

April 15, 2015
Curtis Hall

A regular meeting of the **BOARD OF COMMISSIONERS** was held this evening, President Harvey Portner presiding. Members present were Commissioners Holland, McKeown, Norris, Rappoport, Sharkey and Simon.

Staff present were Charlyn Battle, Human Resources Director; Christopher Clewell, Public Works Superintendent; Alyson Elliott, Assistant Township Manager; Michael Fleming, Public Works Coordinator; Nancy Gibson, Public Information and Complaint Officer; Brian Hinson, Director of Parks and Recreation; Kevin O'Brien, Deputy Chief of Police; Joseph O'Neill, Fire Marshal; Bruce Rangnow, Director of Fiscal Affairs; Henry Sekawungu, Director of Planning and Zoning; and Bryan T. Havir, Township Manager. Also present was Joseph M. Bagley, Esq., Township Solicitor. A Public Attendance List is attached.

1. The meeting commenced at 7:30 p.m. with the Pledge of Allegiance being led by Commissioner Simon.

Mr. Portner announced that prior to the meeting, the Commissioners held an Executive Session to discuss potential litigation and personnel issues.

2. Each member having received a copy of the Commissioners' Regular Meeting dated March 18, 2015, upon motion of Mr. McKeown, the Minutes were unanimously approved by the Board of Commissioners.

3. Each member having received a copy of the Executive Summary Financial Report of the Manager/Secretary for the month of March, 2015, upon motion of Mr. McKeown, the Report was unanimously approved by the Board of Commissioners.

4. Each member having received a copy of the Accounts Paid Report for the month of March, 2015, upon motion of Mr. McKeown, the Report was unanimously approved by the Board of Commissioners.

5. Sgt. Nicholas Viola could not be present to receive recognition for 20-years of service with the Police Department.

6. Review of the Public Works Committee Regular Meeting Minutes dated April 8, 2015:

a. Upon motion of Mr. Sharkey, the Board of Commissioners unanimously awarded contracts for Furnishing Bituminous Materials, F.O.B. Plant as follows:

Glasgow, Inc., Glenside, PA (10% Bid Bond)

Item No. 1 – Approx. 125 Tons Base Course	\$ 43.00/TN	\$ 5,375.00
Item No. 2 – Approx. 250 Tons Wearing Course	\$ 52.00/TN	<u>\$ 13,000.00</u>

\$ 18,375.00

Walter R. Earle, Morrisville, LLC (10% Bid Bond)

Item No. 3 – Approx. 25 Tons FJ-1	\$ 60.00/TN	\$ 1,500.00
Item No. 4 – Approx. 25 Tons Cold Patch	\$ 65.00/TN	<u>\$ 1,625.00</u>
		\$ 3,125.00

Grand Total \$ 21,500.00

(EXCLUDES ALL FEDERAL EXCISE AND STATE SALES TAXES)

being the lowest responsible bidders meeting Township specifications and being within budgetary limitations.

b. Upon motion of Mr. Sharkey, the Board of Commissioners unanimously awarded multiple contracts for Furnishing Equipment at an Hourly Rental Rate to Glasgow, Inc., Glenside, PA, Leary Trucking & Paving, Inc., Ardsley, PA, and Reilly Sweeping, Inc., Fairless Hills, PA, being the lowest responsible bidders meeting Township specifications for the specific equipment and being within budgetary limitations. This contract is on an “as needed” basis.

Glasgow, Inc., Glenside, PA (\$2000 Bid Bond)

<u>ITEM 1 GENERAL EQUIPMENT</u>		<u>TIME/HR.</u>	<u>O.T./HR.</u>	<u>HOL./HR.</u>
20 TON TRUCK CRANE	@	\$ 296.00	\$ 390.00	\$ 484.00
10 TON, 3 C.Y. CRAWLER CRANE	@	\$ 293.00	\$ 387.00	\$ 481.00
20 TON CRAWLER CRANE	@	\$ 293.00	\$ 387.00	\$ 481.00
GRADALL	@	\$ 217.00	\$ 270.00	\$ 324.00
ROAD GRADER (MOTOR PATROL)	@	\$ 164.00	\$ 214.00	\$ 265.00
RUBBER TIRE LOADER 1 1/2 C.Y. BUCKET	@	\$ 163.00	\$ 213.00	\$ 264.00
RUBBER TIRE LOADER 3 C.Y. BUCKET	@	\$ 170.00	\$ 221.00	\$ 272.00
BOBCAT LOADER WITH MILLING ATTACHMENT	@	\$ 172.00	\$ 223.00	\$ 273.00
D7 TRACK DOZER	@	\$ 216.00	\$ 267.00	\$ 318.00
ROADWAY MILLING MACHINE, MAX 18" MILLING WIDTH	@	\$ 172.00	\$ 223.00	\$ 273.00
BACKHOE WITH EXTENDA BOOM	@	\$ 148.00	\$ 199.00	\$ 250.00
EXCAVATOR, 18,000	@	\$ 186.00	\$ 240.00	\$ 294.00
EXCAVATOR, 40,000	@	\$ 186.00	\$ 240.00	\$ 294.00
<u>ITEM 2 SNOW REMOVAL EQUIPMENT</u>		<u>TIME/HR.</u>	<u>O.T./HR.</u>	<u>HOL./HR.</u>
ROAD GRADER, MODEL 12	@	\$ 228.00	\$ 278.00	\$ 329.00
ROAD GRADER, MODEL 14	@	\$ 267.00	\$ 317.00	\$ 368.00
RUBBER TIRE LOADER, # 966	@	\$ 213.00	\$ 264.00	\$ 315.00
RUBBER TIRE LOADER, # 930 B	@	\$ 204.00	\$ 255.00	\$ 306.00
BACKHOE – STANDARD	@	\$ 183.00	\$ 234.00	\$ 285.00

Leary Trucking & Paving, Inc., Ardsley, PA (\$2000 Bank Check)

<u>ITEM 1 GENERAL EQUIPMENT</u>		<u>TIME/HR.</u>	<u>O.T./HR.</u>	<u>HOL./HR.</u>
TRI-AXLE TRUCK	@	\$ 82.00	\$ 82.00	\$ 82.00
BOBCAT LOADER	@	\$ 80.00	\$ 80.00	\$ 80.00
BACKHOE WITH STANDARD BOOM	@	\$ 80.00	\$ 80.00	\$ 80.00

<u>ITEM 2 SNOW REMOVAL EQUIPMENT</u>		<u>TIME/HR.</u>	<u>O.T./HR.</u>	<u>HOL./HR.</u>
TRI-AXLE TRUCK WITH SNOW PLOW	@	\$ 145.00	\$ 145.00	\$ 145.00
PICK-UP TRUCK WITH SNOW PLOW (F-250 OR EQUIVALENT)	@	\$ 100.00	\$ 100.00	\$ 100.00

Reilly Sweeping, Inc., Fairless Hills, PA 19030 (10% Bid Bond)

<u>ITEM 1 GENERAL EQUIPMENT</u>		<u>TIME/HR.</u>	<u>O.T./HR.</u>	<u>HOL./HR.</u>
HIGHWAY STREET SWEEPER	@	\$ 142.00	\$ 162.00	\$ 187.00

(EXCLUDES ALL FEDERAL EXCISE AND STATE SALES TAXES)

being the lowest responsible bidders meeting Township specifications and being within budgetary limitations.

c. Upon motion of Mr. Sharkey, the Board of Commissioners approved a conditional Certificate of Appropriateness for Application L15-133 to the owner of 7450 Sycamore Avenue, La Mott, PA, for the demolition and reconstruction of an existing shed building at the rear of the property and the construction of a new wood deck adjacent to the proposed new shed addition at the rear of the property, contingent upon the following:

- The foundation of the new area must be constructed of stone, or of a similar material and color to match the original aesthetics of the residence.
- The new windows must match the style and color of the existing ones.
- The Township Department of Planning and Zoning would check all available past records for this address to assure it is compliant with current ordinances.
- The new roof color must exactly match what exists.
- Vinyl siding is acceptable at new addition, with the color to match existing conditions.
- New deck and proposed double sliding doors to match adjacent properties.

d. Upon motion of Mr. Sharkey, the Board of Commissioners unanimously approved a conditional Certificate of Appropriateness for Application L15-140, 1814 Beech Avenue, La Mott, PA for a partial demolition of an existing shed at the rear of the property contingent upon the applicant returns to the BHAR with specific plans regarding the renovation and planned use of the remaining accessory structure.

e. Upon motion of Mr. Sharkey, the Board of Commissioners unanimously granted a waiver from the land development requirements for the construction of a drive-thru window at the existing Dunkin Donuts at 81 Cheltenham Avenue, Cheltenham, PA.

f. Upon motion of Mr. Sharkey, the Board of Commissioners unanimously adopted **Resolution No. 13-15** adopting the Sewage Facilities Planning Module for 1347 Cheltenham Avenue, Elkins Park, contingent on the owner amending the application with the owner name, DOK 1347 LLC (see attached).

g. Upon motion of Mr. Sharkey, the Board of Commissioners unanimously accepted the proposal of Mr. Richard W. Orloff, CPA, to provide a sewer valuation study in the fixed amount of \$15,000, with the additional language provided by Mr. Bagley added to the Statement of Understanding.

h. Mr. Simon noted a certain misspelled name and asked that it be corrected.

i. Upon motion of Mr. Sharkey, the Board of Commissioners unanimously received the Public Works Committee Regular Meeting Minutes dated April 8, 2015 as amended.

7. Upon motion of Mr. McKeown, the Parks and Recreation Committee Regular Meeting Minutes dated April 8, 2015, were unanimously received.

8. Review of the Public Safety Committee Regular Meeting Minutes dated April 1, 2015:

a. Upon motion of Mr. Sharkey, the Board of Commissioners unanimously adopted **Ordinance No. 2301-15** amending Chapter 285 of the Traffic Code entitled "Vehicles and Traffic" (see attached).

b. Upon motion of Mr. Sharkey, the Board of Commissioners unanimously received the Public Safety Committee Meeting Minutes dated April 1, 2015.

9. Review of the Public Affairs Committee Regular Meeting Minutes dated April 1, 2015:

a. Upon motion of Mr. McKeown, the Board of Commissioners unanimously approved a Lease Agreement with SEPTA for the use of the interior of the Elkins Park Train Station by the Township (see attached).

b. Upon motion of Mr. McKeown, the Board of Commissioners unanimously approved a Sub-Lease Agreement between the Township and the Cheltenham Center for the Arts for use of the interior of the Elkins Park Train Station (see attached).

Mr. Bagley noted that with Mr. Simon's assistance, certain language changes were made and approved by SEPTA.

c. Upon motion of Mr. McKeown, the Board of Commissioners unanimously received the Public Affairs Committee Regular Meeting Minutes dated April 1, 2015.

10. Review of the Building and Zoning Committee Regular Meeting Minutes dated April 1, 2015:

a. Upon motion of Mr. Simon, the Board of Commissioners unanimously awarded a Professional Services Contract to provide permitting and notification software to Carrigan GEO Services, Inc., 168 West Ridge Pike, Suite 113, Limerick, PA 19468, at a cost of \$52,140.00 with a yearly maintenance fee of \$2,350 for unlimited users, being the most responsible bidder meeting Township specifications and being within budgetary limitations.

b. Ms. Rappoport noted that the minutes were incomplete as they related to certain remarks she made at the meeting and asked that the minutes be amended to add the following (in italics) as it relates to her opinion regarding 333 Bent Road, on page 4: "...the application fails to qualify for the Fair Housing Amendment Act, and *would require fundamental alteration*".

c. Upon motion of Mr. Simon, Board of Commissioners unanimously received the Building and Zoning Committee Regular Meeting Minutes dated April 1, 2015 as amended.

