

(2402)

EXTENSION RIGHT OF WAY AGREEMENT

Affecting

**BLOCK 7903, LOT 19
CITYSHIP OF JERSEY CITY, NEW JERSEY**

BY AND BETWEEN

CITY OF JERSEY CITY
A Municipal Corporation of the State of New Jersey

35 COTTAGE LLC
A New Jersey Limited Liability Company

DATED: _____, 2021

Record and Return to:

Connell Foley, LLP
Harborside Financial Center
2510 Plaza Five
Jersey City, NJ 07311-4029
Attn: Charles J. Harrington, III, Esq.

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT ("Agreement") is made as of the 22nd day of February, 2021 (the "Effective Date"), by and between, the **CITY OF JERSEY CITY**, together with its permitted successors and assigns, a municipal corporation of the State of New Jersey, with principal offices at 280 Grove Street, Jersey City, New Jersey 07302, ("City"), and **35 COTTAGE LLC**, together with its permitted successors and assigns, a New Jersey Limited Liability Company, with principal offices at c/o Namdar Group, 98 Cuttermill Road, Suite 284 North, Great Neck, New York 11021 ("35 Cottage").

RECITALS:

A. 35 Cottage, a member of the designated Redeveloper, Homestead Assemblage LLC ("Redeveloper"), is the owner of that certain real estate located in the City of Jersey City, County of Hudson and State of New Jersey, known as 35 Cottage Street and designated as Lot 19 in Tax Block 7903 (the "Property"). Homestead Assemblage LLC entered into a Redevelopment Agreement with the Jersey City Redevelopment Agency dated June 1, 2019 (the "Initial Redevelopment Agreement"). The Initial Redevelopment Agreement was recorded with the Hudson County Register on September 5, 2019, in Book 9431, Page 698; and the Redeveloper subsequently entered into an Amended and Restated Redevelopment Agreement with the Jersey City Redevelopment Agency dated February , 2021 (the "Redevelopment Agreement")(the Initial Redevelopment Agreement and the Redevelopment Agreement are collectively referred to as the "RDAS").

B. Pursuant to the Redevelopment Agreement, Homestead Assemblage LLC will assemble various properties within the Journal Square 2060 Redevelopment Plan Area and develop the properties in phases pursuant to the Journal Square 2060 Redevelopment Plan (the "Redevelopment Plan"). The Redevelopment Plan provides language for a development bonus (the "Development Bonus") related to the construction, implementation and maintenance of a pedestrian plaza and walkway from Cottage Street to and including Homestead Place (the "Homestead Extension").

C. The Redeveloper proposes to avail itself of the Development Bonus in accordance with the provisions of the Redevelopment Plan and the Redevelopment Agreement to design, finance and construct the Homestead Extension in conjunction with the development of the following projects:

Phase 1: Block 7902, Lot 43.01 (formerly Lots s 43 and 44)

- The delivery of 26-28 Cottage Street into a twenty-story mixed use building with two stories of office space, retail space, and 166 residential units.
- The development will include approximately 166 residential units, which will include a mix of approximately 60 studio units, 102 alcove studio units and 4 three-bedroom units; 3,229 square feet of retail; and compare to 5,501 square feet of office space.

- The delivery of a temporary pedestrian walkway, in addition to the improved pedestrian walkway completed as part of Phase 1, stretching from Cottage Street to Van Reipen Avenue.

Phase 2: Block 7905, Lots 20, 21, 22 and 23

- The delivery of the Homestead Place pedestrian street stretching from Van Reipen Avenue to Pavonia Avenue, including the expansion of the width of the Homestead Place Extension by dedicating seven (7) feet private property along the eastern frontage for use as part of the Homestead Place Extension.
- The development of 618 Pavonia Avenue into a twenty-seven (27) story mixed-use building with 432 residential units; approximately 1,544 square feet of retail space, 9,981 square feet of retail services; 6,480 square feet of restaurant café space; and 9,985 square feet of office space.
- The 432 residential units will be comprised of approximately 144 studio units, 168 one-bedroom units and 24 three-bedroom units.

