

# WESTTOWN TOWNSHIP

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West Chester, PA 19382  
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## AGENDA

### Westtown Township Board of Supervisors Regular Meeting

Tuesday, January 16, 2024 – 7:30 PM  
Westtown Township Municipal Building  
1039 Wilmington Pike, Westtown

- I. Call to Order & Pledge of Allegiance
- II. Summary of Board of Supervisors Workshop – January 16, 2024
- III. Approval of Board of Supervisors Meeting Minutes – January 2, 2024 Re-organization Meeting & January 2, 2024 Regular Meeting
- IV. Departmental Reports
  - A. Westtown East Goshen Police Department – Brenda Bernot
  - B. Fire Marshal – Gerry DiNunzio
  - C. Finance Director – Cindi King
  - D. Planning Commission – Jack Embick
- V. Public Comment (Non-Agenda Items)
- VI. Old Business - None
- VII. New Business
  - A. Consider Act 247 Review for Ordinance 2024-01, Amending the Off-Street Parking Requirements and Holding a Public Hearing on February 20
  - B. Consider Design and Permitting Proposal from Pennoni for Traffic Signal Improvements at Route 926 and Shady Grove Way for an Estimated Price of \$27,795
  - C. Consider Appointment of At-Large Police Commissioner
  - D. Consider Administration and Construction Management Proposal from Carroll Engineering for Wickerton and Londonderry Drive Sliplining Project for \$45,600
  - E. Authorize Chair to Executive the Development Agreement, Financial Security Agreement and Stormwater Operations and Maintenance Agreement for the Westtown School Oak Lane Project
- VIII. Announcements
  - A. Westtown Township is Seeking a New Township Manager
  - B. Westtown Township was Awarded a \$187,039 Growing Greener Grant from the Department of Environmental Protection to Convert the Thorne Drive Stormwater Detention Basin to a Wet Pond
  - C. West Goshen Sewer Authority Will Use a Temporary Outdoor Pump at the Westtown Way Pump Station for at Least Five Weeks
  - D. The Township is Seeking Applications for the Township's Park & Recreation and Environmental Advisory Commission
  - E. Holiday Office Closure, Monday, February 19 – Presidents Day

IX. Public Comment (All Topics)

X. Payment of Bills

XII. Adjournment

## **How to Engage in the Public Comment Sections of a Township Meeting**

Public Comment is heard at three (3) different points during the meeting:

1. BEFORE OLD BUSINESS - The public is permitted to make public comment on any matter not on the agenda. This comment period is subject to the time constraint in (d) below
2. PRIOR TO any action on a motion on an Agenda item. Public Comment at this stage is limited to the item under discussion (e.g. it is not appropriate to initiate a discussion on police services if the body is acting upon a sewer issue).
3. AFTER NEW BUSINESS. - Public Comment is open to any legitimate item of business which can be considered by that Township Board/Commission (e.g. Planning Commission can discuss issues having to do with plan reviews, but cannot discuss why the Township does not plow your street sooner. Supervisors can discuss nearly every issue).

How to make a comment to any Township Board/Commission:

- a. The Chair will announce that the Board/Commission will now hear public comment, either on a specific issue or generally.
- b. You must then obtain recognition from the Chair prior to speaking.
- c. Once you have the floor, state your name and address for the record.
- d. You may then make your comment or ask your question. You will have three (3) minutes to make your statement, unless the Chair has announced otherwise, so please come prepared!

WESTTOWN TOWNSHIP BOARD OF SUPERVISORS  
ANNUAL REORGANIZATION MEETING  
Westtown Township Municipal Building, 1039 Wilmington Pike, Westtown  
Tuesday, January 2, 2024 at 7:30 PM

Present were: Supervisors Tom Foster, Dick Pomerantz and Ed Yost and Township Manager Jonathan Altshul. Approximately 15 guests were in attendance, including one participating remotely.

**I. Pledge of Allegiance & Call to Order**

Mr. Altshul called the meeting to order at 7:30 PM and led the Pledge of Allegiance.

**II. Swearing in Ceremony for Supervisor Edward Yost – Administered by the Honorable Martin G. Goch**

Judge Goch administered the Oath of Office for newly-elected Supervisor Edward Yost. Mr. Yost's wife Andrea held the bible during the swearing in ceremony.

**III. Nomination for Board of Supervisors Chair**

Mr. Altshul asked for nominations for Board of Supervisors Chair. Mr. Yost nominated Mr. Foster as Chair. Mr. Pomerantz seconded. Mr. Foster accepted the nomination. The motion passed 3-0. Mr. Foster then took over the meeting.

**IV. Nomination for Board of Supervisors Vice Chair**

Mr. Foster nominated Mr. Yost as Vice Chair. Mr. Pomerantz seconded. Mr. Yost accepted the nomination. The motion passed 3-0.

**V. Nomination for Board of Supervisors Police Commissioner**

Mr. Foster nominated Mr. Pomerantz as Police Commissioner. Mr. Yost seconded. Mr. Pomerantz accepted the nomination. The motion passed 3-0.

**VI. Nomination for PSATS Annual Conference Voting Delegate**

Mr. Foster nominated Mr. Yost as the PSATS Voting Delegate. Mr. Pomerantz seconded. Mr. Yost accepted the nomination. The motion passed 3-0.

**VII. Nomination for Supervisor Representative to West Chester Area Council of Governments**

Mr. Foster nominated Mr. Yost as the Representative to the West Chester Area Council of Governments (WCACOG). Mr. Pomerantz seconded. Mr. Yost accepted the nomination. The motion passed 3-0.

**VIII. Nomination for Agricultural Security Advisory Committee, Board of Supervisor Representative**

Mr. Yost nominated Mr. Foster as the Representative to the Agricultural Security Advisory Committee. Mr. Pomerantz seconded. Mr. Foster accepted the nomination. The motion passed 3-0.

**IX. Appointments**

Mr. Pomerantz made a motion to appoint the following persons and firms to the following positions:

- A. Township Manager, Secretary, Treasurer, Right-to-Know Officer, Assistant Zoning Officer, Assistant Code Enforcement Official, & Deputy Delegate to the Chester County Tax Collection Commission – Jonathan Altshul
- B. Assistant Township Manager, Director of Planning & Zoning, Code Enforcement Official and

- Zoning Officer – Liudmila Carter
- C. Parks Coordinator, IT Coordinator, & Trash and Recycling Coordinator– Pam Coleman
- D. Director of Finance, Delegate to the Chester County Tax Collection Committee, Deputy Tax Collector and Assistant Township Treasurer– Cindi King
- E. Director of Public Works and Roadmaster – Mark Gross
- F. Emergency Management Coordinator – Gerry DiNunzio, Jr.
- G. Deputy Emergency Management Coordinator – Dennis Gallagher
- H. Vacancy Board – Joe Stratton
- I. Building Code Official – Code Inspections, Inc.
- J. Solicitor – Gawthrop Greenwood, PC
- K. Planning Commission Solicitor – Buckley, Brion, McGuire & Morris LLP
- L. Engineer – Cedarville Engineering Group, LLC
- M. Traffic Engineer – Albert Federico Consulting, LLC
- N. Sewer Engineer – Carroll Engineering Corporation
- O. Stormwater Management Engineer – Cedarville Engineering Group, LLC
- P. Planning & Zoning Consultant – Brandywine Conservancy
- Q. Auditors – Mingis, Gutowski & Company, LLC
- R. Environmental Advisory Council – Bob Yeats  
3-year term ending December 31, 2026
- S. Environmental Advisory Council – Adam Kapp  
3-year term ending December 31, 2026
- T. Historical Commission Appointment – Pam Boulos  
3-year term ending December 31, 2026
- U. Historical Commission Appointment – Paul Sookiasian  
3-year term ending December 31, 2026
- V. Historical Commission Appointment – Patrick McDonough  
3-year term ending December 31, 2026
- W. Planning Commission Appointment – Jack Embick  
4-year term ending December 31, 2027
- X. Planning Commission Appointment – Joe Frisco  
4-year term ending December 31, 2027
- Y. Parks & Recreation Commission – Carrie Stare  
5-year term ending December 31, 2028
- Z. Zoning Hearing Board – Dave Skaggs  
3-year term ending December 31, 2026

Mr. Yost seconded. There were no public comments. The motion passed 3-0.

**X. Appointment of Depositories**

Mr. Foster made a motion to appoint the following financial institutions as Township depositories:

- A. Univest Bank and Trust Company
- B. Key Bank, N.A.
- C. Key Bank Private Client Investment Services
- D. Pennsylvania Local Government Investment Trust (PLGIT) (Custodian – Wells Fargo NA)
- E. Stifel
- F. Fulton Financial
- G. US Bank, NA

Mr. Yost seconded. There were no public comments. The motion passed 3-0.

**XI. Township Holidays**

Mr. Foster announced the following Township holidays:

- Monday, January 1 – New Years Day
- Monday, January 15 – Martin Luther King Jr. Day
- Monday, February 19 – Presidents Day

Friday, March 29 – Good Friday  
Monday, May 27 – Memorial Day  
Thursday, July 4 – Independence Day  
Monday, September 2 – Labor Day  
Tuesday, November 5 – Election Day  
Thursday & Friday, November 28 & 29 – Thanksgiving  
Tuesday, December 24 & Wednesday, December 25 – Christmas Eve & Christmas Day

Mr. Pomerantz observed that July 4<sup>th</sup> is on a Thursday this year and that it would be logical to also have July 5 as a Township holiday. Mr. Yost and Mr. Foster agreed with Mr. Pomerantz's suggestion. Mr. Altshul stated that staff would be grateful to have that day off and that he would add it to the 2024 calendar.

## **XII. Meeting Dates**

Mr. Foster announced the following meeting dates for Township meetings:

### **A. Board of Supervisors**

Regular meetings: First and third Monday of the month, with the exceptions of the New Years Day, Martin Luther King Day, Presidents Day, and Labor Day holidays when the meeting will be on the Tuesday after the holiday.

Location: Westtown Township Building  
Time: 7:30 pm

Additional meetings of the Board may be held at 7:30 PM on the 2nd and 4th Monday of the month, as needed.

Location: Westtown Township Building  
Time: 7:30 pm

Workshop meetings may be held prior to regular and additional meetings of the Board. The workshop meeting times will be publicized in advance via Township listserv and website posting.

### **B. Planning Commission**

First and third Wednesdays of the month, following Board of Supervisors meetings.

Location: Westtown Township Building  
Time: 7:00 pm

### **C. Parks and Recreation Commission**

Third Tuesday of the month.

Location: Oakbourne Mansion  
Time: 7:00 pm

### **D. Historical Commission**

Second Tuesday of the month.

Location: Westtown Township Building  
Time: 7:00 pm

### **E. Environmental Advisory Council**

Fourth Tuesday of the month.

Location: Westtown Township Building  
Time: 7:00 pm

Mr. Pomerantz observed that the Police Commission meetings are not included in the list of meeting dates, and suggested that Mr. Altshul add them to the calendar. Mr. Altshul agreed to do so.

## **XIII. Board of Auditors Organizational Meeting**

Mr. Foster announced that the Board of Auditors would hold its annual reorganization meeting on Wednesday, January 3, 2023 at 7:00pm.

**XIV. Adjournment**

There being no further business, Mr. Pomerantz made a motion to adjourn the reorganization meeting at 7:42. The Board agreed to reconvene at 7:45 for the regular meeting.

Respectfully submitted,  
Jonathan Altshul  
Township Manager

# WESTTOWN TOWNSHIP BOARD OF SUPERVISORS REGULAR MEETING

Westtown Township Municipal Building, 1039 Wilmington Pike, Westtown

Tuesday, January 2, 2024 at 7:45 PM

Present were: Chair Tom Foster, Vice Chair Ed Yost, Police Commissioner Dick Pomerantz, Township Manager Jonathan Altshul, Assistant Township Manager and Director of Planning and Zoning Mila Carter, Public Works Director Mark Gross, Planning Commissioner Brian Knaub and Historical Commissioner Stephen Wahrhaftig. Approximately five guests were also present, including one participating remotely.

## **I. Pledge of Allegiance & Call to Order**

Mr. Foster called the meeting to order at 7:45 PM. He reported that the meeting was being recorded on Zoom and, on a slight delay, on YouTube.

## **II. Board of Supervisors Summary of Workshop, January 2, 2024**

Mr. Foster reported that the Board did not meet in Workshop tonight.

Mr. Foster also reported that the Board met in Executive Session prior to the reorganization to discuss personnel matters.

## **III. Approval of Meeting Minutes of December 18, 2023 Meeting**

Mr. Yost made a motion to approve the minutes from the December 18, 2023 meeting. Mr. Pomerantz seconded. There was no public comment, and the motion passed 2-0, with Mr. Yost abstaining.

## **IV. Departmental Reports**

### **A. Public Works Department – Mark Gross**

Mr. Gross noted that the recent heavy rains had only a minimal impact on the Township's operations, but that the emergency generator at the sewer plant had been triggered during the storms due to a downed tree on Westtown Road. He also reported that there had been a water line break at the plant that had been repaired. He reported that the base layer of the new trails in the Park around the Mansion had been installed and looked excellent. Finally he noted that he has some concerns about snow plowing this winter, as there are six new Public Works employees with no prior plowing experience.

### **B. Planning Commission – Brian Knaub**

Mr. Knaub congratulated Mr. Yost on his new position and reported on two issues that the Planning Commission had discussed at its December 20 meeting. First, the Commission recommended approval for the owner of 1001 S. Walnut to operate a major home occupation out of his home. Second, the Commission discussed its 2024 priorities for future amendments to the Zoning Ordinance.

Mr. Foster asked about whether the Commission had concerns about a major home occupation along a narrow road like S. Walnut, to which Mr. Knaub responded that the Commission had recommended a number of conditions to address this concern, including requiring that all equipment be stored in the garage.

### **C. Historical Commission – Stephen Wahrhaftig**

Mr. Wahrhaftig reported that at its last meeting the Historical Commission has discussed its priorities for 2024, including finalizing the proposed amendments to the Historical Ordinance, developing design guidelines for restoring historical properties, doing one historical presentation per quarter, and participating in the "America 250" celebrations.



**D. Township Solicitor – None**

**E. Township Manager – Jonathan Altshul**

Mr. Altshul reported that he expected that the Parking Ordinance would be ready by the next meeting for the Board to authorize Act 247 review and to advertise for a public hearing at the second meeting in February. He also reported that the Township had received comments back from SBA for the amended ground lease for the cell tower at Oakbourne Park.

**V. Public Comment (Non-Agenda Items)**

None.

**VI. Old Business - None**

**VII. New Business**

**A. Consider Resolution 2024-01 – 2024 Township Fee Schedule**

Mr. Yost made a motion to approve Resolution 2024-01, the Township Fee Schedule. Mr. Pomerantz seconded. There was no public comment, and the motion passed 3-0.

**B. Consider Resolution 2024-02 – 2024 Township Manager Annual Compensation**

Mr. Yost made a motion to approve Resolution 2024-02 to set the Township Manager's Annual Compensation. Mr. Pomerantz seconded. There was no public comment, and the motion passed 3-0.

**C. Consider Proposal from Cohen Law Group for Verizon Franchise Agreement Negotiations**

Mr. Yost made a motion to authorize the Township Manager to enter into an agreement with the Cohen Law Group to renegotiate the Township's Franchise Agreement with Verizon. Mr. Pomerantz seconded. There was no public comment and the motion passed 3-0.

**VIII. Announcements**

Mr. Foster made the following announcements:

- E. Beginning in 2024, the Westtown - East Goshen Police Department Will Not Provide Police Services in Thornbury Township, Chester County** – We are grateful to the Thornbury Board, staff and residents for their long-term partnership with WEGO and wish them good luck in the future.
- F. Westtown Township was Awarded a \$368,445 Small Water And Sewer Grant from the Department of Community and Economic Development to Slipline the Sanitary Sewer Lines on Londonderry and Wickerton Drives**
- G. Sprint Spectrum has Terminated Its Lease with SBA Towers, LLC** – Pursuant to the revenue sharing agreement for the cell tower at Oakbourne Park, this termination corresponds with a loss of income of approximately \$21,000 per year. However, the Board will consider a new lease with SBA at an upcoming meeting.
- H. The Township is Seeking Applications for the Township's Park & Recreation and Environmental Advisory Commission** – Please submit a resume or brief statement of interest to the Township Manager if you are interested in volunteering.
- I. Yard Waste and Christmas Tree Collection – Saturday, January 13** – Please do not dispose of yard waste or trees in plastic bags.

**J. Holiday Office Closure, Monday, January 15 – MLK Day** – The Board will hold its second meeting in January on Tuesday, January 16 at 7:30pm. Trash and recycling collection will not be impacted by the MLK holiday.

**IX. Public Comment (All Topics) - None**

**X. Payment of Bills**

Mr. Yost made a motion to approve the General Fund bills for \$2,208,539.57, Enterprise Fund bills for \$14,833.02, and Highway Aid Fund bills for \$216,130.61, for a grand total of \$2,439,503.20. Mr. Pomerantz seconded. There was no public comment, and the motion passed 3-0.

**XI. Adjournment**

Mr. Pomerantz made a motion to adjourn the meeting at 8:10PM.

Respectfully submitted,  
Jonathan Altshul  
Township Manager

DRAFT



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January 8, 2024

## **Westtown Township incident report for December 2023**

For December, there were 96 calls for service in Westtown (Fire and EMS). Fifty-four incidents were in the West Chester Fire Department district and 42 in the Goshen Fire Company district. Year to date, there have been 1021 calls for service.

The peak time for incidents in November was between 12 pm and 7 pm.

The West Chester Fire Department responded to six calls for service, and the Goshen Fire Company responded to ten calls for service. Of those 16 calls for service, there were no significant incidents, but a building fire was reported at SS Simon and Jude and Whittleby Court. Nothing was found at the school, and Whittleby Court was a barbecue on the rear deck.

The remaining 80 calls for service were medical responses handled by Good Fellowship EMS and Goshen Fire Company EMS.

The fire department requested me to assist with an issue with the fire alarm system at Sunrise at Westtown (now repaired) and continue to work with the PC and Mila Carter on updates to the burning ordinance.

The West Chester Fire Department is requesting Westtown Township approve the addition of two fire hydrants on S Concord Road as part of an Aqua Pennsylvania infrastructure upgrade project. The project is slated to occur in 2024. The new hydrants would be installed on S Concord Road at the entrance to Oakbourne Mansion and Park and at S Concord and E Pleasant Grove Roads. The Township would incur an increased monthly hydrant lease fee of \$28.57 per month per hydrant. There would be no cost associated with the installation, as it would be absorbed into the overall project. Adding these hydrants would be very beneficial to fire department operations, adding water in an area where there is a need and providing additional safety for the residents. The addition of fire hydrants also helps lower homeowners' insurance premiums.

Respectfully submitted,

Gerald R. DiNunzio, Jr  
Fire Marshal  
Emergency Management Coordinator

**From:** [EMC](#)  
**To:** [Jonathan Altshul](#)  
**Subject:** Fw: Hydrant Additions  
**Date:** Monday, January 8, 2024 10:12:31 AM

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Hi Jon,

Hope all is well with you.

See below email from the West Chester Fire Department. I am working on my monthly report to the supervisors, would this go there or is this something you would request?

Thanks,

Gerry

Gerald R. DiNunzio, Jr

Township Fire Marshal  
Township Emergency Management Coordinator

Westtown Township  
1039 Wilmington Pike  
West Chester, PA 19382

Email: [emc@westtown.org](mailto:emc@westtown.org)  
(610) 692-1930

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**From:** Justin McClure <[jmccclure@wcfiredept.org](mailto:jmccclure@wcfiredept.org)>  
**Sent:** Saturday, December 30, 2023 12:39 PM  
**To:** EMC <[emc@westtown.org](mailto:emc@westtown.org)>  
**Subject:** Hydrant Additions

Good afternoon,

As a follow up to our discussion, the West Chester Fire Department is requesting Westtown Township approve the addition of two fire hydrants on S Concord Road as part of an Aqua Pennsylvania infrastructure upgrade project. The project is slated to occur in 2024. The new hydrants would be installed on S Concord Road at the entrance to Oakbourne Mansion and Park, as well as at S Concord and E Pleasant Grove Roads. The Township would incur an increased monthly hydrant lease fee of \$28.57 per month, per hydrant. There would be no cost associated with the installation, as it would be absorbed into the overall project. If the township approves,

attached is a sample letter that West Chester Borough sent to Aqua last year for a similar addition. The letter should be addressed to:

Lisa A Thomas  
Administrative Assistant III  
Aqua Pennsylvania, Inc  
762 W Lancaster Avenue  
Bryn Mawr, PA 19010

Please let me know if you have any other questions.

