

RESOLUTION NO.: 2018 - 62

RESOLUTION OF THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF MOUNT ARLINGTON, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, AUTHORIZING THE EXECUTION AND RECORDATION OF THE PROPOSED PERMANENT UTILITY EASEMENT LOCATED ON BLOCK 61, LOT 17.01, SITE NO. 2

WHEREAS, the Borough of Mount Arlington desires to convey a Permanent Utility Easement over a portion of Block 61, Lot 17.01, Site No. 2 in the Borough of Mount Arlington, Morris County, New Jersey as shown on the a "Deed Description Diversion Site No.: 2", dated August 2, 2016, prepared by Richard F. Smith, Jr., Smith Surveying, Inc., described and attached as "**Schedule A**"; and ""Survey of Lands", dated May 1, 2015, revised August 2, 2016, prepared by Richard F. Smith, Jr., Smith Surveying, Inc., described and attached as "**Schedule B**", each attached hereto and made a part hereof (the "Easement Area") a copy of each are incorporated herein at length by reference; and hereby warrant that they have the exclusive right and authority under the law to make the grant of easement herein upon the land described herein which is a portion of the land warranted to be owned by them; and

WHEREAS, the Borough of Mount Arlington Borough Engineer and the Borough Attorney reviewed the above-referenced easement document, Deed Description and Survey, a copy of each are incorporated herein at length by reference; and

WHEREAS, in order to effectuate the granting of the easement, the proposed easement document, Deed Description and Survey are required to be recorded in the Morris County Clerk's Office; and

WHEREAS, the Mayor and Borough Council of the Borough of Mount Arlington reviewed the above-referenced easement document, Deed Description and Survey and recommends the documents be recorded by the Borough Attorney in the office of the Morris County Clerk.

NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE BOROUGH OF MOUNT ARLINGTON, THAT the Permanent Utility Easement is approved, and that the recordation of the easement documents shall be conducted at a date and time selected by the Borough Administrator upon approval of all documents by the Borough Attorney. The Borough Administrator and the Borough Attorney shall be authorized and empowered to sign any and all documents required to effectuate the recordation of the documents.

This is to certify that the above is a true and correct copy of a resolution adopted by the Borough of Mount Arlington at a meeting held on April 3, 2018.



Linda DeSantis, R.M.C.
Borough Clerk

RECORD AND RETURN TO:
Matthew J. O'Donnell, Esq.
O'Donnell McCord, PC
15 Mt. Kemble Avenue
Morristown, New Jersey 07960

UTILITY EASEMENT

This Easement (the "Easement") granted this _____ day of _____, 2018.

FROM

THE BOROUGH OF MOUNT ARLINGTON, in the County of Morris, a Municipal Corporation of the State of New Jersey, whose post office address is 419 Howard Boulevard, Mount Arlington, New Jersey 07856,

Grantor,

TO

THE BOROUGH OF MOUNT ARLINGTON, in the County of Morris, a Municipal Corporation of the State of New Jersey, whose post office address is 419 Howard Boulevard, Mount Arlington, New Jersey 07856,

Grantee.

RECITALS:

WHEREAS, Grantor is the owner of certain property shown and designated as Block 61, Lot 17.01 on the tax map of the Borough of Mount Arlington, Morris County, New Jersey (the "Grantor Property");

WHEREAS, Block 61, Lot 17.01 is listed on the Mount Arlington Borough Recreation and Open Space Inventory and is subject to Green Acres Program restrictions pursuant to N.J.A.C. 7:36;

WHEREAS, Grantor desires to grant the Grantee with a permanent utility easement and right-of-way to permit use of a portion of the Grantor Property to permit Grantee to erect, construct, install, lay and use, operate, inspect, repair, maintain, replace, and rework sanitary sewer lines, sanitary sewer pipe lines, sanitary sewer facilities, manholes, pump stations or other appurtenances that may be required, over, across and/or under the Easement Area (as hereinafter defined);

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants herein contained and for good and valuable consideration, the receipt whereof is hereby acknowledged, the parties hereto agree as follows:

