

**Record and Return To:**  
Gibbons P.C.  
One Gateway Center  
Newark, New Jersey 07102  
ATTN: Cameron W. MacLeod, Esq.

**Prepared by:**  
Cameron W. MacLeod, Esq.

Block 136, Lot 7.01  
Borough of Tinton Falls  
County of Monmouth

### **STORMWATER DRAINAGE EASEMENT AGREEMENT**

This Drainage Easement Agreement (“**Agreement**”) is made as of this \_\_\_\_ day of \_\_\_\_\_, 2024 by and between SHARK RIVER ROAD OWNER LLC, a limited liability company of the State of New Jersey, having an address of 250 Greenpoint Ave, Brooklyn, New York 11222 (the “**Developer**”), and the BOROUGH OF TINTON FALLS, a municipal body politic in the State of New Jersey, having an address of 556 Tinton Avenue, Tinton Falls, New Jersey 07724 (the “**Borough**”). The Developer and Borough both respectively a Party, and together, they are the Parties.

**WHEREAS**, Developer is the owner of certain property located within the Borough designated as Block 136, Lot 7.01 and now known as 49 Shark River Road (the “**Property**”) for which Developer has secured development approvals for the development of the Property pursuant to a Resolution of the Planning Board of the Borough dated March 22, 2023 (the “**Resolution**”); and

**WHEREAS**, the Developer has prepared and submitted to the Borough a maintenance plan consistent with Borough Code sect. 40-68.9 that details the maintenance schedule and tasks related to the stormwater facilities proposed on the Property (the “**Maintenance Plan**”); and

**WHEREAS**, the Developer intends to dedicate a drainage easement to the Borough to allow the Borough to access and repair the stormwater drainage system in the event of an emergency; and

**WHEREAS**, the Developer is willing to grant such an easement to the Borough to allow for such access and repair in the event of an emergency.

**NOW, THEREFORE**, in consideration of the mutual agreements contained herein and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

1. Grant of Stormwater Drainage Easement; Purpose. Subject to the terms of this Agreement, Developer hereby grants to the Borough and its employees, agents, licensees and contractors (collectively, the “**Borough Parties**”), for the benefit of the Borough, a non-exclusive, perpetual easement (the “**Easement**”) to those portions of the Property depicted on **Exhibit A** attached hereto and more particularly described by metes and bounds on **Exhibit B** attached hereto (such portions of the Property, the “**Easement Area**”). The Easement is granted for the sole purpose of accessing, maintaining, repairing, constructing, reconstructing, and

replacing the stormwater drainage system running within the Easement Area by the Borough Parties only during a period of emergency, as same is defined herein, and only as consistent with the Maintenance Plan. The Easement may not be utilized for any other purpose or to benefit any other property or parties. For the avoidance of doubt, no rights are created in or for the benefit of the public.

2. Use and Enjoyment of Easement Area by Developer. Except as otherwise provided in this Agreement, the Developer, its heirs, successors and assigns reserves the right to use and enjoy the surface of the Easement Area located within the Property, provided that such use shall not interfere with the stormwater drainage system or appurtenances thereto. Developer may install landscaping, sidewalks, retaining walls and fencing within the Easement Area. Except as shown on the plans approved by the Resolution, no buildings, landscaping, sidewalks, retaining walls or fencing may be placed on or around the Easement that would preclude, limit or hamper full access to the Easement Area or maintenance or repair thereof. Notwithstanding the easement rights granted herein, neither the Borough nor any of the Borough Parties shall undertake or perform any maintenance or repair activities that prevent or hinder, either wholly or partially, the use of the Property by the Developer, its heirs, successors or assigns without providing notice to Developer, its heirs, successors or assigns in the form required herein. Developer may grant additional easements to other utilities within the Easement Area, provided that same, in the best judgment of Developer, does not materially interfere with the Easement granted herein. By agreeing to the terms of this Agreement, the Borough expressly confirms the rights herein are non-exclusive, and that Developer may enter into other utility easements as it deems necessary without additional consent or approval from the Borough.

3. Access by the Borough Permitted During Emergency. An “emergency” or “emergency purposes” shall mean that the stormwater drainage system on the Property has failed and is no longer functioning pursuant to the Maintenance Plan, and as a result, an emergent condition has arisen on the Property requiring immediate action by the Borough to protect the health, safety and welfare of the public. In the event of an emergency as defined herein, the Borough shall only be required to provide Developer notice simultaneously with its entry onto the Easement Area.

4. Maintenance Consistent with Maintenance Plan. Maintenance of the stormwater drainage system shall be consistent with the Maintenance Plan, a copy of which is on file with the Borough Engineer. In the event the Borough is required to make reasonable repairs to the stormwater drainage system due to an emergency as defined herein, any and all repairs shall be consistent with the Maintenance Plan.

5. Costs Serve as Lien. The costs of such reasonable repairs shall be the responsibility of the respective property owner and shall become a lien upon the property and collected in the same manner as municipal property taxes assessed on the property in the event the costs of the reasonable repairs are not paid to the Borough within thirty (30) days of the owner’s receipt of an invoice for such reasonable repairs performed. If the Borough or the Borough Parties undertake any work within the Easement Area, such parties shall return said Easement Area to its original condition prior to the performance of the work, subject to the restrictions set forth in paragraph 2 above, immediately after the work is complete and at the sole cost and expense of the respective property owner.