Thank you,

**Justin McClure, Assistant Chief**  
*West Chester Fire Department, Station 51*  
[jmclure@wcfiredept.org](mailto:jmclure@wcfiredept.org)  
484-880-1040 Cell  
4848-887-2817 Office

**WESTTOWN TOWNSHIP  
TREASURER'S REPORT  
DECEMBER 2023**

<u>ACCT#</u>	<u>DESCRIPTION</u>	<u>12/1/2023 BALANCE</u>	<u>DECEMBER RECEIPTS</u>	<u>DECEMBER EXPENDITURES</u>	<u>12/31/2023 BALANCE</u>
<b>GENERAL FUND</b>		<b>\$8,041,511.82</b>	<b>\$4,638,944.02</b>	<b>-\$5,190,206.41</b>	<b>\$7,490,249.43</b>
01-100-001	Key Bank General Fund	\$2,859,090.74	\$1,671,443.85	(\$4,184,601.20)	\$345,933.39
01-100-015	Univest General Fund	\$0.00	\$2,827,798.59	(\$774,706.71)	\$2,053,091.88
01-100-100	PLGIT P-Card Prime	\$515,314.35	\$1,890.87	(\$114,000.00)	\$403,205.22
01-100-110	PLGIT P-Card Class	\$121.45	\$114,065.55	(\$113,925.11)	\$261.89
01-106-000	PLGIT Prime	\$3,452,611.25	\$16,266.51	(\$1,843.06)	\$3,467,034.70
01-106-100	PLGIT Class	\$738.00	\$3.18	(\$172.36)	\$568.82
01-107-000	KBCM Investments	\$1,213,227.50	\$7,455.47	(\$957.97)	\$1,219,725.00
01-110-000	Petty Cash	\$408.53	\$20.00	\$0.00	\$428.53
<b>OPEN SPACE FUND</b>		<b>\$74,976.89</b>	<b>\$18,962.64</b>	<b>-\$68,172.36</b>	<b>\$25,767.17</b>
04-106-000	Open Space - PLGIT Prime	\$24,195.66	\$2,573.81	(\$8,172.36)	\$18,597.11
04-106-100	Open Space - PLGIT Class	\$50,781.23	\$16,388.83	(\$60,000.00)	\$7,170.06
<b>SEWER FUND</b>		<b>\$3,183,823.80</b>	<b>\$555,877.79</b>	<b>-\$676,985.10</b>	<b>\$3,062,716.49</b>
08-100-000	Key Enterprise Fund Checking	\$1,143,330.40	\$16,431.79	(\$613,662.23)	\$546,099.96
08-100-002	Key Prepaid UB Cash	\$5,842.67	\$1,355.21	(\$6,852.60)	\$345.28
08-100-015	Univest Enterprise Checking	\$0.00	\$528,504.15	(\$56,470.27)	\$472,033.88
08-106-000	PLGIT Prime	\$2,034,650.73	\$9,586.64	\$0.00	\$2,044,237.37
<b>REFUSE FUND</b>		<b>\$880,362.80</b>	<b>\$528,395.73</b>	<b>-\$709,681.95</b>	<b>\$699,076.58</b>
09-100-000	Key CASH - REFUSE FUND	\$880,362.80	\$13,039.07	(\$503,421.57)	\$389,980.30
09-100-015	Univest CASH - REFUSE FUND	\$0.00	\$515,356.66	(\$206,260.38)	\$309,096.28
<b>OBP BOND PROCEED FUND</b>		<b>\$244,955.49</b>	<b>\$399,101.88</b>	<b>-\$642,962.15</b>	<b>\$1,095.22</b>
15-106-000	OBP Bond - PLGIT Prime	\$199,003.33	\$199,517.59	(\$398,006.66)	\$514.26
15-106-100	OBP Bond - PLGIT Class	\$45,952.16	\$199,584.29	(\$244,955.49)	\$580.96
<b>CAPITAL PROJECT FUNDS</b>		<b>\$757,450.93</b>	<b>\$151,142.99</b>	<b>-\$245,612.86</b>	<b>\$662,981.06</b>
18-100-010	Key Capital Project Checking	\$11,690.64	\$83,544.51	(\$90,244.51)	\$4,990.64
18-100-100	Key CIP - Sewer	\$339,765.43	\$115.44	\$0.00	\$339,880.87
18-100-300	Key CP Oakbourne Park Master Plk	\$122,471.33	\$124.20	(\$83,544.51)	\$39,051.02
18-100-600	Key CP - Special Projects	\$53,790.90	\$0.00	\$0.00	\$53,790.90
18-100-625	Key CP - Thorne Drive Basin	\$11,160.00	\$67,358.84	(\$4,465.00)	\$74,053.84
18-100-650	Key Sage Road Basin Retro	\$67,358.84	\$0.00	(\$67,358.84)	\$0.00
18-100-700	Key Credit Card Rewards	\$151,213.79	\$0.00	\$0.00	\$151,213.79
<b>ARPA FUND</b>		<b>\$1,216,518.15</b>	<b>\$5,731.86</b>	<b>\$0.00</b>	<b>\$1,222,250.01</b>
19-100-000	ARPA FUND - PLGIT	\$1,216,518.15	\$5,731.86	\$0.00	\$1,222,250.01
<b>DEBT SERVICE FUNDS</b>		<b>\$1,964,076.91</b>	<b>\$123,495.55</b>	<b>-\$1,385,240.25</b>	<b>\$702,332.21</b>
23-100-100	Key 2021 DS (WEGO 2012)	\$263,851.06	\$10,391.79	(\$257,372.62)	\$16,870.23
23-100-150	Key 2022 DS (Oakbourne Park)	\$223,401.41	\$22,079.09	(\$71,568.75)	\$173,911.75
23-100-200	Key 2021 DS (Sewer 05/12)	\$472,665.64	\$25,074.70	(\$324,523.31)	\$173,217.03
23-100-300	Key 2021 DS (SE06/11)	\$1,004,158.80	\$65,949.97	(\$731,775.57)	\$338,333.20
<b>CAPITAL RESERVE FUNDS</b>		<b>\$6,513,901.85</b>	<b>\$30,427.80</b>	<b>-\$34.30</b>	<b>\$6,544,295.35</b>
30-120-000	GF Key Capital Reserve (U)	\$34.29	\$0.01	(\$34.30)	\$0.00
30-122-000	GF Univest MM Capital Rsv (U)	\$2,987,968.47	\$13,957.22	\$0.00	\$3,001,925.69
30-122-001	GF Univest MM Capital Rsv (D)	\$2,050,212.01	\$9,575.62	\$0.00	\$2,059,787.63
30-122-200	WW Univest MM Capital Rsv (D)	\$1,475,687.08	\$6,894.95	\$0.00	\$1,482,582.03
<b>LIQUID FUEL FUNDS</b>		<b>\$220,609.44</b>	<b>\$1.52</b>	<b>-\$216,130.61</b>	<b>\$4,480.35</b>
35-100-000	Liquid Fuels Checking Account	\$216,130.61	\$0.00	(\$216,130.61)	\$0.00
35-100-002	Liquid Fuels Money Market	\$4,478.83	\$1.52	\$0.00	\$4,480.35
<b>BILLBOARD ESCROW FUND</b>		<b>\$28,692.19</b>	<b>\$18,075.26</b>	<b>-\$568.00</b>	<b>\$46,199.45</b>
40-100-035	Univest 1594 W Chester Realty Esc	\$0.00	\$18,065.51	(\$568.00)	\$17,497.51
40-100-102	Key Billboard Landscapes Escrow	\$23,382.03	\$7.94	\$0.00	\$23,389.97
40-100-115	Key FLINTLOCK (Rustin Res.) Esc	\$5,310.16	\$1.81	\$0.00	\$5,311.97

totals on back ----->

**WESTTOWN TOWNSHIP  
TREASURER'S REPORT  
DECEMBER 2023**

<u>ACCT#</u>	<u>DESCRIPTION</u>	<u>12/1/2023 BALANCE</u>	<u>DECEMBER RECEIPTS</u>	<u>DECEMBER EXPENDITURES</u>	<u>12/31/2023 BALANCE</u>
<b>GRAND TOTAL - ALL FUNDS</b>		<b>\$23,126,880.27</b>	<b>\$6,470,157.04</b>	<b>(\$9,135,593.99)</b>	<b>\$20,461,443.32</b>
	Key Bank Totals	\$9,072,717.87	\$1,984,375.21	(\$7,156,513.59)	\$3,900,579.49
	PLGIT Totals	\$7,539,886.31	\$565,609.13	(\$941,075.04)	\$7,164,420.40
	Univest Totals	\$6,513,867.56	\$3,920,152.70	(\$1,038,005.36)	\$9,396,014.90
	Petty Cash	\$408.53	\$20.00	\$0.00	\$428.53

# WESTTOWN TOWNSHIP PLANNING COMMISSION MEETING MINUTES

Stokes Assembly Hall, 1039 Wilmington Pike  
Wednesday, January 3, 2024 – 7:00 PM

## **Present**

Commissioners – Russ Hatton (RH), Jack Embick (JE), Jim Lees (JL), Brian Knaub (BK), Kevin Flynn (KF), Tom Sennett (TS), and Joseph Frisco (JF) were present. Also present was Director of Planning & Zoning Mila Carter.

## **Call to Order and Pledge of Allegiance**

Mr. Hatton called the meeting to order at 7:02 PM.

## **Adoption of Agenda (JE/JL) 7-0**

Mr. Embick made a motion to adopt the agenda. Mr. Lees seconded. All were in favor of the motion.

## **Election of Officers**

Nomination for Commission Chairman

Mr. Flynn nominated Mr. Embick, seconded by Mr. Sennett. All were in favor of the motion.

Nomination for Commission Vice-Chairman

Mr. Sennett nominated Mr. Hatton, seconded by Mr. Embick. All were in favor of the motion.

Nomination for Commission Secretary

Mr. Embick nominated Mila Carter, Director of Planning & Zoning, as acting secretary, seconded by Mr. Lees. All were in favor of the motion.

## **Approval of Minutes (TS/RH) 7-0**

Mr. Sennett made a motion to adopt the meeting minutes from December 20, 2023. Mr. Hatton seconded. Mr. Frisco asked whether the applicant requesting special exception to permit a major home occupation at 1001 S. Walnut Street provided pictures of commercial vehicles and equipment to be stored on site. Ms. Carter recalled the layout plans for both garages. Mr. Sennett recalled a picture of Toro Dingo skid steer, because the Planning Commission wanted to know what it looked like. Mr. Embick recalled a picture of garage showing vehicles inside. Mr. Frisco asked how the compliance would be enforced. Mr. Embick recapped that the Planning Commission recommended imposing several conditions and explained that it would be up to the Zoning Hearing Board to make a decision on appropriate conditions to impose, which will be enforceable under the zoning ordinance. All were in favor of the motion.

## **Announcements**

1. Ms. Carter announced that the conditional use application for the Stokes Estate flexible development was denied by the Board on December 27, 2023. She explained that once available, the written decision will be provided to the Planning Commission and posted on the Township website. Ms. Carter reminded the Planning Commission of an unresolved application to permit construction of 68 single-family detached residential homes on the 65 acres of the Stokes Estate, which was submitted by the same applicant in 2021. Mr. Hatton asked whether anyone has seen a final draft of the subdivision and land development plan with proposed emergency access roadways. Ms. Carter recapped that the applicant did not provide a full set of revised drawings to the Planning Commission for review and instead, submitted revised individual plan sheets for the hearing, including those depicting two emergency access roads to address comments of the Township's consultants. Mr. Hatton



suggested to revisit flexible development requirements in the event that the impending applications would not move forward. Mr. Embick suggested inviting Kristin Camp, Planning Commission solicitor, to update the Planning Commission on the status of various applications and to help strategize. He agreed with Mr. Hatton that even though flexible development procedure might not get utilized in the future, it would be a good idea to address issues that were raised during the land developments, which were built under those requirements. The Planning Commission agreed. Mr. Embick suggested to potentially ask Mr. Snook to assist with finishing up the revisions to the flexible development requirements, or to consider some other version of conservation design that might be more suitable for the Township. Mr. Embick asked whether the findings of the fact were provided to the Board. Ms. Carter believed there were submitted by the applicant and the Planning Commission solicitor. She made a note to post those on the webpage dedicated to the application.

2. Ms. Carter brought to the Planning Commission's attention the Master Planner Program, and asked members to let her know if they would be interested. Mr. Hatton encouraged members to attend. Mr. Frisco expressed an interest in registering.
3. Ms. Carter provided an update on several pending proposed ordinance changes, some of which have been previously discussed by the Planning Commission, including bidirectional antennas, off-street parking, managed meadows, fences, and historic preservation. She expects to place them on the Planning Commission agenda for a more detailed discussion in the future.

#### **Public Comment – Non Agenda Items**

There was none.

#### **Old Business**

##### **1. Ordinance Amendments – Outdoor Burning**

Ms. Carter summarized the feedback provided by the Township solicitor on proposed draft language and subsequent changes made to the document since it was last discussed by the Planning Commission. She explained that new definitions to the chapter were added including structure, burning, burn barrel and incinerator, and minor changes were made for clarity purposes. Ms. Carter also noted that limitations on hours of burning have been added to sections dedicated to a specific type of burning, and a phone number for non-emergency calls as requested by the Planning Commission.

Mr. Sennett asked about the reasoning behind having a phone number in the ordinance language. Ms. Carter explained that the Planning Commission found that the number was not readily available or easy to find, therefore the suggestion was made to have it listed for convenience. Mr. Sennett argued that as long as resident notified the Township Fire Marshal, it did not matter whether it was done via phone or in writing. Ms. Carter responded that Mr. DiNunzio, the Township Fire Marshal, did not have a preference on how he would like to be notified provided that he was made aware that a bonfire was set. Mr. Sennett did not think it was a good idea to place something in the ordinance that could potentially change requiring another amendment. Mr. Embick asked whether the Township administrator could field those calls. Mr. Flynn reminded those present that the Township office is closed on weekends. After a brief discussion, the Planning Commission agreed to leave it as is.

Ms. Carter also noted the solicitor's suggestion to remove provisions specifically prohibiting burning of leaves and commercial/industrial waste and burning on public roads, because another section of the chapter already prohibited those activities. Mr. Embick suggested to keep those, because the definition of yard waste included leaves and there was a definition of commercial/industrial waste in the draft language, therefore, it made sense to have provisions

applicable to those. Ms. Carter explained that the solicitor suggested to potentially utilize the definition of municipal waste under the Solid Waste ordinance, however, that definition was too broad to be applicable to the outdoor burning ordinance. She believed that Mr. DiNunzio raised concerns about burning of leaves, grass, brush, and garden residue due to smoke that they could generate. Mr. Hatton supported banning the burning of leaves. Mr. Embick was in support of specifically prohibiting burning of commercial/industrial waste.

**Motion to refer the proposed ordinance amendments to Chapter 54, Outdoor Burning, to the Board of Supervisors to be adopted as drafted with a feedback from the Township solicitor. (TS/RH) 7-0.**

### **New Business**

#### **1. Board Attendance**

Ms. Carter presented the draft attendance schedule for the 2024 Board of Supervisor's meetings and asked the Planning Commission to provide any feedback on their anticipated availability on the dates for which they were scheduled. The Planning Commission discussed availability and Ms. Carter will make the recommended changes and re-distribute the schedule.

### **Public Comment**

None

### **Reports**

Mr. Knaub made the BOS report from the December 18 meeting.

### **Adjournment (TS/JL) 7-0**

The meeting was adjourned at 8:05 PM.

Respectfully submitted,  
Mila Carter  
Planning Commission Secretary

**ORDINANCE 2024 - 01**

**WESTTOWN TOWNSHIP  
CHESTER COUNTY, PENNSYLVANIA**

**AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF WESTTOWN, CHAPTER 170, ZONING, ARTICLE XVII, OFF-STREET PARKING AND LOADING, BY AMENDING THE FOLLOWING: §170-1702, SIZE; §170-1704, HANDICAPPED PARKING; §170-1705, SCHEDULE OF REQUIRED PARKING; §170-1706, SHARED PARKING; §170-1707, PARKING RESERVE AREA; §170-1708, PARKING STANDARDS FOR SINGLE-FAMILY RESIDENTIAL DWELLINGS; AND §170-1709, SHOPPING CENTER PARKING.**

**BE IT ENACTED AND ORDAINED** by the Board of Supervisors of Westtown Township, Chester County, Pennsylvania, that certain provisions of Chapter 170, Zoning, of the Code of the Township of Westtown, as amended, be further amended as follows:

**SECTION 1.** Chapter 170, Zoning, Article XVII, Off-Street Parking and Loading, §170-1702, Size, Subsection A(3), shall be amended to read as follows:

(3) In the case of churches, schools and office parks, where parking is at a ninety-degree angle and a twenty-four-foot aisle is provided, the spaces shall be nine feet by eighteen feet.

**SECTION 2.** Chapter 170, Zoning, Article XVII, Off-Street Parking and Loading, §170-1704, Handicapped parking, Subsection A, shall be amended to read as follows:

A. In any parking area where the total number of parking spaces exceeds five, a minimum of one space for each 25 total spaces or fraction thereof shall be designed and designated for physically handicapped persons. Number of spaces: Any parking lot including four or more off-street parking spaces shall include a minimum of one handicapped space. The following number of handicapped spaces shall be provided, unless a revised regulation is officially established under the Federal Americans with Disabilities Act:

<b>Total number of parking Spaces on Lot</b>	<b>Required Minimum Number/ Percent of handicapped Parking Spaces</b>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4

Total number of parking Spaces on Lot	Required Minimum Number/ Percent of handicapped Parking Spaces
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of required number of spaces
1,001 or more	20, plus 1% of required number of spaces over 1,000

**SECTION 3.** Chapter 170, Zoning, Article XVII, Off-Street Parking and Loading, §170-1705, Schedule of required parking, Subsection B(1), shall be amended to read as follows:

- (1) Indoor retail businesses: Parking or storage space for all vehicles used in the conduct of business, plus five parking spaces per 1,000 square feet of floor area of rooms accessible to customers. For a shopping center, see §170-1709.

**SECTION 4.** Chapter 170, Zoning, Article XVII, Off-Street Parking and Loading, §170-1705, Schedule of required parking, Subsection B(6)(b), shall be amended to read as follows:

- (b) Fast-food restaurants providing drive-through window service shall be sited in such a manner that at least 10 vehicles can stand in line awaiting such service without blocking access to otherwise required parking spaces.

**SECTION 5.** Chapter 170, Zoning, Article XVII, Off-Street Parking and Loading, §170-1705, Schedule of required parking, Subsection B(8), shall be amended to read as follows:

- (8) Grocery store or supermarket: Six spaces per 1,000 square feet of gross leasable area, unless part of a shopping center containing an additional 50,000 square feet or more of retail space, in which case this requirement shall be considered to be met through compliance with the overall shopping center requirements, as stipulated in §170-1709.

**SECTION 6.** Chapter 170, Zoning, Article XVII, Off-Street Parking and Loading, §170-1706, Shared parking, shall be amended to read as follows:

**§170-1706 Shared parking.**

- A. The parking spaces required by §170-1705 may be reduced when two or more uses on abutting lots share a parking area, subject to the following conditions:
  - (1) That some portion of the shared off-street parking area lies within 200 feet of an entrance, regularly used by patrons, into the buildings served by the shared parking facilities.
  - (2) Pedestrian facilities comply with current standards for accessibility and §149-916.
  - (3) Access and parking easements are prepared and recorded for each property affected by the shared parking.
- B. The minimum amount of shared parking required shall be based on the application of the below percentages to the parking required for each land use as per §170-1705.

Use	Weekday			Weekend		
	9 AM to 6 PM	6 PM to 12 AM	12 AM to 9 AM	9 AM to 6 PM	6 PM to 12 AM	12 AM to 9 AM
Offices	100%	10%	5%	10%	5%	5%
Retail and Service Uses	60%	90%	5%	100%	70%	5%
Hotel/Motel	60%	100%	100%	60%	100%	100%
Restaurant	50%	100%	10%	80%	100%	10%
Entertainment	40%	100%	10%	80%	100%	10%
Other Uses	The Board shall determine with which of the preceding categories any unlisted use shall comply.					

- C. The applicant shall execute a written declaration that provides, in relevant part, that the minimum amount of shared parking required, based on the application of the percentages contained in §170-1706.B, shall be maintained at all times. The Township Solicitor shall review the declaration, as to form, content, and execution, which shall be finally approved by the Board of Supervisors. A draft of the declaration shall be submitted with the application for a building permit, and the final version of the declaration shall be retained by the Township and made a part of the property file.
- D. Shared or common parking lots shall be provided with appropriate signage indicating the buildings and/or uses for which the spaces have been made available.