1. **GRANT OF AND PURPOSE FOR THE EASEMENT.** The Grantor grants and conveys to the Grantee and its successors and assigns a permanent utility easement and right-of-way to permit use of a portion of the Grantor Property to permit Grantee to erect, construct, install, lay and use, operate, inspect, repair, maintain, replace, and rework sanitary sewer lines, sanitary sewer pipe lines, sanitary sewer facilities, manholes, pump stations or other appurtenances that may be required, over, across and/or under the Easement Area.
2. **DESCRIPTION OF THE EASEMENT.** The Easement shall be located as described by metes and bounds on the "Deed Description Diversion Site No.: 2", dated August 2, 2016, prepared by Richard F. Smith, Jr., Smith Surveying, Inc., **Schedule A**, and further shown on the "Survey of Lands", dated May 1, 2015, revised August 2, 2016, prepared by Richard F. Smith, Jr., Smith Surveying, Inc., **Schedule B**, each attached hereto and made a part hereof (the "Easement Area").
3. **GRANTEE'S OBLIGATIONS.** Grantee agrees to the following in connection with its use of the Easement Area:
 - a. All use by Grantee pursuant to this Easement shall be (i) at the sole cost and expense of Grantee; and (ii) performed in a safe and good manner and in accordance with all applicable statutes, codes and regulations.
 - b. Grantee shall be responsible, at its sole cost and expense, to keep and maintain the sanitary sewer facilities in good and safe condition and repair, and shall be solely responsible for the operation, maintenance, repair and replacement of the sanitary sewer facilities.
 - c. All activities of the Grantee shall be conducted so as to minimize any interference to the use of the Grantor Property.
 - d. In no event shall Grantee use, store, generate, dispose of or discharge any contaminants or hazardous substances or wastes of any nature on the Grantor Property, and Grantee shall not permit or allow any contaminants or hazardous substances or wastes of any nature to be discharged, disposed of or otherwise present on the Easement Area.
4. **INDEMNIFICATION.** The Grantee hereby assumes all risk of loss of and damage to any property whatsoever and wherever located (including, without limitation, damage to property of Grantor), and any injury to any person or persons whomever occurring by reason of or in connection with or direct or indirectly arising out of or related to the exercise by Grantee of any of its rights under this Easement (collectively the "Assumed Risks"). By acceptance of this Easement, Grantee hereby agrees to defend (with counsel reasonably acceptable to Grantee), indemnify and save harmless Grantor and New Jersey Department of Environmental Protection ("NJDEP"), and hereby releases Grantor and NJDEP, from and against any all liability, loss, claims, damage, injury or death included in or related to the Assumed Risks and from any and all claims, demands, actions, suits, judgments, costs, charges, fees, damages, and expenses (including, without limitation, attorneys' fees) which may arise or result from the Assumed Risks. Without limiting the foregoing,

during times when Grantee is actively performing any construction or repair in the Easement Area, Grantee shall maintain liability insurance in amounts and with carriers reasonably acceptable to Grantor, shall name Grantor and NJDEP as an additional insured on such policies and shall provide Grantor and NJDEP with a certificate of insurance and/or such other evidence as Grantor may reasonably require to show that such insurance is in full force and effect.

5. RESTORATION OF PREMISES AFTER CONSTRUCTION AND/OR MAINTENANCE. The Grantee agrees for itself and its successors and assigns to exercise all due care to protect the Grantor Property during the installation of, or any future maintenance to, the easement or any improvements located therein. The Grantee further agrees for itself and its successors and assigns as soon as reasonably possible after doing any work in connection with the easement to restore the Grantor Property to substantially the same condition in which the same was found before such work was undertaken and that it will not create any nuisance or do any act that will be detrimental to the Grantor Property.

6. CONSIDERATION FOR THE EASEMENT. In consideration of all of the promises of the Grantor as set forth above, the Grantee agrees to pay to the Grantor simultaneously with the execution of this Easement, the sum of \$1.00, receipt of which is hereby acknowledged by the Grantor's signature at the bottom of this document.

7. EASEMENT SUBJECT TO OTHER RIGHTS OF RECORD. This Easement is subject to any and all covenants, easements, restrictions and other encumbrances of record and such facts as a survey of the premises would reveal.

8. RIGHT TO RELOCATE. Grantor reserves the right to (i) re-stripe and reconfigure any parking aisles on the Grantor Property from time to time; and (ii) construct buildings, parking structures and other improvements on the Grantor Property with the appropriate prior jurisdictional approvals. Any modifications to the Easement Area must comply with the Green Acres Program rules in effect at that time, including any applicable rules pertaining to the disposal or diversion of parkland. Upon any relocation or replacement of the Easement Area, this Easement will be automatically deemed to be modified and replaced by the relocated Easement and, upon the request of either Grantor or Grantee, the parties agree to cooperate and record an amendment to this Easement (the "Amendment") confirming that this Easement no longer encumbers the Easement Area described herein but encumbers the replacement Easement Area as described in the Amendment.

9. AMENDMENTS. This Easement may not be amended, modified, or rescinded in any fashion, except by a writing signed by the Grantor and the Grantee in recordable form.

