

**TOWNSHIP OF HOPEWELL
COUNTY OF MERCER, NEW JERSEY**

R E S O L U T I O N #23-405

**MODIFICATION OF DECEMBER 9, 2019 MEMORANDUM OF UNDERSTANDING
BETWEEN BRANDON FARMS CONDOMINIUM ASSOCIATION, INC. AND
HOPEWELL TOWNSHIP**

WHEREAS, on December 9, 2019, the Township of Hopewell (the "Township") and the Brandon Farms Condominium Association, Inc. ("BFCA") entered a Memorandum of Understanding ("MOU") to establish the terms by which the Township would accept certain roads dedicated by BCFA for public use; and

WHEREAS, the Township and BFCA have jointly recognized that the terms of the MOU should be modified based newly discovered facts; and

WHEREAS, paragraph 7 of the MOU requires that, "no change or modification of this Agreement shall be valid or binding unless it is in writing and signed by all parties affected by said change or modification."

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, the parties hereto agree to modify the MOU as follows:

1. **Road Dedication.** The Township shall accept those roads dedicated by BFCA for public use as set forth in the MOU. Said acceptance shall be by ordinance establishing that the roads have been accepted pursuant to the Municipal Services Act at N.J.S.A. 40:67-23.7, and by means of a Variable Width Roadway Easement ("VWRE"). The Township has not and will not accept fee ownership of the roads.
2. **Fire Hydrants.** Paragraph 1(p) of the MOU states that, "[t]he Township will own all fire hydrants within the [Right of Way] on public roads. The fire hydrants will be maintained by Trenton Water." The Township hereby agrees that all BFCA fire hydrants will now be included within the VWRE.
3. **Sewer Lines.** Paragraph 1(o) of the MOU states that, "[t]he Township will not be responsible for the operation, maintenance, repairs and replacement of the sewage facilities and underground water facilities." The Township hereby agrees that operation, maintenance, repairs and replacement of the sewage facilities shall be the responsibility of the Township's Brandon Farms Sewer Utility, and not BFCA.
4. **Water Lines.** Paragraph 1(o) of the MOU states that, "[t]he Township will not be responsible for the operation, maintenance, repairs and replacement of the sewage facilities and underground water facilities." The Township hereby agrees that this provision does not obligate BFCA to maintain the underground water facilities, so long as Trenton Water Works is maintaining those facilities.

5. **Lighting.** Paragraph 1(s) of the MOU states that, “[t]he Township shall provide and pay for street lighting along the public roads and streets as identified herein in this Agreement in the manner and in a like or similar style as currently exists in the BFCA development. This is inclusive of lighting for on street parking areas on public roads. The Township shall not provide or pay for street lighting along the private roads and streets and parking lots. This will be the responsibility of BFCA.” The Township hereby agrees that pursuant to this paragraph 1(s), the Township’s obligation shall be to provide street lighting to all of the public roads regardless of the current location of the streetlight.
6. **Indemnification.** The parties agree that nothing in the MOU or this Modification Agreement requires that the Township indemnify BFCA with regard to BFCA’s obligations to maintain its own property. By accepting the road dedication provided by the MOU and this Modification Agreement, the Township understands that it has accepted responsibility for maintaining those roads as it does other public roads within the municipality.
7. **Construction.** This Modification Agreement shall be read *in pari materia* with the MOU, except that the Modification Agreement shall govern in the event of conflict between the two.

Date Adopted: November 13, 2023

CERTIFICATION

I, Katherine Fenton-Newman, Municipal Clerk, of the Township of Hopewell, County of Mercer, State of New Jersey, do hereby certify that the foregoing resolution was duly adopted by the Township Committee at the regular meeting held on the 13th day of November 2023, in the Municipal Building Auditorium, Hopewell Township, New Jersey and via Zoom Video Communications.



Katherine Fenton-Newman, RMC, CMR

Municipal Clerk