

TOWNSHIP OF LOWER MACUNGIE
Lehigh County, Pennsylvania

RESOLUTION NO. 2023-26
(Duly Adopted April 20, 2023)

RESOLUTION AUTHORIZING AN AGREEMENT IN LIEU OF
CONDEMNATION TO ACQUIRE REQUIRED RIGHT-OF-
WAY AND A TEMPORARY GRADING EASEMENT ON THE
PROPERTY LOCATED AT 2396 PA ROUTE 100 IN
CONJUNCTION WITH THE SAUERKRAUT LANE
EXTENSION PROJECT

WHEREAS, consistent with prior plans, approvals and authorizations, and after investigation, inquiry, and analysis, the Board of Commissioners of Lower Macungie Township (“Township”) determined that it was in the interest of the traveling public, and a benefit for the present and future use of the Township’s citizens, to widen State Route 100 and construct an extension of Sauerkraut Lane in the Township (collectively the “Sauerkraut Lane Extension”); and

WHEREAS, in conjunction with the Sauerkraut Lane Extension, certain portions of the property located at 2396 PA Route 100, Alburtis, Lower Macungie Township, Pennsylvania 18011, being Lehigh County tax parcel identification number 546482206419-1 (the “Property”), owned by Charles Miller, Jr. (“Miller”), are needed for required right-of-way and a temporary grading easement (the “Property Interests”); and

WHEREAS, the Township has the power to condemn the Property Interests pursuant to the Pennsylvania First Class Township Code (53 P.S. § 56901, et seq.) and Eminent Domain Code (26 Pa.C.S. § 101, et seq.), but in lieu of such a condemnation, the Township negotiated an agreement with Miller for the conveyance of the Property Interests in exchange for certain compensation as an amicable resolution of any and all damages arising from the Property Interests granted by Miller to the Township; and

WHEREAS, the agreement between the Township and Miller is set forth in the document attached hereto as Exhibit “1” and incorporated herein by reference as if set forth at length (the “Miller Agreement”); and

WHEREAS, the Deed of Dedication of the required right-of-way is appended to the Miller Agreement at Appendix “1” and the temporary grading easement is appended to the Miller Agreement at Appendix “2,” both of which are incorporated herein by reference as if set forth at length; and

WHEREAS, the Property Interests are necessary for the completion of the Sauerkraut Lane Extension project; and

WHEREAS, the compensation to be paid under the Miller Agreement is being funded through certain prior development agreements, settlements, escrows and reimbursements to the Township as part of the Sauerkraut Lane Extension project; and


WHEREAS, the Township desires to authorize the Township Manager to execute the Miller Agreement and to accept the dedication of the required right-of-way as set forth in the Deed of Dedication found in Exhibit "1," Appendix "1."

NOW, THEREFORE, BE IT ADOPTED AND RESOLVED that the Board of Commissioners of Lower Macungie Township hereby resolves as follows:

1. The foregoing recitals are incorporated herein by reference.
2. The Township Manager is hereby authorized on behalf to the Township to execute the Miller Agreement attached hereto as Exhibit "1."
3. The Township of Lower Macungie hereby accepts the offer of dedication set forth in the Deed of Dedication found at Exhibit "1," Appendix "1" hereto.
4. The Township Solicitor and Township Manager are authorized and directed to take all such action as may be necessary and appropriate to implement this Resolution and the Miller Agreement, including making any necessary payments thereunder.
5. All resolutions or parts thereof inconsistent herewith are hereby repealed to the extent of any such inconsistency.
6. This Resolution shall become effective immediately upon adoption.

DULY ADOPTED this 20th day of April 2023, by the Board of Commissioners of Lower Macungie Township, in lawful session duly assembled.

LOWER MACUNGIE TOWNSHIP
BOARD OF COMMISSIONERS



Brian P. Higgins, President

Attest:



Renea Flexer, Secretary

EXHIBIT “1”

RIGHT-OF-WAY AND EASEMENT COMPENSATION AGREEMENT

This Right-of-Way and Easement Compensation Agreement (“Agreement”) is made and entered into by Charles Miller, Jr., his representatives, heirs and assigns (“Miller”), and Lower Macungie Township (“Township”) (Miller and Township may be referred to herein as a “Party” or collectively as the “Parties”).

WHEREAS, Miller is the record owner the property located at 2396 PA Route 100, Alburtis, Lower Macungie Township, Pennsylvania 18011, being Lehigh County tax parcel identification number 546482206419-1; and

WHEREAS, the Township is currently involved in a roadway project that will result in the extension of Sauerkraut Lane and the related widening of PA Route 100 within the Township (collectively the “Project”), and

WHEREAS, as part of the Project, the Township must acquire certain right-of way and a temporary grading easement on the Property (the “Property Interests”); and

WHEREAS, the Township has the power to condemn the Property Interests pursuant to the Pennsylvania First Class Township Code (53 P.S. § 56901, *et seq.*) and Eminent Domain Code (26 Pa.C.S. § 101, *et seq.*); and

WHEREAS, in lieu of such a condemnation, the Parties have negotiated an agreement by which Miller will dedicate the Property Interests to the Township and in exchange the Township will provide Miller certain compensation and benefits for the Property as an amicable resolution of any and all damages arising from the Property Interests granted by Miller to the Township; and