11. Under Old Business:

Announcements by Commissioners:

a. Mr. Sharkey - there will be a Ribbon Cutting Ceremony for the newly renovated Roberts Block building on the outbound side of the train tracks, across from the SEPTA-owned Glenside Train Station in Glenside, on Friday, May 1 and Saturday, May 2, both at 11 a.m.

b. Ms. Rappoport - that the developer of the Roberts Block building has also developed the Commons at Wyncote, 827 Glenside Avenue, and will have a Ribbon Cutting Ceremony for that facility at 11:30 a.m. also on Saturday, May 2, with Open House between 10 a.m. – 2 p.m. The Commons is comprised of several businesses offering varied services.

12. Under New Business:

Announcement by Commissioners:

a. Mr. Sharkey - the Downtown Glenside Art Festival scheduled Saturday, April 25, 2015, 12 noon until 6 pm, along Easton Road in Glenside.

b. Ms. Rappoport - the Tookany-Tacony Frankford Watershed is celebrating its first decade and proposed a Resolution be placed on the May 6, 2015 Public Affairs Committee agenda for recommendation to the Board of Commissioners.

c. Mr. Norris - Saturday, April 25, 2015 is Earth Day, and volunteers and neighbors will be cleaning up Parkview Park. He encouraged everyone to come out and clean up local parks and neighborhoods.

- d. Mr. McKeown - Comcast Cares Day at the American Cancer Society's Hope Lodge on Laurel Avenue is scheduled for Saturday, April 25, 2015, from 10 a.m – 2 p.m.
- e. Mr. Simon - Thanksgiving Day will be celebrated on Thursday, November 26, 2015.
- f. Mr. McKeown - his wedding anniversary will be celebrated on April 25, 2015.
- g. Mr. Portner - There will be Community Meeting to present the final draft plan of the Tookany Creek Flood Reduction Feasibility Study by the U.S. Army Corps of Engineers on Thursday, May 21, 2015, at Glenside Hall, 6 pm – 7 pm Open House; 7 pm – 8 pm Presentation; 8 pm – 8:30 pm Questions and Answers.

There being no further business, upon motion of Mr. Portner, the meeting was adjourned at 8:00 p.m.



Bryan T. Havir
Township Manager

Anna Marie Felix



RESOLUTION FOR PLAN REVISION FOR NEW LAND DEVELOPMENT

RESOLUTION OF THE ~~(SUPERVISORS)~~ (COMMISSIONERS) ~~(COUNCILMEN)~~ of Cheltenham
(TOWNSHIP) ~~(BOROUGH)~~ ~~(CITY)~~, Montgomery COUNTY, PENNSYLVANIA (hereinafter "the municipality").

WHEREAS Section 5 of the Act of January 24, 1966, P.L. 1535, No. 537, known as the "Pennsylvania Sewage Facilities Act", as Amended, and the rules and Regulations of the Pennsylvania Department of Environmental Protection (Department) adopted thereunder, Chapter 71 of Title 25 of the Pennsylvania Code, require the municipality to adopt an Official Sewage Facilities Plan providing for sewage services adequate to prevent contamination of waters of the Commonwealth and/or environmental health hazards from sewage wastes, and to revise said plan whenever it is necessary to determine whether a proposed method of sewage disposal for a new land development conforms to a comprehensive program of pollution control and water quality management, and

WHEREAS DOK 1347 LLC has proposed the development of a parcel of land identified as
land developer

1347 Cheltenham Avenue, and described in the attached Sewage Facilities Planning Module, and
name of subdivision

proposes that such subdivision be served by: (check all that apply), sewer tap-ins, sewer extension, new treatment facility, individual onlot systems, community onlot systems, spray irrigation, retaining tanks, other, (please specify). _____

WHEREAS, Cheltenham township finds that the subdivision described in the attached
municipality

Sewage Facilities Planning Module conforms to applicable sewage related zoning and other sewage related municipal ordinances and plans, and to a comprehensive program of pollution control and water quality management.

NOW, THEREFORE, BE IT RESOLVED that the ~~(Supervisors)~~ (Commissioners) ~~(Councilmen)~~ of the (Township) ~~(Borough)~~ ~~(City)~~ of Cheltenham hereby adopt and submit to the Department of Environmental Protection for its approval as a revision to the "Official Sewage Facilities Plan" of the municipality the above referenced Sewage Facilities Planning Module which is attached hereto.

I [Signature], Secretary, Cheltenham
(Signature) Commissioners

Township Board of ~~Supervisors~~ ~~(Borough Council)~~ ~~(City Councilmen)~~, hereby certify that the foregoing is a true copy of the Township ~~(Borough)~~ ~~(City)~~ Resolution # 13-15, adopted April 15, 2015.

Municipal Address:

Township of Cheltenham
8230 Old York Road
Elkins Park, PA 19027
Telephone (215) 887-1000

Seal of
Governing Body

ORDINANCE NO. 2301-15

AN ORDINANCE TO AMEND THE CODE OF THE TOWNSHIP OF CHELTENHAM, CHAPTER 285 THEREOF, ENTITLED VEHICLES AND TRAFFIC, BY AMENDING CERTAIN STREET AND PARKING REGULATIONS.

The Board of Commissioners of the Township of Cheltenham hereby ordains:

SECTION 1. The Code of the Township of Cheltenham, Chapter 285, Article IV, entitled Schedule of Traffic Regulations, Section 285-43 thereof is hereby amended by **ADDING** the following:

LYCOMING AVENUE

SECTION 2. The Code of the Township of Cheltenham, Chapter 285, Article IV, entitled Schedule of Traffic Regulations, Section 285-43 thereof is hereby amended by **ADDING** the following:

LYCOMING AVENUE (1) STOP STREET at Glenwood Road; at Lenape Avenue

SECTION 3. The Code of the Township of Cheltenham, Chapter 285, Article IV, entitled Schedule of Traffic Regulations, Section 285-43 thereof is hereby amended by **DELETING** the following:

CREST AVENUE (7) HANDICAPPED PARKING, south side, 30 feet east of Oak Avenue to 50 feet east of Oak Avenue. This addition is effective for the duration period that this resident is eligible for a reserved handicapped parking space.

SECTION 4. That in all other respects Chapter 285 of the Code of the Township of Cheltenham is hereby approved and accepted as amended, and shall continue in full force and effect.

SECTION 5. This Ordinance shall take effect and be in force from and after its approval as required by law.

ENACTED into an Ordinance this 15th day of April, 2015.

BOARD OF COMMISSIONERS
TOWNSHIP OF CHELTENHAM

Harvey Portner

By _____
Harvey Portner, President

Bryan T. Havir

ATTEST: _____
Bryan T. Havir, Township Manager

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LEASE AGREEMENT BY AND BETWEEN
SOUTHEASTERN PENNSYLVANIA TRANSPORTATION AUTHORITY
AND TOWNSHIP OF CHELTENHAM

SEPTA REGISTRY NO. _____

THIS LEASE AGREEMENT ("Lease Agreement") is made and entered into on this _____ day of _____, 2015, by and between Southeastern Pennsylvania Transportation Authority ("SEPTA"), a body corporate and politic which exercises the public powers of the Commonwealth of Pennsylvania as an agency and instrumentality thereof with its principal office located at 1234 Market Street, 10th Floor, Philadelphia, Pennsylvania 19107-3780, and the Township of Cheltenham ("Township" or "Lessee"), a municipality that is located within Montgomery County with its principal office located at 8230 Old York Road, Elkins Park, Pennsylvania 19027.

WITNESSETH:

WHEREAS, SEPTA owns certain property located within the Township of Cheltenham, Montgomery County, Pennsylvania; and

WHEREAS, SEPTA operates a commuter railroad on portion of such property within the Township; and

WHEREAS, SEPTA is the owner of a building situated within its property known as Elkins Park Passenger Station ("Station Building"); and

WHEREAS, Lessee requested that SEPTA lease to Lessee a portion of the Station Building, consisting of about 1,200 square feet, ("Premises"); and

WHEREAS, SEPTA and Lessee have agreed to enter into the Lease Agreement for the Premises under the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and intending to be legally bound, the Parties do hereby agree as follows:

ARTICLE I
RECITALS, DEFINITIONS AND ATTACHMENTS

Section 1.1 Recitals.

The recitals above are hereby incorporated into the body of the Lease Agreement.

Section 1.2 Certain Defined Terms.

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For purposes of the Lease Agreement the terms set forth in this section and elsewhere in the Lease Agreement, whenever capitalized in the Lease Agreement, shall have the indicated meanings. When used in the Lease Agreement the singular shall apply to the plural, the plural to the singular and the use of any gender shall apply to all genders.

a. "Additional Rental" means any fee or charge that Lessee owes to SEPTA due to an obligation set forth in the Lease Agreement. Additional Rental does not include Rental.

c. "Initial Term" of the Lease Agreement shall be five years commencing on April 1, 2015 ("Commencement Date") and terminating on March 31, 2020. Lessee, subject to the provisions of Article III hereof, has the right to exercise up to two consecutive five-year options beginning at the end of the Initial Term. (Each five-year optional term is "Optional Term".)

d. "Lease" means the lease created by the Lease Agreement.

e. "Lease Agreement" is identified in the introduction hereof.

f. "Lessee" is identified in the introduction hereof.

g. "Party" means either SEPTA or Lessee.

h. "Permitted Use" means use of the Premises by Lessee and/or sub-lessees and/or licensees for any lawful non-profit purpose including, but not limited to, public meetings and other functions.

i. "Premises" is defined in the recital hereof, is shown in Attachment 1 and is the subject of the Lease Agreement.

j. "Rental" means the one-time payment of one dollar for the Initial Term and one-time payment of one dollar for each Optional Term.

k. "SEPTA" is identified in the introduction hereof.

l. "Station Building" is defined in the recital hereof and a plan of which is shown on Attachment 1. The Station Building includes the interior and exterior thereof including, but not limited to, the canopy, parking lots and apron-platform.

Section 1.3 Attachment.

Below is the identification of the document that is attached to the Lease Agreement. The Parties agree that the document is part of the Lease Agreement.

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Attachment No. 1: Plan of the Premises.

ARTICLE II GRANT OF LEASE

Section 2.1 Grant Of Lease.

SEPTA hereby leases to Lessee and Lessee hereby leases from SEPTA the Premises. Lessee agrees to pay to SEPTA Rental and any additional charges ("Additional Rental").

Lessee additionally agrees that any utility charges based on telephone and data usage are the responsibility of Lessee. Lessee agrees that it shall pay SEPTA \$100 per month for electricity and/or heat/air conditioning, which shall increase to \$125 per month in the first option year (if exercised) and \$150 per month in the second option year (if exercised).

ARTICLE III TERM AND RECAPTURE

Section 3.1 Commencement And Termination Of The Lease Agreement.

