



WARRINGTON TOWNSHIP BOARD OF SUPERVISORS MINUTES FOR FEBRUARY 12, 2013

The regular meeting of the Warrington Township Board of Supervisors was held on February 12, 2013, 7:30 p.m., at the Township Building located at 852 Easton Road, Warrington, PA 18976. The members present were as follows:

ATTENDANCE:

Gerald Anderson, Chairperson; John Paul, Vice Chairperson; Marianne Achenbach, Secretary/Treasurer; Matthew W. Hallowell, Sr., and Shirley A. Yannich, members. Staff present were Timothy J. Tieperman, Township Manager; William R. Casey, Esq., Township Solicitor; Richard Wieland, Township Engineer; Barbara Livrone, Executive Assistant to the Township Manager; and Barry Lubber, Chief Financial Officer.

MOMENT OF SILENCE

Mr. Anderson asked for a moment of silence.

PLEDGE OF ALLEGIANCE

The meeting opened with a pledge to the flag.

EXECUTIVE SESSION REPORT

1. **Happy Tymes Litigation.** Mr. Anderson reported that the Board held an executive session at the close of its January 22, 2013 regular meeting to discuss a legal settlement proposal from Happy Tymes Family Fun Center. Mr. Paul motioned, seconded by Mrs. Achenbach, to approve the legal settlement. The motion passed unanimously 5-0.

APPROVAL OF BILL LIST:

2. **January 22, 2013 – February 12, 2013** **\$4,549,887.85**

Mrs. Achenbach motioned, seconded by Mr. Paul, to approve the bill list from 01/22/13 to 02/12/13 totaling \$4,549,887.85. This motion passed by a roll call vote of 5-0 with the exception of one bill from Mr. Paul's employer. Included in this bill list was a refund of business privilege taxes as ordered by a recent PA Supreme Court ruling.

APPROVAL OF MINUTES:

3. **December 18, 2012**

Mr. Paul motioned, seconded by Mrs. Yannich, to approve the December 18, 2012 Meeting Minutes. The motion passed by a vote of 5-0.

4. January 8, 2013

Mr. Paul motioned, seconded by Mrs. Yannich, to approve the January 8, 2013 Meeting Minutes. The motion passed by a vote of 5-0.

MINUTES FOR POSTING:**5. January 22, 2013**

Mr. Paul motioned, seconded by Mr. Hallowell, to approve the posting of the January 22, 2013 Meeting Minutes. The motion passed by a vote of 5-0.

PUBLIC COMMENT

- William Snodgrass (4214 Meridian Boulevard) thanked the Board of Supervisors and the Township Staff who were instrumental in corrected the code violations at Meridian. He also notified the Board of a pending settlement between the bank and a builder for the completion of the remaining condominium units.

OLD BUSINESS:**6. Consider approval of Titus Road Outparcel – Amended Final Plan.**

John VanLuvanee, attorney representing Titus Road Outparcel, LP, reviewed the revised Final Plan for the 2.2 acre Titus Road Outparcel located on the southwest corner of Titus Road and Route 611. He stated further that the amendment relates to a slightly modified square footage footprint. Mr. Paul motioned, seconded by Mr. Hallowell, to approve the revised final plan for the Titus Road Outparcel. The motion passed unanimously 5-0. *(See Attachment A)*

7. Consider adoption of final policy regarding township liability for personal property damage.

Mr. Paul motioned, seconded by Mrs. Achenbach, to approve the final policy regarding township liability for personal property damage. The motion passed unanimously 5-0. *(See Attachment B)*

NEW BUSINESS (ACTION/DISCUSSION ITEMS):**8. Report from Communication Advisory Board regarding project updates on audio/visual enhancements and video streaming software.**

Mr. Steven Filipe, Chairman of the Communication Advisory Board (CAB) updated the Board on the planned audio/visual enhancements and video streaming software. He stated that CAB's priority goal is to record Board meetings and post them online for streamed access and to ultimately post them on the local access channels. He stated the general consensus was to target a technology that allowed residents to view agenda segments rather than an entire board meeting. If this proposal meets with the Board's approval the system could be up and running by April 1, 2013.

Board was agreeable with the concept and agreed to review the data submitted by the Communication Advisory Board along with Staff's recommendations before taking formal action at their February 26, 2013 meeting.

9. **Consider adoption of Resolution approving a lease agreement with Bucks County for a tax parcel located along Philadelphia Avenue.**

Mr. Paul motioned, seconded by Mrs. Achenbach, to adopt the Resolution approving a lease agreement with Bucks County for a tax parcel located along Philadelphia Avenue and authorizing the Chairman to sign the lease. The motion passed unanimously 5-0. *(See Attachment C)*

10. **Consider approval of financial and developer's agreement for Pete's Express.**

Mrs. Achenbach motioned, seconded by Mrs. Yannich, to approve the financial and developer's agreement between Warrington Township and Pete's Express 611, L.P. The motion passed by a vote of 4-1 with Mr. Paul abstaining. *(See Attachment D)*

11. **Consider action on Warrington Planning Commission recommendation regarding mobile and vehicular signs.**

Mr. Fred Gaines, a member of the Warrington Planning Commission (WTPC), reviewed the Commission's recommendations regarding mobile and vehicular signs. There recommendations were included as an amendment to Chapter 27, Part 22 (Signs) of the Warrington Township Code of Ordinances.

Mr. Paul motioned, seconded by Mrs. Achenbach to authorize the draft ordinance be forwarded to the Bucks County Planning Commission (BCPC) for its review as required by the Municipalities Planning Code, and in the absence of any significant BCPC recommended revisions, to authorize the advertisement of the Ordinance amending the same. The motion passed unanimously 5-0. *(See Attachment E)*

12. **MANAGER'S REPORT:**

a. **Consent Item: 2013 MMO Police Pension Plan Resolution**

Mr. Paul motioned, seconded by Mrs. Yannich, to approve the 2013 MMO Police Pension Plan Resolution. The motion passed unanimously 5-0. *(See Attachment F)*

b. **Consent Item: Deed of Easement (Burrage and Warrington Fire Company)**

Mr. Anderson motioned, seconded by Mr. Paul, to table approval of the Deed of Easement agreements between Leslie J. and Rosemary Burrage and the Warrington Fire Company until the Board's February 26, 2013 meeting. The motion passed unanimously 5-0.

c. **Consent Item: Authorize Meeting Date Change for Open Space and Land Preservation Task Force**

Mr. Paul motioned, seconded by Mr. Hallowell, to approve a change to the Open Space Task Force's regular meeting schedule to the second Wednesday of each month at 7:30 PM. The motion passed unanimously.

d. **Report Item: Victory Gardens Progress Report**

Mr. Tieperman gave a progress report on Victory Gardens. He indicated that Mr. Butler has agreed to negotiate a binding agreement with the township that will regulate – among other items – height maximums for mulch, fire suppression controls, fueling safeguards and regular inspections. It would also codify the earlier memorandum of understanding regarding hours of operations and public improvements.

Mr. Tieperman said our recommendation is to give Staff a few weeks to prepare a binding enforcement agreement for the Solicitor's review and in the interim to continue monitoring the site on a weekly basis to verify continued progress in satisfying the January 7, 2013 violations. The Board would need to take official action on this agreement at a future meeting. *(See Attachment G)*

13. **CHAIRMAN'S REPORT:**

a. **Scheduling advisory board interviews**

Board has agreed to schedule interviews for advisory board vacancies on February 26, 2013 at 6 PM.

b. **CNG Initiatives**

Mr. Anderson indicated that the manager has had meeting with other municipalities to discuss possible grants for CNG Initiatives; i.e., retrofitting our equipment to go to CNG.

c. **Board Goals Discussion**

Mr. Anderson asked the Board to update their 2013 goals for future discussions.

d. **Discussion on offer of trees**

Mr. Anderson reported that Pileggi owns property located on Lower State and County Line Roads and was offering trees to the Township free of charge. The Township would be responsible for the costs of having these trees moved and relocated where they deem would be a good location. He inquired about the possibility of looking at open space funds being available to cover these costs.

Staff was directed to make their recommendations for the Board's February 26, 2013 meeting.

e. **Letter from Attorney Representing Penrose Walk**

Mr. Anderson said a letter was received from the attorney representing Penrose Walk seeking support for a variance it was seeking from the Zoning Hearing Board. He stated the building is looking for leeway in the lot size to add morning rooms to some of the planned units. He said the builder would rather obtain these variances now on behalf of the all the future homeowner, rather than having each owner bear the individual expense to obtain the variance. Mr. Casey said that the Board is an automatic party the Zoning Hearing Board and there is nothing unusual with the Board commenting on an application and that such action is fully authorized under the Municipalities Planning Code. The Board's consensus was to grant the developer's request. *(See Attachment H)*

14. **ENGINEER'S REPORT:**

a. **2013 Road Program Update**

Mr. Wieland reported that the bidding process for the 2013 road program is being held in abeyance until the DPW building specifications and bids are finalized.

15. SOLICITOR'S REPORT:**a. BPT Refund Status.**

Mr. Casey reported that the Supreme Court BPT refunds, as approved earlier in the bill list, will be mailed out immediately to all affect parties that paid the BPT tax. He stated the refunds will include interest earned in the deferred escrow account. He noted that some parties were no longer in business and that if Staff is unsuccessful in located them, the funds will be forwarded to the Commonwealth under the SG program.

b. Authorize advertisement for repeal of amusement and mechanical device taxes

Mr. Paul motioned, seconded by Mrs. Achenbach, to authorize the advertisement for repeal of Chapter 24, Part 3 (Amusement Tax) and Part 7 (Mechanical/Electronic Amusement Devices Tax). Ms. Achenbach seconded both motions, which the Board approved unanimously 5-0.

SUPERVISOR COMMENTS:**Abandoned Building along Phillips Avenue.**

Mr. Paul reported that the trailers have been removed from the abandoned building along Phillips Avenue except for the office trailer. He said the current owner continues to work on its relocation. His recommendation is if there is no movement to raze or clean up this site that the Board authorizes advertisement for their property's demolition and the affixing of appropriate liens.

ADJOURNMENT

Mr. Paul motioned, seconded by Mrs. Achenbach, to adjourn the meeting at 8:50 p.m. The motion passed unanimously.

Edited and Reviewed By:



Timothy J. Tieperman, Township Manager

ATTACHMENT “A”



RESOLUTION 2013-R- 13

REVISED FINAL PLAN APPROVAL

TITUS ROAD OUTPARCEL

WHEREAS, TITUS ROAD OUTPARCEL, L.P., (hereinafter the "Applicant"), has submitted revised final plans pertaining to a restaurant pad parcel located on the westerly side of Easton Road, south of the Titus Road intersection (Tax Map Parcel Number 50-31-20) within the CBD Central Business District proposing to construct a restaurant with drive-thru service consisting of a 2,120 square foot retail building. The project will be serviced by public water and sewer. The Applicant will comply with the variances approved by the Zoning Hearing Board for the building separation and a shorter stacking lane as approved on January 4, 2013.

WHEREAS, the Applicant has submitted Revised Final Plans of the project, as prepared by Site Engineering Concepts, LLC dated December 21, 2005, and last revised December 11, 2012. (the "Plans").

NOW, THEREFORE, be it, and it is hereby RESOLVED by the Board of Supervisors of Warrington Township, Bucks County, Pennsylvania, that the Plans are hereby approved as Revised Final Plans, subject to the following conditions with which the Applicant agrees:

1. Prior to the signing of the final plans and their being recorded, the Applicant shall comply with the comments set forth in a letter dated January 9, 2013 from Carroll Engineering Corp. ("Engineer's Letter") pertaining to the Project, except as may be modified herein, which is attached hereto as Exhibit "A" and incorporated herein.
2. Prior to the signing of the final plans and their being recorded, the Applicant shall document all approvals, permits, certificates and the like necessary to complete the

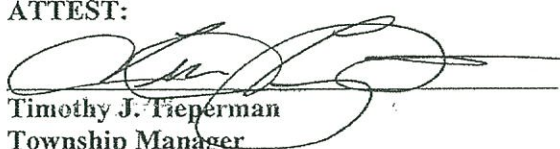
Project, and to make all required submittals to any State and Federal agency that must issue such approvals, permits, certificates and the like related to the Project.


3. Prior to the recordation of the final plans, all necessary documents shall have been prepared and executed by the appropriate parties as are referenced in the Engineer's Letter.
4. The Applicant shall comply with the approval of the Warrington Township Zoning Hearing Board Decision, dated January 4, 2013, which is attached hereto as Exhibit "B" and incorporated herein by reference. The Township is also in receipt of the Bucks County Planning Commission review letter dated January 9, 2013.

RESOLVED this 12th day of February, 2013.

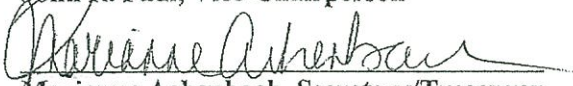
BOARD OF SUPERVISORS OF WARRINGTON TOWNSHIP

ATTEST:



Timothy J. Tieperman
Township Manager


Gerald B. Anderson, Chairperson


John R. Paul, Vice-Chairperson


Marianne Achenbach, Secretary/Treasurer


Matthew W. Hallowell, Sr., Member


Shirley Yannich, Member

ATTACHMENT “B”



WARRINGTON TOWNSHIP LIABILITY POLICY REGARDING PERSONAL PROPERTY DAMAGE

Purpose

The purpose of this policy is to establish procedures for the Township's handling of claims for personal property damage. The circumstances for such claims may vary but are often related to damages from natural events such as snowstorms, thunderstorms, major wind events, flooding and other states of emergency resulting in personal property damage.

The policy's intent is to provide clear response guidelines for Township officials in the handling of these types of property claims and for residents to understand their obligations in working with Township officials to ensure a timely response to their grievances.

As a political subdivision of the Commonwealth of Pennsylvania, Warrington Township is bound by statutory limitations on its liability, commonly known as the Pennsylvania Political Subdivision Tort Claims Act (Governmental Immunity). The Act states that no political subdivision shall be liable for any damages on account of any injury to a person or property caused by any act or omission of the political subdivision or an employee except for the specific categories of actions. (See Exhibit A: *The Extent of Municipal Liability*).

Types of Damages and Response Procedures

To ensure response consistency, the Township hereby adopts the following response procedures for the handling of these common types of property damages claims:

Trees

In situations where a tree located on township property falls and causes damage to private property, the owner or landlord of the property is responsible for (1) notifying his/her insurance company of the incident and (2) contacting the Township Administration to report the incident. The Township in turn will notify its insurance carrier of the incident.

For trees in which the Township had no prior knowledge of weakness or disease, the private property owner's insurance company will be responsible for the removal of the tree and the repairs to the property less any applicable deductible for which the property owner may be responsible.

The Township will not be responsible for any delay as a result of a homeowner's refusal to contact their respective insurance company. For dead, damaged or weakened trees on Township property which resulted in private property damage, the Township's insurance carrier will investigate and coordinate responsibility with the homeowner's insurance carrier. Regardless of the circumstances, however, the owner is responsible for notifying their insurance company promptly.

Sewer Backups

In situations where a resident experiences a sewer backup at their residence, the owner or landlord of the property is responsible for contacting the Township immediately so that a response crew can be dispatched to investigate the backup and to determine whether the problem's source originates beyond the clean-out towards the main (township responsibility) or the individual lateral from the cleanout towards the house (homeowner responsibility).

Secondly the homeowner must contact their insurance representative promptly to coordinate with the Township's insurance representative an expedient response. The Township will not be responsible for any delays as a result of a homeowner's refusal to contact their insurance agent.

Because of the urgency of these types of problems as well as the public health danger associated with these backups, the Township will work closely with the homeowner and its insurance agent to facilitate repairs. However, the Township will not be responsible for any delay as a result of a homeowner's refusal to contact their insurance company.

The Township strongly encourages all homeowners connected to public sewers to carry a sewer backup rider on their homeowner's insurance policy.

Mailboxes:

Mailboxes are frequent casualties of major snow events during which public works crews and private contractors are dispatched to treat township roads. When a mailbox is damaged, it is often difficult to assess fault. It could be damaged by the driver's negligence or the weight of the snow. Regardless of the cause, the following are the procedures to be followed:

1. Upon notification the Township will inspect the mail box and determine whether it is repairable. If it is repairable, the Township will perform the necessary repairs without cost to the resident.
2. If the mail box is not repairable, then the Township will issue a \$50 voucher to the homeowner to be applied to a new generic mailbox. For cost containment purposes, the Township will no longer provide face value replacement for mailbox structures in excess of \$50. Since mailboxes are technically in the public right-of-way, the homeowner shall bear the risk of investing substantial sums in landscaped mailbox designs.

Power Outages:

The Township will certainly respond to emergency situations related to power outages such as coordinating shelters, tending to public safety and general health and welfare needs of its residents during times of emergency. However, it shall bear no legal responsibility for any property damages directly related to extended power outages.

Damaged Road Surfaces:

The Township will make every effort to ensure the safety of its roads during all seasons. This includes the prevention of such annoyances as potholes and other road obstructions.

Similar to the protocols for downed trees, if a resident or any non-resident traveler experiences a blown tire or more severe car damage as result of road defects, the aggrieved party is responsible for (1) notifying his/her insurance company of the incident and (2) contacting the Township Administration to report the incident. The Township in turn will notify its insurance carrier of the incident.

Past Practices

This policy shall supersede all prior policies and past practices associated with the handling of municipal liability claims.

The Extent of Municipal Liability

Liability Exposures. Prior to the mid-1970s in Pennsylvania, municipalities and their agents enjoyed sovereign immunity, an English common law term meaning the “king can do no wrong.” In effect, no matter how negligent a municipality was in performance of its duties, claimants had no recourse for recovery. The Pennsylvania Supreme Court overturned this concept in 1973 with *Ayala v Philadelphia Board of Education*. After this ruling, municipalities and municipal officials were held responsible for their acts under the same legal standing as corporations and individuals. This illustrates the importance of orientation and ongoing training in order for public officials and employees to be aware of acting within the scope of their official duties and responsibilities.

About the same time, litigation was beginning to become the preferred method of resolving disputes. As a result, the filing of complaints against public entities began to increase.

In response to a plea from local government, the Pennsylvania State General Assembly passed the Pennsylvania Political Subdivisions Tort Claims (Governmental Immunity) Act in 1978. The Tort Claims Act (Chapter 85 of the Judicial Code) re-established the concept of governmental immunity except for eight areas, or exceptions to immunity, where a municipality could be held liable. The Act limits or caps damages at a maximum of \$500,000 per occurrence for a political subdivision, regardless of the number of plaintiffs. Claimants are required to notify a municipality of a claim within 180 days of the incident, unless physically unable to do so. Finally the statute requires a municipality to defend an official/employee as long as the official/employee acted, or believed he/she acted, in good faith on behalf of the municipality.

As mentioned above, the Act states that no political subdivision shall be liable for any damages on account of any injury to a person or property caused by any act or omission of the political subdivision or an employee except for the specific categories of actions listed below. The eight *exceptions* to governmental immunity in Pennsylvania are:

- _ Operation of any motor vehicle owned or controlled by the political subdivision including vehicles operated by rail or through water or in the air.
- _ Care, custody or control of personal property of others by the political subdivision.
- _ Real property in the care, custody or control of the political subdivision.
- _ A known dangerous condition of traffic lights, street lights, traffic controls or trees under the care, custody or control of the political subdivision.
- _ A dangerous condition of steam, water, sewer, electric and gas systems owned by the political subdivision

_ A dangerous condition of streets owned by the political subdivision.

_ A dangerous condition of sidewalks owned by the political subdivision (if known in sufficient time to have taken corrective action).

_ Animals controlled by or in the possession of the political subdivision, including but not limited to police dogs and horses. Wild animals such as bear and deer are not included in this definition.

The Act limits liability to only those defects that the municipality was aware of, or should have known about. Under a pure and simplistic interpretation of the Act, there is no liability for a defect in the roadway if the first notice of the defect was the plaintiff's filing of a claim. If the municipality is unaware of the defect, it cannot be reasonably expected to repair it. However, the Act goes on further to say not only is the municipality responsible for *known defects*, but also for defects about which the municipality "*should have known*." For example, if the municipality's highway superintendent drives to work every day over the road with the defect, or if the municipal police department regularly patrolled the same road, a plaintiff attorney will argue that the municipality "had constructive notice" even though it was not formally reported by a motorist. On the other hand, the Act stipulates that the municipality must have sufficient time to correct any defect and the extent of the corrective measure must be reasonable relative to budgetary considerations.

The municipality may be held secondarily liable in certain circumstances. Exception number 7, the sidewalk exception, stipulates that a municipality is secondarily liable for sidewalks owned by others. The municipality is responsible for notifying the property owner of a defect and seeing that the defect is corrected in order to protect the public. Also, courts have held that municipalities should notify property owners of sight distance problems created at intersections by overgrowth of foliage. Failure to notify residents of a dangerous condition on their property could carry liability if the condition existed with the knowledge of the municipality. Knowledge could mean the condition was on a street routinely patrolled by police or passed by other employees of the municipality.

The Tort Claims Act also limits the municipality's financial obligation to any uninsured portion of the loss. If a motorist is involved in a vehicle accident with a municipal vehicle, he or she is required under the Act to report the loss to his or her personal auto insurer. If the municipality were found to be liable for the accident, the municipality's auto liability insurer would reimburse the motorist only for his or her deductible or for the uninsured portion of the loss. The motorist's personal auto insurer pays for any loss above the deductible.

The important thing to remember is to respond to problems and known defects quickly and to document when you became aware of any defect. A good *complaint intake and tracking system* (see Appendix VIII) can help tremendously in defending cases with little or no merit. Defense counsel assigned to defend the public entity in litigation greatly

appreciates records, time-lines and particularly photographs. Photos really are worth a thousand words.

Recent Pennsylvania court decisions are holding municipalities responsible for notifying PennDOT of traffic control problems where State highways and municipal roadways intersect. If you know of an intersection where there have been numerous accidents, and an upgrade in traffic control may be justified (e.g. from two to four way stop, adding a traffic signal, restricting left turns), notify PennDOT in writing and ask them to perform a traffic study. Follow-up with the Department on a regular basis.

Questions occasionally arise about the liability of repairing a dangerous condition such as a pothole in a State highway or county road. If you know of a dangerous condition, notifying the proper agency is essential. If the defect creates a serious hazard, you should warn the motorists of the condition with cones or even consider closing the road. If you decide to warn the motorists or go as far as to repair the defect in another agency's road, you may be held responsible for negligently warning or negligently making the repairs.

For more details on how applicable case law has re-defined the eight exceptions over the years, be sure to contact your Solicitor or insurance company's defense counsel.

A final note on immunity. A separate statute, the Pennsylvania Recreational Land Use Act of 1968, confers immunity to any property owner who makes their land available to the public for recreational use free of charge, provided the real estate is unimproved land.

Municipalities, for several reasons should not rely on the damage cap as a reasonable barometer for setting their insurance **limits of liability**. In addition to suits brought in state courts, municipalities are also subject to legal actions under federal laws. Federal judgments against the municipalities and their public officials are not limited to the state cap of \$500,000. Therefore, in order to be adequately protected, a municipality needs to purchase higher limits than the state cap. On this same subject, case law in the past has stipulated that delay damages, may be awarded on the full award by the jury, not just the reduced or molded cap limit. These delay damages which are awarded to the plaintiff based on loss of interest earnings for the time it took to resolve the matter in the Commonwealth's court system, are *in addition* to the cap limit. Delay damages on the full jury award plus compensatory damages could result in the total award exceeding the \$500,000 cap by several hundred thousand dollars. A Pennsylvania Supreme Court case, struck down the practice of awarding delay damages against the full jury verdict. In *Allen v Pennsylvania Department of Transportation*, the Pennsylvania Supreme Court ruled that delay damages should only be assessed against the capped damages rather than the entire jury verdict.

Municipalities and public officials involved in litigation in the U.S. Federal court system or administrative law system will discover plaintiffs typically alleging some constitutional violation of their civil rights. Cases may involve wrongful discharge or disciplining of an

employee, zoning land use issues, discrimination in hiring or awarding contracts for service, licensing, restrictive ordinances and deprivation of due process. The best advice is to get legal advice before taking action that may result in a Federal complaint. A labor attorney is a good source of advice on any personnel matter. Ask yourself if your actions are justifiable and defensible. Always document conversations and follow legal advice.

Employment practices liability is a new and growing area of litigation in Federal court today. Employees have a new sense of awareness about their rights under Federal anti-discrimination statutes. If you are considering taking action:

- _ Establish grounds for disciplinary action, with good documentation.
- _ Use progressive discipline and be patient.
- _ Document all discussions with the employee, performance reviews and warnings.
- _ Ask employees to acknowledge in writing receipt of performance reviews.
- _ Seek advice of experts.

Federal actions may be brought for alleged violations of Federal statutes (e.g. Family Medical Leave Act, the Equal Employment Opportunity laws, including age or disability, etc.) or for allegations of civil rights violations under the following amendments to the U.S. Constitution:

First – Freedom of speech, religion and the press.

Fourth – Freedom from unlawful search and seizure.

Fifth – Right against self-incrimination.

