

UPPER MERION TOWNSHIP BOARD OF SUPERVISORS
MAY 2, 2019 WORKSHOP MEETING ~ 7:30 PM

REVISED AGENDA

1. Meeting Called to Order.
2. Pledge of Allegiance.
3. Roll Call.
4. Chairman's Comments:
5. Discussions:
 - A. Update to Part-Time Personnel Policy
 - B. Lease Agreement between Lafayette Ambulance & Upper Merion Township
 - C. Request for Waiver of ZHB filing fees
 - D. Presentation by Catalyst Experiential
 - E. GVF Presentation on the Rambler
 - F. Craft Custom Homes Subdivision: 383 Anderson Road, 1.95 acres, 8 dwelling units (5 new single family detached, 3 existing multi-family)
Plan Expiration: 6/2/19
 - G. Brandywine Operating Partnership, LLC Development Plan: 650 Park Avenue, Demolition of existing 2-story (\pm 50,000 sf) office building and construction of a 4-story (\pm 100,000 sf) office and 4 level parking structure. 3.12 acres, KPMU King of Prussia Mixed Use District. CU for Sections 165-160.3 to permit an increase in building height and reduction front yard in accordance with provisions of KPMU.
Plan Expiration: 7/4/19
 - H. Community Center Roof Panel Decoration Design Discussion
6. Adjournment

DRAFT POLICY UPDATE:

- V. REGULAR PART-TIME EMPLOYEE BENEFITS (more than 20 hours, but less than 35 hours on a regularly scheduled basis)
1. As of April 1, 2019, newly hired Regular Part-Time Employees will be paid for the hours they have actually worked.
 - a. Employees hire after March 31, 2019 will not receive prorated vacation, modified holidays, or the sick leave bonus.
 - b. Performance Evaluation Process – employee shall be evaluated regularly in accordance with Performance Evaluation program and shall receive any increase due as result of their performance evaluation score.
 - c. Bereavement Leave – employee is entitled up to one (1) day paid leave, if normally scheduled to work within the time frame of five (5) calendar days of the date of death of a member of the employee’s immediate family.
 2. Employees hire prior to April 1, 2019 shall be entitled to:
 - a. Prorated Vacation - to be based on the average number of hours worked a week over a year; eligible after one (1) year.
 - b. Modified Holidays - employees who would normally work on a day which falls on a holiday will be paid for the holiday on a prorated basis, based on regularly scheduled hours for that day.
 - c. Sick Leave Bonus - employee would receive a bonus potential of three (3) times the average number of hours worked per day (for three (3) sick days). An employee who misses one day sick would receive only two (2) days sick leave bonus, etc., as with normal policy.
 4. Bonus Program and Performance Evaluation Process – employee shall be evaluated regularly in accordance with Performance Evaluation program and is eligible for participation in the Performance Bonus program.
 5. Bereavement Leave – employee is entitled up to two (2) days paid leave, if normally scheduled to work within the time frame of five (5) calendar days of the date of death of a member of the employee’s immediate family.
 3. Regular Part-time employees receiving greater than these as of September 1989 will be grandfathered into this policy, in addition to receiving any new benefits listed above.

LEASE AGREEMENT

THIS LEASE AGREEMENT, (“Lease”), entered into this 6th day of May 2019, by and between the **LAFAYETTE AMBULANCE AND RESCUE SQUAD, INC.**, a Pennsylvania non-profit corporation, (the “Landlord”), and **UPPER MERION TOWNSHIP**, a Pennsylvania township existing under the Second Class Township Code (“Tenant,” Landlord and Tenant, together the “Parties”).

In consideration of the mutual covenants stated below, and intending to be legally bound, the Parties covenant and agree as follows:

1. The Leased Premises. Landlord is the owner of certain real property located at 180 North Henderson Road, King of Prussia, PA 19406 and the building and appurtenances thereto (“Leased Premises”). Pursuant to the terms contained herein, Landlord hereby leases to Tenant and Tenant leases from Landlord the Leased Premises, including the right of ingress and egress, over existing accessways, driveways and parking lots serving the Leased Premises.

2. Term. The term of the Lease (“Lease Term”) shall commence September May 6, 2019 at 6:00 AM (the “Commencement Date”), and shall terminate upon the earlier of the following events: (a) the Lease is terminated in accordance with its terms; (b) ownership of the Leased Premises passes from the Landlord to Tenant; or (c) one hundred eighty (180) days pass after the Commencement Date.

