

## RESOLUTION

### APPROVING THE HIRING OF A SEASONAL PUBLIC WORKS EMPLOYEE

**WHEREAS**, due to an opening in the Public Works Department, there exists a need for a new employee, and;

**WHEREAS**, after discussing the needs of the Department with the DPW Director, the Township is of the opinion, that the best way to fill our needs is to hire an employee with skills as a laborer, and;

**WHEREAS**, the Administrator and the DPW Director has interviewed several candidates for the position, and believe that Walter Cielecki is the most qualified for this position.

**NOW THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the Township of Clinton, County of Hunterdon, State of New Jersey, that Walter Cielecki is hereby hired as a full time seasonal Public Works employee, and;

**NOW THEREFORE, BE IT RESOLVED**, Walter Cielecki is hereby hired full time as a seasonal Public Works employee under the following terms and conditions:

1. Mr. Cielecki's employment shall commence on or about April 17, 2023 and shall last until September 29, 2023.
2. Mr. Cielecki's starting salary will be \$20.00 per hour with no benefits afforded seasonal full time Township employees as outlined in the Township's Personnel Policies and Procedures.
3. This resolution shall take effect immediately.

ATTEST:

\_\_\_\_\_  
Carla Conner, Township Clerk

\_\_\_\_\_  
Brian Mullay, Mayor

Adopted: April 26, 2023

## **CERTIFICATION**

I, Carla Conner, Municipal Clerk of the Township of Clinton, County of Hunterdon, State of New Jersey, do hereby certify the foregoing to be a true and correct copy of a resolution duly authorized by the Mayor and Council on this 26<sup>th</sup> day of April, 2022.

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*Conner Conner, Municipal Clerk*

## RESOLUTION

### APPROVING THE HIRING OF A SEASONAL PUBLIC WORKS EMPLOYEE

**WHEREAS**, due to an opening in the Public Works Department, there exists a need for a new employee, and;

**WHEREAS**, after discussing the needs of the Department with the DPW Director, the Township is of the opinion, that the best way to fill our needs is to hire an employee with skills as a laborer, and;

**WHEREAS**, the Administrator and the DPW Director has interviewed several candidates for the position, and believe that Charles Kolvites III is the most qualified for this position.

**NOW THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the Township of Clinton, County of Hunterdon, State of New Jersey, that Charles Kolvites III is hereby hired as a full time seasonal Public Works employee, and;

**NOW THEREFORE, BE IT RESOLVED**, Charles Kolvites III is hereby hired full time as a seasonal Public Works employee under the following terms and conditions:

1. Mr. Kolvites's employment shall commence on or about April 17, 2023 and shall last until September 29, 2023.
2. Mr. Kolvites's starting salary will be \$20.00 per hour with no benefits afforded seasonal full time Township employees as outlined in the Township's Personnel Policies and Procedures.
3. This resolution shall take effect immediately.

ATTEST:

\_\_\_\_\_  
Carla Conner, Township Clerk

\_\_\_\_\_  
Brian Mullay, Mayor

Adopted: April 26, 2023

**CERTIFICATION**

I, Carla Conner, Municipal Clerk of the Township of Clinton, County of Hunterdon, State of New Jersey, do hereby certify the foregoing to be a true and correct copy of a resolution duly authorized by the Mayor and Council on this 26<sup>th</sup> day of April, 2023.

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*Conner Conner, Municipal Clerk*



## RESOLUTION

### RESOLUTION AWARDING AGREEMENT FOR EXTRAORDINARY UNSPECIFIABLE SERVICE TO THE CANNING GROUP, LLC TO SERVE AS ADMINISTRATOR FOR THREE MONTHS (NTE \$50,000.00)

**WHEREAS**, the Township of Clinton has a need to retain the services of a highly experienced firm to provide a qualified individual to serve as Administrator on behalf of the Township; and

**WHEREAS**, The Canning Group, LLC has offered to provide said services to the Township and is qualified to render same; and

**WHEREAS**, the Township has a need to acquire these services without a “fair and open process” as defined by P.L. 2004, c.19, the “Local Unit Pay-to-Play Law” and in connection therewith, The Canning Group, LLC has completed and filed with the Township the required Campaign Contributions Affidavit pursuant to N.J.S.A. 19:44A-20.8 and Certification Regarding Political Contributions pursuant to N.J.S.A. 19:44A-20.26 (the “Pay-to-Play Forms”); and

