INDEX

Upper Darby Township Council Meeting

July 18th, 2018

Call of the meeting 269

Roll call 269

Approval of the Minutes for the Council Meeting of June 20th, 2018 269

Public Forum 269-270

Mayor Micozzie

Mayor’s announcement of Upper Darby Economic Committee 270

Motion approved to appoint Committee Members 271

Discussion about upcoming meeting to discuss planning strategies to assist residents with ideas to combat violence 271

Discussion of lighting at 2nd Ward Playground 271

Discussion of RC-1 designation at St. Eugene’s 271

Committee Reports

Public Safety Committee
Jacob A. Bierling Jr., Chairman

Resolution No. 29-18, a Resolution to re-install parking meter numbers 271

406 & 411 that are situated on the 800 block of Garrett Road 274

Adoption of Resolution No. 29-18 271

Resolution No. 30-18, a Resolution to remove the “2-hour parking restriction from 9am to 5pm Monday through Friday” from the 500 block of Kenwood Road 275

Motion to TABLE Resolution No. 30-18 indefinitely 271
Index
Page 2

Resolution No. 35-18, a Resolution to establish “No Parking of Trucks or Commercial Vehicles” on Sansom Street between Glencoe Road and Powell Lane
Adoption of Resolution No. 35-18

Finance and Appropriations Committee
Thomas P. Wagner, Chairman

Resolution No. 31-18, a Resolution of Upper Darby Township, Delaware County, Pennsylvania authorizing the Mayor to sign an inter-municipal cooperative agreement with the County of Delaware, which will allow the Upper Darby Police Department to participate and receive funds from the United States Department of Justice’s 2018 Edward Byrne Memorial Grant Program
Adoption of Resolution No. 31-18

Resolution No. 32-18, a Resolution of Upper Darby Township, Delaware County, Pennsylvania authorizing the Mayor to execute a conditional agreement of sale for the Township’s purchase of 6.6401 acres of property located at 200 Oak Lane, Upper Darby Township and further identified as a portion of the property identified as Delaware County Tax Folio Number 16-13-02573-00 from the Archdiocese of Philadelphia
Adoption of Resolution No. 32-18

Planning, Zoning & Building Code Committee
Jacob A. Bierling Jr., Chairman

Resolution No. 33-18, a Resolution of Upper Darby Township, Delaware County, Pennsylvania approving the application of JT Brewski’s to further develop .6 acres with an outdoor patio on the west side of Oak Avenue approximately 800 feet north of Providence Road and being subject to certain conditions of approval
Adoption of Resolution No. 33-18

Resolution No. 34-18, a Resolution of Upper Darby Township, regarding the 44th year Community Development Program, 5-Year Consolidated Plan and Citizen Participation

272
272
272
272
272
272
272
272
273
316-317
273
318-319
Adoption of Resolution No. 34-18 273
Solicitor 273
Adjournment 273
A regular meeting of Upper Darby Township Council was held on Wednesday evening, July 18th, 2018 at 7:00 p.m. in the Council Meeting Room #202 of the Municipal Building, 100 Garrett Road, Upper Darby, Pennsylvania.

The meeting was called to order by Council President Donald P. Bonnett with the Pledge of Allegiance to the flag of the United States of America.

**Roll Call**

**Council Members Present:**

Donald P. Bonnett, Thomas P. Wagner, Jacob A. Bierling Jr., Sekela Coles, Robert Gwin, Barbarann Keffer, Marc Manfre, Lisa Faraglia, Sheikh Siddique, Patrick Spellman, Laura Wentz

**Present at the Meeting**

Thomas N. Micozzie, Mayor
Thomas J. Judge Jr., CAO
Kelly Sullivan, Esq., Solicitor
Richard G. Nolan, Chief Municipal Clerk

**Approval of the Minutes**

Mr. Bonnett: A motion would be in order for the approval of the minutes for the Regular Meeting on June 20th, 2018.

Moved: Mr. Wagner

Second: Ms. Faraglia

**Minutes were approved. 11 in favor, none opposed.**

**Public Forum**

Ed Bradley, 1213 Morgan Avenue
Dead tree

Peg Wilson, 824 Drexel Avenue
Sunshine Act

Gerald Harrison, 29 S. Kirklyn Ave
Bus stop clean up
Myron McNeely, 7116 Hilltop Road

Olivia Taylor, 204 Kent Road
6th Ward

Dayjah King, 7127 Guilford Road
PAL Gym

Marcia Coleman, 534 Kenwood Road
Resolution No. 30-18

John Abe, 529 Kenwood Road
Resolution No. 30-18

Mark Merluzzi, 538 Kenwood Road
Resolution No. 30-18

Leah Gilbert, 537 Kenwood Road
Resolution No. 30-18

Geraldine Goldman, 102 Hampden Road
Abandoned vehicles/No Parking sign

Bonnie Hallam, 4719 Woodland Avenue

Richard Blye, 274 Kent Road
Re-cap of last meeting

Their comments are filed on audio tape.

**Mayor Micozzie**

*Mayor’s Announcement of Upper Darby Economic Development Committee*

*Members include:*

*Patrice Banks, Owner and President of Girls Auto Clinic*
*Robert Bond, M.B.A., Advanced Data Analyst for Fox Rehabilitation*
*Paul deBotton, President of National Realty Corporation*
*Portia Kamara, Executive Director & Founder of Multicultural Community Family Services*
*John McCreesh III, Esquire, prominent lawyer with private practice in UDT*
*Bill Santora, CEO of A&E Construction, main headquarters located on Garrett Road in UDT*
*Terry Tracey, President & CEO of Endeavor Athletics, LLC*
Mayor Micozzi submitted the above names to Council for approval.

Moved: Councilman Wagner
Second: Councilman Bierling

Motion approved; 10 in favor, 1 opposed.

Mayor Micozzi commented on the recent tragic homicide shootings in the Township and asked for support for the upcoming meeting with community leaders to discuss planning strategies to assist residents with ideas to combat violence, after which a meeting with the community will take place.

Mayor Micozzi discussed the lighting at the 2nd Ward Playground. Residents had requested that the lights be taken down due to activity at night including inappropriate language which prevented them from sleeping. If the residents petition the Council to put the lights back up, the Council will consider that action.

Mayor Micozzi discussed the RC-1 designation at St. Eugene's and the requirement of open space between Bishop Avenue, Baltimore Pike and the railroad.

Committee Reports

Public Safety Committee
Jacob A. Bierling Jr., Chairman

Resolution No. 29-18, a Resolution to re-install parking meter numbers 406 & 411 that are situated on the 800 block of Garrett Road

Moved: Councilman Bierling
Second: Councilman Gwin

Resolution 29-18 is adopted. 11 in favor, none opposed.

Resolution No. 30-18, a Resolution to remove the “2 hour parking restriction from 9am to 5pm Monday through Friday” from the 500 block of Kenwood Road

Motion to TABLE Resolution No. 30-18 indefinitely: Councilman Wagner
Second: Councilman Gwin

Resolution 30-18 is TABLED indefinitely. 11 in favor, none opposed.
Resolution No. 35-18, a Resolution to establish “No Parking of Trucks or Commercial Vehicles” on Sansom Street between Glencoe Road and Powell Lane

Moved: Councilman Bierling  
Second: Councilman Siddique

Resolution 35-18 is adopted. 11 in favor, none opposed.

Finance and Appropriations Committee  
Thomas P. Wagner, Chairman

Resolution No. 31-18, a Resolution of Upper Darby Township, Delaware County, Pennsylvania authorizing the Mayor to sign an inter-municipal cooperative agreement with the County of Delaware, which will allow the Upper Darby Police Department to participate and receive funds from the United States Department of Justice’s 2018 Edward Byrne Memorial Grant Program

Moved: Councilman Wagner  
Second: Councilman Bierling

Resolution 31-18 is adopted. 11 in favor, none opposed.

Resolution No. 32-18, a Resolution of Upper Darby Township, Delaware County, Pennsylvania authorizing the Mayor to execute a conditional agreement of sale for the Township’s purchase of 6.6401 acres of property located at 200 Oak Lane, Upper Darby Township and further identified as a portion of the property identified as Delaware County Tax Folio Number 16-13-02573-00 from the Archdiocese of Philadelphia

Moved: Councilman Wagner  
Second: Councilman Spellman

There was a question about when the Grants would be awarded and some discussion about the process.

Resolution 32-18 is adopted. 11 in favor, none opposed.
Planning, Zoning & Building Code Committee
Jacob A. Bierling Jr., Chairman

Resolution No. 33-18, a Resolution of Upper Darby Township, Delaware County, Pennsylvania approving the application of JT Brewski’s to further develop .6 acres with an outdoor patio on the west side of Oak Avenue approximately 800 feet north of Providence Road and being subject to certain conditions of approval

Moved: Councilman Bierling
Second: Councilman Spellman

Resolution 33-18 is adopted. 11 in favor, none opposed.

Resolution No. 34-18, a Resolution of Upper Darby Township regarding the 44th year Community Development Program, 5-Year Consolidated Plan and Citizen Participation Plan

Moved: Councilman Bierling
Second: Councilman Wagner

Resolution 34-18 is adopted. 11 in favor, none opposed.

Solicitor

Nothing to report

Adjournment

Motion to adjourn: Councilman Bierling; Second: Councilwoman Faraglia.

11 in favor, none opposed. Council President Bonnett adjourned the meeting.

Respectfully submitted,

Richard G. Nolan
Chief Municipal Clerk

RGN/akc
RESOLUTION NO. 29-18

WHEREAS, ORDINANCE NO. 482 OF THE TOWNSHIP OF UPPER DARBY, COMMONLY KNOWN AS "THE PARKING METER ORDINANCE" PROVIDES FOR INSTALLATION, OPERATION, MAINTENANCE, REGULATION AND CONTROL OF THE USE OF PARKING METERS AND IMPOSES PENALTIES FOR THE VIOLATION THEREOF:

NOW, THEREFORE, BE IT RESOLVED:

THAT ORDINANCE NO. 482 BE AND THE SAME IS HEREBY AMENDED AND SUPPLEMENTED BY THE FOLLOWING:

TO RE-INSTALL PARKING METER NO. 406 & 411 ON THE 800 BLOCK OF GARRETT ROAD, CORRECTING AN ERROR MADE IN PART WITH RESOLUTION 24-18

RESOLVED THIS 18TH DAY OF JULY, A.D., 2018.

