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**Section 1: 8-K (FORM 8-K BERKSHIRE HILLS BANCORP, INC.  
MARCH 15, 2019)**

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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FORM 8-K

**CURRENT REPORT**

PURSUANT TO SECTION 13 OR 15(D) OF  
THE SECURITIES EXCHANGE ACT OF 1934

Date of Report (Date of earliest event reported): March 15, 2019

BERKSHIRE HILLS BANCORP, INC.  
(Exact Name of Registrant as Specified in its Charter)

Delaware  
(State or Other Jurisdiction  
of Incorporation)

001-15781  
(Commission File No.)

04-3510455  
(I.R.S. Employer  
Identification No.)

60 State Street, Boston, Massachusetts  
(Address of Principal Executive Offices)

01209  
(Zip Code)

Registrant's telephone number, including area code: (800) 773-5601, ext. 133773

Not Applicable  
(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR §230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

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**Item 5.02**      **Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers**

On March 15, 2019, Berkshire Hills Bancorp, Inc. (the “Company”), Berkshire Bank, a wholly owned subsidiary of the Company (the “Bank”), and Linda A. Johnston, Senior Executive Vice President and Chief Human Resources Officer of the Company and the Bank, entered into a Resignation, Separation Agreement and Full and Final Release of Claims (the “Separation Agreement”) in connection with Ms. Johnston’s resignation from her employment with the Company and the Bank effective April 1, 2019. Pursuant to the Separation Agreement, the Company will pay Ms. Johnston a lump sum payment of \$785,000, less required withholdings, on the Company’s first scheduled payroll date on or after January 1, 2020. The Separation Agreement includes confidentiality, non-solicitation and non-competition provisions and a release of claims. The payment made to Ms. Johnston under the Separation Agreement is subject to forfeiture if Ms. Johnston breaches certain obligations, including the confidentiality, non-solicitation and non-competition provisions.

On the same date as the Separation Agreement, the Bank and Ms. Johnston entered into a Consulting Agreement whereby Ms. Johnston will provide consulting services for up to twenty (20) hours per week. In exchange for the consulting services, the Bank will pay Ms. Johnston a monthly consulting fee of \$29,643 during the fourteen (14) month term of the Consulting Agreement. If Ms. Johnston voluntarily elects to cease providing consulting service prior to the end of the fourteen (14) month term, she will not be entitled to any further payments.

The foregoing description of the Separation Agreement and Consulting Agreement does not purport to be complete and is qualified in its entirety by reference to the Separation Agreement and Consulting Agreement which are attached hereto as Exhibits 10.1 and 10.2 of this Current Report on Form 8-K and are incorporated by reference into this Item 5.02.

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**Item 9.01****Financial Statements and Exhibits**

- (a) Financial Statements of Businesses Acquired. Not applicable.
- (b) Pro Forma Financial Information. Not applicable.
- (c) Shell Company Transactions. Not applicable.
- (d) Exhibits.

**Exhibit No.****Description**10.1Resignation, Separation Agreement and Full and Final Release of Claims dated March 15, 201910.2Consulting Agreement dated March 15, 2019

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## SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, hereunto duly authorized.

**Berkshire Hills Bancorp, Inc.**

DATE: March 15, 2019

By: /s/ Richard M. Marotta  
Richard M. Marotta  
President and Chief Executive Officer

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## **Section 2: EX-10.1 (RESIGNATION, SEPARATION AGREEMENT AND FULL AND FINAL RELEASE OF CLAIMS DATED MARCH 15, 2019)**

**EXHIBIT 10.1**

EXECUTION VERSION

### RESIGNATION, SEPARATION AGREEMENT AND FULL AND FINAL RELEASE OF CLAIMS

This Resignation, Separation Agreement and Full and Final Release of Claims (“**Agreement**”) is entered into between Berkshire Hills Bancorp, Inc., Berkshire Bank and Linda A. Johnston (“**you**” or “**your**”) (collectively, the “**Parties**”) on March 15, 2019.

