

AGENDA CHANGES

OCTOBER 6, 2020

The following items have been amended/added to the October 6, 2020 agenda:

Resolution -Amended:

6. Resolution authorizing changes to the scope of the Municipal Complex Redevelopment Project. (There was an \$0.80 error).

Addition:

Executive Session:

Attorney-Client Privilege – Contract Negotiations- Municipal Complex – Mast

RESOLUTION ____

RESOLUTION OF THE TOWNSHIP OF BERKELEY HEIGHTS, IN THE COUNTY OF UNION, NEW JERSEY, AUTHORIZING CHANGES TO THE SCOPE OF THE MUNICIPAL COMPLEX REDEVELOPMENT PROJECT

WHEREAS, on April 22, 2014, the Township Council of the Township of Berkeley Heights (the "**Township Council**") designated Block 608, Lots 1 and 4, and Block 504, Lots 5 and 6, as shown on the Tax Maps of the Township, including that portion of the Columbus Avenue right-of-way extending from the western limit of Block 504, Lot 6 to the New Jersey Transit property line to the north, and that portion of the Berkeley Avenue right-of-way extending from the New Jersey Transit boundary line to the north to the Park Avenue right-of-way to the south, all within the Township of Berkeley Heights (the "**Redevelopment Area**"), as a non-condemnation area in need of redevelopment in accordance with the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the "**Redevelopment Law**"); and

WHEREAS, on June 14, 2016 via the adoption of Ordinance 10-2016, the Township Council duly adopted a redevelopment plan for the Redevelopment Area entitled, "Municipal Complex Redevelopment Plan for the Township of Berkeley Heights", dated May 19, 2016 (as the same may be amended and supplemented from time to time, the "**Redevelopment Plan**"); and

WHEREAS, on December 29, 2017, the Township issued a request for proposals (as supplemented from time to time, the "**Original RFP**") seeking a redeveloper of the Redevelopment Area; and

WHEREAS, on February 23, 2018, the Township received responses to the Original RFP from Epic Management, Inc. and Torcon Inc. (each a "**Respondent**" and together, the "**Respondents**"); and

WHEREAS, on March 20, 2018, the Township issued to the Respondents a short list request for proposals (the "**Short List RFP**" and, together with the Original RFP, the "**RFP**"); and

WHEREAS, the Respondents submitted responses to the Short List RFP to the Township on April 13, 2018; and

WHEREAS, the Township evaluated the responses provided by the Respondents based on designated criteria in the RFP, including but not limited to, (i) compliance with the terms of the RFP, (ii) total costs to construct the project contemplated by the Redevelopment Plan (the "**Redevelopment Project**"), including allowances, assurances and exceptions, (iii) respondent experience and qualifications constructing projects similar to the Redevelopment Project, (iv) quality of value engineering recommendations, and (v) strategy for completing the design and construction of the Redevelopment Project; and

WHEREAS, based upon the Township's evaluation, and pursuant to Resolution 154-2018 adopted by the Township on June 26, 2018 (the "**Conditional Designation Resolution**"), the

Township conditionally designated Epic Management, Inc., located at 136 Eleventh Street, Piscataway, New Jersey 08854, or an affiliated entity (the "**Redeveloper**"), as the "redeveloper" (as defined in the Redevelopment Law) of the Redevelopment Area, subject to the negotiation, approval by the Township and execution of a redevelopment agreement between the Township and Redeveloper; and

WHEREAS, on July 10, 2018, the Township adopted Resolution 160-2018, designating the Redeveloper as "redeveloper" of the Redevelopment Area and approving the form and authorizing the execution of a redevelopment agreement with the Redeveloper; and

WHEREAS, the Township and Redeveloper entered into a Redevelopment Agreement dated as of July 11, 2018 (as amended and supplemented from time to time, the "**Redevelopment Agreement**"), which Redevelopment Agreement specifies the rights and responsibilities of the Township, designates the Redeveloper as redeveloper of the Redevelopment Area as to the Redevelopment Project and specifies the rights and responsibilities of the Redeveloper with respect to the Redevelopment Project; and

WHEREAS, pursuant to the Redevelopment Agreement, the Guaranteed Maximum Price (as defined in the Redevelopment Agreement) of the Redevelopment Project is \$26,828,574 (the "**Redevelopment Project GMP**"); and

WHEREAS, by resolution adopted on December 4, 2018, the Township approved certain changes to the Redevelopment Project, including (i) to reduce the Redevelopment Project GMP by \$949,938.50 as described in Change Order Number 001 dated as of November 30, 2018, and (ii) to increase the Redevelopment Project GMP by the aggregate amount of \$495,469.37 as described in Change Order Number 002 dated as of November 30, 2018 (in the amount of \$484,991.87) and Change Order Number 003 dated as of November 30, 2018 (in the amount of \$10,477.50), such changes in the aggregate reducing the Redevelopment Project GMP by \$454,469.13, to \$26,374,104.87; and