UPPER DARBY TOWNSHIP

DONALD P. BONNETT
PRESIDENT OF COUNCIL

JACOB A. BIERLING JR.
SECRETARY OF COUNCIL

THOMAS N. MICOZZIE, MAYOR

THOMAS J. JUDGE JR.
CHIEF ADMINISTRATIVE OFFICER
RESOLUTION NO. 30-18

WHEREAS, ORDINANCE NO. 449 OF THE TOWNSHIP OF UPPER DARBY, PROHIBITS PARKING OF VEHICLES ON CERTAIN HIGHWAYS AND REGULATES THE PARKING OF VEHICLES ON CERTAIN HIGHWAYS AND IMPOSES PENALTIES FOR THE VIOLATION THEREOF:

NOW, THEREFORE, BE IT RESOLVED:

THAT ORDINANCE NO. 449 BE AND THE SAME IS HEREBY AMENDED AND SUPPLEMENTED SECTION 76 BY THE FOLLOWING:

REMOVE THE TWO (2) HOUR PARKING RESTRICTION FROM 9 AM TO 5 PM MONDAY THROUGH FRIDAY ON THE 500 BLOCK OF KENWOOD ROAD.

RESOLVED THIS 18TH DAY OF JULY, A.D., 2018.

UPPER DARBY TOWNSHIP

DONALD P. BONNEIT
PRESIDENT OF COUNCIL

ATTEST:
JACOB A. BIERLING JR.
SECRETARY OF COUNCIL

THOMAS N. MICOZZIE, MAYOR

ATTEST:
THOMAS J. JUDGE, JR.
CHIEF ADMINISTRATIVE OFFICER

Tabled
RESOLUTION NO. 35-18

WHEREAS, ORDINANCE NO. 449 OF THE TOWNSHIP OF UPPER DARBY PROHIBITS PARKING OF VEHICLES ON CERTAIN HIGHWAYS AND REGULATES THE PARKING OF VEHICLES ON CERTAIN HIGHWAYS AND IMPOSES PENALTIES FOR THE VIOLATION THEREOF:

NOW, THEREFORE, BE IT RESOLVED;

THAT ORDINANCE NO. 449 BE AND THE SAME IS HEREBY AMENDED AS FOLLOWS:

ESTABLISH "NO PARKING OF TRUCKS OR COMMERCIAL VEHICLES" AT THE FOLLOWING LOCATION:

ON SANSOM STREET BETWEEN GLENCOE ROAD & POWELL LANE

RESOLVED, THIS 18TH DAY OF JULY, A.D., 2018.

UPPER DARBY TOWNSHIP

DONALD P. BONNETT
PRESIDENT OF COUNCIL

JACOB A. BIERLING JR.
SECRETARY OF COUNCIL

THOMAS N. MICOZINE, MAYOR

THOMAS J. JUDGE, JR.,
CHIEF ADMINISTRATIVE OFFICER
UPPER DARBY TOWNSHIP

Resolution No. 31-18

A RESOLUTION OF UPPER DARBY TOWNSHIP, DELAWARE COUNTY PENNSYLVANIA AUTHORIZING THE MAYOR TO SIGN AN INTERMUNICIPAL COOPERATIVE AGREEMENT WITH THE COUNTY OF DELAWARE WHICH WILL ALLOW THE UPPER DARBY TOWNSHIP POLICE DEPARTMENT TO PARTICIPATE AND RECEIVE FUNDS FROM THE UNITED STATES DEPARTMENT OF JUSTICE'S 2018 EDWARD BYRNE MEMORIAL JUSTICE GRANT PROGRAM.

Whereas the township along with the City of Chester and the Borough of Darby, have been invited by the County of Delaware to participate in the 2018 Edward Byrne Memorial Justice assistance Grant program;

Whereas, by participating in this program, the Township would receive an award presently estimated to be in the amount of $xxxxx.

Whereas, the Council deems it in the Township's best interest to participate in this program, and to enter into an intermunicipal cooperation agreement in a form substantially similar to the attaché hereto as Exhibit A, in order to effectuate its participation.

Now, therefore, BE IT RESOLVED, that:

1. The Township shall participate in the 2018 Edward Byrne Memorial Justice Grant Program, as outlined above.

2. The Mayor is hereby authorized to execute any agreements he deems necessary or appropriate incident to the Township's participation in the 2018 Edward Byrne Memorial Justice Assistance Grant program, including, but not limited to, an intermunicipal cooperation agreement a form substantially similar to the attached hereto as Exhibit A.
3. All Resolutions or parts of Resolutions inconsistent herewith are repealed to the extent of such inconsistency.

Resolved this 18th day of July, 2018

UPPER DARBY TOWNSHIP

By: __________________________
    Donald P. Bonnett
    President of Council

Attest:
    Jacob A. Bierling, Jr.
    Secretary of Council

Resolution No. 31-18 is hereby approved this 18th day of July, 2018

______________________________
THOMAS N. MICOZZIE
Mayor

Attest:
    THOMAS P. JUDGE, JR.
    Chief Administrative Officer
UPPER DARBY TOWNSHIP
RESOLUTION NO. 32-18

A RESOLUTION OF UPPER DARBY TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA AUTHORIZING THE MAYOR TO EXECUTE A CONDITIONAL AGREEMENT OF SALE FOR THE TOWNSHIP’S PURCHASE OF 6.6401 ACRES OF PROPERTY LOCATED AT 200 OAK LANE, UPPER DARBY TOWNSHIP AND FURTHER IDENTIFIED AS A PORTION OF THE PROPERTY IDENTIFIED AS DELAWARE COUNTY TAX FOLIO NUMBER 16-13-02573-00 FROM THE ARCHDIOCESE OF PHILADELPHIA.

WHEREAS, the Archdiocese of Philadelphia owns the property located at 200 Oak Lane, Clifton Heights, Upper Darby Township, 19018 and further identified as Delaware County Tax Folio Number 16-13-02573-00 (the “Premises”); and

WHEREAS, the Archdiocese of Philadelphia intends to subdivide the Premises into three lots approximately as set forth in the Sketch Plan for St. Eugene’s Roman Catholic Church as prepared by H. Gilroy Damon Associates, Inc. dated January 30, 2018;

WHEREAS, the above referenced subdivision plan would create an approximate 6.6401 acre parcel identified as Parcel No. 2 on the Plan and the Township desires to purchase the identified 6.6401 acre Parcel No. 2; and

WHEREAS, the Township has negotiated a Conditional Agreement of Sale for the purchase of the aforementioned 6.6401 acre Parcel No. 2 which is attached hereto as Exhibit A.

NOW, THEREFORE, be it resolved as follows:

1. The Township is hereby authorized to execute the Conditional Agreement of Sale for the purchase of 6.6401 acres of land from the Archdiocese of Philadelphia, subject to the terms as set forth in the Conditional Agreement of Sale attached hereto as Exhibit A, including but not limited to the Township’s receipt of Grant Funding as identified in the Agreement and Township Council enacting an appropriate Ordinance authorizing the purchase prior to Closing under the Conditional Agreement of Sale.

2. The Mayor, or his designee, is hereby empowered to take all actions and execute all documents which he deems necessary or convenient toward achieving the Conditions set forth in the Conditional Agreement of Sale.

3. All Resolutions or parts of Resolutions inconsistent herewith are hereby repealed to the extent of such inconsistency.
RESOLVED this 18th day of July, 2018.

TOWNSHIP OF UPPER DARBY

BY: DONALD P. BONNETT
   President of Council

ATTEST: JACOB A. BIERLING JR.
         Secretary of Council

APPROVED: THOMAS N. MICOZZIE
          Mayor

ATTEST: THOMAS J. JUDGE JR.
        Chief Administrative Officer
AGREEMENT OF SALE

This AGREEMENT OF SALE is made this ___________ day of ___________, 2017, by and between REV. JOSEPH M. MCDERMOTT, PASTOR OF SAINT EUGENE PARISH, SOLELY AS PASTOR AND NOT IN HIS PRIVATE OR INDIVIDUAL CAPACITY ACTING HEREBIN WITH THE PERMISSION OF MOST REVEREND CHARLES J. CHAPUT, O.F.M. CAP, IN HIS CAPACITY AS ARCHBISHOP OF PHILADELPHIA AND NOT IN HIS PERSONAL OR INDIVIDUAL CAPACITY BY HIS AGENT REVEREND MONSIGNOR DANIEL J. KUTYS, ATTORNEY-IN-FACT BY POWER OF ATTORNEY DATED JULY 3, 2012 AND RECORDED ON JULY 12, 2012 IN BOOK 5147, PAGE 2183, with an address of 200 Oak Lane, Clifton Heights, PA 19018 ("Seller") and UPPER DARBY TOWNSHIP, with an address of 100 Garrett Road, Upper Darby, PA 19082 ("Buyer").

WITNESSETH:

WHEREAS, Seller is the owner of certain real estate located in Township of Upper Darby, Delaware County, Pennsylvania, being folio number 16-13-02573-00 (the “Overall Parcel”); and

WHEREAS, the Overall Parcel consists of approximately 12.9 acres in, all as collectively more particularly described in Exhibit “A” attached hereto and made a part hereof; and

WHEREAS, the parties hereto desire to obtain subdivision of the Overall Parcel into three (3) lots approximately as set forth in the Sketch Plan for St. Eugene’s Roman Catholic Church prepared by H. Gilroy Damon Associates, Inc. dated January 30, 2018 attached hereto as Exhibit “B” and incorporated herein by reference hereto (the “Sketch Plan”); and

WHEREAS, Seller desires to sell a portion of the Overall Parcel to Buyer, and Buyer desires to purchase from Seller a portion of the Overall Parcel, being that portion of the Overall Parcel designated as “Parcel No. 2” on the Sketch Plan consisting of approximately 6.6401 acres +/- (“Parcel No. 2”) upon the terms set forth herein; and

WHEREAS, Seller intends to retain ownership of portions of the Overall Parcel following subdivision, being those portions of the Overall Parcel designated as “Parcel No. 1” on the Sketch Plan consisting of approximately 4.2733 acres +/- (“Parcel No. 1”) and as “Parcel No. 3” on the Sketch Plan consisting of approximately 1.5584 acres +/- (“Parcel No. 3”).

NOW, THEREFORE, in recognition of the above recitals, incorporated herein by reference hereto, and the premises, the respective representations, warranties, covenants, agreements, and conditions herein contained, and other good and valuable consideration, and intending to be legally bound hereby, Buyer and Seller agree as follows:
ARTICLE I
DEFINITIONS AND REFERENCES

1.01 Definitions. Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in this Section:

"Business Day(s)" mean(s) any "Day" other than a Saturday, Sunday, or legal holiday on which Buyer's offices in Chester, PA are not open for usual business.

"Day(s)" mean(s), except for "Business Days," the term "Day(s)" shall mean calendar days, provided, however, that in the event any time period set forth herein expires on a Day other than a Business Day, the term Day(s) shall mean the following Business Day.

"Encumbrance(s)" means any security interests, mortgages, deeds of trusts, liens (including mechanic's, materialmen's, broker's and property manager's liens), hypothecations or similar encumbrances of any kind, leases, licenses, occupancy agreements and other rights of possession and use, rights of first refusal, options, and purchase agreements.

