

RESOLUTION NO. 14 OF 2020

**A RESOLUTION OF THE BOARD OF SUPERVISORS  
OF MOUNT JOY TOWNSHIP, ADAMS COUNTY, PENNSYLVANIA,  
FOR A DECLARATION OF TAKING, FOR A PROPERTY INTEREST  
IN THE FORM OF EASEMENT, OF A PORTION OF PROPERTY OWNED  
BY CYNTHIA AND RICHARD A. KELLER FOR THE PURPOSE OF  
CONSTRUCTION AND MAINTENANCE OF STORMWATER  
MANAGEMENT IMPROVEMENTS RELATED TO LOW DUTCH ROAD  
(T-424), A PUBLIC ROAD**

**WHEREAS**, Cynthia and Richard A. Keller (Kellers) are owners and residents of property bearing the address 2065 Low Dutch Road and more particularly described in a deed recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Deed Book 6462, Page 0605, and further identified by tax parcel number 32G14-0093---000 (Keller Property); and

**WHEREAS**, the Keller Property has frontage on Low Dutch Road (T-424) a public road owned and maintained by Mount Joy Township; and

**WHEREAS**, the Township has demonstrated need to use a portion of the Keller Property to make necessary temporary and permanent stormwater management improvements to Low Dutch Road for the safety and welfare of the public using the road; and

**WHEREAS**, the Keller Property is subject to an agricultural conservation easement granted to the Township dated May 15, 2002, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 4417, Page 305; and

**WHEREAS**, the portion of the Keller Property needed by the Township for stormwater management improvements for Low Dutch Road are within woodlands and not cultivated lands on the Property; and

**WHEREAS**, although expressly providing for various utilities, the agricultural conservation easement does not expressly provide for the public use of the Property for stormwater management purposes and improvements related to the use and maintenance of a public road; and

**WHEREAS**, the federal agency which provided funding for the acquisition of the agricultural conservation easement has, in reliance on the terms of the agricultural easement and enabling law, opposes the encumbrance and use of the above-described portion of the Keller Property for stormwater management purposes related to a public road; and

**WHEREAS**, neither Keller nor the Township, respectively grantor and grantee of the agricultural conservation easement, oppose the conveyance of a portion of the Keller Property as depicted in **ATTACHMENT A** to the Township for public use for the purpose of construction, use and maintenance of stormwater management improvements related to Low Dutch Road, a public road; and

**WHEREAS**, the Township is authorized by the Pennsylvania Eminent Domain Code, 26 Pa.C.S. §§101-1106, to exercise powers of eminent domain to take property for public purpose and by Section 2702 of the Second Class Township Code, 53 P.S. §67702, to exercise powers of eminent domain for acquisition of land to establish, construct and maintain stormwater management facilities; and

**WHEREAS**, the Township is prepared to file a Declaration of Taking in the form attached as **ATTACHMENT B** to take portions of the Keller Property, in the form of temporary construction easements and exclusive permanent easements, for public use for the construction, use and maintenance of stormwater management facilities for Low Dutch Road.

**NOW THEREFORE BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF MOUNT JOY TOWNSHIP:**

The Board of Supervisors directs the filing of the Declaration of Taking to acquire a property interest, in the form of temporary construction easements and exclusive permanent easements, of a portion of the Keller Property for public use for the construction, use and maintenance of stormwater management facilities for Low Dutch Road.

ADOPTED this 16 day of July, 2020.

ATTEST:

**MT. JOY TOWNSHIP**

Shannon Hare  
Shannon Hare, Secretary

By: John Gormont  
John Gormont  
Chairman, Board of Supervisors

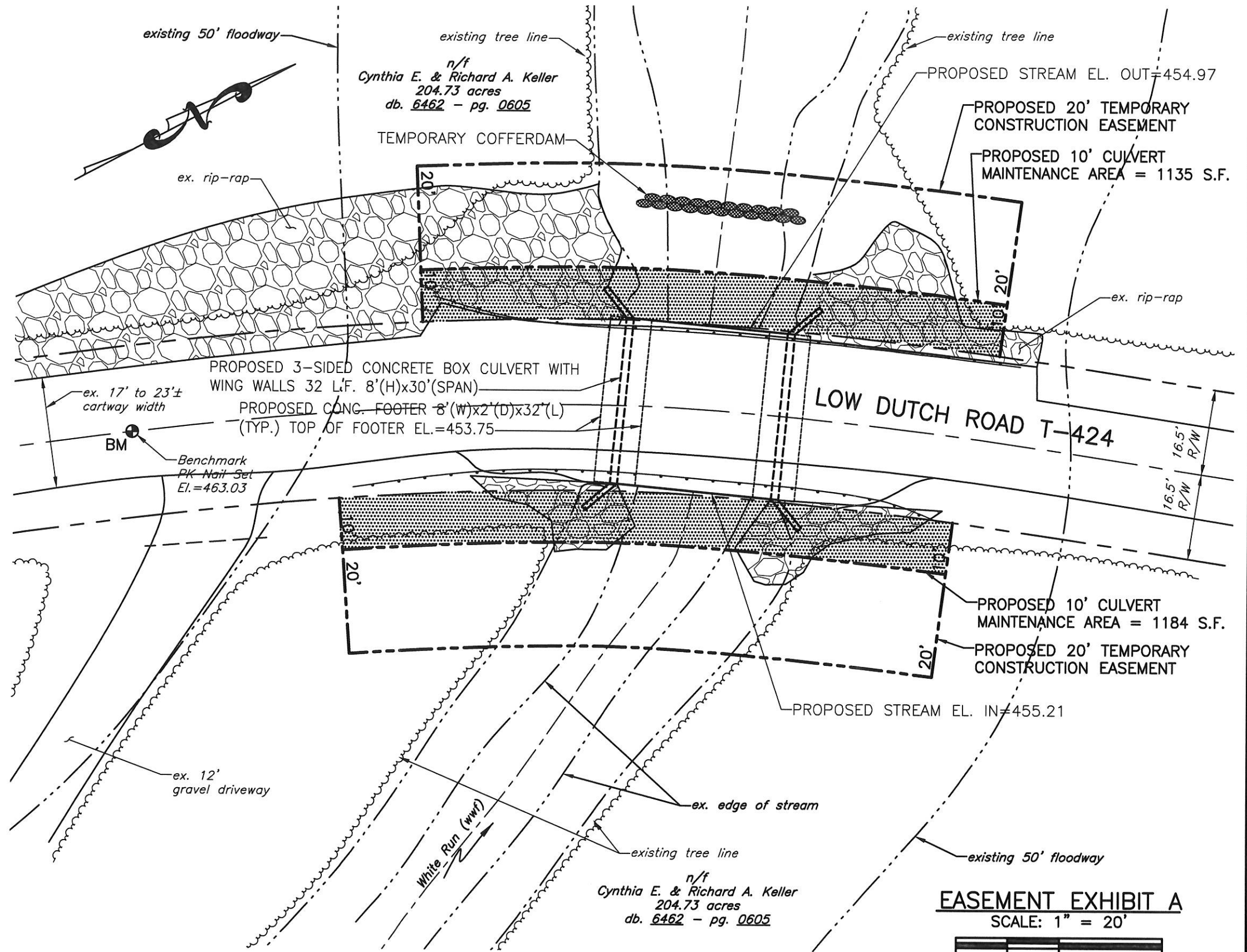
*I, Shannon Hare, Secretary for Mount Joy Township, do hereby attest that the foregoing Resolution No. 14 was voted upon and approved by unanimous vote of the Board of Supervisors on the 16 day of July 2020.*

**GENERAL NOTES:**

- EXISTING TOPOGRAPHY / FEATURES IS AS PER FIELD SURVEY PERFORMED BY WM. F. HILL & ASSOC., INC. ON 05/01/2019.
- THE ELEVATIONS ON THIS PLAN ARE BASED ON NAVD 88 NGS NORTH AMERICAN VERTICAL DATUM.
- THE COORDINATES SHOWN ON THIS PLAN ARE BASED ON THE PENNSYLVANIA STATE PLANE COORDINATE SYSTEM - SOUTH ZONE.
- THE ENTIRE PROJECT AREA IS LOCATED INSIDE THE FEMA 100 YEAR FLOODPLAIN AS SHOWN ON FEMA FIRM MAP 42001C0266D, EFFECTIVE FEBRUARY 18, 2009.
- THERE WILL BE NO WETLAND IMPACTS ASSOCIATED WITH THIS PROJECT. NO WETLANDS WERE OBSERVED WITHIN THE PROJECT AREA BY VORTEX ENVIRONMENTAL, INC. ON APRIL 25, 2019.
- UPON COMPLETION OF THE CULVERT REPLACEMENT AND FINAL STABILIZATION OF THE SITE, ALL RIGHTS ASSOCIATED WITH ACCESSING THE TEMPORARY CONSTRUCTION EASEMENT AREAS SHALL EXPIRE.

**LEGEND**

- BM ⊕ = BENCHMARK - PK NAIL IN ROAD EL.=463.03
- = EXISTING STREAM LINE
- ~ ~ ~ = EXISTING TREE LINE
- = EXISTING PROPERTY LINE
- - - = EXISTING RIGHT-OF-WAY LINE
- - - = EXISTING STORMWATER PIPING
- - - = PROPOSED STORMWATER PIPING
- ▨ = PROPOSED CULVERT MAINTENANCE AREA



**EASEMENT EXHIBIT A**

SCALE: 1" = 20'



**WM. F. HILL & ASSOC., INC.**  
 PROFESSIONAL ENGINEERS  
 CIVIL ♦ MUNICIPAL ♦ ENVIRONMENTAL  
 GETTYSBURG, PA 17325  
 PH. (717) 334 - 9137

PLAN PREPARATION		REVISIONS	
DRAWN BY:	DATE:	NO.	DATE
FSI	06/15/20		
DESIGNED BY:	CHECKED BY:		
EMV	WFH		

EASEMENT EXHIBIT A - LOW DUTCH ROAD  
 DEED OF EASEMENT - Cynthia E. & Richard A. Keller  
 PERMANENT AND TEMPORARY EASEMENTS  
 MOUNT JOY TOWNSHIP, ADAMS COUNTY, PA