Per our mutual understanding, your employment as Senior Executive Vice President, Chief Human Resources Officer of Berkshire Hills Bancorp, Inc. (“**Company**”) and Berkshire Bank (“**Bank**”) (collectively, the “**Employers**”) will end as a result of your resignation. You and the Employers desire to resolve any and all issues relating to the conclusion of your employment amicably and on mutually satisfactory terms. To that end, and as additional compensation to you, the Employers are offering you a separation package in accordance with the terms of this Agreement.

Upon your signature, this Agreement shall constitute the agreement between you and the Employers on the terms of your separation from employment as follows:

- Resignation and Press Release.* You have informed the Employers of your intention to resign from your positions as Senior Executive Vice President, Chief Human Resources Officer of the Company and the Bank effective April 1, 2019 (“**Resignation Date**”). You shall be paid your earned salary and accrued but unused vacation pay, if any, through the Resignation Date, less legally required withholdings.
- Cash Separation Payment.* Upon your timely execution of this Agreement and in exchange for your full compliance with this Agreement and provided that you have met, and continue to meet, all of your obligations, agreements and undertakings set forth herein, the Company agrees to pay you the gross amount of \$785,000.00, less legally required withholdings (“**Separation Pay**”), on the Company’s first scheduled pay date on or after January 1, 2020 provided that the 7-day revocation period explained in Paragraphs 14 and 15 of this Agreement expires without revocation (the “**Payment Date**”). If you should die prior to the Payment Date, the Company will pay your beneficiary the Separation Pay on the Payment Date.
- Insurance and Long-Term Care Coverage.* After the Resignation Date, the Company also agrees to provide you and your spouse with retiree health and dental insurance coverage under the Company’s retiree health and dental insurance program, at no expense to you, for three years following your Resignation Date pursuant to the terms of such retiree health and dental insurance program. This coverage would run concurrently with COBRA and begin on your Resignation Date. After that date, you and your spouse shall be entitled to continue such retiree health and dental insurance coverage through the Company, at your own expense and pursuant to the terms of such retiree insurance program. At least thirty (30) days prior to the conclusion of your three years of Company-provided retiree health and dental insurance, the Company will notify you of the cost for continuing such coverage. For the avoidance of doubt, the termination of your employment with the Employers shall not affect your continued participation in the existing long term care insurance policy that you and your spouse are covered under and fully vested as of the Resignation Date.
- No Future Compensation.* Other than the obligations of the Company as set forth under the terms of Paragraphs 2 and 3 of this Agreement, you represent and agree that (a) you are not entitled to any other wages, salary, bonuses, benefits or any other compensation or reimbursements from the Employers, except for any of your vested benefits under the Berkshire Bank 401(k) Plan, the terms of your long-term insurance policy and the consulting agreement entered into between the Bank and yourself dated as of March 15, 2019 (the “**Consulting Agreement**”), (b) for purposes of clarity, nothing paid under this Agreement will be deemed to be in lieu of any compensation to which you are entitled to under the Berkshire Bank 401(k) Plan or your long-term care insurance



benefit, each of which you are one-hundred percent (100%) vested or the Consulting Agreement, and (c) all non-vested equity awards will be forfeited, including, but not limited to, all restricted stock awards subject to performance-based vesting notwithstanding the terms and conditions of any underlying award agreement.

5. *Mutual Release* –As is standard in situations where an employer is paying an employee additional compensation upon separation, you, your spouse, beneficiaries, estate, heirs and any and all parties that may act on your behalf agree to fully and completely release, relinquish and forever discharge the Employers, and the Employers agree to fully and completely release, relinquish and forever discharge you from any and all claims demands, disputes, obligations, promises, costs, charges, fees (including attorneys' fees), expenses, taxes, fines, penalties, actions and causes of action of any kind, nature or description, whether known or unknown (including, but not limited to, for breach of any duty of good faith or other extra-contractual liability under any policy, and under the statutes, regulations or common law of any state), that you had or may have had or the Employers had or may have had, may now have or claim to have, or which may hereafter accrue, including without limitation any claims arising from or related to your employment with either of the Employers, except as provided in Section 22 of this Agreement. For purposes of this Agreement, the term "Employers" means and includes Berkshire Bank and Berkshire Hills Bancorp, Inc., their respective predecessors, successors and assigns, all of their past, present, and future shareholders, trustees, directors, officers, employees, representatives, attorneys, agent, and all of their respective parent or controlling corporations, affiliates and subsidiaries, as the case may be, or any other legal entity describing Berkshire Bank and Berkshire Hills Bancorp Inc.'s organization or through which they conduct business.