"Laws and Regulations" means all laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of all governments and governmental agencies or quasi-governmental agencies or entities of competent jurisdiction affecting or relating to any person, entity, property or matter in question.

"Property" means, subject to adjustment as provided in Section 8.01(d), Parcel No. 2, as set forth in Exhibit "A hereto, attached hereto and incorporated herein by reference hereto.

"Title Company" means ____________________________

1.02 References. Except as otherwise specifically indicated, all references to Section and Subsection numbers refer to Sections and Subsections of this Agreement, and all references to Exhibits refer to the Exhibits attached hereto, which are hereby made a part hereof, and incorporated herein by reference. The words "hereby," "hereof," "hereto," "hereunder," "hereinafter," "herein," and words of similar import refer to this Agreement as a whole and not to any particular Section or Subsection hereof. The word "hereaft er" shall mean after, and the term "heretofore" shall mean before, the date of this Agreement. The word "including" shall mean "including, without limitation". Captions and Headings used herein are for convenience only and shall not be used to construe the meaning of any part of this Agreement.

ARTICLE II
PURCHASE AND SALE

2.01 Agreement to Purchase and Sell. On and subject to the terms and conditions set forth in this Agreement, at the Closing, Seller hereby agrees to sell, grant, transfer, convey, assign, and deliver to Buyer, and Buyer hereby agrees to purchase from Seller fee simple title to the Property.
ARTICLE III
PURCHASE PRICE

3.01 Purchase Price Parcel No. 2. The purchase price to be paid by Buyer to Seller for the purchase of fee simple title to the Parcel No. 2 shall be Six Hundred Thousand Dollars ($600,000.00) (the "Purchase Price"), which shall be payable by Buyer as follows:

(a) At the Parcel No. 2 Closing, Buyer shall pay to Seller by wire transfer of immediately available funds the Parcel No. 2 Purchase Price, plus or minus any prorations or adjustments as provided herein.

3.02 Deposits. N/A. ("Earnest Money Deposit").

ARTICLE IV
DUE DILIGENCE

4.01 Title and Survey.

(a) Within sixty (60) Days of the date of this Agreement first written above (the "Effective Date"), Buyer may procure (i) a binding commitment from the Title Company to issue an owner’s policy (or policies) of title insurance on the Property in an amount equal to the Purchase Price, which shall show all matters affecting title to the Property (together with copies of the documents referenced therein, the "Title Commitment"), and (ii) a survey of the Property prepared by a surveyor duly licensed by the appropriate licensing body for the Commonwealth of Pennsylvania (the "Survey").

(b) In the event that either the Title Commitment or the Survey discloses any matters, other than the Permitted Exceptions (hereinafter defined), that negatively affect the marketability or insurability of the Property or Buyer’s ability to use the Property for its intended purpose (the "Title Exceptions"), then within twenty (20) Days of Buyer’s receipt of the Title Commitment or the Survey, as the case may be, Buyer shall provide to Seller written notice of Buyer’s objection to any such Title Exceptions (the "Title Objections"). If Buyer fails to notify Seller of its objection to any Title Exceptions within said 20-day period then all Title Exceptions not objected to within said 20-day period shall conclusively presumed to be waived by Buyer. Buyer shall not be entitled to object to the following (the "Permitted Exceptions"): (i) the general exceptions contained in the Title Commitment, (ii) any Title Exceptions disclosed herein, including in any Exhibits attached hereto, (iii) Title Exceptions pertaining to Encumbrances of a definite or ascertainable amount which may be removed by the payment of money at the time of Closing and which the Seller may so remove at that time by using the funds to be paid upon the delivery of the Deed, or (iv) any liens or matters caused by Buyer, its agents or contractors.

(c) In the event Buyer notifies Seller of any Title Objections as set forth above, Seller shall have twenty (20) Days from its receipt of the Title Objections to have the Title Objections removed from the Title Commitment or the Survey, as the case may be, or to have the Title Company or another reputable title insurance company or agent (and, in the event such other title insurance company or agent is to issue title insurance, it shall be deemed to be the "Title Company" as defined herein) commit to insure against loss or damage that may be occasioned by
such Title Objections, and, in such event, the time of Closing shall be the later of: (i) the date five (5) days following the date on which Seller notifies Buyer that the Title Objections have been cured or that the Title Company or another reputable title insurance company has agreed to insure over the Title Objections, or (ii) the date of Closing as set forth in Section 9.01 below. If Seller fails to have the Title Objections cured or to obtain the commitment for title insurance specified above as to such Title Objections within the specified time, Buyer may (i) terminate this contract or (ii) upon notice to Seller within ten (10) Days after the expiration of the 20-day period, to take title as it then is with the right to deduct from the Purchase Price Encumbrances of a definite or ascertainable amount. If Buyer does not so elect, this contract shall become null and void without further action of the parties.

4.02 Other Due Diligence.

(a) From the Effective Date to 11:59 pm on the date that is one hundred eighty (180) Days after the Effective Date (the “Initial Due Diligence Period”, and together with any extension(s) thereof provided hereunder, the “Due Diligence Period”), upon and subject to the terms and conditions herein, Buyer, its principals, employees, agents, representatives, and consultants may conduct the investigations set forth herein with regard to the Property, all at Buyer’s cost and expense (the “Due Diligence”).

(i) Environmental. A Phase I and/or Phase II environmental site assessment of the Property (“ESA”), provided that the following terms shall apply: (a) the firm engaged to conduct the ESA (the “ESA Firm”) and the scope of the ESA shall be acceptable to Buyer in its sole discretion; (b) the ESA Firm shall provide to Seller a draft of any report it intends to issue with respect to the Property prior to issuing the final report, and permit Seller to comment on the contents of the report; (c) Buyer shall provide a copy of any and all reports prepared based on the ESA to Seller within ten (10) Days of Buyer’s receipt of the same; and (d) in the event the Closing does not occur, the report and all work papers and other materials utilized in the preparation of the report shall be held by Buyer and the ESA Firm in strict confidence, subject to Buyer’s obligation to disclose same to any third party pursuant to the Pennsylvania Right-To-Know Law, 65 P.S. §67.101 et seq. Buyer may disclose any such information to any third party where necessary to comply with the Pennsylvania Right-To-Know Law, 65 P.S. §67.101 et seq.

(ii) Permits. Investigation regarding whether the Property has been issued or can be issued the appropriate permits, licenses, consents, or other approvals for the Buyer’s intended use of the Property.

(iii) Zoning. Investigation regarding the Property’s zoning for its current and intended uses.

(iv) Improvements. Examination of the physical structures and components of the Improvements including, without limitation, the life safety systems, electrical, mechanical and HVAC systems.

(b) Extension. Provided that Buyer is not in default of its obligations hereunder, Buyer shall be entitled to extend the Due Diligence Period for two (2) additional ninety (90) Day
periods by providing, for each such extension, on or before the Day preceding the expiration of
then-current term of the Due Diligence Period, to Seller, written notice of such extension.

(c) **Termination.** In the event that the results of any of Buyer's Due Diligence
investigations are unsatisfactory as provided above, then, within the time period set forth in the
applicable section hereof, but in no event later than the end of the Due Diligence Period, Buyer
may terminate this Agreement by providing written notice of such termination to Seller.

4.03 **Terms of Due Diligence.**

(a) Seller shall reasonably cooperate with Buyer in arranging and carrying out its Due
Diligence.

(b) Buyer shall conduct its Due Diligence in accordance with the following:

(i) Buyer, its employees, agents, representatives, and contractors shall be
permitted to enter onto the Property only during normal business hours, and only upon at least
one (1) Business Day's notice to Seller;

(ii) all investigations shall be conducted in a manner which will not
unreasonably disrupt business operations on the Property;

(iii) Seller shall be entitled to require that at any time Buyer, its employees,
agents, representatives, and contractors, shall enter upon the Property, they shall be accompanied
by a representative of the Seller at all times, and Seller agrees to use its reasonable efforts to
ensure such representative shall be available during normal business hours upon at least one (1)
Business Day's notice to Seller;

(iv) if Buyer desires to do any invasive testing at the Property, Buyer shall do
so only after notifying Seller and obtaining Seller's prior written consent thereto;

(v) to the extent the condition of the Property is disturbed or damaged as a
result of Buyer's Due Diligence, Buyer shall cause such disturbed or damaged the Property to be
restored forthwith to substantially its condition prior to the occurrence of such activities; and

(vi) Buyer, and its administration, Council, officers, employees, attorneys,
accountants, brokers, consultants, representatives and agents (the "Buyer Parties") shall
conduct all Due Diligence in confidence, and shall not disseminate the results of the same to any
third party, provided, however, nothing herein shall prohibit or restrict Buyer Parties from
disseminating the results of its Due Diligence to one another and to any potential lenders and
investors and their respective shareholders, members, partners, trustees, beneficiaries, directors,
officers, employees, attorneys, accountants, brokers, consultants, representatives and agents or
from communicating with any prospective consultant or any third party in connection with its
Due Diligence hereunder. Notwithstanding anything contained herein to the contrary, Buyer
may disclose any such information to any third party where necessary to comply with the
Pennsylvania Right-To-Know Law, 65 P.S. §67.101 et seq.
(c) In the event this transaction fails to close for any reason whatsoever, to the extent not already provided to Buyer, all materials procured by Buyer from third parties (including the Title Commitment, the Survey, any engineering reports, any environmental reports, and any appraisals) shall be deemed to be equal property of Buyer and Seller, and each of Buyer and Seller shall be entitled to request copies thereof from the party preparing such materials, and each party agrees notify the preparer of the materials, upon the preparer’s request or the request of the other party to this Agreement, that each of Buyer and Seller are entitled to such materials.

The obligations set forth in this Section 4.03 shall survive the Closing and/or the termination of this Agreement.

4.04 Effect of Termination. In the event Buyer is permitted to terminate this Agreement as provided in Section 4.01 or 4.02, and Buyer provides timely notice to Seller of Buyer’s intention to terminate the Agreement as provided in the applicable Section hereof, upon Seller’s receipt of such notice to Seller: (a) this Agreement shall terminate and be of no further force and effect; and (b) the parties shall have no further obligations or liability to each other hereunder (except for the restoration, indemnification, and confidentiality obligations and publicity-restrictions hereunder and any other obligations that expressly survive the termination of this Agreement).

4.05 Continuing Agreement. If this Agreement is not terminated as provided herein, then Buyer will be deemed to have accepted the Property on an "AS IS" basis, subject only to the terms of this Agreement and the terms and conditions set forth in the documents and agreements executed and delivered at Closing. Seller shall be obligated to deliver possession to Buyer in substantially the same physical condition, normal wear and tear excepted, as existed as of the expiration of the Due Diligence Period.

4.06 "AS IS" Defined. As used in this Agreement, the term "As Is" means, as and where the Property presently exists as of the expiration of the Due Diligence Period, including, without limitation, all faults, defects, claims, liens, and other conditions of every kind or description with respect to the Property.