Phase 3: Block 7903, Lot 38.01 (formerly Lots 38 and 39)

- The delivery of the pedestrian street stretching from Cottage Street to Pavonia Avenue.
- The development of 26-32 Van Reipen Avenue into a twenty-seven story mixed use building with approximately 7,562 square feet of retail space, 7,723 square feet of office space, and residential units.
- The development will include approximately 235 residential units, which will include a mix of approximately 48 studio units, 182 one-bedroom units, and 5 three- bedroom units.

Phase 4: Block 7903, Lot 19

- The delivery of the improved pedestrian street stretching from Van Reipen Avenue to Cottage Street.
- The development of 35 Cottage Street into a twenty-seven (27) story mixed-use building.
- The development will include approximately 376 residential units; 1,000 retail/commercial space; 10,379 square feet of office space; a 7,318 square foot synagogue; 9,994 square foot preschool, meeting rooms, and congregation offices accessory to the synagogue; and a 5,953 square foot banquet hall. The residential units will include a mix of approximately 144 alcove studios with alcove units, 224 one-bedroom units and 8 three-bedroom units.

Phase 5: Block 7904, Lots 1 and 2

- The delivery of the pedestrian street stretching from Van Reipen Avenue to Pavonia Avenue.
- The delivery of the Homestead Place pedestrian street stretching from Van Reipen Avenue to Pavonia Avenue, including the expansion of the width of the Homestead

Place Extension by dedicating seven (7) feet of private property along the western frontage for use as part of the Homestead Place Extension.

- The development of 29 Van Reipen Avenue into a twenty-seven (27) story, mixed-use building with approximately 744 residential units, 10,538 square feet of retail space and 30,877 square feet of office space.

The 744 residential units will be comprised of approximately 388 studio units, 332 one-bedroom units and 24 three-bedroom units

Phase 6: Block 7902, Lots 46, 47, 48 and 49

- The delivery of 32-38 Cottage Street into a twenty-seven (27) story, mixed-use building with 440 residential units, approximately 2,189 square feet of retail space and two stores (approximately 16,357 square feet) of office space.
- The expansion of Homestead Place Extension at the eastern side of the property on a diagonal pattern (averaging about seven (7) feet).
- The 440 residential units will be comprised of approximately 425 studio units and 15 three-bedroom units.

D. The Redevelopment Plan identifies and defines certain areas to be included within the Homestead Extension as depicted in Exhibit A to be granted to the City and the general public for the right to use the pedestrian access, through an easement, including over and across a portion of the Property (the "Easement Area") as depicted in Exhibit B.

E. The Redeveloper and 35 Cottage desire to execute this instrument to memorialize the pedestrian access easement over and across a portion of the Property in favor of the City and the general public, which Easement Area is more particularly described by the legal description annexed hereto as Exhibit C.

F. The Redeveloper and 35 Cottage are willing to grant such pedestrian access easement for a consideration of One (\$1.00) Dollar, the receipt and sufficiency of which is hereby acknowledged by the Redeveloper and 35 Cottage.

NOW, THEREFORE, in consideration of the foregoing, 35 Cottage does hereby grant and declare the following rights and servitudes over, under and across the Property:

1. **Recitals.** The recitals set forth above are hereby incorporated herein by reference as if set forth in the body of this Agreement.

2. **Access Easement.** 35 Cottage hereby grants, conveys, establishes and reserves a nonexclusive, uninterrupted and unobstructed easement for pedestrian passage across and over the twenty (20) foot wide Easement Area depicted on Exhibit B and described on Exhibit C, for the purposes of permitting ingress and egress over the private walkway/sidewalk and roadway in the Easement Area. The City shall also have the non-exclusive right to locate, relocate, repair, replace and maintain utilities on, over, below and through the Easement Area (the "Utility Work"). The Easement Area is for the benefit of the City and the general public and shall be perpetual and shall at all times be a continuing covenant running with the land, and shall be

binding upon the successors and assigns of the owner of the Property, subject to Paragraph 3 below.

