



Prepared By: Eric M. Brown, Esquire  
Siana, Bellwoar & McAndrew, LLP  
941 Pottstown Pike, Suite 200  
Chester Springs, PA 19425

Return To: Eric M. Brown, Esquire  
Siana, Bellwoar & McAndrew, LLP  
941 Pottstown Pike, Suite 200  
Chester Springs, PA 19425

I hereby certify that the true  
and correct address of the  
Grantee, West Brandywine  
Township, is 198 Lafayette  
Road, Coatesville, PA 19320

A handwritten signature in black ink, appearing to be "E. Brown", is written over a horizontal line.

For Grantee

UPI: 29-4-179 (**part of**) ✓

Property Address: 160 Culbertson Run Road  
West Brandywine Township, Chester County, PA

**TRAIL EASEMENT**  
**AND TEMPORARY CONSTRUCTION AGREEMENT**

This Agreement, made this 3<sup>rd</sup> day of September, 2020, and effective this 29<sup>th</sup> day of September, 2020 ("Effective Date"), by and between West Brandywine Township ("Township"), 198 Lafayette Road, Coatesville, PA 19320, of the first part; and TOA West Brandywine LLC, of the second part ("Landowner") (collectively, the "Parties").

WHEREAS, the Landowner is the record owner of real property within the Township, Uniform Parcel Identifier No. 29-4-179 being a 130 +/- acre in the aggregate, with an address of Swinehart and Culbertson Roads, Coatesville, PA, (collectively, the "Subject Property"); and

WHEREAS, the Parties agree that the Subject Property is located in an ideal location to serve as a trail linkage between anticipated future trail systems in the Township, the connection of which would allow the community to travel by trail to areas where there are no existing trails, sidewalks or other available walkways; and

WHEREAS, the Landowner desires to allow and install, and the Township desires to maintain, itself or by and through its authorized assigns, a trail through and over a portion of the Subject Property for non-motorized, pedestrian trail usage.

NOW THEREFORE, in consideration of the covenants herein contained, the Parties agree as follows:

1. TRAIL EASEMENT: The Landowner does hereby grant a ten (10) foot wide public trail easement to the Township, its successors and assigns, to utilize and maintain a public walking trail, signs, associated stormwater management facilities, and any other necessary trail related improvements (collectively, the "Trail") on the Subject Property as depicted, described and delineated on Exhibit "A." The Trail shall be maintained in a natural state, being grass, stone or other mutually-agreeable surface material, no greater than ten (10) feet in width ("Trail Easement") as depicted on Exhibit "A." The location of the trail shall be agreed upon by the Parties but shall be in the general vicinity as show on Exhibit "A", and as more fully described in the legal description marked as Exhibit "B".

2. REPRESENTATIONS AND WARRANTIES: Neither the Landowner nor the Township make any representations by execution of this Agreement that the Trail is safe for any intended purpose. The Parties further agree that this Agreement does not confer any enforceable rights or remedies upon any persons other than the signatories hereto, and any third-party usage of the trail shall be subject to all immunities of the Township and Landowner under the Recreational Use of Land and Water Act and as otherwise provided by law. There are no third-party beneficiaries to this Agreement.

3. SIGNAGE: The Township shall install signage in areas delineated on Exhibit "A" to advise users of the Trail of its location and limitations on its use. Signage is to be approved by Landowner before installation. Township, with consent of Landowner, may install additional signage as needed if the need for such arises.

4. TRAIL DESIGN AND CONSTRUCTION: Landowner shall be responsible for the construction of the Trail, or the cost thereof. Township shall be responsible for providing Landowner with a mutually acceptable design of the Trail. The Township shall also be responsible for any permitting required for Trail construction. The grant of easement contained herein includes a temporary construction easement granted to Landowner to construct the improvements contemplated by this Agreement. Construction of the Trail shall be undertaken by Landowner during the construction of Phase 2 of "Traditions of America - Brandywine" development ("Development") on the Property at Landowner's sole cost and expense. In the event the Township fails to design and, if necessary, obtain required permitting, for the Trail before the expiration of the 18-month maintenance period for improvements to be dedicated to the Township for Phase 2 of the "Traditions of America - Brandywine" development, Landowner shall remit to