ARTICLE V
REPRESENTATIONS AND WARRANTIES

5.01 Representations, Warranties and Covenants of Seller. Seller hereby represents, warrants, and covenants the following to Buyer, upon which Seller acknowledges and agrees that Buyer is entitled to rely:

(a) Authority. (i) Seller has all requisite power and authority to execute and deliver this Agreement and all documents, including the Closing Documents, now or hereafter to be executed in connection herewith, and to consummate the transactions and perform all obligations contemplated hereby and thereby pursuant to the terms and conditions hereof and thereof; (ii) this Agreement has been, and all the documents to be delivered by Seller to Buyer at the Closing will be, duly authorized, executed and delivered by Seller; and (iii) this Agreement and all documents now or hereafter to be executed and delivered in connection herewith, when executed
and delivered, will constitute the legal, valid and binding obligations of Seller in accordance with
the respective terms.

(b) Due Organization. Seller is a non-profit corporation duly organized, validly
existing and in good standing under the laws of the Commonwealth of Pennsylvania, is
authorized to do business in the Commonwealth of Pennsylvania, is not insolvent and has all
requisite power and authority to own or lease and operate the Property.

c) No Violation or Conflict. Except as otherwise set forth herein, the execution and
delivery of this Agreement and the Closing Documents to be executed in connection herewith,
and the consummation of the transactions contemplated hereby and thereby do not and will not:
i) require the filing with, permit, authorization, consent or approval of any governmental
authority or other person, and such execution and delivery shall not result in a material breach or
material violation of any Laws and Regulations; (ii) conflict with, breach, result in a default
under (or result in an event which with notice and passage of time or both will constitute a
default under), or violate any material contract, agreement, or court or other order or decree to
which Seller is a party or by which Seller or the Property is bound; (iii) violate any provision of
the Seller’s organizational or governing documents; or (iv) result in the creation or tax or any
Encumbrance on the Property or any portion thereof.

(d) Title to Property. As of the Closing, the Seller shall have good and marketable
title to the Property subject only to the Permitted Exceptions, if any.

e) Foreign Person. Seller is a “United States person” (as defined in Section
7701(a)(30)(B) or (C) of the Internal Revenue Code of 1986, as amended (the “IRC”)) for the
purposes of the provisions of Section 1445(a) of the IRC.

(f) Pending Litigation. There are no pending or, to Seller’s knowledge, threatened
legal proceedings or actions against Seller that could delay or prevent the consummation of the
transactions contemplated hereby or impair Seller’s ability to perform its duties and obligations
under this Agreement or any agreement to be entered into or delivered by Seller in connection
with this Agreement.

(g) Environmental Matters. Except as set forth in any environmental assessment
reports in Seller’s possession and disclosed to Buyer or as otherwise disclosed to Buyer in
writing, Seller has received no written notification that any governmental or quasi-
governmental authority has determined that there are any violations of any Environmental
Laws, nor is Seller aware of the existence at the Property of any Contamination, Hazardous
Substances or violation of any Environmental Laws.

(h) Affirmation. Seller shall affirm each of its representations and warranties as of
the Closing.

(i) Survival. All representations and warranties of Seller set forth in Section 5.01 of
this Agreement shall be deemed made as of the Effective Date and shall merge into the Closing
Documents.
5.02 **Representations and Warranties of Buyer.** In addition to any other representations or warranties of Buyer hereunder, Buyer hereby represents and warrants the following to Seller:

(a) **Authority.** Buyer has all requisite power and authority to execute and deliver this Agreement and all documents, including the Closing Documents, now or hereafter to be executed in connection herewith, and to consummate the transactions and perform all obligations contemplated hereby and thereby pursuant to the terms and conditions hereof and thereof. This Agreement has been, and all the documents to be delivered by Buyer to Seller at the Closing will be, duly authorized, executed and delivered by Buyer. This Agreement and all documents now or hereafter to be executed and delivered in connection herewith, when executed and delivered, will constitute the legal, valid and binding obligations of Buyer in accordance with the respective terms.

(b) **Due Organization.** Buyer is a Home Rule County duly organized, validly existing and in good standing under the laws of the Commonwealth of Pennsylvania, is authorized to do business in the Commonwealth of Pennsylvania, and is not insolvent.

(c) **No Violation or Conflict.** The execution and delivery of this Agreement and the Closing Documents to be executed in connection herewith and the consummation of the transactions contemplated hereby and thereby do not and will not: (i) require the filing with, permit, authorization, consent or approval of any governmental authority other than the Council of Buyer, and such execution and delivery shall not result in a material breach or material violation of any Laws and Regulations; (ii) conflict with, breach, result in a default under (or result in an event which with notice and passage of time or both will constitute a default under), or violate any material contract, agreement, or court or other order or decree to which Buyer is a party or by which it or its property is bound; or (iii) violate any provision of Buyer’s organizational or governing documents.

(d) **Pending Litigation.** There are no pending or, to Buyer’s knowledge, threatened legal proceedings or actions against Buyer that could delay or prevent the consummation of the transactions contemplated hereby or impair Buyer’s ability to perform its duties and obligations under this Agreement or any agreement to be entered into or delivered by Buyer in connection with this Agreement.

(e) **Affirmation.** Buyer shall affirm each of its representations and warranties as of the Closing.

(f) **Survival.** All representations and warranties of Buyer set forth in Section 5.02 of this Agreement shall be deemed made as of the Effective Date and shall merge into the Closing Documents.
ARTICLE VI
CONDITIONS TO SELLER'S OBLIGATIONS

6.01 Conditions. Seller's obligations to close hereunder shall be subject to the occurrence of each of the following conditions, any one or more of which may be waived by Seller in writing.

(a) Buyer's Compliance with Obligations. Buyer shall have complied with all of Buyer's obligations hereunder in all material respects.

(b) Truth of Buyer's Representations and Warranties. The representations and warranties of Buyer contained herein were true in all material respects when made and are true in all material respects on the Closing Date, and Buyer's representations and warranties shall not have been modified or changed in any respect after the Effective Date except as mutually agreed by the Seller and Buyer, each in their respective sole discretion.

(c) Access and Parking Easement Agreement. The parties shall enter into and record an Access and Parking Easement Agreement in form and content substantially similar to the Access and Parking Easement Agreement attached hereto as Exhibit "D".

(d) Buyer's Deliveries. Buyer shall have delivered to Seller all of the Buyer's deliveries and other items set forth in Section 9.03.

6.02 Failure of Conditions. If any of the conditions enumerated in Section 6.01 are not fulfilled by the Closing Date (or if earlier, the date specified for such fulfillment), Seller may elect to terminate this Agreement by providing written notice thereof to Buyer whereupon the Earnest Money Deposit shall be refunded to Buyer and neither party shall have any further liability or obligation hereunder except for those which expressly survive termination, unless the failure of such condition to be satisfied also constitutes a default under or breach of the terms of this Agreement on the part of Buyer, in which event Seller may, at its option, retain the Earnest Money Deposit and/or pursue any of its other remedies therefor set forth herein.

ARTICLE VII
CONDITIONS TO BUYER'S OBLIGATIONS

7.01 Conditions. Buyer's obligation to close hereunder shall be subject to the occurrence of each of the following conditions, any one or more of which may be waived by Buyer in writing.

(a) Seller's Compliance with Obligations. Seller shall have complied with all obligations hereunder in all material respects.

(b) Truth of Seller's Representations and Warranties. The representations and warranties of Seller contained herein were true in all material respects when made and are true in all material respects on the Closing Date, and Seller's representations and warranties shall not have been modified or changed in any respect after the Effective Date except as mutually agreed by the Seller and Buyer, each in their respective sole discretion.
(e) **Governmental Approvals.** If this transaction, or any part of parts hereof, or the consummation of any of the transactions herein contemplated, shall require authorization or approval of any governmental agency having jurisdiction, all such authorizations and approvals shall have been obtained and shall be in full force and effect on and as of the Closing Date and no applicable Laws and Regulations shall have been enacted (or passed which upon enactment) that would make illegal or invalid or otherwise prevent the consummation of the transaction contemplated under this Agreement. If such authorizations and approvals shall not have been obtained on or prior to the last Day for Closing hereinabove provided, the Closing Date may be deferred, at the election of Buyer or Seller, for an additional period of time, not to exceed fifteen (15) Business Days, as shall be necessary to obtain any authorizations or approvals not then obtained.

(d) **Ordinance.** Buyer’s obligation to Close this transaction shall be conditioned upon, on the expiration of the Due Diligence Period, the adoption of an ordinance by the Council of Upper Darby Township, Delaware County, Pennsylvania, expressly authorizing and approving the purchase of such Property as an acquisition of the Township in accordance with the terms and conditions of this Agreement. Such Ordinance shall authorize the condemnation of and/or accepting of deed in lieu of condemnation for the Property and authorizing and payment of just compensation in the amount of six hundred thousand ($600,000.00) for acquisition of the property.

(e) **No Pending Adverse Litigation.** On the Closing Date, there shall not then be pending or, to the knowledge of either Buyer or Seller, threatened, any litigation, administrative proceeding, investigation or other form of governmental enforcement, or executive or legislative proceeding which, in the reasonable judgment of Buyer, if determined adversely, would restrain the consummation of any of the transactions herein referred to, declare illegal, invalid or non-binding any of the material covenants or obligations of the parties hereto, or materially and adversely affect the value of the Property, or materially and adversely affect the ability of Buyer, after the Closing, to utilize the Property in the manner contemplated hereby.

(f) **Access and Parking Easement Agreement.** The parties shall enter into and record an Access Agreement in form and content substantially similar to the Access and Parking Easement Agreement attached hereto as Exhibit “D”.

(g) **Subdivision.** The Property shall be legally subdivided from the Overall Parcel of land of which the Property is a part, as provided in Section 8.01(d).

(h) **Environmental.** Buyer’s satisfaction with all reports, approvals, actions, covenants and documentation of any kind referred to or related in any way to the actions or proceedings discussed in Article 11 of this Agreement and Buyer’s satisfaction with Seller’s compliance with any and all requirements as contained in Article 11 of this Agreement.

(i) **Grant Funding.** Buyer shall have received the proceeds of the Commonwealth of Pennsylvania, Department of Conservation and Natural Resources, Bureau of Recreation and Conservation grant in the amount of Three Hundred Forty Thousand Dollars ($340,000.00) for project number 1102666 Muckinipates Park Acquisition (the “DCNR Grant”).
(j) **Grant Funding.** Buyer shall have received the proceeds of the Department of Community and Economic Development — $250,000 grant in the amount of Two Hundred Fifty Thousand Dollars ($250,000.00) for project number 8111639 Muckinipates Park Acquisition (the "DCED Grant").

(k) **Seller's Deliveries.** Seller shall have delivered to Buyer all of the Seller's deliveries and other items set forth in Section 9.02.

7.02 **Failure of Conditions.** If any of the conditions enumerated in Section 7.01 are not fulfilled by the Closing Date (or if earlier, the date specified for such fulfillment), Buyer may elect to terminate this Agreement by providing written notice thereof to Seller whereupon the Earnest Money Deposit shall be refunded to Buyer and neither party shall have any further liability or obligation hereunder except for those which expressly survive termination, unless the failure of such condition to be satisfied also constitutes a default under or breach of the terms of this Agreement on the part of Seller, in which event Buyer may, at its option, pursue any of its remedies therefor set forth herein.

**ARTICLE VIII**

**ACTIONS AND OPERATIONS PENDING CLOSING**

8.01 **Seller's Actions and Operations Pending Closing.** Seller agrees that at all times prior to the Closing Date:

(a) The Seller will not assign, transfer, convey or encumber their interest in the Property, directly or indirectly, whether by operation of law or otherwise, except in the ordinary course of business, subject to the provisions of this Agreement, or otherwise in accordance with this Agreement.

(b) The Seller shall not take any action which would preclude or interfere with the timely satisfaction of the conditions set forth in Section 7.01 hereof or which would render the representations and warranties of Seller in Article V hereof inaccurate in any material respect or otherwise cause Seller to be in breach of the any of the same.

(c) The Seller shall, promptly upon becoming aware of same, notify Buyer in writing of any casualty occurring on the Property or any part thereof and of any litigation, arbitration or proceeding affecting the Property or any part thereof, and shall deliver to Buyer a copy of any tax bill, notice of amendment, or notice of change in a tax rate affecting the Property, any notice or claim of violation from any governmental authority, and any notice of any taking or threatened taking affecting or relating to the Property or any portion thereof. In addition, the Seller shall, promptly upon becoming aware of same, notify Buyer in writing of any fact, event or circumstance which, if existing on the Closing Date or otherwise or with the giving of notice or passage of time, would be in breach of the representations and warranties of Seller set forth in Article V or elsewhere herein or would cause any of the conditions set forth in Section 7.02 hereof to be unsatisfied.
(d) It shall be Seller’s obligation, at Seller’s sole cost and expense, to subdivide the Property as provided herein from the remainder of Overall Parcel, of which the Property is currently a part.

ARTICLE IX
CLOSING

9.01 Closing. The closing of the transaction contemplated hereby (the “Closing”) shall take place at the offices of the Title Company on or before the date that is twenty (20) days following the later of (i) satisfaction of the requirements and conditions of Sections 4.01, 6.01 and 7.01 and (ii) expiration of the Due Diligence Period as forth in Section 4.02, or at such other place and/or such other time as may be agreed by the parties (the “Closing Date”) provided that this Agreement has not been earlier terminated by the parties in accordance with the terms herewith.

9.02 Seller’s Deliveries. At Closing, Seller shall execute (to the extent required) and deliver to Buyer the following, each of which shall be in form and substance reasonably acceptable to Buyer and, in the case of documents of transfer or conveyance, shall be accepted or consented to by all parties required to make such transfer or conveyance effective:

(a) Special Warranty Deed (the “Deed”) to the Property, transferring and conveying to Buyer marketable fee simple title to the Property, subject only to the Permitted Exceptions, which Deed shall be substantially in the form attached hereto as Exhibit “C” and incorporated herein by reference, as modified to the extent necessary to comply with local recording requirements and to make any changes reasonably required by the Title Company in connection with its issuance of title insurance on the property;

(b) an executed certification ("FIRPTA Certificate") and such other evidence as Buyer may reasonably request to establish that Seller is not a foreign person for the purpose of IRC Section 1445;

(c) a settlement statement regarding the conveyance;

(d) any required real estate transfer tax declaration or similar documents required in connection with any state, local and school district real estate transfer taxes relating to the conveyance of the Property, if applicable; and

(e) such affidavits, indemnities, bonds, evidence of title, partnership agreements, certificates of partnership, corporate articles, by laws, certificates of good standing, resolutions, consents, undertakings and the like from Seller or other third parties as may be required by the Title Company, on or in forms customarily used by the Title Company, in order to issue title insurance on the Property.

9.03 Buyer’s Deliveries. At the Closing, Buyer shall deliver to Seller:

(a) the remainder of the Purchase Price required to be paid pursuant to Section 3.01, plus or minus any adjustments thereto as provided herein;
(b) a settlement statement regarding the conveyance;

(c) any required real estate transfer tax declaration or similar documents required in connection with any state, local and school district real estate transfer taxes relating to the conveyance of the Property, if applicable;

9.04 Closing Charges. In addition to any prorations or charges as otherwise provided herein, at Closing:

(a) Seller. Seller shall be charged the following:

(i) all commissions owed to Seller’s Broker (hereinafter defined), if any, with regard to their brokerage of the transactions contemplated hereby;

(ii) one half (1/2) of all state, local and school district real estate transfer taxes, if any, relating to the conveyance of the Property; and

(iii) all fees and expenses of Seller’s designated representatives, accountants and attorneys.

(b) Buyer. Buyer shall be charged the following:

(i) one half (1/2) of all state, local and school district real estate transfer taxes, if any, relating to the conveyance of the Property;

(ii) the cost of the Title Commitment and any title insurance Buyer may elect to purchase;

(iii) all costs of the Survey, if any;

(iv) the costs of preparing the Deed and/or other instruments relating to the conveyance of the Property

(v) the cost of recording or filing the Deed; and

(vi) all fees and expenses of Buyer’s designated representatives, consultants, accountants and attorneys.

All other fees, costs and expenses not expressly addressed in this Section or elsewhere in this Agreement shall be allocated between Seller and Buyer in accordance with applicable local custom for similar transactions.

9.05 Concurrent Transactions. All documents or other deliveries required to be made by Buyer or Seller at Closing, and all transactions required to be consummated concurrently with Closing, shall be deemed to have been delivered and to have been consummated simultaneously with all other transactions and all other deliveries, and no delivery shall be deemed to have been made, and no transaction shall be deemed to have been consummated, until all deliveries
required by Buyer and Seller shall have been made, and all concurrent or other transactions have been consummated.

9.06 **Further Assurances.** Buyer and Seller will, at the Closing, or at any time or from time to time thereafter, upon request of either party, execute such additional instruments, documents or certificates as either party deems reasonably necessary in order to confirm conveyance, assignment and transfer of the Property to Buyer to effectuate the transaction contemplated by this Agreement in accordance with the terms and provisions of this Agreement.

9.07 **Possession.** Seller shall deliver possession of the Property to Buyer at Closing.

**ARTICLE X**

**ADJUSTMENTS AND PRORATIONS**

10.01 **Adjustments and Prorations.** The following matters and items shall be apportioned between Seller and Buyer as of the Closing Date as provided below:

- **(a) Taxes and Assessments.** All real estate and personal property taxes, ad valorem taxes, and special or general assessments, with regard to the Property which shall be prorated according to the period for which they are billed and payable. Seller shall be responsible for all of the same attributable to any period prior to the Closing, and Buyer shall be responsible for the same to extent attributable to any period from and after the Closing. If the amount of any such item is not ascertainable on the Closing Date, the credit therefor shall be based on one hundred ten percent (110%) of the most recent available bill and shall be reprorated upon receipt of the actual bill. Any personal property taxes shall be prorated if and to the extent prorated per local custom and practice. The Property is and shall remain exempt from real estate taxes.

- **(b) Utilities.** All charges for the provision of any utility services or similar services (including telephone, internet, cable or satellite television, water, sewer, garbage and rubbish, heat, steam, electric power, gas, lighting and any other utility or similar service) at the Property, if any. Seller shall also receive a credit for deposits, if any, made by the Seller as security for the provision of such utilities or services if the same will not be refunded to the Seller and is transferred to, or inures to the benefit, the Buyer. Where possible, cut-off readings will be secured for all utilities on the Closing Date. If the amount of any such item is not ascertainable on the Closing Date, the credit therefore shall be based on one hundred ten percent (110%) of the most recent available bill and shall be reprorated upon receipt of the actual bill. Within five (5) Days following the Closing Date, Buyer shall contact each utility or similar service providers to authorize the switching of such services into the name of Buyer. In the event Buyer fails to ensure that such utility services and similar services are switched to the name of Buyer within such 5-Day period and fails thereafter to do so within three (3) Business Days of its receipt of written notice from Seller that Seller intends to instruct the applicable utility provide to shut-off service, Seller shall have the right to instruct the providers of such services to shut off such services, in which event Buyer agrees to indemnify, hold harmless, and defend Seller, its parent, subsidiary, and affiliated companies, and divisions, and each of their shareholders, members, and partners, and each of their officers, directors, employees, agents, representatives, and contractors, and each of their heirs, personal representatives, successors, and assigns from and against any
losses, liabilities, and damages incurred by either party arising out of, or resulting from, any claim by any third parties arising as a result of any such shut-offs.

(c) **Other.** To the extent not inconsistent with any of the foregoing, all other items of income and expense as are customarily adjusted or prorated upon the purchase and sale of a property similar to the Property shall be adjusted and prorated between Seller and Buyer accordingly.

In the event, on the date of Closing, the precise figures necessary for any of the foregoing adjustments are not capable of determination or are unknown, the adjustments shall be made on the basis of the good faith estimates of Buyer and Seller (using currently available information, including, but not limited to, currently available projections as to tax assessments and rates and the like).

10.02 **Payment.** Any net credit due to Seller as a result of the adjustments and prorations under Section 10.01 shall be paid to the Seller in cash at the time of Closing. Any net credit due to Buyer as a result of the adjustments and prorations under Section 10.01 shall be credited against the Purchase Price at the time of Closing. In the event Buyer receives any payment or other credit due to Seller pursuant to this Agreement, Buyer shall pay the same to Seller within thirty (30) Days of Buyer’s receipt of the same. Seller shall have the right to request an accounting from Buyer with respect to any such payments or other credits. In the event Seller receives any payment or other credit due to Buyer pursuant to this Agreement, Seller shall pay the same to Buyer within thirty (30) Days of Seller’s receipt of the same. Buyer shall have the right to request an accounting from Seller with respect to any such payments or other credits.

10.03 **Survival.** The provisions of this Article X shall survive the Closing.

ARTICLE XI
ENVIRONMENTAL

11.01 In the event that environmental studies to be performed hereunder result in the discovery of Contamination existing on the Property, Seller will be solely responsible for any remediation costs that may be required to comply with applicable law or, at Seller’s election, obtain a release from the PADEP under “The Land Recycling and Environmental Remediation Standards Act” (35 P.S. §§6026.101, et seq.) (“Act 2”); provided, however, Seller shall have the right to terminate this Agreement by providing written notice to Buyer whereupon the Earnest Money Deposit shall be refunded to Buyer and neither party shall have any further liability or obligation hereunder except for those which expressly survive termination.

