

**COUNTY OF LEHIGH, PENNSYLVANIA
COMMISSIONERS BILL 2015-40
SPONSORED BY COMMISSIONER HOLT
REQUESTED DATE: DECEMBER 2, 2015
ORDINANCE NO. 2015-**

**AUTHORIZING THE NEGOTIATION AND APPROVAL OF A GRANT
OF TEMPORARY CONSTRUCTION EASEMENT WITH GRIST MILL
DEVELOPMENT COMPANY, LLC PURSUANT TO HOME
RULE CHARTER SECTION 310(a)6**

WHEREAS, Grist Mill Development Company, LLC ("Grist Mill") desires to acquire a temporary construction easement of varying width from Lehigh County (the "County") in, on, over, under, above and through 1,647.48 square feet being part of that certain parcel which the County owns in fee situate in the Township of Whitehall, Lehigh County, Pennsylvania for the purpose of constructing, maintaining, operating, renewing, altering, inspecting, repairing, adding to, replacing or removing any improvements therein as occasion may require. A copy of the Plan depicting the 1,647.48 square foot easement area is attached hereto as Exhibit "A" and made a part hereof; and

WHEREAS, Grist Mill will pay the County One Dollar (\$1.00) for granting a temporary construction easement for the purpose of constructing, maintaining, operating, renewing, altering, inspecting, repairing, adding to, replacing or removing any improvements therein as occasion may require; and

WHEREAS, a Grant of Temporary Construction Easement is necessary and required to complete the transaction. A copy of the proposed Temporary Construction Easement is attached hereto as Exhibit "B" and made a part hereof; and

WHEREAS, Section 310(a)(6) of the Home Rule Charter of the County of Lehigh, Pennsylvania, provides that the conveyance of any County property shall require Ordinance approval.

NOW, THEREFORE, IT IS HEREBY ENACTED AND ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF LEHIGH, PENNSYLVANIA, THAT:

1. The above purpose clauses are incorporated herein by reference.
2. The proper officers and other personnel of Lehigh County are hereby authorized and empowered to negotiate and execute the Temporary Construction Easement Grant and any other ancillary documents that serve the purpose of this Ordinance in final recordable form, if applicable, and take all such further action, including any necessary transfers of funds, as they may deem appropriate to carry out the purpose of this Ordinance.
3. The County Executive shall distribute copies of this Ordinance to the proper officers and other personnel of Lehigh County whose further action is required to achieve the purpose of this Ordinance.
4. Any Ordinance or part of any Ordinance conflicting with the provisions of this Ordinance is hereby repealed insofar as the same affects this Ordinance.
5. This Ordinance shall become effective in ten (10) days after enactment.

ADOPTED BY THE LEHIGH COUNTY BOARD OF COMMISSIONERS

on this _____ day of _____, 2015, by the following vote:

Commissioners

AYE

NAY

Geoff Brace
Thomas C. Creighton, III
Percy H. Dougherty
Amanda Holt
David S. Jones, Sr.
Vic Mazziotti
Brad Osborne
Lisa Scheller
Michael P. Schware

