



Wednesday, June 7, 2023
Board of Commissioners Meeting – 7:00 PM

1. CALL TO ORDER

A. Roll Call

2. PLEDGE OF ALLEGIANCE

3. ANNOUNCEMENTS

A. All public sessions of the South Whitehall Township Board of Commissioners are electronically recorded, filed, and posted on the South Whitehall Township website for the Public's access.

B. Public /Virtual Meeting Rules

C. Board of Commissioners Met in Executive Session on the following dates to discuss Legal and Personnel Matters: Wednesday, June 7, 2023, from 6:00 PM to 7:00 PM, prior to the BOC Meeting

PRESENTATIONS

A. Introducing Rand Yazji, SHRM-CP, MBA, MSHRM, as Human Resources Generalist

4. COURTESY OF THE FLOOR - Public Comment on Non-Agenda Items

5. MINUTES

A. Board of Commissioners Meeting Minutes: Approval of the Meeting Minutes for the May 17, 2023 Board of Commissioners Regular Meeting

6. ORDINANCES

A. Motion Requesting Authorization to Transmit a Proposed/Draft Zoning Ordinance Amendment – Section 350-42(h) Height Exceptions to the Lehigh Valley Planning Commission (LVPC) for Review and/or Advertise a Public Hearing for Consideration of Possible Adoption Following Receipt of Review from the LVPC

7. RESOLUTIONS

A. A Resolution Extending The Conditional Preliminary/Final Approval Granted To A Major Plan Entitled “Proposed Parking Lot Improvements 798 Hausman Road”

B. Approval of a Resolution Authorizing the Township Manager to Execute an Addendum of Declaration of Covenants with IPT Allentown DC LLC, IPT Allentown DC II LLC and an Addendum to Construction Agreement with Norfolk Southern for Work Related to Crackersport and Eck Road Warehouses (Major Plan 2017-104)

C. A Resolution to Adopt the "Traffic Calming Policy" for South Whitehall Township

D. Resolution to Approve the Submission of an Automated Red Light Enforcement (ARLE) Grant-Hamilton Blvd. (SR 222) and Lincoln Ave. Intersection Improvements

8. MOTIONS

A. Motion to Approve Incorporating a Cost Sharing Arrangement into the Improvements Agreement for the Parkland School District Operations Center (Major Plan 2022-108)- Roadway Restoration Work Required for Limekiln Road for Utility Connections

B. Motion to Reject All Bids Received for Water Tower Maintenance Bid (Bid 2023-05- Letting Date of May 30, 2023) and to Re-Bid the Project

C. Motion to Award Contract to Lowest Responsible Bidder (A1 Traffic Control) for Pavement Markings Bid (Bid 2023-06- Letting Date of May 23, 2023) – Lehigh Valley Cooperative Purchasing Council Bid

9. CORRESPONDENCE AND INFORMATION ITEMS

A. Upcoming Meetings

10. DIRECTION/DISCUSSION ITEMS

A. Direction/Discussion- Review of Lease Option for Replacement of Police Vehicles

11. OLD BUSINESS

A. Direction/Discussion- Review of Landscape Preservation Plan Public Meeting Timeline

12. COURTESY OF THE FLOOR - Public Comment on Non-Agenda Items

13. MOTION TO AUTHORIZE PAYMENT OF INVOICES & DISBURSEMENTS

A. Invoices and Disbursements for Approval (June 7, 2023 BOC Meeting)

14. EXECUTIVE SESSION

A. Scheduled Accordingly.

15. ADJOURNMENT

A. Motion to Adjourn.



Item Cover Page

BOARD OF COMMISSIONERS AGENDA ITEM REPORT

DATE: June 7, 2023

SUBMITTED BY: Tom Petrucci, Administration

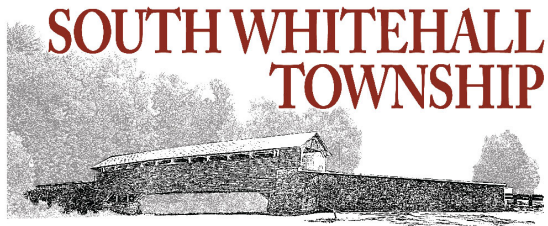
ITEM TYPE: Presentation

AGENDA SECTION: PRESENTATIONS

SUBJECT: A. Introducing Rand Yazji, SHRM-CP, MBA, MSHRM, as Human Resources Generalist

SUGGESTED ACTION:

ATTACHMENTS:
[R. Yazji Introduction- Human Resources Generalist.pdf](#)



**MEMORANDUM FOR
AGENDA ITEMS**

TO:	Board of Commissioners
FROM:	Tom Petrucci, Township Manager
DATE:	June 2, 2023
SUBJECT:	Introduction of Rand Yazji, SHRM-CP, MBA, MSHRM, as Human Resources Generalist
COPY TO:	H. Bender; D. Manhardt; G. Dorney; T. Fehnel

- **Action Requested:**

Introduction of Rand Yazji, SHRM-CP, MBA, MSHRM, as the newly appointed Human Resources Generalist of South Whitehall Township.

- **Background Information:**

Rand Yazji began her employment as Human Resources Generalist for South Whitehall Township on April 3rd. She possesses an extensive background in Human Resources- having obtained both her Master’s Degree in Human Resource Management as well as Professional Certification from the Society of Human Resources Management.

Prior to joining South Whitehall Township, Rand worked as both a Human Resources Generalist and a Recruiting Specialist in the private sector. Her vision for Human Resources includes the following:

The Human Resources department will be the center of work and success of the organization and its team members, while maintaining compliance with employment and labor laws and regulations. HR will be serving as a strategic business partner to all departments at South Whitehall Township and operating in alignment with the mission and core values of the Township, these values include respect, accountability, integrity, honesty, trust, customer satisfaction, and innovation.

Township management and staff are extremely pleased to welcome her to the Township.

- **Budget Line Item(s) (if applicable):** *Please indicate approved budget amount for specified project(s).*

N/A



Item Cover Page

BOARD OF COMMISSIONERS AGENDA ITEM REPORT

DATE: June 7, 2023

SUBMITTED BY: Tom Petrucci, Administration

ITEM TYPE: Ordinance

AGENDA SECTION: ORDINANCES

SUBJECT: Motion Requesting Authorization to Transmit a Proposed/Draft Zoning Ordinance Amendment – Section 350-42(h) Height Exceptions to the Lehigh Valley Planning Commission (LVPC) for Review and/or Advertise a Public Hearing for Consideration of Possible Adoption Following Receipt of Review from the LVPC

SUGGESTED ACTION:

ATTACHMENTS:

[2023.05.30 CD PLANNING - BOC Packet Excerpt Direction to Proceed with Height Exceptions Zoning Ordinance Amendment.pdf](#)



MEMORANDUM FOR AGENDA ITEMS

To:	Board of Commissioners
FROM:	Gregg R. Adams, Planner
DATE:	May 30, 2023
SUBJECT:	Proposed Zoning Ordinance Amendment – Section 350-42(h) Height Exceptions
COPY TO:	T. Petrucci, D. Manhardt, L. Harrier, H. Bender, M. Elias, J. Zator, Esq., J. Alderfer, Esq., A. Tallarida, S. Pidcock

- **Background Information:**

Through a recent Zoning appeal, staff discovered that Section 350-42(h) Height Exceptions is sufficiently ambiguous as to merit clarification. The current Section appears to be intended to permit certain features typically located on the roof or attached to the side of a building to exceed the Maximum Height permitted within a given Zoning District. The subsection requiring the clarification states: When attached to the roof of an existing or proposed Building, and not otherwise permitted as an Accessory Use, the height of the Building(s), Structure(s), or portion thereof, shall not exceed one hundred forty (140%) percent of the height of the Principal Building. The ambiguity stems from whether the 140% of the height of the Principal Building is measured from grade or from the roof. In a Zoning District wherein the Buildings are limited to 50 feet, an additional 140% could result in either a 70-foot total height (when measured from grade) or a 120-foot total height (when measured from the 50-foot-high roof). Obviously, the 70-foot Maximum Height of a Building within the IC-1 Zoning District further amplifies the possible maximum height (168 feet). Staff opines that the 140% stated in the Ordinance refers to a measurement from grade and would like to amend the Section to clarify that point.

- **Action Requested:**

Staff requests direction with regard to the draft Zoning Ordinance Amendment. Should the Board of Commissioners feel sufficiently comfortable, they could direct staff to transmit the draft Ordinance to the LVPC for their 30-day review. The Board may also direct staff to advertise a hearing and possible adoption of the draft Ordinance for a Board of Commissioners meeting after the 30-day LVPC review period expires or wait until after receiving the LVPC’s comments before directing staff to advertise a hearing.

- **Budget Line Item (if applicable):**

Not applicable.

- **Attachments:**

Draft Amendment

This text indicates explanations of proposed amendments.

This text indicates existing Ordinance Sections when used for reference or as examples.

This text indicates existing text within proposed amendments.

~~**This text** indicates proposed deletions within proposed amendments.~~

This text indicates proposed additions within proposed amendments.

The current Zoning Ordinance Section 350-42(h)

(h) Height Exceptions.

(1) When otherwise listed or interpreted as a permitted Use in this Ordinance, the following Buildings, Structures or portions thereof may, under certain conditions, exceed the height limitation established elsewhere in this Ordinance:

(A) Incinerator, chimney, vent pipe, antenna, public utility Structure, commercial radio and/or T.V. transmission tower, water tank, cupola, clock tower, dormer, spire, belfry, enclosure for service equipment, elevator bulkhead, stage tower, and scenery loft.

(2) The following conditions shall be met:

(A) When attached to the roof, or the side of an existing or proposed Building, the base of the Building(s), Structure(s), or portion(s) thereof shall not cumulatively exceed twenty-five (25%) percent of the base width and depth of the existing or Principal Building.

(B) When attached to the roof of an existing or proposed Building, and not otherwise permitted as an Accessory Use, the height of the Building(s), Structure(s), or portions(s), thereof shall not exceed one hundred forty (140%) percent of the height of the Principal Building.

(3) It is the intent of this section to control the Height of Buildings and Structures, not only to fulfill the general purpose of Section 350-02, but to also comply with Act 161, 1980, Pennsylvania State Legislature, amending the Airport Zoning Law of 1945 (2 P.S. 1550).

Proposed Changes

→ Staff recommends that Section 350-42(h) Height Exceptions be amended as follows:

(h) Height Exceptions. When otherwise listed or interpreted as a permitted Use in this Ordinance, ~~the following~~ **certain** Buildings, Structures or portions thereof may, under certain conditions, exceed the height limitation established ~~elsewhere in this Ordinance~~ **in the Zoning District Schedules of Section 350-24(c):**

(1) Permitted Exceptions

(A) Incinerator, chimney, vent pipe, antenna, public utility Structure, commercial radio and/or T.V. transmission tower, water tank, cupola, clock tower, dormer, spire, belfry, **steeple, minaret**, enclosure for service equipment, elevator bulkhead, stage tower, ~~and~~ scenery loft, **or other similar features not otherwise regulated under this Ordinance. For the purposes of this subsection (h) Height Exceptions, these permitted exceptions shall be known as “Appurtenances”.**

(B) Such Appurtenances shall not be places intended primarily for human occupancy; they are to be unoccupied or occupied only occasionally and for short periods of time, typically for the maintenance of the structure or equipment therein.

(2) Zoning Officer Approval of Height Exceptions

~~(BA) The following conditions shall be met~~ **The Zoning Officer may approve exceptions to the Maximum Height of Building/Structure permitted in Section 350-24(c) (“Maximum Permitted Height”) for the Appurtenances listed in subsection (h)(1) above under the following conditions:**

(i) When attached to ~~the roof, or the side of~~ an existing or proposed Building, the ~~base of the Building(s), Structure(s), or portions(s), thereof~~ **width of the Appurtenance(s)** exceeding the height limitation **as measured at the Maximum Permitted Height** shall not cumulatively exceed twenty-five (25%) percent of the ~~base width and base depth~~ of the existing or **Principal proposed** Building **as measured at grade, and the depth of the Appurtenance(s) exceeding the height limitation as measured at the Maximum Permitted Height shall not cumulatively exceed twenty-five (25%) percent of the depth of the existing or proposed Building as measured at grade. Should the Building be divided by a property line, the requirements of this subsection apply only to the part of the Building on the same property as the Appurtenance in question.**

(ii) When attached to ~~the roof of~~ an existing or proposed Building, and not otherwise permitted as an Accessory Use, the **Height of the Building(s), Structure(s), or portions(s), thereof Appurtenances** shall not exceed one hundred forty (140%) percent of the ~~height of the Principal Building~~ **Maximum Permitted Height permitted in Section 350-24(c), as measured in accordance with the definition of Height in Section 350-05(d).**

(iii) All portions of the Appurtenances that exceed the Maximum Permitted Height shall be set back from any property line the distance equal to the Height at that spot on the Appurtenance. Should the Use Category (Commercial, Industrial, Residential, etc.) of the Building or Structure to which the Appurtenance is attached be dissimilar to the Use Category of a Use on an adjoining property, the above-mentioned setback shall be doubled with regard to that adjoining property.

(3) It is the intent of this section to control the Height of Buildings and Structures, not only to fulfill the general purpose of Section 350-02, but to also comply with **Act 164, 1984, Pennsylvania State Legislature, amending** Act 161, 1980, ~~Pennsylvania State Legislature,~~ amending the Airport Zoning Law of 1945 (2 P.S. 1550), **and Federal Aviation Regulation Part 77.**

Proposed Clean Version

(h) Height Exceptions. When otherwise listed or interpreted as a permitted Use in this Ordinance, certain Buildings, Structures or portions thereof may, under certain conditions, exceed the height limitation established in the Zoning District Schedules of Section 350-24(c):

(1) Permitted Exceptions

(A) Incinerator, chimney, vent pipe, antenna, public utility Structure, commercial radio and/or T.V. transmission tower, water tank, cupola, clock tower, dormer, spire, belfry, steeple, minaret, enclosure for service equipment, elevator bulkhead, stage tower, scenery loft, or other similar features not otherwise regulated under this Ordinance. For the purposes of this subsection (h) Height Exceptions, these permitted exceptions shall be known as “Appurtenances”.

(B) Such Appurtenances shall not be places intended primarily for human occupancy; they are to be unoccupied or occupied only occasionally and for short periods of time, typically for the maintenance of the structure or equipment therein.

(2) Zoning Officer Approval of Height Exceptions

(A) The Zoning Officer may approve exceptions to the Maximum Height of Building/Structure permitted in Section 350-24(c) (“Maximum Permitted Height”) for the Appurtenances listed in subsection (h)(1) above under the following conditions:

(i) When attached to an existing or proposed Building, the width of the Appurtenance(s) exceeding the height limitation as measured at the Maximum Permitted Height shall not cumulatively exceed twenty-five (25%) percent of the width of the existing or proposed Building as measured at grade, and the depth of the Appurtenance(s) exceeding the height limitation as measured at the Maximum Permitted Height shall not cumulatively exceed twenty-five (25%) percent of the depth of the existing or proposed Building as measured at grade. Should the Building be divided by a property line, the requirements of this subsection apply only to the part of the Building on the same property as the Appurtenance in question.

(ii) When attached to an existing or proposed Building, and not otherwise permitted as an Accessory Use, the Height of the Appurtenances shall not exceed one hundred forty (140%) percent of the Maximum Permitted Height permitted in Section 350-24(c), as measured in accordance with the definition of Height in Section 350-05(d).

(iii) All portions of the Appurtenances that exceed the Maximum Permitted Height shall be set back from any property line the distance equal to the Height at that spot on the Appurtenance. Should the Use Category (Commercial, Industrial, Residential, etc.) of the Building or Structure to which the Appurtenance is attached be dissimilar to the Use Category of a Use on an adjoining property, the above-mentioned setback shall be doubled with regard to that adjoining property.

(3) It is the intent of this section to control the Height of Buildings and Structures, not only to fulfill the general purpose of Section 350-02, but to also comply with Act 164, 1984, Pennsylvania State Legislature, amending Act 161, 1980, amending the Airport Zoning Law of 1945 (2 P.S. 1550), and Federal Aviation Regulation Part 77.

SOUTH WHITEHALL TOWNSHIP
LEHIGH COUNTY, PENNSYLVANIA

ORDINANCE NO. _____
(Duly Adopted _____, 2023)

AN ORDINANCE AMENDING THE SOUTH WHITEHALL TOWNSHIP ZONING ORDINANCE BY AMENDING SECTION 350-42(h) HEIGHT EXCEPTIONS; AND, PROVIDING FOR A SEVERABILITY CLAUSE, RETENTION OF RIGHTS TO ENFORCE CLAUSE, A REPEALER CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, The South Whitehall Township Board of Commissioners adopted a new Zoning Ordinance on April 5, 2017, which became effective on April 10, 2017; and

WHEREAS, The South Whitehall Township Board of Commissioners recognizes that the Zoning Ordinance may require adjustments as the new regulations are put into practice; and

WHEREAS, The South Whitehall Township is desirous of a clear and transparent Zoning Ordinance for residents to understand and staff to easily enforce; and

WHEREAS, pursuant to Section 609 of the MPC, 53 P.S. 10609, the Township is authorized and empowered to enact amendments to the South Whitehall Township Zoning Ordinance after public hearing thereon pursuant to public notice; and

WHEREAS, The South Whitehall Township Planning Commission reviewed the following amendment to the South Whitehall Township Zoning Ordinance at its duly advertised public meetings on May 18, 2023 and recommended approval thereof; and

WHEREAS, The South Whitehall Township Board of Commissioners has conducted a public hearing pursuant to public notice concerning the following amendments to the South Whitehall Township Zoning Ordinance; and

WHEREAS, after public hearing pursuant to public notice, The South Whitehall Township Board of Commissioners desires to ordain and enact the amendments to the South Whitehall Township Zoning Ordinance as set forth hereinafter.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by The South Whitehall Township Board of Commissioners and it is hereby ordained and enacted by the authority of the same, to wit:

SECTION 1.

To Section 350-42, remove and replace the existing subsection (h) Height Exceptions with the following subsection (h) Height Exceptions:

(h) Height Exceptions. When otherwise listed or interpreted as a permitted Use in this Ordinance, certain Buildings, Structures or portions thereof may, under certain conditions, exceed the height limitation established in the Zoning District Schedules of Section 350-24(c):

(1) Permitted Exceptions

(A) Incinerator, chimney, vent pipe, antenna, public utility Structure, commercial radio and/or T.V. transmission tower, water tank, cupola, clock tower, dormer, spire, belfry, steeple, minaret, enclosure for service equipment, elevator bulkhead, stage tower, scenery loft, or other similar features not otherwise regulated under this Ordinance. For the purposes of this subsection (h) Height Exceptions, these permitted exceptions shall be known as “Appurtenances”.

(B) Such Appurtenances shall not be places intended primarily for human occupancy; they are to be unoccupied or occupied only occasionally and for short periods of time, typically for the maintenance of the structure or equipment therein.

(2) Zoning Officer Approval of Height Exceptions

(A) The Zoning Officer may approve exceptions to the Maximum Height of Building/Structure permitted in Section 350-24(c) (“Maximum Permitted Height”) for the Appurtenances listed in subsection (h)(1) above under the following conditions:

(i) When attached to an existing or proposed Building, the width of the Appurtenance(s) exceeding the height limitation as measured at the Maximum Permitted Height shall not cumulatively exceed twenty-five (25%) percent of the width of the existing or proposed Building as measured at grade, and the depth of the Appurtenance(s) exceeding the height limitation as measured at the Maximum Permitted Height shall not cumulatively exceed twenty-five (25%) percent of the depth of the existing or proposed Building as measured at grade. Should the Building be divided by a property line, the requirements of this subsection apply only to the part of the Building on the same property as the Appurtenance in question.

(ii) When attached to an existing or proposed Building, and not otherwise permitted as an Accessory Use, the Height of the Appurtenances shall not exceed one hundred forty (140%) percent of the Maximum Permitted Height permitted in Section 350-24(c), as measured in accordance with the definition of Height in Section 350-05(d).

(iii) All portions of the Appurtenances that exceed the Maximum Permitted Height shall be set back from any property line the distance equal to the Height at that spot on the Appurtenance. Should the Use Category (Commercial, Industrial, Residential, etc.) of the Building or Structure to which the Appurtenance is attached be dissimilar to the Use Category of a Use on an adjoining property, the above-mentioned setback shall be doubled with regard to that adjoining property.

(3) It is the intent of this section to control the Height of Buildings and Structures, not only to fulfill the general purpose of Section 350-02, but to also comply with Act 164, 1984, Pennsylvania State Legislature, amending Act 161, 1980, amending the Airport Zoning Law of 1945 (2 P.S. 1550), and Federal Aviation Regulation Part 77.

SECTION 2. SEVERABILITY

The provisions of this Ordinance are declared to be severable. If any sentence, clause, section, term, phrase or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, terms, provisions, or parts of this Ordinance. It is hereby declared the intent of the Board of Commissioners for South Whitehall Township that this Ordinance would have been adopted had such an unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included herein.

SECTION 3. FAILURE TO ENFORCE NOT A WAIVER

The failure of the Township to enforce any provision of this Ordinance shall not constitute a waiver by the Township of its rights of future enforcement hereunder.

SECTION 4. REPEALER

Any ordinance, resolution and/or other regulation of the Township, or any parts of ordinances, resolutions and/or other regulations of the Township, including but not limited to all prior zoning ordinances and amendments or parts of prior zoning ordinances and amendments, including prior zoning maps, which are inconsistent herewith are hereby repealed. All other provisions of the ordinances, resolutions and/or other regulations of the Township of South Whitehall, Lehigh County, Pennsylvania shall remain in full force and effect.

SECTION 5. EFFECTIVE DATE

This Ordinance shall become effective on the first day of the month following the date of adoption by the Board of Commissioners.

DULY ORDAINED AND ENACTED this ___ day of _____, **2023** by a majority of the Board of Commissioners of the Township of South Whitehall Township, Lehigh County, Pennsylvania, at a duly advertised meeting of the Board of Commissioners. As part of this Ordinance, the Board of Commissioners has directed that the President, or Vice-President in the absence of the President, execute this Ordinance on behalf of the Board.

**BOARD OF COMMISSIONERS
SOUTH WHITEHALL TOWNSHIP**

Diane Kelly, President

ATTEST: _____
Monica Hodges, Assistant Secretary



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BOARD OF COMMISSIONERS AGENDA ITEM REPORT

DATE: June 7, 2023

SUBMITTED BY: Tom Petrucci, Community Development

ITEM TYPE: Resolution

AGENDA SECTION: RESOLUTIONS

SUBJECT: A Resolution Extending The Conditional Preliminary/Final Approval Granted To A Major Plan Entitled "Proposed Parking Lot Improvements 798 Hausman Road"

SUGGESTED ACTION:

ATTACHMENTS:

[2023.05.30 CD PLANNING - BOC Packet Excerpt Extending Approval for Parking Lot Improvements 798 Hausman Road - 2020-105.pdf](#)

[2023.06.07 RESOLUTION 2023-___ Extending Approval for Proposed Parking Lot Improvements 798 Hausman Road - 2020-105.pdf](#)



MEMORANDUM FOR AGENDA ITEMS

TO:	Board of Commissioners
FROM:	Gregg R. Adams, Planner
DATE:	May 30, 2023
SUBJECT:	A Resolution Extending The Conditional Preliminary/Final Approval Granted To A Major Plan Entitled “Proposed Parking Lot Improvements 798 Hausman Road”
COPY TO:	T. Petrucci, D. Manhardt, L. Harrier, H. Bender, M. Elias, J. Zator, Esq., J. Alderfer, Esq., A. Tallarida, S. Pidcock

- **Background Information:**

An application to further develop the property located at 798 Hausman Road. The plan proposes the construction of a new driveway aisle and the elimination of 13 parking spaces, stormwater management improvements, and the installation of a new water line, on a 0.81-acre portion of the 6.072-acre site. The subject property is zoned IC-1 Industrial-Commercial-1 (Special Height Limitation). Lehigh Valley Health Network is the owner and applicant.

The Board of Commissioners granted conditional preliminary/final approval to the project on February 17, 2021, with 12 conditions.

On February 2, 2022, the Board of Commissioners granted a twelve (12) month extension and two additional SALDO waivers related to the issuance of building permits prior to the recording of the plan. It should be noted that the waiver of the SALDO sections does not grant the applicant the right to permits immediately. SALDO still requires appropriate agreements, security and proof of insurance to be in place prior to the issuance of permits.

On February 15, 2023, the Board of Commissioners granted a 30-day extension in order to observe the results of the current effort to bring the 798 Hausman building’s waterline connection into compliance with Township regulations.

On March 15, 2023, the Board of Commissioners granted a three-month extension in order to complete the work to bring the 798 Hausman building’s waterline connection into compliance with Township regulations.

In the interim, the applicant achieved a successful separation of the waterlines. The Township is requiring a specific water valve be installed and the legal easements be drawn up and executed to allow the Township access in case of a water emergency in the area. Additional time is required to do so. The applicant is requesting a two-month extension. Staff is recommending a three-month extension.

The applicant, to date, has satisfied six of the twelve conditions of approval. Note that two of the conditions are legal protections and one is the requirement to record the plan within twelve months of approval. Therefore, three conditions of approval are unaddressed. Please see the Conditions of Approval Status attachment.

- **Action Requested:**

The applicant requests approval of the request for a two-month extension of approval of the plan.

Staff has no objections to this request.

- **Budget Line Item (if applicable):**

Not applicable.

- **Attachments:**

Applicant Request Letter

Site Plan

Resolution

Conditions of Approval Status

May 26, 2023

Via Email Only (petruccit@southwhitehall.com)

Board of Commissioners
c/o Tom Petrucci, Township Manager
South Whitehall Township
4444 Walbert Avenue
Allentown, PA 18104

**Re: Lehigh Valley Health Network; Resolution Adopted February 17, 2021
Proposed Parking Lot Improvements 798 Hausman Road (the “Property”)**

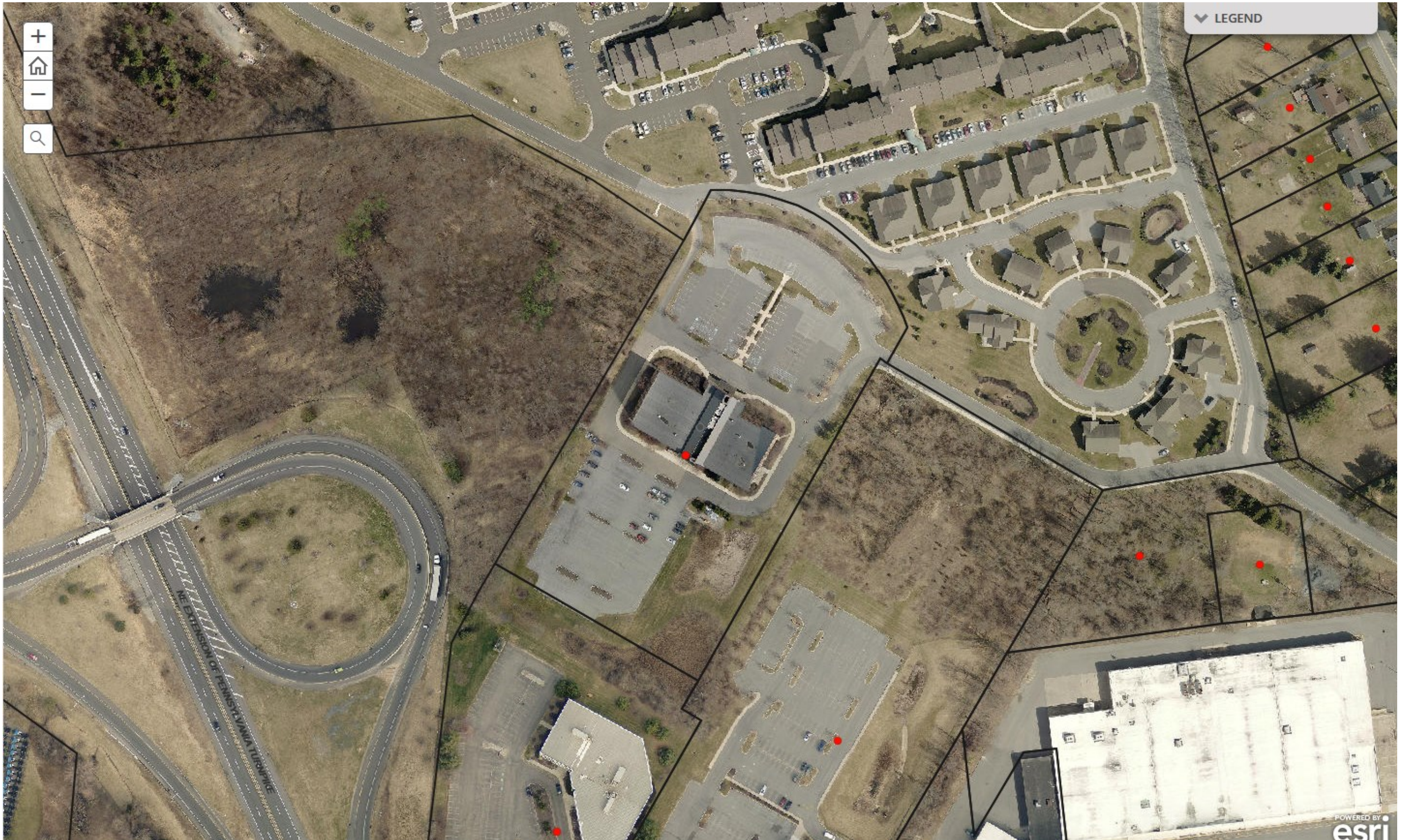
Dear Board:

We represent Lehigh Valley Health Network (“LVHN”) which is the owner of the Property at 798 Hausman Road (the “Property”). The Conditions imposed as part of the Resolution on February 17, 2021 initially provided for the Record Plan to be recorded within twelve (12) months – being February 17, 2022. As the Township is aware, this has been a complicated project with delays relating to, *inter alia*, a water easement issue that was not known to LVHN when it initially purchased the Property. The Township and LVHN have been working cooperatively through this process and LVHN remains appreciative of the Township’s flexibility and cooperation. To that end, Board actions have extended the deadline to June 17, 2023.

Since the last Board action on this matter, LVHN has successfully achieved separation of the water lines and conducted a flow test and is ready to install the necessary water valve to complete the water line separation. Our understanding is that the Township has requested that LVHN install a specific water valve, to be supplied by the Township, which could be accessed by the Township in cases of emergency. Additionally, we understand that as part of this accommodation, the Township is requesting an easement by way of a deed of dedication, legal description, and opinion of title related to the area in which the valve would be installed. Generally, LVHN is amenable to accommodating the Township’s request, however, doing so will take additional time.

Because of the additional steps outlined above, we would respectfully request an extension of two (2) months to August 17, 2023 to record the Record Plan. Additionally, to the extent that the above requires any modification of the Conditions imposed, we would request that any such change be addressed as part of this extension request.

Additionally, in the interest of moving the project forward, we would request a continued waiver from the requirements of Sections 312-13(f)(3) and 312-43 of the Township’s Subdivision



Proposed Parking Lot Improvements 798 Hausman Road Major Plan 2020-105

THE APPLICANT IS RESPONSIBLE FOR JOINING THE PA ONE CALL SYSTEM AND IS RESPONSIBLE FOR THE MARKING OF ALL UNDERGROUND UTILITIES PRIOR TO THE UTILITIES BEING FORMALLY ACCEPTED BY AND DEDICATED TO THE TOWNSHIP.

ACT 287 AS AMENDED

IT IS THE CONTRACTOR'S RESPONSIBILITY TO COMPLY WITH THE PENNSYLVANIA ACT 287 AS AMENDED AND TO CONTRACT THE ONE CALL SYSTEM THREE (3) WORKING DAYS UNLESS OTHERWISE NOTED PRIOR TO START OF CONSTRUCTION.

FOR FREE MARKING TO LOCATE UNDERGROUND UTILITIES
IT'S THE LAW!

CALL BEFORE YOU DIG
 IN PA, TOLL FREE
 1-800-242-1776

FOR FREE MARKING TO LOCATE UNDERGROUND UTILITIES
IT'S THE LAW!

PAVEMENT LEGEND

PROPOSED CONCRETE

PAVEMENT REPLACEMENT

CONCRETE PAD PAVEMENT SECTION

WELDED WIRE FABRIC 4x4 W4.0XW4.0

6" CEMENT CONCRETE

6" PENNDOT TYPE 2A STONE AGGREGATE

COMPACTED FIRM SUBGRADE

CONCRETE PAD PAVEMENT DETAIL

* EXISTING PAVEMENT MARKINGS SHALL BE REPLACED IF DISTURBED.

12" WIDE BITUMINOUS SEAL PG 64-22 (TYP.)

1.5" SUPERPAVE ASPHALT DESIGN, 9.5 MM, PG 64-22, SRL E, WEARING COURSE

2.5" SUPERPAVE ASPHALT DESIGN, 19.0 MM, PG 64-22, BINDER OR TO A DEPTH OF EXIST. BINDING COURSE, WHICHEVER IS GREATER (IF REQUIRED)

6" PENNDOT 2A AGGREGATE COMPACTED

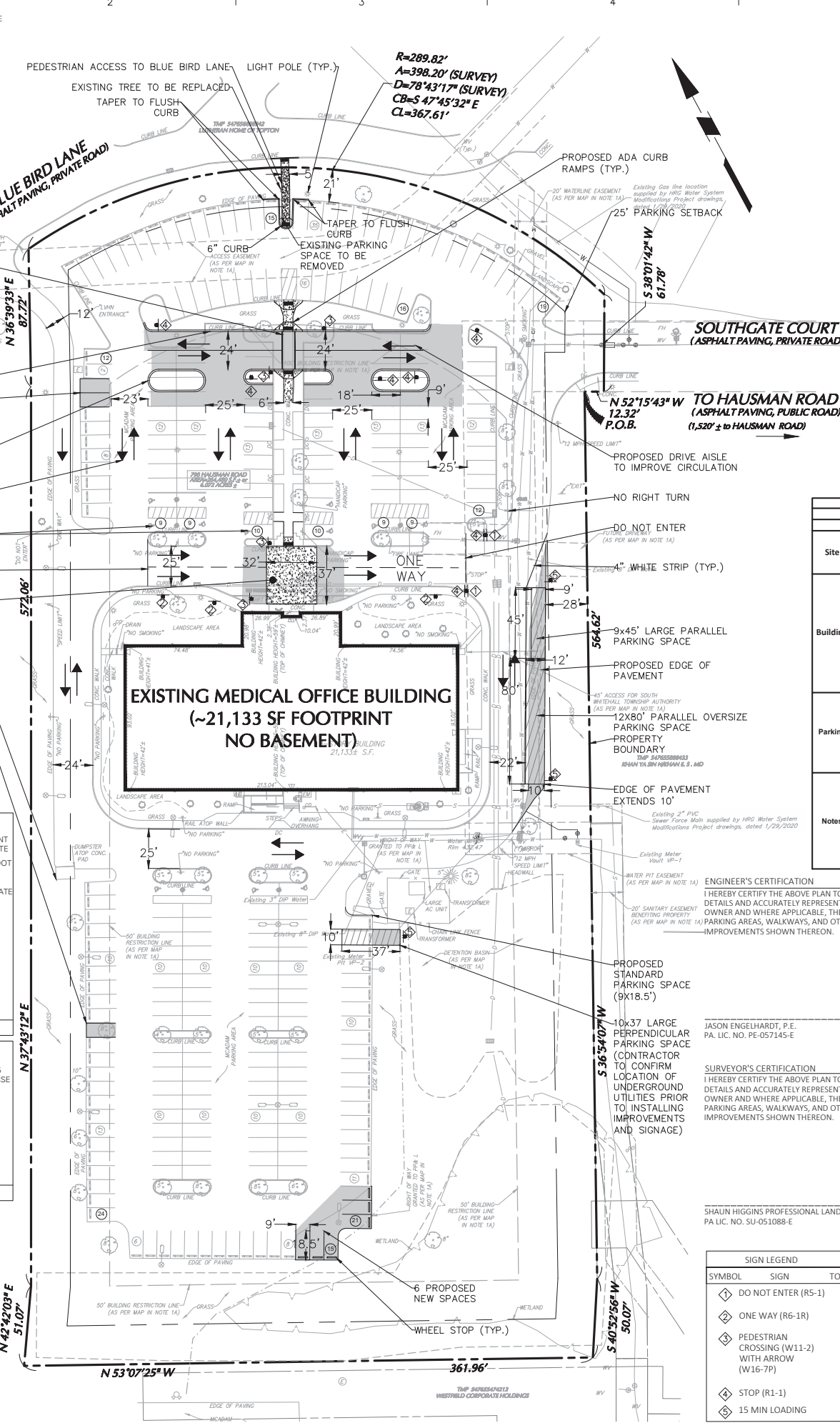
SAW-CUT FULL DEPTH EXIST. PAVEMENT (INITIAL SAW-CUT) (TYP.)

NOTES:

1. JOINTS IN CONCRETE SHALL BE WATER TIGHT. WATER TIGHT JOINTS SHALL CONSIST OF A HOT MIX POLYMER OR LATEX MODIFIED ASPHALT SEALANT. THE SEALANT SHOULD BE PLACED FOLLOWING THROUGH CLEANING OF THE JOINT.

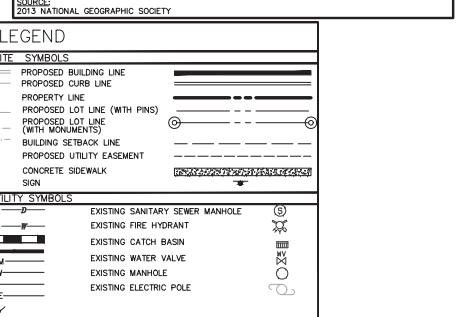
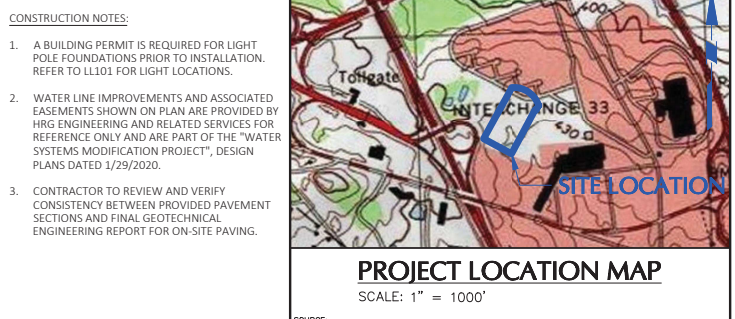
2. THE CONTRACTOR SHALL PREPARE THE SUBGRADE UNDER THE OBSERVATION OF A GEOTECHNICAL ENGINEER PRIOR TO PAVEMENT CONSTRUCTION

NOTE: THIS PLAN HAS BEEN REVIEWED BY THE TOWNSHIP STAFF AND TOWNSHIP ENGINEER FOR CONSISTENCY WITH MUNICIPAL REGULATIONS AND ORDINANCES RELATING TO LAND USE AND DIMENSIONAL REQUIREMENTS OF ZONING. INVESTIGATIONS REGARDING PERIPHERAL LAND AND PLAN ISSUES WHICH ARE NOT REQUIRED AS PART OF A REVIEW PROCESS SUCH AS CLARITY OF TITLE, SUBSURFACE CONDITIONS INCLUDING BUT NOT LIMITED TO, SOIL AND WATER QUALITY, KARST GEOLOGICAL ACTIVITY, AND HISTORIC AND ARCHEOLOGICAL ISSUES, OR SUCH OTHER ISSUES (AS APPROPRIATE) THAT MAY AFFECT THE MERCHANTABILITY OF THE LAND, HAVE NOT BEEN INVESTIGATED OR REVIEWED BY THE TOWNSHIP OR THE TOWNSHIP ENGINEER. THE TOWNSHIP AND TOWNSHIP ENGINEER MAKE NO REPRESENTATION OR WARRANTY CONCERNING THESE ISSUES, WHICH SHOULD BE ADDRESSED BY QUALIFIED PROFESSIONALS, COMMISSIONED BY THE APPLICANT AND/OR LAND OWNER(S) AS APPROPRIATE, AND ENGAGED IN THE APPROPRIATE FIELD OF PRACTICE. DIMENSIONS AND GEOMETRY OF THE PROPERTY BOUNDARY AND ANY INTERNAL LOTS AND STREETS HAVE BEEN OVERVIEWED WITH RESPECT TO APPLICABLE ORDINANCE STANDARDS FOR MATHEMATICAL COMPLETENESS, CLARITY OF DESCRIPTION, CONSISTENCY, CLOSURE, AND AREA (ONLY). THE RESEARCH FOR AND DETERMINATION AND LOCATION OF PROPERTY LINES, STREET RIGHTS-OF-WAY, AND OTHER EASEMENTS, ETC. ARE THE RESPONSIBILITY OF THE SURVEYOR OF RECORD WHOSE SEAL APPEARS ON THIS PLAN, AND HAVE NOT BEEN INDEPENDENTLY CONFIRMED OR VERIFIED BY THE TOWNSHIP, THE TOWNSHIP ENGINEER, OR THE TOWNSHIP SOLLICITOR.



GENERAL NOTES

- THE CONTRACTOR SHALL FURNISH, INSTALL, TEST AND COMPLETE ALL WORK TO THE SATISFACTION OF THE ENGINEER AND OWNER IN ACCORDANCE WITH THE CONTRACT DOCUMENTS. THE CONTRACTOR IS SOLELY RESPONSIBLE FOR MEANS AND METHODS OF CONSTRUCTION; AS SUCH, THESE PLANS DO NOT COMPLETELY REPRESENT, NOR ARE THEY INTENDED TO REPRESENT, ALL SPECIFIC INSTRUCTIONS REQUIRED FOR SITEWORK CONSTRUCTION. THE CONTRACTOR IS RESPONSIBLE TO CONSTRUCT ALL IMPROVEMENTS AS SHOWN ON THESE PLANS IN ACCORDANCE WITH ALL APPLICABLE RULES, REGULATIONS AND LAWS IN EFFECT AT THE TIME OF CONSTRUCTION.
- THE CONTRACTOR SHALL ACCEPT THE SITE AS IS. THE CONTRACTOR SHALL ASSESS CONDITIONS, AND THE KIND, QUALITY AND QUANTITY OF WORK REQUIRED. THE OWNER AND ENGINEER MAKE NO GUARANTEE IN REGARD TO THE ACCURACY OF ANY INFORMATION THAT WAS OBTAINED DURING INVESTIGATIONS. THE CONTRACTOR SHALL MAKE A THOROUGH SITE INSPECTION IN ORDER TO FIELD CHECK EXISTING SITE CONDITIONS, CORRELATE CONDITIONS WITH THE DRAWINGS; AND, RESOLVE ANY POSSIBLE CONFLICTS WITH THE OWNER AND ENGINEER PRIOR TO COMMENCEMENT OF WORK. THE CONTRACTOR SHALL PERFORM ADDITIONAL TOPOGRAPHIC SURVEYS HE/SHE DEEMS NECESSARY, PROVIDED THEY ARE COORDINATED WITH THE OWNER. ANY CONDITIONS DETERMINED BY THE CONTRACTOR THAT DIFFER FROM THE INFORMATION SHOWN ON THE DRAWINGS THAT ARE NOT BROUGHT TO THE ATTENTION OF THE OWNER AND ENGINEER PRIOR TO THE START OF WORK SHALL NOT BE CONSIDERED GROUNDS FOR ADDITIONAL PAYMENT OR CHANGES TO THE CONTRACT DURATION, OR ANY OTHER CLAIMS AGAINST THE OWNER OR OWNER'S ENGINEER.
- THE CONTRACTOR SHALL, WHEN HE/SHE DEEMS NECESSARY, PROVIDE A WRITTEN REQUEST FOR INFORMATION (RFI) TO THE OWNER AND/OR OWNER'S DESIGNATED REPRESENTATIVE, AND ENGINEER PRIOR TO THE CONSTRUCTION OF ANY SPECIFIC SITEWORK ITEM. THE (RFI) SHALL BE IN A FORM ACCEPTABLE TO OWNER AND/OR OWNER'S DESIGNATED REPRESENTATIVE, AND ENGINEER AND SHALL ALLOW FOR A MINIMUM OF THREE WORK DAYS FOR A WRITTEN REPLY. RFIS SHALL BE NUMBERED CONSECUTIVELY BY DATE SUBMITTED. THE CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR SITEWORK ITEMS CONSTRUCTED DIFFERENTLY THAN INTENDED OR AS DEPICTED ON THE PLANS.
- INFORMATION RELATED TO ELEVATIONS AND PROPOSED UTILITIES (SUCH AS ROADWAY GRADES, INVERT ELEVATIONS, RIM ELEVATIONS, GRATE ELEVATIONS, BUILDING FINISHED FLOOR ELEVATIONS, ETC.) MAY BE FOUND IN MORE THAN ONE LOCATION IN THE CONTRACT DOCUMENTS. THE CONTRACTOR SHALL SUFFICIENTLY REVIEW ALL PLANS, PROFILES AND ANY OTHER INFORMATION IN THE CONTRACT DOCUMENTS FOR CONSISTENCY PRIOR TO BID. ANY INCONSISTENCIES OR DISCREPANCIES THAT ARE FOUND BY THE CONTRACTOR OR HIS ASSIGNS SHALL BE IMMEDIATELY BROUGHT TO THE ATTENTION OF THE OWNER AND ENGINEER IN WRITING, IN THE FORMAT OF AN RFI PRIOR TO BID.
- THERE ARE ADDITIONAL NOTES, SPECIFICATIONS AND REQUIREMENTS CONTAINED THROUGHOUT THE PLAN SET AS WELL AS REFERENCES TO SPECIFICATIONS FROM APPLICABLE GOVERNING AUTHORITIES AND INDUSTRY STANDARDS. IT IS THE CONTRACTOR'S RESPONSIBILITY TO OBTAIN, REVIEW AND ADHERE TO ALL THESE DOCUMENTS.
- CONTRACTOR IS SPECIFICALLY CAUTIONED THAT ALL CONSTRUCTION STAKEOUT FOR THIS PROJECT MUST BE COMPLETED FROM THE SITE SPECIFIC SURVEY CONTROL (HORIZONTAL AND VERTICAL) UPON WHICH THE DESIGN IS BASED. THE CONTRACTOR SHOULD NOT RELY ON OR RE-ESTABLISH SURVEY CONTROL BY GPS OR OTHER METHODS FOR USE IN CONSTRUCTION STAKEOUT OR ANY OTHER PURPOSE FOR THIS PROJECT. ANY DISCREPANCIES BETWEEN THE EXISTING HORIZONTAL OR VERTICAL DATA SHOWN ON THESE DRAWINGS AND THAT ENCOUNTERED IN THE FIELD MUST BE REPORTED TO THE DESIGN TEAM PRIOR TO CONSTRUCTION FOR RESOLUTION.
- THE ABOVE NOTES APPLY TO ALL ACCOMPANYING SHEETS.



LEGEND

SITE SYMBOLS

EXISTING CURB LINE

EXISTING FENCE

EXISTING TELEPHONE

EXISTING EASEMENT

PROPOSED BUILDING LINE

PROPOSED CURB LINE

PROPOSED CONCRETE

PROPOSED LOT LINE (WITH PINS)

PROPOSED LOT LINE (WITH MONUMENTS)

BUILDING SETBACK LINE

PROPOSED UTILITY EASEMENT

CONCRETE SIDEWALK SIGN

UTILITY SYMBOLS

EXISTING STORM SEWER

EXISTING WATER MAIN

PROPOSED STORM SEWER

PROPOSED SANITARY SEWER

PROPOSED SANITARY SEWER FORCE MAIN

PROPOSED WATER MAIN

PROPOSED GAS MAIN

PROPOSED TELEPHONE AND ELECTRIC

PROPOSED FIRE HYDRANT

EXISTING SANITARY SEWER MANHOLE

EXISTING FIRE HYDRANT

EXISTING CATCH BASIN

EXISTING WATER VALVE

EXISTING MANHOLE

EXISTING ELECTRIC POLE

SOUTH WHITEHALL TOWNSHIP ZONING TABLE

ZONING DISTRICT: INDUSTRIAL COMMERCIAL (SPECIAL HEIGHT LIMITATION) - 1 (IC-1)

ITEM	PERMITTED/REQUIRED	EXISTING	PROPOSED
Site	Land Use:	Medical Office	Medical Office
	Lot Area:	2.5 Acres	264,480 SF
	Min. Lot Area	300 FT	264,480 SF
	Min. Lot Frontage	300 FT	264,480 SF
Building	Building Setbacks:		
	Min. Front	50 FT	282 FT
	Min. Side	25 FT	73 FT
	Min. Rear	25 FT	362 FT
	Max. Height	70 FT	59 FT (Top of chimney)
	Max. Building Coverage ¹	75%	8%
	Max. Impervious Coverage	75%	59.5%
	Yard Requirements:		
	Min. Front	50 FT	282 FT
	Min. Side	25 FT	73 FT
Parking	Parking Setback	25 FT	20 FT
	Parking Requirements ^{4,5}	254 Spaces	283 Spaces
	Min. Car Parking Space Size	9 FT x 18.5 FT / 8 FT x 22 FT Perpendicular / Parallel	9 FT x 18.5 FT / 8 FT x 22 FT Perpendicular / Parallel
	Min Access Way Width:	One Way (Parallel/Perpendicular) 12 FT / 22 FT Two Way (Parallel/Perpendicular) 22 FT / 24 FT	NA / NA N/A / 24 FT
Notes	1. Existing building approximately 21,133 SF. No basement.		
	2. Maximum building coverage not specified for Medical Office use in South Whitehall Township Zoning Ordinance (2019)		
	3. Net Impervious area increases by 0.6% (1,621 SF) from existing to proposed		
	4. Parking is based on Useable office space. 1 space per 250SF.		
	5. Minimum number of ADA parking spaces required is 7 and 13 are proposed		
	6. 22 existing spaces to be removed; 9 new spaces added; Additional 2 large and 1 oversize spaces added.		
	7. This property located at 798 Hausman Road remains part of a Coordinated Development with the Luther Crest Campus located at 800 Hausman Road as a result of an approval dated XX/XX/2020.		

DRAWING LIST

Page No.	Drawing No.	Drawing Title	Scale	Revision Date
1	GI01	COVER SHEET	AS SHOWN	1/25/2021
2	VT101	EXISTING CONDITIONS	1" = 40'	9/17/2020
3	CS101	SITE PLAN (TO BE RECORDED)	1" = 40'	1/25/2021
4	CG101	GRADING AND DRAINAGE PLAN	1" = 40'	1/25/2021
5	CS501	SITE DETAILS	N.T.S.	1/25/2021
6	CS502	SITE DETAILS	N.T.S.	1/25/2021
7	CE101	SOIL EROSION AND SEDIMENT CONTROL PLAN	1" = 40'	1/25/2021
8	CE501	SOIL EROSION AND SEDIMENT CONTROL DETAILS	N.T.S.	1/25/2021
9	LP101	SITE LANDSCAPE PLAN	1" = 40'	1/25/2021
10	LP501	SITE LANDSCAPE AND LIGHTING DETAILS	N.T.S.	1/25/2021
11	LL101	SITE LIGHTING PLAN	1" = 40'	1/25/2021
12	LL501	SITE LIGHTING AND DETAILS NOTES	N.T.S.	1/25/2021

Date	Description	No.
01-25-2021	REVISED PER TOWNSHIP COMMENT LETTERS	5.
11-17-2020	REVISED PER TOWNSHIP COMMENT LETTERS	4.
10-19-2020	REVISED PER TOWNSHIP COMMENT LETTERS	3.
09-17-2020	REVISED PER TOWNSHIP COMMENT LETTERS	2.
07-28-2020	REVISED PER LAYOUT CHANGE AND HRG WATER DESIGN INFORMATION	1.

RECORDING INFORMATION

RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, NORTHAMPTON COUNTY, PENNSYLVANIA

IN VOL. NO. _____ PAGE NO. _____ ON _____, 20____

APPLICANT STATEMENTS

THE APPLICANT CERTIFIES THAT THEY WILL PROPERLY GRADE ALL INDIVIDUAL LOTS TO PROVIDE ADEQUATE SURFACE DRAINAGE SO THAT NO LOW SPOTS OR WATER POCKETS CREATE A PUBLIC NUISANCE AND THAT THEY WILL PLACE PERMANENT CONCRETE REFERENCE MONUMENTS TO GRADE AS NOTED ON THE PLAN UPON COMPLETION OF GRADING.

THE APPLICANT ACKNOWLEDGES THAT THE FOLLOWING APPROVAL OF THIS PLAN, PLAN CHANGES MAY BE REQUIRED TO ADDRESS THE COMMENTS AND REGULATIONS OF OUTSIDE AGENCIES RESPONSIBLE TO REVIEW ANY ASPECT OF THE PROJECT REFLECTED ON THIS PLAN, INCLUDING BUT NOT LIMITED TO POST-CONSTRUCTION STORMWATER MANAGEMENT AND NPDES PERMIT REGULATIONS. IN THE EVENT OF CHANGES TO THE PLAN FOLLOWING APPROVAL (WHETHER OR NOT THE PLAN HAS BEEN RECORDED), THE APPLICANT SHALL SUBMIT THE REVISED PLAN TO THE TOWNSHIP FOR REVIEW BEFORE THE APPLICANT MAY MOVE FORWARD WITH CONSTRUCTION ACTIVITIES PURSUANT TO THE REVISED PLAN (WHETHER OR NOT THE PLAN HAS BEEN RECORDED).

SWORN AND SUBSCRIBED BEFORE ME THIS _____ DAY OF _____, 20____

STACEE HOGAN, DIRECTOR
 DIRECTOR ESTATE/PROPERTY MANAGEMENT

DATE _____

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

CERTIFICATE OF APPROVAL BY THE TOWNSHIP PLANNING COMMISSION

RECOMMENDED FOR APPROVAL _____ DATE _____ BY THE SOUTH WHITEHALL TOWNSHIP PLANNING COMMISSION.

CHAIRMAN'S SIGNATURE _____ SECRETARY'S SIGNATURE _____

CERTIFICATE OF APPROVAL BY THE TOWNSHIP BOARD OF COMMISSIONERS

APPROVED _____ DATE _____ BY THE BOARD OF COMMISSIONERS OF THE TOWNSHIP OF SOUTH WHITEHALL.

PRESIDENT _____ SECRETARY _____

TOWNSHIP ENGINEER _____

OWNER/APPLICANT

STACEE HOGAN
 DIRECTOR, REAL ESTATE/PROPERTY MANAGEMENT
 LEHIGH VALLEY HEALTH NETWORK
 2100 MACC BOULEVARD
 REAL ESTATE, 5TH FLOOR
 ALLENTOWN, PA 18105
 EMAIL: STACEE.HOGAN@LVHN.ORG
 TEL: 484-884-8540

REVISIONS

RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, NORTHAMPTON COUNTY, PENNSYLVANIA

LANGAN
 Langan Engineering and Environmental Services, Inc.
 One West Broad Street, Suite 200
 Bethlehem, PA 18018
 T: 610.984.8500 F: 610.984.8501 www.langan.com

PROPOSED PARKING LOT IMPROVEMENTS 798 HAUSMAN ROAD

SOUTH WHITEHALL TOWNSHIP PENNSYLVANIA

SITE PLAN (RECORD PLAN)

Project No. 240051201
 Date 07-16-2020
 Drawn By JPK
 Checked By JSE

Drawing No. CS101
 Sheet 3 of 12

SIGN LEGEND

SYMBOL	SIGN	TOTAL
⬇	DO NOT ENTER (R5-1)	2
➡	ONE WAY (R6-1R)	3
⚡	PEDESTRIAN CROSSING (W11-2) WITH ARROW (W16-7P)	4
⬇	STOP (R1-1)	7
⬇	15 MIN LOADING	1

**TOWNSHIP OF SOUTH WHITEHALL
LEHIGH COUNTY, PENNSYLVANIA**

**RESOLUTION NO. 2023-____
(Duly Adopted June 7, 2023)**

**A RESOLUTION EXTENDING THE CONDITIONAL PRELIMINARY/FINAL APPROVAL
GRANTED TO A MAJOR PLAN ENTITLED
“PROPOSED PARKING LOT IMPROVEMENTS 798 HAUSMAN ROAD”**

WHEREAS, Lehigh Valley Health Network, pursuant to Article 3 of the South Whitehall Township Subdivision and Land Development Ordinance, submitted an application for preliminary/final approval to further develop a 6.072-acre property located at 798 Hausman Road, in South Whitehall Township, Lehigh County, Pennsylvania; and,

WHEREAS, this proposal is reflected on plans prepared by Langan Engineering and Environmental Services, entitled “**PROPOSED PARKING LOT IMPROVEMENTS 798 HAUSMAN ROAD**”, dated July 16, 2020 and last revised January 25, 2021; and,

WHEREAS, all sections of the Subdivision and Land Development Ordinance cited herein refer to sections of the Subdivision and Land Development Ordinance that were last amended and made effective April 1, 2019, and are applicable to this plan based on the submission of the initial application on July 16, 2020; and

WHEREAS, the Board of Commissioners previously granted conditional preliminary/final approval to the plan entitled “**PROPOSED PARKING LOT IMPROVEMENTS 798 HAUSMAN ROAD**”, on February 17, 2021, pursuant to Resolution No. 2021-8; and

WHEREAS, Resolution No. 2021-8 contained Condition #10 which states “*The applicant shall meet all conditions of the Preliminary/Final Plan approval, and the Record Plan will be recorded within twelve (12) months of Conditional Preliminary/Final Plan approval, and the applicant agrees that if such conditions are not met, the conditional Preliminary/Final Plan approval will be considered void, and the application for Preliminary/Final Plan approval will be considered void and withdrawn unless otherwise approved by the South Whitehall Township Board of Commissioners.*”; and

WHEREAS, the Board of Commissioners granted, through Resolution 2022-34 adopted February 16, 2022, an extension of the date by which the applicant must satisfy all conditions of Resolution No. 2021-8 by twelve (12) months to February 17, 2023, but with the approval still subject to all of the other conditions of Resolution No. 2021-8. Resolution 2022-34 also granted waivers to the requirement of Sections 312-13(f)(3) and 312-43 of the Subdivision and Land Development Ordinance pertaining to the prohibition of the issuance of permits prior to the recording of the plan is hereby waived.