11.02 Buyer grants to Seller, its agents, contractors, consultants and assigns a right of reasonable access to perform work to and on the Property in the event Seller is required to implement and comply with the Act 2 Release to remediate any environmental condition, including the right to operate all equipment, tools, vehicles and machinery required for investigative and corrective work. Seller shall notify Buyer of any intended use of the Property, and Seller shall coordinate any use of the Property with Buyer’s use and rights. Such notice shall be given at the earliest possible time thereby allowing for the longest possible preparatory
period. Upon completion of its work, Seller shall restore the Property to its pre-existing condition to the extent reasonably permitted under or consistent with Act 2 obligations, if any.

11.03 Seller agrees to be responsible to Buyer, its successor, assign or lessee, for any damages, costs, penalties, fines or other liabilities for assessment, remediation or monitoring of environmental conditions on the Property, incurred by Buyer and by any affiliates or successors thereof, and arising from Seller’s failure to comply with the terms, conditions and provisions of the Report and/or the Act 2 Release, unless released or modified by or with the consent of USEPA, including, but not limited to, Seller’s investigation and performance of corrective measures, provided however, that Seller shall not be responsibility to Buyer for any liability caused by or resulting in whole or in part from the activities of Buyer or its successors, assigns, contractors, agents, representatives or lessees. In the event that Seller, or the PADEP, or any of their contractors, agents, or representatives shall require access to the Property from time to time, for any reason relating to the Act 2 Release, including, without limitation, any investigation or testing, or the performance of corrective measures (“Access”), Seller shall take all reasonable actions necessary to mitigate the impact on Buyer’s operations and facilities.

11.04 Buyer shall notify Seller immediately upon receipt of any proceeding, notice, order, citation, suit or any action or process directed to Seller concerning the Property.

11.05 This Article shall survive the delivery of the Deed.

ARTICLE XII
ANCILLARY RIGHTS AND UTILITIES

[intentionally omitted]

ARTICLE XIII
CASUALTIES AND TAKINGS

13.01 Takings. In the event of the actual or threatened taking (either temporary or permanent) in any condemnation proceedings by exercise of right of eminent domain, of all or any part of the Property or access thereto, Buyer shall receive an assignment of all of the Seller’s rights to any condemnation award relating to such taking and acquire the Property without any adjustment in the Purchase Price in connection therewith; provided, however, in the event of any such taking, other than De Minimis Property (as defined hereinafter) occurring prior to the Closing Date, Buyer may elect to terminate this Agreement by giving written notice to Seller, whereupon the Earnest Money Deposit shall be refunded to Buyer and neither party shall have any further liability or obligation hereunder except for those which expressly survive termination. “De Minimis Property” shall mean any strip of real property less than ten (10) feet in width and which is located adjacent to the boundary of any of the Property, but which does not affect the access to, parking on or other use of the Property.

13.02 Risk of Loss. Subject to the provisions of this Article XIII, the risk of loss or damage to the Property shall remain with Seller until Closing provided however that Buyer shall presently insure the structures on the property against loss or casualty.
ARTICLE XIV
BREACH; REMEDIES

14.01 Buyer's Breach; Seller's Remedies. If the transaction contemplated hereby does not close by reason of Buyer's material default hereunder, which default is not caused by Seller's default hereunder, then Seller, as its sole and exclusive remedy, may elect to (a) terminate this Agreement by providing written notice to Buyer, in which case Seller shall be entitled to retain the Earnest Money Deposit, and Seller and Buyer shall have no further rights or obligations under this Agreement, except those which expressly survive termination, or (b) proceed to Closing pursuant to this Agreement, in which case Seller shall be deemed to have waived such Buyer's default. Notwithstanding the foregoing, except for failure to deliver the Purchase Price at Closing, Seller shall not have the right to exercise its remedies under clause (a) of this Section unless Seller has provided written notice to Buyer specifying in reasonable detail the nature of the Buyer's default, and Buyer has not cured such Buyer's default within ten (10) Days after Buyer's receipt of such notice. If the Closing is scheduled to occur prior to the expiration of said 10-day period, the Closing Date shall be postponed until the date which is five (5) Business Days after the expiration of said 10-day period. The parties acknowledge and agree that the damages suffered by Seller or Seller due to a breach hereof by Buyer would be difficult or impossible to determine, and that the Seller's entitlement to the Earnest Money Deposit, if any, which shall be treated as liquidated damages and not as a penalty, is a reasonable sum considering all of the circumstances existing on the date of this Agreement, but is not Seller's exclusive remedy.

14.02 Seller's Breach; Buyer's Remedies. If the transaction contemplated hereby does not close by reason of Seller's material default hereunder, which default is not caused by Buyer's default hereunder, then Buyer, as its sole and exclusive remedy, may elect to (a) terminate this Agreement, in which case the entire Earnest Money Deposit shall be refunded to Buyer, or (b) seek specific performance against Seller to the extent it is available under applicable law. Notwithstanding the foregoing, Buyer shall not have the right to exercise its remedies under clauses (a) or (b) of this Section unless Buyer has provided written notice to Seller specifying in reasonable detail the nature of the Seller's default, and Seller has not cured such default by Seller within ten (10) Days after Seller's receipt of such notice. If the Closing is scheduled to occur prior to the expiration of said 10-day period, the Closing Date shall be postponed until the date which is five (5) Business Days after the expiration of said 10-day period. In the event Buyer initially pursues the remedy in clause (b) and subsequently either decides to dismiss any lawsuit seeking specific performance against Seller and/or cease its efforts to pursue specific performance, or is not able to obtain specific performance from Seller for any reason, then Buyer may thereafter elect to exercise its remedies under clause (a) of this Section.

ARTICLE XV
MISCELLANEOUS PROVISIONS

15.01 Additional Covenants. In addition, the parties agree as follows:

(a) Brokerage. Buyer and Seller hereby represent and warrant to the other that none of them has dealt with any broker or finder in connection with the transaction contemplated hereby, other than N/A ("Seller's Broker"), and each hereby agrees to indemnify, defend and hold harmless the other from and against any loss, liability, and damages and any claims incurred
by either party arising out of, or resulting from, any claim by any broker or finder in
contravention of its representation and warranty herein contained. Seller shall pay all real estate
broker commissions owed to Seller’s Broker with respect to this transaction.

(b) Continued Marketing. Seller shall not be entitled to continue to market the
Property for sale during the pendency of this Agreement.

(c) Construction. This Agreement shall not be construed more strictly against one
party than against the other, merely by virtue of the fact that it may have been prepared primarily
by counsel for one of the parties, it being recognized that both Buyer and Seller have contributed
substantially and materially to the preparation of this Agreement.

(d) Publicity. All press releases and all other similar publicity concerning the
transactions contemplated hereby shall be approved by and instituted by Seller.

(e) Counterparts. This Agreement may be executed in any number of counterparts,
each of which shall constitute an original but all of which, taken together, shall constitute but one
and the same instrument.

(f) Integration. This Agreement (including all Exhibits hereto) contains the entire
agreement between the parties with respect to the subject matter hereof, and supersedes all prior
and contemporaneous letters of intent, understandings, or other agreements, whether written or
oral, with respect thereto.

(g) Amendment. This Agreement may not be modified, amended, or supplemented
except by a written instrument to such effect signed by the party against which such
modification, amendment or supplement is to be charged.

(h) Notices. Except as otherwise provided in this Agreement, all notices, demands,
requests, consents, approvals and other communications (“Notices”) required or permitted to be
given hereunder, or which are to be given with respect to this Agreement, shall be in writing and
shall be personally delivered or sent by facsimile (with copy by overnight delivery) registered or
certified mail, postage prepaid, return receipt requested, or by overnight express courier, postage
prepaid, addressed to the party to be so notified as follows:
If to Seller:
St. Eugene’s Roman Catholic Church
Attention: Father McDermott
200 Oak Lane
Clifton Heights, PA 19018

With copy to:
Archdiocese of Philadelphia
Office for Property Services
222 N. 17th Street
Philadelphia, PA 19103

If to Buyer:
Upper Darby Township
Attention: Thomas J. Judge, Jr., Chief Administrative Officer
100 Garrett Road
Upper Darby, PA 19082

With copy to:
J. Adam Matlawski, Esquire
1223 N. Providence Road
Media, PA 19063
Fax: (610) 565-9531

Notice mailed by registered or certified mail shall be deemed received by the addressee three (3) Days after mailing thereof. Notice personally delivered shall be deemed received when delivered. Notice sent via facsimile shall be deemed received upon sender’s obtaining electronic confirmation of successful transmission. Notice mailed by overnight express courier shall be deemed received by the addressee on the next Business Day after mailing thereof. Either party may at any time change the address for notice to such party by mailing a Notice as aforesaid.

(i) **Waivers.** The failure of any party to seek redress for any violation of, or to insist upon strict performance of, any covenant, agreement, term or provision contained in this Agreement shall not be deemed to be a waiver thereof, or be deemed to modify that or any other covenant, agreement, term or provision contained herein.

(j) **Governing Law; Jurisdiction; Venue.** This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, without giving effect to its conflicts of law provisions. The parties agree that any dispute arising hereunder or with respect hereto shall be adjudicated by the state or federal courts sitting in and for Delaware County, Pennsylvania and that such courts shall be the exclusive jurisdiction in which the parties may file any claim hereunder or related hereto, and each of the parties hereby irrevocably consent to the personal jurisdiction of such courts and waive any objection to such courts being an inconvenient forum or venue.
(k) **Assignment; Successors in Interest.** Each and all of the covenants, agreements, terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and, to the extent permitted by this Agreement, their respective personal heirs, representatives, successors and assigns. Buyer shall be entitled, without the consent of Seller, to: (i) assign its interest in this Agreement to one or more entities; provided that Buyer shall remain liable for all liabilities and obligations of Buyer under this Agreement; or (ii) designate one or more entities to take title to the Property, so long as, in each such instance, each such entity is an affiliate of Buyer.

(l) **No Third Party Beneficiaries.** The warranties, representations, agreements and undertakings contained herein shall not be deemed to have been made for the benefit of any person or entity, other than the parties hereto and their permitted successors and assigns.

(m) **Headings.** The headings in this Agreement are inserted for convenience and identification only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Agreement, or any provision hereof.

(n) **Severability.** Any provision of this Agreement that is, or adjudicated to be, invalid, illegal, or unenforceable in any respect in any jurisdiction shall be, as to such jurisdiction, ineffective to the extent of such invalidity, illegality or unenforceability without in any way affecting the validity, legality or enforceability of the remaining provisions hereof, and any such invalidity, illegality or unenforceability in any jurisdiction shall not invalidate or in any way affect the validity, legality or enforceability of such provision in any other jurisdiction so long as the extent of the invalidity, illegality or unenforceability does not destroy the basis of the bargain between the parties as contained herein.