ATTEST: _____
Clerk to the Board of Commissioners

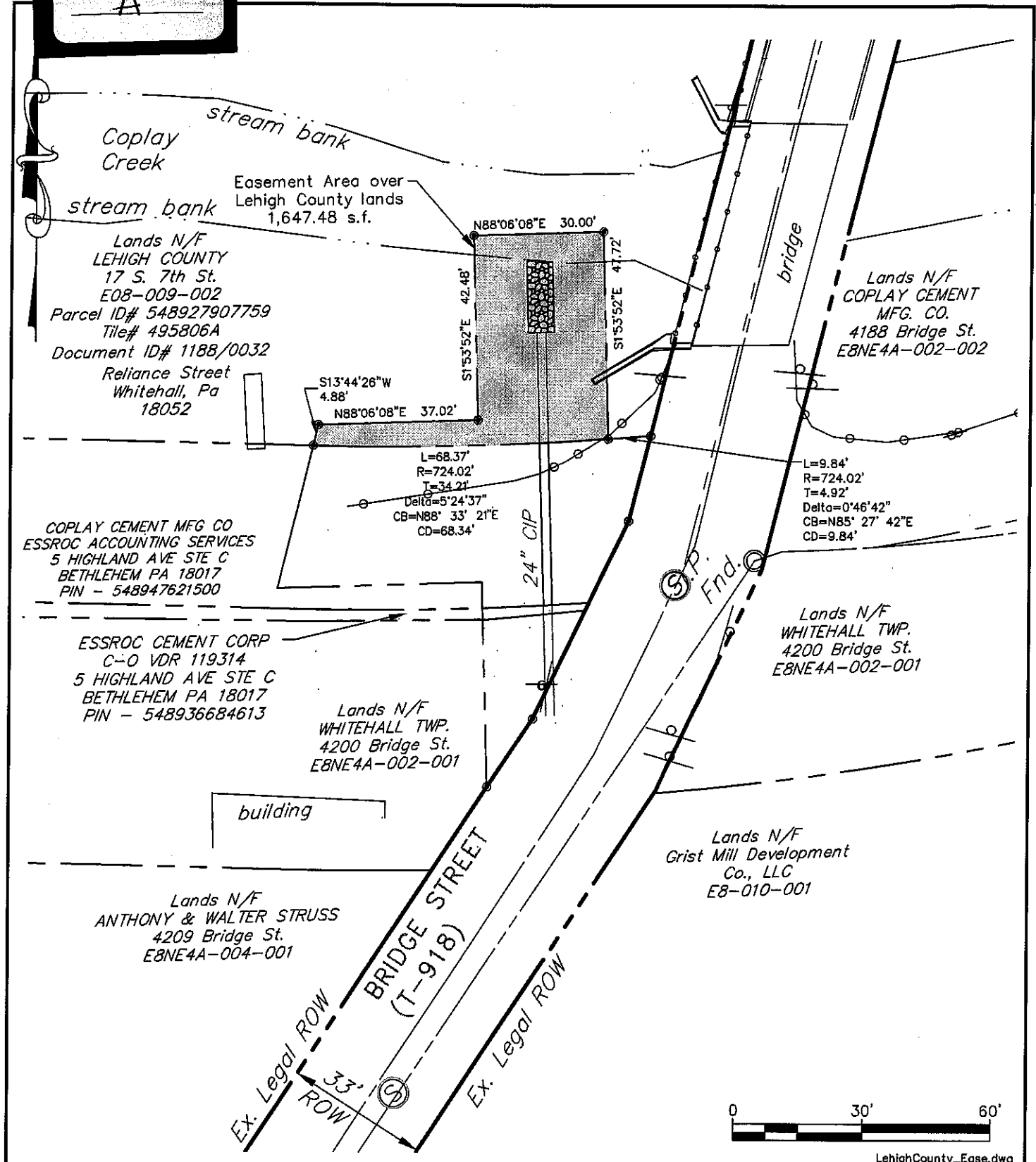
APPROVED this _____ day of _____, 2015.

THOMAS S. MULLER
County Executive

ENACTED this _____ day of _____, 2015.

EXHIBIT

A



LEHIGH ENGINEERING ASSOCIATES, INC.



499 RIVERVIEW DRIVE, P.O. BOX 68
WALNUTPORT, PA 18088
610-767-8545, FAX 610-767-5798

Temporary Construction
Easement for Grist Mill
Development Company, LLC,
through lands of
Lehigh County

DATA: 06/26/15
SCALE: 1" = 30'
BY: BG
JOB: 5455

Prepared By: Christopher M. McLean, Esq.
Zator Law
4400 Walbert Avenue at Ridgeview Drive
Allentown, PA 18104
610.432.1900

Return To: Christopher M. McLean, Esq.
Zator Law
4400 Walbert Avenue at Ridgeview Drive
Allentown, PA 18104
610.432.1900

PINs: 548927907759-1

TEMPORARY CONSTRUCTION EASEMENT

THIS TEMPORARY CONSTRUCTION EASEMENT is made this ____ day of _____, 2015, by and between **LEHIGH COUNTY**, a Pennsylvania County of the Third Class organized under the laws of the Commonwealth of Pennsylvania having an address of 17 South Seventh Street, Allentown, PA 18101, Party of the First Part, (hereinafter referred to as "**Grantor**"), and **GRIST MILL DEVELOPMENT COMPANY, LLC**, a Pennsylvania limited liability company, with its office located at 1013 Brookside Road, Suite 202, Wescosville, Lehigh County, Pennsylvania, 18106, Party of the Second Part, (hereinafter referred to as "**Grantee**").