Sixth – Right to counsel and fair trial.

Eighth – Right to reasonable bail, no cruel and unusual punishments.

Fourteenth – Guarantee of due process of law and equal protection of laws.

For any Federal allegations, seek the advice of attorneys familiar with defending Federal court cases. Attorneys assigned to defend municipalities in Federal cases by insurers are good sources of advice and counsel. Regularly attending training programs offered by law firms, municipal associations, insurers and pools is a good way to stay on top of changing case law and liability exposures in general.

It is not necessary for the municipal professional to become well versed in the inner workings of a complex insurance program, but some familiarity is helpful. How you

manage the municipal assets under your control will have a direct bearing on losses paid by the insurer and ultimately on the premium paid by the public entity.

ATTACHMENT “C”



RESOLUTION 2013-R- 11

LEASE of TOT LOT PARCEL

WHEREAS, because of being located in a flood prone area, the present tot lot on Philadelphia Avenue is unsatisfactory; and

WHEREAS, Bucks County owns a parcel of ground nearby which would be suitable for use as a tot lot; and

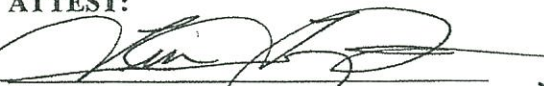
WHEREAS, it may be possible for the Township to lease the Bucks County parcel for this purpose;


NOW, THEREFORE, be it, and it is hereby RESOLVED by the Board of Supervisors of Warrington Township, Bucks County, Pennsylvania, that the Board of Supervisors hereby approves the leasing of Parcel No. 50-036-020-001 for use as a tot lot in accordance with a Lease Agreement attached hereto and marked Exhibit "A" by and between Warrington Township and the County of Bucks at an annual rental of one (\$1.00) Dollar and authorize the Chairman of the Board of Supervisors to sign the lease.

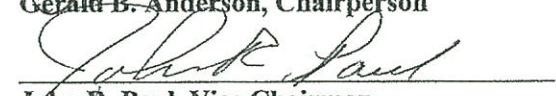
RESOLVED, this *12th* day of *February*, 2013.

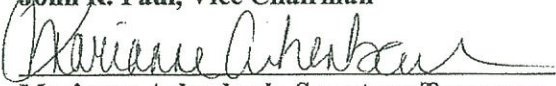
BOARD OF SUPERVISORS OF WARRINGTON TOWNSHIP

ATTEST:

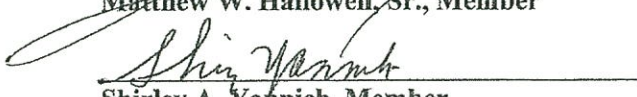

Timothy J. Tieperman
Township Manager


Gerald B. Anderson, Chairperson


John R. Paul, Vice Chairman


Marianne Achenbach, Secretary-Treasurer


Matthew W. Hallowell, Sr., Member


Shirley A. Yannich, Member

ATTACHMENT “D”

FINANCIAL SECURITY AGREEMENT

WARRINGTON TOWNSHIP
&
PETE'S EXPRESS 611, L.P.
&
THE BRYN MAWR TRUST COMPANY

THIS AGREEMENT dated the 12th day of February, 2013, by and between the TOWNSHIP OF WARRINGTON, Bucks County, Pennsylvania, a Township of the Second Class (the "TOWNSHIP"), with offices at 852 Easton Road, Warrington, PA 18976 and PETE'S EXPRESS 611, L.P. with offices at 500 West Lancaster Avenue, Strafford, Pennsylvania 19087 (hereinafter called "DEVELOPER") and THE BRYN MAWR TRUST COMPANY, 801 Lancaster Avenue, Bryn Mawr, Pennsylvania 19010 (the "BANK").

WITNESSETH

WHEREAS, TOWNSHIP and DEVELOPER have executed a Development Agreement (the "DEVELOPMENT AGREEMENT") simultaneously herewith relating to the PETE's CAR WASH (the "PREMISES");

WHEREAS, the DEVELOPER applied to and received from TOWNSHIP final plan approval of plans for the development of the PREMISES (Resolution 2012-R-35), prepared by ProTract Engineering, Inc., dated June 9, 2010, last revised January 4, 2013, which have been recorded with the Recorder of Deeds of Bucks County (the "PLAN"); and

WHEREAS, TOWNSHIP, DEVELOPER and BANK desire to execute this Agreement in order to guarantee DEVELOPER's obligation to TOWNSHIP for the completion of on-site public improvements under the aforementioned Development Agreement:

NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES HEREIN CONTAINED, AND INTENDING TO BE LEGALLY BOUND, IN ACCORDANCE WITH THE UNIFORM WRITTEN OBLIGATIONS ACT OF PENNSYLVANIA, AND

IN CONSIDERATION OF OTHER GOOD AND VALUABLE
CONSIDERATION, DEVELOPER AND TOWNSHIP AND BANK
HEREBY PROMISE, COVENANT AND AGREE AS FOLLOWS:

1. The DEVELOPER AGREEMENT between TOWNSHIP and DEVELOPER, executed simultaneously herewith, is incorporated herein by reference.
2. DEVELOPER simultaneously herewith, has set aside and reserved out of the BANK's construction loan to DEVELOPER for TOWNSHIP's exclusive use and benefit, in the amount of Four Hundred Twenty-Two Thousand, Five Hundred Sixty-Two Dollars and Eighty Cents (\$422,562.80) (hereinafter referred to as the "FINANCIAL SECURITY"), with BANK for the benefit of TOWNSHIP which shall guarantee performance by DEVELOPER to TOWNSHIP of the obligations of DEVELOPER as set forth in the DEVELOPMENT AGREEMENT with regard to on-site improvements. BANK agrees that the FINANCIAL SECURITY will be paid to the TOWNSHIP in accordance with the terms of this Agreement and the DEVELOPMENT AGREEMENT regardless of whether or not there is a default, satisfaction or termination of any underlying obligation or whether the DEVELOPER makes an assignment for the benefit of creditors.

DEVELOPER agrees that if DEVELOPER does not complete the construction improvements set forth in Exhibit "A" to the DEVELOPMENT AGREEMENT within one (1) year of the effective date hereof, then in that event, DEVELOPER will post such additional financial security as is required under the terms of the Pennsylvania Municipalities Planning Code, i.e. Act 247, as amended, on each anniversary date of this Agreement. In the event that DEVELOPER does not post such additional financial security within two (2) weeks of the anniversary date of this Agreement, TOWNSHIP is hereby authorized to withdraw the building permit and to issue a cease and desist order from further work on the construction improvements. Upon receipt of the cease and desist order, DEVELOPER agrees to cease all further work on the project; provided, that upon the posting of such additional financial security as is

required by TOWNSHIP, TOWNSHIP shall withdraw the cease and desist order and DEVELOPER may resume work on the project.

The FINANCIAL SECURITY is established for the sole benefit of TOWNSHIP and is subject to the sole control and authority of TOWNSHIP as established by the terms of this AGREEMENT. BANK agrees that it shall not release the FINANCIAL AGREEMENT or any part thereof without the express written consent of the TOWNSHIP.

3. If DEVELOPER shall fail to perform all of the work as and when specified in the DEVELOPMENT AGREEMENT, or fails to perform any of the covenants set forth in the DEVELOPMENT AGREEMENT, then TOWNSHIP may, as provided for in the DEVELOPMENT AGREEMENT and after written notice to DEVELOPER and BANK, enter into possession of the PREMISES and complete the work with its own personnel or by contract, and the full cost of so doing will be the measure of damages to which TOWNSHIP is entitled due to the failure to perform on the part of DEVELOPER.

TOWNSHIP may draw down the entire proceeds of the FINANCIAL SECURITY prior to TOWNSHIP's performance of the work based upon estimates received by TOWNSHIP from the engineer for TOWNSHIP for the completion of work without the giving of notice to the DEVELOPER and DEVELOPER acknowledges that DEVELOPER has no right of standing to prevent or delay such collection by the TOWNSHIP. Any amounts received by TOWNSHIP in excess of the costs actually incurred, including the costs of inspections, all engineer's and attorney's fees and all other costs actually incurred in the completion of the project, will be returned by TOWNSHIP to BANK upon the completion of all work. However, if the costs actually incurred by TOWNSHIP exceed the amount of money received by TOWNSHIP from BANK then DEVELOPER shall be liable to TOWNSHIP for said excess costs and will pay the same forthwith to TOWNSHIP upon demand.

4. Except for the holding and payment of the FINANCIAL SECURITY, according to the terms of the Agreement, nothing herein contained shall be construed to impose any responsibility or liability or obligation on the BANK for the construction, maintenance or upkeep of the said improvements, nor to render the BANK liable for the cost of the work done or to be done nor for determining the amount of the FINANCIAL SECURITY. DEVELOPER hereby agrees to indemnify and hold harmless BANK from any liability arising out of this Agreement.

5. The aforementioned remedies of TOWNSHIP are in addition to and not in lieu of all remedies set forth in the DEVELOPMENT AGREEMENT and all remedies allowed by law. All remedies are cumulative.

6. As the work in connection with said PLAN for PREMISES progresses, TOWNSHIP shall authorize a reduction in the amount of the FINANCIAL SECURITY by BANK upon delivery of a certificate of completion to BANK signed by TOWNSHIP. The form of such certificate shall be substantially as follows:

CERTIFICATE OF COMPLETION

WARRINGTON TOWNSHIP

&

PETE'S EXPRESS 611, L.P.

&

THE BRYN MAWR TRUST COMPANY

Original Financial Security:	\$	(Construction)
	\$	(Contingency)
	\$	(Total Fin. Sec.)

We the undersigned, hereby certify that the work provided for in a certain Agreement, between the Township of Warrington and **PETE'S EXPRESS 611, L.P.**, dated the _____ day of _____, 2013, relative to the construction and installation of certain improvements in a premises known as **PETE'S CAR WASH** has been completed to the extent of (\$ _____), and this Certificate authorizes **THE BRYN MAWR TRUST COMPANY** to reduce to the extent of (\$ _____), the Financial Security held by **THE BRYN MAWR TRUST COMPANY** pursuant to the Agreement dated the _____ day of _____, 2013. It is agreed that the releases of said amount hereby authorized shall not be construed as acceptance of the work by said TOWNSHIP, nor shall this Certificate act or constitute any waiver by said TOWNSHIP, and said TOWNSHIP hereby reserves the right to reinspect the said work and to require the DEVELOPER referred to in said Agreement to correct any and all defects and deficiencies.

For the following work: See attached letter and invoice

Amount of this Reduction:	\$ _____
Amount of Previous Reductions:	\$ _____
Amount of Retainage:	\$ _____
Amount of Available for Reduction:	\$ _____

TOWNSHIP ENGINEER
CARROLL ENGINEERING CORP.

DATE

WARRINGTON TOWNSHIP

DATE

However, any provisions herein contained to the contrary, notwithstanding the amount of the FINANCIAL SECURITY, DEVELOPER shall not be entitled to have a Certificate of Completion issued in the event the same shall result in a reduction of the FINANCIAL SECURITY such that the same shall be reduced to an amount less than the engineer for the TOWNSHIP's estimate of the amount necessary as of the date of signing the Certificate of Completion to complete the remainder of the work required by the DEVELOPMENT AGREEMENT and as shown on the PLAN plus ten (10%) percent of the initial cost of construction plus any increases pursuant to paragraph 2 hereof. Furthermore, the amount of the FINANCIAL SECURITY held by BANK shall not be reduced, nor shall any amounts be released without the express written authorization of TOWNSHIP.

7. Upon completion of all work required to be performed pursuant to the terms of the DEVELOPMENT AGREEMENT, and compliance by DEVELOPER with all other provisions of the DEVELOPMENT AGREEMENT, and the payment of all costs and expenses incurred by TOWNSHIP for necessary inspection, engineering and legal fees, plus five (5%) percent of the amount of said bills as aforesaid, and the dedication of the public improvements to the TOWNSHIP, then TOWNSHIP shall terminate the balance of the FINANCIAL SECURITY upon dedication of the improvements set forth in Exhibit "A" to the DEVELOPMENT AGREEMENT to the TOWNSHIP in accordance with the provisions of the DEVELOPMENT AGREEMENT.

8. BANK hereby recognizes that BANK has no right of setoff or claims of any kind or nature against the FINANCIAL SECURITY posted hereunder for obligations due or alleged to be due or which may hereafter be created between BANK and DEVELOPER until such time as the obligations of the DEVELOPER to the TOWNSHIP under the DEVELOPMENT AGREEMENT and hereunder have been fully complied with.

9. This Agreement shall be binding on TOWNSHIP, DEVELOPER and BANK and their respective successors and assigns and shall be construed under the laws of the Commonwealth of Pennsylvania.