6. *General Release – Statutory and Regulatory Claims.* You represent and warrant that you have not filed any complaints, charges or claims against the Employers with any local, state or federal court or administrative agency. Except with respect to any rights arising out of this Agreement, you specifically agree that you waive and release any and all manner of claims you ever had, now have or may have under any federal or state labor, employment, retaliation or discrimination laws, statutes, public policies, orders or regulations, including, but not limited to, Title VII of the Civil Rights Act of 1964, as amended, the Equal Pay Act of 1963, as amended, the Employee Retirement Income Security Act of 1974, as amended, the Occupational Safety and Health Act of 1970, as amended, the Rehabilitation Act of 1973, as amended, the Fair Labor Standards Act of 1938, as amended, the Americans with Disabilities Act of 1990, as amended, the Family and Medical Leave Act of 1993, as amended, the Age Discrimination in Employment Act, as amended, Chapters 149 through 154 of the Massachusetts General Laws, the Massachusetts Civil Rights Act, the Massachusetts Equal Rights Law, or at common law, including but not limited to claims relating to breach of an oral or written contract, wrongful discharge, misrepresentation, defamation, interference with prospective economic advantage, interference with contractual relationship, intentional and negligent infliction of emotional distress, negligence, and breach of the covenant of good faith and fair dealing. It is expressly agreed and understood that the release contained herein is a GENERAL RELEASE, but that you are not waiving or releasing any rights or claims that arise after the date that this Agreement is executed. The consideration given by the Employers in exchange for your General Release exceeds anything of value to which you otherwise were entitled in the absence of a waiver.

7. *General Release – Massachusetts Wage Act.* Not in limitation of the previous paragraph, by signing this Agreement, you agree and understand that you are waiving, relinquishing and releasing any and all claims or rights that you have or may have against the Employers arising under the Massachusetts Wage Act, G.L. c. 149, § 148, and/or its federal law equivalent. You are not, however, waiving any rights or claims that may arise after the execution of this Agreement. You specifically acknowledge that this waiver and release releases the Employers from liability to you for any alleged violation of the Massachusetts Wage Act and/or its federal law equivalent to the date of this Agreement.

8. *General Release – EEOC, MCAD and Claims for Reinstatement.* With respect to the rights and claims that you are waiving, you are waiving not only your right to recover in any action that you might commence, but also your right to recover in any action brought on your behalf by any other party, including, but not limited to, the U.S. Equal Employment Opportunity Commission, or any other federal, state or local governmental agency or department. Nothing in this Agreement shall be construed to affect the rights and responsibilities of the Equal Employment Opportunity Commission (“EEOC”) and the Massachusetts Commission Against Discrimination (“MCAD”) to enforce the anti-discrimination laws. Also, nothing in this Agreement may be used to justify interfering with the employee’s protected right to file a charge or participate in an investigation or proceeding conducted by the EEOC or MCAD. In addition, and not in limitation of the foregoing, you hereby forever release and discharge the Employers from any liability or obligation to reinstate or reemploy you in any capacity.

9. *Confidentiality.* The Parties agree to keep confidential all negotiations leading up to execution of the Agreement, including without limitation all communications and documents exchanged in connection therewith, except for your spouse, attorney, or as required by regulatory inquiry, law, or court order. You acknowledge and agree that you have been the recipient of confidential and proprietary business information concerning the Employers, including without limitation past, present, planned or considered business activities of the Employers, and agree that you will not use your knowledge of such information or disclose such confidential and proprietary information for any purposes whatsoever, except as may be expressly permitted in a writing signed by the Employers, or as may be required by regulatory inquiry, law, or court order. You understand that nothing contained in this Agreement limits your ability to file a charge or complaint with the United States Securities and Exchange Commission (“SEC”) and this Agreement does not limit your right to receive an award for information provided to the SEC.