NOW THEREFORE, for and in consideration of the covenants, agreements, promises, releases and payments referenced and provided for herein, the receipt and sufficiency of which are hereby acknowledged by the Parties, and with the intent to be legally bound hereby, the Parties agree to the following:

1. **Recitals.** The preceding recitals are incorporated herein by reference and made a part of this Agreement as if set forth in full.
2. **Miller Deliverables.** Miller shall deliver to the Township Solicitor, High Swartz LLP, the following:
 - a. A copy of this Agreement signed by Miller; and
 - b. The original executed and notarized Deed of Dedication of right-of-way attached hereto at Appendix “1;” and
 - c. The original executed Temporary Grading Easement attached hereto at Appendix “2;” and

- d. The Approval for Impacts to Access of Neighboring Property Owners letter required by the Pennsylvania Department of Transportation attached hereto at Appendix “3;” and
 - e. A completed IRS Form W9 from Miller.
3. **Township Deliverables.** The Township shall provide to Miller the following, which shall be collectively referred to herein as the “Compensation:”
- a. A fully signed copy of this Agreement once executed on behalf of the Township.
 - b. Connection of the Property to the public sewer system at the Township’s sole cost and expense, within one (1) year of the completion of the Project.
 - c. A total payment of Eighty-Three Thousand Nine Hundred Dollars and Zero Cents (\$84,000.00), broken down and explained as follows:
 - i. A payment of Nine Thousand Nine Hundred Dollars and Zero Cents (\$9,900.00) for the fair market value of the Property Interests; and
 - ii. A payment of Four Thousand Dollars and Zero Cents (\$4,000.00) as full and final reimbursement for Miller’s appraisal, engineering, and legal fees pursuant to Section 710 the Eminent Domain Code and the invoices previously provided to the Township; and
 - iii. A payment of Thirteen Thousand Five Hundred Thirty-Five Dollars and Zero Cents (\$13,550.00) for the cost to cap the existing water well on the Property and to drill a new water well on the Property, per the estimate previously provided by Miller to the Township for said work; and
 - iv. A payment of Eight Thousand Five Hundred Dollars and Zero Cents (\$8,500.00) as full and final reimbursement for Miller’s other costs and damages incidental to acquiring the Property Interests, pursuant to the Eminent Domain Code and the invoices previously provided to the Township; and
 - v. A payment of Twenty-Three Thousand Dollars and Zero Cents (\$23,000.00) for the cost to purchase and install a sound barrier fence along the frontage of the Property on Route 100, per the estimate previously provided by Miller to the Township; and
 - vi. A payment of Twenty-Five Thousand Dollars and Zero Cents (\$25,050.00) for sound barrier windows and an entry door on the side of the Property fronting on Route 100, per the estimate previously provided by Miller to the Township; and

- vii. The total payment set forth herein will be made by check made payable to “Charles Miller, Jr.” and delivered to Miller’s attorney, William W. Matz, Jr., Esquire, 211 W. Broad Street, Bethlehem, PA 18018, within sixty (60) days of the Effective Date of this Agreement.
- viii. Upon delivery of the total payment required herein, the Township shall have no further obligation for any payments to contractors, suppliers, consultants or any other person or entity hired by Miller to supply materials or perform any of the work referenced herein, and Miller shall be responsible for all such payments to all persons and entities for the above referenced items.

4. **General Release.** In exchange for the consideration set forth herein, Miller fully releases and forever discharges the Township and its current and former commissioners, employees, consultants, engineers, contractors, insurers, appraisers, attorneys, agents, representatives, and assigns from any and all claims for compensation, property damage, lost profits, lost business opportunity, diminished property value, loss of use, delay damages, consequential damages, appraisal fees, attorney’s fees, engineering fees, interest and all other compensation, damages and liability of every kind, which Miller had, has, or may have now or in the future, whether asserted or unasserted, known or unknown, arising out of or relating to the Project, the Property Interests, and the Compensation.

5. **Indemnification.** Miller represents and warrants that Miller holds free and clear title to the Property Interests, and has not conveyed, assigned, encumbered, or otherwise disposed of the Property Interests prior to this Agreement. Miller shall be obligated to clear any liens or other encumbrances that prevent the conveyance of the Property Interests prior to receiving the Compensation set forth in this Agreement. Further, Miller shall indemnify, defend and hold harmless the Township from and against any claims, causes of action, and liability of any kind asserted against the Township by any mortgagees, lien holders, lessees, contractors and any other parties, in regard to the Property Interests and the Compensation, including but not limited to all reasonable attorney’s fees and defense costs incurred by the Township in defending against any such claims.

6. **Effective Date.** This Agreement shall be considered accepted by Miller upon delivery to the Township Solicitor, High Swartz LLP, of all the items required in paragraph 2 above. However, the “Effective Date” of this Agreement shall be the date on which the Township Board of Commissioners approves the Agreement and authorizes its execution on behalf of the Township at a public meeting of the Board, which shall occur at the next available public meeting of the Board after the date on which Miller delivers all of the items set forth in paragraph 2 above to the Township Solicitor.

7. **Compromise.** The Parties acknowledge that this Agreement is entered into as a compromise to resolve disputed issues and that nothing stated herein shall constitute or be considered an admission of liability by any of the Parties.