3. Reservation of Right. The Redeveloper and 35 Cottage reserve the right to temporarily close and/or temporarily restrict access to the Easement Area for construction activities and building related activities associated with the residential buildings developed or about to be developed on the adjacent lots known as Lot 19 in Block 7903. 35 Cottage, except in the case of emergencies, shall provide notice to the City at least three (3) business days prior to any temporary closure of the Easement Area so that the City can coordinate emergency services on the dates that the Easement Area will be closed.

4. Maintenance of Easement Area. The Redeveloper and 35 Cottage hereby agree to perform or cause to be performed the following services in the Homestead Extension:

(a) Removing trash from the Homestead Extension, including planters, once a day, or as reasonably needed;

(b) Emptying trash receptacles at the Homestead Extension once a day, or as reasonably needed;

(c) Maintaining and replacing all planted material installed by 35 Cottage in the Homestead Extension;

(d) Repairing and replacing all concrete, pavers, benches, planters, bollards, trash disposal receptacles, lighting and other improvements installed in the Homestead Extension by 35 Cottage with the same color, type, and quality improvements and materials;

(e) Maintaining, repairing, and replacing as needed all paving installed by the 35 Cottage in the Homestead Extension using the same color, type, and quality improvements and materials;

(f) Providing pest control, as reasonably needed;

(g) Washing the Homestead Extension by hose, if practical, once weekly, or as reasonably needed, or at the 35 Cottage's sole discretion causing the Homestead Extension to be cleaned by other means once a week or as reasonably needed;

(h) At the sole and absolute discretion of the 35 Cottage, providing security services for the Homestead Extension, as reasonably needed;

(i) Periodically removing postings throughout the Homestead Extension;

(j) Snow and ice removal, as reasonably needed and in compliance with Section 296-1.2 and Section 296-3 of the JC Municipal Code which govern the removal of snow and ice from the public sidewalks; and

(k) Obtaining and maintaining at all times comprehensive general liability insurance against claims for bodily injury, death or property damage occurring on, in or about the Plazas and the adjoining sidewalks and passageways, in amounts not less than \$2,000,000.00 for each claim with respect to any bodily injury, death or property damage and \$5,000,000.00 in the aggregate.

Paragraphs (a) through (k) are hereinafter collectively referred to as the "Homestead Extension Services".

The Homestead Extension Services will be performed by the Redeveloper and 35 Cottage between 8 a.m. and 6 p.m., or as may be extended at the sole and absolute discretion of the Redeveloper and 35 Cottage, seven (7) days a week. The Homestead Extension Services will be performed at the sole cost and expense of the Redeveloper, 35 Cottage, and other members of the Redeveloper. The cost of the concrete, pavers, benches, planters, bollards, trash disposal receptacles and lighting and other improvements installed by the Redeveloper and 35 Cottage shall be paid for by the Redeveloper and 35 Cottage. The cost of all utilities required to provide the Homestead Extension Services shall be paid for by the Redeveloper, 35 Cottage, and other members of the Redeveloper.

5. Indemnification. In accepting the Development Bonus and the responsibilities of the maintenance and the use herein authorized, the Redeveloper and 35 Cottage, their successors and/or assigns shall agree to assume full, complete, and undivided responsibility for any and all injury and damages to persons or property by reason of such maintenance and use and to indemnify and hold the City of Jersey City harmless from any injury or damage to persons or property by reason of such maintenance and use (except such injury or damage which is caused by the negligence or misconduct of the City or its officers, employees or agents) of the Homestead Extension as defined herein.