**WHEREAS**, the services shall be rendered for \$135.00 per hour for two to three days per week as needed, for a term beginning as of April 1, 2023 and ending when The Canning Group’s services are no longer needed, or June 30, 2023, whichever is sooner; and

**WHEREAS**, the Chief Financial Officer has certified that sufficient funds are available to pay for said services from account number 01-201-20-100-203; and

**WHEREAS**, the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a)(ii) *et seq.*, authorizes the Township to award this agreement as an extraordinary unspecifiable service, without public bidding.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Township of Clinton, County of Hunterdon, State of New Jersey, as follows:

1. The Mayor and Clerk are hereby authorized and directed to execute an agreement with The Canning Group, LLC to appoint a qualified individual to serve as Administrator for the Township, consistent with this Resolution and the above “Whereas” clauses. The term of the agreement shall begin as of April 1, 2023 and end on June 30, 2023.
2. The agreement is awarded without competitive bidding as an “Extraordinary Unspecifiable Service” in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a)(ii), for the reasons set forth in the “Whereas” clauses and the Mayor’s Certification of Extraordinary Unspecifiable Services, which reasons are incorporated herein as if fully restated.
3. The Canning Group, LLC shall be paid \$135.00 per hour for its services, anticipated to be provided two to three days per week as needed, to not exceed \$50,000.00 for the duration of the contract.
4. A copy of this Resolution, the Mayor’ Certification of Extraordinary Unspecifiable Service, the Pay-to-Play Forms and the agreement shall be placed on file in the Office of the Clerk.
5. A notice of this action shall be published in the official newspaper as required by law.

ATTEST:

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Carla Conner, Township Clerk

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Brian Mullay, Mayor

Adopted: April 5, 2023

**CERTIFICATION**

I, Carla Conner, Municipal Clerk of the Township of Clinton, County of Hunterdon, State of New Jersey, do hereby certify the foregoing to be a true and correct copy of a resolution duly authorized by the Mayor and Council on this 5<sup>th</sup> day of April, 2023.

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*Conner Conner, Municipal Clerk*

**TOWNSHIP OF CLINTON  
COUNTY OF HUNTERDON, STATE OF NEW JERSEY**

**RESOLUTION (AMENDED)**

**RESOLUTION AMENDING AND RESTATING RESOLUTION #65-2023  
CONCERNING THE TRANSFER OF THE OWNERSHIP INTERESTS IN CLINTON  
LIHTC URBAN RENEWAL, LLC TO CONIFER REALTY, LLC FOR THE  
DEVELOPMENT OF AFFORDABLE HOUSING ON BLOCK 82 LOT 4.04 (THE  
“MAROOKIAN” DEVELOPMENT)**

**WHEREAS**, the Township of Clinton (“Township”) and Clinton LIHTC Urban Renewal, LLC (“Developer”) executed a certain Affordable Housing Agreement dated June 13, 2018, as amended by that certain First Amendment to Affordable Housing Agreement dated June 16, 2020, and as further amended by that certain Second Amendment to Affordable Housing Agreement dated May 24, 2021, and as further amended by that certain Third Amendment to Affordable Housing Agreement dated February 9, 2022 (collectively, the “Affordable Housing Agreement”), for the development of a 100% affordable housing development with approximately eighty-four (84) residential units on property located at 1355 Route 31 and identified as Lot 4.04 in Block 82 (formally identified as Lot 4.03 in Block 82 prior to subdivision) (the “Project”); and

**WHEREAS**, the Township and Developer entered into an Agreement For Payments in Lieu of Taxes dated June 13, 2020, as amended by that certain First Amendment to Agreement for Payment in Lieu of Taxes dated September 9, 2021 (collectively, the “PILOT Agreement”) for the Project pursuant to New Jersey Housing and Mortgage Financing Agency Law of 1983, N.J.S.A. 55:14K-1 et seq. (“HMFA Law”); and

**WHEREAS**, the Township and Developer entered into a Developer’s Agreement dated January 26, 2022 (the “Developer’s Agreement”); and

**WHEREAS**, the Developer is owned by PIRHL Clinton MM, LLC (“PIRHL”), which controls 49% of the managing member interests, and by Prevention Affordable, LLC, which controls 51% of the managing member interests in its capacity as administrative managing member; and

**WHEREAS**, PIRHL wishes to transfer its 49% managing member interests in the Developer to Conifer Realty, LLC, its affiliate, Conifer Clinton GP, LLC, or a project-specific, wholly-owned subsidiary thereof (“Conifer”); and

**WHEREAS**, PIRHL has provided correspondence notifying the Township of the transfer of its ownership interests in the Developer to Conifer, a copy of which is attached hereto as “Exhibit A”; and