Township the cost of construction of the Trail as determined by mutual agreement of the Township Engineer and Landowner's Engineer as a fee in lieu of the construction of the Trail within thirty (30) days of the expiration of the 18-month maintenance period. In the event the Township Engineer and Landowner's Engineer are unable to agree upon the improvement cost of the Trail, the Township Engineer and Landowner Engineer shall nominate an independent third-party engineer whose determination on the fee to be remitted in lieu of construction shall be conclusive. Upon receipt of the fee in lieu of construction of the Trail, Landowner shall have no further responsibility for the construction of the Trail and the Township shall construct the Trail as depicted on Exhibit "A." The status of the construction of the Trail or payment of a fee in lieu of construction shall in no way delay or hinder the release of any financial security or maintenance bond posted for the Development; provided that the cost of said trail has been established by mutual agreement of the parties or by the third-party engineer in accordance with this provision prior to the release of the maintenance bond posted for improvements to be dedicated to the Township.

5. MAINTENANCE: The Township shall be responsible for maintenance of the trail and signage reflected on the Plans at Exhibit "A", associated with the Trail-related improvements.

6. RULES AND RESTRICTIONS: The Parties agree that the following rules and regulations shall be established and maintained for the use of the Trail:

- a) All of the rules and regulations set forth in West Brandywine Code of Ordinances apply to the use of the Trail.
- b) No motorized vehicles (including automobiles, go-karts, all-terrain-vehicles and dirt bikes) may be utilized on the Trail through the Subject Property. Equestrian use of the Trail shall be permitted, provided that such users undertake appropriate measures not to damage the Trail (e.g., through extensive wear and tear, by failing to clean up and remove horse manure, etc.). The Township may, upon request of Landowner or of its own volition, suspend equestrian use of the Trail to the extent that appropriate care is not being provided by such users. Biking and cross-country skiing may also be permitted at the Township's discretion.
- c) Use of the Trail by the public is limited to the Trail Easement area.
- d) Public access to the Trail may be temporarily closed by the Landowner or the Township in order to provide for maintenance to the Subject Property or the Trail.

- e) Use of the Trail shall not be permitted before sunrise or after sunset. The Township may establish more restrictive times of permissible use.

7. IMMUNITIES AND INDEMNIFICATION: The Parties agree and recognize that they are subject to certain immunities with respect to the ownership and use of the Trail, including, but not limited to the Pennsylvania Political Subdivision Tort Claims Act, 53 P.S. § 8541 *et seq.*, and the Recreational Use of Land and Water Act, § 477 *et seq.* The Township shall maintain liability insurance, listing the Landowner as an additional insured, for the Trail Easement, and hereby agrees to defend and indemnify the Landowner with respect to any claims, losses, damages or expenses sought by a third party as a result of negligent acts, errors or omissions of the Township with respect to the Trail and the Township obligations hereunder.

8. COMPENSATION: The Township agrees to pay Landowner the amount of One Dollar (\$1.00) for this trail easement.

9. All references to the Township shall be construed to incorporate West Brandywine Township, its governing body, elected and appointed officials, consultants, and heirs, successors and/or assigns.

10. All references to the Landowner shall be construed to incorporate the Landowner, and their heirs, successors and/or assigns.

11. In the event that the Landowner sells, transfers or otherwise conveys the Subject Property, they shall inform the purchaser or grantee of such conveyance of the instant Easement and the requirements hereof and the successor in interest shall be bound by the instant Agreement.

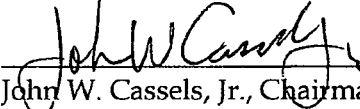
12. This Agreement shall be recorded in the office of the Recorder of Deeds of Chester County, Pennsylvania and indexed therein against the Subject Property and the name of the Landowner, and shall constitute a covenant running with the land, binding on the Parties, their heirs, successors and assigns.

