

**RESOLUTION OF THE BOROUGH OF WHARTON, IN THE COUNTY OF MORRIS, NEW JERSEY, APPROVING THE EXTINGUISHMENT OF A DEED OF DRAINAGE EASEMENT GRANTED BY WHARTON WAREHOUSE ASSOCIATES L.L.C. FOR THE BENEFIT OF THE BOROUGH AND FURTHER APPROVING THE EXECUTION OF A PROPOSED DEED OF DRAINAGE EASEMENT GRANTED BY GENERATIONAL WHARTON LLC AND JUBILEE WHARTON LLC FOR THE BENEFIT OF THE BOROUGH IN CONNECTION WITH A REDEVELOPMENT PROJECT**

WHEREAS, the Borough of Wharton (the “Borough”) is a political subdivision of the State of New Jersey, located in the County of Morris; and

WHEREAS, by Resolution No. 70 – 03, adopted on May 19, 2003, the Borough Council of the Borough (the “Borough Council”) designated Block 301, Lot 1.01, Block 801, Lot 3, and Block 903, Lots 2 & 2.03 as shown on the official tax maps of the Borough as a non-condemnation area in need of redevelopment (the “Redevelopment Area”) in accordance with the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the “Redevelopment Law”); and

WHEREAS, the Borough Council previously adopted the L.E. Carpenter Site Redevelopment Plan Amendment dated on or about July 9, 2015, the Phase II Redevelopment Plan approved October 11, 2005, and the Redevelopment Plan for Phase 1, Block 903, Lot 2 dated July 10, 2003 (collectively, the “Prior Redevelopment Plans”); and

WHEREAS, on June 13, 2022, the Borough Council adopted Ordinance No O-10-22, adopting the “L.E. Carpenter Redevelopment Plan” for the Redevelopment Area, prepared by J. Caldwell & Associates LLC Community Planning Consultants (Jessica Caldwell, P.P, A.I.C.P, Borough Planner, P.P. #5944), dated March 9, 2022 (the “Redevelopment Plan”), which supersedes and replaces the Prior Redevelopment Plans with regard to the Redevelopment Area; and

WHEREAS, Wharton Developments A (Urban Renewal) LP (the “Redeveloper”) is formed as a Delaware limited partnership and as an urban renewal entity under the laws of the State, and Wharton Investors II, LLC (the “Lot 2.03 Owner”) is the owner of that certain property within the Redevelopment Area identified as Block 903, Lot 2.03, on the official Tax Maps of the Borough (the “Project Site”), which Project Site has been leased to the Redeveloper though a long-term ground lease; and

WHEREAS, Generational Wharton LLC (“Generational”) and Jubilee Wharton LLC (“Jubilee”) are the owners of certain property within the Redevelopment Area identified as Block 903, Lot 2 on the official Tax Maps of the Borough (“Lot 2”); and

WHEREAS Generational is the fee owner of Lot 2 for a term-of-years, and Jubilee, is the successor in interest of Wharton Investors, LLC and owns the remainder fee interest in Lot 2 (collectively, Generational and Jubilee are identified as the “Lot 2 Owner”); and

WHEREAS, the Borough and the Redeveloper entered into a Redevelopment Agreement dated May 13, 2025 (the “Redevelopment Agreement”), pursuant to which the Redeveloper shall undertake the following actions, in accordance with the terms of the Redevelopment Agreement and the Redevelopment Plan: (i) design, develop, finance, construct, operate and maintain on the Project Site a multi-family residential development consisting of one, four-story building containing

approximately one hundred eighty-two (182) residential, rental units, including twenty-eight (28) residential rental Affordable Units (as defined in the Redevelopment Agreement) and one hundred fifty-four (154) residential, rental market-rate units; (ii) design, develop, finance, construct, operate and maintain on the Project Site a minimum of 4,000 square feet of indoor amenity space, which is anticipated to include a club room, yoga room and gym, and outdoor amenity space totaling approximately 10,000 square feet, which is anticipated to including a pool and patio areas; (iii) design, develop, finance, construct, operate and maintain on the Project Site approximately two hundred seventy-three (273) surface parking spaces; (iv) design, develop, finance, construct, operate and maintain on the Project Site associated site improvements including but not limited to lighting, landscaping, sidewalks, trash enclosures, signage, stormwater management, and other associated improvements; and (v) relocate a portion of the Wharton Rail Trail as specifically set forth in the Redevelopment Agreement (items (i) through (v), as more specifically described in Redevelopment Agreement, the “Project”); and

WHEREAS, on May 18, 2000, the Borough and Wharton Warehouse Associates, L.L.C. (the “Original Grantor”) entered into a Deed of Drainage Easement granting a perpetual, non-exclusive easement for drainage purposes through, over, upon, under, in, across and/or along all or a portion of the Project Site to the Borough (attached hereto as Exhibit A, the “Original Easement”) as a condition of approval in connection with the Original Grantor’s application to the Borough Planning Board (the “Planning Board”) for certain development approvals; and

WHEREAS, pursuant to such Original Easement, there is a stormwater retention basin located on the Project Site that, if not relocated, would preclude the construction of the Project; and

WHEREAS, by resolution adopted on January 10, 2023, the Planning Board granted the Redeveloper Preliminary and Final Site Plan approval for the Project (the “Approval”), which Approval includes the relocation of the existing stormwater retention basin from the Project Area to a portion of Lot 2 (as described in Exhibit B attached hereto, the “Easement Area”); and

WHEREAS, pursuant to the Approval, the Lot 2 Owner agrees to grant and convey to the Borough a perpetual, non-exclusive easement for drainage purposes through, over, upon, under, in, across and along the Easement Area (the “Lot 2 Easement”) subject to the terms set forth in a Deed of Drainage Easement in substantially the form set forth on file in the office of the Borough Clerk (the “Easement Agreement”); and

WHEREAS, in order to effectuate the Easement Agreement and the undertaking of the Project, the Original Easement shall be extinguished; and

WHEREAS, the Borough and the Lot 2.03 Owner, as successor in interest to the Original Grantor, have agreed to extinguish the Original Easement, and the Borough and the Lot 2 Owner have further agreed to enter into the Easement Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Wharton, in the County of Morris, New Jersey, as follows:

Section 1. The foregoing recitals are hereby incorporated by reference as if fully set forth herein.

Section 2. The Borough hereby approves the extinguishment of the Original Easement, and accepts the grant of the Lot 2 Easement in accordance with the terms of the Easement Agreement.

**Section 3.** The Mayor of the Borough is hereby authorized and directed to execute any and all instruments, agreements, certificates and other documents necessary to both extinguish the Original Easement and to memorialize the Lot 2 Easement, including but not limited to, the Easement Agreement in substantially the form set forth on file in the office of the Borough Clerk and available for public inspection, with such changes, omissions or amendments as the Mayor deems appropriate in consultation with the Borough’s general counsel, redevelopment counsel, redevelopment planner and other Borough professionals (collectively, the “Easement Documents”). The Clerk of the Borough is hereby authorized and directed to attest to the Mayor’s signature and affix the seal of the Borough to such Easement Documents, as applicable. Upon execution and attestation of same, the Mayor is hereby authorized to deliver all Easement Documents to the other parties thereto.

**Section 4.** The Mayor, Borough Administrator, Borough Clerk and other appropriate Borough officials are hereby authorized and directed to take any and all other necessary action and to execute any document, instrument, certificate or agreement reasonably necessary to effectuate the transactions contemplated by this Resolution, including but not limited to recording any and all legal instruments necessary to evidence the extinguishment of the Original Easement and the grant of the Lot 2 Easement.

**Section 5.** This resolution shall take effect immediately.

Adopted: July 14, 2025

**BOROUGH OF WHARTON**

**ATTEST:**

\_\_\_\_\_  
**WILLIAM J. CHEGWIDDEN,  
MAYOR**

\_\_\_\_\_  
**Cheryl Muzzillo,  
Deputy Borough Clerk**

**CERTIFICATE**

**I HEREBY CERTIFY the foregoing to be a true copy of a Resolution adopted on July 14, 2025 by the Borough of Wharton, in the County of Morris, New Jersey.**

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**Cheryl Muzzillo, Deputy Borough Clerk  
Borough of Wharton, New Jersey**

**Exhibit A**

**Original Easement**

**Exhibit B**

**Easement Area**