10. *Cooperation.* You hereby represent and warrant that you have returned documents and other property of the Employers. You further agree (i) to cooperate with the Employers to the extent that your knowledge of facts concerning the Employers’ business is required to respond to any governmental or regulatory inquiry, or in connection with any court, administrative proceeding, or investigation related to matters that took place during the term of your employment, and (ii) to furnish such information and assistance to the Employers as may reasonably be required by the Employers in connection with any litigation in which it or any of its subsidiaries or affiliates is, or may become, a party. The Employers will reimburse you for your reasonable expenses incurred in complying this section.

11. *Mutual Non-Disparagement.* The Parties agree not to make any disparaging statements concerning the other party which would reasonably be expected to affect adversely the reputation or goodwill of the other party. With respect to the Employers, you acknowledge such non-disparagement obligations and protections extend to the Bank, the Company, its affiliates and current or former officers, directors, employees or agents. The Employers hereby acknowledge that the Employers’ obligation under this provision extends to senior and executive management. The provisions of this term of the Agreement shall not apply to any truthful statement required to be made by you or the Employers in any legal proceeding or in connection with any governmental or regulatory investigation.

12. *One Year Non-Solicitation of Employees and Customers.* You hereby covenant and agree that, for a period of one year following the Resignation Date, you shall not, without the written consent of the Employers, either directly or indirectly:

- (a) solicit, encourage or attempt to persuade or cause any officer or employee of the Employers or any of their respective affiliates to terminate his or her employment and accept employment or become affiliated with, or provide services for compensation in any capacity whatsoever to, any firm, corporation, entity or enterprise that competes with the business of the Employers; or

(b) solicit, provide any information, advice or recommendation or take any other action intended (or that a reasonable person acting in like circumstances would expect) to have the effect of causing any customer of the Employers or any of their respective affiliates to terminate an existing business or commercial relationship with the Employers or any of their respective affiliates or transfer some or all of such customer's business or relationships with the Employers or any of their respective affiliates; provided further, that it is expressly understood and acknowledged that this paragraph shall not prevent any customer of the Employers or any of their respective affiliates from voluntarily electing to transfer its business or relationships so long as you have not in any way solicited, provided any information, advised, consulted, recommended or taken any action to encourage such customer to do so.

13. *One Year Non-Competition Restriction.* For a period of one (1) full year after the Resignation Date, you hereby covenant and agree that you will not directly or indirectly (i) engage in, assist, or conduct any business that is the same as or in any way competes with, the business of the Employers or any of their respective subsidiaries and affiliates, in any city, town or county in which either Employer or any of their respective subsidiaries and affiliates has an administrative office, lending office or retail branch operation, or (ii) participate in, have an interest in, or affiliate with in any capacity (including as a partner, shareholder, member, employee, principal, agent, trustee or consultant) any general or limited partnership, corporation, limited liability company, firm, association or other legal entity that engages, directly or indirectly, in any business that is the same as or in any way competes with, the business of the Employers; provided, however, you may request a waiver from the Employers with respect to the limitations of this Paragraph 13 on a case by case basis at any time, and the Employers hereby agree that such written approval of such request shall not be unreasonably withheld. Notwithstanding the foregoing, the Employers reserve the right to elect not to approve such request for waiver of the limitations herein within its sole discretion if the proposed employing entity is an FDIC insured depository institution. You hereby acknowledge and agree that you have been advised to consult a lawyer prior to signing this Agreement and that you have received adequate consideration in exchange for this restriction which is above and beyond any compensation otherwise owed to you. If, for any reason, any provision of this Paragraph 13 of this Agreement is held invalid, the restrictions in this Paragraph 13 shall be modified, by the minimum amount necessary, such that the remaining provisions are consistent with law and continue in full force and effect. You acknowledge that mutually agreed upon consideration exists to support the non-competition restrictions in the Agreement and that you have been afforded up to seven (7) business days to revoke your acceptance in writing.