6. Utility Work by City.

a. Standard of Care. The City agrees to perform all Utility Work in connection with the rights, privileges and authority herein granted and conveyed in this Agreement in a workmanlike manner, in compliance with all legal requirements and with minimum inconvenience to 35 Cottage, its successors and/or assigns. After the completion of any such Utility Work, the City shall promptly repair and restore all affected portions of the Easement Area or any adjoining buildings or property owned by 35 Cottage and/or any third parties to the same condition in which they existed prior to the commencement of said Utility Work, at the sole cost and expense of the City.

b. Notice. The City shall provide 35 Cottage with at least seven (7) days advance written notice of the need to access the Easement Area for Utility Work. Notwithstanding the foregoing, no advance notice shall be required for any emergencies with respect to repairs, replacements and/or maintenance to the utilities within Easement Area.

c. Indemnification. The City shall defend and indemnify 35 Cottage against, and shall save 35 Cottage harmless from, and shall reimburse 35 Cottage with respect to, any and all claims, demands, actions, causes of action, injuries, orders, losses, liabilities (statutory or otherwise), obligations, damages, fines, penalties, costs and expenses (including without limitation, reasonable attorneys' fees and expenses) incurred by, imposed upon or asserted against 35 Cottage by reason of any accident, injury (including death at any time resulting therefrom) or damage to any person or property arising out of or resulting from any acts or omissions of the City or by any employee, licensee, invitee or agent of the City in connection with the Utility Work.

7. Amendment. No portion of this Agreement may be terminated or modified, except by a writing signed by both parties.

8. Binding Affect. This Agreement and the rights, privileges, responsibilities and obligations herein contained shall run with the Property and shall bind 35 Cottage and the City, and their respective successors, personal representatives, heirs and assigns.

9. Validity of this Agreement. This Agreement sets forth all the covenants, promises, agreements, conditions and understandings between the parties concerning the subject matter of this Agreement and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between them other than as herein set forth. This Agreement supersedes all prior covenants, promises, agreements, conditions and understandings between the parties concerning the Easement Area.

10. Mutual Cooperation. The City, the Redeveloper, and 35 Cottage agree to mutually cooperate with each other, and execute any additional documents, without limitation, which may be reasonably required to effectuate the purpose of this Agreement. The City further agrees not to unreasonably interfere with or unreasonably disturb the activities conducted by 35 Cottage within the Easement Area and 35 Cottage agrees not to unreasonably interfere with or unreasonably disturb the activities of the City or the public within the Easement Area.

11. Notices. All notices hereunder shall be effective: (i) upon receipt (or refusal of delivery), or (ii) three (3) days after mailing (if mailed), and shall be sent by personal delivery, nationally recognized overnight delivery service, or by certified mail, return receipt requested and addressed as follows or to such other address(es) as the parties may designate in writing:

To the City:

The City of Jersey City
280 Grove Street
Jersey City, New Jersey 07302
Attn: Municipal Clerk

With a copy to the City's attorney:

Peter Baker, Esq. (or current counsel)

280 Grove Street
Jersey City, New Jersey 07302

To 35 Cottage:

35 Cottage LLC
Attn: Effy Namdar
c/o Namdar Group,
98 Cuttermill Road, Suite 284
North, Great Neck, New York 11021
Facsimile: 212-575-1020

To Homestead Assemblage LLC:

Homestead Assemblage LLC
Attn: Effy Namdar
c/o Namdar Group,
98 Cuttermill Road, Suite 284
North, Great Neck, New York 11021
Facsimile: 212-575-1020

With a copy to 35 Cottage's attorney:

Connell Foley LLP
Harborside Financial Center
2510 Plaza Five
Jersey City, New Jersey
Attn: Charles J. Harrington, III, Esq.
Facsimile: 201-521-0100

Either party may, by notice given as aforesaid, change its address for all subsequent notices. A party's attorney may deliver any notice on behalf of that party.

12. Authorship. In the event that any dispute arises regarding this Agreement or its interpretation, the Redeveloper, 35 Cottage, and the City specifically agree that each shall be considered the joint author of this document and no provision shall be interpreted against either party on the basis of a claim of authorship.

13. Recording. The City shall cause this Agreement to be recorded in the Register's Office of the Hudson County Clerk, and the City shall pay the costs, fees and/or taxes for such recording.

14. Severability. In the event that any one or more of the provisions of this Agreement shall be determined to be void or unenforceable, by a court of competent jurisdiction, or by law, such determination will not render this Agreement invalid or unenforceable and the remaining provisions hereof shall remain in full force and effect.

15. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey without reference to principles of conflicts of law.

[signatures appear on following page]

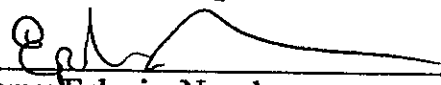
(2) 10 2

IN WITNESS WHEREOF, intending to be legally bound hereby, the parties hereto executed this Agreement as of the day and year first above written.

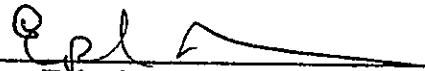
CITY OF JERSEY CITY
A Municipal Corporation of the State of New Jersey

By: _____
Name:
Title:

35 COTTAGE LLC
A New Jersey Limited Liability Corporation

By:  _____
Name: Ephraim Namdar
Title: Manager

HOMESTEAD ASSEMBLAGE LLC
A New Jersey Limited Liability Corporation

By:  _____
Name: Ephraim Namdar
Title: Manager

35 COTTAGE LLC ACKNOWLEDGMENT

New Jersey
STATE OF NEW JERSEY :

New York
COUNTY OF HUDSON :

ss

BE IT REMEMBERED. that on this *22nd* day of *February*, 2021, before me, the subscriber, personally appeared *Ephraim Namdar* who I am satisfied is the Person who executed the within instrument as the *Owner* of 35 Cottage LLC, a New Jersey limited liability company, and this Person thereupon acknowledged that said instrument made by said limited liability company and delivered by him or her as such _____, is the voluntary act and deed of said limited liability company.

Jacqueline Shirian
JACQUELINE SHIRIAN
NOTARY PUBLIC
STATE OF NEW YORK
NASSAU COUNTY
LIC. # 01SH6182807
COMM. EXP. FEB. 25, 20

Notary public

4/27/2024

HOMESTEAD ASSEMBLAGE LLC ACKNOWLEDGMENT

New York
STATE OF NEW JERSEY :

Nassau
COUNTY OF HUDSON :

ss

BE IT REMEMBERED. that on this *22nd* day of *February*, 2021, before me, the subscriber, personally appeared *Ephraim Namdar* who I am satisfied is the Person who executed the within instrument as the *Owner* of Homestead Assemblage LLC, a New Jersey limited liability company, and this Person thereupon acknowledged that said instrument made by said limited liability company and delivered by him or her as such _____, is the voluntary act and deed of said limited liability company.

Jacqueline Shirian
Notary public

JACQUELINE SHIRIAN
NOTARY PUBLIC
STATE OF NEW YORK
NASSAU COUNTY
LIC. # 01SH6182807
COMM. EXP. FEB. 25, 20

4/27/2024

CITY ACKNOWLEDGEMENT

STATE OF NEW JERSEY :
 :
COUNTY OF HUDSON :
 :

ss

BE IT REMEMERED. that on this __, day of __, 2021, before me, the subscriber, personally appeared _____, who I am satisfied is the Person who executed the within instrument as the _____ of the City of Jersey City, a municipal corporate of the State of New Jersey, and this Person thereupon acknowledged that said instrument made by said corporate body and delivered by him or her as such _____, is the voluntary act and deed of said corporate body.

Notary public

EXHIBIT A

Journal Square 2060 Redevelopment Plan – Map 6: Circulation Map
(See attached)

JOURNAL SQUARE 2060

MAP 6: CIRCULATION MAP

SEPTEMBER 12, 2016

1 inch = 520 feet

0 250 500 1,000 Feet



New Circulation Elements

- PATH Access
- Proposed Streetcar
- Proposed Bus Rapid Transit
- Street Vacation
- Homestead Extension
- Central Avenue New Street Connector
- Pedestrian Plaza
- Right-of-Way Preservation
- Street Widening

(exact boundaries to be determined)