6. Compliance with Laws. The Borough agrees, in exercising its rights of access to, and use of, the Easement Area, that it will comply with all statutes, laws, ordinances, rules, regulations, orders and other requirements of all agencies, bureaus, departments, and officials of Federal, State, Borough and municipal and local governments, public authorities and utility companies having or claiming jurisdiction over the Property or any part thereof or any actions being taken thereon, or over Developer or the Borough, with respect to this Agreement, which are applicable to the Property or any part thereof or the manner of use thereof, including but not limited to complying with all applicable environmental laws and regulations.

7. Rights and Obligations Run with the Land. The rights and obligations herein shall be considered a covenant running with the land, and shall inure to the benefit of and similarly restrain Developer's heirs, successors, and assigns for the Property and any subdivision thereof.

8. Notices. Any notice or communication which may be given or is required to be given pursuant to the terms of this Agreement shall be in writing and shall be personally delivered, mailed by certified or registered mail, return receipt requested, delivered by a nationally recognized overnight courier, to the other party as follows:

If to Developer:            Shark River Road Owner LLC  
250 Greenpoint Ave  
Brooklyn, New York 11222  
Attn: Brian Glicksman, MP  
[brian@qrstproperties.com](mailto:brian@qrstproperties.com)

with a copy to:            Gibbons P.C.  
One Gateway Center  
Newark, New Jersey 07102  
Attn: Cameron W. MacLeod, Esq.  
[cmacleod@gibbonslaw.com](mailto:cmacleod@gibbonslaw.com)

If to the Borough:        Borough of Tinton Falls  
556 Tinton Avenue  
Tinton Falls, New Jersey 07724  
Attn: Borough Clerk  
[BoroughClerk@TintonFalls.com](mailto:BoroughClerk@TintonFalls.com)

with a copy to:            Borough of Tinton Falls  
556 Tinton Avenue  
Tinton Falls, New Jersey 07724  
Attn: Borough Attorney  
[kstarkey@starkeykelly.com](mailto:kstarkey@starkeykelly.com)

or to such other address as any Party may from time to time designate by written notice to the other. If the Developer no longer has a maintenance guarantee with the Borough, notice shall be made by certified mail, return receipt requested, to the current property owner as reflected on the most recent tax records of the Borough, with a copy to Developer, as set forth above. A notice or

communication which is mailed or personally delivered shall be deemed to be given and received on the actual date of receipt. Attorneys for a Party are authorized to give notices on behalf of such Party. Copies of notices may be delivered to any Party by electronic mail as well, but same shall not be considered notice pursuant to this section without an additional hard copy notice, unless receipt of such hard copy notice is waived by the receiving Party.

9. Entire Agreement. This Agreement contains the entire agreement and understanding between the Parties with respect to the subject matter hereof and supersedes all prior agreements and understandings relating to such subject matter.

10. Effective Date; Term. This Agreement shall be in full force and effect upon its recordation. This Agreement shall remain in effect in perpetuity, unless future development approvals granted by the Planning Board of the Borough alter the conditions hereof.

11. Recordation. This Agreement may be recorded in the official land records of the County of Monmouth, New Jersey.

12. Governing Law; Severability. The Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey. If any provision of this Agreement or the application of any such provision to any person or circumstance shall be held invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision hereof.

13. Modifications; Captions. No agreement shall be effective to add to, change, modify, waiver or discharge this Agreement in whole or in part, unless such agreement is in writing and is signed by a representative of the Borough. The captions of this Agreement are inserted solely for the convenience of reference only and shall not be deemed to define, describe, or limit the scope or intent of this Agreement or any term hereof.

**[Remainder of page intentionally left blank; signatures appear on next page]**

**INTENDING TO BE LEGALLY BOUND**, the Parties have executed this Agreement on the date written on the first page of this Agreement.

**WITNESS:**

**SHARK RIVER ROAD OWNER LLC**

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Name: Brian Glicksman  
Title: Managing Member

**WITNESS:**

**BOROUGH OF TINTON FALLS**

\_\_\_\_\_  
Name:  
Title: Clerk

\_\_\_\_\_  
Name: Vito Perillo  
Title: Mayor

**ACKNOWLEDGEMENT**

STATE OF NEW YORK )

) ss.:

COUNTY OF KINGS )

**BE IT REMEMBERED**, that on \_\_\_\_\_, 2024 before me, the subscriber, personally appeared Brian Glicksman, who, being by me duly sworn on his oath, deposes and proves to my satisfaction, that he signed, and delivered the attached Agreement as the authorized representative of the Grantor herein; and is duly authorized to and did execute this Agreement on behalf of the Grantor and the Agreement was executed as the voluntary act of the Grantor.

\_\_\_\_\_  
Notary Public

STATE OF NEW JERSEY }

} ss.

COUNTY OF \_\_\_\_\_ }

On \_\_\_\_\_, 2024, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged that he/she executed the same in his/her capacity as \_\_\_\_\_ of the Borough of Tinton Falls, that he/she was authorized to execute this instrument on behalf of the Borough of Tinton Falls, and that by his/her signature on the instrument, the Borough of Tinton Falls executed this instrument.

\_\_\_\_\_  
Notary Public

**EXHIBIT A**

**Drainage and Utility Plan**

**EXHIBIT B**

**Legal Description, Proposed Drainage Easement**