**WHEREAS**, Conifer has sufficient experience and net worth to operate the Project in a manner satisfactory to the Township; and

**WHEREAS**, Section 4.3 of the Affordable Housing Agreement provides that “The Project shall not be sold or transferred without the prior written consent of the Township, which consent shall not be unreasonably withheld, subject to all statutory and regulatory requirements and conditions applicable to the transfer of the Project... No such sale or transfer shall be effective until the transferee signs an assumption agreement that is acceptable to the Township and that obligates the transferee to keep all the covenants and agreements contained in this Agreement and/or the Financing, Deed Restriction and Regulatory Agreement that will be recorded in connection with the NJMFA first mortgage”; and

**WHEREAS**, Section 4.3 does not appear to be applicable in that the Project is not being sold or transferred; rather, PIRHL as the 49% managing member of the Developer intends to transfer and assign its ownership interests in the Developer to Conifer; and

**WHEREAS**, by countersigning this resolution below, Conifer acknowledges and agrees that Conifer will after the transfer of ownership interests described herein, cause Developer to comply with all obligations of Developer in the Affordable Housing Agreement, PILOT Agreement and Developer’s Agreement, and to be subject to all covenants and agreements contained therein; and

**WHEREAS**, by countersigning this resolution below, Conifer also acknowledges and agrees to cause Developer to comply with all obligations of Developer in the Agency Mortgage.

**NOW, THEREFORE, BE IT RESOLVED** by the governing body of the Township of Clinton in the County of Hunterdon, State of New Jersey that:

1. The Township hereby acknowledges and consents to the transfer of PIRHL Clinton MM, LLC’s 49% managing member interests in Developer to Conifer (the “Transfer”). Notwithstanding the foregoing, PIRHL may elect to proceed with the Transfer in its sole and absolute discretion, and this Resolution does not obligate PIRHL to execute the Transfer.
2. Until the effective date of Transfer, the current ownership of Developer remains approved by the Township.
3. All conditions, covenants and agreements of the Affordable Housing Agreement, PILOT Agreement and Developer’s Agreement, remain in full force and effect, and should the Transfer occur, such conditions, covenants, and agreements shall remain in full and effect.
4. With Conifer’s countersignature below, Conifer acknowledges and agrees that Conifer will after the transfer of ownership interests described herein, cause Developer, to comply with all obligations of Developer in the Affordable Housing Agreement, PILOT Agreement and Developer’s Agreement and to be subject to all covenants and agreements contained therein.

5. This resolution shall take effect immediately and shall replace and supersede Resolution #65-2023 adopted by the Council on April 5, 2023.

ATTEST:

\_\_\_\_\_  
Carla Conner, Township Clerk

\_\_\_\_\_  
Hon. Marc Strauss  
Council President/Acting Mayor

Adopted: April 26, 2023

ACKNOWLEDGMENT AND AGREEMENT BY CONIFER

Conifer Realty, LLC, its affiliate, Conifer Clinton GP, LLC, or a project-specific, wholly-owned subsidiary thereof (“Conifer”) hereby acknowledges and agrees that Conifer will after the transfer of ownership interests described herein, cause Developer to comply with all obligations of Developer in the Affordable Housing Agreement, PILOT Agreement and Developer’s Agreement and to be subject to all covenants and agreements contained therein.

CONIFERREALTY , LLC

By: \_\_\_\_\_

Name:

Title:

CERTIFICATION

I, Carla Conner, Clerk of the Township of Clinton in Hunterdon County, New Jersey, do hereby certify that the foregoing is a true and correct copy of a resolution duly adopted by the Mayor and Council of the Township of Clinton on April 26, 2023.

\_\_\_\_\_  
Carla Conner, RMC, Clerk  
Township of Clinton

## RESOLUTION

### AMENDING RESOLUTION #51-23 AWARDING A GOODS AND SERVICES AGREEMENT TO KAREN ROMANO TO PROVIDE DAY-TO-DAY COVERAGE IN THE PLANNING DEPARTMENT ON AN INTERIM BASIS, INCREASING THE NTE TO \$2,460.00

**WHEREAS**, the Township of Clinton (“Township”) requires the services of a land use administrator to provide day-to-day coverage in the Planning Department while the Township’s Planning Administrator is on medical leave; and

**WHEREAS**, Karen Romano has offered to provide the needed services for a fee of \$60.00 per hour; and

**WHEREAS**, the Township wishes to enter into a goods and services agreement (“Agreement”) with Ms. Romano for the provision of the services described above; and

