

ATTACHMENT #3 - December 3, 2024

Prepared by: **Michael W. Davis, Esq.**

Return to: **Barley Snyder LLP**
126 East King Street
Lancaster, PA 17602
717.299.5201

Parcel ID Nos. 600-78530-0-0000
370-25893-0-0000

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT ("Agreement") is made this 3rd day of December, 2024, by and between **WARWICK SCHOOL DISTRICT**, a Pennsylvania school district, having a business address of 301 W. Orange Street, Lititz, Pennsylvania 17543 ("Grantor") and **THE BOROUGH OF LITITZ**, a Pennsylvania borough, having a business address of 7 S. Broad Street, Lititz, Pennsylvania 17543 ("Grantee").

BACKGROUND

A. Lititz Borough has been in discussions with Norfolk Southern Railroad Company ("Norfolk Southern"), Warwick School District, Lititz Springs Park, Inc. and The Moravian Congregation of Lititz, PA regarding the creation of a runabout line for Norfolk Southern ("Project") that would facilitate Norfolk Southern's ongoing business operations in the Borough while eliminating Norfolk Southern's usage of some of its existing rail right-of-way located in the Borough as such usage interferes with vehicular circulation and flow in the Borough, impacts pedestrian safety and movement in the Borough, impacts activities in the Borough's business district and impacts Borough residents' quality of life.

B. To facilitate the Project, an easement area of approximately 6,913 square feet is needed from Grantor. This easement area will ultimately be used by Norfolk Southern as part of its rail right-of-way in the Borough.

C. Grantor is the fee title owner of that certain parcel of real property located at 265 W. Orange Street, Lititz, Lancaster County, Pennsylvania, being Parcel ID No. 370-25893-0-0000 ("Grantor Property").

D. Grantor Property is immediately adjacent to Norfolk Southern's existing rail right-of-way parcel, being Parcel ID No. 600-78530-0-0000 ("Rail ROW Property").

E. Grantor has agreed to grant the requested permanent easement on the terms and conditions set forth herein.

IN CONSIDERATION of the sum of One Dollar (\$1.00), in hand paid by Grantee to Grantor, the receipt whereof being hereby acknowledged, and for other good and valuable

consideration, and in consideration of the mutual promises and covenants referred to in this Agreement, Grantor and Grantee, intending to be legally bound hereby, agree as follows:

1. Background Section. All statements made in the Background section above are true and correct and are incorporated by reference into this Agreement.

2. Grant of Easement and Maintenance.

a. Grantor hereby grants to Grantee, its successors-in-title and assigns a permanent easement across a portion of Grantor Property as described in Exhibit "A" and as depicted in Exhibit "B" for use as part of Norfolk Southern's rail right-of-way ("Easement").

b. Grantee shall be responsible for all regular maintenance expenses and costs of every kind and description relating to the Easement.

3. Scope of the Easement. The Easement shall at all times constitute an appurtenance of, and shall run with, the Rail ROW Property. The Easement shall be perpetual in nature.

4. Repair of the Easement. The parties agree that all costs, expenses and responsibilities associated with the repair of the Easement for damage caused by Grantee's use thereof, shall be borne solely by Grantee.

5. Use of Easement. Grantee's use of the Easement shall be limited to activities associated with a rail right-of-way. Grantor shall not place any barriers, fences, curbs or other obstructions to the free and unhampered use of the Easement by Grantee.

6. Indemnification. Grantee shall indemnify, defend, protect and save harmless Grantor, and its successors and assigns, from and against any and all claims, demands, liability, damages, costs and expenses, including without limitation, court costs and attorneys' fees, resulting from any and all loss of life or property, or from injury or damage to person or property of any person, firm, corporation or other entity, arising out of or in connection with the Grantee's use of the Easement. This provision shall survive any termination of this Agreement.

7. Binding Effect and Assignment. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. Grantee may assign its rights and obligations under this Agreement to Norfolk Southern, without Grantor's consent. Grantee will advise Grantor in writing of the effective date of any such assignment.

