

**TOWN OF MCCANDLESS
ALLEGHENY COUNTY, PENNSYLVANIA**

ORDINANCE No. 1452

AN ORDINANCE OF THE TOWN OF MCCANDLESS, ALLEGHENY COUNTY, PENNSYLVANIA, AUTHORIZING THE POTENTIAL ACQUISITION BY THE TOWN OF A CERTAIN PARCEL OF REAL ESTATE APPROXIMATELY 26.72 ACRES IN SIZE AND LOCATED AT 9700 McKNIGHT ROAD, THE GRANT BY THE TOWN OF ONE MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS (\$1,250,000) TO ALLEGHENY LAND TRUST IN CONNECTION THEREWITH AND AUTHORIZING THE PAYMENT OF CERTAIN REASONABLE COSTS ANCILLARY TO SUCH ACQUISITION; AND FURTHER, TO CONDITIONALLY AUTHORIZE THE ENCUMBRANCE ON THE PROPERTY BY A CONSERVATION EASEMENT

WHEREAS, pursuant to Section 2964 of the Home Rule and Optional Plans Law, 53 Pa.C.S. § 2964, municipalities adopting a home rule charter have the power to buy, sell, lease, hold and dispose of real and personal property; and

WHEREAS, the Home Rule Charter of the Town of McCandless requires, in Article V, Section 504, that actions of Town Council which authorize any contract in excess of an amount equivalent to one-quarter of one percent (1/4%) of the previous year's budget be taken by ordinance; and

WHEREAS, by Ordinance No. 678, adopted on June 23, 1975, codified in Article 117, Sections 117.04 and 117.07 of the Codified Ordinances of the Town of McCandless, designates any contract in excess of an amount equivalent to one-quarter of one percent (1/4%) of the previous year's budget as a Class B Ordinance and sets forth the procedure to enact a Class B Ordinance; and

WHEREAS, on October 20, 2015, the Town published Notice that a public hearing on this Ordinance would be held on Monday, October 26, 2015, at 7:30 p.m., in the McCandless Town Hall; and

WHEREAS, the continued population growth of the Town of McCandless and its continued development has increased the need for public land for recreational and other appropriate municipal and/or public purposes; and

WHEREAS, the Town Council of the Town of McCandless has determined it to be in the best interest of the health, safety, and welfare of the residents

and citizens of the Town of McCandless to acquire that certain tract of real property, denominated as a portion of Block and Lot No. 945-E-21, located at 9700 McKnight Road, McCandless, Pennsylvania 15237, being Lot 2 in the Rave Plan of Lots dated August 25, 2015, and recorded at the Allegheny County Department of Real Estate in PBV 285, Page 56, and consisting of approximately 26.72 acres of land (“the Property”), for municipal and/or public purposes; and

WHEREAS, Town Council has determined that the Property and the community will benefit from returning the Property to green space to include using the Property’s wetlands, floodway and floodplain in an environmentally responsible manner to potentially incorporate an environmental park that provides the community with social, educational, environmental and recreational benefits such as interpretative trails and places for the public and students to meet, congregate and learn, including rain and botanical gardens, and for storm water management and green infrastructure to improve water quality and for associated park-like amenities; and

WHEREAS, to ensure the appropriate use of the Property for the reasons set forth above, the Town Council seeks to conditionally encumber the Property with a Conservation Easement; and

WHEREAS, the Allegheny Land Trust has negotiated an acquisition price of One Million Two Hundred Fifty Thousand Dollars (\$1,250,000) for the Property; and

WHEREAS, the Town of McCandless intends to enter into a revocable Grant and Donation Agreement (“Agreement”) with the Allegheny Land Trust to acquire the Property, a copy of which is attached as **Exhibit A** and incorporated herein by reference; and

WHEREAS, pursuant to the Agreement, the due diligence period runs until December 5, 2015, and the closing must take place on or before December 31, 2015; and

WHEREAS, the Agreement provides for partial reimbursement and the assistance of the Allegheny Land Trust in attempting to obtain grant funds from public and private sources toward the cost of the acquisition price, planning and remediation work by the Allegheny Land Trust and the Town.

NOW THEREFORE, it is hereby ORDAINED by the Town Council of the Town of McCandless, Allegheny County, Commonwealth of Pennsylvania, as follows:

SECTION 1:

The above recitals are incorporated herein by reference.

SECTION 2:

The Town of McCandless hereby authorizes the acquisition of the Property and the grant of One Million Two Hundred Fifty Thousand Dollars (\$1,250,000.00) to the Allegheny Land Trust in connection therewith.

SECTION 3:

Consistent with and conditioned on the terms of the Agreement, the Town of McCandless hereby authorizes the grant of a Conservation Easement as more fully described in the Agreement.

SECTION 4:

The President or Vice President of the Town Council, the Town Manager, the Town Attorney or their designees are each hereby authorized to prepare and to execute all documents necessary to effectuate the Town's acquisition of the Property and the grant of a Conservation Easement conditioned on the satisfaction of the criteria in the Agreement.

SECTION 5:

At the direction of the Town Council, the Town Manager is hereby authorized to terminate any agreement to acquire the Property if Council determines that termination is in the best interest of the Town.

SECTION 6:

The Town is hereby authorized to pay the reasonable ancillary costs necessary to the acquisition of said real estate (including but not limited to any real estate transfer tax, professional fees, and/or fees and costs related to due diligence).

SECTION 7:

If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such decision

shall not affect the remaining portions of this Ordinance, which shall remain in full force and effect; and to this end, the provisions of this Ordinance are hereby declared to be severable.

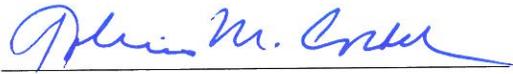
SECTION 8:

All resolutions, ordinances, or parts thereof, of the Town of McCandless which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of any such inconsistency.

ORDAINED AND ENACTED into law this **2nd** day of **November, 2015**, to become effective ten (10) days after proper advertisement hereof.

ATTEST:

TOWN COUNCIL
TOWN OF McCANDLESS:



Secretary


Vice President

BUS_EST:401579-5 024399-166328

**GRANT AND DONATION AGREEMENT AND
AGREEMENT FOR FUTURE REAL ESTATE COOPERATION**

THIS GRANT AND DONATION AGREEMENT AND AGREEMENT FOR FUTURE REAL ESTATE COOPERATION (this “**Agreement**”) is made and entered into as of the Execution Date (hereinafter described), by and between **ALLEGHENY LAND TRUST, a Pennsylvania non-profit corporation (“ALT”)**, and the **TOWN OF MCCANDLESS, a Home Rule Municipality (“McCandless”)**, with respect to the following.

Recitals

- A. ALT has entered into an Agreement for the Purchase and Sale of Real Property dated October 9, 2015 (the “**Rave Agreement**”) with Rave Pittsburgh North, LLC (“**Rave**”) for ALT’s acquisition of that certain tract of real property, denominated as a portion of Block and Lot No. 945-E-21, located at 9700 McKnight Road, McCandless, Pennsylvania 15237, being Lot 2 in the Rave Plan of Lots dated August 25, 2015 and recorded at the Allegheny County Department of Real Estate in PBV 285, Page 56, and consisting of approximately 26.72 acres of land (the “**Land**”), together with all other property, rights and interests defined in the Rave Agreement as “Property”. A true and correct copy of the Rave Agreement is attached hereto and incorporated herein as Exhibit A.
- B. ALT and McCandless have together agreed that the Property and the community will benefit from returning the Property to green space to include using the Property’s wetlands, floodway and floodplain in an environmentally responsible manner to potentially incorporate an environmental park that provides the community with social, educational, environmental and recreational benefits such as interpretative trails and places for the public and students to meet, congregate and learn, such as rain and botanical gardens, and for storm water management and green infrastructure to improve water quality and for other park-like amenities (the “**Property Goals**”).
- C. In furtherance of those goals, ALT desires to gift, grant and donate the Property to McCandless and McCandless desires to grant funds necessary for ALT to acquire the Property from Rave pursuant to the terms hereof and the parties desire to provide for the future activities and cooperation of the parties in regards to the Property, upon the terms, covenants and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants and agreements herein contained and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, ALT and McCandless agree as follows:

ARTICLE I

Donation of the Property

Subject to the terms, covenants and conditions of this Agreement, ALT agrees to gift, grant and donate to McCandless, and McCandless shall accept from ALT, (a) all right, title and interest of ALT in the Land which shall consist of a fee simple interest therein (b) all right, title and interest of ALT in and to any tangible personal property affixed to the Land (the “**Personal Property**”), (c) to the extent assignable, all other right, title and interest of ALT, if any, constituting part and parcel of the Property (hereinafter defined), all transferable consents, authorizations, variances or waivers, licenses, permits, including but not limited to building or grading, zoning certificates and approvals from any governmental or quasi-governmental agency, department, board, commission, bureau or other entity or instrumentality solely in respect of the Land, licenses, permits, air rights, certificates of occupancy, signs, sewer agreements, water line agreements, utility agreements, water rights and any other general intangibles benefiting the Land (collectively, the “**Intangibles**”); (d) all of the ALT’s, if any, records relating to the use and operation of the Land, (collectively, the “**Records**”) and all tests, surveys and reports, including but not limited to Phase I, II or III Environmental Surveys, ALTA Surveys, all governmental and quasi-governmental agency reports and assessments, and all prior title policies and deeds (collectively called “**Reports**”) and all other property, rights and interests defined in the Rave Agreement as “Property” (collectively herein and hereafter referred to as the “**Property**”).

ARTICLE II

Grant of Funds

- 2.1 **Grant.** Subject to the terms, covenants and conditions of this Agreement, McCandless covenants and agrees to grant to ALT the sum of One Million Two Hundred Fifty Thousand Dollars and no/100 (\$1,250,000.00 (the “**Grant**”). The Grant shall be paid as follows: \$50,000 to ALT on the Hard Deposit Date (as defined in the Rave Agreement) and the balance on the Closing Date. The sole and exclusive purpose of the Grant is to provide ALT with sufficient funds to pay the purchase price under the Rave Agreement and ALT covenants to use the Grant for the purpose of purchasing the Property pursuant to the terms of the Rave Agreement. The Grant shall be paid to ALT on the date that ALT acquires the Property from Rave.

ARTICLE III

Title and Survey

- 3.1 **Title Insurance Commitment.** ALT will provide McCandless with a copy of any policies of title insurance and will cause the Title Company through one of its title agents (as defined in the Rave Agreement) to issue the owner’s policy of title insurance to McCandless at closing subject only to the Permitted Exceptions (as defined below).
- 3.2 **Survey.** ALT will deliver to McCandless a copy of any land survey of the Property delivered to ALT by Rave or otherwise in ALT’s possession. McCandless, at McCandless’s expense, may, but is not required to, obtain an ALTA/ACSM for survey (the “**Survey**”) within the Due Diligence Period, (as defined below). In the event that the

Title Company shall require a Survey to issue a title policy, ALT shall be responsible for the expense of the Survey.