3. Use of the Leased Premises. Tenant may and shall use the Leased Premises only as an ambulance or fire station or as office space; provided that, such use is otherwise permitted by law and by any recorded covenants and restrictions relating to the Leased Premises in existence at the commencement date of this Lease (“Permitted Purpose”). Notwithstanding anything to the contrary, Tenant may not conduct any dangerous, hazardous, noxious, or offensive use. Tenant at all times shall promptly comply with all laws, ordinances, orders, and regulations affecting the Leased Premises and their cleanliness, safety, occupation and use. Tenant shall not do or permit anything to be done in or about the Leased Premises, or bring or keep anything in the Leased Premises that will in any way cause suspension or termination of the fire or other insurance upon the Leased Premises. Tenant will not perform any act or carry on any practices that may injure the Leased Premises, excluding ordinary wear and tear. Tenant shall, at Tenant’s sole cost and expense, obtain any and all permits, including, without limitation, occupancy permits, which may be necessary to permit Tenant’s occupancy of the Leased Premises.

4. Security Deposit. Landlord does not require a security deposit.

5. Minimum Annual Rent. Tenant shall pay rent of One Hundred Dollars (\$100.00) Dollars, without notice or demand and without setoff, in lawful money of the United States of America (“Minimum Annual Rent”), payable in a lump sum on or before the Commencement Date.

6. Operating Expenses.

- a. Net Lease. Except for the obligations of Landlord expressly set forth herein, this Lease is a “triple net lease” and Landlord shall receive the Minimum Annual Rent as net income from the Leased Premises, not diminished by any expenses, and Landlord is not and shall

not be required to render any services of any kind to Tenant.

- b. Annual Operating Expenses. Tenant shall pay to Landlord, upon demand, all operating expenses associated with the operation and maintenance of the Leased Premises during Lease Term, including: (1) Impositions (as that term is defined *infra*); (2) insurance premiums; (3) fees and costs for repairs and maintenance of the Leased Premises; (4) service contracts; (5) costs of furnishing water, sewer, gas fuel, electricity, other utility services to the Leased Premises; (6) janitorial service, trash removal and security services; (7) landscaping and grounds maintenance; (8) the costs of any other items attributable to operating or maintaining the Leased Premises; (9) snow removal; and (10) building improvements made by Landlord to the Lease Premises (“Operating Expenses”).
- c. Taxes and Other Impositions. Tenant shall pay prior to delinquency all levies, taxes (including sales taxes and gross receipt taxes), assessments, liens, license and permit fees, which are applicable to the Lease Term, and which are imposed by any authority or under any law, ordinance or regulation thereof, or pursuant to any recorded covenants or agreements, and the reasonable cost of contesting any of the foregoing (“Impositions”) upon or with respect to the Leased Premises, or any improvements thereto, or directly upon this Lease or the Minimum Annual Rent.
- d. Utility Charges. Tenant shall pay for water, sewer, gas, electricity, heat, power, telephone and other communication services and any other utilities supplied to or consumed in or on the Leased Premises. Tenant shall make arrangement prior to the Commencement Date to have the utilities supplied to the Leased Premises transferred into the name of Tenant. Landlord shall not be responsible or liable for any interruption in utility service, nor shall such interruption affect the continuation or validity of this lease.
- e. Tenant Repairs and Maintenance. Tenant, at its sole expense, shall maintain the Leased Premises in good order and condition, promptly make all repairs necessary to maintain such condition, and repair any damage to the Leased Premises regardless of whether such damage was caused by Tenant or its agents. Repairs and replacements to the Leased Premises shall be made at the sole expense of Tenant. When used in this Paragraph, the term “repairs” shall include replacements and renewals when necessary.

7. Insurance.

- a. Tenant shall obtain and keep in full force and effect throughout the Lease Term hereunder and at Tenant’s sole cost and expense:
 - i. comprehensive liability insurance for the benefit of Landlord and Tenant (including bodily injury and property damage insurance) with limits at least as high as the amounts respectively stated therefor under Paragraph 17(c) of this Lease, or such higher limits in any case as Landlord may reasonably require in case of increase in risk caused by Tenant.

- ii. a policy or policies of insurance covering loss or damage to the Tenant's personal property, fixtures, equipment in the Leased Premises as well as all improvements made to the Leased Premises at the Tenant's expense, in an amount equal to the full replacement value thereof, as the same may exist from time to time, providing protection against all perils included within the classification of fire, extended coverage, vandalism, malicious mischief, special extended perils ("all risk," as such term is used in the insurance industry), and such other insurance as Landlord reasonably deems advisable.

