

Prepared by/Record and Return to:
Faegre Drinker Biddle & Reath, LLP
105 College Road East,
P.O. Box 527
Princeton, NJ 08542
Attn: Christopher DeGrezia, Esq.

DEED OF DRAINAGE MAINTENANCE AND ACCESS EASEMENT

THIS DEED OF DRAINAGE MAINTENANCE AND ACCESS EASEMENT (“Deed of Easement”) is made as of the ___ day of _____, 2022, by and between MID-MONMOUTH, LLC, having an office c/o The Sudler Companies, 245 Green Village Road, P.O. Box 39, Chatham, New Jersey, 07928, a Delaware limited liability company (“Grantor”), and the BOROUGH OF TINTON FALLS, whose address is 556 Tinton Avenue, Borough of Tinton Falls, New Jersey, 07724, a municipal corporation in the County of Monmouth, State of New Jersey (“Grantee”).

W I T N E S S E T H :

WHEREAS, Grantor is the owner of property located in the Borough of Tinton Falls, County of Monmouth and State of New Jersey, designated as Block 114, Lot 13.02 on the tax maps of the Borough of Tinton Falls (the “Property”); and

WHEREAS, at the December 8, 2021 the Borough of Tinton Falls Planning Board (the “Board”) granted Preliminary and Final Site Plan approval with associated variances relief to permit construction of an approximately 60,800-square-foot warehouse building on the Property, the terms of which were memorialized by Resolution adopted on April 27, 2022 (the “Approval”); and

WHEREAS, in connection with the development of the Property, Grantor will be constructing, operating and maintaining stormwater management facilities, including a detention basin on a portion of the Property; and

WHEREAS, the Approval includes a condition requiring Grantor to dedicate a drainage maintenance and access easement to Grantee over, upon and around the detention basin, giving Grantee the right to inspect the detention basin and the right (but not the obligation) to maintain the detention basis, if Grantor fails to do so; and

WHEREAS, Grantor is willing to grant to Grantee, and Grantee is willing to accept from Grantor, a drainage maintenance and access easement over, upon and around the detention basin on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and the promises, covenants and conditions hereinafter contained, Grantor does hereby grant and convey to Grantee, its successors and assigns forever, and Grantee does hereby accept from Grantor, the easement set forth herein, on the terms and conditions herein contained.

1. Grantor hereby grants to Grantee the right of access to inspect the detention basin, as such area is depicted on the Easement Plan prepared by Menlo Engineering Associates, dated May 25, 2022, attached hereto as **Exhibit A**, as the “Proposed Detention Easement”, and as such area is more particularly described on **Exhibit B** attached hereto (the “Easement Area”).

2. Should the conditions set forth in paragraph 3 below occur, Grantor hereby grants to Grantee the continuous right (but not an obligation) of access over and around the Easement Area for the purpose of maintaining, repairing, reconstructing and inspecting the detention basin within the Easement Area. Nothing herein shall be construed to require that Grantee maintain the Easement Area. By acceptance of this Deed of Easement, Grantee acknowledges that this Deed of Easement is subject to the terms and conditions of that certain Grant of Conservation Restriction/Easement made by Grantor in favor of the State of New Jersey Department of Environmental Protection dated October 1, 2021 and recorded on October 4, 2021 in the Monmouth County Clerk’s Office in Deed Book OR-9548, Page 37 and agrees to be bound by the terms thereof. By acceptance of this Deed of Easement, Grantee further agrees to comply with all applicable federal, state, county, municipal and local laws, ordinances and regulations in exercising its rights under this Deed of Easement.

3. In the event that Grantor fails to properly maintain or repair any portion of the Easement Area or improvements therein, or if the stormwater management facilities become a danger to public safety or public health, then Grantee may so notify Grantor in writing. Upon receipt of that notice, Grantor shall have thirty (30) days to effect maintenance and repair of the facility. The Grantee may extend the time allowed for effecting maintenance and repair with the terms and conditions of such notice for good cause. If Grantor fails to perform such maintenance and repair, Grantee may immediately proceed to do so and may bill the reasonable cost thereof to Grantor.

4. Following Grantee exercising its rights to enter onto the Property in accordance with the terms herein, Grantee shall restore the Property in accordance with this Section 4. Grantee shall at all times act so as to safeguard the Property. Grantee shall perform all work in connection with the rights, privileges and authority herein granted and conveyed in a workmanlike manner and with a minimum inconvenience to Grantor; any damage done to the land or premises of Grantor shall be promptly repaired and restored to its condition immediately prior to damage at the sole cost and expense of Grantee.

5. Notwithstanding anything in this Deed of Easement to the contrary, Grantee’s rights granted herein shall be exercised in a manner to minimize (or, if possible, avoid) any impacts to Grantor’s construction of the project in accordance with the Approval and Grantor’s

ongoing use and operation of the Property. Grantee shall be responsible for all liabilities and expenses relating to any damage to property, or for injury to or death of any person, arising from the use of the Easement Area, or from the negligence or willful misconduct of Grantee, its agents, contractors, subcontractors, or employees in exercising the rights granted by this Deed of Easement.

6. Notwithstanding anything to the contrary contained herein, Grantor shall have the right to use, occupy and enjoy the surface of, the subsurface under, and the air space over the Easement Area for any lawful purpose which does not unreasonably interfere with the stormwater management that has been approved and constructed on the Property. For the purposes of this provision, and notwithstanding anything to the contrary contained herein, Grantee hereby agrees that the construction, installation, repair, replacement or maintenance within the Easement Area of landscaping, sewer, gas, electric and other utilities and appurtenant facilities, and any other improvements pursuant to the Approval (or any future approvals) and installed in compliance with applicable legal requirements, shall not be deemed to unreasonably interfere with or unreasonably threaten the safe, proper or convenient use, occupancy or enjoyment of the Easement Area by Grantee.

7. Notwithstanding anything to the contrary contained herein, under no circumstances shall this Deed of Easement be deemed or construed to give or grant to Grantee, the public, or anyone else, any rights to use any portion of the Property, except the Easement Area for the purpose of inspecting and maintaining the existing stormwater facilities.

8. Grantor shall have the right from time to time to close down any portion of the Easement Area for any period of time in Grantor's sole discretion for any special purpose or activity; for maintaining, repairing or reconstructing the Easement Area or any utilities or drainage facilities located within the Easement Area; or to avoid the granting by prescription of any absolute rights in the Easement Area.

9. Grantee agrees, within ten (10) days after the filing thereof, to discharge or cause to be discharged all mechanic's notices of intention, construction liens, claims, stop notices, lien claims, amended lien claims, notices of unpaid balance and right to file lien, amended notices of unpaid balance and right to file lien, and any other encumbrance under the New Jersey Construction Lien Law, N.J.S.A. 2A:44A-1 et seq., as amended from time to time, or any other applicable law, filed against Grantor or the Property in connection with any work or maintenance performed on the Property by Grantee or its employees, agents, contractors, subcontractors, or consultants.

10. Grantor's liability with respect to the Easement Area is subject to the limitations contained in N.J.S.A. 2A:42A-8 (Landowner Liability Act).

11. This Deed of Easement is not to be construed as being intended to prevent further or additional development on or use of the Property from time to time in a manner not inconsistent with the terms of this Deed of Easement. Future approvals obtained for the Property that involve the removal of the detention basin shall automatically terminate this Deed of Easement.

12. All notices required or permitted to be given hereunder shall be in writing and sent by nationally recognized, overnight delivery service (such as Federal Express), in which case notice shall be deemed given on the first (1st) business day after the date sent, or by personal delivery, in which case notice shall be deemed given on the date received, or by certified mail, return receipt requested, in which case notice shall be deemed given on the third (3rd) business day after the date sent, to the appropriate address set forth in the introductory paragraph above.