10. BANK hereby consents to submit to the jurisdiction of the Courts of the Commonwealth of Pennsylvania and the United States District Court for the Eastern District of Pennsylvania for any suit brought against it by TOWNSHIP or in which TOWNSHIP wishes to join it as a party. The BANK agrees that the issuance of its FINANCIAL SECURITY to TOWNSHIP shall constitute the transaction of business in the Commonwealth of Pennsylvania for the purpose of submitting to the jurisdiction of the aforesaid courts.

11. DEVELOPER shall not assign the whole, or any part of the Agreement with TOWNSHIP relative to the development of any person without the prior written consent of TOWNSHIP, except that DEVELOPER may assign all of its right, title and interest to the DEVELOPMENT AGREEMENT and the PREMISES to BANK within thirty (30) days of default by DEVELOPER on the terms of the DEVELOPMENT AGREEMENT. If BANK accepts such assignment, in writing, BANK shall complete all obligations set forth in the DEVELOPMENT AGREEMENT, the PLAN and Exhibit "A" to the DEVELOPMENT AGREEMENT as if DEVELOPER had not defaulted on the DEVELOPMENT AGREEMENT.

12. No third-party beneficiaries are created by this Agreement. This Agreement shall not be subject or liable to attachment or levy by any creditor of the DEVELOPER or any general contractor, subcontractor or materialman or any of their creditors.

13. This Agreement contains the entire agreement of the parties and may not be amended except by an agreement reduced to writing and signed by TOWNSHIP, DEVELOPER and BANK, oral amendments being of no force and effect.

14. TOWNSHIP agrees to deliver to BANK, concurrently with their delivery to DEVELOPER, copies of all notices from TOWNSHIP asserting that DEVELOPER is in default under the Development Agreement.

15. All notices given pursuant to this Agreement shall be given by Certified U.S. Postal Service Mail, return receipt requested, postage prepaid, address to the parties as set forth above or to such other address as a party may previously have advised the others by written notice.

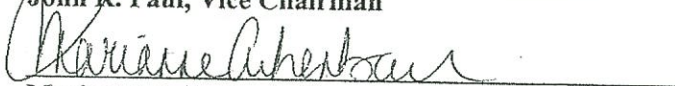
IN WITNESS WHEREOF, TOWNSHIP, DEVELOPER and BANK have hereunto set its hands

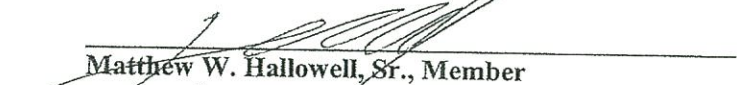
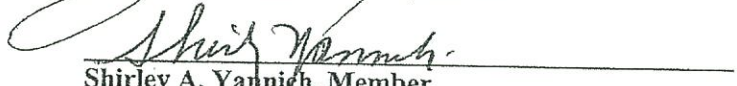
BOARD OF SUPERVISORS OF WARRINGTON TOWNSHIP

ATTEST:


Timothy J. Tieperman
Township Manager


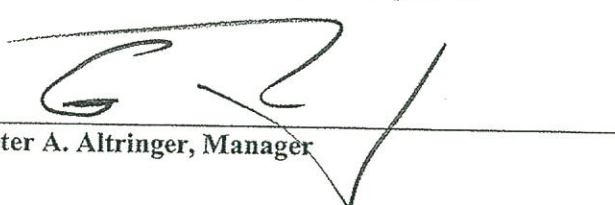

Gerald B. Anderson, Chairperson

Recuse
John R. Paul, Vice Chairman

Marianne Achenbach, Secretary-Treasurer


Matthew W. Hallowell, Sr., Member

Shirley A. Yannich, Member


AND

PETE'S EXPRESS 611, L.P.
By: PETE'S 611, LLC, its general partner


By: 
Peter A. Altringer, Manager

AND

THE BRYN MAWR TRUST COMPANY


By: 
Andrew H. Stump, Senior Vice President

DEVELOPMENT AGREEMENT

WARRINGTON TOWNSHIP

and

PETE'S EXPRESS 611, L.P.

THIS AGREEMENT dated the 12th day of February, 2013, by and between the TOWNSHIP OF WARRINGTON, Bucks County, Pennsylvania, a Township of the Second Class (the "TOWNSHIP"), with offices at 852 Easton Road, Warrington, PA 18976 and PETE'S EXPRESS 611, L.P. with offices at 500 West Lancaster Avenue, Strafford, Pennsylvania 19087 (hereinafter called "DEVELOPER").

WITNESSETH

WHEREAS, DEVELOPER is the developer of a 2.9 acre tract, located on the eastern side of Easton Road at Poplar Road, a 5,380 square foot car wash facility known as Pete's Car Wash, will be constructed (the "PREMISES"); and

WHEREAS, the DEVELOPER applied to and received from TOWNSHIP preliminary and final approval of Final Land Development Plans for the development of the PREMISES, prepared by Protract Engineering, Inc., dated June 9, 2010, last revised Jan. 4, 2013 which have been recorded or will be recorded with the Recorder of Deeds of Bucks County (the "PLAN"); and

WHEREAS, DEVELOPER and TOWNSHIP are desirous of clarifying and stipulating in detail DEVELOPER'S obligations pursuant to TOWNSHIP'S ordinances and Rules and Regulations; and

WHEREAS, it is considered to be in the best interest of the parties hereto to clarify and reduce to writing the respective obligations relating to the improvements which are to be constructed and all other developmental aspects of DEVELOPERS' project.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES HEREIN CONTAINED, AND INTENDING TO BE LEGALLY BOUND, IN ACCORDANCE WITH THE

UNIFORM WRITTEN OBLIGATIONS ACT OF PENNSYLVANIA, AND IN CONSIDERATION OF OTHER GOOD AND VALUABLE CONSIDERATION, DEVELOPER AND TOWNSHIP HEREBY PROMISE, COVENANT AND AGREE AS FOLLOWS:

1. DEVELOPER represents and warrants to TOWNSHIP that DEVELOPER is the developer of the PREMISES and agrees that the PLAN, as more specifically identified above, and the TOWNSHIP'S preliminary final plan approval of October 23, 2012, being Resolution No. 2012-R-35, is hereby incorporated herein by reference.

2. DEVELOPER shall construct all roads, streets, grading and drainage facilities, in addition to all sanitary sewage facilities and public water supply lines and appurtenances, place all monuments and furnish to TOWNSHIP the cost of and install all road traffic and street signs and other improvements shown and specified on the PLAN, at the sole cost and expense of DEVELOPER. The work shall be completed in a good and workmanlike manner in accordance with generally prevailing engineering practices, and all work shall be completed within one (1) year from the date hereof.

3. The Township Engineer and agent for DEVELOPER have prepared an estimated cost of improvements for both on-site and off-site improvements, and said estimate of costs is more fully set forth in Exhibit "A" (for on-site improvements) which is incorporated herein, attached hereto and made a part hereof by reference. DEVELOPER agrees that Exhibit "A" is just an estimate and that it will complete, at its sole expense, the improvements regardless of what the cost may be. DEVELOPER further agrees that it will pay all costs for the completion of this project in accordance with the PLAN and this Agreement, whether or not such costs are shown in Exhibit "A".

4. DEVELOPER shall post a financial security in the form of a tri-party agreement with Bryn Mawr Trust Co, at the time of execution herewith in the principal amount of Four Hundred Twenty-Two Thousand, Five Hundred Sixty-Two Dollars and Eighty Cents (\$422,562.80) as financial security (hereinafter referred to as the "FINANCIAL SECURITY", to guarantee TOWNSHIP that

DEVELOPER will comply with the terms and provisions of the within Development Agreement, PLAN and Exhibit "A."

Furthermore, DEVELOPER agrees that on each anniversary of this Agreement, DEVELOPER shall post such additional FINANCIAL SECURITY as is required under the terms of the Pennsylvania Municipalities Planning code, i.e. Act 247, as amended. In the event that DEVELOPER does not post such additional financial security within two (2) weeks of receipt of written notice by certified mail to post such additional financial security, TOWNSHIP is hereby authorized to withdraw all building permits and to issue a cease and desist order from further work on the construction improvements. Upon receipt of the cease and desist order, DEVELOPER agrees to cease all further work on the project; provided, that upon the posting of additional financial security as is required by TOWNSHIP, TOWNSHIP shall withdraw the cease and desist order and DEVELOPER may resume work on the project.

The FINANCIAL SECURITY is established for the sole benefit of TOWNSHIP and are subject to the sole control and authority of TOWNSHIP as established by the terms of this DEVELOPMENT AGREEMENT.

5. The construction and installation of the public improvements shown on the PLAN are subject to inspection and approval, at the cost of DEVELOPER, by the Township Engineer. DEVELOPER shall notify the Township Engineer not less than three (3) days before the commencement of the initial work on the premises. Not less than seventy-two (72) hours prior to the commencement of roads or other improvements, DEVELOPER shall notify the Township Engineer who shall inspect the prepared sub grade or other work. The Township Engineer shall be notified at least twenty four (24) hours prior to the date when the DEVELOPER or its contractor proposes to lay the stone base course. The Township Engineer shall also be notified a minimum of twenty four (24) hours prior to the commencement of each separate paving operation and in advance of the commencement of any other work.

No construction of buildings, roads, sewer or water lines shall commence until the TOWNSHIP is satisfied that the tire cleaning, soil and erosion control, and detention basin construction have been completed sufficiently to avoid dirt, water and sedimentation from spilling over into the streets or highways within the TOWNSHIP or of adversely affecting or polluting any stream or property owned by others. In the event that during construction, dirt, mud and/or sedimentation does spill over on to the streets or highways of the TOWNSHIP or to the lands of another or into any streams, all construction on the site, other than that necessary to correct the problem, shall stop until the problem is corrected.

It shall be the obligation of DEVELOPER to arrange in advance with the Township Engineer for inspection of the work as the work progresses. The cost of such inspections shall be paid by DEVELOPER. Reasonable provisions agreeable to the Township Engineer and DEVELOPER shall be made to permit inspection of all work in progress. The Township Engineer is authorized to require the removal of any work which is commenced without notice as herein provided or which is not completed in accordance with this Agreement, the PLAN or the ordinances, resolutions or specifications of TOWNSHIP (to the extent not inconsistent with the PLAN), or which is not done in a good and workmanlike manner. The Township Engineer is further authorized, during a period of eighteen (18) months after the completion of all improvements, to require alteration, expansion, removal and/or relocation of any storm sewer, catch basin, under drain or other improvement which, for unforeseen reasons, does not function substantially in accordance with the design criteria established by the TOWNSHIP and approved by the Township Engineer and utilized by the DEVELOPER in the preparation of the PLAN as set forth in the PLAN and in the design booklets, storm drainage calculation and related materials delivered to the Township engineer and approved by the Township Engineer in connection with the approval of the PLAN (collectively, the "Approved Specifications"). DEVELOPER's failure to comply with any such order shall constitute a breach of this Agreement. Township shall not be bound by preliminary engineering or approval of plans based on such engineering, and in the event the Township Engineer shall, at any time prior to the dedication of the

public improvements reasonably determine that additional drainage facilities are required within the development in order to achieve the purpose of and standards established in the Approved Specifications, DEVELOPER shall further install such drainage work or make such corrections in the proposed drainage system and the Township Engineer shall reasonably determine is necessary based on existing field conditions and generally prevailing engineering practice.

In the event of the failure of the drainage and/or erosion and sedimentation control facilities to control stormwater runoff during construction or upon their completion at any time prior to dedication of the public improvements, the TOWNSHIP may revoke all outstanding building permits and refuse to issue new building permits or occupancy permits until the failure has been corrected to the satisfaction of the TOWNSHIP. There shall be no construction on the site other than is necessary to correct the failure, until the failure has been remedied.

DEVELOPER shall not be responsible for changes required because of conditions occurring or changing on property other than the PREMISES.

6. Water and sanitary sewer service shall be required for the car wash facility prior to the issuance of a certificate of occupancy as hereinafter provided. DEVELOPER agrees to obtain water and sanitary sewer rights from the Warrington Township Department of Water and Sewer as required herein.

Any and all permits required by the Commonwealth of Pennsylvania, Department of Environmental Protection or other agency connected with sanitary-sewer installation, shall be procured by DEVELOPER at DEVELOPER'S expense and a photostatic copy of the same shall be turned over to the Township Engineer for any work that is performed.

No sewage is to be collected or discharged into the Warrington Township sewer system prior to written approval of the Township Engineer. DEVELOPER will secure all permits from the Department of Water and Sewer and pay all connection charges or tapping fees in accordance with the current Fee Schedule of the TOWNSHIP.

DEVELOPER and TOWNSHIP agree all regulations, rules, specifications and standards adopted by the Warrington Township Municipal Authority prior to its cessation of operations on May 25, 1993 are the regulations, rules, specifications and standards of Warrington Township as amended thereafter from time to time. DEVELOPER acknowledges such regulations, rules, specifications and standards shall apply to the construction of this development. DEVELOPER acknowledges the TOWNSHIP may amend or change the regulations, rules, specifications and standards and it agrees to be bound by said amendments or changes.

DEVELOPER recognizes the DEVELOPER must provide a two-inch water meter with remote reader and meter reading. The meter shall be paid for by OWNER. The cost thereof is \$3,410.00, and the same is to be paid to TOWNSHIP at the time of execution of this Agreement.

By agreement of the TOWNSHIP and DEVELOPER, DEVELOPER, at the time of the execution hereof, hereby pays to TOWNSHIP and irrevocably donates to TOWNSHIP the sum of \$10,573.00 that shall be used by TOWNSHIP for and toward the cost of reimbursement of providing water facilities and services to DEVELOPER or other users.

By agreement of the TOWNSHIP and DEVELOPER, DEVELOPER, at the time of the execution hereof, hereby pays to TOWNSHIP and irrevocably donates to TOWNSHIP the sum of \$29,168.00, which sum represents tap-in fees for sewer. DEVELOPER acknowledges that the foregoing tap-in fee, charge for meter and remote reader and charge for construction water and inspection are reasonable and not arbitrary and capricious. DEVELOPER, at the time of execution hereof, will pay \$710.00 in cash to TOWNSHIP for construction water, and \$1,420.00 for inspection fees.

DEVELOPER shall not seek a refund of and hereby waives all claims to all funds payable by it to the TOWNSHIP pursuant to this paragraph. In the event that this Agreement, pursuant to which payment is being made, is at any time declared invalid or unlawful, in whole or in part, DEVELOPER'S

payment shall be deemed to be a voluntary contribution and/or bargained for consideration for the necessary improvements resulting from the impact of this subdivision on TOWNSHIP facilities.

DEVELOPER agrees to commence construction of all water and sewer facilities as detailed on the PLAN and contemplated by this Agreement promptly, and DEVELOPER agrees to complete all such facilities within one year of the effective date hereof.

DEVELOPER acknowledges that if DEVELOPER has not completed the improvements herein contemplated in accordance with the above time schedule or if DEVELOPER in the opinion of TOWNSHIP has breached any of the other covenants herein of DEVELOPER and failed to correct same within fifteen (15) days of written notice thereof, then TOWNSHIP may enter into possession of the premises, take down the existing balance of the FINANCIAL SECURITY under the tri-party agreement without notice to DEVELOPER or right of set-off to DEVELOPER and expend the same to complete the construction work contemplated by this Agreement and called for in the PLAN and Exhibit "A" and with its own crew or by contract therefore, either by private or public bid.

As a part of the dedication process, DEVELOPER under supervision and direction of the Township Engineer, shall pressure test the sanitary sewer lines in accordance with Warrington Township standards and specifications. The cost thereof shall be paid by DEVELOPER with reports to be given to the Township Water and Sewer Department for its permanent record. All deficiencies exposed by the testing of the sanitary sewer lines must be repaired by DEVELOPER under the supervision of the Township Engineer. All costs thereof, including retesting of lines, if necessary, shall be paid by DEVELOPER.

Prior to dedication of sanitary sewer lines, water mains, and other appurtenances, all shall be inspected by the Township Engineer and all deficiencies corrected prior to acceptance. All such work shall be completed prior to the final coat of paving of roads and acceptance of dedication by Township as aforementioned.

DEVELOPER, through its Engineer, shall keep accurate records of location, size and depth of all mains, valves, appurtenances and project service lines, and upon completion of the project, DEVELOPER shall forthwith provide TOWNSHIP with reproducible Mylar "as-built" drawings and two copies, field-checked and certified by the Engineer for DEVELOPER, showing the location, size and depth of the water and/or sewer systems. Such Mylar "as-built" drawings may be recorded in the Office of the Recorder of Deeds in and for the County of Bucks and filed with Township, said copies to be provided by DEVELOPER. All costs of preparation and recording of the foregoing and all costs of Engineers and Solicitor for TOWNSHIP relating thereto shall be paid by DEVELOPER.

7. In view of the existence of sensitive infrastructure in the location of this Development, no blasting will be permitted in the construction of this Facility.

8. DEVELOPER covenants and agrees that all work shall be performed in a good and workmanlike manner to the satisfaction of the Engineer for TOWNSHIP or TOWNSHIP, and ordinances, resolutions, PLAN and Exhibit "A" and the provisions herein set forth. The TOWNSHIP consents to the construction of the improvements set forth on the PLAN set within the area of any utility easements therein or heretobefore granted by the owner of the PREMISES to the TOWNSHIP.

9. As the work in connection with said PLAN for PREMISES progresses, TOWNSHIP may authorize a reduction in the amount of the FINANCIAL SECURITY upon delivery of a certificate of completion to the Trust Company signed by TOWNSHIP. The form of such certificate shall be substantially as follows:

CERTIFICATE OF COMPLETION

WARRINGTON TOWNSHIP

PETE'S EXPRESS 611, L.P

Original Financial Security:	\$	(Construction)
	\$	(Contingency)
	\$	(Total Fin. Sec.)

We the undersigned, hereby certify that the work provided for in a certain Agreement, between the Township of Warrington and PETE'S EXPRESS 611, L.P., dated the _____ day of _____, 2012, relative to the construction and installation of certain improvements in a development known Pete's Car Wash has been completed to the extent of

(\$ _____), and this Certificate authorizes the Bryn Mawr Trust Company to reduce to the extent of (\$ _____) the Financial Security held by the Bryn Mawr Trust Company, pursuant to the Agreement dated the _____ day of _____, 2012. It is agreed that the releases of said amount hereby authorized shall not be construed as acceptance of the work by said TOWNSHIP, nor shall this Certificate act or constitute any waiver by said TOWNSHIP, and said TOWNSHIP hereby reserves the right to reinspect the said work and to require the DEVELOPER referred to in said Agreement to correct any and all defects and deficiencies.

For the following work: See attached letter and invoice

Amount of this Reduction:	\$ _____
Amount of Previous Reductions:	\$ _____
Amount of Retainage:	\$ _____
Amount of Available for Reduction:	\$ _____

TOWNSHIP ENGINEER
CARROLL ENGINEERING CORP.

DATE

WARRINGTON TOWNSHIP

DATE

However, any provisions herein contained to the contrary notwithstanding, the amount of the FINANCIAL SECURITY shall at no time be reduced to an amount less than the Engineer for TOWNSHIP's estimate of the amount necessary as of the date of signing the certificate of completion to complete the remainder of the work required by this Agreement and as shown on the PLAN, plus ten (10%) percent of the initial cost of construction, plus any annual increases pursuant to paragraph 4 hereof. Furthermore, the amount of the FINANCIAL SECURITY held by the Trusting Company shall not be reduced, nor shall any amounts be released without the express written authorization of TOWNSHIP.

10. To guarantee and insure the construction of certain improvements, to regulate sound construction practice, to insure compliance to all the codes and ordinances of TOWNSHIP, and to permit the issuance of building and occupancy permits conditioned thereupon, for and in consideration of the approval granted by the TOWNSHIP, the DEVELOPER covenants and agrees to the following:

- a. That prior to the start of any development activity at the approved site, all soil and erosion control measures required on the PLANS, and DEP permits, shall be installed and fully functional.
- b. That prior to the issuance of a building permit or permits, the DEVELOPER shall provide an adequate access way to the premises for use by fire and emergency vehicles. Such access way shall contain a minimum stabilized base consisting of nine inches (9") of ballast placed upon geotextile material with three inches (3") of 2(a) modified stone as a finished surface. These requirements may be increased by Warrington Township depending upon actual site conditions. Its width shall be no less than twenty feet, and parking along it is prohibited at all times. This access way shall have a minimum of 13.5' vertical clearance and shall be maintained daily. This requirement is intended to comply with Section 503, Fire Apparatus Access Roads of the 2003 International Fire Code, which shall govern.

- c. That the soil and erosion control measures shall be fully maintained and in proper working order at all times. The DEVELOPER agrees that if a failed section is located by either the Township Engineer or Zoning Officer, repairs shall be made within twenty four (24) hours, otherwise the Zoning Officer shall issue a stop, cease and desist order until the repairs are made.
- d. The DEVELOPER agrees to construct each lot according to the PLAN, and to insure that rough field grading conforms to the PLAN. Prior to the issuance of a building permit for a lot, the DEVELOPER agrees to submit a proposed survey plot plan for each lot, showing all construction detail and the on-lot grading plan. In addition, the DEVELOPER agrees that all rough grading in any given section or phase, shall be completed prior to the issuance of building permits. An "as built" survey, reviewed and approved by the Township Engineer, shall be submitted prior to the issuance of a temporary occupancy permit. A permanent Certificate of Occupancy shall not be issued until the Township Engineer and the Zoning Officer agree that construction and on-lot grading has been achieved in full compliance with the PLAN and the Township building code, zoning ordinance and subdivision and land development ordinance.
- e. The DEVELOPER shall bear the sole responsibility for on-lot code and ordinance compliance regardless of whether lots are sold to individual builders.
- f. The DEVELOPER agrees that at no time, will it or any contractors in its employ, or any vendors in its service, permit any burial of trash or construction debris or any portion of the site. Such an event shall constitute a breach of this Agreement.
- g. DEVELOPER will be responsible for the discarding of waste materials such as papers, cartons and the like (whether discarded by it or by other employed by it, or by others engaged in the delivery of the aforesaid materials and the construction of the building on the several lots within the aforesaid subdivision), and agrees to prevent the same

from being deposited, either by being thrown or blown upon any land adjacent to or within the vicinity of the development.

- h. The DEVELOPER agrees that no burning of trash or construction debris shall take place at the site by its staff, contractors or vendors. Such an event shall constitute a breach of this Agreement.
- i. The DEVELOPER agrees to institute at all times, proper and sufficient dust control measures including, but not limited to, on-site water hoses and water trucks to prevent dust blowing from the site. The Zoning Officer shall issue a stop, cease and desist order when dust-bowl-like conditions, or the accumulation of dust on adjoining private properties occurs, and construction shall not resume until dust control measures are instituted.
- j. The DEVELOPER agrees that a project superintendent shall be assigned to this development who, in addition to his regular duties as an employee of the DEVELOPER, shall have specific responsibility to meet the TOWNSHIP Building Inspector for each and every inspection to insure proper attention to the codes and inspection process. Said individual shall also be responsible for enforcing the code and ordinance related issues in this Agreement as specifically mentioned, and shall meet with the Zoning Officer on a bi-weekly basis, and as often as the case may warrant, for compliance inspection. This individual shall also be the emergency contact for the TOWNSHIP in the event of an emergency situation at the site after working hours. In the event such an individual is not so assigned or fails to perform in this capacity, a breach of this Agreement shall have occurred.
- k. Except for erosion control measures, the DEVELOPER agrees that the undeveloped open space on the site shall not be altered in any manner other than as shown on the

PLAN. No berm, pits or regarding shall be permitted. Such activity by the DEVELOPER shall constitute a breach of this Agreement.

- l. The DEVELOPER agrees that no on-site topsoil shall be removed from the site during any phase of the construction process without TOWNSHIP approval, which shall not be unreasonably withheld. Topsoil unearthed for the purpose of roadway construction or public improvements shall be redistributed on-site. The storage or bermig locations of topsoil shall first be approved by the TOWNSHIP and indicated on a site plan. In the even such is not the case, a breach of this contract shall have occurred.
- m. The DEVELOPER agrees to perform work on the PREMISES only between the hours of 7:00 a.m. and 7:00 p.m. Monday through Saturday, and to perform no work on the PREMISES on Sunday. DEVELOPER agrees that violation of this subparagraph (m) shall result in a Five Hundred Dollar (\$500.00) per day fine for each day the violation occurs, payable to the TOWNSHIP immediately upon written demand therefore.
- n. DEVELOPER hereby agrees to notify all adjacent property owners and the TOWNSHIP in writing prior to undertaking any work within any easements set forth on the final plan. Such notice shall be given at least 48 hours prior to the commencement of any work within an easement.
- o. DEVELOPER shall install, at its sole cost and expense, antenna-style fire hydrant locators on all fire hydrants on the PREMISES. In addition, the DEVELOPER shall meet with the Township Superintendent of Public Works to establish the locations of approved traffic control posts and signs, including but not limited to, stop signs, speed limit signs and street name signs, which shall be acquired and installed by the DEVELOPER at the DEVELOPER's sole cost and expense prior to dedication.
- p. In the event that a breach of this Agreement does occur, or that the DEVELOPER violates any provisions of this contract, the TOWNSHIP has the right, upon five (5)

days written notice or immediately in the event of a safety risk, to stop the issuance of any and all additional building and occupancy permits and/or to revoke previously issued building permits for any lots in the development whether or not the lots have been transferred to other parties until such time as the deficiency or violation has been corrected to the satisfaction of the Township Engineer and/or the Code Enforcement Officer, as the case may warrant.