WHEREAS, the Board of Commissioners granted, on February 15, 2023, an extension of the date by which the applicant must satisfy all conditions of Resolution No. 2021-8 by thirty days (30) to March 17, 2023, but with the approval still subject to all of the other conditions of Resolution No. 2021-8.

WHEREAS, the Board of Commissioners granted, through Resolution 2023-45 adopted March 15, 2023, an extension of the date by which the applicant must satisfy all conditions of Resolution No.

2021-8 by three (3) months to June 17, 2023, but with the approval still subject to all of the other conditions of Resolution No. 2021-8.

WHEREAS, the Applicant has requested that the Board of Commissioners extend the date by which it must satisfy all conditions of Resolution No. 2021-8 by two months to August 17, 2023, but with the approval still subject to all of the other conditions of Resolution No. 2021-8.

NOW, THEREFORE, BE IT ADOPTED AND RESOLVED that the Board of Commissioners of the Township of South Whitehall hereby extends preliminary/final approval to the major plan entitled **“PROPOSED PARKING LOT IMPROVEMENTS 798 HAUSMAN ROAD”**, memorialized in Resolution 2021-8, subject to the applicant’s compliance with the following conditions:

1. The conditions of approval stated in Resolution No. 2021-8 (Exhibit “A”), which conditions have been affirmatively accepted by the applicant, and those waivers and deferrals granted by the Board of Commissioners that are reflected in said resolution and any subsequent amendments, remain valid and in effect.
2. That Condition #10 of Resolution 2021-8 shall be amended by providing for an additional period of two months for the Applicant to satisfy all conditions of Resolution No. 2021-8, the deadline for which shall now be August 17, 2023, subject to the Applicant’s compliance with all other conditions of Resolution No. 2021-8 (a copy of which is attached hereto as Exhibit “A”), which terms and conditions have been affirmatively accepted by Applicant (a copy of which is attached hereto as Exhibit “B”). The Applicant’s failure to meet the extended deadlines provided by this Resolution shall render the conditional preliminary/final approval null and void.
3. The South Whitehall Township Board of Commissioners acknowledges the waiver of the requirement of Sections 312-13(f)(3) and 312-43 of the Subdivision and Land Development Ordinance pertaining to the prohibition of the issuance of permits prior to the recording of the plan, as previously waived by Resolution 2022-34.

The conditions of approval have been made known to the Applicant, and final approval is to be deemed expressly contingent upon the Applicant’s affirmative written acceptance of the conditions on a form prescribed by South Whitehall Township on or before 7:00 p.m., Wednesday, June 7, 2023.

DULY ADOPTED this 7th day of **JUNE, 2023**, by a majority of the Board of Commissioners of the Township of South Whitehall, Lehigh County, Pennsylvania, at a duly advertised meeting of the Board of Commissioners. As part of this Resolution, the Board of Commissioners has directed that the President, or Vice President in the absence of the President, execute this Resolution on behalf of the Board.

**TOWNSHIP OF SOUTH WHITEHALL
BOARD OF COMMISSIONERS**

Diane Kelly, President

ATTEST:

Monica Hodges, Assistant Secretary

EXHIBIT A

**TOWNSHIP OF SOUTH WHITEHALL
LEHIGH COUNTY, PENNSYLVANIA**

**RESOLUTION NO. 2021-08
(Duly Adopted February 17, 2021)**

**A RESOLUTION GRANTING PRELIMINARY/FINAL APPROVAL
TO A MAJOR PLAN ENTITLED
"PROPOSED PARKING LOT IMPROVEMENTS 798 HAUSMAN ROAD"**

WHEREAS, Lehigh Valley Health Network, pursuant to Article 3 of the South Whitehall Township Subdivision and Land Development Ordinance, submitted an application for preliminary/final approval to further develop a 6.072-acre property located at 798 Hausman Road, in South Whitehall Township, Lehigh County, Pennsylvania; and,

WHEREAS, this proposal is reflected on plans prepared by Langan Engineering and Environmental Services, entitled **"PROPOSED PARKING LOT IMPROVEMENTS 798 HAUSMAN ROAD"**, dated July 16, 2020 and last revised January 25, 2021; and,

WHEREAS, all sections of the Subdivision and Land Development Ordinance cited herein refer to sections of the Subdivision and Land Development Ordinance that were last amended and made effective April 1, 2019, and are applicable to this plan based on the submission of the initial application on July 16, 2020; and

WHEREAS, the South Whitehall Township Planning Commission has reviewed the aforesaid plan on December 17, 2020, and having found it to be in substantial compliance with the Subdivision and Land Development Ordinance, has recommended that preliminary/final approval be granted,

NOW, THEREFORE, BE IT ADOPTED AND RESOLVED that the Board of Commissioners of the Township of South Whitehall hereby grants preliminary/final approval to the major plan entitled **"PROPOSED PARKING LOT IMPROVEMENTS 798 HAUSMAN ROAD"**, subject to the applicant's compliance with the following conditions:

1. That subdivision improvement, security, maintenance and indemnification agreements acceptable to the Township be executed, that sufficient security in a form acceptable to the Township be posted, such security shall be available for draws/presentation no further than 60 miles from the Township's office, and evidence of necessary insurance coverage be provided to the plan being recorded.
2. That the applicant address to the satisfaction of the Township Engineer, the comments of Mr. David Tettermer, as contained in his review dated February 11, 2021.

3. That the applicant address to the satisfaction of the Township Geotechnical Consultant, the comments of Mr. Chris Taylor, as contained in his review dated February 11, 2021.
4. That the applicant address to the satisfaction of the Community Development Department, the comments of Mr. Gregg Adams, as contained in his review dated February 11, 2021.
5. That the applicant obtains a letter from the Lehigh County Conservation District approving the Soil Erosion and Sedimentation Control Plan pursuant to Section 312-39(e) of the Subdivision and Land Development Ordinance.
6. That the applicant contribute fees in lieu of parkland dedication, in the amount of \$405.25, to comply with the September 15, 2020 recommendation of the Parks and Recreation Board.
7. That the applicant addresses all issues and obtains all approvals deemed necessary by the South Whitehall Township Board of Commissioners in so far as matters pertaining to the Township's water and sewer service are concerned.
8. That the applicant shall dedicate to the Township a utility easement of sufficient size in an area acceptable to the Township for accessing the water main. The dedication shall occur prior to the project being closed out and shall be based upon "As-built" final conditions in the field satisfactory to South Whitehall Township. The dedication shall be by Deed of Easement in a form acceptable to the Township Solicitor, and an Opinion of Record Title prepared by developer's counsel indicating that the easement is free and clear of liens and encumbrances that would affect the Township's use of said property. The developer shall furnish to the Township Solicitor a description for the easement that has been approved by the Township Engineer, a copy of the current deed for the property showing current ownership and cites the deed book volume and page reference.
9. That the applicant reconciles all open invoices for Township engineering and legal services prior to the plan being recorded.
10. The applicant shall meet all conditions of the Preliminary/Final Plan approval, and the Record Plan will be recorded within twelve (12) months of Conditional Preliminary/Final Plan approval, and the applicant agrees that if such conditions are not met, the conditional Preliminary/Final Plan approval will be considered void, and the application for Preliminary/Final Plan approval will be considered void and withdrawn unless otherwise approved by the South Whitehall Township Board of Commissioners.
11. If for any reason any condition or conditions of this Resolution (or any portion(s) thereof) shall be held by a forum of competent jurisdiction to be invalid, illegal, void, or unenforceable in any respect or to any extent: (i) this Resolution shall automatically be deemed to be null and void in its entirety and shall be deemed to have been immediately and automatically repealed as if it had never been

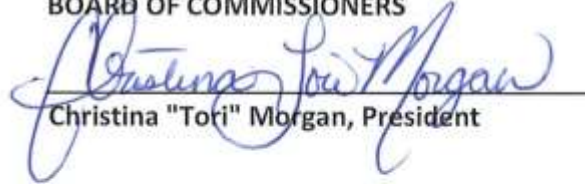
passed; (ii) this Resolution shall automatically be deemed to be a resolution denying the application due to the fact that the application does not comply with those sections of the SALDR (or other applicable ordinance(s)) listed herein or in any review letters referred to herein, including any section relating to waivers or deferrals; and (iii), the Applicant is waiving any right to proceed with an action seeking a deemed approval of the plan based upon the automatic repeal of this Resolution identified in this condition. The Applicant acknowledges that each and every term and provision hereof is an essential, material component to the Township's approval of the Applicant's plan.

12. In the event that the Township becomes involved in litigation of any kind relating to the major subdivision other than a direct appeal by the Applicant of the Township's approval of this Resolution, such as an appeal of this Resolution by an adjoining property owner or a third party, or an attempt to collaterally challenge any conditions of this approval by means other than a timely appeal of this Resolution, the Applicant, on behalf of itself and its agents, representatives, successors and assigns, hereby agrees to exonerate, indemnify, protect, defend (through legal counsel of Township's choice) and save harmless the Township and its boards, committees and commissions (including the individual members thereof), their elected and appointed officers and officials and their employees, contractors, other professional consultants, engineers, solicitors, managers, representatives, advisors, predecessors, successors, agents, independent contractors, insurers and assigns (collectively, the "Township Representatives"), from any and all claims, lawsuits, proceedings, actions, disputes, causes and rights of action, expenses, losses, allegations, demands, charges, injuries, costs (including, without limitation, attorneys' fees, engineers' fees and other costs and expenses incurred, including expert witness fees), damages (including, without limitation, compensatory, consequential or punitive damages), sanctions, and liabilities of every kind, character and manner whatsoever, in law or in equity, civil or criminal, administrative or judicial, contract, tort (including, without limitation, negligence of any kind) or otherwise ("Claims"), pertaining to, relating to, resulting from, caused by or arising out of the Township's approval of the application as evidenced by this Resolution and/or the Township taking any action contemplated by the conditions hereof.

The conditions of approval have been made known to the applicant, and final approval is to be deemed expressly contingent upon the applicant's affirmative written acceptance of the conditions on a form prescribed by South Whitehall Township on or before 4:00 p.m., February 17, 2021. If an unconditional acceptance of the conditions is not received in writing by that date, the application for approval shall be deemed denied based upon applicant's failure to fulfill the said conditions or agree thereto.

DULY ADOPTED this 17th day of **February, 2021**, by a majority of the Board of Commissioners of the Township of South Whitehall, Lehigh County, Pennsylvania, at a duly advertised meeting of the Board of Commissioners. As part of this Resolution, the Board of Commissioners has directed that the President, or Vice President in the absence of the President, execute this Resolution on behalf of the Board.

**TOWNSHIP OF SOUTH WHITEHALL
BOARD OF COMMISSIONERS**


Christina "Tori" Morgan, President

ATTEST:



Scott Boehret, Twp. Secretary

**TOWNSHIP OF SOUTH WHITEHALL
LEHIGH COUNTY, PENNSYLVANIA**

**RESOLUTION NO. 2021-08
(Duly Adopted February 17, 2021)**

ACCEPTANCE OF CONDITIONS

**A RESOLUTION GRANTING PRELIMINARY/FINAL APPROVAL
TO A MAJOR PLAN ENTITLED
"PROPOSED PARKING LOT IMPROVEMENTS 798 HAUSMAN ROAD"**

The undersigned, being the applicant of the land shown on plans prepared by Langan Engineering and Environmental Services, entitled "**PROPOSED PARKING LOT IMPROVEMENTS 798 HAUSMAN ROAD**", dated July 16, 2020 and last revised January 25, 2021, Township Major Plan 2020-105, for the further development of a 6.072-acre property located at 798 Hausman Road, in South Whitehall Township, Lehigh County, Pennsylvania, intending to be legally bound hereby, does affirmatively accept all of the conditions set forth in the Resolution granting conditional preliminary/final approval to the major plan entitled "**PROPOSED PARKING LOT IMPROVEMENTS 798 HAUSMAN ROAD**" and does waive any and all rights which the applicant would otherwise possess to contest the imposition of said conditions, both at law or in equity. Further, the applicant hereby certifies that as of the date of the Resolution, the applicant does not dispute (as outlined by the Pennsylvania Municipalities Planning Code, including but not limited to §§ 10503(1) and 10510(g)) any professional consultant fee for which it has received an invoice from the Township through the date hereof.

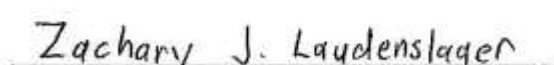
WITNESS/ATTEST:

APPLICANT: Lehigh Valley Health Network


Witness


Applicant


Printed Name


Printed Name

Date: 2/16/2021

EXHIBIT B

**TOWNSHIP OF SOUTH WHITEHALL
LEHIGH COUNTY, PENNSYLVANIA**

**RESOLUTION NO. 2023-____
(Duly Adopted June 7, 2023)**

ACCEPTANCE OF CONDITIONS

**A RESOLUTION EXTENDING THE CONDITIONAL PRELIMINARY/FINAL APPROVAL
GRANTED TO A MAJOR PLAN ENTITLED
“PROPOSED PARKING LOT IMPROVEMENTS 798 HAUSMAN ROAD”**

The undersigned, being the applicant of the land shown on plans prepared by Langan Engineering and Environmental Services, entitled **“PROPOSED PARKING LOT IMPROVEMENTS 798 HAUSMAN ROAD”**, dated July 16, 2020 and last revised January 25, 2021, Township Major Plan 2020-105, for the further development of a 6.072-acre property located at 798 Hausman Road, in South Whitehall Township, Lehigh County, Pennsylvania, intending to be legally bound hereby, does affirmatively accept all of the conditions set forth in the Resolution granting a two (2) month extension to the conditional preliminary/final approval to the major plan entitled **“PROPOSED PARKING LOT IMPROVEMENTS 798 HAUSMAN ROAD”** and does waive any and all rights which the applicant would otherwise possess to contest the imposition of said conditions, both at law or in equity. Further, the applicant hereby certifies that as of the date of the Resolution, the applicant does not dispute (as outlined by the Pennsylvania Municipalities Planning Code, including but not limited to §§ 10503(1) and 10510(g)) any professional consultant fee for which it has received an invoice from the Township through the date hereof.

WITNESS/ATTEST:

APPLICANT: Lehigh Valley Health Network

Witness

Applicant

Printed Name

Printed Name

Date: _____

CONDITIONS OF APPROVAL STATUS

Last Updated February 8, 2023

- That subdivision improvement, security, maintenance and indemnification agreements acceptable to the Township be executed, that sufficient security in a form acceptable to the Township be posted, such security shall be available for draws/presentation no further than 60 miles from the Township's office, and evidence of necessary insurance coverage be provided to the plan being recorded.
- ✓ That the applicant address to the satisfaction of the Township Engineer, the comments of Mr. David Tetterer, as contained in his review dated February 11, 2021.
- ✓ That the applicant address to the satisfaction of the Township Geotechnical Consultant, the comments of Mr. Chris Taylor, as contained in his review dated February 11, 2021.
- ✓ That the applicant address to the satisfaction of the Community Development Department, the comments of Mr. Gregg Adams, as contained in his review dated February 11, 2021.
- ✓ That the applicant obtains a letter from the Lehigh County Conservation District approving the Soil Erosion and Sedimentation Control Plan pursuant to Section 312-39(e) of the Subdivision and Land Development Ordinance.
- ✓ That the applicant contribute fees in lieu of parkland dedication, in the amount of \$405.25, to comply with the September 15, 2020 recommendation of the Parks and Recreation Board.
- That the applicant addresses all issues and obtains all approvals deemed necessary by the South Whitehall Township Board of Commissioners in so far as matters pertaining to the Township's water and sewer service are concerned.
- ✓ That the applicant shall dedicate to the Township a utility easement of sufficient size in an area acceptable to the Township for accessing the water main. The dedication shall occur prior to the project being closed out and shall be based upon "As-built" final conditions in the field satisfactory to South Whitehall Township. The dedication shall be by Deed of Easement in a form acceptable to the Township Solicitor, and an Opinion of Record Title prepared by developer's counsel indicating that the easement is free and clear of liens and encumbrances that would affect the Township's use of said property. The developer shall furnish to the Township Solicitor a description for the easement that has been approved by the Township Engineer, a copy of the current deed for the property showing current ownership and cites the deed book volume and page reference.
- That the applicant reconciles all open invoices for Township engineering and legal services prior to the plan being recorded.
- The applicant shall meet all conditions of the Preliminary/Final Plan approval, and the Record Plan will be recorded within twelve (12) months of Conditional Preliminary/Final Plan approval, and the applicant agrees that if such conditions are not met, the conditional Preliminary/Final Plan approval will be considered void, and the application for Preliminary/Final Plan approval will be considered void and withdrawn unless otherwise approved by the South Whitehall Township Board of Commissioners.

- **If for any reason any condition or conditions of this Resolution (or any portion(s) thereof) shall be held by a forum of competent jurisdiction to be invalid, illegal, void, or unenforceable in any respect or to any extent: (i) this Resolution shall automatically be deemed to be null and void in its entirety and shall be deemed to have been immediately and automatically repealed as if it had never been passed; (ii) this Resolution shall automatically be deemed to be a resolution denying the application due to the fact that the application does not comply with those sections of the SALDR (or other applicable ordinance(s)) listed herein or in any review letters referred to herein, including any section relating to waivers or deferrals; and (iii), the Applicant is waiving any right to proceed with an action seeking a deemed approval of the plan based upon the automatic repeal of this Resolution identified in this condition. The Applicant acknowledges that each and every term and provision hereof is an essential, material component to the Township's approval of the Applicant's plan.**

- **In the event that the Township becomes involved in litigation of any kind relating to the major subdivision other than a direct appeal by the Applicant of the Township's approval of this Resolution, such as an appeal of this Resolution by an adjoining property owner or a third party, or an attempt to collaterally challenge any conditions of this approval by means other than a timely appeal of this Resolution, the Applicant, on behalf of itself and its agents, representatives, successors and assigns, hereby agrees to exonerate, indemnify, protect, defend (through legal counsel of Township's choice) and save harmless the Township and its boards, committees and commissions (including the individual members thereof), their elected and appointed officers and officials and their employees, contractors, other professional consultants, engineers, solicitors, managers, representatives, advisors, predecessors, successors, agents, independent contractors, insurers and assigns (collectively, the "Township Representatives"), from any and all claims, lawsuits, proceedings, actions, disputes, causes and rights of action, expenses, losses, allegations, demands, charges, injuries, costs (including, without limitation, attorneys' fees, engineers' fees and other costs and expenses incurred, including expert witness fees), damages (including, without limitation, compensatory, consequential or punitive damages), sanctions, and liabilities of every kind, character and manner whatsoever, in law or in equity, civil or criminal, administrative or judicial, contract, tort (including, without limitation, negligence of any kind) or otherwise ("Claims"), pertaining to, relating to, resulting from, caused by or arising out of the Township's approval of the application as evidenced by this Resolution and/or the Township taking any action contemplated by the conditions hereof.**

and Land Development Ordinance (pertaining to requirements for prohibiting the issuance of permits prior to recording a plan). This will allow permits to be issued and work to begin on the parking lot improvements.

Based on the foregoing, on behalf of LVHN, we respectfully request that this matter be placed on the agenda for the next meeting of the Board of Commissioners on June 7, 2023. We would be happy to have a representative from LVHN present to answer any questions you might have. As always, should you have any questions or concerns, please feel free to contact me at your convenience. Thank you for your kind consideration.

Very truly yours,

/s/Anthony M. Brichta

Anthony M. Brichta, Esq.

/AMB

cc: Gregg Adams, Planner – South Whitehall (adamsg@southwhitehall.com)
Jennifer Alderfer, Esq.
Tom Petrucci, Township Manager
Fidel Gonzalez
Stacey Hogan
S. Graham Simmons, Esq.

**TOWNSHIP OF SOUTH WHITEHALL
LEHIGH COUNTY, PENNSYLVANIA**

**RESOLUTION NO. 2023-____
(Duly Adopted June 7, 2023)**

**A RESOLUTION EXTENDING THE CONDITIONAL PRELIMINARY/FINAL APPROVAL
GRANTED TO A MAJOR PLAN ENTITLED
“PROPOSED PARKING LOT IMPROVEMENTS 798 HAUSMAN ROAD”**

WHEREAS, Lehigh Valley Health Network, pursuant to Article 3 of the South Whitehall Township Subdivision and Land Development Ordinance, submitted an application for preliminary/final approval to further develop a 6.072-acre property located at 798 Hausman Road, in South Whitehall Township, Lehigh County, Pennsylvania; and,

WHEREAS, this proposal is reflected on plans prepared by Langan Engineering and Environmental Services, entitled “**PROPOSED PARKING LOT IMPROVEMENTS 798 HAUSMAN ROAD**”, dated July 16, 2020 and last revised January 25, 2021; and,

WHEREAS, all sections of the Subdivision and Land Development Ordinance cited herein refer to sections of the Subdivision and Land Development Ordinance that were last amended and made effective April 1, 2019, and are applicable to this plan based on the submission of the initial application on July 16, 2020; and

WHEREAS, the Board of Commissioners previously granted conditional preliminary/final approval to the plan entitled “**PROPOSED PARKING LOT IMPROVEMENTS 798 HAUSMAN ROAD**”, on February 17, 2021, pursuant to Resolution No. 2021-8; and

WHEREAS, Resolution No. 2021-8 contained Condition #10 which states “*The applicant shall meet all conditions of the Preliminary/Final Plan approval, and the Record Plan will be recorded within twelve (12) months of Conditional Preliminary/Final Plan approval, and the applicant agrees that if such conditions are not met, the conditional Preliminary/Final Plan approval will be considered void, and the application for Preliminary/Final Plan approval will be considered void and withdrawn unless otherwise approved by the South Whitehall Township Board of Commissioners.*”; and

WHEREAS, the Board of Commissioners granted, through Resolution 2022-34 adopted February 16, 2022, an extension of the date by which the applicant must satisfy all conditions of Resolution No. 2021-8 by twelve (12) months to February 17, 2023, but with the approval still subject to all of the other conditions of Resolution No. 2021-8. Resolution 2022-34 also granted waivers to the requirement of Sections 312-13(f)(3) and 312-43 of the Subdivision and Land Development Ordinance pertaining to the prohibition of the issuance of permits prior to the recording of the plan is hereby waived.

WHEREAS, the Board of Commissioners granted, on February 15, 2023, an extension of the date by which the applicant must satisfy all conditions of Resolution No. 2021-8 by thirty days (30) to March 17, 2023, but with the approval still subject to all of the other conditions of Resolution No. 2021-8.

WHEREAS, the Board of Commissioners granted, through Resolution 2023-45 adopted March 15, 2023, an extension of the date by which the applicant must satisfy all conditions of Resolution No.

2021-8 by three (3) months to June 17, 2023, but with the approval still subject to all of the other conditions of Resolution No. 2021-8.

WHEREAS, the Applicant has requested that the Board of Commissioners extend the date by which it must satisfy all conditions of Resolution No. 2021-8 by two months to August 17, 2023, but with the approval still subject to all of the other conditions of Resolution No. 2021-8.

NOW, THEREFORE, BE IT ADOPTED AND RESOLVED that the Board of Commissioners of the Township of South Whitehall hereby extends preliminary/final approval to the major plan entitled **“PROPOSED PARKING LOT IMPROVEMENTS 798 HAUSMAN ROAD”**, memorialized in Resolution 2021-8, subject to the applicant’s compliance with the following conditions:

1. The conditions of approval stated in Resolution No. 2021-8 (Exhibit “A”), which conditions have been affirmatively accepted by the applicant, and those waivers and deferrals granted by the Board of Commissioners that are reflected in said resolution and any subsequent amendments, remain valid and in effect.
2. That Condition #10 of Resolution 2021-8 shall be amended by providing for an additional period of two months for the Applicant to satisfy all conditions of Resolution No. 2021-8, the deadline for which shall now be August 17, 2023, subject to the Applicant’s compliance with all other conditions of Resolution No. 2021-8 (a copy of which is attached hereto as Exhibit “A”), which terms and conditions have been affirmatively accepted by Applicant (a copy of which is attached hereto as Exhibit “B”). The Applicant’s failure to meet the extended deadlines provided by this Resolution shall render the conditional preliminary/final approval null and void.
3. The South Whitehall Township Board of Commissioners acknowledges the waiver of the requirement of Sections 312-13(f)(3) and 312-43 of the Subdivision and Land Development Ordinance pertaining to the prohibition of the issuance of permits prior to the recording of the plan, as previously waived by Resolution 2022-34.

The conditions of approval have been made known to the Applicant, and final approval is to be deemed expressly contingent upon the Applicant’s affirmative written acceptance of the conditions on a form prescribed by South Whitehall Township on or before 7:00 p.m., Wednesday, June 7, 2023.

DULY ADOPTED this 7th day of **JUNE, 2023**, by a majority of the Board of Commissioners of the Township of South Whitehall, Lehigh County, Pennsylvania, at a duly advertised meeting of the Board of Commissioners. As part of this Resolution, the Board of Commissioners has directed that the President, or Vice President in the absence of the President, execute this Resolution on behalf of the Board.

**TOWNSHIP OF SOUTH WHITEHALL
BOARD OF COMMISSIONERS**

Diane Kelly, President

ATTEST:

Monica Hodges, Assistant Secretary

EXHIBIT A

**TOWNSHIP OF SOUTH WHITEHALL
LEHIGH COUNTY, PENNSYLVANIA**

**RESOLUTION NO. 2021-08
(Duly Adopted February 17, 2021)**

**A RESOLUTION GRANTING PRELIMINARY/FINAL APPROVAL
TO A MAJOR PLAN ENTITLED
“PROPOSED PARKING LOT IMPROVEMENTS 798 HAUSMAN ROAD”**

WHEREAS, Lehigh Valley Health Network, pursuant to Article 3 of the South Whitehall Township Subdivision and Land Development Ordinance, submitted an application for preliminary/final approval to further develop a 6.072-acre property located at 798 Hausman Road, in South Whitehall Township, Lehigh County, Pennsylvania; and,

WHEREAS, this proposal is reflected on plans prepared by Langan Engineering and Environmental Services, entitled **“PROPOSED PARKING LOT IMPROVEMENTS 798 HAUSMAN ROAD”**, dated July 16, 2020 and last revised January 25, 2021; and,

WHEREAS, all sections of the Subdivision and Land Development Ordinance cited herein refer to sections of the Subdivision and Land Development Ordinance that were last amended and made effective April 1, 2019, and are applicable to this plan based on the submission of the initial application on July 16, 2020; and

WHEREAS, the South Whitehall Township Planning Commission has reviewed the aforesaid plan on December 17, 2020, and having found it to be in substantial compliance with the Subdivision and Land Development Ordinance, has recommended that preliminary/final approval be granted,

NOW, THEREFORE, BE IT ADOPTED AND RESOLVED that the Board of Commissioners of the Township of South Whitehall hereby grants preliminary/final approval to the major plan entitled **“PROPOSED PARKING LOT IMPROVEMENTS 798 HAUSMAN ROAD”**, subject to the applicant’s compliance with the following conditions:

1. That subdivision improvement, security, maintenance and indemnification agreements acceptable to the Township be executed, that sufficient security in a form acceptable to the Township be posted, such security shall be available for draws/presentation no further than 60 miles from the Township’s office, and evidence of necessary insurance coverage be provided to the plan being recorded.
2. That the applicant address to the satisfaction of the Township Engineer, the comments of Mr. David Tettermer, as contained in his review dated February 11, 2021.

3. That the applicant address to the satisfaction of the Township Geotechnical Consultant, the comments of Mr. Chris Taylor, as contained in his review dated February 11, 2021.
4. That the applicant address to the satisfaction of the Community Development Department, the comments of Mr. Gregg Adams, as contained in his review dated February 11, 2021.
5. That the applicant obtains a letter from the Lehigh County Conservation District approving the Soil Erosion and Sedimentation Control Plan pursuant to Section 312-39(e) of the Subdivision and Land Development Ordinance.
6. That the applicant contribute fees in lieu of parkland dedication, in the amount of \$405.25, to comply with the September 15, 2020 recommendation of the Parks and Recreation Board.
7. That the applicant addresses all issues and obtains all approvals deemed necessary by the South Whitehall Township Board of Commissioners in so far as matters pertaining to the Township's water and sewer service are concerned.
8. That the applicant shall dedicate to the Township a utility easement of sufficient size in an area acceptable to the Township for accessing the water main. The dedication shall occur prior to the project being closed out and shall be based upon "As-built" final conditions in the field satisfactory to South Whitehall Township. The dedication shall be by Deed of Easement in a form acceptable to the Township Solicitor, and an Opinion of Record Title prepared by developer's counsel indicating that the easement is free and clear of liens and encumbrances that would affect the Township's use of said property. The developer shall furnish to the Township Solicitor a description for the easement that has been approved by the Township Engineer, a copy of the current deed for the property showing current ownership and cites the deed book volume and page reference.
9. That the applicant reconciles all open invoices for Township engineering and legal services prior to the plan being recorded.
10. The applicant shall meet all conditions of the Preliminary/Final Plan approval, and the Record Plan will be recorded within twelve (12) months of Conditional Preliminary/Final Plan approval, and the applicant agrees that if such conditions are not met, the conditional Preliminary/Final Plan approval will be considered void, and the application for Preliminary/Final Plan approval will be considered void and withdrawn unless otherwise approved by the South Whitehall Township Board of Commissioners.
11. If for any reason any condition or conditions of this Resolution (or any portion(s) thereof) shall be held by a forum of competent jurisdiction to be invalid, illegal, void, or unenforceable in any respect or to any extent: (i) this Resolution shall automatically be deemed to be null and void in its entirety and shall be deemed to have been immediately and automatically repealed as if it had never been

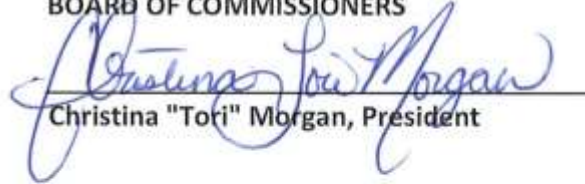
passed; (ii) this Resolution shall automatically be deemed to be a resolution denying the application due to the fact that the application does not comply with those sections of the SALDR (or other applicable ordinance(s)) listed herein or in any review letters referred to herein, including any section relating to waivers or deferrals; and (iii), the Applicant is waiving any right to proceed with an action seeking a deemed approval of the plan based upon the automatic repeal of this Resolution identified in this condition. The Applicant acknowledges that each and every term and provision hereof is an essential, material component to the Township's approval of the Applicant's plan.

12. In the event that the Township becomes involved in litigation of any kind relating to the major subdivision other than a direct appeal by the Applicant of the Township's approval of this Resolution, such as an appeal of this Resolution by an adjoining property owner or a third party, or an attempt to collaterally challenge any conditions of this approval by means other than a timely appeal of this Resolution, the Applicant, on behalf of itself and its agents, representatives, successors and assigns, hereby agrees to exonerate, indemnify, protect, defend (through legal counsel of Township's choice) and save harmless the Township and its boards, committees and commissions (including the individual members thereof), their elected and appointed officers and officials and their employees, contractors, other professional consultants, engineers, solicitors, managers, representatives, advisors, predecessors, successors, agents, independent contractors, insurers and assigns (collectively, the "Township Representatives"), from any and all claims, lawsuits, proceedings, actions, disputes, causes and rights of action, expenses, losses, allegations, demands, charges, injuries, costs (including, without limitation, attorneys' fees, engineers' fees and other costs and expenses incurred, including expert witness fees), damages (including, without limitation, compensatory, consequential or punitive damages), sanctions, and liabilities of every kind, character and manner whatsoever, in law or in equity, civil or criminal, administrative or judicial, contract, tort (including, without limitation, negligence of any kind) or otherwise ("Claims"), pertaining to, relating to, resulting from, caused by or arising out of the Township's approval of the application as evidenced by this Resolution and/or the Township taking any action contemplated by the conditions hereof.

The conditions of approval have been made known to the applicant, and final approval is to be deemed expressly contingent upon the applicant's affirmative written acceptance of the conditions on a form prescribed by South Whitehall Township on or before 4:00 p.m., February 17, 2021. If an unconditional acceptance of the conditions is not received in writing by that date, the application for approval shall be deemed denied based upon applicant's failure to fulfill the said conditions or agree thereto.

DULY ADOPTED this 17th day of **February, 2021**, by a majority of the Board of Commissioners of the Township of South Whitehall, Lehigh County, Pennsylvania, at a duly advertised meeting of the Board of Commissioners. As part of this Resolution, the Board of Commissioners has directed that the President, or Vice President in the absence of the President, execute this Resolution on behalf of the Board.

**TOWNSHIP OF SOUTH WHITEHALL
BOARD OF COMMISSIONERS**


Christina "Tori" Morgan, President

ATTEST:



Scott Boehret, Twp. Secretary

**TOWNSHIP OF SOUTH WHITEHALL
LEHIGH COUNTY, PENNSYLVANIA**

**RESOLUTION NO. 2021-08
(Duly Adopted February 17, 2021)**

ACCEPTANCE OF CONDITIONS

**A RESOLUTION GRANTING PRELIMINARY/FINAL APPROVAL
TO A MAJOR PLAN ENTITLED
"PROPOSED PARKING LOT IMPROVEMENTS 798 HAUSMAN ROAD"**

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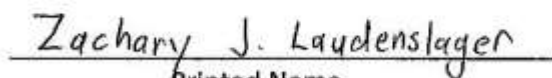
WITNESS/ATTEST:

APPLICANT: Lehigh Valley Health Network


Witness


Applicant


Printed Name


Printed Name

Date: 2/16/2021

EXHIBIT B

**TOWNSHIP OF SOUTH WHITEHALL
LEHIGH COUNTY, PENNSYLVANIA**

**RESOLUTION NO. 2023-____
(Duly Adopted June 7, 2023)**

ACCEPTANCE OF CONDITIONS

**A RESOLUTION EXTENDING THE CONDITIONAL PRELIMINARY/FINAL APPROVAL
GRANTED TO A MAJOR PLAN ENTITLED
“PROPOSED PARKING LOT IMPROVEMENTS 798 HAUSMAN ROAD”**

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WITNESS/ATTEST:

APPLICANT: Lehigh Valley Health Network

Witness

Applicant

Printed Name

Printed Name

Date: _____



Item Cover Page

BOARD OF COMMISSIONERS AGENDA ITEM REPORT

DATE: June 7, 2023

SUBMITTED BY: Tom Petrucci, Administration

ITEM TYPE: Resolution

AGENDA SECTION: RESOLUTIONS

SUBJECT: Approval of a Resolution Authorizing the Township Manager to Execute an Addendum of Declaration of Covenants with IPT Allentown DC LLC, IPT Allentown DC II LLC and an Addendum to Construction Agreement with Norfolk Southern for Work Related to Crackersport and Eck Road Warehouses (Major Plan 2017-104)

SUGGESTED ACTION:

ATTACHMENTS:

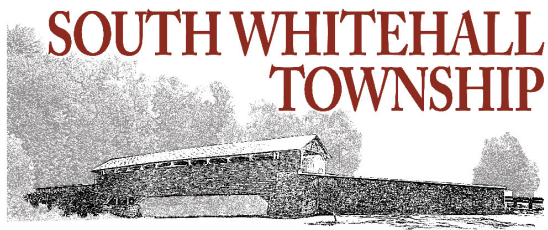
[Memorandum- Norfolk Southern and IPT Addendums for Railroad Construction.pdf](#)

[Resolution- _Norfolk_Southern_and_IPT_Addendums_for_Railroad_Construction.pdf](#)

[Addendum to Cooperation ...Agreement re Norfolk Southern - fully executed \(00976083xA8EEA\).pdf](#)

[Norfolk Southern Railway Company Cooperation, Reimbursement and Indemnification Agt \(00887220xA8EEA\).pdf](#)

[Recorded Declaration of Covenants \(01055358xA8EEA\).pdf](#)



**MEMORANDUM FOR
AGENDA ITEMS**

TO:	Board of Commissioners
FROM:	Tom Petrucci, Township Manager
DATE:	June 2, 2023
SUBJECT:	Approval of Resolution- Authorization for the Township Manager to Execute an Addendum of Declaration of Covenants and Addendum to Construction Agreement- Norfolk Southern Work Related to Crackersport and Eck Road Warehouses (Major Plan 2017-104)
COPY TO:	H. Bender; D. Manhardt; T. Fehnel

- **Action Requested:**

A motion is requested from the Board of Commissioners to approve the following Resolution:

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF SOUTH WHITEHALL TOWNSHIP AUTHORIZING THE ACCEPTANCE OF AN ADDENDUM TO DECLARATION OF COVENANTS WITH IPT ALLENTOWN DC LLC AND IPT ALLENTOWN DC II LLC AND AN ADDENDUM TO A CONSTRUCTION AGREEMENT WITH NORFOLK SOUTHERN AND FURTHER AUTHORIZING ITS EXECUTION AND THE DELIVERY OF SAID DOCUMENT BY THE TOWNSHIP MANAGER

- **Background Information:**

The scope of work for Eck Road and Crackersport Road Warehouses project, included the construction of a retaining wall and new sidewalk along the west side of Eck Road, as well as to widen Eck Road (DOT# 591377F) at-grade crossing, in the vicinity of Norfolk Southern Railway Milepost FJ-7.01.

South Whitehall Township and the developer (IPT Allentown DC LLC, IPT Allentown DC II LLC) previously entered into a Cooperation, Reimbursement and Indemnification Agreement dated April 21, 2020 and an Addendum to said Cooperation, Reimbursement, and Indemnification Agreement dated September 21, 2020; these agreements provided for the reimbursement and indemnification of Township for all work related to or arising from the above-identified scope of work.

Norfolk Southern has now subsequently determined that this project will need to utilize contractor provided protective services for any activities on or adjacent to Railroad Property because the project has the potential to foul the Railroad's track or operations. As such, Norfolk Southern provided a supplemental draft construction agreement (including revised FAE) incorporating these changes for the review and signature of the Township. Norfolk Southern officials have indicated that the need for

the protective services is non-negotiable. The burden of responsibility to provide the protective services rests with the Township as the Project Sponsor.

The Township is the Project Sponsor; however, the Township, by way of the above-identified agreements, has assigned the responsibility and costs related to the work to the developer. It is the intent of the Township to follow this same action for the required protective services.

The Project's Sponsor contractor (which in this case, is the contractor for the developer pursuant to the above-identified previously executed agreements) will be responsible for hiring a protective services provider to staff this project.

An agreement for protective services will need to be executed with this company prior to any work being completed on or near NS ROW. An on-site meeting must be held with NS Track Supervisor to certify any contractor provided protective service workers on the line and to determine which activities will require protection.

The developer has reached out to firms that provide protective rail services. The project is anticipated to last two weeks; based on this information, an estimated project budget for the protective rail services is provided as follows:

Item	Rates	Cost
Rail protective services	10 days @ \$975	= \$9,750
Travel mileage to TN	800 Mi @.655	=\$524
Travel Mileage back to TN	800 Mi @.655	=\$524
Daily mileage	10 days @ 20 Mi @ \$.655	=\$131
Per diem	14 days @ \$75	=\$1,050
Lodging	14 days @ \$125	=1,750
	Total	= \$13,729

Additional security is now required for this project from the developer; the need for the additional security is now memorialized within the enclosed Addendum of Declaration of Covenants instrument. The calculation of the additional security is provided as follows:

- \$159,137.00 (estimate of cost in NS Addendum)
- Minus \$129,691.48 (escrow balance as of June 1, 2023)
- Plus \$13,729 (cost of protective services)

Amount of Additional Security Required- \$43,174.52

The developer has reviewed the draft Addendum of Declaration of Covenants, which was prepared by the Township Solicitor and is enclosed. The representatives of the developer have verbally indicated that they are amenable to the terms of the Addendum and are cognizant of the need for additional security.

The enclosed Resolution authorizes the Township Manager to sign both the Addendum of Declaration of Covenants with the developer and the Addendum to Construction Agreement with Norfolk Southern on behalf of the Board of Commissioners. It is important to identify the fact that the Addendum to the Construction Agreement with Norfolk Southern will be executed only following the receipt of the executed Addendum of Declaration of Covenants and additional security received from the developer.

- **Budget Line Item(s) (if applicable):** *Please indicate approved budget amount for specified project(s).*

N/A

Enclosures

**SOUTH WHITEHALL TOWNSHIP
LEHIGH COUNTY, PENNSYLVANIA**

**RESOLUTION No. 2023-75
(Duly Adopted June 7, 2023)**

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF SOUTH WHITEHALL TOWNSHIP AUTHORIZING THE ACCEPTANCE OF AN ADDENDUM TO DECLARATION OF COVENANTS WITH IPT ALLENTOWN DC LLC AND IPT ALLENTOWN DC II LLC AND AN ADDENDUM TO A CONSTRUCTION AGREEMENT WITH NORFOLK SOUTHERN AND FURTHER AUTHORIZING ITS EXECUTION AND THE DELIVERY OF SAID DOCUMENT BY THE TOWNSHIP MANAGER

WHEREAS, South Whitehall Township (“Township”) and IPT Allentown DC LLC/ IPT Allentown DC II LLC (“Developer”) entered into a Cooperation, Reimbursement and Indemnification Agreement dated April 21, 2020 and an Addendum to Cooperation, Reimbursement, and Indemnification Agreement dated September 21, 2020 (collectively, the “Agreement”) providing, inter alia, for Declarant’s reimbursement and indemnification of Township for all work related to or arising from work associated with the construction of a retaining wall and new sidewalk along the west side of Eck Road, as well as to widen Eck Road (DOT# 591377F) at-grade crossing, in the vicinity of Norfolk Southern Railway Milepost FJ-7.01; and

WHEREAS, Developer executed a Declaration of Covenants dated May 2, 2022, which was recorded in Lehigh County on May 9, 2022 at Instrument No. 2022016745 (“Declaration of Covenants”), which document was a pre-condition to the Township’s execution of a Construction Agreement with Norfolk Southern Railway Company (“Railway”); and

WHEREAS, Township entered into a Construction Agreement with the Railway dated August 31, 2022 (“Construction Agreement”); and

WHEREAS, the Construction Agreement estimated the actual cost of the work to be One Hundred Forty-One Thousand Eight Hundred Ninety-Four and 00/100 Dollars (\$141,894.00); and

WHEREAS, the Railway has proposed an Addendum to the Construction Agreement providing for certain amendments as set forth in the document attached hereto and incorporated herein as Exhibit “A”, including but not limited to an increased estimated actual cost of work in the amount of One Hundred Fifty-Nine Thousand One Hundred Thirty-Seven and 00/100 Dollars (\$159,137.00) and a shifting of responsibility for expenses related to qualified rail protective services; and

WHEREAS, Township opposes the execution of the Addendum to the Construction Agreement without the signing of an Addendum to Declaration of Covenants and the payment of Additional Security as that term is defined in Exhibit “A”; and

WHEREAS, the terms and conditions that are acceptable to the Township to allow for the execution of the Addendum to the Construction Agreement are more fully described in an Addendum to Declaration of Covenants.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the Board of Commissioners of the Township of South Whitehall, County of Lehigh, and Commonwealth of Pennsylvania that:

1. All Whereas clauses are incorporated herein as though more fully set forth at length.
2. The Township Manager of the Township of South Whitehall is hereby authorized and directed to execute on behalf of the Township of South Whitehall the Addendum to Declaration of Covenants, which is attached hereto as ***Exhibit "A"*** and incorporated herein as though more fully set forth at length.
3. The Township Manager of the Township of South Whitehall is hereby authorized and directed to execute on behalf of the Township of South Whitehall the Addendum to a Construction Agreement, which is attached hereto as ***Exhibit "B"*** and incorporated herein as though more fully set forth at length.

DULY ADOPTED, this 7th day of June, 2023 by a majority of the Board of Commissioners of the Township of South Whitehall, Lehigh County, Pennsylvania, at a duly advertised meeting of the Board of Commissioners at which a quorum was present. As part of this Resolution, the Board of Commissioners has directed that the President, or Vice-President in the absence of the President, execute this Resolution on behalf of the Board.

**TOWNSHIP OF SOUTH WHITEHALL
BOARD OF COMMISSIONERS**

Diane Kelly, President

ATTEST:

Monica Hodges, Asst. Secretary

Exhibit "A"

Prepared By and Return To:

Zator Law
American Heritage Building
4400 Walbert Avenue at Ridgeview Drive
Allentown, PA 18104
610.432.1900

Tax Parcel ID: 547628166073-1; 5185 Crackersport Road
547619984811-1; 1436 Eck Road

ADDENDUM TO DECLARATION OF COVENANTS

This ADDENDUM TO DECLARATION OF COVENANTS (“**Addendum**”) is made this _____ day of _____, 2023, by IPT ALLENTOWN DC LLC, a Delaware limited liability company with a principal business address of 518 17th Street 17th Floor, Denver, Colorado 80202-4130, and IPT ALLENTOWN DC II LLC, a Delaware limited liability company with a principal business address of 518 17th Street 17th Floor, Denver, Colorado 80202-4130 (IPT Allentown DC LLC and IPT Allentown DC II LLC shall be collectively referred to herein as “**Declarant**”).

WITNESSETH:

WHEREAS, Township and Declarant entered into a Cooperation, Reimbursement and Indemnification Agreement dated April 21, 2020 and an Addendum to Cooperation, Reimbursement, and Indemnification Agreement dated September 21, 2020 (collectively, the “**Agreement**”) providing, inter alia, for Declarant’s reimbursement and indemnification of Township for all work related to or arising from the Project¹;

WHEREAS, pursuant to the terms of the Agreement, Declarant paid cash security to the Township;

WHEREAS, the Agreement permits the Township to request increased security in its sole discretion;

WHEREAS, the Township is currently holding security pursuant to the terms of the Agreement in the total amount of \$129,691.48;

WHEREAS, Declarant executed a Declaration of Covenants dated May 2, 2022, which was recorded in Lehigh County on May 9, 2022 at Instrument No. 2022016745 (“**Declaration of Covenants**”), which document was a pre-condition to the Township’s execution of a Construction Agreement with Norfolk Southern Railway Company (“**Railway**”);

WHEREAS, Township entered into a Construction Agreement with the Railway dated August 31, 2022 (“**Construction Agreement**”);

¹ Capitalized terms used herein and not otherwise defined are defined as set forth in the Declaration of Covenants.

WHEREAS, the Construction Agreement estimated the actual cost of the work to be One Hundred Forty-One Thousand Eight Hundred Ninety-Four and 00/100 Dollars (\$141,894.00);

WHEREAS, the Railway has proposed an Addendum to the Construction Agreement providing for certain amendments as set forth in the document attached hereto and incorporated herein as Exhibit "A", including but not limited to an increased estimated actual cost of work in the amount of One Hundred Fifty-Nine Thousand One Hundred Thirty-Seven and 00/100 Dollars (\$159,137.00) and a shifting of responsibility for expenses related to qualified rail protective services;

WHEREAS, the estimated cost of qualified rail protective services is Thirteen Thousand Seven Hundred Twenty-Nine Dollars and 00/100 (\$13,729.00);

WHEREAS, Township opposes the execution of the Addendum to the Construction Agreement without the signing of this Addendum and the payment of the Additional Security as defined herein.

NOW THEREFORE, incorporating the foregoing recitals as a material part hereof, Declarant, on its own behalf, and on behalf of its successors and assigns, including all future owners of all or any part of the Property, hereby covenants, promises and agrees to faithfully perform all the requirements set forth hereinafter, and does hereby bind the Declarant, its successors and assigns, to the faithful performance of said requirements and agrees to amend and modify the Declaration of Covenants as follows:

1. The foregoing background is incorporated herein.
2. Contemporaneously with the execution of this Addendum, Declarant shall pay to the Township additional cash security in the amount of Forty-Three Thousand One Hundred Seventy-Four Dollars and 52/100 (\$43,174.52) ("**Additional Security**").
3. Declarant shall provide the Township with an advance opportunity to review any proposed contract for qualified rail protective services and confirm that it fully complies with all requirements of the Railway for those services.
4. All other provisions of the Declaration of Covenants, including but not limited to the Indemnification provisions, shall and do hereby remain in full force and effect, other than any provision that conflicts with the terms and spirit of this Addendum, which shall be deemed to be amended appropriately in order to be consistent with this Addendum.

IN WITNESS WHEREOF, the parties hereto have caused this Addendum to be properly executed the day and year first above written.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

DECLARANT:

IPT ALLENTOWN DC LLC, a Delaware limited liability company

By: BTC II PA Allentown DC Holdco LLC, a Delaware limited liability company, its sole member

By: BTC II Holdco LLC, a Delaware limited liability company, its sole member

By: Build-To-Core Industrial Partnership II LP, a Delaware limited partnership, its manager

By: IPT BTC II GP LLC, a Delaware limited liability company, its general partner

By: IPT Real Estate Holdco LLC, a Delaware limited liability company, its sole member

By: Industrial Property Operating Partnership LP, a Delaware limited partnership, its sole member

By: Industrial Property Trust Inc., a Maryland corporation, its general partner

By: _____
James R. Murray, Senior Vice President

Attest:

(Assistant) Secretary

IPT ALLENTOWN DC II LLC, a Delaware limited liability company

By: BTC II PA Allentown DC II Holdco LLC, a Delaware limited liability company, its sole member

By: BTC II Holdco LLC, a Delaware limited liability company, its sole member

By: Build-To-Core Industrial Partnership II LP, a Delaware limited partnership, its manager

By: IPT BTC II GP LLC, a Delaware limited liability company, its general partner

By: IPT Real Estate Holdco LLC, a Delaware limited liability company, its sole member

By: Industrial Property Operating Partnership LP, a Delaware limited partnership, its sole member

By: Industrial Property Trust Inc., a Maryland corporation, its general partner

By: _____
James R. Murray, Senior Vice President

Attest:

(Assistant) Secretary

STATE OF _____ :
: ss.
COUNTY OF _____ :

On this ___ day of _____, 2023, before me, a Notary Public, the undersigned officer, personally appeared James R. Murray, who acknowledged himself to be the Senior Vice President of Industrial Property Trust Inc., General Partner of Industrial Property Operating Partnership LP, Sole Member of IPT Real Estate Holdco LLC, Sole Member of IPT BTC II GP LLC, General Partner of Build-To-Core Industrial Partnership II LP, Manager of BTC II Holdco LLC, Sole Member of BTC II PA Allentown DC Holdco LLC, Sole Member of IPT ALLENTOWN DC LLC, a Delaware limited liability company, and that he as such Senior Vice President, being authorized to do so, executed the foregoing instrument for the purpose therein contained by signing the name of the corporation as general partner by himself as Senior Vice President.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

STATE OF _____ :
: ss.
COUNTY OF _____ :

On this ___ day of _____, 2023, before me, a Notary Public, the undersigned officer, personally appeared James R. Murray, who acknowledged himself to be the Senior Vice President of Industrial Property Trust Inc., General Partner of Industrial Property Operating Partnership LP, Sole Member of IPT Real Estate Holdco LLC, Sole Member of IPT BTC II GP LLC, General Partner of Build-To-Core Industrial Partnership II LP, Manager of BTC II Holdco LLC, Sole Member of BTC II PA Allentown DC II Holdco LLC, Sole Member of IPT ALLENTOWN DC II LLC, a Delaware limited liability company, and that he as such Senior Vice President, being authorized to do so, executed the foregoing instrument for the purpose therein contained by signing the name of the corporation as general partner by himself as Senior Vice President.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

APPROVED:

ATTEST:

SOUTH WHITEHALL TOWNSHIP

By: _____

Thomas R. Petrucci
Township Manager

COMMONWEALTH OF PENNSYLVANIA :

: ss.

COUNTY OF LEHIGH :

On this __ day of _____, 2023, before me, a notary public, the undersigned officer, personally appeared Thomas R. Petrucci, who acknowledged himself to be the Township Manager of SOUTH WHITEHALL TOWNSHIP, a municipal corporation, and that he as the Township Manager, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the Township by himself as the Township Manager.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

EXHIBIT “A”

(Addendum to Construction Agreement with Norfolk Southern Railway Company)

THIS ADDENDUM TO THE AGREEMENT, made this ___ day of _____, 2023 between **SOUTH WHITEHALL TOWNSHIP** a Pennsylvania municipality, hereinafter called "LICENSEE" and **NORFOLK SOUTHERN RAILWAY COMPANY**, hereinafter called "RAILWAY".

WHEREAS, LICENSEE and the RAILWAY entered into an Agreement dated the 31st of August, 2022 to construct a retaining wall and new sidewalk along the west side of Eck Road and widen Eck Road (DOT# 591377F) at-grade crossing, in the vicinity of RAILWAY Milepost FJ-7.01, at or near South Whitehall Township, Lehigh County, Pennsylvania marked Attachment 1.

WHEREAS, the parties desire to amend the original Agreement to revise certain sections containing references to work to be performed.

NOW, THEREFORE, LICENSEE and the RAILWAY agree to amend the Agreement entered into dated the 31st day of August, 2022 marked Attachment 1:

1. The parties agree to **REPLACE** Section I.3. in its entirety with the following language:

Construction and Maintenance of the Facilities. LICENSEE shall construct and maintain the Facilities, at its expense, in such a manner as will not interfere with the operations of RAILWAY or endanger persons or property of RAILWAY, and in accordance with (a) plans and specifications (if any) attached hereto by reference upon approval of said plans, specifications or revisions by RAILWAY and any other specifications prescribed by RAILWAY, (b) applicable governmental regulations or laws, and (c) applicable specifications adopted by the American Railway Engineering and Maintenance of Way Association when not in conflict with plans, specifications or regulations mentioned in (a) and (b) above.

2. The parties agree to **REPLACE** Section I.7. in its entirety with the following language:

Railway Support. RAILWAY shall, at RAILWAY's option, furnish, at the sole expense of LICENSEE, labor and materials necessary, in RAILWAY's sole judgment, to support its tracks during the installation, maintenance, repair, renewal or removal of the Facilities.

3. The parties agree to **INSERT** Section I.19. in with the following language:

Qualified Protective Services. LICENSEE agrees that it will require its contractor to furnish and maintain qualified protective services equipped to operate around RAILWAY operations to protect the LICENSEE, or its contractor, when construction

activities are taking place on or adjacent to the RAILWAY property and/or has the potential to foul the RAILWAY's tracks or operations. All expenses for the qualified protective services shall be covered by the LICENSEE. Prior to use, RAILWAY has the right to ensure the qualified protective services used is properly equipped to provide services around RAILWAY operations to ensure safety.

4. The parties agree to **REPLACE** Section II. 1. in its entirety with the following language:

Scope of Work. The scope of the work by RAILWAY shall include any necessary acquisition of right-of-way, permitting, design, construction, and construction-related activities including, but not limited to, inspection, and superintendence within and along RAILWAY property necessary to facilitate LICENSEE's installation, construction, maintenance, operation and removal of the Facilities ("Railroad Project").

5. The parties agree to **REPLACE** Section II. 5. (a) in its entirety with the following language:

RAILWAY shall furnish, or cause to be furnished, at the expense of the LICENSEE all the labor costs, overhead and indirect construction costs, materials and supplies, contracted services, transportation, equipment, and other related costs and items required to perform and complete the Railroad Project.

6. The parties agree to **REPLACE** Special Provisions, Exhibit B, in its entirety with marked Attachment 2.

7. The parties agree to **REPLACE** Section II. 5. (b) in its entirety with the following language:

Except as otherwise provided in this Agreement, LICENSEE shall reimburse the RAILWAY for the actual cost of the work performed by it, which is estimated to be **One Hundred Fifty-Nine Thousand, One Hundred Thirty-Seven Dollars and Zero Cents (\$159,137.00)**. It is agreed that progress payments will be made by LICENSEE to the RAILWAY for the total amount of work done as shown on monthly statements. LICENSEE shall pay each RAILWAY statement within forty-five (45) days of receipt. Upon receipt of the final bill, RAILWAY shall be reimbursed in such amounts as are proper and eligible for final payment, and the RAILWAY Project shall be submitted to LICENSEE for final audit.

8. The parties agree to **REPLACE** force account estimate, Exhibit C, in its entirety with marked Attachment 3.

All other terms and conditions contained in the Agreement entered into dated the 31st day of August, 2022 marked Attachment 1 remain the same as originally written.

IN WITNESS WHEREOF, the parties have, through duly authorized representatives, entered into this Addendum to the Agreement effective the day and year first written above.

SOUTH WHITEHALL TOWNSHIP

By: _____

Name: _____

Title: _____

Date: _____

NORFOLK SOUTHERN RAILWAY COMPANY

By: _____

Name: _____

Title: _____

Date: _____

THIS AGREEMENT, dated as of the 31 day of August, 2022 is made and entered into by and between

NORFOLK SOUTHERN RAILWAY COMPANY, a Virginia corporation, whose mailing address is 650 West Peachtree Street NW, Atlanta, Georgia 30308 (hereinafter called "RAILWAY"); and

SOUTH WHITEHALL TOWNSHIP, a Pennsylvania Municipality, whose mailing address is 4444 Walbert Avenue, Allentown, Pennsylvania 18104 (hereinafter called "LICENSEE").

