

AMENDMENT OF TRAFFIC IMPROVEMENTS AGREEMENT
DATED APRIL 7, 2007

THIS AMENDMENT made effective as of the last date of execution by the parties as set forth herein below, by and between the Township of Upper Saucon, a Township of the Second Class organized and existing under the Second Class Township Code of the Commonwealth of Pennsylvania, with an address at 5500 Camp Meeting Road, Center Valley, Pennsylvania 18034 (hereinafter the “Township”) and Southern Lehigh School District, a School District of the Third Class organized and existing under the Public School Code of 1949, as amended, with an address at 5775 Main Street, Center Valley, Pennsylvania 18034 (hereinafter the “School District”).

WITNESSETH:

WHEREAS, the Township and the School District have previously entered into an Agreement dated April 7, 2007 (hereinafter the “Traffic Improvements Agreement”), relating, in part, to the design and construction of certain traffic improvements at the Route 309/Lanark Road Intersection, the Camp Meeting Road/Lanark Road Jug Handle, and Camp Meeting Road/Preston Lane Intersection, as set forth in paragraphs 1, 3, and 4 of the Traffic Improvements Agreement (hereinafter the “Traffic Improvements”); and

WHEREAS, according to Township Resolutions 1006-59 and 2007-29 said Traffic Improvements Agreement was a condition of the Township’s approval of the School District’s proposed, new intermediate school; and

WHEREAS, the School District accepted and agreed to the said condition of approval and executed a Developer’s Acknowledgement and Acceptance of Conditions of Plan Approval; and

WHEREAS, at the time of entering into the Traffic Improvements Agreement, the Township and the School District estimated the total project costs of the Traffic Improvements to be \$2,000,000 (to be shared equally by the Township and the School District, as more fully set forth in the Traffic Improvements Agreement) and anticipated that the Traffic Improvements would be completed prior to the opening of the School District's new Intermediate School in September, 2009; and

WHEREAS, the Township and the School District have each contributed \$407,894 of engineering and legal expenses to the design of the Traffic Improvements to date and now estimate that the additional costs to complete the design and construction of the Traffic Improvements will be \$2,840,000 (for a total project cost of \$3,655,788); and

WHEREAS, at the time of entering into the Traffic Improvements Agreement, the Township and the School District anticipated the possible receipt of additional monetary contributions from other developers for purposes of completing portions of the design and construction of the Traffic Improvements, including contributions from the developer of the Chernay Neighborhood Convenience Center, Township Project Nos. 50372 and 50373 (hereinafter the "Chernay Project"); and

WHEREAS, the Township has suspended, at this time, actions to complete the design and construction of the Traffic Improvements, pending receipt of additional contributions and/or funding commitments from other sources to complete the Traffic Improvements; and

WHEREAS, the Township and the School District desire to amend and modify the Traffic Improvements Agreement to set forth their understanding with respect to the School District's on-going obligation to contribute funds for the design and completion of the Traffic

Improvements and to establish a deadline under the Traffic Improvements Agreement relating to the School District's obligation thereunder.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual promises as hereinafter set forth in this Amendment, and One (\$1.00) in hand paid, receipt of which is hereby acknowledged, the Township and the School District agree as follows:

1. The Township and the School District acknowledge that the School District's obligations with respect to paragraph 1 of the Traffic Improvements Agreement have been satisfied and the School District shall have no further responsibility thereunder.

2. The financial obligation of the School District to make any additional, future contributions to the design and completion of the Traffic Improvements shall be capped and limited to Six Hundred Thousand Dollars (\$600,000), which sum shall be in addition to the \$407,894 which has already been contributed by the School District to the costs of the Traffic Improvements.

3. The Township and the School District shall continue to share equally in all additional costs incurred in the design and construction of the Traffic Improvements, as set forth in paragraph 4 of the Traffic Improvements Agreement, subject to the limitation that the School District shall not be required to contribute more than the additional sum of Six Hundred Thousand Dollars (\$600,000) to said shared costs. Any additional contributions received from third parties, including the developer of the Chernay Project or from any other developers, relating to the Traffic Improvements shall benefit equally the Township and the School District; that is, if the Traffic Improvements are completed at an actual cost which is less than the shared additional costs of One Million Two Hundred Thousand Dollars (\$1,200,000) contributed by the Township and the School District, after adding any additional contributions received from third

parties, any contributions in excess of the actual total project cost of the Traffic Improvements received by the Township will be divided equally and distributed to the Township and the School District after completion of the Traffic Improvements.

4. Notwithstanding anything to the contrary contained in the Traffic Improvements Agreement or this Amendment, the School District's financial obligation to contribute the additional sum of Six Hundred Thousand Dollars (\$600,000) of shared costs to complete the Traffic Improvements shall expire on August 15, 2020, unless both the Township and School District shall agree in writing to extend said date of expiration.

5. The Township may, in its sole discretion, limit or revise the scope of the traffic improvements identified in the Traffic Improvements Agreement in order to reduce the estimated costs or to address changing traffic impacts, and the parties agree that such changes, if any, shall not impact the obligation of the School District to contribute up to the agreed upon sum of shared costs with the Township during the term of this Agreement as set forth in Paragraph 4, above.

6. Except as amended and modified by this Amendment, any other provisions of the Traffic Improvements Agreement which are not inconsistent with this Amendment shall remain in full force and effect.

IN WITNESS WHEREOF and intending to be legally bound hereby, the duly authorized representatives of the Township and the School District have caused this Amendment to be executed on behalf of the Township and the School District the date and year indicated below.

Date: December _____, 2011

Township of Upper Saucon

Attest:

Secretary

By: _____
Thomas F. Beil, Township Manager

Date: January _____, 2012

Southern Lehigh School District

Attest:

Secretary

By: _____
President