WITNESSETH:

WHEREAS, Grantor is the record owner of that certain parcel located in Whitehall Township, Lehigh County, Pennsylvania which has been assigned Lehigh County Parcel ID No. 548927907759-1; and

WITNESSETH, that the Grantor, for itself, its successors, assigns and lessees, and in consideration of the sum of ONE DOLLAR (\$1.00) paid by Grantee to Grantor, at and before the sealing and delivery hereof, the receipt of which is hereby acknowledged, does hereby irrevocably grant, bargain, sell and convey to Grantee, its successors, assigns and lessees, a temporary construction easement of varying width in, on, over, under, above and through the easement granted hereby for the purposes of egress to, egress from, and regress to the lands of the Grantor, by motor vehicles, pedestrians, etc., to allow Grantee to construct, operate, renew, alter, inspect, maintain, repair, add to, replace or remove any improvements therein as occasion may require, said temporary construction easement being 1,647.48 sq. ft., more fully shown on the plan attached hereto and incorporated herein by reference as **Exhibit "A"**, entitled "Temporary Construction Easement for Grist Mill Development Company, LLC, through lands



of Lehigh County” dated May 20, 2015 and prepared by Lehigh Engineering Associates, Inc., for Grist Mill Development Company, LLC, situate in the Township of Whitehall, County of Lehigh and Commonwealth of Pennsylvania.

TOGETHER with the free and uninterrupted full right of Grantee, its successors, assigns, contractors and lessees, to enter upon said premises with its agents, workmen, employees, tools, appliances, materials and equipment, at all times as it may need and require for the purpose of constructing, operating, renewing, altering, inspecting, maintaining, repairing, adding to, replacing, or removing facilities located on the lands of Grantor, as the occasion may require, all as more fully shown on the land development plans for Taylor Villas Active Adult Community, prepared by Lehigh Engineering Associates, Inc., dated May 31, 2007, as most recently revised. The Grantee covenants to repair and restore to its original good order and condition as near as possible or practical any damage to existing improvements within the easement granted hereby, which repair and restoration shall be subject to the reasonable approval of the Grantor’s Director of Lehigh County Parks. The surface of said easement shall remain unencumbered by Grantor of all buildings and structures of any kind, and the grade will not be changed. Following prior notice being given to Grantor’s Director of Lehigh County Parks, Grantee shall also have the right to cut down, trim, remove, and to keep cut down by mechanical means or otherwise, any and all trees, tree roots, brush or undergrowth within said easement which, in the judgment of the said Grantee, its successors and assigns, may at any time during the duration of the temporary construction rights granted hereby interfere with the rights provided herein and in connection therewith the right to remove, if necessary, the root systems of the said trees, brush or undergrowth, all costs of which are to be assumed and paid for by the Grantee without any charge whatsoever against the Grantor. Any work within the easement granted hereby other than installation of the rip-rap at the end of the existing pipe (which Grantor hereby approves) shall be subject to the reasonable approval of the Grantor’s Director of Lehigh County Parks

RESERVING unto Grantor, its successors, assigns, and lessees, the right to use and enjoy the surface of said easement subject only to the rights granted herein, and the Grantee covenants to replace and restore the surface of the land to its original good order and condition as near as possible or practical, which restoration shall be subject to the reasonable approval of the Grantor’s Director of Lehigh County Parks.

TO HAVE AND TO HOLD, the said easement and appurtenances hereby granted or mentioned unto the said Grantee, its successors, assigns and lessees until such time as Grantee completes all improvements to the lands of Grantor and the expiration of all applicable maintenance periods with respect to the Grantee’s improvements.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties on behalf of themselves, their successors, assigns and lessees, intending to be legally bound hereby, have hereunto set their hands and seals the day and year first above written.

GRANTOR:

LEHIGH COUNTY

Attest

By: _____
Thomas S. Muller, County Executive

GRANTEE:

Grist Mill Development Company, LLC

Attest

By: _____
Gerald E. Fasnacht, President

COMMONWEALTH OF PENNSYLVANIA :
 : SS.
COUNTY OF LEHIGH :

On this, the __ day of _____, 2015, before me, a Notary Public, the undersigned officer, personally appeared Thomas S. Muller, who acknowledged himself to be the **County Executive of Lehigh County**, a Pennsylvania County of the Third Class, and that he as such County Executive, being authorized to do so, executed the foregoing instrument for the purpose therein contained by signing the name of the County by himself as County Executive.