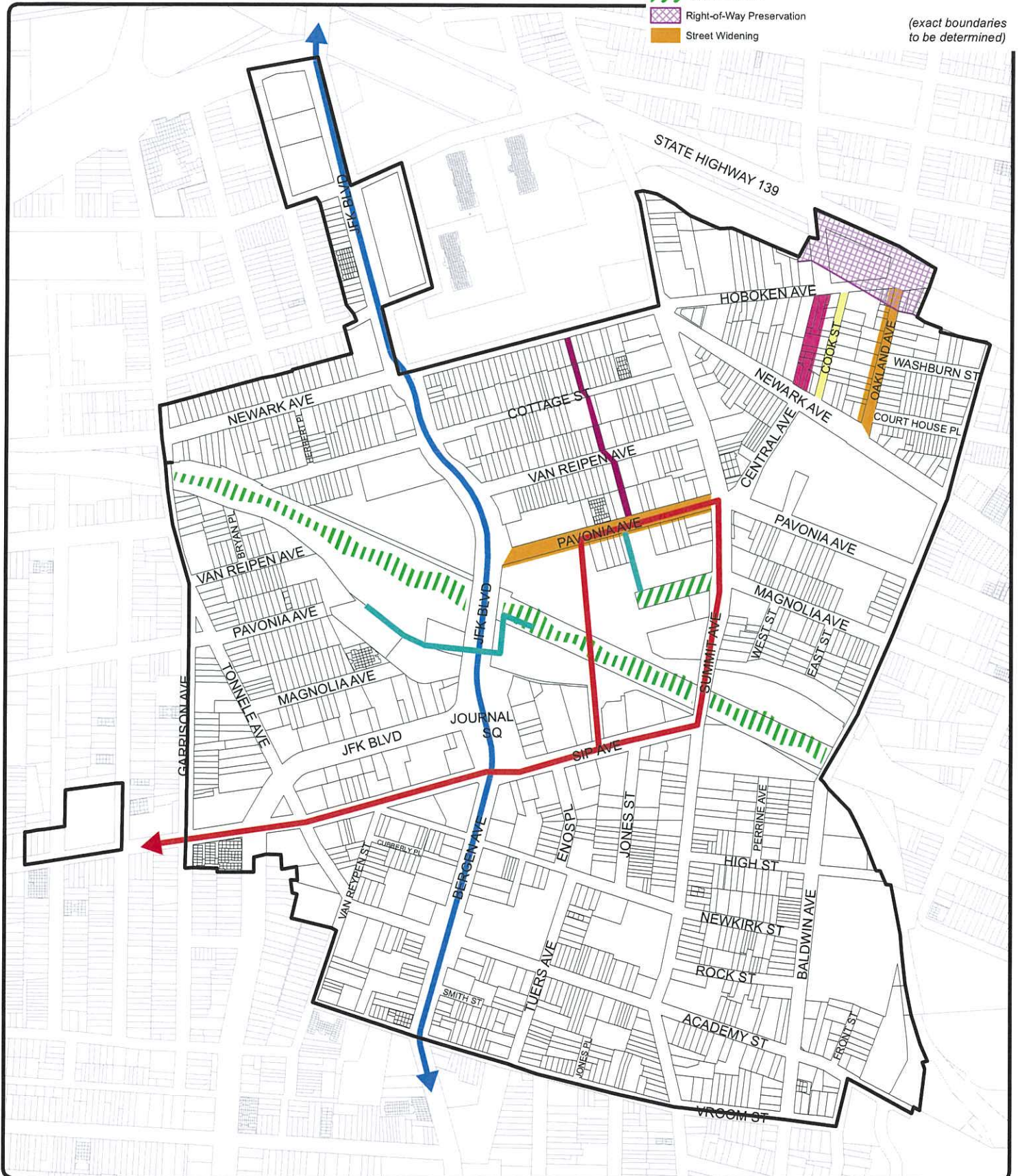