- q. Any attempt by the DEVELOPER to void, supersede or transfer any of the obligations created by this Agreement to the purchase of any lot created by this subdivision in any agreement of sale or warranty shall be null and void.

11. The DEVELOPER agrees that prior to the issuance of an occupancy permit, that the following improvements will be completed and in operation:

- a. curbs and sidewalks, if any, on the lot for which an occupancy permit is sought, and curbs and sidewalks on any other portion of the development if the installation of curbs and sidewalks on that portion of the development is reasonably necessary for the use or occupancy of the dwelling, if any, which said determination shall be within the sole discretion of the Zoning Officer;
- b. street improvements, if any, up to the binder course;
- c. installation of soil and erosion measures as required by the Department of Environmental Protection, and the Township Engineer;
- d. detention basins, if any;
- e. sanitary sewer facilities, public water facilities and storm drainage as required;
- f. on-lot grading and landscaping conforming to the PLAN; and
- g. the completion of all bike paths, bike lanes, jogging paths, recreation facilities, and all other similar public facilities shown on the PLAN which is the subject of this

Agreement, unless the TOWNSHIP shall agree that the completion of any of the public improvements would be more appropriately deferred at a later time.

12. The DEVELOPER agrees that the TOWNSHIP shall have the right, upon five (5) days written notice or immediately in the event of a safety risk, in the event of any breach of this Agreement, and/or ordinances, resolutions or specifications of the TOWNSHIP, to suspend all building permits until such time as any breach or violation is corrected.

13. In the event DEVELOPER fails to complete the work or repairs herein specified, with one (1) year of the date of this Agreement, or if in the opinion of the Engineer for TOWNSHIP, the DEVELOPER fails to timely or properly complete the construction improvements shown on PLAN which are necessary for the proper functioning of the improvements on the site or if the DEVELOPER fails to comply with the terms of this Agreement the ordinances, resolutions, rules or regulations of TOWNSHIP, then DEVELOPER shall be in default of this Agreement and DEVELOPER authorizes and empowers TOWNSHIP, its servants, agents or employees to enter upon the appropriate areas of the PREMISES and to complete the construction improvements referred to in this Agreement, Exhibit "A" and/or PLAN and does authorize TOWNSHIP to withdraw the entire proceeds of the FINANCIAL SECURITY pursuant to paragraph 4 hereof and to use said funds to complete the construction improvements assumed by DEVELOPER under this Agreement. Said collection may be made prior to the performance of any work by TOWNSHIP, and the collection shall be paid to TOWNSHIP without giving the notice to DEVELOPER, and DEVELOPER acknowledges that DEVELOPER has no right or standing to prevent or delay such collection by TOWNSHIP. TOWNSHIP agrees to maintain the funds collected from the FINANCIAL SECURITY in a separate account to complete the obligations set forth in this Agreement. Any amounts received by TOWNSHIP in excess of the costs actually incurred, including the costs of inspection, all engineer's and attorney's fees and all other costs actually incurred in the completion of the project, will be returned by TOWNSHIP to DEVELOPER upon the completion of all work. However, if the costs actually incurred by TOWNSHIP exceed the amount of money

received by TOWNSHIP from the Bond, because of additional work caused by DEVELOPER's breach or violation of Ordinances or an increase in prices, then DEVELOPER shall be liable to TOWNSHIP for said excess costs and will pay the same forthwith to TOWNSHIP upon demand.

FURTHER, IN THE EVENT DEVELOPER FAILS TO COMPLETE THE WORK REPAIRS HEREIN SPECIFIED, WITHIN ONE (1) YEAR OF THE DATE OF THIS AGREEMENT, IF IN THE OPINION OF THE ENGINEER FOR TOWNSHIP, DEVELOPER FAILS TO TIMELY OR PROPERLY COMPLETE THE CONSTRUCTION IMPROVEMENTS SHOWN ON PLAN, WHICH ARE NECESSARY FOR THE PROPER FUNCTIONING OF THE IMPROVEMENTS ON THE SITE, OR IF THE DEVELOPER FAILS TO COMPLY WITH THE TERMS OF THIS AGREEMENT OF THE ORDINANCES, RESOLUTIONS, RULES OR REGULATIONS OF TOWNSHIP, THEN DEVELOPER SHALL BE IN DEFAULT OF THIS AGREEMENT, AND DEVELOPER BY THESE PRESENTS, DOES HEREBY AUTHORIZE AND EMPOWER THE SOLICITOR OF THE TOWNSHIP OR ANY OTHER ATTORNEY, OR THE PROTHONOTARY OF ANY COURT OF RECORD IN THE COMMONWEALTH OF PENNSYLVANIA OR ELSEWHERE TO APPEAR FOR DEVELOPER AND CONFESS JUDGMENT AGAINST DEVELOPER FOR A SUM TO BE DETERMINED IN ACCORDANCE WITH AN ASSESSMENT OF DAMAGES FILED, WHICH SUM SHALL BE THE AMOUNT THAT THE TOWNSHIP REQUIRES IN ORDER TO COMPLETE THE PUBLIC IMPROVEMENTS REFERRED TO IN THIS AGREEMENT, WITH COSTS OF SUIT AND RELEASE OF ERRORS, AND DEVELOPER DOES HEREBY WAIVE THE RIGHT OF INQUISITION ON ANY REAL ESTATE AND AUTHORIZES THE PROTHONOTARY TO ENTER ITS VOLUNTARY CONDEMNATION OF THE SAME AND AUTHORIZES THE SAME TO BE SOLD UPON A WRIT OF EXECUTION, PROVIDED, HOWEVER, THE DEVELOPER SHALL BE PROVIDED THIRTY (30) DAYS WRITTEN NOTICE PRIOR TO THE FILING OF THE CONFESSION OF JUDGEMENT HEREUNDER, WHICH NOTICE SHALL SET FORTH

THE MANNER IN WHICH THE DEVELOPER HAS FAILED TO COMPLETE THE WORK IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT AND THE ORDINANCES, RESOLUTIONS, RULES OR REGULATIONS OF TOWNSHIP AND DURING WHICH PERIOD DEVELOPER SHALL HAVE THE OPPORTUNITY TO COMPLY WITH THE TERMS OF THIS AGREEMENT TO THE SATISFACTION OF TOWNSHIP. IF DEVELOPER DOES NOT CURE ANY AND ALL DEFAULTS WITHIN THE GRACE PERIOD, THEN JUDGEMENT MAY BE CONFESSED, AS PROVIDED HEREUNDER. DEVELOPER ALSO WAIVES THE BENEFIT OF LAWS NOW IN FORCE OR WHICH MAY HEREAFTER BECOME IN FORCE, EXEMPTING REAL OR PERSONAL PROPERTY FROM LEVY AND SALE UPON EXECUTION.

DEVELOPER ACKNOWLEDGES THAT TOWNSHIP SPECIFICALLY AND NOT IN LIMITATION OF THE ABOVE SHALL HAVE THE RIGHT TO ENTER SAID JUDGMENT IN THE EVENT THAT DEVELOPER DEFAULTS IN THE COMPLETION OF THE IMPROVEMENTS OR FAILS TO COMPLETE THE SAME WITHIN THE TIME SPECIFIED IN THIS AGREEMENT; OR IF THERE ARE INSUFFICIENT FUNDS AVAILABLE TO COMPLETE THE IMPROVEMENTS OR IF FOR ANY REASON FUNDS ARE NOT PAID TO TOWNSHIP IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT. A CONFORMED COPY OF THIS AGREEMENT, CERTIFIED BY THE SOLICITOR OF THE TOWNSHIP, SHALL BE SUFFICIENT WARRANT TO AUTHORIZE AND EMPOWER THE CONFESSION OF JUDGMENT AGAINST SAID DEVELOPER TO BE SUPPLEMENTED BY THE AFORESAID ASSESSMENT OF DAMAGES. THIS WARRANT TO CONFESS JUDGEMENT SHALL SPECIFICALLY INCLUDE AND BE BINDING UPON DEVELOPER AND DEVELOPER'S SUCCESSORS AND ASSIGNS AS DEVELOPERS OF THE PREMISES.

_____(INITIALS)

14. Upon completion of all improvements herein referred to, to the satisfaction of TOWNSHIP, and compliance by DEVELOPER with all other provisions of this Agreement, and the

payment of all costs or expenses incurred by fees, plus five (5%) percent of the amount of said bills as aforesaid, DEVELOPER shall execute and offer to TOWNSHIP deeds of dedication or a bill of sale, if appropriate, in a form approved by the Solicitor for TOWNSHIP for all streets, and other improvements, if any, to be dedicated. All lands to be dedicated to TOWNSHIP shall be conveyed with good and marketable title and such as will be insured by a reputable title Insurance Company reasonably satisfactory to TOWNSHIP. Said title insurance shall be guarantee ownership of the lands dedicated to TOWNSHIP free and clear of all liens and encumbrances, except those created by virtue of final plan approval. TOWNSHIP'S title shall be protected from any action of mortgage foreclosure and from any execution or judicial sale at no cost or expense to TOWNSHIP. ALL costs in connection with dedication and acceptance of dedication are to be borne by DEVELOPER.

15. TOWNSHIP shall accept dedication and will release the balance of the FINANCIAL SECURITY being held by the TOWNSHIP upon:

- a. The completion of all improvements referred to in this Agreement which are dedicated for public use;
- b. The receipt of a satisfactory title insurance policy;
- c. The posting of financial security in the amount of fifteen (15%) percent of the actual cost of the improvements to be dedicated, with TOWNSHIP, pursuant to Paragraph 4 of this Agreement to guarantee the structural integrity of the improvements as well as the functioning of the improvements in accordance with the design and specifications as depicted on the PLAN of the work performed by DEVELOPER for a period of eighteen (18) months from acceptance of dedication of the improvements. All work required to secure the structural integrity of the improvements as well as the functions of the improvements in accordance with the design and specifications as depicted on the PLAN are to be commenced within fifteen (15) days from the time of notice from TOWNSHIP to do so, legal holidays and Sundays excepted (except in case of an

emergency requiring immediate action) and upon default, TOWNSHIP may make such repairs and do anything necessary to maintain such repairs and do anything necessary to maintain such construction and recover the expense and cost thereof, upon the submission of a bill or bills, as aforementioned, from the financial security.

TOWNSHIP may collect the financial security prior to TOWNSHIP's performance of the work based upon estimates received by TOWNSHIP from the Engineer for TOWNSHIP for the completion of the work. If the costs incurred by TOWNSHIP exceed the amount of money received by TOWNSHIP from the financial security, then DEVELOPER shall be liable to TOWNSHIP for said excess costs and will pay the same forthwith to TOWNSHIP. If DEVELOPER complies with all the terms and provisions of this Agreement, then TOWNSHIP shall, at the expiration of the eighteen (18) month guaranty period as required by this Agreement, release and terminate the financial security. However, in no event shall the financial security be terminated without the express written consent of TOWNSHIP.

16. DEVELOPER recognizes the TOWNSHIP will incur engineering and legal fees in the review and approval of PLAN, inspection of construction improvements, preparation of the within Agreement and the FINANCIAL SECURITY AGREEMENT and other engineering and legal services which may be required by TOWNSHIP. DEVELOPER hereby agrees to reimburse TOWNSHIP for all such reasonable and necessary engineering and legal fees and costs as paid by TOWNSHIP, including any fees and costs which may arise as a result of TOWNSHIP protecting TOWNSHIP'S interest due to any breach or alleged breach by DEVELOPER of the within Agreement.

DEVELOPER agrees that to the engineering and legal fees required to be paid to TOWNSHIP by DEVELOPER, there shall be added the sum of five (5%) percent thereof which the DEVELOPER shall pay to the TOWNSHIP for expenses of administration.

17. Prior to the issuance of the first use or building permit, the DEVELOPER agrees to post the sum of Fifteen Thousand Dollars (\$15,000.00) in cash with the TOWNSHIP, which the TOWNSHIP shall hold in an escrow account and utilize for the purpose of defraying any costs incurred by the TOWNSHIP for inspections, legal services and administrative expenses. When this fund has been reduced to Two Thousand Dollars (\$2,000.00), the DEVELOPER shall post additional funds up to Five Thousand Dollars (\$5,000.00) as may be required by the TOWNSHIP. Upon dedication of the public improvements, the DEVELOPER shall be provided with an itemized accounting of the monies expended, and shall be refunded any unused portion.

18. DEVELOPER agrees that such improvements as, but not limited to, street signs, traffic control signs and street posts shall be of a standard type approved by TOWNSHIP.

19. DEVELOPER agrees to maintain such barricades as are necessary during the course of construction of the improvements so as to give all reasonable protection to the traveling public and to maintain such warning lights or flares as are necessary for this purpose. DEVELOPER shall further maintain all streets and ways in the subdivision or land development in good and passable condition, including prompt snow removal, so as to afford property owners unimpeded right of passage. DEVELOPER agrees to indemnify TOWNSHIP in accordance with ordinances of TOWNSHIP and simultaneously with the execution of this Agreement to furnish TOWNSHIP a certificate indicating that DEVELOPER carries a liability insurance policy in an amount of \$2,000,000.00 and that TOWNSHIP is an "additional insured" on said policies.

20. It is expressly understood and agreed by the parties hereto, that DEVELOPER shall bear the sole responsibility for snow and ice removal from the roads, and cartways of the project until such time as dedication shall occur.

21. DEVELOPER agrees to maintain and keep mowed and in good repair the common open space and detention/retention basins, if any, whether or not they have been dedicated to a Homeowner's Association for so long as the improvements to be constructed hereunder and dedicated to

the TOWNSHIP remain undedicated. DEVELOPER agrees that in the event that the common open space and/or detention/ retention basins are not maintained, repaired or owed to the satisfaction of the TOWNSHIP, that DEVELOPER, after being given fourteen (14) days written notice to do so by TOWNSHIP, authorizes TOWNSHIP, its servants, agents or employees to perform the maintenance, repairs and/or mowing and authorizes the TOWNSHIP through its agents, servants or employees, to withdraw necessary sums of money from the FINANCIAL SECURITY provided under this AGREEMENT and to use said sums to complete DEVELOPER'S obligation to maintain, repair and/or mow the common space and/or detention/retention basins. Said withdrawal may be made prior to the TOWNSHIP's performance of any work.

22. It is expressly understood and agreed that TOWNSHIP does not hereby accept any responsibility for the maintenance of any streets, roads or other improvements; that TOWNSHIP does not hereby accept any streets or roads dedicated as part of the public road system of the TOWNSHIP, that the TOWNSHIP in no manner assumes any liability in connection with said improvements and does not render itself liable for any of the costs for work done or to be done in connection therewith or inspection thereof and shall exercise no control of any kind over said proposed streets and roads until such time as the TOWNSHIP shall officially and legally accept the streets and roads as part of the public road system of the TOWNSHIP. The DEVELOPER assumes full responsibility in connection with said improvements and the financial liability for all improvements of any kind whatsoever and costs thereof. The TOWNSHIP's sole interest in said improvements is the enforcement of the terms of this Agreement and of the laws, ordinances, regulations, rules and regulations under the authority of which this Agreement is executed.

23. DEVELOPER agrees to save, protect, defend, indemnify and forever hold harmless TOWNSHIP, TOWNSHIP's Engineer, and TOWNSHIP's Solicitor, and any and all of their officers, agents, servants, and employees from any and all liability, or claims of liability, arising out of, involving or in any way connected with the development involved herein, this Agreement, any companion

Agreement, or the development referred to herein, regardless of whether the liability or claim of liability against TOWNSHIP in any suit or action brought on account of such claim of liability or any verdict or judgment entered in any such suit or action on account of any liability or claim of liability of TOWNSHIP, be, or alleged to be, due to, or on account of, any negligence of TOWNSHIP, or TOWNSHIP's Engineer, or TOWNSHIP's Solicitor, or any and all of their officers, agents, servants, workmen, and employees.

24. The parties hereunto agree that the approved PLAN shall be deemed to have been revised and amended to have included thereon as a note this entire Agreement, as if all of said Agreement was endorsed on said approved PLAN, and said PLAN was recorded as so revised and amended.

25. DEVELOPER expressly warrants and represents to TOWNSHIP that in executing this Agreement, DEVELOPER has not relied upon any oral statements made to the DEVELOPER or any officer, agent, servant, workman or employee of the undersigned by TOWNSHIP, TOWNSHIP's Engineer, TOWNSHIP's Solicitor, or the officers, agents, servants, workmen, or employees of any of them and that the work to be performed by the DEVELOPER will not be done in reliance upon any oral statement, advice, or instruction by TOWNSHIP, TOWNSHIP's Engineer, TOWNSHIP's Solicitor, or the officers, agents, servants, workmen, or employees of any of them to the DEVELOPER or any officer, agent, servant, workman, or employee of the DEVELOPER and that all work on the development shall be performed strictly in accordance with the PLAN, the APPROVED SPECIFICATIONS and each and every part of this Agreement without any oral modifications or change of said PLAN, APPROVED SPECIFICATIONS, or any part of this Agreement by any claim of trade, customer, or practice of DEVELOPER.

26. DEVELOPER shall not assign the whole, or any part of this Agreement with TOWNSHIP relative to the development to any person without the prior written consent of

TOWNSHIP. Any attempt at assignment without the prior written consent of TOWNSHIP shall be null and void and not binding on TOWNSHIP.

27. DEVELOPER agrees that upon the completion of all improvements contemplated by PLAN and this Agreement, DEVELOPER will provide TOWNSHIP with at least three (3) copies of final "as-built" plans of the development.

28. No third-party beneficiaries are created by this Agreement. This Agreement shall not be subject or liable to attachment or levy by any creditor of the DEVELOPER or any general contractor, subcontractor or materialman or any of their creditors.

29. DEVELOPER and TOWNSHIP agree that this Agreement shall be binding upon the DEVELOPER and TOWNSHIP and their successors and assigns and shall be construed under the laws of Commonwealth of Pennsylvania.

30. This Agreement contains the entire agreement of the parties and may not be amended except by an agreement reduced to writing and signed by TOWNSHIP and DEVELOPER, oral amendments being of no force and effect.

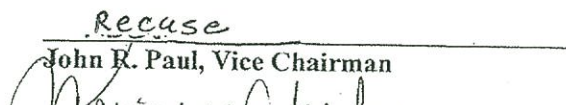
IN WITNESS WHEREOF, TOWNSHIP and DEVELOPER have hereunto set their hands and seals the day and year first above written, intending to be legally bound hereby.

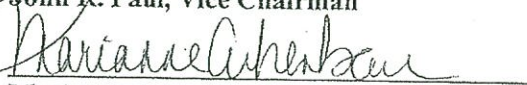
BOARD OF SUPERVISORS OF WARRINGTON TOWNSHIP

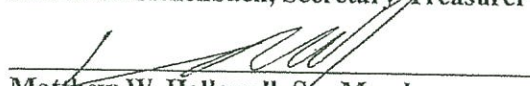
ATTEST:


Timothy J. Tieperman
Township Manager


Gerald B. Anderson, Chairperson

Recuse

John R. Paul, Vice Chairman


Marianne Achenbach, Secretary-Treasurer


Matthew W. Hallowell, Sr., Member


Shirley A. Yannich, Member

AND

ATTEST:

PETE'S EXPRESS 611, L.P


~~Secretary~~ WITNESS


By: 
Managing Member

EXHIBIT "A"

CARROLL ENGINEERING CORPORATION TOWNSHIP ENGINEERS

ESCROW STATUS REPORT

SUMMARY OF ESCROW ACCOUNT

PROJECT NAME: Pete's Express 611
PROJECT NO: 10-6224.00
PROJECT OWNER:

MUNICIPALITY: Warrington Township
ESCROW AGENT:
TYPE OF SECURITY:
AGREEMENT DATE:

AMOUNT OF CURRENT ESCROW RELEASE:
AMOUNT OF PREVIOUS ESCROW RELEASES:
TOTAL ESCROW RELEASED TO DATE:

\$422,562.80
\$38,414.80
\$384,148.00

TOTAL ESCROW REMAINING:
TOTAL RETAINAGE ESCROW:
TOTAL ESCROW AVAILABLE FOR RELEASE:

RELEASE NO.: MASTER
RELEASE DATE:

ESCROW TABULATION				CURRENT RELEASE		RELEASED TO DATE	AVAILABLE FOR RELEASE		RELEASE REQ #1
DESCRIPTION	UNITS	QUANTITY	UNIT PRICE	TOTAL AMOUNT	QUANTITY	TOTAL AMOUNT	QUANTITY	TOTAL AMOUNT	QUANTITY
A. EROSION AND SEDIMENT CONTROL									
1. Construction entrance	EA	1.00	\$2,500.00	\$2,500.00			1.00	\$2,500.00	
2. Standard Silt Fence	LF	300.00	\$3.00	\$900.00			300.00	\$900.00	
3. Super Silt Fence	LF	650.00	\$3.250.00	\$3,250.00			650.00	\$3,250.00	
4. Tree Protection Fence	LF	825.00	\$2.50	\$2,062.50			825.00	\$2,062.50	
5. Inlet Protection	EA	7.00	\$50.00	\$350.00			7.00	\$350.00	
6. E&S Maintenance	LS	1.00	\$1,000.00	\$1,000.00			1.00	\$1,000.00	
B. EARTHWORK									
1. Strip Topsoil	CY	1,300.00	\$3.00	\$3,900.00			1300.00	\$3,900.00	
2. Clearing & Grubbing	AC	1.20	\$5,000.00	\$6,000.00			1.20	\$6,000.00	
3. Cut & Fill	CY	2,600.00	\$4.50	\$11,700.00			2600.00	\$11,700.00	
4. Rake, Seed & Mulch	SY	2,670.00	\$0.75	\$2,002.50			2670.00	\$2,002.50	
C. STORMWATER FACILITIES									
1. 6" RCP	LF	39.00	\$13.00	\$507.00			39.00	\$507.00	
2. 18" RCP	LF	267.00	\$25.00	\$6,675.00			267.00	\$6,675.00	
3. 18" RCP-RRJ	LF	64.00	\$30.00	\$1,920.00			64.00	\$1,920.00	
4. 18" Anti-seep collars	EA	2.00	\$450.00	\$900.00			2.00	\$900.00	
5. 18" DW Endwall	EA	1.00	\$1,500.00	\$1,500.00			1.00	\$1,500.00	
6. Underground Basin	LS	1.00	\$50,000.00	\$50,000.00			1.00	\$50,000.00	
7. Basin Corner Structures	EA	3.00	\$3,500.00	\$10,500.00			3.00	\$10,500.00	
8. Basin Outlet Structure	EA	1.00	\$5,000.00	\$5,000.00			1.00	\$5,000.00	
9. Trench Drain	EA	1.00	\$1,500.00	\$1,500.00			1.00	\$1,500.00	
10. Type M Inlet	EA	1.00	\$2,000.00	\$2,000.00			1.00	\$2,000.00	
11. Type C Inlet	EA	4.00	\$2,000.00	\$8,000.00			4.00	\$8,000.00	
12. Riprap	CY	3.00	\$75.00	\$225.00			3.00	\$225.00	
D. SANITARY SEWER FACILITIES									
1. Connect to Existing 8" Sanitary Main	LS	1.00	\$1,400.00	\$1,400.00			1.00	\$1,400.00	
2. 6" SDR 35 PVC Pipe	LF	106.00	\$30.00	\$3,180.00			106.00	\$3,180.00	
3. Sampling Manhole w/Sealed Cover	EA	1.00	\$2,500.00	\$2,500.00			1.00	\$2,500.00	
4. Concrete Encasement	LS	1.00	\$800.00	\$800.00			1.00	\$800.00	
5. Cleanouts	EA	1.00	\$100.00	\$100.00			1.00	\$100.00	

ESCROW STATUS REPORT

CARROLL ENGINEERING CORPORATION TOWNSHIP ENGINEERS

SUMMARY OF ESCROW ACCOUNT

PROJECT NAME: Pete's Express 611
PROJECT NO: 10-6224.00
PROJECT OWNER:

MUNICIPALITY: Warrington Township
ESCROW AGENT:
TYPE OF SECURITY:
AGREEMENT DATE:

AMOUNT OF CURRENT ESCROW RELEASE:
AMOUNT OF PREVIOUS ESCROW RELEASES:
TOTAL ESCROW RELEASED TO DATE:

TOTAL CONSTRUCTION = \$384,148.00
TOTAL RETAINAGE = \$38,414.80
TOTAL ESCROW POSTED = \$422,562.80

TOTAL ESCROW REMAINING: \$422,562.80
TOTAL RETAINAGE ESCROW: \$38,414.80
TOTAL ESCROW AVAILABLE FOR RELEASE: \$384,148.00

RELEASE NO.: MASTER
RELEASE DATE:

ESCROW TABULATION					CURRENT RELEASE		RELEASED TO DATE	AVAILABLE FOR RELEASE		RELEASE REQ #1
DESCRIPTION	UNITS	QUANTITY	UNIT PRICE	TOTAL AMOUNT	QUANTITY	TOTAL AMOUNT	QUANTITY	TOTAL AMOUNT	QUANTITY	
E. WATER SERVICE FACILITIES										
1. 4" DIP	LF	540.00	\$24.00	\$12,960.00			540.00	\$12,960.00		
2. 6"x4" Tapping Sleeve	EA	1.00	\$900.00	\$900.00			1.00	\$900.00		
3. 4" Gate Valve w/Box	EA	1.00	\$400.00	\$400.00			1.00	\$400.00		
4. Meter Pit w/Fittings	LS	1.00	\$5,000.00	\$5,000.00			1.00	\$5,000.00		
5. 4" DIP Bends	EA	4.00	\$300.00	\$1,200.00			4.00	\$1,200.00		
F. PAVING & CONCRETE										
1. Concrete Curb 6" Reveal	LF	1,840.00	\$12.50	\$23,000.00			1840.00	\$23,000.00		
2. Mountable Curb	LF	80.00	\$12.00	\$960.00			80.00	\$960.00		
3. Sidewalk & Concrete Pads	SF	654.00	\$6.50	\$4,251.00			654.00	\$4,251.00		
4. 8" (2A Mod.) Crushed Stone Base	SY	2,540.00	\$7.00	\$17,780.00			2540.00	\$17,780.00		
5. 1-1/2" Binder Course	SY	2,540.00	\$7.25	\$18,415.00			2540.00	\$18,415.00		
6. Tack Coat	SY	2,540.00	\$0.75	\$1,905.00			2540.00	\$1,905.00		
7. 1" ID2 Wearing Course	SY	2,540.00	\$5.00	\$12,700.00			2540.00	\$12,700.00		
8. Concrete Driveways	SY	1,410.00	\$65.00	\$91,650.00			1410.00	\$91,650.00		
G. LANDSCAPING AND LIGHTING										
1. Canopy/Shade Trees (3-3/5 Cal)	EA	18.00	\$300.00	\$5,400.00			18.00	\$5,400.00		
2. Ornamental Trees (6'-8' Ht)	EA	3.00	\$250.00	\$750.00			3.00	\$750.00		
3. Evergreen Trees (5'6" Ht)	EA	5.00	\$200.00	\$1,000.00			5.00	\$1,000.00		
4. Screen & buffer Shrubs (2.5'-3' Ht)	EA	34.00	\$30.00	\$1,020.00			34.00	\$1,020.00		
5. Parking Area Shrubs (24"-30" Ht)	EA	103.00	\$25.00	\$2,575.00			103.00	\$2,575.00		
6. Privacy Fence	EA	320.00	\$30.00	\$9,600.00			320.00	\$9,600.00		
7. Light Pole and Fixture	LF	15.00	\$1,500.00	\$22,500.00			15.00	\$22,500.00		
H. MISCELLANEOUS										
1. Trash Enclosure	LS	1.00	\$3,500.00	\$3,500.00			1.00	\$3,500.00		
2. Vacuum Station Walls	LF	196.00	\$60.00	\$11,760.00			196.00	\$11,760.00		
3. Construction Stakeout	LS	1.00	\$2,000.00	\$2,000.00			1.00	\$2,000.00		
4. Monuments	EA	9.00	\$150.00	\$1,350.00			9.00	\$1,350.00		
5. Traffic/Informational Signs	EA	8.00	\$150.00	\$1,200.00			8.00	\$1,200.00		
TOTAL PROJECT				\$384,148.00				\$384,148.00		

ATTACHMENT “E”

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 27, PART 22 SIGNS, OF THE WARRINGTON
TOWNSHIP CODE OF ORDINANCES.

Purpose. These standards recognize portable signs as a particular type of sign that has the characteristics of temporary or promotional signs but that have been inappropriately used as a permanent sign. This section is based on the policy that if a use desires to regularly display a sign for regularly changing messages, that it erect a permanent sign within all of the requirements of this chapter.

§2201 Definitions

Replace Section 2201, definition of PORTABLE SIGN, with the following:

PORTABLE SIGN -- Any sign which is self-supporting without being firmly embedded in the ground, or is fixed on a movable stand or mounted on wheels or movable vehicles or made easily movable in some other manner, including, but not limited to, signs converted to A-frames or T-frames; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way.

Revise Section 2201, definition of VEHICULAR SIGN, to read as follows in its entirety.

VEHICULAR SIGN – A type of sign which is affixed and/or painted on a vehicle in such a manner that the display of the sign is the primary use of the vehicle and business use of the vehicle is secondary. Such vehicular signs shall be permitted only as allowed in Chapter 27, Part 22, Section 2212 of the Warrington Township Code of Ordinances as amended from time to time.

Add §2212

§2212 Portable Signs

- A. Standards - A portable sign, including any such sign that may have been displayed prior to the adoption of this subsection and which does not have a lawful permit as a permanent sign, shall only be permitted if it meets all of the following requirements:
1. Shall be permitted only on the lot of a permitted principal commercial use.
 2. Shall have a maximum sign area of 40 square feet on each of a maximum of two sides.
 3. Shall only include one sign per premises.

4. Shall need a sign permit, which shall state the dates during which the sign may be displayed.
5. Shall only be displayed on a lot for one period per year, which shall not exceed 20 days during a running 12-month period. Failure to remove the sign after the 20 days shall constitute a zoning violation.
6. Shall not obstruct safe sight distance to vehicles within or off the lot; shall not be placed within the existing street right-of-way.
7. Shall not include flashing or blinking lights.

ATTACHMENT “F”



RESOLUTION 2013-R- 12

WARRINGTON TOWNSHIP POLICE PENSION PLAN

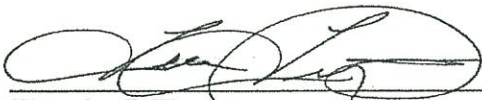
WHEREAS, the Board of Supervisors of Warrington Township adopts the reduced amortization option according to Chapter 6 of Act 205 of 1984 (P.L. 1005, No. 205), as amended by Act 44 of 2009. In calculating the 2013 Minimum Municipal Obligation, Warrington Township elects to utilize the 75% amortization option as allowed by Act 44 of 2009 for Warrington Township Police Pension Plan; and

NOW, THEREFORE, be it, and it is hereby **RESOLVED** that the Board of Supervisors of Warrington Township, Bucks County, Pennsylvania, hereby adopts the reduced amortization for the Plan, effective with the 2013 Minimum Municipal Obligation calculation.

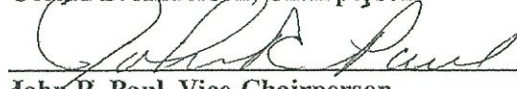
RESOLVED this 12th day of February 2013.

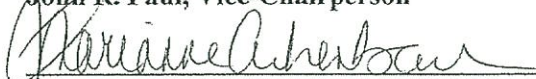
BOARD OF SUPERVISORS OF WARRINGTON TOWNSHIP


ATTEST:

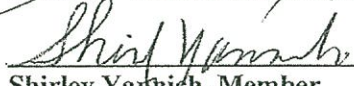

Timothy J. Tieperman
Township Manager


Gerald B. Anderson, Chairperson


John R. Paul, Vice-Chairperson


Marianne Achenbach, Secretary/Treasurer


Matthew W. Hallowell, Sr., Member


Shirley Yanich, Member

ATTACHMENT “G”

Warrington



Township

852 EASTON ROAD, WARRINGTON, PA 18976
215-343-9350 ■ FAX 215-343-5944
www.warringtontownship.org

BOARD OF SUPERVISORS
GERALD B. ANDERSON, Chairperson
JOHN R. PAUL, Vice Chairperson
MARIANNE ACHENBACH, Secretary-Treasurer
MATTHEW W. HALLOWELL, SR., Member
SHIRLEY A. YANNICH, Member

TOWNSHIP MANAGER
TIMOTHY J. TIEPERMAN

February 11, 2013

MEMO TO: BOARD OF SUPERVISORS

FROM:  TIMOTHY J. TIEPERMAN

RE: VICTORY GARDENS STATUS REPORT

Background

On January 7, 2013 the Township issued Victory Gardens a notice of violation for multiple violations of Warrington's Fire Code, based on inspections that occurred on this property after a third fire incident on Thursday, December 20, 2012. This letter was jointly signed by myself and Fire Marshal Joe Pfizenmayer. We gave the company's owner, Mike Butler, thirty (30) days to address six (6) observed violations

Update

On February 6, 2013, Joe Pfizenmayer and Lee Greenberg met with Butler to determine whether he had taken appropriate steps to address these pending violations. Attached is a copy of Mr. Greenberg's report. In summary, he states the following:

1. The facility was overburdened because of the unusually high amount of debris emanating from Hurricane Sandy, much of which came from local neighborhoods;
2. Mr. Butler has shown general progress in bringing the facility into full compliance. He has set reasonable target dates to lower the size of the mulch piles; Greenberg will make periodic inspections to verify continued progress.
3. Victory Gardens will consent to mandatory annual fire inspections and – if necessary – penalties where applicable.
4. Mr. Butler has agreed to negotiate a binding agreement with the Township that will regulate – among other items – height maximums for mulch, fire suppression controls, fueling safeguards and regular inspections. It would also codify the earlier memorandum of understanding regarding hours of operations and public improvements.

As part of this report, I also asked Dick Wieland to verify that the company completed the site improvements along Folly and Pickertown Roads. He did confirm that both access locations were improved up to the standards outlined in their MOU with the Township.

I also consulted with Chief Miller to determine whether there are any pending patrol citations against Victory Gardens on which I should be aware. He stated there were none.

Recommendations

Staff is guardedly optimistic that once the Sandy debris is finally processed and removed, the facility will return to normal operations. Butler's consent to a formal agreement will also give us some additional enforcement maneuverability to prevent the facility from growing beyond its site limitations.

Our recommendation is to give Staff a few weeks to prepare a binding enforcement agreement for the Solicitor's review and in the interim to continue monitoring the site on a weekly basis to verify continued progress in satisfying the January 7, 2013 violations.

Enclosure(s)

xc: William H.R. Casey, Esq.
Richard Wieland, P.E., Township Engineer
Lee Greenberg, Codes

ATTACHMENT “H”



Fox Rothschild LLP
ATTORNEYS AT LAW

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Robert W. Gundlach, Jr.
Direct Dial: (215) 918-3636
Email Address: rgundlach@foxrothschild.com

February 11, 2013

VIA EMAIL: mail@warringtontownship.org

Gerald B. Anderson, Chairman
Board of Supervisors
Warrington Township
852 Easton Road
Warrington, PA 18976

Re: Penrose Walk, Warrington Township

Dear Chairman Anderson:

I am writing to you, in your capacity as Chairman of the Board of Supervisors, to request the support of the Board of Supervisors for an application pending before the Warrington Township Zoning Hearing Board with respect to the above-referenced property.

By way of brief background, this project was granted final subdivision plan approval by the Board of Supervisors back on March 13, 2012, then amended final subdivision plan approval most recently back on November 13, 2012.

As part of the design of the project for this property, it was anticipated that a certain size home would be in demand by the prospective purchasers in this community. Unfortunately, we appear to have "missed the mark" with our projections in that the proposed home buyers are demanding a larger and more expensive home than was anticipated when we designed the project. This demand has resulted in the need to reduce the front yard set back to allow the addition of "morning rooms" on the backs of the homes. Thus, the reason for the recent application to the ZHB.

In our opinion, it is better for us to request this relief now rather than individual homeowners filing the application themselves and having to incur the cost of these hearings. That is, we have filed this application to obtain the relief for all of the prospective homeowners at our cost rather than to make them do it on an individual basis. In addition, we are of the opinion that the relief will not have an adverse impact upon the community; but rather, a positive impact in that the homes will sell for a higher price which helps all of the property values in the area.

A Pennsylvania Limited Liability Partnership

California Connecticut Delaware District of Columbia Florida Nevada New Jersey New York Pennsylvania

Gerald B. Anderson
February 11, 2013
Page 2

I appreciate your consideration of our request to support this application to the Zoning Hearing Board.

If you should need any further information, or would like us to present this information to the full Board tomorrow night, please advise.

Sincerely,

A handwritten signature in black ink, appearing to be 'RW Gundlach, Jr.', written in a cursive style.

Robert W. Gundlach, Jr.

RWG/lat

cc: Timothy J. Tieperman, Township Manager, via email
Joseph Morrissey, NV Homes, via email
Kimberly A. Freimuth, Esquire