14. *Period for Review and Revocation.* You acknowledge that you will have twenty-one (21) days from your receipt hereof in which to review this Agreement and consider whether or not it is in your best interest to accept this offer and sign this Agreement. Furthermore, you may rescind this Agreement within seven days of the day you sign it, after which time, if not rescinded, this Agreement becomes irrevocable. Prior to executing this Agreement, the Employers advise you to **consult with an attorney before signing this Agreement**. By signing this Agreement, you represent that you have carefully read this document, that you understand it, and that you have had an opportunity to consult with and review this Agreement with an attorney of your choice. You also represent that you know and understand the contents of this Agreement; including its final and binding effect on your rights and duties, and that you freely and voluntarily assent to all the terms and conditions with the full intent of releasing the Employers from all claims. You represent that the only consideration for signing this Agreement are the terms stated herein; that no other promises, representations or agreements of any kind have been made to or with you to cause you to sign this Agreement. You represent that your releases, waivers, representations, warranties, undertakings, obligations and agreements set for the herein are in exchange for extra consideration to which you would not have been entitled in the absence thereof. You further acknowledge and agree that the Employers are not undertaking to advise you with respect to any tax consequences of this Agreement and that you are solely responsible for determining those consequences.



15. *Period for Rescission.* This Agreement shall become effective and enforceable the eighth day after you have executed the document and delivered it to the Company. You understand that you have the right to revoke and rescind this Agreement at any time within that period. If you choose to rescind, this Agreement may only be rescinded in its entirety. Once rescinded, no provision of this Agreement shall be enforceable.

16. *Additional Consideration.* You acknowledge that the payments and benefits described in this Agreement constitute a special separation benefit which the Employers are providing in its discretion due to your unique circumstances and that you are not otherwise entitled to receive this entire separation package from the Employers.

17. *Headings.* The headings set forth at the beginning of any paragraph of this Agreement are for the convenience of the Parties and are not part of the substantive terms of this Agreement. No headings shall be deemed to qualify, limit or modify the substantive terms of this Agreement in any respect.

18. *Entire Agreement.* The Parties to this Agreement mutually agree and specifically acknowledge that we are entering into this Agreement for the purpose of amicably resolving any and all issues relating to the conclusion of, or any other matter related to your employment with the Employers. This Agreement supersedes any previous agreement, whether written or oral, that you may have had with the Employers and any other agreement is merged into and extinguished by this Agreement. This Agreement shall not be deemed an admission by the Employers of a violation of any statute or law or wrongdoing of any kind.

19. *Governing Law.* The terms of this Agreement are contractual in nature and not a mere recital, and it shall take effect as a sealed document. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, without reference to conflict of law rules, and this Agreement shall be deemed to be executed and performed in Massachusetts.

20. *Arbitration of all Disputes.* Any dispute or controversy arising under or in connection with this Agreement shall be settled exclusively by arbitration, conducted before a panel of three arbitrators sitting in Boston, Massachusetts, in accordance with the Commercial Rules of the American Arbitration Association then in effect. Judgment may be entered on the arbitrators' award in any court having jurisdiction. The above notwithstanding, the Employers may seek injunctive relief in a court of competent jurisdiction in Massachusetts to restrain any breach or threatened breach of any provision of this Agreement, including without limitation paragraphs 9, 12 and 13 above, without prejudice to any other rights or remedies that may otherwise be available to the Employers.

21. *Savings Clause.* If any provision of this Agreement is determined to be void or unenforceable, the remaining provisions of this Agreement will remain in full force and effect

22. *Clawback.* The Employers, or their respective successors or assigns, shall retain the legal right to demand the return of any payments made to you under the Agreement as may be required by any federal or state regulators of the Company or the Bank, within applicable regulatory time periods. You further agree that the confidentiality, non-disparagement, non-solicitation and non-competition obligations set forth in Paragraphs 9, 11, 12 and 13 of the Agreement are material terms of the Agreement. If the Employers establish a breach of any provision of this Agreement, you acknowledge and agree that the Employers shall be entitled to recover from you the full amount paid, and to not pay amounts to be paid, to you, as well as all reasonable attorney's fees and costs incurred by the Employers in a successful proceeding to enforce the Agreement. You shall be entitled to recover from the Employers all reasonable attorneys' fees and costs incurred by you in a successful proceeding to enforce the Agreement. Before bringing a proceeding alleging your breach of Paragraphs 9, 11, 12 and/or 13 of the Agreement, the Employers must provide written notice to you of their belief that such breach occurred

within 30 days of the Employers' knowledge of the existence of the conditions giving rise to such belief, and the notice shall describe the conditions believed to constitute a breach. You shall have 30 days to respond to such notice and, if practicable, to remedy such conditions.

