

**RESOLUTION NO. 2015-010**

**RESOLUTION OF THE BORDENTOWN SEWERAGE  
AUTHORITY, IN THE COUNTY OF BURLINGTON, NEW  
JERSEY AUTHORIZING THE AUTHORITY'S EXECUTIVE  
DIRECTOR TO EXECUTE AN APPLICATION FOR A NEW  
JERSEY TRANSIT CORPORATION OCCUPANCY PERMIT**

**WHEREAS**, Princewood Properties (the "Developer") is intending to develop land identified on the official tax map of Bordentown Township as Block 140, Lots 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 18, and 19 and Block 141, Lot 4 (collectively, the "Property");

**WHEREAS**, the Developer is desirous of constructing certain sanitary sewerage improvements across an existing right of way of the New Jersey Transit Corporation ("Transit") which when constructed, will direct wastewater from the Property to the Bordentown Sewerage Authority ("Authority") for treatment;

**WHEREAS**, in order for the Developer to construct the proposed sanitary sewerage improvements, it must first obtain from Transit certain approvals and permits;

**WHEREAS**, in order to obtain the approvals and permits, the Developer must have the Authority apply for the same in the name of Developer;

**WHEREAS**, the Developer has presented the Authority with a form of Indemnification and Hold Harmless Agreement (the "Agreement");

**WHEREAS**, the Authority wishes this resolution to memorialize its review and acceptance of the Agreement and further authorizes the Authority's Executive Director to sign the Agreement and submit the required application.

**NOW, THEREFORE, BE IT RESOLVED BY THE BORDENTOWN SEWERAGE  
AUTHORITY, IN THE COUNTY OF BURLINGTON, NEW JERSEY, THAT:**

1. The Indemnification and Hold Harmless Agreement submitted to the Authority by Princewood Properties (attached hereto as Exhibit "A") is hereby approved and accepted.

2. The Authority hereby authorizes its Executive Director to sign the Agreement and submit the required occupancy permit application to the New Jersey Transit Corporation subject to the Developer satisfying its obligation under the Agreement.

Attest:  
Adopted this 20<sup>th</sup> day of January, 2015

BORDENTOWN SEWERAGE AUTHORITY

  
\_\_\_\_\_  
Nancy A. Liberman, Secretary of the Authority

By:   
\_\_\_\_\_  
RONALD MARINO, Chairman

**Exhibit "A"**

**INDEMNIFICATION AND  
HOLD HARMLESS AGREEMENT**

This Agreement is made as of the 20th day of January, 2015 by and between THE BORDENTOWN SEWERAGE AUTHORITY, 954 Farnsworth Avenue, Bordentown, NJ 08505 (the "Authority") and BORDENTOWN WATERFRONT COMMUNITY, LLC, 19 Longview Drive, Princeton, NJ 08540 (the "Applicant").

WHEREAS, the Applicant has submitted an application to the Authority for sanitary sewer service for the Bordentown Waterfront Community Development, known as Lots 5-8, 10-16, 18 & 19, Block 140 & Lot 4, Block 141 on the Tax Map of the Township of Bordentown (the "Project"); and

WHEREAS, as part of the construction of the Project, the Applicant must construct, *inter alia* and at its sole expense, a utility crossing comprised of a four (4") inch H.D.P.E. sanitary sewer force main within a twelve (12") steel casing beneath the New Jersey Transit River Line Light Rail at Rivergate Boulevard, Bordentown Township, Burlington County, New Jersey, as shown on plans entitled "New Jersey Transit Light Rail Utility Crossing Plan, Rivergate Boulevard, Bordentown Waterfront Community", prepared by MatrixNewWorld, (the "Utility Crossing"); and

WHEREAS, the Utility Crossing will be constructed across the Right-of-Way of New Jersey Transit, which is under the jurisdiction of the New Jersey Transit ("NJ Transit"); and

WHEREAS, NJ Transit requires that an "Application for an Occupancy Permit" be submitted and that an "Occupancy Permit" be executed and any required fees be paid before construction can begin on the Utility Crossing; and

WHEREAS, the NJ Transit approval process can be expedited provided the Authority is the named as the applicant for, and permittee under, the Occupancy Permit; and

WHEREAS, the Applicant has requested that the Authority submit the "Application for Occupancy Permit" to NJ Transit in the name of the Authority and act as the permittee under the Occupancy Permit issued by NJ Transit for the construction of the Utility Crossing; and

WHEREAS, the Authority will consent to submit the "Application for Occupancy Permit" and act as the permittee under the Occupancy Permit, subject to the conditions contained herein; and

WHEREAS, Applicant has expressly consented to defend, indemnify and hold harmless the Authority from any and all claims of NJ Transit or any other person related to the construction of the Utility Crossing.