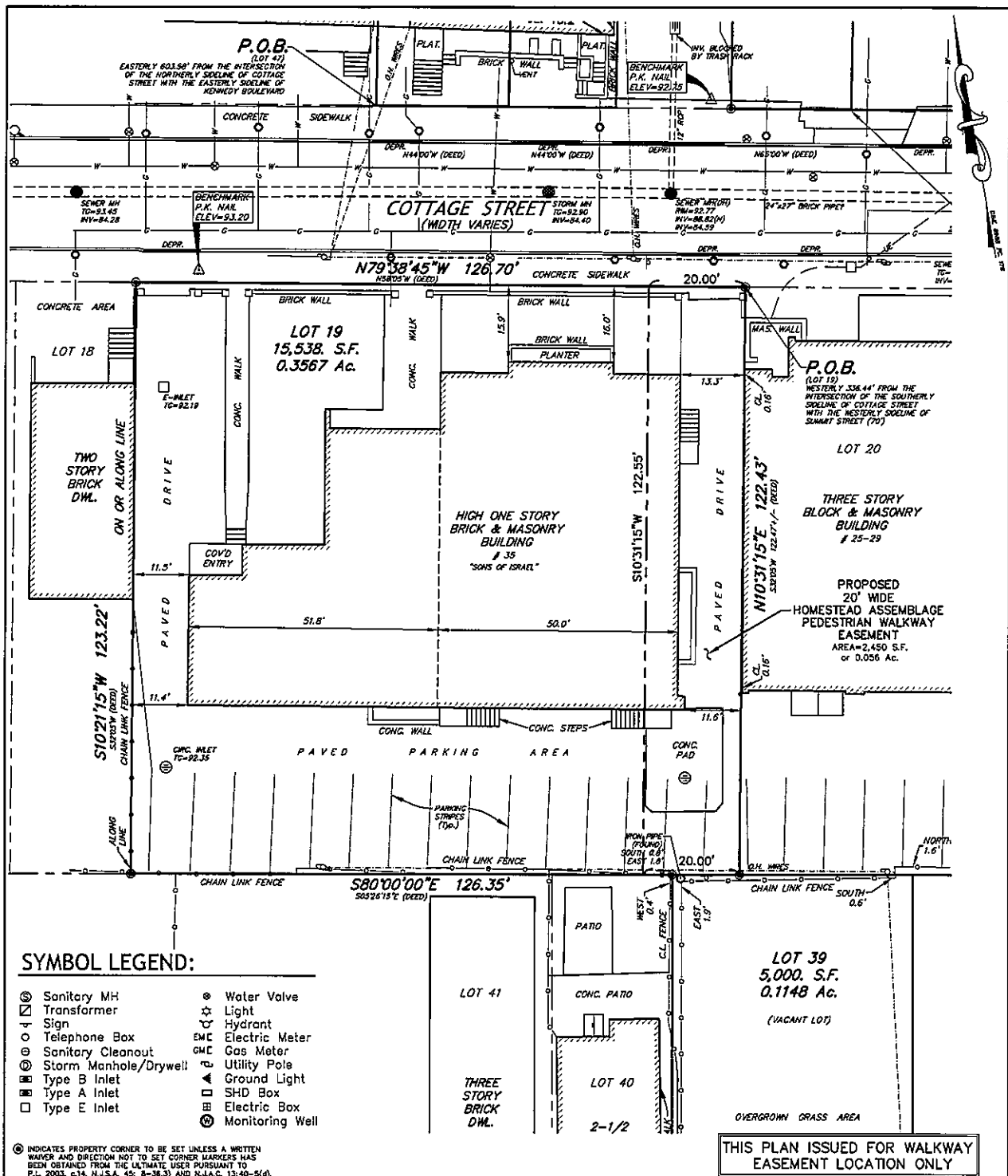


EXHIBIT B

Easement Area Depiction
(See attached)



I HEREBY CERTIFY TO THE FOLLOWING PARTIES, THAT I AM A PROFESSIONAL LAND SURVEYOR LICENSED TO PRACTICE IN THE STATE OF NEW JERSEY, AND THAT THIS PLAN IS BASED ON AN ACTUAL FIELD SURVEY PERFORMED UNDER MY IMMEDIATE SUPERVISION. I FURTHER DECLARE THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THIS PLAN IS A CORRECT AND ACCURATE REPRESENTATION OF THE CONDITIONS EXISTING AS OF 8/22/19.

35 COTTAGE LLC
CITY OF JERSEY CITY
CONNELL FOLEY LLP.

20' WIDE HOMESTEAD ASSEMBLAGE PEDESTRIAN WALKWAY EASEMENT

TAX BLOCK 7903 LOT 19
CITY OF JERSEY CITY
HUDSON COUNTY, NEW JERSEY

NOTES:

- THIS SURVEY IS VALID ONLY WHEN EMBOSSED SEAL IS AFFIXED HERETO.
- THE CERTIFICATION SHOWN HEREON IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS.
- LOT SUBJECT TO EASEMENTS AND RESTRICTIONS, IF ANY, AS WOULD BE DISCLOSED IN A CURRENT TITLE REPORT.
- UTILITIES NOT SHOWN ARE UNDERGROUND.
- WETLAND LOCATION AND FLOOD PLAIN DETERMINATION WERE NOT DONE IN THE PREPARATION OF THIS SURVEY.
- VERTICAL INFORMATION DEPICTED ON THIS PLAN REPRESENTS NAVD83 DATUM.



DAVID A. STIRES ASSOCIATES, LLC.
ENGINEERS • SURVEYORS • PLANNERS • ENVIRONMENTALISTS
678 US HWY 202/206 N, SUITE 6, BRIDGEWATER, N.J. 08807
PHONE: (908)252-7000 FAX: (908)252-7090

GARY V. MARMO
PROFESSIONAL LAND SURVEYOR

N.J. LICENSE No. 37599

DATE 8/22/19

Certificate of Authentication #: 26A/B000000

PROJECT No. 16245

SCALE: 1"=20'

DRAWN BY: GVM

CHECKED BY: GVM

EXHIBIT C

Easement Area Description

ALL THAT CERTAIN tract of land, situated in the City of Jersey City, County of Hudson, and State of New Jersey, being more particularly described in the attached legal description.

(See attached)



DAVID A. STIRES ASSOCIATES, LLC.

ENGINEERS • SURVEYORS • PLANNERS • ENVIRONMENTALISTS

David A. Stires, PE, PP, CME
George H. Folk, PE, PP
Gary V. Marmo, PLS

LEGAL DESCRIPTION

**Proposed 20' Wide
Homestead Assemblage Pedestrian Walkway Easement
Over Tax Block 7903 Lot 19
City of Jersey City
Hudson County, New Jersey**

All that certain tract or parcel of land and premises, situate, lying and being in the City of Jersey City, Hudson County, New Jersey, being known and designated as a portion of Tax Block 7903, Lot 19, and being more particularly described as follows:

Beginning at a point on the southerly sideline of Cottage Street (width varies), where the same intersects with the common line between Lots 19 and 20, Block 7903 as shown on the City of Jersey City tax maps, said point also being distant westerly 336.44' from the intersection of Cottage Street with the westerly sideline of Summit Avenue (70 feet wide) and running, thence;

1. Along the southerly sideline of Cottage Street, North 79 degrees 38 minutes 45 seconds West a distance of 20.00 feet, thence;
2. Leaving said southerly sideline, South 10 degrees 31 minutes 15 seconds West a distance of 122.55 feet, thence;
3. South 80 degrees 00 minutes 00 seconds East a distance of 2.000 feet, thence;
4. North 10 degrees 31 minutes 15 seconds East a distance of 122.43 feet to the point and place of **Beginning**.

Containing 2,450 S.F. or 0.056 Acres of land or premises more or less.

Subject to all easements and restrictions of record.

As shown on a certain map entitled "Proposed 20' Wide Homestead Assemblage Pedestrian Walkway Easement, Over Tax Block 7903, Lot 19, City of Jersey City, Hudson County, New Jersey", dated August 22, 2019, prepared by David A. Stires Associates, LLC, Bridgewater, New Jersey.

Legal description in accordance with a survey prepared by David A. Stires Associates, LLC

David A. Stires Associates, LLC

Gary V. Marmo, NJPLS
New Jersey License No. 37599