RECITALS

WHEREAS, LICENSEE, at its own cost and expense, has found it necessary to construct a retaining wall and new sidewalk along the west side of Eck Road and widen Eck Road (DOT# 591377F) at-grade crossing (the "Facilities"), in the vicinity of RAILWAY Milepost FJ-7.01, at or near South Whitehall Township, Lehigh County, Pennsylvania (the "Premises"), located substantially as shown upon print of Drawing marked Exhibit A; and

WHEREAS, RAILWAY is willing to permit LICENSEE to enter upon RAILWAY's right of way for installation, construction, maintenance, operation and removal of the Facilities upon the terms and conditions of this Agreement; and in accordance with the plans and specifications attached hereto by reference upon approval of said plans, specifications or revisions by RAILWAY; and

WHEREAS, RAILWAY is willing, at LICENSEE's sole expense, to make modifications to RAILWAY's right of way and/or appurtenances rendered necessary by LICENSEE's installation, construction, maintenance, operation and removal of its Facilities in accordance with the force account estimate marked Exhibit C.

NOW THEREFORE, for and in consideration of the premises and mutual covenants contained in this Agreement, the parties agree as follows:

I. LICENSEE'S FACILITIES

1. Right-of-Entry. RAILWAY, insofar as its rights and title enables it to do so and subject to its rights to operate and maintain its RAILWAY and RAILWAY appurtenances along, in, and over its right-of-way, grants LICENSEE, its agents and/or contractors, without compensation, the right to enter upon the Premises, for the purpose of installation, construction, maintenance, operation and removal of the Facilities, provided that, prior to entry upon lands of RAILWAY, any agent and/or contractor of LICENSEE must execute and deliver to RAILWAY a standard contractor right-of-entry agreement in a form approved by RAILWAY in its sole discretion, together with any certificate(s) of insurance required therein. Furthermore, any crossing of RAILWAY tracks by LICENSEE or any of its agents and/or contractors must be addressed by a standard temporary crossing agreement in a form approved by RAILWAY in its sole discretion.

2. Use and Condition of the Premises. The Premises shall be used by LICENSEE only for the installation, construction, maintenance, operation and removal of the Facilities and for no other purpose without the prior written consent of RAILWAY, which consent may be withheld by RAILWAY in its sole discretion. LICENSEE accepts the Premises in their current "as is" condition, as suited for the installation and operation of the Facilities, and without the benefit of any improvements to be constructed by RAILWAY except insofar as contemplated by Section II of this Agreement.

3. Construction and Maintenance of the Facilities. LICENSEE shall construct and maintain the Facilities, at its expense, in such a manner as will not interfere with the operations of RAILWAY or endanger persons or property of RAILWAY, and in accordance with (a) plans and specifications (if any) attached hereto by reference upon approval of said plans, specifications or revisions by RAILWAY and any other specifications prescribed by RAILWAY, (b) applicable governmental regulations or laws, and (c) applicable specifications adopted by the

American Railway Engineering and Maintenance of Way Association when not in conflict with plans, specifications or regulations mentioned in (a) and (b) above. LICENSEE and any and all of LICENSEE contractors entering the Premises shall fully comply with applicable roadway worker protection regulations.

4. Indemnification. LICENSEE hereby agrees to indemnify and save harmless RAILWAY, its officers, agents and employees, from and against any and all liability, claims, losses, damages, expenses (including attorneys' fees) or costs for personal injuries (including death) and/or property damage to whomsoever or whatsoever occurring which arises or in any manner grows out of (a) the presence of LICENSEE, its employees, agents and/or contractors on or about the Premises, regardless of whether negligence on the part of RAILWAY, its officers, agents or employees caused or contributed to said loss of life, personal injury or property loss or damage in whole or in part; (b) any allegation that RAILWAY is an employer or joint employer of a LICENSEE or is liable for related employment benefits or tax withholdings; or (c) any decision by RAILWAY to bar or exclude LICENSEE from the Premises pursuant to the terms of this Agreement.

5. Environmental Matters. LICENSEE assumes all responsibility for any environmental obligations imposed under applicable laws, regulations or ordinances relating to the installation of the Facilities and/or to any contamination of any property, water, air or groundwater arising or resulting from LICENSEE's permitted operations or uses of RAILWAY's property pursuant to this Agreement. In addition, LICENSEE shall obtain any necessary permits to install the Facilities. LICENSEE agrees to indemnify and hold harmless RAILWAY from and against any and all liability, fines, penalties, claims, demands, costs (including attorneys' fees), losses or lawsuits brought by any person, company or governmental entity relating to contamination of any property, water, air or groundwater due to the use or presence of the Facilities. It is agreed that this indemnity provision extends to any cleanup costs related to LICENSEE's activities upon RAILWAY's property and to any costs related to cleanup of the Facilities or to other property caused by the use of the Facilities.

6. Insurance.

(a) Without limiting in any manner the liabilities and obligations assumed by LICENSEE under any other provision of this Agreement, and as additional protection to RAILWAY, LICENSEE shall, at its expense, procure and maintain with insurance companies satisfactory to RAILWAY, the following insurance policies:

(i) A Commercial General Liability Insurance Policy having a combined single limit of not less than \$2,000,000 per occurrence for all loss, damage, cost and expense, including attorneys' fees, arising out of bodily injury liability and property damage liability during the policy period. Said policy shall include explosion, collapse, and underground hazard (XCU) coverage, shall be endorsed to name RAILWAY as the certificate holder and as an additional insured, and shall include a severability of interests provision; and,

(ii) An original Railroad Protective Liability Insurance Policy naming RAILWAY as a named insured and having a combined single limit of not less than \$2,000,000 each occurrence and \$6,000,000 in the aggregate applying separately to each annual period. If the project involves track over which passenger trains operate, the insurance limits required are not less than a combined single limit of \$5,000,000 each occurrence and \$10,000,000 in the aggregate applying separately to each annual period.

(b) All insurance required under the preceding subsection (a) shall be underwritten by insurers and be of such form and content, as may be acceptable to RAILWAY. Prior to the commencement of installation or maintenance of the Facilities or any entry on RAILWAY's property, LICENSEE shall furnish to RAILWAY's Director Risk Management, Norfolk Southern Corporation and its subsidiaries and affiliates, 650 West Peachtree Street NW Atlanta, Georgia 30308 (or such other representative and/or address as subsequently given by RAILWAY to LICENSEE in writing), for approval, the original policy described in

subsection (a)(ii) and a certificate of insurance evidencing the existence of a policy with the coverage described in subsection (a)(i).

7. Railway Support. RAILWAY shall, at RAILWAY's option, furnish, at the sole expense of LICENSEE, labor and materials necessary, in RAILWAY's sole judgment, to support its tracks and to protect its traffic (including, without limitation, flagging) during the installation, maintenance, repair, renewal or removal of the Facilities.

8. Special Provisions for Protection of Railway Interests. In connection with the operation and maintenance of the Facilities, it is agreed that the safety of people and the safety and continuity of RAILWAY's rail operations shall be of first importance. LICENSEE shall require its employees, agents, contractors, and invitees to utilize and comply with RAILWAY's directives in this regard and shall require its contractor(s), if any, to comply with all NSR Special Provisions, attached hereto, and herein incorporated by reference, including any future amendments, as Exhibit B. As used in the NSR Special Provisions, LICENSEE is the "contractor" should LICENSEE enter onto the Premises to perform any work contemplated by this Agreement. To ensure such compliance, LICENSEE shall assign a project manager to function as a single point-of-contact for LICENSEE. Said project manager is referred to as the "Sponsor's Engineer" in Exhibit B.

9. Safety of Railway Operations. If RAILWAY becomes aware of any safety violations committed by LICENSEE, its employees, agents and/or contractors, RAILWAY shall so notify LICENSEE, and LICENSEE shall promptly correct such violation. In the event of an emergency threatening immediate danger to persons or property, RAILWAY may take corrective actions and shall notify LICENSEE promptly thereafter. LICENSEE shall reimburse RAILWAY for actual costs incurred in taking such emergency measures. RAILWAY assumes no additional responsibility for safety on the Premises for LICENSEE, its agents/or contractors by taking these corrective actions, and LICENSEE, its agents/contractors shall retain full responsibility for such safety violations.

10. Corrective Measures. If LICENSEE fails to take any corrective measures requested by RAILWAY in a timely manner, or if an emergency situation is presented which, in RAILWAY's judgment, requires immediate repairs to the Facilities, RAILWAY, at LICENSEE's expense, may undertake such corrective measures or repairs as it deems necessary or desirable.

11. Railway Changes. If RAILWAY shall make any changes, alterations or additions to the line, grade, tracks, structures, roadbed, installations, right-of-way or works of RAILWAY, or to the character, height or alignment of the Electronic Systems, at or near the Facilities, LICENSEE shall, upon thirty (30) days prior written notice from RAILWAY and at its sole expense, make such changes in the location and character of the Facilities as, in the opinion of the chief engineering officer of RAILWAY, shall be necessary or appropriate to accommodate any construction, improvements, alterations, changes or additions of RAILWAY.

12. Assumption of Risk. Unless caused solely by the negligence of RAILWAY or caused solely by the willful misconduct of RAILWAY, LICENSEE hereby assumes all risk of damage to the Facilities and LICENSEE's other property relating to its use and occupation of the Premises or business carried on the Premises and any defects to the Premises; and LICENSEE hereby declares and states that RAILWAY, its officers, directors, agents and employees shall not be responsible for any liability for such damage.

13. Liens; Taxes. LICENSEE will not permit any mechanic's liens or other liens to be placed upon the Premises, and nothing in this Agreement shall be construed as constituting the consent or request of RAILWAY, express or implied, to any person for the performance of any labor or the furnishing of any materials to the Premises, nor as giving LICENSEE any right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials that could give rise to any mechanic's liens or other liens against the Premises. In addition, LICENSEE shall be liable for all taxes levied or assessed against the Facilities and any other equipment or other property placed by LICENSEE within the Premises. In the event that any such lien shall attach to the Premises or LICENSEE shall fail to pay such taxes, then, in addition to any other right or remedy available to RAILWAY, RAILWAY may, but shall not be obligated to, discharge the same. Any amount paid by RAILWAY for any of the aforesaid purposes, together with related court costs, attorneys' fees, fines and penalties, shall be paid by LICENSEE to RAILWAY within ten (10) days after RAILWAY's demand therefor.

14. Default; Remedies.

(a) The following events shall be deemed to be events of default by LICENSEE under this Agreement:

(i) LICENSEE shall fail to pay any sum of money due hereunder and such failure shall continue for a period of ten (10) days after the due date thereof;

(ii) LICENSEE shall fail to comply with any provision of this Agreement not requiring the payment of money, all of which terms, provisions and covenants shall be deemed material, and such failure shall continue for a period of thirty (30) days after written notice of such default is delivered to LICENSEE;

(iii) LICENSEE shall become insolvent or unable to pay its debts as they become due, or LICENSEE notifies RAILWAY that it anticipates either condition;

(iv) LICENSEE takes any action to, or notifies RAILWAY that LICENSEE intends to file a petition under any section or chapter of the United States Bankruptcy Code, as amended from time to time, or under any similar law or statute of the United States or any State thereof; or a petition shall be filed against LICENSEE under any such statute; or

(v) a receiver or trustee shall be appointed for LICENSEE's license interest hereunder or for all or a substantial part of the assets of LICENSEE, and such receiver or trustee is not dismissed within sixty (60) days of the appointment.

(b) Upon the occurrence of any event or events of default by LICENSEE, whether enumerated in this paragraph 15 or not, RAILWAY shall have the option to pursue any remedies available to it at law or in equity without any additional notices to LICENSEE. RAILWAY's remedies shall include, but not be limited to, the following: (i) termination of this Agreement, in which event LICENSEE shall immediately surrender the Premises to RAILWAY; (ii) entry into or upon the Premises to do whatever LICENSEE is obligated to do under the terms of this License, in which event LICENSEE shall reimburse RAILWAY on demand for any expenses which RAILWAY may incur in effecting compliance with LICENSEE's obligations under this License, but without rendering RAILWAY liable for any damages resulting to LICENSEE or the Facilities from such action; and (iii) pursuit of all other remedies available to RAILWAY at law or in equity, including, without limitation, injunctive relief of all varieties.

15. Railway Termination Right. Notwithstanding anything to the contrary in this Agreement, RAILWAY shall have the right to terminate this Agreement and the rights granted hereunder, after delivering to LICENSEE written notice of such termination no less than sixty (60) days prior to the effective date thereof, upon the occurrence of any one or more of the following events:

(a) If LICENSEE shall discontinue the use or operations of the Facilities; or

(b) If RAILWAY shall be required by any governmental authority having jurisdiction over the Premises to remove, relocate, reconstruct or discontinue operation of its railroad on or about the Premises; or

(c) If RAILWAY, in the good faith judgment of its Superintendent, shall require a change in the location or elevation of its railroad on or about the location of the Facilities or the Premises that might effectively prohibit the use or operation of the Facilities; or

(d) If RAILWAY, in the good faith judgment of its Superintendent, determines that the maintenance or use of the Facilities unduly interferes with the operation and maintenance of the facilities of RAILWAY, or with the present or future use of such property by RAILWAY, its lessees, affiliates, successors or assigns, for their respective purposes.

16. Condemnation. If the Premises or any portion thereof shall be taken or condemned in whole or in part for public purposes, or sold in lieu of condemnation, then this Agreement and the rights granted to LICENSEE hereunder shall, at the sole option of RAILWAY, forthwith cease and terminate. All compensation awarded for any taking (or sale proceeds in lieu thereof) shall be the property of RAILWAY, and LICENSEE shall have no claim thereto, the same being hereby expressly waived by LICENSEE.

17. Removal of Facilities; Survival. The Facilities are and shall remain the personal property of LICENSEE. Upon the termination of this Agreement, LICENSEE shall remove the Facilities from the Premises within thirty (30) days after the effective date thereof. In performing such removal, unless otherwise directed by RAILWAY, LICENSEE shall restore the Premises to the same condition as existed prior to the installation or placement of Facilities, reasonable wear and tear excepted. In the event LICENSEE shall fail to so remove the Facilities or restore the Premises, the Facilities shall be deemed to have been abandoned by LICENSEE, and the same shall become the property of RAILWAY for RAILWAY to use, remove, destroy or otherwise dispose of at its discretion and without responsibility for accounting to LICENSEE therefor; provided, however, in the event RAILWAY elects to remove the Facilities, RAILWAY, in addition to any other legal remedy it may have, shall have the right to recover from LICENSEE all costs incurred in connection with such removal and the restoration of the Premises. Notwithstanding anything to the contrary contained in this Agreement, the termination of this Agreement shall not relieve LICENSEE from LICENSEE's obligations accruing prior to the termination date, and such obligations shall survive any such termination of this Agreement.

18. Interests in Real Property

LICENSEE shall acquire or settle all property, property rights and all damages to property affected by the installation, construction, maintenance, and operation of the Facilities. The cost of said property, property rights and damages to property shall be borne by LICENSEE.

RAILWAY, insofar as it has the legal right so to do, shall permit LICENSEE to enter upon lands owned or operated by RAILWAY to construct and occupy its property with sufficient width to permit construction and maintenance of the Facilities. LICENSEE and RAILWAY shall enter into good faith negotiations for a price to be consistent with the property interest determined by LICENSEE to be needed for the proposed improvement.

However, the price to be paid by LICENSEE to RAILWAY for said conveyances (representing the fair market value thereof plus damages, if any, to the residue) shall be as mutually agreed upon within nine (9) months from the date of occupancy by LICENSEE, and if agreement as to price is reached, an additional period of ninety (90) days shall be allowed for settlement, it being agreed however, that if no agreement as to price is reached within the aforesaid nine (9) month period, LICENSEE will within ninety (90) days thereafter institute an eminent domain proceeding authorized by law for the determination of the value of same. The provisions of this Agreement shall survive the institution of such eminent domain proceeding.

LICENSEE shall furnish the plans and descriptions for any such conveyance. It is understood, however, that the foregoing right of entry is a permissive use only, and this Section is not intended to convey or obligate RAILWAY to convey any interest in its land.

II. SCOPE OF RAILROAD PROJECT, AND MAINTENANCE AND OWNERSHIP OF PROJECT IMPROVEMENTS

1. Scope of Work. The scope of the work by RAILWAY shall include any necessary acquisition of right-of-way, permitting, design, construction, and construction-related activities including, but not limited to, inspection, flagging, and superintendence, within and along RAILWAY property necessary to facilitate LICENSEE's installation, construction, maintenance, operation and removal of the Facilities ("Railroad Project").

2. Construction of the Railroad Project. The RAILWAY shall construct the Railroad Project in accordance with the force account estimate, attached as Exhibit C and herein incorporated by reference, including any future amendments thereto, and all applicable state and federal laws.

(a) All work performed by the RAILWAY related to the Railroad Project and consistent with the force account estimate will be deemed reimbursable project expenses, and shall be at no cost to the RAILWAY.

(b) RAILWAY shall accomplish work on the Railroad Project by the following: (i) railroad force account; (ii) existing continuing contracts at reasonable costs; (iii) contracting with the lowest responsible bidder based on appropriate solicitation; or (iv) contract without competitive bidding for minor work at reasonable costs.

3. Maintenance and Ownership of the Railroad Project. Upon completion of the Railroad Project, the RAILWAY shall own and, at its own cost and expense, maintain the Railroad Project improvements until such time as RAILWAY deems such maintenance to no longer be necessary.

4. Construction of the Railroad Project. Execution of this Agreement constitutes LICENSEE's issuance of a notice to proceed to RAILWAY with the Railroad Project ("Notice to Proceed"). RAILWAY shall make commercially reasonable efforts to commence construction on the Railroad Project as soon as possible, in RAILWAY's sole discretion, after the date of availability for RAILWAY to commence its construction activities on the Railroad Project.

5. Reimbursement by LICENSEE.

(a) RAILWAY shall furnish, or cause to be furnished, at the expense of the LICENSEE all the labor costs, overhead and indirect construction costs, materials and supplies, contracted services, transportation, equipment, and other related costs and items required to perform and complete the Railroad Project. In addition, RAILWAY shall furnish, at the expense of LICENSEE, the protection of rail traffic occasioned by or made necessary by entry by LICENSEE and/or its contractors or any subcontractor(s) pursuant to this Agreement.

(b) Except as otherwise provided in this Agreement, LICENSEE shall reimburse the RAILWAY for the actual cost of the work performed by it, which is estimated to be **One Hundred Forty-One Thousand, Eight Hundred Ninety-Four Dollars and Zero Cents (\$141,894.00)**. It is agreed that progress payments will be made by LICENSEE to the RAILWAY for the total amount of work done as shown on monthly statements. LICENSEE shall pay each RAILWAY statement within forty-five (45) days of receipt. Upon receipt of the final bill, RAILWAY shall be reimbursed in such amounts as are proper and eligible for final payment, and the RAILWAY Project shall be submitted to LICENSEE for final audit.

(c) Incurred Costs. The reimbursement amounts for all costs billed under this Agreement shall be subject to the applicable Federal principles and based on the full actual costs plus Approved Labor Additives. Design costs incurred by RAILWAY prior to issuance of the Notice to Proceed shall be reimbursed by LICENSEE.

III. GENERAL PROVISIONS

1. Assignment and Successors. This Agreement shall be binding upon and shall inure to the benefit of, and shall be enforceable by, the parties hereto and their respective permitted successors and assigns.

2. Limitations Upon Damages. Notwithstanding any other provision of this Agreement, RAILWAY shall not be liable for breach of this Agreement or under this Agreement for any consequential, incidental, exemplary, punitive, special, business damages or lost profits, as well as any claims for death, personal injury, and property loss and damage which occurs by reason of, or arises out of, or is incidental to the interruption in or usage of the Facilities placed upon or about the Premises by LICENSEE, including without limitation any damages under such claims that might be considered consequential, incidental, exemplary, punitive, special, business damages or lost profits.

3. Miscellaneous. All exhibits, attachments, riders and addenda referred to in this Agreement are incorporated into this Agreement and made a part hereof for all intents and purposes. Time is of the essence with regard to each provision of this Agreement. This Agreement shall be construed and interpreted in accordance with and governed by the laws of the State in which the Premises are located. Each covenant of RAILWAY and LICENSEE under this Agreement is independent of each other covenant under this Agreement. No default in performance of any covenant by a party shall excuse the other party from the performance of any other covenant.

4. Notice to Parties. Whenever any notice, statement or other communication is required under this Agreement, it shall be sent to the contact below except as otherwise provided in this Agreement or unless otherwise specifically advised.

As to LICENSEE:
c/o South Whitehall Township
444 Walbert Avenue
Allentown, Pennsylvania 18104
Attention: Township Manager

As to RAILWAY:
c/o Norfolk Southern Corporation
Engineering - Design & Construction
650 West Peachtree Street NW – Box 45
Atlanta, Georgia 30308
Attention: Engineer Public Improvement

Either party may, by notice in writing, direct that future notices or demands be sent to a different address. All notices hereunder shall be deemed given upon receipt (or, if rejected, upon rejection).

5. Severability. The invalidity of any section, subsection, clause or provision of this Agreement shall not affect the validity of the remaining sections, subsections, clauses or provisions of this contract.

6. No Third Party Beneficiary. This Agreement shall be for the benefit of the parties only, and no person, firm or corporation shall acquire any rights whatsoever by virtue of this Agreement, except LICENSEE and the RAILWAY and their successors and assigns.

7. Force Majeure. The parties agree to pursue the completion of the Railroad Project in accordance with the requirements of this Agreement. No party shall be held responsible to the other for delays caused by Force Majeure events, and such delays shall not be deemed a breach or default under this Agreement. In no event shall Force Majeure events excuse LICENSEE from its obligation to make payment to RAILWAY in accordance with this Agreement. Further the parties agree that the resolution or settlement of strikes or other labor disputes shall not be deemed to be within the control or reasonable control of the affected party. If any party is unable to complete work assigned to it due to a condition of Force Majeure or other conditions beyond the reasonable control of said party, then said party will diligently pursue completion of the item that is delayed once said condition or conditions are no longer in effect. For purposes of this Agreement, Force Majeure events are defined as circumstances beyond a party's reasonable control that delay performance and may include, but are not limited to, acts of God, actions or decrees of

governmental bodies (beyond control of the parties), acts of the public enemy, labor disputes, fires, insurrections, and floods.

8. Amendment; Entire Agreement. This Agreement may be amended only in writing executed by authorized representatives of the parties hereto. No verbal change, modification, or amendment shall be effective unless in writing and signed by authorized representatives of the parties. The provisions hereof constitute the entire Agreement between the parties and supersede any verbal statement, representations, or warranties, stated or implied.

9. Waiver of Workers Compensation Immunity. In the event that all or a portion of the Premises is location in the State of Ohio, LICENSEE, with respect to the indemnification provisions contained in this Agreement, hereby expressly waives any defense or immunity granted or afforded LICENSEE pursuant to Section 35, Article II of the Ohio Constitution and Section 4123.74 of the Ohio Revised Code. In the event that all or a portion of the Premises is located in the Commonwealth of Pennsylvania, LICENSEE, with respect to the indemnification provisions contained in this Agreement, hereby expressly waives any defense or immunity granted or afforded LICENSEE pursuant to Pennsylvania Workers' Compensation Act, 77 P.S. 481.

10. Independent Contractors. The parties agree that LICENSEE and its agents and/or contractors, shall not be deemed either agents or independent contractors of RAILWAY. Except as otherwise provided by this Agreement, RAILWAY shall exercise no control whatsoever over the employment, discharge, compensation of, or services rendered by LICENSEE or its contractors. Notwithstanding the foregoing, this paragraph shall in no way affect the absolute authority of RAILWAY to temporarily prohibit LICENSEE, its agents and/or contractors, or persons not associated with LICENSEE from entering RAILWAY property, or to require the removal of any person from RAILWAY property, if RAILWAY determines, in its sole discretion, that such person is not acting in a safe manner or that actual or potential hazards in, on, or about the Railroad Project Work exist.


11. Meaning of "Railway". The word "RAILWAY" as used herein shall include any other company whose property at the aforesaid location may be leased or operated by RAILWAY. Said term also shall include RAILWAY's officers, directors, agents and employees, and any parent company, subsidiary or affiliate of RAILWAY and their respective officers, directors, agents and employees.


12. Approval of Plans. By its review and approval, if any, of the plans, RAILWAY signifies only that the plans and improvements to be constructed in accordance with the plans satisfy the RAILWAY's requirements. RAILWAY expressly disclaims all other representations and warranties in connection with said plans, including, but not limited to, the integrity, suitability or fitness for the purposes of the LICENSEE or any other person(s) of the plans or improvements constructed in accordance with the plans.

IN WITNESS WHEREOF, the parties have, through duly authorized representatives, entered into this Agreement effective the day and year first written above.

SOUTH WHITEHALL TOWNSHIP, a
Pennsylvania Municipality

NORFOLK SOUTHERN RAILWAY
COMPANY, a Virginia corporation

By: 
Name: Herbert Bender
Title: Interim Twp. Manager
Date: July 6, 2022

By: 
Name: Kelly Barber
Title: General Manager
Date: 8/31/2022

NS File: CX1113689

EXHIBIT A



EXHIBIT B

Norfolk Southern Railway Company



E. Norfolk Southern – Special Provisions for Protection of Railway Interests

1. AUTHORITY OF RAILROAD ENGINEER AND SPONSOR ENGINEER:

Norfolk Southern Railway Company, hereinafter referred to as “Railroad”, and their authorized representative shall have final authority in all matters affecting the safe maintenance of railroad traffic including the adequacy of the foundations and structures supporting the railroad tracks. For Public Improvement Projects impacting the Railroad, the Railroad’s Public Improvements Engineer, hereinafter referred to as “Railroad Engineer”, will serve as the authorized representative of the Railroad.

The authorized representative of the Project Sponsor (“Sponsor”), hereinafter referred to as the “Sponsor’s Engineer”, shall have authority over all other matters as prescribed herein and in the Project Specifications.

The Sponsor’s Prime Contractor, hereinafter referred to as “Contractor” shall be responsible for completing any and all work in accordance with the terms prescribed herein and in the Project Specifications. These terms and conditions are subject to change without notice at the sole discretion of the Railroad. The Contractor must request the latest version of these provisions from the Railroad prior to commencing work and must follow the requirements outlined therein.

2. NOTICE OF STARTING WORK:

A. The Contractor shall not commence any work on Railroad rights-of-way until the Contractor has complied with the following conditions:

1. Signed and received a fully executed copy of the required Norfolk Southern Contractor Right of Entry Agreement. Contractor Right of Entry Agreements to be submitted via email to the Public Improvements Engineer.
2. Given the Railroad written notice in electronic format to the Railroad Engineer, with copy to the Sponsor’s Engineer who has been designated to be in charge of the work, at least ten days in advance of the date the Contractor proposes to begin work on Railroad rights-of-way.
3. Obtained written approval from the Railroad of Railroad Protective Liability Insurance coverage as required by paragraph 14 herein. It should be noted that the Railroad does not accept notation of Railroad Protective insurance on a certificate of liability insurance form or Binders as Railroad must have the full original countersigned policy. Further, please note that mere receipt of the policy is not the only issue but review for compliance. Due to the number of projects system-wide, it typically takes a minimum of 30-45 days for the Railroad to review.
4. Obtained Railroad Protective Services as required by paragraph 7 herein.
5. Obtained written authorization from the Railroad to begin work on Railroad’s rights-of-way, such authorization to include an outline of specific conditions with which the Contractor must comply. Written Authorization will be issued by the Railroad once all items on the NS Construction Checklist (refer to Appendix J) have been completed.
6. Furnished a schedule for all work within the Railroad’s rights-of-way as required by paragraph 7.B.1.

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- B. The Railroad's written authorization to proceed with the work shall include the names, addresses, and telephone numbers of the Railroad's representatives who are to be notified as hereinafter required. Where more than one representative is designated, the area of responsibility of each representative shall be specified.
- C. All project-related utility work that is to occur on, over, or under Railroad right-of-way must be coordinated with the Norfolk Southern Pipe and Wire Program. The Contractor must receive approval from the Norfolk Southern Pipe and Wire Program prior to commencing any utility work.
3. INTERFERENCE WITH RAILROAD OPERATIONS:
- A. The Contractor shall so arrange and conduct the Contractor's work that there will be no interference with Railroad's operations, including train, signal, telephone and telegraphic services, or damage to the property of the Railroad or to poles, wires, and other facilities of tenants on the rights-of-way of the Railroad. Whenever work is liable to affect the operations or safety of trains, the method of doing such work shall first be submitted to the Railroad Engineer for approval, but such approval shall not relieve the Contractor from liability. Any work to be performed by the Contractor which requires Railroad Protective Services or inspection service shall be deferred by the Contractor until the Railroad Protective Services or inspection service required by the Railroad is available at the job site.
- B. Whenever work within Railroad's rights-of-way is of such a nature that impediment to Railroad's operations such as use of runaround tracks or necessity for reduced speed is unavoidable, the Contractor shall schedule and conduct the Contractor's operations so that such impediment is reduced to the absolute minimum.
- C. Should conditions arising from, or in connection with the work, require that immediate and unusual provisions be made to protect operations and property of the Railroad, the Contractor shall make such provisions. If in the judgment of the Railroad Engineer, or in the Railroad Engineer's absence, the Railroad's Division Engineer, such provisions are insufficient, either may require or provide such provisions as the Railroad deems necessary. In any event, such unusual provisions shall be at the Contractor's expense and without cost to the Railroad or the Sponsor.
- D. "One Call" Services do not locate buried Norfolk Southern Signals and Communications Lines. The contractor shall contact the Railroad's representative 7 days in advance of work at those places where excavation, pile driving, or heavy loads may damage the Railroad's underground facilities. Upon request from the Contractor or Sponsor, Railroad forces will locate and paint mark or flag the Railroad's underground facilities. The Contractor shall avoid excavation or other disturbances of these facilities. If disturbance or excavation is required near a buried Railroad facility, the contractor shall coordinate with the Railroad to have the facility potholed manually with careful hand excavation. The facility shall be protected by the Contractor during the course of the disturbance under the supervision and direction of the Railroad's representative.
4. TRACK CLEARANCES:
- A. The minimum track clearances to be maintained by the Contractor during construction are shown on the Project Plans. If temporary clearances are not shown on the project plans, the following criteria shall govern the use of falsework and formwork above or adjacent to operated tracks.

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Norfolk Southern Railway Company



1. A minimum vertical clearance of 22'-0" above top of highest rail shall be maintained at all times.
 2. A minimum horizontal clearance of 13'-0" from centerline of tangent track or 14'-0" from centerline of curved track shall be maintained at all times. Additional horizontal clearance may be required in special cases to be safe for operating conditions. This additional clearance will be as determined by the Railroad Engineer.
 3. All proposed temporary clearances which are less than those listed above must be submitted to Railroad Engineer for approval prior to construction and must also be authorized by the regulatory body of the State if less than the legally prescribed clearances.
 4. The temporary clearance requirements noted above shall also apply to all other physical obstructions including, but not limited to: stockpiled materials, parked equipment, placement or driving of piles, and bracing or other construction supports.
- B. Before undertaking any work within Railroad right-of-way, and before placing any obstruction over any track, the Contractor shall:
1. Notify the Railroad's representative at least 72 hours in advance of the work.
 2. Receive assurance from the Railroad's representative that arrangements have been made for Railroad Protective Services as may be necessary.
 3. Receive permission from the Railroad's representative to proceed with the work.
 4. Ascertain that the Sponsor's Engineer has received copies of notice to the Railroad and of the Railroad's response thereto.
5. CONSTRUCTION PROCEDURES:
- A. General:
1. Construction work and operations by the Contractor on Railroad property shall be:
 - a. Subject to the inspection and approval of the Railroad Engineer or their designated Construction Engineering Representative.
 - b. In accordance with the Railroad's written outline of specific conditions.
 - c. In accordance with the Railroad's general rules, regulations and requirements including those relating to safety, fall protection and personal protective equipment.
 - d. In accordance with these Special Provisions.
 2. Submittal Requirements
 - a. The Contractor shall submit all construction related correspondence and submittals electronically to the Railroad Engineer.

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Norfolk Southern Railway Company



- b. The contractor should anticipate a minimum of 45 days for NS and their GEC to complete the review of all construction submittals. Time frames for reviews can vary significantly depending on the complexity of the project and the quality of submittals. Submittals requiring input from other departments may require additional time.
- c. All work in the vicinity of the Railroad's property that has the potential to affect the Railroad's train operations or disturb the Railroad's Property must be submitted and approved by the Railroad prior to work being performed.
- d. All submittals and calculations must be signed and sealed by a registered engineer licensed in the state of the project work.
- e. All submittals shall first be approved by the Sponsor's Engineer prior to submission to the Railroad Engineer for review. Submittals are reviewed by the Railroad for impacts to Railroad operations only; therefore, approval from the Railroad Engineer shall not relieve the Contractor from liability.
- f. For all construction projects, the following submittals, but not limited to those listed below, shall be provided for review and approval when applicable:
 - (1) General Means and Methods
 - (2) Ballast Protection
 - (3) Construction Excavation & Shoring
 - (4) Pipe, Culvert, & Tunnel Installations
 - (5) Demolition Procedure
 - (6) Erection & Hoisting Procedure
 - (7) Debris Shielding or Containment
 - (8) Blasting
 - (9) Formwork for the bridge deck, diaphragms, overhang brackets, and protective platforms
 - (10) Bent Cap Falsework. A lift plan will be required if the contractor want to move the falsework over the tracks.
- g. For Undergrade Bridges (Bridges carrying the Railroad) the following submittals in addition to those listed above shall be provided for review and approval:
 - (1) Girder Shop Drawings including welding/fabrication procedures
 - (2) Bearing Shop Drawings and Material Certifications
 - (3) Shop Drawings for drainage, handrails/fencing, and expansion dams
 - (4) Concrete Mix Design
 - (5) Structural Steel, Rebar, and/or Strand Certifications
 - (6) 28-day Cylinder Test for Concrete Strength
 - (7) Waterproofing Material Certification
 - (8) Dampproofing materials
 - (9) Test Reports for all steel
 - (10) Foundation Construction Reports

Other submittals may be required upon request from the Railroad. Fabrication may not begin until the Railroad has approved the required shop drawings.

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- h. The Contractor shall include in all submissions a detailed narrative indicating the progression of work with the anticipated timeframe to complete each task. Work will not be permitted to commence until the Contractor has provided the Railroad with a satisfactory plan that the project will be undertaken without scheduling, performance, or safety related issues. Submissions shall also provide: a listing of the anticipated equipment to be used, plan and profile views showing the location of all equipment to be used relative to the track centerline(s) shown, and a contingency plan of action covering the event that a primary piece of equipment malfunctions.

B. Ballast Protection

1. The Contractor shall submit the proposed ballast protection system detailing the specific filter fabric and anchorage system to be used during all construction activities.
2. The ballast protection is to extend 25' beyond the proposed limit of work, be installed at the start of the project and be continuously maintained to prevent all contaminants from entering the ballast section of all tracks for the entire duration of the project.

C. Excavation:

1. The subgrade of an operated track shall be maintained with edge of berm at least 10'-0" from centerline of track and not more than 24-inches below top of rail. Contractor will not be required to make existing section meet this specification if substandard, in which case the existing section will be maintained.
2. Additionally, the Railroad will require the installation of an OSHA approved handrail and orange construction safety fencing for all excavations of the Railroad right-of-way.

D. Excavation for Structures and Shoring Protection:

1. The Contractor will be required to take special precaution and care in connection with excavating and shoring pits, and in driving piles or sheeting for footings adjacent to tracks to provide adequate lateral support for the tracks and the loads which they carry, without disturbance of track alignment and surface, and to avoid obstructing track clearances with working equipment, tools or other material.
2. The use of shoring systems utilizing tiebacks shall not be permitted without written approval from the Railroad Engineer.
3. Shoring systems utilizing trench boxes shall not be permitted within the Theoretical Railroad Embankment (Zones 1, 2, or 3) as shown on NS Typical Drawing No. 4 – Shoring Requirements without written approval from the Railroad Engineer.
4. All plans and calculations for shoring shall be prepared, signed, and sealed by a Registered Professional Engineer licensed in the state of the proposed project, in accordance with Norfolk Southern's Overhead Grade Separation Design Criteria, subsection H.1.6 - Construction Excavation (Refer to Norfolk Southern Public Improvement Projects Manual Appendix H). The Registered Professional Engineer will be responsible for the accuracy for all controlling dimensions as well as the selection of soil design values which will accurately reflect the actual field conditions.

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5. The Contractor shall provide a detailed installation and removal plan of the shoring components. Any component that will be installed via the use of a crane or any other lifting device shall be subject to the guidelines outlined in section 5.G of these provisions.
6. The Contractor shall be required to survey the track(s) and Railroad embankment and provide a cross section of the proposed excavation in relation to the tracks.
7. Calculations for the proposed shoring should include deflection calculations. The maximum deflection for excavations within 18'-0" of the centerline of the nearest track shall be 3/8". For all other cases, the max deflection shall not exceed 1/2".
8. Additionally, the Railroad will require the installation of an OSHA approved handrail and orange construction safety fencing for all excavations of the Railroad right-of-way.
9. The front face of shoring located closest to the NS track for all shoring setups located in Zone 2 (shown on NS Typical Drawing No. 4 – Shoring Requirements in Appendix I) shall remain in place and be cut off 2'-0" below the final ground elevation. The remaining shoring in Zone 2 and all shoring in Zone 1 may be removed and all voids must be backfilled with flowable fill.

E. Pipe, Culvert, & Tunnel Installations

1. Pipe, Culvert, & Tunnel Installations shall be in accordance with the appropriate Norfolk Southern Design Specification as noted below:
 - a. For Open Cut Method refer to Norfolk Southern Public Improvement Projects Manual Appendix H.4.6.
 - b. For Jack and Bore Method refer to Norfolk Southern Public Improvement Projects Manual Appendix H.4.7.
 - c. For Tunneling Method refer to Norfolk Southern Public Improvement Projects Manual Appendix H.4.8.
2. The installation methods provided are for pipes carrying storm water or open flow run-off. All other closed pipeline systems shall be installed in accordance Norfolk Southern's Pipe and Wire Program and the NSCE-8.

F. Demolition Procedures

1. General
 - a. Demolition plans are required for all spans over the track(s), for all spans adjacent to the track(s), if located on (or partially on) Railroad right-of-way; and in all situations where cranes will be situated on, over, or adjacent to Railroad right-of-way and within a distance of the boom length plus 15'-0" from the centerline of track.
 - b. Railroad tracks and other Railroad property must be protected from damage during the procedure.

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- c. A pre-demolition meeting shall be conducted with the Sponsor, the Railroad Engineer or their representative, and the key Contractor's personnel prior to the start of the demolition procedure.
- d. The Railroad Engineer or the Railroad Engineer's designated representative must be present at the site during the entire demolition procedure period.
- e. Demolition of existing bridge decks in spans over the Railroad shall be performed in a controlled manner (i.e. saw-cutting). No impact equipment (track-mounted hoe-ram, jackhammers, etc.) may be used over the Railroad without approval by the Railroad Engineer.
- f. Existing, obsolete, bridge piers shall be removed to a sufficient depth below grade to enable restoration of the existing/proposed track ditch, but in no case less than 2'-0" below final grade.

2. Submittal Requirements

- a. In addition to the submittal requirements outlined in Section 5.A.2 of these provisions, the Contractor shall submit the following for approval by the Railroad Engineer:
 - (1) A plan showing the location of cranes, horizontally and vertically, with proposed boom lengths, operating radii, counterweights, and delivery or disposal locations shown. The location of all tracks and other Railroad facilities as well as all obstructions such as wire lines, poles, adjacent structures, etc. must also be shown.
 - (2) Rating sheets showing that cranes or lifting devices are adequate for 150% of the actual weight of the pick, including all rigging components. A complete set of crane charts, including crane, counterweight, and boom nomenclature is to be submitted. Safety factors that may have been "built-in" to the crane charts are not to be considered when determining the 150% factor of safety.
 - (3) Plans and computations showing the weight of the pick must be submitted. Calculations shall be made from plans of the existing structure showing complete and sufficient details with supporting data for the demolition of the structure. If plans do not exist, lifting weights must be calculated from field measurements. The field measurements are to be made under the supervision of the Registered Professional Engineer submitting the procedure and calculations.
 - (4) The Contractor shall provide a sketch of all rigging components from the crane's hook block to the object being hoisted. Catalog cuts or information sheets of all rigging components with their lifting capacities shall be provided. All rigging must be adequate for 150% of the actual weight of the pick. Safety factors that may have been "built-in" to the rating charts are not to be considered when determining the 150% factor of safety. All rigging components shall be clearly identified and tagged with their rated lifting capacities. The

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position of the rigging in the field shall not differ from what is shown on the final plan without prior review from the Sponsor and the Railroad.

- (5) A complete demolition procedure, including the order of lifts, time required for each lift, and any repositioning or re-hitching of the crane or cranes.
- (6) Design and supporting calculations for the temporary support of components, including but not limited to the stability of the superstructure during the temporary condition, temporary girder tie-downs and falsework.

3. Overhead Demolition Debris Shield

- a. The demolition debris shield shall be installed prior to the demolition of the bridge deck or other relevant portions of the superstructure over the track area to catch all falling debris.
- b. The demolition debris shield shall provide a minimum vertical clearance as specified in Section 4.A.1 of these provisions or maintain the existing vertical clearance if the existing clearance is less than that specified in Section 4.A.1.
- c. The Contractor shall include the demolition debris shield installation/removal means and methods as part of the proposed Demolition procedure submission.
- d. The Contractor shall submit the demolition debris shield design and supporting calculations for approval by the Railroad Engineer.
- e. The demolition debris shield shall have a minimum design load of 50 pounds per square foot plus the weight of the equipment, debris, personnel, and other loads to be carried.
- f. The Contractor shall include the proposed bridge deck removal procedure in its demolition means and methods and shall verify that the size and quantity of the demolition debris generated by the procedure does not exceed the shield design loads.
- g. The Contractor shall clean the demolition debris shield daily or more frequently as dictated either by the approved design parameters or as directed by the Railroad Engineer.

4. Vertical Demolition Debris Shield

- a. A vertical demolition debris shield may be required for substructure removals in close proximity to the Railroad's track and other facilities, as determined by the Railroad Engineer.

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G. Erection & Hoisting Procedures

1. General

- a. Erection plans are required for all spans over the track(s), for all spans adjacent to the track(s), if located on (or partially on) Railroad right-of-way; and in all situations where cranes will be situated on, over, or adjacent to Railroad right-of-way and within a distance of the boom length plus 15'-0" from the centerline of track.
- b. Neither crane handoffs nor "walking" of cranes with suspended load will be permitted for erection on or over Railroad right-of-way.
- c. Railroad tracks and other Railroad property must be protected from damage during the erection procedure.
- d. A pre-erection meeting shall be conducted with the Sponsor, the Railroad Engineer or their representative, and the key Contractor's personnel prior to the start of the erection procedure.
- e. The Railroad Engineer or the Railroad Engineer's designated representative must be present at the site during the entire erection procedure period.
- f. For field splices located over Railroad property, a minimum of 50% of the holes for each connection shall be filled with bolts or pins prior to releasing the crane. A minimum of 50% of the holes filled shall be filled with bolts. All bolts must be appropriately tightened. Any changes to previously approved field splice locations must be submitted to the Railroad for review and approval. Refer to Norfolk Southern's Overhead Grade Separation Design Criteria for additional splice details (Norfolk Southern Public Improvement Projects Manual Appendix H.1, Section 4.A.3.).

2. Submittal Requirements

- a. In addition to the submittal requirements outlined in Section 5.A.2 of these provisions, the Contractor shall submit the following for approval by the Railroad Engineer:
 - (1) As-built beam seat elevations - All as-built bridge seats and top of rail elevations shall be furnished to the Railroad Engineer for review and verification at least 30 days in advance of the erection, to ensure that minimum vertical clearances as approved in the plans will be achieved.
 - (2) A plan showing the location of cranes, horizontally and vertically, with proposed boom lengths, operating radii, counterweights, and delivery or staging locations shown. The location of all tracks and other Railroad facilities as well as all obstructions such as wire lines, poles, adjacent structures, etc. must also be shown.
 - (3) Rating sheets showing that cranes or lifting devices are adequate for 150% of the actual weight of the pick, including all rigging components. A complete set of crane charts, including crane,

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counterweight, and boom nomenclature is to be submitted. Safety factors that may have been “built-in” to the crane charts are not to be considered when determining the 150% factor of safety.

- (4) Plans and computations showing the weight of the pick must be submitted. Calculations shall be made from plans of the proposed structure showing complete and sufficient details with supporting data for the erection of the structure. If plans do not exist, lifting weights must be calculated from field measurements. The field measurements are to be made under the supervision of the Registered Professional Engineer submitting the procedure and calculations.
- (5) The Contractor shall provide a sketch of all rigging components from the crane’s hook block to the object being hoisted. Catalog cuts or information sheets of all rigging components with their lifting capacities shall be provided. All rigging must be adequate for 150% of the actual weight of the pick. Safety factors that may have been “built-in” to the rating charts are not to be considered when determining the 150% factor of safety. All rigging components shall be clearly identified and tagged with their rated lifting capacities. The position of the rigging in the field shall not differ from what is shown on the final plan without prior review from the Sponsor and the Railroad.
- (6) A complete erection procedure, including the order of lifts, time required for each lift, and any repositioning or re-hitching of the crane or cranes.
- (7) Design and supporting calculations for the temporary support of components, including but not limited to temporary girder tie-downs and falsework.

H. Blasting:

1. The Contractor shall obtain advance approval of the Railroad Engineer and the Sponsor Engineer for use of explosives on or adjacent to Railroad property. The request for permission to use explosives shall include a detailed blasting plan. If permission for use of explosives is granted, the Contractor will be required to comply with the following:
 - a. Blasting shall be done with light charges under the direct supervision of a responsible officer or employee of the Contractor and a licensed blaster.
 - b. Electric detonating fuses shall not be used because of the possibility of premature explosions resulting from operation of two-way radios.
 - c. No blasting shall be done without the presence of the Railroad Engineer or the Railroad Engineer’s authorized representative. At least 72 hours advance notice to the person designated in the Railroad’s notice of authorization to proceed (see paragraph 2.B) will be required to arrange for the presence of an authorized Railroad representative and such Railroad Protective Services as the Railroad may require.

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- d. Have at the job site adequate equipment, labor and materials and allow sufficient time to clean up debris resulting from the blasting without delay to trains, as well as correcting at the Contractor's expense any track misalignment or other damage to Railroad property resulting from the blasting as directed by the Railway's authorized representative. If the Contractor's actions result in delay of trains, the Contractor shall bear the entire cost thereof.
 - e. The blasting Contractor shall have a copy of the approved blasting plan on hand while on the site.
 - f. Explosive materials or loaded holes shall not be left unattended at the blast site.
 - g. A seismograph shall be placed on the track shoulder adjacent to each blast which will govern the peak particle velocity of two inches per second. Measurement shall also be taken on the ground adjacent to structures as designated by a qualified and independent blasting consultant. The Railroad reserves the option to direct the placement of additional seismographs at structures or other locations of concern, without regard to scaled distance.
 - h. After each blast, the blasting Contractor shall provide a copy of their drill log and blast report, which includes number of holes, depth of holes, number of decks, type and pounds of explosives used per deck.
 - i. The Railroad may require top of rail elevations and track centers taken before, during and after the blasting and excavation operation to check for any track misalignment resulting from the Contractor's activities.
2. The Railroad representative will:
 - a. Determine approximate location of trains and advise the Contractor the appropriate amount of time available for the blasting operation and clean up.
 - b. Have the authority to order discontinuance of blasting if, in the Railroad representative's opinion, blasting is too hazardous or is not in accord with these special provisions.
 3. The Contractor must hire, at no expense to the Railroad, a qualified and independent blasting consultant to oversee the use of explosives. The blasting consultant will:
 - a. Review the Contractor's proposed drilling and loading patterns, and with the blasting consultant's personnel and instruments, monitor the blasting operations.
 - b. Confirm that the minimum amounts of explosives are used to remove the rock.
 - c. Be empowered to intercede if the blasting consultant concludes that the Contractor's blasting operations are endangering the Railway.
 - d. Submit a letter acknowledging that the blasting consultant has been engaged to oversee the entire blasting operation and that the blasting consultant approves of the blasting plan.

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- e. Furnish copies of all vibration readings to the Railroad representative immediately after each blast. The representative will sign and date the seismograph tapes after each shot to verify the readings are for that specific shot.
 - f. Advise the Railroad representative as to the safety of the operation and notify him of any modifications to the blasting operation as the work progresses.
4. The request for permission to use explosives on the Railroad's Right-of-Way shall include a blasting proposal providing the following details:
- a. A drawing which shows the proposed blasting area, location of nearest hole and distance to Railway structures, all with reference to the centerline of track.
 - b. Hole diameter.
 - c. Hole spacing and pattern.
 - d. Maximum depth of hole.
 - e. Maximum number of decks per hole.
 - f. Maximum pounds of explosives per hole.
 - g. Maximum pounds of explosives per delay.
 - h. Maximum number of holes per detonation.
 - i. Type of detonator and explosives to be used. (Electronic detonating devices will not be permitted). Diameter of explosives if different from hole diameter.
 - j. Approximate dates and time of day when the explosives are to be detonated.
 - k. Type of flyrock protection.
 - l. Type and patterns of audible warning and all clear signals to be used before and after each blast.
 - m. A copy of the blasting license and qualifications of the person directly in charge of the blasting operation, including their name, address, and telephone number.
 - n. A copy of the Authority's permit granting permission to blast on the site.
 - o. A letter from the blasting consultant acknowledging that the blasting consultant has been engaged to oversee the entire blasting operation and that the blasting consultant approves of the blasting plan.
 - p. In addition to the insurance requirements outlined in Paragraph 14 of these Provisions, A certificate of insurance from the Contractor's insurer stating the amount of coverage for XCU (Explosive Collapse and Underground Hazard) insurance and that XCU Insurance is in force for this project.

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q. A copy of the borings and Geotechnical information or report.

I. Track Monitoring

1. At the direction of the Railroad Engineer, any activity that has the potential to disturb the Railroad track structure may require the Contractor to submit a detailed track monitoring program for approval by the Railroad Engineer.
2. The program shall specify the survey locations, the distance between the location points, and frequency of monitoring before, during, and after construction. Railroad reserves the right to modify the survey locations and monitoring frequency as necessary during the project.
3. The survey data shall be collected in accordance with the approved frequency and immediately furnished to the Railroad Engineer for analysis.
4. If any movement has occurred as determined by the Railroad Engineer, the Railroad will be immediately notified. Railroad, at its sole discretion, shall have the right to immediately require all Contractor operations to be ceased and determine what corrective action is required. Any corrective action required by the Railroad or performed by the Railroad including the monitoring of corrective action of the Contractor will be at project expense.

J. Maintenance of Railroad Facilities:

1. The Contractor will be required to maintain all ditches and drainage structures free of silt or other obstructions which may result from the Contractor's operations and provide and maintain any erosion control measures as required. The Contractor will promptly repair eroded areas within Railroad rights-of-way and repair any other damage to the property of the Railroad or its tenants.
2. If, in the course of construction, it may be necessary to block a ditch, pipe or other drainage facility, temporary pipes, ditches, or other drainage facilities shall be installed to maintain adequate drainage, as approved by the Railroad Engineer. Upon completion of the work, the temporary facilities shall be removed, and the permanent facilities restored.
3. All such maintenance and repair of damages due to the Contractor's operations shall be done at the Contractor's expense.

K. Storage of Materials and Equipment:

1. Materials and equipment shall not be stored where they will interfere with Railroad operations, nor on the rights-of-way of the Railroad without first having obtained permission from the Railroad Engineer, and such permission will be with the understanding that the Railroad will not be liable for damage to such material and equipment from any cause and that the Railroad Engineer may move or require the Contractor to move, at the Contractor's expense, such material and equipment.
2. All grading or construction machinery that is left parked near the track unattended by a watchman shall be effectively immobilized so that it cannot be moved by unauthorized persons. The Contractor shall protect, defend, indemnify and save the Railroad, and any

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associated, controlled or affiliated corporation, harmless from and against all losses, costs, expenses, claim, or liability for loss or damage to property or the loss of life or personal injury, arising out of or incident to the Contractor's failure to immobilize grading or construction machinery.

L. Cleanup:

1. Upon completion of the work, the Contractor shall remove from within the limits of the Railroad rights-of-way, all machinery, equipment, surplus materials, falsework, rubbish or temporary buildings of the Contractor, and leave said rights-of-way in a neat condition satisfactory to the Railroad Engineer or the Railroad Engineer's authorized representative.

6. DAMAGES:

- A. The Contractor shall assume all liability for any and all damages to the Contractor's work, employees, servants, equipment, and materials caused by Railroad traffic.
- B. Any cost incurred by the Railroad for repairing damages to its property or to property of its tenants, caused by or resulting from the operations of the Contractor, shall be paid directly to the Railroad by the Contractor.

7. RAILROAD PROTECTIVE SERVICES:

A. Requirements:

1. Railroad Protective Services will not be provided until the Contractor's insurance has been reviewed and approved by the Railroad.
2. Under the terms of the agreement between the Sponsor and the Railroad, the Railroad has sole authority to determine the need for Railroad Protective Services required to protect its operations. In general, the requirements of such services will be whenever the Contractor's personnel or equipment are, or are likely to be, working on the Railroad's right-of-way, or across, over, adjacent to, or under a track, or when such work has disturbed or is likely to disturb a Railroad structure or the Railroad roadbed or surface and alignment of any track to such extent that the movement of trains must be controlled by Railroad Protective Services.
3. Normally, the Railroad will assign one Railroad Protective Services personnel to a project; but in some cases, more than one may be necessary, such as yard limits where three (3) Railroad Protective Services personnel may be required. However, if the Contractor works within distances that violate instructions given by the Railroad's authorized representative or performs work that has not been scheduled with the Railroad's authorized representative, Railroad Protective Services personnel may be required full time until the project has been completed.
4. For Projects exceeding 30 days of construction, Contractor shall provide the Railroad Protective Services personnel a small work area with a desk/counter and chair within the field/site trailer, including the use of bathroom facilities, where the Railroad Protective Services personnel can check in/out with the Project, as well as to the Railroad Protective Services personnel's home terminal. The work area should provide access to two (2) electrical outlets for recharging radio(s), and a laptop computer; and

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have the ability to print off needed documentation and orders as needed at the field/site trailer. This should aid in maximizing the Railroad Protective Services personnel's time and efficiency on the Project.

B. Scheduling and Notification:

1. The Contractor's work requiring Railroad Protective Services should be scheduled to limit the presence of such personnel at the site. Railroad approval will be required for any Railroad Protective Services requests in excess of 40 hours per week, and in such cases, should be limited to a maximum of 50 hours per week.
2. Not later than the time that approval is initially requested to begin work on Railroad right-of-way, the Contractor shall furnish to the Railroad and the Sponsor a schedule for all work required to complete the portion of the project within Railroad right-of-way and arrange for a job site meeting between the Contractor, the Sponsor, and the Railroad's authorized representative. The Railroad Protective Services personnel may not be provided until the job site meeting has been conducted and the Contractor's work has been scheduled.
3. The Contractor will be required to give the Railroad representative at least 10 working days of advance written notice of the intent to begin work within Railroad right-of-way in accordance with this special provision, and must receive written or verbal confirmation of this request from the Railroad representative. Once begun, when such work is then suspended at any time, or for any reason, the Contractor will be required to give the Railroad representative at least 10 working days of advance notice before resuming work on Railroad right-of-way. Such notices shall include sufficient details of the proposed work to enable the Railroad representative to determine if Railroad Protective Services will be required. If such notice is in writing, the Contractor shall furnish the Engineer a copy; if notice is given verbally, it shall be confirmed in writing with copy to the Engineer. If Railroad Protective Services are required, no work shall be undertaken until the Railroad Protective Services personnel is present at the job site. It may take 30 days or longer to obtain Railroad Protective Services initially from the Railroad. When Railroad Protective Services begin, the Railroad Protective Services personnel is usually assigned by the Railroad to work at the project site on a continual basis until no longer needed and cannot be called for on a spot basis. If Railroad Protective Services become unnecessary and are suspended, it may take 30 days or longer to again obtain Railroad Protective Services from the Railroad. Due to Railroad labor agreements, it is necessary to give 5 working days notice before Railroad Protective Service may be discontinued and responsibility for payment stopped.
4. If, after the Railroad Protective Services personnel is assigned to the project site, an emergency arises that requires the personnel's presence elsewhere, then the Contractor shall delay work on Railroad right-of-way until such time as the personnel is again available. Any additional costs resulting from such delay shall be borne by the Contractor and not the Sponsor or Railroad.

C. Payment:

1. The Sponsor will be responsible for paying the Railroad directly for any and all costs of Railroad Protective Services which may be required to accomplish the construction.