8. **Severability.** If any provision of this Agreement is deemed unenforceable by any court or tribunal having jurisdiction over the enforcement of the Agreement, then the remainder of this Agreement shall remain in full force and effect to the fullest extent practicable and allowable by law.

9. **Modifications.** No modification of this Agreement shall be valid and enforceable unless in writing and signed by Miller and the Township.

10. **Choice of Law.** This Agreement shall be construed and enforced under the laws of the Commonwealth of Pennsylvania.

11. **Entire Agreement.** This Agreement constitutes the entire agreement between Miller and the Township, and supersedes all prior negotiations and discussions regarding the subject matter of this Agreement, which are merged herein.

12. **Execution in Counterparts.** This Agreement may be signed in counterparts and the counterparts shall together constitute one complete document. An electronic, photocopied, scanned or facsimiled signature on this Agreement shall be deemed an original signature for purposes of enforcement.

13. **Full and Fair Review.** The Parties acknowledge that each has read and fully understands this Agreement, that each has had a full and fair opportunity to consult with counsel regarding this Agreement, that each has executed this Agreement freely and without coercion by any other Party, and that each Party representative has the authority to execute this Agreement on behalf of that Party. While the Township Solicitor has undertaken the initial draft of this Agreement, such draft has been submitted to Miller's attorney for full review, comment and revision as deemed necessary. As such, this Agreement shall not be construed against its drafters, but shall be construed as if prepared jointly on behalf of all of the Parties hereto. Any uncertainty or ambiguity should not be interpreted against any Party identified in this Agreement.

IN WITNESS WHEREOF, Miller and the Township have hereunto set their respective, duly authorized hands:

CHARLES MILLER, JR.:

Charles Miller, Jr.

Date: _____

LOWER MACUNGIE TOWNSHIP:

By: _____
Bruce Beitel
Township Manager

Date: _____

APPENDIX 1

PREPARED BY:

Zator Law
American Heritage Building
4400 Walbert Avenue at Ridgeview Drive
Allentown, PA 18104
Phone: 610.432.1900; Fax: 610.432.1707

RETURN TO:

Zator Law
American Heritage Building
4400 Walbert Avenue at Ridgeview Drive
Allentown, PA 18104
Phone: 610.432.1900; Fax: 610.432.1707

Address: 2396 PA Route 100, Alburtis, Lehigh County, PA, 18011

PARCEL ID NO: P/O 546482206419 1

DEED OF DEDICATION

THIS INDENTURE made this ____ day of _____, 2023, by and between CHARLES J. MILLER, JR., individually, with an address of 2396 PA Route 100, Alburtis, Pennsylvania 18011 (“Grantor”)

A N D

the TOWNSHIP OF LOWER MACUNGIE, a Township of the First Class organized and existing under and pursuant to the Laws of the Commonwealth of Pennsylvania and constituting a political subdivision of the Commonwealth of Pennsylvania and County of Lehigh, with a business office located at 3400 Brookside Road, Macungie, Pennsylvania 18062 (“Grantee”).

THIS IS A CONVEYANCE TO A PUBLIC ENTITY FOR A PUBLIC USE AS A ROADWAY AND IS THEREFORE EXEMPT FROM PENNSYLVANIA REALTY TRANSFER TAXES.

WITNESSETH, that the said Grantor, for and in consideration of the sum of One Dollar and 00/100 cents (\$1.00) lawful money of the United States of America, unto it well and truly paid by the said Grantee, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, encoffed, released, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, enfeoff, release, convey and confirm, unto the said Grantee, its successors and assigns forever,

ALL THAT CERTAIN PARCEL of land as more fully described in metes and bounds, courses and distances engineering descriptions set forth on Exhibit "A" attached hereto and as depicted on the engineering drawing marked Exhibit "B" attached hereto and made a part hereof being known as road right-of-way for Route 100, Township of Lower Macungie, County of Lehigh, Commonwealth of Pennsylvania.

TAX PARCEL NO: Part of 546482206419 1

UNDER AND SUBJECT TO AND TOGETHER WITH THE BENEFIT OF, any easements, restrictions, agreements, conditions, covenants, exceptions, reservations, plan notes, rights-of-way and encumbrances visible on the ground or of record and all documents of record affecting the subject premises; provided, however, that this provision shall not be construed as an acknowledgment of the validity of any such easements, restrictions, agreements, conditions, covenants, exceptions, reservations, plan notes, rights-of-way and documents of record, an extension thereof, or a renewal thereof in the event that they or any one of them, do not affect the premises hereby conveyed or have expired or become unenforceable by their own terms or by limitation, violation, or for any other reason.

TOGETHER with all and singular the lot, improvements, ways, waters, water-courses, rights, liberties, privileges, hereditaments and appurtenances whatsoever thereunto belonging or in anywise appertaining, and the reversions and remainders, rents, issues, and profits thereof; and all the estate, right, title, interest, property, claim and demand whatsoever of the said Grantor, in law, equity or otherwise, howsoever, in and to the same and every part thereof.

TO HAVE AND TO HOLD, the said lot(s) or piece(s) of ground above-described unto the said Grantee, to and of the only proper use and behoof of the said Grantee, its successors and assigns, forever, and as and for a public street or highway, or as a portion of said public street or highway of the Grantee, and for all other public purposes, including utility lines and conveyance of stormwater, and said street shall become part of those streets already owned and opened by the Commonwealth of Pennsylvania and/or of the Township of Lower Macungie, Lehigh County, Pennsylvania.