- 3.3 **Review of Title and Survey.** McCandless shall have until 5:00 P.M. EST on the date that is five (5) business days after the date that McCandless receives the Title Commitment in which to notify ALT in writing (the “**Objection Notice**”) of any objections McCandless has to any matters shown or referred to in the Title Commitment or a Survey (the “**Review Period**”). Any title encumbrances or exceptions which are set forth in the Title Commitment or the Survey and to which McCandless does not object in writing within such period shall be deemed to be permitted exceptions to the status of title (the “**Permitted Exceptions**”). The Objection Notice shall specify those matters set forth in the Title Commitment which are reasonably objectionable to McCandless (“**Unpermitted Exceptions**”). ALT shall within seven (7) business days after receipt of such notice of Unpermitted Exceptions notify McCandless of ALT’s intention to raise and include McCandless’s objections in ALT’s Defect Notice to Rave given pursuant to the terms of the Rave Agreement. If the Rave Agreement is terminated pursuant to the terms of Section 5.1 thereof, this agreement shall be null and void. Upon termination, as provided in this paragraph, the parties shall be relieved of their obligations hereunder.

ARTICLE IV

Representations and Warranties, Covenants, and Ancillary Agreements

- 4.1 **Representations and Warranties of ALT.** In consideration of McCandless entering into this Agreement and as an inducement to McCandless to make the Grant to ALT, ALT makes the following representations and warranties, each of which is material and is being relied upon by McCandless, and each of which shall be true and correct on the Closing Date (and, subject to the provisions of this paragraph below, the material truth and accuracy of which, and ALT’s performance of all of ALT’s covenants herein, shall constitute a condition precedent to McCandless’s obligations hereunder).
- 4.1.1 **Power.** ALT has the legal power, right and authority to enter into this Agreement and the instruments referenced herein, and to consummate the transaction contemplated hereby.
- 4.1.2 **Requisite Action.** All requisite action has been taken by ALT in connection with entering into this Agreement, the instruments referenced herein, and the consummation of the transaction contemplated hereby, and no consent of any partners, creditor, investor, judicial or administrative body, governmental authority or other party is required for ALT to consummate the transaction contemplated by this Agreement.
- 4.1.3 **No Conflict.** Neither the execution and delivery of this Agreement and the documents and instruments referenced herein, nor the incurrence of the obligations set forth herein, nor the consummation of the transaction contemplated herein, nor compliance with the terms of this Agreement and the

documents and instruments referenced herein conflict with or result in the material breach of any terms, conditions or provisions of, or constitute a default under, any bond, note, or other evidence of indebtedness or any contract, indenture, mortgage, deed of trust, loan, partnership agreement, lease or other agreement or instrument to which ALT is a party or which affects the Property.

4.2 **McCandless's Representations and Warranties.** In consideration of ALT entering into this Agreement and as an inducement to ALT to sell the Property, McCandless makes the following representations and warranties, each of which is material and is being relied upon by ALT (and the truth and accuracy of which shall constitute a condition precedent to ALT's obligations hereunder).

4.2.1 **Power.** McCandless has the legal power, right and authority to enter into this Agreement and the instruments referenced herein, and to consummate the transaction contemplated hereby.

4.2.2 **Requisite Action.** All requisite action has been taken by McCandless in connection with entering into this Agreement and the instruments referenced herein. By the Closing no additional consent of any shareholder, trustee, trustor, beneficiary, creditor, investor, judicial or administrative body, governmental authority or other party shall be required for McCandless to consummate the transaction contemplated by this Agreement.

4.2.3 **Individual Authority.** The individuals executing this Agreement and the instruments referenced herein on behalf of McCandless have the legal power, right, and actual authority to bind McCandless to the terms and conditions hereof and thereof.

4.2.4 **No Conflict.** Neither the execution and delivery of this Agreement and the documents and instruments referenced herein, nor the incurrence of the obligations set forth herein, nor the consummation of the transaction contemplated herein, nor compliance with the terms of this Agreement and the documents and instruments referenced herein conflict with or result in the material breach of any terms, conditions or provisions of, or constitute a default under, any bond, note, or other evidence of indebtedness or any contract, indenture, mortgage, deed of trust, loan, partnership agreement, lease or other agreement or instrument to which McCandless is a party.

4.3 **Survival.** The representations and warranties provided in this Article shall survive Closing and the delivery of the deed for a period of one (1) year.

4.4 **Matters Prior to Closing.**

4.4.1 **New Agreement.** Without first obtaining McCandless's consent, ALT shall not, between the date hereof and the Closing Date, enter into any leases, contracts or other agreements which could bind McCandless or the Property after the Closing.

4.4.2 **Changes to Improvements.** Without the consent of McCandless, ALT shall not alter the Property or consent to such alteration except to complete any improvements or non-structural changes, installations, or decorations which may be required by law and excluding ordinary care and maintenance.

4.4.3 **Additional Notices.** If ALT shall receive any notices or additional information related to the Property during the term of this Agreement (“**Additional Information**”) from Rave or any other party, it shall furnish a copy of same to McCandless promptly after receipt by ALT. If McCandless objects to any such Additional Information because such Additional Information would materially and adversely impair McCandless’s ownership or operation of the Property or expose McCandless to any material claim(s) for damages, McCandless may terminate the Agreement prior to the Hard Deposit Date (as defined in the Rave Agreement) and this Agreement shall terminate and ALT shall, in its discretion, terminate the Rave Agreement. If McCandless terminates this Agreement as a result of any Additional Information after the Hard Deposit Date, McCandless shall reimburse ALT for any portion of the Deposit that is non-refundable under the terms of the Rave Agreement provided that ALT cannot terminate the Rave Agreement and receive a refund of its deposit thereunder.

4.4.4 **Rave Agreement.** ALT shall in good faith act in furtherance of and in accordance with the requirements and its obligations under the Rave Agreement.

ARTICLE V

Due Diligence

5.1 **Review and Approval of Materials.** Immediately upon receipt from Rave, ALT will deliver to McCandless for McCandless’s inspection, review, copying and approval all the materials related to the Property delivered to ALT by Rave or otherwise in ALT’s possession or in the possession of any of ALT’s agents, including without limitation the Records, Reports and Intangibles, (collectively, the “**Materials**”).

McCandless shall have until 5:00PM EST five (5) business days prior to the expiration of the Inspection Period (as defined in the Rave Agreement) (the “**Due Diligence Period**”), within which to examine the Materials and thereby either (i) approve the Materials or (ii) terminate this Agreement. McCandless’s failure to timely terminate this Agreement pursuant to the preceding sentence by delivering timely written notice thereof to ALT shall be deemed to constitute McCandless’s approval of the Materials.

5.2 **Physical Inspections and Studies of the Land.** ALT shall have the exclusive right to conduct all inspections, investigations, tests and studies of the Land and Property pursuant to the terms of the Rave Agreement. To the extent that McCandless desires to conduct any inspections of the Property, McCandless will provide ALT notice of the nature of the inspection to be done and the consultant or other party who will conduct the inspection and such inspections shall be coordinated through ALT. ALT shall provide McCandless with all Reports of such inspections promptly after ALT’s receipt of the

same. ALT covenants and agrees to use its best efforts to have the Reports issued to ALT and McCandless, provided, however, if any particular consultant refuses to issue a Report to ALT and McCandless jointly, ALT will use its best efforts to obtain reliance letters in favor of McCandless from the consultants who conduct the inspections and issued the Reports. ALT further covenants and agrees to coordinate its inspections of the Property with McCandless so that each inspection includes any inspections McCandless reasonably deems necessary under the circumstances. McCandless shall have the right to terminate this Agreement in its sole discretion by providing written notice of termination to ALT on or before the expiration of the Due Diligence Period.

ARTICLE VI

Closing; Prorations and Expenses

6.1 **Closing.** For purposes of this Agreement, the Closing and the Closing Date shall be the same as the Closing and the Closing Date under the Rave Agreement.

6.2 **Time and Place of Closing.** Subject to the satisfaction of the conditions set forth in Section 8.2 below, the Closing of this transaction shall take place on or before December 31, 2015 at the offices of the Title Company, or such other time and manner as may be mutually agreeable to the parties.

6.3 **Events of Closing.** At the Closing:

6.3.1 **ALT's Deliveries at Closing.** ALT shall deliver to McCandless, the following:

(a) a special warranty deed (in form and substance reasonably acceptable to McCandless and McCandless's counsel) duly executed and acknowledged by ALT, conveying to McCandless the Land in indefeasible fee simple free and clear of any lien, encumbrance or exception other than the Permitted Exceptions (the "Deed");

(b) an owner's affidavit for itself and from Rave, in form and substance that the title company issuing the Title Commitment (the "Title Company") may reasonably require;

(c) a closing statement, duly executed by ALT;

(d) such evidence of the authority and capacity of ALT and Rave and their representatives as the Title Company may reasonably require, and

(d) such other documents as may be reasonably and customarily required in connection with the transaction contemplated by this Agreement, each duly executed and acknowledged (where applicable) by ALT and/or Rave.

6.3.2 **McCandless's Deliveries at Closing.** McCandless shall deliver to the Title Company, for the ALT, the following:

- (a) the balance of Grant in cash or wire transferred funds;
- (b) such evidence of the authority and capacity of McCandless and its representatives as the Title Company may reasonably require;
- (c) a closing statement, duly executed by McCandless; and
- (d) such other documents as may be reasonably and customarily required in connection with the transaction contemplated by this Agreement, each duly executed and acknowledged (where applicable) by McCandless.

6.4 **Expenses.**

- 6.4.1 **ALT's Expenses.** The fees and expenses of ALT's legal counsel, if any, and the costs to prepare the Deed shall be paid by ALT.
- 6.4.2 **McCandless's Expenses.** McCandless shall pay the fees and expenses of McCandless's legal counsel; the costs it incurs during its Inspections and the costs of any third-party reports or studies it may obtain; the costs of recording the deed, and a credit to ALT for all reasonable costs incurred by ALT, reviewed and approved by McCandless, associated with the closing on the Rave Agreement (including such matters set forth in Section 7.3 and 7.4 of the Rave Agreement).
- 6.4.3 **Realty Transfer Taxes.** The transaction contemplated by the Rave Agreement and the transaction contemplated by this Agreement are realty transfer tax exempt pursuant to 72 P.S. Sec. 8102-C.3(18) and/or 72 P.S. 8102-C.3(1). ALT shall indemnify and hold harmless McCandless for any realty transfer taxes assessed on the Rave Agreement transaction or this Agreement transaction due to ALT not being a "conservancy" (for realty transfer tax purposes).

ARTICLE VII

Damage to Property and Condemnation

- 7.1 **Casualty or Condemnation.** ALT agrees to give McCandless prompt notice of any casualty affecting the Property between the Execution Date and the Closing Date or of any actual or threatened taking or condemnation of all or any portion of the Land. If prior to the Closing there shall occur damage to the Property which is caused by casualty or taking, or if there is a condemnation (or written notice thereof) of all or any portion of the Land, then in any such event McCandless may at its option terminate this Agreement by notice to ALT within twenty (20) days after McCandless has received the notice referred to above or at the Closing, whichever is earlier. If McCandless does not so elect to terminate this Agreement, then the Closing shall take place as provided herein without abatement of the Purchase Price (except to the extent of a deductible under ALT's insurance policies), and ALT shall assign to McCandless at the Closing all of ALT's interest in and to all insurance proceeds or condemnation awards, as applicable.

ARTICLE VIII

Termination, Contingencies, Default and Remedies

- 8.1 **Permitted Termination.** If this Agreement is terminated by either party pursuant to a right expressly given it to do so hereunder (herein referred to as a “**Permitted Termination**”) neither party shall have any further rights or obligations hereunder and the Deposit shall be promptly returned to McCandless.
- 8.2 **Contingencies.** McCandless’s obligations under this Agreement and its consummation are contingent upon McCandless obtaining the following:
- 8.2.1 **Approval.** Approval of this Agreement and the consummation of the transaction contemplated hereunder by the McCandless Town Council.
- 8.2.2 **Rave Agreement.** Closing under the Rave Agreement occurring immediately prior to Closing hereunder.
- 8.3 **Default by ALT.** ALT shall be in default hereunder upon the occurrence of any one or more of the following events:
- 8.3.1 Any of ALT’s warranties or representations set forth herein is untrue or inaccurate in any material respect.
- 8.3.2 ALT shall fail to meet, comply with or perform any material covenant, agreement, or obligation on its part required, within the time limits and in the manner required in this Agreement, for any reason other than a Permitted Termination.
- 8.4 **Default by McCandless.** McCandless shall be in default hereunder upon the occurrence of any one or more of the following events:
- 8.4.1 Any of McCandless’s warranties or representations set forth herein is untrue or inaccurate in any material respect.
- 8.4.2 McCandless shall fail to meet, comply with or perform any material covenant, agreement, or obligation on its part required, within the time limits and in the manner required in this Agreement, for any reason other than a Permitted Termination.
- 8.5 **Remedies.** In the event of default by McCandless hereunder, ALT shall be entitled to payment to it of the Deposit, and McCandless shall reimburse ALT for its reasonable out-of-pocket costs and expenses incurred in connection with the Rave Agreement and this Agreement, if any, as its sole remedy hereunder. Such payments or actions shall be considered liquidated damages hereunder, the parties agreeing the actual damages in the event of McCandless’s default would be difficult or impossible to ascertain.

In the event of a default by ALT hereunder, McCandless shall have the right to terminate this Agreement and, if made, the initial \$50,000 of the Grant shall be returned to McCandless and/or file an action for specific performance in the event that ALT has acquired the Property pursuant to the Rave Agreement.

ARTICLE IX

Brokerage Commissions

- 9.1 **Brokers.** Each party represents and warrants to the other that it has had no dealings or communications with any real estate broker, finder or agent in connection with the purchase and sale of the Property. Each party covenants and agrees to defend, indemnify and save the other harmless from and against any actions, damages, real estate commissions, fees, costs and expenses (including reasonable attorney's fees), resulting or arising from any breach of such representation and warranty by the other party. The obligations set forth in this Section 9.1 shall survive Closing or termination of this Agreement.

ARTICLE X

Miscellaneous

- 10.1 **Notices.** All notices, demands, requests and other communications required or permitted hereunder shall be in writing, addressed to the addressee at its address set forth below or at such other address as such party may have specified theretofore by notice delivered in accordance with this Section, and shall be deemed delivered: (i) in the case of national overnight courier service, one (1) business day after the date appearing on the courier's records as the date of receipt of the item or (ii) upon actual receipt by the addressee:

If to ALT:

Allegheny Land Trust
416 Thorn Street
Sewickley, PA 15143
Attn: Roy Kraynyk, Director of Land Protection

With a copy to:

Reed Smith LLP
225 Fifth Avenue, Suite 1200
Pittsburgh, PA 15222
Attn: Steven M. Regan

If to McCandless unless otherwise designated in writing:

Town of McCandless
9955 Grubbs Road
Wexford, PA 15090
Attn.: Town Manager

With a copy to:

Tucker Arensberg, P.C.
1500 One PPG Place
Pittsburgh, PA 15222
Attn: Steven R. Bovan

- 10.2 **Governing Law.** The laws of the Commonwealth of Pennsylvania shall govern the validity, enforcement, and interpretation of this Agreement.
- 10.3 **Integration; Modification; Waiver.** This Agreement constitutes the complete and final expression of the agreement of the parties relating to the Property, and supersedes all previous contracts, agreements, and understandings of the parties, either oral or written, relating to the Property. This Agreement cannot be modified, or any of the terms hereof waived, except by an instrument in writing (referring specifically to this Agreement) executed by the party against whom enforcement of the modification or waiver is sought.
- 10.4 **Counterpart Execution.** This Agreement may be executed in several counterparts, each of which shall be fully effective as an original and all of which together shall constitute one and the same instrument.
- 10.5 **Headings; Construction.** The headings which have been used throughout this Agreement have been inserted for convenience of reference only and do not constitute matter to be construed in interpreting this Agreement. Words of any gender used in this Agreement shall be held and construed to include any other gender and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise. The words “herein,” “hereof,” “hereunder” and other similar compounds of the word “here” when used in this Agreement shall refer to the entire Agreement and not to any particular provision or section. If the last day of any time period stated herein shall fall on a Saturday, Sunday or legal holiday, then the duration of such time period shall be extended so that it shall end on the next succeeding day which is not a Saturday, Sunday or legal holiday.
- 10.6 **Invalid Provisions.** If any one or more of the provisions of this Agreement, or the applicability of any such provision to a specific situation, shall be held invalid or unenforceable, such provision shall be modified to the minimum extent necessary to make it or its application valid and enforceable, and the validity and enforceability of all other provisions of this Agreement and all other applications of any such provision shall not be affected thereby.
- 10.7 **Binding Effect; Assignment by McCandless Permitted.** This Agreement shall be binding upon and inure to the benefit of ALT and McCandless, and their respective heirs, personal representatives, successors and assigns. Except as expressly provided herein, nothing in this Agreement is intended to confer on any person, other than the parties hereto and their respective heirs, personal representatives, successors and assigns, any rights or remedies under or by reason of this Agreement.

- 10.8 **Further Acts.** In addition to the acts recited in this Agreement to be performed by ALT and McCandless, ALT and McCandless agree to perform or cause to be performed at the Closing or after the Closing any and all such further acts as may be reasonably necessary to consummate the transactions contemplated hereby.
- 10.9 **Date of Agreement.** The date of this Agreement shall for all purposes be the date of the signature of the last party to sign this Agreement (“**Execution Date**”).
- 10.10 **Time of the Essence; Extension of Time Periods.** Time is of the essence with this transaction. If any time period as set forth herein expires on a weekend or on a legal holiday, the time period shall be deemed extended through the end of the following business day.
- 10.11 **Coal Notice.** NOTICE--THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT. [This notice is set forth in the manner provided in Section 1 of the Act of July 17, 1957, P.L. 984, as amended.]

ARTICLE XI

Future Cooperation

- 11.1 **Post Closing Cooperation.** The parties have entered into this Agreement for transaction contemplated by this agreement in furtherance of the Property Goals. Each party having specific expertise and assets which shall collectively help attain the Property Goals. The parties understand that their expertise and assets shall be necessary after the Closing.
- 11.2 **ALT Obligations.** ALT agrees for three (3) years after the Closing, and any additional time as the parties may mutually agree, to use its best efforts and as much manpower and time deemed reasonably necessary to:

11.2.1 in partnership with McCandless, co-sponsor community plan for the restoration/transformation of the site into a community asset in furtherance of the Property Goals;

11.2.2 in cooperation with McCandless, prepare and submit grant applications to public and private funding sources in an aggregate amount of not less than \$1,000,000,, to the greatest extent possible, to reimburse McCandless for its costs and expenses incurred in acquiring the Property, for planning work, and for future remediation and/or restoration

necessary to attain the Property Goals; such funding sources may include without limitation the Department of Conservation and Natural Resources; the Gaming Economic Development Fund; the Department of Community and Economic Development; the U.S. Army Corp. of Engineers; the U.S. Department of Housing and Urban Development, and the Allegheny County Community Infrastructure and Tourism Fund;

11.2.3 assist in managing a contract with planning vendor and other vendors as the parties, mutually agreement or deem appropriate and/or necessary, and

11.2.4 pay ALT's legal fees incurred during negotiating the Rave Agreement and this Agreement and other aspects necessary to attain the Property Goals.

11.3 **McCandless Obligations.** McCandless agrees for three (3) years after the Closing, and any additional time as the parties may mutually agree, to use its best efforts and as much manpower and time deemed reasonably necessary to:

11.3.1 reimburse ALT for all pre-approved reasonable and actual out-of-pocket expenses incurred in connection with any due diligence expenses associated with the Rave Agreement and this Agreement such as engineering, surveys, title costs, closing costs, Phase One and Phase Two investigations, testing, etc.;

11.3.2 use best, but reasonable efforts to raise funds from public and private sources to cover the cost of razing the existing structures and improvements on the Property, including parking lots;

11.3.3 implement a plan of demolition and supervise the demolition and removal of the existing building and parking lots on the Property in accordance with applicable law;

11.3.4 manage the vendors and construction required for the restoration phase necessary to attain the Property Goals;

11.3.5 operate and maintain the site once the restoration is complete;

11.3.6 pay McCandless's legal fees incurred during negotiating the Rave Agreement and this Agreement and other aspects necessary to attain the Property Goals;

11.3.7 in cooperation with ALT, draft grant applications and submit to private and public funders for the remediation and restoration work necessary to attain the Property Goals, and

11.3.8 on or before the three (3) year anniversary of the Closing, grant ALT a conservation easement interest in the Property, in form and substance as the parties may mutually agree in furtherance of the Property Goals; provided, however, that such grant is conditioned upon McCandless receiving an aggregate minimum of \$500,000.00, from any public or private sources, as reimbursement for a part of McCandless's cost of

acquiring the Property, the Grant, or other costs incurred in connection with meeting the Property Goals.