8. Quiet Enjoyment. Tenant, upon paying the Minimum Annual Rent herein provided for and observing and keeping all covenants, agreements and conditions of this Lease on its part, shall quietly have and enjoy the Leased Premises during the Lease Term without hindrance or molestation by anyone claiming by or through Landlord.

9. Indemnification. Tenant will indemnify and save Landlord harmless from any liability or injury, loss, accident or damage to any person or property and from any claims, actions, proceedings caused in connection therewith, including reasonable counsel fees, arising from the wrongful act or negligence of Tenant, its employees and/or agents, invitees or licensees or arising from any use made or things done on or about the Leased Premises, or otherwise occurring thereon, and not due to the negligence of Landlord. Tenant further agrees to keep all Tenant's employees working in the Leased Premises covered by workers' compensation insurance and furnish Landlord with certificates thereof. Tenant, as a material part of the consideration to be rendered to Landlord, hereby waives all claims and agrees not to assert, at law or in equity or otherwise, any claims or actions against Landlord for damages to goods, wares and merchandise in, upon or about the Leased Premises or for injury to Tenant, its agents, employees, invitees or third persons in or about the Leased Premises provided said claims or actions are not due to the negligence of Landlord.

10. Tenant's Covenants. Tenant agrees during the Lease Term, and thereafter so long as Tenant's occupancy continues:

- a. To pay when due the Minimum Annual Rent.
- b. To refrain from committing, or suffering any waste upon the Leased Premises.
- c. Not to overload or deface the Leased Premises, nor permit any use contrary to law, or lawful ordinance, regulation or order of public authority, whether with respect to safety appliances or to alterations, repairs or additions, including repairs to additions required as a condition for continuance of use, or otherwise.
- d. To permit Landlord to make routine periodic inspections of the Leased Premises during reasonable business hours upon reasonable notice to Tenant. Landlord shall have reasonable access to the Leased Premises to make reasonable inspections thereof. Tenant hereby acknowledges the Landlord's right to maintain a key to allow Landlord access to the Leased Premises for the purpose of acquiring entrance in the event of an emergency.

- e. At the expiration or earlier termination of the Lease Term, or any renewal thereof, promptly to yield up, clean and neat, the Leased Premises and all improvements, alterations and additions thereto, and all fixtures and equipment servicing the Leased Premises, and to remove Tenant's signs, goods and any machinery, trade fixtures and equipment used in the conduct of Tenant's business not servicing the Leased Premises and to repair damage caused by such removal.
- f. To comply fully with any rules and regulations governing the Leased Premises reasonably promulgated by Landlord.
- g. To pay promptly any contractors and materialmen who supply labor, work or materials to Tenant at the Leased Premises so as to eliminate the possibility of a lien attaching to the Leased Premises. Tenant shall take all steps permitted by law in order to avoid the imposition of any mechanics, laborers, or materialmen's lien upon the Leased Premises. Should any such lien or notice of lien be filed, Tenant shall bond against or discharge the same within fifteen (15) days after the lien or claim is filed or formal notice of said lien or claim has been issued regardless of the validity of such lien or claim. Nothing in this Lease is intended to authorize Tenant to do or cause any work or labor to be done or any materials to be supplied for the account of Landlord, all of the same to be solely for Tenant's account and at Tenant's risk and expense.
- h. Tenant represents that it will not process, manufacture, store, generate, dispose of, or otherwise use any hazardous, nuclear or radioactive substance, chemical waste or other substance regulated by any federal, state and/or local statute, ordinance and/or regulation except in strict conformity with such applicable statute, ordinance or regulation and Tenant shall execute any and all documents required by Landlord to evidence that said substances are being used by Tenant in strict conformity with the applicable statute, ordinance and/or regulation and, if Tenant in any way violates this provision and/or the applicable statute, ordinance and/or regulation now or hereafter enacted, Tenant shall indemnify and hold harmless Landlord for any expenses, claims, action or causes of action brought against Landlord or incurred by Landlord as a result of Tenant's violation of the provisions contained herein and/or the provisions of any applicable statute, ordinance and/or regulation now or hereafter enacted.
- i. To allow Landlord's administrative personnel to access the Leased Premises on a daily basis to perform accounting, administrative and bookkeeping functions for Landlord.
- j. To allow Landlord's board of directors and officers to conduct meeting in the Leased Premises, upon reasonable notice to Tenant.