23. *Execution in Counterparts.* This Agreement may be executed in counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument. Facsimile or electronically transmitted (*e.g.*, “.pdf”) signatures shall have the same binding force and effect as original signatures.

24. *No Presumption.* The Parties agree that this Agreement was negotiated fairly between them at arms' length and that the final terms of this Agreement are the product of the parties' negotiations. Each party represents and warrants that it has sought and received legal counsel of his/its own choosing with regard to the contents of this Agreement and the rights and obligations affected hereby. The Parties agree that this Agreement shall be deemed to have been jointly and equally drafted by them, and that the provisions of this Agreement therefore should not be construed against any party on the grounds that it was more responsible for drafting the provisions.

25. *Modification.* Any amendment or modification of this Agreement must be in writing and signed by duly authorized representatives of each of the parties. Any modification or amendment not made in this manner shall have no force or effect.

26. *Binding on Successors.* This Agreement will inure to the benefit of the Company, Bank and any successors and assigns. Any successor of the Company or Bank will continue the terms and conditions of this Agreement. You may not assign your rights, duties or obligations under this Agreement.

[The remainder of this page is left blank intentionally.]

[See next page for signatures.]

If you are in agreement with the terms set forth above, please indicate by executing a copy of this Agreement and returning it to me.

BERKSHIRE HILLS BANCORP, INC.

By: /s/ Richard M. Marotta  
Richard M. Marotta, President and Chief Executive Officer

BERKSHIRE BANK

By: /s/ Richard M. Marotta  
Richard M. Marotta, Chief Executive Officer

I understand and agree completely to the foregoing as of March 15, 2019

/s/ Linda A. Johnston  
Linda A. Johnston

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## **Section 3: EX-10.1 (CONSULTING AGREEMENT DATED MARCH 15, 2019)**

**EXHIBIT 10.2**

EXECUTION VERSION

### **CONSULTING AGREEMENT**

This Consulting Agreement (“**Agreement**”) is entered into by and between Linda A. Johnston (“**you**”) and Berkshire Bank (the “**Bank**”) on March 15, 2019 (the “**Effective Date**”). For purposes of this Agreement, the term “**Bank**” shall also include the Bank’s successors, and all of their respective parent companies, subsidiaries, affiliates, officers, directors, employees and agents.

**WHEREAS**, Linda A. Johnston, the Senior Executive Vice President, Chief Human Resources Officer of Berkshire Hills Bancorp, Inc. and the Bank, informed the Bank of her intention to resign her employment on March 15, 2019 and that she is willing to remain employed with the Bank through April 1, 2019; and

**WHEREAS**, in recognition of Ms. Johnston’s valuable contributions to the Bank’s success and her key institutional knowledge, it is in the best interest of the Bank to obtain Ms. Johnston’s agreement to provide consulting services for fourteen (14) months following her resignation.

**NOW, THEREFORE**, in consideration of the mutual covenants and other good and valuable consideration described herein, the parties agree as follows:

1. **Consulting Services.** You agree to make yourself available to provide consulting services as are reasonably requested by the Bank. Such consulting services shall not exceed twenty (20) hours per week and may be provided by telephone. You agree to devote such time and attention to your duties hereunder in a professional and competent manner and to use your best efforts to perform the consulting services to the Bank pursuant to this Agreement. You are not hereby granted nor will you have any authority, apparent or otherwise, to bind or commit the Bank.

