

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

EARLE ASPHALT COMPANY,
INC.,

Plaintiff,

v.

NEW JERSEY TURNPIKE
AUTHORITY; KRIS KOLLURI, in
his official capacity as Executive
Director of the New Jersey Turnpike
Authority; OCEAN COUNTY and
EVESHAM TOWNSHIP,

Defendants.

Civil Action No.

**VERIFIED COMPLAINT
FOR DECLARATORY
AND INJUNCTIVE RELIEF**

INTRODUCTION

1. Earle Asphalt Company, Inc. (Earle) has served the people of New Jersey for nearly six decades. It builds the roads, bridges, and infrastructure that connect the state and everyone who lives and works here.

2. Earle is built on merit, accountability, and free choice. It does not hire or assign work based on race or sex. It does not require employees to join a union. In an industry known for high turnover, Earle's senior staff have remained for decades—because those principles work.

3. The State of New Jersey demands something very different.

4. To compete for state contracts, Earle must meet “targeted employment goals” that require hiring and assigning workers based on race and sex. N.J. Admin. Code § 17:27-7.3.

5. And to work on New Jersey Turnpike Authority (NJTA), Ocean County, and Evesham Township projects, Earle must enter into project labor agreements that require it to hire through union hiring halls and accept exclusive union representation—whether its employees want that representation or not. *See* N.J. Rev. Stat. § 52:38-1 *et seq.*

6. These mandates are unconstitutional. Race- and sex-based hiring quotas violate the Fourteenth Amendment’s guarantee of equal protection. Forced unionization and exclusive representation violate Earle’s First Amendment rights to free speech and association.

7. For nearly sixty years, Earle has built New Jersey’s infrastructure without regard to race, sex, or compelled association. The Constitution does not permit the State to condition that work on surrendering those principles.

JURISDICTION AND VENUE

8. Earle Asphalt Company, Inc. brings this civil rights lawsuit pursuant to 42 U.S.C. § 1983, for the violation of rights secured by the First and Fourteenth Amendments to the United States Constitution, and 42 U.S.C. § 1981, for the violation of the right to contract without respect to race.

9. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 (federal question) and 1343 (civil rights). Declaratory relief is authorized by the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202.

10. Venue is appropriate under 28 U.S.C. § 1391(b)(1) and (2) because all Defendants reside in this district and a substantial part of the events or omissions giving rise to the claims occurred and continue to occur in this district.

PARTIES

11. Plaintiff Earle Asphalt Company, Inc. is a heavy civil construction firm located in Monmouth County, New Jersey. Earle routinely bids on heavy civil construction contracts offered by New Jersey state agencies, counties, and municipalities, including Defendants New Jersey Turnpike Authority, Ocean County, and Evesham Township. Earle is an “open shop,” meaning union membership is not required for employment with Earle.

12. Defendant New Jersey Turnpike Authority is a political subdivision of the State of New Jersey and a “person” subject to suit under 42 U.S.C. § 1981 and 42 U.S.C. § 1983. NJTA implements N.J. Admin. Code § 17:27-7.3 and N.J. Rev. Stat. § 52:38-1.

13. Defendant Kris Kolluri is the Executive Director of NJTA. Director Kolluri is sued in his official capacity.

14. Defendant Ocean County is a county in the State of New Jersey and a “person” subject to suit under 42 U.S.C. § 1983. Ocean County recently began requiring project labor agreements for its public works projects in alignment with N.J. Rev. Stat. § 52:38-1 *et seq.*

15. Defendant Evesham Township is a municipality in the State of New Jersey and a “person” subject to suit under 42 U.S.C. § 1983. Evesham Township recently implemented a policy requiring project labor agreements for its public works projects in alignment with N.J. Rev. Stat. § 52:38-1 *et seq.*

FACTUAL ALLEGATIONS

Earle Asphalt Co.

16. Walter Earle founded Earle Asphalt Company in 1968 in Monmouth County, New Jersey. Started as a small paving company, Earle expanded over the last 58 years into New Jersey’s leading heavy civil construction firm, employing over 650 people.

17. Now run by Walter’s three sons, Earle has grown to incorporate Environmental, Transport, Water and Sewer, and Heavy Highway divisions, as well as several asphalt manufacturing plants, a licensed general construction company, an apprenticeship program, and a CDL training school to train new truck drivers.

18. Approximately eighty percent of Earle’s annual revenue comes from government contracts.

19. Earle performs heavy civil construction projects throughout New Jersey, including roadway construction, sewer installation, interstate superstructure replacement, overpass construction, and resurfacing work on the New Jersey Turnpike.

20. In the past fifty-eight years, Earle has bid for tens of thousands of public contracts with New Jersey state entities. It has been awarded thousands of those public contracts, including thirty-three contracts with NJTA. Approximately half of Earle's projects are for state-bid contracts.

21. The other half of Earle's projects are municipal and county public works projects. Earle has bid for tens of thousands of public contracts with municipalities across the state. It has been awarded thousands of those contracts, including seven from Evesham Township since 2018.

22. Earle has also bid on, won, and completed a significant proportion of Ocean County's public works projects. Since 2012, Earle has been awarded 85 out of approximately 200 contracts bid out by Ocean County.

23. Earle has been a non-union "open shop" since its founding in 1968. Earle is the largest open shop—and the only heavy highway construction company open shop—in New Jersey.

24. Many of Earle’s employees do not wish to become union members or pay union fees; Earle’s open shop status is an important factor in choosing to work for Earle over its competitors.

25. Earle is an equal opportunity employer, in accordance with the New Jersey Law Against Discrimination, N.J. Rev. Stat. § 10:5-1 *et seq.*, and federal anti-discrimination law. Earle does not discriminate on the basis of race or color; religion, creed, or religious persuasion; national origin, nationality, or ancestry; sex, pregnancy, or breastfeeding; sexual orientation; gender identity or expression; age; disability; marital status, domestic partnership, or civil union status; liability for military service or protected veteran status; atypical hereditary cellular or blood trait; genetic information; immigrant or citizenship status (to the extent required by law); and any other characteristic protected by applicable federal, state, or local law.

26. Earle assigns its employees to projects based on merit, skill, and need. It does not assign employees to projects based on race or sex.

New Jersey’s Race- and Sex-Based Employment Quotas

27. New Jersey law mandates that construction contractors and subcontractors on public contracts in New Jersey comply with “targeted employment goals” for the employment of minorities and women. N.J. Admin. Code § 17:27-7.3.

28. New Jersey’s stated policy for this race-based quota is “affirmative action,” N.J. Admin. Code § 17:27-1.1(a), which the state defines as “good faith

steps taken to ensure equal opportunity employment for women and minority workers but does not include employment quotas, except where otherwise permitted and appropriate under applicable law.” N.J. Admin. Code § 17:27-2.1.

29. This policy does not contemplate any past discrimination against women or minority workers, or state that New Jersey is remedying discrimination with its program. There is no showing that New Jersey has ever discriminated against women or minority workers in its procurement programs, or that the regulation’s purpose is to mitigate or remedy the effects of past discrimination.

30. There is no end date or prospective endpoint for this race-based policy.

31. The targeted goals apply to eighteen trades and vary significantly from county to county. The New Jersey Department of Labor and Workforce Development sets the targeted goals and monitors compliance. N.J. Admin. Code § 17:27-7.2(a), (c).

32. At the outset of a contract, contractors and subcontractors must report the projected number of total employees and minority employees, each broken out by male and female, for each of the eighteen trades.

33. Once work begins, contractors submit monthly compliance reports which track the number of employees who are female, black, Hispanic, American Indian, and Asian, as well as the number and percentage of work hours for “female”

and “minorities,” the cumulative work hours for “female” and “minorities,” and the cumulative percentage of work hours for “female” and “minorities.”

34. If a contractor cannot meet its race- and sex-based quotas, New Jersey requires the contractor to demonstrate good faith efforts—or face sanctions.

35. The State recognizes two methods of demonstrating good faith.

36. Under the first method, a contractor must have a pre-existing referral agreement with a union and receive assurances from that union that it will provide the necessary minority employees. N.J. Admin. Code § 17:27-3.8(a)(1)(i). If the union does not provide such assurances, or if the union has a history of not providing minority workers even though it says it will, then the contractor must agree to offer employment to minority workers directly. *Id.*

37. Alternatively, if a contractor does not enter into an agreement with a union to provide workers, it must take twenty-five mandatory actions to demonstrate it has exercised good faith efforts to hire minority workers. N.J. Admin. Code §§ 17:27-3.8(a)(2), 17:27-7.4.

38. Failure to meet the prescribed number of women and minority workers by the State subjects a contractor to sanctions including fines, penalties, and a lower rating with the State when attempting to secure future contracts. *See* N.J. Admin. Code § 17:27-10.1 *et seq.*

39. In both the initial compliance report and monthly compliance reports, contractors are asked to provide the number and percentage of employees on the project who are “minority” without any differentiation between minority groups. The forms do not include a section to document which minority groups are actually represented.

40. The targeted goals apply to Earle’s state contracts, including its current contracts with NJTA and NJTA contracts Earle will bid on in the future.

41. Complying with the targeted goals requires Earle to assign employees to state contracts, including those with NJTA, based on race and sex instead of based on merit, skill, and need.

42. Complying with the targeted goals also requires Earle to violate both its own non-discriminatory hiring policies and federal and state anti-discrimination laws.

New Jersey’s Project Labor Agreement Statute

43. A project labor agreement (PLA) is a pre-hire, mandatory collective bargaining agreement. New Jersey allows any “public entity,” defined as the state, any of its political subdivisions, any authority created by the Legislature, and any instrumentality or agency of the state or any of its political subdivisions, to require a PLA as a condition for winning any public works project where the total cost,

excluding any land acquisition costs, equals or exceeds \$5 million. *See* N.J. Rev. Stat. § 52:38-1 *et seq.*

44. On January 20, 2026, Governor Phil Murphy signed legislation amending New Jersey’s PLA statute. N.J. Rev. Stat. § 52:38-1 *et seq.* The amendment allows municipalities, counties, school districts, and fire districts to require a PLA on public works projects regardless of project cost.

45. NJTA is a “public entity” under New Jersey law and may include a PLA mandate in any public works project that it bids out.

46. As the Executive Director of NJTA, Director Kolluri is responsible for procurement decisions and public works projects undertaken by the NJTA.

47. Under New Jersey law, “any bidder for [a] public works project refusing to agree to abide by the conditions of the project labor agreement or the requirement to negotiate a project labor agreement shall not be regarded as a responsible bidder.” N.J. Rev. Stat. § 52:38-3.

48. Non-responsible bidders cannot win public works projects.

49. Successful bidders on NJTA projects which impose a PLA requirement are required to agree to a mandatory pre-hire collective bargaining agreement as a condition of performing work on covered NJTA projects.

50. Contractors winning a bid on an NJTA project containing a PLA requirement must execute a Letter of Assent and become fully bound by the terms

of the PLA. The PLA and related local agreements supersede other collective-bargaining agreements and employment relationships.

51. Contractors winning NJTA work must agree to provisions in the PLAs which require the hiring of employees through the unions' job referral/hiring-hall systems, with only a few "core" employees permitted to be hired outside of the unions' systems.

52. Contractors winning NJTA work must also pay contributions on behalf of all employees covered by the PLA to the established employee benefit funds.

53. PLAs are binding; only contractors who sign on to the PLA may work on the project. N.J. Rev. Stat. § 52:38-4.

54. PLAs must also include set-asides for minority and women employees and apprentices on each project. N.J. Rev. Stat. § 52:38-5(g).

55. Earle is a non-union contractor. Its employees have exercised their constitutional and statutory right to decline union representation.

56. If Earle won a bid on a project requiring a PLA, it would be forced to recognize a particular union as the exclusive bargaining representative of its employees and further would be required to hire the vast majority of its employees exclusively through Building and Construction Trades Council (BTC) affiliated unions' hiring halls, instead of assigning its own non-union employees to the project.

57. Bidders who do not agree to comply with a project's PLA are deemed to be not a "responsible bidder" and their bids are thrown out.

58. Earle is prequalified for virtually any project that could be bid out by NJTA, and NJTA routinely bids out projects with a scope of work of the kind that Earle engages in.

59. One recent NJTA project, Contract No. T100.723-1, for the construction of grade-separated U-Turns at milepost 6.40 and 19.00 (herein the U-Turns Project), required a winning bidder to enter into and abide by a PLA.

60. The U-Turns Project is one that Earle wanted to bid on, is prequalified to bid on, and includes a scope of work that Earle routinely bids on and wins. However, Earle considered but ultimately did not bid on that project because of the threat of imminent harm to its First Amendment rights if it had done so. But for the PLA requirement, Earle would have bid on the U-Turns project.

61. Earle does not want to associate with unions but does want to continue to bid on and win NJTA projects, as it has done in the past. Earle will continue to bid on NJTA projects that do not require PLAs in the future.

62. In addition to contracts with state agencies like NJTA, a significant portion of Earle's work is on municipal public works projects across the state, including projects in Evesham Township.

63. On February 18, 2026, Evesham Township published a Notice to Bid for the township's 2025 Road Improvement Program. Given Earle's expertise, this is the type of job that Earle would regularly bid on and win.

64. On March 3, 2026, Earle submitted a bid for the 2025 Road Improvement Program project. Earle's bid amount for the project—\$1,463,513.13—was the lowest bid.

65. However, on March 11, 2026, the Evesham Township Council passed Resolution No. 140-2026, mandating the inclusion of PLAs for public works projects.

66. On March 12, 2026, Earle received a letter from the Evesham Township Clerk, Rebecca Andrews, informing the company that its bid had been rejected.

67. On April 10, 2026, Evesham Township reopened the 2025 Road Improvement Program for bidding, labeling it as a "re-bid" of the same project for which Earle had previously submitted the lowest bid.

68. The only difference between the original bid specifications and the "re-bid" specifications is that the "re-bid" included a PLA requirement.

69. Furthermore, the "re-bid's" PLA requires the winning bidder to pay contributions on behalf of its employees to established union employee benefit funds and recognize local and BTC-affiliated unions as the exclusive bargaining representative of its employees.

70. But for the PLA requirement, Earle would have bid on this contract, too. Instead, Earle was excluded from re-bidding on the 2025 Road Improvement Program.

71. On April 28, 2026, the bid results for the “re-bid” of Evesham’s 2025 Road Improvement Program were publicly announced. At least eight companies bid on the “re-bid” and all bids were higher than Earle’s original bid amount of \$1,463,513.13. The lowest “re-bid” amount was \$1,617,411.

72. By excluding Earle from re-bidding on the project due to its non-union status, Evesham Township and taxpayers will have to spend an additional \$153,897.87 on the road improvement project.

73. Earle has won and successfully completed seven public works contracts with Evesham Township in the last decade and will continue to bid on Evesham Township projects that do not require PLAs in the future.

74. In addition to contracts with state agencies and municipalities, a significant portion of Earle’s work is on county public works projects across the state, including many projects in Ocean County.

75. On April 1, 2026, Ocean County published a Notice to Bid for the Ocean County Parks and Recreation Administration Utility Improvements No. III project. This type of project is one that Earle often bids on and wins.

76. However, the Notice to Bid specifies that the “successful bidder will be required to enter into a Project Labor Agreement (PLA) pursuant to N.J.S.A. 52.38-1 et seq., for the contract work in the form provided with the Bid Specification, and the provisions of the PLA shall govern all labor under the contract.”

77. Ocean County’s PLA requires the winning bidder to recognize Monmouth and Ocean Counties Building and Construction Trades Council, AFL-CIO as the exclusive bargaining representative of its employees. The PLA further requires the winner to hire the vast majority of its employees exclusively through Building and Construction Trades Council affiliated unions’ hiring halls, instead of assigning its own non-union employees to the project.

78. Additionally, Ocean County’s PLA requires the winning bidder to pay contributions on behalf of employees to established union employee benefit funds.

79. Ocean County’s inclusion of the PLA as a bid requirement precludes Earle from bidding on the project despite being qualified to do so, and despite Earle’s history of winning and successfully completing similar Ocean County projects. But for the PLA requirement, Earle would have bid on this contract.

80. In the last decade, Ocean County awarded nearly 45% of its public works contracts to Earle. Earle successfully completed 85 projects for the county, and Earle will continue to bid for Ocean County contracts that do not require PLAs in the future.

81. New Jersey law encourages PLAs between public works contractors and labor organizations for public construction projects. N.J. Rev. Stat. § 52:38-1(n). This encouragement applies to all public entities, including the state, its political subdivisions, and any state agency or instrumentality. N.J. Rev. Stat. § 52:38-2.

82. PLA use in New Jersey public works projects is increasing, at both the state and local levels.

83. Earle estimates that eighty percent of its annual revenue is now impacted by PLAs.

84. Continued growth in PLA use is an imminent threat to Earle's business.

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

Violation of the Equal Protection Clause of the Fourteenth Amendment, through 42 U.S.C. § 1983

85. Earle alleges and incorporates by reference the allegations in the preceding paragraphs of this Complaint.

86. The Civil Rights Act of 1871 provides that “[e]very person, who under the color of any statute, ordinance, regulation, custom, or usage, of any State or Territory,” deprives any “citizen of the United States or other person” of any rights “secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.” 42 U.S.C. § 1983.

87. NJTA is a “person” under Section 1983, and therefore a proper defendant. *See Galette v. New Jersey Transit Corp.*, 146 S. Ct. 854 (2026).

88. New Jersey’s targeted employment goals, N.J. Admin. Code § 17:27-7.3, force businesses to make employment decisions on the basis of race and sex.

89. The targeted goals apply to all construction contractors or subcontractors holding contracts with the State of New Jersey, including NJTA.

90. The targeted goals’ racial classifications must satisfy strict scrutiny.

91. NJTA does not have a compelling interest that justifies the targeted goals’ racial classifications.

92. NJTA lacks a strong basis in evidence that the targeted goals’ racial classifications are related to remedying the past or present effects of racial discrimination in the construction industry or in the state.

93. The targeted goals’ racial classifications are not narrowly tailored to meet any such compelling interest.

94. The targeted goals’ racial classifications have no end point.

95. Because the targeted goals use racial classifications, further no compelling interest, and are not narrowly tailored, they violate the Equal Protection Clause.

96. The targeted goals stereotype employees on the basis of race and require Earle to stereotype employees on the basis of race in making employment decisions on state contracts, including with NJTA.

97. The targeted goals use race as a negative and require Earle to use race as a negative in making employment decisions on state contracts, including with NJTA.

98. Because the targeted goals stereotype employees on the basis of race and use race as a negative, they violate the Equal Protection Clause.

99. The targeted goals' sex-based classification must satisfy intermediate scrutiny.

100. NJTA does not have an exceedingly persuasive justification to justify the targeted goals' sex-based classification.

101. The targeted goals' sex-based classification does not serve an important governmental objective.

102. The targeted goals' sex-based classification is not substantially related to any important governmental objective.

103. Because the targeted goals' sex-based classification does not serve an important governmental objective, and the sex-based classification is not substantially related to furthering any important governmental interest, it violates the Equal Protection Clause.

104. Unless enjoined by this Court, Earle will continue to be harmed by the targeted goals.

105. Earle remains ready, willing, and able to bid on New Jersey state contracts, including with NJTA.

106. Accordingly, Earle is entitled to injunctive and declaratory relief.

SECOND CAUSE OF ACTION

Violation of Earle’s First Amendment Rights to Free Speech and Association, through 42 U.S.C. § 1983

107. Earle alleges and incorporates by reference the allegations set forth in the preceding paragraphs of this Complaint.

108. The Civil Rights Act of 1871 provides that “[e]very person, who under the color of any statute, ordinance, regulation, custom, or usage, of any State or Territory,” deprives any “citizen of the United States or other person” of any rights “secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.” 42 U.S.C. § 1983.

109. NJTA is a “person” under Section 1983, and therefore a proper defendant. *See Galette v. New Jersey Transit Corp.*, 146 S. Ct. 854 (2026).

110. Ocean County is a “person” under Section 1983 and a proper defendant. *Monell v. Dep’t of Soc. Servs. of City of New York*, 436 U.S. 658, 663 (1978).

111. Evesham Township is a “person” under Section 1983 and a proper defendant. *Monell v. Dep’t of Soc. Servs. of City of New York*, 436 U.S. 658, 663 (1978).

112. The First Amendment to the United States Constitution provides that “Congress shall make no law ... abridging the freedom of speech.” U.S. Const. amend. I.

113. The First Amendment’s free-speech guarantee applies to the States through the Fourteenth Amendment.

114. The First Amendment protects the right not to associate and prohibits compelled speech or compelled subsidization of a union.

115. NJTA, Ocean County, and Evesham Township cannot evade these First Amendment restrictions by contracting out public work and then conditioning that work on making forced payments.

116. NJTA’s, Ocean County’s, and Evesham Township’s PLAs’ exclusive-recognition clause and forced-contribution requirements compel non-union contractors like Earle to recognize and financially support unions they would not otherwise support.

117. Compelling Earle to pay contributions on behalf of employees to established union employee benefit funds, despite Earle’s objection, violates Earle’s First Amendment rights.

118. Accordingly, Earle is entitled to injunctive and declaratory relief.

THIRD CAUSE OF ACTION

Violation of Earle's Equal Rights Under the Law, through 42 U.S.C. § 1981

119. Earle alleges and incorporates by reference the allegations set forth in the preceding paragraphs of this Complaint.

120. Earle is a person within the meaning of 42 U.S.C. § 1981.

121. N.J. Admin. Code § 17:27-7.3's targeted goals impede Earle's ability to make and enforce contracts.

122. N.J. Admin. Code § 17:27-7.3's targeted goals discriminate on the basis of race, and require Earle to discriminate on the basis of race, in violation of 42 U.S.C. § 1981.

123. The targeted goals impact both employment contracts and contracts for services, impairing Earle's right to make and enforce contracts in violation of 42 U.S.C. § 1981(b).

124. This race-based preferential treatment denies Earle the full and equal benefit of the laws within the meaning of 42 U.S.C. § 1981.

125. Accordingly, Earle is entitled to injunctive and declaratory relief.

PRAYER FOR RELIEF

WHEREFORE, Earle respectfully requests that the Court:

1. Declare that N.J. Admin. Code § 17:27-7.3 violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983;
2. Declare that N.J. Admin. Code § 17:27-7.3 denies the full and equal benefit of the laws within the meaning of 42 U.S.C. § 1981 by impairing its ability to make and enforce contracts;
3. Declare that N.J. Rev. Stat. § 52:38-1 *et seq.* violate the rights to free speech and association as guaranteed by the First Amendment to the United States Constitution and 42 U.S.C. § 1983;
4. Issue permanent injunctive relief enjoining the enforcement of N.J. Admin. Code § 17:27-7.3;
5. Issue preliminary and permanent injunctive relief enjoining Defendants from enforcing N.J. Rev. Stat. § 52:38-1 *et seq.*;
6. Award nominal damages to Plaintiff in the amount of \$1.00;
7. Issue an award of attorneys' fees and costs in this action pursuant to Federal Rule of Civil Procedure 54(d) and 42 U.S.C. § 1988; and
8. Provide such other and further relief as the Court deems just and proper.

DATED: April 30, 2026.

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**Pro Hac Vice Pending*

Respectfully submitted,

/s/ Sean J. Radomski

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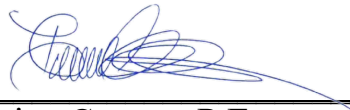
Civil Action No.

**VERIFICATION OF
BRIAN COOPER, P.E.**

I, Brian Cooper, declare as follows:

1. I am the Vice President of Engineering for the Earle Operating Holding Company, Inc. with oversight of subsidiary Earle Asphalt Company, Inc.
2. I have personal knowledge of Earle Asphalt Company, Inc. and its activities, including those set out in the foregoing *Verified Complaint for Declaratory and Injunctive Relief*, and if called upon to testify I would competently testify as to the matters stated therein.
3. I verify under penalty of perjury under the laws of the United States of America that the factual statements in this *Verified Complaint for Declaratory and Injunctive Relief* concerning Earle Asphalt Company, Inc. are true and correct.

Executed this 30th day of April, 2026.

A handwritten signature in blue ink, appearing to read "Brian Cooper", is written over a horizontal line.

Brian Cooper, P.E.