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2. The estimated cost of Railroad Protective Services is the current rate per day based on a 12-hour workday. This cost includes the base pay for the Railroad Protective Services personnel, overhead, and includes a per diem charge for travel expenses, meals, and lodging. The charge to the Sponsor by the Railroad will be the actual cost based on the rate of pay for the personnel who is available Railroad Protective Services at the time the service is required.
3. Work by Railroad Protective Services in excess of 8 hours per day or 40 hours per week, but not more than 12 hours a day will result in overtime pay at 1 and 1/2 times the appropriate rate. Work by Railroad Protective Services in excess of 12 hours per day will result in overtime at 2 times the appropriate rate. If work is performed on a holiday, the Railroad Protective Services rate is 2 and 1/2 times the normal rate.
4. Railroad work involved in preparing and handling bills will also be charged to the Sponsor. Charges to the Sponsor by the Railroad shall be in accordance with applicable provisions of Subchapter B, Part 140, Subpart I and Subchapter G, Part 646, Subpart B of the Federal-Aid Policy Guide issued by the Federal Highway Administration on December 9, 1991, including all current amendments. Railroad Protective Services costs are subject to change. The above estimates of Railroad Protective Services costs are provided for information only and are not binding in any way.

D. Verification:

1. The Railroad's Protective Services personnel will electronically enter Railroad Protective Services time via the Railroad's electronic billing system. Any complaints concerning Railroad Protective Services must be resolved in a timely manner. If the need for Railroad Protective Services is questioned, please contact the Railroad Engineer. All verbal complaints will be confirmed in writing by the Contractor within 5 working days with a copy to the Sponsor's Engineer. Address all written correspondence electronically to the Railroad Engineer.
2. The Railroad Protective Services personnel assigned to the project will be responsible for notifying the Sponsor's Representative upon arrival at the job site on the first day (or as soon thereafter as possible) that Railroad Protective Services begin and on the last day that the Railroad Protective Services personnel performs such services for each separate period that services are provided. The Sponsor's Representative will document such notification in the project records. When requested, the Sponsor's Representative will also sign the Railroad Protective Services personnel's document(s) showing daily time spent and activity at the project site.

8. HAUL ACROSS RAILROAD TRACK:

- A. Where the plans show or imply that materials of any nature must be hauled across the Railroad's track, unless the plans clearly show that the Sponsor has included arrangements for such haul in its agreement with the Railroad, the Contractor will be required to make all necessary arrangements with the Railroad regarding means of transporting such materials across the Railroad's track. The Contractor or Sponsor will be required to bear all costs incidental to such crossings whether services are performed by the Contractor's own forces or by Railroad personnel.
- B. No crossing may be established for use of the Contractor for transporting materials or equipment across the tracks of the Railroad unless specific authority for its installation, maintenance,

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necessary watching and Railroad Protective Services thereof and removal, until a temporary private crossing agreement has been executed between the Contractor and Railroad. The approval process for an agreement normally takes 90 days.

9. WORK FOR THE BENEFIT OF THE CONTRACTOR:

- A. All temporary or permanent changes in wire lines or other facilities which are considered necessary to the project are shown on the plans; included in the force account agreement between the Sponsor and the Railroad or will be covered by appropriate revisions to same which will be initiated and approved by the Sponsor and/or the Railroad.
- B. Should the Contractor desire any changes in addition to the above, then the Contractor shall make separate arrangements with the Railroad for same to be accomplished at the Contractor's expense.

10. COOPERATION AND DELAYS:

- A. It shall be the Contractor's responsibility to arrange a schedule with the Railroad for accomplishing stage construction involving work by the Railroad or tenants of the Railroad. In arranging the Contractor's schedule, the Contractor shall ascertain, from the Railroad, the lead time required for assembling crews and materials and shall make due allowance therefore.
- B. No charge or claim of the Contractor against either the Sponsor or the Railroad will be allowed for hindrance or delay on account of railroad traffic; any work done by the Railroad or other delay incident to or necessary for safe maintenance of railroad traffic or for any delays due to compliance with these special provisions.

11. TRAINMAN'S WALKWAYS:

- A. Along the outer side of each exterior track of multiple operated track, and on each side of single operated track, an unobstructed continuous space suitable for trainman's use in walking along trains, extending to a line not less than 10 feet from centerline of track, shall be maintained. Any temporary impediments to walkways and track drainage encroachments or obstructions allowed during work hours while Railroad's Protective Service is provided shall be removed before the close of each workday. If there is any excavation near the walkway, a handrail, with 10'-0" minimum clearance from centerline of track, shall be placed and must conform to AREMA and/or FRA standards.

12. GUIDELINES FOR PERSONNEL ON RAILROAD RIGHT-OF-WAY:

- A. The Contractor and/or the Sponsor's personnel authorized to perform work on the Railroad's property as specified in Section 2 above are not required to complete Norfolk Southern Roadway Worker Protection Training; However, the Contractor and the Sponsor's personnel must be familiar with Norfolk Southern's standard operating rules and guidelines, should conduct themselves accordingly, and may be removed from the property for failure to follow these guidelines.
- B. All persons shall wear hard hats. Appropriate eye and hearing protection must be used. Working in shorts is prohibited. Shirts must cover shoulders, back and abdomen. Working in tennis or jogging shoes, sandals, boots with high heels, cowboy and other slip-on type boots is prohibited. Hard-sole, lace-up footwear, zippered boots or boots cinched up with straps which fit snugly about the ankle are adequate. Wearing of safety boots and reflective vests are required.

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- C. No one is allowed within 25' of the centerline of track without specific authorization from the Railroad.
- D. All persons working near track while train is passing are to lookout for dragging bands, chains and protruding or shifted cargo.
- E. No one is allowed to cross tracks without specific authorization from the Railroad.
- F. All welders and cutting torches working within 25' of track must stop when train is passing.
- G. No steel tape or chain will be allowed to cross or touch rails without permission from the Railroad.

13. GUIDELINES FOR EQUIPMENT ON RAILROAD RIGHT-OF-WAY:

- A. No crane or boom equipment will be allowed to set up to work or park within boom distance plus 15' of centerline of track without specific permission from Railroad official and Railroad Protective Services personnel.
- B. No crane or boom equipment will be allowed to foul track or lift a load over the track without Railroad Protective Services personnel authorized to obtain track time.
- C. All employees will stay with their machines when crane or boom equipment is pointed toward track.
- D. All cranes and boom equipment under load will stop work while train is passing (including pile driving).
- E. Swinging loads must be secured to prevent movement while train is passing.
- F. No loads will be suspended above a moving train.
- G. No equipment will be allowed within 25' of centerline of track without specific authorization of the Railroad official and Railroad Protective Services personnel.
- H. Trucks, tractors, or any equipment will not touch ballast line without specific permission from Railroad official and Railroad Protective Services personnel. At the beginning of each project that involves the Contractor working within 25' of the centerline of any track, orange construction fencing must be established. Orange construction fencing shall be established in accordance with the minimum temporary horizontal clearances contained in Section 4.A.2 and shall be maintained for the duration of construction.
- I. No equipment or load movement is permitted within 25' or above a standing train or Railroad equipment without specific authorization of the Railroad Protective Services personnel.
- J. All operating equipment within 25' of track must halt operations when a train is passing. All other operating equipment may be halted by the Railroad Protective Services personnel if said personnel views the operation to be dangerous to the passing train.
- K. All equipment, loads and cables are prohibited from touching rails.

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- L. While clearing and grubbing, no vegetation will be removed from Railroad embankment with heavy equipment without specific permission from the Railroad Engineer and Railroad Protective Services personnel.
- M. No equipment or materials will be parked or stored on Railroad's property unless specific authorization is granted from the Railroad Engineer.
- N. All unattended equipment that is left parked on Railroad property shall be effectively immobilized so that it cannot be moved by unauthorized persons.
- O. All cranes and boom equipment will be turned away from track after each workday or whenever unattended by an operator.
- P. Prior to performing any crane operations, the Contractor shall establish a single point of contact for the Railroad Protective Services personnel to remain in communication with at all times. Person must also be in direct contact with the individual(s) directing the crane operation(s).

14. INSURANCE:

- A. In addition to any other forms of insurance or bonds required under the terms of the contract and specifications, the Prime Contractor will be required to carry insurance of the following kinds and amounts:
 1. A Commercial General Liability ("CGL") policy containing products and completed operations, bodily injury, property damage, and contractual liability coverage, with a combined single limit of not less than \$5,000,000 for each occurrence with a general aggregate limit of not less than \$5,000,000. Any portion of this requirement may be satisfied by a combination of General Liability and/or Excess/Umbrella Liability Coverage. The CGL policy shall provide additional insured coverage equivalent to at least as broad as ISO CG 20 10 11/85.
 2. Automobile Liability Insurance with a current ISO occurrence form policy (or equivalent) and apply on an "any auto" (Symbol 1) basis, including coverage for all vehicles used in connection with the Work or Services on the leased property, providing annual limits of at least \$1,000,000 per occurrence for bodily injury and property damage combined including uninsured and underinsured motorist coverage, medical payment protection, and loading and unloading. This policy shall be endorsed to include Transportation Pollution Liability Broadened Coverage ISO CA 99 48 03 06 or MCS-90 if vehicles are subject to Federal jurisdiction. If this coverage is on a claims-made form, the Retro Active Date must be prior to the date of this Agreement and the policy endorsement must be maintained for not less than seven (7) years.
 3. Workers' Compensation Insurance to meet fully the requirement of any compensation act, plan, or legislative enactment applicable in connection with the death, disability or injury of Licensee's officers, agents, servants, or employees arising directly or indirectly out of the performance of the work.
 4. Employers' Liability Insurance with limits of not less than \$1,000,000 each accident, \$1,000,000 policy limit for disease, and \$1,000,000 each employee for disease.

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5. All insurance required in Section 14.A (excluding any Workers' Compensation policy) shall name Norfolk Southern Railway and its parent, subsidiary, and affiliated companies as additional insureds with an appropriate endorsement to each policy.
 6. All policies secured by Contractor, whether primary, excess, umbrella or otherwise, and providing coverage to the Railway as an additional insured (i) are intended to take priority in responding and to pay before any insurance policies Railway may have secured for itself must respond or pay and (ii) may not seek contribution from any policies the Railway may have secured for itself.
 7. No cross-liability exclusions are permitted that would apply to the additional insureds, and there may not be any restrictions in any policy that limits coverage for a claim brought by an additional insured against a named insured.
 8. To the fullest extent permitted by law, all insurance furnished by Contractor in compliance with Section 14.A shall include a waiver of subrogation in favor of Railway with an appropriate endorsement to each policy.
 9. All policies required in Section 14.A shall not be subject to cancellation, termination, modification, changed, or non-renewed except upon thirty (30) days' prior written notice to the additional insureds.
 10. The insurance coverages maintained by Contractor shall not limit any indemnity obligations or other liabilities. The insurance available to Norfolk Southern Railway and its parent, subsidiary and affiliated companies as additional insureds shall not be limited by these requirements should Licensee maintain higher coverage limits.
 11. Any deductibles or retentions in excess of \$50,000 maintained on any insurance required in 14.A shall be disclosed and approved by Norfolk Southern Railway with a request made for approval to NSRISK3@nscorp.com.
 12. Anyone subcontractor providing work on this project must extend CG 20 38 (or broader coverage) additional Insured endorsement to provide coverage for up stream parties.
 13. Contractor shall require all subcontractors who are not covered by the insurance carried by Contractor to obtain commercially reasonable insurance coverage, but not less than the requirements of 14.A.
- B. In addition to the insurances required in Section 14.A, the Contractor shall also procure on behalf of the Railroad for the entirety of the project:
1. Railroad Protective Liability (RPL) Insurance having a combined single limit of not less than \$5,000,000 each occurrence and \$10,000,000 in the aggregate applying separately to each annual period. Said policy shall provide coverage for all loss, damage or expense arising from bodily injury and property damage liability, and physical damage to property attributed to acts or omissions at the job site.

The standards for the Railroad Protective Liability Insurance are as follows:

- a. The insurer must be rated A- or better by A.M. Best Company, Inc.

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- b. The policy must be written using one of the following combinations of Insurance Services Office ("ISO") RPL Insurance Form Numbers:

- (1) CG 00 35 01 96 and CG 28 31 10 93; or
- (2) CG 00 35 07 98 and CG 28 31 07 98; or
- (3) CG 00 35 10 01; or
- (4) CG 00 35 12 04; or
- (5) CG 00 35 12 07; or
- (6) CG 00 35 04 13.

- c. The named insured shall read:

Norfolk Southern Corporation and its subsidiaries and affiliates
 650 West Peachtree Street NW – Box 46
 Atlanta, GA 30308
 Attn: Risk Manager

(NOTE: Railroad does not share coverage on RPL with any other entity on this policy)

- d. The description of operations must appear on the Declarations, must match the project description in this agreement, and must include the appropriate Sponsor project and contract identification numbers.
- e. The job location must appear on the Declarations and must include the city, state, and appropriate highway name/number. NOTE: Do not include any references to milepost, valuation station, or mile marker on the insurance policy.
- f. The name and address of the prime Contractor must appear on the Declarations.
- g. The name and address of the Sponsor must be identified on the Declarations as the "Involved Governmental Authority or Other Contracting Party."
- h. Endorsements/forms that are **required** are:
- (1) Physical Damage to Property Amendment
 - (2) Terrorism Risk Insurance Act (TRIA) coverage must be included
- i. Other endorsements/forms that will be accepted are:
- (1) Broad Form Nuclear Exclusion – Form IL 00 21
 - (2) 30-day Advance Notice of Non-renewal or cancellation
 - (3) Required State Cancellation Endorsement
 - (4) Quick Reference or Index Form CL/IL 240
- j. Endorsements/forms that are NOT acceptable are:
- (1) Any Pollution Exclusion Endorsement except CG 28 31
 - (2) Any Punitive or Exemplary Damages Exclusion

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- (3) Known injury or Damage Exclusion form CG 00 59
- (4) Any Common Policy Conditions form
- (5) An Endorsement that limits or excludes Professional Liability coverage
- (6) A Non-Cumulation of Liability or Pyramiding of Limits Endorsement
- (7) An Endorsement that excludes TRIA coverage
- (8) A Sole Agent Endorsement
- (9) Any type of deductible endorsement or amendment
- (10) Any other endorsement/form not specifically authorized in item no. 2.h above.

SPONSOR:RAILROAD:

Risk Management
 Norfolk Southern Corporation and its subsidiaries
 650 West Peachtree Street NW – Box 46
 Atlanta, GA 30308
NSRISK3@NSCORP.COM

- C. All insurance required under Section 14.A and 14.B shall be underwritten by insurers and be of such form and content, as may be acceptable to the Railway. Prior to entry on Railroad right-of-way, the original electronic RPL Insurance Policy shall be submitted by the Prime Contractor to the Railway at NSRISK3@NSCORP.COM for review and approval. In addition, certificates of insurance evidencing the Prime Contractor's insurance compliant with the requirements in 14.A shall be issued to the Railway at NSRISK3@NSCORP.COM at the same time the RPL Policy is submitted.
- D. The insurance required herein shall in no way serve to limit the liability of Sponsor or its Contractors under the terms of this agreement.
- E. Insurance Submission Procedures
1. The Railroad will only accept initial insurance submissions via email to NSRISK3@NSCORP.COM. The Railroad will NOT accept initial insurance submissions via hard copies that would be sent either US Mail or Overnight carrier or faxes as only electronic versions only are to be submitted to Railroad. **Please provide point of contact information with the submission including a phone number and email address.**

 For email insurance submissions, the subject line should follow the format provided unless otherwise directed by the Railroad Engineer:

 Insurance Submittal: City, State – NS File Number – NS Milepost – Project Name – Sponsor Project #
 2. Railroad requires the following two (2) forms of insurance in the initial electronic insurance submission to NSRISK3@NSCORP.COM to be submitted under a cover letter providing details of the project and containing the contact information:
 - a. The full original or certified true electronic countersigned copy of the RPL Insurance Policy in its entirety inclusive of all declarations, schedule of forms

EXHIBIT B

Norfolk Southern Railway Company



and endorsements along with the policy forms and endorsements as required in Section 14.B.

- b. A certificate of insurance from the Contractor evidencing the Contractor’s insurance in Section 14.A (i.e. the Contractor’s commercial general, automobile, and workers’ compensation liability insurance, etc.). The certificate must show Norfolk Southern Railroad and its subsidiaries and affiliated companies as an additional insured on the General Liability and Auto policies. The certificate should also indicate that the Workers’ Compensation policy waives subrogation against Norfolk Southern Corporation and its subsidiaries. See Appendix J for a Sample Certificate of Insurance.

15. FAILURE TO COMPLY:

- A. In the event the Contractor violates or fails to comply with any of the requirements of these Special Provisions:
 - 1. The Railroad Engineer may require that the Contractor vacate Railroad property.
 - 2. The Sponsor’s Engineer may withhold all monies due the Contractor on monthly statements.
- B. Any such orders shall remain in effect until the Contractor has remedied the situation to the satisfaction of the Railroad Engineer and the Sponsor’s Engineer.

16. PAYMENT FOR COST OF COMPLIANCE:

- A. No separate payment will be made for any extra cost incurred on account of compliance with these special provisions. All such costs shall be included in prices bid for other items of the work as specified in the payment items.

17. PROJECT INFORMATION

- A. Date: September 24, 2021
- B. NS File No.: CX1113689
- C. NS Milepost: FJ-7.01
- D. Sponsor’s Project No.: _____

FORCE ACCOUNT ESTIMATE

Work to be Performed By: Norfolk Southern Railway Company
 Project Description: Proposed Widening of the Eck Road At-Grade Crossing at
 Location: South Whitehall Township, Lehigh County, PA
 Project No.: Eck Road
 Milepost: FJ-7.01
 File: CX1113689
 Date: Original September 13, 2021

ITEM A - Preliminary Engineering	0
ITEM B - Construction Engineering	26,386
ITEM C - Administration	2,347
ITEM D - Railroad Protective Services	19,170
ITEM E - Communications	0
ITEM F - Signal & Electrical	0
ITEM G - Track Work	93,991
ITEM H - T-Cubed	0
Total	\$ 141,894
Contingency 0%	\$ -
GRAND TOTAL	\$ 141,894

ITEM A - Preliminary Engineering

(Review plans and special provisions,
prepare estimates, etc.)

Labor:	0 Hours @ \$60 / hour=	0
Labor Additives:		0
Travel Expenses:		0
Services by Contract Engineer:		0

NET TOTAL - ITEM A \$ -

ITEM B - Construction Engineering

(Coordinate Railway construction activities,
review contractor submittals, etc.)

Labor:	40 Hours @ \$60 / hour=	2,400
Labor Additives:		1,886
Travel Expenses:		2,500
Services by Contract Engineer:		19,600
NET TOTAL - ITEM B		\$ 26,386

ITEM C - Administration

Agreement Construction, Review and/or Handling:		1,250
Protective Services Process/Handling Fee:		0
Miscellaneous Handling (i.e. Real Estate ValMap fee):		0
Accounting Hours (Labor):	20 Hours @ \$30 / hour=	600
Accounting Additives:		497
NET TOTAL - ITEM C		\$ 2,347

ITEM D - Railroad Protective Services

(During construction on, over,
under, or adjacent to the track.)

Labor:	Protective Services	
	15 days @ 390.00 per day=	5,850
	(based on working 12 hours/day)	
Labor Additive:		10,870
Travel Expenses, Meals & Lodging:		
	15 days @ \$100/day=	1,500
Rental Vehicle	1 months @ \$950/month=	950
NET TOTAL - ITEM D		\$ 19,170

ITEM E - Communications

Material:		0
Labor:		0
Purchase Services:		0
Subsistence:		0
Additive:		0
NET TOTAL - ITEM E		\$ -

ITEM F - Signal & Electrical

Material:	0
Labor:	0
Purchase Services:	0
Other:	0

NET TOTAL - ITEM F	\$ -
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ITEM G - Track Work

Material:	58,776
Labor:	16,147
Additive:	14,126
Purchase Services:	4,942

NET TOTAL - ITEM G	\$ 93,991
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ITEM H - T-CUBED

Lump Sum	\$ -
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NOTES

1. For all groups of CONTRACT employees, the composite labor surcharge rate used in this estimate (including insurance) is 185.81%. Self Insurance - Public Liability Property Damage is estimated at 16.00%. Work will be billed at actual current audited rate in effect at the time the services are performed.
2. For all groups of NON-CONTRACT employees, the composite labor surcharge rate used in this estimate (including insurance) is 78.59%. Self Insurance - Public Liability Property Damage is estimated at 16.00%. Work will be billed at actual current audited rate in effect at the time the services are performed.
3. All applicable salvage items due the Department will be made available to it at the jobsite for its disposal.
4. The Force Account Estimate is valid for one (1) year after the date of the estimate (09/13/2021). If the work is not performed within this time frame the Railway may revise the estimate to (1) include work not previously indicated as necessary and (2) reflect changes in cost to perform the force account work.

Norfolk Southern Railway Company

Keystone Division

South Whitehall Township, Lehigh County, PA

ESTIMATE FOR CROSSING IMPROVEMENT (ASPHALT SURFACE)

Existing Crossing

DOT Number: 591377F

MP: FJ-7.01

1 TRACK(S); 56 CROSSING LENGTH

MATERIAL	QUANTITY	UNIT	UNIT COST	AMOUNT
SURFACE MATERIAL (Rubber Flangeways)	56	TRK. FT.	81.00	4,536
ASPHALT (BY CONTRACTOR)	43	TONS	396.00	16,845
RAIL, 132-LB RE	160	LIN FT.	25.00	4,000
TRANSITION RAIL	4	EA.	1171.00	4,684
INSULATED JOINTS	0	EA.	1355.00	0
RAIL ANCHORS	256	EA.	1.90	486
SPIKES	3.0	KEG	118.00	354
TIE PLATES	128	EA.	15.00	1,920
CROSSTIES (10')	0	EA.	100.00	0
CROSSTIES (GRADE 5)	64	EA.	55.00	3,520
TRUCKED BALLAST AND GRAVEL	109	TONS	104.00	11,336
GEOTEXTILE	76	LIN FT.	7.00	532
THERMITE WELDS	4	EA.	691.00	2,764
ASPHALT DISPOSAL	1	LUMPS	5000.00	5,000
TOTAL (INCLUDES 5% INVENTORY OR TAX ADDITIVES)				58,776
LABOR				
REMOVE EXISTING CROSSING	50	MAN HOURS	30.41	1,521
REHABILITATE TRK. STRUCTURE	110	MAN HOURS	30.41	3,345
INSTALL NEW CROSSING	90	MAN HOURS	30.41	2,737
TOTAL				7,603
OTHER ITEMS				
Rail	0.0	TON	0	0
Scrap	0.0	TON	0	0
				0
COMPOSITE LABOR ADDITIVE (185.81%)				14,126
EQUIPMENT RENTAL & TRANSPORTATION				4,942
PRELIMINARY & CONSTRUCTION ENGINEERING SERVICES AND INVOICE				8,545
TOTAL (Billed to Project Sponsor)				\$93,991

*ESTIMATE BASED ON FULL CLOSURE OF ROAD WITH TRAFFIC CONTROL AND BARRICADES PROVIDED BY OTHERS

*UNIT COSTS ARE ESTIMATED. ACTUAL UNIT COSTS ARE SUBJECT TO CHANGE WITHOUT NOTICE.

This estimate is valid for one (1) year after the date of estimate. If work is not performed within this time frame the Railway may revise the estimate to include work not previously deemed necessary.

This estimate shall not be considered as an approval for a temporary crossing. Information provided is an estimation of the anticipated cost for the construction of the crossing only. All temporary construction crossings require a separate approval from Norfolk Southern's General Manager and Division Superintendent, a separate stand alone temporary construction crossing agreement with associated real estate fees, and all required insurances as noted in the in the temporary construction crossing agreement.

OFFICE OF CHIEF ENGINEER DESIGN & CONSTRUCTION - ATLANTA, GEORGIA
Monday, September 13, 2021

File: CX1113689

E. Norfolk Southern – Special Provisions for Protection of Railway Interests

1. AUTHORITY OF RAILROAD ENGINEER AND SPONSOR ENGINEER:

Norfolk Southern Railway Company, hereinafter referred to as “Railroad”, and their authorized representative shall have final authority in all matters affecting the safe maintenance of railroad traffic including the adequacy of the foundations and structures supporting the railroad tracks. For Public Projects impacting the Railroad, the Railroad’s Public Improvements Engineer or Engineer Planning, hereinafter referred to as “Railroad Engineer”, will serve as the authorized representative of the Railroad.

A general engineering consultant may be utilized to assist the Railroad Engineer in handling the Project, hereinafter referred to as “Construction Engineering Representative”.

Other designated personnel by the Railroad Engineer shall hereinafter be referred to as “Railroad Representative”.

The authorized representative of the Project Sponsor (“Sponsor”), hereinafter referred to as the “Sponsor’s Engineer”, shall have authority over all other matters as prescribed herein and in the Project Specifications.

The Sponsor’s Prime Contractor, hereinafter referred to as “Contractor” shall be responsible for completing any and all work in accordance with the terms prescribed herein and in the Project Specifications. This shall include the qualified protective services of a contractor directly hired by the Contractor to protect their workers and construction activities while working on or adjacent to Railroad property, hereinafter referred to as “Contractor Protective Services”.

This document titled E. Norfolk Southern – Special Provisions for Protection of Railway Interests shall hereinafter be referred to as “Special Provisions”.

These terms and conditions are subject to change without notice at the sole discretion of the Railroad. The Contractor must request the latest version of these Special Provisions from the Railroad prior to commencing work and must follow the requirements outlined therein.

2. AUTHORIZATION TO PROCEED:

- A. The Contractor shall not commence mobilizing to the Premises, as defined in the Norfolk Southern Contractor Right of Entry Agreement, until the Contractor has complied with the following conditions:
 1. Signed and received a fully executed copy of the required Norfolk Southern Contractor Right of Entry Agreement. Contractor Right of Entry Agreements to be submitted via email to the Railroad Engineer.
 2. Obtained written approval from the Railroad of Railroad Protective Liability Insurance coverage as required by paragraph 15 herein. It should be noted that the Railroad does not accept notation of Railroad Protective insurance on a certificate of liability insurance form or Binders as Railroad must have the full original countersigned policy. Further, please note that mere receipt of the policy is not the only issue but review for compliance. Due to the number of projects system-wide, it typically takes a minimum of 30-45 days for the Railroad to review.

3. Held a preconstruction meeting between the Contractor, the Sponsor, Railroad Engineer and/or their Construction Engineering Representative and the Railroad Representative(s). NOTE: Railroad Representative(s) may choose to not attend the preconstruction meeting at their discretion.
 4. Obtained Contractor Protective Services as required by Section 8 herein.
 5. Furnished a schedule for all construction activities which may impact the Railroad's property or operations. NOTE: Contractor Protective Services shall be provided any time construction activities are taking place on or adjacent to the Railroad Property and/or has the potential to foul the Railroad's track or operations as required by Section 8 herein.
 6. Schedule an onsite start-of-work meeting between the Contractor, Contractor Protective Services personnel, Railroad Engineer and/or their Construction Engineering Representative and the Railroad Representative(s). NOTE: Railroad Representative(s) may choose to not attend the start-of-work meeting at their discretion.
 7. Obtained written authorization to proceed from the Railroad to begin mobilization to the Premises, as defined in the Norfolk Southern Contractor Right of Entry Agreement, such authorization to include an outline of specific conditions with which the Contractor must comply. Written Authorization will be issued by the Railroad once all items on the Norfolk Southern Checklist for Construction - Direct Hire have been completed.
- B. The Railroad's written authorization to proceed with the work shall include the names, addresses, and telephone numbers of the Railroad Representative(s) and any specific Construction Engineering Representative who shall be notified as hereinafter required. Where more than one representative is designated, the area of responsibility of each representative shall be specified.
- C. All project-related utility work that is to occur on, over, or under Railroad right-of-way must be coordinated with the Norfolk Southern Pipe and Wire Program. The Contractor must receive approval from the Norfolk Southern Pipe and Wire Program prior to commencing any utility work.
3. NOTICE OF STARTING WORK:
- A. Before undertaking any construction activities on the Premises, as defined in the Norfolk Southern Contractor Right of Entry Agreement, the Contractor shall:
1. Notify the Railroad Representative(s) at least 72 hours in advance of any construction activities that Contractor Protective Services have been obtained for use.
 2. Hold an onsite start-of-work meeting between the Contractor, Contractor Protective Services personnel, Railroad Engineer and/or their Construction Engineering Representative and the Railroad Representative(s). NOTE: Railroad Representative(s) may choose to not attend the start of work meeting at their discretion.

3. Receive assurance from the qualified protective services contractor that the Contractor Protective Services are properly equipped and have been site specific trained by the Railroad Representative prior to performing the full duties of protecting the Contractor. Until assurance from the qualified protective services contractor is obtained, Contractor Protective Services may act as an observer until such Contractor Protective Services are site specific trained by the Railroad Representative. The reference to an “observer” is defined as a person who has the authority to deny access to Contractor’s workers and machinery to a specified Railroad operation zone as directed to the qualified protective services contractor by Railroad and prevent those potential to foul work events which may put the Contractor’s workers and machinery at risk for injury or damage.
4. INTERFERENCE WITH RAILROAD OPERATIONS:
- A. The Contractor shall so arrange and conduct the Contractor’s work that there will be no interference with Railroad’s operations, including train, signal, telephone and telegraphic services, or damage to the property of the Railroad or to poles, wires, and other facilities of tenants on the rights-of-way of the Railroad. Whenever work is liable to affect the operations or safety of trains, the method of doing such work shall first be submitted to the Railroad Engineer for approval, but such approval shall not relieve the Contractor from liability. Any work to be performed by the Contractor which requires Construction Engineering Representative inspection services shall be deferred by the Contractor until the Construction Engineering Representative inspection services are available at the job site. Contractor Protective Services shall be provided onsite any time construction activities are taking place on or adjacent to the Railroad Property and/or has the potential to foul the Railroad’s track or operations
 - B. Whenever work within Railroad’s rights-of-way is of such a nature that impediment to Railroad’s operations such as use of runaround tracks or necessity for reduced speed is unavoidable, the Contractor shall schedule and conduct the Contractor’s operations so that such impediment is reduced to the absolute minimum.
 - C. Should conditions arising from, or in connection with the work, require that immediate and unusual provisions be made to protect operations and property of the Railroad, the Contractor shall make such provisions. If in the judgment of the Railroad Engineer, or in the Railroad Engineer’s absence, the Railroad’s Division Engineer, such provisions are insufficient, either may require or provide such provisions as the Railroad deems necessary. In any event, such unusual provisions shall be at the Contractor’s expense and without cost to the Railroad or the Sponsor.
 - D. “One Call” Services do not locate buried Norfolk Southern Signals and Communications Lines. The contractor shall contact the Railroad’s representative 7 days in advance of work at those places where excavation, pile driving, or heavy loads may damage the Railroad’s underground facilities. Upon request from the Contractor or Sponsor, Railroad forces will locate and paint mark or flag the Railroad’s underground facilities. The Contractor shall avoid excavation or other disturbances of these facilities. If disturbance or excavation is required near a buried Railroad facility, the Contractor shall coordinate with the Railroad to have the facility potholed manually with careful hand excavation. The facility shall be protected by the Contractor during the course of the disturbance under the supervision and direction of the Railroad’s Representative.

5. TRACK CLEARANCES:

- A. The minimum track clearances to be maintained by the Contractor during construction are shown on the Project Plans. If temporary clearances are not shown on the project plans, the following criteria shall govern the use of falsework and formwork above or adjacent to operated tracks.
1. A minimum vertical clearance of 22'-0" above top of highest rail shall be maintained at all times.
 2. A minimum horizontal clearance of 13'-0" from centerline of tangent track or 14'-0" from centerline of curved track shall be maintained at all times. Additional horizontal clearance may be required in special cases to be safe for operating conditions. This additional clearance will be as determined by the Railroad Engineer.
 3. All proposed temporary clearances which are less than those listed above must be submitted to Railroad Engineer for approval prior to construction and must also be authorized by the regulatory body of the State if less than the legally prescribed clearances.
 4. The temporary clearance requirements noted above shall also apply to all other physical obstructions including, but not limited to: stockpiled materials, parked equipment, placement or driving of piles, and bracing or other construction supports.

6. CONSTRUCTION PROCEDURES:

A. General:

1. Construction work and operations by the Contractor on Railroad property shall be:
 - a. Subject to the inspection and approval of the Railroad Engineer or their designated Construction Engineering Representative.
 - b. In accordance with the Railroad's written outline of specific conditions.
 - c. In accordance with the Railroad's general rules, regulations and requirements including those relating to safety, fall protection and personal protective equipment.
 - d. In accordance with these Special Provisions.
2. Submittal Requirements
 - a. The Contractor shall submit all construction related correspondence and submittals electronically to the Railroad Engineer and/or their designated Construction Engineering Representative.
 - b. The contractor should anticipate a minimum of 45 days for Railroad and their Construction Engineering Representative to complete the review of all construction submittals. Time frames for reviews can vary significantly depending on the complexity of the project and the quality of submittals. Submittals requiring input from other departments may require additional time.

- c. All work in the vicinity of the Railroad's property that has the potential to affect the Railroad's train operations or disturb the Railroad's property must be submitted and approved by the Railroad prior to work being performed.
- d. All submittals and calculations must be signed and sealed by a registered engineer licensed in the state of the project work.
- e. All submittals shall first be approved by the Sponsor's Engineer prior to submission to the Railroad Engineer for review. Submittals are reviewed by the Railroad for impacts to Railroad operations only; therefore, approval from the Railroad Engineer shall not relieve the Contractor from liability.
- f. For all construction projects, the following submittals, but not limited to those listed below, shall be provided for review and approval when applicable:
 - (1) General Means and Methods
 - (2) Ballast Protection
 - (3) Construction Excavation & Shoring
 - (4) Pipe, Culvert, & Tunnel Installations
 - (5) Demolition Procedure
 - (6) Erection & Hoisting Procedure
 - (7) Debris Shielding or Containment
 - (8) Blasting
 - (9) Formwork for the bridge deck, diaphragms, overhang brackets, and protective platforms
 - (10) Bent Cap Falsework. A lift plan will be required if the contractor want to move the falsework over the tracks.
- g. For Undergrade Bridges (Bridges carrying the Railroad) the following submittals in addition to those listed above shall be provided for review and approval:
 - (1) Girder Shop Drawings including welding/fabrication procedures
 - (2) Bearing Shop Drawings and Material Certifications
 - (3) Shop Drawings for drainage, handrails/fencing, and expansion dams
 - (4) Concrete Mix Design
 - (5) Structural Steel, Rebar, and/or Strand Certifications
 - (6) 28-day Cylinder Test for Concrete Strength
 - (7) Waterproofing Material Certification
 - (8) Dampproofing materials
 - (9) Test Reports for all steel
 - (10) Foundation Construction Reports

Other submittals may be required upon request from the Railroad. Fabrication may not begin until the Railroad has approved the required shop drawings.

- h. The Contractor shall include in all submissions a detailed narrative indicating the progression of work with the anticipated timeframe to complete each task. Work will not be permitted to commence until the Contractor has provided the Railroad with a satisfactory plan that the project will be undertaken without scheduling, performance, or safety related issues. Submissions shall also provide: a listing of the anticipated equipment to be used, plan and profile views showing the location of all equipment to be used relative to the track centerline(s) shown, and a contingency plan of action covering the event that a primary piece of equipment malfunctions.

B. Ballast Protection

1. The Contractor shall submit the proposed ballast protection system detailing the specific filter fabric and anchorage system to be used during all construction activities.
2. The ballast protection is to extend 25' beyond the proposed limit of work, be installed at the start of the project and be continuously maintained to prevent all contaminants from entering the ballast section of all tracks for the entire duration of the project.

C. Excavation:

1. The subgrade of an operated track shall be maintained with edge of berm at least 10'-0" from centerline of track and not more than 24-inches below top of rail. Contractor will not be required to make existing section meet this specification if substandard, in which case the existing section will be maintained.
2. Additionally, the Railroad will require the installation of an OSHA approved handrail and orange construction safety fencing for all excavations of the Railroad right-of-way.

D. Excavation for Structures and Shoring Protection:

1. The Contractor will be required to take special precaution and care in connection with excavating and shoring pits, and in driving piles or sheeting for footings adjacent to tracks to provide adequate lateral support for the tracks and the loads which they carry, without disturbance of track alignment and surface, and to avoid obstructing track clearances with working equipment, tools or other material.
2. The use of shoring systems utilizing tiebacks shall not be permitted without written approval from the Railroad Engineer.
3. Shoring systems utilizing trench boxes shall not be permitted within the Theoretical Railroad Embankment (Zones 1, 2, or 3) as shown on NS Typical Drawing No. 4 – Shoring Requirements without written approval from the Railroad Engineer.
4. All plans and calculations for shoring shall be prepared, signed, and sealed by a Registered Professional Engineer licensed in the state of the proposed project, in accordance with Norfolk Southern's Overhead Grade Separation Design Criteria, subsection H.1.6 - Construction Excavation (Refer to Norfolk Southern Public Improvement Projects Manual Appendix H). The Registered Professional Engineer will be responsible for the accuracy for all controlling dimensions as well as the selection of soil design values which will accurately reflect the actual field conditions.

5. The Contractor shall provide a detailed installation and removal plan of the shoring components. Any component that will be installed via the use of a crane or any other lifting device shall be subject to the guidelines outlined in Section 6.G of these Special Provisions.
 6. The Contractor shall be required to survey the track(s) and Railroad embankment and provide a cross section of the proposed excavation in relation to the tracks.
 7. Calculations for the proposed shoring should include deflection calculations. The maximum deflection for excavations within 18'-0" of the centerline of the nearest track shall be 3/8". For all other cases, the max deflection shall not exceed 1/2".
 8. Additionally, the Railroad will require the installation of an OSHA approved handrail and orange construction safety fencing for all excavations of the Railroad right-of-way.
 9. The front face of shoring located closest to the NS track for all shoring setups located in Zone 2 (shown on NS Typical Drawing No. 4 – Shoring Requirements in Appendix I) shall remain in place and be cut off 2'-0" below the final ground elevation. The remaining shoring in Zone 2 and all shoring in Zone 1 may be removed and all voids must be backfilled with flowable fill.
- E. Pipe, Culvert, & Tunnel Installations
1. Pipe, Culvert, & Tunnel Installations shall be in accordance with the appropriate Norfolk Southern Design Specification as noted below:
 - a. For Open Cut Method refer to Norfolk Southern Public Improvement Projects Manual Appendix H.4.6.
 - b. For Jack and Bore Method refer to Norfolk Southern Public Improvement Projects Manual Appendix H.4.7.
 - c. For Tunneling Method refer to Norfolk Southern Public Improvement Projects Manual Appendix H.4.8.
 2. The installation methods provided are for pipes carrying storm water or open flow runoff. All other closed pipeline systems shall be installed in accordance Norfolk Southern's Pipe and Wire Program and the NSCE-8.
- F. Demolition Procedures
1. General
 - a. Demolition plans are required for all spans over the track(s), for all spans adjacent to the track(s), if located on (or partially on) Railroad right-of-way; and in all situations where cranes will be situated on, over, or adjacent to Railroad right-of-way and within a distance of the boom length plus 15'-0" from the centerline of track.
 - b. Railroad tracks and other Railroad property must be protected from damage during the procedure.

- c. A pre-demolition meeting shall be conducted with the Sponsor, the Railroad Engineer and/or the Construction Engineering Representative, and the key Contractor's personnel prior to the start of the demolition procedure.
 - d. The Railroad Engineer and/or the Construction Engineering Representative must be present at the site during the entire demolition procedure period.
 - e. Demolition of existing bridge decks in spans over the Railroad shall be performed in a controlled manner (i.e. saw-cutting). No impact equipment (track-mounted hoe-ram, jackhammers, etc.) may be used over the Railroad without approval by the Railroad Engineer.
 - f. Existing, obsolete, bridge piers shall be removed to a sufficient depth below grade to enable restoration of the existing/proposed track ditch, but in no case less than 2'-0" below final grade.
2. Submittal Requirements
- a. In addition to the submittal requirements outlined in Section 6.A.2 of these Special Provisions, the Contractor shall submit the following for approval by the Railroad Engineer:
 - (1) A plan showing the location of cranes, horizontally and vertically, with proposed boom lengths, operating radii, counterweights, and delivery or disposal locations shown. The location of all tracks and other Railroad facilities as well as all obstructions such as wire lines, poles, adjacent structures, etc. must also be shown.
 - (2) Rating sheets showing that cranes or lifting devices are adequate for 150% of the actual weight of the pick, including all rigging components. A complete set of crane charts, including crane, counterweight, and boom nomenclature is to be submitted. Safety factors that may have been "built-in" to the crane charts are not to be considered when determining the 150% factor of safety.
 - (3) Plans and computations showing the weight of the pick must be submitted. Calculations shall be made from plans of the existing structure showing complete and sufficient details with supporting data for the demolition of the structure. If plans do not exist, lifting weights must be calculated from field measurements. The field measurements are to be made under the supervision of the Registered Professional Engineer submitting the procedure and calculations.

- (4) The Contractor shall provide a sketch of all rigging components from the crane's hook block to the object being hoisted. Catalog cuts or information sheets of all rigging components with their lifting capacities shall be provided. All rigging must be adequate for 150% of the actual weight of the pick. Safety factors that may have been "built-in" to the rating charts are not to be considered when determining the 150% factor of safety. All rigging components shall be clearly identified and tagged with their rated lifting capacities. The position of the rigging in the field shall not differ from what is shown on the final plan without prior review from the Sponsor and the Railroad.
- (5) A complete demolition procedure, including the order of lifts, time required for each lift, and any repositioning or re-hitching of the crane or cranes.
- (6) Design and supporting calculations for the temporary support of components, including but not limited to the stability of the superstructure during the temporary condition, temporary girder tie-downs and falsework.

3. Overhead Demolition Debris Shield

- a. The demolition debris shield shall be installed prior to the demolition of the bridge deck or other relevant portions of the superstructure over the track area to catch all falling debris.
- b. The demolition debris shield shall provide a minimum vertical clearance as specified in Section 5.A.1 of these Special Provisions or maintain the existing vertical clearance if the existing clearance is less than that specified in Section 5.A.1.
- c. The Contractor shall include the demolition debris shield installation/removal means and methods as part of the proposed demolition procedure submission.
- d. The Contractor shall submit the demolition debris shield design and supporting calculations for approval by the Railroad Engineer.
- e. The demolition debris shield shall have a minimum design load of 50 pounds per square foot plus the weight of the equipment, debris, personnel, and other loads to be carried.
- f. The Contractor shall include the proposed bridge deck removal procedure in its demolition means and methods and shall verify that the size and quantity of the demolition debris generated by the procedure does not exceed the shield design loads.
- g. The Contractor shall clean the demolition debris shield daily or more frequently as dictated either by the approved design parameters or as directed by the Railroad Engineer.

4. Vertical Demolition Debris Shield

- a. A vertical demolition debris shield may be required for substructure removals in close proximity to the Railroad's track and other facilities, as determined by the Railroad Engineer.

G. Erection & Hoisting Procedures

1. General

- a. Erection plans are required for all spans over the track(s), for all spans adjacent to the track(s), if located on (or partially on) Railroad right-of-way; and in all situations where cranes will be situated on, over, or adjacent to Railroad right-of-way and within a distance of the boom length plus 15'-0" from the centerline of track.
- b. Neither crane handoffs nor "walking" of cranes with suspended load will be permitted for erection on or over Railroad right-of-way.
- c. Railroad tracks and other Railroad property must be protected from damage during the erection procedure.
- d. A pre-erection meeting shall be conducted with the Sponsor, the Railroad Engineer and/or the Construction Engineering Representative, and the key Contractor's personnel prior to the start of the erection procedure.
- e. The Railroad Engineer and/or the Construction Engineering Representative must be present at the site during the entire erection procedure period.
- f. For field splices located over Railroad property, a minimum of 50% of the holes for each connection shall be filled with bolts or pins prior to releasing the crane. A minimum of 50% of the holes filled shall be filled with bolts. All bolts must be appropriately tightened. Any changes to previously approved field splice locations must be submitted to the Railroad for review and approval. Refer to Norfolk Southern's Overhead Grade Separation Design Criteria for additional splice details (Norfolk Southern Public Improvement Projects Manual Appendix H.1, Section 4.A.3.).

2. Submittal Requirements

- a. In addition to the submittal requirements outlined in Section 6.A.2 of these provisions, the Contractor shall submit the following for approval by the Railroad Engineer:
 - (1) As-built beam seat elevations - All as-built bridge seats and top of rail elevations shall be furnished to the Railroad Engineer for review and verification at least 30 days in advance of the erection, to ensure that minimum vertical clearances as approved in the plans will be achieved.
 - (2) A plan showing the location of cranes, horizontally and vertically, with proposed boom lengths, operating radii, counterweights, and delivery or staging locations shown. The location of all tracks and other Railroad facilities as well as all obstructions such as wire lines, poles, adjacent structures, etc. must also be shown.

- (3) Rating sheets showing that cranes or lifting devices are adequate for 150% of the actual weight of the pick, including all rigging components. A complete set of crane charts, including crane, counterweight, and boom nomenclature is to be submitted. Safety factors that may have been “built-in” to the crane charts are not to be considered when determining the 150% factor of safety.
- (4) Plans and computations showing the weight of the pick must be submitted. Calculations shall be made from plans of the proposed structure showing complete and sufficient details with supporting data for the erection of the structure. If plans do not exist, lifting weights must be calculated from field measurements. The field measurements are to be made under the supervision of the Registered Professional Engineer submitting the procedure and calculations.
- (5) The Contractor shall provide a sketch of all rigging components from the crane’s hook block to the object being hoisted. Catalog cuts or information sheets of all rigging components with their lifting capacities shall be provided. All rigging must be adequate for 150% of the actual weight of the pick. Safety factors that may have been “built-in” to the rating charts are not to be considered when determining the 150% factor of safety. All rigging components shall be clearly identified and tagged with their rated lifting capacities. The position of the rigging in the field shall not differ from what is shown on the final plan without prior review from the Sponsor and the Railroad.
- (6) A complete erection procedure, including the order of lifts, time required for each lift, and any repositioning or re-hitching of the crane or cranes.
- (7) Design and supporting calculations for the temporary support of components, including but not limited to temporary girder tie-downs and falsework.

H. Blasting:

1. The Contractor shall obtain advance approval of the Railroad Engineer and the Sponsor Engineer for use of explosives on or adjacent to Railroad property. The request for permission to use explosives shall include a detailed blasting plan. If permission for use of explosives is granted, the Contractor will be required to comply with additional provisions as designated by the Railroad Engineer.

I. Track Monitoring

1. At the direction of the Railroad Engineer, any activity that has the potential to disturb the Railroad track structure may require the Contractor to submit a detailed track monitoring program for approval by the Railroad Engineer.

2. The program shall specify the survey locations, the distance between the location points, and frequency of monitoring before, during, and after construction. Railroad reserves the right to modify the survey locations and monitoring frequency as necessary during the project.
 3. The survey data shall be collected in accordance with the approved frequency and immediately furnished to the Railroad Engineer for analysis.
 4. If any movement has occurred as determined by the Railroad Engineer, the Railroad will be immediately notified. Railroad, at its sole discretion, shall have the right to immediately require all Contractor operations to be ceased and determine what corrective action is required. Any corrective action required by the Railroad or performed by the Railroad including the monitoring of corrective action of the Contractor will be at project expense.
- J. Maintenance of Railroad Facilities:
1. The Contractor will be required to maintain all ditches and drainage structures free of silt or other obstructions which may result from the Contractor's operations and provide and maintain any erosion control measures as required. The Contractor will promptly repair eroded areas within Railroad rights-of-way and repair any other damage to the property of the Railroad or its tenants.
 2. If, in the course of construction, it may be necessary to block a ditch, pipe or other drainage facility, temporary pipes, ditches, or other drainage facilities shall be installed to maintain adequate drainage, as approved by the Railroad Engineer. Upon completion of the work, the temporary facilities shall be removed, and the permanent facilities restored.
 3. All such maintenance and repair of damages due to the Contractor's operations shall be done at the Contractor's expense.
- K. Storage of Materials and Equipment:
1. Materials and equipment shall not be stored where they will interfere with Railroad operations, nor on the rights-of-way of the Railroad without first having obtained permission from the Railroad Engineer, and such permission will be with the understanding that the Railroad will not be liable for damage to such material and equipment from any cause and that the Railroad Engineer may move or require the Contractor to move, at the Contractor's expense, such material and equipment.
 2. All grading or construction machinery that is left parked near the track unattended by Contractor Protective Services shall be effectively immobilized so that it cannot be moved by unauthorized persons. The Contractor shall protect, defend, indemnify and save the Railroad, and any associated, controlled or affiliated corporation, harmless from and against all losses, costs, expenses, claim, or liability for loss or damage to property or the loss of life or personal injury, arising out of or incident to the Contractor's failure to immobilize grading or construction machinery.

L. Cleanup:

1. Upon completion of the work, the Contractor shall remove from within the limits of the Railroad rights-of-way, all machinery, equipment, surplus materials, falsework, rubbish or temporary buildings of the Contractor, and leave said rights-of-way in a neat condition satisfactory to the Railroad Engineer or the Railroad Representative.

7. DAMAGES:

- A. The Contractor shall assume all liability for any and all damages to the Contractor's work, employees, servants, equipment, and materials caused by Railroad traffic.
- B. Any cost incurred by the Railroad for repairing damages to its property or to property of its tenants, caused by or resulting from the operations of the Contractor, shall be paid directly to the Railroad by the Contractor.

8. CONTRACTOR PROTECTIVE SERVICES:

A. Requirements:

1. Qualified protective services are those services of a contractor, directly hired by the Prime Contractor, that have been vetted through the Railroad and are allowed to be performed on Railroad property.
2. Contractor Protective Services shall be onsite anytime construction activities are taking place on or adjacent to the Railroad Property and/or have the potential to foul the Railroad's track or operations.
3. Contractor Protective Services shall be those services of a subcontractor to the Contractor who have the ability to fully protect the Contractor's workers and machinery once the qualified protective services contractor confirms the Contractor Protective Services are properly equipped and site specific trained by the Railroad Representative. Contractor Protective Services may act as an observer until such Contractor Protective Services are site specific trained by the Railroad Representative. The reference to an "observer" is defined as a person who has the authority to deny access to Contractor's workers and machinery to a specified Railroad operation zone as directed to the qualified protective services contractor by Railroad and prevent those potential to foul work events which may put the Contractor's workers and machinery at risk for injury or damage.
4. Contractor Protective Services will not be allowed on the property until all items on the Norfolk Southern Checklist for Construction- Direct Hire have been completed and the authorization to proceed is given by the Railroad Engineer.
5. Under the terms of the agreement between the Sponsor and the Railroad, the Railroad has sole authority to determine the need for any Railroad Protective Services required to protect its operations or work designated to be done by the Railroad through the force account estimate.

9. HAUL ACROSS RAILROAD TRACK:

- A. Where the plans show or imply that materials of any nature must be hauled across the Railroad's track, unless the plans clearly show that the Sponsor has included arrangements for such haul in its agreement with the Railroad, the Contractor will be required to make all necessary arrangements with the Railroad regarding means of transporting such materials across the Railroad's track. The Contractor or Sponsor will be required to bear all costs incidental to such crossings whether services are performed by the Contractor's own forces or by Railroad personnel.
- B. No crossing may be established for use by the Contractor for transporting materials or equipment across the tracks of the Railroad unless specific authority for its installation, maintenance, use, until the Contractor has a fully executed a temporary private crossing agreement between the Contractor and Railroad. The approval process for an agreement normally takes 90 days.

10. WORK FOR THE BENEFIT OF THE CONTRACTOR:

- A. All temporary or permanent changes in wire lines or other facilities which are considered necessary to the project are shown on the plans; included in the force account agreement between the Sponsor and the Railroad or will be covered by appropriate revisions to same which will be initiated and approved by the Sponsor and/or the Railroad.
- B. Should the Contractor desire any changes in addition to the above, then the Contractor shall make separate arrangements with the Railroad for same to be accomplished at the Contractor's expense.

11. COOPERATION AND DELAYS:

- A. It shall be the Contractor's responsibility to arrange a schedule with the Railroad for accomplishing stage construction involving work by the Railroad or tenants of the Railroad. In arranging the Contractor's schedule, the Contractor shall ascertain, from the Railroad, the lead time required for assembling crews and materials and shall make due allowance therefore.
- B. No charge or claim of the Contractor against either the Sponsor or the Railroad will be allowed for hindrance or delay on account of railroad traffic; any work done by the Railroad or other delay incident to or necessary for safe maintenance of railroad traffic or for any delays due to compliance with these Special Provisions.

12. TRAINMAN'S WALKWAYS:

- A. Along the outer side of each exterior track of multiple operated track, and on each side of single operated track, an unobstructed continuous space suitable for trainman's use in walking along trains, extending to a line not less than 10 feet from centerline of track, shall be maintained. Any temporary impediments to walkways and track drainage encroachments or obstructions allowed during work hours while Contractor Protective Service is provided shall be removed before the close of each workday. If there is any excavation near the walkway, a handrail, with 10'-0" minimum clearance from centerline of track, shall be placed and must conform to AREMA and/or FRA standards.

13. GUIDELINES FOR PERSONNEL ON RAILROAD RIGHT-OF-WAY:

- A. The Contractor and/or the Sponsor's personnel authorized to perform work on the Railroad's property as specified in Section 2 above are not required to complete Norfolk Southern Roadway Worker Protection Training; However, the Contractor and the Sponsor's personnel must be familiar with Norfolk Southern's standard operating rules and guidelines, should conduct themselves accordingly, and may be removed from the property for failure to follow these guidelines.
- B. All persons shall wear hard hats. Appropriate eye and hearing protection must be used. Working in shorts is prohibited. Shirts must cover shoulders, back and abdomen. Working in tennis or jogging shoes, sandals, boots with high heels, cowboy and other slip-on type boots is prohibited. Hard-sole, lace-up footwear, zippered boots or boots cinched up with straps which fit snugly about the ankle are adequate. Wearing of safety boots and reflective vests are required.
- C. No person is allowed to perform construction activities which may impact the Railroad's property or operations without specific authorization from the Contractor Protective Services.
- D. All persons working near track while train is passing are to lookout for dragging bands, chains and protruding or shifted cargo.
- E. No person is allowed to cross tracks without specific authorization from the Contractor Protective Services.
- F. All welders and cutting torches working within 25' of track must stop when train is passing.
- G. No steel tape or chain will be allowed to cross or touch rails without permission from the Contractor Protective Services.

14. GUIDELINES FOR EQUIPMENT ON RAILROAD RIGHT-OF-WAY:

- A. No crane or boom equipment will be allowed to set up to work or park within boom distance plus 15' of centerline of track without specific permission from Railroad Representative and Contractor Protective Services personnel.
- B. No crane or boom equipment will be allowed to foul track or lift a load over the track without the authorization from the Contractor Protective Services personnel who are site specific trained and properly equipped.
- C. All employees will stay with their machines when crane or boom equipment is pointed toward track.
- D. All cranes and boom equipment under load will stop work while train is passing (including pile driving).
- E. Swinging loads must be secured to prevent movement while train is passing.
- F. No loads will be suspended above a moving train.
- G. No equipment will be allowed within 25' of centerline of track without specific authorization of the Railroad Representative and Contractor Protective Services personnel.

- H. Trucks, tractors, or any equipment will not touch ballast line without specific permission from Railroad Representative and Contractor Protective Services personnel. At the beginning of each project that involves the Contractor working within 25' of the centerline of any track, orange construction fencing must be established. Orange construction fencing shall be established in accordance with the minimum temporary horizontal clearances contained in Section 5.A.2 and shall be maintained for the duration of construction.
- I. No equipment or load movement is permitted within 25' or above a standing train or Railroad equipment without specific authorization of the Contractor Protective Services personnel.
- J. All operating equipment within 25' of track must halt operations when a train is passing. All other operating equipment may be halted by the Contractor Protective Services personnel if said personnel views the operation to be dangerous to the passing train.
- K. All equipment, loads and cables are prohibited from touching rails.
- L. While clearing and grubbing, no vegetation will be removed from Railroad embankment with heavy equipment without specific permission from the Railroad Engineer, Railroad Representative and Contractor Protective Services personnel.
- M. No equipment or materials will be parked or stored on Railroad's property unless specific authorization is granted from the Railroad Engineer.
- N. All unattended equipment that is left parked on Railroad property shall be effectively immobilized so that it cannot be moved by unauthorized persons.
- O. All cranes and boom equipment will be turned away from track after each workday or whenever unattended by an operator.
- P. Prior to performing any crane operations, the Contractor shall establish a single point of contact for the Contractor Protective Services personnel to remain in communication with at all times. Contractor Protective Services personnel must also be in direct contact with the individual(s) directing the crane operation(s).

15. INSURANCE:

- A. In addition to any other forms of insurance or bonds required under the terms of the contract and specifications, the Prime Contractor will be required to carry insurance of the following kinds and amounts:
 - 1. A Commercial General Liability ("CGL") policy containing products and completed operations, bodily injury, property damage, and contractual liability coverage, with a combined single limit of not less than \$5,000,000 for each occurrence with a general aggregate limit of not less than \$5,000,000. Any portion of this requirement may be satisfied by a combination of General Liability and/or Excess/Umbrella Liability Coverage. The CGL policy shall provide additional insured coverage equivalent to at least as broad as ISO CG 20 10 11/85.

