

**TOWNSHIP OF FREDON
RESOLUTION 2024-30**

**AUTHORIZING EXECUTION OF AN AGREEMENT WITH THE BEAR BROOK
VALLEY HOMEOWNERS ASSOCIATION TO PROVIDE SNOW PLOWING
SERVICES FOR A 3 YEAR TERM EFFECTIVE JANUARY 25, 2024**

WHEREAS, the Association is responsible for the administration and management of the common areas and facilities, including private streets and roads, within the residential, single-family development commonly known as Bear Brook Village.

WHEREAS, at the direction of its Board of Trustees, on or about October 23, 2023, the Association filed a written request to the Township formally asking whether it would consider providing certain additional services described in the Act, specifically the removal of snow, ice, and other obstructions from private streets and roads in the Development; and

WHEREAS, the Township Committee believes it to be in the best interests of the Township, its residents, and the residents of the Association for the Township to provide the aforesaid services for the Association in the same manner as it provides for the general public along public streets and roads, instead of paying or reimbursing the Association for the costs it would otherwise incur in providing said services; and

WHEREAS, the Township of Fredon desires to enter into an Agreement with the Bear Brook Homeowners Association for a three (3) year period from January 25, 2024, through January 25, 2027.

BE IT RESOLVED, by the Township of Fredon, County of Sussex State of New Jersey as follows:

1. The Township Committee of the Township of Fredon hereby authorizes the execution of an Agreement with the Bear Brook Valley Homeowners Association dated January 23, 2024, for a three (3) year period from January 25, 2024, through January 25, 2027.
2. The Township of Fredon Clerk is hereby directed to submit a copy of this adopted Resolution, along with an executed Agreement, to Bear Brook Valley Homeowners Association.
3. This Resolution shall take effect immediately upon final passage according to law.
4. All appropriate Township of Fredon officials are authorized and directed to perform all required acts to affect the purpose of this Resolution.

CERTIFICATION

Certified to be a true and correct copy of a resolution by the Township Committee of the Township of Fredon at its Meeting on January 24, 2024.

ROLL CALL

AYES:

NAYS:

Suzanne Boland, RMC
Municipal Clerk

MEMORANDUM OF UNDERSTANDING
BETWEEN THE TOWNSHIP OF FREDON AND
BEAR BROOK VILLAGE HOMEOWNERS ASSOCIATION

THIS MEMORANDUM OF UNDERSTANDING (“MOU” or “Agreement”) is made this 24 day of January 2024, by and between the **TOWNSHIP OF FREDON**, a municipal corporation of the State of New Jersey, having municipal offices at 443 Rt. 94, Newton, New Jersey 07860 (“Township”), and **BEAR BROOK VILLAGE HOMEOWNERS ASSOCIATION**, a New Jersey non-profit corporation, having a business address at 527 RTE 94, Newton, New Jersey 07860 (“Association”).

WITNESSETH:

WHEREAS, the Association is a qualified private community, as defined in N.J.S.A. 40:67-23.2, located within the Township; and

WHEREAS, the Association is responsible for the administration and management of the common areas and facilities, including private streets and roads, within the residential, single-family development commonly known as Bear Brook Village (hereinafter referred to as the “Development”); and

WHEREAS, pursuant to the New Jersey Municipal Services Act, N.J.S.A. 40:67-23.1 et seq., (hereinafter referred to as the “Act”), the Township is required to either provide certain essential statutory services (e.g., remove snow, ice, and other obstructions; provide road and street lighting; and/or collect leaves, recyclable materials, and solid waste) on or along private streets and roads within the Development, or to reimburse the Association, to the extent required by law, for the actual costs incurred by the Association for providing said services; and

WHEREAS, the Township currently provides for the collection of recyclable materials every other week, and bulk pick-up three times per year for the Association in the same manner as currently provided for the general public; and