THE GRANTOR, its successors or assigns, by these presents covenant, promise and agree to and with the Grantee, its successors and assigns, that neither the Grantor nor its successors or assigns, shall nor will at any time hereafter, ask, demand, recover or receive of or from the Grantee, its successors and assigns, any sum or sums of money as and for damages for or by reason of the physical grading of said street to the grade as now established by the Board of Commissioners of Lower Macungie Township, Lehigh County, Pennsylvania, or the Commonwealth of Pennsylvania Department of Transportation, and if such grade shall not be established at the day of the date of these presents that neither the Grantor, nor its successors or assigns, shall nor will at any time thereafter ask, demand, recover or receive any such damage by reason of the physical grading of said street to conform to the grade as first thereafter established or confirmed by the said Township of Lower Macungie, Lehigh County, Pennsylvania.

THE GRANTOR shall and will specially warrant and forever defend.

IN WITNESS WHEREOF, said Grantor has hereunto set his hand and seal the day and year first above written.

WITNESS:

GRANTOR:

CHARLES J. MILLER, JR.

COMMONWEALTH OF PENNSYLVANIA

:

: SS.

COUNTY OF

:

On this, the ____ day of _____, 2023, before me, a Notary Public, the undersigned officer, personally appeared Charles J. Miller, Jr., known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and that he signed the foregoing instrument for the purpose therein contained.

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

Notary Public

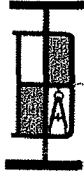
My Commission Expires:

I hereby certify that the precise address of the Grantee herein is:

3400 Brookside Road
Macungie, PA 18062-1427

On behalf of Grantee

EXHIBIT “A”



BARRY ISETT & ASSOCIATES, INC.
Consulting Engineers & Surveyors

www.barryisett.com

85 South Route 100
Allentown, PA 18106

610 • 398 • 0904
(FAX: 610 • 481 • 9098)

October 14, 2019
Revised April 28, 2021
BIA #1025918.000

LAND DESCRIPTION

Charles J. Miller, Jr. – Required Right-of-Way for Route 100

ALL THAT CERTAIN tract of land situate on the westerly side of Route 100 (S.R. 100), located in Lower Macungie Township, Lehigh County, Pennsylvania, being known as the Required Right-of-Way for Route 100 through the lands of Charles J. Miller, Jr. to be deeded to the Commonwealth of Pennsylvania, as shown on and described in accordance with the attached Exhibit for Right-of-Way Claim Information, prepared by Barry Isett & Associates, Inc., as follows:

COMMENCING at the southeasterly corner of the lands of Charles J. Miller, Jr., said corner also being the northeasterly corner of the adjoining lands of Rudolph A. Geisler; thence along the southerly property line of the lands of Charles J. Miller, Jr., North 29 degrees 49 minutes 05 seconds East, 195.67 feet to the POINT OF BEGINNING of the lands to be described; thence through the lands of Charles J. Miller, Jr., the following five courses and distances:

- (1) North 07 degrees 25 minutes 50 seconds East, 23.64 feet;
- (2) Along a circular curve to the left, having a radius of 57.00 feet and a central angle of 19 degrees 35 minutes 12 seconds, the arc length of 19.49 feet (chord bearing of North 02 degrees 21 minutes 46 seconds West, 19.39 feet);
- (3) North 85 degrees 24 minutes 17 seconds East, 12.42 feet;
- (4) Along a circular curve to the left, having a radius of 69.33 feet and a central angle of 47 degrees 54 minutes 24 seconds, the arc length of 57.97 feet (chord bearing of North 34 degrees 45 minutes 32 seconds West, 56.29 feet);
- (5) North 58 degrees 42 minutes 44 seconds West, 78.50 feet;

thence along the northerly property line of the lands of Charles J. Miller, Jr. and in and along the Quarry Road cartway, not necessarily the centerline thereof, North 35 degrees 04 minutes 05 seconds East, 32.80 feet; thence along the easterly property line of lands of Charles J. Miller, Jr. and in and along the Route 100 cartway, not necessarily the centerline thereof, South 58 degrees 25 minutes 55 seconds East, 135.46 feet; thence along the aforesaid southerly property line of the lands of Charles J. Miller, Jr., South 29 degrees 49 minutes 05 seconds West, 100.00 feet to the POINT OF BEGINNING.