13. This Deed of Easement shall be governed by and construed and enforced in accordance with the laws of the State of New Jersey.

14. This Deed of Easement shall be binding on the parties hereto, and their successors, assigns, heirs and transferees.

15. Every covenant, term and provision of this Deed of Easement shall be construed simply according to its fair meaning and in accordance with industry standards and not strictly for or against either party. Every provision of this Deed of Easement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the legality or validity of the remainder of this Deed of Easement.

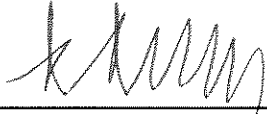
16. This Deed of Easement sets forth the entire agreement and understanding of the parties with respect to the agreements contemplated hereby and supersedes all prior agreements, arrangements and understanding relating to the subject matter hereof. This Deed of Easement may be amended, modified, superseded or cancelled only by a written instrument executed by the parties hereto.

[Signature page follows]

IN WITNESS WHEREOF, Grantor and Grantee have each executed this Deed of Easement as of the date and year first set forth above. Grantee executes this Deed of Easement to acknowledge its consent to the terms and conditions herein contained. Grantor executes this Deed of Easement to acknowledge its consent to the terms and conditions herein contained.

GRANTOR

MID-MONMOUTH, LLC

By: 

Name: Peter D. Sudler

Title: Manager

STATE OF *New Jersey*:

: ss

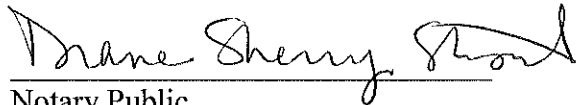
COUNTY OF *Morris* :

I CERTIFY that on this 20th day of July, 2022, Peter D. Sudler personally came before me, and this person stated under oath, to my satisfaction, that:

(a) this person is the Manager of Mid-Monmouth, LLC, the limited liability company named in this instrument; and

(b) this person was authorized to execute this instrument on behalf of such entity;

(c) this person executed this instrument as the voluntary act and deed of said limited liability company.



Notary Public

My Commission Expires:



GRANTEE

BOROUGH OF TINTON FALLS

By: _____
Name: Vito Perillo
Title: Mayor

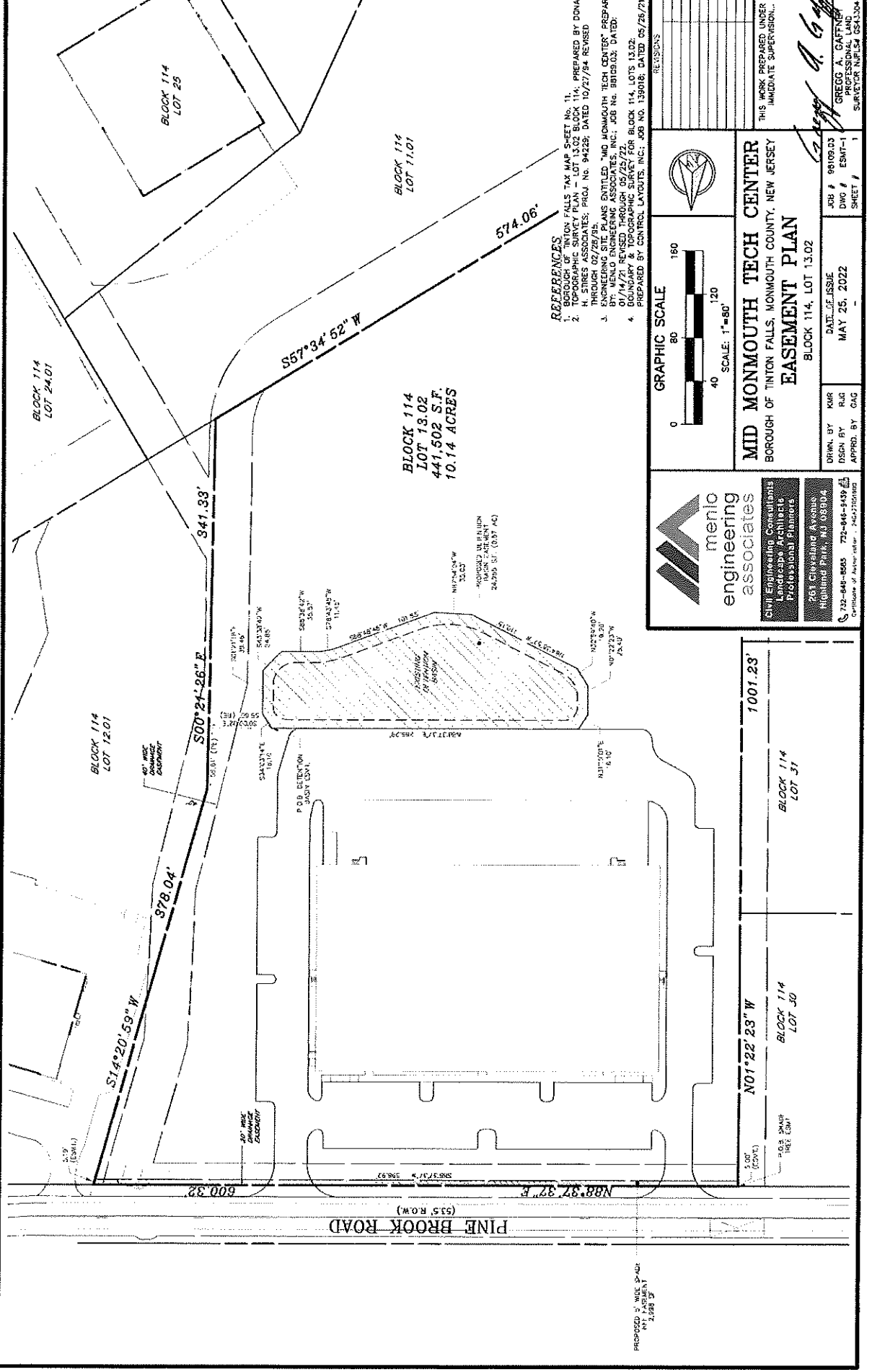
STATE OF :
 : ss
COUNTY OF :

I CERTIFY that on this ____ day of _____, 2022, _____ personally came before me, and this person stated under oath, to my satisfaction, that:
 (a) this person is the _____ of the Borough of Tinton Falls, the municipal corporation named in this instrument; and
 (b) this person was authorized to execute this instrument on behalf of such entity;
 (c) this person executed this instrument as the voluntary act and deed of said municipal corporation.

Notary Public
My Commission Expires: _____

EXHIBIT A

Drainage Easement Exhibit



- REFERENCES
- BOROUGH OF TINTON FALLS TAX MAP SHEET No. 11, TOPOGRAPHIC SURVEY PLAN - LOT 13.02 BLOCK 114, PREPARED BY DONALD H. STRES ASSOCIATES; PROJ. No. 94229; DATED 10/27/94 REVISED THROUGH 02/28/96.
 - PROJECTIONS: NAD 83, NAD MONMOUTH TECH CENTER* PREPARED BY WORLD ENGINEERING ASSOCIATES, INC.; JOB No. 98160308; DATED: 01/14/21 REVISED THROUGH 05/25/22.
 - BOUNDARY & TOPOGRAPHIC SURVEY FOR BLOCK 114, LOTS 13.02; PREPARED BY CONTROL LAYOUTS, INC.; JOB NO. 139018; DATED 05/26/21.