NOW THEREFORE, for the consideration of \$1.00 in hand received and the other mutual promises and covenants contained herein, including, but not limited to the promise of the Applicant to defend, indemnify and hold harmless the Authority from any and all claims of NJ Transit or any other person related to the construction of the Utility Crossing, the parties do hereby agree as follows:

1. The Authority agrees to submit the "Application for Occupancy Permit" to NJ Transit in the name of the Authority and act as the permittee under the Occupancy Permit to be issued by NJ Transit for the construction of the Utility Crossing.
2. The Applicant shall construct the Utility Crossing at its sole cost and expense in strict compliance with the terms of the "Application for Occupancy Permit" and the Occupancy Permit issued by NJ Transit, the plans and specifications that

were submitted to and approved by NJ Transit and the Rules, Regulations and Specifications of the Authority.

3. The Applicant shall assume exclusive responsibility for compliance with the “Application for Occupancy Permit” and the Occupancy Permit issued by NJ Transit for the construction of the Utility Crossing, including but not limited to the conditions expressly stated or implied in the “Application for Occupancy Permit” and the Occupancy Permit.
4. The Applicant shall defend, indemnify and hold harmless NJ Transit, the State of New Jersey and their agents, servants and employees from and against any and all suits, claims, losses, demands or damage of whatsoever nature arising out of or claimed to arise out of, any negligent act, error or omission of the Authority and its agents, servants and employees, and/or the Applicant and its agents, servants, employees and contractors, concerning the performance of the work to be performed under the “Application for Occupancy Permit” and the Occupancy Permit for the construction of the Utility Crossing.
5. The Applicant shall defend, indemnify and hold harmless the Authority and its agents, servants and employees from and against any and all suits, claims, losses, demands or damage of whatsoever nature arising out of or claimed to arise out of, any negligent act, error or omission of the Applicant and its agents, servants, employees and contractors concerning the performance of the work to be performed under the “Application for Occupancy Permit” and the Occupancy Permit for the construction of the Utility Crossing.

6. The Applicant shall pay on behalf of the Authority any judgments or settlements resulting from any and all suits, claims, losses, demands or damage of whatsoever nature arising out of or claimed to arise out of, any negligent act, error or omission of the Authority and its agents, servants and employees, and/or the Applicant and its agents, servants, employees and contractors concerning the performance of the work to be performed under the "Application for Occupancy Permit" and the Occupancy Permit for the construction of the Utility Crossing and shall pay all costs of defense of the Authority in defending such claims or in prosecuting the enforcement of this Agreement against Applicant, including reasonable counsel fees and costs of suit.
7. The Applicant shall comply with all Rules, Regulations and Specifications of the Authority. Nothing in this Agreement shall be deemed a waiver by the Authority of any of its Rules, Regulations or Specifications. The Applicant shall pay all NJ Transit fees associated with this Utility Crossing including but not limited to, an initial application fee, rent, application review fees, inspection fees, and an annual occupancy fees. The annual occupancy fee shall be paid by the Applicant to the Authority by January 31st of each year for the year it is due for forwarding to NJ Transit. Payment of the annual occupancy fee by the Applicant to the Authority shall continue until the Authority's maintenance bond for Utility Crossing, Phase II force main and Phase II pump station has expired.
8. NJ Transit jurisdiction is considered within their right of way lines.

9. This agreement shall be binding upon the parties, their respective personal representatives, their successors and assigns and may not be modified unless by the express written consent of both parties.

IN WITNESS WHEREOF, the parties have set their hands and seals on the date and year first written above.

Attest:

**BORDENTOWN WATERFRONT COMMUNITY LLC,**  
a New Jersey company.

Elizabeth J. Kuro


By:

  
Jeffrey B. Albert, Managing Member

**THE BORDENTOWN SEWERAGE AUTHORITY**

  
  
Nancy Liberman, Secretary

By:

  
Richard D. Eustace, Executive Director