WHEREAS, at the direction of its Board of Trustees, on or about October 23, 2023, the Association filed a written request to the Township formally asking whether it would consider providing certain additional services described in the Act, specifically the removal of snow, ice, and other obstructions from private streets and roads in the Development; and

WHEREAS, the Township Committee believes it to be in the best interests of the Township, its residents, and the residents of the Association for the Township to provide the aforesaid services for the Association in the same manner as it provides for the general public along public streets and roads, instead of paying or reimbursing the Association for the costs it would otherwise incur in providing said services; and

WHEREAS, it is in the parties’ mutual interest, as well as in the public interest, to have the parties’ respective responsibilities concerning the provision of municipal services memorialized in a written agreement.

NOW, THEREFORE, pursuant to and in accordance with the Act, and in consideration of the mutual terms, covenants, and conditions contained herein, the parties hereby agree as follows:

1. TERM OF AGREEMENT

This Agreement shall be effective as of January 24, 2024, and shall continue for a term of three (3) years, expiring on January 24, 2027, unless otherwise terminated earlier in accordance with the terms and conditions of this Agreement. Any renewal or extension of the term of this Agreement shall be memorialized in writing executed by both parties no later than January 23, 2027.

2. SCOPE OF SERVICES

The scope of services to be provided or excluded under this Agreement are as follows:

A. Snow Removal, Plowing & Ice Management Services

The parties agree that the Township shall remove snow and ice, salt and/or sand, and remove obstructions on or along private streets and roads owned by the Association during the term of this Agreement. Said services shall be performed in the same manner as currently provided by the Township for the general public along public streets and roads within the Township. Private driveways are excluded from this Agreement.

B. Recycling & Bulk Pick-Up

The Township shall continue to provide for the collection of recyclable materials every other week, and bulk pick-up three times per year for the Association in the same manner as it currently provides for the general public.

C. Solid Waste, Leaf Collection & Street Lighting

The Association acknowledges that the Township does not currently provide solid waste collection, leaf collection, or street lighting for the general public. Therefore, solid waste collection, leaf collection, and street lighting are not included in this Agreement. The parties agree that the Township shall not be obligated to provide said services nor required to pay or reimburse the Association for any costs or fees attributed to said services.

3. DISCONTINUANCE OF SERVICES

Nothing in this Agreement shall require the Township to provide any services that are not provided to the residents at large of the Township. In the event that any such services are discontinued, the Township will provide the Association with thirty (30) days written notice of discontinuance.

4. TERMINATION BY ASSOCIATION

The Association may terminate this Agreement upon one (1) year prior written notice delivered in accordance with the terms of this Agreement.

5. QUALIFICATIONS OF ASSOCIATION UNDER THE ACT

The Association represents that it is a New Jersey non-profit corporation duly formed under the laws of the State of New Jersey. The Association further represents that it is a qualified private community as defined in N.J.S.A. 40:67-23.2 and that it satisfies all the conditions and eligibility requirements for the provision of statutory services or reimbursement from the Township under the Act. The Association makes the aforesaid material representations with the intention that the Township rely them. This Agreement shall immediately terminate if any of the aforesaid representations are false, or later become false, or the Association fails to satisfy the applicable conditions and eligibility requirements under the Act.

6. NO CLAIM BY ASSOCIATION

The Association agrees that it will not make any claim or demand for payment or reimbursement under the Act for: (1) the removal of snow, ice, and other obstructions, (2) collection of recyclable materials, and (3) bulk pick-up from private roads and streets during the term of this Agreement.

7. REPAIRS & MAINTENANCE

The Association acknowledges and agrees that the Act does not require a municipality to perform repairs and maintenance on or along private streets or roads or to pay or reimburse for same. Therefore, the Township shall not be required to perform any repairs or maintenance services of any kind on or along any of the private streets and roads owned by the Association.

