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April 20, 2022

George Locke  
Borough Manager  
**Jenkintown Borough**  
700 Summit Ave,  
Jenkintown PA 19046  
VIA HAND DELIVERY

**RECEIVED**

APR 20 2022

**Jenkintown Borough**

**Re: *In Re: Substantive Validity Challenge of 440 L Jenkintown LH, LLC***

Dear Mr. Locke,

This firm represents the interests of 440 L Jenkintown LH, LLC, ("JLH") which is the lessor of certain real property located at 440 York Road, Jenkintown Borough, Montgomery County, Pennsylvania.

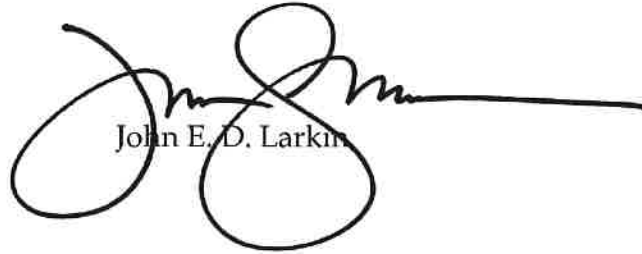
JLH is desirous of erecting a monopole billboard at the Property, but is barred from doing so by your Zoning Ordinance, § 181-141. It is respectfully submitted that your Ordinance is unconstitutional with respect to billboard uses, and as a result JLH is filing a substantive validity challenge thereto.

Your website does not include a preprinted form for Substantive Validity Challenges and, although your Code suggests that the fees for such filings must be set by Borough Council by resolution, no such fee is included in any of the schedules I have been able to locate.

Accordingly, pursuant to 53 P.S. § 10916.1, kindly accept this cover letter, the attached Petition, and the exhibits appended thereto, as JLH's "written request to the board that it hold a hearing on its challenge" and the reasons therefor pursuant to Section 10916.1 of the MPC. We will make such payment as we are reasonably instructed, either at the time of filing or at your convenience thereafter.

George Locke  
April 20, 2022  
Page 2

Yours,



John E. D. Larkin

**Gawthrop Greenwood, PC**

By: Jack Larkin

Pa. Supreme Court No. 307270

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*Attorneys for 440 L Jenkintown LH, LLC*

IN RE: SUBSTANTIVE VALIDITY  
CHALLENGE OF  
440 L JENKINTOWN LH, LLC

BEFORE THE ZONING HEARING  
BOARD OF JENKINTOWN  
BOROUGH, MONTGOMERY  
COUNTY, PENNSYLVANIA

Petition No. \_\_\_\_\_

**SUBSTANTIVE VALIDITY CHALLENGE**

440 L Jenkintown LH, LLC ("JLH"), through its attorney, Gawthrop Greenwood, PC, hereby challenges the validity of Section 181-141 of the Jenkintown Borough Zoning Ordinance (the "**Ordinance**") pursuant to 53 P.S. § 10916.1 as illegal and unconstitutional spot zoning and, in support thereof, states as follows:

**BACKGROUND**

1. JLH is the lessee of certain real property located at 440 York Road, Jenkintown Borough, Montgomery County, Pennsylvania (the "**Property**"). A true and correct copy of that lease is attached hereto at Exhibit "A."

2. The Deed to the Property is attached at Exhibit "B."

3. County records indicate the Property is in the Neighborhood Commercial Residential Zoning District, and is 37,360 square feet in area. It is adjacent to Old York Road, there a four-lane highway, and Vista Road, a two-lane road.

4. JLH is desirous of erecting an outdoor off-site advertising sign on the Property; the Property is appropriate for such a use under the Ordinance *except* that:

- a. The Property is not in the Gateway Commercial Zoning District;
- b. The Property is not 500 feet from a residential zoning district.

### ***SPOT ZONING***

5. Section 916.1 of the Municipalities Planning Code ("**MPC**") provides that where an applicant challenges the substantive validity of an ordinance before the Zoning Hearing Board, it must "make a written request to the board that it hold a hearing on its challenge. The request shall contain the reasons for the challenge." 53 P.S. § 10916.1(c)1).

6. If the Zoning Hearing Board determines that the substantive validity challenge has merit, then "the decision of the zoning hearing board shall include recommended amendments to the challenged ordinance which will cure the defects found." 53 P.S. § 10916.1(c)(5).

7. Here, in determining whether JLH's substantive validity challenge has merit, the Board is called to consider whether the Ordinance is an exercise of spot zoning.

8. "Spot Zoning" occurs where a governing body singles out "one lot or a small area for different treatment from that accorded to similar surrounding land indistinguishable from it in character, for the economic benefit of the owner of that lot or to his economic detriment." *In re Realen Valley Forge Greenes Assocs.*, 838 A.2d 718, 729 (Pa. 2003).

9. Spot zoning "is an arbitrary exercise of police powers that is prohibited by our Constitution." *Id.* (citing, *United Artists' Theater Circuit, Inc. v. City of Philadelphia*, 635 A.2d 612, 620 (Pa. 1993)).

10. The size of the zoned tract is certainly a relevant factor in a spot zoning challenge, but "the most important factor in an analysis of a spot zoning question is whether the rezoned land is being treated unjustifiably different from similar surrounding land." *Schubach v. Silver*, 336 A.2d 328, 336 (Pa. 1975).

11. The Ordinance relevantly imposes three locational criteria on properties seeking approval for off-site outdoor advertising signs ("**Billboards**"):

- a. Sites must be located within the Gateway Commercial District; § 181-141)
- b. Sites must be no closer than 1,000 feet from another outdoor advertising sign;
- c. Sites must be no closer than 500 feet from a residential zoning district within the Borough, § 181-141.B.

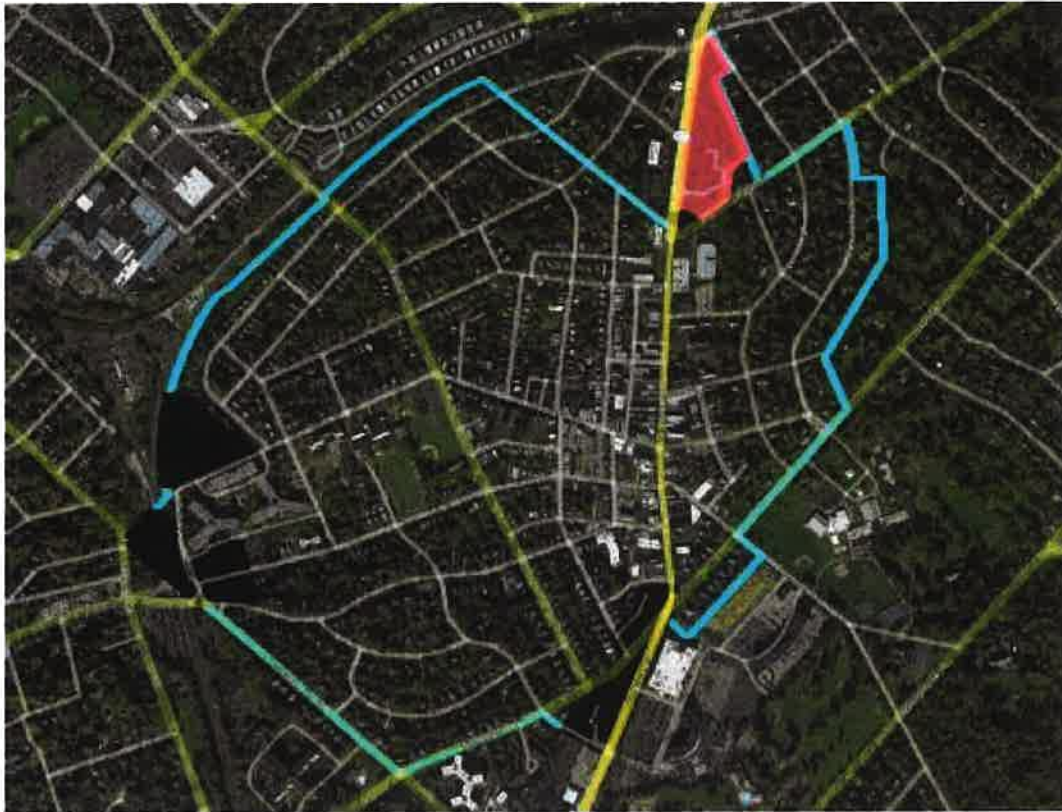
12. Applying these criteria sequentially, one sees first that the Gateway Commercial District is limited to the following four areas of the Borough:



13. Removing sites smaller than 10,000 square feet reduces the eligible sites further:



14. Finally, removing all sites closer than 500 feet from a residential zoning district within the Borough leaves just a single parcel on which off-site outdoor advertising signs may be erected: 610 Old York Road.



15. When ordinances single out an individual lot “for no apparent reason or purpose except to favor the owner it is referred to as ‘spot zoning’, and is invalid because it is discriminatory.” *In Boyle Appeal*, 179 Pa. Superior 318, 327 (1955).

16. Here, the restrictions the Ordinance places on sites eligible for off-site outdoor advertising signs are, indeed, imposed for no apparent purpose.

- a. The only parcel on which Billboards are permissible is *immediately* adjacent to residential districts; the only distinction between those districts and the ones that preclude billboards on other sites in the Township is that they are located in *Abington Township* as opposed to *Jenkintown Borough*.
- b. While the Borough might argue that this distinction is permitted based on its obligation to its own residents (as opposed to those of neighboring municipalities,) other provisions within the Ordinance make clear that *Jenkintown does* consider the impact of off-site outdoor advertising signs on neighboring municipalities. For instance, the Ordinance

requires landscaping to shield billboards from “any residential zoning district” without reference to municipality. § 181-141.G.

- c. Restricting off-site outdoor advertising signs to the Gateway Commercial District, as opposed to the Town Center or Neighborhood Commercial Residential Districts is similarly arbitrary.

17. The real reason Jenkintown Borough has restricted billboards to 610 Old York Road is because that property is bounded on substantially all sides by Abington Township, making erection of a billboard on that Property somebody else’s ‘problem.’ This, however, the Borough cannot do.

18. The Ordinance is unconstitutional as an exercise of spot zoning.

19. Accordingly, it must be stricken as substantively invalid.

#### ***SITE SPECIFIC RELIEF***

20. If this Board strikes the Ordinance as substantively invalid (as it is respectfully submitted that it must,) then JLH will be entitled to site-specific relief “as proposed in the plans submitted with the validity challenge, provided, of course, that what is submitted is reasonable, and not injurious to the public health, safety, welfare and morals.” *Chairman of the Boards, Inc. v. Zoning Hearing Bd. of the Borough of Wilkinsburg*, No. 421 C.D. 2021, 2021 WL 6139768, at \*5 (Pa. Commw. 2021).

21. The Property is within a Zoning District that is set aside for commercial use.

22. When site-specific relief is granted, JLH will comply with all content and light emission restrictions included in the Ordinance.

23. Billboard uses have consistently been upheld by Pennsylvania Courts as legitimate uses that are not deleterious to the public health, safety, welfare, and morals. *See, e.g., In re Bartkowski Inv. Grp., Inc.*, 106 A.3d 230, 250 (Pa. Commw. 2014).



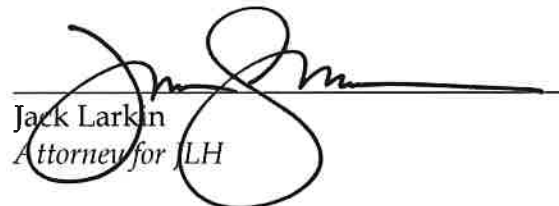
24. Under Pennsylvania law, no conditional use application or plan is necessary accompanying the filing of a substantive validity challenge, so long as the petitioner's plan makes clear its intent. *Budco Theatres, Inc. v. ZHB of Springettsbury Township*, 632 A.2d 1072, 1075 (Pa. Commw. 1993). Nevertheless, solely as a guide to this Board's health, safety, welfare, and morals consideration and not intending to be bound to the specifics thereof, JLH attaches a site plan and construction drawings of the project it will build at the Property.

WHEREFORE, based on the foregoing, JLH respectfully requests that this Board: (1) Issue a determination that the Ordinance unlawfully spot-zones off-site outdoor advertising; and (2) issue site-specific relief by directing the Borough administration to issue, upon application and payment, such permits as may be necessary to build the monopole billboard described herein at the Property.

Respectfully submitted:

Date: April 20, 2022

By:

  
Jack Larkin  
Attorney for JLH

A

**DISPLAY LEASE AGREEMENT**  
**between**  
**440 L JENKINTOWN LH LLC**  
**and**  
**PENSCO TRUST CO LLC**

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This **DISPLAY LEASE AGREEMENT** ("Lease") is made effective this 18th day of April, 2022 ("Effective Date"), and entered into by and between PENSCO TRUST CO LLC ("Lessor") and 440 L Jenkintown LH LLC ("Lessee", and, together with Lessor, each a **Party**" and collectively, the "Parties").

**Background**

A. Lessor is the fee owner of the real property commonly known as Tax Parcel No: 10-00-05344-00-1 located on 440 York Road Jenkintown, PA, Pennsylvania (which real property is more particularly described on Exhibit "A" attached hereto and made a part hereof (the "Property").

B. Lessee desires to lease from Lessor and Lessor desires to lease to Lessee, for the Permitted Use, and subject to all the terms and conditions hereinafter set forth, a portion of the Property, as identified more particularly on Exhibits "B" and "B-1" attached hereto and made a part hereof (the "Premises"), which exhibit may be updated from time to time to reflect a final metes and bounds legal description when available.

**NOW, THEREFORE**, in consideration of the undertakings contained in this Lease, the sum of One Hundred (\$100.00) Dollars duly paid by Lessee to Lessor upon execution hereof, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto, intending to be legally bound, do hereby agree as follows:

In consideration of the undertakings contained in this Lease and other good and valuable consideration, the receipt of which is acknowledged, Lessor leases and grants to Lessee the Premises, for the Permitted Use (defined below) including the rights of possession and use of and ingress and egress to the Property.

1. **Defined Terms.** As used in this Lease, the following terms used shall have the meanings set forth below:

- (a) "**Approvals**" means, collectively, any and all final, irrevocable, unappealable and unappealed permits, licenses, subdivision, use and conditional use approvals, certificates, variances, authorizations, special exceptions, building permits, curb cut permits, crossover permits, highway occupancy permits, sewer and water connection permits, PADOT permits, site plan approvals and all other permits and approvals deemed necessary by Lessee and/or required for construction, installation, maintenance and operation of the Displays (including any electrical service and required permits for lighting) and Improvements, obtained from or issued by any Governmental Authority.
- (b) "**Displays**" means the digital advertising sign faces installed (or to be installed) on the Supporting Structure and located on the Premises and operated by Lessee (or any sublessee, as the case may be).
- (c) "**Governmental Authorities**" means, collectively, and "**Governmental Authority**" means, individually, each and all applicable local, state, and federal governmental authorities, divisions, agencies or municipalities with jurisdiction over the Premises (or any portion thereof), the Premises and/or the Displays.

- (d) **"Improvements"** means all improvements to the Premises, of any kind and nature, including the Supporting Structure and any landscaping required to be maintained pursuant to the terms of any Approvals, but expressly excluding Lessee Property.
- (e) **"Lessee Property"** means the Displays and any control racks, networking components, content players, cellular modems, diagnostic PCs, cameras, routers, remote power managers, video processing units and other software, hardware, equipment and other personal property that is either purchased, leased, licensed, or otherwise owned by Lessee or used exclusively to operate, maintain or repair the Displays, or any replacements thereof.
- (f) **"Permitted Use"** means the purposes of erecting, constructing, installing, operating, maintaining, servicing, modifying, and replacing (subject to applicable Approvals), and, for a period of sixty (60) days after the Term, removing (subject to the last sentence of Section 7 of this Lease) all Improvements and the Lessee Property on the Premises, all in accordance with the Approvals.
- (g) **"Rent Commencement Date"** means the date that is the the day following the date the Displays are fully operational.
- (h) **"Supporting Structure"** means the supporting structure(s) of the Displays located on the Premises, together with electrical/illumination facilities and connections, internet service, panels, service ladders and other appurtenances and equipment that is either purchased by Lessor or used exclusively to operate and maintain the Improvements (but expressly excluding the Lessee Property).

2. **Term.**

(a) The initial term of this Lease (the **"Initial Term"**) shall commence on the Effective Date and shall expire on the date which is [REDACTED] less extended or terminated early in accordance with the terms of this Lease.

(b) Subject to the terms and conditions of this Article, Lessor hereby grants to Lessee one (1) option ( the **"Renewal Option"**) to renew the Term for [REDACTED] additional successive period of twenty nine [REDACTED] the **"Renewal Term"**). Lessee shall exercise the Renewal Option by delivering irrevocable written notice thereof to Lessor the **"Renewal Notice"**) no later than [REDACTED] prior to the commencement date of the Renewal Term, time being of the essence with respect thereto. Notwithstanding the foregoing, Lessee's right to exercise the Renewal Option shall be conditioned upon Lessee's having timely delivered the Renewal Notice to Lessor and upon the satisfaction of each of the following conditions both on the date Lessee delivers the Renewal Notice and upon the commencement date of the Renewal Term: (i) this Lease shall be in full force and effect, (ii) no Default exists, and (iii) the original Lessee named in the Lease, or an assignee of such original Lessee to whom the Lease was assigned pursuant to a Permitted Transfer, shall then be the Lessee under the Lease and shall be in occupancy of the entire Premises. All of the same terms and conditions of the Lease shall apply during each Renewal Term except that (a) the Base Rent payable by Lessee for the Premises during the Renewal Term shall equal one hundred percent (100%) of the Fair Market Rent (as hereinafter defined) for the Premises, (b) Lessor shall have no obligation to make any Alterations or improvements to the Premises or to provide to Lessee any Lessee improvement allowances, rental concessions, abatements or the like except to the extent that the determination of the Fair Market Rent includes any such Lessee improvement allowances, rental concessions, abatements and the like.

(c) The term, **"Fair Market Rent"**, as used herein shall mean the fair market base rental rate that a willing lessee would pay, and a willing lessor would accept, to lease space comparable to the space

in question under renewal leases in an arms-length transaction in the Philadelphia MSA with similar Annual Average Daily Traffic

(d) Within thirty (30) days after Lessor's receipt of the applicable Renewal Notice, Lessor shall deliver written notice to Lessee ("**Lessor's Fair Market Rent Notice**") advising Tenant of Lessor's determination of the Fair Market Rent for the applicable Renewal Term ("**Lessor's Fair Market Rent Determination**"). Within fifteen (15) days following Lessee's receipt of Lessor's Fair Market Rent Notice, Tenant shall either (i) deliver written notice to Lessor notifying Lessor of its agreement with Lessor's Fair Market Rent Determination (the "**Agreement Notice**"), whereupon the Lessor's Fair Market Rent Determination shall be established as the Rent payable by Lessee during the applicable Renewal Term, or (ii) deliver written notice to Lessor of Lessee's good faith disagreement with Lessor's Fair Market Rent Determination (the "**Disagreement Notice**").

(e) If Lessee timely delivers a Disagreement Notice to Lessor, Lessor and Lessee shall negotiate in good faith to agree in writing upon the Fair Market Rent for the applicable Renewal Term for a period of thirty (30) days following the date of Lessor's receipt of the Disagreement Notice (the "**Negotiation Period**"). If at the end of the Negotiation Period the parties fail to reach an agreement upon the Fair Market Rent then, within fifteen (15) days following the expiration of the Negotiation Period, each party shall give written notice to the other party setting forth the name and address of an Agent (as hereinafter defined) appointed by such party for purposes of determining the Fair Market Rent. As used herein, the term "**Agent**" shall mean an independent MAI Appraiser who is licensed and in good standing in the Commonwealth of Pennsylvania and has at least five (5) years' experience in the leasing of ground for billboards located in the Philadelphia MSA. If each party timely appoints an Agent, then within twenty (20) days following the appointment of the second Agent, each Agent shall independently make their own determination as to the Fair Market Rent and shall simultaneously deliver its determination to the other Agent in writing. If the two Agents' determinations of the Fair Market Rent are not the same, but the higher of such two determinations is less than one hundred five percent (105%) of the lower of such determinations, then the Fair Market Rent shall be established as the average of the two determinations. If, however, the higher of such determinations is greater than the lower of such determinations by more than one hundred five percent (105%), then the two Agents shall mutually select a third Agent (the "**Third Agent**") within ten (10) days. If the Agents fail to agree upon such Third Agent within such ten (10) day period, either party may cause a court of competent jurisdiction to select such Third Agent. Within thirty (30) days following the appointment of the Third Agent, the Third Agent shall select either the Lessor's Agent's determination or the Lessee's Agent determination of the Fair Market Rent that such Third Agent believes most closely reflects the Fair Market Rent for the Premises. Such determination by the Third Agent shall be final and binding on both parties as the Fair Market Rent to be established as the Base Rent payable by Lessee for the applicable Renewal Term. Each party shall pay any and all fees and expenses incurred in connection with such party's Agent and the fees and expenses for the Third Agent will be borne equally by the parties.

If Lessee duly exercises the Renewal Option, then following the determination of the Fair Market Rent, Lessor and Lessee shall promptly enter into an amendment of this Lease, in a form reasonably acceptable to both parties (the "**Renewal Amendment**"), to reflect the renewal of the Lease for the Renewal Term and the Rent payable by Lessee for the Renewal Term, provided, however, that the failure of either party to so execute the Renewal Amendment shall not in any way impair the effectiveness of Lessee's exercise of the Renewal Option or the renewal of the Term for the Renewal Term.

### 3. **Approvals.**

(a) Lessee shall use its commercially reasonable efforts to obtain the necessary Approvals in connection with the Displays. Lessee's obligation to pay Rent as set forth in Section 4 is contingent on Lessee obtaining all necessary Approvals for the construction of, and completing the construction of, the Display. Lessee shall have a period of [REDACTED] after the Effective Date to obtain all Approvals

(hereinafter referred to as the “**Approval Period**”), provided, however, that the Approval Period shall be tolled if Lessee has applied to the Jenkintown Zoning Board or the matter is before any court of the Commonwealth of Pennsylvania. Lessor shall cooperate in good faith with Lessee to obtain such Approvals, all at no cost to Lessor. Lessor shall not contract with any other person, company, or entity for the purposes of developing any “off premise” signage, defined as signage advertising a product or service not sold on Lessor’s Property, during the Approval Period or for the duration of this Lease. For purposes of this Lease, the phrase “final, irrevocable, unappealable and unappealed” shall mean that the applicable governmental authority and/or utility has issued its final approval, variance, waiver, permit, license, certificates, or decision, that the period for revoking such action or taking appeals from such action has expired and no such revocation has occurred or appeal has been filed, and that Lessee has approved and agreed to comply with any conditions of approval.

(b) During the Term, Lessee shall have the right to make any necessary applications with, and obtain Approvals from Governmental Authorities for and in connection with the Permitted Use. Lessor gives Lessee its permission and limited power of attorney for the purpose of performing every act deemed necessary by Lessee to apply for and secure at Lessee’s expense and for Lessee’s benefit and control all Approvals including, without limitation, the state and local building, sign and electrical permits, zoning variances, special uses, or changes in the zoning law relating to signs, and necessary to erect, maintain and modify the advertising sign structure on the Premises. Lessee shall have no obligation to pursue particular zoning matters or to continue to maintain any permit or license and any such action taken by Lessee shall be at its option.

(c) In the event Approvals as defined herein are not obtained within the Approval Period, Lessee shall have the right to extend the Approval period upon not less than ninety (90) days prior written notice to Lessor.

4. **Rent.** Lessee’s obligation to pay Rent shall begin on and as of the Rent Commencement Date. Lessee shall pay to the Lessor rent on a monthly basis in the amount of [REDACTED] payable monthly (the “**Rent**”), with the first such payment to be made on the Rent Commencement Date. All Rent payments shall be due by the fifth (5<sup>th</sup>) day of each month and shall be paid to Lessor at its address set forth in Section 17. The Rent shall be increased by [REDACTED] annually on the anniversary of the Rent Commencement Date.

5. **Use; Certain Costs.** Lessee, including its agents, shall have the exclusive right to use and occupy the Premises for the Permitted Use, and for any other lawful uses accessory or non-accessory thereto. Lessor further grants Lessee and such other individuals or companies as Lessee shall nominate, including the local electric company, such additional rights or easements as are necessary to construct, illuminate, maintain, operate, remove, or replace the Equipment; the right to ingress and egress over the Property, and the right to maintain the visibility to the advertising display faces free of obstructive vegetation and structures for the term of this Lease. Lessee is responsible for the repair and of any damage caused to the Property and the Premises by Lessee, its agents or employees. Lessee shall pay all costs associated with the provision of electricity and for the illumination of the Displays and any and all other costs billed by utilities as a result of the use of the Displays for expansions, etc. Lessee shall pay any increase in ad valorem real estate taxes as a direct result of the construction and operation of the Displays. Lessee shall, at its sole cost and expense, maintain the Improvements and Displays in accordance with all applicable laws, including without limitation the Approvals, and in good condition and repair. Notwithstanding anything to the contrary herein, Lessee shall have the right to remove Trees indicated on Exhibit “B-1” and any future Trees which impacts the view of the displays.