**SECTION 7.** Chapter 170, Zoning, Article XVII, Off-Street Parking and Loading, §170-1707, Parking reserve area, shall be amended to read as follows:

**§170-1707 Parking reserve area.**

The number of parking spaces to be constructed may be up to 30% less than the number required herein only where the following conditions are met to the satisfaction of the Township:

- A. Evidence is submitted firmly documenting that the special nature of the proposed occupancy or use of the building requires less parking area or fewer spaces than that required by this article.
- B. The land development plan submitted by the applicant indicates that the location and layout of 50% of the required parking area deemed unnecessary at the time of application can and will be constructed on the surface of the site, according to the requirements of this article, in the event that the Township determines at any time that this parking is necessary and in the interest of the public health, safety, and welfare.
- C. In no event shall that authorized portion of the required parking area which is not to be constructed, but reserved for possible future use, be counted as open space or other unpaved area required by other provisions of this chapter.
- D. The parking reserve area shall be designed so that any required minimum area of vegetative cover would be maintained in the event that the parking reserve area is subsequently developed.
- E. The parking reserve area shall be landscaped according to an approved plan and in accordance with §170-1507 of this chapter.
- F. The parking reserve area shall have no building, whether temporary or permanent, erected on it at any time.
- G. Prior to approving a change of use or other modification that results in a requirement for greater total off-street parking, the applicant must demonstrate continued compliance with this article.

**SECTION 8.** Chapter 170, Zoning, Article XVII, Off-Street Parking and Loading, §170-1708, Parking standards for single-family residential dwellings, Subsection C, shall be amended to read as follows:

- C. Areas devoted to surface parking may occupy no more than 50% of any required front, side, or rear yard, and shall comply with §170-1701.D of this chapter.

**SECTION 9.** Chapter 170, Zoning, Article XVII, Off-Street Parking and Loading, §170-1709, Shopping center parking, Subsection A, shall be amended to read as follows:

- A. Except as specified in subsection C below, a minimum of 5 spaces shall be provided for each 1,000 square feet of gross leasable area, or fraction thereof, within the proposed

shopping center.

**SECTION 10.** Chapter 170, Zoning, Article XVII, Off-Street Parking and Loading, §170-1709, Shopping center parking, new Subsection C, shall be added and shall read as follows:

C. The number of parking spaces for an existing shopping center may be reduced to 3.5 for each 1,000 square feet of gross leasable area, or fraction thereof, within the shopping center only when the following conditions are met to the satisfaction of the Township:

(1) The applicant shall submit to the Township for review and approval a Parking Study which includes:

- a) Evidence documenting that the nature of the proposed occupancy or use of the buildings require less parking area or fewer spaces than that required by this article.
- b) Documentation of parking occupancy based on two separate observations completed during peak summer and winter periods, the specific time of which are confirmed with the township traffic engineering prior to collecting data.
- c) A comparison of the observed and proposed parking relative to the 85th percentile parking demand presented in the Institute of Transportation Engineer's Parking Generation, latest edition.

(2) An area equal to 10% of the parking being removed will be landscaped, including full depth removal of the existing paving.

**SECTION 11.** If any sentence, clause or section or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or validity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Board of Supervisors that this ordinance would have been adopted had such unconstitutional, illegal, invalid sentence, clause, section or part thereof not been included herein.

**SECTION 12.** All ordinances or parts of ordinances conflicting or inconsistent herewith are hereby repealed.

**SECTION 13.** This ordinance will be effective five (5) days after enactment.

**ENACTED AND ORDAINED** by the Board of Supervisors of Westtown Township, Chester County, Pennsylvania, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

**Attest:**

**Westtown Township  
Board of Supervisors**

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Thomas Foster, Chair

\_\_\_\_\_  
Edward Yost, Vice Chair

\_\_\_\_\_  
Richard Pomerantz, Police Commissioner

DRAFT





January 12, 2024

WESTT23002P

**Westtown Township**

**Attn:** Jon Altshul, Township Manager  
1039 Wilmington Pike  
West Chester, PA 19382

**RE: Cost Proposal  
Traffic Signal Modernization - Street Road (SR 926) and Shady Grove Way (TR 470)**

**Dear Jon:**

Pennoni is excited for the opportunity to work with Westtown Township on this traffic signal project. The basis of our work will be to prepare updated traffic signal permit plans, construction plans, and specifications to implement new, modernized traffic signal control equipment at the referenced intersection in accordance with the latest Pennsylvania Department of Transportation (PennDOT) design standards.

The **SCOPE OF WORK** for this project will include the following tasks:

**Project Management/Administration**

Pennoni will be responsible for the overall coordination of the project and will serve as the primary contact with the PennDOT District 6-0 traffic unit and the PennDOT Central Office representative associated with the Green-Light-Go funding program. We will attend required project meetings, including agency coordination meetings, and design review meetings with the Township and PennDOT personnel. We will prepare agendas and minutes as needed and will prepare handout and/or display materials as appropriate. During the project, we will provide periodic updates regarding project status to the Township, including partial technical submissions as required. For the purposes of this proposal, we anticipate up to four (4) project status/design review meetings. We will prepare updated PennDOT TE-160 forms for the project intersection and will coordinate approval and execution with the Township. These forms will be submitted to PennDOT District 6-0 traffic unit for review and approval.

**ESTIMATED FEE \$2,850**

**Base Plan Preparation**

We will utilize existing plans and field verify topographic features to establish the base plan used to physically show the location of required traffic signal equipment. Based on an initial review of available plans, we do not anticipate the need for additional topographic survey. If additional survey work is needed, a separate cost estimate will be provided. Based on an initial review of available right-of-way, we expect that no right-of-way or construction easements will be necessary.

**ESTIMATED FEE \$3,500**

### **Traffic Signal Design Plans**

#### Traffic Signal Permit Plan:

We will prepare a new Traffic Signal Permit Plan for the project intersection in accordance with Publication 14M, Design Manual Part 3, Publication 148 (Traffic Standards - TC-8800), and Publication 149 (Traffic Signal Design Handbook). The traffic signal plan will be presented at 1" = 25' scale, and will indicate intersection geometry, locations of newly required traffic signal supports and signal equipment (including video detection cameras and required areas of detection), lane configuration and widths, pavement markings and traffic signs, controller phasing, timing, and coordination settings.

**ESTIMATED FEE \$5,755**

#### Traffic Signal Construction Plan

In addition to the permit plan, we will prepare a detailed construction plan for the project intersection. This plan will indicate necessary construction details required for the installation of the new signal equipment, including new underground conduit and junction boxes. The construction plan will indicate the detailed items to be completed by the contractor, and the tabulation of items and quantities required for the project. We will complete an updated PA one-call to identify any utilities within the intersection.

**ESTIMATED FEE \$3,500**

### **Maintenance & Protection of Traffic/Utility Coordination**

For purposes of this proposal, we anticipate that the proposed improvements can be completed under traffic using the appropriate standard traffic-control figures from PennDOT Publication 213. We will also contact local utilities to determine if there are any proposed or pending utility construction projects within the project corridor that may conflict with the construction.

**ESTIMATED FEE \$845**

### **Construction Schedule and Opinion of Probable Construction Cost**

We will prepare a detailed anticipated construction schedule for the proposed project for submission to the Township and PennDOT District 6-0. Upon completion of the project plans, we will provide the Township and PennDOT District 6-0 with an updated opinion of probable construction cost for the project. The opinion of probable construction cost will be based on bid prices received by PennDOT and other municipalities on similar traffic signal projects in the Eastern Pennsylvania area. The Opinion of Probable Construction Cost will be provided prior to public project advertisement.

**ESTIMATED FEE \$1,235**

### **Final Bid Documents & Bid Solicitation & Construction Specifications**

We currently anticipate that this project will be advertised and awarded using the Pennbid system. Upon final approval of the plans, we will prepare and upload final bid documents which include the formal advertisement, plans, specifications, construction items and quantities. We will assemble construction specifications for both standard PennDOT items and special items as required to complete the project. These specifications will be submitted to the Township and PennDOT District 6-0 for review.

**ESTIMATED FEE \$3,760**

**Construction Services/Observation**

Following the award of the contract, Pennoni will be available to assist with technical requirements of the project, construction staging, and maintenance and protection of traffic during construction. During the construction period, Pennoni staff will be conduct periodic visits the site to inspect job progress, materials installed, contractor workmanship and maintenance and protection of traffic within the work area. In addition, we will be available to review shop drawings and source-of-supply submissions as necessary. After construction is complete, we will upload necessary documents, including the updated traffic signal permit plan, into the Traffic Signal Asset Management System (TSAMS).

**ESTIMATED FEE \$6,350**

**SCHEDULE**

We are prepared to begin work immediately on this project upon authorization form the Township. Design and permitting is expected to take six (6) months, and bidding/construction services approximately eight (8) months for a total project schedule of fourteen (14) months.

**FEE**

The **TOTAL ESTIMATED FEE** for this project is **\$27,795**. Below is a breakdown of estimated hours by staff level:

Title	Hours	Unit Rate	Total
Project Manager	38	\$160.00/hour	\$6,080.00
Project Professional	40	\$140.00/hour	\$5,600.00
Staff Professional	47	\$130.00/hour	\$6,110.00
Graduate Engineer	87	\$115.00/hour	\$10,005.00
		Total	<b>\$27,795.00</b>

**BILLING AND PAYMENT**

An invoice for professional services will be provided monthly is due upon receipt. The Client acknowledges that the method of billing and payment has been discussed in detail, that the terms agreed upon can only be changed by a written addendum agreed to by both parties, and that work may be stopped until payment is made in accordance with the agreement.

We look forward to working with you on this project. If you have any questions, or if you would like to discuss any of the above, please do not hesitate to call.

Sincerely,

**PENNONI**



Michael W. Schneider, PE  
Associate Vice President



Nathan M. Cline, PE  
Office Director



**ALBERT FEDERICO CONSULTING, LLC**  
*Traffic Engineering and Mobility Solutions*

**MEMORANDUM**

January 11, 2024

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To: Jon Althsul, Township Manager  
Westtown Township

From: Albert Federico, P.E., PTOE, Township Traffic Engineer

Subject: Consultant Agreement Recommendation  
Street Road and Shady Grove Way - Traffic Signal Improvements

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Westtown Township has received a grant from the PennDOT Green Light-Go program for the reconstruction of the traffic signal at Street Road (PA 926) and Shady Grove Way (TR 740). Consistent with PennDOT Publication 740 (Local Project Delivery Manual), the Township has undertaken a Qualification based consultant selection process. Pennoni was selected as the consultant for the design and permitting of the improvements at the Board of Supervisors' meeting December 18, 2023.

On January 4, 2024, Pennoni submitted a technical and price proposal. The technical scope appears reasonable for the project objectives, and the estimated fees (\$21,445 Design and Permitting and \$6,350 Construction Services) are within the project budget for Engineering, Design, and Inspection (\$43,300).

Based on this review it is recommended that the Township consider entering into an Agreement with Pennoni for the Street Road and Shady Grove Way Traffic Signal Improvements.

Please do not hesitate to contact me at 610.608.4336 or [albert@federico-consulting.com](mailto:albert@federico-consulting.com) should you have any questions or require additional information.



*Carroll Engineering Corporation*

WESTTOWN TOWNSHIP  
PROJECT SCOPE AND BUDGET

Project Name: Wickerton and Londonderry Drive Sewer Rehabilitation Project Date: 9-Jan-24

Amendment Number: \_\_\_\_\_ Amendment Date: \_\_\_\_\_

Project Scope Amended Scope

- 1) Provide sewer documentation to Snyder Environmental Services for COSTARS quote for sewer lining and lateral reinstatement.
- 2) Construction administration (Contractor/Township coordination, shop drawings, payment applications).
- 3) Construction observation.
- 4) Expenses.

COSTARS/Administration	\$15,800
Construction observation	<u>\$29,800</u>
Total	<u>\$45,600</u>

Excluded Work

Additional Services

Estimated Budget:

*Today's Commitment To Tomorrow's Challenges*

<b>Corporate Office:</b>	433 Lancaster Avenue	630 Freedom Business Center	101 Larry Holmes Drive	105 Raider Boulevard
949 Easton Road	Suite 200	Third Floor	Suite 201	Suite 206
Warrington, PA 18976	Malvern, PA 19355	King of Prussia, PA 19406	Easton, PA 18042	Hillsborough, NJ 08844
(215) 343-5700	610-489-5100	610-489-5100	610-989-4940	908-874-7500

[www.carrollengineering.com](http://www.carrollengineering.com)



January 10, 2024

Jon Altshul, Township Manager  
Westtown Township  
1039 Wilmington Pike  
West Chester, PA 19382

RE: Westtown School Athletic Field – Oak Lane Project  
Land Development Review – 4<sup>th</sup> Review  
Westtown Township  
0236-23-0213

Dear Mr. Altshul,

As requested, Cedarville Engineering Group, LLC (CEG) has completed a Land Development Review for Westtown School Athletic Field – Oak Lane Project. The site (Parcel ID number 67-2-27) comprises roughly 195 acres and is located on the south side of Oak Lane, in the Agricultural/Cluster Residential (A/C) Zoning District of Westtown Township. The project includes: the construction of two (2) athletic fields, associated parking, relocation of the existing softball field, a support building, and stormwater management facilities.

The following information was received by our office on January 4, 2024:

- A. Full size Plan titled “Preliminary/Final Land Development Plan for Westtown School – Oak Lane Project” consisting of 49 Sheets (1-23, 24A, 24-29, 29A, and 30-48 of 48), prepared by ELA Group, Inc., dated January 27, 2023, and last revised December 15, 2023.
- B. Response Letter to CEG review prepared by ELA Group, Inc., dated December 15, 2023.
- C. Response Letter to AFC review prepared by ELA Group, Inc., dated December 15, 2023.
- D. Letter of Transmittal dated December 19, 2023.

The following information was received by our office on January 9, 2024:

- A. Engineer’s Opinion of Probable Cost for Public Improvements prepared by ELA Group, Inc., dated October 27, 2023 and last revised December 15, 2023.



**Cedarville Engineering Group, LLC**

159 E High St., Suite 500, Pottstown, PA 19464 | P: (610) 705-4500 [CedarvilleEng.com](http://CedarvilleEng.com)



The plan was granted Conditional Use approval on June 19, 2023 with the following conditions. Conditions have been satisfactorily addressed, subject to addressing the bold, underlined conditions referenced below prior to plan recording:

- 1) The Applicant shall consider during land development the installation of emergency backup lighting to illuminate segments of the pathway leading from the parking lot to the athletic field where the pole lights will be installed.
- 2) Lighting for all parking lots associated with the use of the athletic fields shall comply with all applicable Township Ordinances and regulations.
- 3) All conditions of the conditional use approval imposed by the Board shall be clearly set forth on the Land Development Plans and recorded as conditions of final Land Development Approval.
- 4) The Applicant shall provide truck turning templates to the Township demonstrating that emergency vehicles may safely access the parking lot located closest to the athletic fields.
- 5) The Applicant shall provide the specifications for the scoreboard which must meet all relevant Township Ordinance requirements.
- 6) The Applicant shall analyze the intersection of Oak Lane and Westtown Road and coordinate improvements with the Township and its consultants to the extent necessary to address visibility and ensure appropriate sight distance.
- 7) If required by PennDOT or Township criteria, the Applicant shall obtain a permit for the existing flashing signal that was installed on Oak Lane.
- 8) The Applicant shall provide specifications for the public announcement system and such system must comply with all relevant Township Ordinance criteria.
- 9) If the Applicant or its agent(s) obtains conditional use approval for the installation of solar panels on its property, it shall provide consistent landscaping buffers on the Land Development Plan associated with the athletic field's improvements as well as the Plans for solar panel installation.
- 10) The Applicant and the use and development of the Property shall comply with the representations and commitments made in the testimony and exhibits presented at the hearing to the Board.
- 11) The Applicant and the use and development of the Property shall comply in all respects with all ordinances and regulations of Westtown Township and with all applicable provisions of any statute, ordinance, or regulation of any municipal or governmental entity having jurisdiction over the Property or the uses thereon.
- 12) The athletic field light system may only be energized in conjunction with an event directly related to and under the control of the educational or sports program of Westtown School. No private organizations or other public entities may use the athletic field lights for lighted events of any reason.



The following waivers from the Subdivision and Land Development Ordinance were granted by the Board of Supervisors at their November 20, 2023 meeting.

- I. Section 144-311.B.(3) and Section 149-803.B.(3).(c) – to allow for HDPE drain basins in select locations instead of precast concrete.
- II. Section 144-311.B.(4) and Section 149-803.B.(3).(d) – to allow for 0” drop between invert in elevations to structures and the subsequent invert out elevations.
- III. Section 144-311.B.(8) and Section 149-803.B.(3).(g) – to reduce the minimum storm sewer size to 8 inches.
- IV. Section 144-311.B.(9) and Section 149-803.B.(3).(h) – to reduce the minimum cover for storm sewers in lawn areas from 24” to 12”.
- V. Section 144-311.B.(11) – to reduce the minimum pipe velocity to less than 3 feet per second.
- VI. Section 144-311.C.(3) and Section 149-803.B.(4).(c) – to allow for a 0% basin bottom slope to promote infiltration.
- VII. Section 144-311.C.(5) and Section 149-803.B.(4).(e) – to allow for SLCPP in lieu of concrete pipes for basin outlet barrels and to reduce the minimum anti-seep collar projection based on dimensions calculated following the PA DEP E&S Manual.
- VIII. Section 149-700.A – to allow for submission of a Preliminary/Final Plan instead of a Preliminary then Final Plan.
- IX. Section 149-702.B.(7) and Section 144-402.C.(7) – to not provide a full boundary of the parcel with bearing and distances on the Plan.
- X. Section 149-925.G.(1) – to provide perimeter plantings consistent with what had been negotiated during the Conditional Use Hearing for the Athletic Field.

**The plan issues referenced in CEG’s November 16, 2023 have been satisfactorily addressed. The following shall be incorporated and addressed prior to recording of the plan:**

- **Comments from the Township’s Traffic Engineer shall be adequately addressed.**
- **Confirmation of compliance shall be provided by the Township Zoning Officer**
- **All certification blocks on the plan to be recorded shall be signed by the applicable parties.**
- **Confirmation of compliance regarding sewer and water modifications shall be provided by the Township’s Sewer Engineer shall be provided.**
- **The Board of Supervisors shall confirm acceptance of the proposed use of the field being rented when not lighted being in compliance with the previously approved Conditional Use approval.**
- **The applicant shall provide documentation acceptance of system modification and distribution from DEP, PUC and CCHD as applicable.**
- **A Stormwater Management Operation & Maintenance Agreement shall be executed and recorded concurrently with the Land Development Plan at the Chester County Recorder of Deeds.**



- **Financial security, in the amount of \$2,379,455.67, shall be posted and incorporated into the executed Financial Security Agreement.**

The referenced documents have been reviewed for compliance with Chapter 80 – Erosion, Sediment Control and Grading, Chapter 144 – Stormwater Management, Chapter 149 – Subdivision and Land Development Ordinance, and 170 – Zoning Ordinance.

Chapter 80 – Erosion, Sediment Control and Grading

1. This comment has been satisfactorily addressed.

Chapter 144 – Stormwater Management

Comments 2 through 11 have been satisfactorily addressed.

Comments 12 through 19 – Ordinance relief was granted by the Board of Supervisors at their November 20, 2023 meeting.

Comment 20 has been satisfactorily addressed.

Comments 21 through 22: All applicable plan certifications shall be signed prior to plan recording.

23. A waiver has been granted from this section of the Ordinance.

Comments 24 through 27 have been satisfactorily addressed.

28. *Section 144-402.G – Inspections, operation, and maintenance requirements. The following documents shall be prepared and submitted to the Township for review and approval as part of the SWM site plan, in accordance with the requirements of Article VII, for each BMP and conveyance included in the SWM site plan (including any to be located on any property other than the property being developed by the applicant):*

- (1) *An O&M plan.*
- (2) *An O&M agreement.*
- (3) *Any easement agreements that are needed to ensure access, inspection, maintenance, operation, repair and permanent protection of any permanent BMP(s) and conveyances associated with the regulated activity.*
- (4) *Any written deed, deed amendment or equivalent document (if needed) to be recorded against a subject property, as shown on the SWM site plan maps or plan sheets, or recorded plan sheets for the purpose of protecting and prohibiting disturbance to a BMP or conveyance; and*
- (5) *Written approval, easement agreements, or other documentation for discharges to adjacent or down-gradient properties when required to comply with § 144-301G and Article VII of this chapter.*

*Section 144-701.D – General Requirements for protection, operation, and maintenance of stormwater BMPs and conveyances – For any BMP or man-made conveyance (including*



any to be located on any property other than the property being developed by the applicant) to be owned by a person other than the Township:

- (1) An O&M agreement shall be submitted to the Township for review and approval; and
- (2) The O&M plan shall be attached to, incorporated within, and recorded as a public record along with a fully executed O&M agreement, all of which shall be recorded as a restrictive covenant that runs with the land and shall be binding upon the landowner and any heirs, administrators, successors in interest or assigns of the landowner.

**Current Comment: The referenced agreement shall be executed and recorded concurrently with the land development plan.**

Chapter 149 – Subdivision and Land Development Ordinance

29. Section 149-403.C.C – The applicant shall sign a tri-party agreement with a financial institution and the Township guaranteeing and securing completion of the improvements listed in Subsection A, except as provided for in Subsection E, within one year of the date of the approved plan.
  - (2) The applicant shall deposit with the Township an escrow account in an amount equal to 110% of the cost of the improvements, based on a construction cost estimate prepared by a bona fide contractor and reviewed and approved by the Township Engineer, whose decision shall be final.
  - (3) If the improvements are not completed within the one-year period, the Township shall have the right to withdraw the escrow funds to complete the improvements, or shall require the financial security be increased by an additional 10% for each succeeding year beyond the first posting date of the security or to an amount not exceeding 110% of the cost of completing the required improvements as reestablished.

**Current Comment: See Comment #2 above.**

Comments 30 – 33 have been satisfactorily addressed.

34. Section 149-602.C.(4).(b) – A statement noting water and sewer needs and verification of the availability of both.

**Current Comment: CEG defers comments regarding availability and verification of capacity for sanitary service to the Township’s Sewer Engineer.**

Comments 35 and 36 have been satisfactorily addressed.

Comments 37 and 38: Ordinance relief was granted by the Board of Supervisors at their November 20, 2023 meeting.

Comments 39 through 41 have been satisfactorily addressed.

Comments 42 through 45 Ordinance relief was granted by the Board of Supervisors at their November 20, 2023 meeting.

Comments 46 and 47 have been satisfactorily addressed.

Comments 48 and 49 Ordinance relief was granted by the Board of Supervisors at their November 20, 2023 meeting.

Comments 50 and 51 have been satisfactorily addressed.

52. *Section 149-804.A – Traffic impact study. A traffic impact study shall be required for any subdivision or land development that is expected to generate more than 250 total average weekday trip-ends after build-out. The traffic impact study shall include, but not be limited to, the following: (1) – (11)*

**Current Comment: The applicant’s response notes that the field will be rented but remain unlit at those times in accordance with the conditions of the Conditional Use Approval. This shall be subject to the Westtown Township Board of Supervisors.**

53. *Section 149-304.B – Water study. The water study shall include but not be limited to the following, and where applicable, plans shall be drawn to the same scale and be of the same size as that of the corresponding preliminary plan: (1) – (6)*

*Section 149-917.C – Procedures. All applicants for subdivision or land development shall state in the preliminary plan whether water supply will be community, public, or private on-site. A water study (Article VIII) shall be submitted upon request of the Planning Commission and/or Board.*

*Section 149-918.A – Plan requirements. All proposed water distribution systems shall be designed, connected and installed to meet the specifications and requirements of the DEP, Pennsylvania Utility Commission (PUC), CCHD and all Township ordinances. The complete design of the proposed distribution system and the following information shall be provided as a part of all preliminary and final plans: (1) – (4)*

**Current Comment: The following shall be addressed:**

- **Conformance to applicable Westtown Township requirements is subject to the review and approval of the Township Sewer Engineer.**
- **The Applicant has noted that Documentation shall be provided demonstrating acceptance of the system modifications and distribution from DEP, PUC, and CCHD, as applicable, upon receipt.**

Comments 54 through 64 have been satisfactorily addressed or are no longer applicable.

65. *Section 149-927.D – The applicant shall comply with all requirements of Westtown Township, the Chester County Health Department and the Pennsylvania DEP and shall so certify prior to final plan approval.*





**Current Comment: The following shall be addressed:**

- **The provided Capacity Verification Letter is subject to review by the Westtown Township Sewer Engineer.**
- **Conformance with Westtown Township requirements and regulations is subject to the review and approval of the Township Sewer Engineer.**

Chapter 170 – Zoning

66. *Section 170-402.(1)(a) An earthmoving plan of the property which indicates existing grades with contour lines at two-foot intervals. Proposed grades within the area of any proposed activity, disturbance, or construction also shall be shown. All areas within the Steep Slope Conservation District shall be shaded accordingly.*

**Current Comment: The Applicant has indicated they are awaiting a determination by the Township Zoning Officer regarding the applicable requirements of the Steep Slope District. CEG defers to the Township Zoning Officer regarding this requirement.**

67. *Section 170-402.D(2) Uses permitted in areas of prohibitive slope. The following are the only uses permitted as of right in areas of prohibitive slope. Such uses also shall be in compliance with the base zoning district, and shall not involve the erection of buildings, construction of streets, installation of sewage disposal systems, or permanent removal of topsoil.*

*Parks and outdoor recreational uses, consistent with the goals of watershed protection.*

**Current Comment: The Applicant has indicated they are awaiting a determination by the Township Zoning Officer regarding the applicable requirements of the Steep Slope District. CEG defers to the Township Zoning Officer regarding this requirement.**

68. *Section 170-407.A. No new principal or accessory building or use, parking or commercial or industrial storage area shall be located within a minimum of 75 feet from the top bank of a perennial creek.*

*Section 170-407.B. Where the majority of existing trees and shrubs are removed from areas between a perennial creek and a distance of 75 feet from the top bank of such creek, new trees and shrubs shall be planted and maintained that will have the same or better impact upon controlling erosion and filtering pollutants from runoff.*

**Current Comment: Upon the provision of the referenced area on the Plan, the Township Zoning Officer shall confirm compliance with the above referenced Ordinance section.**

69. *Section 170-1702.A. The following schedule of parking space and layout standards shall apply to all but commercial/retail parking facilities, in accordance with this article:*

**Current Comment: Final confirmation regarding compliance with the above referenced section of the Ordinance is subject to the review and approval of the Township Zoning Officer.**

Comment 70 has been satisfactorily addressed.





Please do not hesitate to contact me with any questions.

Best Regards,  
**Cedarville Engineering Group, LLC**

A handwritten signature in black ink, appearing to read "R. Flinchbaugh".

Robert E. Flinchbaugh, P.E.  
Municipal Team Lead

cc: Mila Carter - [lcarter@westtown.org](mailto:lcarter@westtown.org)  
Albert Federico, P.E., PTOE, - [albert@federico-consulting.com](mailto:albert@federico-consulting.com)  
Stephen Gribb, P.E., Systems Design Engineering, Inc. - [s.gribb@sdei.net](mailto:s.gribb@sdei.net)  
William N. Malin, P.E., Carroll Engineering Corp. - [bmalin@carrollengineering.com](mailto:bmalin@carrollengineering.com)  
Mark Gross, Township Public Works Director - [mgross@westtown.org](mailto:mgross@westtown.org)  
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Gina M. Gerber, Esq., Riley Riper Hollin & Colagreco - [ginag@rrhc.com](mailto:ginag@rrhc.com)

## DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (“Agreement”) is made this \_\_\_\_ day of \_\_\_\_\_, 202\_\_\_\_, by and between: Westtown Township (“Township”); and Westtown School, a Pennsylvania non-profit corporation, with its address at 975 Westtown Road, West Chester, Pennsylvania 19382, and its assigns and successors in interest (“Developer”).

### Background

A. Developer represents that it is the owner of, and has proposed to develop, a tract of land situated in Westtown Township, located at 975 Westtown Road, Westtown Township, Chester County, Pennsylvania, consisting of 579.61 +/- acres, being Tax ID Nos. 67-2-19, 67-2-24, 67-2-24.2, 67-2-25, 67-2-25.1, 67-2-25.2, 67-2-25.3 and 67-5-27 (“Subject Property”), with the development of the Subject Property to occur specifically on a parcel identified as Tax ID No. 67-5-27, to include two (2) new synthetic turf athletic fields, one (1) of which would have lighting, and a new two-story support building, together with storm water management facilities and other related improvements proposed or required in, on and/or related to the proposed land development (the “Oak Lane Development”). The Subject Property is located in the Agriculture/Cluster Residential (A/C) Zoning District of the Township.

B. The proposed land development of the Subject Property is known as “Westtown School – Oak Lane Project” as is depicted on the Preliminary/Final Land Development Plan dated January 27, 2023, and last revised December 15, 2023 (“Plans”).

C. On or about November 20, 2023, the Board of Supervisors of the Township granted Preliminary/Final Development Plan Approval of the application to develop the Subject Property with the Oak Lane Development, subject to certain conditions, including the timely completion of the proposed or required improvements and/or amenities, and the posting of financial security to guarantee said completion, all conditions of which were agreed to by the Developer who hereby confirms said agreement (the “Approvals”).

D. Township and Developer, contemporaneously herewith, have entered into a Financial Security Agreement further providing for the said financial security. The Improvements for which security must be provided, together with the estimated cost of completing such Improvements, are listed on Exhibit “A,” which is attached hereto and made a part hereof.

**NOW, THEREFORE**, the parties hereunto, in consideration of the premises and the mutual promises herein contained and intending to be legally bound hereby, agree as follows:

1. Definitions; Interpretation

a. For purposes of this Agreement, except where the context clearly indicates otherwise, the following words and phrases (including the singular and plural forms thereof) shall have the following meanings:

(1) “Completion Date” shall mean the date specified in Section 2.c of this Agreement on or before which the Improvements shall be completed.

(2) “Financial Institution” shall mean the bonding company or lending institution, approved by Township, with which the Financial Security has been posted or established and/or which issues the Financial Security.

(3) “Financial Security” shall mean the financial security provided for under and in accordance with the provisions of Section 6 of this Agreement and the provisions of the Financial Security Agreement (including any additional financial security made part thereof, any increases and other adjustments thereto, and any financial security substituted therefor) and the funds representative thereof and therein.

(4) “Financial Security Agreement” shall mean that certain Financial Security Agreement dated \_\_\_\_\_, by and between Township and Developer, which agreement is attached hereto and made a part hereof as Exhibit “B.”

(5) “Improvements” shall mean all site improvements shown on or contemplated by the Plans, including, but not limited to, public or private roads or streets, walkways, curbs, gutters, street lights, fire hydrants, shade trees, water mains, sanitary sewers, storm drains and sewers, storm water detention and/or retention basins and other related drainage facilities, recreational facilities, open space improvements, buffer or screen plantings or other plantings and landscaping, and/or other improvements or common amenities required by this Agreement and any applicable ordinances or regulations.

(6) “Plans” shall mean that certain Preliminary/Final Land Development Plans prepared by ELA Group, Inc. dated January 27, 2023, last revised December 15, 2023, consisting of various plan sheets including, without limitation, all notes, statements and other information appearing on the plan, and all reports, narratives, studies, profiles, delineations and other materials of whatever nature or kind accompanying or related to the Plans.

(7) “MPC” shall mean the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 et seq., as restated and amended, as the same now exists and hereafter may be further amended.

(8) “Secured Improvements” shall mean all those Improvements for which the Financial Security is provided or to which the Financial Security otherwise relates.

(9) “Subdivision and Land Development Ordinance” shall mean the Subdivision and Land Development Ordinance of the Township as such Ordinance has been

amended and now exists and as hereafter may be amended, provided that the application of subsequent amendments to the Subject Land Development shall be subject to the provisions of §508(4) of the MPC.

(10) “Subject Land Development” shall mean the proposed land development of the Subject Property with two (2) new synthetic turf athletic fields, one (1) of which would be lighted, and a new two-story support building on Tax Parcel No. 67-5-27, together with recreation facilities and other related improvements and/or common amenities proposed or required in, on and /or related to the proposed land development, including driveways, storm water management facilities (servicing the entire development), sanitary sewer improvements and such other Improvements proposed or required in, on and/or related to the proposed land development, as the same are more fully and further shown and depicted on and by the Plans.

(11) “Township Engineer” shall mean the professional engineer(s), licensed as such in the Commonwealth of Pennsylvania, duly appointed and employed as the engineer for the Township and/or engaged by the Township as a consultant thereto.

b. Except as may be otherwise provided herein and/or if the context clearly indicates otherwise, all words and phrases appearing in this Agreement, which also appear in the Subdivision and Land Development Ordinance or the MPC, shall have the meanings and shall be interpreted herein as under the Subdivision and Land Development Ordinance or MPC.

## 2. Completion of Improvements

a. The Background section set forth above is incorporated herein by reference thereto.

b. Developer, at its sole expense, shall lay out, construct, install, and/or otherwise complete the Improvements in a good and workmanlike manner, whether noted on the Plans or not, in full and strict accordance with and pursuant to the following: (i) the Subdivision and Land Development Ordinance, the Zoning Ordinance, Soil Erosion, Sedimentation and Grading Control Ordinance and Storm Water Management Ordinance; (ii) the Plans; (iii) the provisions of this Agreement; (iv) PennDOT regulations; (v) all applicable requirements of electric, telephone and other utility companies having jurisdiction; (vi) all other applicable laws, statutes, ordinances, resolutions, rules and regulations of the Township and of other applicable or appropriate governmental authorities and/or agencies having jurisdiction; and (vii) specifications established by the Township Engineer. In the event of any inconsistency or conflict between or among the provisions of any of the foregoing, those provisions which impose the greater or greatest, as the case may be, restrictions upon the Developer shall prevail and control.

c. The Improvements shall be completed on or before the date occurring one (1) year from the date of this Agreement. Upon written request of Developer and approval of the Township Board of Supervisors, which approval shall not be unreasonably withheld, said



completion date may be extended from time to time, provided that (i) Developer's written request is received by the Board of Supervisors not less than sixty (60) days prior to the then-current completion date, and (ii) the Financial Security is also extended so that it continues valid and effective for all purposes thereof to a date occurring at least ninety (90) days after the extended completion date. Such times shall be of the essence.

d. Developer's present address is as set forth on page one of this Agreement. Developer promises to notify the Township, in writing by certified mail, of any change in this address. Developer agrees that notice of any kind or nature, relating to this Agreement or Township ordinances applicable to the Subject Property or its development, mailed to Developer at the above address, or any new address that Developer has given the Township notice of pursuant to this paragraph, shall be valid and effective for all purposes.

e. Before connecting any new sanitary or storm sewers to existing sewer or drainage systems, Developer shall obtain all necessary approvals and permits from the Township and the Commonwealth of Pennsylvania, and Developer shall provide proof of such State approvals and permits to the Township Engineer.

f. There shall be no revision or change to the Plans, as approved, or to any construction detail, requirement, specification or standard therein or required by any Township ordinance (collectively the "Specifications"), unless the Board of Supervisors first approves such change, except as otherwise provided herein.

(1) Developer shall submit any proposed changes in the approved Plans or any Specifications to the Township Engineer with such drawings, plans and written explanations as shall be required by the Township Engineer for adequate review of the proposed change. All such changes shall be reviewed by and bear the stamp of Developer's engineer.

(2) The Township Engineer may, without approval of the Board of Supervisors, authorize Developer to change construction details, which do not alter either a standard required by any applicable regulations or a condition of final plan approval and which do not make any substantial changes in the final Plans as approved.

(3) All changes directly affecting lots or property not owned by Developer must be approved by the owner(s) of those lots or property.

(4) The Township Engineer shall review any change proposed by Developer and shall provide the Township with an analysis of the change and make a recommendation for action, except that any change of a construction detail which the Township Engineer is permitted to authorize hereunder need not be submitted to the Board of Supervisors for approval. Developer shall not cause any work to be done pursuant to a change in the Plans or Specifications, except a change in a construction detail which the Township Engineer authorizes hereunder, until the Board of Supervisors has first approved the change.

(5) If the Township approves a change in the Plans or Specifications, then Developer agrees to enter into any additional formal agreements with the Township necessary to bring such changes within the scope of this Agreement. No construction or other work shall be done, pursuant to any change in Plans or Specifications, until such changes are incorporated into this Agreement and Developer provides satisfactory Financial Security, which complies with §509 of the MPC and is acceptable to the Township, to guarantee any additional construction costs for additional improvements.

g. Within five (5) days after each Improvement is completed, Developer, by written notice in accordance with the provisions hereof, shall ask the Township Engineer to conduct a final inspection of the Improvement. The Township Engineer, exercising reasonable judgment, will determine if the Improvement complies with the requirements hereof and with all applicable standards.

h. Developer agrees that if any materials used or any work done in the construction of the Improvements or in otherwise implementing the Plans shall be reasonably rejected or disapproved by the Township Engineer as defective or as not in compliance with the provision hereof or with any applicable standards, or if the work is done without prior inspection when prior inspection is required hereunder or is necessary to determine compliance with the Plans, Specifications, applicable regulations, or this Agreement, then, if such action is requested by the Township or Township Engineer, said materials and/or work shall be removed and replaced with other approved materials and/or the work shall be done anew, at the sole cost and expense of Developer and subject to inspection by the Township Engineer to determine compliance. Any work covered without an inspection when an inspection is required hereunder shall be uncovered at Developer's expense to permit the Township Engineer to make the inspection if the Township Engineer requests that such action be taken. Developer agrees that the Township Engineer is authorized to require the removal and replacement of any work and/or materials which are not completed in accordance with this Agreement and all applicable standards.

i. In the event the Township Engineer shall find that the provisions for drainage of the site, as designed by Developer, are inadequate and require revisions, or if the drainage facilities and storm water management facilities otherwise prove to be inadequate to protect existing highways, streets and roads or adjoining private or public areas from excess drainage, flooding or silting either because the Plans are inadequate or because of an improper method of development, Developer shall install such additional drainage work or make such corrections as are reasonably necessary.

j. Developer shall be responsible, at its sole cost and expense, for the repair and maintenance of all Improvements during and after construction thereof. For purposes of this subsection, "repair and maintenance of all Improvements" shall mean, without limitation, keeping the Improvements at all times in such condition that the structural integrity and functioning of the same shall be maintained at least in accordance with and/or as contemplated by the design and specifications thereof as shown on the Plans and with respect to Improvements

consisting of streets or roads, shall further mean, without limitation, keeping the same at all times free of mud, snow, ice and other impediments or other obstructions to motor vehicle traffic thereon and thereover, and otherwise in a permanently passable condition by and for motor vehicles.

(1) In the event that Developer is in default of any of its repair and maintenance obligations under this Subsection, Township shall have the right, but not the obligation (which right shall be in addition to such other or further rights and remedies as may be available to the Township under this Agreement, the Financial Security Agreement, the Subdivision and Land Development Ordinance, and/or the MPC, and/or otherwise at law or in equity), after first giving Developer Notice and Opportunity to Cure as set forth in Section 9 herein, to:

(a) Enter upon the Subject Property and satisfy any of such defaulted repair and maintenance obligation of Developer (provided that any such entry and/or satisfaction shall not be deemed in any manner or to any extent whatsoever as an acceptance by Township of dedication, transfer or other assignment of the Improvements subject of the default and/or as imposing any responsibility upon Township for the completion, further repair and maintenance, or otherwise, with respect to the Improvements subject of the default); and

(b) In order to pay for the reasonable costs, expenses and/or fees incurred by the Township related to the satisfaction of such defaulted obligations, (i) obtain payment to Township, or its order, of all or any part of the Financial Security for such reasonable costs, expenses and fees (notwithstanding that the amount of the Financial Security, but for this Paragraph (b), is not now or hereafter specifically established to guarantee or otherwise cover the payment of such costs, expenses and/or fees); and/or (ii) institute and prosecute appropriate legal and/or equitable actions or proceedings against Developer (including, but not limited to confession of judgment) to recover such reasonable costs, expenses and/or fees, together with reasonable attorney fees and costs incurred by Township for and otherwise related to any such legal and/or equitable action or proceeding.

k. During the course of construction of the Improvements, Developer is required to establish and maintain temporary erosion and sedimentation controls ("E&S Controls") which are shown on the Plans. Part of the funds which Developer has posted with the Township includes an estimated cost to establish and maintain such E&S Controls. In the event Developer fails to establish or maintain the E&S Controls in accordance with the Plan, the Township shall provide Developer with written notice of violation and a five (5)-day period to cure, except in the event of an emergency where a lesser time may be imposed. If Developer fails to cure the default within five (5) days, or such lesser applicable time in the event of an emergency, the Township is hereby authorized to establish the necessary E&S Controls and use the funds as necessary to pay for the Township costs, including, but not limited to, reasonable engineering, legal and actual administrative costs. The Developer shall be required to restore any expended portion of the funds set aside for E&S Controls to the agreed upon amount, as set forth on the attached schedule. In the event the Developer fails to cure a violation within the

prescribed time frame or violates any other aspect of this Agreement, the Developer acknowledges that the Township shall not be required to issue any building or occupancy permits for the entire development and a cease and desist order for all or a portion of the entire development may be issued by the Township in the discretion of the Township until the violation is cured or the security restored. In instances where the Developer "willfully neglects" to cure the E&S Control default following the expiration of period for cure contained in the notice from the Township, the Township shall have the right to impose a fine of Five Hundred Dollars (\$500) per day. For purposes of this paragraph, "willful neglect" shall mean that Developer fails to respond to two (2) or more notices of violation from the Township, not necessarily from the same lot. If Developer disputes that it willfully neglected to install the necessary E&S Controls, Developer has the right to contest the imposition of the fine by appealing the same to the Chester County Court of Common Pleas. The parties at any time may submit a dispute which arises hereunder to mediation.

3. Conditions to be Met Prior to Commencing Construction of Improvements

a. No building permits shall be issued and no Improvements shall be commenced until:

(1) The Plans, as finally approved, or such portion thereof which is agreed upon by the parties hereto, are recorded according to law; and

(2) This Agreement is duly signed by all parties and delivered to the Township; and

(3) Developer pays to the Township to be held in escrow by the Township as a security deposit ("Security Deposit") and to be drawn on by the Township to pay for the Township's costs, including costs of preparing agreements, reviewing and approving plans and Specifications, inspecting construction of the Secured Improvements and removing snow and/or waste material and including any engineering, inspection, legal or other expense incurred by the Township in connection with the preparation, implementation or enforcement of the Plans and/or this Agreement and/or the Financial Security Agreement. The amount of the Security Deposit shall be Fifteen Thousand Dollars (\$15,000.00). If, over the course of the land development the Security Deposit is depleted to an amount below Five Thousand Dollars (\$5,000.00), Developer shall replenish it with an amount to bring the amount of the Security Deposit back to Fifteen Thousand Dollars (\$15,000.00); and

(4) All fees required by any ordinance, resolution or regulation of the Township or this Agreement are paid, including the payment of costs, legal and engineering expenses incurred by the Township for the review of plans, preparation of this Agreement, the Financial Security Agreement, resolutions and other papers reviewed or prepared pursuant to this Agreement; and

(5) Developer has entered into a Financial Security Agreement approved by the Township and has provided the Township with Financial Security for the Improvements required hereunder, which security shall meet the requirements of the MPC, Westtown Township ordinances and this Agreement and be satisfactory to the Township; and

(6) All required third party certificates, licenses, permits or approvals, including but not limited to a highway occupancy permit from PennDOT, have been obtained and are still in effect and satisfactory proof thereof has been provided to the Township; and

(7) All variances or other zoning approvals needed in order to develop the Subject Property as shown on the Plans have been obtained and are still in effect and have not expired and all applicable requirements of the Township's ordinances, resolutions and regulations have been met; and

(8) Developer has complied, to the reasonable satisfaction of the Township Engineer, with the requirements set forth in any Township Engineer's report or review letters relating to the development; and

(9) Developer has furnished the required insurance certificates to the Township.

b. Before commencing any work on the Improvements, Developer shall submit the specifications for all materials to be used and all design specifications to the Township Engineer. Developer shall not proceed with any work on the Improvements without first giving notice to the Township Engineer and, when the Township Engineer's inspection is required under this Agreement, arranging with the Township Engineer for such inspection.

#### 4. Obligations of Developer During Construction

a. All culverts, storm sewers and underdrains, manholes, paving, curbing, setting of monuments and other Improvements are subject to inspection by the Township Engineer. At least five (5) days prior to the commencement of each Improvement, Developer shall notify the Township Engineer. Developer shall also notify the Township Engineer at least two (2) days prior to the date when Developer or its contractor or any subcontractor performs any work subject to the inspection by the Township. Developer shall also notify the Township Engineer at least two (2) days prior to commencing each separate paving operation or Improvement and the Township Engineer shall inspect the materials and workmanship used on each such operation.

b. It shall be the obligation of Developer to arrange, in advance, with the Township Engineer for inspection of work as the work progresses. Developer agrees that the Township's personnel shall have reasonable access to the Subject Property at all times.

c. Developer shall bear the cost of and shall reimburse the Township for the cost of all inspections by the Township Engineer and the Township Code Enforcement Officer.

d. Developer shall bear the cost and expense of any relocation, removal or reconstruction of Improvements.

e. Developer agrees to erect, at its expense, all required street lights, street trees, fire hydrants, if any, shown on the Plans, as amended.

f. During the course of construction of the Improvements, Developer will be responsible for proper removal and disposal of all construction debris, waste materials, and trees, shrubs and other organic material from the Subject Property and surrounding areas, whether discarded by it or others employed by it or by persons engaged in the delivery of materials to and/or construction within the Subject Property and/or any other activity pursuant to the Plans. Developer agrees to prevent such waste materials from being buried or burned on the site or deposited, thrown or blown, upon any property adjacent to or within the vicinity of the Subject Property.

g. Developer agrees to provide dumpsters on the site in the size and number as reasonably required by the Township Engineer and/or the Township Code Enforcement Officer.

h. If Developer fails to remove any construction debris or waste materials, including rubbish, cartons and discarded materials, generated by or because of Developer's activities, from the Subject Property or from surrounding areas within seventy-two (72) hours after Developer received written notice from the Township to do so, or immediately if such debris or materials are causing a traffic hazard or other danger to the public health, safety and welfare, then the Township shall have the right but not the obligation to remove said waste materials and to draw, from the Security Deposit created under Section 3.a(3) hereof, the sums necessary to pay to parties who complete such work or to reimburse the Township for the costs of cleaning up the Subject Property and surrounding areas. The Township's exercise of its rights to remove waste materials pursuant to this paragraph shall not obligate the Township to do so in the future.

i. Developer agrees to maintain all streets, roads and parking lots constructed or improved pursuant to the Plans in a clean and safe condition as reasonably determined by the Township Engineer and/or Code Enforcement Officer and free of mud, snow, ices and construction debris. Developer agrees that in the event there is snowfall or ice storm, upon advance notice to the Developer, the Township is authorized, but not required, to plow and/or remove the snow and/or ice on said areas, and the cost of said plowing and/or removal shall be paid promptly by Developer. Any funds held in the Security Deposit may be used by the Township for said purposes. The Township's exercise of its right to remove snow and/or ice pursuant to this paragraph shall not obligate the Township to do so in the future.

j. Developer agrees that it will obtain use and occupancy permits or certificates for each building prior to any occupancy.

k. Developer shall, at all times, release and indemnify and hold the Township, its agents, employees and officials, harmless from any and all expenses and liability arising out of or from or relating to Developer's activities in implementing the Plans and for any and all failures to comply with applicable regulations. Developer agrees to furnish the Township prior to commencement of any work whatsoever a certificate showing that Developer and Developer's general contractor have adequate liability insurance coverage in an amount not less than two million dollars each and each such policy shall name the Township as an additional insured and shall provide that the policies cannot be terminated or not renewed without thirty (30) days prior written notice to the Township. Developer shall keep said coverage in effect until all work is completed and approved by the Township and shall continue to furnish to the Township certificates showing continued coverage.

l. Developer agrees to complete all Improvements by the Completion Date, unless the time for completion is extended by the Township in writing. This permission shall not relieve Developer from its obligation to properly complete the Improvements.

m. Developer agrees to be responsible for work at the site and to: (1) reasonably restrict the noise from workmen; (2) cease all work on the site by 7:00 PM on Monday to Friday and by 5:00 PM on weekends, except in cases of emergency or exceptional cases; and (3) not to begin work prior to 7:00 AM on Monday through Friday and 8:00 AM on weekends, except in cases of emergency or exceptional cases.

n. Developer agrees to commence construction of the Improvements within 180 days of the date of this Agreement. Developer further agrees to complete construction of any building within one (1) year of the date of the issuance of the building permit for said building.

##### 5. Guaranty of Completion of Improvements

a. Developer shall complete all site Improvements in accordance with final approval of the Plans. Developer shall comply with the requirements of the Township Grading Permit to ensure buildings and associated grading and management of stormwater runoff is reasonably in accordance with the approved Plans as a condition precedent to the issuance of a use and occupancy permit.

b. Said as-built lot plan shall be prepared by a registered professional land surveyor and certified by a registered professional engineer that the individual lot is in full conformance with the approved Plans and shall be subject to the review and approval by the Township Engineer.

c. Developer shall bind its heirs, successors and assigns to the requirements of this Section.

d. This requirement shall be in addition to all other as-built plan submissions that may be set forth in the Subdivision and Land Development Ordinance.

6. Guaranty of Completion of Secured Improvements

a. Developer shall deposit with Township or otherwise establish the Financial Security in accordance with and pursuant to the terms and conditions of this Section 6 and the Financial Security Agreement. Pursuant to §509 of the MPC, the Financial Security shall be deposited or otherwise established in and by the time provided in the Financial Security Agreement. Unless and until the Financial Security is so deposited or otherwise established by Developer, no work towards the completion of any of the Improvements shall be laid out, installed or otherwise commenced, and no building, grading, occupancy or other permit, relating to the erection, placement or occupancy of any of the Improvements or of any buildings or other structures in, on and/or related to the Subject Land Development, shall be issued by Township.

b. The Financial Security shall provide for and secure to the public, as represented by the Township, the completion, on or before the Completion Date, of the Secured Improvements in accordance with and pursuant to the terms and conditions of this Agreement, and shall further guarantee the performance of the other obligations of Developer under this Agreement and the Financial Security Agreement.

c. The Financial Security shall be of such type as more fully and further provided in and by the Financial Security Agreement.

d. The initial amount of the Financial Security shall be Two Million, Three Hundred Seventy-Nine Thousand, Four Hundred Fifty-Five Dollars and Sixty-Seven Cents (\$2,379,455.67) which is one hundred and ten percent (110%) of the total cost estimate as set forth in Exhibit "A" attached hereto and made fully part hereof. The amount of the Financial Security shall be subject to such increase, adjustment and reduction as provided in and by the Financial Security Agreement.

7. (Section Intentionally Omitted.)

8. (Section Intentionally Omitted.)

9. Failure to Complete; Other Default

a. In the event that any of the Improvements is or are not completed fully in accordance with the terms, conditions and requirements of Section 2 above and after the Township has first given Developer written notice of such incompleteness and provided Developer with thirty (30) days from the date the notice is received to cure said incompleteness (or such



additional time as may be agreed to by Developer and Township if said incompleteness cannot be reasonably cured within thirty (30) days) except in the event of an emergency where the Township may take action without providing an opportunity to cure (herein referred to as "Notice and Opportunity to Cure"), or in the event that Developer becomes insolvent, declares bankruptcy or ceases work on the Improvements for a period of greater than ninety (90) days, the Township shall have the right, but not the obligation (which right shall be in addition to such other or further rights and remedies, as may be available to Township under this Agreement, the Financial Security Agreement, the Subdivision and Land Development Ordinance, the MPC and/or otherwise at law or in equity), to: (1) enter upon the Subject Property and complete all or part of the Improvements in accordance with the terms, conditions and requirements of Section 2; and (2) obtain payment to it, or its order, of all or any part of the Financial Security and/or to otherwise enforce the Financial Security in order to pay for the costs of such completion and related costs, expenses and fees.

b. If the proceeds of the Financial Security paid to the Township, or its order, are not sufficient or available to pay the costs of fully completing all the incomplete Improvements, together with related costs, expenses and fees, Township, at its option, shall have the right to complete part of the Improvements and to institute appropriate legal and/or equitable actions against Developer to recover monies necessary to complete the remainder of the incomplete Improvements and pay all reasonable related costs, expenses and fees, including, but not limited to, the following: (i) the amount that Township shall require to fully complete the Improvements or otherwise fully cure the default; (ii) any other reasonable costs, expenses and fees referred to in this Agreement for which Developer is obligated and has not paid and which are past due and/or which have been incurred by Township; (iii) interest, at the then-legal rate on all of the reasonable foregoing amounts, costs, expenses and fees accruing either as of the respective payment due dates herein provided or, if no payment due dates are so provided, as of the respective dates on which Township incurs such amounts, costs, expenses or fees; (iv) reasonable costs of suit; and (v) reasonable attorneys' fees.

c. In the event that Township exercises its right, but not obligation, to complete all or part of the incomplete Improvements upon the aforesaid default of Developer, there shall be no requirement for the advertisement of public works or for competitive bidding. Any monies paid to Township of, from or under the Financial Security and any proceeds resulting from the aforesaid legal and/or equitable actions against Developer shall be deemed not to be public funds for the purpose of any laws relating to public advertising or solicitation of bids. Township may use any commercially reasonable means to select contractors and/or negotiate prices or costs of material and labor, and Developer hereby ratifies all actions taken by Township in that regard. Township shall have the right, but not the obligation, to use its own employees to complete all or part of the Improvements. Developer shall exonerate, indemnify and hold harmless Township, its officials, officers, employees and agents, of and from any liability, claim, suit or demand of whatever nature or kind arising from, out of or related to any act of Township, or of any official, officer, employee or agent thereof, done or authorized to be done in completing all or part of the Improvements; and Developer hereby authorizes, ratifies

and affirms any act done by Township, or by any official, officer, employee or agent thereof, in furtherance of such competition with the exception of willful misconduct or gross negligence.

10. Advancement and/or Reimbursement of Expenses

a. Developer shall advance and/or reimburse Township the following as provided in this Section 10:

(1) All reasonable costs, expenses and fees incurred by Township in and for the preparation, review, orderly performance and/or enforcement of this Agreement and the Financial Security Agreement. Such reasonable costs, expenses and fees shall include, without limitation: reasonable legal expenses and fees of the Township Solicitor; and reasonable expenses and fees of the Township Engineer, and/or any other professional consultant(s) engaged by Township in visiting the site for the purposes of inspection and for the performance of official duties necessarily connected with said inspection purposes.

(2) (Section Intentionally Omitted.)

(3) All reasonable professional consultant and administrative costs and expenses of or incurred by Township in connection with the Subject Land Development at then-prevailing rates.

b. In accordance with §503(1)(i) of the MPC and the Subdivision and Land Development Ordinance, Developer shall reimburse the Township for all reasonable outstanding engineering, administrative, legal and other review fees associated with the review of the plans related to Developer's land development for the Subject Property, or related to inspections or other work to satisfy the conditions of the approval. Developer shall, within forty-five (45) days of receipt of any such invoices from the Township or its professional consultants, remit payment to the Township for all reasonable engineering, administrative, legal and other review fees associated with the review of the plans related to Developer's land development for the subject property from the Security Deposit. Should Developer wish to dispute any of the above-referenced fees, it must notify the Township and the Township's professional consultant no later than one hundred (100) days after the transmittal of any bill for services and shall identify, with specificity, the basis for the objection to any charge for fees, costs, expenses, etc. The failure of Developer to contest such fees within one hundred (100) days constitutes a waiver of the right to challenge any such fees charged. Should Developer contest any fee, it shall nonetheless remit payment of the disputed fees, without prejudice to its position in disputing the same. The procedure set forth in the MPC, 53 P.S. §10510(g)(2) through (5), shall then be utilized to resolve all timely disputed fees. Any balance not paid within a forty-five (45)-day period shall bear interest at the rate of one and one-half percent (1 1/2%) per month.

To the extent that Developer fails to remit payment within forty-five (45) days after depletion of the Security Deposit, the Township may withdraw such amounts from the financial security allocated for "Township Construction Inspection" as shown on Exhibit "A"

created pursuant to the Financial Security posted in accordance with the Financial Security Agreement, and shall notify Developer of such withdrawal. Developer shall then be required to replenish the financial security created pursuant to the Financial Security Agreement within thirty (30) days thereafter.

c. In accordance with §510(g) of the MPC and the Subdivision and Land Development Ordinance, Developer shall, within forty-five (45) days of an itemized invoice showing the work performed, reimburse the Township for all outstanding engineering, administrative, legal and other review fees associated with the inspection of improvements related to Developer's land development for the subject property and shall, within forty-five (45) days of receipt of any subsequent invoices from the Township or its professional consultants, remit payment to the Township for all reasonable engineering, administrative, legal and other review fees associated with the inspection of improvements related to Developer's land development for the Subject Property. Township shall utilize the Security Deposit paid by Developer to satisfy all reasonable costs and fees associated with the review of the Plans and inspections. Should Developer wish to dispute any of the above-referenced fees, it must notify the Township and the Township's professional consultant no later than one hundred (100) days after the transmittal of any bill for services and shall identify, with specificity, the basis for the objection to any charge for fees, costs, expenses, etc. The failure of Developer to contest such fees within one hundred (100) days constitutes a waiver of the right to challenge any such fees charged. Should Developer contest any fee, it shall nonetheless remit payment of the disputed fees, without prejudice to its position in disputing the same. The procedure set forth in the MPC, 53 P.S. §10510(g)(2) through (5), shall then be utilized to resolve all timely disputed fees. Any balance not paid within a forty-five (45)-day period shall bear interest at the rate of one and one-half percent (1 1/2%) per month.

To the extent that Developer fails to remit payment within forty-five (45) days after depletion of the Security Deposit, the Township may withdraw such amounts from the cash escrow fund allocated for "Township Construction Inspection" as shown on Exhibit "A" created pursuant to the Financial Security posted in accordance with the Financial Security Agreement and shall notify Developer of such withdrawal. Developer shall then be required to replenish the financial security created pursuant to the Financial Security Agreement within thirty (30) days thereafter.

d. It is expressly acknowledged and agreed that Township shall not be obligated hereunder or otherwise to finally release Developer from and under the Financial Security or the Financial Security Agreement, and/or to issue any use and occupancy permit, or any other permit, unless and until all the aforesaid costs, expenses and fees are paid in full.

## 11. Indemnification

a. Developer hereby agrees to indemnify and save harmless Township, its officials, officers, employees and agents, of, from and against any liability, claim, suit or demand of whatever nature or kind, whether founded or unfounded, arising from, out of or related to the

design, laying out, permitting, installation, construction, completion, inspection, testing, functioning, repair and/or maintenance of (or the failure to repair and/or maintain) the Improvements, together with all cost, fees and expenses (including, but not limited to, attorney's fees and costs and expert witness fees and costs) as may be incurred by Township in connection with any such liability, claim, suit or demand except to the extent caused by the willful misconduct or gross negligence of Township, its officials, officers, employees and agents.

b. (Section Intentionally Omitted.)

## 12. Notices

a. Any notice, demand or other communication required, authorized or permitted to be given under this Agreement shall be sufficient if given in writing and delivered to the party to whom or which the notice or demand is directed at the respective address of the party first above indicated, or to such other address as the party may give by notice complying with the terms of this section.

b. Such notice, demand or other communication shall be delivered to the addressee by one of the following means: (i) personal delivery against receipt; (ii) certified U.S. mail, postage prepared, return receipt requested; or (iii) nationally recognized express delivery service, postage or delivery charges prepaid. The notice, demand or other communication shall be deemed given and effective as follows: (i) if by personal delivery or by express delivery service, at the time of delivery; or (ii) if by mail, at the time of deposit in the U.S. mails.

## 13. Miscellaneous

a. Waiver. Neither the failure nor any delay on the part of the Township to exercise any right, remedy, power or privilege granted under this Agreement or otherwise provided at law or in equity, shall operate as a waiver thereof; nor shall any single or partial exercise of any such right, remedy, power or privilege preclude further exercise of the same or of any other such right, remedy, power or privilege; nor shall any waiver of any such right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any other occurrence. No waiver shall be effective against Township, unless it is in writing signed by a duly authorized representative of the Township.

b. Assignment; Delegation. Developer shall not assign or delegate any of its rights, powers, privileges, duties, obligations or liabilities hereunder without the express written consent of Township, which consent shall not be unreasonably withheld, delayed, conditioned or denied. Any such assignment or delegation without such consent shall be void.

c. Cumulative Rights and Remedies. Any and all rights, powers, privileges and/or remedies granted or accruing to Township under or pursuant to this Agreement and/or the Financial Security Agreement shall not be exclusive, but shall be cumulative and in addition to such other rights, powers, privileges and/or remedies as may be now or hereafter available to

Township under the Subdivision and Land Development Ordinance and/or the MPC and/or otherwise at law or in equity.

d. Headings. The captions or headings preceding the text of the several sections and subsections of this Agreement are inserted solely for convenience of reference; they shall neither constitute a part of this Agreement nor affect its meaning, construction or effect.

e. Severability. If any provision on this Agreement is held to be invalid or unenforceable: (i) the remaining provisions of this Agreement shall not be affected thereby, but shall continue in full force and effect; (ii) this Agreement shall be and is hereby amended, to the minimum necessary, to remedy such invalidity or unenforceability, and the parties hereto shall adjust their respective rights and obligations hereunder accordingly; and (iii) to the extent that such invalid or unenforceable provisions cannot be rendered valid or enforceable by amendment as aforesaid, the same shall be severed herefrom as though never set forth herein.

f. No Third Party Beneficiaries. This Agreement does not confer any enforceable rights or remedies upon any person other than the signatories hereto. Neither contractors of the Developer, nor owners of lots within or adjoining the Subject Property, shall be considered beneficiaries of this Agreement and, accordingly, shall have no rights hereunder, *inter alia* and without limitation, for the completion or maintenance of any Improvements, or for the use, increase, decrease or modification of any Financial Security for any purposes whatsoever.

g. Binding Effect. Subject to Subsection b. above, this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

h. Entire Agreement; Amendment. This Agreement, together with the exhibits attached hereto and made a part hereof and the Financial Security Agreement, constitutes the entire understanding and agreement of the parties with respect to the subject matter hereof and, except as may be otherwise specifically set forth herein, supersedes all prior and contemporaneous agreements and understandings, express or implied, oral or written. Except as may be otherwise specifically provided herein, this Agreement may not be amended, revoked, changed, altered or modified in any manner whatsoever, other than by written unanimous agreement of and signed by all parties hereto.

i. Governing Law & Jurisdiction. This Agreement shall be governed by and construed and enforced in accordance with the laws of the Commonwealth of Pennsylvania, regardless of conflicts of laws and principles. All claims arising from this Agreement shall be the exclusive jurisdiction of the Chester County Court of Common Pleas or the U.S. District Court for the Eastern District of Pennsylvania.

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

ATTEST:

WESTTOWN TOWNSHIP

\_\_\_\_\_

By:

\_\_\_\_\_  
Thomas A. Foster

Title: Chairman

Date: \_\_\_\_\_

ATTEST:

WESTTOWN SCHOOL, Developer

\_\_\_\_\_

By:

\_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

EXHIBIT A  
(Improvement Cost Estimate)

EXHIBIT B

(Financial Security Agreement)



## **FINANCIAL SECURITY AGREEMENT**

THIS Agreement, is made as of this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between Westtown Township (by and through its Board of Supervisors), Chester County, Pennsylvania, a Township of the Second Class, with offices at 1039 Wilmington Pike, West Chester, Pennsylvania ("Township") and Westtown School, a Pennsylvania non-profit corporation, with its address at 975 Westtown Road, West Chester, Pennsylvania 19382, and its successors and assigns ("Developer").

### **BACKGROUND**

A. Developer represents that it is the owner of, and has proposed to develop, a tract of land situated in Westtown Township, located at 975 Westtown Road, Westtown Township, Chester County, Pennsylvania, consisting of 579.61+/- acres, being Tax ID Nos. 67-2-19, 67-2-24, 67-2-24.2, 67-2-25, 67-2-25.1, 67-2-25.2, 67-2-25.3 and 67-5-27 ("Subject Property"), with the development of the Subject Property to occur specifically on a parcel identified as Tax ID No. 67-5-27 to include two (2) new synthetic turf athletic fields, one (1) of which would have lighting, and a new two-story support building, together with storm water management facilities and other related improvements proposed or required in, on and/or related to the proposed land development (the "Oak Lane Development"). The instant Agreement pertains to those improvements designated on the Plan and listed in summary form on the Plan and on the attached spread sheet.

B. The proposed land development of the Subject Property is known as "Westtown School – Oak Lane Project" as is depicted on the Preliminary/Final Land Development Plan prepared by ELA Group, Inc. dated January 27, 2023, and last revised December 15, 2023, and recorded in the Office of the Recorder of Deeds in and for Chester County, Pennsylvania, at plan \_\_\_\_\_ ("Plans").

C. On or about November 20, 2023, the Board of Supervisors of the Township granted Preliminary/Final Land Development Plan Approval of the application to develop the Subject Property with the Oak Lane Development, subject to certain conditions, including the timely completion of the proposed or required improvements and/or amenities, and the posting of financial security to guarantee said completion, all conditions of which were agreed to by the Developer who hereby confirms said agreement (the "Approvals").

D. Township and Developer, contemporaneously herewith, have entered into a certain Development Agreement, providing for, among other things, the said completion of improvements and amenities and the said posting of financial security. The Secured Improvements Cost Estimate outlining the proposed Secured Improvements is attached hereto as Exhibit "A."

E. The parties, by these presents, desire to set forth their further agreement and understanding with respect to the said financial security and such other matters as hereinbelow set forth.

NOW, THEREFORE, the parties hereunto, in consideration of the premises and the mutual promises herein contained and intending to be legally bound hereby, agree as follows:

1. Definitions; Interpretation

a. For purposes of this Agreement, except where the context clearly indicates otherwise, the following words and phrases (including the singular and plural forms thereof) shall have the following meanings:

(1) "Completion Date" shall mean the date specified in Section 2.c. of the Development Agreement on or before which the Improvements shall be completed.

(2) "Development Agreement" shall mean that certain Development Agreement of even date herewith by and between Township and Developer, which agreement is fully incorporated into and made part of this Agreement.

(3) "Financial Institution" shall mean the bonding company or lending institution, approved by Township, with which the Financial Security has been posted or established and/or which issues the Financial Security.

(4) "Financial Security" shall mean the financial security provided under and in accordance with the provisions of Section 2 and other provisions of this Agreement and with the provisions of Section 6 of the Development Agreement (including any additional financial security made part thereof, any increases and other adjustments thereto, and any financial security substituted therefor) and the funds representative thereof and therein.

(5) "Improvements" shall mean all site improvements shown on or contemplated by the Plans, including, but not limited to, public or private roads or streets, walkways, curbs, gutters, street lights, fire hydrants, shade trees, water mains, sanitary sewers, storm drains and sewers, storm water detention and/or retention basins and other related drainage facilities, recreational facilities, open space improvements, buffer or screen plantings or other plantings and landscaping and/or other Improvements or common amenities required by this Agreement and any applicable ordinances or regulations.

(6) "MPC" shall mean the Pennsylvania Municipalities Planning Code, 53 P.S. § 10101 *et seq.*, as restated and amended, as the same now exists and hereafter may be further amended.

(7) "Plans" shall mean that certain Preliminary/Final Land Development Plan prepared by ELA Group, Inc. titled "Westtown School – Oak Lane Project" dated January 27, 2023, and last revised December 15, 2023, and recorded in the Office of the Recorder of Deeds in and for Chester County PA at plan \_\_\_\_\_ ("Plans"), consisting of various plan sheets, including, without limitation, all notes, statements and other information appearing on the plan, and all reports, narratives, studies, profiles, delineations and other materials of whatever nature or kind accompanying or related to the Plans.

(8) "Secured Improvements" shall mean all those certain Improvements for which the Financial Security is provided or to which the Financial Security otherwise relates.

(9) “Subdivision and Land Development Ordinance” shall mean the Subdivision and Land Development Ordinance of the Township, as such Ordinance has been amended and now exists and as hereafter may be amended, provided that the application of subsequent amendments to the Subject Subdivision/Land Development shall be subject to the provisions of §508(4) of the MPC.

(10) “Subject Land Development” shall mean the proposed land development of the portion of the Subject Property, together with recreation facilities and other related improvements and/or common amenities proposed or required in, on and/or related to the proposed subdivision and land development, including together with driveways, storm water management facilities (servicing the entire development), sanitary sewer improvements and such other Improvements proposed or required in, on and/or related to the proposed land development, as the same are more fully and further shown and depicted on and by the Plans.

(11) “Township Engineer” shall mean the professional engineer(s), licensed as such in the Commonwealth of Pennsylvania, duly appointed and employed as the engineer for Township or engaged by Township as a consultant thereto.

b. Except as may be otherwise provided herein and/or if the context clearly indicates otherwise, all words and phrases appearing in this Agreement, which also appear in the Subdivision and Land Development Ordinance, the MPC or the Development Agreement, shall have the meanings and shall be interpreted herein as under the Subdivision and Land Development Ordinance, the MPC or the Development Agreement.

## 2. Financial Security

a. Developer, in accordance with and pursuant to the terms of this Financial Security Agreement and at its sole cost and expense, shall establish and maintain Financial Security in the form of an irrevocable letter of credit with Financial Institution under and in accordance with the terms and conditions of this Agreement. (The said letter of credit is defined herein as the “Financial Security.”) The Financial Security shall be established by Developer upon Developer’s execution of this Agreement. The Financial Institution, as issuer of the Letter of Credit, shall be subject to approval of Township, which approval shall not be unreasonably withheld. The Financial Security shall provide for and secure to the public, as represented by the Township, the completion, on or before the Completion Date, of the Secured Improvements in accordance with and pursuant to the terms and conditions of the Development Agreement, and shall further guarantee the performance of the other obligations of Developer under this Agreement and the Development Agreement.

b. The initial amount of the Financial Security shall be Two Million, Three Hundred Seventy-Nine Thousand, Four Hundred Fifty-Five Dollars and Sixty-Seven Cents (USD \$2,379,455.67), which amount is one hundred and ten percent (110%) of the total of (i) the estimated costs of completing the Secured Improvements and (ii) the estimated amounts of other costs, expenses and fees, as such estimated costs and amounts are more fully and further set forth in Exhibit “B” to the Development Agreement and Exhibit “A” attached hereto.

c. The Financial Security shall be automatically extended from year to year for additional periods of twelve (12) months from the original or each future expiration date, without amendment, unless the Financial Institution shall have notified the Township in writing, not less than sixty (60) days before such expiration date, that the Financial Institution elects not to renew the Financial Security. The Financial Institution's notice of such election must be sent to the Township by certified mail addressed to the above Township address, return receipt requested. A copy of the same shall be forwarded to the Township Solicitor and Township Engineer. In the event that the Financial Institution provides the above-notice of its intent not to renew the Financial Security, the Township may draw upon the Financial Security to secure the completion of the remaining Secured Improvements, unless the Developer provides substitute Financial Security acceptable to the Township at least forty-five (45) days prior to the date of expiration of the then effective Financial Security. It shall be the continuing responsibility of the Developer to ensure that the Financial Security (or the acceptable substitute thereof) shall not be terminated or closed or expired, but shall be and remain open until the final release of funds therefrom in accordance with and pursuant to Section 7 of this Agreement.

d. A notation shall appear on the records of the Financial Institution providing that, except as provided in and by this Agreement or as may be otherwise consented to and approved and directed in and by a writing signed by the Township, (i) no withdrawals shall be made from the Financial Security, (ii) the Financial Security shall not be terminated or closed or expire, and (iii) any balance of funds in the Financial Security shall be fully available to the Township for use under and for purposes of this Agreement.

e. The Financial Institution shall acknowledge and verify in writing to Township that, among other things: (i) the Financial Security has been duly issued, and (ii) the issuance of the Letter of Credit does not violate any federal, state or other laws or regulations applicable to the Financial Institution, and (iii) that the notation required by Subsection 2.d. above appears on its records. The written acknowledgment and verification shall be substantially in the form attached hereto and made fully part hereof as Exhibit "B."

f. The Financial Security shall remain in place until such time as construction of the Secured Improvements is complete, subject to periodic releases as set forth in Section 4 ("Interim Release of Funds") of this Agreement.

### 3. Adjustments to Financial Security

a. Developer agrees that the total amount of the Financial Security and the amount of each of the specific items thereof shall be subject to increase or other adjustment as permitted by and in accordance with the provisions of §509 of the MPC. Without limiting the generality of the foregoing:

(1) Developer agrees that, if the Secured Improvements, or any part thereof, are not completed to the satisfaction of Township within one (1) year after the date of this Financial Security Agreement and Township has agreed to extend the time for completion beyond the Completion Date as may be necessary for the completion, Developer shall post such additional financial security as directed by Township and in accordance with the provisions of the MPC; and Developer shall continue to provide such additional financial security on each one (1) year anniversary date of this Financial Security Agreement thereafter as so directed by Township, if the

Secured Improvements, or any part thereof, are not completed to the satisfaction of Township and Township has agreed to further extend the time for completion beyond the Completion Date, as the same may be previously extended, as such further extension may be necessary for the completion.

(2) Township reserves the right to refuse or limit a request for release of the Financial Security, or to increase or otherwise adjust the amount of the Financial Security on an annual basis, if, in the sole opinion of Township, the balance of the Financial Security is insufficient to complete the Secured Improvements, or to pay any of the other costs, expenses or fees for which the Financial Security has been established, as a result of any foreseeable or unforeseeable events which may arise at any time prior to the completion of the Secured Improvements, including, without limitation, interruptions in construction and inflationary increases in the cost of materials.

b. Notice of any such additional financial security or of any such increase or other adjustment in the amount of the Financial Security, or any part thereof, shall be given in writing by Township to Developer, and Developer shall post the amount of the additional financial security, increase or other adjustment within thirty (30) days of the date of such notice.

c. In the event that Developer fails to fully post the additional Financial Security, increase or other adjustment within the said thirty (30) day period, Township, in addition to such other or further rights and remedies as may be available, shall have the right to (i) withdraw or revoke all building and all other permits previously issued in connection with the Subject Property and/or the Subject Land Development, (ii) refrain from issuing new permits of any kind for the Subject Property and/or the Subject Land Development, and (iii) issue one (1) or more stop, cease and desist orders concerning further work upon construction of the Secured Improvements and/or other Improvements. Upon the issuance and delivery of any such stop, cease and desist order, Developer shall cease all further work on the construction of the Secured Improvements and/or other Improvements described in the order; provided, however, that upon posting of such additional financial security, increase or other adjustment in the Financial Security as required herein, the Township shall withdraw the stop, cease and desist order(s), and Developer may resume work on the construction of the Secured Improvements and/or other Improvements, and any building and other permits previously revoked or withdrawn shall be reinstated.

d. Any funds posted or provided under this Section 3 as additional financial security or as increases or other adjustments to the Financial Security shall become part of the Financial Security and fully subject to the terms and conditions of this Financial Security Agreement.

#### 4. Interim Releases of Funds

a. As the work of the construction of the Secured Improvements satisfactorily proceeds, Township, from time to time upon written request of Developer prior to final release under Section 7 below, shall authorize the release of funds to Developer in accordance with the provisions of the MPC, in such amounts as directed by the Township in writing, but only by and upon the issuance to and receipt by the Developer of a duly executed Certificate of Completion signed by the Township Engineer and the Chairperson of the Board of Supervisors of the

Township. The Certificate of Completion shall be in the form substantially as set forth in Exhibit “C” attached to and made fully part of this Financial Security Agreement.

b. Unless Township expressly and affirmatively directs otherwise in and by the said duly executed Certificate of Completion, in no event shall the balance of the Financial Security be reduced below one hundred ten percent (110%) of the estimated costs of completing the remaining uncompleted Secured Improvements, as such estimated costs of completion shall be determined or approved by the Township Engineer.

5. Default

a. If Township determines that any of the Secured Improvements has not been completed fully in accordance with the terms, conditions, and requirements of the Development Agreement or that Developer is otherwise in default of the Development Agreement (including in the event that Developer becomes insolvent, declares bankruptcy, or ceases work on the Improvements for a period of greater than ninety (90) days without Township approval), after providing Developer with Notice and Opportunity to Cure as set forth in Paragraph 9.a. of the Development Agreement, Township may declare Developer to be in default under this Financial Security Agreement, and Township, in addition to such other or further rights and remedies as may be available, shall have the right to demand and collect payment from the Financial Security of the full undrawn amount, after reductions and interim releases, if any, pursuant to this Agreement, of the Financial Security, or any part or lesser amount thereof which Township in its sole discretion deems necessary to cure any such default as well as to pay for any professional services related to such cure.

b. The following shall apply to such demand and payment:

(1) Developer hereby authorizes the Financial Institution upon such default, without further inquiry being made, to issue said payment directly and immediately to Township or its order, and no further authorization, consent and/or approval of or by Developer to or of said payment shall be required.

(2) Township may draw amounts from and under the Financial Security prior to the performance of any work by or for Township in order to complete the Secured Improvements in accordance with the Development Agreement or otherwise cure the default, and/or to pay professional services related thereto, based upon (i) reasonable estimates received by Township for the completion and/or (ii) reasonable bills received by Township for the professional services.

(3) Developer agrees that it shall have no right or standing to prevent or delay any such payment to and/or collection by Township.

(4) Developer hereby remises, releases and forever discharges Financial Institution from any and all liability with respect to honoring any such draws by Township.

(5) In the event of a dispute between Developer and Township, Developer nevertheless agrees that the provisions of Paragraph 5.b(1) above shall continue to apply, and that the provisions of Paragraph 5.b(1) shall not be satisfied by Financial Institution’s

payment into court of the amount demanded by Township but shall be satisfied only by Financial Institution's payment of the demanded amount directly and immediately to Township.

(6) The right of Township to demand payment and collect less than the full undrawn amount of the Financial Security shall not be exhausted by a single exercise thereof, but may be exercised by Township from time to time and at any time without limitation on the number of exercises thereof until the amount of the Financial Security has been fully drawn.

(7) If the reasonable costs, expenses and fees, incurred by Township on account of (i) the foregoing completion of Secured Improvements or otherwise curing the default of Developer and (ii) the professional services related thereto, exceed the amount, if any, received by Township from and under the Financial Security, Developer, in addition to such other and further obligations and liabilities imposed upon it under the Development Agreement and otherwise by law, shall be liable to Township for such excess of such reasonable costs, expenses and fees. Developer hereby agrees to pay the full amount of such excess to Township immediately upon demand.

#### 6. Costs, Expenses and Fees

a. If Developer fails to reimburse Township any reasonable costs, expenses or fees, after depletion of the Security Deposit established by Paragraph 3.a.(3) of the Development Agreement, in accordance with and pursuant to Section 10 of the Development Agreement, after providing Developer with Notice and Opportunity to Cure as set forth in Paragraph 9.a. of the Development Agreement, Developer shall be in default of this Financial Security Agreement, and Township shall be authorized to collect the amount thereof from and under the Financial Security (notwithstanding that the amount of the Financial Security, but for this Subsection a., is not now or hereafter specifically established to guarantee, secure or otherwise cover the payment of such costs, expenses or fees) in same manner and to the same extent as a default made and provided for under Section 5 of this Financial Security Agreement.

b. Developer shall provide additional Financial Security, in a form acceptable to Township and in the amount by which the Financial Security was reduced by any payment made to Township from the Financial Security under provisions of Subsection 6.a above, within fifteen (15) days after written notice of such reduction in the amount of the Financial Security is sent by Township to Developer. Developer shall also provide Township, to Township's satisfaction and within such fifteen (15) day period, written proof of such additional financial security. The failure of Developer to provide Township, to Township's satisfaction, such additional financial security and written proof thereof within such time shall constitute a default or breach under this Agreement and the Development Agreement, and Developer shall be subject to the provisions governing its default or breach, after provision of Notice and Opportunity to Cure, as set forth in both agreements and/or as otherwise provided by law, including, without limitation, the revocation by Township of all building and other permits issued in connection with the Subject Property and/or the Subject Land Development, the refusal of Township to reinstate any of the same or issue other permits in the future, and/or the issuance by Township of stop, cease and desist orders upon the construction of the Secured Improvements and/or other Improvements or any part thereof, until the default or breach is properly and fully cured. The additional financial security shall be and constitute financial security fully subject to the terms and conditions of this Financial Security Agreement.

7. Final Release of Financial Security; Termination of Agreement.

a. After all the Secured Improvements have been completed fully in accordance with the Development Agreement to the satisfaction of the Township, and after all the provisions of the Development Agreement and this Financial Security Agreement have been satisfied fully by Developer (including the payment of all costs, expenses and fees for which Developer is responsible under both said agreements), Township shall authorize the release of the balance of the Financial Security. Such release authorized by Township shall be the final release of funds from the Financial Security, and shall further release Developer from and under the Financial Security and this Financial Security Agreement.

b. At and upon the aforesaid Township authorized release of the balance of the Financial Security, this Financial Security Agreement shall terminate without further action of the parties being required.

8. Validity and Enforceability of Financial Security

a. The Financial Security shall be valid, and shall be maintained by Developer in full force and effect at all times following the establishment thereof in accordance with and during continuance of this Financial Security Agreement.

b. During the continuance of this Financial Security Agreement, Developer shall, as may be requested by written notice from Township from time to time or at any time, provide verification and proof to Township concerning the existence, validity and enforceability of the Financial Security. The verification and proof shall be satisfactory to Township.

c. Developer hereby agrees and authorizes the Financial Institution, during the continuance of this Financial Security Agreement, to release to Township any information as may be requested from time to time or at any time by Township concerning the financial affairs of Developer relative to this Financial Security Agreement and the Financial Security.

d. If Township determines that, upon the information provided or not provided pursuant to Subsections 8.b and/or 8.c above, the financial security requirements of this Agreement and the Development Agreement are not satisfied, or, if Developer otherwise fails to provide and maintain the Financial Security under and in accordance with this Agreement and the Development Agreement, Township shall give Developer written notice to provide the required Financial Security within thirty (30) days of the date of the notice. If Developer fails to so provide the Financial Security to Township's reasonable satisfaction within that time, Township, in addition to other and further rights and remedies as may be available, may revoke all permits previously issued in connection with the Subject Property and/or the Subject Land Development, may refuse to issue any new permits, and/or may issue stop, cease and desist orders upon the construction of the Secured Improvements and/or other Improvements or any part thereof, until the Financial Security is provided to Township's reasonable satisfaction.

e. Developer further agrees that if it determines or obtains knowledge during the continuance of this Financial Security Agreement that the Financial Institution is, may be or will be unable to honor, provide or maintain the Financial Security for any reason whatsoever in accordance with this Agreement and the Development Agreement (including, but not limited to,



the reason that control of the Financial Institution is or is about to be assumed by an agency of the United States government or the Commonwealth of Pennsylvania), Developer shall, immediately, but in no event later than two (2) business days after making such determination or obtaining such knowledge, give written notice of the same to Township. Within thirty (30) days after either the aforesaid notice is given by Developer or such other time as Township notifies Developer that the Financial Security does not exist to the satisfaction of Township, Developer shall obtain additional or substituted financial security with another financial institution as shall be satisfactory to Township. The failure of Developer to provide such additional or substituted financial security shall allow Township, in addition to other or further rights and remedies as may be available, to revoke all permits previously issued in connection with the Subject Property and/or the Subject Subdivision/Land Development, to refuse to issue any new permits, and/or to issue stop, cease and desist orders upon the construction of the Secured Improvements and/or other Improvements or any part thereof, until such additional or substituted financial security is provided to Township's satisfaction.

f. Developer agrees that any and all notices from the Township to the Financial Institution demanding payment of, from and under the Financial Security shall be valid and enforceable, and shall be honored by the Financial Institution if given to the Financial Institution during the continuance of this Agreement.

9. Township Non-Responsibility

a. Neither this Financial Security Agreement nor the Development Agreement (including any actions taken by Township in or related to the review, consideration and/or approval of the Plans and Subject Land Development) shall impose, or be construed to impose, any liability, responsibility or obligation on Township for the design, layout, construction, installation, maintenance or upkeep of the Secured Improvements and/or other Improvements, or render Township liable for the costs of any work to be performed under or in connection with the Development Agreement or for any other costs to be incurred under or in connection with this Agreement or the Development Agreement, it being expressly understood and agreed that the full responsibility and financial liability for all the foregoing are imposed upon Developer.

10. Financial Institution Non-Responsibility

A. Developer agrees that Financial Institution shall have no duty to inquire as to the truthfulness, acceptability, due execution, due authorization or validity of any document, certificate, statement or notice which purports to have been executed by an official or other representative of the Township.

B. Developer and the Township further agree that Financial Institution shall not have any duty or responsibility with respect to the Financial Security other than to comply with the terms of this Agreement that apply to the actions which the Financial Institution is to take or not take with respect to the Financial Security.

C. Developer and Financial Institution further agree that the obligations of the Financial Institution under this Agreement, and under and with respect the Financial Security, are for the sole benefit of the Township, and shall not be affected, in any way, by any default, action or omission of Developer.

D. The Township and Developer further agree and acknowledge that the Financial Institution assumes no liability for the design, layout, construction, installation, maintenance and/or upkeep of the Improvements or the obligations of the Developer under this Agreement or the Development Agreement.

11. Charges of Financial Institution

a. Any and all charges made by the Financial Institution for the establishment, creation, administration or termination of the Financial Security and/or for all other actions of the Financial Institution under, pursuant and/or related to this Agreement are the sole responsibility of Developer and shall be billed to and paid directly by Developer, and no amount of, from or under the Financial Security may be used by or paid to the Financial Institution for such charges. Developer agrees that the Township shall not be liable or otherwise obligated for any of such charges, and Developer hereby agrees to indemnify, protect and defend the Township from and against any such charges.

12. (Omitted as Not Applicable)

13. Insolvency of Developer

a. Developer acknowledges, covenants and agrees that, in case of any bankruptcy, receivership, or voluntary or involuntary assignment for the benefit of creditors by or of Developer, the Financial Security and all interest of Developer in, to or under this Financial Security Agreement are not and shall not be considered part of the estate of Developer, to the extent permitted by law.

14. Payments, Reductions or Releases of Financial Security

a. It is expressly and specifically understood, covenanted and agreed by Developer that no payment, reduction and/or release whatsoever shall be made at any time of, from or under the Financial Security without the express written consent and instructions of Township, and that the Financial Security shall be maintained at all times during the continuance of this Financial Security Agreement in the amounts required herein, less all sums drawn or released therefrom by Township in accordance with the terms hereof. Any violation of this covenant shall render Developer liable for all damages to Township, including, without limitation, all reasonable costs, fees and expenses (including, but not limited to, reasonable attorney's fees and costs), which Township is required to pay in order to cure any default or breach by the Developer under the Development Agreement or this Financial Security Agreement because the Financial Security is not maintained and/or funds thereunder are not available or paid upon demand to the Township in order to cure such default or breach.

15. Notices

a. Except as may be otherwise specifically provided in this Agreement:

(1) Any notice, demand or other communication required, authorized or permitted to be given under this Financial Security Agreement shall be sufficient if given in writing and delivered to the party to whom or which the notice or demand is directed at the respective

address of the party first above indicated, or to such other address as the party may give by notice complying with the terms of this section.

(2) Such notice, demand or other communication shall be delivered to the addressee by one of the following means: (i) personal delivery against receipt; (ii) certified United States mail, postage prepaid, return receipt requested; or (iii) nationally recognized express delivery service, delivery charges prepaid. The notice, demand or other communication shall be deemed given and effective as follows: (i) if by personal delivery or by express delivery service, at the time of delivery; or (ii) if by mail, three (3) business days after the date of deposit in the United States mail.

## 16. Miscellaneous

a. Waiver. Neither the failure nor any delay on the part of Township to exercise any right, remedy, power, or privilege granted under this Agreement or otherwise provided at law or in equity, shall operate as a waiver thereof; nor shall any single or partial exercise of any such right, remedy, power, or privilege preclude further exercise of the same or of any other such right, remedy, power or privilege; nor shall any waiver of any such right, remedy, power, or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power, or privilege with respect to any other occurrence. No waiver shall be effective against Township unless it is in writing signed by a duly authorized representative of Township.

b. Assignment; Delegation. Developer shall not assign or delegate any of its rights, powers, privileges, duties, obligations, or liabilities hereunder without the express written consent of Township, which shall not be unreasonably withheld, delayed, conditioned or denied. Any such assignment or delegation, without such consent, shall be void.

c. Cumulative Rights and Remedies. Any and all rights, powers, privileges and/or remedies granted or accruing to Township under or pursuant to this Agreement shall not be exclusive, but shall be cumulative and in addition to such other rights, powers, privileges, and/or remedies as may be now or hereafter available to Township at law or in equity.

d. Headings. The captions or headings preceding the text of the several sections, subsections, paragraphs and other parts of this Agreement are inserted solely for convenience of reference; they shall neither constitute a part of this Agreement nor affect its meaning, construction or effect.

e. Severability. If any provision on this Agreement is held to be invalid or unenforceable: (i) the remaining provisions of this Agreement shall not be affected thereby, but shall continue in full force and effect; (ii) this Agreement be and is hereby amended, to the minimum necessary, to remedy such invalidity or unenforceability, and the parties hereto shall adjust their respective rights and obligations hereunder accordingly; and (iii) to the extent that such invalid or unenforceable provisions cannot be rendered valid or enforceable by amendment as aforesaid, the same shall be severed herefrom as though never set forth herein.

f. No Third Party Beneficiaries. This Agreement does not confer any enforceable rights or remedies upon any person other than the signatories hereto. Neither contractors of the Developer, nor Owners of Lots within, or adjoining, the Property shall be

considered beneficiaries of this Agreement, and, accordingly, shall have no rights hereunder, including, and without limitation, for the completion or maintenance of any Improvements, or for the use, increase, decrease or modification of any Financial Security for any purposes whatsoever.

g. Binding Effect. Subject to Subsection 16.b above, this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

h. Entire Agreement; Amendment. This Agreement, together with the exhibits attached hereto and made part hereof and the Development Agreement, constitutes the entire understanding and agreement of the parties with respect to the subject matter hereof, and, except as may be otherwise specifically set forth herein, supersedes all prior and contemporaneous agreements and understandings, express or implied, oral or written. Except as may be otherwise specifically provided herein, this Agreement may not be amended, revoked, changed, altered, or modified in any manner whatsoever, other than by written unanimous agreement of and signed by all parties hereto.

i. Governing Law & Jurisdiction. This Financial Security Agreement shall be governed by, and construed and enforced in accordance, with the laws of the Commonwealth of Pennsylvania, regardless of conflicts of laws principles. All claims arising from this Financial Security Agreement shall be the exclusive jurisdiction of the Chester County Court of Common Pleas or the United States District Court for the Eastern District of Pennsylvania.

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

ATTEST:

WESTTOWN TOWNSHIP

\_\_\_\_\_

By:

\_\_\_\_\_

Thomas A. Foster

Title: Chairman

Date: \_\_\_\_\_

ATTEST:

WESTTOWN SCHOOL, Developer

\_\_\_\_\_

By:

\_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Exhibit "A"**

Secured Improvements Cost Estimate  
(Spread sheet showing details of escrow per paragraph 2(b).)

## EXHIBIT "B"

### ACKNOWLEDGMENT AND VERIFICATION

**THE UNDERSIGNED ConnectOne Bank**, by duly authorized officer or other representative and intending to be legally bound, hereby acknowledges, verifies and agrees:

1. **THAT** the Undersigned is, for so long as the Letter of Credit is outstanding, the entity referred to as the "Financial Institution" in that certain Financial Security Agreement, dated \_\_\_\_\_, 2024 (the "Financial Security Agreement") and that certain Development Agreement, of the same date (the "Development Agreement") both between Westtown Township, Chester County (the "Township") and Westtown School, (the "Developer"), with respect to the Oak Lane Development, as shown on the plan recorded in the Office of the Recorder of Deeds in and for Chester County PA at Plan #\_\_\_\_\_.

2. **THAT**, as of the date hereof, a Letter of Credit, in the amount of Two Million, Three Hundred Seventy-Nine Thousand, Four Hundred Fifty-Five Dollars and Sixty-Seven Cents (USD \$2,379,455.67), has been duly issued by the Undersigned for use under, for purposes of and in accordance with the Financial Security Agreement and the Development Agreement.

3. **THAT** the Financial Security is a Letter of Credit, bearing No. \_\_\_\_\_, and that the Letter of Credit has been established with the Township as Beneficiary as the Financial Security for the Secured Improvements.

4. **THAT** the above Letter of Credit is the Financial Security referred to as the "Financial Security" in the Financial Security Agreement and the Development Agreement.

5. **THAT**, except as provided in and by the Financial Security Agreement or as may be otherwise consented to and approved and directed by the Board of Supervisors of the Township in and by a writing signed by the Chairperson of the Board of Supervisors, (i) no withdrawals shall be made from the Financial Security, (ii) the Financial Security shall not be terminated or closed or expired, unless in conformity with paragraph 2.c. of the Financial Security Agreement, and (iii) the balance of funds in the Financial Security shall be fully available to the Township for use under, for purposes of and in accordance with the Financial Security Agreement and the Development Agreement.

6. **THAT** a notation appears on the records of the Undersigned setting forth the substance of Paragraph 5 above.

7. **THAT** the Financial Security has been duly established and will be maintained by the Undersigned to comply with the Financial Security Agreement and the Development Agreement, copies of which Agreements have been reviewed, received and if required, executed, by the Undersigned.

8. **THAT** the Undersigned will comply with the terms of the Letter of Credit.

9. **THAT** the issuance of the Letter of Credit does not violate any of federal, state or other laws or regulations applicable to the Undersigned.

10. **THAT** the Undersigned shall not assign or delegate any of its duties or obligations under this Acknowledgment and Verification or otherwise, as the Financial Institution under the Financial Security Agreement and the Development Agreement, without the express written consent of Township, which shall not be unreasonably withheld, conditioned or delayed, except in the case of a sale or merger of the Undersigned where the successor remains liable under the letter of credit no consent shall be required.

11. **THAT**, subject to Paragraph 10 above, the duties and obligations of the Undersigned, under this Acknowledgment and Verification or otherwise as the Financial Institution under the Financial Security Agreement and the Development Agreement, shall be binding upon the successors and assigns of the Undersigned.

**Financial Institution:**

**ConnectOne Bank**

\_\_\_\_\_  
Witness

By: \_\_\_\_\_

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Title

\_\_\_\_\_  
Printed Title

Date: \_\_\_\_\_



**EXHIBIT "C"**

**CERTIFICATE OF COMPLETION AND  
AUTHORIZATION OF REDUCTION AND RELEASE  
NO. \_\_\_\_\_**

**WE, THE UNDERSIGNED, HEREBY:**

**A. CERTIFY** that the work and improvements, described hereinbelow, completion of which is provided under and by that certain Development Agreement between Westtown Township, Chester County ("Township") and \_\_\_\_\_, ("Developer"), dated \_\_\_\_\_, 202\_\_, concerning the construction, installation and completion of improvements in the \_\_\_\_\_ Subdivision and Land Development, **HAVE BEEN COMPLETED TO THE EXTENT OF THE AMOUNT INDICATED IN ITEM I BELOW;** and

**B. AUTHORIZE** ConnectOne Bank, pursuant to the Development Agreement and related Financial Security Agreement of the same date, **TO REDUCE** the Financial Security, in the nature of a Letter of Credit provided and held with said Bank to guaranty, among other things, the completion of said work and improvements, **TO THE EXTENT OF THE AMOUNT INDICATED IN ITEM III BELOW,** and **TO RELEASE SAID AMOUNT OF REDUCTION FROM AND UNDER THE TERMS AND CONDITIONS OF THE ESCROW ACCOUNT.**

**THE REDUCTION AND RELEASE** of the amount of the Financial Security hereby authorized shall not be construed, in any manner or extent, as an acceptance by Township of the work and improvements described hereinbelow (or of any other work performed or any improvements installed or constructed), nor shall this Certificate and Authorization constitute any waiver by Township of its rights to inspect and approve the work and improvements described hereinbelow (or any other work performed and improvements installed and constructed). Township hereby reserves the right to re-inspect the work and improvements (as well as any other work and improvements) and to require Developer to correct, repair or demolish and to properly reconstruct any and all defective and deficient work and improvements not accepted and approved by Township.

**THE FOLLOWING WORK AND** Improvements are the subject of this Certificate and Authorization: *(See attached letter and invoice.)*

**REMAINDER OF PAGE LEFT BLANK INTENTIONALLY**

**THE REDUCTION AND RELEASE** of the financial security authorized by this Certificate and Authorization have been determined as follows:

**I. COST OF COMPLETED WORK AND Improvements**      \$ \_\_\_\_\_

**II. AMOUNT OF REDUCTION AND RELEASE**      \$ \_\_\_\_\_

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Township Engineer**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Chairperson,  
Westtown Township  
Board of Supervisors**

PREPARED BY & RETURN TO:  
Riley Riper Hollin & Colagreco  
Attn.: Gina M. Gerber, Esquire  
717 Constitution Drive  
P.O. Box 1265  
Exton, PA 19341  
(610) 458-4400

UPI Nos.: 67-2-19, 67-2-24, 67-2-24.2, 67-2-25,  
67-2-25.1, 67-2-25.2, 67-2-25.3 and 67-5-27  
975 Westtown Road

**STORMWATER BEST MANAGEMENT PRACTICES (BMPs) AND  
CONVEYANCES  
OPERATION AND MAINTENANCE AGREEMENT**

**THIS AGREEMENT**, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_\_\_, by and between Westtown School, (hereinafter the “Landowner”), and Westtown Township, Chester County, Pennsylvania, (hereinafter “Municipality”);

**WITNESSETH**

**WHEREAS**, the Landowner is the owner of certain real property by virtue of a deed of conveyance recorded in the land records of Chester County, Pennsylvania, at Deed Book 5973 and Page 58, and Deed Book 9407 and Page 491 (hereinafter “Property”); and

**WHEREAS**, the Landowner is proceeding to develop a parcel on the Property identified as Tax Parcel Number 67-5-27 with two (2) new synthetic turf athletic fields, one (1) of which would have lighting, and a new two-story support building, together with various improvements including stormwater management facilities and other related improvements in accordance with a Preliminary/Final Land Development Plan prepared by prepared by ELA, Group, Inc., dated January 27, 2023, and last revised December 15, 2023, (“the Plan”) which Plan is intended to be recorded in the Office of the Recorder of Deeds in and for Chester County, Pennsylvania, prior hereto; and

**WHEREAS**, the Post Construction Stormwater Management Plan approved by the Municipality for the Property, which is Sheets 1, 2, 4-7, 15, 16, 19, 20, 25, 26, 38-41 and 45-48 of the Plan (hereinafter referred to as the “O&M Plan”), which is expressly made part hereof, provides for management of stormwater within the confines of the Property through the use of BMP(s) and conveyances; and

**WHEREAS**, the Municipality and the Landowner, for itself and its administrators, executors, successors, heirs, and assigns, agree that the health, safety, and welfare of the residents of the Municipality and the protection and maintenance of water quality require that stormwater BMP(s) and conveyances be constructed and maintained on the Property; and

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

**BMP – “Best Management Practice”** –Those activities, facilities, designs, measures, or procedures as specifically identified in the O&M Plan, used to manage stormwater impacts from land development, to meet state water quality requirements, to promote groundwater recharge, and to otherwise meet the purposes of the Municipality’s Stormwater Management Ordinance. BMPs may include, but are not limited to, a wide variety of practices and devices, from large-scale retention ponds and constructed wetlands to small-scale underground treatment systems, infiltration facilities, filter strips, low impact design, bioretention, wet ponds, permeable paving, grassed swales, riparian or forested buffers, sand filters, detention basins, manufactured devices, and operational and/or behavior-related practices that attempt to minimize the contact of pollutants with stormwater runoff. The BMPs identified in the O&M Plan are permanent appurtenances to the Property; and

**Conveyance** – As specifically identified in the O&M Plan, a man-made, existing or proposed facility, structure or channel used for the transportation or transmission of stormwater from one place to another, including pipes, drainage ditches, channels and swales (vegetated and other), gutters, stream channels, and like facilities or features. The conveyances identified in the O&M Plan are permanent appurtenances to the Property; and

**WHEREAS**, the Municipality requires, through the implementation of the O&M Plan, that stormwater management BMPs and conveyances, as required by said O&M Plan and the Municipality’s Stormwater Management Ordinance, be constructed and adequately inspected, operated and maintained by the Landowner, its administrators, executors, successors in interest, heirs, and assigns.

**NOW, THEREFORE**, in consideration of the foregoing promises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto, intending to be legally bound hereby, agree as follows:

1. The foregoing recitals to this Agreement are incorporated as terms of this Agreement as if fully set forth in the body of this Agreement.
2. The Landowner shall construct the BMP(s) and conveyance(s) in accordance with the final design plans and specifications as approved by the Municipality and as shown on the O&M Plan.
3. The Landowner shall inspect, operate and maintain the BMP(s) and conveyance(s) as shown on

the O&M Plan in good working order acceptable to the Municipality and in accordance with the specific inspection and maintenance requirements in the approved O&M Plan.

4. The Landowner hereby grants permission to the Municipality, its authorized agents and employees, to enter upon the Property from a public right-of-way or roadway, at reasonable times and upon presentation of proper identification, to inspect the BMP(s) and conveyance(s) whenever it deems necessary for compliance with this Agreement, the O&M Plan and the Municipality's Stormwater Management Ordinance. Whenever possible, the Municipality shall notify the Landowner prior to entering the Property. When requested by the Landowner, the Municipality shall give the Landowner, its successors and assigns, copies of any inspection report with findings and evaluations of the inspection.

5. The Municipality intends to inspect the BMP(s) and conveyance(s) at a minimum of once every three (3) years to determine if they continue to function as required.

6. The Landowner acknowledges that, per the Municipality's Stormwater Ordinance, it is unlawful, without written approval of the Municipality, to:

- a. Modify, remove, fill, landscape, alter or impair the effectiveness of any BMP or conveyance that is constructed as part of the approved O&M Plan;
- b. Place any structure, fill, landscaping, additional vegetation, yard waste, brush cuttings, or other waste or debris into a BMP or conveyance that would limit or alter the functioning of the BMP or conveyance;
- c. Allow the BMP or conveyance to exist in a condition which does not conform to the approved O&M Plan or this Agreement; and
- d. Dispose of, discharge, place or otherwise allow pollutants including, but not limited to, deicers, pool additives, household chemicals, and automotive fluids to directly or indirectly enter any BMP or conveyance.

7. In the event that the Landowner fails to operate and maintain the BMP(s) and conveyance(s) as shown on the O&M Plan in good working order acceptable to the Municipality, the Municipality shall provide to Developer written notice of the need for remedial action and grant Developer thirty (30) days from the date the notice is received to remediate the issue (or such additional time as may be agreed to by Developer and Township if said remediation cannot be reasonably taken within thirty (30) days) (herein referred to as "Notice and Opportunity to Cure"). If Landowner fails to remediate the issue in accordance with the Notice and Opportunity to Cure, the Landowner shall be in violation of this Agreement, and the Landowner agrees that the Municipality or its representatives may, in addition to and not in derogation or diminution of any remedies available to it under the Stormwater Ordinance or other statutes, codes, rules or regulations, or this Agreement, enter upon the Property and take whatever action is deemed necessary to maintain said BMP(s) and conveyance(s). It is expressly understood and agreed that the Municipality 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 Municipality.

8. In the event that the Municipality, 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 Landowner shall reimburse the Municipality for all expenses (direct and indirect) incurred within forty-five (45) days of delivery of an invoice from the Municipality. Failure of the Landowner to make prompt payment to the Municipality may result in enforcement proceedings, which may include the filing of a lien against the Property, which filing is expressly authorized by the Landowner, or may proceed to recover its costs through proceedings in equity or law as authorized under the provisions of the Westtown Township Code.

9. The intent and purpose of this Agreement is to ensure the proper maintenance of the on-site BMP(s) and conveyance(s) by the Landowner; provided, however, that this Agreement shall not be deemed to create or affect any additional liability on any party for damage alleged to result from or be caused by stormwater runoff.

10. The Landowner, for itself and its executors, administrators, assigns, heirs, and other successors in interest, hereby releases and shall release the Municipality's employees, its agents and designated representatives from all damages, accidents, casualties, occurrences, or claims which might arise or be asserted against said employees, agents or representatives arising out of the construction, presence, existence, or maintenance of the BMP(s) and conveyance(s) either by the Landowner or Municipality, except those caused by the willful misconduct or gross negligence of Municipality, its employees, agents and designated representatives. In the event that a claim is asserted or threatened against the Municipality, its employees, agents or designated representatives, the Municipality shall notify the Landowner, and the Landowner shall defend, at his own expense, any claim, suit, action or proceeding, or any threatened claim, suit, action or proceeding against the Municipality, or, at the request of the Municipality, pay the cost, including attorneys' fees, of defense of the same undertaken on behalf of the Municipality, except those claims arising from the willful misconduct or gross negligence of Municipality, its employees, agents and designated representatives. If any judgment or claims against the Municipality's employees, agents or designated representatives shall be allowed, the Landowner shall pay all damages, judgments or claims and any costs and expenses incurred by the Municipality, including attorneys fees, regarding said damages, judgments or claims, except such damages, judgments or claims arising out of the willful misconduct or gross negligence of Municipality, its employees, agents and designated representatives.

11. The Municipality may enforce this Agreement in accordance with its Stormwater Ordinance, at law or in equity, against the Landowner for breach of this Agreement. Remedies may include fines, penalties, damages or such equitable relief as the parties may agree upon or as may be determined by a Court of competent jurisdiction. Recovery by the Municipality shall include its reasonable attorney's fees and costs incurred in seeking relief under this Agreement.

12. Failure or delay in enforcing any provision of this Agreement shall not constitute a waiver by the Municipality of its rights of enforcement hereunder.

13. The Landowner shall inform future buyers of the Property about the function of, operation, inspection and maintenance requirements of the BMP(s) prior to the purchase of units/lots within the Property by said future buyers, and must comply with this Agreement to the extent required.

14. This Agreement shall insure to the benefit of and be binding upon, the Township and the Landowner, as well as its heirs, administrators, executors, assigns and successors in interest.

15. This Agreement is governed by the laws of the Commonwealth of Pennsylvania.

16. This Agreement shall be recorded in the Office of the Recorder of Deeds of Chester County, Pennsylvania, and shall constitute a covenant running with the Property, in perpetuity.

ATTEST:

WESTTOWN TOWNSHIP

\_\_\_\_\_

By:

\_\_\_\_\_

Name: Thomas A. Foster

Title: Chairperson

Date: \_\_\_\_\_

ATTEST:

WESTTOWN SCHOOL

Landowner

\_\_\_\_\_

By:

\_\_\_\_\_

Name:

Title:

Date: \_\_\_\_\_

**ACKNOWLEDGMENT**

**COMMONWEALTH OF PENNSYLVANIA** :  
SS.  
**COUNTY OF CHESTER** :

On this \_\_\_\_ day of \_\_\_\_\_, 2024, before me, a Notary Public in and for the Commonwealth of Pennsylvania, the undersigned officer, personally appeared Thomas A. Foster, who acknowledged himself to be the Chairperson of the Board of Supervisors of Westtown Township, and that he, as such official, being duly authorized to do so, executed the foregoing instrument for the purposes therein contained.

**WITNESS** my hand an official seal the day and year aforesaid.

\_\_\_\_\_  
Notary Public

My Commission Expires:





**EXHIBIT “A”**

**Stormwater Management Plan (“O&M Plan”)**

**Sheets 1, 2, 4-7, 15, 16, 19, 20, 25, 26, 38-41 and 45-48 of Land Development Plan**



**Westtown School  
Oak Lane Project  
Opinion of Probable Cost for Public Improvements**

Item	Description	Quantity	Unit	Unit Price	Total Cost
<b>A.</b>	<b>EARTHWORK &amp; STABILIZATION</b>				
1.	Tree Removal, incl stump removal	21.00	EA	332.81	\$6,989.01
2.	Strip and Stockpile Topsoil	9421	CY	2.31	\$21,762.51
3.	Earth Cut (Bulk)	25948	CY	5.50	\$142,714.00
4.	Earth Fill (Bulk)	25681	CY	5.50	\$141,245.50
5.	Earth Export	267	CY	9.98	\$2,664.66
6.	Topsoil Placement	4619	CY	2.31	\$10,669.89
7.	Inlet Protection	3	EA	300.00	\$900.00
8.	12" Compost Filter Sock	388	LF	8.00	\$3,104.00
9.	18" Compost Filter Sock	1123	LF	13.50	\$15,160.50
10.	24" Compost Filter Sock	1859	LF	18.00	\$33,462.00
11.	Lawn Seeding (Hydro, with fertilizer)	56716.0	SY	1.05	\$59,551.80
12.	Rock Construction Entrance	3.5	EA	3,000.00	\$10,500.00
13.	Slope Matting	14725	SY	6.00	\$88,350.00
14.	Sediment Trap (Temp riser, baffle wall, trash rack)	1	LS	15,000.00	\$15,000.00
15.	Sediment Basin (Skimmer/dewatering facility, trash rack)	1	LS	20,000.00	\$20,000.00
16.	Concrete Washout	1	EA	1,600.00	\$1,600.00
17.	Tree Protection Fence	380	LF	5.50	\$2,090.00
18.	Pumped Water Filter Bag	1	EA	400.00	\$400.00
19.	Erosion Control Maintenance & Removal	1	LS	1,500.00	\$1,500.00
	<b>Subtotal Earthwork &amp; Stabilization</b>				<b>\$577,663.87</b>
<b>B.</b>	<b>PAVING</b>				
1.	Parking Lot Paving (includes wearing course, base course, and stone base)	3744	SY	53.28	\$199,480.32
2.	Pedestrian Path Paving (includes wearing course, base course, and stone base)	1382	SY	47.02	\$64,981.64
3.	Concrete Sidewalks (includes stone base)	15,996	SF	15.77	\$252,256.92
4.	ADA Ramps	8	EA	3,500.00	\$28,000.00
5.	Cobble Curb	1619	LF	32.70	\$52,941.30
6.	Concrete Stairs	42	Riser	423.00	\$17,766.00
7.	4" Line Striping	1602	LF	0.37	\$592.74
8.	24" Line Striping (Crosswalks)	144	LF	3.00	\$432.00
9.	12" Line Striping (Gore Area, Painted Islands)	276	LF	1.50	\$414.00
10.	Painted Stop Bar	75	LF	3.00	\$225.00
11.	Painted Directional Arrows/Handicap Stamp	267	SF	2.10	\$560.70
12.	4" Double Yellow Line	551	LF	0.74	\$407.74
13.	Concrete Wheel Stops	2	EA	135.00	\$270.00
14.	Roadway Restoration	23	SY	55.00	\$1,265.00
	<b>Subtotal Paving</b>				<b>\$619,593.36</b>

<b>C. STORMWATER</b>					
1.	8" SL CPP (incl. fittings and connections)	321	LF	40.00	\$12,840.00
2.	10" SL CPP (incl. fittings and connections)	187	LF	44.00	\$8,228.00
3.	12" SL CPP (incl. fittings and connections)	680	LF	48.00	\$32,640.00
4.	15" SL CPP (incl. fittings and connections)	821	LF	53.00	\$43,513.00
5.	18" SL CPP (incl. fittings and connections)	223	LF	59.25	\$13,212.75
6.	24" SL CPP (incl. fittings and connections)	37	LF	74.51	\$2,756.87
7.	Storm Manhole	3	EA	4,131.00	\$12,393.00
8.	12" NYLOPLAST Yard Drain	8	EA	1,281.00	\$10,248.00
9.	Type 'M' Inlets	2	EA	3,000.00	\$6,000.00
10.	Type 'C' Inlets	7	EA	3,500.00	\$24,500.00
11.	Type 'DW' Endwalls	4	EA	2,844.00	\$11,376.00
12.	Nyloplast Outlet Control Structure (OCS-2 & OCS-3)	2	EA	4,000.00	\$8,000.00
13.	Conc. Outlet Control Structures (OCS-1 & OCS-4)	2	EA	5,000.00	\$10,000.00
14.	Underground Stormwater Systems BMP -2 & 3 (incl. excavation, clean washed stone, distribution piping, non woven geotextile)	2	EA	125,000.00	\$250,000.00
15.	Aboveground System (BMP 1), including excavation, underdrain, amended soils, anti-seep collars seeding/plantings, etc.)	1	LS	75,000.00	\$75,000.00
16.	Aboveground System (BMP 4), including excavation, underdrain, amended soils, anti-seep collars seeding/plantings, etc.)	1	LS	150,000.00	\$150,000.00
17.	Flex-a-Mat Spillway Lining	465	SY	14.00	\$6,510.00
18.	Rip-Rap Apron	4	EA	1,000.00	\$4,000.00
19.	Concrete level spreader	38.5	LF	80.00	\$3,080.00
20.	As-Built Survey	1	EA	15,000.00	\$15,000.00
	<b>Subtotal Stormwater</b>				<b>\$699,297.62</b>
<b>D. GENERAL</b>					
1.	Site Signage (ADA, Traffic Control)	22.00	EA	199.42	\$4,387.24
2.	Site Lighting	13	EA	3,500.00	\$45,500.00
	<b>Subtotal General</b>				<b>\$49,887.24</b>
<b>E. LANDSCAPING</b>					
1.	Compensatory Trees (Canopy)	25	EA	505.96	\$12,649.00
2.	Compensatory Trees (Evergreen)	82	EA	417.00	\$34,194.00
3.	BMP Trees	34	EA	606.04	\$20,605.36
4.	BMP Shrubs	344	EA	75.00	\$25,800.00
5.	Perimeter Trees (Canopy)	15	EA	505.96	\$7,589.40
6.	Perimeter Trees (Flowering)	10	EA	550.44	\$5,504.40
7.	Perimeter Trees (Evergreen)	12	EA	417.00	\$5,004.00
8.	Parking Lot Trees	9	EA	505.96	\$4,553.64
9.	Parking Lot Shrubs	90	EA	75.00	\$6,750.00
	<b>Subtotal Landscaping</b>				<b>\$122,649.80</b>

<b>Estimate Subtotal</b>	<b>\$2,069,091.89</b>
<b>Add 10% (Contingency per MPC)</b>	<b>\$206,909.19</b>
<b>Add 5% (Inspections)</b>	<b>\$103,454.59</b>
<b>Project Total</b>	<b>\$2,379,455.67</b>

ELA Group, Inc. is not a construction cost estimator nor a construction contractor, nor should ELA Group's Inc. rendering an opinion of probable construction costs be considered equivalent to the nature and extent of service a construction estimator or construction contractor would provide. ELA Group's, Inc. opinion will be based solely upon his or her own experience with construction. This requires ELA Group, Inc. to make a number of assumptions to actual conditions that will be encountered on site; the specific decisions of other design professionals engaged; the means and methods of construction the contractor will employ; contractors' techniques in determining prices and market conditions at the time; and other factors over which ELA Group, Inc. has no control. Given these assumptions which must be made, ELA Group, Inc., states that the above probable construction cost opinion is a fair and reasonable estimate for construction costs of the required site improvements in accordance with the applicable rules and regulations.



January 5, 2024

Tom Foster  
Westtown Township  
1039 Wilmington Pike  
West Chester, PA 19382-7370

Re: ID: 202306233006, Project Title: Thorne Drive Basin Stormwater Retrofit.

Dear Mr. Foster:

Congratulations! I am pleased to inform you that the above application you submitted to the Department of Environmental Protection (DEP) was selected to receive an Environmental Stewardship and Watershed Protection (Growing Greener) Grant in the amount of **\$187,039.00**.

There were over 140 applications received by DEP for review and consideration. We are very pleased to see such an interest in watershed restoration and protection. Selecting among the many excellent project proposals was very difficult.

Your organization is required to meet with your DEP project advisor to discuss the Growing Greener grant administration requirements and any Scope of Work or budget related issues relevant to your specific project. Your DEP grant advisor will contact you to arrange for this meeting. DEP's Grants Center will soon email the necessary grant information and agreement instructions to you.

Please be advised that any work proposed to be completed through this grant cannot be started until you obtain all applicable local, state, and federal permits, clearances and approvals. If your project involves measures to address regulatory requirements such as a Pollutant Reduction Plan (PRP) or some other implementation plan required by an MS4 permit or a dam safety inspection / determination, you must contact the appropriate DEP regulatory program to discuss the interaction of this project with your permit requirements. The award of this grant does not relieve you from the obligation of meeting all applicable regulatory requirements, nor does it imply endorsement by DEP that the specific project will meet all regulatory requirements.

We look forward to working with you on this project and appreciate the efforts you took to develop your proposal. If you have any questions or if we can be of assistance, please contact DEP's Grants Center, by e-mail at [growinggreener@pa.gov](mailto:growinggreener@pa.gov) or by telephone at 717.705.5400.

Sincerely,

A handwritten signature in black ink that reads "Jessica L. Shirley". The signature is written in a cursive, flowing style.

Jessica Shirley  
Interim Acting Secretary



# WEST GOSHEN SEWER AUTHORITY

848 South Concord Road • West Chester, Pennsylvania 19382  
610-696-0900 • Fax 610-429-9360

January 5, 2024

Resident  
926 Westtown Rd  
West Chester, PA 19382

**Re: 837 Falcon Lane  
Pump Station Rehabilitation Project**

Dear Resident:

Happy New Year and I hope this letter finds you well. The purpose of this communication is to inform you that the above-referenced wastewater pump station rehabilitation project located near your residence is entering a critical and final construction phase. Due to unprecedented supply chain issues, initiation of this phase of the project has seen significant delays. Thank you for your patience.

That said, this critical phase will require the pump station to be taken off-line for at least a five-week period to safely and adequately complete the required work. In order to do so, a temporary outdoor pumping system, which is comprised of a primary and a backup pump, will be utilized and installed outside of the existing pump station building. We ask you to please consider the following in anticipation of the work:

- While we do not anticipate the primary pump system will create excessive noise, please allow for some elevation in or unusual noises.
- In the unlikely event the backup pump system is called upon it will be much louder than the primary system. Please bear with us while we work to get the primary system operating again.
- **Please note:** the backup pump will be required to run all day sometime between 1/11/2024 to 1/17/2024 (weather dependent) while the primary pump is setup and configured for operation. The selected day will not be over the weekend and we do not anticipate the pump will run for greater than 10 hours.

Thank you for your continued support and understanding as we work to ensure the long-term operation of this important utility. Should you have any questions or concerns please do not hesitate to contact me or Jim Leon, Pump Station Foreman, at 610-696-0900.

Sincerely yours,

Michael Moffa  
Wastewater Superintendent

c: Chris Bashore, WG Township Manager  
Jim Leon, Pump Station Foreman

# Check Register

Westtown Township

12-Jan-24

From: 03-Jan-24 To: 16-Jan-24

Check No	Check Date	VendorNo	Vendor	Check Amount	Status
<b>Bank Account: 1 General Fund - Univest</b>					
17815	1/10/2024	6052	ACE Hardware of West Chest	\$319.95	O
17816	1/10/2024	405540	Albert Federico Consulting, LL	\$2,925.00	O
17817	1/10/2024	1009	Ann Marie Cassidy	\$1,425.00	O
17818	1/10/2024	222	Brandywine Valley SPCA	\$5,700.00	O
17819	1/10/2024	6038	Cedarville Engineering Group	\$20,372.12	O
17820	1/10/2024	6038	Cedarville Engineering Group	\$1,182.50	O
17821	1/10/2024	1001	CRC Watersheds Assoc	\$500.00	O
17822	1/10/2024	1082	ELEANOR J. SCHWANDT, R	\$956.00	O
17823	1/10/2024	1082	ELEANOR J. SCHWANDT, R	\$200.00	O
17824	1/10/2024	7196	GreatAmerica Financial Svcs	\$171.00	O
17825	1/10/2024	127	In-Fleet Truck Service	\$988.14	O
17826	1/10/2024	878	Intercon Truck Equipment	\$19.09	O
17827	1/10/2024	7262	Key Business Solutions Inc	\$39.63	O
17828	1/10/2024	1000074	NAPA AUTO PARTS	\$511.98	O
17829	1/10/2024	1000597	NetCarrier Telecom Inc.	\$504.04	O
17830	1/10/2024	1123	New Enterprise Stone & Lime	\$254.31	O
17831	1/10/2024	5692	PT Equipment LLC	\$1,564.50	O
17832	1/10/2024	607	The Occupational Health Ctr	\$99.00	O
17833	1/10/2024	7	Westtown-East Goshen PD	\$416,531.44	O
17834	1/10/2024	1000102	WordTech Inc	\$992.56	O
17835	1/10/2024	1000776	M & W Precast, LLC	\$101,341.44	O
<b>Bank Total:</b>				<b>\$556,597.70</b>	
<b>Bank Account: 8 Enterprise Fund - Univest</b>					
1607	1/10/2024	6468	Carroll Engineering Corp	\$15,324.65	O
1608	1/10/2024	58	East Goshen Township	\$1,284.79	O
1609	1/10/2024	792	PA Twps Health Ins Coop Trus	\$185.05	O
1610	1/10/2024	1164	Univar Solutions USA, Inc.	\$6,965.96	O
<b>Bank Total:</b>				<b>\$23,760.45</b>	
<b>Bank Account: 11 PLGIT P-CARD</b>					
100004	1/4/2024	1000800	PLGIT P-Card BMO Bank	\$166,460.98	R
<b>Bank Total:</b>				<b>\$166,460.98</b>	
<b>Bank Account: 18 Capital Project Fund Univest</b>					
1350	1/3/2024	5618	Chester Co Conservation Dist	\$85.00	O
1351	1/10/2024	406052	Pennoni	\$5,992.50	O
<b>Bank Total:</b>				<b>\$6,077.50</b>	
<b>Total Of Checks:</b>				<b>\$752,896.63</b>	