

REAL ESTATE SALE AND PURCHASE AGREEMENT

THIS REAL ESTATE SALE AND PURCHASE AGREEMENT (the "Agreement") is between **CITY OF YORK**, a city of the third class and municipal subdivision of the Commonwealth of Pennsylvania ("Seller") and **REDEVELOPMENT AUTHORITY OF THE COUNTY OF YORK**, an urban redevelopment authority organized and existing under the laws of the Commonwealth of Pennsylvania ("Buyer").

BACKGROUND.

Buyer is engaged in an extensive beautification initiative of a large portion of the Codorus Creek waterway within the City of York. The Codorus Greenway (the "Project") will include improvements along the east bank of the waterway extending from West King Street north to the York Rail Western Branch Line. Seller holds title to some of the properties adjacent to that portion of the waterway within the Project. This Agreement provides the terms and conditions of the sale of a portion of certain of Seller's properties by Seller to Buyer for use in the Project.

1. AGREEMENT TO SELL; PURCHASE PRICE.

1.01. Agreement to Sell and Convey. Intending to be bound hereby, Seller hereby agrees to sell and convey to Buyer and Buyer hereby agrees to purchase from Seller, subject to the terms and conditions hereinafter set forth, portions of three certain parcels of land located along the Codorus Creek in the City of York, York County, Pennsylvania. The four parcels are:

- (a) A parcel known as Lot 4C of NBOA Subdivision and designated as a portion of tax parcel 030490100130000000, acquired by Seller in a Deed recorded in the Office of Recorder of Deeds in and for York County, Pennsylvania in Book 2505, Page 5241;
- (b) The abandoned right-of-way of Gas Avenue between Pershing Avenue and the Codorus Creek
- (c) A parcel known and designated as tax parcel 040660100070000000, acquired by Seller in a Deed recorded in the Office of Recorder of Deeds in and for York County, Pennsylvania in Book 2299, Page 748; and,
- (d) A parcel known and designated as tax parcel 040660100020000000, acquired by Seller in a Deed recorded in the Office of Recorder of Deeds in and for York County, Pennsylvania in Book 2299, Page 748.

The foregoing parcels in their entirety are hereinafter referred to as the "Property." The portions of the Property which Seller agrees to sell and Buyer agrees to purchase are shown on the

Codorus Creek Greenway Phase I Plan, Project No. 77254-02, attached hereto as Exhibit “A-1” and “A-2.” The portions of the Property to be conveyed by Seller to Buyer pursuant to this Agreement are hereinafter referred to as the “Land.” Seller agrees to grant and convey the Land to Buyer together with all and singular the rights, easements, passages, water rights, drainage rights and appurtenances pertaining thereto, including, without limitation, any right, title and interest of Seller in and to adjacent streets, roads, alleys, rights-of-way, passageways, water courses and all rights, title, easements and interest appurtenant to the properties.

1.02. Purchase Price. The purchase price (the “Purchase Price”) to be paid to Seller for the Land shall be **One and NO/100 (\$1.00) Dollar**. The Purchase Price shall be paid by Buyer to Seller at Closing in cash or check.

2. SUBDIVISION, SURVEY AND TITLE.

2.01. Subdivision. Upon completion of the Project, the Buyer shall diligently pursue a subdivision to return residual lands on the landward side of the channel wall to the City of York. It is understood that the City of York is presently responsible for the maintenance of the Heritage Rail Trail on the Land and RACY is in no way assuming responsibility for maintenance or liability for use of the Rail Trail upon closing, during construction of the Project, or after the subsequent subdivision and return of the remnant portion of the Land to the City.

2.02. Preliminary Title Report. Following the Effective Date (as defined in Section 10.01), Buyer may obtain, at Buyer’s cost, an A.L.T.A. title commitment (the “Title Commitment”) from a nationally-recognized title insurance company. Buyer shall give Seller written notice on or before the date thirty (30) days after the Effective Date that the condition of title as set forth in the Title Commitment and the survey is or is not satisfactory, in Buyer’s sole discretion. In the event that the condition of title is not acceptable, Buyer shall state specifically which exceptions to the Title Commitment are not acceptable and Seller shall undertake to eliminate the exceptions to which Buyer has objected, provided, however, that at Closing, mortgages or other monetary encumbrances (“Monetary Liens”) shall be satisfied or the liens thereof released, as the case may be, as to the Land, by Seller. Seller shall, at its sole cost and expense, promptly undertake and use reasonable efforts to eliminate or modify all unacceptable matters to the reasonable satisfaction of Buyer. In the event Seller is unable with the exercise of due diligence to satisfy said objections prior to Closing, Buyer may, at its option: (i) accept title subject to the objections raised by Buyer, in which event said objections shall be deemed to be waived for all purposes; or (ii) rescind this Agreement and this Agreement shall be of no further force and effect. Notwithstanding any of the provisions of this Section 2.01 to the contrary, if Buyer fails to notify Seller that the condition of title as set forth in the Title Commitment and survey is or is not acceptable, the parties hereby agree that the condition of title shall be deemed acceptable. As used herein, “Permitted Exceptions” mean the exceptions to title shown on Schedule B, Section II of the Title Commitment to which Buyer shall not raise an objection under this Section 2.02.

2.03. Survey. Buyer may obtain an update and/or recertification of existing surveys or a new survey at its expense. In the event the survey shows any encroachments of any

improvements upon, from, or onto the Land, or on or between any building setback line, a property line, or any easement, or any other defects to title, said matters shall be treated in the same manner as a title defect under the procedure set forth above in Section 2.02. This Section 2.03 shall survive the Closing.

2.04. Right of First Refusal. The Deed conveying the Land to Buyer shall include a grant to Seller of a right of first refusal with respect to any proposed sale, assignment or conveyance by Buyer of any portion of the Land for any use other than then Project. Buyer shall prior to any sale, assignment or conveyance provide notice of such intended sale, assignment or conveyance, following which Seller shall have 60 days to notify Buyer that Seller requires that Buyer re-convey to Seller for \$1.00, that portion of the Land which is the subject of the proposed sale, assignment or conveyance.

3. PROVISIONS WITH RESPECT TO CLOSING.

3.01. Closing. The consummation of the transaction contemplated by this Agreement (the "Closing") shall take place at the offices of Stock and Leader, LLP, 221 West Philadelphia Street, Suite E600, York, Pennsylvania within thirty (30) days after Buyer obtains all of the requisite approvals described in Section 2.01 above, time being of the essence.

3.02. Seller's Obligations. At or prior to Closing, Seller shall do the following:

A. Execute, acknowledge, and deliver a special warranty deed ("Deed"), conveying the Land to Buyer subject only to the Permitted Exceptions, which deed shall be in form for recording. The legal description for the Land shall be the same as set forth in the Title Commitment. The Deed shall include a grant of a right of first refusal to Seller with terms as set forth in Section 2.04.

B. Execute and deliver to Buyer and Title Company, a customary Pennsylvania Owner's Affidavit satisfactory to the Title Company.

C. If it has not already been done, formally abandon Gas Avenue between Pershing Avenue and the Codorus Creek.

D. If it has not already been done, formally abandon the historic Pershing Avenue right-of-way on Lot 4C.

E. Deliver sole and exclusive possession of the Land to Buyer.

F. Execute and deliver a closing statement (the "Closing Statement") to Buyer.

G. Any and all other documentation reasonably required by Buyer, its attorneys, and/or the Title Company, to close the transaction contemplated hereunder and to cause the Title Policy described above to be issued and delivered to Buyer.

3.03. Buyer's Obligations. Subject to the terms, conditions, and provisions hereof on the day of Closing, Buyer shall tender to Seller the Purchase Price in the manner specified in Section 1.02, plus or minus pro-rations and Closing costs as set forth herein.

3.04. Closing Costs. In connection with the Closing, Buyer will pay the cost of any transfer taxes assessed against the Deed to the Land (the transfer is an exempt transfer between governmental entities). Buyer shall also pay: (i) the cost of recording any instruments transferring title of the Land to Buyer; (ii) all closing costs and fees; and (iii) the cost of any updated or recertified survey. The Buyer shall pay all costs relating to the Title Insurance Commitment and Policy of Title Insurance, including search fees. Buyer will pay for its own attorneys' fees. None of the foregoing costs shall be the responsibility of the Seller. This Section 3.04 shall survive Closing.

3.05. Proration of Taxes. Taxes, if any, shall be prorated as of the Closing Date.

4. AFFIRMATIVE COVENANTS OF SELLER.

4.01. Soil and Environmental Tests. Buyer, at its cost and expense, may obtain recertifications or reliance letters for Buyer's benefit for any environmental and geotechnical reports previously obtained by Seller. Seller hereby grants to Buyer the right within the Inspection Period to conduct soil tests and an environmental audit on the Property. Buyer and its agents and representatives shall be entitled to enter upon the Property, to perform such acts as are reasonably necessary for engineering, electrical and mechanical inspection, soil tests, or environmental audit of the Property. Buyer hereby holds Seller harmless from any property damage or personal injury arising from injuries caused by Buyer, its agents, or representatives in pursuing the activities permitted under this Section and agrees to repair any damage caused thereby.

4.02. Payment of Special Assessments. Seller represents that no special assessment has been imposed against the Property, and Seller has no knowledge of any intent by any governmental entity to impose a special assessment against the Property. In the event a special assessment is imposed against the Property prior to Closing, or Seller learns of an intent to impose a special assessment, Seller shall immediately give notice of the same to Buyer, and Buyer shall have the right, for a period of fifteen (15) days, to terminate this Agreement, and this Agreement shall be null and void.

4.03. Encumbrance. Seller shall not encumber the Property in any manner prior to Closing whether by lease, mortgage, easement, restriction, assignment or otherwise. In addition, Seller shall not enter into any agreement or contract with respect to the Property between the Effective Date and the Closing Date without Buyer's prior written consent.

5. REPRESENTATIONS AND WARRANTIES WITH RESPECT TO PROPERTY.

Seller represents and warrants to Buyer as follows:

5.01. Marketable Title. Seller has good, marketable and insurable fee simple title to the Property.

5.02. No Condemnation Pending or Threatened. Seller has no information or knowledge of any pending or threatened condemnation, assessments or similar proceeding affecting the Property or any portion thereof, nor has Seller knowledge that any such action or assessment is presently contemplated. Seller will advise Buyer promptly if such information is received prior to Closing.

5.03. Compliance with Laws. Seller has complied with all applicable laws, ordinances, regulations, statutes, and rules pertaining to and affecting the Property.

5.04. Pending Litigation. There are no legal actions, suits, or other legal or administrative proceedings, including other condemnation cases, or any governmental environmental cases, pending or threatened, against or affecting the Property or any portion thereof, and Seller is not aware of any facts which might result in any such action, suit or other proceedings.

5.05. Governmental Agreements. There are no agreements, which are not listed as a Permitted Exception, with any state, county or local governmental authority or agency or quasi-governmental authority, or any other organization, group or individual relative to the Property.

5.06. Authority. Seller is a Pennsylvania municipal authority and is the sole owner of the Property. Seller has the full right and power, without any limitations or restrictions, to sell, transfer and convey the Land to Buyer. The execution and delivery by Seller of this Agreement and the other documents and instruments required under this Agreement, and the performance by Seller of all of its obligations under this Agreement and such other documents and instruments have been duly authorized by all necessary action of Seller, and do not and will not (i) result in a breach or violation of or default under any agreement, commitment, order, judgment, or decree by which the Property or Seller is bound; (ii) violate any statute, regulation, order, or other law to which the Property or Seller is subject; or (iii) require Seller or Buyer to obtain any consent, approval, and/or permit from any person, entity, or governmental authority, or to comply with or perform any special requirements, procedures, approvals, or actions. No rights of first refusal, purchase options or similar rights exist with respect to the Property.

5.07. Agreements. There are no lease agreements, management contracts, license agreements, service agreements, development agreements, or other agreements, contracts, or arrangements, oral or written, relating to, affecting or binding on the Property (or Buyer as the new owner thereof).

5.08. Violations of Law. Seller has not received any notice from or been otherwise advised that any governmental authority has determined that there are any violations of any statutes, ordinances or regulations relating to the Property, and, to the best of Seller's knowledge, there are no said violations.

5.9. Underground Storage Tanks. Seller is not aware of any underground storage tanks on the Property.

6. CONDITIONS TO CLOSING.

6.01. Conditions to Buyer's Obligations. The obligation of Buyer hereunder to consummate the Closing contemplated hereby is subject to the satisfaction, at Closing, of each of the following conditions (any of which may be waived in whole or in part in writing by Buyer at or prior to Closing). If any of the following conditions precedent are not satisfied prior to the date of Closing, Buyer may terminate this Agreement by giving Seller written notice prior to Closing, or any extension thereof and the rights of the parties hereto shall cease except as set forth in Sections 4.01.

A. Compliance by Seller. Seller shall have performed, observed, and complied in all material respects with all of the covenants, agreements, and conditions required by this Agreement to be performed, observed, and complied with by it prior to or as of the Closing.

B. Representations and Warranties. All of Seller's representations and warranties remain true and correct.

7. PROVISIONS WITH RESPECT TO FAILURE OF DEFAULT.

7.01. Attorneys' Fees, Etc. Should either party employ an attorney or attorneys to enforce any of the provisions hereof, or to protect its interest in, any matter arising under this Agreement, or to recover damages for the breach of this Agreement, the party prevailing is entitled to receive from the other party all reasonable costs, charges, and expenses, including attorneys' fees, expert witness fees, appeal fees, and the cost of paraprofessionals working under the supervision of an attorney, expended or incurred in connection therewith whether resolved by out-of-court settlement, arbitration, pre-trial settlement, trial or appellate proceedings. This Section 7.01 shall survive Closing.

8. BROKERAGE COMMISSIONS.

8.01. Brokerage Commissions. Each party represents to the other that no brokers have been involved in this transaction. It is agreed that each party to this Agreement whose actions or alleged actions or commitments form the basis of any claim for commission agrees to indemnify and hold harmless the other party to this Agreement from and against any and all such claims or demands with respect to any brokerage fees or agents' commissions or other compensation asserted by any person, firm, or corporation in connection with this Agreement or the transaction contemplated hereby. This Section 8.01 shall survive Closing.

9. OTHER CONTRACTUAL PROVISIONS.

9.01. Assignability. Buyer shall have the right and authority to assign in whole or in part this Agreement or any of its rights hereunder to another governmental agency or authority designated by Buyer without the consent of Seller, provided such Assignee agrees, in writing, to assume all of Buyer's obligations hereunder.

9.02. Notices. Any notice to be given or to be served upon any party hereto, in connection with this Agreement, must be in writing, and must be given by hand delivery or by a nationally recognized overnight delivery service such as Federal Express and shall be deemed to have been given and received when a letter containing such notice, properly addressed, with postage prepaid, is delivered to such overnight delivery service or sent by facsimile transmission, receipt confirmed, followed by overnight delivery service. Such notices shall be given to the parties hereto at the following addresses:

SELLER: City of York
101 South George Street
York, Pennsylvania 17401
Attn: Solicitor

BUYER: Redevelopment Authority of the County of York
144 Roosevelt Avenue
York, Pennsylvania 17401
Attn: Silas Chamberlin, Executive Director

With a copy to: Stock and Leader, LLP
221 West Philadelphia Street, Suite E600
York, Pennsylvania 17401
Attn: Ronald L. Hershner, Esquire

Any party hereto may, at any time by giving five (5) days written notice to the other party hereto, designate any other address in substitution of the foregoing address to which such notice shall be given and other parties to whom copies of all notices hereunder shall be sent.

9.03. Entire Agreement; Modification. This Agreement embodies and constitutes the entire understanding among the parties with respect to the transaction contemplated herein. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged into this Agreement. Neither this Agreement nor any provision hereof may be waived, modified, amended, discharged, or terminated except by an instrument in writing signed by the party against which the enforcement of such waiver, modification, amendment, discharge, or termination is sought, and then only to the extent set forth in such instrument. Nothing in this Section 9.03 to the contrary, however, shall prevent the termination of this Agreement in accordance with the terms of this Agreement specifically providing for its termination and not requiring any separate written instrument of termination.

9.04. Applicable Law. This Agreement shall be governed by, and construed in accordance with, the laws of the Commonwealth of Pennsylvania.

9.05. Venue. Venue for this transaction will be deemed to be York County, Pennsylvania.

9.06. Headings. Descriptive headings are for convenience only and shall not control or affect the meaning or construction of any provision of this Agreement.

9.07. Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their successors and assigns.

9.08. Counterparts. This Agreement may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one Agreement. Delivery of an executed counterpart of this Agreement by electronic means, including by email with pdf attachment or facsimile, shall be effective as delivery of an original executed counterpart hereof.

9.09. Interpretation. Whenever the context hereof shall so require the singular shall include the plural, the male gender shall include the female gender and the neuter, and vice versa.

9.10. Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

9.11. Waiver. The waiver of one or more defaults by any party to this Agreement shall not be deemed a waiver of any subsequent default of that provision of the Agreement, or of a default under any other provision of this Agreement.

9.12. Time of Essence. Time is of the essence with respect to the parties' obligations hereunder.

9.13. Survival. Except as otherwise specified herein, the representations contained in Sections 4 and 5 shall survive Closing for a period of six (6) months, and shall not merge with the Deed to the Land upon recording.

10. EFFECTIVE DATE.

10.01. Effective Date. This Agreement shall be effective as of the date that Buyer receives an executed copy of this Agreement (the "Effective Date"). This Agreement shall automatically terminate if not executed by both parties prior to midnight, July 31, 2020.

[This space intentionally blank. Signatures appear on next page.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of this _____ day of _____, 2020.

ATTEST:

SELLER:

CITY OF YORK

By: _____
(Vice) Chairman

BUYER:

REDEVELOPMENT AUTHORITY OF
THE COUNTY OF YORK








By: _____
(Vice) Chairman

EXHIBIT

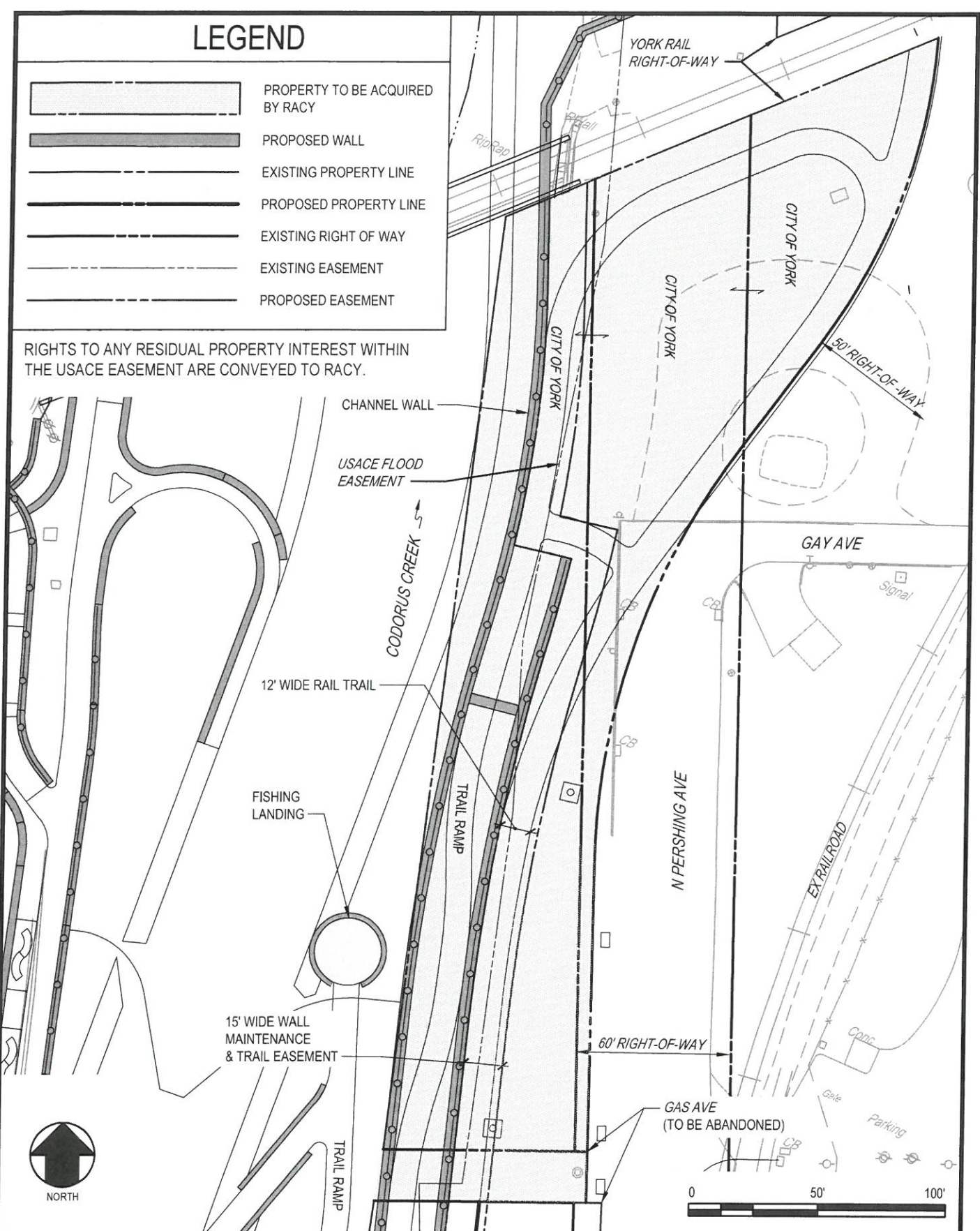
Exhibit "A-1 and A-2"

Codorus Greenway Plan Phase I

LEGEND

-  PROPERTY TO BE ACQUIRED BY RACY
-  PROPOSED WALL
-  EXISTING PROPERTY LINE
-  PROPOSED PROPERTY LINE
-  EXISTING RIGHT OF WAY
-  EXISTING EASEMENT
-  PROPOSED EASEMENT

RIGHTS TO ANY RESIDUAL PROPERTY INTEREST WITHIN THE USACE FLOOD EASEMENT ARE CONVEYED TO RACY.



J:\PROJECTS\7254-008-CADD\05-CIVIL\EXHIBIT\EXHIBIT - RACY PROPERTY ACQUISITION (3) DWG\EXHIBIT562020_10.33.AMM\kesell_Birmingham



CODORUS CREEK GREENWAY PHASE I

YORK COUNTY

PENNSYLVANIA

PROJECT NO.	77254-02
ISSUED DATE:	03/2020
DRAWN BY:	KM
CHECKED BY:	BM
© BUCHART HORN, INC.	

DWG TITLE:	RACY PROPERTY ACQUISITION
DWG NO:	EXHIBIT A-1



MARKET STREET
BYPASS CULVERT

W MARKET ST

SIDEWALK

S PERSHING AVE
EXISTING RAILROAD

60' RIGHT-OF-WAY

WING WALL

USACE FLOOD EASEMENT

RIPRAP EDGE

CHANNEL WALL

THE CITY OF YORK
UPI NO.
04-066-01-000700-00000
DEED REF. 2299-0748 (TR 2)

Parking

12' RAIL TRAIL

15' WALL MAINTENANCE
& TRAIL EASEMENT

CODO 200 LP
ATTN ROCK COMMERCIAL REAL ESTATE
UPI NO. 040660100010000000

Parking

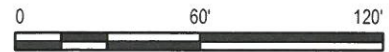
RELOCATED
KOREAN WAR MEMORIAL

CODORUS CREEK

CITY OF YORK
040660100200000000

YORK-ADAMS
TRANSPORTATION
AUTHORITY
040660100180000000

RIGHTS TO ANY RESIDUAL
PROPERTY INTEREST WITHIN
THE USACE EASEMENT ARE
CONVEYED TO RACY.



LEGEND

	PROPERTY TO BE ACQUIRED BY RACY
	PROPOSED WALL
	EXISTING PROPERTY LINE
	PROPOSED PROPERTY LINE
	EXISTING RIGHT OF WAY
	EXISTING EASEMENT
	PROPOSED EASEMENT



BUCHART HORN
ENGINEERS • ARCHITECTS • PLANNERS

CODORUS CREEK GREENWAY PHASE I

YORK COUNTY

PENNSYLVANIA

PROJECT NO.	77254-02
ISSUED DATE:	03/2020
DRAWN BY:	KM
CHECKED BY:	BM
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DWG TITLE:
**RACY
PROPERTY
ACQUISITION**

DWG NO.
EXHIBIT A-2

J:\PROJECTS\7254-02\08-CADD\05-CIVIL\EXHIBIT-RACY PROPERTY ACQUISITION (6)DWG\EXHIBIT152\2020 3 55 AM\Mikesell, Benjamin