6. **Indemnification.** Lessee does hereby indemnify and agree to hold Lessor harmless against all claims or damages to person or property by reasons of accidents resulting from the gross negligence or willful misconduct of the Lessee’s agents, employees, or workmen in the construction, maintenance, repair, or removal of the Lessee Property. Lessor does hereby indemnify and agree to hold Lessee harmless against

all claims or damages to person or property by reasons of accidents resulting from the gross negligence or willful misconduct of the Lessor's agents, employees, or workmen in the construction, maintenance or repair of the Premises and/or the Property, or arising or growing out of or in any way connected with Lessor's use, management or control of the Property.

7. **Personal Property, Access.** All Approvals, Improvements, Lessee Property, advertising copy ("**Advertising**") and other materials placed upon the Premises by Lessee are Lessee's trade fixtures, trade names and trademarks, and shall be and remain Lessee's exclusive personal property, and may be removed by Lessee at any time prior to or within sixty (60) days after the termination of this Lease or any extension thereto. Only Lessee's employees and other authorized persons may have access to or upon the Lessee Property without Lessee's prior written consent. Lessee's ability to install and operate the Displays and otherwise complete the construction of its project is contingent upon Lessee's obtaining from all Governmental Authorities having jurisdiction over the Premises, all of the Approvals. Subject to the last sentence of this Section 7, in the event that the Lessee Property is not removed within sixty (60) days following the expiration of the Term (and not as a result of termination due to Lessee default). Notwithstanding the foregoing, in the event Lessee has assigned its interest in this Lease to any person or entity other than an affiliate as a result of a default by Lessee, all Improvements (but excluding Lessee Property) shall immediately and automatically become the sole and exclusive property of Lessor.

8. **Estoppels; SNDAs; Recognition Agreements.** Lessor covenants that if, and so long as, Lessee pays Rent and performs the covenants hereof, Lessee shall peaceably and quietly have, hold and enjoy the Premises, in its entirety, for the Term, subject to the provisions of this Lease. In furtherance of the foregoing:

(a) Within no more than fifteen (15) business days after written request by Lessor or Lessee, the other Party will execute, acknowledge and deliver to Lessor or Lessee a certificate stating: (i) that this Lease is unmodified and in full force and effect, or, if the Lease is modified, the way in which it is modified accompanied by a copy of the modification agreement; (ii) the date on which sums payable under this Lease have been paid; (iii) that no notice has been received by such Party of any default that has not been cured, or, if such a default has not been cured, what such Party intends to do in order to effect the cure, and when it will do so; (iv) that, in the case of the Lessee, Lessee has accepted and occupied the Premises; (v) that such Party has no claim or offset against the other Party, or, if it does, stating the circumstances that gave rise to the claim or offset; (vi) that such Party is not aware of any prior assignment of this Lease by the other Party, or, if it is, stating the date of the assignment and assignee (if known to such Party); and (vii) such other matters as may be reasonably requested by Lessor or Lessee. Any certificate may be relied upon by any prospective purchaser of Lessor's or Lessee's assets and any prospective lender of Lessor or Lessee. If Lessor or Lessee submits a completed certificate to the other Party, and such Party fails to object to its contents within fifteen (15) business days after its receipt of the completed certificate, the matters stated in the certificate will conclusively be deemed to be correct. Furthermore, Lessor and Lessee irrevocably appoint the other Party as Lessor's or Lessee's attorney-in-fact to execute and deliver on the other Party's behalf any completed certificate to which such Party does not object within fifteen (15) business days after its receipt.

(b) If Lessor's Property is subject to any mortgages or deeds of trust as of the date hereof or anytime in the future, Lessor and Lessee shall, and Lessor shall cause each holder of such mortgages or deeds of trust to, execute within thirty (30) days of Lessee's request, a subordination, non-disturbance and attornment agreement which agreement shall incorporate provisions (the "**Non-Disturbance Provisions**") to the following effect: (a) that such holder shall at all times and under all conditions, including, but not limited to, any foreclosure or other repossession proceedings, recognize, permit and continue the tenancy of Lessee and its successor and assigns in the Premises and assume the obligations of Lessor under the provisions of this Lease; and (b) that such holder shall require that any purchaser acquiring Lessor's Property or the Premises shall assume the obligations of Lessor under this Lease so that the rights of Lessee or those holding under Lessee shall not be interfered with or affected in any manner whatsoever. If Lessor

does not deliver the required subordination, non-disturbance and attornment agreement to Lessee within such thirty (30) day period, Lessee may terminate this Lease by written notice to Lessor at any time prior to the date Lessor delivers such executed agreement(s) to Lessee. Lessee hereby agrees to be subordinate to the lien of any lender, mortgagee, underlying landlord or other Party whose title might hereafter become superior to the title of Lessor subsequently placed upon Lessor's Property or the Premises after the date of this Lease (hereinafter referred to as the "Subsequent Mortgagee"), provided Lessee, Lessor and the Subsequent Mortgagee first execute an agreement in form and substance reasonably satisfactory to the parties thereto, which agreement shall incorporate the Non-Disturbance Provisions.

(c) Lessor and Lessee acknowledge and agree that Lessee is anticipating entering into (i) certain transactions with potential funding sources (a "Lender") and assignees or purchasers of Lessee Property and Improvements (each, a "Purchaser"), which transactions may include an assignment of Lessee's interest in the Lease, and/or (ii) a sublease with a purchaser ("Sublessee"), all as permitted by, and in compliance with the provisions of Section 15 and that such transactions will require Lessor to recognize any and all of such Lender or Sublessee, and their respective permitted successors and assigns, as the holder of Lessee's rights as Lessee under the Lease (as hereby amended) pursuant to an agreement in a form reasonably acceptable to such Lender and/or Purchaser (each, a "Recognition Agreement"). In addition, Lender, and any such Purchaser may require a subordination non-disturbance and attornment agreement in a form acceptable to Lender (each, an "SNDA") from any holder of a mortgage or security interest in Lessor's interest in the Property (a "Senior Holder"). Lessor covenants and agrees to execute and deliver, and to cause to be executed and delivered by any Senior Holder, any such Recognition Agreement and any such SNDA reasonably required by the parties to any such transactions, and Lessor irrevocably appoints Lessee as Lessor's attorney-in-fact to execute and deliver on Lessor's behalf any such Recognition Agreement and/or SNDA provided to Lessor to which Lessor does not object in writing within fifteen (15) days after Lessor's receipt thereof.

## 9. Defaults.

(a) If Lessee defaults in the payment of Rent, or defaults in the performance of any of the other covenants and conditions hereof, Lessor may give Lessee notice of such default, and if Lessee does not cure any monetary default within thirty (30) days or other default within sixty (60) days after giving of such notice (or if such other default is of such nature that it cannot be completely cured within such sixty (60) days if Lessee does not commence such curing within such sixty (60) days and thereafter proceed with reasonable diligence and in good faith to cure such default), then Lessor may terminate this Lease on not less than thirty (30) days' notice to Lessee.

(b) If Lessor defaults in the performance of any of the covenants and conditions hereof, Lessee may give Lessor notice of such default, and if Lessor does not cure any default within thirty (30) days (or if such default is of such nature that it cannot be completely cured within such period, if Lessor does not commence such curing within such thirty (30) days and thereafter proceed with reasonable diligence and in good faith to cure such default) then, in addition to its remedies at law, Lessee shall have the right to seek specific performance or a mandatory injunction from a court of competent jurisdiction or cure such default at Lessor's sole cost and expense. Lessee shall have the right, at Lessee's sole discretion, to obtain reimbursement directly from Lessor or to deduct any such amounts from future Rent payments. The performance of any obligation by Lessee on behalf of Lessor or such other obligation of Lessor by Lessee shall not waive any rights or remedies available to Lessee hereunder or at law or in equity, all of which are hereby expressly maintained. [In the event of a Lessor default under Section 17(g) below, all Rent shall be abated from and after the date of such default until the date on which the Lessor cures such default.]

(c) In addition to the remedies set forth in subsections (a) and (b) above, in the event that Lessor defaults in the performance of any of its obligations under this Lease, or Lessee defaults in the performance of any non-monetary obligation under this Lease (including any such obligations that are effective prior to the Term), and such default extends beyond all notice and cure periods set forth herein,



the non-defaulting Party shall have the right, subject to Applicable Legal Requirements, to perform the defaulting Party's obligations, provided that the non-defaulting Party performs such obligations in a commercially reasonable manner and at a commercially reasonable cost, at the defaulting Party's sole cost and expense. Notwithstanding the foregoing, in the event that any such default causes an emergency where there is an imminent risk of (i) damage to property or injury to persons, (ii) the ongoing enforceability of any Permit becoming compromised due to expiration, termination, default or violation, or (iii) the Lessee Property becoming unable to operate (each an "**Emergency Event**"), the non-defaulting Party shall have the right to perform the defaulting Party's obligations immediately without providing the defaulting Party with notice and an opportunity to cure.