8. Entire Agreement. This Agreement is the entire agreement between the parties hereto pertaining to the rights, duties, privileges and obligations set forth herein with respect to the Easement, and there are no terms, obligations, covenants, representations, statements or conditions, oral or otherwise, express or implied, in addition hereto, except for such as may be set forth in other instruments hereafter executed and delivered to effectuate the intent hereof.

9. Modifications. Any agreement which shall change, discharge or effect an abandonment or waiver of this Agreement or any term or provision hereof, in whole or in part,

shall be void, unless such agreement is in writing and signed by both parties hereto, or their respective successors-in-interest.

10. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties intending to legally bind themselves, their successors and assigns, have executed this Easement Agreement the day and year first above written.

GRANTOR:

WARWICK SCHOOL DISTRICT

Attest: _____

Name:

Title:

GRANTEE:

BOROUGH OF LITITZ

Attest: _____

Name:

Title:

COMMONWEALTH OF PENNSYLVANIA :
: SS
COUNTY OF LANCASTER :

On this _____ day of _____, 2024, before me, the undersigned officer, personally appeared _____, who acknowledged himself/herself to be the _____ of the Warwick School District, and that as such officer, being authorized to do so, executed the foregoing Easement Agreement for the purposes therein contained by signing the name of such District by himself/herself as such officer.

Notary Public

COMMONWEALTH OF PENNSYLVANIA :
: SS
COUNTY OF LANCASTER :

On this _____ day of _____, 2024, before me, the undersigned officer, personally appeared _____, who acknowledged himself/herself to be the _____ of the Borough of Lititz, and that as such officer, being authorized to do so, executed the foregoing Easement Agreement for the purposes therein contained by signing the name of such Borough by himself/herself as such officer.

Notary Public

EXHIBIT A

Legal Description of Easement

DAVID MILLER/ASSOCIATES, INC.

1076 CENTERVILLE ROAD

LANCASTER, PA 17601
PHONE: (717) 898-3402
FAX: (717) 898-9365

Description for
Proposed Railroad Right-of-Way
Warwick School District
Borough of Lititz, Lancaster County, PA

April 10, 2024
Project No. 23-101.02

ALL THAT CERTAIN proposed railroad right-of-way through lands of Warwick School District, situated on the south side of an existing Pennsylvania Lines, LLC right-of-way, located in the Borough of Lititz, Lancaster County, Pennsylvania, as shown on a Proposed Railroad Right-of-Way Exhibit, Warwick School District, attached hereto, prepared by David Miller/Associates, Incorporated, Project No. 23-101.02, dated 4/9/24, said right-of-way being more fully bounded and described as follows:

BEGINNING at a point at the northeast corner of the herein described proposed right-of-way, said point also being at the intersection of the southerly railroad right-of-way line of Pennsylvania Lines, LLC and the easterly line of lands now or formerly of Warwick School District, thence extending along said Warwick School District lands South 8°09'44" East 14.75 feet to a point, thence extending through said Warwick School District lands the following four courses and distances; (1) by a curve to the left in a westerly direction for an arc distance of 46.18 feet to a point, said curve having a chord course and distance of South 87°48'10" West 46.18 feet and a radius of 2,834.93 feet; (2) South 87°20'10" West 305.19 feet to a point; (3) by a curve to the right in a westerly direction for an arc distance of 79.38 feet to a point, said curve having a chord course and distance of North 89°48'05" West 79.35 feet and a radius of 794.49 feet; (4) North 86°56'21" West 114.64 feet to a point on the southern right-of-way line of said Pennsylvania Lines, LLC; thence extending along said southerly right-of-way line the following two courses and distances; (1) North 87°26'11" East 515.22 feet to a point; (2) by a curve to the right in a easterly direction for an arc distance of 28.05 feet to the point of BEGINNING, said curve having a chord course and distance of North 87°43'11" East 28.05 feet and a radius of 2,834.93 feet.

CONTAINING: 6,913 Square Feet

EXHIBIT B

Depiction of Easement