8. TOWNSHIP DECISION

The parties acknowledge and agree that it is the Township's sole decision to either provide statutory services or reimburse the Association for such services as provided for in the Act. If the Township chooses to pay or reimburse the Association for its costs in providing said services to the extent required by law, rather than provide the services directly to the Association, then this Agreement shall terminate. The Township shall provide the Association with thirty (30) days written notice of any decision to cease the performance of services provided for under this Agreement. In that event, the parties shall negotiate a new municipal service reimbursement agreement in accordance with the Act.

9. INVALIDITY OF AMENDMENT OF ENABLING LEGISLATION

Notwithstanding the provisions contained herein, in the event that the Act, as amended from time to time, is declared by a court of competent jurisdiction to be invalid or is repealed by the Legislature, the Borough will not be obligated to provide the Association with any of the services that are governed by the Act, nor will the Borough be obligated to pay or reimburse the Association for costs incurred by the Association after the effective date of such invalidation or repeal, and this Agreement will become null and void as of that date. In the event that the Act is held by a court of competent jurisdiction to be invalid in part, or if the Act is amended by the Legislature in a manner which increases or reduces the scope of the services and/or the Borough's payment or reimbursement obligations that are governed by the Agreement, including any obligation by the Borough to pay or reimburse the Association for any costs incurred by the

Association on or after the effective date of such court decision or such legislative amendment, the Borough's obligations to provide services or to pay or reimburse the Association for the costs of those services will be increased, or reduced from the amount of future payments due from the Borough, or will be voided accordingly.

10. ASSOCIATION TO PROVIDE MAP

Prior to providing the services set forth herein, the Association shall provide the Township Clerk and Supervisor of the Department of Public Works with a map depicting all private roads and streets owned by the Association that require snow removal, plowing, and ice management services. Said map shall also depict any known conditions which may prohibit or otherwise affect the Township's ability to provide said services, the presence of any obstructions such as raised manhole covers or decorative pavement and curbing, and any poor or substandard street or road conditions that presently exist. The parties agree that the Township Supervisor, Department of Public Works shall resolve all disputes or discrepancies regarding what private streets and roads, or portions thereof, qualify for services under this Agreement.

11. SUCCESSORS AND ASSIGNS

This Agreement shall inure to the benefit of, and be binding upon, the respective successors, representatives, and assigns of the Association.

12. NOTICES

All notices to each party shall be made in writing, delivered personally, by certified return receipt requested mail, by regular mail, or by telefax, to the other party at the addresses below:

As to the Township of Fredon:

Suzanne Boland, RMC
Fredon Township
443 Route 94
Newton, NJ 07860

With a copy to Municipal Attorney:

Robert B. McBriar, Esq.
Schenck Price Smith & King, LLP
351 Sparta Ave.
Sparta, New Jersey 07871

As to Bear Brook Village Homeowners Association:

Mohamed Abdelsamud, Property Manager
Property Management
P.O. Box 7800
Hillsborough, NJ 08844

With a copy to the Association

Ken Nydam

President

Bear Brook Homeowners Association

527 RTE 94

Newton, NJ 07860

13. RECITALS INCORPORATED

The recitals appearing in the preamble of this MOU are made part of this Agreement and are specifically incorporated herein by reference.

14. CONFLICTING TERMS

This Agreement is entered pursuant to the requirements of the Act. To the extent that this Agreement and/or any of its terms may conflict with the requirements of the Act, the requirements of the Act shall govern.

15. ENTIRE AGREEMENT

This Agreement constitutes the entire Agreement between the parties and cannot be modified except by way of written executed amendment to same.

IN WITNESS WHEREOF, the Parties have executed and delivered this MOU for the purpose and terms specified herein, intending to be legally bound.

Attest:

FREDON TOWNSHIP

Suzanne Boland, Municipal Clerk

Date: January 24, 2024

By: Glenn Dietz, Mayor

Attest:

**BEAR BROOK VILLAGE
HOMEOWNERS ASSOCIATION**

By: Michael Ipekjdian, Secretary

By: Ken Nydam, President