(1) If Lessor is the non-defaulting Party, it shall have the right, at its sole discretion, to obtain reimbursement directly from Lessee. If Lessee is the non-defaulting Party, it shall have the right, at its sole discretion, to obtain reimbursement directly from Lessor, or (x) to deduct fifty percent (50%) of any such amounts from future Rent payments and obtain reimbursement for the balance of its incurred costs in accordance with the terms of (2), (3) and (4) below, or (y) in the case of an Emergency Event, to deduct one hundred percent (100%) of any such amounts from future Rent payments.

(2) If the defaulting Party does not dispute the non-defaulting Party's right to exercise self-help or the amount of costs incurred curing a default, then the defaulting Party shall either (i) reimburse the non-defaulting Party for the amount of such costs within thirty (30) days after receipt of written demand for payment, together with documentation reasonably sufficient to evidence the same ("**Written Demand**"), or (ii) if Lessee is the non-defaulting Party, permit Lessee to deduct any unpaid reimbursable amounts from future Rent payments.

(3) If the defaulting Party disputes (i) the non-defaulting Party's right to exercise self-help, or (ii) the amount or reasonableness of costs claimed by the non-defaulting Party, then, the defaulting Party shall have the right to engage a neutral arbitrator reasonably satisfactory to the non-defaulting Party to make an assessment as to whether the non-defaulting Party exercised its right to self-help in compliance with the terms hereof and both Parties shall fully cooperate in providing such arbitrator with all relevant requested information and documents. The cost of such arbitrator shall be paid by the defaulting Party unless such arbitrator decides any dispute in favor of the defaulting Party and in such case the cost of such arbitrator and any legal fees incurred by the defaulting Party in connection with such arbitration shall be paid by the non-defaulting Party.

(4) In the event that Lessee is entitled to deduct costs incurred from future payments of Rent but the Rent due over the balance of the Term is less than the amount Lessee is entitled to deduct (and Lessor does not otherwise make such payments to Lessee), then, Lessee shall be entitled to extend the Term by the period required for the Rent to equal the remaining amount Lessee is entitled to deduct (with Rent being offset continuing to increase by [REDACTED] each year in the same manner provided herein for the scheduled Term). The non-defaulting Party's performance of the defaulting Party's obligations shall not act as a waiver of any rights or remedies available to the non-defaulting Party at law or in equity, all of which are hereby expressly maintained. In the event that the defaulting Party fails to timely reimburse the non-defaulting Party for an amount owed under this Section 9(c)(4) upon receipt of a Written Demand, the non-defaulting Party shall have the right to pursue a claim for reimbursement, together with any additional related expenses, including reasonable attorney's fees, plus interest on the reimbursement amount at the interest rate applicable to judgments under state law per annum from the date of demand to the date of final payment thereof.

10. **Lessor Representations.** The Lessor represents and warrants that (i) it is the owner of the Property and the Premises; (ii) it has the authority to enter into, execute and fulfill its obligations under this Lease; and (iii) the execution of this Lease by Lessor and the performance of its obligations hereunder will not violate the covenants, terms or conditions of any other agreement to which it is a party. Lessor further covenants that it will not permit any adjoining or appurtenant parcel, owned or controlled by it, to be used for "off premise" advertising purposes or to permit the Displays to be obstructed. Lessor shall cause the Property at all times to be in compliance with all applicable laws, ordinances and regulations of all federal, state, county and municipal authorities.

11. **No Broker.** Lessee and Lessor have not dealt with any broker or finder with regard to the Premises or this Lease and that neither has had any dealings with any other person or party which may entitle that person or party to a fee or commission. Each Party will indemnify the other against any loss, liability, and expense the other incurs (including reasonable attorneys' fees and court costs) arising out of claims for fees or commissions or any breach of this Section 11.

12. **Limitation of Liability.** The liability of Lessee under this Lease shall be and is hereby limited to Lessee's interest in the Premises and the Lessee Property and no other assets of Lessee shall be affected by reason of any liability which Lessee may have to Lessor or to any other person by reason of this Lease, or the execution thereof.

13. **Certain Abatement/Termination Rights.**

(a) In the event that, in Lessee's sole opinion; (i) Lessee is unable to secure or maintain any required permit or license from any appropriate governmental authority; (ii) federal, state or local statute, ordinance regulation or other governmental action precludes or materially limits use of the Premises for outdoor advertising purposes; (iii) Lessee's Displays on the Premises shall become entirely or partially damaged or destroyed; (iv) the view of Lessee's Displays is obstructed or impaired in any way by any object or growth on the Premises or on any neighboring property owned by Lessor (including the Property); (v) the advertising value of the Displays is impaired or diminished; (vi) there occurs a diversion of traffic from, or a change in the direction of, traffic past the Displays; (vii) Lessee is prevented from maintaining electrical power to the or illuminating the Displays; (viii) Lessee finds that, in Lessee's sole opinion, the continued maintenance/operation of the Displays is impractical or uneconomical due to engineering, architectural, construction or maintenance circumstances which will require structural improvements to Lessor's Property; or (ix) maintenance will be hampered or made unsafe due to conditions caused by nearby properties, land uses, or utilities, then Lessee shall, at its option, have the right to either reasonably abate the Rent until the issues outlined in clauses (i) through (ix) above are cured, and/or terminate this Lease Agreement upon thirty (30) days' prior written notice to the Lessor, with such written notice specifically setting forth which item above is in effect. Lessor and Lessee understand that visibility of the Advertising is important to Lessee. Lessee and Lessor shall cooperate with each other and give their best efforts as to ensure that there will be no sign blockage.

(b) This Lease may be terminated by Lessee if the Lessee is prevented by any present or future law or ordinance, or by the governmental authorities having jurisdiction, maintaining the Displays on the Property. Upon condemnation or threat of condemnation of the Premises by any lawful government authority, Lessee shall have the right to participate in the negotiation, trial and settlement of any condemnation award or condemnation settlement to the extent of Lessee's damages including, but not limited to, the following: (i) the loss of the use of the Displays; (ii) the cost of removal of the Displays from or replacement upon the Premises; (iii) the loss of the leasehold interest; and (iv) reasonable attorney's fees and costs.

14. **Insurance.** During the Term, the Lessee shall maintain insurance on the Premises and upon request will provide Lessor with a certificate naming Lessor as an additional insured prior to the erection of any Displays on the Premises, so endorsing Lessee's policy and indicating these limits: Public Liability

\$2,000,000 and Property Damage, \$3,000,000. All insurance policies carried by Lessor or Lessee in covering the Property, the Premises, its contents and the personal property of either of them in the Property or Premises, as applicable, will waive any right of the insurer to subrogation against the other to the extent permitted by law. Lessor and Lessee agree that their policies will include such a waiver or an endorsement to them, so long as the waiver or endorsement is available without cost. If a cost is imposed, the one whose insurer imposes it will advise the other of the cost and its amount and the other may pay it, but will not be obligated to do so. The failure of any insurance policy to include such a waiver or endorsement will not affect this Lease.

15. **Assignment; Sublease.** Lessee hereby reserves the right, and said right is granted by Lessor to Lessee, with notice to Lessor (but without the approval of Lessor being required), to sell, lease, convey, license, sub-grant or otherwise transfer and set over all or a portion of the Lessee's right, title and interest in this Lease (and the Purchase Option Agreement) upon the express and written assumption and/or compliance by the assignee of all of the obligations of the Lessee herein named whereupon Lessee shall be fully discharged from any and all obligations under this Lease occurring after such transfer and Lessor shall look solely to the assignee of the Lessee's interest in this Lease for the performance of such obligations. Lessee shall further have the right, with notice to Lessor, (but without the approval of Lessor being required), to grant, sell, convey or otherwise transfer all or any portion of the Displays, or any interest therein, including, without limitation, a leasehold interest, a license to use, a mortgage or grant of security interest in or lien on, such property of Lessee, or any other right in respect thereof, to any one or more transferee(s) or other designee(s) (which need not be the same party to whom a transfer is made pursuant to the first sentence above), in which case said transferee(s) (or other designee) shall acquire and succeed to all (or such portion, as the case may be) of the rights and obligations of Lessee contained in this Lease (to the extent not expressly reserved to Lessee in any applicable transfer documentation) including, without limitation, the applicable rights to use the leasehold interest and any related obligations in respect thereof, as set forth herein and, from and after the effective date of such conveyance.

16. **Force Majeure.** Lessor and/or Lessee (except as provided below in this Section 16) shall be excused for the period of delay in the performance of any of their obligations hereunder, and shall not be considered in default, when prevented from so performing due to Force Majeure, and the period for the performance of any such act will be extended for a period equivalent to the period of such delay, plus, in the case of any obligation of Lessee to remove Lessee Property, a reasonable period thereafter (not to exceed thirty (30) days). As used herein, "**Force Majeure**" shall mean acts of God and nature, actions of any governmental authority or agency, court orders, future orders of any regulatory body having jurisdiction, acts of the public enemy, war or threat of war, acts of terrorism, insurrections, conditions similar to war, sanctions, blockades, embargoes, riots, sabotage, strikes, lockouts or other labor or industrial disturbances, labor disputes, material shortages, failure of, damage to or destruction of machinery or equipment by means of any of the foregoing or any natural disaster, pandemics, or other causes or circumstances which cannot reasonably be prevented. Notwithstanding anything to the contrary contained herein, lack of funds shall not be deemed a cause beyond the control of a party hereto and shall not be deemed to be an event of Force Majeure, and in no event shall Force Majeure excuse or delay the payment of Rent by Lessee, except to the extent otherwise expressly set forth in this Lease

17. **Notices.**

All notices required to be given hereunder shall be sent by registered or certified mail, return receipt requested, by Federal Express or other overnight express delivery service or by hand delivery against written receipt or signed proof of delivery, to the respective Notice Addresses set forth below, and to such other person and address as each party may from time to time designate in writing to the other. Notices

shall be deemed to have been received on the date delivered or the date delivery is refused. For convenience purposes only, notices may also be sent via facsimile or electronic mail; provided, however, that such notices shall not be deemed to have been received until the same notice is also deemed delivered in accordance with the first two sentences of this Section.

Lessor:  
PENSCO TRUST CO LLC  
440 York Road  
Attn: [REDACTED]

Lessee:  
440 L Jenkintown LH LLC  
Newtown Square, PA 19073  
Attention: Vice President Real Estate  
[REDACTED]

18. **Advertising.** Lessee shall provide the Lessor with one eight (8) second slot of advertising every One Hundred Twenty (120) seconds on each of the Display faces for each hour of operation on the Display, at no cost to the Lessor ("Ad Inventory"). Lessor agrees not to sell, assign, transfer, or otherwise relet the Ad Inventory to a third party for consideration monetary or otherwise, other than a business occupant leasing space at the Property.

19. **Miscellaneous.**

(a) Lessor and Lessee agree that each section of this Lease is severable from the remainder, and, if any portion of this Lease is declared to be void or unenforceable, the remainder of the Lease shall continue in full force and effect.

(b) Lessor acknowledges that this Lease and the interests and easements contained in this Lease run with the land. The Parties agree to execute a recordable memorandum of this Lease, in such form as is attached hereto as Exhibit "C" and further agree to execute any documents necessary to evidence or effectuate this Lease, including any documents necessary to effectuate its purpose. The cost of drafting and recording the Memorandum of Lease and promptly removing it from the public records upon termination of the Lease, shall be at Lessee's cost.

(c) The Parties agree that there are no prior or contemporaneous oral agreements pertaining to the Premises by and between Lessor and Lessee. The Lease embodies the entire agreement between the Parties and may not be modified in any respect, except in writing, signed by the Parties.

(d) During the Term, Lessor (or any representative or employee thereof) shall not publish or disclose, or cause the publication or disclosure of, any information to any third party with respect to the execution or the terms of this Lease (including the identity of Lessee as a Party hereto) or Approvals, without prior written approval of Lessee, except as may be required by law. Lessor shall use the same standard of care to prevent disclosure of the terms of this Lease or Approvals as Lessor uses with respect to its own confidential information of a similar nature provided that such standard of care shall not in any case be less than the standard of care a reasonable business person would use under similar circumstances. Lessor acknowledges that the disclosure by Lessor of the terms of this Lease or the Approvals in a manner not authorized by the terms and provisions contained herein would be likely to cause irreparable damage to Lessee that could not be fully remedied by monetary damages. Accordingly, Lessor hereby agrees that Lessee may specifically enforce the terms and provisions contained herein and may seek such injunctive or other equitable relief as may be necessary or appropriate to prevent any unauthorized disclosure of the terms of this Lease or the Approvals without the necessity of proving actual damage by reason of any such breach or threatened breach of any of the terms and provisions contained here.

(e) This Agreement shall be governed by and construed in accordance with the laws of the State of Pennsylvania, without reference to its conflicts of laws principles.

(f) This Lease Agreement may be executed in one or more counterparts, all of which shall be considered one and the same Lease Agreement, and shall become effective when each Party has signed one or more such counterparts and delivered same to the other Party, effective as of the Effective Date.

(g) [Lessor hereby agrees that from and after the Effective Date through the expiration of the term of this Lease, Lessor shall not solicit offers, enter into or continue negotiations, contract to sell or otherwise market or offer to see all or any portion of the Premises to any person or entity other than Lessee.]

**IN WITNESS WHEREOF**, the said Parties have set their hands and seals hereto the day and year first above written.

LESSOR:

**PENSCO TRUST CO LLC**

DocuSigned by:  
By:  4/18/2022  
DEC94E974CCB441  
Name: David Mermelstein  
Title: Trustee

LESSEE:

**440 L Jenkintown LH LLC**

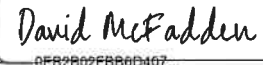
DocuSigned by:  
By:  4/18/2022  
0E82B62FBB6D407...  
Name: David McFadden  
Title: Authorized Signatory

Exhibit "A" – Property  
Exhibit "B" – Premises  
Exhibit "B-1" – Property Site Plan/Legal Description  
Exhibit "C" – Form Memorandum of Lease

**Exhibit “A”**

Property – Legal Description

To Be attached

## **Exhibit "B"**

### **Premises – General Description**

The Displays shall be erected within the general area outlined in yellow in the image below. The precise location of the sign shall be determined by a Site Plan, which shall be developed by Lessee any time after the execution of this Lease. The specific location of the Displays within the Premises shall be decided after the execution of this Lease. Upon completion of the Site Plan, a copy shall be provided to Lessor and such Site Plan shall be attached hereto as Exhibit "B-1". Lessee may also obtain a Survey and develop a metes and bounds legal description, which may be appended to Exhibit "B-1". In the event of an inconsistency between Exhibit "B" and the Site Plan and legal description, the Site Plan and legal description shall control.

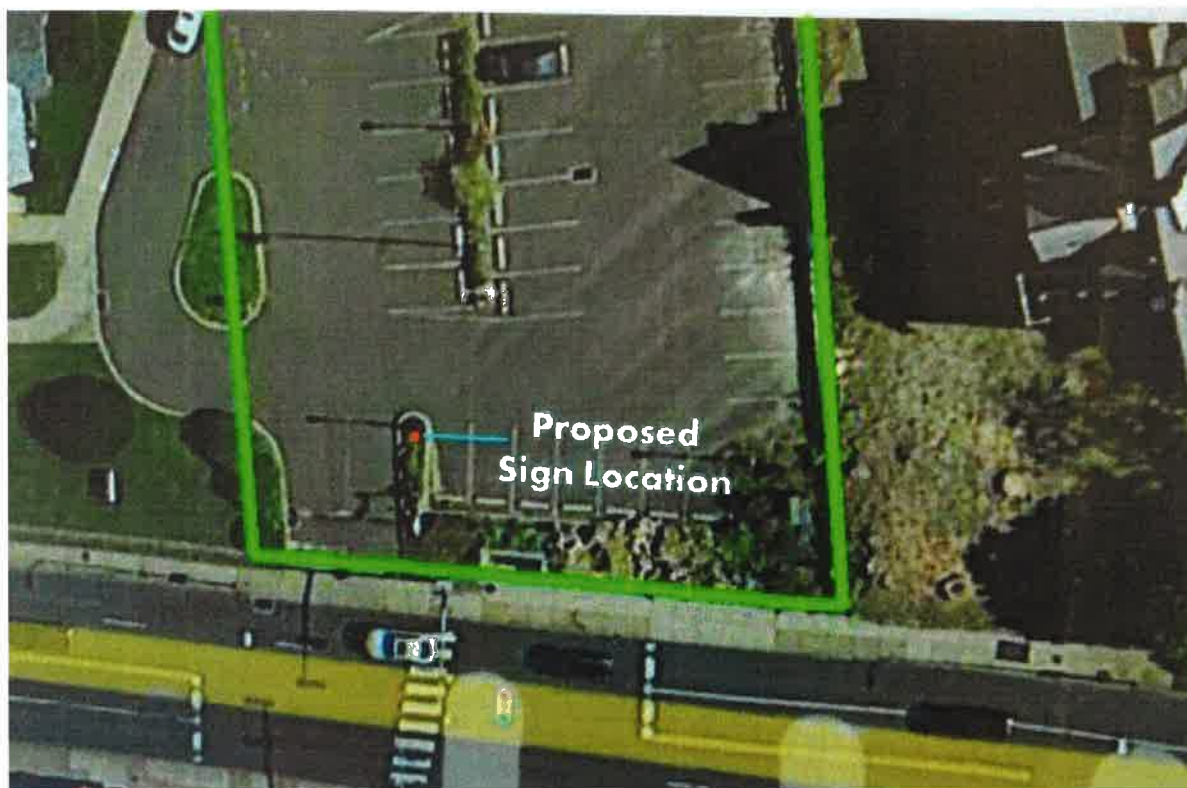
**Exhibit “B-1”**

**Property Site Plan/Legal Description**

**[TO BE PREPARED AND INSERTED FOLLOWING THE EFFECTIVE DATE]**



**B-1**



**Exhibit "C"**

**Form Memorandum of Lease**

Address: \_\_\_\_\_, \_\_\_\_\_ Pennsylvania \_\_\_\_\_  
Tax ID: \_\_\_\_\_

**MEMORANDUM OF LEASE**

**THIS MEMORANDUM OF LEASE** (this "**Memorandum**"), dated this \_\_\_\_ day of \_\_\_\_\_, 2021 (the "**Effective Date**"), by and between PENSICO TRUST CO LLC ("**Lessor**"), and 440 L JENKINTOWN LH LLC, a Pennsylvania limited liability company ("**Lessee**").

**Preliminary Statement**

Lessor is the owner of the real estate commonly known as 440 York Road, Jenkintown. Township, County of Montgomery, in the State of Pennsylvania (the "**Property**"), described on Exhibit "A" attached hereto. On even date herewith Lessor and Lessee entered into a Display Lease Agreement (the "**Lease**"), by which Lessor leases [a portion of] Lessor's Property to Lessee, as more fully set forth on Exhibit "B" attached hereto (the "**Premises**"). In connection therewith, Landlord and Lessee have entered into this Memorandum of Lease to confirm the demise of the Premises and to provide notice to any interested party of such demise and of the terms and provisions of the Lease.

NOW, THEREFORE, the Parties state as follows:

1. All capitalized terms used, but not otherwise defined, herein shall have the meanings ascribed to them in the Lease.

The terms and conditions of the Lease are incorporated herein as though set forth in full, whereby Lessee may have and hold the Premises together with any and all rights, benefits, privileges and easements, now or hereafter appurtenant thereto, at the rental and upon the terms and conditions therein stated, for a term of twenty nine (29) years and eleven (11) years, commencing upon the Effective Date and ending on the last day of the \_\_\_\_ ( ) year thereafter.

2. This Memorandum of Lease is executed for the purpose of recordation in order to give notice of all of the terms, provisions and conditions of the Lease.

3. This Memorandum of Lease may be executed in any number of counterparts, each of which shall be deemed to be an original as against any Party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Memorandum of Lease shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the Parties reflected hereon as the signatories.

**[THIS SPACE INTENTIONALLY LEFT BLANK - SIGNATURE PAGE FOLLOWS]**

**IN WITNESS WHEREOF**, the Parties have executed this Memorandum of Lease on the day and year first above written.

**LESSOR:**

**PENSCO TRUST CO LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**LESSEE:**

**440 L Jenkintown LH LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**[NOTARY ACKNOWLEDGMENTS FOLLOW ON NEXT PAGE]**

LESSEE:

**440 L Jenkintown LH LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

COMMONWEALTH OF \_\_\_\_\_ :  
:ss  
COUNTY OF \_\_\_\_\_ :

On this, the \_\_\_\_ day of \_\_\_\_\_ 2022, before me, the undersigned officer, personally appeared \_\_\_\_\_, who acknowledged that he is the \_\_\_\_\_ of [\_\_\_\_\_] -L LH, LLC, and executed the foregoing instrument on behalf of \_\_\_\_\_ as such officer for the purposes therein contained by signing his name.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public

[Notarial Seal]

My commission expires: \_\_\_\_\_

*[SIGNATURE PAGE  
FORM OF MEMORANDUM OF LEASE]*

LESSOR:

**PENSCO TRUST CO LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ :  
COUNTY OF \_\_\_\_\_ :ss

On this, the \_\_\_\_ day of \_\_\_\_\_ 202\_, before me, the undersigned personally appeared \_\_\_\_\_, who acknowledged that he/she [as the \_\_\_\_\_ of \_\_\_\_\_], has executed the foregoing instrument for the purposes therein contained by signing his/her name.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public

[Notarial Seal]

My commission expires: \_\_\_\_\_

*[SIGNATURE PAGE  
FORM OF MEMORANDUM OF LEASE]*

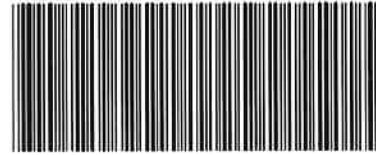
**B**



RECORDER OF DEEDS  
MONTGOMERY COUNTY  
*Jeanne Sorg*

One Montgomery Plaza  
Swede and Airy Streets ~ Suite 303  
P.O. Box 311 ~ Norristown, PA 19404  
Office: (610) 278-3289 ~ Fax: (610) 278-3869

**DEED BK 6188 PG 00445 to 00449**  
INSTRUMENT # : 2020060186  
RECORDED DATE: 07/29/2020 12:48:55 PM



5797059-0020.

**MONTGOMERY COUNTY ROD**

**OFFICIAL RECORDING COVER PAGE**

Page 1 of 5

**Document Type:** Deed  
**Document Date:** 07/21/2020  
**Reference Info:**

**Transaction #:** 6098585 - 2 Doc(s)  
**Document Page Count:** 4  
**Operator Id:** sford

**RETURN TO:** (Simplifile)  
Attorneys & Brokers Abstract  
721 Dresher Road  
Horsham, PA 19044  
(215) 830-1100

**PAID BY:**  
ATTORNEYS & BROKERS ABSTRACT

**\* PROPERTY DATA:**

**Parcel ID #:** 10-00-05344-00-1  
**Address:** 440 YORK RD

**Municipality:** PA  
Jenkintown Borough (100%)  
**School District:** Jenkintown

**\* ASSOCIATED DOCUMENT(S):**

**CONSIDERATION/SECURED AMT:** \$2,800,000.00  
**TAXABLE AMOUNT:** \$2,800,000.00

**FEES / TAXES:**

Recording Fee: Deed \$86.75  
State RTT \$28,000.00  
Jenkintown Borough RTT \$14,000.00  
Jenkintown School District RTT \$14,000.00

**Total:** \$56,086.75

DEED BK 6188 PG 00445 to 00449  
Recorded Date: 07/29/2020 12:48:55 PM

I hereby CERTIFY that this document is  
recorded in the Recorder of Deeds Office in  
Montgomery County, Pennsylvania.



**Jeanne Sorg**  
Recorder of Deeds

Rev1 2016-01-29

**PLEASE DO NOT DETACH**

**THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT**

**NOTE: If document data differs from cover sheet, document data always supersedes.**

**\*COVER PAGE DOES NOT INCLUDE ALL DATA, PLEASE SEE INDEX AND DOCUMENT FOR ANY ADDITIONAL INFORMATION**

Prepared by:  
Return to:  
Attorneys' and Brokers' Abstract Co  
721 Dresher Road, Suite 1000  
Horsham, PA 19044  
215-830-1100  
File No. 8587788  
Parcel ID No. 10-00-05344-00-1

MONTGOMERY COUNTY COMMISSIONERS REGISTRY  
10-00-05344-00-1 JENKINTOWN BOROUGH  
440 YORK RD  
JENKINTOWN GROUP HOLDINGS LLC \$15.00  
B 007 L U 006 5145 07/28/2020 JW

**This Indenture**, made the 31<sup>ST</sup> day of July, 2020.

**Between**

**JENKINTOWN GROUP HOLDINGS, LLC**

(hereinafter called the Grantor), of the one part, and

**PENSCO TRUST COMPANY LLC CUSTODIAN FBO DAVID MERMELSTEIN  
IRA 100%**

(hereinafter called the Grantee), of the other part,

**Witnesseth**, that the said Grantor for and in consideration of the sum of **Two Million Eight Hundred Thousand And 00/100 Dollars (\$2,800,000.00)** lawful money of the United States of America, unto it well and truly paid by the said Grantee, at or before the sealing and delivery hereof, the receipt whereof is hereby acknowledged, has granted, bargained and sold, released and confirmed, and by these presents does grant, bargain and sell, release and confirm unto the said Grantee

See Attached Legal Description

**Together with** all and singular the buildings and improvements, ways, streets, alleys, driveways, passages, waters, water-courses, rights, liberties, privileges, hereditaments and appurtenances, whatsoever unto the hereby granted premises belonging, or in anywise appertaining, and the reversions and remainders, rents, issues, and profits thereof; and all the estate, right, title, interest, property, claim and demand whatsoever of it, the said grantor, as well at law as in equity, of, in and to the same.

**To have and to hold** the said lot or piece of ground described above, with the buildings and improvements thereon erected, hereditaments and premises hereby granted, or mentioned and intended so to be, with the appurtenances, unto the said Grantee, its successors and assigns, to and for the only proper use and behoof of the said Grantee, its successors and assigns, forever.



Order Number: 8587788PA

**Description and Recital**

ALL THAT CERTAIN lot or piece of ground with the buildings thereon erected, SITUATE in Jenkintown, Montgomery County, Pennsylvania known as 440 York Road, Jenkintown, Pennsylvania and described according to a survey thereof made by William T. Muldrew, C. E. dated October 28, 1925, as follows:

BEGINNING at a point on the Easterly side of York Road (60 feet wide) at the distance of 120.39 feet Southwardly from the Southerly side of Vista Road (45 feet wide); thence North 88 degrees 14 minutes East 330.37 feet to a stone; thence South 00 degrees 55 minutes 30 seconds West 108.71 feet to a point; thence South 86 degrees 12 minutes West 340.24 feet to a point in the said side of York Road; thence extending along the same North 05 degrees 13 minutes East 121.55 feet to the place of beginning.

Tax ID / Parcel No. 10-00-05344-00-1

Being the same premises which CSun, LLC, the Court Appointed Receiver in the Foreclosure Action, wherein Sunrise NS Summergate, L.P., is Defendant by Deed dated 4-14-2011 and recorded 6-11-2011 in Montgomery County in Deed Book 5803 page 1735 conveyed unto Jenkintown Group Holdings, LLC, in fee.

And the said Grantor, for itself and its successors, does, by these presents, covenant, grant and agree, to and with the said Grantee, its successors and assigns, that it, the said Grantor, and its successors and assigns, all and singular the hereditaments and premises herein described and granted, or mentioned and intended so to be, with the appurtenances, unto the said Grantee, its successors and assigns, against it, the said Grantor, and its successors and assigns, and against all and every other person and persons whosoever lawfully claiming or to claim the same or any part thereof, by, from or under him, her, it, or any of them, shall and will

### Warrant and Foreber Defend.

In Witness Whereof, the party of the first part has caused its common and corporate seal to be affixed to these presents by the hand of its President, and the same to be duly attested by its Secretary. Dated the day and year first above written.

Sealed and Delivered  
IN THE PRESENCE OF US:

JENKINTOWN GROUP HOLDINGS, LLC  
BY: CHELSEA/FOCUS, LLC, SOLE  
MEMBER

BY: HERBERT HEFLICH, VICE PRSIDENT

Commonwealth/State of  
County of

} ss

AND NOW, this 21<sup>st</sup> day of July, 2020, before me, the undersigned Notary Public, appeared **Herbert Heflich**, who acknowledged himself to be the **Vice President** of **Chelsea/Focus, LLC**, the **sole member of Jenkintown Group Holdings, LLC**, and he, as such **Vice President** being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the LLC by himself as **Vice President**.

IN WITNESS WHEREOF, I hereunder set my hand and official seal.

Notary Public

My commission expires

MARIE A. VENETUCCI  
NOTARY PUBLIC  
STATE OF NEW JERSEY  
MY COMMISSION EXPIRES MAY 7, 2024

The address of the above-named Grantee is:

440 OLD YORK ROAD  
JENKINTOWN, PA 19046

On behalf of the Grantee

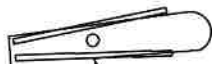
UNOFFICIAL COPY  
DEED 6188 00445

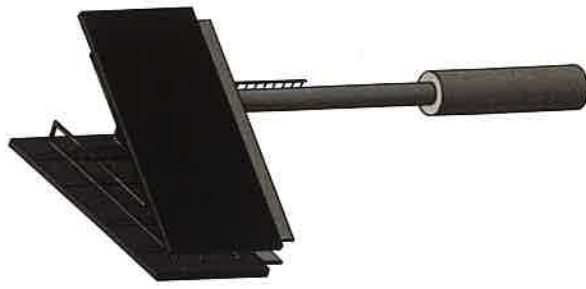
C

VISTA ROAD

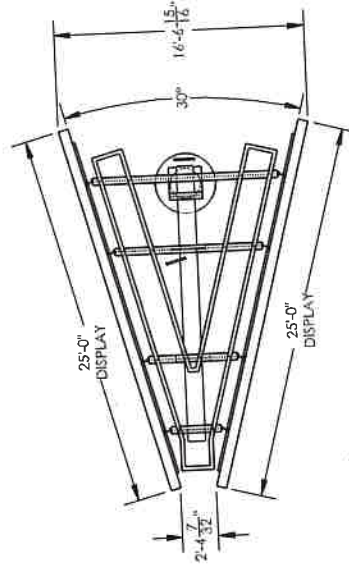
YORK ROAD

PROPOSED MONOPOLE

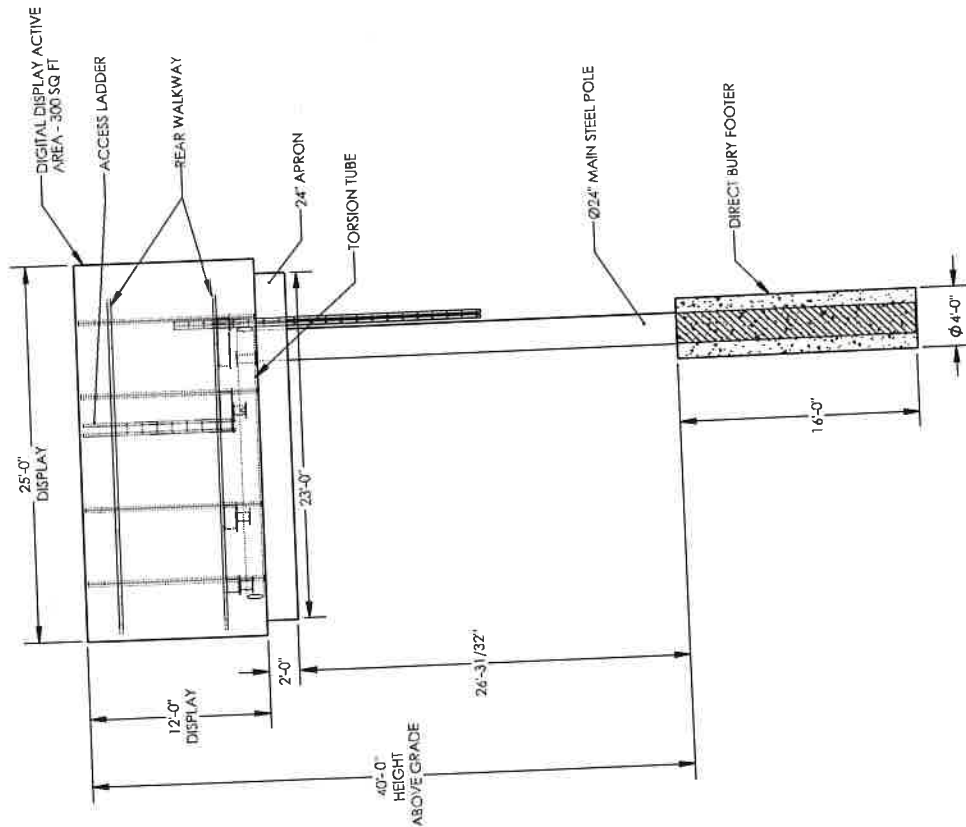




ISOMETRIC VIEW



PLAN VIEW



ELEVATION VIEW

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JENKINTOWN MONOPOLE - DESIGN SCHEMATIC		REV.
SIZE	DRAWING NO.	2
B	JENKINTOWN MONOPOLE - APRON DESIGN SCHEMATIC	
DO NOT SCALE DRAWING		
DATE CREATED:	JMK	
3/16/2021		
SHEET SCALE:	1/96	
SHEET NO.	1 OF 1	
ANGLES	±	