11. Tenant's Default/Landlord's Remedies. If the Tenant:

- a. Fails to pay in full, when due, any and all installments of Minimum Annual Rent, or any other charge, expense, or cost herein agreed to be paid by the Tenant and such failure is not

cured within five (5) days after the date on which any such payment is due; or

- b. Violates or fails to perform or otherwise breaks any covenant or agreement of this Lease Agreement or the agreements incorporated herein by reference, and such failure or violation is not cured within twenty (20) days after the Tenant's receipt of written notice from Landlord to Tenant of such failure or violation, or in the case of a failure or violation which cannot be cured within said twenty (20) day period, Tenant has not commenced to cure such failure or violation within the twenty (20) day period or has not diligently pursued the completion of such cure; or
- c. Vacates the Leased Premises without first having paid and satisfied Landlord in full for all Minimum Annual Rent and other charges then due or that may thereafter become due until the expiration of the then current term, above mentioned; or
- d. Becomes insolvent, makes an assignment for the benefit of creditors, files or has filed against it a petition in bankruptcy and such petition remains undismissed sixty (60) days after said petition is filed, or a bill in equity or other proceeding for the appointment of a receiver for the Tenant is filed, if proceedings for reorganization or for composition with creditors under any State or Federal law be instituted by or against Tenant.

Then, upon written election, but without entry or other action, Landlord shall have the right to:

- 1. Accelerate the rent for the entire unexpired balance of the Lease Term.
- 2. Collect and receive from any assignee or subtenant the rents or other charges reserved herein as rent due by such assignee or sublessee and apply the same to the rent due hereunder.
- 3. Terminate this Lease without any right on the part of the Tenant to save the forfeiture by payment of any sum due by other performance of any condition, term, or covenant broken; whereupon, Landlord shall be entitled to recover damages for such breach in an amount of rent reserved for the balance of the Lease Term or the residue of said term.
- 4. Terminate Tenant's right of continued possession of the Leased Premises and, from time to time, without terminating this Lease and without prejudice to any right of Landlord under this Lease, to relet the Leased Premises or any part thereof for the account and in the name of Tenant, for any such term or terms and conditions as Landlord in its sole discretion may deem advisable with the right to make alterations and repairs to the Leased Premises deemed by Landlord to be necessary in conjunction with such reletting; and Tenant shall pay to Landlord, as soon as ascertained, the costs and expenses incurred by Landlord in such reletting and in making such alterations and repairs.
- 5. May lease the Leased Premises or any part or parts thereof to any person or persons as Landlord in its reasonable discretion decides, and the Tenant shall be liable for any loss of rent for the balance of the then current term.

12. Curing Tenant's Default. If Tenant shall be in default in the performance of any of its

obligations hereunder, including, but not limited to the failure of Tenant to promptly perform any of the covenants of this Lease requiring Tenant to repair or maintain the Leased Premises, Landlord, without any obligation to do so, in addition to any other rights it may have in law or equity, may elect to cure such default on behalf of Tenant after written notice (except in the case of emergency) to Tenant. Tenant shall reimburse Landlord upon demand for any sums paid or costs incurred by Landlord in curing such default, including interest thereon from the respective dates of Landlord's making the payments and incurring such costs, which sums and costs together with interest thereon at the Lease Interest Rate shall be deemed additional rent payable upon demand.

13. Remedies Cumulative. All of the remedies herein before given to Landlord and all rights and remedies given to Landlord by law and equity shall be cumulative and concurrent to the extent not mutually exclusive. No termination of this Lease or the taking or recovering of the Leased Premises shall deprive Landlord of any of his remedies or actions against the Tenant for rent then due, or rent which, under the terms hereof, would in the future become due as if there has been no termination, or for any and all sums due at the time of which, under the terms hereof, would in the future become due as if there had been no termination, nor shall the bringing of any action for rent or breach of covenant, or the resort to any other remedy herein provided for the recovery of rent be construed as a waiver of the right to obtain possession of the Leased Premises, provided Landlord may not recover rents, after it retakes possession, except to the extent then due after credit for rents received and without acceleration.

14. Limited Warranty. The only warranties made by Landlord with respect to this Lease and Leased Premises are as expressly contained herein. Landlord hereby expressly and unequivocally disclaims any and all implied warranties with respect to the Leased Premises and Tenant's use of same, including, but not limited to, the implied warranty of habitability.

15. Holdover. If Tenant or any person claiming through Tenant shall continue to occupy the Leased Premises after the expiration or earlier termination of the Lease Term or any renewal thereof without Landlord's written consent, then Landlord shall be entitled to recover from Tenant either damages to compensate Landlord for the losses suffered by Landlord as a result of such holding over or, at Landlord's option, compensation for such use and occupancy at a rate per month equal to two (2) times the Minimum Annual Rent

16. Miscellaneous Provisions.

- a. Waiver. No consent or waiver, expressed or implied, by Landlord or Tenant to or of any breach of any agreement or duty to the other shall be construed as a consent or waiver of any other breach of the same or any other agreement or duty.
- b. Notices. Whenever any notice, approval, consent or request is given pursuant to this Lease, it shall be in writing. Communications and payments, unless otherwise specified by fifteen (15) days' prior written notice, from the recipient or payee shall be addressed to the Party's address stated in Paragraph 17. Any communication so addressed shall be deemed duly served if posted by registered or certified mail, with sufficient postage prepaid, return receipt requested. If Landlord by notice to Tenant at any time designates an agent to receive payments or notices, all payments or notices from Tenant to Landlord shall be sent to said

agent until such time as Tenant shall have received from Landlord written notice of Landlord's termination of such agency.

- c. Cost and Expense. Wherever provision is made in this Lease for the doing of any act by any person, it is understood and agreed that said act shall be done by such person at its own cost and expense unless a contrary intent is expressed.
- d. Successors. The terms and provisions of this Lease shall be binding upon and inure to the benefit of the respective heirs, executors, administrators, successors and assigns of the Landlord and Tenant.
- e. Time of the Essence. The time of payment of rent and all other times referred to for the performance of any obligation of this Agreement are hereby agreed to be of the essence.
- f. Broker. Each of the Parties agrees to indemnify the other against, and hold the other harmless from, any and all costs and expenses, including the cost of attorneys' fees, arising out of claims from brokerage commissions or finder fees by any person or entity. The provisions of this Article shall survive the expiration or sooner termination of this Lease.

17. Interpretation.

a. Landlord's Address.

Lafayette Ambulance & Rescue Squad Inc.
Attn: Christine Riley
180 North Henderson Road
King of Prussia, PA 19406-2123

With Copy to:

Edward S. Robson, Esquire
Robson & Robson P.C.
2200 Renaissance Blvd
King of Prussia, PA 19041

b. Tenant's Address.

Upper Merion Township
Attn: Thomas Nolan
175 West Valley Forge Road
King of Prussia, PA 19406-1802

With Copy to:

Joseph McGrory
Hamburg, Rubin, Mullin, Maxwell & Lupin, PC
375 Morris Road
P.O. Box 1479
Lansdale, PA 19446-0773

c. Liability Insurance Amounts.

Bodily injury: Single limit \$1,000,000.00;
Property Damage: Single limit \$1,000,000.00.

- d. Captions. The captions in this Lease Agreement are for convenience only and are not part of this Lease Agreement and do not in any way define, limit, describe or amplify the terms and provisions of this Lease or the scope or intent thereof.
- e. Entire Agreement. This Lease represents the entire agreement between the Parties hereto and there are no collateral or oral agreements or understandings between Landlord and Tenant with respect to the Leased Premises. No rights, easements or licenses are acquired in the Leased Premises by Tenant by implication or otherwise except as expressly set forth in the provisions of this Lease Agreement. This Lease Agreement shall not be modified in any manner except by an instrument in writing executed by the Parties hereto. The masculine (or neuter) pronoun, singular number, shall include the masculine, feminine and neuter genders and the single and plural number.

18. Governing Law. This Lease shall be governed by and interpreted in accordance with the law of the Commonwealth of Pennsylvania. If any provision of this Lease or the application of any provision to any person or any circumstances shall be determined to be invalid or unenforceable, then such determination shall not affect any other provisions of this Lease or the application of said provision to any other person or circumstance, all of which other provisions shall remain in full force and effect. If any provision of this Lease is capable of two constructions, one of which would render the provision invalid and the other of which would render the provision valid, the construction which would render the provision valid shall prevail. Tenant agrees that any action brought under this Lease shall be exclusively in the Montgomery County Court of Common Pleas or the United States District Court for the Eastern District of Pennsylvania.

19. Force Majeure. Neither Party shall be held responsible for any failures or delays in connection with the performance of their obligations under this Lease where such failures or delays are due to inclement weather, delays due to governmental regulations, acts of God, labor disputes, strikes, or other causes beyond the Parties' control. In the event of any such occurrence, the time for performance or completion of the obligations contained herein shall be extended accordingly.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the Parties hereto have caused these presents to be executed, under seal, the day and year first above written.

LANDLORD:

**LAFAYETTE AMBULANCE AND RESCUE SQUAD,
INC.**

ATTEST:

By:

JENNIFER SCHAUBLE

TENANT:

UPPER MERION TOWNSHIP

ATTEST:

By:

Name: _____

Its: _____