**WHEREAS**, the Township has a need to acquire these services without a “fair and open process” as defined by P.L. 2004, c.19, the “Local Unit Pay-to-Play Law”; and

**WHEREAS**, Ms. Romano has completed and filed with the Township the required Campaign Contributions Affidavit pursuant to N.J.S.A. 19:44A-20.8 and Certification Regarding Political Contributions pursuant to N.J.S.A. 19:44A-20.26 (collectively, the “Pay-to-Play Forms”); and

**WHEREAS**, the Local Public Contracts Law at N.J.S.A. 40A:11-3 authorizes the Township to award this agreement without public bidding because it is under the bid threshold; and

**WHEREAS**, there are sufficient available funds for this award, as set forth in the Certification of Available Funds completed by the Chief Financial Officer;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Township of Clinton in Hunterdon County, New Jersey, as follows:

1. The Mayor and Clerk are hereby authorized and directed to execute a thirty-day goods and services agreement with Karen Romano to provide day-to-day coverage in the Planning Department while the Planning Administrator is on medical leave.
2. Ms. Romano shall be compensated at a rate of \$60.00 per hour for an estimated average of 10 hours per week up to a maximum of 40 hours, increasing the amount not to exceed to \$2,460.00. The term of the Agreement shall be from March 13, 2023 to April 12, 2023, or when Ms. Romano’s services are no longer required, whichever occurs first.
3. The Agreement is awarded without competitive bidding as a goods and services agreement under the bid threshold, as authorized by N.J.S.A. 40A:11-3.

4. A copy of this resolution, the Pay-to-Play Forms and the Agreement shall be placed on file in the Office of the Clerk.
5. A notice of this action shall be published in the Township's official newspaper as required by law.
6. This resolution shall take effect immediately.

ATTEST:

\_\_\_\_\_  
Carla Conner, Township Clerk

\_\_\_\_\_  
Brian Mullay, Mayor

Adopted: April 26, 2023

I, Carla Conner, Clerk of the Township of Clinton in Hunterdon County, New Jersey, do hereby certify that the foregoing is a true and correct copy of a resolution duly adopted by the Mayor and Council of the Township of Clinton on 26<sup>th</sup> of April, 2023.

\_\_\_\_\_  
Carla Conner, RMC, Clerk  
Township of Clinton



**ORDINANCE NO. \_\_\_-2023**

**AN ORDINANCE OF THE TOWNSHIP OF CLINTON IN HUNTERDON COUNTY, NEW JERSEY ESTABLISHING TWO HIGHLANDS CENTERS, CREATING HIGHLANDS ENVIRONMENTAL RESOURCE ZONES, AND AMENDING CHAPTER 165 (LAND USE REGULATIONS) OF THE “CODE OF THE TOWNSHIP OF CLINTON”**

**WHEREAS**, the Highlands Water Protection and Planning Act (Highlands Act) created a public body corporate and politic with corporate succession known as the Highlands Water Protection and Planning Council (Highlands Council); and

**WHEREAS**, Section 14 of the Highlands Act expressly requires mandatory Plan Conformance whereby municipalities such as Clinton Township, located wholly or partially in the Preservation Area, must revise and conform their local master plan and development regulations, as they relate to development and use of land in the Preservation Area, with the goals, requirements and provisions of the Regional Master Plan (RMP) within 15 months of adoption thereof, or December 8, 2009; and

**WHEREAS**, Section 15 of the Highlands Act provides for voluntary Plan Conformance whereby any municipality or county located wholly or partially in the Planning Area may voluntarily revise and conform its local master plans and development regulations, as they relate to the development and use of land in the Planning Area, with the goals, requirements and provisions of the RMP at any time; and

**WHEREAS**, Clinton Township is located within the Highlands Region, and contains approximately 21,054 acres in the Planning Area and 639 acres in the Preservation Area; and

**WHEREAS**, on June 18, 2015, after due consideration and opportunity for public comment, the Highlands Council approved Clinton Township’s Petition for Plan Conformance with the conditions as set forth in Resolution 2015-13, the Final Consistency Review and

Recommendations Report dated June 10, 2015, and the Highlands Implementation Plan and Schedule; and

**WHEREAS**, in the process of completing its Petition for Plan Conformance, Clinton Township determined, and the Highlands Council concurred, that Highlands Center designation should be studied for the municipality; and