WHEREAS, by resolution adopted on May 29, 2019, the Township approved certain changes to the Redevelopment Project as described in Change Order Number 004, dated as of May 29, 2019, such changes in the aggregate increased the Redevelopment Project GMP by \$133,590.85, to \$26,507,695.72; and

WHEREAS, by resolution adopted on June 25, 2019, the Township approved certain changes to the Redevelopment Project as described in Change Order Number 005, dated as of June 25, 2019, such changes in the aggregate increased the Redevelopment Project GMP by \$194,049.81 to \$26,701,745.53; and

WHEREAS, by resolution adopted on July 9, 2019, the Township approved certain changes to the Redevelopment Project as described in Change Order Number 006, dated as of July 5, 2019, such changes in the aggregate increased the Redevelopment Project GMP by \$135,852.64 to \$26,837,598.17; and

WHEREAS, by resolution adopted on July 9, 2019, the Township approved certain changes to the Redevelopment Project as described in Change Order Number 007 dated as of August 20, 2019, such changes in the aggregate increased the Redevelopment Project GMP by \$43,094.82 to \$26,880,692.99; and

WHEREAS, by resolution adopted on November 18, 2019, the Township approved certain changes to the Redevelopment Project as described in Change Order Number 008 dated as of November 18, 2019, such changes in the aggregate increased the Redevelopment Project GMP by \$19,557.79 to \$26,900,250.78; and

WHEREAS, by resolution adopted on December 17, 2019, the Township approved certain changes to the Redevelopment Project as described in Change Order Number 009 dated as of December 17, 2019, such changes in the aggregate increased the Redevelopment Project GMP by \$44,620.15 to \$26,944,870.93; and

WHEREAS, by resolution adopted on March 24, 2020, the Township approved certain changes to the Redevelopment Project as described in Change Order Number 010 dated as of March 24, 2020, such changes in the aggregate increased the Redevelopment Project GMP by \$3,073.22 to \$26,947,944.15; and

WHEREAS, by resolution adopted on April 14, 2020, the Township approved certain changes to the Redevelopment Project as described in Change Order Number 011 dated as of April 14, 2020, such changes in the aggregate increased the Redevelopment Project GMP by \$325,380.99 to \$27,273,325.14; and

WHEREAS, by resolution adopted on May 12, 2020, the Township approved certain changes to the Redevelopment Project as described in Change Order Number 012 dated as of May 12, 2020, such changes in the aggregate increased the Redevelopment Project GMP by \$262,322.08 to \$27,535,647.22; and

WHEREAS, by resolution adopted on August 18, 2020, the Township approved certain changes to the Redevelopment Project as described in Change Order Number 013 dated as of August 18, 2020, such changes in the aggregate increased the Redevelopment Project GMP by \$162,399.71 to \$27,698,046.93 (the "**Amended Redevelopment Project GMP**"); and

WHEREAS, the Township desires to approve certain changes to the Redevelopment Project to provide for the work described in Change Order Number 014 dated as of October 6, 2020 and attached hereto as **Exhibit A** ("**Change Order 014**"), and to increase the Amended Redevelopment Project GMP by \$87,520.56 to provide for such work.

NOW THEREFORE BE IT RESOLVED by the Township Council of the Township of Berkeley Heights, in the County of Union, New Jersey, as follows:

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

Section 2. Change Order 014 is hereby approved, and the Mayor and Business Administrator of the Township, along with the Township's construction manager, architect, site civil engineer are each hereby authorized and directed, as applicable, to execute Change Order 014 in the form attached hereto as **Exhibit A**, with such changes, omissions or amendments as the Mayor deems appropriate in consultation with the Township's architect, construction manager and other Township professionals, and to deliver same to the other parties thereto.

Section 3. This resolution shall take effect immediately.

Approved this 6th day of October, 2020.

Attest:

**Ana Minkoff
Township Clerk**

CHIEF FINANCIAL OFFICER CERTIFICATION

I certify there are sufficient legally appropriated funds for the amount of this Change Order in Account #C-04-18-012-001, and that these funds have not been certified as available for another pending contract.

EUGENIA POULOS
CHIEF FINANCIAL OFFICER

DATE: October 6, 2020

Exhibit A

Form of Change Order 014



AIA Document G701/CMa™ – 1992

Change Order - Construction Manager-Adviser Edition

PROJECT (Name and address): Berkeley Heights Municipal Complex Redevelopment 29 Park Avenue, Berkeley Heights, NJ 07922	CHANGE ORDER NUMBER: 014 INITIATION DATE: 10/6/2020	OWNER: <input checked="" type="checkbox"/> CONSTRUCTION MANAGER: <input checked="" type="checkbox"/> ARCHITECT: <input checked="" type="checkbox"/> CONTRACTOR: <input checked="" type="checkbox"/> FIELD: <input type="checkbox"/> OTHER: <input type="checkbox"/>
TO CONTRACTOR (Name and address): EPIC Management, Inc. 136 Eleventh Street Piscataway, NJ 08854	PROJECT NUMBERS: EPIC 10-1810 / MAST 340 CONTRACT DATE: 7/11/2018 CONTRACT FOR: Redeveloper	

THE CONTRACT IS CHANGED AS FOLLOWS:

This AIA Change Order #14 is comprised of the following PCO's:

- PCO #92 -- Sampling/Testing of Detention Basin Soil: \$12,812.01
- PCO #103 -- Bulletin #22 & #23 Curtain Wall Changes: \$11,857.93
- PCO #113 -- RFI #76 & #287 Roof Drain Laterals: \$15,392.39
- PCO #117 -- EUC T&M Undercut: \$14,044.83
- PCO #118 -- Import Stone - Part 2 Actual Cost: \$4,191.99
- PCO #119 -- Import of Topsoil: \$13,612.50
- PCO #120 -- Aerate Pile on T&M: \$13,397.13
- PCO #125 -- Missing Spool Piece for Water Meter: \$2,211.78



Note: The Architect is only signing with regard to PCO's #103, #113, and #125; not for the other site-related PCO's.

The original Contract Sum was	\$ 26,828,574.00
Net change by previously authorized Change Orders	\$ 869,472.93
The Contract Sum prior to this Change Order was	\$ 27,698,046.93
The Contract Sum will be increased by this Change Order in the amount of	\$ 87,520.56
The new Contract Sum including this Change Order will be	\$ 27,785,567.49

The Contract Time will be unchanged by 0 (zero) days.
 The date of Substantial Completion as of the date of this Change Order therefore is 12/30/2020.

NOTE: This summary does not reflect changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE OWNER, CONSTRUCTION MANAGER, ARCHITECT AND CONTRACTOR.

<u>MAST Construction Services, Inc.</u> CONSTRUCTION MANAGER (Firm name) <u>96 East Main Street, Little Falls, NJ 07424</u> ADDRESS	<u>arcari + iovino Architects PC</u> ARCHITECT (Firm name) <u>One Katherine Street, Little Ferry, NJ 07643</u> ADDRESS
 BY (Signature) <u>Sean Edmonds</u> (Typed name) DATE: 10/6/2020	 BY (Signature) <u>Joseph Frangiosa</u> (Typed name) DATE: 10/6/2020
<u>EPIC Management, Inc.</u> CONTRACTOR (Firm name) <u>136 Eleventh Street, Piscataway, NJ 08854</u> ADDRESS Digitally signed by Bill Perlack Jr. Date: 2020.10.05 15:03:28 -04'00'	<u>Township of Berkeley Heights, NJ</u> OWNER (Firm name) <u>29 Park Avenue, Berkeley Heights, NJ 07922</u> ADDRESS
BY (Signature) <u>Bill Perlack, Jr.</u> (Typed name) DATE: 10/6/2020	BY (Signature) <u>Liza Viana</u> (Typed name) DATE: 10/6/2020

**A RESOLUTION PURSUANT TO N.J.S.A.10:4-12 MOVING
THE PUBLIC MEETING INTO EXECUTIVE SESSION**

WHEREAS, the provisions of the Open Public Meetings Act (N.J.S.A.10:4-1 et seq.) expressly provide that a public body may move into Executive Session and exclude the public from that portion of a meeting at which the public body discusses any of the nine areas set forth in N.J.S.A.10:4-12b; and

WHEREAS, the Township Council of the Township of Berkeley Heights has determined it necessary to move into Executive Session to discuss the following subjects, all of which are included in the aforesaid exceptions:

1. Attorney-Client Privilege – Contract Negotiations- Municipal Complex – Mast

NOW THEREFORE BE IT RESOLVED by the Township Council of the Township of

Berkeley Heights that it does hereby move into Executive Session pursuant to N.J.S.A.10:4-12b to discuss the aforesaid matters; and

IT IS FURTHER RESOLVED that the aforesaid discussions shall be made public either at the Public Meeting following said Executive Session or at such time as any litigated or personnel matters are concluded; or upon conclusion of any negotiations or related discussions; or as otherwise specified; and

IT IS FURTHER RESOLVED that this Resolution shall take effect pursuant to law.

APPROVED this 6th day of October, 2020 .

Attest:

Ana Minkoff
Township Clerk