13. This Agreement, together with the Exhibits hereto and made part hereof, constitutes the entire understanding and agreement of the Parties. The Agreement may not be amended, revoked, changed, altered or modified in any manner whatsoever, other than by written unanimous agreement of the Parties.

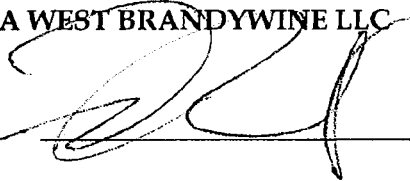
14. The Parties shall not assign any of their rights, duties or obligations under this Agreement without the express written consent of the other party.

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement the day and year aforesaid.

**WEST BRANDYWINE TOWNSHIP**

BY:   
John W. Cassels, Jr., Chairman

**TOA WEST BRANDYWINE LLC**

BY: 

BY: Timothy R. McCarthy, Manager

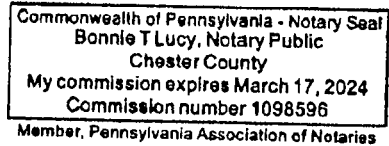
**ACKNOWLEDGMENT**

COMMONWEALTH OF PENNSYLVANIA :  
: **§§**  
COUNTY OF *Chester* :

On this 3<sup>rd</sup> day of September, A.D. 2020, before me, a notary public in and for the Commonwealth of Pennsylvania, personally appeared, John W. Cassels, Jr., who acknowledged himself to be the Chair of the Board of Supervisors of West Brandywine Township, and that he, as such official, being duly authorized to do so, executed the foregoing instrument for the purposes therein contained.

WITNESS my hand and official seal the day and year aforesaid.

*Bonnie T. Lucy*  
Notary Public

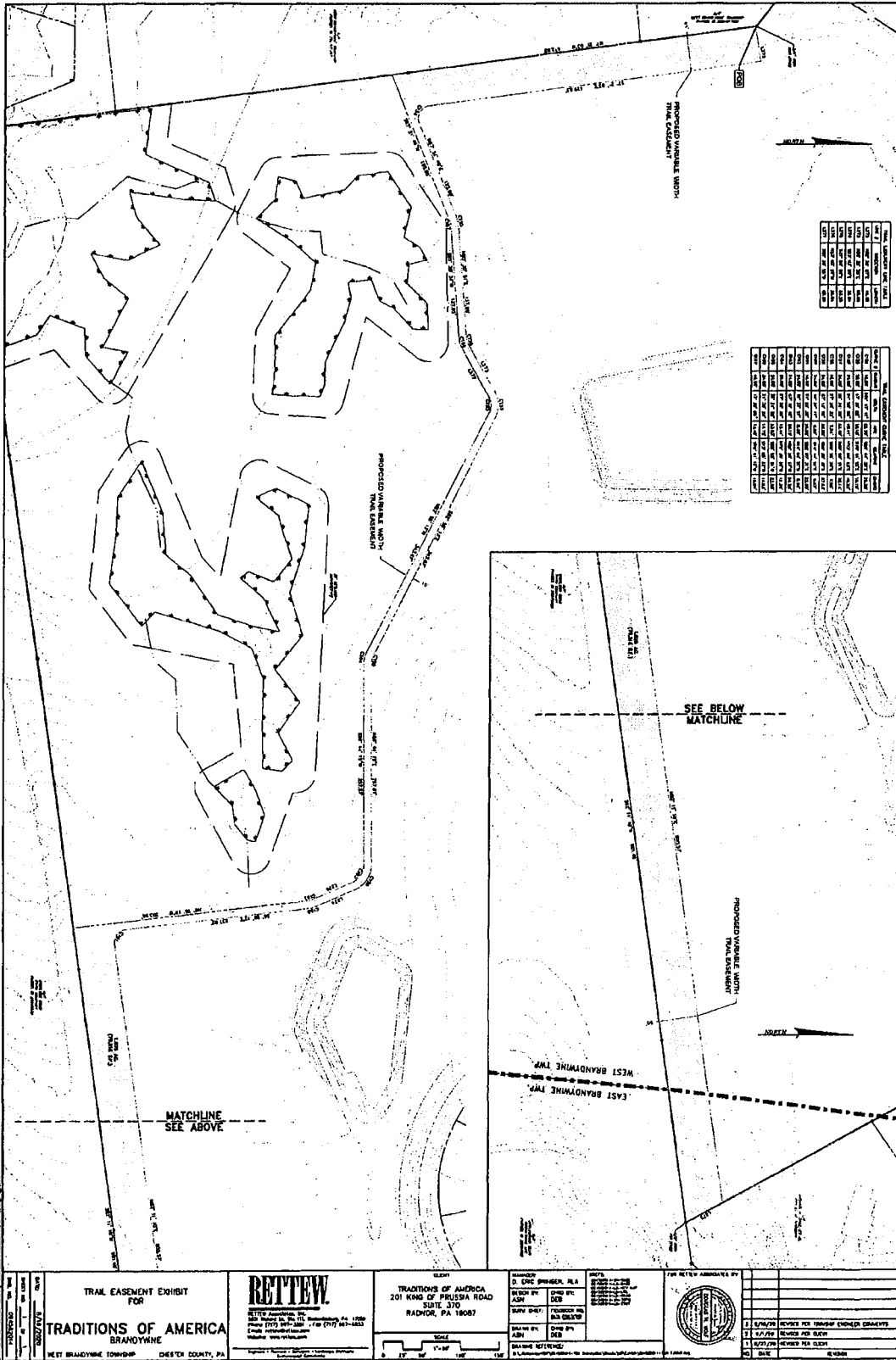




## EXHIBIT "A"

Plan of the Subject Property  
Delineating the Trail Easement Area





NOT FOR CONSTRUCTION/NOT FOR BIDDING

TRAIL EASEMENT EXHIBIT FOR <b>TRADITIONS OF AMERICA</b> BRANDYWINE WEST BRANDYWINE TOWNSHIP CHESTER COUNTY, PA	RETEW Associates, Inc. 201 KING OF PRUSSIA ROAD SUITE 370 RADFORD, PA 18087 Phone: (717) 867-1111 Fax: (717) 867-1853 Email: info@retew.com Website: www.retw.com	CLIENT: <b>TRADITIONS OF AMERICA</b> 201 KING OF PRUSSIA ROAD SUITE 370 RADFORD, PA 18087	DESIGN: D. DICK BRUNDEL, P.E. DESIGN BY: ASH DESIGN DATE: 10/09/2020 PROJECT NO.: 11769403	FOR RETEW ASSOCIATES BY: 	SHEET NO.: 931
					DATE: 10/09/2020

## EXHIBIT "B"

Legal Description

**NARRATIVE DESCRIPTION  
PROPOSED VARIABLE WIDTH TRAIL EASEMENT  
TRADITIONS OF AMERICA – WEST BRANDYWINE**

All that certain strip of land situated within lands now or formerly of Longview Swinhart LP, in the Townships of East Brandywine and West Brandywine, County of Chester and State of Pennsylvania, being a variable width trail easement as shown on a plan entitled "Trail Easement Exhibit for Traditions of America", prepared by RETTEW Associates, dated 08/19/2020, last revised September 10, 2020, Drawing No. 094582014, being more particularly bounded and described as follows:

BEGINNING at a  $\frac{3}{4}$ " Iron Bar (Found), a common corner of lands now or formerly of West Brandywine Township (Tax parcel number 29-4-179.1) and lands now or formerly of Longview Swinhart LP;

Thence extending through lands of the Grantors herein the following eighteen (18) courses and distances:

1. (L272) N 82°38'57" E a distance of 45.00 feet to a point;
2. S 07°21'03" E a distance of 429.83 feet to a point;
3. (C154) On an arc curving to the left having a radius of 16.00 feet, an arc length of 29.26 feet and the chord of said arc being S 59°44'39" E a distance of 25.35 feet to a point;
4. N 67°51'46" E a distance of 125.90 feet to a point;
5. (C155) On an arc curving to the right having a radius of 59.00 feet, an arc length of 18.18 feet and the chord of said arc being N 76°41'18" E a distance of 18.10 feet to a point;
6. N 85°30'51" E a distance of 137.95 feet to a point;
7. (C156) On an arc curving to the left having a radius of 24.00 feet, an arc length of 10.41 feet and the chord of said arc being N 73°05'23" E a distance of 10.33 feet to a point;
8. (L273) N 60°39'55" E a distance of 69.86 feet to a point;
9. (C157) On an arc curving to the right having a radius of 34.00 feet, an arc length of 33.48 feet and the chord of said arc being N 88°52'21" E a distance of 32.14 feet to a point;
10. S 62°55'13" E a distance of 343.87 feet to a point;
11. (C158) On an arc curving to the left having a radius of 16.00 feet, an arc length of 7.64 feet and the chord of said arc being S 76°35'29" E a distance of 7.56 feet to a point;
12. N 89°44'15" E a distance of 257.87 feet to a point;
13. (C159) On an arc curving to the right having a radius of 34.00 feet, an arc length of 39.88 feet and the chord of said arc being S 56°39'37" E a distance of 37.63 feet to a point;
14. (L274) S 23°03'29" E a distance of 55.04 feet to a point;
15. (C160) On an arc curving to the right having a radius of 34.00 feet, an arc length of 9.86 feet and the chord of said arc being S 14°44'51" E a distance of 9.83 feet to a point;
16. S 06°26'12" E a distance of 237.02 feet to a point;
17. (C161) On an arc curving to the left having a radius of 16.00', an arc length of 25.52' and the chord of said arc being S 52°07'31" E a distance of 22.90 feet to a point;
18. N 82°11'10" E a distance of 855.57 feet, extending into East Brandywine Township to a point along lands now or formerly of Michael K. Drill, Et Al;

Thence along said lands (L275) S 27°56'22" E a distance of 53.25 feet to a  $\frac{1}{2}$ " Iron Pin (Found) on the northern line of lands now or formerly Applecross Club Operations, LLC;

Thence along said lands, leaving East Brandywine Township and along lands now or formerly Overlook Road Farm Company respectively, S 82°11'10" W a distance of 901.48 feet to a point;

Thence continuing through lands of the Grantors herein the following thirteen (13) courses and distances:

1. N 06°26'12" W a distance of 303.66 feet to a point;

2. (C162) On an arc curving to the left having a radius of 24.00 feet, an arc length of 6.96 feet and the chord of said arc being N 14°44'51" W a distance of 6.94 feet to a point;
  3. (L276) N 23°03'29" W a distance of 55.04 feet to a point;
  4. (C163) On an arc curving to the left having a radius of 24.00 feet, an arc length of 28.15 feet and the chord of said arc being N 56°39'37" W a distance of 26.56 feet to a point;
  5. S 89°44'15" W a distance of 257.87 feet to a point;
  6. (C164) On an arc curving to the right having a radius of 26.00 feet, an arc length of 12.41 feet and the chord of said arc being N 76°35'29" W a distance of 12.29 feet to a point;
  7. N 62°55'13" W a distance of 343.87 feet to a point;
  8. (C165) On an arc curving to the left having a radius of 24.00 feet, an arc length of 23.63 feet and the chord of said arc being S 88°52'21" W a distance of 22.69 feet to a point;
  9. (L277) S 60°39'55" W a distance of 69.86 feet to a point;
  10. (C166) On an arc curving to the right having a radius of 34.00 feet, an arc length of 14.75 feet and the chord of said arc being S 73°05'23" W a distance of 14.63 feet to a point;
  11. S 85°30'51" W a distance of 137.95 feet to a point;
  12. (C167) On an arc curving to the left having a radius of 49.00 feet, an arc length of 15.10 feet and the chord of said arc being S 76°41'18" W a distance of 15.04 feet to a point;
  13. S 67°51'46" W a distance of 195.85 feet to a point on the eastern property line of lands now or formally of West Brandywine Township (Tax parcel number 29-7-29.1);
- Thence continuing along said lands N 07°21'03" W a distance of 472.82 feet to the Point of BEGINNING.

Containing: 79,516 Square Feet, or 1.825 Acres

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