**WHEREAS**, Clinton Township thus completed a feasibility study for designation of a Highlands Center(s) within the municipality, which culminated in production of a report entitled “Petition for Plan Conformance: Annandale Highlands Center Designation,” dated August 23, 2019; and

**WHEREAS**, the resultant analysis of that study proposed designation of two Highlands Centers within Clinton Township, each intended to advance the goals and intents of both the Clinton Township Master Plan and the RMP; and

**WHEREAS**, the Highlands Council reviewed the Petition and found the initial Petition to be insufficient for review due to pending water supply and infrastructure issues; and

**WHEREAS**, Clinton Township submitted additional information in September of 2021 and on September 14, 2021, requested that the Highlands Council review the petition again in light of the additional information provided and amend the previously approved Petition for Plan Conformance to include the Highlands Centers; and

**WHEREAS**, Highlands Council staff reviewed the Highlands Center Designation Feasibility Report and found it to be consistent with the RMP; and

**WHEREAS**, a Public Notice was posted, with the revised Petition materials, on the Highlands Council website for public review and comment on April 5, 2022; and

**WHEREAS**, pursuant to Resolution 2022-12 adopted on June 16, 2022, the Highlands Council approved Clinton Township’s Amended Petition for Plan Conformance with conditions,

adopted the Revised Consistency Review and Recommendations Report and Revised Highlands Implementation Plan for Fiscal Year 2022, and determined that Clinton Township is entitled to the statutory benefits associated with Plan Conformance as detailed in the Highlands Act, the Regional Master Plan and the Plan Conformance Guidelines; and

**WHEREAS**, the Mayor and Council now wish to implement the Highland Council’s approval by adding two Highlands Centers to the Highlands Area Districts, creating Highlands Environmental Resource Zones, and adopting associated regulations, in order to employ the benefits of the center designation in accordance with the Highlands RMP, focus development in appropriate areas of the Township and minimize development pressures in environmentally sensitive areas of the community; and

**WHEREAS**, the Mayor and Council also wish to amend the Township’s zoning map to show the boundaries of the new Highlands Centers as well as the boundaries of the existing Highlands Preservation Area and the Highlands Planning Area districts;

**NOW THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Township of Clinton, in Hunterdon County, New Jersey as follows:

**SECTION 1. Highlands Centers established.** Section 165-117.7, “Establishment of Highlands Area District,” of Article XVI, “General Provisions,” of Part 7, “Zoning Regulations,” of Chapter 165, “Land Use Regulations,” is hereby amended and supplemented to add thereto a two Highlands Centers, as follows (additions are underlined thus; deletions are in brackets [thus]):

**§ 165-117.7** Establishment of Highlands Area Districts.

- A. Highlands Preservation Area and Planning Area. The Highlands Act establishes the Preservation Area and Planning Area of the Highlands Region. It describes the varied attributes of each and sets forth the major land use planning goals that pertain to the lands located within each. The Act defines the geographic extent of the Highlands Region to include the aggregated land area making up its constituent municipalities (N.J.S.A. 13:20-7a). It provides a physical delineation of the Preservation Area by use of a specific

metes and bounds description (N.J.S.A. 13:20-7b), designating all remaining lands within the Highlands Region as the Planning Area.

- (1) Highlands Area. The Clinton Township Master Plan incorporates the Highlands Preservation Area and Planning Area, inclusive of the goals applicable to each, as an integral component of the planning and land use policies of the municipality. For purposes of this article, these areas shall henceforth be known and designated as the Clinton Township “Highlands Area.”
- (2) Preservation Area. The Preservation Area, to the full extent of its limits within the Clinton Township Highlands Area, is herewith adopted and established as an overlay to municipal zoning.
- (3) Planning Area. The Planning Area, to the full extent of its limits within the Clinton Township Highlands Area, is herewith adopted and established as an overlay to municipal zoning.

A.1. Clinton Township Highlands Center. The Highlands Regional Master Plan (“Highlands RMP”) allows municipalities to designate Highlands Centers as a planning tool to encourage development and redevelopment in appropriate areas which typically include access to utilities and regional transportation. The intent is to provide a balance between providing support for managed economic growth while discouraging development in environmentally sensitive areas to protect critical natural and cultural resources. The Highlands Centers established hereinbelow were incorporated in an amendment to the Township’s Petition for Plan Conformance, which was ultimately approved by the Highlands Council in June 2022.

(1) In accordance with New Jersey Highlands Council Resolution No. 2022-12, adopted June 16, 2022, and the provisions of the Highlands RMP, the following Highlands Centers as described are hereby established as an overlay to municipal zoning:

(a) [INSERT NAME OF FIRST CENTER] Highlands Center. The [NAME] Highlands Center generally comprises \_\_\_\_\_, as depicted on the Clinton Township Zoning Map.

(b) [INSERT NAME OF SECOND CENTER] Highlands Center. The [NAME] Highlands Center generally comprises \_\_\_\_\_, also as depicted on the Clinton Township Zoning Map.

(3) Highlands Center Policies. Throughout both Highlands Centers, the policies applicable to the Existing Community Zone, as depicted on the Highlands RMP Land Use Capability Map (“LUCM”) shall apply to the entirety of the Centers, except for those areas designated Highlands Environmental Resource Zones as described in §165-117.7A.2 below.

A.2 Highlands Environmental Resource Zones (“HERZ”). Within the [NAME] and [NAME] Highlands Centers, the Highlands Environmental Resource Zones are hereby created and established as an overlay to municipal zoning, as depicted on the [INSERT NAME OF MAP ON WHICH THE HERZ WILL BE DEPICTED].

(1) The Highlands Environmental Resource Zone is an approximately 100-acre designated land area within the Clinton Township Highlands Center that contains environmentally sensitive resources. The HERZ replaces the Highlands Land Use Capability Map (“LUCM”) “Protection Zone” designations in Clinton Township.

(2) The delineation of the HERZ recognizes that a designated center, while generally suitable for future development and redevelopment, may contain areas of sensitive environmental resources that may require additional protections. The Protection Zone policies identified herein this Article XVI shall apply within the HERZ.

(3) Each HERZ in the Highlands Centers is identified according to its features and is afforded appropriate planning and management as part of the comprehensive center planning.

(4) Within the HERZ, existing developed land uses that are dependent upon individual on-site subsurface septic disposal systems shall be eligible for connection to the public wastewater collection and treatment system when capacity of those utilities become available. Such connections shall be consistent with the use and intensity of development on individual lots dependent upon individual on-site wastewater treatment systems in existence as of June 16, 2022.

**SECTION 3. Township zoning map amended.** The map entitled “Zoning Map, Clinton Township, Hunterdon County, NJ,” last dated \_\_\_\_\_, is hereby amended by adding thereto the new [NAME] Highlands Center, [NAME] Highlands Center, and Highlands Environmental

Resource Zones established herein, as well as the Highlands Preservation and Planning Areas previously established, all as shown on the map attached hereto as **Exhibit A**.

**SECTION 4. Repealer.** All ordinances and resolutions or parts thereof inconsistent with this ordinance are hereby repealed as to such inconsistencies only.

**SECTION 5. Severability.** If any paragraph, section, subsection, sentence, sentence clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision of such holding shall not affect the validity of the remaining paragraphs or sections hereof.

**SECTION 6. Referral to Planning Board.** Pursuant to the Municipal Land Use Law, *N.J.S.A. 40:55D-64*, the Clerk shall cause a copy of this ordinance to be referred to the Clinton Township Planning Board for review prior to its adoption.

**SECTION 7. Effective Date.** This ordinance shall take effect 20 days after its final passage by council and the filing of same with the Hunterdon County Planning Board, all in accordance with law.

\_\_\_\_\_  
Carla Conner, RMC, Township Clerk

\_\_\_\_\_  
Hon. Brian Mullay, Mayor

Introduced: April 26, 2023

Reviewed by Planning Board: \_\_\_\_\_, 2023

Public hearing: \_\_\_\_\_, 2023

Adopted: \_\_\_\_\_, 2023

ORDINANCE NO. \_\_\_\_-2023

**AN ORDINANCE OF THE TOWNSHIP OF CLINTON IN HUNTERDON COUNTY, NEW JERSEY AMENDING THE TOWNSHIP'S STORMWATER MANAGEMENT REGULATIONS SET FORTH IN ARTICLE XXXV (SURFACE WATER MANAGEMENT) OF CHAPTER 165 (LAND USE REGULATIONS) OF THE "CODE OF THE TOWNSHIP OF CLINTON"**

**WHEREAS**, on March 2, 2020, the New Jersey State Department of Environmental Protection (NJDEP) adopted amendments to the Stormwater Management Rules for Tier A & B Municipalities, N.J.A.C. 7:8; and

**WHEREAS**, in accordance with the Township of Clinton's New Jersey Pollutant Discharge Elimination System (NJPDES) Municipal Separate Storm Sewer System (MS4) Permit, municipalities were required to adopt new stormwater management regulations in conformance with the NJDEP's amended rules; and

**WHEREAS**, to that end, the NJDEP also published, in March 2020, a Model Stormwater Control Ordinance for municipalities; and

**WHEREAS**, on January 27, 2021, the Clinton Township Mayor and Council adopted a customized version of the NJDEP's March 2020 Model Stormwater Control Ordinance (Ordinance #1146-2021) in order to ensure the Township's compliance with the DEP's new stormwater management rules; and

**WHEREAS**, it is necessary to amend the Township's stormwater management rules to are needed to remove existing prime groundwater recharge area designations from certain critical sites; and

**WHEREAS**, the Highlands Council's staff has assisted the Township in preparing the necessary amendments; and



**WHEREAS**, the Mayor and Council find that adopting the said amendments will benefit the public health, safety and general welfare;

**NOW THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Township of Clinton, in Hunterdon County, New Jersey as follows:

**SECTION 1. New definitions added to section 165-224, “Definitions” in Article XXXV, “Surface Water Management” in Chapter 165, “Land Use” of the “Code of the Township of Clinton” (“Code”) amended.** The following new definitions are hereby added to section 165-224 of the Code:

“Carbonate Rock Area” means an area where rock consisting chiefly of calcium and magnesium carbonates, such as limestone and dolomite, has been identified.

“Current Deficit Area” means any United States Geological Survey 14-digit Hydrologic Unit Code subwatershed area that is identified in the Highlands Regional Master Plan as having negative Net Water Availability, meaning that existing consumptive and depletive water uses exceed the capacity of the ground water supply to sustain.

“Karst” means a distinctive topography that indicates solution of underlying carbonate rocks (such as limestone and dolomite) by surface water or groundwater over time, often producing surface depressions, sinkholes, sinking streams, enlarged bedrock fractures, caves, and underground streams.

“Mitigation” means an action by an applicant providing compensation or offset actions for onsite stormwater management requirements where the applicant has demonstrated the inability or impracticality of strict compliance with the stormwater management requirements set forth in NJAC 7:8, in an adopted regional stormwater management plan, or in this local ordinance, and has received a waiver from strict compliance from the municipality. Mitigation shall include the implementation of the approved mitigation plan within the same drainage area where the subject project is proposed, or a contribution of funding toward a municipal stormwater control project, or provision for equivalent treatment at an alternate location, or any other equivalent water quality benefit as approved by the municipality.



“Municipally Important Ground Water Recharge Area” means preserved or constrained lands that cannot be developed or built upon under current regulations. These areas have recharge rates above the median recharge rate for the subwatershed in which they are located; meaning they provide 40% or greater total recharge volume for the subwatershed. Constrained lands are comprised of undeveloped lands within the Highlands Open Water buffer as well as moderately and severely constrained steep slopes. Preserved lands are those that are permanently preserved by local, county, state, federal or non-profit entities.

“Non-Exempt Project” means any project not eligible for an exemption from the Highlands Water Protection and Planning Act Rules, pursuant to N.J.A.C. 7:38-2.3.

“Regional Master Plan” means the Highlands regional master plan or any revision thereof adopted by the Highlands Water Protection and Planning Council pursuant to N.J.S.A. C.13:20-8.

**SECTION 2. Definition of “Impervious surface” amended.** The definition of “impervious surface” set forth in section 165-224 of the Code is hereby amended as follows (new text is underlined thus; deleted text is in brackets [thus]):

“Impervious surface” means any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, and includes porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements. To be considered an impervious surface, the structure, surface or improvement must have the effect of reducing or preventing stormwater absorption[a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water].

**SECTION 3. Groundwater recharge requirements amended.** Subsection P, “Groundwater recharge standards” in section 165-230, “Stormwater Management Requirements for Major Development” is hereby amended as follows (new text is underlined thus; deleted text is in brackets [thus]):

*A through O no changes.*

P. Groundwater recharge standards.

- (1) This subsection contains the minimum design and performance standards for groundwater recharge as follows.
- (2) The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at § 165-231, either:
  - (a) Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100% of the average annual pre-construction groundwater recharge volume for the site; or
  - (b) Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from pre-construction to post-construction for the two-year storm is infiltrated.
  - (c) Additional standards set forth in iii. and iv. below may apply as required.

[1] Non-Exempt Projects located in a Current Deficit Area: Where the project is located in a Current Deficit Area as identified in **Appendix A to this article**, the project shall demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures provide for enhanced recharge standards set forth in §165-230P(5) below.