10. RETAINED RIGHTS. Grantor retains the right to use the Easement Area in common with Grantee, and to give easements and other rights to others to use the Easement Area, for any purpose materially consistent with the Easement granted herein. Grantor shall further have the right to construct and use such buildings and improvements on the surface of the Easement Area

as Grantor may desire from time to time, including, but not limited to, structured parking facilities. Jurisdictional approval including compliance with Green Acres Program rules must be obtained prior to any additional easements and other rights being granted by the Grantor.

11. EASEMENT TO BE PERPETUAL. Subject to the provision of paragraph 12, the terms, provisions, and covenants contained in this Easement shall be deemed covenants running with the Grantor Property and the Grantee Property, appurtenant thereto in perpetuity.

12. TERMINATION OF RIGHTS. The provisions of this Easement shall be obligatory upon the respective parties hereto, and upon their respective heirs and assigns.

13. PRONOUNS. Wherever herein any party, person or entity shall be designated or referred to, whether by name or general reference, such designation is intended to and shall have the same effect as if the words "grantees, legal representatives, successors and assigns" had been inserted after each and every such designation and all the terms, covenants, and conditions herein contained shall be for and shall inure to the benefit of and shall bind the respective parties and entities and their grantees, legal representatives, successors and assigns.

14. SIGNATURES. The parties have signed this easement as of the date at the top of the first page by their authorized representatives.

Schedule A "Deed Description Diversion Site No.: 2", dated August 2, 2016, prepared by Richard F. Smith, Jr., Smith Surveying, Inc.,

Schedule B "Survey of Lands", dated May 1, 2015, revised August 2, 2016, prepared by Richard F. Smith, Jr., Smith Surveying, Inc.

WITNESS:

Linda DeSantis, Borough Clerk

BOROUGH OF MOUNT ARLINGTON
COUNTY OF MORRIS
STATE OF NEW JERSEY

Mayor

WITNESS:

Linda DeSantis, Borough Clerk

BOROUGH OF MOUNT ARLINGTON
COUNTY OF MORRIS
STATE OF NEW JERSEY

Michael Stanzilis, Mayor

STATE OF NEW JERSEY)
) ss:
COUNTY OF MORRIS)

I CERTIFY that on _____, 2018, Michael Stanzilis, Mayor, personally came before me and he acknowledged under oath, to my satisfaction, that he:

- (a) is the Mayor of the Borough of Mount Arlington, the municipal corporation named in this document, the Grantor named in this easement; and
- (b) this easement was signed as the Mayor of the Borough of Mount Arlington, the municipal corporation named in this document, the Grantor named in this easement voluntarily, and was duly authorized in accordance with a Resolution of the Borough of Mount Arlington; and
- (c) that the signature proof attests to the truth of these facts.

NOTARY PUBLIC OF THE STATE OF NJ
MY COMMISSION EXPIRES:

STATE OF NEW JERSEY)
) ss:
COUNTY OF MORRIS)

I CERTIFY that on _____, 2018, _____, Mayor, personally came before me and he acknowledged under oath, to my satisfaction, that he:

- (a) is the Mayor of the Borough of Mount Arlington, the municipal corporation named in this document, the Grantor named in this easement; and
- (b) this easement was signed as the Mayor of the Borough of Mount Arlington, the municipal corporation named in this document, the Grantor named in this easement voluntarily, and was duly authorized in accordance with a Resolution of the Borough of Mount Arlington; and
- (c) that the signature proof attests to the truth of these facts.

NOTARY PUBLIC OF THE STATE OF NJ
MY COMMISSION EXPIRES:

SCHEDULE A



SmithSurveying Inc.

SmithSurveying, Inc.

28 Schuyler Pl. • Morristown, NJ 07960
Ph: 973-540-9004 • Fax: 973-292-0220
www.smithsurveyor.com

Green Acres Project No.: SHC#1426003

Green Acres Project Name: Arlington Glen Diversions

August 2, 2016

Part of Tax Lot 17.01 in Block 61

Borough of Mount Arlington,

Sandra Drive

Morris County

Deed Description

Diversion Site No. 2

Beginning at an Iron Rod with cap No. 5, identified as "Smith Surveying Inc. Morristown" set at the point with New Jersey State Plane Coordinates (NAD -1983) Northing - 756880.68, Easting - 453228.34, at the division line between Filed Map Lot 11 Block 107 and Filed Map Lot 17.01, Block 61 as shown on "Map of Section 7, part 2 Shore Hills on Lake Hopatcong, situated in Borough of Mt. Arlington, Morris County, N.J. April 12, 1976", filed in the Morris County Clerk's office on May 4, 1977 as Map No. 3588, said point being distant along two following courses from the point of intersection of southeasterly sideline of Sandra Drive, a 50 foot wide right of way, as shown on abovementioned Filed Map No. 3588 and the division line between Filed Map Lots 10 & 11 Block 107 of the same Filed Maps