2. Automobile Liability Insurance with a current ISO occurrence form policy (or equivalent) and apply on an "any auto" (Symbol 1) basis, including coverage for all vehicles used in connection with the Work or Services on the leased property, providing annual limits of at least \$1,000,000 per occurrence for bodily injury and property damage combined including uninsured and underinsured motorist coverage, medical payment protection, and loading and unloading. This policy shall be endorsed to include Transportation Pollution Liability Broadened Coverage ISO CA 99 48 03 06 or MCS-90 if vehicles are subject to Federal jurisdiction. If this coverage is on a claims-made form, the Retro Active Date must be prior to the date of this Agreement and the policy endorsement must be maintained for not less than seven (7) years.
3. Workers' Compensation Insurance to meet fully the requirement of any compensation act, plan, or legislative enactment applicable in connection with the death, disability or injury of Licensee's officers, agents, servants, or employees arising directly or indirectly out of the performance of the work.
4. Employers' Liability Insurance with limits of not less than \$1,000,000 each accident, \$1,000,000 policy limit for disease, and \$1,000,000 each employee for disease.
5. All insurance required in Section 15.A (excluding any Workers' Compensation policy) shall name Norfolk Southern Railway and its parent, subsidiary, and affiliated companies as additional insureds with an appropriate endorsement to each policy.
6. All policies secured by Contractor, whether primary, excess, umbrella or otherwise, and providing coverage to the Railroad as an additional insured (i) are intended to take priority in responding and to pay before any insurance policies Railroad may have secured for itself must respond or pay and (ii) may not seek contribution from any policies the Railroad may have secured for itself.
7. No cross-liability exclusions are permitted that would apply to the additional insureds, and there may not be any restrictions in any policy that limits coverage for a claim brought by an additional insured against a named insured.
8. To the fullest extent permitted by law, all insurance furnished by Contractor in compliance with Section 15.A shall include a waiver of subrogation in favor of Railroad with an appropriate endorsement to each policy.
9. All policies required in Section 15.A shall not be subject to cancellation, termination, modification, changed, or non-renewed except upon thirty (30) days' prior written notice to the additional insureds.
10. The insurance coverages maintained by Contractor shall not limit any indemnity obligations or other liabilities. The insurance available to Railroad and its parent, subsidiary and affiliated companies as additional insureds shall not be limited by these requirements should Licensee maintain higher coverage limits.
11. Any deductibles or retentions in excess of \$50,000 maintained on any insurance required in 15.A shall be disclosed and approved by Railroad with a request made for approval to NSRISK3@nscorp.com.

12. Anyone subcontractor providing work on this project must extend CG 20 38 (or broader coverage) additional Insured endorsement to provide coverage for up stream parties.
 13. Contractor shall require all subcontractors who are not covered by the insurance carried by Contractor to obtain commercially reasonable insurance coverage, but not less than the requirements of 15.A.
- B. In addition to the insurances required in Section 15.A, the Contractor shall also procure on behalf of the Railroad for the entirety of the project:
1. Railroad Protective Liability (RPL) Insurance having a combined single limit of not less than \$5,000,000 each occurrence and \$10,000,000 in the aggregate applying separately to each annual period. Said policy shall provide coverage for all loss, damage or expense arising from bodily injury and property damage liability, and physical damage to property attributed to acts or omissions at the job site.

The standards for the Railroad Protective Liability Insurance are as follows:

- a. The insurer must be rated A- or better by A.M. Best Company, Inc.
- b. The policy must be written using one of the following combinations of Insurance Services Office ("ISO") RPL Insurance Form Numbers:
 - (1) CG 00 35 01 96 and CG 28 31 10 93; or
 - (2) CG 00 35 07 98 and CG 28 31 07 98; or
 - (3) CG 00 35 10 01; or
 - (4) CG 00 35 12 04; or
 - (5) CG 00 35 12 07; or
 - (6) CG 00 35 04 13.
- c. The named insured shall read:

Norfolk Southern Corporation and its subsidiaries and affiliates
 650 West Peachtree Street NW – Box 46
 Atlanta, GA 30308
 Attn: Risk Manager

(NOTE: Railroad does not share coverage on RPL with any other entity on this policy)

- d. The description of operations must appear on the Declarations, must match the project description in this agreement, and must include the appropriate Sponsor project and contract identification numbers.
- e. The job location must appear on the Declarations and must include the city, state, and appropriate highway name/number. **NOTE: Do not include any references to milepost, valuation station, or mile marker on the insurance policy.**
- f. The name and address of the prime Contractor must appear on the Declarations.

- g. The name and address of the Sponsor must be identified on the Declarations as the "Involved Governmental Authority or Other Contracting Party."
- h. Endorsements/forms that are **required** are:
 - (1) Physical Damage to Property Amendment
 - (2) Terrorism Risk Insurance Act (TRIA) coverage must be included
- i. Other endorsements/forms that will be accepted are:
 - (1) Broad Form Nuclear Exclusion – Form IL 00 21
 - (2) 30-day Advance Notice of Non-renewal or cancellation
 - (3) Required State Cancellation Endorsement
 - (4) Quick Reference or Index Form CL/IL 240
- j. Endorsements/forms that are NOT acceptable are:
 - (1) Any Pollution Exclusion Endorsement except CG 28 31
 - (2) Any Punitive or Exemplary Damages Exclusion
 - (3) Known injury or Damage Exclusion form CG 00 59
 - (4) Any Common Policy Conditions form
 - (5) An Endorsement that limits or excludes Professional Liability coverage
 - (6) A Non-Cumulation of Liability or Pyramiding of Limits Endorsement
 - (7) An Endorsement that excludes TRIA coverage
 - (8) A Sole Agent Endorsement
 - (9) Any type of deductible endorsement or amendment
 - (10) Any other endorsement/form not specifically authorized in item no. 2.h above.

SPONSOR:RAILROAD:

Risk Management
 Norfolk Southern Corporation and its subsidiaries
 650 West Peachtree Street NW – Box 46
 Atlanta, GA 30308
NSRISK3@NSCORP.COM

- C. All insurance required under Section 15.A and 15.B shall be underwritten by insurers and be of such form and content, as may be acceptable to the Railroad. Prior to entry on Railroad right-of-way, the original electronic RPL Insurance Policy shall be submitted by the Prime Contractor to the Railroad at NSRISK3@NSCORP.COM for review and approval. In addition, certificates of insurance evidencing the Prime Contractor's insurance compliant with the requirements in 15.A shall be issued to the Railroad at NSRISK3@NSCORP.COM at the same time the RPL Policy is submitted.
- D. The insurance required herein shall in no way serve to limit the liability of Sponsor or its Contractors under the terms of this agreement.

E. Insurance Submission Procedures

1. The Railroad will only accept initial insurance submissions via email to NSRISK3@NSCORP.COM. The Railroad will NOT accept initial insurance submissions via hard copies that would be sent either US Mail or Overnight carrier or faxes as only electronic versions only are to be submitted to Railroad. **Please provide point of contact information with the submission including a phone number and email address.**

For email insurance submissions, the subject line should follow the format provided unless otherwise directed by the Railroad Engineer:

Insurance Submittal: City, State – NS File Number – NS Milepost – Project Name – Sponsor Project #

2. Railroad requires the following two (2) forms of insurance in the initial electronic insurance submission to NSRISK3@NSCORP.COM to be submitted under a cover letter providing details of the project and containing the contact information:
 - a. The full original or certified true electronic countersigned copy of the RPL Insurance Policy in its entirety inclusive of all declarations, schedule of forms and endorsements along with the policy forms and endorsements as required in Section 15.B.
 - b. A certificate of insurance from the Contractor evidencing the Contractor's insurance in Section 15.A (i.e. the Contractor's commercial general, automobile, and workers' compensation liability insurance, etc.). The certificate must show Norfolk Southern Railroad and its subsidiaries and affiliated companies as an additional insured on the General Liability and Auto policies. The certificate should also indicate that the Workers' Compensation policy waives subrogation against Norfolk Southern Corporation and its subsidiaries. See Appendix J for a Sample Certificate of Insurance.

16. FAILURE TO COMPLY:

- A. In the event the Contractor violates or fails to comply with any of the requirements of these Special Provisions:
 1. The Railroad Engineer may require that the Contractor vacate Railroad property.
 2. The Sponsor's Engineer may withhold all monies due the Contractor on monthly statements.
- B. Any such orders shall remain in effect until the Contractor has remedied the situation to the satisfaction of the Railroad Engineer and the Sponsor's Engineer.

17. PAYMENT FOR COST OF COMPLIANCE:

- A. No separate payment will be made for any extra cost incurred on account of compliance with these Special Provisions. All such costs shall be included in prices bid for other items of the work as specified in the payment items.



18. PROJECT INFORMATION

A. Date:	March 30, 2023
B. NS File No.:	CX1113689
C. NS Milepost:	FJ-7.01
D. Sponsor's Project No.	

FORCE ACCOUNT ESTIMATE

Work to be Performed By: Norfolk Southern Railway Company
 For the Account of: South Whitehall Township
 Project Description: Proposed Widening of the Eck Road At-Grade Crossing at NS
 Location: South Whitehall Township, Lehigh County, PA
 Project No.: Eck Road
 Milepost: FJ-7.01
 File: CX1113689
 Date: Original March 7, 2023

ITEM A - Preliminary Engineering		0
ITEM B - Construction Engineering		37,864
ITEM C - Administration		3,354
ITEM D - Railroad Protective Services		0
ITEM E - Communications		0
ITEM F - Signal & Electrical		0
ITEM G - Track Work		110,341
ITEM H - T-Cubed		0
	Total	\$ 151,559
	Contingency 5%	\$ 7,578
	GRAND TOTAL	\$ 159,137

ITEM A - Preliminary Engineering

(Review plans and special provisions, prepare estimates, etc.)

Labor: 0 Hours @ \$60 / hour= 0
 Labor Additives: 0
 Travel Expenses: 0
 Services by Contract Engineer: 0

NET TOTAL - ITEM A \$ -

ITEM B - Construction Engineering

(Coordinate Railway construction activities,
review contractor submittals, etc.)

Labor:	40 Hours @ \$60 / hour=	2,400
Labor Additives:		2,964
Travel Expenses:		2,500
Services by Contract Engineer:		30,000

NET TOTAL - ITEM B	\$ 37,864
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ITEM C - Administration

Agreement Construction, Review and/or Handling:		2,460
Protective Services Process/Handling Fee:		0
Miscellaneous Handling (i.e. Real Estate ValMap fee):		0
Accounting Hours (Labor):	10 Hours @ \$40 / hour=	400
Accounting Additives:		494

NET TOTAL - ITEM C	\$ 3,354
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ITEM D - Railroad Protective Services

(During construction on, over,
under, or adjacent to the track.)

Labor:	Protective Services	
	0 days @ 435.00 per day=	0
	(based on working 12 hours/day)	
Labor Additive:		0
Travel Expenses, Meals & Lodging:		
	0 days @ \$100/day=	0
Rental Vehicle	0 months @ \$950/month=	0

NET TOTAL - ITEM D	\$ -
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ITEM E - Communications

Material:		0
Labor:		0
Purchase Services:		0
Subsistence:		0
Additive:		0

NET TOTAL - ITEM E	\$ -
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ITEM F - Signal & Electrical

Material:	0
Labor:	0
Purchase Services:	0
Other:	0

NET TOTAL - ITEM F

\$ -

ITEM G - Track Work

Material:	62,358
Labor:	18,849
Additive:	23,403
Purchase Services:	5,731

NET TOTAL - ITEM G

\$ 110,341

ITEM H - T-CUBED

Lump Sum	\$ -
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NOTES

1. For all groups of CONTRACT employees, the composite labor surcharge rate used in this estimate (including insurance) is 265.42%. Self Insurance - Public Liability Property Damage is estimated at 16.00%. Work will be billed at actual current audited rate in effect at the time the services are performed.
2. For all groups of NON-CONTRACT employees, the composite labor surcharge rate used in this estimate (including insurance) is 123.51%. Self Insurance - Public Liability Property Damage is estimated at 16.00%. Work will be billed at actual current audited rate in effect at the time the services are performed.
3. All applicable salvage items due the Department will be made available to it at the jobsite for its disposal.
4. The Force Account Estimate is valid for one (1) year after the date of the estimate (03/07/2023). If the work is not performed within this time frame the Railway may revise the estimate to (1) include work not previously indicated as necessary and (2) reflect changes in cost to perform the force account work.

Norfolk Southern Railway Company

Keystone Division
 South Whitehall Township, Lehigh County, PA
 ESTIMATE FOR CROSSING IMPROVEMENT (ASPHALT SURFACE)

Existing Crossing
 DOT Number: 591377F
 MP: FJ-7.01

1 TRACK(S); 56 CROSSING LENGTH

MATERIAL	QUANTITY	UNIT	UNIT COST	AMOUNT
SURFACE MATERIAL (Rubber Flangeways)	56	TRK. FT.	81.00	4,536
ASPHALT (BY CONTRACTOR)	43	TONS	396.00	16,845
RAIL, 132-LB RE	160	LIN FT.	25.00	4,000
TRANSITION RAIL	4	EA.	1171.00	4,684
INSULATED JOINTS	0	EA.	1355.00	0
RAIL ANCHORS	256	EA.	1.90	486
SPIKES	3.0	KEG	118.00	354
TIE PLATES	128	EA.	15.00	1,920
CROSTIES (10')	0	EA.	100.00	0
CROSTIES (GRADE 5)	64	EA.	55.00	3,520
TRUCKED BALLAST AND GRAVEL	109	TONS	104.00	11,336
GEOTEXTILE	76	LIN FT.	7.00	532
THERMITE WELDS	4	EA.	691.00	2,764
ASPHALT DISPOSAL	1	LUMPS	5000.00	5,000

TOTAL (INCLUDES 11.4% INVENTORY OR TAX ADDITIVES) 62,358

LABOR

REMOVE EXISTING CROSSING	50	MAN HOURS	35.27	1,764
REHABILITATE TRK. STRUCTURE	110	MAN HOURS	35.27	3,880
INSTALL NEW CROSSING	90	MAN HOURS	35.27	3,174

TOTAL 8,818

OTHER ITEMS

Rail	-3.1	TON	0	0
Scrap	-1.0	TON	0	0

0

COMPOSITE LABOR ADDITIVE (265.42%)				23,403
EQUIPMENT RENTAL & TRANSPORTATION				5,731

PRELIMINARY & CONSTRUCTION ENGINEERING SERVICES AND INVOICE 10,031

TOTAL (Billed to Project Sponsor) \$110,341

*ESTIMATE BASED ON FULL CLOSURE OF ROAD WITH TRAFFIC CONTROL AND BARRICADES PROVIDED BY OTHERS

*UNIT COSTS ARE ESTIMATED. ACTUAL UNIT COSTS ARE SUBJECT TO CHANGE WITHOUT NOTICE.

This estimate is valid for one (1) year after the date of estimate. If work is not performed within this time frame the Railway may revise the estimate to include work not previously deemed necessary.

This estimate shall not be considered as an approval for a temporary crossing. Information provided is an estimation of the anticipated cost for the construction of the crossing only. All temporary construction crossings require a separate approval from Norfolk Southern's General Manager and Division Superintendent, a separate stand alone temporary construction crossing agreement with associated real estate fees, and all required insurances as noted in the in the temporary construction crossing agreement.

OFFICE OF CHIEF ENGINEER DESIGN & CONSTRUCTION - ATLANTA, GEORGIA
 Tuesday, March 07, 2023

File: CX1113689

**ADDENDUM TO COOPERATION, REIMBURSEMENT,
AND INDEMNIFICATION AGREEMENT**

THIS ADDENDUM TO COOPERATION, REIMBURSEMENT, AND INDEMNIFICATION AGREEMENT (the "**Addendum**") made as of this _____ day of _____, 2020 by and between the TOWNSHIP OF SOUTH WHITEHALL, a municipal corporation, Township of the First Class, located at 4444 Walbert Avenue, Allentown, Lehigh County, Pennsylvania 18104-1699 ("**Township**"), IPT ALLENTOWN DC LLC, a Delaware limited liability company with a principal business address of 518 17th Street 17th Floor, Denver, Colorado 80202-4130, and IPT ALLENTOWN DC II LLC, a Delaware limited liability company with a principal business address of 518 17th Street 17th Floor, Denver, Colorado 80202-4130 (IPT Allentown DC LLC and IPT Allentown DC II LLC shall be collectively referred to herein as "**Developer**").

WITNESSETH:

WHEREAS, Township and Developer entered into a Cooperation, Reimbursement and Indemnification Agreement dated April 21, 2020 providing, inter alia, for Developer's reimbursement and indemnification of Township for all work related to or arising from the Project¹;

WHEREAS, pursuant to the terms of the Agreement, Developer paid cash security in the amount of Twenty Thousand Dollars (\$20,000.00) to the Township;

WHEREAS, the Agreement permits the Township to request increased security in its sole discretion;

WHEREAS, Developer has requested that Township execute an application in connection with the Project for submission to the Pennsylvania Public Utility Commission (the "**PUC Application**") for the purpose of making certain improvements to the existing at-grade crossing at Eck Road, namely road widening to allow for the installation of a road shoulder and sidewalk for pedestrian and vehicle safety (the "**Norfolk Southern At-Grade Crossing Improvements**");

WHEREAS, Developer has provided to the Township an Opinion of Probable Construction Cost relating to the Norfolk Southern At-Grade Crossing Improvements reflecting a total estimate of One Hundred Eight Thousand Nine Hundred Four Dollars and 48/100 (\$108,904.48) ("**Additional Security**"), which is attached hereto and incorporated herein as Exhibit "A";

WHEREAS, Township opposes the execution and submission of the PUC Application without the signing of this Addendum and the payment of the Additional Security as described herein.

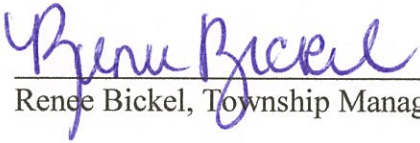
NOW THEREFORE, Township and Developer, intending to be legally bound, hereby mutually agree to amend and modify said Agreement as follows:

¹ Capitalized terms used herein and not otherwise defined are defined as set forth in the Cooperation, Reimbursement, and Indemnification Agreement dated April 21, 2020.

1. The foregoing background is incorporated herein.
2. Contemporaneously with the execution of this Addendum, Developer shall pay to the Township the Additional Security in the form of cash pursuant to the terms of Section 3 of the Agreement.
3. Exhibit "B" attached to the Agreement titled "Road Widening Concept – Norfolk Southern At-Grade Crossing #591377F" is hereby replaced by the Exhibit "B" dated April 5, 2019, last revised August 27, 2020 and attached to this Addendum.
4. All other provisions of the Agreement, including but not limited to the Indemnification provisions in Section 5 of the Agreement, shall and do hereby remain in full force and effect, other than any provision that conflicts with the terms and spirit of this Addendum, which shall be deemed to be amended appropriately in order to be consistent with this Addendum.
5. This Addendum may be executed in several counterparts, each of which shall be deemed an original, and the counterparts shall constitute but one and the same instrument which may be sufficiently evidenced by one counterpart.

IN WITNESS WHEREOF, the parties hereto have caused this Addendum to be properly executed the day and year first above written.

SOUTH WHITEHALL TOWNSHIP

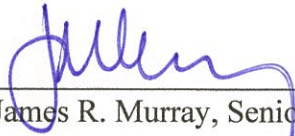
By: 
Renee Bickel, Township Manager

Attest: 
Stephen D. Carr, Secretary

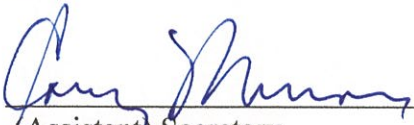
[DEVELOPER SIGNATURE BLOCKS FOLLOW]

DEVELOPER:

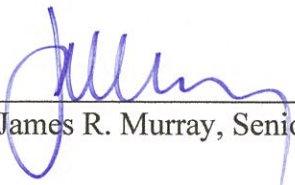
- IPT ALLENTOWN DC LLC, a Delaware limited liability company
- BY: BTC II PA Allentown DC Holdco LLC, a Delaware limited liability company, its sole member
- By: BTC II Holdco LLC, a Delaware limited liability company, its sole member
- By: Build-To-Core Industrial Partnership II LP, a Delaware limited partnership, its manager
- By: IPT BTC II GP LLC, a Delaware limited liability company, its general partner
- By: IPT Real Estate Holdco LLC, a Delaware limited liability company, its sole member
- By: Industrial Property Operating Partnership LP, a Delaware limited partnership, its sole member
- By: Industrial Property Trust Inc., a Maryland corporation, its general partner

By: 
 James R. Murray, Senior Vice President

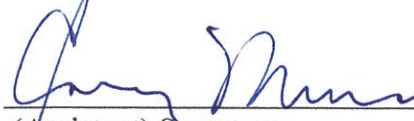
Attest:


 (Assistant) Secretary
 WITNESS

- IPT ALLENTOWN DC II LLC, a Delaware limited liability company
- BY: BTC II PA Allentown DC II Holdco LLC, a Delaware limited liability company, its sole member
- By: BTC II Holdco LLC, a Delaware limited liability company, its sole member
- By: Build-To-Core Industrial Partnership II LP, a Delaware limited partnership, its manager
- By: IPT BTC II GP LLC, a Delaware limited liability company, its general partner
- By: IPT Real Estate Holdco LLC, a Delaware limited liability company, its sole member
- By: Industrial Property Operating Partnership LP, a Delaware limited partnership, its sole member
- By: Industrial Property Trust Inc., a Maryland corporation, its general partner

By: 
 James R. Murray, Senior Vice President

Attest:

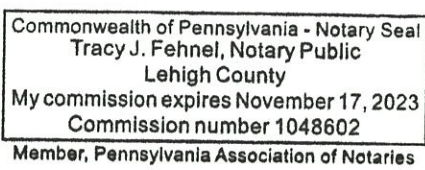

 (Assistant) Secretary
 WITNESS

[NOTARY PAGES TO FOLLOW]

COMMONWEALTH OF PENNSYLVANIA :
:SS.
COUNTY OF LEHIGH :

On this 2nd day of October, 2020, before me, a notary public, the undersigned officer, personally appeared Renee Bickel, who acknowledged herself to be the Township Manager of SOUTH WHITEHALL TOWNSHIP, a municipal corporation, and that she as the Township Manager, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by herself as the Township Manager.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



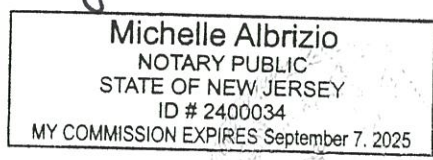
Tracy J. Fehnel
Notary Public

STATE OF NJ :
:SS.
COUNTY OF BERGEN :

On this 21 day of SEPTEMBER, 2020, before me, a Notary Public, the undersigned officer, personally appeared James R. Murray, who acknowledged himself to be the Senior Vice President of Industrial Property Trust Inc., General Partner of Industrial Property Operating Partnership LP, Sole Member of IPT Real Estate Holdco LLC, Sole Member of IPT BTC II GP LLC, General Partner of Build-To-Core Industrial Partnership II LP, Manager of BTC II Holdco LLC, Sole Member of BTC II PA Allentown DC Holdco LLC, Sole Member of IPT ALLENTOWN DC LLC, a Delaware limited liability company, and that he as such Senior Vice President, being authorized to do so, executed the foregoing instrument for the purpose therein contained by signing the name of the corporation as general partner by himself as Senior Vice President.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

M. Albrizio
Notary Public



STATE OF NJ :
 : ss.
COUNTY OF BERGEN :

On this 21 day of SEPT., 2020, before me, a Notary Public, the undersigned officer, personally appeared James R. Murray, who acknowledged himself to be the Senior Vice President of Industrial Property Trust Inc., General Partner of Industrial Property Operating Partnership LP, Sole Member of IPT Real Estate Holdco LLC, Sole Member of IPT BTC II GP LLC, General Partner of Build-To-Core Industrial Partnership II LP, Manager of BTC II Holdco LLC, Sole Member of BTC II PA Allentown DC II Holdco LLC, Sole Member of IPT ALLENTOWN DC II LLC, a Delaware limited liability company, and that he as such Senior Vice President, being authorized to do so, executed the foregoing instrument for the purpose therein contained by signing the name of the corporation as general partner by himself as Senior Vice President.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

M. Albrizio
Notary Public

Michelle Albrizio
NOTARY PUBLIC
STATE OF NEW JERSEY
ID # 2400034
MY COMMISSION EXPIRES September 7, 2025

EXHIBIT "A"

(Opinion of Probable Construction Cost)

LANGAN ENGINEERING & ENVIRONMENTAL SERVICES
OPINION OF PROBABLE CONSTRUCTION COST
Norfolk Southern at Grade Crossing Improvements -Eck Road
August 27, 2020

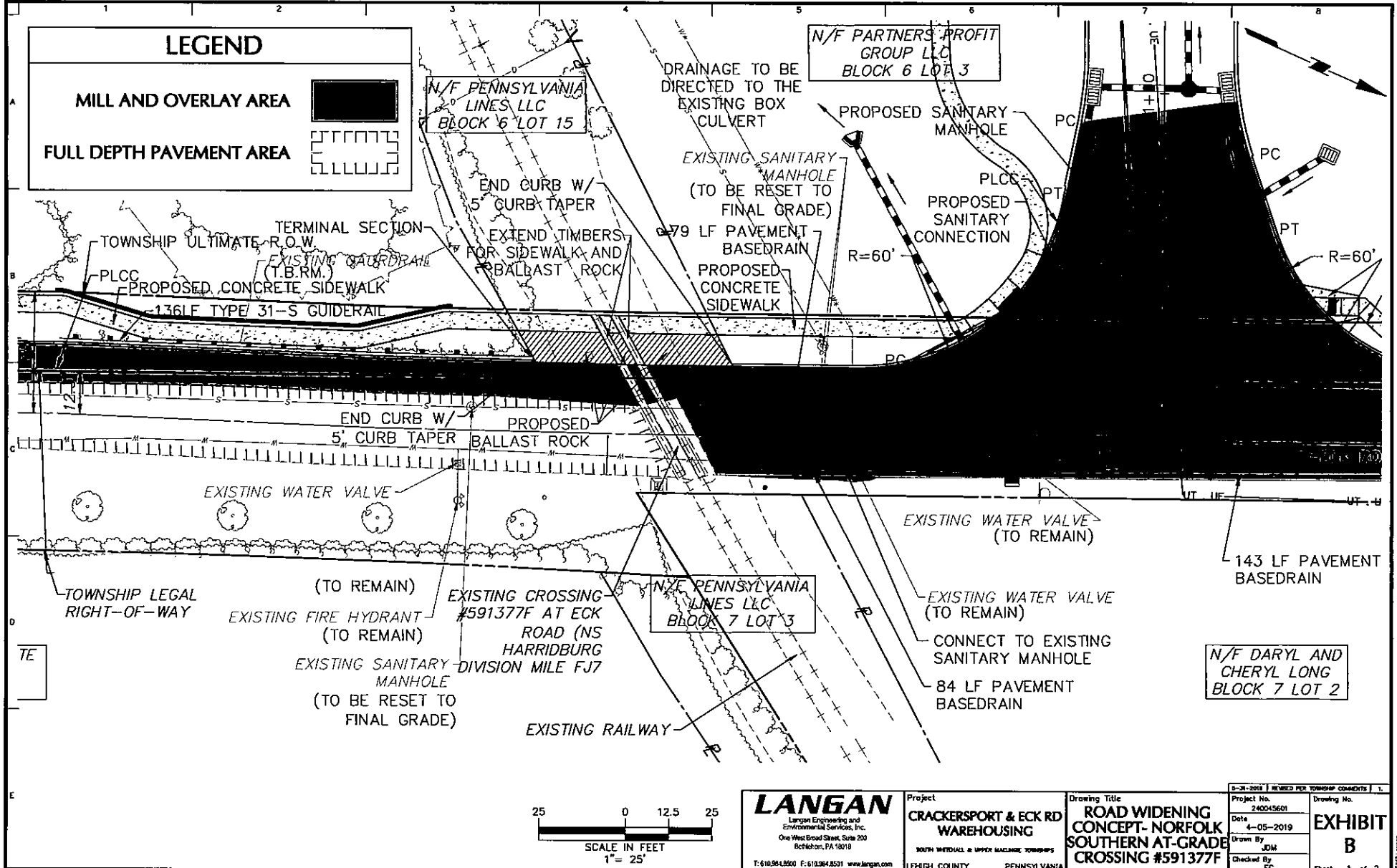
Item	Quantity	Unit	Unit Price	Amount
A Earthwork (See Note 1)				
Class 1 Excavation	20	CY	\$18.27	\$365.40
Milling of Bituminous pavement Surface	1,245	SY	\$2.30	\$2,863.50
B Pavement Section				
Sawcut	110	LF	\$4.20	\$462.00
6" Subbase No. 2A	333	SY	\$12.51	\$4,165.83
10" Superpave Asphalt, WMA Base Course	333	SY	\$38.17	\$12,710.61
2.5" Superpave Asphalt, WMA Binder Course	333	SY	\$11.57	\$3,852.81
1.5" Superpave Asphalt, WMA Wearing Course	333	SY	\$9.26	\$3,083.58
C Pavement Marking & Signing Improvements				
Pavement Marking & Signing Improvements	1	LS	\$3,500.00	\$3,500.00
D Maintenance and Protection of Traffic				
Maintenance and Protection of Traffic	1	LS	\$3,500.00	\$3,500.00
E Other				
Ballast Rock	45	SY	\$50.00	\$2,250.00
Rail Improvements by Norfolk Southern and charged to the Developer	54	LF	\$1,000.00	\$54,000.00
			SUBTOTAL:	\$90,753.73
Construction Contingencies (20%)				\$18,150.75
			TOTAL ESTIMATE:	\$108,904.48

Notes:

1. Class 1 Excavation is for roadways, roadway appurtenances, and structures.
2. This Opinion of Probable Cost does NOT include: As-Built Drawings, Soils Testing, Bonding, As Built, Rock Excavation, Allowance for Unsuitable Material, or sinkhole remediation.

EXHIBIT "B"

**(Drawing – "Road Widening Concept – Norfolk Southern At-Grade Crossing #591377F",
dated April 5, 2019, last revised August 27, 2020)**



LANGAN
 Langan Engineering and
 Environmental Services, Inc.
 One West Broad Street, Suite 200
 Bethlehem, PA 18018
 T: 610.964.2500 F: 610.964.8531 www.langan.com

Project
**CRACKERSPORT & ECK RD
 WAREHOUSING**
 SOUTH WATKINS & UPPER MERIDIAN TOWNSHIPS
 LEHIGH COUNTY PENNSYLVANIA

Drawing Title
**ROAD WIDENING
 CONCEPT- NORFOLK
 SOUTHERN AT-GRADE
 CROSSING #591377F**

0-21-2018 REVISED PER TOWNSHIP COMMENTS 1	
Project No. 240045601	Drawing No.
Date 4-05-2019	EXHIBIT
Drawn By JDM	B
Checked By FC	Sheet 1 of 2

Filename: \\langan.com\data\BET\data\240045601\Project Data\CAD\01\Sheet\Figures\240045601-Norfolk Southern Exhibit B.dwg Date: 5/21/2019 Time: 16:42 User: asolares Style Table: Langan.stb Layout: 5

COOPERATION, REIMBURSEMENT, AND INDEMNIFICATION AGREEMENT

THIS COOPERATION, REIMBURSEMENT, AND INDEMNIFICATION AGREEMENT (“Agreement”) is made the ____ day of _____, 2020, by and between the TOWNSHIP OF SOUTH WHITEHALL, a municipal corporation, Township of the First Class, located at 4444 Walbert Avenue, Allentown, Lehigh County, Pennsylvania 18104-1699 (“Township”), IPT ALLENTOWN DC LLC, a Delaware limited liability company with a principal business address of 518 17th Street 17th Floor, Denver, Colorado 80202-4130, and IPT ALLENTOWN DC II LLC, a Delaware limited liability company with a principal business address of 518 17th Street 17th Floor, Denver, Colorado 80202-4130 (IPT Allentown DC LLC and IPT Allentown DC II LLC shall be collectively referred to herein as “Developer”).

W I T N E S S E T H:

WHEREAS, Developer is developing a commercial warehouse development at Crackersport and Eck Roads (the “Development”); and

WHEREAS, Developer will be making certain improvements to an existing Norfolk Southern Railway Company (“Norfolk”) rail crossing on Eck Road as depicted on Exhibits “A” and “B” attached hereto and incorporated herein (the “Project”); and

WHEREAS, Township has been requested by Developer to execute an Agreement for Preliminary Engineering Services (“Engineering Agreement”) required by Norfolk, which imposes upon the Township liability and financial obligations regarding the Project; and

WHEREAS, Developer has requested that Township execute any other agreements related to or arising out of the Project (collectively with Engineering Agreement, “Norfolk Southern Agreements”); and

WHEREAS, Township opposes signing the Norfolk Southern Agreements without the signing of this Agreement and the payment of security as described herein; and

WHEREAS, Township has required Developer, and Developer has agreed, to deliver to Township this Agreement by which Developer, for itself and its agents, contractors, employees, representatives, successors and assigns, agrees to reimburse the Township for the performance of the Township’s responsibilities and provide such indemnification to the Township as the Township must provide under the Norfolk Southern Agreements, and also such indemnification to the Township as may be needed to fully protect the Township.

NOW THEREFORE, incorporating the foregoing recitals as a material part hereof, in consideration of Township agreeing to sign the Engineering Agreement and to sign other Norfolk Southern Agreements if consistent with the terms of this Agreement, and with an express intent to be legally bound, Developer, for itself, its agents, contractors, employees, representatives, successors and assigns, and Township hereby agree as follows:

AGREEMENT

1. **Reimbursement; Scope.** Developer agrees that it shall pay the Township in full for the performance by or on behalf of the Township of all work, including but not limited to legal and engineering work, related to or arising from the Project including but not limited to all work performed by the Township under the Engineering Agreement. It is the express intent of the parties hereto that Developer pay Township for any and all sums, costs, charges, fees and expenses whatsoever incurred or expended in connection with or incidental to the Township's duties and responsibilities under the Norfolk Southern Agreements. Township shall request such payment by providing invoices to Developer, which detail the payment to be made. Developer shall make such payment to the Township within thirty (30) days of the date of the Township's invoice.

2. **Sums, Costs, Charges, Fees and Expenses.**

a. All sums, costs, charges, fees and expenses, which the Township seeks to have the Developer pay or reimburse pursuant to this Agreement, shall be consistent with those customarily charged by the Township in matters other than those related to this Project, and shall not exceed the amount actually incurred or expended by the Township on the item to be reimbursed. Developer shall pay an administrative charge in the amount of Twenty Dollars (\$20.00), which shall be assessed on each invoice.

b. The Township shall maintain itemized statements for all sums, costs, charges, fees and expenses charged to the Developer. Copies of each such statement shall be provided to Developer by Township in connection with each request for payment. Statements shall be kept on file at the Township office for the duration of this Agreement and shall be available for public inspection as public records during regular business hours.

c. If Developer disputes Developer's obligation to pay or the amount of any sums, costs, charges, fees or expenses charged to Developer by Township pursuant to this Agreement, Developer shall no later than thirty (30) days after the date of transmittal of the invoice to the Developer, notify the Township that such fees are disputed. Developer's failure to timely notify the Township within thirty (30) days shall be a waiver of the Developer's right to dispute said fee. If Developer notifies Township within thirty (30) days after the date of transmittal of the invoice that it disputes some or all of the amount, Developer shall have the right to make payment under protest to the Township of such amount and then to have Developer's obligation to pay such amount judicially determined. Township shall be entitled to recover from Developer its reasonable attorneys' fees and other costs incurred, including but not limited to engineering fees, in the event that Township is the prevailing party in any dispute resolution proceeding in connection with this Agreement.

d. If the Developer fails to make payment as required herein, the Township may pursue those remedies available to it at law or in equity. In addition, all sums not paid by Developer within sixty (60) days shall bear a compound interest charge of fifteen percent (15%) per annum on the amount of the past due balance.

3. **Security.**

a. Contemporaneously with the execution of this Agreement, Developer shall pay to the Township cash security in the amount of Twenty Thousand Dollars (\$20,000.00) ("**Security**"). The Township shall hold the Security in a separate account and may in its sole discretion request increased Security. The Security shall be released upon the completion of the Project provided Developer has met all of its obligations hereunder.

b. If a Township invoice providing notice that sums are due, owing and payable remains outstanding without payment for a period of forty-five (45) calendar days after the date of mailing thereof, the Township shall pay said sums from the Security posted by the Developer as set forth in this Agreement and provide notice to the Developer thereof.

c. Developer shall, within thirty (30) days from the date that the Township has withdrawn funds from any Security account to pay invoices tendered by the Township, replenish such account by the full amount so withdrawn.

4. **Township's Right to Review.** Developer shall provide reasonable advance notice to the Township of any proposed Norfolk Southern Agreements. Township expressly reserves the right to review all Norfolk Southern Agreements and determine in its reasonable discretion whether or not to consent to the terms expressed therein. The Township may condition its approval or consent, if given, in any way.

5. **Indemnification.** Developer, on behalf of itself, its agents, contractors, employees, representatives, successors and assigns, hereby agrees to indemnify and hold harmless Township and its officers, engineers, solicitors, appointees, agents and employees (individually an "**Indemnified Party**" and collectively the "**Indemnified Parties**"), from any and all claims, actions, awards, verdicts and judgments, together with reasonable counsel fees ("**Claims**"), based upon or arising out of the Project and the work contemplated therein for damages or injuries, including without limitation death, to person or property caused by or sustained in connection with the Project and the work contemplated therein; and if requested by any of the Indemnified Parties to assume, without expense to the Indemnified Party, the defense of any Claims against that Indemnified Party. The provisions of this Paragraph 5 shall survive the expiration or earlier termination of this Agreement.

5. **Notice.** All notices, statements, requests, demands, consents, and other communications (each referred to herein as "notice") permitted or desired to be made relative to this Agreement shall be given by one of the methods described in this paragraph. Notice shall be effective and deemed to have been received as follows: one day after deposit for overnight delivery with a nationally recognized courier requiring signature for receipt or providing tracking of delivery to a person at the recipient's address; or two days following deposit with the U.S. Postal Service, postage prepaid, certified mail. All notices shall be directed to the parties at the addresses shown in this Agreement. Any party may change its address for notices under this Agreement by giving written notice in like manner to the other party, specifying that the purpose of the notice is to change the party's address.

6. **Binding Nature.** The terms of this Agreement shall be binding upon Developer, its agents, contractors, employees, representatives, successors and assigns.

7. **Recording of Agreement.** This Agreement shall not be recorded in the Office of the Recorder of Deeds of Lehigh County.

8. **Severability.** If any term, covenant or condition of this Agreement or the application thereof to any person, partnership, association, corporation, or other entity is held to be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant, or condition to persons, partnerships, associations, corporations or other entities other than those as to which it shall be held invalid or unenforceable, shall not be affected thereby, and each such remaining term, covenant or condition of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.

9. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original, and the counterparts shall constitute but one and the same instrument which may be sufficiently evidenced by one counterpart.

10. **Waiver of Default.** No waiver by either party of any default or defaults and no course of dealing shall affect that party's rights with respect to any subsequent default. All rights and remedies of either party are cumulative.

11. **Term.** The term of this Agreement shall coincide, and be concurrent with, the Project, and this Agreement shall remain in full force and effect for so long as the Township is obligated to Norfolk pursuant to any Norfolk Southern Agreements related to this Project.

12. **Entire Agreement; Beneficiaries.** The parties agree that this Agreement and its Exhibits contain all of the agreements between the parties regarding the Project and that there are no other agreements or representations made by either of them. Any representations, oral or written, not contained therein, are without effect. In addition, it is expressly understood and agreed that no third-party beneficiaries are created by this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be properly executed the day and year first above written.

SOUTH WHITEHALL TOWNSHIP

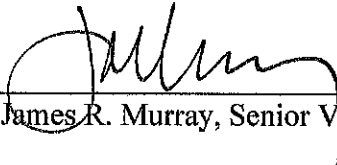
By: 
Renee Bickel, Township Manager

Attest: 
Stephen D. Carr, Secretary

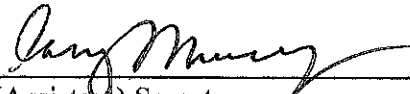
[DEVELOPER SIGNATURE BLOCKS FOLLOW]

DEVELOPER:

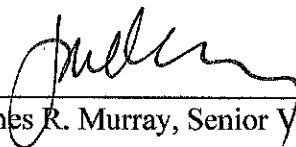
IPT ALLENTOWN DC LLC, a Delaware limited liability company
BY: BTC II PA Allentown DC Holdco LLC, a Delaware limited liability company, its sole member
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By: IPT Real Estate Holdco LLC, a Delaware limited liability company, its sole member
By: Industrial Property Operating Partnership LP, a Delaware limited partnership, its sole member
By: Industrial Property Trust Inc., a Maryland corporation, its general partner

By: 
James R. Murray, Senior Vice President

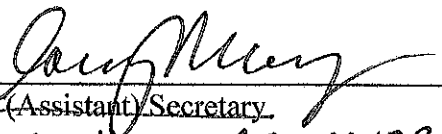
Attest:


~~(Assistant) Secretary~~
WITNESS: CARY MURRAY

IPT ALLENTOWN DC II LLC, a Delaware limited liability company
BY: BTC II PA Allentown DC II Holdco LLC, a Delaware limited liability company, its sole member
By: BTC II Holdco LLC, a Delaware limited liability company, its sole member
By: Build-To-Core Industrial Partnership II LP, a Delaware limited partnership, its manager
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By: Industrial Property Operating Partnership LP, a Delaware limited partnership, its sole member
By: Industrial Property Trust Inc., a Maryland corporation, its general partner

By: 
James R. Murray, Senior Vice President

Attest:

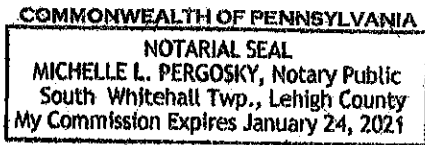

~~(Assistant) Secretary~~
WITNESS: CARY MURRAY

[NOTARY PAGES TO FOLLOW]

COMMONWEALTH OF PENNSYLVANIA :
 :
 :SS.
COUNTY OF LEHIGH :

On this 2nd day of May, 2020, before me, a notary public, the undersigned officer, personally appeared Renee Bickel, who acknowledged herself to be the Township Manager of SOUTH WHITEHALL TOWNSHIP, a municipal corporation, and that she as the Township Manager, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by herself as the Township Manager.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



[Signature]
Notary Public

STATE OF NEW JERSEY :
 :
 : SS.
COUNTY OF HUOSON :

On this 21 day of APRIL, 2020, before me, a Notary Public, the undersigned officer, personally appeared James R. Murray, who acknowledged himself to be the Senior Vice President of Industrial Property Trust Inc., General Partner of Industrial Property Operating Partnership LP, Sole Member of IPT Real Estate Holdco LLC, Sole Member of IPT BTC II GP LLC, General Partner of Build-To-Core Industrial Partnership II LP, Manager of BTC II Holdco LLC, Sole Member of BTC II PA Allentown DC Holdco LLC, Sole Member of IPT ALLENTOWN DC LLC, a Delaware limited liability company, and that he as such Senior Vice President, being authorized to do so, executed the foregoing instrument for the purpose therein contained by signing the name of the corporation as general partner by himself as Senior Vice President.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

[Signature]
Notary Public

MICHELLE LYNN ALBRIZIO
NOTARY PUBLIC
STATE OF NEW JERSEY
ID # 2400034
MY COMMISSION EXPIRES SEPT. 7, 2020

STATE OF NEW JERSEY

:

COUNTY OF HUDSON

: ss.

:

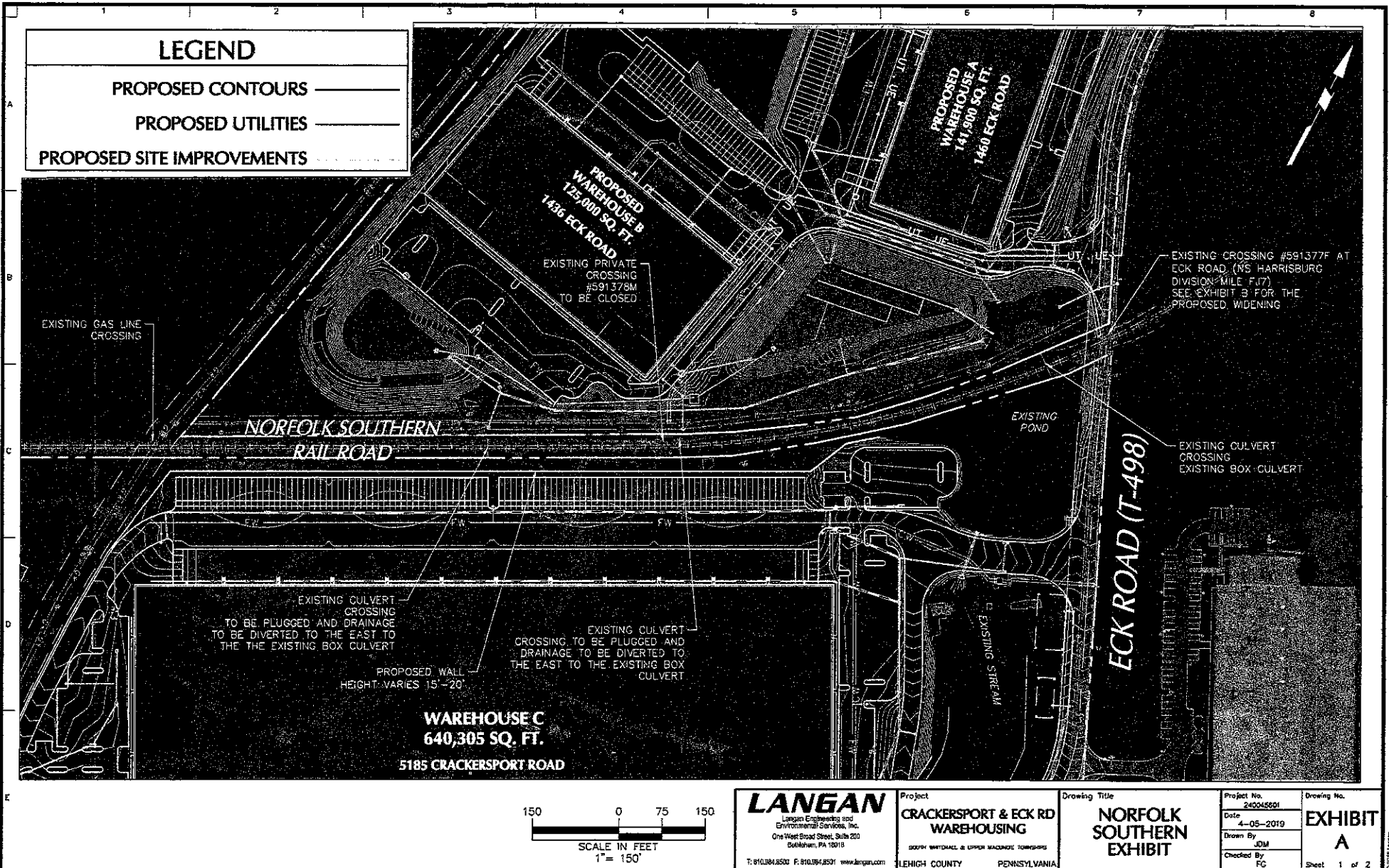
On this 21 day of APRIL, 2020, before me, a Notary Public, the undersigned officer, personally appeared James R. Murray, who acknowledged himself to be the Senior Vice President of Industrial Property Trust Inc., General Partner of Industrial Property Operating Partnership LP, Sole Member of IPT Real Estate Holdco LLC, Sole Member of IPT BTC II GP LLC, General Partner of Build-To-Core Industrial Partnership II LP, Manager of BTC II Holdco LLC, Sole Member of BTC II PA Allentown DC II Holdco LLC, Sole Member of IPT ALLENTOWN DC II LLC, a Delaware limited liability company, and that he as such Senior Vice President, being authorized to do so, executed the foregoing instrument for the purpose therein contained by signing the name of the corporation as general partner by himself as Senior Vice President.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

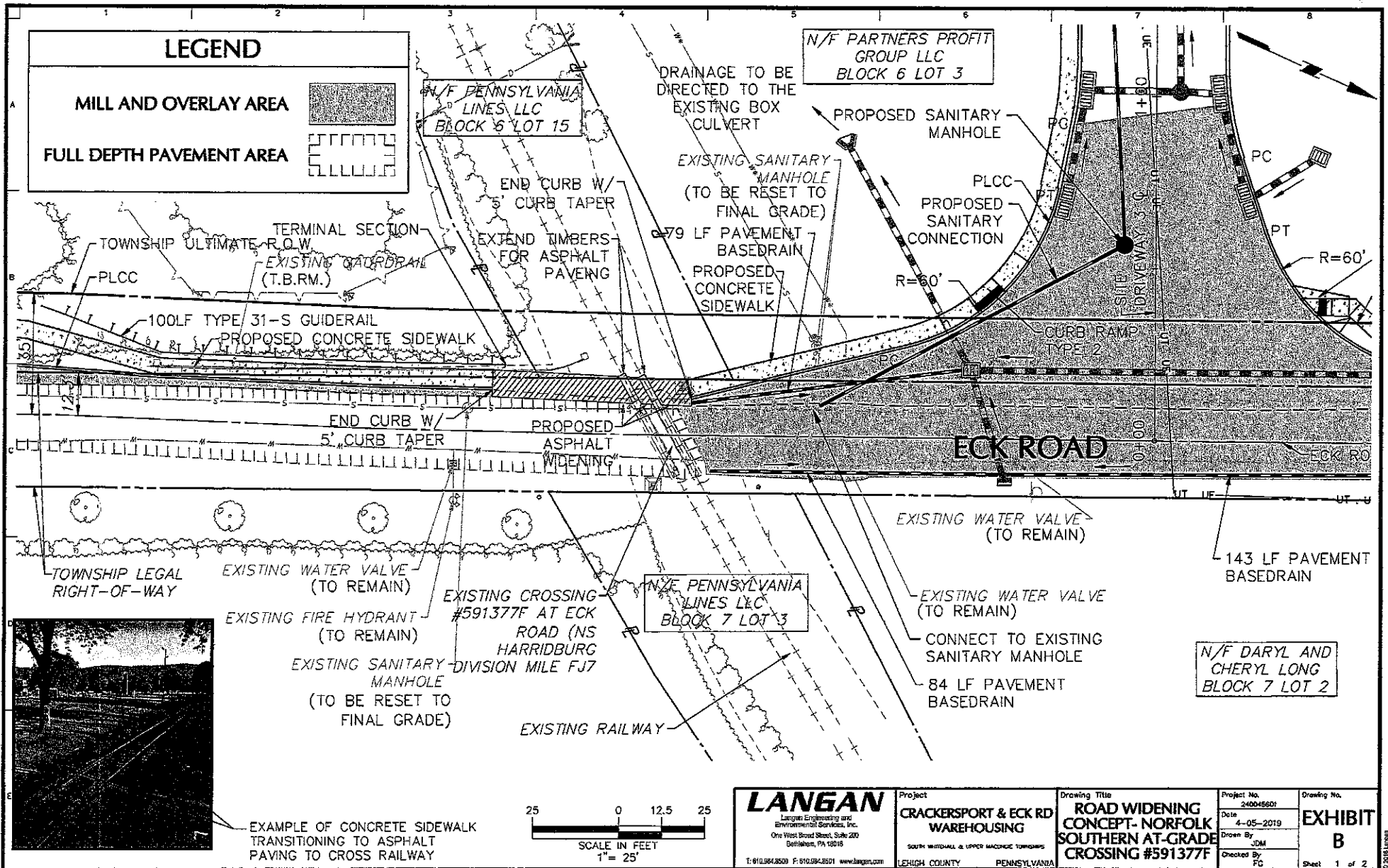


Notary Public

MICHELLE LYNN ALBRIZIO
NOTARY PUBLIC
STATE OF NEW JERSEY
ID # 2400034
MY COMMISSION EXPIRES SEPT. 7, 2020



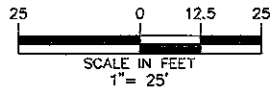
Filename: \\langan.com\data\BET\data\240045601\Project Data\CAD\01\SheetFiles\Figures\240045601-Norfolk Southern Exhibit A.dwg Date: 4/5/2019 Time: 08:58 User: dmoyer Style Table: Langan.sbt Layout: ANSIB-BL



LEGEND	
MILL AND OVERLAY AREA	
FULL DEPTH PAVEMENT AREA	



EXAMPLE OF CONCRETE SIDEWALK TRANSITIONING TO ASPHALT PAVING TO CROSS RAILWAY



LANGAN Langan Engineering and Environmental Services, Inc. One West Broad Street, Suite 200 Bethlehem, PA 18018 T: 610.594.2500 F: 610.594.2501 www.langan.com	Project CRACKERSPORT & ECK RD WAREHOUSING <small>SOUTH WINDHILL & UPPER MARCONE TOWNSHIPS</small>	Drawing Title ROAD WIDENING CONCEPT- NORFOLK SOUTHERN AT-GRADE CROSSING #591377F	Project No. 240045601	Drawing No. EXHIBIT B
	LEHIGH COUNTY PENNSYLVANIA	Date 4-05-2019	Drawn By JDM	Checked By FG

Filename: W:\angan\clients\BEEF\Draws\6240045601\Project Data\CAD\01\Sheet\Figures\240045601-Norfolk Southern Exhibit B.dwg Date: 4/5/2019 Time: 08:27 User: dmoyer Style Table: Langan.stb Layout 5

Prepared By and Return To:

Zator Law
American Heritage Building
4400 Walbert Avenue at Ridgeview Drive
Allentown, PA 18104
610.432.1900

Tax Parcel ID: 547628166073-1; 5185 Crackersport Road
547619984811-1; 1436 Eck Road

DECLARATION OF COVENANTS

THIS DECLARATION OF COVENANTS (“**Declaration**”) is made this 2nd day of May, 2022, by IPT ALLENTOWN DC LLC, a Delaware limited liability company with a principal business address of 518 17th Street 17th Floor, Denver, Colorado 80202-4130, and IPT ALLENTOWN DC I LLC, a Delaware limited liability company with a principal business address of 518 17th Street 17th Floor, Denver, Colorado 80202-4130 (IPT Allentown DC LLC and IPT Allentown DC I LLC shall be collectively referred to herein as “**Declarant**”).

BACKGROUND

WHEREAS, Declarant is the owner of land located at Crackersport and Eck Roads in South Whitehall Township, Lehigh County identified as Lehigh County Tax Parcel ID No. 547628166073-1 and 547619984811-1 (“**Property**”); and

WHEREAS, Declarant proposed the development of the Property as shown on Land Development Plans entitled “Crackersport Road and Eck Road Warehouses” prepared by Langan Engineering & Environmental Services, Inc. dated August 16, 2018 and last revised January 20, 2020 and recorded in the Lehigh County Recorder of Deeds at Instrument No. 2020016027 (the “**Project**”); and

WHEREAS, as part of the Project, Declarant through its agents and contractors will construct a retaining wall and new sidewalk along the west side of Eck Road and widen Eck Road in the vicinity of Norfolk Southern Railway Company (“**Norfolk**”) Milepost FJ-7.01 (collectively, the “**work**”); and

WHEREAS, South Whitehall Township (“**Township**”) and Declarant previously entered into an unrecorded Cooperation, Reimbursement and Indemnification Agreement on or about May 1, 2020 and subsequently an Addendum on or about October 2, 2020 with respect to certain work for the Project (collectively, the “**Cooperation Agreements**”); and

WHEREAS, the Township has been requested by Declarant to execute a construction agreement required by Norfolk, which imposes upon the Township liability and financial obligations regarding the Project ("**Construction Agreement**"); and

WHEREAS, a true and correct copy of the Construction Agreement is attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, Township opposes signing the Norfolk Construction Agreement without Declarant's covenants hereunder which shall run with the land constituting the Property and be binding upon Declarant, its successors and assigns and inure to the benefit of the Township, its successors and assigns.

NOW THEREFORE, incorporating the foregoing recitals as a material part hereof, Declarant, on its own behalf, and on behalf of its successors and assigns, including all future owners of all or any part of the Property, hereby covenants, promises and agrees to faithfully perform all the requirements set forth hereinafter, and does hereby bind the Declarant, its successors and assigns, to the faithful performance of said requirements as follows:

AGREEMENT

1. **Reimbursement.** Declarant agrees that it shall reimburse the Township in full for all costs related to or arising from the Project and/or the Construction Agreement, including but not limited to all costs to procure and maintain insurance as required by the terms of the Construction Agreement. Declarant shall make such payment to the Township within fifteen (15) days upon receipt of an invoice from the Township. If the Declarant fails to make payment as required herein, Declarant expressly authorizes Township to proceed with any remedies available to it at law or equity, including the imposition of a municipal lien which is expressly authorized hereby. Declarant agrees that, with respect to this obligation and covenant, time is of the essence.

2. **Subordination.** Any and all mortgages, liens, and other encumbrances existing or hereafter placed upon the Property shall be subject to and subordinate to this Declaration and all its terms, covenants and provisions. Declarant shall provide to the Township proof of such subordination prior to the execution of this Declaration.

3. **Insurance.** The Construction Agreement requires Township to procure and maintain specific insurance policies, including but not limited to a Railway Protective Liability Insurance Policy, which insurance requirements are specified on page 2 of Exhibit "A". Declarant along with its agents, contractors, and any subcontractors performing the work under the Construction Agreement shall also procure and maintain the insurance as set forth in the Construction Agreement, which shall include ISO form CG 2417 "Contractual Liability - Railroads", or its equivalent, deleting any policy "insured contract" exclusions for work performed within fifty (50) feet of the railroad. Declarant shall provide the Township, prior to the commencement of any work contemplated by the Construction Agreement, with policies evidencing the existence of coverages described herein and in the Construction Agreement, naming the Township and Norfolk as additional insureds. The insurance coverage of Declarant and its agents, contractors, and any subcontractors shall apply as primary insurance. Any insurance

maintained by Township shall be excess of the insurance maintained by Declarant, its agents, contractors, and any subcontractors and shall not contribute with it in any way.