2. **Consulting Fees.** Upon your timely execution of this Agreement and in exchange for your full compliance with this

Agreement and in honoring the commitments undertaken herein, the Bank agrees to pay you an aggregate total of \$415,000, payable in equal monthly installments over fourteen (14) months (the “**Consulting Term**”), with the first payment made on the Bank’s next regularly scheduled pay date after the Effective Date. In addition, the Bank will continue to provide you with your cellphone (and telephone number), which you have as of the date of this Agreement, at no cost to you, during the Consulting Term, provided you continue to provide consulting services during the Consulting Term, and thereafter, you may continue to use the cellphone (and telephone number), at your expense. You acknowledge and agree that you will not be eligible for any additional compensation under this Agreement after the expiration of the Consulting Term. You understand that, in order to be eligible for the payments described in this Section 2, you must be in full compliance with the obligations in Section 1 of this Agreement.

3. **Termination of Agreement and Death.** If the Bank terminates your consulting services under this Agreement prior to the expiration of the Consulting Term or upon the occurrence of your death during the Consulting Term, the Bank shall continue to pay you or your beneficiary, as applicable, the payments specified in Section 2 of this Agreement and pursuant to the same payment schedule specified in Section 2 of this Agreement (e.g., equal monthly

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installments). If you voluntarily elect to cease providing consulting services prior to the end of the Consulting Term, you will not be entitled to any continued payments after your last day of service as a consultant.

4. **Tax Liability:** You understand that the Bank shall issue an IRS Form 1099-Misc. for the payments specified in Section 2 of this Agreement.

5. **Governing Law and Jurisdiction.** This Agreement shall be governed and conformed in accordance with the laws of the Commonwealth of Massachusetts without regard to its conflict of laws provision.

6. **Entire Agreement.** This Agreement represents the entire understanding of both you and the Bank with respect to the subject matter hereof and supersedes all prior understandings, written, or oral. For purposes of clarity, the Resignation, Separation Agreement and Full and Final Release of Claims entered into between Berkshire Hills Bancorp, Inc., Bank and yourself, dated as of March 15, 2019 (the "**Resignation Agreement**"), will continue in full force and effect and nothing paid under this Agreement will be deemed to be in lieu of any compensation to which you are entitled under such Resignation Agreement.

7. **Counterparts.** This Agreement may be signed in counterparts, and all of the counterpart copies shall be treated as a single agreement.

8. **Assignment; Modification of Agreement.** This Agreement will inure to the benefit of the Bank and any successors and assigns. Any successor of the Bank will continue the terms and conditions of this Agreement. You may not assign your rights, duties or obligations under this Agreement. None of the terms of this Agreement may be changed or modified except in a writing signed by both you and the Bank.

9. **Required Regulatory Provision.** This agreement and any severance payment hereunder shall be subject to the requirements of Section 18(k) of the Federal Deposit Insurance Act, 12 U.S.C. § 1828(k) and the FDIC's Golden Parachute Regulation, 12 C.F.R. Part 359.

10. **Independent Contractor; No Agency.** You will be an independent contractor under this Agreement. Nothing in this Agreement shall create the relationship of partners or employer and employee between the parties hereto. You will not be an agent of the Bank and you will not have the right to employ or contract with any other person or entity for or on behalf of the Bank. The Bank shall not be liable for any act or omission while you are performing any service. As an independent contractor, you acknowledge and agree that you alone are responsible for acts or omissions, including any property damage.

11. **No Employee Benefits.** You acknowledge and agree that neither you nor anyone acting on your behalf shall receive any employee benefits of any kind (including, without limitation, health, sickness, accident or dental coverage, life insurance, disability benefits, accidental death and dismemberment coverage, unemployment insurance coverage, workers' compensation coverage, and pension or 401(k) benefit(s)) from the Bank except as provided in the Resignation Agreement. You shall be expressly excluded from participating in any employee

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benefit plans or programs as a result of the performance of services under this Agreement and without regard to your independent contractor status.

**PLEASE INDICATE YOUR ACCEPTANCE OF THIS AGREEMENT BY SIGNING THE FOLLOWING PAGE.**

[Signature Page to Follow]

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**IN WITNESS WHEREOF**, the parties hereto have duly executed this Agreement as of the day and year first written above.

**CONSULTANT**

/s/ Linda A. Johnston  
Linda A. Johnston

**BERKSHIRE BANK**

By: /s/ Richard M. Marotta  
Richard M. Marotta, Chief Executive Officer

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