

**MEMORANDUM OF UNDERSTANDING**  
**By and Between Green Brook Country Club and Borough of North Caldwell**

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is being entered into between the Borough of North Caldwell (the “Borough”) and Green Brook Realty Associates, LLC (“GBRA”) as of this 16<sup>th</sup> day of August, 2023, in connection with the future redevelopment of the Green Brook Country Club.

Background

In connection with the Borough’s affordable housing declaratory judgment action, GBRA and the Borough entered into a Settlement Agreement dated December 11, 2018 (the “Settlement Agreement”). GBRA owns the Green Brook Country Club (“GBCC”). Pursuant to the terms of the Settlement Agreement, the Borough created an overlay zone for the GBCC property (the “Property”), permitting (i) age-targeted, age-restricted, and affordable housing units (ii) an assisted living facility, (iii) rights to maintain and operate the existing clubhouse as a restaurant and catering facility (the “IRO Zoning”). The IRO Zoning included an obligation for GBRA to dedicate 12 contiguous acres of buildable open space from the GBCC Property to the Borough suitable for future municipal use (the “Land Dedication”).

GBRA and the Borough now seek to repeal the IRO Zoning to remove the age-targeted housing, the assisted living use, all three- and four-story buildings, and the restaurant/banquet use and replace it with 100% age-restricted housing as recognized under the Federal Fair Housing Act (“FFHA”), and with the same affordable housing obligation (the “SIRO Zoning”). The SIRO Zoning will not require GBRA to make the Land Dedication.

This MOU sets forth the terms upon which the IRO Zoning will be repealed and replaced with the SIRO Zoning. Once agreed upon by both parties, this MOU shall be converted into a Settlement Agreement on the same terms and conditions. With such Settlement Agreement

remaining subject to the approval of the Governing Body of the Borough and Fair Share Housing Corporation (“FSHC”).

### Terms and Conditions

#### A. Zoning

1. The Borough Council agrees to repeal the IRO Zoning and replace it with the SIRO Zoning Ordinance annexed hereto as Exhibit A. The SIRO Zoning Ordinance shall be introduced within thirty (30) days of the Settlement Agreement effective date, but not later than September 12, 2023. Such deadline may be extended by agreement of both parties.
2. GBRA agrees to file a good faith site plan application for the GBCC Property consistent with the SIRO Zoning (the “SIRO Site Plan Application”) within one hundred and twenty (120) days of the adoption of the SIRO Zoning Ordinance. The Borough shall, to the extent allowable by law, request that the Planning Board treat such application as a priority; however the Borough cannot guarantee any actions or scheduling of the Planning Board.
3. In the event the good faith SIRO Site Plan Application is either (i) denied, or (ii) not approved by the Borough Planning Board within nine (9) months of filing, the Borough shall repeal the SIRO Zoning and reinstitute the IRO Zoning, and GBRA shall be free to file a new site plan application under the IRO Zoning. Such deadline may be extended by agreement of the parties.

#### B. Land Dedication

The IRO Zoning includes a 12-acre Land Dedication. The SIRO Zoning will not include the Land Dedication. As part of the compensation to the Borough for the elimination of the Land

Dedication, GBRA has agreed to the following items to the benefit the Borough: (i) restrict the development to a 100% active adult community under the regulations of the Federal Fair Housing Act, with the intent to eliminate school age children from the non-affordable housing development and greatly reduce peak hour traffic; (ii) eliminate all three- and four-story, over parking, condo flat buildings; (iii) eliminate public use of the restaurant/banquet facility. As further and additional compensation for the removal of the Land Dedication, GBRA has agreed to provide construction work, which will serve as a public benefit to the Borough and its residents equal to approximately \$1,500,000.00 in value as follows:

1. The Borough previously acquired Walker's Pond and the house associated with that property (the "Walker House"). The Borough has partially demolished the Walker House interior. GBRA agrees to work with the Borough-designated representatives to design and construct the Walker House to create an ADA compliant public meeting space including a kitchen, bathrooms, and flexible indoor/outdoor meeting space.
2. The Borough currently owns and operates six tennis courts, which are in need of reconstruction. Within twelve (12) months following the execution of the Settlement Agreement, GBRA shall work with the Borough to design, build, and construct new courts to include tennis, pickleball, and possibly basketball surfaces and related amenities.
3. At the sole choice of the Borough, either the Walker House Project (as described in paragraph 1 above) or the Tennis Court Project (as described in paragraph 2 above) shall commence upon the execution of the Settlement Agreement; with the other Project commencing within six (6) months of the filing of the Site Plan Application to the Planning Board provided that the Borough is acting in good faith and GBRA believes its

application is reasonably advancing. Each project shall proceed until such work is deemed complete by both parties.

4. To the extent allowable by law, GBRA may engage and utilize Woodmont Properties, LLC (“WP”) to serve as the general contractor for all the work defined above but will likely subcontract “specialty work” defined in #2 and, in that case, will oversee the design, bidding, and supervision of subcontractors to perform the “specialty work”. GBRA through WP will provide the Borough with all plans and cost estimates for the Borough to approve before any work commences. Upon completion of all work, GBRA through WP will provide the Borough final “as built” plans and receipts of actual costs paid.
5. If it is determined that value of services is less than \$1,500,000.00 then then GBRA shall make a cash payment to the Borough for such difference.

C. Sewer, Utilities, and Access

1. The Borough previously delivered a letter endorsing the GBRA property being placed in the sewer service area (“SSA”). The Borough processes its sanitary sewer with the Caldwell Sewer Authority (the “Authority”), which Authority had taken the position it had zero new capacity available. GBRA was party to a lawsuit filed by several other municipalities and property owners compelling the Authority to make sewer service available. That litigation remains unresolved.
2. In addition, GBRA has been working with Fairfield to possibly send the Borough’s portion of the GBRA sewer through Fairfield to the Two Bridges Sewer Authority. Processing the sewer through Fairfield will require an amendment to the interlocal services agreement between the Borough and Fairfield.

3. Regardless of whether GBRA elects to process the Property sewer at the Caldwell Authority or Two Bridges, the Borough agrees to cooperate with GBRA to establish a sewer connection, including entering into a reasonable amendment to the interlocal services agreement with Fairfield (at no cost to the Borough) if necessary.
4. The Borough shall work cooperatively with GBRA and the County to arrange safe and convenient access to the Property, subject to the discretion of any and all applicable governmental and regulatory bodies. The Borough shall not object to GBRA's application to develop the Fairfield portion of the Property provided that GBRA site plan is in accordance with the existing zoning including the current amendment to the zoning regarding the definition height.

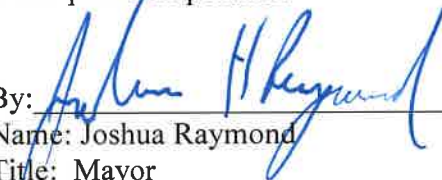
[Signature Page to Follow]

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed  
by their duly authorized representatives.

**GREEN BROOK REALTY ASSOCIATES, LLC**  
a New Jersey Limited Liability Company

By: \_\_\_\_\_  
Name: Eric Witmond  
Title: Manager

**BOROUGH OF NORTH CALDWELL**  
a non-profit corporation

By:  \_\_\_\_\_  
Name: Joshua Raymond  
Title: Mayor