a) along the division line between Filed Map Lots 10 & 11 Block 107, passing over an Iron Rod with cap found 0.2 foot from origin of this course, South 37 degrees 14 minutes 30 seconds East, a distance of 174.85 feet to a point where the same is intersected by the division line between Filed Map Lot 11 Block 107 and Filed Map Lot 17.01 Block 61 and northerly line of lands shown on "Map of Section 10, part 1A Shore Hills on Lake Hopatcong, situated in Borough of Mt. Arlington, Morris County, N.J. Dec. 3, 1983", filed in the Morris County Clerk's office on January 3, 1984 as Map No. 4229; thence,

b) along the division line between Filed Map Lot 11 Block 107 and Filed Map Lot 17.01 Block 61, North 31 degrees 34 minutes 12 seconds East, a distance of 37.62 feet to the True point and place of Beginning.

1) through Filed Map Lot 17.01, on a curve to the left having a radius of 50.00 feet, an arc length of 2.20 feet, a central angle of 2 degrees 31 minutes 16 seconds, a chord bearing South 84 degrees 12 minutes 15 seconds East, and a chord distance 2.20 feet to a point of tangency; thence,

- 2) again through Filed Map Lot 17.01, South 85 degrees 27 minutes 53 seconds East, a distance of 47.18 feet to an Iron Rod with cap No: 6, identified as "Smith Surveying Inc. Morristown", set at the corner of lands herein described; thence,
- 3) still through Filed Map Lot 17.01, North 31 degrees 34 minutes 12 seconds East, a distance of 73.70 feet to an Iron Rod with cap No: 7, identified as "Smith Surveying Inc. Morristown", set at the corner of lands herein described; thence,
- 4) continuing through Filed Map Lot 17.01, South 58 degrees 25 minutes 48 seconds East, a distance of 45.00 feet to an Iron Rod with cap No: 8, identified as "Smith Surveying Inc. Morristown", set at the corner of lands herein described; thence,
- 5) continuing through Filed Map Lot 17.01, South 31 degrees 34 minutes 12 seconds West, a distance of 39.60 feet to an Iron Rod with cap No: 11, identified as "Smith Surveying Inc. Morristown", set at the corner of lands herein described; thence,
- 6) continuing through Filed Map Lot 17.01, South 58 degrees 25 minutes 48 seconds East, a distance of 3.00 feet to an Iron Rod with cap No: 12, identified as "Smith Surveying Inc. Morristown", set at the corner of lands herein described; thence,
- 7) continuing through Filed Map Lot 17.01, South 31 degrees 34 minutes 12 seconds West, a distance of 6.00 feet to an Iron Rod with cap No: 13, identified as "Smith Surveying Inc. Morristown", set at the corner of lands herein described; thence,
- 8) continuing through Filed Map Lot 17.01, North 58 degrees 25 minutes 48 seconds West, a distance of 4.30 feet to an Iron Rod with cap No: 14, identified as "Smith Surveying Inc. Morristown", set at the corner of lands herein described; thence,
- 9) continuing through Filed Map Lot 17.01, South 28 degrees 51 minutes 50 seconds West, a distance of 27.63 feet to an Iron Rod with cap No: 9, identified as "Smith Surveying Inc. Morristown", set at the corner of lands herein described; thence,
- 10) continuing through Filed Map Lot 17.01, North 85 degrees 27 minutes 53 seconds West, a distance of 87.49 feet to a point of curvature of the same; thence,
- 11) continuing through Filed Map Lot 17.01, on a curve to the right having a radius of 71.44 feet, an arc length of 11.97 feet, a central angle of 9 degrees 35 minutes 51 seconds, a chord bearing North 80 degrees 31 minutes 01 seconds West, and a chord distance of 11.95 feet to an Iron Rod with cap No: 10, identified as "Smith Surveying Inc. Morristown", set at a point in the division line between Filed Map Lot 11 Block 107 and Filed Map 17.01 Block 61; thence
- 12) along said division line North 31 degrees 34 minutes 12 seconds East, a distance 21.36 feet to the True point and place of Beginning.

Containing 4,795 square feet or 0.110 acre.

The above description was written pursuant to a Green Acres Survey of Lands designated as Block 61, Portion of Tax Lot 17.01, on the municipal tax map of Borough of Mount Arlington, County of Morris, State of New Jersey. Said Survey of Lands was prepared by Richard F. Smith, Jr., for the firm of Smith Surveying, Inc., 28 Schuyler Place, Morristown, New Jersey 07960, prepared on May 1, 2015, last revised through August 2, 2016 and marked as file No. 150413. A reduced copy of said plan is attached hereto and made a part hereof.



Richard F. Smith, Jr., Professional Land Surveyor License No. 24CS02504800