[2] Non-Exempt Projects located in a Municipally Important Ground Water Recharge Area: Where the project is located in a Municipally Important Ground Water Recharge Area as identified in **Appendix B to this article**, the following standards shall apply:

[a] Where disturbance is permitted in accordance with this subsection, it shall be limited to no greater than 15% of the Municipally Important Ground Water Recharge Area on the site and shall preferentially be sited on that portion of Municipally Important Ground Water Recharge Area that has the lowest groundwater recharge rates.

[b] Where disturbance to the Municipally Important Ground Water Recharge Area is permitted, the project shall demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures provide for enhanced recharge standards set forth in §165-230P(5) below.

(3) This groundwater recharge requirement does not apply to projects within the "urban redevelopment area," or to projects subject to §165-230P(4) below.

(4) The following types of stormwater shall not be recharged:

(a) Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than "reportable quantities" as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department-approved remedial action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and

(b) Industrial stormwater exposed to "source material." "Source material" means any material(s) or machinery, located at an industrial facility, that is directly or indirectly related to process, manufacturing or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.

(c) Carbonate Rock Areas. Where surficial or subsurface karst features have been identified and recharge

facilities cannot be designed in a manner that would eliminate the concentrated subsurface release of stormwater. (Note: the mere presence of carbonate bedrock does not constitute a karst feature).

(5) Enhanced Recharge Standards: Non-Exempt Projects that are subject to the enhanced recharge requirements by § 165-230P(2)(c)[3] or § 165-230P(2)(c)[4] above, shall apply the following standards, either:

(a) Recharge 125 percent of the percentage of the average annual pre-construction groundwater recharge volume for the site; or

(b) In addition to complying with the recharge requirements of § 165-230P, retain and/or infiltrate on-site with no discharge, the Stormwater Quality Design Volume (SWQDv), defined as the runoff from the 1.25-inch, 2-hour rainfall event. Where meeting the recharge requirement will not result in retention and/or infiltration of the full SWQDv, the major development shall retain any additional volume to meet the requirements of this section through additional infiltration, or through evapotranspiration or capture and on-site re-use of rainfall.

(6) Mitigation Required for Non-Exempt Projects: In lieu of on-site recharge, the applicant shall be responsible for providing mitigation of the groundwater recharge volume in the required amount. The applicant should provide mitigation within the following areas, in order of priority:

(a) the same development site where feasible;

(b) the same HUC14 subwatershed, or

(c) an interrelated HUC14 subwatershed where no feasible option exists in the same HUC14 subwatershed. If none of the above options are feasible or achievable, then the applicant shall comply with the mitigation requirements set forth in §165-230P(7) below.

(7) Mitigation Required for Non-Exempt Projects: A waiver from strict compliance with the requirements of the Municipal Stormwater ordinance shall be approved by the municipality only in those cases where an applicant has demonstrated the inability to strictly comply with any standard of the municipal stormwater ordinance. A waiver from strict compliance for such projects can only be obtained if the applicant agrees to undertake a suitable mitigation measure identified in the mitigation section of the municipality's Stormwater Management Plan. In such cases, the applicant must submit a mitigation plan detailing how the project's failure to strictly comply will be compensated. In cases where a waiver is granted, an applicant should provide mitigation, if possible and/or practical, within the same drainage area within which the subject project is proposed, or contribute funding toward a municipal stormwater control project, or provide for equivalent treatment at an alternate location, or provide for another equivalent water quality benefit, in lieu of implementing the required stormwater control measures on their specific site.

**SECTION 4. Repealer.** All ordinances and resolutions or parts thereof inconsistent with this ordinance are hereby repealed as to such inconsistencies only.

**SECTION 5. Severability.** If any paragraph, section, subsection, sentence, sentence clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision of such holding shall not affect the validity of the remaining paragraphs or sections hereof.

**SECTION 6. Referral to Planning Board.** Pursuant to the Municipal Land Use Law, *N.J.S.A.* 40:55D-64, the Clerk shall cause a copy of this ordinance to be referred to the Clinton Township Planning Board for review prior to its adoption.

**SECTION 7. Effective Date.** This ordinance shall take effect 20 days after its final passage by council and the filing of same with the Hunterdon County Planning Board, all in accordance with law.

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Carla Conner, RMC, Township Clerk

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Hon. Brian Mullaney, Mayor

Introduced: April 26, 2023

Reviewed by Planning Board: \_\_\_\_\_, 2023

Public hearing: \_\_\_\_\_, 2023

Adopted: \_\_\_\_\_, 2023

DRAFT