GRAPHIC SCALE

0 40 80 120 160

SCALE: 1"=80'

MID MONMOUTH TECH CENTER BOROUGH OF TINTON FALLS, MONMOUTH COUNTY, NEW JERSEY
EASEMENT PLAN BLOCK 114, LOT 13.02
DATE OF ISSUE: MAY 25, 2022
JOB # 9810903 DWC # ESM1-1 SHEET # 1

mhc engineering associates

Civil Engineering Consultants
Landscape Architects
Professional Planners

261 Craycroft Avenue
Hightstown, NJ 08520
732-648-8505 732-648-4439

PROPOSED 3' WIDE SIDEWALK PLACEMENT 2.088 5'	PROPOSED 3' WIDE SIDEWALK PLACEMENT 2.088 5'
3.00' (0.29%)	3.00' (0.29%)
N01°22'23" W	N01°22'23" W
BLOCK 114 LOT 30	BLOCK 114 LOT 31
1001.23'	1001.23'

Gregg A. Gaffney

GREGG A. GAFFNEY
PROFESSIONAL LAND SURVEYOR, LICENSE NO. 58363-06

THIS WORK PREPARED UNDER MY IMMEDIATE SUPERVISION.

DRWN. BY: KMR
DCSN BY: RJG
APPRD. BY: GAG

EXHIBIT B

Legal Description of Easement



732 846 8585
732 846 9439

1611 Chestnut Street
Philadelphia, PA 19102

Legal Description
Mid Monmouth Tech Center
Proposed Detention Basin Easement
Block 114, Lot 13.02
Borough of Tinton Falls
Monmouth County, New Jersey

COMMENCING from a point, said point marking the intersection of the common lot line between Lots 12.01 and 13.02 in Block 114 with the southerly right-of-way line of Pine Brook Road (53.5' R.O.W.) and from said point running the following three (3) courses:

- A. South 14 degrees 20 minutes 59 second West, along said common lot line, a distance of 378.04 feet to a point; thence**
- B. South 00 degrees 21 minutes 26 seconds East, continuing along said common lot line, a distance of 56.61 feet to a point; thence**
- C. South 00 degrees 00 minutes 02 seconds East, along a line, a distance of 58.80 feet to the true point or place of BEGINNING.**

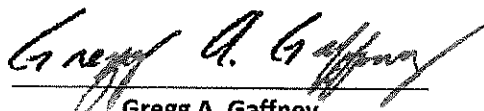
Along an easement line for courses 1 through 12:

- 1. South 34 degrees 03 minutes 14 seconds East, a distance of 16.10 feet to a point; thence**
- 2. South 01 degree 21 minutes 18 seconds East, a distance of 39.46 feet to a point; thence**
- 3. South 43 degrees 38 minutes 42 seconds West, a distance of 24.85 feet to a point; thence**
- 4. South 88 degrees 38 minutes 42 seconds West, a distance of 35.57 feet to a point; thence**
- 5. South 78 degrees 43 minutes 45 seconds West, a distance of 11.45 feet to a point; thence**
- 6. South 68 degrees 48 minutes 48 seconds West, a distance of 101.85 feet to a point; thence**
- 7. North 87 degrees 54 minutes 04 seconds West, a distance of 35.03 feet to a point; thence**
- 8. North 64 degrees 36 minutes 57 seconds West, a distance of 110.15 feet to a point; thence**
- 9. North 32 degrees 59 minutes 40 seconds West, a distance of 19.26 feet to a point; thence**
- 10. North 01 degree 22 minutes 23 seconds West, a distance of 25.40 feet to a point; thence**
- 11. North 31 degrees 19 minutes 01 second East, a distance of 16.10 feet to a point; thence**

12. North 88 degrees 37 minutes 37 seconds East, a distance of 286.29 feet to the point or place of BEGINNING.

The above-described easement contains 24,955 S.F. (0.57 acres), more or less, as shown on a map entitled "Mid Monmouth Tech Center - Easement Plan" prepared by Menlo Engineering Associates, Inc.; project no. 98109.03; drawing no. ESMT-1; dated May 25, 2022.

KMR/dp
MEA #98109.03
May 25, 2022



Gregg A. Gaffney
Professional Land Surveyor
NJPLS #GS43304