Plan (RSRP)* on February 24, 2010 and voted to submit the proposed plan in its entirety to the Municipal Council:



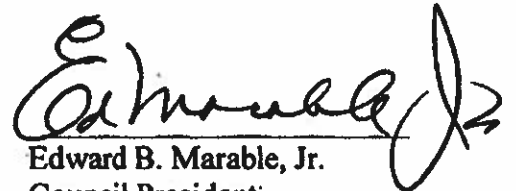
NOW, THEREFORE BE IT ORDAINED by the Municipal Council of the City of Orange Township that:

1. *The Reock Street Redevelopment Plan* be and is hereby adopted in the form attached hereto.
2. The Plan shall supercede applicable provisions of the City of Orange redevelopment regulations.
3. This ordinance shall become effective immediately.

ADOPTED: April 20, 2010

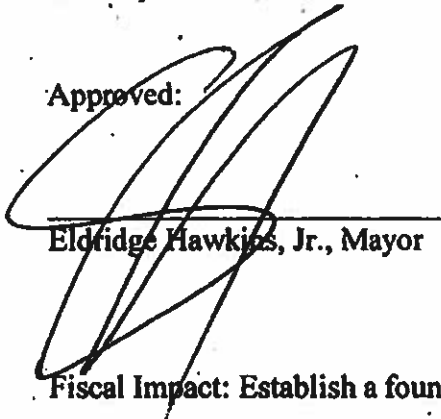


Dwight Mitchell  
Municipal Clerk



Edward B. Marable, Jr.  
Council President

Approved:



Eldfidge Hawkins, Jr., Mayor

Fiscal Impact: Establish a foundation for new tax ratables.

Purpose: Promote private sector investment in Orange.

**CITY COUNCIL**

**The City of Orange Township, New Jersey**

DATE October 19, 2021

NUMBER 50-2021

(AMENDED)

**TITLE:**  
**AN ORDINANCE OF THE CITY OF ORANGE TOWNSHIP, COUNTY OF ESSEX, STATE OF NEW JERSEY AUTHORIZING THE ACQUISITION, BY NEGOTIATED PURCHASE OR CONDEMNATION, OF PROPERTY LOCATED AT BLOCK 2805, LOTS 2, 3, 4, 5 AND 6 ON THE OFFICIAL TAX MAP OF THE CITY OF ORANGE TOWNSHIP.**

**WHEREAS**, pursuant to *N.J.S.A. 40A:12-5(a)(1)*, the Municipal Council of the City of Orange Township ("City") may provide for the acquisition of any real property, capital improvement, or personal property by purchase, gift, devise, lease, exchange, condemnation or installment purchase contract; and,

**WHEREAS**, pursuant to *N.J.S.A. 40:61-1(a)*, the City may acquire, lay out, improve, embellish and maintain within and without the municipality, such public parks, squares, open spaces, playgrounds, beaches, water fronts and places for public resort and recreation, and also streets, avenues, boulevards and parkways leading to and connecting the same, as it may deem advisable, and extend and enlarge the same or any of them, and for such purposes, acquire, in fee or less estate, and by gift, devise, purchase or condemnation, any real estate, improved or unimproved, or interest therein, within or without the municipality, suitable therefor; and,

**WHEREAS**, the condemnation process in New Jersey is governed by the Eminent Domain Act ("Eminent Domain Act"), *N.J.S.A. 20:3-1 et seq.*; and,

**WHEREAS**, the City desires to acquire the following properties for the purpose of planning, developing and maintaining them as open space and a public park:

<u>Block</u>	<u>Lot</u>	<u>Address</u>	<u>Record Owner</u>
2805	2	51 South Day Street	51 South Day Street LLC
2805	3	53 South Day Street	51 South Day Street LLC
2805	4	55 South Day Street	55 South Day LLC
2805	5	59 South Day Street	Carter, Paul
2805	6	61 South Day Street	Jonraz NJ Realty LLC

(collectively, "Properties"); and,

**WHEREAS**, the City's professional appraiser, Integra Realty Resources Northern New Jersey ("Integra"), determined the aggregate fair market value of the Properties to be \$960,000.00 ("Aggregate FMV"), based on the following valuations set forth in Integra's final reports, appended hereto and made a part hereof by reference:

<u>Block</u>	<u>Lot</u>	<u>Address</u>	<u>FMV</u>
2805	2	51 South Day Street	\$ 370,000.00
2805	3	53 South Day Street	\$ 115,000.00
2805	4	55 South Day Street	\$ 250,000.00
2805	5	59 South Day Street	\$ 130,000.00
2805	6	61 South Day Street	\$ 95,000.00
Aggregate FMV			\$ 960,000.00

 A. M. ZAPPALA

**WHEREAS**, the Council wishes to authorize the Mayor and/or his designee to negotiate for acquisition of the Properties in an amount not to exceed the Aggregate FMV, and if a negotiated purchase cannot be agreed upon, to initiate a condemnation action taking title to the Properties under the Eminent Domain Act for purposes of planning, developing and maintaining the property as open space and a public park, so long as all legal prerequisites for condemnation are satisfied, and to thereafter prosecute such condemnation action to completion and to arrange for the City to satisfy any judgments entered in such proceedings.

**NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF ORANGE TOWNSHIP, COUNTY OF ESSEX, STATE OF NEW JERSEY:**

**Section 1 Recitals.**

The above recitals are incorporated herein as if specifically set forth at length herein.

**Section 2 Identification of Properties.**

The City intends to acquire, by negotiated purchase or condemnation pursuant to this Ordinance, irrevocable, perpetual, fee ownership of the Properties, which appear on the official tax map as:

<u>Block</u>	<u>Lot</u>	<u>Address</u>
2805	2	51 South Day Street
2805	3	53 South Day Street
2805	4	55 South Day Street
2805	5	59 South Day Street
2805	6	61 South Day Street

**Section 3 Acceptance of Appraisals.**

The Properties' respective appraisals by Integra are hereby accepted and approved in their entireties, including without limitation the Aggregate FMV based on the valuations set forth therein.

**Section 4 Authorization of Purchase/Condemnation.**

The Mayor and/or his designee are hereby authorized to negotiate the purchase of the Properties, or if a purchase cannot be effectuated, to carry out condemnation of the Properties pursuant to the Eminent Domain Act, *N.J.S.A. 40A:12-5(a)(1)* and *N.J.S.A. 40:61-1(a)*, for purposes of planning, developing and maintaining the property as open space and a public park.

The Council specifically authorizes any and all necessary and appropriate actions by the Mayor and/or his designee to take and obtain full ownership interests in the Properties as set forth herein through negotiation and purchase in an amount not to exceed the Aggregate FMV, or through condemnation, including without limitation: hiring experts; engaging land surveyors, title insurance companies, appraisers and any other professionals whose services are necessary or appropriate to implement the purposes of this Ordinance; making an offer on the City's behalf to the owner of each of the Properties in the full amount of the corresponding FMV, and to negotiate on the City's behalf in good faith with each such owner to purchase each of the Properties in accordance with *N.J.S.A. 20:3-6*, and in the event that the negotiations

to purchase the Properties are unsuccessful for any reason, to commence a condemnation action by filing a Verified Complaint and Declaration of Taking, depositing estimated just compensation with the Clerk of the Superior Court, filing a *Lis Pendens*, and taking any and all other actions of any administrative or other nature necessary to complete the process contemplated by this Ordinance.

In conjunction with said acquisition, the City hereby reserves and shall reserve any and all rights it had or may have to recover in any subsequent or pending action or by any administrative means, all costs of remediation and/or clean-up of contamination that have been incurred or may be incurred in the future by reason of conditions which were in existence as of or prior to the date of vesting of title and possession of the Properties in the City's name.

The City further reserves and shall reserve the right to seek, in its sole discretion, any and all available legal, administrative and equitable remedies to compel the record owners and/or responsible parties to remediate and/or clean up the Properties in accordance with applicable State and Federal statutory and regulatory provisions. The City is not and shall not be liable for the clean-up and removal costs of any discharge which occurred or began prior to the City's ownership of the Properties.

**Section 5 Severability of Ordinance Provisions.**

Each Section of this Ordinance is an independent Section, and if any section, paragraph, subdivision, subsection, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, subsection, clause or provision declared invalid and the remainder of this Ordinance shall remain in full force and effect and shall be enforceable.

**Section 6 Repealer.**

All other Ordinances and parts of Ordinances that conflict or are inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency.


**Section 7 Effective Date.**

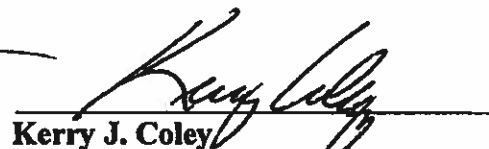
This Ordinance shall take effect after final passage and publication in accordance with the laws of the State of New Jersey.

**Purpose:** Authorizing acquisition of certain real property located within the City of Orange Township by negotiation and purchase or condemnation.

**Fiscal Impact:** Minimal

**Adopted:** October 19, 2021

  
Joyce L. Lanier  
City Clerk

  
Kerry J. Coley  
Council President



Approved:

A handwritten signature in black ink, appearing to read "Dwayne D. Warren". The signature is written in a cursive style with a horizontal line underneath the name.

Hon. Dwayne D. Warren, Esq.  
Mayor

**CITY COUNCIL**

**The City of Orange Township, New Jersey**

DATE October 18, 2022

AMENDED

NUMBER 52-2022

**TITLE: AN ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF ORANGE TOWNSHIP, COUNTY OF ESSEX, STATE OF NEW JERSEY, AMENDING THE REOCK STREET REDEVELOPMENT PLAN WITH CONDEMNATION PURSUANT TO N.J.S.A. 40A:12A-7 TO REMOVE BLOCK 2805, LOTS 2, 3, 4, 5 AND 6 FROM THE REOCK STREET REDEVELOPMENT AREA AND CLASSIFYING BLOCK 2805, LOTS 2, 3, 4, 5 AND 6 AS "PARKS & OPEN SPACE" FOR ZONING PURPOSES.**

**WHEREAS**, in accordance with the Local Redevelopment and Housing Law ("LRHL"), N.J.S.A. 40A:12A-1 *et seq.*, the Municipal Council ("Municipal Council") of the City of Orange Township ("City") initially adopted the Reock Street Redevelopment Plan on April 20, 2010, through passage of Ordinance No. 06-2010, and was thereafter amended from time-to-time, the most recent being adopted on July 6, 2022, through passage of Ordinance No. 30-2022 ("Redevelopment Plan"); and,

**WHEREAS**, the Redevelopment Plan relates to an area in need of redevelopment known as the Reock Street Redevelopment Area ("Redevelopment Area"), expanded by the Municipal Council on January 5, 2021, through adoption of Resolution No. 2-2021, to its current size comprising approximately 30 parcels bounded generally by the New Jersey Morris-Essex Rail Line to the Northeast, South Essex Street to the Northwest, Freeway Drive West to the Southwest, and the City's border with the City of East Orange to the Southeast; and,

**WHEREAS**, on October 19, 2021, the Municipal Council passed Ordinance 50-2021, which authorized acquisition of the following 5 properties for the purpose of planning, developing and maintaining them as open space and a public park:

<u>Block</u>	<u>Lot</u>	<u>Address</u>	<u>Record Owner</u>
2805	2	51 South Day Street	51 South Day Street LLC
2805	3	53 South Day Street	51 South Day Street LLC
2805	4	55 South Day Street	55 South Day LLC
2805	5	59 South Day Street	Carter, Paul
2805	6	61 South Day Street	Jonraz NJ Realty LLC

(collectively, "Properties"); and,

**WHEREAS**, in furtherance of that purpose, the Municipal Council now wishes to remove the Properties from the Redevelopment Area and classify them for exclusive use as parks and open space; and,

**WHEREAS**, accomplishing this purpose requires an amendment to the Redevelopment Plan ("Plan Amendment") as well as revisions to the City's official zoning maps; and,

**WHEREAS**, the Municipal Council referred its proposed Plan Amendment to the City's Planning Board for consideration in accordance with N.J.S.A. 40A:12A-7(e); and,

(UNDERScores ARE ADDITIONS, (~~BRACED-STRIKEOUTS~~) ARE DELETIONS)

 A. Mizgach

**WHEREAS**, the Planning Board reviewed the Plan Amendment at its regular meeting on October 11, 2022, and authorized the Planning Board Attorney to issue correspondence to the Mayor and Municipal Council advising the Municipal Council of its findings, comments and recommendations; and,

**WHEREAS**, having considered the Planning Board's written findings, comments and recommendations, the Municipal Council wishes to proceed with approval and adoption of the Plan Amendment.

**NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF ORANGE TOWNSHIP, ESSEX COUNTY, NEW JERSEY:**

**Section 1 Approval and Adoption of Amended Redevelopment Plan.**

The *Reock Street Redevelopment Plan*, as amended and adopted by the Municipal Council, is hereby ratified, approved and adopted pursuant to *N.J.S.A. 40A:12A-7*, to reflect that the Properties are no longer included within the Redevelopment Area, and are therefore no longer subject to the regulations and design standards set forth within the Redevelopment Plan.

**Section 2 Zoning Classification/Maps and Permitted Use.**

Upon this Ordinance becoming effective, the Properties shall be zoned such that "Parks & Open Space" shall be the sole permitted use for any of the Properties, with any necessary amendments to the City's official zoning map being made to reflect same.

**Section 3 Severability of Ordinance Provisions.**

Each Section of this Ordinance is an independent Section and any part hereof found unconstitutional, void or ineffective for any cause shall not affect the validity or constitutionality of any other parts hereof.

**Section 4 Conflicts and Inconsistencies.**

All other Ordinances and parts of Ordinances that conflict or are inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency.


**Section 5 Effective Date.**

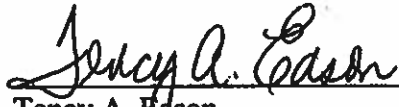
Following final passage, this Ordinance shall take effect upon the expiration of 20 days after publication, unless otherwise provided by the Municipal Council.

**PURPOSE:** To amend the Reock Street Redevelopment Plan and re-zone certain properties.

**FISCAL IMPACT:** None.

Adopted: October 18, 2022

  
Joyce L. Lanter  
City Clerk

  
Tency A. Eason  
Council President

Approved:



Dwayne D. Warren, Esq.  
Mayor

Dated: 10/21/22