4. **Indemnification.** Declarant, on behalf of itself, its agents, contractors, employees, representatives, successors and assigns, hereby agrees to indemnify and hold harmless Township and its officers, engineers, solicitors, appointees, agents and employees (individually an "**Indemnified Party**" and collectively the "**Indemnified Parties**"), from any and all claims, including but not limited to claims asserted by Norfolk, actions, awards, verdicts and judgments, together with reasonable counsel and expert fees ("**Claims**"), based upon, caused by, or arising out of, in whole or in part, the Project, the Construction Agreement, and/or the work contemplated therein for damages or injuries, including without limitation death, to person or property; but excluding claims caused by the willful misconduct or gross negligence of the Indemnified Parties, and if requested by any of the Indemnified Parties, Declarant shall assume, without expense to the Indemnified Parties, the defense of any Claims against that Indemnified Party or Indemnified Parties. The provisions of this Paragraph shall survive the expiration or earlier termination of this Declaration.

5. **Notice.** All notices, statements, requests, demands, consents, and other communications (each referred to herein as "notice") permitted or desired to be made relative to this Declaration shall be given by one of the methods described in this paragraph. Notice shall be effective and deemed to have been received as follows: one day after deposit for overnight delivery with a nationally recognized courier requiring signature for receipt or providing tracking of delivery to a person at the recipient's address; or two days following deposit with the U.S. Postal Service, postage prepaid, certified mail. All notices shall be directed to the parties at the addresses shown in this Declaration. Township shall have the right to notify the current Property owner and any successor of Declarant at the address reflected on County assessment records for the Property. Any party may change its address for notices under this Declaration by giving written notice in like manner to the other party, specifying that the purpose of the notice is to change the party's address.

6. **Binding Nature.** The terms of this Declaration shall be binding upon Declarant, its agents, contractors, employees, representatives, successors and assigns, including all future owners of the Property.

7. **Severability.** If any term, covenant or condition of this Declaration or the application thereof to any person, partnership, association, corporation, or other entity is held to be invalid or unenforceable, the remainder of this Declaration, or the application of such term, covenant, or condition to persons, partnerships, associations, corporations or other entities other than those as to which it shall be held invalid or unenforceable, shall not be affected thereby, and each such remaining term, covenant or condition of this Declaration shall be valid and be enforceable to the fullest extent permitted by law.

8. **Term.** This Declaration and the obligations hereunder of Declarant and its successors and assigns shall remain in full force and effect in perpetuity or for so long as the Township is obligated to Norfolk pursuant to the Construction Agreement related to this Project.

Any such termination is effective only upon the recording of a document confirming such termination and executed by the Township.

9. **Conflict or Inconsistency.** In the event of a conflict or inconsistency between the Cooperation Agreements or this Declaration, the terms and requirements set forth in this Declaration shall control.

10. **Choice of Law; Venue.** This Declaration and matters arising from or relating to this Declaration or the relationship of the parties shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania without regard to its conflict of laws principles. Jurisdiction and venue for any controversy or dispute in any way arising from, relating to, or connected with this Declaration or the relationship of the parties shall be only in the Court of Common Pleas of Lehigh County, Pennsylvania, and the parties agree to and shall use that forum exclusively to adjudicate it. This Declaration has been entered into in Lehigh County, Pennsylvania.

11. **Waiver.** Failure or repeated failure by the Township to insist upon strict compliance with any of the terms, covenants, or conditions herein shall not be deemed a waiver of such terms, covenants, or conditions. No waiver or relinquishment of any right or power hereunder at any one time or more times shall be deemed a waiver or relinquishment of any right or power at any other time or times. In order to be valid, a waiver must be in writing and signed by the party against whom it is sought to be enforced.

12. **Relationship of Parties.** Nothing contained herein shall be deemed to offer, create or evidence a relationship between the Declarant and the Township other than as expressly set forth herein. Specifically, and without limitation, this Declaration is not intended to and does not make Declarant or Township a (general or special) principal or agent, legal representative, subsidiary, affiliate, joint venturer, partner, employee or servant of any other party for any purpose except as expressly and exclusively set forth herein.

13. **Township as Beneficiary.** The Township is a beneficiary to this Declaration and is entitled to the rights and benefits hereunder and may enforce the provisions hereof as if it were a party hereto.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the Declarant has executed this Declaration of Covenants as of the date and year first above written.

DECLARANT:

IPT Allentown DC LLC, a Delaware limited liability company

BY: BTC II PA Allentown DC Holdco LLC, a Delaware limited liability company, its sole member

By: BTC II Holdco LLC, a Delaware limited liability company, its sole member

By: Build-To-Core Industrial Partnership II LP, a Delaware limited partnership, its manager

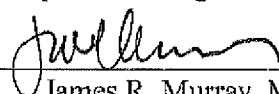
By: IPT BTC II GP LLC, a Delaware limited liability company, its general partner

By: IPT Real Estate Holdco LLC, a Delaware limited liability company, its sole member

By: BCI IV Portfolio Real Estate Holdco LLC, a Delaware limited liability company, its sole member

By: BCI IV Operating Partnership LP, a Delaware limited partnership, its sole member

By: BCI IV Industrial REIT IV Inc., a Maryland corporation, its general partner

By: 
James R. Murray, Managing Director
BCI IV Industrial Reit IV Inc.

Attest:


(Assistant) Secretary


IPT Allentown DC II LLC, a Delaware limited liability company

BY: BTC II PA Allentown DC Holdco LLC, a Delaware limited liability company, its sole member

By: BTC II Holdco LLC, a Delaware limited liability company, its sole member

By: Build-To-Core Industrial Partnership II LP, a Delaware limited partnership, its manager

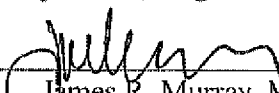
By: IPT BTC II GP LLC, a Delaware limited liability company, its general partner

By: IPT Real Estate Holdco LLC, a Delaware limited liability company, its sole member

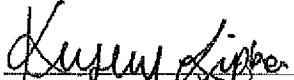
By: BCI IV Portfolio Real Estate Holdco LLC, a Delaware limited liability company, its sole member

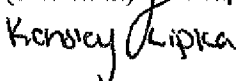
By: BCI IV Operating Partnership LP, a Delaware limited partnership, its sole member

By: BCI IV Industrial REIT IV Inc., a Maryland corporation, its general partner

By: 
James R. Murray, Managing Director
BCI IV Industrial Reit IV Inc.

Attest:

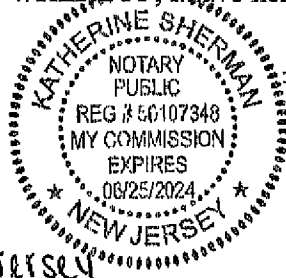

(Assistant) Secretary



STATE OF New Jersey :
 : SS.
COUNTY OF Bergen :

On this 2 day of May, 2022, before me, a Notary Public, the undersigned officer, personally appeared James R. Murray, who acknowledged himself to be the Managing Director of BCI IV Industrial Reit IV Inc., a Maryland corporation, and that he as such Managing Director, being authorized to do so, executed the foregoing instrument for the purpose therein contained by signing the name of the corporation as general partner by himself as Managing Director.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Katherine Sherman
Notary Public

STATE OF New Jersey :
 : SS.
COUNTY OF Bergen :

On this 2 day of May, 2022, before me, a Notary Public, the undersigned officer, personally appeared James R. Murray, who acknowledged himself to be the Managing Director of BCI IV Industrial Reit IV Inc., a Maryland corporation, and that he as such Managing Director, being authorized to do so, executed the foregoing instrument for the purpose therein contained by signing the name of the corporation as general partner by himself as Managing Director.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Katherine Sherman
Notary Public

APPROVED:

ATTEST:

SOUTH WHITEHALL TOWNSHIP

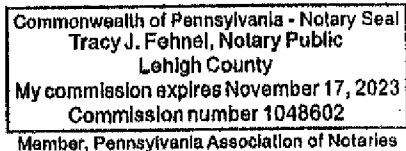
Scott Boehret
Scott Boehret
Secretary

By: Randy Cope
Randy Cope
Interim Township Manager

COMMONWEALTH OF PENNSYLVANIA :
: ss.
COUNTY OF LEHIGH :

On this, the 5th day of MAY, 2022, before me, a Notary Public, the undersigned officer, personally appeared Randy Cope, who acknowledged himself to be the **Interim Manager of South Whitehall Township**, a Pennsylvania municipal corporation, and that he being authorized to do so, executed the foregoing instrument for the purpose therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal.



Tracy J. Fehnel
Notary Public
My Commission Expires:

THIS AGREEMENT, dated as of the ____ day of _____, 20__ is made and entered into by and between

NORFOLK SOUTHERN RAILWAY COMPANY, a Virginia corporation, whose mailing address is 650 West Peachtree Street NW, Atlanta, Georgia 30308 (hereinafter called "RAILWAY"); and

SOUTH WHITEHALL TOWNSHIP, a Pennsylvania Municipality, whose mailing address is 4444 Walbert Avenue, Allentown, Pennsylvania 18104 (hereinafter called "LICENSEE").

RECITALS

WHEREAS, LICENSEE, at its own cost and expense, has found it necessary to construct a retaining wall and new sidewalk along the west side of Eck Road and widen Eck Road (DOT# 591377F) at-grade crossing (the "Facilities"), in the vicinity of RAILWAY Milepost FJ-7.01, at or near South Whitehall Township, Lehigh County, Pennsylvania (the "Premises"), located substantially as shown upon print of Drawing marked Exhibit A; and

WHEREAS, RAILWAY is willing to permit LICENSEE to enter upon RAILWAY's right of way for installation, construction, maintenance, operation and removal of the Facilities upon the terms and conditions of this Agreement; and in accordance with the plans and specifications attached hereto by reference upon approval of said plans, specifications or revisions by RAILWAY; and

WHEREAS, RAILWAY is willing, at LICENSEE's sole expense, to make modifications to RAILWAY's right of way and/or appurtenances rendered necessary by LICENSEE's installation, construction, maintenance, operation and removal of its Facilities in accordance with the force account estimate marked Exhibit C.

NOW THEREFORE, for and in consideration of the premises and mutual covenants contained in this Agreement, the parties agree as follows:

I. LICENSEE'S FACILITIES

1. Right-of-Entry. RAILWAY, insofar as its rights and title enables it to do so and subject to its rights to operate and maintain its RAILWAY and RAILWAY appurtenances along, in, and over its right-of-way, grants LICENSEE, its agents and/or contractors, without compensation, the right to enter upon the Premises, for the purpose of installation, construction, maintenance, operation and removal of the Facilities, provided that, prior to entry upon lands of RAILWAY, any agent and/or contractor of LICENSEE must execute and deliver to RAILWAY a standard contractor right-of-entry agreement in a form approved by RAILWAY in its sole discretion, together with any certificate(s) of insurance required therein. Furthermore, any crossing of RAILWAY tracks by LICENSEE or any of its agents and/or contractors must be addressed by a standard temporary crossing agreement in a form approved by RAILWAY in its sole discretion.

2. Use and Condition of the Premises. The Premises shall be used by LICENSEE only for the installation, construction, maintenance, operation and removal of the Facilities and for no other purpose without the prior written consent of RAILWAY, which consent may be withheld by RAILWAY in its sole discretion. LICENSEE accepts the Premises in their current "as is" condition, as suited for the installation and operation of the Facilities, and without the benefit of any improvements to be constructed by RAILWAY except insofar as contemplated by Section II of this Agreement.

3. Construction and Maintenance of the Facilities. LICENSEE shall construct and maintain the Facilities, at its expense, in such a manner as will not interfere with the operations of RAILWAY or endanger persons or property of RAILWAY, and in accordance with (a) plans and specifications (if any) attached hereto by reference upon approval of said plans, specifications or revisions by RAILWAY and any other specifications prescribed by RAILWAY, (b) applicable governmental regulations or laws, and (c) applicable specifications adopted by the

Exhibit "A"

American Railway Engineering and Maintenance of Way Association when not in conflict with plans, specifications or regulations mentioned in (a) and (b) above. LICENSEE and any and all of LICENSEE contractors entering the Premises shall fully comply with applicable roadway worker protection regulations.

4. Indemnification. LICENSEE hereby agrees to indemnify and save harmless RAILWAY, its officers, agents and employees, from and against any and all liability, claims, losses, damages, expenses (including attorneys' fees) or costs for personal injuries (including death) and/or property damage to whomsoever or whatsoever occurring which arises or in any manner grows out of (a) the presence of LICENSEE, its employees, agents and/or contractors on or about the Premises, regardless of whether negligence on the part of RAILWAY, its officers, agents or employees caused or contributed to said loss of life, personal injury or property loss or damage in whole or in part; (b) any allegation that RAILWAY is an employer or joint employer of a LICENSEE or is liable for related employment benefits or tax withholdings; or (c) any decision by RAILWAY to bar or exclude LICENSEE from the Premises pursuant to the terms of this Agreement.

5. Environmental Matters. LICENSEE assumes all responsibility for any environmental obligations imposed under applicable laws, regulations or ordinances relating to the installation of the Facilities and/or to any contamination of any property, water, air or groundwater arising or resulting from LICENSEE's permitted operations or uses of RAILWAY's property pursuant to this Agreement. In addition, LICENSEE shall obtain any necessary permits to install the Facilities. LICENSEE agrees to indemnify and hold harmless RAILWAY from and against any and all liability, fines, penalties, claims, demands, costs (including attorneys' fees), losses or lawsuits brought by any person, company or governmental entity relating to contamination of any property, water, air or groundwater due to the use or presence of the Facilities. It is agreed that this indemnity provision extends to any cleanup costs related to LICENSEE's activities upon RAILWAY's property and to any costs related to cleanup of the Facilities or to other property caused by the use of the Facilities.

6. Insurance.

(a) Without limiting in any manner the liabilities and obligations assumed by LICENSEE under any other provision of this Agreement, and as additional protection to RAILWAY, LICENSEE shall, at its expense, procure and maintain with insurance companies satisfactory to RAILWAY, the following insurance policies:

(i) A Commercial General Liability Insurance Policy having a combined single limit of not less than \$2,000,000 per occurrence for all loss, damage, cost and expense, including attorneys' fees, arising out of bodily injury liability and property damage liability during the policy period. Said policy shall include explosion, collapse, and underground hazard (XCU) coverage, shall be endorsed to name RAILWAY as the certificate holder and as an additional insured, and shall include a severability of interests provision; and,

(ii) An original Railroad Protective Liability Insurance Policy naming RAILWAY as a named insured and having a combined single limit of not less than \$2,000,000 each occurrence and \$6,000,000 in the aggregate applying separately to each annual period. If the project involves track over which passenger trains operate, the insurance limits required are not less than a combined single limit of \$5,000,000 each occurrence and \$10,000,000 in the aggregate applying separately to each annual period.

(b) All insurance required under the preceding subsection (a) shall be underwritten by insurers and be of such form and content, as may be acceptable to RAILWAY. Prior to the commencement of installation or maintenance of the Facilities or any entry on RAILWAY's property, LICENSEE shall furnish to RAILWAY's Director Risk Management, Norfolk Southern Corporation and its subsidiaries and affiliates, 650 West Peachtree Street NW Atlanta, Georgia 30308 (or such other representative and/or address as subsequently given by RAILWAY to LICENSEE in writing), for approval, the original policy described in

subsection (a)(ii) and a certificate of insurance evidencing the existence of a policy with the coverage described in subsection (a)(i).

7. Railway Support. RAILWAY shall, at RAILWAY's option, furnish, at the sole expense of LICENSEE, labor and materials necessary, in RAILWAY's sole judgment, to support its tracks and to protect its traffic (including, without limitation, flagging) during the installation, maintenance, repair, renewal or removal of the Facilities.

8. Special Provisions for Protection of Railway Interests. In connection with the operation and maintenance of the Facilities, it is agreed that the safety of people and the safety and continuity of RAILWAY's rail operations shall be of first importance. LICENSEE shall require its employees, agents, contractors, and invitees to utilize and comply with RAILWAY's directives in this regard and shall require its contractor(s), if any, to comply with all NSR Special Provisions, attached hereto, and herein incorporated by reference, including any future amendments, as Exhibit B. As used in the NSR Special Provisions, LICENSEE is the "contractor" should LICENSEE enter onto the Premises to perform any work contemplated by this Agreement. To ensure such compliance, LICENSEE shall assign a project manager to function as a single point-of-contact for LICENSEE. Said project manager is referred to as the "Sponsor's Engineer" in Exhibit B.

9. Safety of Railway Operations. If RAILWAY becomes aware of any safety violations committed by LICENSEE, its employees, agents and/or contractors, RAILWAY shall so notify LICENSEE, and LICENSEE shall promptly correct such violation. In the event of an emergency threatening immediate danger to persons or property, RAILWAY may take corrective actions and shall notify LICENSEE promptly thereafter. LICENSEE shall reimburse RAILWAY for actual costs incurred in taking such emergency measures. RAILWAY assumes no additional responsibility for safety on the Premises for LICENSEE, its agents/or contractors by taking these corrective actions, and LICENSEE, its agents/contractors shall retain full responsibility for such safety violations.

10. Corrective Measures. If LICENSEE fails to take any corrective measures requested by RAILWAY in a timely manner, or if an emergency situation is presented which, in RAILWAY's judgment, requires immediate repairs to the Facilities, RAILWAY, at LICENSEE's expense, may undertake such corrective measures or repairs as it deems necessary or desirable.

11. Railway Changes. If RAILWAY shall make any changes, alterations or additions to the line, grade, tracks, structures, roadbed, installations, right-of-way or works of RAILWAY, or to the character, height or alignment of the Electronic Systems, at or near the Facilities, LICENSEE shall, upon thirty (30) days prior written notice from RAILWAY and at its sole expense, make such changes in the location and character of the Facilities as, in the opinion of the chief engineering officer of RAILWAY, shall be necessary or appropriate to accommodate any construction, improvements, alterations, changes or additions of RAILWAY.

12. Assumption of Risk. Unless caused solely by the negligence of RAILWAY or caused solely by the willful misconduct of RAILWAY, LICENSEE hereby assumes all risk of damage to the Facilities and LICENSEE's other property relating to its use and occupation of the Premises or business carried on the Premises and any defects to the Premises; and LICENSEE hereby declares and states that RAILWAY, its officers, directors, agents and employees shall not be responsible for any liability for such damage.

13. Liens: Taxes. LICENSEE will not permit any mechanic's liens or other liens to be placed upon the Premises, and nothing in this Agreement shall be construed as constituting the consent or request of RAILWAY, express or implied, to any person for the performance of any labor or the furnishing of any materials to the Premises, nor as giving LICENSEE any right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials that could give rise to any mechanic's liens or other liens against the Premises. In addition, LICENSEE shall be liable for all taxes levied or assessed against the Facilities and any other equipment or other property placed by LICENSEE within the Premises. In the event that any such lien shall attach to the Premises or LICENSEE shall fail to pay such taxes, then, in addition to any other right or remedy available to RAILWAY, RAILWAY may, but shall not be obligated to, discharge the same. Any amount paid by RAILWAY for any of the aforesaid purposes, together with related court costs, attorneys' fees, fines and penalties, shall be paid by LICENSEE to RAILWAY within ten (10) days after RAILWAY's demand therefor.

14. Default; Remedies.

(a) The following events shall be deemed to be events of default by LICENSEE under this Agreement:

(i) LICENSEE shall fail to pay any sum of money due hereunder and such failure shall continue for a period of ten (10) days after the due date thereof;

(ii) LICENSEE shall fail to comply with any provision of this Agreement not requiring the payment of money, all of which terms, provisions and covenants shall be deemed material, and such failure shall continue for a period of thirty (30) days after written notice of such default is delivered to LICENSEE;

(iii) LICENSEE shall become insolvent or unable to pay its debts as they become due, or LICENSEE notifies RAILWAY that it anticipates either condition;

(iv) LICENSEE takes any action to, or notifies RAILWAY that LICENSEE intends to file a petition under any section or chapter of the United States Bankruptcy Code, as amended from time to time, or under any similar law or statute of the United States or any State thereof; or a petition shall be filed against LICENSEE under any such statute; or

(v) a receiver or trustee shall be appointed for LICENSEE's license interest hereunder or for all or a substantial part of the assets of LICENSEE, and such receiver or trustee is not dismissed within sixty (60) days of the appointment.

(b) Upon the occurrence of any event or events of default by LICENSEE, whether enumerated in this paragraph 15 or not, RAILWAY shall have the option to pursue any remedies available to it at law or in equity without any additional notices to LICENSEE. RAILWAY's remedies shall include, but not be limited to, the following: (i) termination of this Agreement, in which event LICENSEE shall immediately surrender the Premises to RAILWAY; (ii) entry into or upon the Premises to do whatever LICENSEE is obligated to do under the terms of this License, in which event LICENSEE shall reimburse RAILWAY on demand for any expenses which RAILWAY may incur in effecting compliance with LICENSEE's obligations under this License, but without rendering RAILWAY liable for any damages resulting to LICENSEE or the Facilities from such action; and (iii) pursuit of all other remedies available to RAILWAY at law or in equity, including, without limitation, injunctive relief of all varieties.

15. Railway Termination Right. Notwithstanding anything to the contrary in this Agreement, RAILWAY shall have the right to terminate this Agreement and the rights granted hereunder, after delivering to LICENSEE written notice of such termination no less than sixty (60) days prior to the effective date thereof, upon the occurrence of any one or more of the following events:

(a) If LICENSEE shall discontinue the use or operations of the Facilities; or

(b) If RAILWAY shall be required by any governmental authority having jurisdiction over the Premises to remove, relocate, reconstruct or discontinue operation of its railroad on or about the Premises; or

(c) If RAILWAY, in the good faith judgment of its Superintendent, shall require a change in the location or elevation of its railroad on or about the location of the Facilities or the Premises that might effectively prohibit the use or operation of the Facilities; or

(d) If RAILWAY, in the good faith judgment of its Superintendent, determines that the maintenance or use of the Facilities unduly interferes with the operation and maintenance of the facilities of RAILWAY, or with the present or future use of such property by RAILWAY, its lessees, affiliates, successors or assigns, for their respective purposes.

16. Condemnation. If the Premises or any portion thereof shall be taken or condemned in whole or in part for public purposes, or sold in lieu of condemnation, then this Agreement and the rights granted to LICENSEE hereunder shall, at the sole option of RAILWAY, forthwith cease and terminate. All compensation awarded for any taking (or sale proceeds in lieu thereof) shall be the property of RAILWAY, and LICENSEE shall have no claim thereto, the same being hereby expressly waived by LICENSEE.

17. Removal of Facilities; Survival. The Facilities are and shall remain the personal property of LICENSEE. Upon the termination of this Agreement, LICENSEE shall remove the Facilities from the Premises within thirty (30) days after the effective date thereof. In performing such removal, unless otherwise directed by RAILWAY, LICENSEE shall restore the Premises to the same condition as existed prior to the installation or placement of Facilities, reasonable wear and tear excepted. In the event LICENSEE shall fail to so remove the Facilities or restore the Premises, the Facilities shall be deemed to have been abandoned by LICENSEE, and the same shall become the property of RAILWAY for RAILWAY to use, remove, destroy or otherwise dispose of at its discretion and without responsibility for accounting to LICENSEE therefor; provided, however, in the event RAILWAY elects to remove the Facilities, RAILWAY, in addition to any other legal remedy it may have, shall have the right to recover from LICENSEE all costs incurred in connection with such removal and the restoration of the Premises. Notwithstanding anything to the contrary contained in this Agreement, the termination of this Agreement shall not relieve LICENSEE from LICENSEE's obligations accruing prior to the termination date, and such obligations shall survive any such termination of this Agreement.

18. Interests in Real Property

LICENSEE shall acquire or settle all property, property rights and all damages to property affected by the installation, construction, maintenance, and operation of the Facilities. The cost of said property, property rights and damages to property shall be borne by LICENSEE.

RAILWAY, insofar as it has the legal right so to do, shall permit LICENSEE to enter upon lands owned or operated by RAILWAY to construct and occupy its property with sufficient width to permit construction and maintenance of the Facilities. LICENSEE and RAILWAY shall enter into good faith negotiations for a price to be consistent with the property interest determined by LICENSEE to be needed for the proposed improvement.

However, the price to be paid by LICENSEE to RAILWAY for said conveyances (representing the fair market value thereof plus damages, if any, to the residue) shall be as mutually agreed upon within nine (9) months from the date of occupancy by LICENSEE, and if agreement as to price is reached, an additional period of ninety (90) days shall be allowed for settlement, it being agreed however, that if no agreement as to price is reached within the aforesaid nine (9) month period, LICENSEE will within ninety (90) days thereafter institute an eminent domain proceeding authorized by law for the determination of the value of same. The provisions of this Agreement shall survive the institution of such eminent domain proceeding.

LICENSEE shall furnish the plans and descriptions for any such conveyance. It is understood, however, that the foregoing right of entry is a permissive use only, and this Section is not intended to convey or obligate RAILWAY to convey any interest in its land.

II. SCOPE OF RAILROAD PROJECT, AND MAINTENANCE AND OWNERSHIP OF PROJECT IMPROVEMENTS

1. Scope of Work. The scope of the work by RAILWAY shall include any necessary acquisition of right-of-way, permitting, design, construction, and construction-related activities including, but not limited to, inspection, flagging, and superintendence, within and along RAILWAY property necessary to facilitate LICENSEE's installation, construction, maintenance, operation and removal of the Facilities ("Railroad Project").

2. Construction of the Railroad Project. The RAILWAY shall construct the Railroad Project in accordance with the force account estimate, attached as Exhibit C and herein incorporated by reference, including any future amendments thereto, and all applicable state and federal laws.

(a) All work performed by the RAILWAY related to the Railroad Project and consistent with the force account estimate will be deemed reimbursable project expenses, and shall be at no cost to the RAILWAY.

(b) RAILWAY shall accomplish work on the Railroad Project by the following: (i) railroad force account; (ii) existing continuing contracts at reasonable costs; (iii) contracting with the lowest responsible bidder based on appropriate solicitation; or (iv) contract without competitive bidding for minor work at reasonable costs.

3. Maintenance and Ownership of the Railroad Project. Upon completion of the Railroad Project, the RAILWAY shall own and, at its own cost and expense, maintain the Railroad Project improvements until such time as RAILWAY deems such maintenance to no longer be necessary.

4. Construction of the Railroad Project. Execution of this Agreement constitutes LICENSEE's issuance of a notice to proceed to RAILWAY with the Railroad Project ("Notice to Proceed"). RAILWAY shall make commercially reasonable efforts to commence construction on the Railroad Project as soon as possible, in RAILWAY's sole discretion, after the date of availability for RAILWAY to commence its construction activities on the Railroad Project.

5. Reimbursement by LICENSEE.

(a) RAILWAY shall furnish, or cause to be furnished, at the expense of the LICENSEE all the labor costs, overhead and indirect construction costs, materials and supplies, contracted services, transportation, equipment, and other related costs and items required to perform and complete the Railroad Project. In addition, RAILWAY shall furnish, at the expense of LICENSEE, the protection of rail traffic occasioned by or made necessary by entry by LICENSEE and/or its contractors or any subcontractor(s) pursuant to this Agreement.

(b) Except as otherwise provided in this Agreement, LICENSEE shall reimburse the RAILWAY for the actual cost of the work performed by it, which is estimated to be **One Hundred Forty-One Thousand, Eight Hundred Ninety-Four Dollars and Zero Cents (\$141,894.00)**. It is agreed that progress payments will be made by LICENSEE to the RAILWAY for the total amount of work done as shown on monthly statements. LICENSEE shall pay each RAILWAY statement within forty-five (45) days of receipt. Upon receipt of the final bill, RAILWAY shall be reimbursed in such amounts as are proper and eligible for final payment, and the RAILWAY Project shall be submitted to LICENSEE for final audit.

(c) Incurred Costs. The reimbursement amounts for all costs billed under this Agreement shall be subject to the applicable Federal principles and based on the full actual costs plus Approved Labor Additives. Design costs incurred by RAILWAY prior to issuance of the Notice to Proceed shall be reimbursed by LICENSEE.

III. GENERAL PROVISIONS

1. Assignment and Successors. This Agreement shall be binding upon and shall inure to the benefit of, and shall be enforceable by, the parties hereto and their respective permitted successors and assigns.

2. Limitations Upon Damages. Notwithstanding any other provision of this Agreement, RAILWAY shall not be liable for breach of this Agreement or under this Agreement for any consequential, incidental, exemplary, punitive, special, business damages or lost profits, as well as any claims for death, personal injury, and property loss and damage which occurs by reason of, or arises out of, or is incidental to the interruption in or usage of the Facilities placed upon or about the Premises by LICENSEE, including without limitation any damages under such claims that might be considered consequential, incidental, exemplary, punitive, special, business damages or lost profits.

3. Miscellaneous. All exhibits, attachments, riders and addenda referred to in this Agreement are incorporated into this Agreement and made a part hereof for all intents and purposes. Time is of the essence with regard to each provision of this Agreement. This Agreement shall be construed and interpreted in accordance with and governed by the laws of the State in which the Premises are located. Each covenant of RAILWAY and LICENSEE under this Agreement is independent of each other covenant under this Agreement. No default in performance of any covenant by a party shall excuse the other party from the performance of any other covenant.

4. Notice to Parties. Whenever any notice, statement or other communication is required under this Agreement, it shall be sent to the contact below except as otherwise provided in this Agreement or unless otherwise specifically advised.

As to LICENSEE:
c/o South Whitehall Township
444 Walbert Avenue
Allentown, Pennsylvania 18104
Attention: Township Manager

As to RAILWAY:
c/o Norfolk Southern Corporation
Engineering - Design & Construction
650 West Peachtree Street NW -- Box 45
Atlanta, Georgia 30308
Attention: Engineer Public Improvement

Either party may, by notice in writing, direct that future notices or demands be sent to a different address. All notices hereunder shall be deemed given upon receipt (or, if rejected, upon rejection).

5. Severability. The invalidity of any section, subsection, clause or provision of this Agreement shall not affect the validity of the remaining sections, subsections, clauses or provisions of this contract.

6. No Third Party Beneficiary. This Agreement shall be for the benefit of the parties only, and no person, firm or corporation shall acquire any rights whatsoever by virtue of this Agreement, except LICENSEE and the RAILWAY and their successors and assigns.

7. Force Majeure. The parties agree to pursue the completion of the Railroad Project in accordance with the requirements of this Agreement. No party shall be held responsible to the other for delays caused by Force Majeure events, and such delays shall not be deemed a breach or default under this Agreement. In no event shall Force Majeure events excuse LICENSEE from its obligation to make payment to RAILWAY in accordance with this Agreement. Further the parties agree that the resolution or settlement of strikes or other labor disputes shall not be deemed to be within the control or reasonable control of the affected party. If any party is unable to complete work assigned to it due to a condition of Force Majeure or other conditions beyond the reasonable control of said party, then said party will diligently pursue completion of the item that is delayed once said condition or conditions are no longer in effect. For purposes of this Agreement, Force Majeure events are defined as circumstances beyond a party's reasonable control that delay performance and may include, but are not limited to, acts of God, actions or decrees of

governmental bodies (beyond control of the parties), acts of the public enemy, labor disputes, fires, insurrections, and floods.

8. Amendment; Entire Agreement. This Agreement may be amended only in writing executed by authorized representatives of the parties hereto. No verbal change, modification, or amendment shall be effective unless in writing and signed by authorized representatives of the parties. The provisions hereof constitute the entire Agreement between the parties and supersede any verbal statement, representations, or warranties, stated or implied.

9. Waiver of Workers Compensation Immunity. In the event that all or a portion of the Premises is location in the State of Ohio, LICENSEE, with respect to the indemnification provisions contained in this Agreement, hereby expressly waives any defense or immunity granted or afforded LICENSEE pursuant to Section 35, Article II of the Ohio Constitution and Section 4123.74 of the Ohio Revised Code. In the event that all or a portion of the Premises is located in the Commonwealth of Pennsylvania, LICENSEE, with respect to the indemnification provisions contained in this Agreement, hereby expressly waives any defense or immunity granted or afforded LICENSEE pursuant to Pennsylvania Workers' Compensation Act, 77 P.S. 481.

10. Independent Contractors. The parties agree that LICENSEE and its agents and/or contractors, shall not be deemed either agents or independent contractors of RAILWAY. Except as otherwise provided by this Agreement, RAILWAY shall exercise no control whatsoever over the employment, discharge, compensation of, or services rendered by LICENSEE or its contractors. Notwithstanding the foregoing, this paragraph shall in no way affect the absolute authority of RAILWAY to temporarily prohibit LICENSEE, its agents and/or contractors, or persons not associated with LICENSEE from entering RAILWAY property, or to require the removal of any person from RAILWAY property, if RAILWAY determines, in its sole discretion, that such person is not acting in a safe manner or that actual or potential hazards in, on, or about the Railroad Project Work exist.

11. Meaning of "Railway". The word "RAILWAY" as used herein shall include any other company whose property at the aforesaid location may be leased or operated by RAILWAY. Said term also shall include RAILWAY's officers, directors, agents and employees, and any parent company, subsidiary or affiliate of RAILWAY and their respective officers, directors, agents and employees.

12. Approval of Plans. By its review and approval, if any, of the plans, RAILWAY signifies only that the plans and improvements to be constructed in accordance with the plans satisfy the RAILWAY's requirements. RAILWAY expressly disclaims all other representations and warranties in connection with said plans, including, but not limited to, the integrity, suitability or fitness for the purposes of the LICENSEE or any other person(s) of the plans or improvements constructed in accordance with the plans.

IN WITNESS WHEREOF, the parties have, through duly authorized representatives, entered into this Agreement effective the day and year first written above.

SOUTH WHITEHALL TOWNSHIP, a
Pennsylvania Municipality

NORFOLK SOUTHERN RAILWAY
COMPANY, a Virginia corporation

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

NS File: CX1113689

EXHIBIT A



EXHIBIT B

Norfolk Southern Railway Company

**E. Norfolk Southern – Special Provisions for Protection of Railway Interests****1. AUTHORITY OF RAILROAD ENGINEER AND SPONSOR ENGINEER:**

Norfolk Southern Railway Company, hereinafter referred to as “Railroad”, and their authorized representative shall have final authority in all matters affecting the safe maintenance of railroad traffic including the adequacy of the foundations and structures supporting the railroad tracks. For Public Projects impacting the Railroad, the Railroad’s Public Projects Engineer, hereinafter referred to as “Railroad Engineer”, will serve as the authorized representative of the Railroad.

The authorized representative of the Project Sponsor (“Sponsor”), hereinafter referred to as the “Sponsor’s Engineer”, shall have authority over all other matters as prescribed herein and in the Project Specifications.

The Sponsor’s Prime Contractor, hereinafter referred to as “Contractor” shall be responsible for completing any and all work in accordance with the terms prescribed herein and in the Project Specifications. These terms and conditions are subject to change without notice, from time to time in the sole discretion of the Railroad. Contractor must request from Railroad and follow the latest version of these provisions prior to commencing work.

2. NOTICE OF STARTING WORK:

- A. The Contractor shall not commence any work on railroad rights-of-way until he has complied with the following conditions:
1. Signed and received a fully executed copy of the required Norfolk Southern Contractor Right of Entry Agreement.
 2. Given the Railroad written notice in electronic format to the Railroad Engineer, with copy to the Sponsor’s Engineer who has been designated to be in charge of the work, at least ten days in advance of the date he proposes to begin work on Railroad rights-of-way.
 3. Obtained written approval from the Railroad of Railroad Protective Liability Insurance coverage as required by paragraph 14 herein. It should be noted that the Railroad does not accept notation of Railroad Protective insurance on a certificate of liability insurance form or Binders as Railroad must have the full original countersigned policy. Further, please note that mere receipt of the policy is not the only issue but review for compliance. Due to the number of projects system-wide, it typically takes a minimum of 30-45 days for the Railroad to review.
 4. Obtained Railroad’s Flagging Services as required by paragraph 7 herein.
 5. Obtained written authorization from the Railroad to begin work on Railroad’s rights-of-way, such authorization to include an outline of specific conditions with which he must comply.
 6. Furnished a schedule for all work within the Railroad’s rights-of-way as required by paragraph 7.B.1.

EXHIBIT B

Norfolk Southern Railway Company



- B. The Railroad's written authorization to proceed with the work shall include the names, addresses, and telephone numbers of the Railroad's representatives who are to be notified as hereinafter required. Where more than one representative is designated, the area of responsibility of each representative shall be specified.

3. INTERFERENCE WITH RAILROAD OPERATIONS:

- A. The Contractor shall so arrange and conduct his work that there will be no interference with Railroad's operations, including train, signal, telephone and telegraphic services, or damage to the property of the Railroad or to poles, wires, and other facilities of tenants on the rights-of-way of the Railroad. Whenever work is liable to affect the operations or safety of trains, the method of doing such work shall first be submitted to the Railroad Engineer for approval, but such approval shall not relieve the Contractor from liability. Any work to be performed by the Contractor which requires flagging service or inspection service shall be deferred by the Contractor until the flagging service or inspection service required by the Railroad is available at the job site.
- B. Whenever work within Railroad's rights-of-way is of such a nature that impediment to Railroad's operations such as use of runaround tracks or necessity for reduced speed is unavoidable, the Contractor shall schedule and conduct his operations so that such impediment is reduced to the absolute minimum.
- C. Should conditions arising from, or in connection with the work, require that immediate and unusual provisions be made to protect operations and property of the Railroad, the Contractor shall make such provisions. If in the judgment of the Railroad Engineer, or in his absence, the Railroad's Division Engineer, such provisions is insufficient, either may require or provide such provisions as he deems necessary. In any event, such unusual provisions shall be at the Contractor's expense and without cost to the Railroad or the Sponsor.
- D. "One Call" Services do not locate buried Railroad utilities. The contractor shall contact the Railroad's representative 2 days in advance of work at those places where excavation, pile driving, or heavy loads may damage the Railroad's underground facilities. Upon request from the Contractor or Sponsor, Railroad forces will locate and paint mark or flag the Railroad's underground facilities. The Contractor shall avoid excavation or other disturbances of these facilities. If disturbance or excavation is required near a buried Railroad facility, the contractor shall coordinate with the Railroad to have the facility potholed manually with careful hand excavation. The facility shall be protected by the Contractor during the course of the disturbance under the supervision and direction of the Railroad's representative.

4. TRACK CLEARANCES:

- A. The minimum track clearances to be maintained by the Contractor during construction are shown on the Project Plans. If temporary clearances are not shown on the project plans, the following criteria shall govern the use of falsework and formwork above or adjacent to operated tracks.
1. A minimum vertical clearance of 22'-0" above top of highest rail shall be maintained at all times.
 2. A minimum horizontal clearance of 13'-0" from centerline of tangent track or 14'-0" from centerline of curved track shall be maintained at all times. Additional horizontal

EXHIBIT B

Norfolk Southern Railway Company



clearance may be required in special cases to be safe for operating conditions. This additional clearance will be as determined by the Railroad Engineer.

3. All proposed temporary clearances which are less than those listed above must be submitted to Railroad Engineer for approval prior to construction and must also be authorized by the regulatory body of the State if less than the legally prescribed clearances.
 4. The temporary clearance requirements noted above shall also apply to all other physical obstructions including, but not limited to: stockpiled materials, parked equipment, placement or driving of piles, and bracing or other construction supports.
- B. Before undertaking any work within Railroad right-of-way, and before placing any obstruction over any track, the Contractor shall:
1. Notify the Railroad's representative at least 72 hours in advance of the work.
 2. Receive assurance from the Railroad's representative that arrangements have been made for flagging service as may be necessary.
 3. Receive permission from the Railroad's representative to proceed with the work.
 4. Ascertain that the Sponsor's Engineer has received copies of notice to the Railroad and of the Railroad's response thereto.

5. CONSTRUCTION PROCEDURES:

A. General:

1. Construction work and operations by the Contractor on Railroad property shall be:
 - a. Subject to the inspection and approval of the Railroad Engineer or their designated Construction Engineering Representative.
 - b. In accordance with the Railroad's written outline of specific conditions.
 - c. In accordance with the Railroad's general rules, regulations and requirements including those relating to safety, fall protection and personal protective equipment.
 - d. In accordance with these Special Provisions.
2. Submittal Requirements
 - a. The Contractor shall submit all construction related correspondence and submittals electronically to the Railroad Engineer.
 - b. The Contractor shall allow for 30 days for the Railroad's review and response.
 - c. All work in the vicinity of the Railroad's property that has the potential to affect the Railroad's train operations or disturb the Railroad's Property must be submitted and approved by the Railroad prior to work being performed.

EXHIBIT B

Norfolk Southern Railway Company



- d. All submittals and calculations must be signed and sealed by a registered engineer licensed in the state of the project work.
- e. All submittals shall first be approved by the Sponsor's Engineer and the Railroad Engineer, but such approval shall not relieve the Contractor from liability.
- f. For all construction projects, the following submittals, but not limited to those listed below, shall be provided for review and approval when applicable:
 - (1) General Means and Methods
 - (2) Ballast Protection
 - (3) Construction Excavation & Shoring
 - (4) Pipe, Culvert, & Tunnel Installations
 - (5) Demolition Procedure
 - (6) Erection & Hoisting Procedure
 - (7) Debris Shielding or Containment
 - (8) Blasting
 - (9) Formwork for the bridge deck, diaphragms, overhang brackets, and protective platforms
 - (10) Bent Cap Falsework. A lift plan will be required if the contractor want to move the falsework over the tracks.
- g. For Undergrade Bridges (Bridges carrying the Railroad) the following submittals in addition to those listed above shall be provided for review and approval:
 - (1) Shop Drawings
 - (2) Bearing Shop Drawings and Material Certifications
 - (3) Concrete Mix Design
 - (4) Structural Steel, Rebar, and/or Strand Certifications
 - (5) 28 day Cylinder Test for Concrete Strength
 - (6) Waterproofing Material Certification
 - (7) Test Reports for Fracture Critical Members
 - (8) Foundation Construction Reports

Fabrication may not begin until the Railroad has approved the required shop drawings.

- h. The Contractor shall include in all submissions a detailed narrative indicating the progression of work with the anticipated timeframe to complete each task. Work will not be permitted to commence until the Contractor has provided the Railroad with a satisfactory plan that the project will be undertaken without scheduling, performance or safety related issues. Submission shall also provide a listing of the anticipated equipment to be used, the location of all equipment to be used and insure a contingency plan of action is in place should a primary piece of equipment malfunction.

B. Ballast Protection

- 1. The Contractor shall submit the proposed ballast protection system detailing the specific filter fabric and anchorage system to be used during all construction activities.

EXHIBIT B

Norfolk Southern Railway Company



2. The ballast protection is to extend 25' beyond the proposed limit of work, be installed at the start of the project and be continuously maintained to prevent all contaminants from entering the ballast section of all tracks for the entire duration of the project.
- C. Excavation:
1. The subgrade of an operated track shall be maintained with edge of berm at least 10'-0" from centerline of track and not more than 24-inches below top of rail. Contractor will not be required to make existing section meet this specification if substandard, in which case existing section will be maintained.
 2. Additionally, the Railroad will require the installation of an OSHA approved handrail and orange construction safety fencing for all excavations of the Railroad right-of-way.
- D. Excavation for Structures and Shoring Protection:
1. The Contractor will be required to take special precaution and care in connection with excavating and shoring pits, and in driving piles or sheeting for footings adjacent to tracks to provide adequate lateral support for the tracks and the loads which they carry, without disturbance of track alignment and surface, and to avoid obstructing track clearances with working equipment, tools or other material.
 2. All plans and calculations for shoring shall be prepared, signed, and sealed by a Registered Professional Engineer licensed in the state of the proposed project, in accordance with Norfolk Southern's Overhead Grade Separation Design Criteria, subsection H.1.6.E-Construction Excavation (Refer to Norfolk Southern Public Projects Manual Appendix H). The Registered Professional Engineer will be responsible for the accuracy for all controlling dimensions as well as the selection of soil design values which will accurately reflect the actual field conditions.
 3. The Contractor shall provide a detailed installation and removal plan of the shoring components. Any component that will be installed via the use of a crane or any other lifting device shall be subject to the guidelines outlined in section 5.G of these provisions.
 4. The Contractor shall be required to survey the track(s) and Railroad embankment and provide a cross section of the proposed excavation in relation to the tracks.
 5. Calculations for the proposed shoring should include deflection calculations. The maximum deflection for excavations within 18'-0" of the centerline of the nearest track shall be 3/8". For all other cases, the max deflection shall not exceed 1/2".
 6. Additionally, the Railroad will require the installation of an OSHA approved handrail and orange construction safety fencing for all excavations of the Railroad right-of-way.
 7. The front face of shoring located to the closest NS track for all shoring set-ups located in Zone 2 as shown on NS Typical Drawing No. 4 – Shoring Requirements (Appendix I) shall remain in place and be cut off 2'-0" below the final ground elevation. The remaining shoring in Zone 2 and all shoring in Zone 1 may be removed and all voids must be backfilled with flowable fill.

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Norfolk Southern Railway Company

**E. Pipe, Culvert, & Tunnel Installations**

1. Pipe, Culvert, & Tunnel Installations shall be in accordance with the appropriate Norfolk Southern Design Specification as noted below:
 - a. For Open Cut Method refer to Norfolk Southern Public Projects Manual Appendix H.4.6.
 - b. For Jack and Bore Method refer to Norfolk Southern Public Projects Manual Appendix H.4.7.
 - c. For Tunneling Method refer to Norfolk Southern Public Projects Manual Appendix H.4.8.
2. The installation methods provided are for pipes carrying storm water or open flow runoff. All other closed pipeline systems shall be installed in accordance Norfolk Southern's Pipe and Wire Program and the NSCE-8

F. Demolition Procedures

1. General
 - a. Demolition plans are required for all spans over the track(s), for all spans adjacent to the track(s), if located on (or partially on) Railroad right-of-way; and in all situations where cranes will be situated on, over, or adjacent to Railroad right-of-way and within a distance of the boom length plus 15'-0" from the centerline of track.
 - b. Railroad tracks and other Railroad property must be protected from damage during the procedure.
 - c. A pre-demolition meeting shall be conducted with the Sponsor, the Railroad Engineer or their representative, and the key Contractor's personnel prior to the start of the demolition procedure.
 - d. The Railroad Engineer or his designated representative must be present at the site during the entire demolition procedure period.
 - e. Existing, obsolete, bridge piers shall be removed to a sufficient depth below grade to enable restoration of the existing/proposed track ditch, but in no case less than 2'-0" below final grade.
2. Submittal Requirements
 - a. In addition to the submittal requirements outlined in Section 5.A.2 of these provisions, the Contractor shall submit the following for approval by the Railroad Engineer:
 - (1) A plan showing the location of cranes, horizontally and vertically, operating radii, with delivery or disposal locations shown. The location of all tracks and other Railroad facilities as well as all obstructions such as wire lines, poles, adjacent structures, etc. must also be shown.

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- (2) Rating sheets showing cranes or lifting devices to be adequate for 150% of the actual weight of the pick, including all rigging components. A complete set of crane charts, including crane, counterweight, and boom nomenclature is to be submitted. Safety factors that may have been "built-in" to the crane charts are not to be considered when determining the 150% factor of safety.
- (3) Plans and computations showing the weight of the pick must be submitted. Calculations shall be made from plans of the existing structure showing complete and sufficient details with supporting data for the demolition the structure. If plans do not exist, lifting weights must be calculated from field measurements. The field measurements are to be made under the supervision of the Registered Professional Engineer submitting the procedure and calculations.
- (4) The Contractor shall provide a sketch of all rigging components from the crane's hook block to the beam. Catalog cuts or information sheets of all rigging components with their lifting capacities shall be provided. All rigging must be adequate for 150% of the actual weight of the pick. Safety factors that may have been "built-in" to the rating charts are not to be considered when determining the 150% factor of safety. All rigging components shall be clearly identified and tagged with their rated lifting capacities. The position of the rigging in the field shall not differ from what is shown on the final plan without prior review from the Sponsor and the Railroad.
- (5) A complete demolition procedure, including the order of lifts, time required for each lift, and any repositioning or re-hitching of the crane or cranes.
- (6) Design and supporting calculations for the temporary support of components, including but not limited to the stability of the superstructure during the temporary condition, temporary girder tie-downs and falsework.

3. Overhead Demolition Debris Shield

- a. The demolition debris shield shall be installed prior to the demolition of the bridge deck or other relevant portions of the superstructure over the track area to catch all falling debris.
- b. The demolition debris shield shall provide a minimum vertical clearance as specified in Section 4.A.1 of these provisions or maintain the existing vertical clearance if the existing clearance is less than that specified in Section 4.A.1.
- c. The Contractor shall include the demolition debris shield installation/removal means and methods as part of the proposed Demolition procedure submission.
- d. The Contractor shall submit the demolition debris shield design and supporting calculations for approval by the Railroad Engineer.

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- e. The demolition debris shield shall have a minimum design load of 50 pounds per square foot plus the weight of the equipment, debris, personnel, and other loads to be carried.
 - f. The Contractor shall include the proposed bridge deck removal procedure in its demolition means and methods and shall verify that the size and quantity of the demolition debris generated by the procedure does not exceed the shield design loads.
 - g. The Contractor shall clean the demolition debris shield daily or more frequently as dictated either by the approved design parameters or as directed by the Railroad Engineer.
4. Vertical Demolition Debris Shield
- a. A vertical demolition debris shield may be required for substructure removals in close proximity to the Railroad's track and other facilities, as determined by the Railroad Engineer.
- G. Erection & Hoisting Procedures
1. General
- a. Erection plans are required for all spans over the track(s), for all spans adjacent to the track(s), if located on (or partially on) Railroad right-of-way; and in all situations where cranes will be situated on, over, or adjacent to Railroad right-of-way and within a distance of the boom length plus 15'-0" from the centerline of track.
 - b. Railroad tracks and other Railroad property must be protected from damage during the erection procedure.
 - c. A pre-erection meeting shall be conducted with the Sponsor, the Railroad Engineer or their representative, and the key Contractor's personnel prior to the start of the erection procedure.
 - d. The Railroad Engineer or his designated representative must be present at the site during the entire erection procedure period.
 - e. For field splices located over Railroad property, a minimum of 50% of the holes for each connection shall be filled with bolts or pins prior to releasing the crane. A minimum of 50% of the holes filled shall be filled with bolts. All bolts must be appropriately tightened. Any changes to previously approved field splice locations must be submitted to the Railroad for review and approval. Refer to Norfolk Southern's Overhead Grade Separation Design Criteria for additional splice details (Norfolk Southern Public Projects Manual Appendix H.1, Section 4.A.3.).

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Norfolk Southern Railway Company

**2. Submittal Requirements**

- a. In addition the submittal requirements outlined in Section 5.A.2 of these provisions, the Contractor shall submit the following for approval by the Railroad Engineer:
- (1) As-built beam seat elevations - All as-built bridge seats and top of rail elevations shall be furnished to the Railroad Engineer for review and verification at least 30 days in advance of the erection, to ensure that minimum vertical clearances as approved in the plans will be achieved.
 - (2) A plan showing the location of cranes, horizontally and vertically, operating radii, with delivery or staging locations shown. The location of all tracks and other Railroad facilities as well as all obstructions such as wire lines, poles, adjacent structures, etc. must also be shown.
 - (3) Rating sheets showing cranes or lifting devices to be adequate for 150% of the actual weight of the pick, including all rigging components. A complete set of crane charts, including crane, counterweight, and boom nomenclature is to be submitted. Safety factors that may have been "built-in" to the crane charts are not to be considered when determining the 150% factor of safety.
 - (4) Plans and computations showing the weight of the pick must be submitted. Calculations shall be made from plans of the proposed structure showing complete and sufficient details with supporting data for the erection of the structure. If plans do not exist, lifting weights must be calculated from field measurements. The field measurements are to be made under the supervision of the Registered Professional Engineer submitting the procedure and calculations.
 - (5) The Contractor shall provide a sketch of all rigging components from the crane's hook block to the beam. Catalog cuts or information sheets of all rigging components with their lifting capacities shall be provided. All rigging must be adequate for 150% of the actual weight of the pick. Safety factors that may have been "built-in" to the rating charts are not to be considered when determining the 150% factor of safety. All rigging components shall be clearly identified and tagged with their rated lifting capacities. The position of the rigging in the field shall not differ from what is shown on the final plan without prior review from the Sponsor and the Railroad.
 - (6) A complete erection procedure, including the order of lifts, time required for each lift, and any repositioning or re-hitching of the crane or cranes.
 - (7) Design and supporting calculations for the temporary support of components, including but not limited to temporary girder tie-downs and falsework.

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H. Blasting:

1. The Contractor shall obtain advance approval of the Railroad Engineer and the Sponsor Engineer for use of explosives on or adjacent to Railroad property. The request for permission to use explosives shall include a detailed blasting plan. If permission for use of explosives is granted, the Contractor will be required to comply with the following:
 - a. Blasting shall be done with light charges under the direct supervision of a responsible officer or employee of the Contractor and a licensed blaster.
 - b. Electric detonating fuses shall not be used because of the possibility of premature explosions resulting from operation of two-way radios.
 - c. No blasting shall be done without the presence of the Railroad Engineer or his authorized representative. At least 72 hours advance notice to the person designated in the Railroad's notice of authorization to proceed (see paragraph 2.B) will be required to arrange for the presence of an authorized Railroad representative and such flagging as the Railroad may require.
 - d. Have at the job site adequate equipment, labor and materials and allow sufficient time to clean up debris resulting from the blasting without delay to trains, as well as correcting at his expense any track misalignment or other damage to Railroad property resulting from the blasting as directed by the Railway's authorized representative. If his actions result in delay of trains, the Contractor shall bear the entire cost thereof.
 - e. The blasting Contractor shall have a copy of the approved blasting plan on hand while on the site.
 - f. Explosive materials or loaded holes shall not be left unattended at the blast site.
 - g. A seismograph shall be placed on the track shoulder adjacent to each blast which will govern the peak particle velocity of two inches per second. Measurement shall also be taken on the ground adjacent to structures as designated by a qualified and independent blasting consultant. The Railroad reserves the option to direct the placement of additional seismographs at structures or other locations of concern, without regard to scaled distance.
 - h. After each blast, the blasting Contractor shall provide a copy of their drill log and blast report, which includes number of holes, depth of holes, number of decks, type and pounds of explosives used per deck.
 - i. The Railroad may require top of rail elevations and track centers taken before, during and after the blasting and excavation operation to check for any track misalignment resulting from the Contractor's activities.

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2. The Railroad representative will:
 - a. Determine approximate location of trains and advise the Contractor the appropriate amount of time available for the blasting operation and clean up.
 - b. Have the authority to order discontinuance of blasting if, in his opinion, blasting is too hazardous or is not in accord with these special provisions.
3. The Contractor must hire, at no expense to the Railroad, a qualified and independent blasting consultant to oversee the use of explosives. The blasting consultant will:
 - a. Review the Contractor's proposed drilling and loading patterns, and with the blasting consultant's personnel and instruments, monitor the blasting operations.
 - b. Confirm that the minimum amounts of explosives are used to remove the rock.
 - c. Be empowered to intercede if he concludes that the Contractor's blasting operations are endangering the Railway.
 - d. Submit a letter acknowledging that he has been engaged to oversee the entire blasting operation and that he approves of the blasting plan.
 - e. Furnish copies of all vibration readings to the Railroad representative immediately after each blast. The representative will sign and date the seismograph tapes after each shot to verify the readings are for that specific shot.
 - f. Advise the Railroad representative as to the safety of the operation and notify him of any modifications to the blasting operation as the work progresses.
4. The request for permission to use explosives on the Railroad's Right-of-Way shall include a blasting proposal providing the following details:
 - a. A drawing which shows the proposed blasting area, location of nearest hole and distance to Railway structures, all with reference to the centerline of track.
 - b. Hole diameter.
 - c. Hole spacing and pattern.
 - d. Maximum depth of hole.
 - e. Maximum number of decks per hole.
 - f. Maximum pounds of explosives per hole.
 - g. Maximum pounds of explosives per delay.
 - h. Maximum number of holes per detonation.