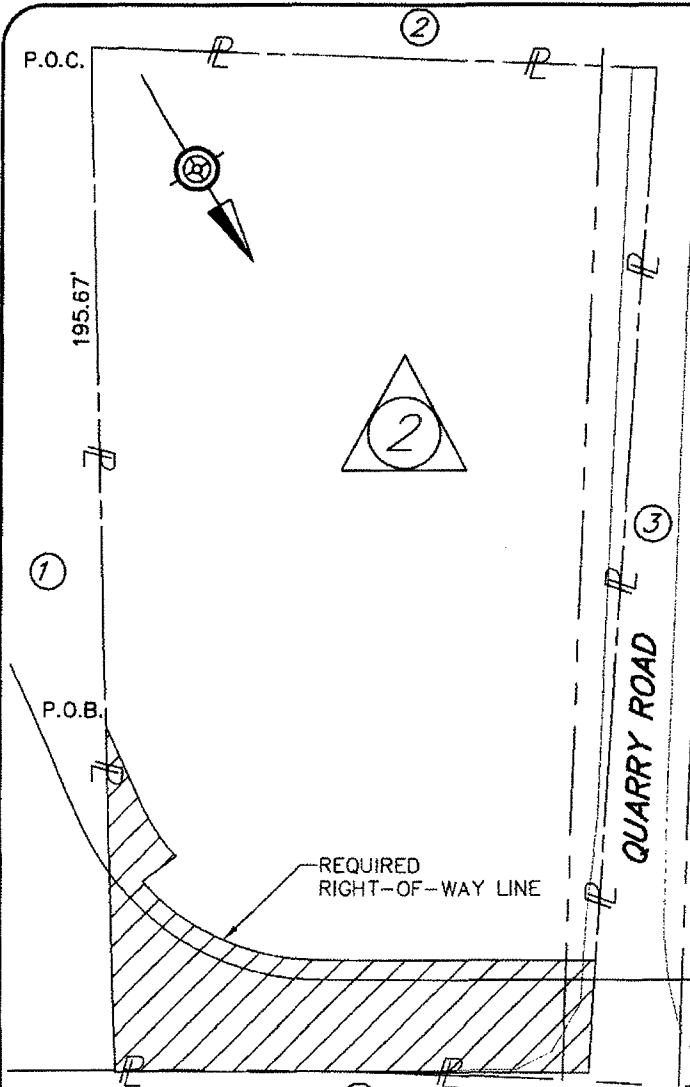
CONTAINING: 5,419 Square Feet or 0.1244 Acres.

BEING A PORTION of that tract, which Wilmer F. Moyer, by deed dated July 30, 1986, and recorded in Deed Book 1377, Page 991, granted to Charles J. Miller, Jr.

SUBJECT TO any and all easements of record.

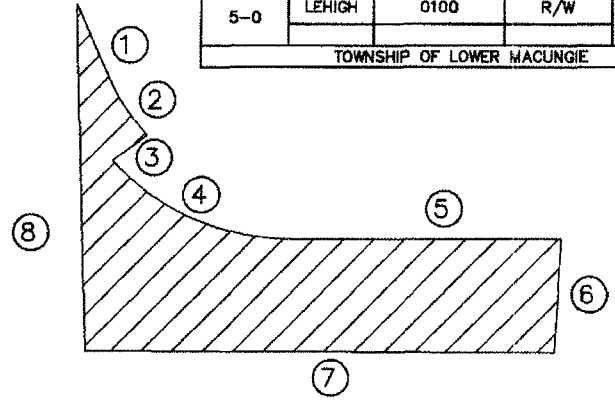
EXHIBIT “B”

DISTRICT	COUNTY	ROUTE	SECTION	SHEET
5-0	LEHIGH	0100	R/W	1 OF 1
TOWNSHIP OF LOWER MACUNGIE				



PROPERTY LINES SHOWN ARE FROM A FIELD SURVEY FROM MARCH 2018.

- ① N 29°49'05"E 295.67'
- ② S 56°32'55"E 162.33'
- ③ S 35°04'05"W 290.74'
- ④ N 58°25'55"W 135.46'

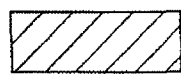


- ① N 07°25'50"E 23.64'
- ② Δ=19°35'12" R=57.00'
L=19.49' T=9.84'
CHD.BRG. N 02°21'46"W
CHD.DIST.=19.39'
- ③ N 85°24'17"E 12.42'
- ④ Δ=47°54'24" R=69.33'
L=57.97' T=30.74'
CHD.BRG. N 34°45'32"W
CHD.DIST.=56.29'
- ⑤ N 58°42'44"W 78.50'
- ⑥ N 35°04'05"E 32.80'
- ⑦ S 58°25'55"E 135.46'
- ⑧ S 29°49'05"W 100.00'

EXISTING RIGHT-OF-WAY

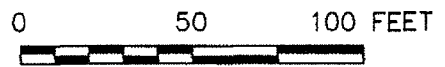
PROPOSED E.O.P.

EXISTING E.O.P.

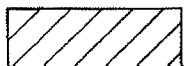


REQUIRED RIGHT-OF-WAY
AREA = 0.1244 ACRES OR 5419 SQUARE FEET

SCALE



S.R. 100 (ROUTE 100)



REQUIRED RIGHT-OF-WAY

RIGHT-OF-WAY CLAIM INFORMATION			
COMMONWEALTH OF PENNSYLVANIA-DEPARTMENT OF TRANSPORTATION			
STATE RTE.	0100	SEC NO.	R/W
TOWNSHIP OF LOWER MACUNGIE,		LEHIGH COUNTY	
PARCEL NO.	2	SHEET NO.	-
PROPERTY OWNER(S)	CHARLES J. MILLER JR.		
GRANTOR(S)	WILMER E. MOYER		
INSTRUMENT NO.	--	DEED	ACRES
DEED BOOK	1377	CALCULATED	1.0050
PAGE	991	ADVERSES	--
DATE OF DEED	7/30/1986	LEGAL R/W	--
DATE OF RECORD	8/1/1986	EFFECTIVE	1.0050
CONSIDERATION	1.00	TOTAL REQ'D AREA	0.1244
TAX STAMPS	440.00	TOTAL RESIDUE	0.8806
		RESIDUE LT	0.8806
		RESIDUE RT	--
REQ'D AREA	ACRES	REQUIRED RIGHT-OF-WAY	ACRES
	0.1244		0.1244
GRADING EASEMENT	0.0163		
VERIFICATION DATE	4/08/21	DRAWN BY	EJY
SCALE	AS NOTED		

APPENDIX 2

TEMPORARY GRADING EASEMENT

THIS TEMPORARY GRADING EASEMENT (“**Easement**”) is made this ____ day of _____, 2023, by and between **CHARLES J. MILLER, JR.**, having an address of 2396 PA Route 100, Macungie, PA 18062 (“**Grantor**”) and **JAINDL LAND COMPANY**, a Pennsylvania corporation, located at 3150 Coffeetown Road, Orefield, PA 18069 (“**Grantee**”).

BACKGROUND

WHEREAS, Grantor is the owner in fee simple of a certain parcel of land situated in Lower Macungie Township, Lehigh County, Pennsylvania, having an address of 2396 PA Route 100, Macungie, PA 18062, as described in a Deed recorded in the Lehigh County Recorder of Deeds Office (“**Recorder’s Office**”) at Deed Book 1377, Page 991 (“**Premises**”), also identified as Tax Parcel ID Number 546482206419 1; and

WHEREAS, Grantee will need to perform grading work on the Premises to slope and regrade the earth to tie into the new roadway elevation of Route 100 and the local road network in the vicinity of the Premises (“**Grading**”); and

WHEREAS, to perform the Grading, Grantee requires and Grantor desires to provide an easement in, on, over, under, and through a portion of the Premises as more fully set forth on the drawing attached hereto as Exhibit “A” and is further described in metes and bounds, courses and distances engineering description set forth on Exhibit “B” attached hereto and incorporated herein (“**Easement Area**”).

WITNESSETH:

NOW, THEREFORE, in consideration of the covenants and agreements contained herein, as well as other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, incorporating the foregoing Background as a material part hereof and intending to be legally bound hereby, Grantor and Grantee hereby agree as follows:

1. **Grant of Easement.** Grantor does hereby grant, bargain and sell unto Grantee, its successors and assigns, a non-exclusive easement and right of way on, over, across, under and through the Easement Area for the installation, use, maintenance, repair, and replacement of the Grading. Grantee shall not otherwise change the grade, slope or contour of the Premises.

2. **Term of Easement.** This Easement shall expire automatically upon the completion of the Grading, approval of the Grading by the applicable governmental entities, and expiration of any applicable governmental maintenance periods for the Grading, but in no event later than three (3) years from the date of this Easement.

3. **Responsibilities of Grantee.**

a. Grantee agrees to restore any disturbed areas to the identical condition, or as near as is practicable, as existed prior to the disturbance, including without limitation leveling and placement of topsoil, seed, and mulch. The work provided for in this paragraph shall occur following completion of Grantee's work within the Premises, including the Easement Area.

b. Grantee shall comply with all statutes, regulations, ordinances, and other laws which are applicable to activities by or on behalf of Grantee and its invitees and licensees within the Easement Area. Grantee, its successors and assigns, shall be solely responsible for the use of the Easement for access and for all activities by or on behalf of Grantee, its successors and assigns, and their invitees and licensees within the Easement Area.

4. **Miscellaneous.**

a. This Easement shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns, and shall not be altered, modified, amended, or terminated except by the express written consent of all parties hereto.

b. This Easement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania without regard to conflict of laws principles. Jurisdiction and venue for any dispute in any way relating to the matters which are the expressly subject of this Easement shall be exclusively in the Court of Common Pleas of Lehigh County, Pennsylvania, and the parties agree to and shall use that forum in the event of litigation. This Easement has been entered into in Lehigh County, Pennsylvania.

c. This Easement has been prepared by and through the joint efforts of the parties and it shall not therefore be interpreted or applied more strictly against one party than the other or more favorably to one party than the other. The captions preceding the paragraphs are intended only as a matter of convenience and for reference and in no way define, limit, or describe the scope or intent of the provisions of this Easement.

d. This Easement contains the entire understanding between the parties and supersedes any prior understandings and agreements between them regarding the subject matter herein.

e. Grantee acknowledges and agrees that it is using the Easement Area in its "as is" physical condition. Grantor expressly disclaims and makes no representations or warranties, whether expressed or implied, to Grantee with respect to the Easement Area.

IN WITNESS WHEREOF, each party hereto, being authorized to do so and intending to be legally bound hereby, has duly executed and entered into this Easement on the date first set forth above.

WITNESS:

GRANTOR:

Charles J. Miller, Jr.