(o) **Time of the Essence.** Time is of the essence in this Agreement.

[signatures appear on next page]
IN WITNESS WHEREOF, the parties hereto have executed or caused this Agreement to be executed, all as of the day and year first above written.

Seller:
REV. JOSEPH M. MCDERMOTT,
PASTOR OF SAINT EUGENE PARISH,
SOLELY AS PASTOR AND NOT IN HIS PRIVATE OR INDIVIDUAL CAPACITY ACTING HEREIN WITH THE PERMISSION OF MOST REVEREND CHARLES J. CHAPUT, O.F.M. CAP, IN HIS CAPACITY AS ARCHBISHOP OF PHILADELPHIA AND NOT IN HIS PERSONAL OR INDIVIDUAL CAPACITY BY HIS AGENT REVEREND MONSIGNOR DANIEL J. KUTYS, ATTORNEY-IN-FACT BY POWER OF ATTORNEY DATED JULY 3, 2012 AND RECORDED ON JULY 12, 2012 IN BOOK 5147, PAGE 2183

Buyer:
UPPER DARBY TOWNSHIP

By: [Signature]
Name: Thomas N. Micozzie
Title: Mayor

By: [Signature]

List of Exhibits:
Exhibit A  Legal Description – Overall Parcel
Exhibit B  Sketch Plan
Exhibit C  Special Warranty Deed
Exhibit D  Access and Parking Easement Agreement
EXHIBIT "A"

[Insert legal description]
SPECIAL WARRANTY DEED

THIS INDENTURE is made as of the ___ day of _____, 2018, between REV. JOSEPH M. MCDERMOTT, PASTOR OF SAINT EUGENE PARISH, SOLELY AS PASTOR AND NOT IN HIS PRIVATE OR INDIVIDUAL CAPACITY ACTING HEREIN WITH THE PERMISSION OF MOST REVEREND CHARLES J. CHAPUT, O.F.M. CAP, IN HIS CAPACITY AS ARCHBISHOP OF PHILADELPHIA AND NOT IN HIS PERSONAL OR INDIVIDUAL CAPACITY BY HIS AGENT REVEREND MONSIGNOR DANIEL J. KUTYS, ATTORNEY-IN-FACT BY POWER OF ATTORNEY DATED JULY 3, 2012 AND RECORDED ON JULY 12, 2012 IN BOOK 5147, PAGE 2183 ("Grantor") and UPPER DARBY TOWNSHIP, a home rule municipality of the Commonwealth of Pennsylvania (hereinafter called the "Grantee").

WITNESSETH:

THAT Grantor, for and in consideration of the sum of ________________________ Dollars ($__________________) lawful money of the United States of America, well and truly paid by Grantee unto Grantor, at or before sealing and delivery hereof, the receipt whereof is hereby acknowledged, has granted, bargained and sold, released and confirmed, and by these presents does hereby grant, bargain and sell, release and confirm unto Grantee, its successors and assigns, that certain parcel of land located in (the "Property"):

ALL THAT CERTAIN parcel of land thereto, SITUATE in the Township of Upper Darby, County of Delaware, Commonwealth of Pennsylvania, being bounded and described in accordance with Final Subdivision Plan of H. Gilroy Damon Associates, Inc. dated ____________, 2018 prepared by of H. Gilroy Damon Associates, Inc. and designated as Parcel No. 2 thereon, as follows, to wit:

[insert legal for Parcel No. 2]

BEING PART OF THE SAME PREMISES which ________________________, by Deed dated ________________________ and recorded ____________ at Media, Pennsylvania in the Office of the Recorder of Deeds, in and for the County of Delaware, in Deed Book ______________________, Page ______________ &c., granted and conveyed unto the ST. EUGENE'S ROMAN CATHOLIC CHURCH, in fee.

UNDER AND SUBJECT TO the Access and Parking Easement Agreement by and between Grantor and Grantee of even date herewith, which Access and Parking Easement Agreement is intended to be recorded
in the Office of the Recorder of Deeds in and for Delaware County, Pennsylvania following the recording of this Indenture.

UNDER AND SUBJECT TO certain restrictions and conditions of record.

TOGETHER with all and singular the buildings, improvements, ways, streets, alleys, driveways, passages, waters, water-courses, rights, liberties, privileges, hereditaments and appurtenances, whatsoever unto the hereby granted premises belonging or in any wise appertaining, and the reversions and remainders, rents, issues, and profits thereof; and all of the estate, right, title interest, property, claim and demand whatsoever of Grantor, as well at law as in equity, of, in, and to the same.

TO HAVE AND TO HOLD the Property, together with all hereditaments and premises hereby granted, or mentioned and intended so to be, with the appurtenances, unto Grantee, its successors and assigns, to and for the only proper use and behoof of Grantee, its successors and assigns forever.

AND Grantor, its successors and assigns, by these presents, does covenant, promise and agree, to and with Grantee, its successors and assigns, that Grantor, its successors and assigns, shall and will SUBJECT AS AFORESAID warrant and forever defend all and singular the hereditaments and premises hereby granted or mentioned and intended so to be, with the appurtenances, unto Grantee, its successors and assigns, against Grantor, its successors and assigns, and against all and every person and persons whosoever lawfully claiming or to claim the same or any part thereof, by, from or under Grantor, its successors and assigns, or any of them.

IN WITNESS WHEREOF, Grantor has executed this Indenture as of the date first set forth above.

REV. JOSEPH M. MCDERMOTT, PASTOR OF SAINT EUGENE PARISH, SOLELY AS PASTOR AND NOT IN HIS PRIVATE OR INDIVIDUAL CAPACITY ACTING HEREIN WITH THE PERMISSION OF MOST REVEREND CHARLES J. CHAPUT, O.F.M. CAP, IN HIS CAPACITY AS ARCHBISHOP OF PHILADELPHIA AND NOT IN HIS PERSONAL OR INDIVIDUAL CAPACITY BY HIS AGENT REVEREND MONSIGNOR DANIEL J. KUTYS, ATTORNEY-IN FACT BY POWER OF ATTORNEY DATED JULY 3, 2012 AND RECORDED ON JULY 12, 2012 IN BOOK 5147, PAGE 2183

By: 

Rev. Joseph M. McDermott,
Pastor of Saint Eugene Parish

st. eugene's catholic church / upper darby township, agreement of sale, 3
COMMONWEALTH OF PENNSYLVANIA

COUNTY OF DELAWARE

On this, the _____ day of __________________ 2018, before me, a Notary Public in and for the State and County aforesaid, personally appeared Rev. Joseph M. McDermott, Pastor of Saint Eugene Parish and Reverend Monsignor Daniel J. Kutys as Attorney-in-Fact for Most Reverend Charles J. Chaput, O.F.M. Cap., Archbishop of Philadelphia, whose names are subscribed to the within Deed, and who acknowledged that he executed the same for the purposes therein contained on behalf of and as the act and deed of said ST. EUGENE’S ROMAN CATHOLIC CHURCH.

I hereunto set my hand and official seal.

________________________
Notary Public

My Commission Expires:

[Notarial Seal]

CERTIFICATE OF ADDRESS

I hereby certify that the address of the principal office of the Grantee herein is:

Upper Darby Township
Attention: Thomas J. Judge, Jr., Chief Administrative Officer
100 Garrett Road
Upper Darby, PA 19082

________________________
For Grantee
Exhibit “D”

ACCESS AND PARKING EASEMENT AGREEMENT

THIS ACCESS AND PARKING EASEMENT AGREEMENT (“Agreement”), dated as of ______________, 2018 between REV. JOSEPH M. MCDERMOTT, PASTOR OF SAINT EUGENE PARISH, SOLELY AS PASTOR AND NOT IN HIS PRIVATE OR INDIVIDUAL CAPACITY ACTING HEREFIN WITH THE PERMISSION OF MOST REVEREND CHARLES J. CHAPUT, O.F.M. CAP, IN HIS CAPACITY AS ARCHBISHOP OF PHILADELPHIA AND NOT IN HIS PERSONAL OR INDIVIDUAL CAPACITY BY HIS AGENT REVEREND MONSIGNOR DANIEL J. KUTYS, ATTORNEY-IN FACT BY POWER OF ATTORNEY DATED JULY 3, 2012 AND RECORDED ON JULY 12, 2012 IN BOOK 5147, PAGE 2183, with an address of 200 Oak Lane, Clifton Heights, PA 19018 (“ST. EUGENE’S”) and UPPER DARBY TOWNSHIP (“TOWNSHIP”), a Municipal Authority and Instrumentality of the Commonwealth of Pennsylvania with an address at 100 Garrett Road, Upper Darby, PA 19082.

WHEREAS, by Deed of even date from ST. EUGENE’S to TOWNSHIP, which Deed is intended to be recorded in the office of the Recorder of Deeds in and for Delaware County, Pennsylvania (the “Recorder’s Office”) prior to the recording of this Agreement, ST. EUGENE’S has conveyed to the TOWNSHIP certain lands located in Township of Upper Darby, Delaware County, Pennsylvania, as more fully described on Exhibit “A” attached hereto and made part hereof (the “Township Parcel”); and

WHEREAS, the Township Parcel also is shown as “Parcel No. 2” on the Subdivision Plan of St. Eugene’s Roman Catholic Church prepared by H. Gilroy Damon Associates, Inc. dated ______________ approved by Resolution of the Council of Upper Darby Township, Delaware County Pennsylvania adopted ______________, 2018 and recorded in the Office of the Recorder of Deeds in and for Delaware County, Pennsylvania on ______________ in Plan Case ______________ (the “Subdivision Plan”), incorporated herein and made a part hereof as if set forth herein at length; and

WHEREAS, ST. EUGENE’S continues to own certain lands which are adjacent to the Township Parcel and located in the Township of Upper Darby, Delaware County, Pennsylvania, shown as “Parcel No. 1” and “Parcel No. 3” on said Subdivision Plan which are more fully described on Exhibit “B” attached hereto and made part hereof (collectively, the “Church Parcel”); and

WHEREAS, the Township Parcel and the Church Parcel previously comprised a single tract of land; and

WHEREAS, by the said recorded Subdivision Plan there is delineated and set forth an approximately fifty feet (50’) wide easement for access and utilities beginning at Bunting Lane and running across portions of the Township Parcel, as more fully described on Exhibit “C”
attached hereto and made part hereof (the "Access Easement"), within which Access Easement Area exists a bituminous driveway; and

WHEREAS, each party hereto wishes to provide certain agreements, easements and rights-of-way to the other party for access and for other purposes as set forth herein; and

WHEREAS, the TOWNSHIP and ST. EUGENE'S accordingly enter into this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein as if set forth at length and of the mutual covenants herein contained, and of the sum of One Dollar ($1.00) and of other goods and valuable consideration paid by each party to the other, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, TOWNSHIP and ST. EUGENE'S hereby agree as follows:

AGREEMENT:

1. TOWNSHIP as owner of the Township Parcel, for itself, its successors and assigns, hereby grants to ST. EUGENE'S, its successors and assigns, as owner of the Church Parcel, a perpetual non-exclusive easement, right-of-way, right, liberty and privilege to, upon and across the Township Parcel within the Access Easement for the purpose for access, ingress and egress to the Church Parcel from Bunting Lane, such easement, right-of-way, right, liberty and privilege being for the use and benefit of ST. EUGENE'S, and its successors, assigns, agents, servants, workmen, employees, invitees, customers and guests. Such easement, right-of-way, right, liberty and privilege shall be limited to the area described within the Access Easement and shall not be exclusive, but shall be shared with use by TOWNSHIP, its successors, assigns, agents, servants, workmen, employees, invitees, customers and guests.

2. ST' EUGENE'S as owner of the Church Parcel, for itself, its successors and assigns, hereby grants to TOWNSHIP, its successors and assigns, as owner of the Township Parcel, a perpetual non-exclusive easement, right-of-way, right, liberty and privilege to, upon and across the Church Parcel for the purpose for parking of vehicles on Parcel No. 1 during evenings and weekends, such easement, right-of-way, right, liberty and privilege being for the use and benefit of the TOWNSHIP, and their respective successors, assigns, agents, servants, workmen, employees, invitees, customers and guests, specifically including members of the public using the athletic fields on the Township Parcel. Such easement, right-of-way, right, liberty and privilege shall not be exclusive, but shall be shared with use by ST. EUGENE'S, its successors, assigns, agents, servants, workmen, employees, invitees, customers and guests.

3. ST. EUGENE'S and TOWNSHIP, as owners of the Church Parcel and the Township Parcel, for themselves, their successors and assigns, each hereby grant to each other, and the respective successors and assigns of each as owner of the Church Parcel, the Township Parcel and the Ballfield Parcel, perpetual easement, right, liberty and privilege to utilize that portion of the Township Parcel and the Church Parcel within the Access Easement for the purpose of use and maintenance of sub-surface facilities for utility service for the Church Parcel and the Township Parcel.
a. Utility facilities serving all parties and located within the portion of Access Easement located on the Township Parcel shall be owned and maintained by the owner of the Township Parcel in perpetuity. Utility facilities serving less than all of the Parcels, shall be owned and maintained in perpetuity by the Parcel or Parcels served by such utility facilities.

4. The easements and other rights and obligations of the parties as set forth above shall be perpetual, and shall run with the land and shall benefit and burden each of the Parcels.

5. This Agreement shall inure to the benefit of the successors and assigns of TOWNSHIP and ST. EUGENE’S.

6. This Agreement constitutes the entire agreement of the parties with respect to the matters covered herein, and supersedes all previous agreements, understandings and discussions between the parties. This Agreement may also be modified, supplemented or terminated only by a written instrument signed by all of the owners the Township Parcel and the Church Parcel.

IN WITNESS WHEREOF, TOWNSHIP and ST. EUGENE’S have executed this Easement Agreement as of the date first above written.

REV. JOSEPH M. MCDERMOTT, PASTOR OF SAINT EUGENE PARISH, SOLELY AS PASTOR AND NOT IN HIS PRIVATE OR INDIVIDUAL CAPACITY ACTING HEREIN WITH THE PERMISSION OF MOST REVEREND CHARLES J. CHAPUT, O.F.M. CAP, IN HIS CAPACITY AS ARCHBISHOP OF PHILADELPHIA AND NOT IN HIS PERSONAL OR INDIVIDUAL CAPACITY BY HIS AGENT REVEREND MONSIGNOR DANIEL J. KUTYS, ATTORNEY-IN FACT BY POWER OF ATTORNEY DATED JULY 3, 2012 AND RECORDED ON JULY 12, 2012 IN BOOK 5147, PAGE 2183

By: ____________________________

Name: Thomas N. Micuzioj
Title: Mayor

By: ____________________________

Rev. Joseph M. McDermott,
Pastor of Saint Eugene Parish

By: ____________________________

Reverend Monsignor Daniel J. Kutys as
Attorney-in-Fact for Most Reverend
Charles J. Chaput, O.F.M. Cap.,
Archbishop of Philadelphia
COMMONWEALTH OF PENNSYLVANIA

TOWNSHIP OF DELAWARE

On this, the _____ day of ___________________ 2018, before me, a Notary Public in and for the State and County aforesaid, personally appeared Rev. Joseph M. McDermott, Pastor of Saint Eugene Parish and Reverend Monsignor Daniel J. Kutys as Attorney-in-Fact for Most Reverend Charles J. Chaput, O.F.M. Cap., Archbishop of Philadelphia, whose names are subscribed to the within Access Easement Agreement, and who acknowledged that he executed the same for the purposes therein contained on behalf of and as the act and deed of said ST. EUGENE’S ROMAN CATHOLIC CHURCH.

I hereunto set my hand and official seal.

____________________
Notary Public

My Commission Expires: [Notarial Seal]
Exhibit “A”

to

Access and Parking Easement Agreement

[insert legal for Township Parcel (Parcel No. 2)]
Exhibit “B”

to

Access and Parking Easement Agreement

[insert legal for Church Parcel (Parcel No. 1 and Parcel No. 3)]
Exhibit "C"

to

Access and Parking Easement Agreement

[insert legal for Access Easement]
UPPER DARBY TOWNSHIP

Resolution No. 33-18

A RESOLUTION OF UPPER DARBY TOWNSHIP,
DELaware COUNTY, PENNSYLVANIA
APPROVING THE APPLICATION OF JT
BREWSKI’S TO FURTHER DEVELOP .6 ACRES
WITH AN OUTDOOR PATIO ON THE WEST SIDE
OF OAK AVENUE APPROXIMATELY 800 FEET
NORTH OF PROVIDENCE ROAD AND BEING
SUBJECT TO CERTAIN CONDITIONS OF
APPROVAL.

WHEREAS, JT Brewski’s, ("Applicant") has submitted for approval its Final Land
Development Plan to further develop .6 acres with an outdoor patio on the west side of Oak
Avenue approximately 800 feet north of Providence (510 Oak Avenue), prepared by AMBRIC
TECHNOLOGY CORPORATION Consulting Engineers and Surveyors Consultants, P.C., said
plans consisting of one (1) sheet dated May 22, 2018 (collectively “Final Plans”); and

NOW THEREFORE, BE IT RESOLVED, that the above-cited Final Plans are hereby
approved subject to certain Conditions of Approval including the following:

1. Applicant has obtained approval by Pennsylvania Department of Transportation
of all necessary permits, including but not limited to any required highway occupancy permit,
where applicable.

2. Approval by the Township Solicitor and execution by JT Breski’s and where
applicable, Applicant’s lender, of all necessary and appropriate documentation where applicable
including Developer’s Agreement and Improvement Security Agreement, and such other
documentation as acceptable to the Solicitor, including but not limited to documentation
concerning the ongoing maintenance, operation and repair of the common site improvements, if
any, which are not to be dedicated to the Township;
3. Applicant obtaining Sewer Planning Module Act 537 approvals or exemption there from, Storm Water Management approvals and Delaware County Conservation District approvals where applicable;

4. Formal recording of the Land Development Plan (the "Record Plans") following Township execution of the Record Plans;

5. Applicant shall comply with all applicable federal, state and local codes or ordinances and shall obtain all required permits.

TOWNSHIP OF UPPER DARBY

Attest:                                 By: 
Jacob A. Bierling                      Donald P. Bonnett
Secretary of Council                   President of Council

Resolution No. 33-18 above is hereby approved this 18th day of July, A.D., 2018.

Attest:                                 Approved: 
Thomas J. Judge, Jr.                   Thomas N. Micozzie
Chief Administrative Officer           Mayor
UPPER DARBY TOWNSHIP

RESOLUTION NO. 34-18

A RESOLUTION OF UPPER DARBY TOWNSHIP REGARDING THE 44th YEAR COMMUNITY DEVELOPMENT PROGRAM, 5 YEAR CONSOLIDATED PLAN AND CITIZEN PARTICIPATION PLAN

WHEREAS, all citizen and community requests for the 44th Year CD Program and the 5 Year Consolidated Plan and Citizen Participation Plan have been received and evaluated and public hearings have been held to receive citizen input and comment; and

WHEREAS, the Town Council has carefully reviewed and consicered these various requests, recommendations and plans; and

WHEREAS, Exhibit "A" attached sets forth the Final Allocations to be included in the Action Plan for 2018.

NOW, THEREFORE BE IT RESOLVED by the Town Council of the Township of Upper Darby:

1. That the attached Exhibit "A" representing Final Allocations of funds for the 44th year Community Development Program are hereby approved; and that no changes are made to the Citizen Participation Plan.

2. That the proper officers are hereby authorized to take such steps as may be necessary to implement the intent of this Resolution.

RESOLVED this 18th day of July, A.D., 2018.

TOWNSHIP OF UPPER DARBY

BY: Donald P. Bonnett,
President of Council

Attest: Jacob A. Bierling Jr.
Secretary of Council
EXHIBIT A

Funds will be spent generally as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Program Admin. Planning &amp; Management</td>
<td>$150,000.00</td>
</tr>
<tr>
<td>Fair Housing Outreach</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>Resurfacing Streets</td>
<td>$150,000.00</td>
</tr>
<tr>
<td>Owner Occupied Home Rehabilitation Program</td>
<td>$375,000.00</td>
</tr>
<tr>
<td>Rehabilitation Services: Program Delivery</td>
<td>$100,000.00</td>
</tr>
<tr>
<td>Code Enforcement - Low/Mod Areas</td>
<td>$75,000.00</td>
</tr>
<tr>
<td>Owner Occupied Home Rehab. Program- Priority Rehab</td>
<td>$100,000.00</td>
</tr>
<tr>
<td>First Time Homebuyers</td>
<td>$120,000.00</td>
</tr>
<tr>
<td>Watkins Senior Center Generator</td>
<td>$150,000.00</td>
</tr>
<tr>
<td>Park Improvements</td>
<td>$95,000.00</td>
</tr>
<tr>
<td>Cobbs Creek Interceptor Re-lining</td>
<td>$100,000.00</td>
</tr>
<tr>
<td>Garrett Road Streetscape Improvements</td>
<td>$50,000.00</td>
</tr>
<tr>
<td>Reconstruct Chatham Road Sanitary Manhole</td>
<td>$50,000.00</td>
</tr>
<tr>
<td>Multi-Cultural</td>
<td>$30,000.00</td>
</tr>
<tr>
<td>CAA Shelter</td>
<td>$50,000.00</td>
</tr>
<tr>
<td>Contingency</td>
<td>$3,573.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$1,603,573.00</strong></td>
</tr>
</tbody>
</table>