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- i. Type of detonator and explosives to be used. (Electronic detonating devices will not be permitted). Diameter of explosives if different from hole diameter.
 - j. Approximate dates and time of day when the explosives are to be detonated.
 - k. Type of flyrock protection.
 - l. Type and patterns of audible warning and all clear signals to be used before and after each blast.
 - m. A copy of the blasting license and qualifications of the person directly in charge of the blasting operation, including their name, address and telephone number.
 - n. A copy of the Authority's permit granting permission to blast on the site.
 - o. A letter from the blasting consultant acknowledging that he has been engaged to oversee the entire blasting operation and that he approves of the blasting plan.
 - p. In addition to the insurance requirements outlined in Paragraph 14 of these Provisions, A certificate of insurance from the Contractor's insurer stating the amount of coverage for XCU (Explosive Collapse and Underground Hazard) insurance and that XCU insurance is in force for this project.
 - q. A copy of the borings and Geotechnical information or report.
- i. Track Monitoring
- 1. At the direction of the Railroad Engineer, any activity that has the potential to disturb the Railroad track structure may require the Contractor to submit a detailed track monitoring program for approval by the Railroad Engineer.
 - 2. The program shall specify the survey locations, the distance between the location points, and frequency of monitoring before, during, and after construction. Railroad reserves the right to modify the survey locations and monitoring frequency as necessary during the project.
 - 3. The survey data shall be collected in accordance with the approved frequency and immediately furnished to the Railroad Engineer for analysis.
 - 4. If any movement has occurred as determined by the Railroad Engineer, the Railroad will be immediately notified. Railroad, at its sole discretion, shall have the right to immediately require all Contractor operations to be ceased and determine what corrective action is required. Any corrective action required by the Railroad or performed by the Railroad including the monitoring of corrective action of the Contractor will be at project expense.
- J. Maintenance of Railroad Facilities:
- 1. The Contractor will be required to maintain all ditches and drainage structures free of silt or other obstructions which may result from his operations and provide and maintain any erosion control measures as required. The Contractor will promptly

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repair eroded areas within Railroad rights-of-way and repair any other damage to the property of the Railroad or its tenants.

2. If, in the course of construction, it may be necessary to block a ditch, pipe or other drainage facility, temporary pipes, ditches or other drainage facilities shall be installed to maintain adequate drainage, as approved by the Railroad Engineer. Upon completion of the work, the temporary facilities shall be removed and the permanent facilities restored.
3. All such maintenance and repair of damages due to the Contractor's operations shall be done at the Contractor's expense.

K. Storage of Materials and Equipment:

1. Materials and equipment shall not be stored where they will interfere with Railroad operations, nor on the rights-of-way of the Railroad without first having obtained permission from the Railroad Engineer, and such permission will be with the understanding that the Railroad will not be liable for damage to such material and equipment from any cause and that the Railroad Engineer may move or require the Contractor to move, at the Contractor's expense, such material and equipment.
2. All grading or construction machinery that is left parked near the track unattended by a watchman shall be effectively immobilized so that it cannot be moved by unauthorized persons. The Contractor shall protect, defend, indemnify and save Railroad, and any associated, controlled or affiliated corporation, harmless from and against all losses, costs, expenses, claim or liability for loss or damage to property or the loss of life or personal injury, arising out of or incident to the Contractor's failure to immobilize grading or construction machinery.

L. Cleanup:

1. Upon completion of the work, the Contractor shall remove from within the limits of the Railroad rights-of-way, all machinery, equipment, surplus materials, falsework, rubbish or temporary buildings of the Contractor, and leave said rights-of-way in a neat condition satisfactory to the Railroad Engineer or his authorized representative.

6. DAMAGES:

- A. The Contractor shall assume all liability for any and all damages to his work, employees, servants, equipment and materials caused by Railroad traffic.
- B. Any cost incurred by the Railroad for repairing damages to its property or to property of its tenants, caused by or resulting from the operations of the Contractor, shall be paid directly to the Railroad by the Contractor.

7. FLAGGING SERVICES:

A. Requirements:

1. Flagging services will not be provided until the Contractor's insurance has been reviewed & approved by the Railroad.

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2. Under the terms of the agreement between the Sponsor and the Railroad, the Railroad has sole authority to determine the need for flagging required to protect its operations. In general, the requirements of such services will be whenever the Contractor's personnel or equipment are or are likely to be, working on the Railroad's right-of-way, or across, over, adjacent to, or under a track, or when such work has disturbed or is likely to disturb a Railroad structure or the Railroad roadbed or surface and alignment of any track to such extent that the movement of trains must be controlled by flagging.
3. Normally, the Railroad will assign one flagman to a project; but in some cases, more than one may be necessary, such as yard limits where three (3) flagmen may be required. However, if the Contractor works within distances that violate instructions given by the Railroad's authorized representative or performs work that has not been scheduled with the Railroad's authorized representative, a flagman or flagmen may be required full time until the project has been completed.
4. For Projects exceeding 30 days of construction, Contractor shall provide the flagmen a small work area with a desk/counter and chair within the field/site trailer, including the use of bathroom facilities, where the flagman can check in/out with the Project, as well as to the flagman's home terminal. The work area should provide access to two (2) electrical outlets for recharging radio(s), and a laptop computer; and have the ability to print off needed documentation and orders as needed at the field/site trailer. This should aid in maximizing the flagman's time and efficiency on the Project.

B. Scheduling and Notification:

1. The Contractor's work requiring Railroad flagging should be scheduled to limit the presence of a flagman at the site to a maximum of 50 hours per week. The Contractor shall receive Railroad approval of work schedules requiring a flagman's presence in excess of 40 hours per week.
2. Not later than the time that approval is initially requested to begin work on Railroad right-of-way, Contractor shall furnish to the Railroad and the Sponsor a schedule for all work required to complete the portion of the project within Railroad right-of-way and arrange for a job site meeting between the Contractor, the Sponsor, and the Railroad's authorized representative. Flagman or Flagmen may not be provided until the job site meeting has been conducted and the Contractor's work scheduled.
3. The Contractor will be required to give the Railroad representative at least 10 working days of advance written notice of intent to begin work within Railroad right-of-way in accordance with this special provision. Once begun, when such work is then suspended at any time, or for any reason, the Contractor will be required to give the Railroad representative at least 3 working days of advance notice before resuming work on Railroad right-of-way. Such notices shall include sufficient details of the proposed work to enable the Railroad representative to determine if flagging will be required. If such notice is in writing, the Contractor shall furnish the Engineer a copy; if notice is given verbally, it shall be confirmed in writing with copy to the Engineer. If flagging is required, no work shall be undertaken until the flagman, or flagmen are present at the job site. It may take up to 30 days to obtain flagging initially from the Railroad. When flagging begins, the flagman is usually assigned by the Railroad to work at the project site on a continual basis until no longer

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needed and cannot be called for on a spot basis. If flagging becomes unnecessary and is suspended, it may take up to 30 days to again obtain from the Railroad. Due to Railroad labor agreements, it is necessary to give 5 working days notice before flagging service may be discontinued and responsibility for payment stopped.

4. If, after the flagman is assigned to the project site, an emergency arises that requires the flagman's presence elsewhere, then the Contractor shall delay work on Railroad right-of-way until such time as the flagman is again available. Any additional costs resulting from such delay shall be borne by the Contractor and not the Sponsor or Railroad.

C. Payment:

1. The Sponsor will be responsible for paying the Railroad directly for any and all costs of flagging which may be required to accomplish the construction.
2. The estimated cost of flagging is the current rate per day based on a 10-hour work day. This cost includes the base pay for the flagman, overhead, and includes a per diem charge for travel expenses, meals and lodging. The charge to the Sponsor by the Railroad will be the actual cost based on the rate of pay for the Railroad's employees who are available for flagging service at the time the service is required.
3. Work by a flagman in excess of 8 hours per day or 40 hours per week, but not more than 12 hours a day will result in overtime pay at 1 and 1/2 times the appropriate rate. Work by a flagman in excess of 12 hours per day will result in overtime at 2 times the appropriate rate. If work is performed on a holiday, the flagging rate is 2 and 1/2 times the normal rate.
4. Railroad work involved in preparing and handling bills will also be charged to the Sponsor. Charges to the Sponsor by the Railroad shall be in accordance with applicable provisions of Subchapter B, Part 140, Subpart I and Subchapter G, Part 646, Subpart B of the Federal-Aid Policy Guide issued by the Federal Highway Administration on December 9, 1991, including all current amendments. Flagging costs are subject to change. The above estimates of flagging costs are provided for information only and are not binding in any way.

D. Verification:

1. Railroad's flagman will electronically enter flagging time via Railroad's electronic billing system. Any complaints concerning flagging must be resolved in a timely manner. If the need for flagging is questioned, please contact the Railroad Engineer. All verbal complaints will be confirmed in writing by the Contractor within 5 working days with a copy to the Sponsor's Engineer. Address all written correspondence electronically to Railroad Engineer.
2. The Railroad flagman assigned to the project will be responsible for notifying the Sponsor Engineer upon arrival at the job site on the first day (or as soon thereafter as possible) that flagging services begin and on the last day that he performs such services for each separate period that services are provided. The Sponsor's Engineer will document such notification in the project records. When requested, the Sponsor's Engineer will also sign the flagman's diary showing daily time spent and activity at the project site.

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**8. HAUL ACROSS RAILROAD TRACK:**

- A. Where the plans show or imply that materials of any nature must be hauled across Railroad's track, unless the plans clearly show that the Sponsor has included arrangements for such haul in its agreement with the Railroad, the Contractor will be required to make all necessary arrangements with the Railroad regarding means of transporting such materials across the Railroad's track. The Contractor or Sponsor will be required to bear all costs incidental to such crossings whether services are performed by his own forces or by Railroad personnel.
- B. No crossing may be established for use of the Contractor for transporting materials or equipment across the tracks of the Railroad unless specific authority for its installation, maintenance, necessary watching and flagging thereof and removal, until a temporary private crossing agreement has been executed between the Contractor and Railroad. The approval process for an agreement normally takes 90 days.

9. WORK FOR THE BENEFIT OF THE CONTRACTOR:

- A. All temporary or permanent changes in wire lines or other facilities which are considered necessary to the project are shown on the plans; included in the force account agreement between the Sponsor and the Railroad or will be covered by appropriate revisions to same which will be initiated and approved by the Sponsor and/or the Railroad.
- B. Should the Contractor desire any changes in addition to the above, then he shall make separate arrangements with the Railroad for same to be accomplished at the Contractor's expense.

10. COOPERATION AND DELAYS:

- A. It shall be the Contractor's responsibility to arrange a schedule with the Railroad for accomplishing stage construction involving work by the Railroad or tenants of the Railroad. In arranging his schedule he shall ascertain, from the Railroad, the lead time required for assembling crews and materials and shall make due allowance therefore.
- B. No charge or claim of the Contractor against either the Sponsor or the Railroad will be allowed for hindrance or delay on account of railroad traffic; any work done by the Railroad or other delay incident to or necessary for safe maintenance of railroad traffic or for any delays due to compliance with these special provisions.

11. TRAINMAN'S WALKWAYS:

- A. Along the outer side of each exterior track of multiple operated track, and on each side of single operated track, an unobstructed continuous space suitable for trainman's use in walking along trains, extending to a line not less than 10 feet from centerline of track, shall be maintained. Any temporary impediments to walkways and track drainage encroachments or obstructions allowed during work hours while Railroad's protective service is provided shall be removed before the close of each work day. If there is any excavation near the walkway, a handrail, with 10'-0" minimum clearance from centerline of track, shall be placed and must conform to AREMA and/or FRA standards.

12. GUIDELINES FOR PERSONNEL ON RAILROAD RIGHT-OF-WAY:

- A. The Contractor and/or the Sponsor's personnel authorized to perform work on Railroad's property as specified in Section 2 above are not required to complete Norfolk Southern Roadway

EXHIBIT B**Norfolk Southern Railway Company**

Worker Protection Training; However the Contractor and the Sponsor's personnel must be familiar with Norfolk Southern's standard operating rules and guidelines, should conduct themselves accordingly, and may be removed from the property for failure to follow these guidelines.

- B. All persons shall wear hard hats. Appropriate eye and hearing protection must be used. Working in shorts is prohibited. Shirts must cover shoulders, back and abdomen. Working in tennis or jogging shoes, sandals, boots with high heels, cowboy and other slip-on type boots is prohibited. Hard-sole, lace-up footwear, zippered boots or boots cinched up with straps which fit snugly about the ankle are adequate. Wearing of safety boots is strongly recommended. In the vicinity of at-grade crossings, it is strongly recommended that reflective vests be worn.
- C. No one is allowed within 25' of the centerline of track without specific authorization from the flagman.
- D. All persons working near track while train is passing are to lookout for dragging bands, chains and protruding or shifted cargo.
- E. No one is allowed to cross tracks without specific authorization from the flagman.
- F. All welders and cutting torches working within 25' of track must stop when train is passing.
- G. No steel tape or chain will be allowed to cross or touch rails without permission from the Railroad.

13. GUIDELINES FOR EQUIPMENT ON RAILROAD RIGHT-OF-WAY:

- A. No crane or boom equipment will be allowed to set up to work or park within boom distance plus 15' of centerline of track without specific permission from Railroad official and flagman.
- B. No crane or boom equipment will be allowed to foul track or lift a load over the track without flag protection and track time.
- C. All employees will stay with their machines when crane or boom equipment is pointed toward track.
- D. All cranes and boom equipment under load will stop work while train is passing (including pile driving).
- E. Swinging loads must be secured to prevent movement while train is passing.
- F. No loads will be suspended above a moving train.
- G. No equipment will be allowed within 25' of centerline of track without specific authorization of the flagman.
- H. Trucks, tractors or any equipment will not touch ballast line without specific permission from Railroad official and flagman. Orange construction fencing may be required as directed.

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Norfolk Southern Railway Company



- I. No equipment or load movement within 25' or above a standing train or Railroad equipment without specific authorization of the flagman.
- J. All operating equipment within 25' of track must halt operations when a train is passing. All other operating equipment may be halted by the flagman if the flagman views the operation to be dangerous to the passing train.
- K. All equipment, loads and cables are prohibited from touching rails.
- L. While clearing and grubbing, no vegetation will be removed from Railroad embankment with heavy equipment without specific permission from the Railroad Engineer and flagman.
- M. No equipment or materials will be parked or stored on Railroad's property unless specific authorization is granted from the Railroad Engineer.
- N. All unattended equipment that is left parked on Railroad property shall be effectively immobilized so that it cannot be moved by unauthorized persons.
- O. All cranes and boom equipment will be turned away from track after each work day or whenever unattended by an operator.
- P. Prior to performing any crane operations, the Contractor shall establish a single point of contact for the Railroad flagman to remain in communication with at all times. Person must also be in direct contact with the individual(s) directing the crane operation(s).

14. INSURANCE:

- A. In addition to any other forms of insurance or bonds required under the terms of the contract and specifications, the Prime Contractor will be required to carry insurance of the following kinds and amounts:
 - 1. a. Commercial General Liability Insurance having a combined single limit of not less than \$2,000,000 per occurrence for all loss, damage, cost and expense, including attorneys' fees, arising out of bodily injury liability and property damage liability during the policy period. Said policy shall include explosion, collapse, and underground hazard (XCU) coverage, shall be endorsed to name Railroad specified in item A.2.c. below both as the certificate holder and as an additional insured, and shall include a severability of interests provision.
 - b. Automobile Liability Insurance with a combined single limit of not less than \$1,000,000 each occurrence for injury to or death of persons and damage to or loss or destruction of property. Said policy or policies shall be endorsed to name Railroad specified in item A.2.c. below both as the certificate holder and as an additional insured and shall include a severability of interests provision.
 - 2. Railroad Protective Liability Insurance having a combined single limit of not less than \$2,000,000 each occurrence and \$6,000,000 in the aggregate applying separately to each annual period. If the project involves track over which passenger trains operate, the insurance limits required are not less than a combined single limit of \$5,000,000 each occurrence and \$10,000,000 in the aggregate applying separately to each annual period. Said policy shall provide coverage for all loss, damage or expense arising from

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Norfolk Southern Railway Company



bodily injury and property damage liability, and physical damage to property attributed to acts or omissions at the job site.

The standards for the Railroad Protective Liability Insurance are as follows:

a. The insurer must be rated A- or better by A.M. Best Company, Inc.
NOTE: NS does not accept from insurers Chartis (AIG or Affiliated Company including Lexington Insurance Company), Hudson Group or Liberty or Affiliated Company, American Contractors Insurance Company and Erie Insurance Company including Erie Insurance Exchange and Erie Indemnity Company.

b. The policy must be written using one of the following combinations of Insurance Services Office ("ISO") Railroad Protective Liability Insurance Form Numbers:

- (1) CG 00 35 01 96 and CG 28 31 10 93; or
- (2) CG 00 35 07 98 and CG 28 31 07 98; or
- (3) CG 00 35 10 01; or
- (4) CG 00 35 12 04; or
- (5) CG 00 35 12 07; or
- (6) CG 00 35 04 13.

c. The named insured shall read:

Norfolk Southern Corporation and its subsidiaries
 Three Commercial Place
 Norfolk, Virginia 23510-2191
 Attn: Risk Manager

(NOTE: Railroad does not share coverage on RRPL with any other entity on this policy)

- d. The description of operations must appear on the Declarations, must match the project description in this agreement, and must include the appropriate Sponsor project and contract identification numbers.
- e. The job location must appear on the Declarations and must include the city, state, and appropriate highway name/number. **NOTE: Do not include any references to milepost, valuation station, or mile marker on the insurance policy.**
- f. The name and address of the prime Contractor must appear on the Declarations.
- g. The name and address of the Sponsor must be identified on the Declarations as the "Involved Governmental Authority or Other Contracting Party."
- h. Endorsements/forms that are required are:

EXHIBIT B

Norfolk Southern Railway Company



- (1) Physical Damage to Property Amendment
 - (2) Terrorism Risk Insurance Act (TRIA) coverage must be included
- i. Other endorsements/forms that will be accepted are:
 - (1) Broad Form Nuclear Exclusion – Form IL 00 21
 - (2) 30-day Advance Notice of Non-renewal or cancellation
 - (3) Required State Cancellation Endorsement
 - (4) Quick Reference or Index Form CL/IL 240
 - j. Endorsements/forms that are NOT acceptable are:
 - (1) Any Pollution Exclusion Endorsement except CG 28 31
 - (2) Any Punitive or Exemplary Damages Exclusion
 - (3) Known injury or Damage Exclusion form CG 00 59
 - (4) Any Common Policy Conditions form
 - (5) An Endorsement that limits or excludes Professional Liability coverage
 - (6) A Non-Cumulation of Liability or Pyramiding of Limits Endorsement
 - (7) An Endorsement that excludes TRIA coverage
 - (8) A Sole Agent Endorsement
 - (9) Any type of deductible endorsement or amendment
 - (10) Any other endorsement/form not specifically authorized in item no. 2.h above.
- B. If any part of the work is sublet, similar insurance, and evidence thereof as specified in A.1 above, shall be provided by or on behalf of the subcontractor to cover its operations on Railroad's right of way.
- C. All insurance required under the preceding subsection A shall be underwritten by insurers and be of such form and content, as may be acceptable to the Company. Prior to entry on Railroad right-of-way, the original electronic Railroad Protective Liability Insurance Policy shall be submitted by the Prime Contractor to the Department at the address below for its review and transmittal to the Railroad. In addition, certificates of insurance evidencing the Prime Contractor's and any subcontractors' Commercial General Liability Insurance shall be issued to the Railroad and the Department at the addresses below, and forwarded to the Department for its review and transmittal to the Railroad. The certificates of insurance shall state that the insurance coverage will not be suspended, voided, canceled, or reduced in coverage or limits without (30) days advance written notice to Railroad and the Department. No work will be permitted by Railroad on its right-of-way until it has reviewed and approved the evidence of insurance required herein.
- | | |
|-----------------|--|
| <u>SPONSOR:</u> | <u>RAILROAD:</u>
Risk Management
Norfolk Southern Corporation and its subsidiaries
Three Commercial Place
Norfolk, Virginia 23510-2191
NSRISK3@NSCORP.COM |
|-----------------|--|
- D. The insurance required herein shall in no way serve to limit the liability of Sponsor or its Contractors under the terms of this agreement.

EXHIBIT B

Norfolk Southern Railway Company

**E. Insurance Submission Procedures**

1. Railroad will only accept initial insurance submissions via email to NSRISK3@NSCORP.COM. Railroad will NOT accept initial insurance submissions via hard copies that would be sent either US Mail or Overnight carrier or faxes as only electronic versions only are to be submitted to Railroad. **Please provide point of contact information with the submission including a phone number and email address.**
2. Railroad requires the following two (2) forms of insurance in the initial electronic insurance submission to NSRISK3@NSCORP.COM to be submitted under a cover letter providing details of the project and containing the contact information:
 - a. **The full original or certified true electronic countersigned copy of the railroad protective liability insurance policy in its entirety inclusive of all declarations, schedule of forms and endorsements along with the policy forms and endorsements.**
 - b. **The Contractor's commercial general, automobile, and workers' compensation liability insurance certificate of liability insurance evidencing a combined single limit of a minimum of \$2M per occurrence of general and \$1M per occurrence of automobile liability insurance naming Norfolk Southern Corporation and its subsidiaries, Three Commercial Place, Norfolk, VA 23510 as the certificate holder and as an additional insured on both the general and automobile liability insurance policy.**
3. It should be noted that the Railroad does not accept notation of Railroad Protective insurance on a certificate of liability insurance form or Binders as Railroad must have the full original or certified true electronic countersigned policy. Further, please note that mere receipt of the policy is not the only issue but review for compliance. Due to the number of projects system-wide, it typically takes a minimum of 30-45 days for the Railroad to review.

15. FAILURE TO COMPLY:

- A. In the event the Contractor violates or fails to comply with any of the requirements of these Special Provisions:
 1. The Railroad Engineer may require that the Contractor vacate Railroad property.
 2. The Sponsor's Engineer may withhold all monies due the Contractor on monthly statements.
- B. Any such orders shall remain in effect until the Contractor has remedied the situation to the satisfaction of the Railroad Engineer and the Sponsor's Engineer.

16. PAYMENT FOR COST OF COMPLIANCE:

- A. No separate payment will be made for any extra cost incurred on account of compliance with these special provisions. All such costs shall be included in prices bid for other items of the work as specified in the payment items.

EXHIBIT B

Norfolk Southern Railway Company



17. PROJECT INFORMATION

A. Date:	September 24, 2021
B. NS File No.:	CX1113689
C. NS Milepost:	FJ-7.01
D. Sponsor's Project No.:	

EXHIBIT C

FORCE ACCOUNT ESTIMATE

Work to be Performed By: Norfolk Southern Railway Company
 Project Description: Proposed Widening of the Eck Road At-Grade Crossing at
 Location: South Whitehall Township, Lehigh County, PA
 Project No.: Eck Road
 Milepost: FJ-7.01
 File: CX1113689
 Date: Original September 13, 2021

ITEM A - Preliminary Engineering	0
ITEM B - Construction Engineering	26,386
ITEM C - Administration	2,347
ITEM D - Railroad Protective Services	19,170
ITEM E - Communications	0
ITEM F - Signal & Electrical	0
ITEM G - Track Work	93,991
ITEM H - T-Cubed	0
Total	\$ 141,894
Contingency 0%	\$ -
GRAND TOTAL	\$ 141,894

ITEM A - Preliminary Engineering

(Review plans and special provisions, prepare estimates, etc.)

Labor: 0 Hours @ \$60 / hour= 0
 Labor Additives: 0
 Travel Expenses: 0
 Services by Contract Engineer: 0

NET TOTAL - ITEM A \$ -

ITEM B - Construction Engineering

(Coordinate Railway construction activities,
review contractor submittals, etc.)

Labor:	40 Hours @ \$60 / hour=	2,400
Labor Additives:		1,886
Travel Expenses:		2,500
Services by Contract Engineer:		19,600
NET TOTAL - ITEM B		\$ 26,386

ITEM C - Administration

Agreement Construction, Review and/or Handling:		1,250
Protective Services Process/Handling Fee:		0
Miscellaneous Handling (i.e. Real Estate ValMap fee):		0
Accounting Hours (Labor):	20 Hours @ \$30 / hour=	600
Accounting Additives:		497
NET TOTAL - ITEM C		\$ 2,347

ITEM D - Railroad Protective Services

(During construction on, over,
under, or adjacent to the track.)

Labor:	Protective Services	
	15 days @ 390.00 per day=	5,850
	(based on working 12 hours/day)	
Labor Additive:		10,870
Travel Expenses, Meals & Lodging:		
	15 days @ \$100/day=	1,500
Rental Vehicle	1 months @ \$950/month=	950
NET TOTAL - ITEM D		\$ 19,170

ITEM E - Communications

Material:		0
Labor:		0
Purchase Services:		0
Subsistence:		0
Additive:		0
NET TOTAL - ITEM E		\$ -

EXHIBIT C**ITEM F - Signal & Electrical**

Material:	0
Labor:	0
Purchase Services:	0
Other:	0
	<hr/>
NET TOTAL - ITEM F	\$ -

ITEM G - Track Work

Material:	58,776
Labor:	16,147
Additive:	14,126
Purchase Services:	4,942
	<hr/>
NET TOTAL - ITEM G	\$ 93,991

ITEM H - T-CUBED

Lump Sum	\$ -
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NOTES

1. For all groups of CONTRACT employees, the composite labor surcharge rate used in this estimate (including insurance) is 185.81%. Self Insurance - Public Liability Property Damage is estimated at 16.00%. Work will be billed at actual current audited rate in effect at the time the services are performed.
2. For all groups of NON-CONTRACT employees, the composite labor surcharge rate used in this estimate (including insurance) is 78.59%. Self Insurance - Public Liability Property Damage is estimated at 16.00%. Work will be billed at actual current audited rate in effect at the time the services are performed.
3. All applicable salvage items due the Department will be made available to it at the jobsite for its disposal.
4. The Force Account Estimate is valid for one (1) year after the date of the estimate (09/13/2021). If the work is not performed within this time frame the Railway may revise the estimate to (1) include work not previously indicated as necessary and (2) reflect changes in cost to perform the force account work.

EXHIBIT C

Norfolk Southern Railway Company
 Keystone Division
 South Whitehall Township, Lehigh County, PA
 ESTIMATE FOR CROSSING IMPROVEMENT (ASPHALT SURFACE)

Existing Crossing
 DOT Number: 591377F
 MP: FJ-7.01

	1 TRACK(S);		56 CROSSING LENGTH	
MATERIAL	QUANTITY	UNIT	UNIT COST	AMOUNT
SURFACE MATERIAL (Rubber Flangeways)	56	TRK. FT.	81.00	4,536
ASPHALT (BY CONTRACTOR)	43	TONS	396.00	16,845
RAIL, 132-LB RE	180	LIN FT.	25.00	4,000
TRANSITION RAIL	4	EA.	1171.00	4,684
INSULATED JOINTS	0	EA.	1355.00	0
RAIL ANCHORS	256	EA.	1.90	486
SPIKES	3.0	KEG	118.00	354
TIE PLATES	128	EA.	15.00	1,920
CROSSTIES (10")	0	EA.	100.00	0
CROSSTIES (GRADE 5)	64	EA.	55.00	3,520
TRUCKED BALLAST AND GRAVEL	109	TONS	104.00	11,336
GEOTEXTILE	76	LIN FT.	7.00	532
THERMITE WELDS	4	EA.	691.00	2,764
ASPHALT DISPOSAL	1	LUMPS	5000.00	5,000
TOTAL (INCLUDES 5% INVENTORY OR TAX ADDITIVES)				58,776
LABOR				
REMOVE EXISTING CROSSING	50	MAN HOURS	30.41	1,521
REHABILITATE TRK. STRUCTURE	110	MAN HOURS	30.41	3,345
INSTALL NEW CROSSING	90	MAN HOURS	30.41	2,737
TOTAL				7,603
OTHER ITEMS				
Rail	0.0	TON	0	0
Scrap	0.0	TON	0	0
				0
COMPOSITE LABOR ADDITIVE (185.81%)				14,126
EQUIPMENT RENTAL & TRANSPORTATION				4,942
PRELIMINARY & CONSTRUCTION ENGINEERING SERVICES AND INVOICE				8,545
TOTAL (Billed to Project Sponsor)				\$93,991

*ESTIMATE BASED ON FULL CLOSURE OF ROAD WITH TRAFFIC CONTROL AND BARRICADES PROVIDED BY OTHERS

*UNIT COSTS ARE ESTIMATED. ACTUAL UNIT COSTS ARE SUBJECT TO CHANGE WITHOUT NOTICE.

This estimate is valid for one (1) year after the date of estimate. If work is not performed within this time frame the Railway may revise the estimate to include work not previously deemed necessary.

This estimate shall not be considered as an approval for a temporary crossing. Information provided is an estimation of the anticipated cost for the construction of the crossing only. All temporary construction crossings require a separate approval from Norfolk Southern's General Manager and Division Superintendent, a separate stand alone temporary construction crossing agreement with associated real estate fees, and all required insurances as noted in the in the temporary construction crossing agreement.

OFFICE OF CHIEF ENGINEER DESIGN & CONSTRUCTION - ATLANTA, GEORGIA
 Monday, September 13, 2021

File: CX1113689

ANDREA E. NAUGLE
LEHIGH COUNTY CLERK OF JUDICIAL RECORDS



Recorder of Deeds Division
Karen S. Collura, Chief Deputy
Lehigh County Courthouse
455 W. Hamilton Street - Room 122
Allentown, PA 18101-1614
(610) 782-3162

***RETURN DOCUMENT TO:**

ALL AMERICAN SETTLEMENT SERVICES, LLC
4400 WALBERT AVE.
ALLENTOWN, PA 18104

Instrument Number - 2022016745

Recorded On 5/9/2022 At 8:39:50 AM

* Instrument Type - DECLARATION

Invoice Number - 489069

User ID: KCA

***Total Pages - 43**

* Grantor - IPT ALLENTOWN DC LLC IPT ALLENTOWN DC II LLC


* Grantee - IPT ALLENTOWN DC LLC IPT ALLENTOWN DC II LLC

* Customer - ALL AMERICAN SETTLEMENT SERVICES, LLC

*** FEES**

STATE WRIT TAX	\$0.50
RECORDING FEES	\$92.50
COUNTY ARCHIVES FEE	\$2.00
ROD ARCHIVES FEE	\$3.00
UPI CERTIFICATION FEES	\$20.00
TOTAL PAID	\$118.00

I hereby CERTIFY that this document is
Recorded in the Recorder of Deeds Office
of Lehigh County, Pennsylvania



Andrea E. Naugle
Andrea E. Naugle
Clerk of Judicial Records
Recorder of Deeds Division

LCGIS Registry UPI Certification
On May 6, 2022 By LY

THIS IS A CERTIFICATION PAGE

Do Not Detach

THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT

* - Information denoted by an asterisk may change during the verification process and may not be reflected on this page.





Item Cover Page

BOARD OF COMMISSIONERS AGENDA ITEM REPORT

DATE: June 7, 2023

SUBMITTED BY: Tom Petrucci, Community Development

ITEM TYPE: Resolution

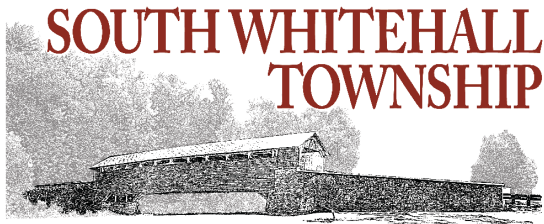
AGENDA SECTION: RESOLUTIONS

SUBJECT: A Resolution to Adopt the "Traffic Calming Policy" for South Whitehall Township

SUGGESTED ACTION:

ATTACHMENTS:

- [2023.06.01 CD - BOC Memo - Traffic Calming Policy.pdf](#)
- [2023.06.01 CD - DRAFT Traffic Calming Policy.pdf](#)
- [2023.06.01 DRAFT Resolution Adopting Traffic Calming Policy.pdf](#)
- [Implementation Transportation Plan - T3.pdf](#)



**MEMORANDUM FOR
AGENDA ITEMS**

To:	Board of Commissioners
From:	David Manhardt
Date:	May 31, 2023
Subject:	Traffic Calming Policy

- **Background Information:**

The recently adopted Comprehensive Plan recommended a Transportation Plan as an implementation item. One of the key actions identified is to “Adopt a Traffic Calming Policy”. Traffic Calming is a combination of mainly physical measures designed to reduce the negative effects of motor vehicle use, alter driver behavior, and improve conditions for non-motorized users of public streets.

Recently, the Township has engaged with LTAP to conduct a “Tech Assist” to evaluate Trexler Boulevard and Highland Street for methods to reduce speeds and reduce cut-through traffic. As part of the evaluations, it was recommended that the Township develop a traffic calming policy. “The policy is important to establish the parameters that will trigger traffic calming in the Township, as well as many other important factors.”

As a result of a 2018 recommendation of an LTAP Tech Assist on Dylan Drive, where a Traffic Calming Policy was also recommended, Township staff prepared and presented a draft Traffic Calming Policy to the BOC in October 2018. At that time the BOC tabled the policy.

Based on the recommendations of the Comprehensive Plan and recent discussions of Traffic Calming on Trexler Boulevard and Highland Street, the October 2018 Traffic Calming Policy was reviewed and revised accordingly. Additional comments were received by LTAP and incorporated into the current draft. The updated Policy is attached for consideration.

- **Action Requested:**

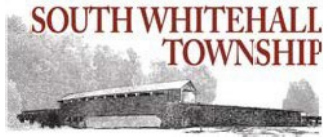
Adoption of the Traffic Calming Policy

- **Budget Line Item:**

Not applicable

- **Attachments**

- Traffic Calming Policy (Draft)
- Transportation Plan Implementation Item



SOUTH WHITEHALL TOWNSHIP
Lehigh County, Pennsylvania

TRAFFIC CALMING POLICY

DRAFT

June 2023

CONTACT

Address

4444 Walbert Ave
Allentown, PA 18104

Phone & Fax

Phone: 610.398.0401
Fax: 610.841.4009

Online

Email: info@southwhitehall.com
Website: www.southwhitehall.com



EXECUTIVE SUMMARY

The South Whitehall Township Traffic Calming Program allows the Township staff and concerned property owners to work together in developing safer neighborhoods. It also provides a fair and balanced prioritization process, a participative procedure for the development of traffic calming plans, adequate public notice and public meeting requirements, and a method to encourage and promote the involvement of area residents in decisions affecting the quality of life in their communities.

This Traffic Calming Policy establishes the supporting guidelines and standards for the South Whitehall Township Traffic Calming Program. It supports South Whitehall Township's public safety, transportation, planning, environmental, economic, and social goals, objectives, and principles.

The South Whitehall Township Traffic Calming Program reflects the commitment of the Board of Commissioners to address a wide range of community public safety and transportation mobility goals and objectives.

Traffic calming is a combination of mainly physical measures designed to reduce the negative effects of motor vehicle use, alter driver behavior, and improve conditions for non-motorized users of public streets.

Purpose, Goals and Objectives

South Whitehall Township's Traffic Calming Program addresses neighborhood traffic concerns, such as excessive speed and cut-through traffic, in residential areas of the Township. The purpose is to reduce the speed and/or volume of traffic on local streets while continuing to promote connected neighborhoods. The Township's Traffic Calming Program, working in cooperation with neighborhoods, seeks to provide a safe environment for pedestrians/bicyclists, preserve the residential character of neighborhoods, and improve the overall quality of life.

Traffic calming goals:

- Create safe and attractive streets;
- Reduce the negative effects of motor vehicles on the environment (i.e., noise, pollution, and safety concerns);
- Increase the quality of life in the Township;
- Promote safe and pleasant conditions for motorists, pedestrians, and cyclists; and
- Maximize the efficiency of the local roadway network.

Traffic calming objectives:

- Achieving safe, slow speeds for motor vehicles;
- Reducing cut-through motor vehicle traffic;
- Improving the safety and the perception of safety for non-motorized users of local streets;
- Reducing and redirecting the need for police enforcement;
- Reducing crash frequency and severity; and
- Increasing access for all modes of transportation.

Planning Criteria and Standards

All traffic calming projects must adhere to the following planning criteria and standards:

- The traffic calming planning and development process must be community-based and supported;
- Traffic calmed streets must incorporate a degree of self-enforcement of motor vehicle speeds through the design of physical features;
- Traffic calming must directly affect driver behavior;
- Traffic calming must improve the safety of the street for all roadway users, including pedestrians and bicyclists; and
- Traffic calming techniques must not unduly hamper access by emergency services organizations, such as police, fire and rescue.

Applicability

Township residents are often very concerned about traffic problems, real or perceived, in their neighborhoods. Reports from citizens are sometimes the only way the Township becomes aware of specific traffic concerns in residential areas. These concerns may involve speeding, transient traffic, real or potential risk from vehicle crashes, pedestrian/bicycle safety, and other issues. Because the character of residential neighborhoods is a Township-wide concern and traffic calming programs affect daily living patterns of area residents and may involve public safety issues, the generally affected area shall be informed and involved in the development of any plan which involves major change or the expenditure of significant funds. All residents in a neighborhood area shall be provided opportunities to offer their opinions on proposed traffic calming plans.

Eligible Streets

A street will be considered for installation of traffic calming features, provided that the street meets all of the following criteria.

- The street is located in an area zoned residential.
- The street is classified as a collector or local road and no more than 2 travel lanes.
- The posted speed limit is 30-mph or less.
- The street is at least 800 feet in length and the road grade is 8% or less.
- The street has an average daily traffic (adt) volume of 1000 vehicles per day (vpd) for local roads and 2,000 vpd for collector roads or the peak hour volume exceeds 100 vehicles.
- Two thirds of the street must front on residences, parks, and/or schools.
- The minimum 85th percentile speeds are 22 mph on a 15-mph street, 32-mph on a 25-mph street and 37-mph on a 30-mph street.
- Excessive vehicle speeds indicated by 10% of vehicles are travelling over 10 mph over the posted speed limit.
- The street is not an alley.
- The street is not part of a public transportation route, or the transit provider(s) agrees to the change.
- The street is not part of a designated emergency access route.
- The street is owned and maintained by the Township.

Streets that are owned and maintained by a homeowners' association or by a developer shall be eligible for traffic calming features, provided that the full cost and expense of installation and maintenance is funded by the association or developer. The association and/or developer shall be required to obtain the consent of the Township prior to installation of any traffic calming features. All such features shall comply with the standards for traffic calming published by the Pennsylvania Department of Transportation, "Pennsylvania's Traffic Calming Handbook", publication No. 383 (most current edition).

Location Guidelines

- Any traffic calming feature shall be visible to oncoming traffic.
- Traffic calming shall take into account existing utilities, drainage features and bicycle facilities.
- Where possible, features shall be located to minimize impacts to on-street parking.
- Features should be placed near streetlights where feasible.

Americans with Disabilities Act

Traffic calming measures must be designed to accommodate all people in the community. To accomplish this goal, features that are implemented to improve pedestrian safety, or have an effect on pedestrian travel, must be designed to meet the requirements of the federal Americans with Disabilities Act.

Traffic Calming Features

Elements of Traffic Calming

The selection of traffic calming features shall be based on:

1. The feature's potential to address traffic problems on affected roadways;
2. The type of roadway; and
3. Physical constraints.

Specific measures can be grouped into categories based upon the means by which they impact traffic. The following is a description of the various categories.

Vertical Deflection - refers to traffic calming measures that create a change in the height of the roadway.

Horizontal Deflection- hinders the driver's ability to drive in a straight line by creating a horizontal shift in the roadway and/or narrows the width of the travel lane.

Physical Obstruction - refers to features that prevent particular vehicle movements.

Landscaping - refers to the installation of trees, bushes, shrubbery and/or other plant materials as part of a Traffic Calming Plan. The Township will maintain a list of acceptable plantings to be used and determine which types of plantings would be best suited for the adjacent neighborhood area.

Change in Texture and Color - refers to the use of specialty concrete, asphalt or paver bricks to aid in notifying the driver of a change in pavement design and to provide an aesthetic value.

Alternative Education and Enforcement Tools - refers to information on education methods to increase awareness of neighborhood traffic concerns including traffic brochures, increased enforcement by the Police Department, and the use of mobile speed-alert signs.

Specific Traffic Calming Features

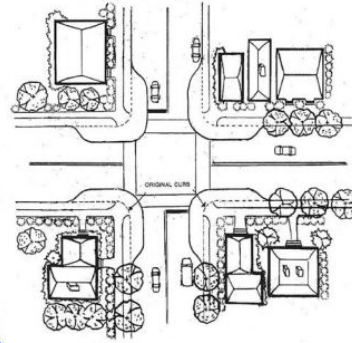
A selection of the traffic calming features that may be considered by the Township are described briefly on the following pages. The features described are adapted from the PennDOT Pub383 and are not a complete representation of all available traffic calming measures. All designs from PennDOT Pub383, including those not represented in these pages, may be considered and are subject to the approval of the Township.

Horizontal Deflection

Curb Extensions / Bulb-Outs

Description:

Curb extensions, sometimes referred to as bulb-outs, are areas of expanded curbing.



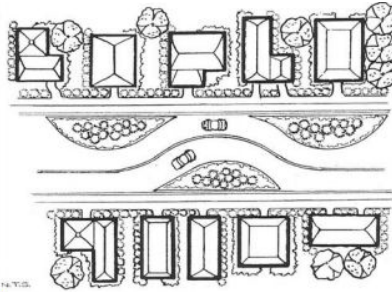
- Volume Reduction: ○
- Speed Reduction: ◐
- Conflict Reduction: ◐
- Emergency Response: ○

Cost Estimate: \$7,000 to \$10,000
(\$4,000 mid-block)

Chicanes

Description:

A chicane is a series of three curb extensions staggered on alternating sides of the street, at a mid-block location, which forces vehicles to negotiate the narrowed roadway in a snake-like fashion.



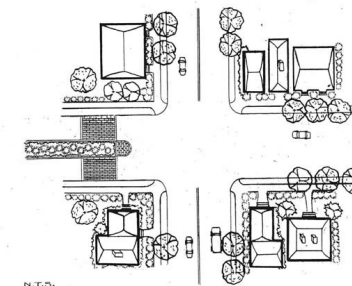
- Volume Reduction: ◐
- Speed Reduction: ◐
- Conflict Reduction: ○
- Emergency Response: ◐

Cost Estimate: \$6,000 to \$14,000
(\$1,000 temporary)

Gateways

Description:

Gateways are special entrance treatments that provide identity to a neighborhood by using a combination of physical and textural changes.



- Volume Reduction: ○
- Speed Reduction: ◐
- Conflict Reduction: ○
- Emergency Response: ○

Cost Estimate: \$5,000 to \$10,000

○ - Minimal or no effect

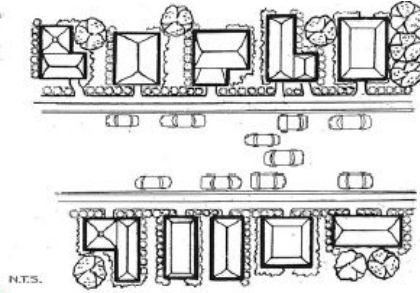
◐ - Moderate effect

● - Significant effect

Horizontal Deflection (continued)

On-street Parking

Description:
 Parking on one or both sides of the roadway which has the effect of reducing the roadway width. By law, on-street parking is permitted unless otherwise prohibited.

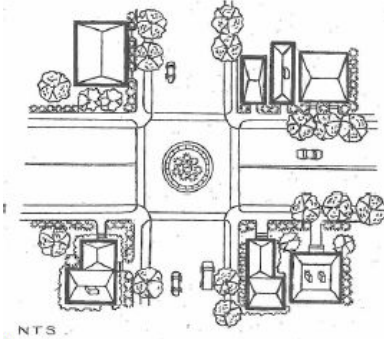


Volume Reduction: ○
 Speed Reduction: ◐
 Conflict Reduction: ○
 Emergency Response: ◐

Cost Estimate: up \$5,000

Traffic Circles

Description:
 Traffic circles are raised islands located in the center of an unsignalized intersection. All traffic must negotiate the circle and circulate in a counterclockwise direction. When yield signs are used on each approach, traffic must yield to vehicles within the circle.



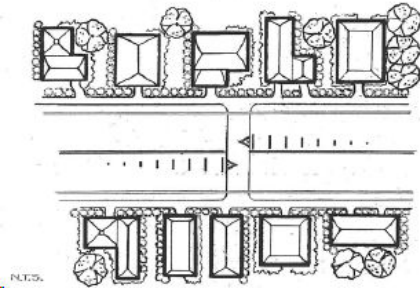
Volume Reduction: ◐
 Speed Reduction: ◐
 Conflict Reduction: ●
 Emergency Response: ●

Cost Estimate: \$3,000 to \$8,000

Vertical Deflection

Speed Hump

Description:
 A speed hump is a raised surface on the roadway that is typically 3 to 4 inches in height, and 12 to 20 feet in length. Speed humps are by far the most popular traffic calming measure in the United States, likely because they are effective in reducing speeds at minimal cost.



Volume Reduction: ◐
 Speed Reduction: ●
 Conflict Reduction: ◐
 Emergency Response: ●

Cost Estimate: \$1,500 to \$3,500

○ - Minimal or no effect ◐ - Moderate effect ● - Significant effect

Vertical Deflection (continued)

Speed Cushions / Speed Pillows

Description:

Speed cushions, also known as speed pillows, are modified speed humps installed across the roadway width with spaces between each cushion to permit wider axle emergency vehicles to pass without slowing down.



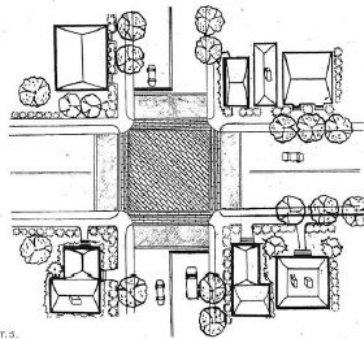
- Volume Reduction:
- Speed Reduction:
- Conflict Reduction:
- Emergency Response:

Cost Estimate: \$1,500 to \$3,500

Raised Intersection

Description:

Intersections, including crosswalks, which are raised 3 to 6 inches above street level. Long ramps are included on all approaches.



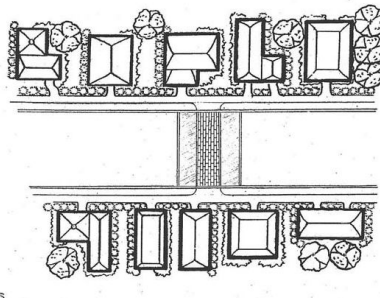
- Volume Reduction:
- Speed Reduction:
- Conflict Reduction:
- Emergency Response:

Cost Estimate: \$15,000 to \$60,000

Raised Crosswalks

Description:

Raised crosswalks are marked and elevated pedestrian areas that are an extension of the sidewalk at mid-block locations or intersections. Raised crosswalks are typically 3 to 6 inches above street level. In many jurisdictions, raised crosswalks are level with the curb, about 6 inches above the street. They often have the same profile as the Seminole County speed hump.



- Volume Reduction:
- Speed Reduction:
- Conflict Reduction:
- Emergency Response:

Cost Estimate: \$2,000 to \$10,000

- Minimal or no effect

- Moderate effect

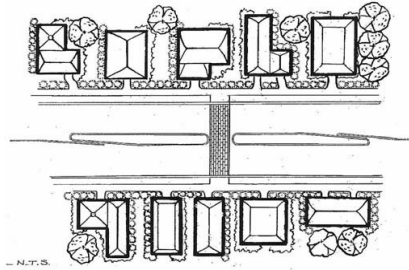
- Significant effect

Vertical Deflection (continued)

Raised Median Islands/Pedestrian Refuges

Description:

Median islands are narrow islands between travel lanes that can be designed with breaks in landscaping and curbing for pedestrians.



- Volume Reduction:
- Speed Reduction:
- Conflict Reduction:
- Emergency Response:

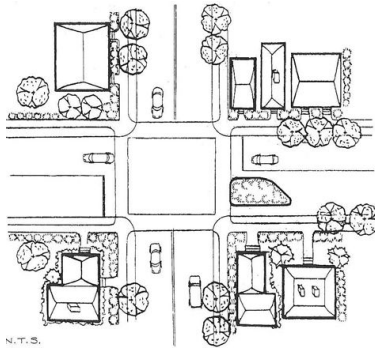
Cost Estimate: \$5,000 to \$15,000

Physical Obstruction

Semi-Diverters

Description:

Sometimes referred to as half closures or partial diverters, semi-diverters prevent travel in one direction on a street by blocking half the street with a physical barrier. Semi-diverters, normally 16 to 23 feet in length, create a one-way roadway at the point of construction while twoway traffic is maintained on the remaining portions of the roadway.



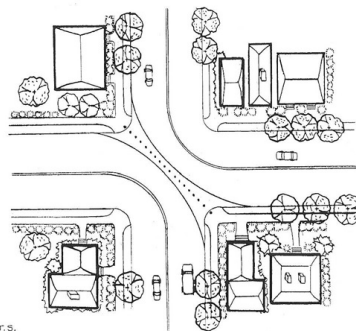
- Volume Reduction:
- Speed Reduction:
- Conflict Reduction:
- Emergency Response:

Cost Estimate: \$3,000 to \$20,000

Diagonal Diverters

Description:

A diagonal diverter is a physical barrier placed diagonally across a four-way intersection to create two unconnected intersections.



- Volume Reduction:
- Speed Reduction:
- Conflict Reduction:
- Emergency Response:

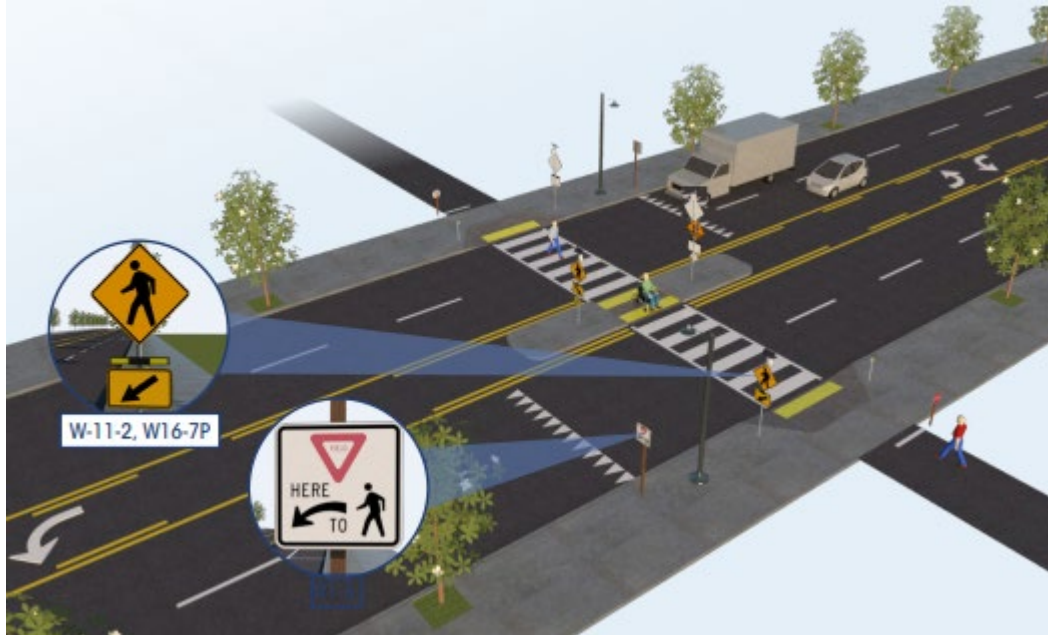
Cost Estimate: \$7,500 to \$20,000

○ - Minimal or no effect ◐ - Moderate effect ● - Significant effect

Pedestrian Safety Enhancement Devices

Rectangular Rapid Flashing Beacons (RRFB)

RRFBs are pedestrian actuated visibility enhancements used in combination with a pedestrian, school, or trail crossing warning sign to improve safety at uncontrolled marked crosswalks. The device uses two rectangular shaped yellow indications, each with an LED-array-based light source, that flash with high frequency when activated.



(FHWA Rectangular Rapid-Flashing Beacon (RRFB) Safe Transportation for Every Pedestrian Countermeasure Tech Sheet)

Intersection Control Beacons

An intersection control beacon is a flashing beacon used only at an intersection to control two or more directions of travel.

Landscaping

The landscaping installed with traffic calming features shall be approved by the Township Shade Tree Commission and be compatible with the adjacent area. Existing adjacent irrigation systems shall be adjusted as needed as part of the construction of the traffic calming features. Sight distance requirements shall be considered in the selection of landscaping.

Maintenance

A neighborhood association, a group of property owners, a property owner, or a developer who funds the installation of traffic calming features shall be responsible for any maintenance, irrigation and watering required for landscaping associated with traffic calming features. The Township may require a maintenance agreement to be executed by the responsible party. If the responsible party fails to maintain the landscaping or irrigation or to pay any required charges, the Township may remove the landscaping or other features.

A property owner who opts to plant landscaping in the roadway right-of-way, other than the landscaping approved and installed by the Township, may do so subject to Township consent and requires a ROW Permit.

Signage

Standard signing and pavement markings shall be in accordance with the most recent editions of Federally adopted Manual of Uniform Traffic Control Devices (MUTCD), PennDOT Publication 236- Handbook of Approved Signs, and approved by the Township.

Township staff will review each neighborhood traffic calming plan for signage needs and will require a signage plan accordingly.

Implementation

Process

The following pages describe the process to implement traffic calming measures within the Township, from initial inquiry through to final approval.

1. Inquiry

Upon initial contact made by a resident or property owner inquiring about traffic calming in their neighborhood, the Township staff will discuss the program procedures and application requirements.

Once a Traffic Calming Inquiry Application is received, a preliminary screening will take place. This will include visual inspections by Township staff. Should visual inspections determine that an issue exists, preliminary traffic data will be collected. This will further determine if the roadway meets the eligibility requirements of the Traffic Calming Policy. If the roadway does not meet eligibility requirements, possible alternatives will be discussed with the applicants.

If the roadway meets eligibility requirements, staff will then determine the affected neighborhood area boundary lines. If the implementation of traffic calming on one roadway section may transfer the problems to a parallel local roadway, the affected neighborhood area shall be enlarged to include the adjacent properties along the parallel local roadway. This affected neighborhood will be determined by Township staff taking into consideration the natural, constructed, and traffic boundaries of an area.

2. Informal Presentation

If requested by 10% or more of the specifically property owners within the affected neighborhood area, staff will schedule a preliminary meeting to present background information on traffic calming and explain the Township's traffic calming policy. This will be an open public meeting.

Staff will provide information on the boundaries of the affected neighborhood area, minimum application requirements, forms, and any informational items to residents wishing to pursue traffic calming in their neighborhoods.

**3.
Application
Submission
&
Neighborhood
Group
Formation**

After the staff reviews and accepts the application a neighborhood group shall be formed of residents in the affected neighborhood area.

The neighborhood group shall include not less than four (4) and not more than six (6) property owners who live in the neighborhood.

The group will, among other duties, coordinate with Township staff on the development of the traffic calming plan, help contact property owners adjacent to potential traffic calming feature locations, distribute appropriate information to neighbors as needed, be available to answer questions from area residents about traffic calming, and present the proposed traffic calming plan to their neighbors.

In order for a neighborhood to proceed with a traffic calming program, an application shall be prepared by the neighborhood group, distributed to affected properties, and submitted to the Township. The goal of the application is to determine community interest and it must be signed by property owners from a minimum of 50% of the total number of generally affected properties within the neighborhood boundaries.

**4.
Traffic
Studies**

After the application has been received and the committee has been formed, Township staff will schedule traffic studies on the critical roadways to determine average speed and/or 85th percentile speed and average daily and/or peak hour traffic volumes. A review of the crash history will also be performed for a period of three (3) years. Township staff will analyze the traffic data and evaluate it to determine eligibility.

If initial traffic studies show that there are other potentially impacted roads in the area, additional traffic studies on those roads may need to be conducted.

**5.
Develop
Consensus
Plan**

A neighborhood traffic calming plan shall be developed by the Township staff in coordination with the neighborhood group.

Input from the neighborhood group will be sought during the decision-making process, and the group will help contact area residents during the review of alternative traffic calming feature locations. They will also help field questions from residents. Field reviews or group meetings may occur as needed.

If required, additional traffic studies will be completed to assess the impact of constructing traffic calming measures and to obtain any required permits. The Township may also propose the implementation of temporary improvements (tactical urbanism) in order to test recommended permanent improvements, test alternatives, and provide a period of time for residents to become accustomed to the improvement(s).

6. Neighborhood Meeting

One public information meeting shall be held with all generally affected residents to disseminate information on the proposed traffic calming plan and receive input, after which the neighborhood traffic calming plan may be finalized.

All affected residents within the neighborhood area being considered for traffic calming will be mailed notice of a public meeting so that their views and opinions may be expressed regarding the proposed traffic calming plan for their neighborhood.

In addition, the residents and/or homeowners association initiating the request for traffic calming may produce and distribute flyers at their own cost. The meeting notice should be mailed at least 20 days before the public meeting date. Township staff and the neighborhood committee will mutually conduct the public meeting.

Township staff will:

- Briefly present background information on traffic calming in general and the Township's traffic calming program and process;
 - Review the boundaries of the affected area properties;
 - Review results of the traffic studies from the affected area and other applicable data as needed; and
 - Explain the further steps required to implement the plan.
-

The neighborhood group will:

- Review the neighborhood concerns which initiated the traffic calming process and any other background information as needed; and
 - Help present the proposed traffic calming plan developed for the affected area.
-

At the public information meeting, official minutes may be taken, if deemed necessary by the Township staff. After the public meeting, Township staff and the committee will consider any concerns brought up at the meeting and investigate any issues before the neighborhood traffic calming plan is finalized.

7. Approval

If the result of the neighborhood meeting is favorable, the traffic calming plan shall be reviewed by the Public Safety Commission for a recommendation to the Board of Commissioners and, if approved by the Commissioners, placed on traffic calming project list for installation once funding and schedule allows.

The Board of Commissioners may approve, modify, condition or deny any proposal for traffic calming features. The implementation of traffic calming plans shall be prioritized and ranked in accordance with the criteria set forth in Appendix A. A waiting list may be developed by the Township staff until such time as the plan features can be constructed.

The Township may also propose the implementation of temporary improvements (tactical urbanism) in order to test recommended permanent improvements, test alternatives, and provide a period of time for residents to become accustomed to the improvement(s). All temporary traffic calming measures must follow appropriate PennDOT and national standards.