WITNESS/ATTEST:

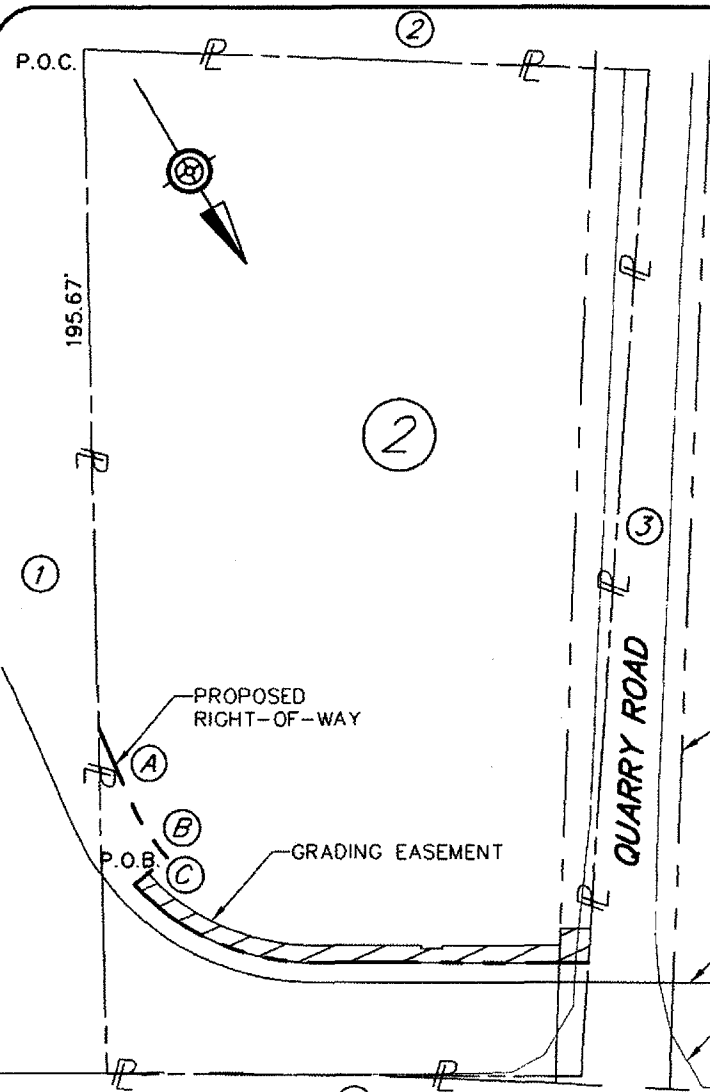
GRANTEE:
JAINDL LAND COMPANY,
a Pennsylvania corporation

By: _____
David M. Jandl, President

EXHIBIT “A”

DISTRICT	COUNTY	ROUTE	SECTION	SHEET
5-0	LEHIGH	0100	R/W	1 OF 1
TOWNSHIP OF LOWER MACUNGIE				

PROPERTY LINES SHOWN ARE FROM A FIELD SURVEY FROM MARCH 2018.



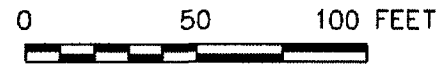
- ① N 29°49'05"E 295.67'
- ② S 56°32'55"E 162.33'
- ③ S 35°04'05"W 290.74'
- ④ N 58°25'55"W 135.46'
- ④ N 07°25'50"E 23.64'
- ⑤ Δ=19°35'12" R=57.00'
L=19.49' T=9.34'
CHD.BRG. N 02°21'46"W
CHD.DIST.=19.39'
- ⑥ N 85°24'17"E 7.39'

- ① Δ=47°25'18" R=64.33'
L=53.24' T=28.25'
CHD.BRG. N 35°00'05"W
CHD.DIST.=51.74'
- ② N 58°42'44"W 30.23'
- ③ N 29°34'00"E 1.00'
- ④ N 60°23'20"W 6.00'
- ⑤ S 29°36'40"W 0.93'
- ⑥ N 58°42'44"W 34.03'
- ⑦ S 33°28'13"W 4.94'
- ⑧ N 58°42'44"W 8.71'
- ⑨ N 35°04'05"E 9.96'
- ⑩ S 58°42'44"E 78.50'
- ⑪ Δ=47°54'24" R=69.33'
L=57.97' T=30.80'
CHD.BRG. S 34°45'32"E
CHD.DIST.=56.29'
- ⑫ S 85°24'17"W 5.03'

REQUIRED GRADING EASEMENT
AREA = 0.0162 ACRES OR 707 SQUARE FEET



SCALE



S.R. 100 (ROUTE 100)



REQUIRED GRADING EASEMENT

ROUTE 100 REQUIRED GRADING EASEMENT			
COMMONWEALTH OF PENNSYLVANIA-DEPARTMENT OF TRANSPORTATION			
STATE RTE. 0100 SEC NO. R/W TOWNSHIP OF LOWER MACUNGIE, LEHIGH COUNTY			
PARCEL NO. 2 SHEET NO. CLAIM NO. --			
PROPERTY OWNER(S) CHARLES J. MILLER JR.			
GRANTOR(S) WILMER F. MOYER			
INSTRUMENT NO. --	AREAS	ACRES	REQ'D AREA ACRES
DEED BOOK 1377	DEED	1.0050	REQUIRED
PAGE 991	CALCULATED	--	RIGHT-OF-WAY 0.1244
DATE OF DEED 7/30/1986	ADVERSES	--	GRADING EASEMENT 0.0163
DATE OF RECORD 8/1/1986	LEGAL R/W	--	
CONSIDERATION 1.00	EFFECTIVE	1.0050	
TAX STAMPS 440.00	TOTAL REQ'D AREA	0.1244	
	TOTAL RESIDUE	0.8806	
	RESIDUE LT	0.8806	
	RESIDUE RT	--	
			VERIFICATION DATE 4/08/21
			DRAWN BY E.J.Y.
			SCALE AS NOTED

EXHIBIT “B”



BARRY ISETT & ASSOCIATES, INC.