11.4 **Survival**. The provisions of this Article XI shall survive the Closing.

Signatures to Follow

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date indicated below each of their respective signatures.

ALT:

ALLEGHENY LAND TRUST

By: 
Print Name: Christopher J. Beichner
Title: President + CEO

Date: 11/9/15

MCCANDLESS:

TOWN COUNCIL
TOWN OF MCCANDLESS

By: 
Title: Vice President of Council

Date: 11-6-15

ATTEST:

By: 
Title: Secretary

Date: 11-6-15

**AMENDMENT NO. 1 TO GRANT AND DONATION AGREEMENT
AND AGREEMENT FOR FUTURE REAL ESTATE COOPERATION**

ALT: ALLEGHENY LAND TRUST
MCCANDLESS: TOWN OF MCCANDLESS
PROPERTY: 9700 MCKNIGHT ROAD, LOT NO. 2 RAVE PLAN OF LOTS
DATE OF AGREEMENT: NOVEMBER 9, 2015
DATE OF AMENDMENT: NOVEMBER 19, 2015

NOW, THEREFORE, the parties hereto, for all valuable consideration and intending to be legally bound, do hereby agree as follows:

1. This Amendment No. 1 shall constitute the first amendment to the Grant and Donation Agreement and Agreement for Future Real Estate Cooperation dated November 9, 2015 (the "Agreement") and shall hereby incorporate by reference those provisions set forth in the Agreement to the extent such provisions are not altered hereby and any terms not defined herein shall have the meaning ascribed to them in the Agreement.
2. Section 5.1 is hereby amended to change the definition of the "Due Diligence Period" from the period ending "five (5) business days prior to the expiration of the Inspection Period (as defined in the Rave Agreement)" to "the latter of (i) 10:00 PM EST December 7, 2015 or (ii) 5:00PM EST two (2) days prior to the expiration of the Inspection Period (as defined in the Rave Agreement, as may be amended)."

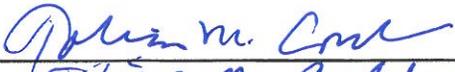
McCandless and ALT hereby ratify all other terms and conditions of the Agreement and agree and confirm that as modified this Agreement shall remain in full force and effect.

WITNESS the due execution of this Amendment the date written above.

ALLEGHENY LAND TRUST

By: 
Name: Christopher J. Beichner
Title: President + CEO

TOWN OF MCCANDLESS

By: 
Name: Tobias M. Cuth
Title: Town Manager

EXECUTION COPY

AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY

THIS AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY (this "Agreement") is made this 7th day of October, 2015 (the "Effective Date"), by and between RAVE PITTSBURGH NORTH, LLC, a Delaware limited liability company ("Seller"), and ALLEGHENY LAND TRUST, a Pennsylvania non-profit corporation ("Buyer").

RECITALS:

A. Seller owns that certain tract of real property, denominated as Lot and Block #945-E-21, located at 9700 McKnight Road, McCandless, Pennsylvania, 15237, consisting of approximately 33 acres, as more particularly identified on Exhibit "A" attached hereto and by this reference incorporated herein (the "Land") consisting of a 4.26 acre parcel which has been subdivided and sold as one parcel ("Parcel 1"), and the balance of approximately 26.72 acres ("Parcel 2"), as shown on the recorded Subdivision (as defined below) attached hereto as Exhibit "B".

B. Buyer wishes to purchase and Seller desires to sell and convey to Buyer, Parcel 2, together with any improvements located thereon, all easements (including but not limited to parking and access easements which benefit the real property), licenses, rights-of-way and interests appurtenant, belonging or incident thereto owned or held by Seller in connection with the Land, including without limitation, development rights, governmental approvals and land entitlements insofar as they relate only to the Parcel 2 (collectively referred to herein as the "Property").

C. Buyer wishes to purchase the Property for environmental improvement of the Property's wetlands, floodways and floodplains which includes use for park, recreational, scenic and/or open-space opportunities including, without limitation, as an environmental park to include social, educational, environmental and recreational programs, meeting facilities and other park-like amenities, for storm water management and green infrastructure to improve water quality, in such respects to be for the public benefit (the "Buyer's Proposed Use").

NOW, THEREFORE, the parties hereto agree as follows:

TERMS AND CONDITIONS

1. PURCHASE AND SALE OF PROPERTY. Buyer hereby agrees to purchase from Seller, and Seller hereby agrees to sell to Buyer (the "Purchase and Sale"), the Property, upon the terms and subject to the conditions hereinafter set forth.

2. PURCHASE PRICE.

2.1 Amount of Purchase Price. The purchase price for the Property will be ONE MILLION TWO HUNDRED FIFTY THOUSAND AND 00/100 DOLLARS (\$1,250,000.00) (the "Purchase Price").

2.2 Payment of Purchase Price. The Purchase Price shall be paid as follows:

(a) Within five (5) business days of the Effective Date, Buyer shall deposit with First American Title Insurance Company (the "Title Company") the sum of FIFTY THOUSAND AND 00/100 DOLLARS (\$50,000.00) (such amount and any other amounts deposited by Buyer with the Title Company, together with any interest accrued thereon, hereinafter referred to as the "Deposit"), in good funds, which Deposit shall be released to Seller in partial satisfaction of the Purchase Price at the Closing (as defined below).

(b) On or before 2:00 p.m. (Central time) on the Closing Date (as defined below), Buyer shall deposit the balance of the Purchase Price in good funds with the Title Company for the account of Seller, subject to any prorations and adjustments set forth in this Agreement. "Good funds" shall mean a wire transfer of immediately available funds, or cashier's or certified check.

2.3 Interest Bearing Account. The Title Company shall upon request of Buyer place the Deposit in an interest bearing account. All interest earned on the Deposit shall be credited to the party entitled to the Deposit and be deemed to be part of the Deposit.

3. INSPECTION PERIOD.

3.1 Due Diligence Materials. Within five (5) days after the Effective Date, Seller shall deliver to Buyer the following documents with respect to the Property to the extent such documents are within Seller's possession or reasonable control (other than privileged information): surveys, third-party environmental and geotechnical reports, property condition reports, engineering studies, maintenance and repair records, notices from any governmental authority with respect to any violation of applicable law, site plans, and title policies, title commitments or abstracts (collectively, the "Due Diligence Materials"). Buyer shall, upon Seller's reasonable request during the course of the Inspection Period (as defined below), provide the Seller with general updates with respect to the progress of inspections.

3.2 Inspection Period. Buyer shall have a period of sixty (60) days from the Effective Date (the "Inspection Period", the expiration thereof hereinafter the "Hard Deposit Date") to conduct such inspections of the Property as Buyer shall deem, in its commercially reasonable but sole discretion and at Buyer's sole cost and expense, necessary under the circumstances, including, but not limited to zoning, platting, parking, site planning, title, survey, encroachments, access, utilities, governmental regulations, estimating or determination demolition and/or remediation costs, storm water drainage, environmental contamination (including both a Phase I and Phase II) and the physical conditions of the Property. Buyer shall have the right to obtain an appraisal of the Property and if the fair market value of the Property as determined by such appraisal is less than 100% of the Purchase Price, this Agreement shall

terminate and the Deposit shall be returned to Buyer. Buyer shall have the right to conduct a Phase II environmental inspection so long as such Phase II is completed within the Inspection Period. Notwithstanding anything to the contrary contained herein, no Phase II Environmental Site Assessment ("Phase II") shall be conducted during any such entry by Buyer upon the Property unless and to the extent such testing or sampling is recommended in the Phase I Report, and then only pursuant to a testing and/or sampling plan narrowly tailored to further inspect or investigate the recognized environmental conditions or other investigations recommended by the Phase I Report. After completing its inspection(s) of the Property, Buyer shall, at its sole cost and expense, repair and restore any damage it has caused to the Property. Buyer shall indemnify, hold the Seller harmless from and defend (with counsel acceptable to Seller, in its sole discretion) against the costs of such inspections and any and all loss, cost, damage or expense relating to property damage suffered or incurred by Seller or caused to the Property or any improvements thereon or injury or death resulting from or in any way relating to said inspections, which indemnification shall survive any termination of this Agreement by Seller or Buyer. Seller shall cooperate with Buyer in such inspections, and shall provide Buyer with access to the Property for such purposes

3.3 Buyer's Right to Terminate During the Inspection Period. Buyer shall have the right to deliver to Title Company and Seller, prior to 11:59 p.m. C.S.T. on the last day of the Inspection Period, written notice of its election to terminate this Agreement (the "Termination Notice") for any reason or no reason at all, as determined by Buyer in its sole and absolute discretion, and terminate all of its obligations hereunder (except for its indemnification and restoration obligations or such other obligations as specifically survive pursuant to the terms hereof). This Agreement shall terminate in the event that (a) Buyer's board of directors does not approve this Agreement or Buyer's purchase of the Property, or (b) Buyer has not raised and received from public and private sources sufficient funds to pay the Purchase Price and all of Buyer's closing costs and, in either event, the full Deposit shall be returned to the Buyer. If a Termination Notice is duly and timely delivered by Buyer, then the full Deposit shall be released to Buyer. If Buyer does not duly and timely deliver a Termination Notice, then one-half (1/2) of the Deposit, the sum of TWENTY FIVE THOUSAND AND 00/100 DOLLARS (\$25,000.00) shall become nonrefundable to Buyer and be for the account of Seller as of the Hard Deposit Date, except if Closing does not occur due to Seller's breach of the Agreement.

3.4 Buyer's Acceptance of Condition. Notwithstanding anything contained in this Agreement to the contrary, Buyer acknowledges that it will inspect the Property pursuant to the terms of Section 3.2 and either exercise its right to terminate the Agreement under Section 3.3 or, if not, be deemed to have accepted the Property in its existing condition.

3.5 Approvals. Buyer hereby acknowledges and agrees that, except as otherwise specifically provided herein and to the extent that any such entitlements are required, Buyer shall be solely responsible for obtaining all necessary building permits, zoning changes and variances, from all applicable governmental authorities, and any necessary approvals from third parties, in order to enable the Buyer to develop the Property solely for the Buyer's Proposed Use and no other. Seller, at no cost and expense to Seller, and without incurring any liability or obligation (and Buyer shall indemnify Seller from the same), shall cooperate with Buyer and join in the signing of any documents with Buyer as necessary to obtain building permits and approvals; provided, however, that in no event shall Seller be obligated, prior to

Closing, to sign or deliver any documents which bind Seller or the Property or create easements or dedications in respect to the Property or any adjacent property other than those, if any, required in conjunction with Buyer obtaining its required permits and in all events shall be acceptable to Seller in form and substance, which acceptance shall not be unreasonably withheld and shall be granted or denied within five (5) business days after Seller's receipt of a written request therefor.

3.6 Subdivision. Seller represents and warrants that the Subdivision has been completed and recorded in the Allegheny County Department of Real Estate and that the Subdivision attached hereto as Exhibit "B" is a true and correct copy of the recorded Subdivision.

4. CLOSING: ADDITIONAL FUNDS AND DOCUMENTS REQUIRED FROM BUYER AND SELLER

4.1 Closing Date. Subject to satisfaction or waiver in writing of the conditions precedent in Section 6 below, the closing of the Purchase and Sale transaction (the "Closing") shall take place at the office of the Title Company (or such other place as mutually agreed upon by the parties) no later than within fifteen (15) days following the last day of the Inspection Period (the "Closing Date"), but in no event after December 31, 2015.

4.2 Buyer's Deliveries. Buyer agrees that on or before 1:00 p.m. (Eastern Standard Time) on the Closing Date, Buyer will have deposited with the Title Company all additional funds and/or documents (executed and acknowledged, if appropriate) which are necessary for the Title Company to carry out the transactions contemplated by this Agreement, including, without limitation, the following:

- (a) A settlement statement approved by Buyer reflecting the Purchase Price, costs, adjustments and pro-rations set forth in this Agreement;
- (b) A certified resolution of Buyer authorizing the entering into and execution of this Agreement and the consummation of the transactions herein contemplated, or other evidence of authorization reasonably acceptable to Seller and the Title Company;
- (c) Such funds and other items and instruments as may be necessary in order for the Title Company to comply with this Agreement.

4.3 Seller Deliveries. (a) Seller agrees that on or before 2:00 p.m. (Eastern Standard Time) on the Closing Date, Seller will deposit with the Title Company such items and instruments (executed and acknowledged, if appropriate) as may be necessary in order for the Title Company to carry out the transactions contemplated by this Agreement, including without limitation, the following:

- (i) A special warranty deed (the "Deed") conveying marketable title to the Property to Buyer, subject to real property taxes and assessments not yet assessed and due and payable and to the Permitted Exceptions (as hereinafter defined);

(ii) A Non-Foreign Affidavit on Title Company's standard form or a form substantially similar thereto ("Non-Foreign Affidavit");

(iii) A settlement statement approved by Seller reflecting the Purchase Price, costs, adjustments and pro-rations set forth in this Agreement;

(iv) Resolutions reasonably satisfactory to Buyer and the Title Company of Seller's authority to enter into and consummate the transactions contemplated herein;

(v) Such other instruments as may be necessary consummate transactions contemplated by this Agreement or reasonably requested by Buyer or the Title Company; and

(vi) A standard Owner's Affidavit, sufficient to permit the Title Company to delete the standard exceptions from the Title Policy except for deletion of the survey exception which shall be Buyer's responsibility.

(b) Upon payment to Seller of the Purchase Price on the Closing Date, and provided all conditions required to be satisfied prior to the Closing shall have been satisfied, Seller will tender possession of the Property to Buyer, subject, however to non-exclusive rights of others pursuant to the Permitted Exceptions.

5. TITLE COMMITMENT OR ABSTRACT: POLICY.

5.1 Title and Survey Matters.

(a) Title Commitment. Buyer, at Seller's sole cost and expense, shall secure a commitment (the "Title Commitment") issued by the Title Company for an owner's title insurance policy with respect to the Land (the "Title Policy"), in the full amount of the Purchase Price, together with copies of all recorded documents evidencing title exceptions referred to in the Title Commitment and deliver a copy thereof to Seller no later than five (5) business days after receipt of same by Buyer. It shall be a condition precedent to Buyer's obligation to proceed to Closing that, at Closing, the Title Company shall issue the Title Policy (or a "marked" Title Commitment) insuring, in the full amount of the Purchase Price, Buyer as the fee simple owner of the Property, subject only to the Permitted Exceptions (as hereinafter defined), as such Permitted Exceptions may be modified in accordance with the terms of this Agreement.

(b) Survey. Within the time provided for delivery of Due Diligence Materials pursuant to Section 3.1 hereof, Seller will deliver or make available to Buyer a copy of an existing survey of the Property (the "Existing Survey") together with the Due Diligence Materials. Buyer, at its option, may commission an update to the Existing Survey, including, but not limited to recertification thereof, or a new survey (any such new or updated survey, an "Updated Survey"). The cost of such Updated Survey shall be the sole responsibility of Buyer.

(c) Defects and Cure

(i) Buyer's Defect Notices. Buyer shall accept title to the Property subject to all of the Permitted Exceptions. If the Updated Survey or the Title Commitment discloses exceptions to title (such exceptions to title being referred to as the "Disclosed Exceptions"), then Buyer shall have until 5:00 p.m. Eastern Standard Time on the date that is five (5) business days prior to the Hard Deposit Date, within which to notify Seller of any such Disclosed Exceptions to which Buyer reasonably objects (any such notice, a "Defect Notice").

(ii) Seller's Response Notices. Seller shall, within five (5) days after the receipt of any Defect Notice, deliver a response to Buyer specifying those Disclosed Exceptions, if any, that Seller agrees to discharge on or prior to the Closing ("Seller's Response Notice"). If Seller fails to deliver Seller's Response Notice with respect to any or all of the Disclosed Exceptions described in the Defect Notice (each, a "Title Objection"), Seller shall be deemed to have elected to not discharge or cure such Title Objection. Any exceptions to title shown on the Title Commitment or the Updated Survey that are not Title Objections, and any Title Objections that are waived by Buyer as described below shall be deemed to be Permitted Exceptions, except, in no event shall the Mandatory Cure Items be deemed to be Permitted Exceptions.

(iii) Mandatory Cure Items. Seller shall be obligated to cure and remove all of the following class of Disclosed Exceptions ("Mandatory Cure Items"), if any: (i) the liens of any mortgage, trust deed or deed of trust evidencing any indebtedness owed by Seller or otherwise encumbering or constituting a lien upon the Property; (ii) tax liens for delinquent ad valorem real estate taxes; (iii) mechanic's liens; (iv) broker's liens; and (v) any liens securing or evidencing a financial or monetary obligation of Seller or otherwise affecting the Property. If Seller elects not to cure and remove any Title Objections, other than Mandatory Cure Items, Buyer may elect, in its sole discretion and as its sole remedy hereunder, at law or in equity, by delivery of written notice to Seller not later than five (5) business days after its receipt of Seller's Response Notice, to (a) proceed to Closing and accept such Title Objections, as the case may be, that Seller has refused to cure or remove as Permitted Exceptions without deduction or offset against the Purchase Price, except the Mandatory Cure Items, which shall be paid or satisfied by Seller at or before Closing, or (b) terminate this Agreement, in which event the Deposit shall be returned to Buyer and neither Party shall have any further rights, liabilities or obligations pursuant to this Agreement except those rights, liabilities or obligations that expressly survive termination of this Agreement. If Buyer fails to timely notify Seller of its election pursuant to the preceding sentence, Buyer shall be deemed to have elected alternative (a) pursuant to the preceding sentence. Notwithstanding anything to the contrary, Seller shall be required in all events to discharge the Mandatory Cure Items and all liens and encumbrances voluntarily placed on the Property after the Effective Date without Buyer's prior written consent.

5.2 Additional Exceptions. Upon the issuance of any amendment or supplement to the Title Commitment which adds any additional material exception, the

foregoing right of review and approval shall also apply to said amendment or supplement, provided, however, that Buyer's initial period of review and approval or disapproval of any such additional exceptions shall be limited to five (5) days following receipt of notice and receipt of copies of such additional amendment or exception.

5.3 Title Policy May be Issued to Buyer. On the Closing Date, the Title Company shall be instructed by Buyer and Seller to cause to be issued and delivered to Buyer as of the Closing the Title Policy, issued by Title Company, with liability in the amount of the Purchase Price, covering the Property and showing title vested in Buyer free of encumbrances and with such Endorsements as Buyer may reasonably request, except:

(a) All general and special real property taxes and assessments for the current fiscal year not yet due and payable;

(b) Easements, encumbrances, covenants, conditions, restrictions, reservations, rights-of-way and other matters of record all as approved or deemed approved by Buyer pursuant to Section 5.1 above ("Permitted Exceptions");

(c) Any exceptions created or consented to by Buyer, including without limitation, any exceptions arising by reason of Buyer's possession of or entry on the Property.

6. CONDITIONS PRECEDENT TO CLOSING.

6.1 Conditions to Buyer's Obligations. The obligations of Buyer under this Agreement to consummate the Purchase and Sale shall be subject to the satisfaction or written waiver, at or prior to closing of each of the following conditions precedent:

(a) Confirmation that the Title Company will issue the Title Policy as permitted by Section 5.3 of this Agreement insuring good and marketable fee simple title to the Property vested in Buyer subject only to the Permitted Exceptions.

(b) Confirmation that the Title Company holds and will deliver to Buyer the instruments and funds, if any, accruing to Buyer pursuant to this Agreement.

(c) Seller's representations contained in this Agreement shall be true and correct in all material respects as of the Closing, and Seller shall have complied with its obligations contained in this Agreement in all material respects.

(d) The performance by Seller (or waiver by Buyer) each of Seller's covenants and obligations to be performed pursuant to the terms of this Agreement.

6.2 Conditions to Seller's Obligations. The obligations of Seller under this Agreement to consummate the Purchase and Sale shall be subject to the satisfaction or written waiver by Seller of each of the following conditions precedent:

(a) Confirmation that the Title Company holds and will deliver to Seller the instruments and funds accruing to Seller pursuant to this Agreement.

(b) Buyer's representations contained in this Agreement shall be true and correct in all material respects as of the Closing, and Buyer shall have complied with its obligations contained in this Agreement in all material respects.

7. ESCROW PROVISIONS.

7.1 Escrow Instructions. This Agreement, when signed by Buyer and Seller, shall also constitute escrow instructions to the Title Company regarding deposit of funds and documents with the Title Company in conjunction with the Closing (the "Escrow"). If required by the Title Company, Buyer and Seller agree to execute the Title Company's standard escrow instructions, provided that the same are consistent with and do not conflict with the provisions of this Agreement. In the event of any such conflict, the provisions of this Agreement shall prevail.

7.2 General Escrow Provisions. All funds received by the Title Company shall be deposited in one or more general escrow accounts of the Title Company with any bank customarily utilized by the Title Company to maintain such escrow deposits. All disbursements shall be made by the Title Company's check or by wire transfer of immediately available funds pursuant to written instructions provided by the party to receive a disbursement.

7.3 Prorations. All non-delinquent general and special real estate taxes and assessments ("Taxes") for the year during which the Closing occurs shall be prorated to the Closing Date, with the Seller owning the Closing Date. The real estate tax proration provided for herein shall be based on the tax statement last available to the Title Company; provided that, in the event that no tax statement is available for any period for which Seller is responsible for Taxes or for Taxes for the year during which Closing occurs, proration shall be based for any such period on the tax statement last available to the Title Company and be re-prorated upon receipt of current bills. Water and sewer charges and rents, if applicable, shall be prorated to the Closing Date, with Seller owning the Closing Date, each based on the last available statement of such charges and rents.

7.4 Payment of Costs. Seller shall pay: one-half (1/2) of the cost of providing a Title Commitment and title insurance premium for a standard coverage ALTA form policy (if title insurance is provided); any transfer tax fees (provided, however, that Buyer represents that the Purchase and Sale is exempt from transfer taxes as an excluded transaction pursuant to 72 P.S. Sec. 8102-C.3(18)); any Seller's broker's fees; Seller's legal fees; and one-half (1/2) of any escrow fee charged by the Title Company. Buyer shall pay: one-half (1/2) of the cost of providing a the Title Commitment and title insurance premium for a standard coverage ALTA form policy (if title insurance is provided); if title insurance is provided, the entire portion of the Title Policy premium which is attributable to the additional cost of obtaining any additional coverage or endorsements requested by Buyer; any Buyer's broker's fees; Buyer's legal fees; and one-half (1/2) of any escrow fee charged by the Title Company. All other costs of Escrow not otherwise specifically allocated by this Agreement shall be apportioned between the parties in a manner consistent with the custom and usage of the Title Company in the jurisdiction of the Property.

7.5 Termination and Cancellation of Escrow. Time is of the essence. If the Closing fails to occur as provided above, the Escrow shall terminate automatically without further action by the Title Company or any party, and Buyer and Seller shall promptly instruct Seller to return all documents then in Escrow to the respective depositor of the same with the Title Company. Cancellation of Escrow, as provided herein, shall be without prejudice to whatever legal rights Buyer or Seller may have against each other arising from the Escrow or this Agreement.

7.6 Information Report. The "Recording Person" within the meaning of Treasury Regulation Section 1.6045.4(e)(5) with respect to the transactions contemplated by this Agreement shall be the Title Company. It is agreed that the Title Company is an eligible person under Section 1.6045.4(e)(5)(ii) of said Regulations. The Title Company hereby agrees to be responsible for complying with the reporting and other requirements of Internal Revenue Code Section 6045(e) and the income tax regulations promulgated thereunder. Pursuant to said regulations, the address for the transferor and transferee are as set forth for Seller and Buyer below, and the identifying information regarding the real estate transferred is the legal description for the Property set forth herein. Buyer and Seller agree (i) to cooperate with the Title Company and with each other in completing any report and/or other information required to be delivered to the Internal Revenue Service pursuant to Internal Revenue Code Section 6045(e) regarding the real estate sales transaction contemplated by this Agreement, including without limitation, Internal Revenue Service Form 1099-S as such may be hereinafter modified or amended by the Internal Revenue Service, or as may be required pursuant to any regulation now or hereinafter promulgated by the Treasury Department with respect thereto; (ii) that Buyer and Seller, their respective employees and attorneys, and the Title Company and its employees may disclose to the Internal Revenue Service, any information regarding this Agreement or the transaction contemplated herein as such party reasonably deems to be required to be disclosed to the Internal Revenue Service by such party pursuant to Internal Revenue Code Section 6045(e); (iii) that neither Buyer nor Seller shall seek to hold any such party liable for the disclosure to the Internal Revenue Service of any such information; and (iv) to retain this Agreement for at least four (4) years following the close of the calendar year in which the Closing occurs.

8. BROKERAGE COMMISSIONS. Seller's broker is hereby identified as Hanna Langholz Wilson Ellis, Inc. The parties acknowledge and agree that no other broker has represented it in connection with this Agreement. Each party agrees to indemnify and hold the other harmless from and against all liabilities, costs, damages and expenses, including, without limitation, attorneys' fees, resulting from any claims or fees or commissions, based upon agreements by it, if any, to pay a broker's commission and/or finder's fee in connection with the Purchase and Sale.

9. REPRESENTATIONS, WARRANTIES AND COVENANTS.

9.1 Seller's Representations and Warranties. Seller hereby makes the following representations and warranties to Buyer, each of which (i) is material and relied upon by Buyer in making its determination to enter into this Agreement; and (ii) shall survive the Closing Date for a period of twelve (12) months except that the representations and warranties set forth in 9.1(h) and 9.1(j) shall not survive the Closing Date:

(a) Seller has the authority to execute, deliver and perform Seller's obligations under this Agreement and the documents executed and delivered by Seller pursuant hereto. The individuals executing this Agreement and all other agreements, instruments and documents herein required to be made or delivered by Seller pursuant hereto on behalf of Seller are and shall be duly authorized to sign the same on Seller's behalf and to bind Seller thereto.

(b) Seller is a validly organized and existing limited liability company organized under the laws of the State of Delaware and authorized to transact business in Pennsylvania.

(c) Seller is not a "foreign person" within the meaning of Section 1445 of the Internal Revenue Code of 1986, as amended.

(d) Except for claims or causes of action threatened or asserted by Cinemark, Seller has not received written notice of any, nor, to Seller's knowledge, are there any pending or threatened actions, suits, arbitrations, unsatisfied orders or judgments, government investigations or proceedings against Seller or the Property that, if such litigation or proceedings were to result in a final determination against Seller or the Property, would result in a material encumbrance on the Property or would materially or adversely affect the validity or enforceability of this Agreement or the performance of Seller under this Agreement.

(e) Seller has received no written notice of any pending and has no knowledge of any contemplated condemnation, eminent domain or other governmental taking proceedings affecting all or any part of the Land and the Improvements.

(f) The execution and delivery of, and consummation of the transactions contemplated by, this Agreement is not prohibited by, and will not conflict with, constitute grounds for termination of, or result in the breach of (i) any of the material agreements or instruments to which Seller is now party or by which it is bound and which affect or encumber the Property, (ii) to Seller's knowledge, any order, rule or regulation of any court or other governmental agency or official, (iii) the articles of incorporation or bylaws of Seller, as the same may have been amended, supplemented, or restated from time to time, (iv) result in a lien or encumbrance on the Property which is not discharged at Closing.

(g) Seller has good and valid fee simple title to the Property, and owns the Property, to Seller's knowledge, free and clear of all encumbrances, except for the Permitted Exceptions.

(h) Except for taxes not yet due and payable, Seller has paid all state taxes and any other taxes, the non-payment of which may or could create an encumbrance against Seller or the Property. To Seller's knowledge, no deficiencies have been proposed or assessed in writing against or with respect to any taxes due on the Property, or any portion thereof.

(i) Seller has not made an assignment for the benefit of creditors or admitted in writing its inability to pay their respective debts as they mature, and has not been adjudicated as bankrupt or filed a petition in voluntary bankruptcy (or colluded to be subject to an involuntary bankruptcy filing) or a petition or answer seeking reorganization or arrangement with creditors under the federal bankruptcy laws or any other similar law or statute of the United States or any state, and no such petition has been filed against Seller.

(j) Except for such quantities of Hazardous Materials maintained at the Property in compliance, in all material respects, with applicable Laws and which are reasonably necessary for Seller's operations at the Property, there are no tanks (above or below ground, or Hazardous Materials or toxic substances or materials in or on the Property in violation of applicable Laws. "Hazardous Materials" shall mean, without limitation, substances defined as "hazardous substances" or "toxic substances" in the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601, *et seq.*, The Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.* and any other similar or related and shall also include petroleum and petroleum-based products, asbestos and any asbestos-containing materials, whether such asbestos is in a friable or non-friable state.

9.2 Disclaimer of Representations and Warranties.

(a) Buyer acknowledges that as of the end of the Inspection Period it will have had an adequate opportunity to inspect the Property (provided a Phase II, if recommended by a Phase I, is consented to by Seller) and to investigate its physical characteristics and conditions and any other matter relevant to its decision to purchase the Property. Upon the Closing, Buyer shall be deemed to have waived any and all objections to the physical characteristics and conditions of the Property which would be disclosed by a reasonable and diligent inspection. Buyer acknowledges that except for the representations and warranties specifically provided in Sections 9.1, none of Seller, any of its affiliates, or any of their respective employees, agents, equity holders or representatives has made any representations, warranties or agreements, express or implied, to or with Buyer on behalf of Seller as to any matters concerning the Property, the present use thereof, or the suitability of Buyer's intended use of the Property, and Seller expressly disclaims any such representations, warranties or agreements.

(b) Buyer further acknowledges and agrees that the Property is to be purchased, conveyed, and accepted by Buyer in its present condition, "AS-IS," "WHERE IS," and that no patent or latent physical condition of the Property, whether or not known or discovered, shall affect the rights of either party hereto.

(c) Buyer, from and after the Closing, hereby waives, releases, remises, acquits and forever discharges Seller, its affiliates, and their respective directors, officers, equity holders, employees, and agents, and their respective heirs, successors, personal representatives and assigns (collectively, "Related Parties"), of and from any and all claims, damages, actions, suits, legal or administrative orders or proceedings, demands, actual damages, punitive damages, loss, costs, liabilities and expenses, which

concern or in any way relate to the physical or environmental conditions of the Property, whether existing prior to, at or after the Closing except to the extent arising out of or in any way related to any intentional misrepresentation or fraud by Seller or any Related Parties. It is the intention of the parties pursuant to this release that any and all responsibilities and obligations of any Related Party, except for fraud or intentional misrepresentation by any Related Party, and any and all rights, claims, rights of action, causes of action, demands or legal rights of any kind of Buyer, its successors, assigns or any affiliated entity of Buyer, arising by virtue of the physical or environmental condition of the Property, whether existing prior to, at or after the Closing, are by this release provision declared null and void and of no present or future force and effect as to the parties.

9.3 Seller's Covenants. Seller hereby covenants with Buyer as follows:

(a) Seller shall not enter into, without Buyer's prior written consent, any lease, license, occupancy agreement, management agreement or any other contract agreement affecting the Property or subject any portion of the Property to any lien, security interest, or other encumbrance, after the Effective Date without Buyer's prior written consent, which consent Buyer may withhold in its reasonable discretion. Any easements, rights-of-way or other encumbrances reasonably required for the Subdivision shall be subject to Buyer's prior written consent, which consent shall not be unreasonably withheld.

(b) Seller shall notify Buyer, within three (3) business days' notice of the same, of any of the following matters about which Seller receives notice or knowledge of and that occur at any time from and after the Effective Date and continuing until the Closing or earlier termination of this Agreement: (i) litigation commenced by or against Seller with respect to the Property, or litigation of which Seller has received notice commenced or threatened against Seller with respect to the Property; (ii) notice of condemnation proceedings commenced or threatened against all or any portion of the Property received by Seller; (iii) notice of any proposed assessment, zoning or land use changes affecting the Property; and (iv) casualty losses to the Property.

9.4 Actions After the Effective Date. The parties covenant to do the following through the Closing Date:

(a) Title. Seller shall not make any change to the condition of title to the Property except as required by law or without Buyer's prior written consent, which consent may be withheld in Buyer's reasonable discretion. Except for easements and rights-of-way which are reasonably necessary for the use and enjoyment of each parcel in the Subdivision, Seller shall not sell, or assign or create any right, title or interest in, the Property or any part thereof, or create any lien, encumbrance or charge thereon, without the prior written consent of Buyer, which consent may be withheld in Buyer's reasonable discretion.

(b) Maintenance and Operation of Property. Seller shall maintain the Property in substantially its current condition (normal wear and tear and damage by

casualty excepted); shall maintain existing insurance coverage in full force and effect; and shall operate and maintain the Property in the ordinary course of Seller's business. From and after the Effective Date, Seller shall not enter into any new contract or agreement with respect to the ownership and operation of the Property that would be binding on Buyer or the Property after Closing, without Buyer's prior written approval (which approval may be withheld in Buyer's sole discretion).

9.5 Buyer's Representations and Warranties. Buyer hereby makes the following representations and warranties to Seller, each of which (i) is material and relied upon by Seller in making its determination to enter into this Agreement; and (ii) shall survive the Closing Date hereof for a period of twelve (12) months:

(a) Buyer has the authority to execute, deliver and perform Buyer's obligations under this Agreement and the documents executed and delivered by Buyer pursuant hereto.

(b) Buyer is a validly organized and existing non-profit corporation under the laws of the State of Pennsylvania, and is authorized to do business and in good standing under the laws of the State of Pennsylvania.

(c) There are no actions, suits, claims or other proceedings pending or, to the best of Buyer's knowledge, contemplated or threatened against Buyer that could materially affect Buyer's ability to perform its obligations under this Agreement.

10. DAMAGE, DESTRUCTION AND CONDEMNATION.

10.1 Risk of Physical Loss. Risk of physical loss to the Property shall be borne by Seller prior to the Closing and by Buyer thereafter. In the event that the Property shall be damaged by fire, flood, earthquake or other casualty prior to the Closing and the estimated cost to repair or restore such damage to substantially the same condition as existed immediately prior to such casualty exceeds FIFTY THOUSAND DOLLARS (\$50,000.00), Buyer may, at its option, elect not to acquire the Property by written notice to Seller not later than (a) twenty (20) days of the date of such damage or destruction, or (b) five (5) days prior to the Closing Date. If Buyer does not so elect or the estimated cost to so repair the damage equals or is less than FIFTY THOUSAND DOLLARS (\$50,000.00), Buyer shall complete the acquisition of the Property, in which case Seller shall assign to Buyer the interest of Seller in all insurance proceeds relating to such damage (without any offset or deduction) and the Purchase Price shall be reduced by any deductible amount actually paid by Buyer on account of such insurance proceeds (or Buyer shall reimburse Seller for its payment of such deductible). In the event that such damage shall occur and Buyer elects not to purchase the Property as above provided, then this Agreement shall be deemed terminated and Buyer shall be entitled to the return of all documents deposited hereunder and the Deposit.

10.2 Condemnation. In the event that, prior to the Closing, any governmental entity shall commence any actions of eminent domain or similar type proceedings to take any portion of the Property, Buyer shall have the option either to (i) elect not to acquire the Property, in which case this Agreement shall be deemed terminated and Buyer shall be entitled to a return

of the Deposit, or (ii) complete the acquisition of the Property, in which case Buyer shall be entitled to all the proceeds of such taking.

11. RIGHT TO EXCHANGE. Seller or Buyer may desire to complete this transaction as a part of a tax-deferred exchange within the meaning of Section 1031 of the Internal Revenue Code of 1986, as amended. Each party agrees in each such event to cooperate with the other in order to effectuate such an exchange or exchanges. Each party's agreement to cooperate to affect any such exchange or exchanges shall not require such party to incur any cost, expense or liability or acquire title to any property as a consequence of such cooperation. In no event shall any such exchange transaction delay the Closing as contemplated in this Agreement. In so cooperating in any exchange transaction arranged hereunder, the cooperating party shall in no event be responsible for, or in any way warrant, the tax consequences of the exchange transaction.

12. POSSESSION. Possession of the Property shall be delivered to Buyer as of Closing, subject to Permitted Exceptions.

13. REMEDIES UPON DEFAULT.

13.1 IF BUYER SHOULD DEFAULT FOR ANY REASON WHATSOEVER UNDER THIS AGREEMENT (EXCEPTING ONLY A DEFAULT PROXIMATELY CAUSED BY SELLER'S MATERIAL DEFAULT HEREUNDER), THEN AND IN SUCH EVENT, NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, BUYER AND SELLER AGREE THAT SELLER WILL INCUR DAMAGES BY REASON OF SUCH DEFAULT BY BUYER, WHICH DAMAGES SHALL BE IMPRACTICAL AND EXTREMELY DIFFICULT, IF NOT IMPOSSIBLE, TO ASCERTAIN. BUYER AND SELLER, IN A REASONABLE EFFORT TO ASCERTAIN WHAT SELLER'S DAMAGES WOULD BE IN THE EVENT OF SUCH DEFAULT BY BUYER HAVE AGREED BY PLACING THEIR INITIALS BELOW THAT THE DEPOSIT SHALL BE DEEMED TO CONSTITUTE A REASONABLE ESTIMATE OF SELLER'S DAMAGES. IN THE EVENT OF AND FOR SUCH DEFAULT BY BUYER, SELLER SHALL BE ENTITLED TO THE FULL AMOUNT OF THE DEPOSIT AS LIQUIDATED DAMAGES AS SELLER'S SOLE MONETARY REMEDY THEREFOR. THE FOREGOING PROVISIONS OF THIS SECTION 13.1 SHALL NOT LIMIT ANY OF THE EXPRESS INDEMNIFICATION OBLIGATIONS OF BUYER.

SELLER'S INITIALS



BUYER'S INITIALS

13.2 IF BUYER HAS PERFORMED ITS COVENANTS AND OBLIGATIONS AND IS NOT OTHERWISE IN DEFAULT HEREUNDER, BUT SELLER IS IN DEFAULT HEREUNDER AND, AS A RESULT, IS UNABLE TO CONSUMMATE THE PURCHASE AND SALE CONTEMPLATED HEREIN AT CLOSING, OR SELLER OTHERWISE FAILS OR REFUSES TO CLOSE ON OR BEFORE THE CLOSING DATE, THEN BUYER SHALL HAVE THE RIGHT TO EITHER (I) COMMENCE AN ACTION FOR SELLER'S SPECIFIC PERFORMANCE OF THIS AGREEMENT AND, IN WHICH CASE,

of the Deposit, or (ii) complete the acquisition of the Property, in which case Buyer shall be entitled to all the proceeds of such taking.

11. RIGHT TO EXCHANGE. Seller or Buyer may desire to complete this transaction as a part of a tax-deferred exchange within the meaning of Section 1031 of the Internal Revenue Code of 1986, as amended. Each party agrees in each such event to cooperate with the other in order to effectuate such an exchange or exchanges. Each party's agreement to cooperate to affect any such exchange or exchanges shall not require such party to incur any cost, expense or liability or acquire title to any property as a consequence of such cooperation. In no event shall any such exchange transaction delay the Closing as contemplated in this Agreement. In so cooperating in any exchange transaction arranged hereunder, the cooperating party shall in no event be responsible for, or in any way warrant, the tax consequences of the exchange transaction.

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SELLER SHALL BE LIABLE FOR ALL OF BUYER'S COSTS, FEES AND EXPENSES INCURRED IN CONNECTION WITH AN ACTION FOR SPECIFIC PERFORMANCE OF SELLER'S OBLIGATIONS HEREUNDER, OR (II) TO TERMINATE THIS AGREEMENT BY GIVING SELLER WRITTEN NOTICE OF TERMINATION, IN WHICH EVENT THE FULL AMOUNT OF THE DEPOSIT SHALL BE RETURNED TO BUYER AND SELLER SHALL PAY AND REIMBURSE BUYER FOR ALL OF BUYER'S OUT-OF-POCKET COSTS, FEES AND EXPENSES INCURRED IN CONNECTION WITH THIS AGREEMENT INCLUDING, WITHOUT LIMITATION, INSPECTION, TITLE, SURVEY AND LEGAL FEES, AND THEREAFTER THE PARTIES HERETO SHALL HAVE NO FURTHER RIGHTS OR OBLIGATIONS TO EACH OTHER UNDER THIS AGREEMENT, EITHER AT LAW OR IN EQUITY OR OTHERWISE. IN NO EVENT SHALL BUYER BE ENTITLED TO CONSEQUENTIAL OR PUNITIVE DAMAGES.

13.3 If, after Closing, either party should breach any of its covenants, representations or warranties hereunder which survive Closing, then the non-defaulting party shall have the right, as its sole remedy in such event, to either: (a) bring an action for specific performance against the defaulting party or pursue other appropriate equitable relief, or (b) recover its actual damages caused by such default not to exceed fifty thousand dollars (\$50,000.00). Notwithstanding the foregoing, each party hereby waives the right to seek and to recover any lost profits, incidental, consequential, exemplary, extraordinary, indirect or punitive damages as a result of the breach by the other party of any of the provisions hereof.

14. MISCELLANEOUS.

14.1 Assignment. Buyer may assign this Agreement or any interest or right hereunder or under the Escrow, provided that (a) any such assignee shall commit to the same or substantially similar use as Buyer's Proposed Use, to include green space for the public benefit; (b) any such assignment shall be previously approved in writing by Seller in its commercially reasonable discretion; and (c) Seller may require such assignee to make the same representations, warranties and releases as Buyer hereunder. In no event shall Buyer be released of liability in the event of an assignment.

14.2 Cooperation. Buyer and Seller agree to cooperate with one another, at no cost or expense to the cooperating party, in satisfying the conditions to Closing.

14.3 Attorneys' Fees. Notwithstanding anything to the contrary in this Agreement, in any action between the parties hereto seeking enforcement of any of the terms and provisions of this Agreement or the Escrow, or in connection with the Property, the prevailing party in such action shall be entitled to have and to recover from the other party its reasonable attorneys' fees and other reasonable expenses in connection with such action or proceeding in addition to its recoverable court costs.

14.4 Interpretation; Governing Law. This Agreement shall be construed according to its fair meaning and as if prepared by both parties hereto. This Agreement shall be construed in accordance with the laws of the Commonwealth of Pennsylvania in effect at the time of the execution of this Agreement. Titles and captions are for convenience only and shall not constitute a portion of this Agreement. As used in this Agreement, masculine, feminine or

neuter gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates.

14.5 No Waiver. No delay or omission by either party hereto in exercising any right or power accruing upon the compliance or failure of performance by the other party hereto under the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either party hereto of a breach of any of the covenants, conditions or agreements hereof to be performed by the other party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions hereof.

14.6 Modifications. Any alteration, change or modification of or to this Agreement, in order to become effective, shall be made by written instrument or endorsement thereon and in each such instance executed on behalf of each party hereto.

14.7 Severability. If any term, provision, condition or covenant of this Agreement or the application thereof to any party or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this instrument, or the application of such term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

14.8 Merger of Prior Agreements and Understandings. This Agreement and other documents incorporated herein by reference contain the entire understanding between the parties relating to the transaction contemplated hereby, including that certain non-binding letter of intent, dated July 2, 2015, and all prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged herein and shall be of no further force or effect.

14.9 Covenants to Survive Closing. The covenants and agreements contained herein shall survive the Closing for a period of twelve (12) months and shall be binding upon and inure to the benefit of the parties hereto and their representatives, heirs, successors and assigns.

14.10 Confidentiality. Buyer and Seller agree that each of them shall keep the terms and conditions of this Agreement strictly confidential, and shall not disclose any of the terms hereof to any other person other than their respective officers, directors, partners, accountants, attorneys, other professionals or any proposed assignee of Buyer, to the extent disclosure is necessary to evaluate the Property or the terms of this Agreement.

14.11 Time is of the Essence. Time is hereby expressly made of the essence of this Agreement.

14.12 Execution in Counterparts. This Agreement may be executed in several counterparts, and all so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all parties are not signatories to the original or the same counterpart.

14.13 Notices. Any notice which either party may desire to give to the other party or to the Title Company must be in writing and shall be effective when personally

delivered or upon receipt if made by Federal Express or other similar overnight courier service keeping record of deliveries and attempted deliveries, or three (3) business days after deposit in the United States mail, registered, certified, postage fully prepaid and addressed to the respective parties as set forth below or to such other address and to such other persons as the parties may hereafter designate by written notice to the other parties hereto:

To Seller: Rave SL Tenant, LLC
c/o Rave Cinemas, LLC
4770 Preston Road Suite 244-360
PMB 360
Frisco, TX 75034
Attn: Rolando Rodriguez

Copy to: Polsinelli, PC
900 W. 48th Place, Suite 900
Kansas City, MO 64112
Attn: Michael B. Shteamer

To Buyer: Allegheny Land Trust
416 Thorn Street
Sewickley, Pennsylvania 15143
Attn: Roy Kraynyk, Director of Land Protection

Copy to: Reed Smith LLP
225 Fifth Avenue, Suite 1200
Pittsburgh, PA 15222
Attn: Steven M. Regan

14.14 Calendar Days. If the date for giving notice or the date on which a period of time ends as set out in this Agreement falls on a Saturday, Sunday or a legal holiday in the Commonwealth of Pennsylvania, then the date for giving notice and/or the date on which the period ends, as the case may be, shall be the next business day that is not a legal holiday Commonwealth of Pennsylvania. Notwithstanding the foregoing, where a time period is provided in "business days," the calculation of such time period shall not include any Saturday, Sunday, or legal holiday in the Commonwealth of Pennsylvania.

[Signatures on following page]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement of Purchase and Sale of Real Property and Escrow Instructions as of the date set forth above.

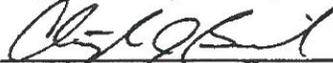
“SELLER”

RAVE PITTSBURGH NORTH, LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

“BUYER”

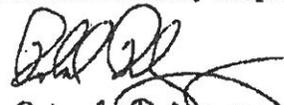
ALLEGHENY LAND TRUST,
a Pennsylvania non-profit corporation

By: 
Name: Christopher J. Baehner
Title: President + CEO

IN WITNESS WHEREOF, the parties hereto have executed this Agreement of Purchase and Sale of Real Property and Escrow Instructions as of the date set forth above.

"SELLER"

RAVE PITTSBURGH NORTH, LLC,
a Delaware limited liability company

By: 

Name: Rolando Padalvarez

Title: President & CEO RAVE LLC

"BUYER"

ALLEGHENY LAND TRUST,
a Pennsylvania non-profit corporation

By:

Name:

Title:

TITLE COMPANY JOINDER

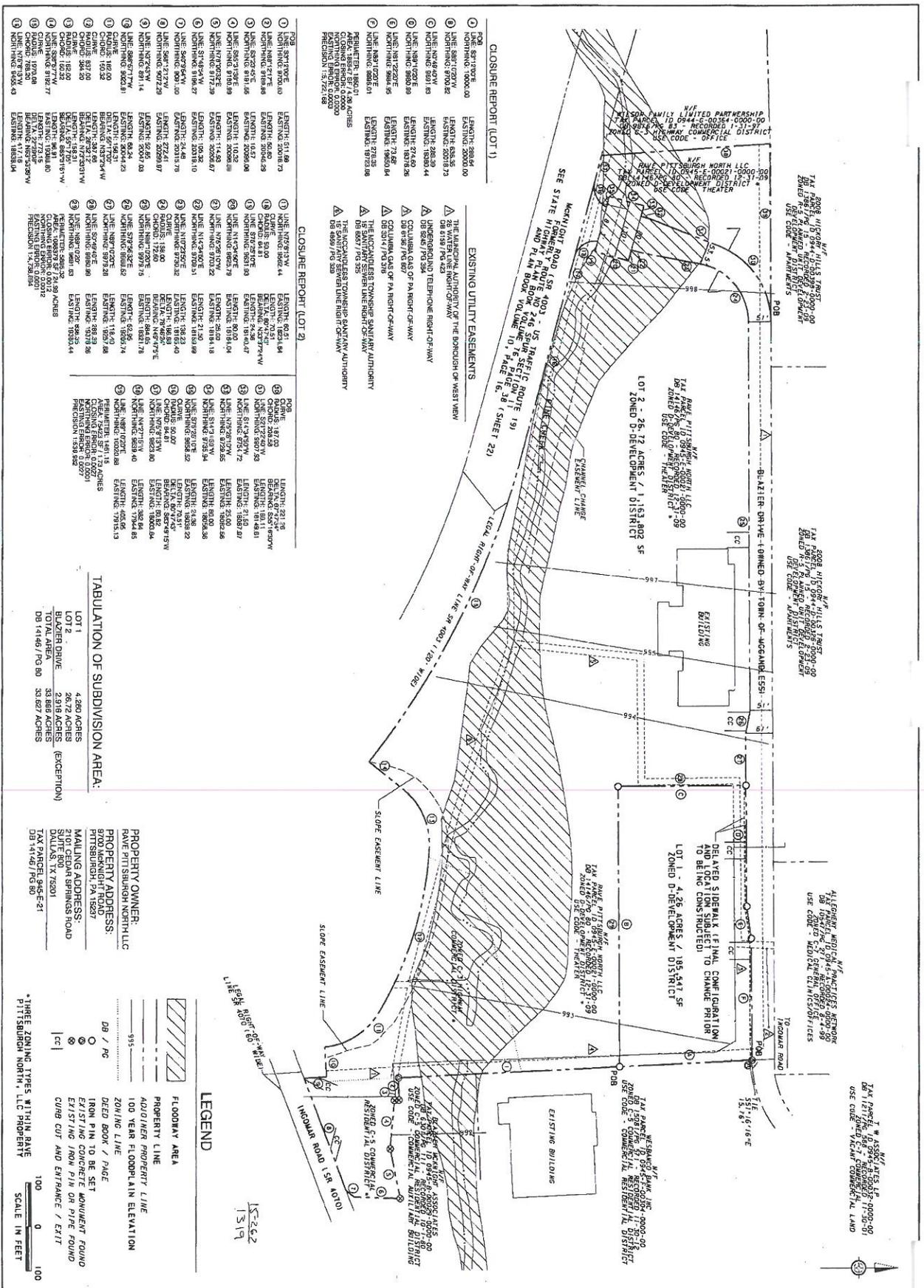
The undersigned Title Company executed and delivers this Agreement in its capacity as escrow agent and covenants and agrees to hold, invest, pay and distribute the Deposit in strict accordance with the terms of this Agreement.

FIRST AMERICAN TITLE INSURANCE COMPANY

By: _____

Name: _____

Title: _____



REVISION RECORD	
NO.	DATE
1	6-21-15
ADDED CURB CUTS	

DATE: AUGUST 21, 2015		DRAWN: DAD
SCALE: AS SHOWN		CHECKED: VVV
PROJECT NO: PAT-JAS-RAV-001-3		

RAVE PLAN OF LOTS	
2 OF 2	

McCANDLESS
PARK AND RIDE LOT

SITUATE IN:
TOWN OF McCANDLESS
ALLEGHENY COUNTY, PA

PREPARED BY: Certified WBE

555 N BELL AVE, STE 200, CARNEGIE, PA 15106

TABULATION OF SUBDIVISION AREA:

LOT	ACRES
LOT 1	4.25 ACRES
BLADIER DRIVE	26.72 ACRES
TOTAL AREA	33.887 ACRES (EXCEPTION)

PROPERTY OWNER:
RAVE PITSBURGH NORTH LLC

PROPERTY ADDRESS:
PITTSBURGH, PA 15207

TAX PARCEL ADDRESS:
DALLAS, TX 75201

TAX PARCEL NUMBER:
DB 14146 / PG 80

LEGEND

- FLOODWAY AREA
- PROPERTY LINE
- ADJOINER PROPERTY LINE
- 100 YEAR FLOODPLAIN ELEVATION
- ZONING LINE
- DEED BOX / PAGE
- IRON PIN TO BE SET
- EXISTING CONCRETE MONUMENT FOUND
- EXISTING IRON PIN OR PIPE FOUND
- CURB CUT AND ENTRANCE / EXIT