During the initial stages of construction, necessary temporary signs and other warning devices may be installed, as needed, to alert drivers to an upcoming traffic calming project or to call attention to traffic calming features that have been installed in a neighborhood.

Prioritization

A point system shall be used for evaluating and prioritizing traffic calming requests. The point system criteria are based on traffic volumes, 85th percentile vehicular speeds, historical crash report data, the number of school crossings and pedestrian generators, and the availability of pedestrian facilities. The point total or rank received will determine the priority for the allocation of funding and scheduling of construction for traffic calming projects.

Pursuant to Appendix A, a minimum score of 25 points, with at least 10 points from each of the speed and volume criteria, is required for a traffic calming application to be considered.

Neighborhood areas, which score less than 25 points or do not meet the minimum threshold for speed and/or volume, will not be eligible for traffic calming through this program, unless the neighborhood area homeowners' association or a group of property owners provide full funding for a proposed traffic calming project (see "Funding Section", below).

Neighborhood areas that score less than the minimum 25 points may pursue alternative education methods and enforcement by the Police Department to increase awareness of traffic concerns within the neighborhood.

A priority list for the purposes of allocating funds for traffic calming projects and scheduling such projects for construction shall be maintained by the Township. The list shall show the order of neighborhoods to receive traffic calming.

The prioritization list shall be used as a guideline for the installation of traffic calming features. However, if one neighborhood requires additional time to complete the development of its traffic calming plan and has a higher point total than another neighborhood that has completed its plan, construction of the traffic calming project should proceed in the neighborhood ready to go so that the Traffic Calming Program continues in an efficient and timely manner.

Temporary Traffic Calming Features

After a traffic calming plan has been reviewed by the neighborhood, the Township and PennDOT (when state highways are involved), traffic calming features can be installed on a temporary basis if desired and/or needed. Temporary features provide an opportunity to review the plan design in the field without a costly removal expense if the plan does not satisfy the original goals.

Traffic calming features that are installed on a temporary basis must resemble permanent features as much as possible and shall be marked, signed, and lit as if the features are permanent. Such temporary features shall also be designed using crash-worthy devices to reduce or eliminate safety hazards.

A three (3) to twelve (12) month test period should be considered when temporary features are installed. Following the temporary installation period, modifications may be made to the neighborhood traffic calming plan prior to formal Commission approval.

Funding

The Township intends to support the Traffic Calming Program on an on-going basis however, there is no guarantee that funds will be budgeted in any given year. Developers may also contribute funding on a voluntary basis to a specific project in an effort to address community concern. For a development or redevelopment project that impacts an adjacent residential

roadway in a neighborhood that has applied for traffic calming, the developer may install one or more traffic calming features during the construction of the project. If it is not feasible for a developer to install traffic calming as part of a project, the developer may donate funds to the Township which will be reserved for use when the Township installs traffic calming in that neighborhood. Any contributions to the Traffic Calming Program by developers will be on a voluntary basis.

In cases where a homeowners' association or group of property owners within a neighborhood wish to provide full funding for traffic calming, the proposed traffic calming plan shall be coordinated with and approved by the Township. Although the timeline for implementation may be reduced, the proposed traffic calming plan shall be subject to the same application procedures and policy guidelines described under this Traffic Calming Policy. The written consent of the Township and conformance with PennDOT and Township rules, regulations, and guidelines will be required for a homeowners' association or group of property owners to proceed with construction of a traffic calming project.

Other Traffic Calming Program Issues

Continual Monitoring

After the construction of each neighborhood traffic calming plan is complete, follow-up traffic studies may be performed to continuously monitor the project for safety and effectiveness and to identify any remaining traffic problems. A summary report of the results in each neighborhood may be compiled for informational purposes, and copies may be distributed to the neighborhood committee and/or liaison, as appropriate.

Removal of Traffic Calming Features

The property owners of an area in which traffic calming has been implemented may request the removal of the traffic calming features. A request to remove the traffic calming features may be considered by the Township, subject to the following conditions:

- The traffic calming features have been in place for at least three (3) years;
- A request for the removal of the traffic calming features must be signed by at least 50% of the generally affected property owners within the same neighborhood boundaries used for the application initiating the original traffic calming process;
- The removal request clearly identifies the feature(s) to be removed and the rationale for removal. The Township may find that the removal of one or more traffic calming features may not make the remaining overall traffic calming plan less effective.

If the Township determines that specific traffic calming features are no longer fulfilling their intended purpose or that a traffic calming feature installed under these guidelines has become a hazard, the Township staff may arrange immediate removal or work with the specifically affected property owners to develop alternate traffic calming plans.

Reconsideration of Traffic Calming Applications

Pursuant to Appendix A, a minimum score of 25 points, with at least 10 points from each of the speed and volume criteria, is required for a traffic calming application to be considered.

Neighborhood areas, which score less than 25 points or do not meet the minimum threshold for speed and/or volume, will not be eligible for traffic calming through this program, unless the

neighborhood area homeowners' association or a group of property owners provide full funding for a proposed traffic calming project (see "Funding Section", above). In addition, any such neighborhood may not request reconsideration for three (3) years from the date the original request was received by the Township, unless staff determines a change in traffic conditions has significantly impacted the neighborhood. Such significant changes may include new construction, roadway improvements, changes in land use, or similar changes creating regional impacts.

General Development Considerations

In an effort to encourage motorists to slow down and drive responsibly, traffic calming purposely introduces additional self-enforcing physical features in the design of a roadway to effectively change the design speed. Traffic calming features are generally implemented retroactively and traditional design standards may require interpretation and modification. The adoption of proper guidelines and policies that are consistent with sound engineering practices and judgment, and the participation and involvement of neighborhood property owners are key elements in the development of traffic calming plans.

Emergency Services

Studies show that traffic calming features may cause delays in emergency response times to residences located in neighborhood areas where traffic calming projects have been installed. However, traffic calming features and reduced vehicular speeds may also reduce the number of incidents requiring emergency services.

Traffic calming is not permitted on roads designated as "Arterials". Traffic calming is limited to features that do not include vertical deflection on roadways designated as "Primary Accesses for Emergency Services". The Fire Marshal's Office will determine those roads designated as "Primary Access Routes for Emergency Services". The Police Department and Fire Marshal's Office will participate in the planning process and will be provided copies of all proposed traffic calming plans for review and comment during the plan design phase and prior to the public meeting at which the plan is presented.

Sidewalks

The Township may recommend that neighborhood residents pursue the installation of sidewalks, where applicable, to enhance pedestrian safety. Or, if the Township determines that sidewalks are necessary for pedestrian safety, the Township will install sidewalks and the costs thereof shall be assessed against the abutting properties in accordance with state law. If approved, construction of both traffic calming and sidewalk installation projects may be coordinated to provide for the efficient use of resources.

Lighting

Street lighting installations shall not be required with the installation of traffic calming features in neighborhoods. Adequate signing and pavement markings, which will be reflective at night to sufficiently warn and guide motorists, will be installed with each feature.

If a neighborhood committee and/or area property owners desire to request street lighting in areas where traffic calming is proposed, they may request the installation of street lights separately.

Drainage

The installation of traffic calming features may change the drainage patterns of the roadways. The Township staff will review the drainage characteristics of roadways when determining which features are most appropriate.

Snow Removal

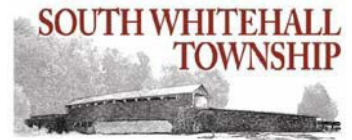
Traffic calming features may have an effect on the removal of snow and ice. Features shall be clearly identified and equipment operators shall be made aware of the types of features that are installed. This will improve the snow removal operation and help prevent damage to the snow removal equipment and the traffic calming features.

APPENDIX A: RANKING SYSTEM

The following are criteria to be used for the evaluation of traffic data in neighborhoods applying for traffic calming. Each roadway will be analyzed individually within the applying neighborhood area according to the below criteria. The highest point value received on an individual roadway segment within the applying neighborhood area for traffic calming will be the point total assigned to the neighborhood application for the purposes of ranking and prioritizing.

PROJECT RANKING SYSTEM

CRITERIA	POINTS	BASIS FOR POINT ASSIGNMENT
Speed	0-30	Extent by which 85th percentile speeds exceed posted speed limit; 2 points assigned for every 1mph
Volume	0-25	Average daily traffic volumes (1 point assigned for every 120 vehicles)
Crashes	0-10	1 point for every crash reported within the past 3 years
Elementary or Middle Schools	0-10	5 points assigned for each school crossing on the project street
Pedestrian Generators	0-15	5 points assigned for each public facility (i.e. parks, libraries) or commercial use that generates a significant number of pedestrians
Pedestrian Facility	0-10	5 points assigned if there is no continuous sidewalk on one side of the street; 10 points if missing on both sides



APPLICATION FOR TRAFFIC CALMING STUDY

DATE: _____

The undersigned property owners hereby submit this application to South Whitehall Township to consider the installation of traffic calming devices to mitigate speeding problems and/or cut-through traffic on:

Street Name: _____

Block Number: _____

Cross Streets: _____

Other: _____

This action is deemed necessary to provide a reasonable quality of life on our street and alleviate problems the residents have faced in regard to excessive speeds and/or volumes of traffic. By signing this application, Applicationers hereby acknowledge that they have a basic understanding as to the effect of traffic calming devices as follows:

1. Traffic calming devices may require reduction of on-street parking.
2. In some cases, access to areas may be reduced to lower the volume of cut-through traffic.
3. In advance of each area, warning signs and support posts will be installed in the public right-of-way [typically six (6) inches behind the sidewalk.] The signs may be located within view of some property owners' residences.
4. Traffic calming devices may delay emergency services vehicles.

The Traffic Calming Policy of South Whitehall Township, which contains complete information on application requirements, may be obtained by contacting the Township Community Development Office at 610.398.0401.

Therefore, the undersigned applicationers respectfully request of the Township of South Whitehall to schedule our street for a traffic calming study.

Contact Person

Name: _____

Address: _____

Phone: _____

Email: _____

Signature: _____



Affected Residents

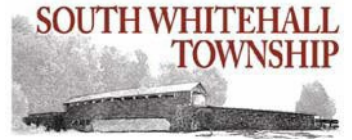
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Name: _____
Address: _____
Phone: _____
Email: _____
Signature: _____

** Make multiple copies as needed*



APPLICATION FOR TRAFFIC CALMING INFORMAL MEETING

DATE: _____

The undersigned property owners of:

Street Name: _____

Block Number: _____

Cross Streets: _____

Other: _____

Hereby request that South Whitehall Township schedule an informational meeting regarding the Township's Traffic Calming Program.

The residents are desirous of restoring a reasonable quality of life by alleviating problems the residents have faced in regard to excessive speeds and/or volumes of traffic. By signing this application, residents hereby acknowledge that the meeting is for the purpose of discussing the Traffic Calming Program, so that they have a basic understanding as to the effect of traffic calming devices.

Therefore, the undersigned residents respectfully request of the South Whitehall Township to schedule a preliminary meeting to learn more about the Township's Traffic Calming Program.

Contact Person

Name: _____

Address: _____

Phone: _____

Email: _____

Signature: _____

**TOWNSHIP OF SOUTH WHITEHALL
LEHIGH COUNTY, PENNSYLVANIA**

**RESOLUTION NO. 2023-__
(Duly Adopted June 7, 2023)**

**A RESOLUTION TO ADOPT THE “TRAFFIC CALMING POLICY”
FOR SOUTH WHITEHALL TOWNSHIP**

WHEREAS, the Township staff has received numerous requests from citizens to address both the volume and speed of traffic on the roads and streets of the Township; and,

WHEREAS, a traffic calming policy establishing the procedure and process to consider and implement traffic calming measures has been prepared by the Community Development Department staff and is consistent with state and nationally accepted standards; and,

WHEREAS, the Township staff has proposed that the Township adopt a Traffic Calming Policy to address that safety concerns of the citizens of the Township and to provide the Township with various ways to make the streets, roads and alleys of the Township safer for pedestrians, vehicle operators and vehicle occupants.

NOW, THEREFORE, BE IT ADOPTED AND RESOLVED that the Board of Commissioners of the Township of South Whitehall hereby approves the Traffic Calming Policy as attached hereto as Exhibit “A”, and that the Township Manager, or his designee, is authorized to take all actions to effectuate the execution of this policy and any related documents.

DULY ADOPTED this 7th day of **June, 2023**, by a majority of the Board of Commissioners of the Township of South Whitehall, Lehigh County, Pennsylvania, at a duly advertised meeting of the Board of Commissioners. As part of this Resolution, the Board of Commissioners has directed that the President, or Vice President in the absence of the President, execute this Resolution on behalf of the Board.

**TOWNSHIP OF SOUTH WHITEHALL
BOARD OF COMMISSIONERS**

Diane Kelly, President

ATTEST:

Monica Hodges, Assistant Secretary

Exhibit "A"

Implementation

TRANSPORTATION PLAN (T3)

Inventory transportation infrastructure and develop a plan to help manage traffic, improve transportation and pedestrian safety, and plan for future transportation impacts and maintenance. Includes the following: coordination of future planned transportation projects at all levels of government (local, state and federal) and associated public agencies; identification of costs; stakeholder identification and coordination; coordination with public utilities and public transit entities.



KEY GOALS

Evaluate current and future transportation network to absorb future growth



KEY ACTIONS

1. Create a transportation and traffic control plan
 - Evaluate functional road classifications and update as needed
 - Identify and evaluate appropriate truck routes
2. Update the Road Maintenance Plan
 - Include ancillary infrastructure (curbing, drainage, etc.)
 - Coordinate with Capital Improvements Plan
3. Investigate feasibility of an Act 209 Transportation Impact Fee
4. Adopt a Traffic Calming Policy
5. Prioritize transportation improvements to be incorporated with the Long-Range Transportation Plan/TIP

	↓			
PRIORITY	High	Medium	Low	
TIMELINE	Short	Mid	Long	
	↑			



FUNDING SOURCES

- PennDOT
- LVPC/LVTS
- Township Budget



KEY PARTNERS

- Planning Commission
- Community Development Dept.
- Public Works Dept.
- PennDOT
- LVPC



MEASURE OF SUCCESS

- Adoption of plan
- Number of new policies/ordinances adopted





Item Cover Page

BOARD OF COMMISSIONERS AGENDA ITEM REPORT

DATE: June 7, 2023

SUBMITTED BY: Tom Petrucci, Administration

ITEM TYPE: Resolution

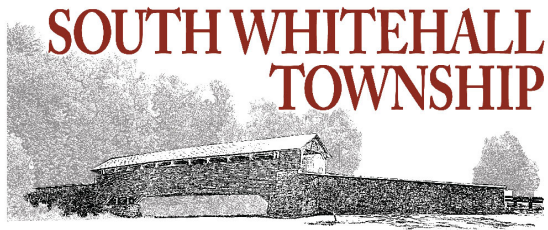
AGENDA SECTION: RESOLUTIONS

SUBJECT: Resolution to Approve the Submission of an Automated Red Light Enforcement (ARLE) Grant- Hamilton Blvd. (SR 222) and Lincoln Ave. Intersection Improvements

SUGGESTED ACTION:

ATTACHMENTS:

- [Memorandum- ARLE Grant- 2023- Hamilton Blvd and Lincoln Ave.pdf](#)
- [Resolution- ARLE Grant- 2023- Hamilton Blvd and Lincoln Ave.pdf](#)



**MEMORANDUM FOR
AGENDA ITEMS**

TO:	Board of Commissioners
FROM:	Tom Petrucci, Township Manager
DATE:	June 2, 2023
SUBJECT:	Approval of Resolution- Automated Red Light Enforcement Transportation Enhancements Grant Program Application- Hamilton Blvd. (SR 222) and Lincoln Ave. Intersection Improvements
COPY TO:	H. Bender; D. Manhardt; C. Strohler; T. Fehnel

- **Action Requested:**

A motion is requested from the Board of Commissioners to approve the following Resolution:

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF SOUTH WHITEHALL TOWNSHIP TO SUBMIT AN APPLICATION TO THE PENNSYLVANIA DEPARTMENT OF TRANSPORTATION 2023 AUTOMATED RED LIGHT ENFORCEMENT TRANSPORTATION ENHANCEMENTS GRANT PROGRAM ARLE FUNDING PROGRAM) TO PROVIDE FUNDING TO BE USED FOR HAMILTON BLVD. (SR 222) AND LINCOLN AVE. SIGNALIZED INTERSECTION IMPROVEMENTS

- **Background Information:**

South Whitehall Township is proposing to upgrade and modernize the signalized intersection which is located at Hamilton Blvd (S.R. 222) and Lincoln Ave.

The scope of work will include the following:

- 1). Traffic signal optimization to improve operations, reduce congestion and enhance safety;
- 2). Installation of crosswalk striping (Type B or Type C) in accordance with PennDOT Publication 212;
- 3). Removal of existing pavement loop sensors and replacement with traffic sensor cameras;
- 4). Installation of countdown timers and quick release pushbuttons;
- 5). Installation of sidewalk and bus stop pads for transit users;
- 6). Improved signage.

Traffic signal modernization improvements will include converting permissive left turn signals to protective signal phasing and upgrading the existing traffic sensor signals to camera-activated signals. Existing crosswalks on Lincoln Avenue and Hamilton Boulevard will be repainted using a high visibility design and paint. New ADA curb ramps will be installed on approaching corners from Lincoln Avenue, Hamilton Boulevard, and the median strip on Hamilton Boulevard. Due to the lack of facilities/destinations on the northwest corner of Hamilton and Lincoln, no pedestrian

improvements will be installed. Sidewalks will be expanded on the north and south side of Hamilton Boulevard and include appropriate specifications for bus access.

This project will greatly improve traffic flow, reduce crashes, and improve pedestrian mobility/safety along a supercritical corridor (>25,000 AADT) and regionally-identified high crash corridor. The proximity of this intersection to Interstate 78/SR 309 causes both increased vehicular speeds and traffic volumes at this intersection. This intersection is also heavily used by employees and visitors to Dorney Park & Wildwater Kingdom, a regional employer and popular theme park. 70 collisions have been documented between 2015 and 2021 and this corridor continues to be a high risk area for both transit users and pedestrians.

Anticipated outcomes of this project include the following:

- 1). Decreased congestion;
- 2). Reduced crashes;
- 3). Decreased maintenance costs;
- 4). Enhanced connectivity of the local bike/pedestrian active transportation network;
- 5). Improved connectivity and safer access to transit infrastructure.

South Whitehall Township staff submitted the required pre-application review form to PennDOT and received the below comment:

The scope of your project meets eligibility requirements for the ARLE Funding Program. Based on our review of the project area and proposed improvements, the project has benefits exceeding the requested grant funding.

- **Budget Line Item(s) (if applicable):** *Please indicate approved budget amount for specified project(s).*

N/A

Enclosure

SOUTH WHITEHALL TOWNSHIP
LEHIGH COUNTY, PENNSYLVANIA

RESOLUTION 2023- XX
(Duly Adopted June 7, 2023)

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF SOUTH WHITEHALL TOWNSHIP TO SUBMIT AN APPLICATION TO THE PENNSYLVANIA DEPARTMENT OF TRANSPORTATION 2023 AUTOMATED RED LIGHT ENFORCEMENT TRANSPORTATION ENHANCEMENTS GRANT PROGRAM ARLE FUNDING PROGRAM) TO PROVIDE FUNDING TO BE USED FOR HAMILTON BLVD. (SR 222) AND LINCOLN AVE. SIGNALIZED INTERSECTION IMPROVEMENTS

WHEREAS, the Automated Red Light Enforcement Transportation Enhancements Grant Program (ARLE Funding Program) was established in 2010 as a PennDOT-administered competitive grant program in accordance with Vehicle Code (75 Pa.C.S.) §3116(1)(2), §3117(m)(2), and §3370(m)(2) §3117(m)(2). Funding for the program is generated from the net revenue of fines collected through Automated Red Light Enforcement Systems and Automated Speed Enforcement Systems; and

Be it **RESOLVED**, that the Township of South Whitehall of Lehigh County hereby requests a 2023 ARLE Funding Program grant in an amount not to exceed **\$500,000.00** from the Pennsylvania Department of Transportation to be used towards improving the Hamilton Blvd. (SR 222) and Lincoln Ave. Signalized Intersection.

Be it **FURTHER RESOLVED**, that the Applicant does hereby designate Thomas R. Petrucci, Township Manager, Herb Bender, Director of Operations, and, if necessary, the President of the Board of Commissioners, Diane Kelly, as the official(s) to execute all documents and agreements between the Township of South Whitehall and the Department of Transportation to facilitate and assist in obtaining the requested ARLE grant.

DULY ADOPTED, this 7th day of June, 2023 by a majority of the Board of Commissioners of the Township of South Whitehall, Lehigh County, Pennsylvania, at a duly advertised meeting of the Board of Commissioners at which a quorum was present. As part of this Resolution, the Board of Commissioners has directed that the President, or Vice-President in the absence of the President, execute this Resolution on behalf of the Board.

TOWNSHIP OF SOUTH WHITEHALL
BOARD OF COMMISSIONERS

ATTEST:

Diane Kelly, President

Monica Hodges, Asst. Secretary



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BOARD OF COMMISSIONERS AGENDA ITEM REPORT

DATE: June 7, 2023

SUBMITTED BY: Tom Petrucci, Public Works

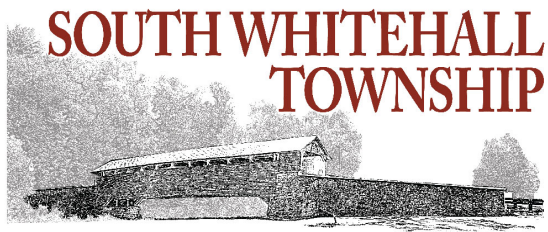
ITEM TYPE: Motion

AGENDA SECTION: MOTIONS

SUBJECT: Motion to Approve Incorporating a Cost Sharing Arrangement into the Improvements Agreement for the Parkland School District Operations Center (Major Plan 2022-108)- Roadway Restoration Work Required for Limekiln Road for Utility Connections

SUGGESTED ACTION:

ATTACHMENTS: [Memorandum- Cost Sharing Arrangement- Parkland Operations Center \(Major Plan 2022-108\).pdf](#)



**MEMORANDUM FOR
AGENDA ITEMS**

TO:	Board of Commissioners
FROM:	Tom Petrucci, Township Manager
DATE:	June 2, 2023
SUBJECT:	Approval of Motion- Incorporating a Cost Sharing Arrangement into the Improvements Agreement for the Parkland School District Operations Center (Major Plan 2022-108)- Roadway Restoration Work Required for Limekiln Road for Utility Connections
COPY TO:	H. Bender; D. Manhardt; G. Adams; T. Fehnel

- **Action Requested:**

A motion is requested from the Board of Commissioners to approve incorporating a Cost Sharing Arrangement into the Improvements Agreement for the Parkland School District Operations Center (Major Plan 2022-108).

- **Background Information:**

On April 19, 2023, the Township Board of Commissioners adopted a Resolution Granting Conditional Preliminary/Final Approval to a Major Plan Entitled “Parkland School District New Operations Center” subject to the conditions set forth in Resolution 2023-56.

The scope of the work associated with the public improvements for this project include the extension of a 2” water line from Lime Kiln Road (T-593) and the construction of a stormwater system to be installed along the same roadway.

The utility work requires the full width pavement restoration of Lime Kiln Road (T-593) in accordance with the Streets Opening Ordinance of the Township. As the Township is planning to resurface the Bridgeview Terrace water main replacement project, which is located on Lime Kiln Road (located approximately 300’ away), in 2024, it is prudent to allow for a Cost Sharing Arrangement between the Township and the School District in which the School District will pay the Township for the cost of the materials for the roadway restoration.

The estimated cost of the materials is provided as follows:

650’ x 25’=1,750 square yards: 78-ton scratch/ 157-ton final wearing course for a total of \$16,450.

The School District has agreed to this arrangement on face value, and it is has been determined to be mutually beneficial for both the Township and the School District. However, approval is required from the Board of Commissioners to proceed with the arrangement.

The Township Solicitor has confirmed that the formal Cost Sharing Arrangement can be built into the Improvements Agreement that will be eventually drafted for the Parkland School District Operations Center (Major Plan 2022-108) project, pursuant to the requirements of approved Resolution 2023-56. Therefore, a separate agreement is not required- only a motion to allow Township staff and the Township Solicitor to proceed with incorporating the Cost Sharing Arrangement

- **Budget Line Item(s) (if applicable):** *Please indicate approved budget amount for specified project(s).*

N/A



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BOARD OF COMMISSIONERS AGENDA ITEM REPORT

DATE: June 7, 2023

SUBMITTED BY: Tom Petrucci, Public Works

ITEM TYPE: Motion

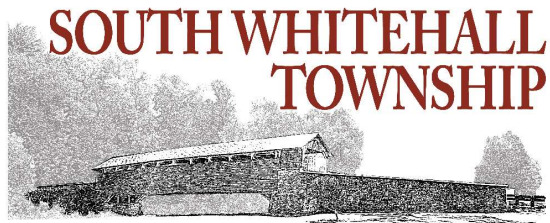
AGENDA SECTION: MOTIONS

SUBJECT: Motion to Reject All Bids Received for Water Tower Maintenance Bid (Bid 2023-05- Letting Date of May 30, 2023) and to Re-Bid the Project

SUGGESTED ACTION:

ATTACHMENTS:

- [Memorandum- Recommendation to Reject Bids for Tank Maintenance Bid.pdf](#)
- [Bid Tabulation- Recommendation to Reject Bids for Tank Maintenance Bid.pdf](#)



INTEROFFICE MEMORANDUM

To: Board of Commissioners
FROM: Herb Bender, Director of Operations,
Donna Zackeru-Lagonia, Purchasing Agent
DATE: June 1, 2023
SUBJECT: Water Tower Maintenance Bid #2023-05 Request to reject bids

Three (3) bids were received and opened for the Water Tower Maintenance bid on March 30, 2023, at 10:00am. This bid was advertised twice in a local publication as required by law. Sixty potential bidders downloaded and received bid documents.

As shown on the attached bid tabulation, Minoan Industrial LLC was the lowest bidder, however they failed to submit a form acknowledging the Townships confined space entry policy. The absence of this form is a critical aspect of this project and cannot be waived. Therefore, we consider their bid to be non-responsive.

Utility Service Co. and Corrosion Control also submitted bids and are much higher compared to the lowest bidder.

South Whitehall Township Public Works and Purchasing is requesting the Board reject all bids and approve a rebid for this project.

Line #	Description	Type	UOM	Quantity	Extended Estimate	Minoan Industrial LLC	Utility Service Co. Inc. - USG Water	Corrosion Control Corp
1	Brickyard Road Tank 2023 initial inspection, interior/exterior cleaning	Base	EA	1		\$19,900.00	\$30,609.00	\$50,450.00
2	Brickyard Road Tank 2024 thru 2027 annual exterior inspection cleaning	Base	EA	4		\$32,400.00	\$80,496.00	\$48,600.00
3	Brickyard Road Tank 2025 and 2027 interior inspection and cleaning.	Base	EA	2		\$25,000.00	\$12,218.00	\$8,560.00
4	Unit cost for sediment removal used for Bid Item Nos. 1 and 3	Option	\$/GAL	1		\$100.00	\$0.00	\$1,000.00
5	PPL Tank 2023 initial inspection, interior/exterior cleaning	Base	EA	1		\$17,900.00	\$18,475.00	\$47,900.00
6	PPL Tank 2024 thru 2027 annual exterior inspection and cleaning	Base	EA	4		\$60,000.00	\$61,472.00	\$75,780.00
7	PPL Tank 2025 and 2027 interior inspection and cleaning.	Base	EA	2		\$6,400.00	\$9,398.00	\$8,560.00
8	Unit cost for sediment removal used for Bid Item Nos. 5 and 7	Option	\$/GAL	1		\$100.00	\$0.00	\$750.00
9	Cedarbrook Tank 2023 initial inspection, interior/exterior cleaning	Base	EA	1		\$9,900.00	\$10,220.00	\$3,900.00
10	Cedarbrook Tank 2024 thru 2027 annual exterior inspection and cleaning	Base	EA	4		\$31,600.00	\$22,036.00	\$10,840.00
11	Cedarbrook Tank 2025 and 2027 interior inspection and cleaning.	Base	EA	2		\$5,600.00	\$9,398.00	\$2,880.00
12	Unit cost for sediment removal used for Bid Item Nos. 9 and 11	Option	\$/GAL	1		\$100.00	\$0.00	\$100.00
13	Jacoby Tank 2024 interior inspection	Base	EA	1		\$1,500.00	\$0.00	\$2,575.00
14	K-Mart Tank 2024 interior inspection	Base	EA	1		\$1,500.00	\$0.00	\$2,575.00
15	Birch Tank 2024 interior inspection	Base	Each	1		\$1,500.00	\$0.00	\$2,575.00
16	Dorney 2024 interior inspection	Base	Each	1		\$1,500.00	\$0.00	\$6,200.00
17	Painting of PPL Elevated Storage Tank - 2026	Base	Each	1		\$347,100.00	\$542,507.00	\$606,270.00
18	Emergency Call Labor Rate	Option	\$/HR	1		\$175.00	\$450.00	\$105.00
19	Emergency Mobilization Rate	Option	EA	1		\$2,000.00	\$3,500.00	\$105.00
						\$564,275.00	\$800,779.00	\$879,725.00
	Bid Proposal Form					X	X	X
	Bid Bond Form					X	X	X
	Steel Products Act Exemption Request Form					X	X	X
	Bidder Qualification Form					X	X	X
	Non-Collusion Affidavit					X	X	X
	Public Works Employment Verification Form					X	X	X
	Non-Discrimination Agreement Form					X	X	X
	Prevailing Wage Act Contract Requirements					X	X	X
	South Whitehall Township Confined Space Police					X	X	X
	Confined Space						X	X
	Submission Checklist For					X	X	X
	Pre-Bid Meeting Attendance					X	X	X



Item Cover Page

BOARD OF COMMISSIONERS AGENDA ITEM REPORT

DATE: June 7, 2023

SUBMITTED BY: Tom Petrucci, Public Works

ITEM TYPE: Motion

AGENDA SECTION: MOTIONS

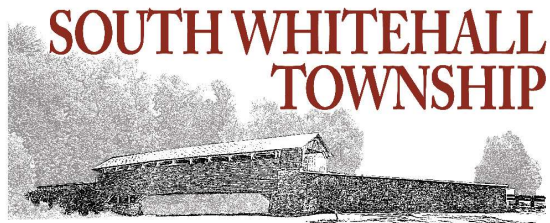
SUBJECT: Motion to Award Contract to Lowest Responsible Bidder (A1 Traffic Control) for Pavement Markings Bid (Bid 2023-06- Letting Date of May 23, 2023) – Lehigh Valley Cooperative Purchasing Council Bid

SUGGESTED ACTION:

ATTACHMENTS:

[Memorandum- Recommendation to Award Contract- Pavement Markings Bid 2023-06.pdf](#)

[Bid Tabulation- Pavement Markings Bid 2023-06.pdf](#)



INTEROFFICE MEMORANDUM

To: Board of Commissioners
FROM: Donna Zackeru-Lagonia, Purchasing Agent, LVCPC 2nd Vice President
Herb Bender, Director of Operations
DATE: May 31, 2023
SUBJECT: Pavement Markings Bid 2023-06 – LVCPC Bid

Two (2) bids were received and opened on Tuesday, May 23, 2023, at 10:00 a.m. for the Pavement Markings bid on behalf of the Lehigh Valley Cooperative Purchasing Council. This bid was advertised twice in a local publication as required by law.

A1 Traffic Control was the lowest responsible bidder, a bid tabulation is attached.

A1 Traffic Control has been awarded this contract for many years and we, as well as the other municipalities, have confidence they will once again fulfill another contract satisfactory to our standards.

We are respectfully requesting the Board approve the award of a contract on behalf of South Whitehall Township and the Lehigh Valley Cooperative Purchasing Council to A1 Traffic Control.

LEHIGH VALLEY COOPERATIVE PURCHASING COUNCIL
BID #2023-06 rebid
PAVEMENT MARKINGS

	QUANTITIES STATED MAY BE INCREASED OR DECREASED			CriLon Corp	A 1 Traffic Control Products
ITEM #	**QUANTITY (APPROXIMATE)	THERMOPLASTIC MARKINGS	UOM	UNIT PRICE	UNIT PRICE
1	300	White Traffic Zone Thermoplastic "STOP" 8'	EACH	\$457.93	\$300.00
2	300	White Traffic Zone Thermoplastic "ONLY" 8'	EACH	\$457.93	\$300.00
3	300	White Traffic Zone Thermoplastic "AHEAD" 8'	EACH	\$589.77	\$450.00
4	10	White Traffic Zone Thermoplastic Right Arrow 12'x3'0"	EACH	\$374.67	\$200.00
5	290	White Traffic Zone Thermoplastic Left Arrow 12'x3'0"	EACH	\$374.67	\$200.00
6	15	White Traffic Zone Thermoplastic Thru and Right Arrow 12'x3'0"	EACH	\$749.35	\$400.00
7	15	White Traffic Zone Thermoplastic Thru and Left Arrow 12'x3'0"	EACH	\$749.35	\$400.00
8	50,000	White Cross Walk Lines 6" Thermoplastic	LF	\$6.24	\$3.75
9	10	White Traffic Zone Thermoplastic Right Arrow and Left Arrow 12'x3'0"	EACH	\$749.35	\$400.00
10	10,500	White Traffic Zone Thermoplastic Stop Bar	LF	\$18.73	\$16.00
11A	1	Costs to remove existing marking to prep for Thermoplastic where necessary	LF	\$34.70	\$3.00
11B	1	Costs to remove existing marking to prep for Thermoplastic where necessary	Each	\$242.85	\$100.00
	QUANTITIES STATED MAY BE INCREASED OR DECREASED			CriLon Corp	A 1 Traffic Control Products
ITEM #	**QUANTITY (APPROXIMATE)	PAINTED PAVEMENT MARKINGS			
12	123	White Traffic Zone "STOP" 8'	EACH	\$374.67	\$80.00
13	494	White Traffic Zone "ONLY" 8'	EACH	\$374.67	\$80.00
14	3	White Traffic Zone "AHEAD" 8'	EACH	\$485.69	\$90.00
15	4	White Traffic Zone "RR CROSSING" 6'6" x 11' Lane Width	EACH	\$2,081.53	\$120.00

16	6,320	12" White Traffic	LF	\$6.12	\$1.20
17	43,900	24" White Traffic Zone	LF	\$12.49	\$2.50
18	78	White Traffic Zone Straight Arrow, 12'x1'8"	EACH	\$312.23	\$35.00
19	217	White Traffic Zone Right Arrow 12'x3'0"	EACH	\$312.23	\$35.00
20	352	White Traffic Zone Left Arrow 12'x3'0"	EACH	\$312.23	\$35.00
21	11	White Traffic Zone Thru and Right Arrow 12'x3'0"	EACH	\$624.46	\$70.00
22	1	White Traffic Zone Thru and Left Arrow 12'x3'0"	EACH	\$624.46	\$70.00
23	50,465	White Cross Walk Lines 6"	LF	\$2.08	\$0.60
24	5,251	White Hash Marks	LF	\$12.49	\$2.50
25	6,246	Yellow Hash Marks	LF	\$12.49	\$2.50
26	3,476	White Lines 6"	LF	\$0.62	\$0.60
27	191,530	White Lines 4"	LF	\$0.42	\$0.05
28	7,756	Yellow Lines 4"	LF	\$0.42	\$0.05
29	438,141	Double Yellow Lines 4"	LF	\$0.83	\$0.10
30	53	Handicap Markings – Blue & White	EACH	\$832.61	\$50.00
31A	1	Costs to remove existing markings to prep for 3-M tape where necessary	LF	\$34.70	\$3.00
31B	1	Costs to remove existing markings to prep for 3-M tape where necessary	EACH	\$242.85	\$100.00

REQUIRED FORMS

Offer to Extend to Non Participating Members	X	X
Bid Proposal Form	X	X
Bid Bond Form	X	X
Bidder Qualification Form	X	X
Non-Collusion Affidavit	X	X
Public Works Employment Verification Form	X	X
Non-Discrimination Agreement Form	X	X
Submission Checklist Form	X	X



Item Cover Page

BOARD OF COMMISSIONERS AGENDA ITEM REPORT

DATE: June 7, 2023

SUBMITTED BY: Tom Petrucci, Administration

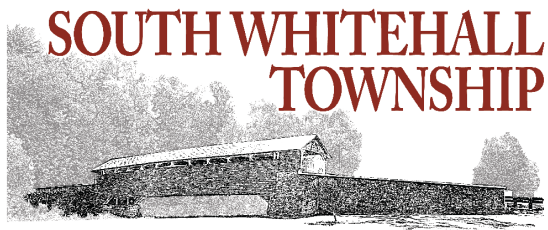
ITEM TYPE: Correspondence/Informational

AGENDA SECTION: CORRESPONDENCE AND INFORMATION ITEMS

SUBJECT: Upcoming Meetings

SUGGESTED ACTION:

ATTACHMENTS:
[IOM Upcoming Meetings and Current Vacancies.pdf](#)



UPCOMING MEETINGS AND CURRENT VACANCIES

UPCOMING MEETINGS: Details posted on website.

- Thursday, June 8, 7:00 PM – Emergency Management Services Mtg.,
Cetronia Joint Operations Center
- Monday, June 12, 7:00 PM – Parks and Recreation Board Mtg.
- Tuesday, June 13, 7:00 PM – Crime Watch Mtg.
- Wednesday, June 14, 10:00 AM– Civil Service Commission Mtg.
- Thursday, June 15, 7:00 PM – Planning Commission Mtg.
- Monday, June 19, 6:00 PM Green – Advisory Council Mtg.- **CANCELLED**

CURRENT VACANCIES ON BOARDS/COMMISSIONS:

1. Civil Service Commission - 0 Vacancies
2. Environmental Advisory Council - 3 Vacancies
3. Green Advisory Council - 2 Vacancies
4. Landscape Shade Tree Commission - 1 Vacancy
5. Planning Commission – 0 Vacancies
6. Zoning Hearing Board - 3 Alternate Vacancies



Item Cover Page

BOARD OF COMMISSIONERS AGENDA ITEM REPORT

DATE: June 7, 2023

SUBMITTED BY: Tom Petrucci, Police

ITEM TYPE: Direction/Discussion

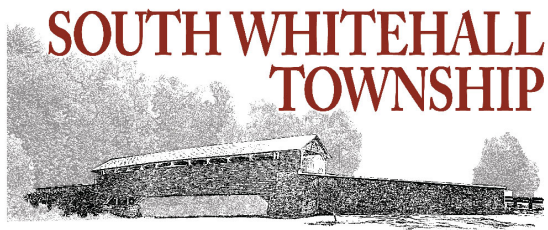
AGENDA SECTION: DIRECTION/DISCUSSION ITEMS

SUBJECT: Direction/Discussion- Review of Lease Option for Replacement of Police Vehicles

SUGGESTED ACTION:

ATTACHMENTS:

[Memorandum- Review of Lease Option for Replacement of Police Vehicles.pdf](#)



**MEMORANDUM FOR
AGENDA ITEMS**

TO:	Board of Commissioners
FROM:	Herb Bender
DATE:	June 2, 2023
SUBJECT:	Police Department Lease Agreement
COPY TO:	T.Petrucci; G.Dorney

- **Background Information and/or Justification of Expense:**

The Administration and Police Department are looking at possibly starting to lease the police fleet.

1st Option

- (12) Marked Patrol vehicles
- (2) marked K-9 vehicles
- (1) Unmarked patrol vehicle
- (1) Unmarked Chief's vehicle

The yearly lease price would be \$192,408.00. The budget amount for the year 2023 was \$287,712. New Radios were purchased out of this account for \$28,840 leaving a remaining balance of \$259,190.72.

2nd option

- (6) Marked Patrol Vehicles
- (2) Marked K-9 Vehicle
- (1) Unmarked patrol vehicle
- (1) Unmarked Chief's vehicle

The yearly price would be \$120,984.00. The budget amount for the year 2023 was \$287,712. New Radios were purchased out of this account for \$28,840 leaving a remaining balance of \$259,190.72.

We did call around to check references with other Police Department and agencies that are leasing. Attached to this Memo are their responses.

Public Works Mechanics did investigate if there would be big cost differences in parts after reviewing, they are pretty much the same. Fuel was also looked at. Tahoe averages from 9.8miles a gallon to 19 miles a gallon. This information came from a neighboring Municipality. The Explorer is currently getting around 8 to 14 miles a gallon. This information was taken right from the Explorers we currently have in the fleet.

- **Action Requested:**

Administration and Police Department are looking to get feedback on if in favor of the leasing option.

- **Budget Line Item (if applicable):**

30410003/40720 = \$287,712.00

Minus \$28,840 for Radios

Balance = \$259,190.72

Police Fleet

Purchase VS Leasing 16 cars

Year	Number of Cars	Budgeted Amount	60 month \$15k Buyout	Savings	60 month \$1 buyout	Savings
2021	3	212,063				
2022	3	217,113				
2023	4	287,712	192,408	95,304	239,748	47,964
2024	3	234,807	192,408	42,399	239,748	-4,941
2025	3	246,548	192,408	54,140	239,748	6,800
2026	4	333,062	192,408	140,654	239,748	93,314
2027	3	271,819	192,408	79,411	239,748	32,071
2028	3	285,410	240,510.00	44,900.0	299,685	-14,275
2029	4	367,201	240,510.00	126,691.0	299,685	67,516
2030	3	314,664	240,510.00	74,154.0	299,685	14,979
2031	3	330,398	240,510.00	89,888.0	299,685	30,713
2032	4	404,839	240,510.00	164,329.0	299,685	105,154
				0.00		
10 year total		3,076,460	2,164,590	911,870	2,697,165	379,295

Values based off 5% increase each year

2028 year lease based off 25% increase

Does not include revenue from vehicles traded in

Vehicle	Year	Mileage	Current Assignment	Plan	LPR	Radios	Radio Style	Radio Style	Estimated Value	Radio Plan
302	2021	12444	Patrol	SRO	no	2	Harris LCR	Harris APD		Transfer to new 302
303	2020	46024	Patrol	Trade In	yes	2	Harris LCR	Harris APD	\$30,000	Transfer to new 303
304	2020	46507	Patrol	Trade In	yes	2	Harris APD	Harris APD	\$30,000	Transfer to new 304
305	2021	28883	Patrol	Trade In	yes	2	Harris APD	Harris APD		Transfer to new 305
306	2020	37181	Patrol	Trade In	yes	2	Harris LCR	Harris APD	\$30,000	Transfer to new 306
307	2022	5555	Patrol	SRO	yes	1	NEW Harris			Transfer to new 307
308	2020	44466	Patrol - Ghost	CID	no	2	Harris LCR	Harris APD		Transfer to new 308
309	2016		Patrol K-9 Beaumont	Trade In	no		Old Motorola			Transfer to new 309
310	2021	15103	Patrol	SRO	yes		Harris LCR	Harris APD	\$35,000	Transfer to new 310
311	2016	115666	Grozier	Trade In	no	1	Old Motorola		\$5,000	Transfer to new 311
312	2022	2271	Patrol	SRO	yes	1	NEW Harris			Transfer to new 312
313	2014	69,200	Patrol - Unmarked	Trade In	yes		Old Motorola		\$5,000	Transfer to new 313
314	2018	85021	Patrol	Trade In	yes	1	New Motorola		\$15,000	Use in another car
315	2018	67745	Patrol - Ghost	CID	yes	2	New Motorola	Harris APD		Use in another car
319	2017		Patrol K-9 Smith	Trade In	no		Old Motorola			Transfer to new 319
320	2022	9356	Patrol Sgt	Keep	no	2	Motorola LCR	Harris APD		keep in car
321	2019		Patrol Sgt	Keep to JVG	no	2	Old Motorola	Harris APD		keep in car
322	2021	19305	Patrol Sgt	Trade In	no	2	Harris LCR	Harris APD		Transfer to new 322
329	2017	80632	Patrol Spare K-9	Keep Spare K9	no	1	Old Motorola			keep in car
331	2014	58832	Shoudt - CID	Keep	no	1	Old Motorola			keep in car
332	2007		Janusz - CID	Trade In	no		Old Motorola		\$3,000	Use in another car
333	2014	58767	Moyer - CID	Keep	no	1	Old Motorola			keep in car
334	2006		CID Spare	Trade In	no		Old Motorola		\$3,000	Use in another car
335	2010		Doherty - CID	Trade In	no		Old Motorola		\$3,000	Use in another car
340	2016		Commercial Enf	Keep	no		Old Motorola			keep in car
341	2006		MERT	Trade In	no					Use in another car
342	2008		Faust - SRO	Trade In	no		Old Motorola		\$1,500	Transfer to new 342
343	2015		Bammer - SRO	Trade In	no		Old Motorola		\$5,000	Transfer to new 343
344	2018		Azar - SRO	Trade In	no		Old Motorola		\$15,000	Transfer to new 344
345	2018		Polaris Ranger	Keep	no				\$5,000	N/A
346	2016		Sariego - SRO	Trade In	no		Old Motorola			Transfer to new 346
350	2018	52,000	Dorney	To PW- Herb	no	2	Motorola LCR	Motorola APD	\$20,000	Transfer to new 350
351	2020		Brown	Keep	no	2	Harris LCR	Harris APD		keep in car
352	2020	14000	Dotter	Keep	no	2	Harris LCR	Harris APD		keep in car
354	2020		Kleintop	Keep	no	2	Harris LCR	Harris APD		keep in car

Old 331	Trade In	\$1,500	Use in another car
Old 333	Trade In	\$1,500	Use in another car

Estimated Trade In Value

208500

NEW PLAN

302	2023	Patrol - Marked	Leased Tahoe	Transferred from old 302
303	2023	Patrol - Marked	Leased Tahoe	Transferred from old 303
304	2023	Patrol - Marked	Leased Tahoe	Transferred from old 304
305	2023	Patrol - Marked	Leased Tahoe	Transferred from old 305
306	2023	Patrol - Marked	Leased Tahoe	Transferred from old 306
307	2023	Patrol - Marked	Leased Tahoe	Transferred from old 307 & Old County Radio
308	2023	Patrol - Marked	Leased Tahoe	APD Radio Transferred from 308 & Old County Radio
309	2023	Patrol - K-9 Beaumont	Leased Tahoe	Transfer from old 309 and New Harris Radio
310	2023	Patrol - Marked	Leased Tahoe	Transfer from old 310
311	2023	Patrol - Marked	Leased Tahoe	Transfer from old 311 and New Harris Radio
312	2023	Patrol - Marked	Leased Tahoe	Transferred from old 312 & Old County Radio
313	2023	Patrol - Unmarked	Leased Tahoe	Transferred from old 313 & New Harris Radio
319	2023	Patrol - K-9 Smith	Leased Tahoe	Transfer from old 319 & New Harris Radio
320	2022	Patrol - Sergeant	Ford F-150	Keep
321	2019	CLO - Grozier	Ford F-150	Keep
322	2023	Patrol - Sergeant	Leased Tahoe	Transferred from old 322
323	2023	Patrol - Sergeant	Leased Tahoe	New Harris Radio & Old County Radio
329	2017	Patrol - Spare K-9	Ford Explorer	Keep
331	2014	Shoudt	Ford Explorer	Keep
332	2020 old 308	Janusz	Ford Explorer	County Radio left in place
333	2014	Moyer	Ford Explorer	Keep
334	2018 old 315	Doherty	Ford Taurus	County Radio left in place
340	2016	Commercial Vehicle Enf	Ford F-250	Keep
341	2006 MERT Van	MERT	Ford Van	
342	2021 old 312	SRO - Faust	Ford Explorer	Transferred from old 342 - No APD Radio
343	2022 old 307	SRO - Bammer	Ford Explorer	Transferred from old 343 - No APD Radio
344	2021 old 310	SRO - Azar	Ford Explorer	Transfer from old 344 - No APD Radio
345	2018	Polaris Ranger		N/A
346	2021 old 302	SRO - Sarioego	Ford Explorer	Transfer from 346 - No APD Radio
350	2023	Dorney	Leased Tahoe	Transfer
352	2020	Brown	Ford Explorer	Keep
353	2020	Dotter	Ford Explorer	Keep
354	2020	Kleintop	Ford Explorer	Keep

Glen Dorney

From: Francis Staab <FStaab@earpd.org>
Sent: Wednesday, May 10, 2023 4:15 PM
To: Glen Dorney
Subject: Leasing

Dear Chief,

I have been using Bancorp leasing to purchase all of my police vehicles and upfitting costs for the past eight (8) years and have not had any problems with their service. I have a small department and this concept allows me to budget for capital improvements of my fleet since my commissioners will not allow me to have more than two leases in a given budgetary year. The way it has been working for my department is getting a new vehicle every other year.

I also heard Enterprise leasing is a good alternative.

I lease a new vehicle with all new upfitting for a three (3) year period and at the end of the three (3) years I purchase the vehicle for \$1.00.

They do have a provision that you can turn the vehicle back over to them if you are having budgetary problems.

Best of luck on your decision

Francis Staab

Chief of Police
Eastern Adams Regional Police Department
110 North Berlin Avenue
New Oxford, Pa 17350
Phone (717) 624-1614 ext. 203
Fax (717) 624-1487



Glen Dorney

From: Chris McKim <cmckim@ephراطpd.org>
Sent: Thursday, May 11, 2023 10:58 AM
To: Glen Dorney
Subject: RE: Fleet Post
Attachments: Police Fleet Options Worksheet.doc; Fleet Lease General Info.ppt; 2002 Fleet Leasing Proposal original.ppt; Old Fleet & Equipment List.doc

Glen,

We have 13 patrol vehicles. We keep the best ones to use as a pool car, SRO, and detectives.

We started the concept (which we have massaged into what we like) with a fleet purchase in 2002. The program started with a much smaller fleet, as we were a single municipality department. Since then we have expanded twice and cover a total of 4 municipalities.

I am attaching some samples of justifications, etc that were used back then. I did not create them, as I was a shiny new patrolman, but the old boss left them behind. Feel free to pillage and plagiarize to your needs.

Cheers
 Chris

Christopher J. McKim
Chief of Police
Ephrata Police Department
124 South State Street
Ephrata, PA 17522
717-738-9200 x 220



*"Our job is to know our community **before** we **need** to know them."*

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From: Glen Dorney <dorneyg@swtpd.org>
Sent: Thursday, May 11, 2023 8:09 AM
To: Chris McKim <cmckim@ephراطpd.org>
Subject: RE: Fleet Post

Christopher,

Thank you very much for the feedback. How many vehicles are in your fleet (on the lease) and how long have you been leasing? Thanks again and stay safe.

Glen Dorney
 Chief of Police
 South Whitehall Township Police Department
 4444 Walbert Ave
 Allentown, Pa 18104
 610-398-0337
www.southwhitehall.com
www.facebook.com/southwhitehallpd



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From: Chris McKim <cmckim@ephراطpd.org>
Sent: Wednesday, May 10, 2023 5:11 PM
To: Glen Dorney <dorneyg@swtpd.org>
Subject: Fleet Post

Chief,

We use a "leasing" program that is really just an installment purchase. The "lease" says we own the vehicle at the end of the 4 or 5 year payment period.

We use a regular finance company for funding and then we use the dealership as the master vendor (COSTARS, of course!) We pick all the things that need for a cruiser – radios, lights & sirens, laptops and mounts, cages, MVR, trunk boxes, graphics, gun mounts, etc. The finance company pays either the dealer or the equipment vendor. Then we just pay the finance company our monthly payment. We usually throw in some extra warranty depending whether we think we'll hit the milage or last payment earlier. If there is something we can transfer, we will (and include the upfit costs in the "lease" payment.

We turn the whole patrol fleet at the same time, so the use is regulated and we can manage milage. No one jockeying for the new cruiser, and a reasonable idea of what your fleet with be worth for resale after.

This also helps us to keep a line item in the budget with infrequent changes – only as the fleet is turned.

I'll try to remember the name of the finance company if you want it.

Hope this helps.

Chris

717-587-0280

Christopher J. McKim
Chief of Police

Ephrata Police Department
124 South State Street
Ephrata, PA 17522



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Glen Dorney

From: Joseph Pretti <jpretti@eddystonepd.com>
Sent: Wednesday, May 10, 2023 4:14 PM
To: Glen Dorney
Subject: Re: Vehicle Leasing

Chief,

We have been leasing for about 11 years now. Usually, 3 cars at a time. We only have 8 in our fleet. We just bought a Tahoe last year on a 4-year lease. We are paying \$8,100 for four years just on the Tahoe and then at the end we will purchase the Tahoe for \$1.00 and keep it. Our Charger and Explorer are around \$6,500 per year each on a 4-year lease. We find it beneficial because that money is always being budgeted now on a yearly basis.

Respectfully,

Lt. Joseph Pretti, NREMT
 Criminal Investigations
 Eddystone Police Dept.
 1300 E. 12th St.
 Eddystone, PA 19022
 Ph.# 610-874-9325, ext.# 278
 Fax# 610-874-3350



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On 2023-05-10 3:54 pm, Glen Dorney wrote:

Joseph,

Thank you for the quick response. How many vehicles do you lease at a time? We are dealing with Whitmoyer as the vendor through Bancorp. We are looking at leasing all of our front line cars (11), 2 K-9

cars, and my car for 5 years with a \$15K buyout (Tahoes). How long have you been using the leasing program? I greatly appreciate your feedback. Stay safe.

Glen Dorney

Chief of Police

South Whitehall Township Police Department

4444 Walbert Ave

Allentown, Pa 18104

610-398-0337

www.southwhitehall.com

www.facebook.com/southwhitehallpd



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From: Joseph Pretti <jpretti@eddystonepd.com>

Sent: Wednesday, May 10, 2023 3:34 PM

To: Glen Dorney <dorneyg@swtpd.org>

Subject: Vehicle Leasing

Glen,

We use New Holland Auto Group or Witmoyer Auto Group for leasing. We started leasing years ago when our municipality wanted to cut our patrol car budget if they thought we didn't need any that year. By leasing, that money has to be there every year for payments. We usually lease for 4 years. When the lease is up, we purchase the vehicle for \$1.00. Then we just add another new patrol vehicle onto the lease again. It's a win win for my department. Sometimes New Holland has new vehicles with the lights installed and they add that cost into the lease.

Respectfully,

--

Lt. Joseph Pretti, NREMT
Criminal Investigations
Eddystone Police Dept.
1300 E. 12th St.
Eddystone, PA 19022
Ph.# 610-874-9325, ext.# 278
Fax# 610-874-3350



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Item Cover Page

BOARD OF COMMISSIONERS AGENDA ITEM REPORT

DATE: June 7, 2023

SUBMITTED BY: Tom Petrucci, Community Development

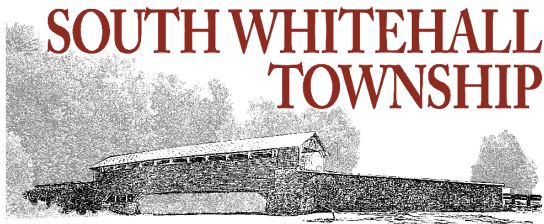
ITEM TYPE: Old Business

AGENDA SECTION: OLD BUSINESS

SUBJECT: Direction/Discussion- Review of Landscape Preservation Plan Public Meeting Timeline

SUGGESTED ACTION:

ATTACHMENTS:
[2023.05.30 BOC Memo - Landscape Preservation Plan Public Outreach.pdf](#)



**MEMORANDUM FOR
AGENDA ITEMS**

To:	Board of Commissioners
From:	Chris Strohler – Long-Range Planner
Date:	May 30, 2023
Subject:	Landscape Preservation Plan Public Outreach

- **Background Information:**

Township staff is prepared to kick off the South Whitehall Township Landscape Preservation Plan to address the following implementation items of the Comprehensive Plan:

- Agricultural Preservation (A3)
- Historic Preservation (H2)
- Landscape Preservation (L1)
- Open Space Preservation (O1)
- Resource Protection Ordinances (R3)

As part of this plan, staff intends to offer ample opportunity for public engagement through the following:

- Landscape Preservation Plan Photo Survey
- Tuesday June 27th 6:00 PM – 8:00 PM: Landscape Preservation Plan Kick-off Meeting
- Tuesday August 15th 6:00 PM – 8:00 PM: Agricultural Resources Subject Matter Meeting
- Tuesday August 22nd 6:00 PM – 8:00 PM: Natural Resources Subject Matter Meeting
- Tuesday August 29th 6:00 PM – 8:00 PM: Historic Resources Subject Matter Meeting

These meetings will be held in person at the Township Municipal Building and promoted through the Township website, flyers, and social media. Project workbooks will be distributed at the June 27th Kick-off Meeting to collect feedback from the public. These project workbooks will also be available at the Township Municipal Building and available for download on the Township website.

- **Action Requested:**

Motion to proceed with scheduling public engagement meetings for the South Whitehall Township Landscape Preservation Plan.

- **Budget Line Item:**

01-46-460-0000-000-0000-02-40312

- **Attachments**

None



Item Cover Page

BOARD OF COMMISSIONERS AGENDA ITEM REPORT

DATE: June 7, 2023

SUBMITTED BY: Tom Petrucci, Finance

ITEM TYPE: Payment of Invoices

AGENDA SECTION: MOTION TO AUTHORIZE PAYMENT OF INVOICES & DISBURSEMENTS

SUBJECT: Invoices and Disbursements for Approval (June 7, 2023 BOC Meeting)

SUGGESTED ACTION:

ATTACHMENTS: