

PERKASIE BOROUGH COUNCIL

Agenda for Council Committee Meeting of Tuesday, January 3, 2023

1. Meeting Convenes at 7:00PM – Council Meeting Room
2. Invocation and Pledge of Allegiance – Mayor Hollenbach
3. Attendance
4. Public Forum
5. Public Works Committee Meeting, Councilors: Steve Rose (Chair), Chuck Brooks, Aaron Clark, Dave Weaver, Dave Worthington
 - A. Consider Hiring of Full-Time Public Works Employee
 - B. Other Business
6. Public Utility Committee Meeting, Councilors: Jim Purcell (Chair), Randy Faulkner, Steve Rose, Dave Weaver
 - A. Perkasio Wholesale Power Cost Monthly Report
 - B. Other Business
7. Planning and Zoning Committee Meeting, Councilors: Councilors: Dave Weaver, (Chair), Chuck Brooks, Jim Purcell, Steve Rose, Dave Worthington
 - A. Consider Access Easement Agreement – 606 West Chestnut Street
 - B. Consider Land Development Agreement and Stormwater Controls and Best Management Practices Operations & Maintenance Agreement for Perry Mill
 - C. Consider Resolution 2023-1 – Escrow Release for JEER, LLC
 - D. Discuss SEPTA Right of Entry Documents and SEPTA Request
 - E. Other Business
8. Park and Recreation Committee Meeting, Councilors: Aaron Clark, (Chair), Randy Faulkner, Scott Bomboy, Jim Purcell, Dave Worthington
 - A. Other Business
9. Personnel and Policy Committee Meeting, Councilors: Chuck Brooks (Chair), Jim Ryder, Scott Bomboy, Randy Faulkner
 - A. Other Business
10. Finance Committee Meeting, Councilors: Randy Faulkner (Chair), Scott Bomboy, Jim Purcell, Jim Ryder, Dave Weaver
 - A. Other Business
11. Economic Development Committee Meeting, Councilors: Scott Bomboy (Chair), Chuck Brooks, Steve Rose, Randy Faulkner
 - A. Other Business
12. Public Safety Committee Meeting, Councilors: Dave Worthington (Chair), Mayor Jeff Hollenbach, Scott Bomboy, Aaron Clark, Jim Ryder
 - A. Other Business
13. Historical Committee Meeting, Councilors: Scott Bomboy (Chair), Jim Purcell, Aaron Clark, Randy Faulkner
 - A. Other Business
14. Report from Youth Councilor
15. Other Business
16. Public Forum
17. Press Forum

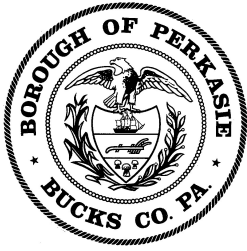
18. Executive Session

19. Adjournment

Next Meeting: Monday, January 16, 2023 – 7:00 PM

Perkasie Borough Council agendas are available via e-mail in advance of the meetings. Please send any agenda requests to: admin@perkasieborough.org. The agendas are also available on our website at www.perkasieborough.org.

As of the October 3, 2022 meeting, Perkasie Borough Council meeting packets are now available on our website at www.perkasieborough.org.



BOROUGH OF PERKASIO

MEMORANDUM

DATE: December 14, 2022

TO: Andrea Coaxum, Borough Manager
Council Members
Mayor Hollenbach
Rebecca Deemer, Finance Director

FROM: Jeffrey Tulone, Public Works Director

Jeffrey Tulone

RE: Full Time Employment – Richard Hughes

The approved 2023 Budget includes the hiring of an additional Full-Time employee for the Public Works Department. At this time, I would like to recommend that Richard Hughes be hired at the approved starting rate of \$26.50. Rich has been a Permanent Part-Time Laborer for the Borough since December 21, 2020. He already has his CDL license and will be able to start demonstrating his driving capabilities right away with collecting refuse and recycling. Rich also helps with snow plowing and is a very capable employee who can assist with any tasks that need to be done for the Department. Rich will continue to be a great asset to the Public Works Department.

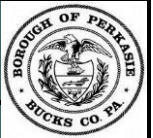
Borough of Perkasio

Calendar Year 2022

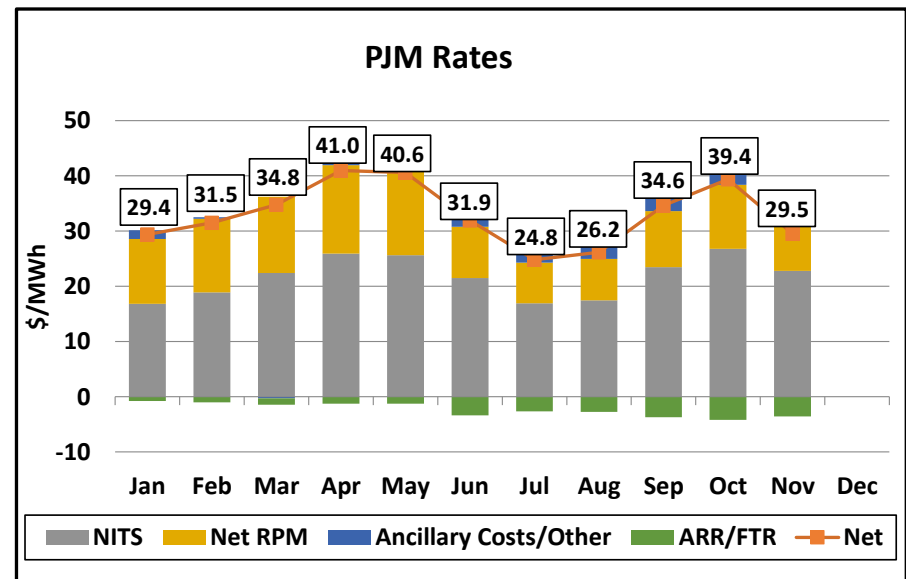
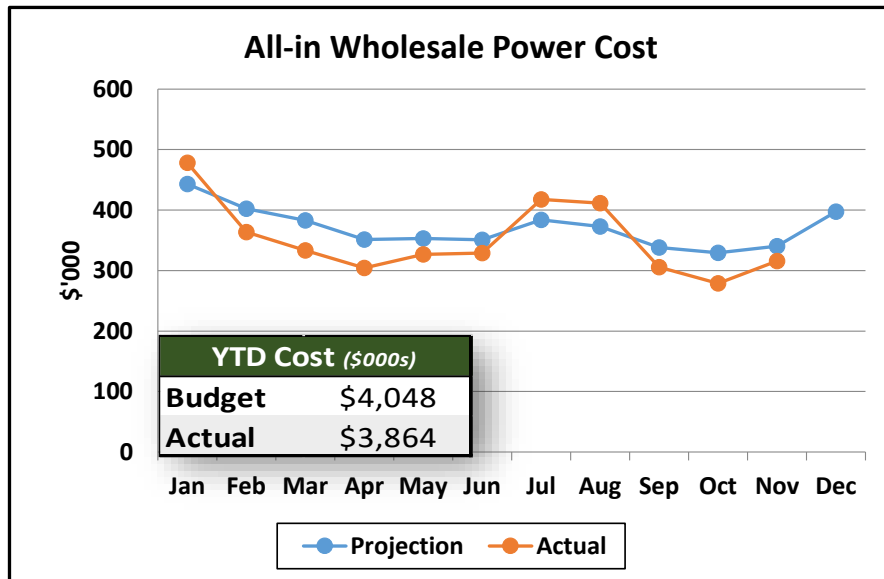
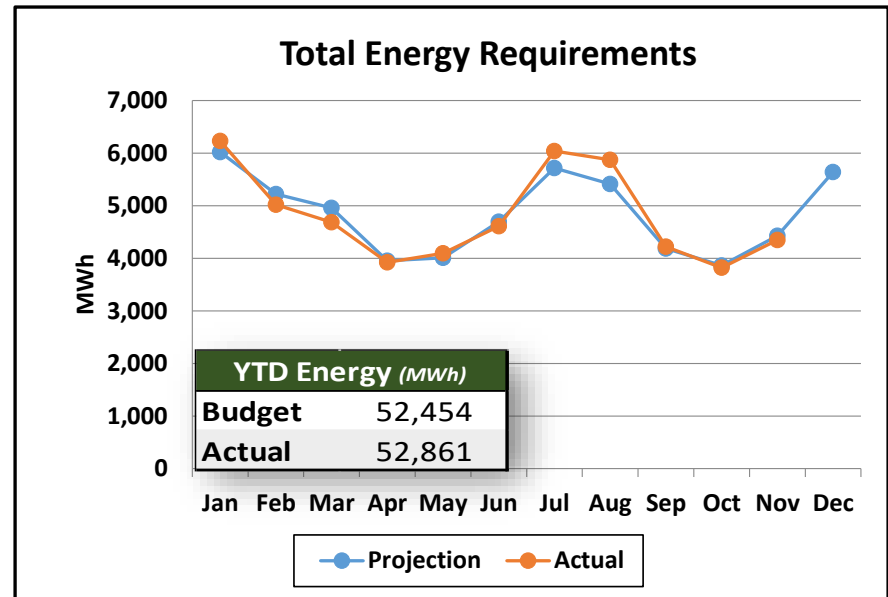
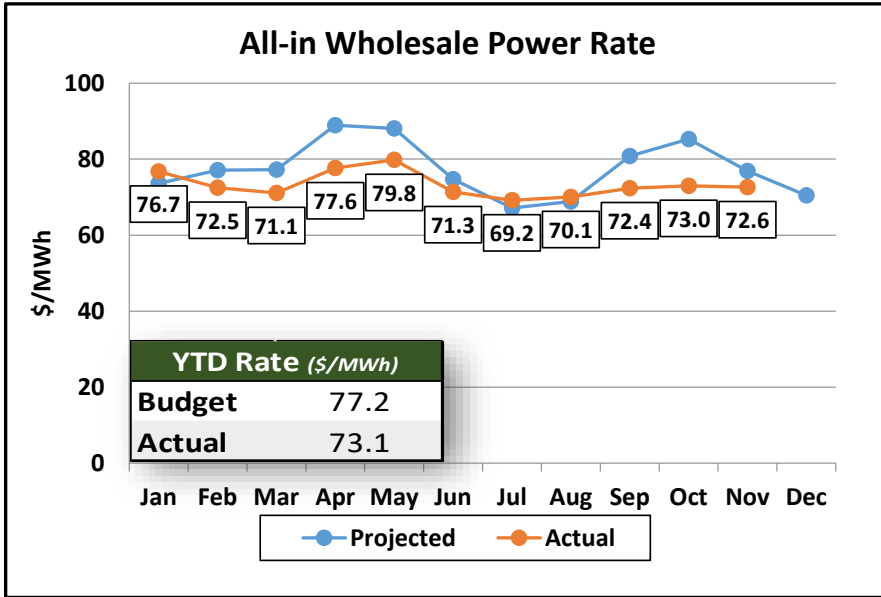


Wholesale Power Cost Summary

November 2022



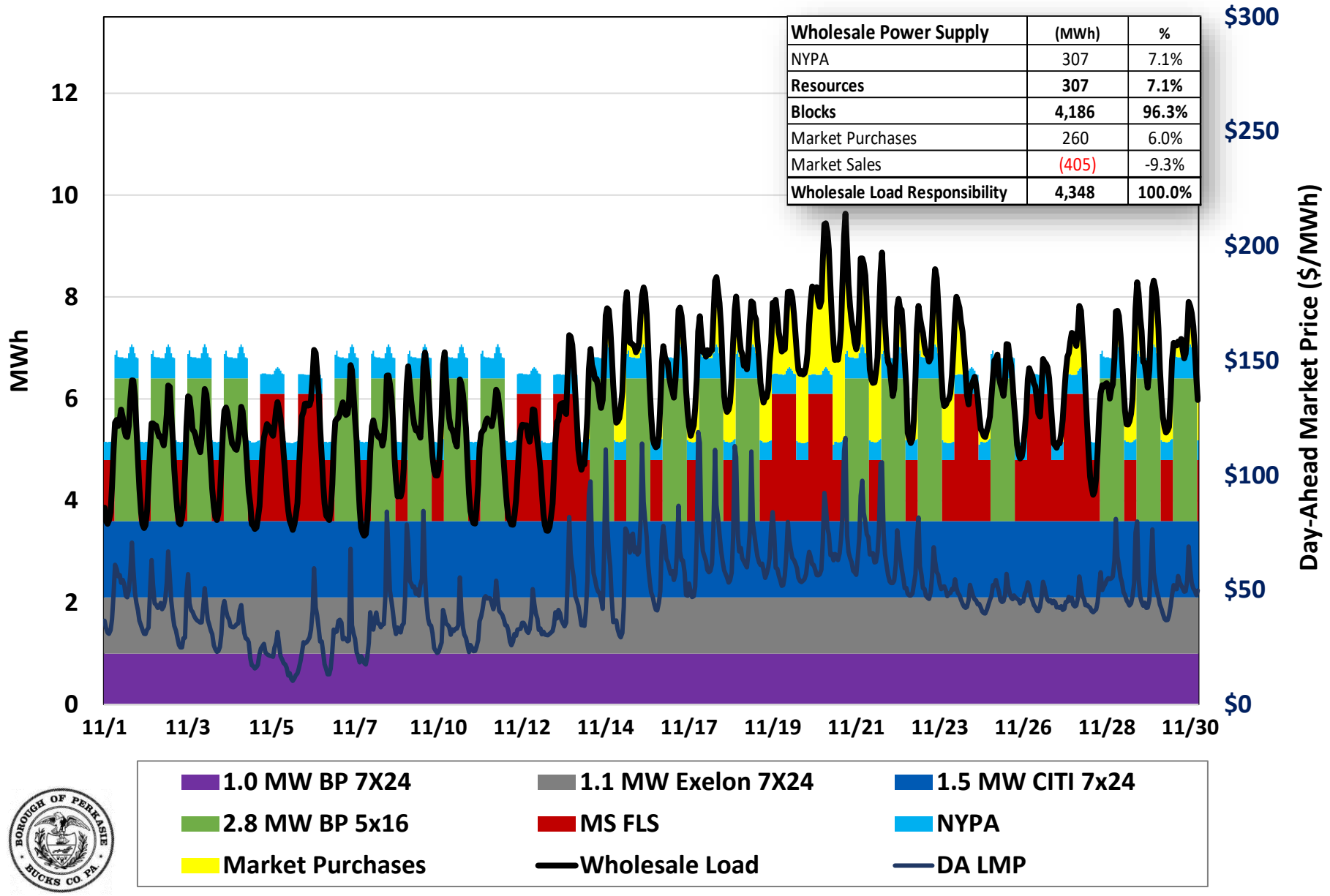
2022 Year to Date Wholesale Power Summary



1/ Excludes PJM Market Interaction Costs

2/ Net RPM is capacity load costs less capacity generation credits

Hourly Perkasio Load Wholesale Power Supply



Borough of Perkasio



2022 Year to Date Summary

All-In Rate Summary

	Resource Cost ¹		Purchased Blocks ¹		Market Purchases ¹		Market Sales ¹		Total Energy Cost		PJM Cost ²		Miscellaneous Costs ³		All-In Rate ⁴		Delta	
	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	(\$/MWh)	
	(\$/MWh)	(\$/MWh)	(\$/MWh)	(\$/MWh)	(\$/MWh)	(\$/MWh)	(\$/MWh)	(\$/MWh)	(\$/MWh)	(\$/MWh)	(\$/MWh)	(\$/MWh)	(\$/MWh)	(\$/MWh)	(\$/MWh)	(\$/MWh)	(\$/MWh)	(\$/MWh)
Jan-22	\$24.32	\$10.98	\$41.67	\$42.84	\$42.28	\$110.46	\$31.00	\$38.95	\$41.65	\$45.20	\$30.53	\$29.36	\$1.43	\$2.18	\$73.61	\$76.74	3.13	
Feb-22	\$26.39	\$17.65	\$40.85	\$39.69	\$36.16	\$72.59	\$33.11	\$40.25	\$40.49	\$39.61	\$35.12	\$31.48	\$1.45	\$1.40	\$77.06	\$72.49	(4.57)	
Mar-22	\$24.97	\$31.52	\$38.78	\$37.81	\$31.06	\$61.99	\$22.91	\$34.79	\$38.84	\$38.60	\$36.96	\$34.79	\$1.46	(2)	\$77.25	\$71.11	(6.14)	
Apr-22	\$25.62	\$21.24	\$40.93	\$38.51	\$22.79	\$66.18	\$24.93	\$58.20	\$41.22	\$35.17	\$46.20	\$40.97	\$1.50	\$1.49	\$88.92	\$77.63	(11.29)	
May-22	\$24.51	\$36.07	\$40.92	\$35.64	\$27.11	\$99.58	\$23.65	\$67.60	\$41.00	\$35.88	\$45.57	\$40.61	\$1.50	\$3.32	\$88.07	\$79.80	(8.27)	
Jun-22	\$26.62	\$33.09	\$39.45	\$33.43	\$30.31	\$121.64	\$19.40	\$57.01	\$38.66	\$37.84	\$34.63	\$31.93	\$1.47	\$1.57	\$74.75	\$71.34	(3.42)	
Jul-22	\$25.70	\$56.19	\$36.83	\$32.58	\$37.68	\$124.12	\$21.78	\$54.73	\$37.17	\$43.03	\$28.54	\$24.81	\$1.44	\$1.34	\$67.14	\$69.17	2.03	
Aug-22	\$26.35	\$40.01	\$37.46	\$29.30	\$34.05	\$119.35	\$20.17	\$67.37	\$37.32	\$42.67	\$30.11	\$26.16	\$1.45	\$1.21	\$68.88	\$70.05	1.18	
Sep-22	\$25.39	\$40.62	\$39.69	\$34.46	\$34.27	\$105.15	\$21.12	\$51.71	\$40.54	\$37.46	\$38.79	\$34.63	\$1.49	\$29	\$80.82	\$72.38	(8.44)	
Oct-22	\$23.86	\$26.74	\$41.10	\$37.86	\$25.17	\$50.78	\$23.28	\$54.10	\$41.81	\$35.14	\$41.97	\$39.37	\$1.51	(2)	\$85.28	\$72.98	(12.30)	
Nov-22	\$25.48	\$30.68	\$39.44	\$40.15	\$28.84	\$68.38	\$27.70	\$35.87	\$38.70	\$41.57	\$36.68	\$29.50	\$1.48	\$1.57	\$76.86	\$72.64	(4.22)	
Dec-22	\$23.92	-	\$40.68	-	\$29.04	-	\$28.37	-	\$40.12	-	\$28.92	-	\$1.44	-	\$70.48	-		
YTD	\$25.35	\$31.08	\$39.70	\$36.65	\$33.54	\$104.69	\$24.58	\$49.13	\$39.66	\$39.80	\$36.05	\$32.28	\$0.02	\$1.02	\$77.17	\$73.10	(\$4.07)	

1/ Resource, Purchased Blocks and Market Purchase/Sales include applicable Congestion and Losses costs. Each of these categories are weighted by their applicable energy amounts.

2/ Includes NITS Charge, Net RPM Cost, Ancillary Services Cost and ARR/FTRs Credits, Other Transmission Charges, Admin Fees and Load Reconciliation

3/ Includes AMP Service Fees

4/ All-In Rate is based on Total Sales

Borough of Perkasi

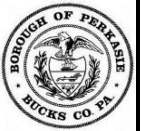


2022 Year to Date Summary

Energy Supply Summary (MWh)

	NYPA			Market Purchases		Market Sales	
	Projected (MWh)	Actual (MWh)	Capacity Factor ¹ (%)	Projected (MWh)	Actual (MWh)	Projected (MWh)	Actual (MWh)
Jan-22	277	355	85%	292	364	(423)	(360)
Feb-22	250	317	84%	253	209	(374)	(599)
Mar-22	277	364	88%	193	164	(353)	(672)
Apr-22	268	322	80%	85	79	(425)	(494)
May-22	276	328	79%	148	255	(400)	(485)
Jun-22	246	297	74%	436	332	(345)	(380)
Jul-22	254	302	73%	448	658	(293)	(216)
Aug-22	249	288	69%	573	896	(231)	(145)
Sep-22	246	269	67%	269	262	(459)	(438)
Oct-22	277	311	75%	86	115	(498)	(517)
Nov-22	267	307	76%	230	260	(246)	(405)
Dec-22	277	-	0%	295	-	(401)	-
YTD	2,886	3,460	77%	3,013	3,596	(4,047)	(4,711)

^{1/} The Capacity Factor is based on the actual generation.



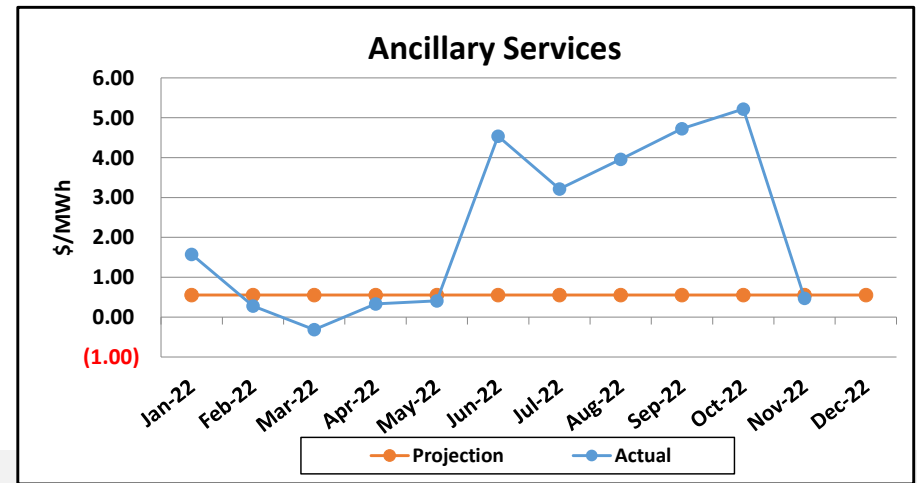
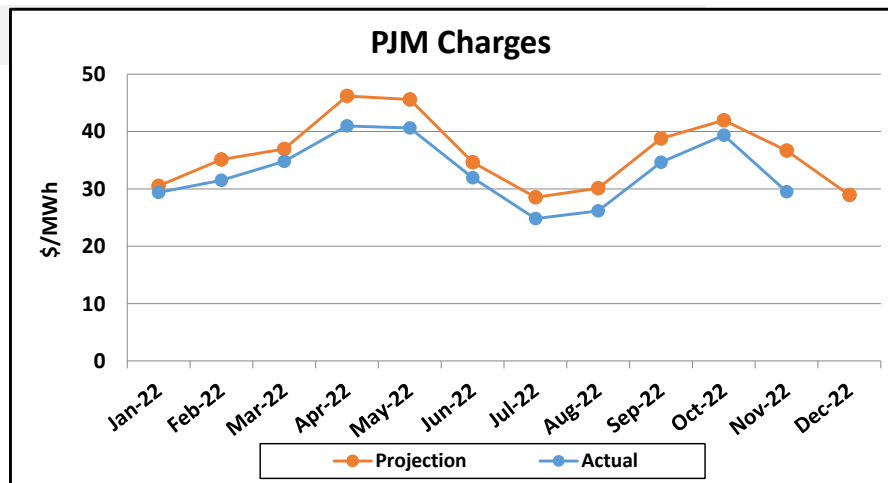
PJM Charge Summary (excl. PJM Market Interaction Costs)

	NITS		Net RPM ¹		ARR/FTR		Ancillary Services/Other ²		Total		Contribution to All-In Rate ³		Delta
	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	
	(\$000)	(\$000)	(\$000)	(\$000)	(\$000)	(\$000)	(\$000)	(\$000)	(\$000)	(\$000)	(\$000)	(\$/MWh)	(\$/MWh)
Jan-22	117	105	64	73	-	(5)	3	10	184	183	\$30.53	\$29.36	(\$1.17)
Feb-22	117	95	64	67	-	(5)	3	1	183	158	\$35.12	\$31.48	(\$3.64)
Mar-22	117	105	64	65	-	(5)	3	(1)	183	163	\$36.96	\$34.79	(\$2.17)
Apr-22	117	102	64	63	-	(5)	2	1	183	161	\$46.20	\$40.97	(\$5.23)
May-22	117	105	64	65	-	(5)	2	2	183	166	\$45.57	\$40.61	(\$4.96)
Jun-22	117	99	43	43	-	(16)	3	21	163	147	\$34.63	\$31.93	(\$2.70)
Jul-22	117	102	43	44	-	(16)	3	19	163	150	\$28.54	\$24.81	(\$3.73)
Aug-22	117	102	43	44	-	(16)	3	23	163	154	\$30.11	\$26.16	(\$3.94)
Sep-22	117	99	43	43	-	(16)	2	20	162	146	\$38.79	\$34.63	(\$4.16)
Oct-22	117	102	43	44	-	(16)	2	20	162	150	\$41.97	\$39.37	(\$2.61)
Nov-22	117	99	43	43	-	(16)	2	2	162	128	\$36.68	\$29.50	(\$7.18)
Dec-22	117	-	43	-	-	-	3	-	163	-	\$28.92	-	-
YTD	1,284	1,115	578	593	0	(121)	29	118	1,891	1,706	36.05	32.28	(3.77)

1/ Net RPM is the RPM Cost less the Generator's RPM Credits.

2/ Ancillary services/Other also includes: Admin fees, Load Reconciliation and Other Transmission Charges

3/ The Rate is based on Total Sales



Borough of Perkasio



November 2022

	Projected			Actual			Delta		
	Billing Unit (MWh)/(MW)	Rate (\$/MWh) / (\$/kW-mo)	Total Cost / (Credit) (\$)	Billing Unit (MWh)/(MW)	Rate (\$/MWh) / (\$/kW-mo)	Total Cost / (Credit) (\$)	Billing Unit (MWh)/(MW)	Rate (\$/MWh) / (\$/kW-mo)	Total Cost / (Credit) (\$)
1. AMP	4,427	\$40	\$178,073	4,348	\$42	\$184,276	(79.13)	\$2.16	\$6,203
(a) NYPA	267	\$25.48	\$6,814	307	\$30.51	\$9,356	39.23	\$5.03	\$2,542
(b) PA Peaking Project	0	\$0.00	\$0	0.0	\$0.00	\$50	0.00	\$0.00	\$50
(c) Purchased Blocks	4,176	\$39.44	\$164,707	4,186	\$40.15	\$168,057	9.60	\$0.71	\$3,350
(d) Miscellaneous Costs ²	4,427	\$1.48	\$6,552	4,348	\$1.57	\$6,813	(79.13)	\$0.09	\$261
2. PJM	4,427	\$36.64	\$162,217	4,348	\$30.26	\$131,568	(79.13)	(\$6.38)	(\$30,648)
(a) Market Purchases	230	\$28.84	\$6,629	260	\$68.38	\$17,803	30.51	\$39.54	\$11,174
(b) Market Sales	(246)	\$27.70	(\$6,818)	(405)	\$35.87	(\$14,510)	(158.47)	\$8.16	(\$7,693)
(c) Charges/(Credits) ³	4,427	\$36.68	\$162,405	4,348	\$29.50	\$128,276	(79.13)	(\$7.18)	(\$34,129)
3. Total Wholesale Power Costs⁴:	4,427	\$76.86	\$340,290	4,348	\$72.64	\$315,844	(79)	(\$4.22)	(\$24,446)

1/ Resource, Purchased Blocks and Market Purchase/Sales includes Congestion and Losses costs.

2/ Miscellaneous Costs incl. AMP Service Fees

3/ Includes Net RPM (RPM Charges and RPM Credits) for each Resource

4/Based on Total Sales



November 2022

	Projection			Actual			Delta			
	Billing Unit	Rate	Total Cost / (Credit)	Billing Unit	Rate	Total Cost / (Credit)	Billing Unit	Rate	Total Cost / (Credit)	
	(MWh)/(MW)	(\$/MWh) / (\$/kW-mo)	(\$)	(MWh)/(MW)	(\$/MWh) / (\$/kW-mo)	(\$)	(MWh)/(MW)	(\$/MWh) / (\$/kW-mo)	(\$)	
AMP										
Resources										
1.	NYPA									
2.	Fixed Charge	0.6	\$6.65	\$3,717	0.6	\$4.06	\$2,267	0	(2.59)	(\$1,450)
3.	Energy Charge	267	\$12.30	\$3,289	307	\$20.18	\$6,188	39	7.88	\$2,899
4.	Other Adjustments			\$0			\$37	0	0.00	\$37
5.	Congestion & Losses	267	(\$0.72)	(\$192)	307	\$2.82	\$864	39	3.54	\$1,056
6.	All in Cost	267	\$25.48	\$6,814	307	\$30.51	\$9,356	39	5.03	\$2,542
7.	PA Peaking Project									
8.	Fixed Charge	0.0	\$0.00	\$0	4.3	\$0.00	\$0	4	0.00	\$0
9.	Energy Charge	0	\$0.00	\$0	0.0	\$0.00	\$50	0	0.00	\$50
10.	Congestion & Losses	0	\$0.00	\$0	0.0	\$0.00	\$0	0	0.00	\$0
11.	All in Cost	0	\$0.00	\$0	0.0	\$0.00	\$50	0	0.00	\$50
12.	Total - Resources	267	\$25.48	\$6,814	307	\$30.68	\$9,406	39	5.19	\$2,592
Purchased Blocks										
13.	BP 1.0 MW 7x24 (PPL)									
14.	Energy Charge	720	\$34.71	\$24,991	721	\$34.71	\$24,991	1	0.00	\$0
15.	Congestion & Losses	720	(\$0.42)	(\$304)	721	\$0.15	\$110	1	0.58	\$415
16.	All in Cost	720	\$34.29	\$24,687	721	\$34.82	\$25,102	1	0.53	\$415
17.	Exelon 1.1 MW 7x24 (PPL)									
18.	Energy Charge	792	\$71.50	\$56,628	793	\$71.50	\$56,628	1	0.00	(\$0)
19.	Congestion & Losses	792	(\$0.42)	(\$335)	793	\$0.15	\$121	1	0.58	\$456
20.	All in Cost	792	\$71.08	\$56,293	793	\$71.55	\$56,749	1	0.48	\$456
21.	BP 2.8 MW 5x16 (PPL)									
22.	Energy Charge	896	\$40.91	\$36,655	941	\$40.91	\$38,488	45	0.00	\$1,833
23.	Congestion & Losses	896	(\$0.69)	(\$618)	941	\$0.22	\$204	45	0.91	\$823
24.	All in Cost	896	\$40.22	\$36,037	941	\$41.13	\$38,692	45	0.91	\$2,655
25.	Morgan Stanley Fixed Load Shape (PPL)									
26.	Energy Charge	688	\$24.35	\$16,753	649	\$24.35	\$15,779	(39)	0.00	(\$974)
27.	Congestion & Losses	688	(\$0.21)	(\$142)	649	\$0.10	\$64	(39)	0.31	\$207
28.	All in Cost	688	\$24.14	\$16,610	649	\$24.40	\$15,843	(39)	0.26	(\$767)
29.	CITI 1.5 MW 7x24 (PPL Resid)									
30.	Energy Charge	1,080	\$29.20	\$31,536	1,082	\$29.20	\$31,536	2	0.00	\$0
31.	Congestion & Losses	1,080	(\$0.42)	(\$457)	1,082	\$0.12	\$135	2	0.55	\$591
32.	All in Cost	1,080	\$28.78	\$31,079	1,082	\$29.28	\$31,671	2	0.51	\$591
33.	Total - Purchased Blocks	4,176	\$39.44	\$164,707	4,186	\$40.15	\$168,057	10	0.71	\$3,350

Borough of Perkasio



November 2022

	Projection			Actual			Delta			
	Billing Unit	Rate	Total Cost / (Credit)	Billing Unit	Rate	Total Cost / (Credit)	Billing Unit	Rate	Total Cost / (Credit)	
	(MWh)/(MW)	(\$/MWh) / (\$/kW-mo)	(\$)	(MWh)/(MW)	(\$/MWh) / (\$/kW-mo)	(\$)	(MWh)/(MW)	(\$/MWh) / (\$/kW-mo)	(\$)	
Miscellaneous Costs										
34.	AMP Fees	4,427	\$1.48	\$6,552	4,348	\$1.57	\$6,813	(79)	0.09	\$261
35.	Adjustment for Pool Power			\$0			\$0	0	0.00	\$0
36.	Total - Miscellaneous Costs	4,427	\$1.48	\$6,552	4,348	1.57	\$6,813	(79)	0.09	\$261
37.	Total - AMP			\$178,073			\$184,276	0	0.00	\$6,203
PJM Charges										
38.	Market Interaction									
39.	Net Market Purchases	230	\$28.84	\$6,629	260	\$68.38	\$17,803	31	\$39.54	\$11,174
40.	Day-Ahead Purchases				180	\$70.92	\$12,752	180	\$70.92	\$12,752
41.	Balancing Purchases				210	\$50.63	\$10,655	210	\$50.63	\$10,655
42.	Net Market Sales	(246)	\$27.70	(\$6,818)	(405)	\$35.87	(\$14,510)	(158)	\$8.16	(\$7,693)
43.	Day-Ahead Sales				(513)	\$37.30	(\$19,134)	(513)	\$37.30	(\$19,134)
44.	Balancing Sales				(21)	\$45.64	(\$980)	(21)	\$45.64	(\$980)
45.	NITS	13	\$8.78	\$116,690	14	\$7.28	\$99,044	0	(\$1.50)	(\$17,645)
46.	Other Transmission Charges	13	\$0.00	\$0	14	\$0.83	\$11,269	0	\$0.83	\$11,269
47.	RPM Capacity									
48.	RPM Charge	15	\$2.93	\$44,898	15	\$2.90	\$44,775	0	(\$0.03)	(\$122)
49.	RPM Credit			(\$1,639)			(\$2,012)			(\$372)
50.	PA Peaking Project						\$0			
51.	Net RPM			\$43,258			\$42,764			(\$495)
52.	Ancillary	4,427	\$0.55	\$2,457	4,348	(\$2.60)	(\$11,312)	(79)	(\$3.16)	(\$13,769)
53.	ARR/FTR Credits	4,427	\$0.00	\$0	4,348	(\$3.59)	(\$15,594)	(79)	(\$3.59)	(\$15,594)
54.	Administration Charges	4,427	\$0.00	\$0	4,348	\$0.48	\$2,104	(79)	\$0.48	\$2,104
55.	True-Up Load Reconciliation			\$0			\$0			\$0
56.	Total PJM Charges	4,427	\$36.64	\$162,217	4,348	\$30.26	\$131,568	(79)	(\$6.38)	(\$30,648)

AGREEMENT
TAX PARCEL 33-005-146
RAM PUB LLC

THIS AGREEMENT made and concluded this 28th day of December, 2022, by and between **RAM PUB LLC**, a Pennsylvania limited liability company, with a principal place of business in New Britain, Pennsylvania (hereinafter referred to as “Ram”) and the **BOROUGH OF PERKASIE**, with a principal place of business in Perkasie, Bucks County, Pennsylvania (hereinafter referred to as “Borough”).

W I T N E S S E T H:

WHEREAS, on or about September 19, 2016, the parties hereto executed a Land Development Waiver Agreement related to Sycamore Equities, LLC’s plans to renovate and expand Tax Parcel Number 33-005-146 so as to establish “The Ram” bar, grill, and restaurant, which said Agreement is attached hereto as **Exhibit “A”** and incorporated herein by reference; and

WHEREAS, at the time the Council of the Borough approved the waiver of Land Development for Sycamore, it imposed certain conditions with respect to the waiver of Land Development, which said conditions were accepted by Sycamore at the time of the Council meeting; and

WHEREAS, Sycamore Equities, LLC transferred ownership and operation of the property to Ram Pub, LLC; and

WHEREAS, the parties hereto are desirous of memorializing the ongoing obligations imposed upon Ram as part of the Land Development waiver process, all which shall be in accordance with the terms and conditions of this Agreement.

NOW THEREFORE, intending to be legally bound and for other good and valuable consideration, the parties hereto agree as follows:

1. **Deliveries**. All deliveries shall be made from the frontage on Chestnut Street, which said deliveries shall include, but not be limited to, food, beverages, both alcoholic and non-alcoholic, supplies, furniture, and any other deliveries required for the purposes of maintaining

The Ram or any successor to The Ram at the property. It is understood and agreed, however, that the restriction on deliveries shall not apply to the disposal of trash and other refuse on the property. The deliveries shall be made in such a manner that the deliveries do not obstruct or block Chestnut Street or any other Borough streets, driveways or other thruways.

2. **Trash, Refuse, and Grease Trap.** Dumpsters for the purpose of removing trash and refuse shall be maintained at the rear of the Ram property identified as Bucks County Tax Parcel 33-005-146, the exact location of which is described on the plan which is attached hereto as **Exhibit “B”**. Under no circumstances shall the dumpsters be placed on the Borough property. The dumpsters shall be screened from view by adjoining property owners where the dumpsters are located. The screening shall be in the nature of opaque fences and/or another method of screening the dumpsters which shall be with the prior written approval of the Borough. Ram shall notify the Borough in advance of the days when its dumpsters are being emptied. The Borough agrees that the vehicle used to empty the dumpsters may traverse the Borough parking lot and thruway to do so, but it is understood and agreed that the vehicle emptying the dumpsters may not remain on Borough property longer than necessary to empty the dumpsters. Furthermore, should the emptying of the dumpsters cause any damage to the Borough roadway or parking lot, Ram shall be responsible to repair and/or replace the paving damage by the process of emptying the dumpsters or, in the absence of doing so, the Borough will make the repairs and charge back Ram for the cost. The Borough herein grants access to Ram through its property and over its parking lot and access ways to the rear of Ram’s property for the purpose of facilitating the removal of trash from the dumpsters.

In addition to access to the Borough property for the purposes of removing trash, the Borough agrees that Ram may traverse the Borough parking lot for the purposes of having the appropriate vendor clean and remove the residue from the grease trap or traps contained within the restaurant.

3. **Buffering.** Ram was required as part of the waiver of Land Development to install buffering along property lines. The Borough acknowledges the buffering required by Ram has been placed at the rear of the Ram property, but no such buffering has been placed along the property line between Tax Parcel Number 33-005-146 and the property owned by the Borough. In lieu of the installation of a buffer between the Borough property and the Ram property, Ram shall pay a fee-in-lieu to the Borough in the amount of \$3,450.00 which is in lieu of nine (9) trees

and ten (10) shrubs. Said payment shall be made contemporaneously with the execution of this Agreement by Ram.

4. This Agreement shall be recorded of record with the Bucks County Recorder of Deeds Office and the metes and bounds description of Ram's property is attached hereto as **Exhibit "C"** and incorporated herein by reference.

5. This Agreement shall be binding upon the respective parties, their successors and assigns, and shall be interpreted according to the laws of the Commonwealth of Pennsylvania.

6. This Agreement constitutes the entire agreement between the parties as it relates to the post-Land Development waiver requirements imposed upon Ram by the Borough.

(THIS SPACE INTENTIONALLY BLANK. SIGNATURE PAGE FOLLOWS.)

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties hereto have caused this Agreement to be duly executed the day, month and year first above written.

ATTEST:

PERKASIE BOROUGH

Andrea L. Coaxum, Secretary

By: _____
James Ryder, President

WITNESS:

RAM PUB LLC

Clairon J. Brink

By: *Robert D. Brink*
12/28/2022

**PERKASIE BOROUGH
LAND DEVELOPMENT WAIVER AGREEMENT
SYCAMORE EQUITIES, LLC**

TAX PARCEL 33-005-146

THIS AGREEMENT made this 19th day of September, 2016, by and between the parties, **SYCAMORE EQUITIES, LLC**, a Pennsylvania limited liability company with a place of business of 59 Industrial Drive, New Britain, Pennsylvania (hereinafter referred to as "Applicant") and the **BOROUGH OF PERKASIE**, of 620 W. Chestnut Street, Perkasio, Bucks County, PA 18944, (hereinafter called "Borough").

WITNESSETH:

WHEREAS, the Applicant has applied to the Borough for a **WAIVER OF THE LAND DEVELOPMENT** relating to certain improvements proposed to be made to the real property by the Applicant, which said property is owned by the Applicant and is designated as Bucks County Tax Parcel Number 33-005-146. The project is known as "The Ram" bar, grill and restaurant; and

WHEREAS, there is an existing building on the property which will be adaptively re-purposed and re-used as The Ram; and

WHEREAS, the Applicant submitted an Application for Waiver of Land Development, which was approved by the Borough at a duly advertised public meeting of the Borough Council held on August 1, 2016, with comment from the Perkasio Borough Planning Commission occurring previously; and

WHEREAS, the Applicant received unanimous recommendation from the Borough Planning Commission recommending the Waiver of Land Development process; and

WHEREAS, the Applicant desires to develop the property in accordance with the conditions of the Land Development Waiver approval; and

WHEREAS, the Applicant desires to enter into a required written contract with the Borough implementing the conditions of the Land Development Waiver approval and guaranteeing

construction and completion of all required improvements to be mutually agreed upon between the parties, and to regulate sound construction practices in the control of soil, erosion, drainage, etc., and to permit the issuance to the Applicant of permits conditioned thereupon.

NOW, THEREFORE, for and in consideration of the granting of Land Development Waiver approval by the Borough, and subject to the conditions aforesaid, and further intending to be legally bound hereby, the parties agree as follows:

1. The Applicant covenants and agrees that the construction of all improvements and work to be done under the terms of this Agreement and the Ordinances of the Borough shall be in accordance with the conditions of the approval granted by the Borough and there shall be no deviation therefrom except upon written approval by the Borough. The construction of all improvements shall be at the sole cost and expense of the Applicant and without any expense to the Borough. The construction and improvements shall be consistent with the comments in the Gilmore & Associates, Inc. review letter dated June 14, 2016.

2. The Applicant covenants and agrees with the Borough that the improvements to be installed or constructed and the conditions of approval to be satisfied by the Applicant are set forth in Plans prepared by Alfred R. Trevino, AIA, Architect, one (1) sheet (SP-1), dated May 25, 2016. All of the improvements shall be installed, and all work shall be performed in a first-class and workmanlike manner to the satisfaction of the Borough and in accordance with the ordinances and specifications of the Borough and the provisions set forth in this Agreement. The construction of the improvements is subject to the approval and certification, after inspection, by the Borough Engineer or Borough Building Inspector (which in all situations hereinafter referred to may be the Borough Engineer or such other person designated by the Borough to perform such services), the cost thereof to be borne by the Applicant as herein provided in accordance with the Borough's current fee structure and Ordinances.

3. The Applicant agrees that in the event any of the materials used in the construction shall be rejected or disapproved by the Borough or its agents as defective or unsuitable, or if work is performed without prior inspection or notice as herein provided, then the materials shall be removed and replaced with other approved materials and the labor shall be done anew to the satisfaction and approval of the Borough at the sole cost and expense of the Applicant, and further that the Applicant agrees that the Borough is authorized to perform such tests of materials as it believes is reasonably required in order to insure proper control of materials and the Applicant agrees to pay to the Borough the cost of such tests and engineering services.

4. The Applicant agrees to notify the Borough, in writing, at least seventy (72) hours in advance of the commencement of any work. The Applicant agrees, as requested by the Borough, that meetings shall be scheduled and held with the Borough, the representatives of any utility companies involved, and the Applicant, from time to time, in order to coordinate the progress of the work contemplated in the immediate future. In no event shall any improvements, subject to inspection by the Borough, be commenced without seventy (72) hours prior written notice to the Borough.

5. The Applicant hereby agrees to save, hold harmless, indemnify and defend the Borough against any and all claims for damages arising out of the Applicant's negligence or otherwise, in the performance of the work contemplated by this Agreement or otherwise arising out of the approval by the Borough of the Applicant's Application for Land Development Waiver aforesaid. In addition, the Applicant hereby agrees to purchase and keep in full force and effect during the period this Agreement remains in effect, a policy or policies of Public Liability Insurance in an amount not less than \$1,000,000 and property damage insurance in an amount not less than \$500,000 with the Borough named therein as an "additional insured", and shall insure that the Applicant and its contractors shall obtain appropriate Workers' Compensation insurance with the Borough named as an "additional insured". The Applicant shall pay the cost of such insurance and

shall provide proof thereof to Borough upon execution of this Agreement and at any time thereafter upon demand by the Borough.

6. The Applicant agrees that the Applicant shall keep all driveways and sidewalks free from all obstructions, including, but not limited to debris, equipment, and the like, the removal of which shall be the sole responsibility of the Applicant. In addition to the provisions of Paragraph 5 above, the Applicant agrees, at all times, to indemnify and hold the Borough harmless from any claims or suits which any adjoining property owners or other aggrieved persons may bring against the Borough or its officers, agents or employees for any conditions occurring on nearby or adjacent properties caused or alleged to be caused by conditions arising out of the project including, but not limited to, drainage water, storm water, mud, dirt and dust. The Applicant agrees that it will reimburse the Borough for any expenses incurred by the Borough, including legal fees, engineering fees, expert witness' fees, and any judgment or judgments rendered against the Borough as a result of such claims or suits brought against the Borough, its officers or employees. In addition, the Applicant agrees to be responsible to the Borough for any damage to existing Borough Municipal facilities, including but not limited to streets, sidewalks, curbs, parking areas, retaining walls, and shade trees, caused by the Applicant's construction, use, or occupancy of the property. The Applicant agrees that all exterior site and building construction activities shall be conducted during daylight hours only at such times as are usual, normal and reasonable in the construction industry for such activities. The routes permitted to be used by the construction vehicles and equipment of the Applicant or the Applicant's Contractors along or over Borough property for purposes of ingress and egress to and from the construction site as well as the location of all construction site access points from Borough property shall be established solely by the Borough. The on-site storage of construction equipment, supplies and material shall be done in a neat and orderly fashion in areas specifically designated by the Applicant or the Applicant's contractors and shall not occur on Borough's property without the written approval of the Borough.

7. The Applicant agrees to be responsible for the discarding of waste materials, including but not limited to papers, cartons and the like (whether discarded by the Applicant, the Applicant's agents, servants, workmen, employees, or contractors or by others engaged in delivery services or otherwise) and agrees to prevent the same from being buried on the site or deposited, either by being thrown or blown, upon any land adjacent to or within the vicinity of the development. The Applicant shall remove trash and waste material from the premises as frequently as necessary to maintain the site in a neat and tidy condition and at such other times as the Borough may, in its discretion, direct.

8. The Applicant shall obtain all necessary permits, easements, and related necessary approvals to complete the improvements, and shall provide Borough with copies of same upon demand.

9. All required improvements, to be mutually agreed upon between the parties, as and conditions, unless otherwise specified, shall be completed by the Applicant not later than December 31, 2017, provided, however, that by the mutual written agreement of the Borough and the Applicant, the time of performance and completion may be reasonably extended.

10. It is further expressly understood and agreed by the Borough and the Applicant that nothing contained in this Agreement shall be construed to waive any of the requirements of any of the Ordinances or Regulations of the Borough except that specifically granted as part of the aforesaid approval. It is further understood and agreed that neither the Zoning Officer, the Building Inspector, nor any other officer, agent, servant, workman or employee of the Borough has any authority or power to waive or modify the requirements of any such Ordinances or Regulations or of any provisions of this Agreement or any other agreement or document executed in conjunction herewith.

11. It is understood and agreed that the improvements to be constructed pursuant to this Agreement shall not be utilized and/or occupied unless and until all the conditions and

obligations of this Agreement have been satisfied and approved by the Borough or its appropriate officials, and a use & occupancy permit obtained from the Borough. Formal approval shall be determined solely by a writing received from the appropriate Borough Official who shall not issue same unless and until all of the conditions herein and/or incorporated herein by reference have been met and satisfied, unless otherwise directed by formal action of the Borough, provided however, that such Borough Official may, in his/her sole discretion, grant a conditional use & occupancy permit prior to the satisfaction of all conditions and obligations under this Agreement where he/she deems it appropriate under the circumstances.

12. The Applicant agrees to set public utility installations in accordance with good engineering and construction practices, subject to the onsite approval of the Borough if required by Ordinance and/or access is required over or through Borough property. It is expressly understood and agreed that the Borough does not accept any responsibility for the construction or maintenance of any improvements; that it does not assume any liability in connection with said improvements; and does not render itself liable for the cost of work done or to be done in connection therewith or the inspections thereof. The Applicant assumes full and sole responsibility in connection with any and all improvements.

13. In the event that the Applicant violates any provisions of this Agreement, the Borough reserves the right, notwithstanding the provisions of this agreement, to forthwith revoke any and all Permits, Use Permits, or any other permits theretofore issued or to otherwise refuse to issue any such permits, and to exercise such rights and remedies as may be available to Borough in law or equity and to issue Enforcement Notices or Cease and Desist or other appropriate Orders, and the Applicant hereby agrees to comply therewith until such time as any deficiencies or violations have been corrected to the satisfaction of the Borough.

14. The Applicant agrees that prior to the issuance of any permits by the Borough authorizing work to be done on the site, the provisions of this Agreement shall be met and satisfied.

15. The Applicant agrees that no improvements shall be commenced until:

- (1) Proof of Insurance in accordance with Paragraph 5 hereof is duly produced and delivered to the Borough;
- (2) All fees required to be paid to the Borough pursuant to the terms of this Agreement or otherwise, including but not limited to the cost of all legal and engineering work incurred by the Borough arising out of this development or any approvals thereof, shall have been paid by the Applicant in full.

16. The Applicant agrees to pay to the Borough all required fees relating to this project in accordance with the fee schedule currently in effect and to pay all costs to the Borough for municipal administration, including application or filing fees, preparation and cost of advertising, the cost of recording any documents or instruments required under this Agreement, and including any and all legal, engineering, observation and inspection fees charged or to be charged by the Borough Solicitor, and the Borough from the initial application through the period that this Agreement remains in effect. The Applicant's failure to pay such fees when bills for same are submitted by Borough shall be considered a violation of this Agreement including the right of the Borough to refuse to issue any and all Permits, Use Permits or other required permits to the Applicant, or revoke same if issued. To that end, the Applicant is depositing Five-Thousand (\$5,000.00) Dollars in escrow with the Borough, without interest, at the execution of this Agreement on account of anticipated legal, engineering, administrative fees and expenses. The Applicant irrevocably authorizes the Borough to make disbursements to the Borough's solicitor and engineer upon presentation of written invoices, and the Applicant reserves the right to review such disbursements and dispute or reject any charges it believes to be excessive or inappropriate. If the undisputed balance of the escrow account falls below 25%, the Applicant will deposit additional money in escrow within ten (10) days after receipt of written notice from the Borough to restore the balance to 50%. Any excess funds shall be returned to the Applicant upon expiration or termination of this Agreement and completion of this Project.

17. It shall be a condition precedent to the Applicant's commencement of any construction activity, pursuant to this Agreement, that the Applicant shall have secured any and all permits from any required agencies have jurisdiction over said matter including, but not limited to, the Bucks County Conservation District.

18. This Agreement may not be assigned, conveyed, transferred or sold by the Applicant to any successor in title without the consent of the Borough.

19. This Agreement represents the entire Agreement between the parties and may not be changed, modified or altered unless in writing and executed by the parties hereto with the same formality as this Agreement.

20. This Agreement shall be interpreted under the laws of the Commonwealth of Pennsylvania, with the Courts of Common Pleas of Bucks County having sole jurisdiction over any disputes.

21. If any term, condition, clause, or provision of this Agreement shall be determined or declared to be void or invalid in law or otherwise, then only that term, condition, clause, or provision shall be stricken from this Agreement and in all other respects this Agreement shall be valid and continue in full force and effect.

22. This Agreement shall extend to and bind the parties hereto, its successors and assigns, and the provisions hereof shall be deemed covenants running with the land.

23. The Applicant agrees to the following additional conditions which must be completed before a Certificate of Use & Occupancy is issued:

- a. A written agreement shall be in place between the Borough and Applicant regarding deliveries, avoiding blocking of Borough roadways, and if deemed necessary in the Borough's sole discretion, easements/licenses for the use of Borough property for this purpose shall be executed and recorded;

- b. A written agreement shall be in place between the Borough and Applicant regarding the placement of dumpsters on Applicant's property and the emptying of same;
- c. A written agreement shall be in place between the Borough and Applicant regarding access to the rear of Applicant's property, and if deemed necessary in the Borough's sole discretion, easements/licenses for the use of Borough property for this purpose shall be executed and recorded;
- d. Applicant shall install reasonable buffering to the satisfaction of the Borough along property lines;
- e. Applicant shall direct and manage stormwater to the satisfaction of the Borough Engineer;
- f. Applicant shall provide an as-built site plan to the satisfaction of the Borough Engineer to be kept on file at Borough Hall in the property file; and
- g. Applicant shall obtain all necessary agreements and authorizations from any adjoining property owners for any encroachments, use of adjoining property for construction activity and/or access, and shall take all reasonable necessary precautions to prevent damage to adjoining property owners buildings and facilities.

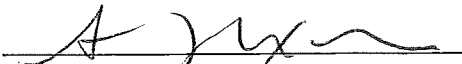
24. This Agreement shall be considered a land development agreement and financial security agreement in accordance with any requirements of the Pennsylvania Municipalities Planning Code.

25. Any prior Agreement relative to the waiver of land development between the Borough and 606 W. Chestnut Street, LLC is hereby terminated, and it is understood that the Applicant responsible for the terms of this Agreement is solely Sycamore Equities, LLC.

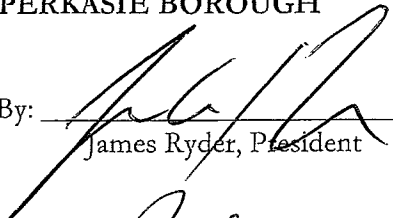
[THIS SPACE INTENTIONALLY BLANK. SIGNATURE PAGE FOLLOWS.]

IN WITNESS WHEREOF, the Applicant and the Borough have caused these presents to be duly executed the day, month and year first above written.

ATTEST:

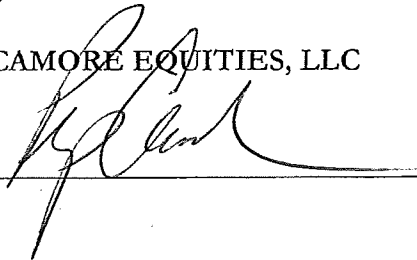

Andrea L. Coakum, Secretary

PERKASIE BOROUGH

By: 
James Ryder, President

WITNESS:


Donna Benner

SYCAMORE EQUITIES, LLC
By: 

Prepared by:
Jeffrey P. Garton, Esquire
BEGLEY, CARLIN & MANDIO, LLP
680 Middletown Boulevard
Langhorne, PA 19047

TMP: 33-005-438 and 33-005-456

LAND DEVELOPMENT AGREEMENT

OWNER/DEVELOPER: **HG PROPERTIES 85, LP**
AMOUNT OF SECURITY: **\$1,164,274.71**
NAME OF DEVELOPMENT: **PERRY MILL**

THIS AGREEMENT, made this _____ day of _____, 2022, between HG Properties 85, LP (hereinafter referred to as the "Developer") and the BOROUGH OF PERKASIE, a Borough organized and existing under the laws of the Commonwealth of Pennsylvania, located at 620 West Chestnut Street, Perkasio, Pennsylvania 18944 (hereinafter referred to as the "Borough").

WITNESSETH:

BACKGROUND

A. reAlliance, LLC, pursuant to the Perkasio Borough Subdivision and Land Development Ordinance, has obtained final approval for Phase I of the subdivision known as 8th Street Commons. The Developer as noted herein is purchasing the Phase I project consisting of 28 rowhome dwelling units from the Borough Council of Perkasio Borough (hereinafter the "Council"):

Subdivision and Land Development Plan of:	HG Properties 85, LP
Prepared by:	Holmes Cunningham, LLC
Dated:	January 28, 2022
Number of Sheets:	29
Last Revised:	November 4, 2022

The Plan was reviewed by the Borough Planning Commission, and was finally approved by formal action of Council on Monday, June 6, 2022, by Resolution 2022-28 (hereinafter collectively "Final Approval"); and

B. Developer desires to obtain permits for the construction of 28 rowhouse dwelling units and other improvements as shown on the Plan at Bucks County Tax Map Parcel 33-005-438 and 33-005-456 (hereinafter "Real Estate"). The improvements made the subject of this Agreement (hereinafter referred to as the "Improvements") and made the subject of the financial

security posted by the Developer in compliance with Section 509 of the Pennsylvania Municipalities Planning Code as set forth in Exhibit "A" to a Financial Security Agreement executed contemporaneously herewith (hereinafter referred to as the "Financial Security Agreement").

C. Developer shall proceed to construct the Improvements in accordance with the Plan, incorporated by reference and made a part hereof; and

D. Developer hereby confirms that this Plan in all respects shall be compliant with the Perkasio Borough Zoning Ordinance to the extent not modified by the final plan approval by the Borough Council;

E. Borough desires that the Developer deposit with the Borough a Letter of Credit with a reputed national bank or other bank licensed to do business in the Commonwealth of Pennsylvania in the amount of One Million One Hundred Sixty-Four Thousand Two Hundred Seventy-Eight and 71/100 Dollars (\$1,164,274.71), less Twenty Thousand Dollars (\$20,000.00) deposited pursuant to paragraph 5.b. of this Agreement, to guarantee to the Borough and assure the completion of the Improvements as set forth in a tabulation from the Borough Engineer to the Borough Manager dated November 23, 2022, attached hereto at Exhibit "A"; and

F. Borough is willing to permit Developer to commence construction upon the execution of and compliance with this Agreement, and/or any subsequent phasing agreement, as hereinafter set forth.

NOW, THEREFORE, it is hereby agreed as follows:

Incorporation of Background Paragraphs. Background Paragraphs A, B, C, D, E, and F above are hereby incorporated as part of the terms of this Developer Agreement.

1. Financial Security.

a. SECURITY. In order to insure the construction of the Improvements referred to hereinabove, the Developer shall deposit with the Borough the sum of One Million One Hundred Sixty-Four Thousand Two Hundred Seventy-Eight and 71/100 Dollars (\$1,164,274.71), less Twenty Thousand Dollars (\$20,000.00) deposited pursuant to paragraph 5.b. of this Agreement, in a Letter of Credit to be issued by a reputable banking institution licensed to do business in the Commonwealth of Pennsylvania, which said Letter of Credit shall be in the form acceptable to the Borough Solicitor; or such other form of security as the Borough Council shall approve for the purpose of guaranteeing that the Developer shall fully complete the Improvements set forth on the Site Plans (hereinafter referred to as the "Deposit").

b. DEPOSIT AN ESTIMATE. The Deposit is only an estimate of the cost of completion of the Improvements and under no circumstances is it to be construed as a limitation of Developer's obligations for construction of the Improvements. In the event that the Deposit is inadequate to cover the cost of Improvements, as determined reasonably by the Borough Engineer, as set forth in the Municipalities Planning Code at § 509, found at 53 P.S. § 10509,

Developer shall increase the amount of the Deposit as required by the Borough for the purpose set forth above, except any increase must be in compliance with the Municipalities Planning Code.

c. PAYMENT OF FEES AND COSTS A CONDITION OF BOROUGH SIGNING. Prior to the execution of this Agreement by Borough, Developer shall have tendered all fees required by this Agreement and the Borough fee schedule including the payment of costs for legal, administrative, and engineering expenses incurred by the Borough.

d. LETTER OF CREDIT. The Letter of Credit that is being used to post the financial security required pursuant to paragraph 1.a., shall contain terms which provide for an automatic renewal until such time as the Improvements are completed and accepted by the Borough. Furthermore, at least ninety (90) days prior to the termination date on any Letter of Credit, the Developer shall provide a new or renewed Letter of Credit, or other security, acceptable to the Borough Solicitor. Failure to meet the foregoing obligation shall entitle the Borough to stop all work on the job, and to refuse building permits and occupancy permits until such time as proper security is posted. In addition, if Developer does not provide a new or renewed Letter of Credit or other security at least ninety (90) days prior to termination date on any Letter of Credit, that shall constitute an event of default hereunder and the Borough may proceed against the existing security posted hereunder for the cost of completion of the Improvements and engineering, legal, and other fees as elsewhere provided in this Agreement. If a new Letter of Credit is posted, the Borough will return the prior Letter of Credit to the Developer promptly.

e. REDUCTIONS IN AMOUNT OF DEPOSIT. It is agreed that the percentage of the Deposit will be released as portions of the Improvements described in the Agreement are completed. Upon written request of Developer to the Borough and upon clarification by the Borough Engineer that a specific percentage or dollar amount of the Improvements has been installed, a release shall be executed. Each request for release of funds shall state the nature of the Improvement(s) completed, dates, and amounts of previous releases, amount of security remaining as well as any other information required by the Borough. Each release of security, originally provided at one hundred percent (100%) of the estimated construction cost, plus ten percent (10%) contingency, plus an inflationary factor, shall not exceed ninety percent (90%) of the estimated cost of construction in place. With each release shall be added a sum as a pro-rata share of the inflation factor. The remaining twenty percent (20%), being ten percent (10%) of the construction cost plus the ten percent (10%) contingency, shall be retained until certification by the Borough Engineer of the satisfactory completion of all Improvements (including the maintenance period).

Upon completion of the Improvements, the remaining Deposit, other than provided above, shall be returned to the Developer after the Borough Engineer has filed with the Borough a Certificate of Completion, and only after release of same is approved by the Borough Council.

f. MAINTENANCE FUND. Release of the remaining portion of the above Deposit shall be conditioned upon (a) the Developer depositing with the Borough either cash or a new irrevocable Letter of Credit, Tripartite Agreement or maintenance bond for the maintenance

of the Improvements, as set forth herein; PROVIDED, HOWEVER, that the amount of the Maintenance Fund may be increased to an amount not to exceed fifteen percent (15%) of the actual cost of installation of the Improvements, in accordance with 53 P.S. §10509(k); and (b) payment of all bills incurred by the Borough for engineering, legal and administrative services either prior to acceptance of the completed Improvements, or during the maintenance period, or following the eighteen (18) month maintenance period. The Maintenance Fund is to guarantee that (i) the Developer shall, for eighteen (18) months from the acceptance of the dedication, repair any defects in the structural integrity of the Improvements or in the functioning of the Improvements in accordance with the design and specifications depicted on the final plat; and (ii) that the Developer will commence the work within ten (10) business days from the time of written notice (except in case of an emergency requiring immediate attention) from the Borough so to do and upon default, the Borough may make such repairs and do anything necessary to maintain such construction and recover the expense and cost thereof from the Developer or its surety. This Maintenance Fund shall likewise be in a form satisfactory to the Borough Solicitor and approved by the Solicitor in writing before delivery to the Borough.

g. TERM OF MAINTENANCE FUND. The maintenance cash fund, or maintenance bond, or maintenance Tri-party Agreement or maintenance Letter of Credit shall be for a term of eighteen (18) months from the date the Borough Council releases the Deposit. In order to complete the term of the maintenance fund, the following must occur:

(i) The Developer to notify the Borough Engineer following the expiration of eighteen (18) months to inspect the site;

(ii) The Borough Engineer shall inspect the site within two (2) business days, weather permitting, and promptly file his report with the Council;

(iii) The Council to meet and act upon the Engineer's certification at the next available Council meeting.

h. RETURN OF MAINTENANCE FUND. The maintenance cash fund, or maintenance bond or maintenance Tripartite Agreement or maintenance Letter of Credit shall be returned to the Developer only after:

(i) The Developer has advised the Borough in writing that the eighteen (18) month period has expired and that the Improvements are still complete and/or have been repaired;

(ii) The Borough Engineer has filed with the Borough a certificate that the Improvements set forth in Exhibit "A" are still in acceptable condition; and

(iii) The Borough Council approves of its release.

i. BOROUGH RIGHT TO PROCEED AGAINST MAINTENANCE FUND. The Borough may proceed against the Maintenance Fund after the eighteen (18) month period has expired for repairing any defects in the structural integrity of the Improvements or the Improvements not functioning in accordance with the design and specifications depicted on the

final plat and for unpaid engineering) legal and Borough administrative expenses occurring in connection with the Development by impounding the cash, calling any bond or filing an averment of default with the issuing bank or savings and loan association for the Maintenance Fund or Letter of credit in its possession provided that thirty (30) days prior written notice of such defects or unpaid expenses has been provided to Developer and Developer has failed to cure such unpaid expense or to commence and diligently pursue the cure of such defects.

2. Coordination with the Borough Engineer:

a. **PRE-CONSTRUCTION MEETING.** Prior to work beginning on the Improvements, a pre-construction meeting will be scheduled by the Borough with representatives of the Developer, including its contractor(s). The pre-construction meeting will be scheduled as soon as possible after this Agreement is executed, licens filed, and financial securities are in place, unless the parties agree otherwise. It shall occur before any site work is initiated or a building permit issued.

b. **NOTICE TO ENGINEER.** Developer shall notify the Borough Engineer in writing as least forty-eight (48) hours in advance of the commencement of any work. In no event shall road construction or other Improvements, subject to inspection by the Borough Engineer, be commenced without forty-eight (48) hours prior notice in writing to the Borough Engineer and the Borough Manager. The Developer shall reimburse to the Borough the cost of the Borough Engineer's inspections. The Borough agrees to direct the Borough Engineer to make his inspections as promptly as possible so as not to unreasonably delay the progress of the Developer's completion of the Improvements, but the Borough makes no guarantee as to the timing or scheduling for the Engineer to accomplish inspection. Developer agrees that such inspections shall include inspection of those portions of the various structures, if any, which were approved by the Pennsylvania Department of Environmental Protection ("DEP").

3. Developer's Work and Improvements:

a. **CONFORMITY WITH REQUIREMENTS AND SPECIFICATIONS.** Developer shall construct or cause to be constructed, at its own expense and without any expenses or cost whatsoever to the Borough, all Improvements specified in Exhibit "A", including but not limited to, all paving, curbing, grading, water, drainage facilities and incidental drainage facilities, erosion controls, fencing, landscaping and lighting, and traffic controls related to Developer's use of the Real Estate. Said Improvements shall be completed in conformity with Borough's requirements and specifications in a satisfactory manner consistent with the Plan. Borough's obligation to issue all necessary permits to permit Developer to construct the Improvements depicted on the Plans is conditioned upon:

(i) Developer complying with all applicable laws, ordinances and regulations, including but not limited to, the Zoning Ordinance, the Subdivision and Land Development Ordinance, Road and Street Specifications, the Pennsylvania Construction Code or its successor, where applicable, the requirements of the Pennsylvania Department of Transportation ("PaDOT"), the Rules and Regulations of DEP, all federal and state statutes and regulations, local ordinances and regulations, and the Plans; and the Pennsylvania Municipalities Planning Code "MPC"), as same may be amended from time to time; however, in no event shall

Developer be made to comply with any law, ordinance, specification, regulation, code, etc. that amends, exceeds or modifies that which is required by the Plan unless same expressly and legally preempts or the Plan requirements;

(ii) Developer properly filing for and obtaining all permits necessary to complete the Improvements together with all appropriate fees;

(iii) Compliance with Final Approval, unless portions of the Final Approval have been expressly waived by the Borough or have been superceded by later letters (the parties agree that the aforesaid Final Approval and review letters mentioned therein are incorporated herein by reference as though more fully set forth herein); and

(iv) Developer complying with all provisions of this Agreement.

b. **PLANS INCLUDED IN AGREEMENT.** The Plans, specifications, supporting documentation and other documents showing details as required by the Ordinances of the Borough are hereby submitted as part of this Agreement and incorporated herein by reference as though more fully set forth herein. The right of Developer to construct the Improvements hereunder is specifically conditioned upon the Plans and submissions upon which the Borough's approval was granted being factual and accurate. If it appears, upon construction, or at any time hereafter, that the Plans and submissions were materially in error, then the Developer shall cease all work on the Improvements and submit revised plans to the Borough for review and approval in the same manner as any other subdivision or land development application submitted to the Borough. Pending the approval of any such revised plans by the Borough, Borough shall have no obligation to issue any necessary permits to allow the Developer to construct the Improvements depicted on the Plans and submissions and, further, the Borough shall have the right to stop any of the work being done on the Improvements. The parties agree that monetary damages are inadequate to remedy a breach of this paragraph by Developer and that the Borough may specifically enforce the provisions of this paragraph by an appropriate action in equity.

c. **PERFORM ALL WORK IN A FIRST-CLASS MANNER.** Developer shall erect all structures on the site and perform all other work in a first-class manner to the reasonable satisfaction of the Borough Engineer and in accordance with the Plans, all applicable Borough ordinances, rules and regulations and all rules and regulations of the DEP.

d. **BOROUGH ENGINEER'S RIGHT TO STOP WORK.** All work shall be done in accordance with the Plans. After the expiration of twenty (20) business days prior written notice to Developer setting forth the default and affording Developer the opportunity to cure said default (and except for emergency situations where no prior notice is required), the Borough Engineer is hereby granted the right to stop any of the work being done on the Improvements if the Engineer finds any work is not being done strictly in accordance with Plans previously referred to, or this Agreement.

e. **REMOVAL OF DEFECTIVE MATERIAL.** Developer covenants and agrees that in the event any materials used in construction shall be rejected or disapproved by the Borough Engineer as defective, unsuitable, not done in a good and workmanlike manner, not completed in accordance with the ordinances, resolutions, regulations and specifications of the Borough, the Plans and the materials submitted to and approved by DEP, or done without

appropriate inspection, then the materials shall be removed and replaced with other approved materials, and the labor shall be done anew to the reasonable satisfaction and approval of the Borough Engineer at the cost and expense of the Developer.

f. **ROADWAY AND DRIVEWAY IMPROVEMENTS.** No on or off-site roadway or driveway work shall commence until a schedule of the work to be done has been submitted by the Developer and approved in writing by the Borough Engineer and PaDOT, if applicable. In the event the Developer is required to obtain approval from PaDOT for any roadway improvements and such approval has not heretofore been obtained, Developer shall first submit its application to the Borough for approval of the Borough Engineer. The Borough agrees that once approved by the Borough Engineer, it will forward any such application to PaDOT for consideration, if applicable. The Developer shall provide competent personnel for traffic control during the construction of the roadway and signalization improvements. If adequate traffic control is not provided, as determined by the Borough in its sole discretion, the Borough Police Department shall assume responsibility for such traffic control; the Developer shall reimburse the Borough for the cost of providing police personnel for this purpose.

g. **GRADING PLAN.** It is also agreed that the property included in the Plans shall be adequately drained so as to eliminate any nuisance occurring by the accumulation of surface waters thereon, or adjacent thereto. In no event shall the final grading permit or allow a pooling or accumulation of water twenty-four hours after a rain ceases.

h. **SWALES.** Where grading is such that surface water drains along a swale or ditch across the Real Estate, a declaration of restrictive covenants or other appropriate document, enforceable by the Borough, shall be recorded by Developer and shall contain a restriction requiring that no change in grade will be permitted in the line of such swale or ditch, nor any obstruction be placed in such a way as to interfere with such surface drainage within or along such swale or ditch.

i. **BARRICADES.** Developer agrees to maintain barricades during the course of construction to provide all reasonable protection to the traveling public and to maintain such warning lights or flares as are necessary for this purpose.

j. **REMOVAL OF OBSTRUCTIONS AND SNOW.** Developer agrees to begin clearing snow or ice within six (6) hours from the beginning of a snowfall or ice storm or immediately upon the termination of any snowfall, whichever shall occur first. It shall be the responsibility of the Developer to see to it that the streets are at all times passable by emergency vehicles once any unit within the development is occupied. Upon demand by the Borough, Developer shall produce a written agreement indicating that arrangements have been made for the clearing of streets. In the event that the Borough is required to remove snow, mud, dirt, or any substance from the roads because of the Developer's failure to do so, the Developer hereby agrees to reimburse the Borough for any cost incurred. Notwithstanding the content of this subsection, it is understood and agreed that this Agreement does not obligate the Developer to remove snow and ice from existing public streets.

k. **DISPOSAL OF DEBRIS.** Developer will be responsible for the discarding of waste materials such as building materials, paper, cartons and the like (whether

discarded by it or others employed by it or by others engaged in the delivery of the aforesaid materials, and the construction of the Improvements) and agrees to prevent the same from being buried on the Real Estate or deposited, either by being thrown or blown upon any land adjacent to, or within, the vicinity of the Improvements. Developer shall be responsible to remove trash and waste material from the Real Estate as frequently as necessary to maintain the Improvements in a neat and tidy fashion.

l. **STREET SIGNS.** Street signs such as speed limit, no parking, street names and the like, as well as the posts on which they are erected, shall be paid for by the Developer. All signs shall be posted before occupancy permits are issued. All signs shall be PaDOT approved and shall be posted as determined by Borough. Street names must be approved by the Borough.

m. **DEVELOPMENT SIGNS.** Developer agrees that it will not erect, or permit to be erected on its behalf, any signs, within the Borough, which do not comply with the Borough ordinances or applicable approvals granted to Developer. If there is any breach of this provision, Developer acknowledges that all building permits shall be suspended until it has come into compliance.

n. **BLASTING.** In the event that any blasting is required for the installation of any Improvements, any and all required permits shall be obtained from the appropriate State, County, Borough and Federal officials prior to the commencement of any blasting activities. No blasting shall be undertaken in violation of Borough Ordinances, resolutions, or regulations, as they presently exist or are hereafter amended. Furthermore, if any blasting is to take place, the Developer shall notify the Borough at least five (5) days prior to the date of blasting as to when the blasting activity shall commence. All adjacent property owners shall be notified of the Developer's intentions to blast at the time of filing for the necessary permits. The Developer shall once again notify the adjacent property owners at least five (5) days prior to the date of the commencement of blasting activities. Furthermore, if the Developer shall require blasting on the site, the blasting company shall deposit with the Borough Manager, prior to requesting permits to allow blasting, a second certificate of insurance naming the Borough and the Borough Engineer as additional insureds with a specific reference to blasting activities, and the amount of insurance shall be the same amount of insurance as is required by paragraph 4 of this Agreement.

o. **"AS-BUILT".** Developer shall supply "as-built" drawings to the Borough covering all of the Improvements within the development including all construction details, specifications and other information required by the Borough. The "as-built" drawings shall be certified and sealed by a qualified engineer and shall be supplied within thirty days after completion of construction. The Borough will provide a list of requirements as to what will need to appear on "as-built" drawings.

4. **Developer's Insurance and Indemnity:**

a. **INSURANCE.** Developer agrees to indemnify, defend and hold harmless the Borough, its officials, its employees, its agents and its professionals (the Borough Engineer, the Borough Solicitor) for any loss suffered by any of them as a result of the construction of the Improvements contemplated under this Agreement and Developer will maintain in full force and

effect during the period of construction and installation of the Improvements contemplated under this Agreement and the period of maintenance thereof, policies of liability insurance insuring Developer, Borough, its officials, its employees, its agents and its professionals (as hereinbefore defined) from liability for personal injury and property damage claims and will have Borough and its professionals named as additional named insureds in each of the following type policies and to provide the following coverages:

(i) Developer's General Liability: \$1,000,000.00 coverage for personal Injury liability; \$1,000,000.00 coverage for property damage liability.

(ii) Public Liability and Property Damage Insurance: \$1,000,000.00 coverage.

(iii) Automobile Liability: \$1,000,000.00 coverage for personal injury liability; \$1,000,000.00 coverage for property damage liability.

(iv) Workmen's Compensation Insurance: Statutory Limits The insurance certificate issued on behalf of the Borough shall include the following statement:

IT IS A CONDITION OF THE ABOVE DESCRIBED POLICIES THAT AN ENDORSEMENT BE ISSUED WHEREBY THE INSURER (AND DEVELOPER AGREES AS WELL) (TO NOTIFY PERKASIE IN WRITING, AT 620 WEST CHESTNUT STREET, PERKASIE, PA 18944, ATTN: BOROUGH MANAGER, VIA REGISTERED MAIL, OR OTHER FORM OF DELIVERY FOR WHICH RECEIPT IS ACKNOWLEDGED, OF INSURER'S INTENTION TO CANCEL ANY OF THE ABOVE DESCRIBED POLICIES.

b. BOROUGH TO BE HELD HARMLESS. Developer shall, at all times, indemnify, defend and hold the Borough, its employees and its professionals harmless from any claims or suits [including those arising from the alleged or actual negligence of the Borough, its officials, its employees, its agents, and its professionals (Borough Engineer, Borough Solicitor, Borough Planner, and Borough Landscape Review Consultant)] which may result from the approval of the within development, the construction of the Improvements required by this Agreement, or which any adjoining or nearby property owners or any person whatsoever may bring against the Borough or against its officials, its employees, its agents or its professionals (as hereinbefore defined) and/or against the Developer, and any of its officials and employees, or subcontractors, for any conditions occurring on adjoining or nearby property, caused or alleged to be caused by conditions arising from the Improvements or in any way caused by Developer or its agents. Included, by way of example but not limitation, within Developer's indemnification of the Borough, its officials, its employees, its agents and its professionals is Developer's agreement to protect Borough, its officials, its employees, its agents and its professionals and hold the Borough, its officials, its employees, its agents and its professionals harmless from any claim related to the flow of stormwater on to adjacent to the neighboring properties. Developer's indemnification of the Borough, its officials, its employees, its agents or its professionals shall include, but not be limited to legal, engineering and expert witness fees; and for any judgment

rendered against the Borough, its officials, its employees, its agents or its professionals, by any person or entity including adjoining or nearby property owners from alleged conditions arising out of Developer's construction activities or any other aspect of the Improvements.

5. Reimbursements to Borough:

a. REIMBURSEMENT FOR COSTS. Developer agrees to reimburse the Borough within thirty (30) days after receipt of a bill from the Borough, for all costs incurred by the Borough in connection with the Plan, the construction of the Improvements required by this Agreement, the enforcement of this Agreement, the enforcement of any Borough Ordinances as related to the Plan, the cost of addressing any occupant's complaints as related to the Plan, the cost of the preparation of this Agreement, any Escrow or Tripartite Agreements, the preparation of any Deeds of Easement if required hereunder, the recording of any instruments required under this Agreement, and any and all such other reasonable costs incurred by the Borough in connection with or on account of this Agreement and/or any of the matters dealt with herein, including but not limited to, engineering; design and plan review; inspection and legal fees, plus ten percent (10%) of the amount of said bills to defray the cost of clerical work by the Borough. Any balance not paid within thirty (30) days shall be charged interest at the rate of 1.25% per month, or any part thereof that such balance is past due. Developer agrees that no reductions in the Deposit in accordance with paragraph 1.e. hereof will be made until any overdue balance then due the Borough is first paid in full and that Borough is hereby authorized to deduct from such security any overdue balance owing the Borough. However, nothing herein shall prevent Developer from contesting Borough invoice pursuant to the procedures set forth in Pennsylvania Municipalities Code, 53 P.S. 10509. In the event there is any overdue balance due the Borough with respect to any phase in the development of which this phase is a part, and provided Developer has not filed a proper challenge to said invoice pursuant to the Pennsylvania Municipalities Code, 53 P.S. 10509 then Developer agrees that Borough may withhold the issuance of any building, occupancy or other permits relating to the Improvements.

b. ENGINEERING AND LEGAL ESCROW. Developer shall deposit with the Borough the sum of Twenty Thousand Dollars (\$20,000.00) in an escrow security account ("ESA") as security, for the payment of all reasonable charges and fees of an engineering and legal nature which may be incurred by the Borough in connection with this Agreement and any aspect of the Improvements and as further provided for in this Paragraph 5.b. It is understood and agreed that the Twenty Thousand Dollars (\$20,000.00) to be posted pursuant to this paragraph is not in addition to the security required to be provided pursuant to paragraph 1 of this Agreement as relates to engineering and legal fees but represents a deposit on account for such matters. A minimum balance of Three Thousand Dollars (\$3,000.00) shall be maintained by Developer with the Borough at all times, and if the amount held in the ESA for this purpose falls below said balance, then the Developer, on notice from Borough, shall within seven (7) days deposit an additional amount sufficient to pay all administrative, engineering and legal costs and fees as provided for in this Agreement and to maintain the minimum Three Thousand Dollars (\$3,000.00) balance in this security fund, until the final maintenance fund above mentioned has been released by the Borough. The Borough shall, at the time it issues the certificate of completion to the Developer, deliver to the Developer an itemized statement of all such costs incurred by the Borough in regard to the work contemplated herein, together with the balance of any monies remaining in the ESA. Should the ESA be inadequate, for any

reason, to allow reimbursement to the Borough for engineering and legal expense, the Borough, after written notice affording Developer the opportunity to cure, shall have the right to reimbursement from the security posted in accordance with paragraph 1 hereof.

6. Completion of Developer's Improvements:

a. **COMPLETION DATE.** The work on the Improvements shall be completed no later than two (2) years from the date of this Agreement, provided, however, that by mutual written agreement of the Borough and the Developer, the time of performance and completion may be extended, and in such case, the Borough may require additional escrow money if the cost of doing the remaining work might exceed the amount in escrow. If: (i) the Developer fails to perform the work as herein specified; or (ii) if the Borough agrees to extend the time of performance and completion and during such period as extended the Borough, in its sole discretion, determines that adequate progress is not being made toward completion of the Improvements, then the Borough may, at its option, after ten (10) business days' notice in writing or without such notice the event such notice cannot be given before the Deposit terminates, demand that the amount remaining in the Deposit be turned over to the Borough in which case the Borough will proceed to complete the required Improvements to the extent deemed necessary by the Borough, pay all costs, and then return any balance to the Escrow Agent or Surety. While it is understood that the Improvements are to be completed within one (1) year of the date of this Agreement, nevertheless Developer shall remain responsible and obligated to complete the Improvements regardless of whether they are completed within the stipulated time period. Borough has the right to either extend the time for completion or declare this Agreement in breach if the Improvements are not completed within the stated time or if the Borough determines, in its sole discretion during any extended time for completion that adequate progress is not being made toward completion of the Improvements. All of the terms of this Agreement shall continue in full force and effect until all Improvements are completed and approved by the Borough.

b. **FINAL RELEASE OF DEPOSIT.** When the Developer has completed all of the necessary and appropriate Improvements as set forth on Exhibit "A" and so notified the Borough under Section 510(a) of the MPC (53 P.S. § 10510(a)), the remaining security, other than the maintenance bond under Section 509(k) of the MPC (53 P.S. § 10509(k)) as provided above, shall be returned to the Developer after the Borough Engineer has filed with the Borough a Certificate of Completion, and only after release of same is approved by the Board in accordance with Section 510 of the MPC (53 P.S. § 10510). It is expressly understood that the Developer will not submit notification to the Borough pursuant to Section 510 of the MPC (53 P.S. § 10510) unless and until the Improvements specified in Exhibit "A" hereto are completed in accordance with the final approved plans. Piecemeal dedication of the Improvements will not be accepted. When any portion of the Improvements shall not be approved or shall be rejected by the Borough, the Developer shall have ninety (90) days from the date the Borough Engineer files his/her report to complete and/or repair such unapproved or rejected Improvements and again notify the Borough of their completion and/or repair under MPC Section 510(d). In such case, the Borough Engineer's report made under MPC Section 510(a) shall be limited to only those Improvements that were previously unapproved or rejected. In the event the Borough Engineer's inspection of the Improvements that originally were unapproved or rejected by the Borough indicates the Developer has successfully completed those items and/or repairs, then the

Borough shall act to accept dedication of the Improvements in accordance with MPC Section 510. However, if: (i) the Developer fails to complete and/or repair such unapproved or rejected Improvements and again notify the Borough of their completion and/or repair in accordance with Section 510(d) of the MPC within ninety (90) days from the date the Borough Engineer previously filed his/her report; or (ii) if the Borough Engineer again rejects such previously unapproved or rejected Improvements, then any subsequent report made by the Borough Engineer in accordance with a notification of the completion of Improvements made by the Developer under Section 510(d) of the MPC shall address all of the Improvements in the development and not just those that had previously been rejected or not approved by the Borough Engineer.

c. **BUILDING PERMITS/OCCUPANCY.** Immediately upon execution of this Agreement, recording of the Plan and Developer posting the ESA and the Deposit, Developer shall be permitted to receive building permits to construct the buildings on the Real Estate provided that all soil and erosion control measures are installed and functioning as required by the Plan and DEP permit and provided the Borough and its consultants have safe ingress and egress to the Real Estate and buildings under construction. However, it is agreed, that the Real Estate may not be occupied before the Improvements, including water and wastewater Improvements, are substantially completed to the extent reasonably required by the Borough. All Borough requirements in this regard will be consistent with the Final Approval, this Agreement, and the MPC.

d. **DEED OF EASEMENT.** All required easements in favor of the Borough for access, utilities, stormwater and roadway improvements must be granted and recorded concurrently with the recording of the Plan; PROVIDED, HOWEVER, that the Developer shall be responsible for enforcement of the terms of any required easements until the Improvements are completed and approved by the Borough in accordance with this Agreement. It is agreed that the Developer shall include in a unilateral declaration or other suitable document, in form satisfactory to the Borough Solicitor, the right of the Borough to inspect and maintain (if the Developer or its successors and assigns shall fail to do so) all storm sewer installations required under the Site Plans. The delivery, acceptance, and/or recording of said easements and/or declaration shall not constitute either acceptance or approval of any work or Improvements covered by this Agreement.

e. **RESPONSIBILITY FOR IMPROVEMENTS.** It is expressly understood and agreed that the Borough does not hereby accept any responsibility for the maintenance of any streets, roads, or other Improvements, that the Borough (until dedication) does not hereby accept the streets or roads as part of the public road system of the Borough, that the Borough in no manner assumes any liability in connection with said Improvements. The Developer assumes full responsibility in connection with the Improvements of every kind whatsoever and the cost thereof. The Borough's sole interest in the Improvements is the enforcement of the terms of this Agreement and of the laws and ordinances under authority of which this contract is executed. It is agreed that the Deposit shall remain under this Agreement until the Improvements are completed and approved by the Borough.

f. **DEVELOPER TO PROVIDE TITLE INSURANCE.** If the Developer intends, or if the Plan provides for, any part of the development to be dedicated to the Borough

or any easement over part of the development to be conveyed to the Borough, at the Borough's request, the Developer shall provide with such deeds or easements a policy of insurance issued by a reputable title insurance company which policy shall insure to the Borough that as of the date(s) of the conveyance, the title to be conveyed to Borough is good and marketable, and free and clear of all mortgages, judgments, liens or encumbrances, and all taxes which might affect Borough's title have been paid.

7. **Miscellaneous:**

a. **WAIVERS.** It is further expressly understood and agreed that nothing contained herein shall waive any requirements, Ordinances of the Borough, or the land development regulations, and nothing contained herein empowers the zoning officer, building inspector or engineer to waive any such requirements.

b. **DEVELOPER'S DEFAULT.** In the event that Developer violates any provision of this Agreement, then the Borough may, at its option, after twenty (20) business days' notice in writing has been provided to Developer and Developer has failed to cure such violation, or without such notice in the event such violations require immediate attention to prevent and/or eliminate any risk to property, health, safety or the environment, forthwith revoke any and all Building Permits and issue a cease and desist order(s) and Developer hereby agree to comply therewith until such time as any deficiency or violations have been corrected to the satisfaction of the Borough.

c. **ASSIGNMENT.** This Agreement may not be assigned by Developer without the written consent of Borough, which will not be unreasonably withheld and will be granted upon satisfactory proof that the Improvements will be properly installed and secured.

d. **RIGHT TO ENTER THE PROPERTY.** Developer shall retain the right, either by deed reservation or otherwise, for itself and for the Borough, to enter upon the Real Estate, before or after it is conveyed, in order to correct or modify stormwater or grading problems when required to do so by the Borough.

e. **MONUMENTS.** Property monuments, as designated on the Plan, must be in place for the development before occupancy will be permitted. The proper placement of the monuments must be approved by the Borough Engineer.

f. **CONSTRUCTION TRAILERS.** Upon the execution of this Agreement, the Developer may locate Temporary Structures, including by way of example but not limitation, construction trailers and tents, only within the required setback areas. Temporary structures shall not be located within existing or proposed open space areas, unless specifically shown on the Plan and approved by the Borough.

g. **NOTICES.** Wherever provision is made in this Agreement for giving, service or delivery of any notice, statement, or other instrument, such notice shall be deemed to have been given and delivered, if mailed with the United States Postal Service,

registered or certified mail, addressed to the party entitled to receive same or hand delivered at the following address:

BOROUGH:

BOROUGH OF PERKASIE
620 W. Chestnut Street
P.O. Box 96
Perkasie, PA 18944
ATTN: Borough Manager

With a copy to:

Jeffrey P. Garton, Esquire
Begley, Carlin & Mandio, LLP
680 Middletown Blvd.
Langhorne, PA 19047

DEVELOPER:

HG PROPERTIES 85, LP
345 Main Street
Harleysville, PA 19438

With a copy to:

Dean Rittenhouse
THP Homes
345 Main Street
Harleysville, PA 19438

Each party hereto may change its mailing address by giving to each other party hereto notice in accordance herewith of such change of address and of such new address. Except where otherwise specified in this agreement, any notice, statement, or other instrument shall be deemed to have been given, served, and delivered on the third day following the date on which such notice was mailed, or on the day hand delivered, as herein provided.

h. **PERSONS BOUND.** This Agreement extends to and binds the surety, if any, the heirs, executors, successors and assigns of the Developer and the Borough.

i. **HEADINGS NOT PART OF AGREEMENT.** Any headings preceding the text of the several paragraphs hereof are inserted solely for convenience of reference, and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction, or effect.

j. MODIFICATION. This Agreement constitutes the entire agreement between the parties and no change, alteration, cancellation, or modification of this Agreement shall be valid unless the same be in writing and signed by the parties hereto.

k. SEVERABILITY. In the event that any paragraph or part thereof of this Agreement conflicts with the law under which this Agreement is to be construed or if any such paragraph or part thereof be held invalid by a court of competent jurisdiction, such paragraph or part thereof shall be deleted from this Agreement and the Agreement shall be construed to give effect to the remaining paragraphs or parts thereof.

l. COUNTERPARTS. This Agreement may be signed in any number of counterparts, each of which shall be deemed to be an original.

m. GOVERNING LAW. This Agreement shall be governed by and interpreted pursuant to the laws of the Commonwealth of Pennsylvania.

n. AUTHORITY TO SIGN ON BEHALF OF DEVELOPER. Those individuals executing this agreement on behalf of Developer have authority to do so.

o. HOMEOWNERS ASSOCIATION DOCUMENTS AND SELLER'S DISCLOSURE. As a condition of obtaining building permits, the Developer must prepare a Seller's Disclosure Statement to the satisfaction of the Borough Solicitor, including but not limited to the particulars of the locations of any floodplain areas, roads being dedicated to the Borough, present location and purpose of any easements, presence and location of utilities, zoning designation, location of any other restricted areas, any impervious surface limitations for each individual lot, and any other pertinent information that will apply to each lot within the community. In addition, the Developer must prepare homeowners association documents to the satisfaction of the Borough Solicitor.

8. Developer shall comply with the conditions of final subdivision approvals as set forth in correspondence dated June 8, 2022 and November 15, 2022, to reAlliance, LLC, Attn: Joseph Price and Peter Stampfl, by the Borough Solicitor and as set forth in Resolution 2022-28, specifically that the Developer shall pay a fee in lieu of recreation in the amount of Forty-Two Thousand Dollars (\$42,000.00) which shall be paid at the rate of One Thousand Five Hundred Dollars (\$1,500.00) for each home, to be paid at the time of a request for a building permit, as well as the other requirements as noted in the conditions of approval.

[THIS SPACE INTENTIONALLY BLANK. SIGNATURE PAGE FOLLOWS.]

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed by their respective duly authorized officers, each intending to be legally bound hereby.

HG PROPERTIES 85, LP

Attest: Bryan R. Howe

By: THP GP, Inc., General Partner
By: Name: [Signature]
Title: AUTHORIZED SIGNATORY

Dated: 12/14/22

Dated: 12/14/22

**BOROUGH COUNCIL OF
PERKASIE BOROUGH:**

Attest: _____
Andrea L. Coaxum, Manager

By: _____
James Ryder, President

Dated: _____

Dated: _____

COMMONWEALTH OF PENNSYLVANIA :
: ss.
COUNTY OF BUCKS :

On this 14th day of December, 2022, before me, a notary public of the Commonwealth of Pennsylvania, personally appeared Shawn Hackman Authorized Signatory known to me (satisfactorily proven) to be the person whose name is subscribed to the within instrument on behalf of **THP GP, INC., General Partner of HG PROPERTIES 85, LP**, and acknowledged that he/she executed the same for the purposes therein contained.

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

Commonwealth of Pennsylvania - Notary Seal
Alisha D Reynolds, Notary Public
Montgomery County
My commission expires October 14, 2026
Commission number 1424103

Alisha D. Reynolds
Notary Public

My Commission Expires: October 14, 2026

COMMONWEALTH OF PENNSYLVANIA :
 : ss.
COUNTY OF BUCKS :

On this ____ day of _____, 2022, before me, a notary public of the Commonwealth of Pennsylvania, personally appeared JAMES RYDER, known to me (satisfactorily proven) to be the person whose name is subscribed to the within instrument on behalf of PERKASIE BOROUGH, and acknowledged that he executed the same for the purposes therein contained.

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

Notary Public

My Commission Expires:

COMMONWEALTH OF PENNSYLVANIA :
 : ss.
COUNTY OF BUCKS :

On this ____ day of _____, 2022, before me, a notary public of the Commonwealth of Pennsylvania, personally appeared ANDREA L. COAXUM, known to me (satisfactorily proven) to be the person whose name is subscribed to the within instrument on behalf of PERKASIE BOROUGH, and acknowledged that she executed the same for the purposes therein contained.

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

Notary Public

My Commission Expires:

EXHIBIT "A"
ESCROW TABULATION



GILMORE & ASSOCIATES, INC.
ENGINEERING & CONSULTING SERVICES

November 23, 2022

Project No.: 17-11078

Andrea L. Coaxum
Borough Manager
Borough of Perkasio
620 West Chestnut Street
P.O. Box 96
Perkasie, PA 18944

Reference: Perry Mill Subdivision (a.k.a. 8th Street Commons – Rowhomes)
Financial Security Escrow Review

Dear Andrea:

Gilmore & Associates, Inc. (G&A) has reviewed the Perry Mill (AKA 8th Street Commons) Site / Storm Sewer Escrow Tabulation, as prepared by HG Properties 85, LP, no date, as related to the Preliminary and Final Subdivision & Land Development Plans for 8th Street Commons, as prepared by Holmes Cunningham, LLC, consisting of twenty-nine (29) sheets, dated January 28, 2022 and last revised September 12, 2022. We note that this financial security is for Phase 1 of the project, which includes the rowhomes and improvements to both North 8th Street and Arch Street.

We would recommend the Applicant obtain a Letter of Credit in the following amount for construction of Perry Mill Subdivision, which we note excludes water, sewer, gas, and electric service items, which should be escrowed separately with the respective authorities, if required:

FINANCIAL SECURITY LETTER OF CREDIT:

Construction Cost:	-	\$970,228.93
10% Contingency:	-	\$97,022.89
10% Admin/Insp/Eng/Legal:	-	\$97,022.89
Total Construction Cost:	-	\$1,164,274.71

Enclosed is a copy of the Escrow Status Report Form dated November 23, 2022. The Developer/Contractor should utilize this form when requesting release from the Financial Security Fund. The quantities to be considered for release should be placed in the right-hand column for each construction item. Each request shall be accompanied by the appropriate spreadsheet and a cover letter stating the final dollar amount of the release request. Prior to making the release request, the Developer/Contractor and our Construction Observer shall review the items requested for release.

If you have any questions, please do not hesitate to call.

Sincerely,

Douglas C. Rossino

Douglas C. Rossino, P.E.
Gilmore & Associates, Inc.
Borough Engineers

65 East Butler Avenue | Suite 100 | New Britain, PA 18901 | Phone: 215-345-4330 | Fax: 215-345-8606

DCR

Encl.: Escrow Status Report Form

cc: Debbie Sergeant, Code Enforcement Administrator
Megan McShane, Executive Assistant
Jeffrey P. Garton, Esq., Borough Solicitor
Dean Rittenhouse, HG Properties 85, LP, Developer
Erik Garton, P.E., E.V.P., Gilmore & Associates, Inc.

ESCROW STATUS REPORT

SUMMARY OF ESCROW ACCOUNT

PROJECT NAME: Perry Mill Subdivision
 PROJECT NO.: 17-11078
 PROJECT OWNER: HG Properties 85, LP
 MUNICIPALITY: Perkasie Borough
 ESCROW AGENT:
 TYPE OF SECURITY:
 AGREEMENT DATE:

TOTAL CONSTRUCTION: \$ 970,228.93
 TOTAL CONSTRUCTION CONTINGENCY: \$ 97,022.89
 TOTAL ENG/INSP/LEGAL: \$ 97,022.89
 TOTAL ESCROW POSTED: \$1,164,274.71

AMOUNT OF WORK IN PLACE THIS PERIOD:
 REQUIRED RETAINAGE THIS RELEASE (10%):
 AMOUNT OF THIS RELEASE:

TOTAL ESCROW REMAINING:
 TOTAL CONSTRUCTION CONTINGENCY:
 TOTAL ENG/INSP/LEGAL:
 TOTAL RETAINAGE TO DATE:
 TOTAL CONSTRUCTION AVAILABLE FOR RELEASE:

RELEASE NO.:
 RELEASE DATE:

\$ -
 \$ -
 \$ -
 \$ 1,164,274.71
 \$ 97,022.89
 \$ 97,022.89
 \$ -
 \$ 970,228.93

ESCROW TABULATION

CONSTRUCTION ITEMS	UNITS	QUANTITY	UNIT PRICE	TOTAL AMOUNT	CURRENT RELEASE		RELEASED TO DATE		AVAILABLE FOR RELEASE		RELEASE REQ # 1	
					QUANTITY	TOTAL AMOUNT	QUANTITY	TOTAL AMOUNT	QUANTITY	TOTAL AMOUNT		
I. EROSION & SEDIMENT CONTROL												
1. Rock Construction Entrance	EA	1	\$ 2,450.00	\$ 2,450.00								
2. Inlet Protection	EA	9	\$ 125.00	\$ 1,125.00								
3. 12" Compost Filter Sock	LF	210	\$ 5.00	\$ 1,050.00								
4. 18" Compost Filter Sock	LF	783	\$ 8.00	\$ 6,264.00								
5. Temporary Seeding- Seed and Mulch	SF	113,363	\$ 0.07	\$ 7,935.41								
6. Pumped Water Filter Bag	EA	1	\$ 500.00	\$ 500.00								
7. Concrete Washout	EA	1	\$ 1,400.00	\$ 1,400.00								
8. E&S Maintenance/Removal	LS	1	\$ 3,000.00	\$ 3,000.00								
II. DEMOLITION & CLEARING												
1. Road Closure Signs and Barriers	LS	1	\$ 1,500.00	\$ 1,500.00								
2. Demo Existing Building Areas	LS	1	\$ 80,000.00	\$ 80,000.00								
3. Demo Asphalt	SY	6,530	\$ 5.75	\$ 37,547.50								
4. Demo Concrete	SF	3,847	\$ 2.65	\$ 10,194.55								
5. Remove Storm Pipe	LF	733	\$ 19.00	\$ 13,927.00								
6. Remove Storm Structure	EA	3	\$ 3,600.00	\$ 3,600.00								
7. Remove Sanitary Manhole	EA	1	\$ 1,200.00	\$ 1,200.00								
8. Remove Water Line	LF	950	\$ 16.50	\$ 15,675.00								
9. Remove Fence	LF	1,418	\$ 4.20	\$ 5,955.60								
III. EARTHWORK												
1. Cut to Fill	CY	3,000	\$ 3.20	\$ 9,600.00								
2. Rough Grade	SF	120,665	\$ 0.04	\$ 4,826.60								
3. Excavate/Backfill Curb	LF	1,291	\$ 2.75	\$ 3,550.25								
4. Fine Grade Building Pad	SF	32,762	\$ 0.11	\$ 3,603.82								
5. Bulk Topsoil Return	CY	720	\$ 4.85	\$ 3,492.00								
IV. STORMWATER MANAGEMENT												
1. Tie Into Existing Storm Sewer	EA	2	\$ 2,195.00	\$ 4,390.00								
2. 6" HDPE	LF	590	\$ 24.00	\$ 14,160.00								
3. 15" HDPE	LF	164	\$ 65.00	\$ 10,660.00								
4. 18" HDPE	LF	332	\$ 68.00	\$ 22,576.00								
5. 24" HDPE	LF	20	\$ 75.00	\$ 1,500.00								
6. 30" HDPE	LF	101	\$ 117.00	\$ 11,817.00								
7. 36" HDPE	LF	483	\$ 125.00	\$ 61,625.00								
8. 24 x 38 RCP	LF	162	\$ 235.00	\$ 38,070.00								
9. Storm Inlets	EA	10	\$ 4,995.00	\$ 49,950.00								



Gilmore & Associates, Inc.
Engineering and Consulting Services

ESCROW STATUS REPORT

SUMMARY OF ESCROW ACCOUNT

PROJECT NAME: Perry Mill Subdivision
 PROJECT NO.: 17-11078
 PROJECT OWNER: HG Properties 85, LP
 MUNICIPALITY: Perkasio Borough
 ESCROW AGENT:
 TYPE OF SECURITY:
 AGREEMENT DATE:

TOTAL CONSTRUCTION: \$ 970,228.93
 TOTAL CONSTRUCTION CONTINGENCY: \$ 97,022.89
 TOTAL ENG/INSP/LEGAL: \$ 97,022.89
 TOTAL ESCROW POSTED: \$1,164,274.71

AMOUNT OF WORK IN PLACE THIS PERIOD:
 REQUIRED RETAINAGE THIS RELEASE (10%):
 AMOUNT OF THIS RELEASE:

TOTAL ESCROW RELEASED TO DATE:
 TOTAL ESCROW REMAINING:
 TOTAL CONSTRUCTION CONTINGENCY:
 TOTAL ENG/INSP/LEGAL:
 TOTAL RETAINAGE TO DATE:
 TOTAL CONSTRUCTION AVAILABLE FOR RELEASE:

RELEASE NO.:
 RELEASE DATE:

\$ -
 \$ -
 \$ -
 \$ 1,164,274.71
 \$ 97,022.89
 \$ 97,022.89
 \$ -
 \$ 970,228.93

ESCROW TABULATION

CONSTRUCTION ITEMS	CURRENT RELEASE			RELEASED TO DATE			AVAILABLE FOR RELEASE			RELEASE REQ # 1
	UNITS	QUANTITY	TOTAL AMOUNT	QUANTITY	TOTAL AMOUNT	QUANTITY	TOTAL AMOUNT	QUANTITY	TOTAL AMOUNT	
10. Remove and Replace Inlet	EA	1	\$ 6,100.00			1	\$ 6,100.00			
11. Inline Tee w/ 6" Cleanout	EA	1	\$ 4,000.00			1	\$ 4,000.00			
12. Terre Klean Storm Filter Structure	EA	1	\$ 85,000.00			1	\$ 85,000.00			
V. PAVING AND CURBING										
1. Concrete Curb (on-site)	LF	1,290	\$ 31,605.00			1,290	\$ 31,605.00			
2. Concrete Sidewalk	SF	6,805	\$ 40,830.00			6,805	\$ 40,830.00			
3. Concrete ADA Ramps	EA	6	\$ 6,000.00			6	\$ 6,000.00			
4. Install DWS at Existing Ramp	EA	2	\$ 1,000.00			2	\$ 1,000.00			
On-Site Paving										
1. Fine Grade and Compact	SY	1,386	\$ 1,108.80			1,386	\$ 1,108.80			
2. 6" 2A Mod. Stone	SY	1,386	\$ 11,573.10			1,386	\$ 11,573.10			
3. 4" 25MM Superpave Base Course	SY	1,386	\$ 31,878.00			1,386	\$ 31,878.00			
4. 2" 19MM Superpave Binder Course	SY	1,386	\$ 20,790.00			1,386	\$ 20,790.00			
5. Sweep and Tack	SY	1,386	\$ 1,316.70			1,386	\$ 1,316.70			
6. 1.5" 9.5MM Superpave Wearing Course	SY	1,386	\$ 18,018.00			1,386	\$ 18,018.00			
8th Street and Arch Street Paving										
1. Sawcut Asphalt	LF	150	\$ 450.00			150	\$ 450.00			
2. Fine Grade and Compact	SY	3,126	\$ 2,500.80			3,126	\$ 2,500.80			
3. 6" 2A Mod. Stone	SY	3,126	\$ 26,102.10			3,126	\$ 26,102.10			
4. 5" 25MM Superpave Base Course	SY	3,126	\$ 89,091.00			3,126	\$ 89,091.00			
5. 2.5" 19MM Superpave Binder Course	SY	3,126	\$ 56,268.00			3,126	\$ 56,268.00			
6. Sweep and Tack	SY	3,126	\$ 2,969.70			3,126	\$ 2,969.70			
7. 1.5" 9.5MM Superpave Wearing Course	SY	3,126	\$ 40,638.00			3,126	\$ 40,638.00			
8. Curb Seal	LF	1,290	\$ 1,290.00			1,290	\$ 1,290.00			
9. Arch Street Residential Driveway Restoration	SY	18	\$ 1,170.00			18	\$ 1,170.00			
VI. SIGNAGE AND STRIPING										
1. Pavement Line Striping	LS	1	\$ 3,500.00			1	\$ 3,500.00			
2. Signage	EA	13	\$ 2,600.00			13	\$ 2,600.00			
VII. LANDSCAPING										
1. Shade Tree	EA	24	\$ 8,400.00			24	\$ 8,400.00			
2. Ornamental Trees	EA	19	\$ 6,650.00			19	\$ 6,650.00			
3. Evergreen Trees	EA	24	\$ 8,400.00			24	\$ 8,400.00			
4. Shoulder Restoration along Arch Street	LF	140	\$ 2,800.00			140	\$ 2,800.00			
5. Permanent Seeding - Seed and Mulch	LS	1	\$ 2,000.00			1	\$ 2,000.00			



ESCROW STATUS REPORT

SUMMARY OF ESCROW ACCOUNT

PROJECT NAME: Perry Mill Subdivision
 PROJECT NO.: 17-11078
 PROJECT OWNER: HG Properties 85, LP
 MUNICIPALITY: Perkaskie Borough
 ESCROW AGENT:
 TYPE OF SECURITY:
 AGREEMENT DATE:

TOTAL CONSTRUCTION: \$ 970,228.93
 TOTAL CONSTRUCTION CONTINGENCY: \$ 97,022.89
 TOTAL ENG/INSP/LEGAL: \$ 97,022.89
 TOTAL ESCROW POSTED: \$1,164,274.71

AMOUNT OF WORK IN PLACE THIS PERIOD: \$ -
 REQUIRED RETAINAGE THIS RELEASE (10%): \$ -
 AMOUNT OF THIS RELEASE: \$ -
 TOTAL ESCROW RELEASED TO DATE: \$ 1,164,274.71
 TOTAL ESCROW REMAINING: \$ 97,022.89
 TOTAL CONSTRUCTION CONTINGENCY: \$ 97,022.89
 TOTAL ENG/INSP/LEGAL: \$ -
 TOTAL RETAINAGE TO DATE: \$ -
 TOTAL CONSTRUCTION AVAILABLE FOR RELEASE: \$ 970,228.93

RELEASE NO.:
 RELEASE DATE:

ESCROW TABULATION

CONSTRUCTION ITEMS	UNITS	QUANTITY	UNIT PRICE	TOTAL AMOUNT	CURRENT RELEASE		RELEASED TO DATE		AVAILABLE FOR RELEASE		RELEASE REQ # 1
					QUANTITY	TOTAL AMOUNT	QUANTITY	TOTAL AMOUNT	QUANTITY	TOTAL AMOUNT	
VIII. MISCELLANEOUS											
1. Emergency Access Bollards	EA	9	\$ 325.00	\$ 2,925.00					9	\$ 2,925.00	
2. Emergency Access Pavers	SF	64	\$ 40.00	\$ 2,560.00					64	\$ 2,560.00	
3. Concrete Monuments	EA	8	\$ 250.00	\$ 2,000.00					8	\$ 2,000.00	
4. Iron Pins	EA	77	\$ 150.00	\$ 11,550.00					77	\$ 11,550.00	
5. As-Built Survey	LS	1	\$ 4,000.00	\$ 4,000.00					1	\$ 4,000.00	

Prepared by: Jeffrey P. Garton, Esquire
Begley, Carlin & Mandio, LLP
680 Middletown Boulevard
Langhorne, PA 19047

Return to: Jeffrey P. Garton, Esquire
Begley, Carlin & Mandio, LLP
680 Middletown Boulevard
Langhorne, PA 19047

TMP: 33-005-438 and 33-005-456

**STORMWATER CONTROLS AND BEST MANAGEMENT
PRACTICES OPERATIONS AND MAINTENANCE AGREEMENT**

THIS AGREEMENT, made this _____ day of _____, 2022, between HG PROPERTIES 85, LP (hereinafter referred to as the "Developer") and the BOROUGH OF PERKASIE, a Borough organized and existing under the laws of the Commonwealth of Pennsylvania, located at 620 West Chestnut Street, Perkasie, PA 18944 (hereinafter referred to as the "Borough").

WITNESSETH

WHEREAS, the Developer is the owner of certain real property, identified as Bucks County Tax Map Parcel Nos. 33-005-438 and 33-005-456 (hereinafter collectively the "Property"), which Developer intends to develop with a residential subdivision; and

WHEREAS, the development has been designed with certain stormwater management improvements; and

WHEREAS, the Stormwater BMP Operations and Maintenance Plan approved by the Borough (hereinafter referred to as the "Plan") for the property identified herein, which is attached hereto as Exhibit "A" and made part hereof, as approved by the Borough, provides for management of stormwater within the confines of the Property through the use of Best Management Practices (BMPs); and

WHEREAS, the Borough, and the Developer, its successors and assigns, agree that the health, safety, and welfare of the residents of the Borough and the protection and maintenance of water quality require that on-site stormwater Best Management Practices be constructed and maintained on the Property; and

WHEREAS, for the purposes of this agreement, the following definitions shall apply:

BMP(s) – “Best Management Practices”, activities, facilities, designs, measures or procedures used to manage stormwater impacts from land development, to protect and maintain water quality and groundwater recharge and to otherwise meet the purposes of the Municipal Stormwater Management Ordinance, including but not limited to infiltration trenches, seepage pits, filter strips, bioretention, wet ponds, permeable paving, rain gardens, grassed swales, forested buffer, sand filters and detention basins; and

WHEREAS, the Borough requires, through the implementation of the Plan, that the BMPs be constructed and adequately operated and maintained by the Developer, its successors and assign.

NOW THEREFORE, in consideration of the foregoing promises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:

1. The BMPs shall be constructed in accordance with the plans and specifications identified in the Plan.
2. The Developer shall operate and maintain the BMP(s) as shown on the Plan in good working order acceptable to the Borough and in accordance with the specific maintenance requirements noted on the Plan.
3. The Developer hereby grants permission to the Borough, its authorized agents and employees, to enter upon the Property, at reasonable times and upon presentation of proper identification, to inspect the BMP(s) whenever it deems necessary. Whenever possible, the Borough shall notify the Developer prior to entering the Property.
4. In the event the Developer fails to operate and maintain the BMP(s) as shown on the Plan in good working order acceptable to the Borough, the Borough or its representatives may enter upon the Property and take whatever action is deemed necessary to maintain said BMP(s). This provision shall not be construed to allow the Borough to erect any permanent structure on the land of the Developer. It is expressly understood and agreed that the Borough is under no obligation to maintain or repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on the Borough.
5. In the event the Borough, pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the Developer shall reimburse the Borough for all expenses (direct and indirect) incurred within ten (10) days of receipt of an invoice for same from the Borough.
6. The intent and purpose of this Agreement is to ensure the proper maintenance of the BMP(s) by the Developer; provided, however, that this Agreement shall not be deemed to create or effect any additional liability of any party for damage alleged to result from or be caused by stormwater runoff.
7. The Developer, its executors, administrators, assigns, and other successors in interests, shall release the Borough’s employees and designated representatives from all damage, accidents, casualties, occurrences, or claims which might arise or be asserted against said employees and representatives from the construction, presence, existence, or maintenance of the

BMP(s) by the Developer or the Borough. In the event that a claim is asserted against the Borough, its designated representatives or employees, the Borough shall promptly notify the Developer and the Developer shall defend, at its own expense, any suit based on the claim. If any judgment or claims against the Borough's employees or designated representatives shall be allowed, the Developer shall pay all costs and expense regarding said judgment or claim.

8. The Borough shall inspect the BMP's at a minimum of once every three (3) years to ensure their continued functioning.

9. This Agreement shall be recorded at the Office of the Recorder of Deeds of Bucks County, Pennsylvania, and shall constitute a covenant running with the Property and/or equitable servitude, and shall be binding on the Developer, its administrators, executors, assigns, heirs and any other successors in interest, in perpetuity.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties hereto caused this Amendment to be signed and sealed on the date first upon written.

**DEVELOPER:
HG PROPERTIES 85, LP**

Attest: Byron R Hoover

By: THP GP, Inc., General Partner
By: Name: [Signature]
Title: AUTHORIZED SIGNATORY

Dated: 12/14/22

Dated: 12/14/22

**BOROUGH COUNCIL OF
PERKASIE BOROUGH:**

Attest: _____
Andrea L. Coaxum, Manager

By: _____
James Ryder, President

Dated: _____

Dated: _____

COMMONWEALTH OF PENNSYLVANIA :
: SS.
COUNTY OF BUCKS :

On this 14th day of December, 2022, before me, a notary public of the Commonwealth of Pennsylvania, personally appeared Shawn Harkman, authorized signatory, known to me (satisfactorily proven) to be the person whose name is subscribed to the within instrument on behalf of THP GP, INC., General Partner of HG PROPERTIES 85, L.P, and acknowledged that he/she executed the same for the purposes therein contained.

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

Commonwealth of Pennsylvania - Notary Seal
Alisha D Reynolds, Notary Public
Montgomery County
My commission expires October 14, 2026
Commission number 1424103

Alisha D. Reynolds
Notary Public

My Commission Expires: October 14, 2026

COMMONWEALTH OF PENNSYLVANIA :
: ss.
COUNTY OF BUCKS :

On this ____ day of _____, 2022, before me, a notary public of the Commonwealth of Pennsylvania, personally appeared JAMES RYDER, known to me (satisfactorily proven) to be the person whose name is subscribed to the within instrument on behalf of PERKASIE BOROUGH, and acknowledged that he executed the same for the purposes therein contained.

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

Notary Public

My Commission Expires:

COMMONWEALTH OF PENNSYLVANIA :
: ss.
COUNTY OF BUCKS :

On this ____ day of _____, 2022, before me, a notary public of the Commonwealth of Pennsylvania, personally appeared ANDREA L. COAXUM, known to me (satisfactorily proven) to be the person whose name is subscribed to the within instrument on behalf of PERKASIE BOROUGH, and acknowledged that she executed the same for the purposes therein contained.

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

Notary Public

My Commission Expires:

**PERKASIE BOROUGH
RESOLUTION NO. 2023-1**

**A RESOLUTION OF THE PERKASIE BOROUGH COUNCIL
AUTHORIZING A REDUCTION IN THE ESCROW FOR THE JEER,
LLC PROJECT AS APPROVED BY GILMORE & ASSOCIATES, INC.,
IN THE AMOUNT \$29,156.25 TO REDUCE THE TOTAL ESCROW TO
\$11,593.75, AND AUTHORIZING THE SIGNATURE OF THE BOROUGH
MANAGER ON THE ESCROW REDUCTION**

WHEREAS, JEER, LLC (“Applicant”) received approval via Borough Resolution #2021-23 of the Waiver of Land Development for a construction project located at 106 & 108 North 7th Street, Perkasio, Pennsylvania, which said project encompasses the removal of several structures and the construction of a new warehouse related structure related to Bucks County Tax Parcels 33-005-462 and 33-005-463; and

WHEREAS, a Land Development Waiver Agreement dated September 7, 2021, was entered into between the Borough of Perkasio and JEER, LLC; and

WHEREAS, upon inspection Gilmore & Associates, Inc., has certified that the Financial Security Fund may be reduced by the amount of \$29,156.25 to a total amount of \$11,593.75.

NOW THEREFORE BE IT RESOLVED by the Council of the Borough of Perkasio, as follows, that the financial security fund for the Spruce Street Townhouses project, is hereby reduced by the amount of \$29,156.25 to the sum of \$11,593.75.

IT IS FURTHER RESOLVED that the Borough Manager is hereby authorized to sign the Escrow Reduction.

THIS RESOLUTION WAS DULY ADOPTED by the Borough Council of Perkasio
Borough on the 3rd day of January, 2023.

BOROUGH OF PERKASIE:

ATTEST:

By: _____
James Ryder, President

By: _____
Andrea L. Coaxum, Secretary



GILMORE & ASSOCIATES, INC.
ENGINEERING & CONSULTING SERVICES

December 15, 2022

Project No.: 21-05023

Andrea L. Coaxum, Borough Manager
Borough of Perkasio
620 W. Chestnut Street
P.O. Box 96
Perkasie, PA 18944

Reference: 106 & 108 North 7th Street
Financial Security Escrow Release Request #1

Dear Andrea:

Gilmore & Associates Inc. (G&A) has reviewed the escrow release request from Jeer LLC dated December 9, 2022. Per the Land Development Waiver Agreement dated September 7, 2021, a financial security fund has been established in the amount of \$39,750.00. This request for release of a portion of the financial security fund is for all construction items.

In response to the Applicant's request, G&A has reviewed the completed site improvements and the items/quantities for this release are as delineated on the attached breakdown. We note that the total amount requested (\$29,812.50) in the escrow release request from Jeer LLC only takes into account a 10% 18-month retainer, whereas the 18-month retainer is actually 15% of the construction cost. Based on a 15% 18-month retainer, the total amount should have been \$28,156.25.

G&A would recommend reducing the financial security fund by Two-Eight Thousand One Hundred Fifty-Six Dollars and Twenty-Five Cents (\$28,156.25) to the amount of Eleven Thousand Five Hundred Ninety-Three Dollars and Seventy-Five Cents (\$11,593.75).

Please schedule this as an agenda item for the next meeting. If you have any questions regarding the above, please contact this office.

Sincerely,

Douglas C. Rossino

Douglas C. Rossino, P.E.
Gilmore & Associates, Inc.
Borough Engineers

DCR

Enclosures: As Referenced

cc: Debbie Sergeant, Code Enforcement Administrator
Megan McShane, Executive Assistant
Rebecca Deemer, Finance Director
Jeffrey P. Garton, Esq., Borough Solicitor
Jeer, LLC, Owner/Applicant
Erik Garton, P.E., E.V.P., Gilmore & Associates, Inc.

65 East Butler Avenue | Suite 100 | New Britain, PA 18901 | Phone: 215-345-4330 | Fax: 215-345-8606

December 15, 2022
Release #1

CERTIFICATE OF COMPLETION

106 & 108 NORTH 7TH STREET

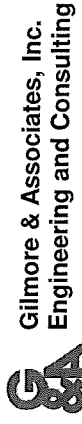
We, the undersigned, hereby certify that the improvements in connection with the Preliminary/Final Land Development Plans prepared for Jeer, LLC dated January 8, 2021 and last revised May 4, 2022 and the Land Development Waiver Agreement for Jeer LLC dated September 7, 2021 have been completed to the extent that the financial security fund may be reduced by \$28,156.25 dollars to the amount of \$11,593.75 dollars.

Douglas C. Rossimo
Borough Engineer

12/15/2022
Date

Borough Manager

Date



ESCROW STATUS REPORT

PROJECT NAME: 106 & 108 North 7th Street
 PROJECT NO.: 21-05023
 PROJECT OWNER: Jeer, LLC
 MUNICIPALITY: Perkasisie Borough
 ESCROW AGENT:
 TYPE OF SECURITY:
 AGREEMENT DATE: September 7, 2021

SUMMARY OF ESCROW ACCOUNT

TOTAL CONSTRUCTION: \$33,125.00
 TOTAL CONSTRUCTION CONTINGENCY: \$3,312.50
 TOTAL ENG/INSP/LEGAL: \$3,312.50
 TOTAL ESCROW POSTED: \$39,750.00

RELEASE NO.: 1
 RELEASE DATE: December 15, 2022

AMOUNT OF WORK IN PLACE THIS PERIOD: \$ 33,125.00
 REQUIRED RETAINAGE THIS RELEASE (15%): \$ 4,968.75
 AMOUNT OF THIS RELEASE: \$ 28,156.25

TOTAL ESCROW RELEASED TO DATE: \$ 28,156.25
 TOTAL ESCROW REMAINING: \$ 11,593.75
 TOTAL CONSTRUCTION CONTINGENCY: \$ 3,312.50
 TOTAL ENG/INSP/LEGAL: \$ 3,312.50
 TOTAL RETAINAGE TO DATE: \$ 4,968.75
 TOTAL CONSTRUCTION AVAILABLE FOR RELEASE: \$ -

ESCROW TABULATION

CONSTRUCTION ITEMS	UNITS	QUANTITY	UNIT PRICE	TOTAL AMOUNT	CURRENT RELEASE		RELEASED TO DATE		AVAILABLE FOR RELEASE		RELEASE REQ # 2
					QUANTITY	AMOUNT	QUANTITY	AMOUNT	QUANTITY	AMOUNT	
A. EROSION & SEDIMENT CONTROL											
1. Rock Construction Entrance (To be maintained)	EA	1	\$1,500.00	\$1,500.00	1	\$1,500.00	1	\$1,500.00			
2. 12" Compost Filter Sock	LF	195	\$3.00	\$585.00	195	\$585.00	195	\$585.00			
3. Temporary Seeding and Mulch	LS	1	\$250.00	\$250.00	1	\$250.00	1	\$250.00			
4. Inlet Protection	EA	3	\$200.00	\$600.00	3	\$600.00	3	\$600.00			
B. CURB AND SIDEWALK											
1. Concrete Sidewalk (4")	SF	330	\$6.00	\$1,980.00	330	\$1,980.00	330	\$1,980.00			
2. Concrete Driveway Apron (6")	SF	200	\$9.00	\$1,800.00	200	\$1,800.00	200	\$1,800.00			
3. Vertical/Depressed Concrete Curb (7"x8"x18")	LF	96	\$60.00	\$5,760.00	96	\$5,760.00	96	\$5,760.00			
C. LANDSCAPING											
1. Buffer Trees	EA	11	\$300.00	\$3,300.00	11	\$3,300.00	11	\$3,300.00			
2. Parking Buffer Shrubs	EA	8	\$50.00	\$400.00	8	\$400.00	8	\$400.00			
D. STORM SEWER											
1. Type 'M' Box & Grate (Standard Inlet Box)	EA	1	\$2,500.00	\$2,500.00	1	\$2,500.00	1	\$2,500.00			
2. Nyloplast 15" Inline Drain	EA	3	\$1,000.00	\$3,000.00	3	\$3,000.00	3	\$3,000.00			
3. 15" HDPE Pipe w/bedding and backfill	LF	179	\$50.00	\$8,950.00	179	\$8,950.00	179	\$8,950.00			
4. Type 'C' Doghouse Inlet & Grate	EA	1	\$2,500.00	\$2,500.00	1	\$2,500.00	1	\$2,500.00			

JEFFREY P. GARTON
DOUGLAS C. MALONEY
THOMAS J. PROFY, IV*†
FRANCIS X. DILLON
JOHN A. TORRENTE*
STEVEN M. JONES
MICHAEL J. MEGINNISS
BREANDAN Q. NEMEC*
BRENDAN M. CALLAHAN*
SEAN M. GRESH
SIOBHAN TIMMERMAN†
BRYCE H. McGUIGAN*
BRADLEY R. CORNETT*
KATHARINE J. WEEDER*
TRACY L. CASSEL-BROPHY*
CHRIS LITTLE SIMCOX*
BRENDAN G. CORRIGAN^
KIMBERLY N. SMITH



680 MIDDLETOWN BOULEVARD
P.O. BOX 308
LANGHORNE, PENNSYLVANIA 19047-0308
TELEPHONE: 215.750.0110
FAX: 215.750.0954

OF COUNSEL
JOHN P. KOOPMAN
JAMES A. DOWNEY, III
SCOTT A. PETRI
FRANK A. FARRY
THOMAS E. HORA
ALLEN W. TOADVINE
TRACY P. HUNT
PAMELA A. VAN BLUNK*

NEW HOPE OFFICE
123 W. BRIDGE STREET
NEW HOPE, PA 18938
215.862.0701

JEFFREY P. GARTON, ESQUIRE
jgarton@begleycarlin.com

*Member of PA & NJ Bars
†Master of Laws (Taxation)
^Member of PA & NY Bars

August 25, 2022

VIA EMAIL

Andrea L. Coaxum, Borough Manager
Perkasie Borough
620 W. Chestnut Street
Perkasie, PA 18944

Re: SEPTA

Dear Andrea:

Please be advised that I reviewed the several forms you previously provided to me with respect to SEPTA. In that regard, my comments with respect to the several documents are as follows:

1. Are you suggesting that the Borough wants to lease and/or take possession of the train car? Or, is this related to the thinking of having the outdoor skating rink?
2. Right-of-Entry Permits. SEPTA is requiring that the Borough complete the Right-of-Entry Permit and submit the One Thousand Dollar (\$1,000.00) non-refundable processing fee even though there has been no lease negotiated nor any terms concluded. Are you prepared to do so? You will note the terms and conditions if you submit the Permit. Specifically, the Borough is responsible for all costs associated with any work, which is understandable, but you are reimbursing SEPTA for all costs incurred in connection with the Application. I don't know that they are suggesting that you are responsible for all costs incurred with respect to the negotiation of a lease, but certainly as it relates to the Permit Application you are agreeing to reimburse SEPTA for all costs. Please see in Section 4 that you are being notified as to the meanings within the several agreements of "Hazardous Substance", "SEPTA Property", and "Work".

3. Unmanned Aircraft Systems (Drone) Operations. This document has no relationship to the Borough and should not see the light of day.
4. Hourly Rates. The hourly rates are not unreasonable, but depending upon the amount of time and effort expended by SEPTA to review your Right-of-Entry Permit Application, that One Thousand Dollars (\$1,000.00) could be utilized very quickly.
5. Indemnification of City. This is not relevant to the Borough. This is an Agreement between the City and SEPTA.
6. Environmental Activities on SEPTA Property. This is relevant and it describes the requirements imposed upon the Borough related to Soil Disturbance and Soil Removal. You may not proceed to remove any soil or disturb any soil without a prior approval from SEPTA and it must be done in compliance with SEPTA, but also any Conservation District or other responsible agencies having jurisdiction. Please review subsection D since you are required to provide notice if you do receive approval, and also the Borough will be responsible for all soil testing and the like. Also note the parameters of testing and the need for the Borough to be cognizant if there is any pre-existing environmental dangers. Have you received any reports from SEPTA concerning whether or not the property has been the subject of any environmental studies and whether it contains any hazardous waste? I do not believe the Borough will have a problem with subsection D because I don't expect anything you are going to do will create any kind of environmental danger.
7. Right-of-Entry Form. The first part on page 1 is self-explanatory, but what would be the usage? It almost looks like the top part may not be permanent, and nothing within Construction appears to be applicable. You may need to identify a specific purpose in the actual form.
8. Right-of-Entry Form (says DRAFT). It identifies the location as the Market Street location on the Lansdale Doylestown Line. Does the Lansdale Doylestown Line really go through Perkasio? Also, on various copies of the same form, you will find the requirement for insurance, maps, drawings, and the like. Lastly, you have to execute the Requester sign off, which means that you have confirmed that you have authority to do so.

I do not know where you are with respect to the SEPTA project, but clearly you have hurdles to overcome if you are looking for a Right-of-Entry Permit and it does seem odd to me

Andrea L. Coaxum, Borough Manager
August 25, 2022
Page 3

that you should proceed with that venture without having some idea that there actually may be a lease signed in the future.

If you have any questions, please advise.

Very truly yours,



Jeffrey P. Garton

JPG:bcr

JEFFREY P. GARTON
DOUGLAS C. MALONEY
THOMAS J. PROFY, IV*†
FRANCIS X. DILLON
JOHN A. TORRENTE*
STEVEN M. JONES
MICHAEL J. MEGINNISS
BREANDAN Q. NEMEC*
BRENDAN M. CALLAHAN*
SEAN M. GRESH
SIOBHAN TIMMERMAN†
BRYCE H. McGUIGAN*
BRADLEY R. CORNETT*
KATHARINE J. WEEDER*
TRACY L. CASSEL-BROPHY*
CHRIS LITTLE SIMCOX*
BRENDAN G. CORRIGAN*
KIMBERLY N. SMITH



680 MIDDLETOWN BOULEVARD
P.O. BOX 308
LANGHORNE, PENNSYLVANIA 19047-0308
TELEPHONE: 215.750.0110
FAX: 215.750.0954

OF COUNSEL
JOHN P. KOOPMAN
JAMES A. DOWNEY, III
SCOTT A. PETRI
FRANK A. FARRY
THOMAS E. HORA
ALLEN W. TOADVINE
TRACY P. HUNT
PAMELA A. VAN BLUNK*

NEW HOPE OFFICE
123 W. BRIDGE STREET
NEW HOPE, PA 18938
215.862.0701

JEFFREY P. GARTON, ESQUIRE
jgarton@begleycarlin.com

May 17, 2022

*Member of PA & NJ Bars
†Master of Laws (Taxation)
^Member of PA & NY Bars

VIA EMAIL

Andrea L. Coaxum, Borough Manager
Perkasie Borough
620 West Chestnut Street
Perkasie, PA 18944

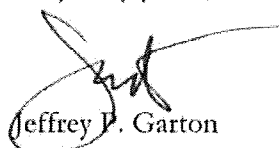
Re: SEPTA / Freight Station

Dear Andrea:

The email you forwarded to my attention did not include the Right-of-Entry Permit Application.

In any event, it would appear as if it is necessary to begin the discussion of a Lease that you submit the Right-of-Entry Application with \$1,000.00. If you have concerns about whether the Council wishes to proceed, then I suggest you schedule it for discussion during an upcoming Agenda.

Very truly yours,



Jeffrey P. Garton

JPG:bcr

Approximated Fully Loaded Hourly Rates
for SEPTA Services for Right-of-Entry Work
Published as of 8/1/2019

	Fully Loaded Rate
Project Engineer	\$ 115 per hour
Inspector	\$ 100 per hour
Flagman	\$ 90 per hour
Overhead Maintainer (Power)	\$ 100 per hour
Signal Maintainer	\$ 100 per hour
Engineering – Project Management	\$ 150 per hour

The above rates are calculated for Fiscal Year 2020 using the top of range salary, plus a fringe benefit rate and an overhead rate.

INDEMNIFICATION OF CITY
For Work on Properties Subject to the
City Transit Property Lease between
the City of Philadelphia and SEPTA

Permittee, in performing the Work at the location(s) identified in the ROE Agreement, acknowledges that such locations are leased to the Southeastern Pennsylvania Transit Authority (“SEPTA”) by the City of Philadelphia (the “City”) pursuant to that certain City Transit Properties Lease Agreement (the “Lease”), which Lease requires third-party contractors in the City Property to make the agreements set forth below for the benefit of the City. This section shall apply to the following sites owned by the City:

a. Indemnification.

(i). Permittee hereby expressly and irrevocably agrees fully to defend, indemnify and hold harmless the City from and against any and all claims, losses, suits, demands, damages, liabilities, consequential damages, charges, fines, settlement payments, penalties or expenses (including, but not limited to, the fees and costs of attorneys and other professionals) with respect to: (i) the conduct, operation or management of the Work performed on the City Property; or (ii) any accident, sickness, disease, bodily injury to or death of any person or damage to any property howsoever caused that arises out of the Work on City property (any such event, a “Claim”), provided that such Claim or Claims shall not have arisen by reason of the sole negligence of the City.

(ii). Permittee and its attorney and insurer shall notify the City of any Claim and keep the City fully informed of all matters involving, concerning or relating to the defense and indemnification of the City. The City shall have the right to review any and all correspondence, pleadings, or filings prior to any such correspondence, pleading, or filing being submitted in connection with the Claim. Permittee and its attorney and insurer shall take no factual or legal position that is contrary to the City’s position or rights including, but not limited to, any rights or immunities bestowed upon the City under 42 Pa.C.S. § 8501 et seq. and other law. In the event that Permittee or its attorney or insurer fails or refuses to defend and indemnify the City or the City reasonably believes that its rights may be adversely affected or prejudiced, the City may select counsel of its own choice and defend against any such claim at Permittee’s sole cost and expense.

(iii). Permittee also expressly and irrevocably agrees to forego any protection afforded under § 303(b), as amended, of Pennsylvania’s Workers’ Compensation Act, 77 P.S. § 481(b), and fully to defend, indemnify and hold harmless the City and to assume unlimited liability for harm or injury suffered by any employee, worker, agent, servant or subcontractor of Permittee or any other person. Except if caused by the sole negligence of the City, Permittee hereby expressly and irrevocably releases and agrees to be fully liable

for and shall fully indemnify, defend and hold harmless the City from and against any and all Claims relating to, in connection with, arising out of, or resulting from the Agreement or Permittee's occupation or use of City Property that are made by any employee, worker, agent, servant or subcontractor of Permittee including Claims for compensation or benefits payable to any extent by or for Permittee, subcontractor or agent under any workers' or similar compensation acts or other employee benefits acts.

(iv). This release and indemnification shall be for those events that may be sustained during the existence of the Agreement and upon or after the termination of the Agreement as a result, direct or indirect, of Permittee's performance. Permittee's obligation and liabilities under this section shall survive the expiration of the Agreement.

b. Applicable Law. Permittee agrees that Permittee's entry onto City Property and performance of the Work shall be in accordance with Applicable Laws, including, without limitation, the Right-of-Way Management Ordinance codified as Chapter 11-700 of The Philadelphia Code.

c. Notices. Permittee shall notify the City of any Claim, and keep the City apprised of the progress of any Claim, either by (a) first class United States mail, postage prepaid, registered or certified with return receipt requested, or (b) sent by reliable express mail service (such as United Parcel Service) with tracking ability and delivery receipt to the following addresses:

City of Philadelphia Risk Management Department
1515 Arch Street - 14th Floor
Philadelphia, PA 19102
Attention: Barry Scott

With copies to: City of Philadelphia Law Department
1515 Arch Street, 17th Floor
Philadelphia, PA 19102
Attention: Divisional Deputy, Real Estate and Economic Development

Governing Law. Permittee's agreements set forth here shall be governed in accordance with the laws of the Commonwealth of Pennsylvania, without reference to principles of conflicts of laws. Permittee agrees to submit to the jurisdiction of courts, whether federal or state, located in Philadelphia, Pennsylvania.

ENVIRONMENTAL ACTIVITIES ON SEPTA PROPERTY

Defined Terms from the ROE Agreement shall also apply herein. In addition, the term “**Work Site**” shall mean the area of property on which the Work hereunder is to be performed, as well as any property that is used for staging or access regarding the Work. The delineation of the Work Site will include SEPTA Property, but may also go beyond SEPTA Property and include other property that Permittee has a right to access/use for the Work and that is adjacent to and nearby the SEPTA Property (“**Others’ Property**”).

PART A - Soil Disturbance and Soil Removal

A. Even though Permittee must obtain written approval from SEPTA, through the right-of-entry permitting process, to perform work that involves Soil Disturbance and/or Soil Removal on the Work Site, as part of or in preparation for the performance of the Work, Permittee must also give SEPTA 72-hours’ written notice prior to commencing any Work that includes Soil Disturbance and/or Soil Removal.

B. If the Work Site includes both SEPTA Property and Others’ Property, Soil Disturbance and/or Soil Removal must be performed on both sites in compliance with the Agreement, and this document. If Soil Disturbance and/or Soil Removal anywhere on the Work Site has the potential to have any effect on the SEPTA Property, SEPTA shall have the right, but not the obligation, to be present at and when Soil Disturbance and/or Soil Removal is performed on the Work Site.

C. Permittee shall obtain and fully comply with any and all instructions SEPTA may have regarding such Soil Disturbance and/or Soil Removal and the movement of soil on the SEPTA Property. The methods and location of Soil Disturbance and/or Soil Removal on SEPTA Property are subject to SEPTA’s review, written approval, observation, direction and oversight.

D. Permittee hereby commits that if Soil Removal from the Work Site becomes necessary, whether or not it was anticipated and reported on the Application or an addendum, Permittee will (i) give SEPTA 72-hours’ notice prior to taking any action for Soil Removal; (ii) comply with the requirements as set forth herein; and (iii) obtain and fully comply with any and all instructions SEPTA may have regarding such Soil Removal. The methods and location of disposal for all soils removed (“**Removed Soils**”) from SEPTA Property are subject to SEPTA’s review and written approval. Although Permittee may recommend to SEPTA a disposal site for Removed Soils from the SEPTA Property, SEPTA reserves the right to reject or approve recommended disposal sites. Permittee shall not dispose of clean fill in quarries, residential properties, or locations where SEPTA soil would be combined with untested fill. Permittee must handle and manage Removed Soils, from the Work Site, in accordance with Pennsylvania Department of Environmental Protection (PADEP) Management of Fill Policy and all applicable Federal, State and local laws, regulations, ordinances, and orders that relate to or concern the Environmental Activities and regulations (“**Environmental Law**”).

E. Permittee shall be responsible for the cost of Testing of Removed Soil as set forth below.

PART B - Environmental Testing.

A. Even though Permittee is obtaining written approval from SEPTA, through the ROE Process, to perform Testing on the Work Site as part of or in preparation for the performance of the Work, Permittee is also required to give SEPTA 72-hours written notice prior to commencing any such Testing.

B. For Testing on the Work Site, Permittee must discuss with the project manager, and SEPTA's System Safety Department upon request, the specifics and the details of Testing, and, how the Testing will impact in any way the SEPTA Property. Permittee shall submit a proposed testing, sample collection, and analysis plan for SEPTA's review and approval. SEPTA reserves the right, but does not have an obligation, to be present on the Work Site at and when Testing occurs on the Work Site.

C. Permittee shall be responsible for the undertaking of and the cost and expense of all Testing, whether performed at and on the Work Site or off the Work Site. Permittee will immediately provide to SEPTA a copy of the results of all Testing pertaining to the Work Site.

D. If the Work Site includes both SEPTA Property and Others' Property, SEPTA shall also have the right to require Permittee to take split samples, making one set of sample available to SEPTA for its own use at its discretion.

E. Permittee shall immediately provide to SEPTA, at no cost to SEPTA, a copy of results from any and all Testing performed on the Work Site. Except as may be required by applicable law or as authorized by SEPTA in writing, Permittee must not disclose Testing results pertaining to the SEPTA Property to anyone other than to SEPTA and, when applicable, to the entity that hired Permittee to perform the Work or the Testing and, if necessary, to any entity that owns Others' Property, if any.

PART C – Pre-existing Environmental Dangers.

A. If any Environmental Activities performed by or on behalf of Permittee in connection with the Work indicate the existence, discovery, generation, handling, and/or disposal of waste, hazardous substances, controlled substances, contamination, hazardous conditions, or other dangerous or unfavorable environmental conditions ("**Environmental Dangers**"), and those Environmental Dangers existed within SEPTA Property prior to the Permittee's entry onto SEPTA Property ("**Pre-existing Environmental Dangers**") at levels requiring reporting or further investigation, testing, monitoring or other Environmental Protections (as defined in Part D), Permittee shall notify, take direction from and cooperate with SEPTA's System Safety Department prior to taking any further action regarding the Pre-existing Environmental Dangers. SEPTA has sole discretion in how Pre-existing Environmental Dangers on SEPTA Property shall be handled with Environmental Protections, subject to compliance with Environmental Law.

B. If Work Site includes both SEPTA Property and Others' Property, and Pre-existing Environmental Dangers are discovered on both properties, Permittee shall take due care to keep and handle separately the soils from SEPTA Property and the Others' Property; and to handle all Environmental Activities and Environmental Protections separately on and for the two properties and as two incidents with regard to reporting, etc. Permittee shall be responsible to the owner(s) of the Others' Property with regard to notification and handling of Pre-existing Environmental Dangers specifically found on the Others' Property. If Pre-existing Environmental Dangers are discovered on just the Others' Property as a result of Permittee's performance of the Work,

Permittee shall inform SEPTA of such finding so that SEPTA may consider whether SEPTA will perform further testing on the Premises that is nearby the Others' Property.

C. SEPTA shall be responsible for and liable for, at its own expense, Pre-existing Environmental Danger(s) discovered to exist and to have originated on the Premises, and the Environmental Protections that are the necessary response to the Pre-existing Environmental Danger. SEPTA will not be responsible for Pre-existing Environmental Danger(s) that are discovered to exist on the Others' Property or that are discovered to have originated on the Others' Property and permeated into SEPTA Property or any other property.

PART D - Created Environmental Dangers.

A. Permittee shall immediately notify SEPTA in writing of the development of a created Environmental Danger ("**Created Environmental Danger**") on SEPTA Property, and shall take and comply with direction from SEPTA's System Safety Department prior to taking any further action regarding the Created Environmental Danger. SEPTA has sole discretion in how a Created Environmental Danger caused by Permittee on SEPTA Property shall be handled by way of the effective, practical, industry standard (or better) methods, actions, facilities, installations, etc. which prevent or reduce the movement of sediment, nutrients, pesticides, and other pollutants from the land to surface or ground water; which otherwise protect water quality from potential adverse effects, and/or which involve the mitigation, precautions, prevention, containment, clean-up, remediation, reclamation, restoration, purification or other actions (collectively herein "**Environmental Protections**"), subject to compliance with Environmental Law.

B. Permittee shall perform Environmental Protections, as directed by SEPTA, registering and using Permittee's own EPA generator number(s). In no event shall SEPTA be identified as the generator of an Environmental Danger that is caused by the Work. Permittee will promptly provide SEPTA with a copy of any waste manifests, and all other documents related to any and all Environmental Protection requirements or activities performed regarding the Created Environmental Dangers.

C. Permittee shall be responsible for the costs associated with all Environmental Protection activities or actions undertaken for any purpose, including whether to mitigate or resolve the Created Environmental Dangers.

D. Permittee shall be responsible for and liable for, and shall release, hold harmless and indemnify SEPTA for, any loss, claims, lawsuits, administrative actions, violations, damages (including indirect and consequential), court costs and legal expenses, fees, penalties and all other associated costs and expenses, of any kind, as well as **any liabilities due to personal injury of third parties or damage to property of third parties**, resulting from, arising out of, or related to, the Created Environmental Danger(s), without regard to the extent thereof.

E. Permittee shall also be responsible for undertaking, at Permittee's sole expense, all mitigating Environmental Protection actions, and for coordinating such activities with SEPTA, that may help to minimize or mitigate any disruption to or interference with SEPTA Property and SEPTA operations from a Created Environmental Danger. Permittee's responsibility for the execution of such minimizing or mitigating Environmental Protections shall be without regard to the extent of the Environmental Danger, and without regard to whether any Pre-existing Environmental Danger may have exacerbated or contributed to the Created Environmental Danger.

F. SEPTA shall in no way be liable for Created Environmental Dangers on Others' Property. In the event of a Created Environmental Dangers on Others' Property, Permittee shall release, hold harmless, and fully indemnify SEPTA for any and all costs SEPTA incurs as a result thereof.

G. Permittee shall immediately inform SEPTA of all communications with any governmental authority relating to performance of Environmental Protections, and, with adequate prior written notice, shall invite SEPTA to attend any relevant meetings. Permittee shall provide SEPTA with all plans or submissions related to any such Environmental Protections and SEPTA shall have the ongoing right to approve such plans or submissions as they pertain to the Premises, prior to their implementation.



Southeastern Pennsylvania Transportation Authority
Serving Bucks, Chester, Delaware, Montgomery, and Philadelphia counties

Friday, May 27, 2022 EDT

Search ...



Travel



About



Customer Service



Media



Careers

Business



Home > Business Opportunities > Right-of-Entry Permits > Right-of-Entry Application Terms & Conditions

RIGHT-OF-ENTRY APPLICATION TERMS & CONDITIONS

1. Any application fees must be paid at the time of submission of your application. All fees are non-refundable.
2. Applicant acknowledges that SEPTA is not responsible for any costs associated with the Work. Permittee must reimburse SEPTA for all costs that SEPTA incurs in connection with this application ("Application"), Agreement, and Permit. Without limiting the foregoing, applicant must reimburse SEPTA for all costs that SEPTA incurs in connection with the review of the applicant's plans, drawing, or other submissions and flag service and other protection.
3. SEPTA will bill applicant for SEPTA's costs, expenses and labor charges at SEPTA's standard force account rates. All payments due from applicant to SEPTA shall be due and payable within thirty (30) calendar days from the date of invoice. Applicant has no right to set off against any payment due any sums which applicant may believe are due to it from SEPTA for any reason. In the event that applicant fails to pay, when due, any amount payable by it, applicant must pay SEPTA, together with such overdue payment, interest at an annual rate of six (6) percent calculated from the date the payment was due until paid. All payments due from applicant to SEPTA hereunder must be: (i) made by check drawn from currently available funds; (ii) made

payable to Southeastern Pennsylvania Transportation Authority; and (iii) mailed with a copy of the invoice to: Southeastern Pennsylvania Transportation Authority, P.O. Box 7780-4044, Philadelphia, PA 19182-4044. All payments are deemed made only upon receipt by SEPTA of collected funds.

4. SEPTA notifies the applicant that certain words in this application have specific meanings and that applicant must answer the questions below consistent with those meanings.

- “Hazardous Substance” and “Hazardous Substances” mean without limitation, flammables, explosives, radioactive materials, asbestos, polychlorinated biphenyls (PCB’s), chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances or related materials, petroleum and petroleum products, and substances declared to be hazardous or toxic under any law or regulation now or hereafter enacted or promulgated by any government that has jurisdiction over the Work and/or the SEPTA property.
- “SEPTA Property” means the real estate, right-of-way, building or other property which SEPTA owns, leases, maintains, occupies, possesses or controls and which is associated with the Work that Permittee intends to perform. References herein to “on SEPTA property” or “on the SEPTA Property” mean on, under, over or adjacent to the SEPTA Property, whatever is appropriate.
- “Work means the activities identified in the Application which Permittee intends to perform on the SEPTA Property.”

The process will take approximately X number of days.

Translate the SEPTA Site

Select Language

Powered by Google Translate

Get the SEPTA App

Get the Transit Watch App



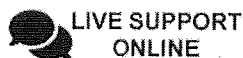
1234 Market Street
Philadelphia, PA 19107
Phone: (215) 580-7800
TDD/TTY: (215) 580-7853

USEFUL LINKS

- Civil Rights Notices
- COVID-19 Information
- Privacy Policy
- Getting to SEPTA
- Sitemap

MORE FROM SEPTA

- Careers
- I SEPTA Philly
- Planning
- SEPTA Key
- Sustainability



Copyright © 2022 SEPTA. All rights reserved. See our copyright and trademark notices.

Right of Entry

- ① Overview 2 Location Information 3 Risk and Hazards 4 Risk Assessment
5 Requester Details 6 Documents 7 Signatures 8 Payment

Complete this application to request access to or use SEPTA Property. For Commercial and Student Film and Photography requests, click [here](#)

Your Name *

First

Last

Your Email *

Overview

Describe the activity or Work to be performed on SEPTA property or will Impact SEPTA Property *

Brief Description of Activity

What – What ROE work/activities/event is to be conducted on or near SEPTA Property
If the ROE work is part of a larger Project, be sure to identify and explain it too.

Who – Who (company, organization) is conducting the ROE work/activities/event
If the Permittee is doing the work for another entity (i.e. one who is the Project owner), that should be explained

Why – Why is this work/activities/event taking place on the SEPTA Property

When – When the ROE work/activities/event will take place. This should include an approximate start date -- probably duration- and proposed expiration date. Also include information if the dates are flexible and/ or if the work is an emergency.

Where – the specific location on SEPTA property where the work/event/activity will occur. This may need a description of a larger area of SEPTA property and the more specific area where the actual ROE Work will occur.

Proposed Start Date *



Duration *

Duration Type *

Hours

Days

Weeks

The Work or Impact on SEPTA Property will include:

Property Usage

Types

- Community Event
- Parking Lot Use
- Property Beautification
- Non-Profit Fundraising Event
- Artwork/Mural/Banner
- Recreational/Educational Event
- Pamphlet/Media Distribution
- Photograph/Video Shoot

Select all that apply

Non Construction

Types

- Survey
- Geo/Environmental Testing with Borings
- Visual Inspection (i.e.Bridge, Wall, etc.)
- Equipment or Crane
- Use for Access to OR Work on Adjacent Property

Select all that apply

Construction

Construction Types

- Soil Disturbance
- Storm Water Facility
- Antenna
- Building Development
- Street Scape
- Bridge Reconstruction
- Bridge Attachment
- Other Construction

Select all that apply

Utilities

- Poles
- Duct Bank
- Pipeline
- Wire line

Select all that apply

Work Proximity *

Work will occur greater than 50 feet from track

Work will occur less than 50 feet from railroad track

Next >

Save

1

Right of Entry

- 1 Overview
- 2 Location Information
- 3 Risk Assessment
- 4 Requester Details
- 5 Documents
- 6 Signatures
- 7 Payment

Project or Activity Location Details

Provide the Address, City, State, and Zipcode of the location you plan to perform your Activity or Work.

Location Street Address *

City *

State

Zipcode *

PA



Transit Line *

Nearest Station *

Select or type the Rail or Transit line the activity or work is nearest.

Type the name of the closest station to the work or activity area.

Latitude

Longitude

[Look Up Latitude and Longitude](#)

Right of Entry

- 1 Overview
- 2 Location Information
- 3 Risk Assessment
- 4 Requester Details
- 5 Documents
- 6 Signatures
- 7 Payment

Risk Assessment

Southeastern Pennsylvania Transportation Authority
 1234 Market Street
 Philadelphia, PA 19107-3780
 Attn: Risk Management



This is a sample of the required insurance for your project based on your preliminary submissions.

PLEASE NOTE: Your specific insurance coverages and limits may be less or more than the preliminary sample requirements once your complete scope of work and job details are submitted to the SEPTA's Risk Management Department.

Do not purchase additional Insurance until you receive your final Risk Assessment from SEPTA.

Location	Transit Line
Market Street	Lansdale Doylestown Line

EXPOSURE Maximum exposure to third party claims, SEPTA property and employees as a result of this activity

Minimum Required Insurance Limits

GENERAL LIABILITY	\$2 Million combined single limit per occurrence
GENERAL AGGREGATE	Not less than \$6 Million annual aggregate

AUTOMOBILE LIABILITY

\$2 Million combined single limit per occurrence

WORKERS' COMPENSATION &
EMPLOYERS' LIABILITY

Not less than \$1 Million per accident

- SEPTA must be provided with true copies of declaration pages and policies of insurance upon request
- SEPTA is to be listed as an additional insured on all applicable liability policies excluding workers compensation.
- Workers' Compensation must provide a waiver of subrogation each policy shall state that the insurance provided to the additional insured is primary and non-contributory to any other insurance available to the additional insured and SEPTA must be the certificate holder on all applicable liability coverage with respect to this project and it should be noted on the insurance certificate and policies.
- SEPTA must be provided with proof of insurance that demonstrates compliance with these requirements as well as all limits and other mandated aspects of coverage.

< Back

Next >

Save

Right of Entry

- 1 Overview
- 2 Location Information
- 3 Risk Assessment
- 4 Requester Details
- 5 Documents
- 6 Signatures
- 7 Payment

Requester Details

Organization Responsible for the Activity

Organization Name *

Address *

Address Line 1

Address Line 2

City

Pennsylvania



Zip Code

Contact Name *

Job Title

Phone *

Email *

Insurance Contact

Name *

Phone *

Email *

Invoice and Billing Information

This section is for SEPTA support costs

Billing Contact *

First

Last

Phone *

Billing Email *

Tax ID *

Billing address is the same as Organization/Company performing the work

Yes No

Billing Address *

Address Line 1

Address Line 2

City

Pennsylvania



Zip Code

< Back

Next >

Save

4

Right of Entry

- 1 Overview
- 2 Location Information
- 3 Risk Assessment
- 4 Requester Details
- 5 Documents
- 6 Signatures
- 7 Payment

Documents

Application Documents

⊗ Document 1

WARNING - Prohibited Characters in File Names include::

& * : \ / < > | " ? [] ; = + & £ \$, . # % ^ ! @

Rename attachments before uploading.

Failure to eliminate prohibited characters will cause your application to be delayed.

Document Type

Title

Attachment

Statement of Work

Site Specific Work Plan

Certificate of Insurance -
COI

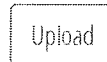
Map

Photo

Drawing

Calculations

Other



or drag files here.

*File names cannot contain the following prohibited characters: & * : \ / < > | " ? [] ; = + & £ \$, . # % ^ ! @ You must rename files before attaching.*

+ Add Document

< Back

Next >

Save

Right of Entry

- 1 Overview 2 Location Information 3 Risk Assessment 4 Requester Details 5 Documents
- 6 Signatures 7 Payment

Requester Sign Off

I, by signing below, do hereby confirm and promise that the information provided regarding this ROE request is accurate, precise, forthright, and complete, to the best of my knowledge and ability. By signing below, I, on behalf of myself and Requestor and as representing Requestor, do further acknowledge and commit to the following:

- I am lawfully and legitimately authorized to: represent, act on behalf of; submit the ROE Application for; and enter into the ROE Agreement on behalf of, Requestor and all persons who own or are authorized to access the email account used for this ROE, and that all such persons and entities will be bound by the ROE Application and the ROE Agreement;
- Requestor will not enter upon or commence any Work on any SEPTA property until the ROE Application has been approved, the ROE Agreement (which I have not yet been given) has been executed, and SEPTA has expressly given me authority to do so;
- Requestor understands that information missing from the ROE Application may cause a delay in processing the ROE request;
- Requestor understands that any additional documents and proof of insurance, requested by but not submitted with the ROE Application, must be subsequently provided and, if not provided timely, may delay final authorization from SEPTA to commence Work;
- I and Requestor understand that my use of a keyboard, mouse or other device to: "select" a button; enter or record a statement; or take any similar electronic action by which a choice, consent, acceptance, information, disclosure, instructions, a transaction, etc., is being electronically conveyed to SEPTA regarding this ROE request and the subsequent ROE Agreement;
 - constitutes a legally effective and binding act;
 - where indicated, provides my signature (referred to as an "E-Signature") that has the same legal effect as if actually written and/or signed;
 - does not require any other additional certification, attestation, verification, validation, or witnessing, to make the action and/or my E-Signature legally and fully valid, legitimate and/or effective, and the lack of any such additional certification, attestation, verification, validation, or witnessing does not in any way negate or diminish the legal enforceability of the action and/or the E-Signature, or any resulting contract established thereby between Requestor and SEPTA.
- By selecting the "I Accept" button on this page, I and Requestor are providing an E-Signature that is electronically signing the ROE Application, and do understand that an E-Signature is the legal equivalent of a manual signature that is legally binding.

I Accept

< Back

Next >

Save