Consulting Engineers & Surveyors

www.barryisett.com

85 South Route 100
Allentown, PA 18106

610 • 398 • 0904

(FAX: 610 • 481 • 9098)

October 14, 2019

Revised July 2, 2020

BIA #1025918.000

LAND DESCRIPTION

Charles J. Miller, Jr. – Route 100 Required Grading Easement

ALL THAT CERTAIN tract of land situate on the westerly side of Route 100 (S.R. 100), located in Lower Macungie Township, Lehigh County, Pennsylvania, being known as the Route 100 Required Grading Easement, through the lands of Charles J. Miller, Jr. to be deeded to the Commonwealth of Pennsylvania, as shown on and described in accordance with the attached Route 100 Required Grading Easement, prepared by Barry Isett & Associates, Inc., as follows:

COMMENCING at the southeasterly corner of the lands of Charles J. Miller, Jr., said corner also being the northeasterly corner of the adjoining lands of Rudolph A. Geisler; thence along the southerly property line of the lands of Charles J. Miller, Jr., North 29 degrees 49 minutes 05 seconds East, 195.67 feet; thence through the lands of Charles J. Miller, Jr. and along the required right-of-way line of Route 100 (S.R. 100), the following three courses and distances:

- (1) North 07 degrees 25 minutes 50 seconds East, 23.64 feet;
- (2) Along a circular curve to the left, having a radius of 57.00 feet and a central angle of 19 degrees 35 minutes 12 seconds, the arc length of 19.49 feet (chord bearing of North 02 degrees 21 minutes 46 seconds West, 19.39 feet);
- (3) North 85 degrees 24 minutes 17 seconds East, 7.39 feet to the POINT OF BEGINNING of the lands to be described; thence continuing through said lands of Charles J. Miller, Jr., the following seven (7) courses and distances:

- (1) Along a circular curve to the left, having a radius of 64.33 feet and a central angle of 47 degrees 25 minutes 18 seconds, the arc length of 53.24 feet (chord bearing of North 35 degrees 00 minutes 05 seconds West, 51.74 feet);
 - (2) North 58 degrees 42 minutes 44 seconds West, 30.23 feet;
 - (3) North 29 degrees 34 minutes 00 seconds East, 1.00 feet;
 - (4) North 60 degrees 23 minutes 20 seconds West, 6.00 feet;
 - (5) South 29 degrees 36 minutes 40 seconds West, 0.93 feet;
 - (6) North 58 degrees 42 minutes 44 seconds West, 34.03 feet;
 - (7) South 33 degrees 28 minutes 13 seconds West, 4.94 feet;
- thence continuing through said lands of Charles J. Miller, Jr. and partly crossing a portion of the cartway of Quarry Road, North 58 degrees 42 minutes 44 seconds West, 8.71 feet; thence along the northerly property line of the lands of Charles J. Miller, Jr. and in and along the cartway of Quarry Road, not necessarily the centerline thereof, North 35 degrees 04 minutes 05 seconds East, 9.96 feet; thence in and through the aforesaid lands of Charles J. Miller, Jr. and in and along the required right-of-way of Route 100 (S.R. 100), the following three courses and distances:

- (1) South 58 degrees 42 minutes 44 seconds East, 78.50 feet;
- (2) Along a circular curve to the right, having a radius of 69.33 feet and a central angle of 47 degrees 54 minutes 24 seconds, the arc length of 57.97 feet (chord bearing of South

34 degrees 45 minutes 32 seconds East, 56.29 feet);
(3) South 85 degrees 24 minutes 17 seconds West, 5.03 feet to the POINT OF BEGINNING.

CONTAINING: 707 Square Feet or 0.0162 Acres.

BEING A PORTION of that tract, which Wilmer F. Moyer, by deed dated July 30, 1986, and recorded in Deed Book 1377, Page 991, granted to Charles J. Miller, Jr.

SUBJECT TO any and all easements of record.

APPENDIX 3

Mr. Charles J. Miller
7500 Quarry Road
Alburtis, PA 18011-9540

Lower Macungie Township
3400 Brookside Road
Macungie, PA 18062

RE: Approval for Impacts to Access of Neighboring Property Owners
Highway Occupancy Permit (HOP) Application No. 160857
Lower Macungie Township, Lehigh County
SR 0100 Segments 0090-0100 Offset 0006-0790

To whom it may concern:

I have reviewed the proposed improvements along my property frontage associated with the Route 100 and Sauerkraut Lane Improvements. I am aware than an auxiliary lane and/or other features under the HOP will be installed along my property frontage.

I am also aware that the proposed improvements located along my property frontage may restrict where a future access may be located and/or may restrict certain turning movements at a future access.

With that, I approve the proposed improvements, including the auxiliary lane, along my property frontage as shown on your plans titled Highway Occupancy Permit for Lower Macungie Township (Local Road Permit HOP Application #160857) last revised May 6, 2021.

Sincerely,

Mr. Charles J. Miller