The Lease Agreement shall commence on the Commencement Date and shall terminate on the last day of the Initial Term or on the last day of any Optional Term that Lessee exercises under § 3.2 hereof, without the necessity of any notice from either SEPTA or Lessee to terminate same, and Lessee hereby waives notice to vacate or quit the Premises and agrees that SEPTA shall be entitled to the benefit of all provisions of law respecting the summary recovery of possession of the Premises from a tenant holding over to the same extent as if statutory notice had been given. Lessee hereby agrees that if it fails to surrender the Premises at the end of the Initial Term or Optional Term, Lessee will be liable to SEPTA for any and all damages that SEPTA shall suffer by reason thereof, and Lessee will indemnify SEPTA against all claims and demands made by any succeeding tenants against SEPTA founded upon delay by SEPTA in delivering possession of the Premises to such succeeding tenant.

Section 3.2 Option To Extend Term.

Provided Lessee is not at the time of the exercise of its rights under this provision in default under any provision of the Lease Agreement, nor has committed any act or failure to act which, but for the passage of time or the giving of notice would constitute a default under the Lease Agreement, Lessee shall have, and is hereby granted, the right to exercise an Optional Term as set forth in Article I. In order to exercise each Optional Term, Lessee must send written notice to SEPTA at least 90 days, but no more than 180 days, prior to the end of the Initial Term or then-current Optional Term. Said notice is the sole responsibility of Lessee.

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Section 3.3 Termination By Recapture For Transportation Use.

a. SEPTA shall have the absolute right at any time to recapture the Premises or any parts thereof for any transportation purpose. SEPTA, however, shall provide Lessee with at least 180 days' prior written notice of SEPTA's need to recapture the Premises or any part thereof. Notwithstanding the provisions of § 3.1 above, in the event of a notice of recapture of the entire Premises, the Lease Agreement shall terminate on the date provided in such notice, which date shall not be sooner than 180 days from the date of that notice.

b. If SEPTA exercises its right to recapture the Premises or any portion of the Premises, Lessee shall comply with the provisions of the Lease Agreement regarding the condition of the Premises at the end of the Lease as to that part of the Premises to be recaptured.

c. SEPTA shall have no other obligations toward Lessee in the event of such notice of recapture. Notwithstanding this provision or any other provisions of the Lease Agreement, Lessee hereby waives any right to any other reimbursement for the loss or diminution of its leasehold interest in the Premises as a result of such recapture as provided herein, and waives any claim for relocation from the Premises and the expenses of such relocation, as may be provided under any statute or other law.

d. In the event of recapture SEPTA shall reimburse Lessee or sublessee the depreciated value of any improvements that Lessee or sublessee made to the part of the Premises that SEPTA recaptured and that SEPTA expressly approved in writing before Lessee or sublessee made the improvements.

Section 3.4 Early Termination By Lessee.

Lessee may terminate the Lease Agreement and the Lease during the term by giving to SEPTA at least 180 days' prior written notice of the intention to terminate.

ARTICLE IV USE

Section 4.1 Permitted Use.

a. Lessee may use the Premises or any portion thereof for the Permitted Uses. The use of the Premises shall be deemed to have begun when Lessee first takes any action upon the Premises in order to prepare the Premises for such use, such as the introduction of any facility onto or the initiation of any improvement upon the Premises.

b. Lessee may alternatively use the Premises or any portion thereof by way of a sublease or license under such terms and conditions that Lessee in its sole discretion deems acceptable, subject to the approvals of SEPTA set forth under § 4.3 hereinbelow.

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c. Lessee shall allow easement holders and licensees of SEPTA (“SEPTA Occupiers”) including, but not limited to, fiber optic companies to gain access to the Premises upon prior notice to Lessee so that the SEPTA Occupiers can inspect and/or maintain the facilities that the SEPTA Occupiers have on, above, under or near the Premises. Such access to the Premises shall be at times and carried out in a manner that do not unreasonably interfere with the use of the Premises. A SEPTA Occupier shall be responsible to repair properly and promptly any damage to the Premises that its access causes.

Section 4.2 Use By SEPTA.

SEPTA may use the Station Building except the interior of the Station Building area designated as “Premises” at any time without requesting permission from Lessee for such use and without payment of any fee to Lessee for such use.

Section 4.3 Subleases And Licenses.

Lessee shall be permitted to sublease and/or license the Premises or any portion thereof for the Permitted Uses upon the express written approval of SEPTA. Section 4.4 Legality Of Lessee’s Use.

Lessee is exclusively responsible for, and SEPTA bears no responsibility for, determining whether any use of the Premises or any portion thereof permitted under the Lease Agreement is otherwise permissible under federal, state and local laws.

Section 4.5 Approvals For Lessee’s Use.

Lessee is exclusively responsible for obtaining, and SEPTA bears no responsibility for obtaining, necessary permits, zoning and subdivision approvals and all other authorizations necessary for Lessee’s use or uses of the Premises or any portion thereof and for any use by any authorized sublessee or licensee.

Section 4.6 Restriction As To The Right-Of-Way.

Lessee shall use reasonable efforts to discourage and prevent any persons using or accessing the Premises from placing any trash or debris or walking upon or otherwise accessing the Right-of-Way.

ARTICLE V IMPROVEMENTS, MAINTENANCE AND SECURITY

Section 5.1 Lessee Accepts The Premises “As Is.”

Lessee acknowledges that Lessee has examined the Premises and that Lessee accepts the Premises “as is”, based solely upon its own investigation and without

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warranty by SEPTA as to the condition or suitability of the Premises for Lessee or for any use permitted to Lessee.

Section 5.2 Improvements.

Before making other than non-structural or cosmetic improvements and/or repairs to the Premises, Lessee (or sublessee through the Lessee) shall give to SEPTA plans ("Plans") that have adequate detail concerning the proposed improvements and/or repairs. Lessee shall obtain SEPTA's written approval for the Plans, which shall not be unreasonably withheld. Upon the passage of 60 days after submission of Plans or supplemental information to SEPTA without a notice of approval, disapproval or a request for supplemental information, the Plans shall, for purposes of this section (5.2), be deemed to be approved by SEPTA. Improvements of a cosmetic or decorative nature (including, but not limited to, installation of window treatments and painting interior surfaces) shall not require prior approval by SEPTA.

Lessee acknowledges that no improvement or repair that Lessee (or sublessee) shall carry out, construct or install shall result in increased drainage of water upon any other property, including without limitation, any SEPTA-owned property. Lessee shall not install signs upon the Premises nor remove any signs without SEPTA's approval. Lessee may not alter any facilities of SEPTA (whether or not within the Premises) without SEPTA's prior written approval which shall not be unreasonably withheld.

Section 5.3 Rights And Facilities Of Public Utilities.

Lessee covenants and agrees that no improvement and/or repair that Lessee or sublessee makes shall interfere with any surface, underground or overhead rights or facilities of any public utility that has or shall have any facilities located over, under or upon the Premises (except to the extent that such public utility consents to such improvement). Notwithstanding any approval that SEPTA may have provided or may in the future provide to Lessee for any improvement and/or repair, Lessee shall bear the exclusive responsibility to install or subsequently alter the improvement or repair or adjust Lessee's use of the Premises to accommodate any such existing or future rights and facilities of any public utilities, provided, however, that such rights and facilities shall not unreasonably interfere with Lessee's use of the Premises. Lessee shall bear the exclusive responsibility for determining where all such rights and facilities of any public utility are located on the Premises.

Section 5.4 Mechanic's Liens.

No work performed by Lessee or sublessee pursuant to the Lease Agreement upon the Premises, whether in the nature of erection, construction, installation, alteration, repair or maintenance, shall be deemed to be for the immediate use and benefit of SEPTA. To the maximum extent that the law permits no mechanic's or other lien shall

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be allowed against SEPTA or by reason of any consent given by SEPTA to Lessee to improve the Premises.

If any mechanic's or other liens shall at any time be filed against the Premises or any portion of SEPTA property by reason of work, labor, services or materials performed or furnished, or alleged to have been performed or furnished, to Lessee or to anyone holding the Premises through or under Lessee, and regardless of whether any such lien is asserted against the interest of SEPTA or Lessee, Lessee shall forthwith cause the same to be discharged of record, or bonded to the satisfaction of SEPTA. If Lessee shall fail to cause such lien forthwith to be so discharged or bonded after being notified of the filing thereof, then, in addition to any other right or remedy of SEPTA, SEPTA may bond or discharge the same by paying the amount claimed to be due, and the amount so paid by SEPTA, including reasonable attorneys' fees incurred by SEPTA in defending against such lien or in procuring the bonding or discharge of such lien, together with interest thereon at the legal rate, shall be due and payable by Lessee to SEPTA.

Section 5.5 Maintenance.

Lessee shall bear the exclusive responsibility for all non-structural, non-HVAC maintenance of the Premises not maintained by SEPTA, including but not limited to painting, cosmetics, flooring, carpeting, plumbing fixtures and piping, lighting, electrical fixtures and wiring, telephone, data and cable within and exclusively servicing the Premises, doors, and windows including replacement of glass, weatherproofing, railings and banisters. SEPTA agrees to maintain the roof, structure and HVAC of the Premises including plumbing and electrical and telecommunications lines leading to the Premises.

Section 5.6 Security.

Lessee shall bear the exclusive responsibility for the determination of what level of security that Lessee shall provide for the Premises and for any persons whom Lessee allows to access and use the Premises. Lessee is exclusively responsible for posting signs in the Premises that warn about the dangers associated with railroad tracks, utility poles and electric wires. As Lessee deems necessary.

Section 5.7 Obligation Of Lessee At Expiration Or Termination Of Lease.

Lessee at the expiration or termination of the Lease Agreement for any reason shall promptly return the Premises to SEPTA in good order, condition and repair, ordinary wear and tear excepted.

ARTICLE VI RELEASE, INDEMNIFICATION AND WAIVER OF SUBROGATION

Section 6.1 Release.

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a. For Article VI of the Lease Agreement (i) "SEPTA" means SEPTA, its employees, servants, officers, agents, invitees, successors and assigns; and (ii) "Lessee" means Lessee, its employees, servants, officers, agents, invitees, contractors, subcontractors, consultants, sublessees, licensees, invitees, successors and assigns.

b. Except for (i) SEPTA's sole negligence and/or (ii) SEPTA's intentional acts, Lessee intending to be legally bound hereby remises, releases and forever quitclaims and discharges SEPTA from and against any and all claims, losses, demands, damages, suits, liabilities, consequential damages, charges, penalties, fines, settlement payments or expenses (including, but not limited to, the fees and costs of attorneys and other professionals) of any kind or nature whatsoever, whether known or unknown, accrued or unaccrued, or suspected or unsuspected, relating to, in connection with, or arising out of bodily injury, sickness, disease or death, loss of income, loss of property, loss of use of property, or damage to or destruction of property (including, but not limited to, Lessee's property and/or the property of third parties) in the Premises arising from any cause whatsoever. To the maximum extent permitted by law, Lessee agrees to occupy the Premises at Lessee's own risk.

Section 6.2 Indemnification.

a. To the fullest extent permitted by law, Lessee expressly and irrevocably agrees to defend, indemnify and hold harmless SEPTA from and against any and all claims, demands, actions, suits, losses, damages, liabilities, consequential damages, expenses (including, but not limited to, the fees and costs of attorneys and other professionals), judgments, penalties, settlement payments, and/or fines by reason of or in connection with any of the following that may occur during the term of the Lease Agreement, during any period of time prior to the Commencement Date when Lessee may have been given access to or possession of all or any portion of the Premises or after termination of the Lease Agreement:

- i. any occupancy or use by Lessee of the Premises or the performance or the breach of the Lease Agreement occasioned wholly or in part by any act or omission of Lessee;
- ii. any work or act done in, on or about the Premises at the direction or caused by Lessee;
- iii. any negligence or other wrongful act or omission on the part of the Lessee;
- iv. any accident, injury or damage to any person or property occurring in, on or about the Premises due to any negligence or other wrongful act or omission on the part of the Lessee; and

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v. any failure on the part of Lessee to perform or comply with any of the covenants, agreements, terms, provisions, conditions or limitations contained in the Lease Agreement.

The obligation of Lessee to defend, indemnify, and hold harmless SEPTA shall not be limited by any limitation on the amount or type of damages, compensation or benefits payable by or for Lessee under workers' compensation acts, disability benefits acts or other employee benefits acts, or under any other insurance coverage Lessee may obtain.

b. Lessee and its attorney and insurer shall keep SEPTA fully informed of all matters involving, concerning or relating to the defense and indemnification of SEPTA. SEPTA shall have the right to review any and all correspondence, pleadings, or filings prior to any such correspondence, pleading, or filing being submitted. Lessee and its attorney and insurer shall take no factual or legal position that is contrary to SEPTA's position or rights including, but not limited to, the immunities, defenses and limitations on damages that SEPTA enjoys under the Sovereign Immunity Act, 42 Pa.C.S. § 8501 *et seq.*, and other law. In the event that Lessee or its attorney or insurer fails or refuses to defend and indemnify SEPTA or SEPTA reasonably believes that its rights may be adversely affected or prejudiced, SEPTA may select counsel of its own choice and defend against any such claim at Lessee's sole cost and expense.

c. The release and indemnification in §§ 6.1 and 6.2 hereof shall be for those events that may be sustained during the existence of the Lease Agreement and upon or after the termination of the Lease Agreement, as a result, direct or indirect, of Lessee's performance under the Lease Agreement. Lessee's obligations and liabilities under §§ 6.1 and 6.2 hereof shall survive the expiration of the Lease Agreement.

Section 6.3 Waiver Of Subrogation.

To the extent that Lessee may be permitted to do so under its insurance policies, notwithstanding anything to the contrary elsewhere contained in the Lease Agreement, Lessee, intending to be legally bound, hereby waives any and all rights of recovery, claims, actions or causes of action against SEPTA, and Lessee hereby releases SEPTA from any and all liability or responsibility to Lessee or to anyone claiming by, through or under Lessee, by way of subrogation or otherwise, for any loss, injury or damage arising from or out of any claim that (i) would be insured against or under the terms of any property insurance required to be carried under the Lease Agreement or (ii) is insured against or under the terms of any property insurance actually carried by Lessee, regardless of whether such insurance is required hereunder. The foregoing waiver shall apply regardless of the cause or origin of the claim, including, but not limited to, the negligence, in whole or in part, of SEPTA.

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ARTICLE VII INSURANCE

Section 7.1 Insurance.

a. Lessee (or its sublessee) shall provide and maintain at its own cost and expense, the following kinds and amounts of insurance, with minimum limits of liability, until and unless notified by SEPTA, with at least 90 days' advance written notice, that other kinds or amounts of insurance shall thereafter be required.

i. Workers' compensation insurance: as required by applicable laws and shall include employer's liability coverage for \$500,000 per accident/disease.

ii. Commercial general liability insurance: \$2,000,000 combined single limit (bodily injury and property damage per occurrence). Separate railroad protective liability insurance will not be required so long as Lessee's comprehensive general liability insurance policy does not exclude railroad property.

iii. Vehicle liability insurance: \$1,000,000 combined single limit (bodily injury and property damage per occurrence).

Lessee will cause SEPTA to be named as an additional insured on all the general liability coverage insurance policies required under the Lease Agreement. All policies shall require a minimum of 30 days' written notice to SEPTA before cancellation by the insurance company. All insurance companies providing insurance hereunder shall have a rating of not less than a B+ as rated in the most recent edition of *Best Insurance Reports* and shall be in business for at least the past five years. Lessee may fulfill the insurance requirements for itself (but not a sublessee or a contractor) by placing coverage with Delaware Valley Insurance Trust and Delaware Valley Workers Compensation Trust, municipal group self-insurance trusts authorized under Pennsylvania statute, to provide property liability and workers' compensation coverages to municipalities in Pennsylvania.

b. On or before taking possession under the Lease Agreement, Lessee shall provide SEPTA with copies of the insurance documents including declaration sheets and insurance certificates that confirm that the above insurance requirements have been met and that such insurance is in effect. Such documents shall include the date on which each insurance policy shall expire. Thereafter, upon notice from SEPTA, Lessee shall provide a copy of any insurance documents referring to the above, sufficient to confirm that such insurance is currently in effect. Lessee shall notify SEPTA immediately concerning any insurance required that has expired without being renewed or replaced. Lessee's failure to have all such insurance in effect shall be an Event of Default. SEPTA reserves the right to require that the insurance limits set forth herein be reasonably increased from

EXECUTION

time to time.

Section 7.2 Insurance Requirements on Sublessees And Contractors.

Lessee shall require each sublessee and contractor of Lessee or sublessee that performs work upon the Premises to carry and maintain, at no expense to SEPTA, insurance that expressly meets or exceeds the insurance requirements set forth in § 7.1.

ARTICLE VIII TAXES AND ASSESSMENTS

Section 8.1 Taxes And Assessments.

Lessee shall be responsible for the payment of all taxes and assessments imposed by any jurisdiction upon Lessee's use of the Premises. If any taxes or assessments are imposed upon SEPTA property related to Lessee's use or occupation, Lessee shall be responsible for a proportionate share of such taxes or assessments, based upon the area of the Premises to the area of the SEPTA property. The Parties agree that each shall provide immediate written notification to the other in the event that either is notified of any tax or assessment upon the Premises and/or upon SEPTA property and/or upon any use thereof. Notwithstanding Lessee's responsibility to pay all taxes and assessments as provided above in this section, Lessee will pay such taxes and assessments only after receiving SEPTA's concurrence. SEPTA will promptly communicate a response to Lessee concerning such concurrence.

ARTICLE IX ASSIGNMENT

Section 9.1 Assignment By Lessee Is Prohibited.

The rights conferred hereby shall be the privilege of Lessee only. Lessee may not assign or transfer the Lease Agreement or use the Lease Agreement or act thereunder other than for the purpose stated herein without the written consent and approval of SEPTA being first had and obtained. No person or entity shall be deemed an authorized sublessee under the Lease Agreement without the prior written approval by a duly authorized officer or employee of SEPTA.

ARTICLE X NOTICES

Section 10.1 Notices.

All notices, invoices and other communications required under the Lease Agreement shall be in writing and transmitted via certified mail through the United States Postal Service, first class mail, to the addressees listed below.

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If to SEPTA: Director of Real Estate
 Southeastern Pennsylvania Transportation Authority
 1234 Market Street, 10th Floor
 Philadelphia, PA 19107-3780

If to Lessee: Mr. Bryan Havir
 Township Manager
 Cheltenham Township
 8230 Old York Road
 Elkins Park, PA 19027

Lessee shall make each payment due to SEPTA by check made payable to "SEPTA" and shall mail each check with a copy of any corresponding invoice to:

SEPTA
P.O. Box 7780-4044
Philadelphia, PA 19182-4044

ARTICLE XI HAZARDOUS SUBSTANCES

Section 11.1 Hazardous Substances.

a. Lessee has the right to conduct any tests upon the Premises before Lessee begins its use authorized under the Lease Agreement. If Lessee conducts any test prior to Lessee's initial use of the Premises and as a result of such test determines to seek to terminate the Lease Agreement, Lessee by notice to SEPTA may do so without further obligation, provided that Lessee exercises the right to terminate the Lease Agreement under this subsection before taking any other action in order to begin its initial use of the Premises. SEPTA represents that it has no knowledge of the existence of Hazardous Substances at, on, under or in the Premises as of the Commencement Date.

b. Lessee in its use of the Premises shall not use or allow the Premises to be used for the generation, release, storage, use, treatment, removal, disposal or other handling of any Hazardous Substance, without the prior written consent of SEPTA. The term "release" as used within this article shall have the same meaning as is ascribed to it in the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. § 9601 *et seq.*, as amended ("CERCLA"). The term "Hazardous Substance" means (i) any substance defined as a hazardous substance under CERCLA, (ii) petroleum, petroleum products, natural gas, natural gas liquids, liquefied natural gas, and synthetic gas, and (iii) any other substance or material deemed to be hazardous, dangerous, toxic, or a pollutant under any federal, state or local law, code, or regulation.

c. Lessee shall:

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i. give to SEPTA written request for permission and await receipt from SEPTA of express written permission for any activity or operation to be conducted by Lessee at or from the Premises that involves the generation, release, storage, use, treatment, cleanup, removal, transportation and disposal or other handling of any Hazardous Substance (“Lessee’s Hazardous Substance Activity”);

ii. comply, at its own expense, with all federal, state and local laws, codes, ordinances, regulations, permits and licensing conditions governing the generation, release, storage, use, treatment, cleanup, removal, transportation and disposal of any Hazardous Substance, including also any requirements and restriction regarding record keeping, testing, transporting and otherwise managing Hazardous Substances;

iii. at its own expense, promptly contain and remediate any release of Hazardous Substances arising from or related to Lessee’s use of the Premises, any unauthorized use of the Premises or any other activity on the Premises by any third party during the term of the Lease Agreement, or any Hazardous Substances Activity in the Premises and remediate and pay for any resultant damage to property, person and/or the environment;

iv. give prompt notice to SEPTA and to all appropriate regulatory authorities of any release of any Hazardous Substance in or near the Premises or the environment arising from or related to Lessee’s Hazardous Substance Activity, which release is not made pursuant to and in conformance with the terms of any permit or license duly issued by appropriate governmental authorities (and any such notice necessarily including a description of measures taken or proposed to be taken by Lessee in order to contain and remediate the release and any resultant damage to property, persons or the environment);

v. at SEPTA’s request, based on good reason as SEPTA alone shall determine, execute affidavits, representations and the like concerning Lessee’s best knowledge and belief regarding the presence of Hazardous Substances in or upon the Premises;

vi. reimburse to SEPTA upon demand the reasonable cost of any tests for the purpose of ascertaining if there has been any release of Hazardous Substances in or upon the Premises relating to Lessee’s Hazardous Substance Activity, if such tests are required by any governmental agency; and

vii. upon expiration or termination of the Lease Agreement by either Party, including termination resulting from recapture as provided in § 3.3, surrender the Premises (or any portions thereof in the event of a partial recapture) to SEPTA free from the presence and contamination of any Hazardous Substance.

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d. Lessee's responsibilities for any Hazardous Substances that, as a result of Lessee's Hazardous Substance Activity, contaminate the Premises or contaminate other properties or contaminate the environment during the term of the Lease Agreement shall survive the expiration or termination of the Lease Agreement for any reason (including, without limitation, termination as a result of a taking as provided in § 12.1, termination resulting from a recapture as provided in § 3.3 and termination under § 13.1), such responsibilities including, without limitation, all record keeping obligations, and any responsibilities for the proper cleanup, removal, transportation and disposal of Hazardous Substances, and resulting in any way from the disposal of Hazardous Substances. This provision shall not apply, however, if Lessee exercises its right, set forth in § 11.1.a, before beginning its initial use of the Premises.

ARTICLE XII CONDEMNATION

Section 12.1 Effect Of Taking.

If the whole or any portion of the Premises shall be taken under the power of eminent domain, the Lease Agreement at the option of SEPTA shall terminate upon 15 days' notice by SEPTA to Lessee. If any notice of termination is given pursuant to this section, the Lease Agreement and the rights and obligations of the Parties shall cease as of the date of such notice.

Section 12.2. Condemnation Awards.

All compensation awarded for any taking of the Premises or any interest in any of same, shall belong to and be the property of SEPTA, Lessee hereby assigning to SEPTA all rights with respect thereto; provided, however, nothing contained herein shall prevent Lessee from applying for reimbursement from the condemning authority (if permitted by law) for moving expenses, or the expense of removal of Lessee's improvements, but only if such action shall not reduce the amount of the award or other compensation otherwise recoverable from the condemning authority by SEPTA.

ARTICLE XIII DEFAULT

Section 13.1 Event Of Default.

Any one or more of the following events shall constitute an Event of Default:

a. The sale of Lessee's interest in the Premises under attachment, execution or similar legal process, or if Lessee is adjudicated as bankrupt or insolvent under any state bankruptcy or insolvency law or an order for relief is entered against Lessee under the Federal Bankruptcy Code and such adjudication or order is not vacated within 30 days.

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b. The commencement of a case under any chapter of the Federal Bankruptcy Code by or against Lessee, or the filing of a voluntary or involuntary petition proposing the adjudication of Lessee or any such guarantor as bankrupt or insolvent, or the reorganization of Lessee or any such guarantor, or an arrangement by Lessee or any such guarantor with its creditors, unless the petition is filed or case commenced by a party other than Lessee or any such guarantor and is withdrawn or dismissed within 30 days after the date of its filing.

c. The appointment of a receiver or trustee for the business or property of Lessee or any such guarantor, unless such appointment shall be vacated within 10 days of its entry.

d. The failure of Lessee to pay any Rental, Additional Rental or other sum of money within ten days after SEPTA gives written notice to Lessee of said failure unless Lessee is reasonably contesting such payment.

e. Default by Lessee in the performance or observance of any covenant or agreement of the Lease Agreement (other than a default involving the payment of money), which default is not cured within 30 days after the giving of notice (with sufficient detail to describe the default) thereof by SEPTA, unless such default is of such nature that it cannot be cured within such 30 day period, in which case no Event of Default shall occur so long as Lessee shall commence the curing of the default within such 30 day period and shall thereafter diligently prosecute the curing of same; provided, however, if Lessee shall default in the performance of any such covenant or agreement of the Lease Agreement two or more times in any 12-month period, then notwithstanding that each of such defaults shall have been cured by Lessee, any further similar default shall be deemed an Event of Default without the ability for cure.

f. The vacation or abandonment of the Premises for a period in excess of six months by Lessee at any time following delivery of possession of the Premises to Lessee.

g. The occurrence of any other event described as constituting an Event of Default elsewhere in the Lease Agreement, in which case no notice or opportunity to cure shall be required.

h. The finding that Lessee is a distressed municipality or other similar finding or adjudication is made against Lessee.

Section 13.2 Remedies.

Upon the occurrence and during the continuance of an Event of Default that is not cured within a reasonable cure period, SEPTA, with notice to Lessee may terminate the Lease Agreement and take possession of the Premises.

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ARTICLE XIV ANTI-DISCRIMINATION COVENANTS

Section 14.1 Title VI Assurances.

a. Lessee for itself, its successors in interest and assigns, as part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated in or on the Premises for a purpose for which a United States Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49 of the Code of Federal Regulations, Transportation, Subtitle A, Office of the Secretary of Transportation, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended.

b. Lessee for itself, its successors in interest and assigns as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land (1) that no person on the grounds of race, color or national origin shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under the Premises and the furnishing of services thereon, no person on the grounds of race, color or national origin shall be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination, and (3) that Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49 of the Code of Federal Regulations, Transportation, Subtitle A, Office of the Secretary of Transportation, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended.

ARTICLE XV MISCELLANEOUS PROVISIONS

Section 15.1 Governing Law, Forum Selection, And Consent To Jurisdiction.

All matters or claims arising out of, related to, or in connection with the Lease Agreement or the relationship between the Parties shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania without giving effect to the principles of conflicts of laws of such state. All matters, disputes, claims, litigation, or proceedings of any nature whatsoever based upon, arising out of, under or in connection with the Lease Agreement or relationship between the Parties shall be solely and exclusively brought, maintained, resolved, and enforced in the state or federal courts that are located in Pennsylvania. Lessee hereby expressly consents to the jurisdiction of

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the state and federal courts that are located in Pennsylvania. Further, the choice of jurisdiction described above shall be mandatory and not permissive in nature, thereby precluding the possibility by Lessee of litigation or trial in any other jurisdiction, other than specified above, except that any final judgment may be enforced in other jurisdictions in any manner provided by law.

Section 15.2 Recording Of The Lease Agreement Is Prohibited.

Neither the Lease Agreement nor a short form or memorandum thereof shall be recorded in the public records.

Section 15.3 No Joint Venture.

The Parties disclaim any intention to create a joint venture or partnership.

Section 15.4 Third-Party Beneficiaries.

Nothing contained in the Lease Agreement shall be construed so as to confer upon any other party the rights of a third-party beneficiary.

Section 15.5 No Modification.

The Parties intend that this writing, the Lease Agreement, be the final expression of their agreement and as a complete and exclusive statement of the terms thereof, all negotiations, considerations and representations between the Parties having been incorporated herein. No course of prior dealings between the Parties or their officers, employees, agents or affiliates shall be relevant or admissible to supplement, explain or vary any of the terms of the Lease Agreement. Acceptance of, or acquiescence in, a course of performance rendered under this or any prior agreement between the Parties or their affiliates shall not be relevant or admissible to determine the meaning of any of the terms of the Lease Agreement. No representations, understandings or agreements have been made or relied upon in the making of Lease Agreement other than those specifically set forth herein. The Lease Agreement can be modified only by a writing by the Party against whom the modification is enforceable.

Section 15.6 Severability.

If any portion of any term or provision of the Lease Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of the Lease Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of the Lease Agreement shall be valid and be enforced to the fullest extent permitted by law.

EXECUTION

IN WITNESS WHEREOF, the Parties intending to be legally bound hereby have executed the Lease Agreement by their duly authorized officers or representatives as of the date first above written.

**Southeastern Pennsylvania
Transportation Authority, SEPTA**

Township of Cheltenham, Lessee

By: _____
Joseph M. Casey
General Manager

By: _____
Print Name: _____
Title: Chair of the Board of Supervisors

Attest:

Attest:

Print Name: _____
Title: Township Secretary

Seal

Seal

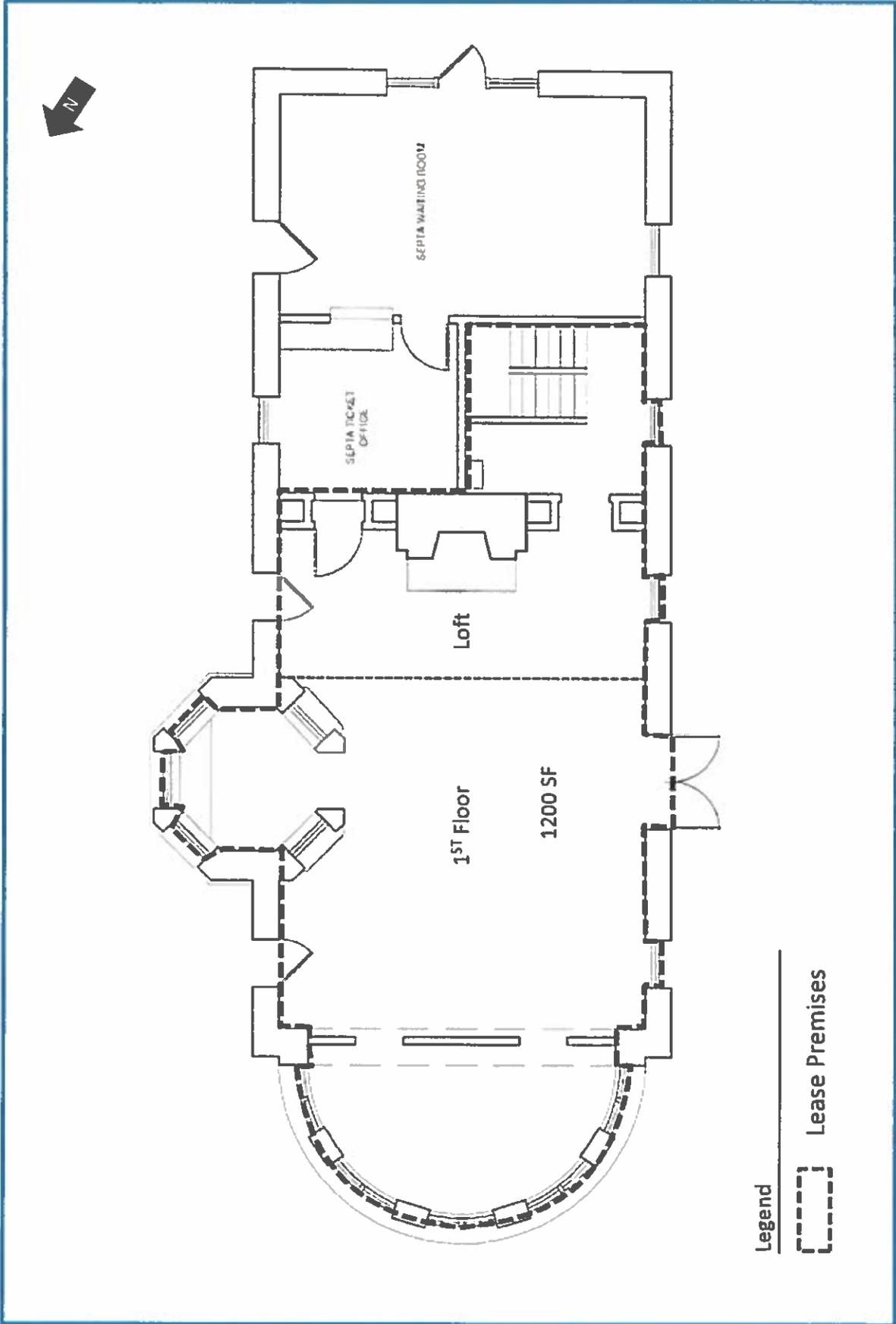
Approved as to form

By: _____
Office of the General Counsel
of SEPTA

EXECUTION

**PLAN OF THE PREMISES
ATTACHMENT NO. 1**

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Elkins Park Railroad Station
Cheltenham Township Lease Premises

SEPTA Real Estate
D. Doler 1/21/2014

Legend
 [Dashed Line] Lease Premises

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LEASE AGREEMENT BY AND BETWEEN
SOUTHEASTERN PENNSYLVANIA TRANSPORTATION AUTHORITY
AND TOWNSHIP OF CHELTENHAM

SEPTA REGISTRY NO. _____

THIS LEASE AGREEMENT (“Lease Agreement”) is made and entered into on this _____ day of _____, 2015, by and between Southeastern Pennsylvania Transportation Authority (“SEPTA”), a body corporate and politic which exercises the public powers of the Commonwealth of Pennsylvania as an agency and instrumentality thereof with its principal office located at 1234 Market Street, 10th Floor, Philadelphia, Pennsylvania 19107-3780, and the Township of Cheltenham (“Township” or “Lessee”), a municipality that is located within Montgomery County with its principal office located at 8230 Old York Road, Elkins Park, Pennsylvania 19027.

WITNESSETH:

WHEREAS, SEPTA owns certain property located within the Township of Cheltenham, Montgomery County, Pennsylvania; and

WHEREAS, SEPTA operates a commuter railroad on portion of such property within the Township; and

WHEREAS, SEPTA is the owner of a building situated within its property known as Elkins Park Passenger Station (“Station Building”); and

WHEREAS, Lessee requested that SEPTA lease to Lessee a portion of the Station Building, consisting of about 1,200 square feet, (“Premises”); and

WHEREAS, SEPTA and Lessee have agreed to enter into the Lease Agreement for the Premises under the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and intending to be legally bound, the Parties do hereby agree as follows:

ARTICLE I
RECITALS, DEFINITIONS AND ATTACHMENTS

Section 1.1 Recitals.

The recitals above are hereby incorporated into the body of the Lease Agreement.

Section 1.2 Certain Defined Terms.

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For purposes of the Lease Agreement the terms set forth in this section and elsewhere in the Lease Agreement, whenever capitalized in the Lease Agreement, shall have the indicated meanings. When used in the Lease Agreement the singular shall apply to the plural, the plural to the singular and the use of any gender shall apply to all genders.

a. "Additional Rental" means any fee or charge that Lessee owes to SEPTA due to an obligation set forth in the Lease Agreement. Additional Rental does not include Rental.

c. "Initial Term" of the Lease Agreement shall be five years commencing on April 1, 2015 ("Commencement Date") and terminating on March 31, 2020. Lessee, subject to the provisions of Article III hereof, has the right to exercise up to two consecutive five-year options beginning at the end of the Initial Term. (Each five-year optional term is "Optional Term".)

d. "Lease" means the lease created by the Lease Agreement.

e. "Lease Agreement" is identified in the introduction hereof.

f. "Lessee" is identified in the introduction hereof.

g. "Party" means either SEPTA or Lessee.

h. "Permitted Use" means use of the Premises by Lessee and/or sub-lessees and/or licensees for any lawful non-profit purpose including, but not limited to, public meetings and other functions.

i. "Premises" is defined in the recital hereof, is shown in Attachment 1 and is the subject of the Lease Agreement.

j. "Rental" means the one-time payment of one dollar for the Initial Term and one-time payment of one dollar for each Optional Term.

k. "SEPTA" is identified in the introduction hereof.

l. "Station Building" is defined in the recital hereof and a plan of which is shown on Attachment 1. The Station Building includes the interior and exterior thereof including, but not limited to, the canopy, parking lots and apron-platform.

Section 1.3 Attachment.

Below is the identification of the document that is attached to the Lease Agreement. The Parties agree that the document is part of the Lease Agreement.

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Attachment No. 1: Plan of the Premises.

ARTICLE II GRANT OF LEASE

Section 2.1 Grant Of Lease.

SEPTA hereby leases to Lessee and Lessee hereby leases from SEPTA the Premises. Lessee agrees to pay to SEPTA Rental and any additional charges ("Additional Rental").

Lessee additionally agrees that any utility charges based on telephone and data usage are the responsibility of Lessee. Lessee agrees that it shall pay SEPTA \$100 per month for electricity and/or heat/air conditioning, which shall increase to \$125 per month in the first option year (if exercised) and \$150 per month in the second option year (if exercised).

ARTICLE III TERM AND RECAPTURE

Section 3.1 Commencement And Termination Of The Lease Agreement.

The Lease Agreement shall commence on the Commencement Date and shall terminate on the last day of the Initial Term or on the last day of any Optional Term that Lessee exercises under § 3.2 hereof, without the necessity of any notice from either SEPTA or Lessee to terminate same, and Lessee hereby waives notice to vacate or quit the Premises and agrees that SEPTA shall be entitled to the benefit of all provisions of law respecting the summary recovery of possession of the Premises from a tenant holding over to the same extent as if statutory notice had been given. Lessee hereby agrees that if it fails to surrender the Premises at the end of the Initial Term or Optional Term, Lessee will be liable to SEPTA for any and all damages that SEPTA shall suffer by reason thereof, and Lessee will indemnify SEPTA against all claims and demands made by any succeeding tenants against SEPTA founded upon delay by SEPTA in delivering possession of the Premises to such succeeding tenant.

Section 3.2 Option To Extend Term.

Provided Lessee is not at the time of the exercise of its rights under this provision in default under any provision of the Lease Agreement, nor has committed any act or failure to act which, but for the passage of time or the giving of notice would constitute a default under the Lease Agreement, Lessee shall have, and is hereby granted, the right to exercise an Optional Term as set forth in Article I. In order to exercise each Optional Term, Lessee must send written notice to SEPTA at least 90 days, but no more than 180 days, prior to the end of the Initial Term or then-current Optional Term. Said notice is the sole responsibility of Lessee.

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Section 3.3 Termination By Recapture For Transportation Use.

a. SEPTA shall have the absolute right at any time to recapture the Premises or any parts thereof for any transportation purpose. SEPTA, however, shall provide Lessee with at least 180 days' prior written notice of SEPTA's need to recapture the Premises or any part thereof. Notwithstanding the provisions of § 3.1 above, in the event of a notice of recapture of the entire Premises, the Lease Agreement shall terminate on the date provided in such notice, which date shall not be sooner than 180 days from the date of that notice.

b. If SEPTA exercises its right to recapture the Premises or any portion of the Premises, Lessee shall comply with the provisions of the Lease Agreement regarding the condition of the Premises at the end of the Lease as to that part of the Premises to be recaptured.

c. SEPTA shall have no other obligations toward Lessee in the event of such notice of recapture. Notwithstanding this provision or any other provisions of the Lease Agreement, Lessee hereby waives any right to any other reimbursement for the loss or diminution of its leasehold interest in the Premises as a result of such recapture as provided herein, and waives any claim for relocation from the Premises and the expenses of such relocation, as may be provided under any statute or other law.

d. In the event of recapture SEPTA shall reimburse Lessee or sublessee the depreciated value of any improvements that Lessee or sublessee made to the part of the Premises that SEPTA recaptured and that SEPTA expressly approved in writing before Lessee or sublessee made the improvements.

Section 3.4 Early Termination By Lessee.

Lessee may terminate the Lease Agreement and the Lease during the term by giving to SEPTA at least 180 days' prior written notice of the intention to terminate.

ARTICLE IV USE

Section 4.1 Permitted Use.

a. Lessee may use the Premises or any portion thereof for the Permitted Uses. The use of the Premises shall be deemed to have begun when Lessee first takes any action upon the Premises in order to prepare the Premises for such use, such as the introduction of any facility onto or the initiation of any improvement upon the Premises.

b. Lessee may alternatively use the Premises or any portion thereof by way of a sublease or license under such terms and conditions that Lessee in its sole discretion deems acceptable, subject to the approvals of SEPTA set forth under § 4.3 hereinbelow.

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c. Lessee shall allow easement holders and licensees of SEPTA (“SEPTA Occupiers”) including, but not limited to, fiber optic companies to gain access to the Premises upon prior notice to Lessee so that the SEPTA Occupiers can inspect and/or maintain the facilities that the SEPTA Occupiers have on, above, under or near the Premises. Such access to the Premises shall be at times and carried out in a manner that do not unreasonably interfere with the use of the Premises. A SEPTA Occupier shall be responsible to repair properly and promptly any damage to the Premises that its access causes.

Section 4.2 Use By SEPTA.

SEPTA may use the Station Building except the interior of the Station Building area designated as “Premises” at any time without requesting permission from Lessee for such use and without payment of any fee to Lessee for such use.

Section 4.3 Subleases And Licenses.

Lessee shall be permitted to sublease and/or license the Premises or any portion thereof for the Permitted Uses upon the express written approval of SEPTA. Section 4.4 Legality Of Lessee’s Use.

Lessee is exclusively responsible for, and SEPTA bears no responsibility for, determining whether any use of the Premises or any portion thereof permitted under the Lease Agreement is otherwise permissible under federal, state and local laws.

Section 4.5 Approvals For Lessee’s Use.

Lessee is exclusively responsible for obtaining, and SEPTA bears no responsibility for obtaining, necessary permits, zoning and subdivision approvals and all other authorizations necessary for Lessee’s use or uses of the Premises or any portion thereof and for any use by any authorized sublessee or licensee.

Section 4.6 Restriction As To The Right-Of-Way.

Lessee shall use reasonable efforts to discourage and prevent any persons using or accessing the Premises from placing any trash or debris or walking upon or otherwise accessing the Right-of-Way.

ARTICLE V IMPROVEMENTS, MAINTENANCE AND SECURITY

Section 5.1 Lessee Accepts The Premises “As Is.”

Lessee acknowledges that Lessee has examined the Premises and that Lessee accepts the Premises “as is”, based solely upon its own investigation and without

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warranty by SEPTA as to the condition or suitability of the Premises for Lessee or for any use permitted to Lessee.

Section 5.2 Improvements.

Before making other than non-structural or cosmetic improvements and/or repairs to the Premises, Lessee (or sublessee through the Lessee) shall give to SEPTA plans ("Plans") that have adequate detail concerning the proposed improvements and/or repairs. Lessee shall obtain SEPTA's written approval for the Plans, which shall not be unreasonably withheld. Upon the passage of 60 days after submission of Plans or supplemental information to SEPTA without a notice of approval, disapproval or a request for supplemental information, the Plans shall, for purposes of this section (5.2), be deemed to be approved by SEPTA. Improvements of a cosmetic or decorative nature (including, but not limited to, installation of window treatments and painting interior surfaces) shall not require prior approval by SEPTA.

Lessee acknowledges that no improvement or repair that Lessee (or sublessee) shall carry out, construct or install shall result in increased drainage of water upon any other property, including without limitation, any SEPTA-owned property. Lessee shall not install signs upon the Premises nor remove any signs without SEPTA's approval. Lessee may not alter any facilities of SEPTA (whether or not within the Premises) without SEPTA's prior written approval which shall not be unreasonably withheld.

Section 5.3 Rights And Facilities Of Public Utilities.

Lessee covenants and agrees that no improvement and/or repair that Lessee or sublessee makes shall interfere with any surface, underground or overhead rights or facilities of any public utility that has or shall have any facilities located over, under or upon the Premises (except to the extent that such public utility consents to such improvement). Notwithstanding any approval that SEPTA may have provided or may in the future provide to Lessee for any improvement and/or repair, Lessee shall bear the exclusive responsibility to install or subsequently alter the improvement or repair or adjust Lessee's use of the Premises to accommodate any such existing or future rights and facilities of any public utilities, provided, however, that such rights and facilities shall not unreasonably interfere with Lessee's use of the Premises. Lessee shall bear the exclusive responsibility for determining where all such rights and facilities of any public utility are located on the Premises.

Section 5.4 Mechanic's Liens.

No work performed by Lessee or sublessee pursuant to the Lease Agreement upon the Premises, whether in the nature of erection, construction, installation, alteration, repair or maintenance, shall be deemed to be for the immediate use and benefit of SEPTA. To the maximum extent that the law permits no mechanic's or other lien shall

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be allowed against SEPTA or by reason of any consent given by SEPTA to Lessee to improve the Premises.

If any mechanic's or other liens shall at any time be filed against the Premises or any portion of SEPTA property by reason of work, labor, services or materials performed or furnished, or alleged to have been performed or furnished, to Lessee or to anyone holding the Premises through or under Lessee, and regardless of whether any such lien is asserted against the interest of SEPTA or Lessee, Lessee shall forthwith cause the same to be discharged of record, or bonded to the satisfaction of SEPTA. If Lessee shall fail to cause such lien forthwith to be so discharged or bonded after being notified of the filing thereof, then, in addition to any other right or remedy of SEPTA, SEPTA may bond or discharge the same by paying the amount claimed to be due, and the amount so paid by SEPTA, including reasonable attorneys' fees incurred by SEPTA in defending against such lien or in procuring the bonding or discharge of such lien, together with interest thereon at the legal rate, shall be due and payable by Lessee to SEPTA.

Section 5.5 Maintenance.

Lessee shall bear the exclusive responsibility for all non-structural, non-HVAC maintenance of the Premises not maintained by SEPTA, including but not limited to painting, cosmetics, flooring, carpeting, plumbing fixtures and piping, lighting, electrical fixtures and wiring, telephone, data and cable within and exclusively servicing the Premises, doors, and windows including replacement of glass, weatherproofing, railings and banisters. SEPTA agrees to maintain the roof, structure and HVAC of the Premises including plumbing and electrical and telecommunications lines leading to the Premises.

Section 5.6 Security.

Lessee shall bear the exclusive responsibility for the determination of what level of security that Lessee shall provide for the Premises and for any persons whom Lessee allows to access and use the Premises. Lessee is exclusively responsible for posting signs in the Premises that warn about the dangers associated with railroad tracks, utility poles and electric wires. As Lessee deems necessary.

Section 5.7 Obligation Of Lessee At Expiration Or Termination Of Lease.

Lessee at the expiration or termination of the Lease Agreement for any reason shall promptly return the Premises to SEPTA in good order, condition and repair, ordinary wear and tear excepted.

ARTICLE VI RELEASE, INDEMNIFICATION AND WAIVER OF SUBROGATION

Section 6.1 Release.

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a. For Article VI of the Lease Agreement (i) "SEPTA" means SEPTA, its employees, servants, officers, agents, invitees, successors and assigns; and (ii) "Lessee" means Lessee, its employees, servants, officers, agents, invitees, contractors, subcontractors, consultants, sublessees, licensees, invitees, successors and assigns.

b. Except for (i) SEPTA's sole negligence and/or (ii) SEPTA's intentional acts, Lessee intending to be legally bound hereby remises, releases and forever quitclaims and discharges SEPTA from and against any and all claims, losses, demands, damages, suits, liabilities, consequential damages, charges, penalties, fines, settlement payments or expenses (including, but not limited to, the fees and costs of attorneys and other professionals) of any kind or nature whatsoever, whether known or unknown, accrued or unaccrued, or suspected or unsuspected, relating to, in connection with, or arising out of bodily injury, sickness, disease or death, loss of income, loss of property, loss of use of property, or damage to or destruction of property (including, but not limited to, Lessee's property and/or the property of third parties) in the Premises arising from any cause whatsoever. To the maximum extent permitted by law, Lessee agrees to occupy the Premises at Lessee's own risk.

Section 6.2 Indemnification.

a. To the fullest extent permitted by law, Lessee expressly and irrevocably agrees to defend, indemnify and hold harmless SEPTA from and against any and all claims, demands, actions, suits, losses, damages, liabilities, consequential damages, expenses (including, but not limited to, the fees and costs of attorneys and other professionals), judgments, penalties, settlement payments, and/or fines by reason of or in connection with any of the following that may occur during the term of the Lease Agreement, during any period of time prior to the Commencement Date when Lessee may have been given access to or possession of all or any portion of the Premises or after termination of the Lease Agreement:

i. any occupancy or use by Lessee of the Premises or the performance or the breach of the Lease Agreement occasioned wholly or in part by any act or omission of Lessee;

ii. any work or act done in, on or about the Premises at the direction or caused by Lessee;

iii. any negligence or other wrongful act or omission on the part of the Lessee;

iv. any accident, injury or damage to any person or property occurring in, on or about the Premises due to any negligence or other wrongful act or omission on the part of the Lessee; and

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v. any failure on the part of Lessee to perform or comply with any of the covenants, agreements, terms, provisions, conditions or limitations contained in the Lease Agreement.

The obligation of Lessee to defend, indemnify, and hold harmless SEPTA shall not be limited by any limitation on the amount or type of damages, compensation or benefits payable by or for Lessee under workers' compensation acts, disability benefits acts or other employee benefits acts, or under any other insurance coverage Lessee may obtain.

b. Lessee and its attorney and insurer shall keep SEPTA fully informed of all matters involving, concerning or relating to the defense and indemnification of SEPTA. SEPTA shall have the right to review any and all correspondence, pleadings, or filings prior to any such correspondence, pleading, or filing being submitted. Lessee and its attorney and insurer shall take no factual or legal position that is contrary to SEPTA's position or rights including, but not limited to, the immunities, defenses and limitations on damages that SEPTA enjoys under the Sovereign Immunity Act, 42 Pa.C.S. § 8501 *et seq.*, and other law. In the event that Lessee or its attorney or insurer fails or refuses to defend and indemnify SEPTA or SEPTA reasonably believes that its rights may be adversely affected or prejudiced, SEPTA may select counsel of its own choice and defend against any such claim at Lessee's sole cost and expense.

c. The release and indemnification in §§ 6.1 and 6.2 hereof shall be for those events that may be sustained during the existence of the Lease Agreement and upon or after the termination of the Lease Agreement, as a result, direct or indirect, of Lessee's performance under the Lease Agreement. Lessee's obligations and liabilities under §§ 6.1 and 6.2 hereof shall survive the expiration of the Lease Agreement.

Section 6.3 Waiver Of Subrogation.

To the extent that Lessee may be permitted to do so under its insurance policies, notwithstanding anything to the contrary elsewhere contained in the Lease Agreement, Lessee, intending to be legally bound, hereby waives any and all rights of recovery, claims, actions or causes of action against SEPTA, and Lessee hereby releases SEPTA from any and all liability or responsibility to Lessee or to anyone claiming by, through or under Lessee, by way of subrogation or otherwise, for any loss, injury or damage arising from or out of any claim that (i) would be insured against or under the terms of any property insurance required to be carried under the Lease Agreement or (ii) is insured against or under the terms of any property insurance actually carried by Lessee, regardless of whether such insurance is required hereunder. The foregoing waiver shall apply regardless of the cause or origin of the claim, including, but not limited to, the negligence, in whole or in part, of SEPTA.

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ARTICLE VII INSURANCE

Section 7.1 Insurance.

a. Lessee (or its sublessee) shall provide and maintain at its own cost and expense, the following kinds and amounts of insurance, with minimum limits of liability, until and unless notified by SEPTA, with at least 90 days' advance written notice, that other kinds or amounts of insurance shall thereafter be required.

i. Workers' compensation insurance: as required by applicable laws and shall include employer's liability coverage for \$500,000 per accident/disease.

ii. Commercial general liability insurance: \$2,000,000 combined single limit (bodily injury and property damage per occurrence). Separate railroad protective liability insurance will not be required so long as Lessee's comprehensive general liability insurance policy does not exclude railroad property.

iii. Vehicle liability insurance: \$1,000,000 combined single limit (bodily injury and property damage per occurrence).

Lessee will cause SEPTA to be named as an additional insured on all the general liability coverage insurance policies required under the Lease Agreement. All policies shall require a minimum of 30 days' written notice to SEPTA before cancellation by the insurance company. All insurance companies providing insurance hereunder shall have a rating of not less than a B+ as rated in the most recent edition of *Best Insurance Reports* and shall be in business for at least the past five years. Lessee may fulfill the insurance requirements for itself (but not a sublessee or a contractor) by placing coverage with Delaware Valley Insurance Trust and Delaware Valley Workers Compensation Trust, municipal group self-insurance trusts authorized under Pennsylvania statute, to provide property liability and workers' compensation coverages to municipalities in Pennsylvania.

b. On or before taking possession under the Lease Agreement, Lessee shall provide SEPTA with copies of the insurance documents including declaration sheets and insurance certificates that confirm that the above insurance requirements have been met and that such insurance is in effect. Such documents shall include the date on which each insurance policy shall expire. Thereafter, upon notice from SEPTA, Lessee shall provide a copy of any insurance documents referring to the above, sufficient to confirm that such insurance is currently in effect. Lessee shall notify SEPTA immediately concerning any insurance required that has expired without being renewed or replaced. Lessee's failure to have all such insurance in effect shall be an Event of Default. SEPTA reserves the right to require that the insurance limits set forth herein be reasonably increased from

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time to time.

Section 7.2 Insurance Requirements on Sublessees And Contractors.

Lessee shall require each sublessee and contractor of Lessee or sublessee that performs work upon the Premises to carry and maintain, at no expense to SEPTA, insurance that expressly meets or exceeds the insurance requirements set forth in § 7.1.

ARTICLE VIII TAXES AND ASSESSMENTS

Section 8.1 Taxes And Assessments.

Lessee shall be responsible for the payment of all taxes and assessments imposed by any jurisdiction upon Lessee's use of the Premises. If any taxes or assessments are imposed upon SEPTA property related to Lessee's use or occupation, Lessee shall be responsible for a proportionate share of such taxes or assessments, based upon the area of the Premises to the area of the SEPTA property. The Parties agree that each shall provide immediate written notification to the other in the event that either is notified of any tax or assessment upon the Premises and/or upon SEPTA property and/or upon any use thereof. Notwithstanding Lessee's responsibility to pay all taxes and assessments as provided above in this section, Lessee will pay such taxes and assessments only after receiving SEPTA's concurrence. SEPTA will promptly communicate a response to Lessee concerning such concurrence.

ARTICLE IX ASSIGNMENT

Section 9.1 Assignment By Lessee Is Prohibited.

The rights conferred hereby shall be the privilege of Lessee only. Lessee may not assign or transfer the Lease Agreement or use the Lease Agreement or act thereunder other than for the purpose stated herein without the written consent and approval of SEPTA being first had and obtained. No person or entity shall be deemed an authorized sublessee under the Lease Agreement without the prior written approval by a duly authorized officer or employee of SEPTA.

ARTICLE X NOTICES

Section 10.1 Notices.

All notices, invoices and other communications required under the Lease Agreement shall be in writing and transmitted via certified mail through the United States Postal Service, first class mail, to the addressees listed below.

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If to SEPTA: Director of Real Estate
Southeastern Pennsylvania Transportation Authority
1234 Market Street, 10th Floor
Philadelphia, PA 19107-3780

If to Lessee: Mr. Bryan Havir
Township Manager
Cheltenham Township
8230 Old York Road
Elkins Park, PA 19027

Lessee shall make each payment due to SEPTA by check made payable to "SEPTA" and shall mail each check with a copy of any corresponding invoice to:

SEPTA
P.O. Box 7780-4044
Philadelphia, PA 19182-4044

ARTICLE XI HAZARDOUS SUBSTANCES

Section 11.1 Hazardous Substances.

a. Lessee has the right to conduct any tests upon the Premises before Lessee begins its use authorized under the Lease Agreement. If Lessee conducts any test prior to Lessee's initial use of the Premises and as a result of such test determines to seek to terminate the Lease Agreement, Lessee by notice to SEPTA may do so without further obligation, provided that Lessee exercises the right to terminate the Lease Agreement under this subsection before taking any other action in order to begin its initial use of the Premises. SEPTA represents that it has no knowledge of the existence of Hazardous Substances at, on, under or in the Premises as of the Commencement Date.

b. Lessee in its use of the Premises shall not use or allow the Premises to be used for the generation, release, storage, use, treatment, removal, disposal or other handling of any Hazardous Substance, without the prior written consent of SEPTA. The term "release" as used within this article shall have the same meaning as is ascribed to it in the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. § 9601 *et seq.*, as amended ("CERCLA"). The term "Hazardous Substance" means (i) any substance defined as a hazardous substance under CERCLA, (ii) petroleum, petroleum products, natural gas, natural gas liquids, liquefied natural gas, and synthetic gas, and (iii) any other substance or material deemed to be hazardous, dangerous, toxic, or a pollutant under any federal, state or local law, code, or regulation.

c. Lessee shall:

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- i. give to SEPTA written request for permission and await receipt from SEPTA of express written permission for any activity or operation to be conducted by Lessee at or from the Premises that involves the generation, release, storage, use, treatment, cleanup, removal, transportation and disposal or other handling of any Hazardous Substance (“Lessee’s Hazardous Substance Activity”);
- ii. comply, at its own expense, with all federal, state and local laws, codes, ordinances, regulations, permits and licensing conditions governing the generation, release, storage, use, treatment, cleanup, removal, transportation and disposal of any Hazardous Substance, including also any requirements and restriction regarding record keeping, testing, transporting and otherwise managing Hazardous Substances;
- iii. at its own expense, promptly contain and remediate any release of Hazardous Substances arising from or related to Lessee’s use of the Premises, any unauthorized use of the Premises or any other activity on the Premises by any third party during the term of the Lease Agreement, or any Hazardous Substances Activity in the Premises and remediate and pay for any resultant damage to property, person and/or the environment;
- iv. give prompt notice to SEPTA and to all appropriate regulatory authorities of any release of any Hazardous Substance in or near the Premises or the environment arising from or related to Lessee’s Hazardous Substance Activity, which release is not made pursuant to and in conformance with the terms of any permit or license duly issued by appropriate governmental authorities (and any such notice necessarily including a description of measures taken or proposed to be taken by Lessee in order to contain and remediate the release and any resultant damage to property, persons or the environment);
- v. at SEPTA’s request, based on good reason as SEPTA alone shall determine, execute affidavits, representations and the like concerning Lessee’s best knowledge and belief regarding the presence of Hazardous Substances in or upon the Premises;
- vi. reimburse to SEPTA upon demand the reasonable cost of any tests for the purpose of ascertaining if there has been any release of Hazardous Substances in or upon the Premises relating to Lessee’s Hazardous Substance Activity, if such tests are required by any governmental agency; and
- vii. upon expiration or termination of the Lease Agreement by either Party, including termination resulting from recapture as provided in § 3.3, surrender the Premises (or any portions thereof in the event of a partial recapture) to SEPTA free from the presence and contamination of any Hazardous Substance.

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d. Lessee's responsibilities for any Hazardous Substances that, as a result of Lessee's Hazardous Substance Activity, contaminate the Premises or contaminate other properties or contaminate the environment during the term of the Lease Agreement shall survive the expiration or termination of the Lease Agreement for any reason (including, without limitation, termination as a result of a taking as provided in § 12.1, termination resulting from a recapture as provided in § 3.3 and termination under § 13.1), such responsibilities including, without limitation, all record keeping obligations, and any responsibilities for the proper cleanup, removal, transportation and disposal of Hazardous Substances, and resulting in any way from the disposal of Hazardous Substances. This provision shall not apply, however, if Lessee exercises its right, set forth in § 11.1.a, before beginning its initial use of the Premises.

ARTICLE XII CONDEMNATION

Section 12.1 Effect Of Taking.

If the whole or any portion of the Premises shall be taken under the power of eminent domain, the Lease Agreement at the option of SEPTA shall terminate upon 15 days' notice by SEPTA to Lessee. If any notice of termination is given pursuant to this section, the Lease Agreement and the rights and obligations of the Parties shall cease as of the date of such notice.

Section 12.2. Condemnation Awards.

All compensation awarded for any taking of the Premises or any interest in any of same, shall belong to and be the property of SEPTA, Lessee hereby assigning to SEPTA all rights with respect thereto; provided, however, nothing contained herein shall prevent Lessee from applying for reimbursement from the condemning authority (if permitted by law) for moving expenses, or the expense of removal of Lessee's improvements, but only if such action shall not reduce the amount of the award or other compensation otherwise recoverable from the condemning authority by SEPTA.

ARTICLE XIII DEFAULT

Section 13.1 Event Of Default.

Any one or more of the following events shall constitute an Event of Default:

a. The sale of Lessee's interest in the Premises under attachment, execution or similar legal process, or if Lessee is adjudicated as bankrupt or insolvent under any state bankruptcy or insolvency law or an order for relief is entered against Lessee under the Federal Bankruptcy Code and such adjudication or order is not vacated within 30 days.

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b. The commencement of a case under any chapter of the Federal Bankruptcy Code by or against Lessee, or the filing of a voluntary or involuntary petition proposing the adjudication of Lessee or any such guarantor as bankrupt or insolvent, or the reorganization of Lessee or any such guarantor, or an arrangement by Lessee or any such guarantor with its creditors, unless the petition is filed or case commenced by a party other than Lessee or any such guarantor and is withdrawn or dismissed within 30 days after the date of its filing.

c. The appointment of a receiver or trustee for the business or property of Lessee or any such guarantor, unless such appointment shall be vacated within 10 days of its entry.

d. The failure of Lessee to pay any Rental, Additional Rental or other sum of money within ten days after SEPTA gives written notice to Lessee of said failure unless Lessee is reasonably contesting such payment.

e. Default by Lessee in the performance or observance of any covenant or agreement of the Lease Agreement (other than a default involving the payment of money), which default is not cured within 30 days after the giving of notice (with sufficient detail to describe the default) thereof by SEPTA, unless such default is of such nature that it cannot be cured within such 30 day period, in which case no Event of Default shall occur so long as Lessee shall commence the curing of the default within such 30 day period and shall thereafter diligently prosecute the curing of same; provided, however, if Lessee shall default in the performance of any such covenant or agreement of the Lease Agreement two or more times in any 12-month period, then notwithstanding that each of such defaults shall have been cured by Lessee, any further similar default shall be deemed an Event of Default without the ability for cure.

f. The vacation or abandonment of the Premises for a period in excess of six months by Lessee at any time following delivery of possession of the Premises to Lessee.

g. The occurrence of any other event described as constituting an Event of Default elsewhere in the Lease Agreement, in which case no notice or opportunity to cure shall be required.

h. The finding that Lessee is a distressed municipality or other similar finding or adjudication is made against Lessee.

Section 13.2 Remedies.

Upon the occurrence and during the continuance of an Event of Default that is not cured within a reasonable cure period, SEPTA, with notice to Lessee may terminate the Lease Agreement and take possession of the Premises.

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ARTICLE XIV ANTI-DISCRIMINATION COVENANTS

Section 14.1 Title VI Assurances.

a. Lessee for itself, its successors in interest and assigns, as part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated in or on the Premises for a purpose for which a United States Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49 of the Code of Federal Regulations, Transportation, Subtitle A, Office of the Secretary of Transportation, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended.

b. Lessee for itself, its successors in interest and assigns as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land (1) that no person on the grounds of race, color or national origin shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under the Premises and the furnishing of services thereon, no person on the grounds of race, color or national origin shall be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination, and (3) that Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49 of the Code of Federal Regulations, Transportation, Subtitle A, Office of the Secretary of Transportation, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended.

ARTICLE XV MISCELLANEOUS PROVISIONS

Section 15.1 Governing Law, Forum Selection, And Consent To Jurisdiction.

All matters or claims arising out of, related to, or in connection with the Lease Agreement or the relationship between the Parties shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania without giving effect to the principles of conflicts of laws of such state. All matters, disputes, claims, litigation, or proceedings of any nature whatsoever based upon, arising out of, under or in connection with the Lease Agreement or relationship between the Parties shall be solely and exclusively brought, maintained, resolved, and enforced in the state or federal courts that are located in Pennsylvania. Lessee hereby expressly consents to the jurisdiction of

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the state and federal courts that are located in Pennsylvania. Further, the choice of jurisdiction described above shall be mandatory and not permissive in nature, thereby precluding the possibility by Lessee of litigation or trial in any other jurisdiction, other than specified above, except that any final judgment may be enforced in other jurisdictions in any manner provided by law.

Section 15.2 Recording Of The Lease Agreement Is Prohibited.

Neither the Lease Agreement nor a short form or memorandum thereof shall be recorded in the public records.

Section 15.3 No Joint Venture.

The Parties disclaim any intention to create a joint venture or partnership.

Section 15.4 Third-Party Beneficiaries.

Nothing contained in the Lease Agreement shall be construed so as to confer upon any other party the rights of a third-party beneficiary.

Section 15.5 No Modification.

The Parties intend that this writing, the Lease Agreement, be the final expression of their agreement and as a complete and exclusive statement of the terms thereof, all negotiations, considerations and representations between the Parties having been incorporated herein. No course of prior dealings between the Parties or their officers, employees, agents or affiliates shall be relevant or admissible to supplement, explain or vary any of the terms of the Lease Agreement. Acceptance of, or acquiescence in, a course of performance rendered under this or any prior agreement between the Parties or their affiliates shall not be relevant or admissible to determine the meaning of any of the terms of the Lease Agreement. No representations, understandings or agreements have been made or relied upon in the making of Lease Agreement other than those specifically set forth herein. The Lease Agreement can be modified only by a writing by the Party against whom the modification is enforceable.

Section 15.6 Severability.

If any portion of any term or provision of the Lease Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of the Lease Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of the Lease Agreement shall be valid and be enforced to the fullest extent permitted by law.

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IN WITNESS WHEREOF, the Parties intending to be legally bound hereby have executed the Lease Agreement by their duly authorized officers or representatives as of the date first above written.

Southeastern Pennsylvania
Transportation Authority, SEPTA

Township of Cheltenham, Lessee

By: _____
Joseph M. Casey
General Manager

By: _____
Print Name: _____
Title: Chair of the Board of Supervisors

Attest:

Attest:

Print Name: _____
Title: Township Secretary

Seal

Seal

Approved as to form

By: _____
Office of the General Counsel
of SEPTA

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PLAN OF THE PREMISES

ATTACHMENT NO. 1

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