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

Notary Public

COMMONWEALTH OF PENNSYLVANIA :
 : SS.
COUNTY OF LEHIGH :

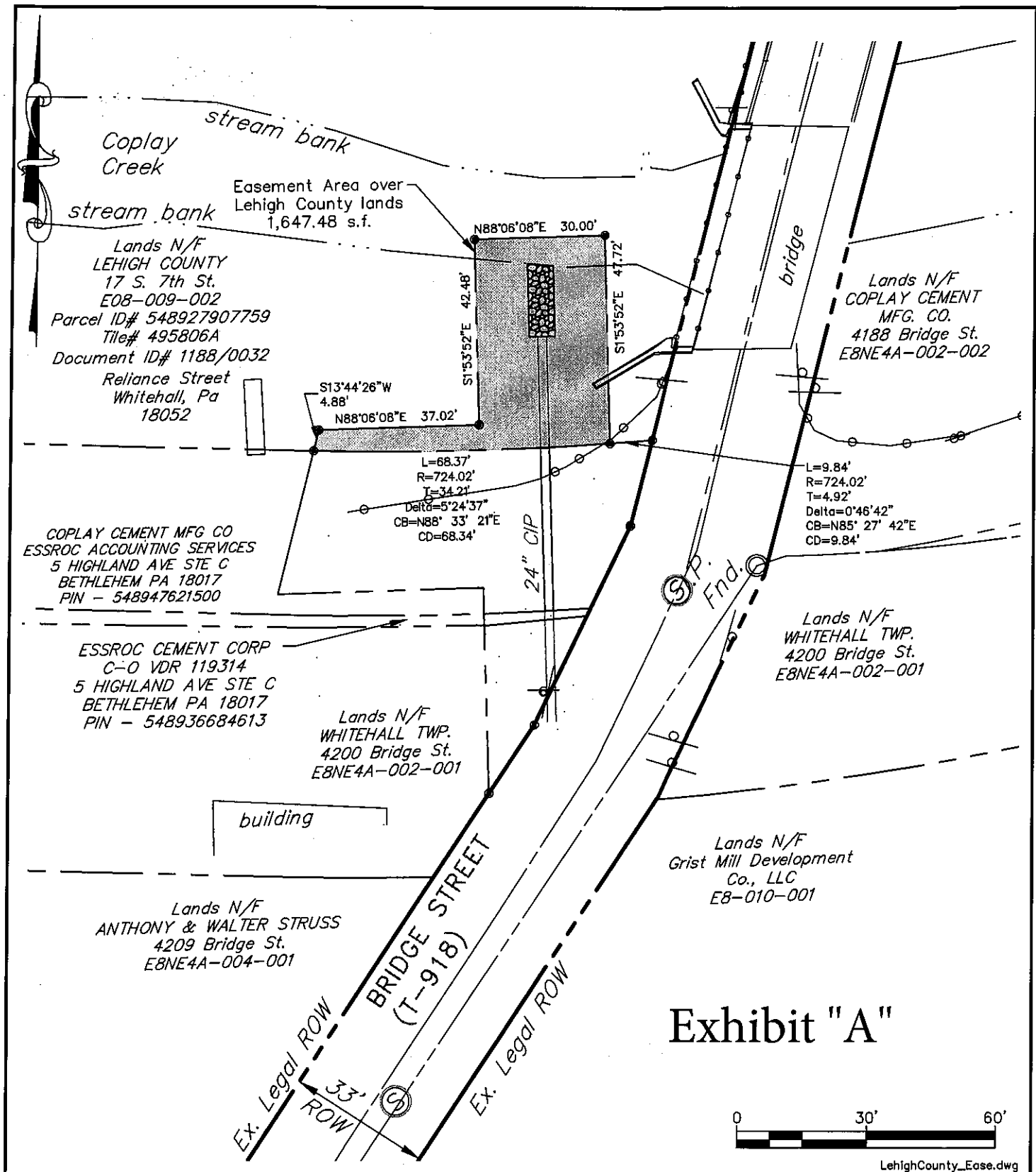
On this, the ____ day of _____, 2015, before me, a Notary Public, the undersigned officer, personally appeared Gerald E. Fasnacht, who acknowledged himself to be the President of Grist Mill Development Company, LLC, a Pennsylvania limited liability company, and that he as such President, being authorized to do so, executed the foregoing instrument for the purpose therein contained by signing his name as such officer.

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

Notary Public

I hereby certify that the precise address of the within Grantee is 1013 Brookside Road, Suite 202, Wescosville, Pennsylvania 18106.

By: _____
For Grantee



LEHIGH ENGINEERING ASSOCIATES, INC.



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