SCALE  
AS SHOWN  
 SHEET NO.  
1 OF 1

Susan J. Smith, Esq.  
Pa.I.D. No. 62531  
The Law Office of Susan J. Smith  
319 N. 24<sup>th</sup> Street  
Camp Hill, PA 17011  
P: 717-763-1650  
*Solicitor for Mount Joy Township*

<b>MOUNT JOY TOWNSHIP,</b>	:	<b>IN THE COURT OF COMMON PLEAS</b>
<b>Condemnor</b>	:	<b>ADAMS COUNTY, PENNSYLVANIA</b>
	:	
<b>v.</b>	:	
	:	<b>No.</b>
<b>CYNTHIA AND RICHARD A. KELLER,</b>	:	
<b>Condemnees</b>	:	<b>Eminent Domain</b>
	:	<b>Action In Rem</b>

**DECLARATION OF TAKING**

AND NOW, comes Mount Joy Township, by and through its Solicitor, The Law Office of Susan J. Smith, and states the following:

1. The Condemnor in this matter is Mount Joy Township, Adams County, a second class township organized and existing pursuant to the Second Class Township Code of Pennsylvania and maintaining its principal office at 902 Hoffman Home Road, Gettysburg, Pennsylvania (Township and Condemnor).

2. The Condemnees are Cynthia and Richard A. Keller (Kellers and Condemnees), owners and residents of property bearing the address 2065 Low Dutch Road, Gettysburg, Pennsylvania 17325 and more particularly described in a deed recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Deed Book 6462, Page 0605, and further identified by tax parcel number 32G14-0093---000 (Keller Property).

3. The Keller Property has frontage on Low Dutch Road (T-424) a public road owned and maintained by Condemnor Mount Joy Township.

4. The exercise of eminent domain powers for public purpose is authorized by the Pennsylvania Eminent Domain Code, 26 Pa.C.S. §§101-1106; the exercise of eminent domain powers to acquire land for the establishment, construction and maintenance of stormwater management facilities is authorized by Section 2702 of the Second Class Township Code, 53 P.S. §67702; and this Declaration of Taking is specifically provided for by section 302 of the Pennsylvania Eminent Domain Code, 26 Pa.C.S. §302.

5. This Declaration of Taking also is authorized by Mount Joy Township Resolution No. \_\_\_\_\_ enacted \_\_\_\_\_.

6. The Township has demonstrated need to use a portion of the Keller Property to make necessary temporary and permanent stormwater management improvements to Low Dutch Road for the safety and welfare of the public using the road.

7. The purpose of this Declaration of Taking is to acquire a property interest in the form of a temporary construction easements and exclusive permanent easements on a portion of the Keller Property for public use for stormwater management for Low Dutch Road, a public road owned and maintained by Condemnor.

8. A legal description of the portion of the Keller Property that is the subject of this Declaration is attached hereto as **EXHIBIT A**.

9. A site plan depicting both the portion of the Keller Property that is the subject of this Declaration and indicating the scope and purpose of the various easements is attached as **EXHIBIT B**.

10. Just compensation will be provided to the property owner or paid into court; no security is required pursuant to 26 Pa.C.S. §303(b)(1) as Mount Joy Township has the power of taxation.

WHEREFORE, pursuant to this Declaration of Taking, Mount Joy Township takes a portion of the land of Cynthia and Richard A. Keller for public use for stormwater management for Old Dutch Road, a public road, by property to this Declaration of Taking.

Respectfully submitted,

THE LAW OFFICE OF SUSAN J. SMITH

Date: \_\_\_\_\_

\_\_\_\_\_  
Susan J. Smith, Esq.  
Pa.I.D. No. 62531  
319 N. 24<sup>th</sup> Street  
Camp Hill, PA 17011  
*Solicitor for Mount Joy Township*



## **EXHIBIT A**

### **KELLER DECLARATION OF TAKING**

Temporary construction easements and permanent maintenance easements for stormwater management facilities on property bearing the address 2065 Low Dutch Road, Gettysburg, Pennsylvania, and more particularly described in a deed recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Deed Book 6462, Page 0605, and further identified by tax parcel number 32G14-0093---000 to provide adequate drainage from the newly installed culvert and the replacement of the existing culvert crossing Low Dutch Road (T-424), a public road owned and maintained by Mount Joy Township, Adams County, Pennsylvania, as shown on the Plan titled "Easement Exhibit 'A' – Low Dutch Road, dated June 15, 2020", incorporated herein by reference, together with all rights of ingress, egress and regress necessary or convenient for the full and complete use by Mount Joy Township of the rights granted hereby, including a right to clear and keep cleared all trees, roots, brush and other obstructions from the surface or subsurface. Said temporary construction easements will expire following completion of the work necessary for the Low Dutch Road culvert replacement.



**CERTIFICATE OF COMPLIANCE**

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

For Party: Mount Joy Township

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Susan J. Smith, Esq.  
Pa. I.D. No. 62531