

ACCESS AGREEMENT
(Vacant Building)

This ACCESS AGREEMENT (hereinafter referred to as the “**Agreement**”), is made as of June ____, 2023 (“**Effective Date**”), by and between **DEPTFORD TOWNSHIP SCHOOL DISTRICT**, a municipal school district (“**Licensor**”), and **DEPTFORD TOWNSHIP FIRE DISTRICT NO. 1**, a municipal fire district (“**Licensee**”).

WITNESSETH:

WHEREAS, Licensor is the fee owner of that certain 1.5-acre parcel including the premises formerly known as Blackwood Terrace Elementary School, located at 2022 Good Intent Road, Deptford Township, Gloucester County, New Jersey 08096, being Block No. 281, Lot No. 5 on the tax map of Deptford Township, Gloucester County, New Jersey (the “**Property**”); and

WHEREAS, the Licensor hereby desires to provide the Licensee the right to enter upon the Property to conduct certain due diligence investigations, pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, for and in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, Licensor and Licensee hereby agree as follows:

1. **Grant of Access.** Licensor hereby grants to Licensee, and to Licensee’s employees, agents, consultants, representatives and contractors (collectively, the “**Licensee’s Agents**”) a non-exclusive license to enter upon the Property at reasonable times during normal business hours, to perform certain inspections of the Property as set forth herein (the “**Due Diligence**”), at Licensee’s sole risk, cost and expense, (the “**Right of Access**”). Such Right of Access and Due Diligence shall include, but is not limited to, at Licensee’s sole election: (a) engineering studies and building condition reports, (b) environmental tests and studies (including, without limitation, Phase I and Phase II site assessments), (c) soil and compaction tests, (d) a survey of the Property, (e) a geotechnical report, (f) a wetlands assessment, and (g) a title review of the Property. The access granted hereunder is intended to convey and grant to Licensee and Licensee’s Agents a temporary right to enter upon the Property and to conduct the activities stated herein expiring on the date set forth in Section 10 of this Agreement.

2. **Notification.** Licensee shall, at least seventy-two (72) hours prior to accessing the Property, give Licensor notice of its intention to conduct any inspection so that Licensor shall have an opportunity to have a representative present during any Right of Access (provided that, Licensor shall not unreasonably delay Licensee’s access or inspections in order to make a representative available).

3. **Responsibility for Damages.** Licensee agrees that, in exercising its Right of Access, Licensee and Licensee’s Agents will not materially interrupt or interfere with the activities of Licensor, its agents or other persons providing service at the Property, if any, including, without limitation, any construction, renovation, maintenance or other work being performed at the

Property. Except with respect to Licensor's or its agents' actions or the discovery of pre-existing conditions affecting the Property, or Licensor's material interference with Licensee's Right of Access, Licensee agrees to be responsible for all loss or damage resulting from any entry, inspection or activity performed by Licensee and Licensee's Agents in furtherance of Licensee's Due Diligence.

4. **Indemnity**. Licensee agrees to indemnify, defend and hold the Licensor free and harmless from any actual loss, injury, damage, claim, lien, liability, cost or expense (including reasonable attorneys' fees and costs) resulting from the negligence or willful misconduct of Licensee and Licensee's Agents in the performance of the Due Diligence and the exercise of Licensee's Right of Access. Notwithstanding the foregoing, Licensee shall not be responsible (a) for the mere discovery, without exacerbation, of pre-existing conditions at the Property, (b) to the extent resulting from the negligence or willful misconduct of Licensor or its agents, employees and/or contractors, or (c) for any consequential, punitive and/or special damages. The provisions of this Section 4 shall survive any termination of this Agreement.

5. **Restoration of Property**. Licensee shall, at its sole cost and expense and in accordance with all requirements of applicable law, repair any damage or alteration of the physical condition of the Property (other than ordinary wear and tear) which results from any inspection or activity conducted by Licensee and/or Licensee's Agents and restore the Property to the same condition (to the extent reasonably practicable) as existed prior to such inspection or activity. The provisions of this Section 5 shall survive any termination of this Agreement for a period of one (1) year.

6. **Notices**. Unless otherwise provided herein, all notices and other communications which may be or are required to be given or made by any party to the other shall be in writing and sent by: (i) e-mail to the addresses set out below; or (ii) overnight delivery via a nationally recognized overnight courier, to the addresses set out below, or at such other addresses as specified by written notice delivered in accordance herewith. Notice shall be deemed given on the date such notice was sent by way of e-mail or on the date delivered in person by such nationally recognized overnight courier.

If to Licensee:

DEPTFORD TOWNSHIP FIRE DISTRICT #1
c/o Archer & Greiner, P.C.
1025 Laurel Oak Road
Voorhees, New Jersey 08043
Attn: Peter L. Frattarelli, Esquire (email: pfrattarelli@archerlaw.com)
Jawad H. Salah, Esquire (jsalah@archerlaw.com)

If to Licensor:

DEPTFORD TOWNSHIP SCHOOL DISTRICT
Kevin Kanauss
Deptford Township School District
890 Bankbridge Road, Suite 100

Sewell, New Jersey 80808

And

Albert K. Marmero
Marmero Law, LLC
44 Euclid Street
Woodbury, New Jersey 08096

7. **Liens.** Licensee shall keep the Property free from any liens arising out of any work performed, materials furnished, or obligations incurred by or on behalf of Licensee and Licensee's Agents with respect to any inspection or testing of the Property in furtherance of the Due Diligence. The provisions of this Section 7 shall survive any termination of this Agreement.

8. **Entire Agreement.** This Agreement is the final expression of, and contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, understandings and agreements with respect thereto. This Agreement may only be modified or amended by an agreement in writing duly executed and delivered by each of the parties hereto. Nothing herein shall obligate Licensee to enter into any purchase agreement, lease or any further agreement in connection with the Property.

9. **Assignment.** This Agreement may be assigned by Licensee to any affiliate organization or entity without Licensor's prior written consent.

10. **Termination; Exclusivity.** Unless terminated either by agreement of the parties, or otherwise, this Agreement shall terminate ninety (90) days from the Effective Date, unless mutually agreed to between Licensor and Licensee. Immediately upon any such termination, Licensor's Right of Access granted hereunder shall cease. If the parties subsequently mutually elect to execute a lease or purchase agreement for the Property, this Agreement shall merge into and be governed by the terms of said executed lease or purchase agreement covering the subject matter of this Agreement.

11. **Miscellaneous.** If any term, covenant or condition of this Agreement or the application thereof to any person, entity or circumstances shall to any extent be deemed invalid or unenforceable under applicable law, then the remainder hereof and the application of such a term, covenant, or condition to the person, entity or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby. The rights and privileges granted herein shall accrue to the benefit of each of the parties hereto and their successors and assigns. It is understood and agreed that this Agreement shall not in any way constitute a lease, purchase and sale agreement or a partnership agreement, nor shall either party be required to enter into a lease, purchase and sale agreement or partnership agreement, or negotiate, in good faith or otherwise, a lease, purchase and sale agreement or partnership agreement.

12. **Governing Law.** This Agreement shall be governed by the laws of the State of New Jersey. In the event of any litigation hereunder, the prevailing party shall be entitled to recover reasonable attorneys' fees and court costs from the non-prevailing party.


13. **Counterparts.** This Agreement may be executed in any number of identical counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same agreement. Handwritten signatures to this Agreement transmitted digitally (for example, through use of a Portable Document Format or “PDF” file) shall be valid and effective to bind the party so signing. Each party agrees to promptly deliver to the other party upon request an executed original of this Agreement with its actual signature, but a failure to do so shall not affect the enforceability of this Agreement, it being expressly agreed that each party to this Agreement shall be bound by its own digitally transmitted handwritten signature and shall accept the digitally transmitted handwritten signature of the other party to this Agreement.

[REMAINDER OF PAGE IS LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, Licensor and Licensee have caused this Agreement to be executed by their duly authorized representative as of the date first written above.

LICENSOR:

DEPTFORD TOWNSHIP SCHOOL DISTRICT,
a municipal school district

By: 
Name: Kevin Kanauss
Title: Superintendent

LICENSEE:

DEPTFORD TOWNSHIP FIRE DISTRICT NO. 1,
a municipal fire district

By: _____
Name:
Title: