

HAMBURG VILLAGE TOWNHOMES
PLANNED UNIT DEVELOPMENT AGREEMENT

THIS GENERAL PLANNED UNIT DEVELOPMENT AGREEMENT (together with its Exhibits, the “Agreement”) is made as of _____, 2024, by and between, R.D.H. Properties, L.L.C., a Michigan limited liability company, , whose address is 7620 M36, PO BOX 599, Hamburg, MI 48139 (the “Developer”) and Hamburg Township, a Michigan Municipal Corporation (the “Township”) whose address is 10405 Merrill Rd. Hamburg Township, MI 48139.

R E C I T A L S:

A. Developer desires to construct a certain General Planned Unit Development (“GPUD”), consisting of approximately 5.88 acres of property located in Hamburg Township, Michigan (the “Development”), which property is described on the attached Exhibit A (“Property”). The Property is to be developed as a General Planned Unit Development (GPUD) pursuant to the terms and conditions of Article 12 of the Hamburg Township Zoning Ordinance (the “GPUD Ordinance”).

B. The GPUD for the Property is to be known as “Hamburg Village Townhomes” and shall permit the development in two phases. Phase one will include a gas station building (2-story, 5,475 SF) attached to a mixed-use retail building (2-story, 2,400 SF), as well as a gas station canopy with 12 stalls and a height of 17'. Phase two will include 40 attached two-story multi-family units (38,800 SF) and a community center, with office (1,400 SF).

C. Approved Final GPUD Site Plans, including the Architectural Design Guidelines and the Approved Plans (the “ Approved GPUD Plan”), which includes a final site plan approval, set forth in Exhibit B and Exhibit C, are attached hereto and incorporated herein. Together the Approved GPUD Plan and this Agreement, shall be known as the “GPUD Documents.”

D. Developer desires to fully develop the Property in accordance with the Approved GPUD Plan, including, Exhibit B, and in accordance with the terms and conditions set forth within this Development Agreement, and all applicable laws, ordinances, regulations, and standards

E. The Approved GPUD Plan (Exhibit B) includes certain deviations from applicable ordinances.

F. The Approved GPUD Plan (Exhibit B) also includes certain public benefits recognized and relied upon as part of the Township’s consideration of the GPUD including: the green/open space areas, private amenities and the extensive sidewalk connections which will make this development a very desirable location for area residents and will result in a higher quality of development than could be achieved otherwise, and provides a needed connection through the site to the surrounding

community. The proposed for-rent apartments will provide the Village area with a much-needed housing alternative to the existing single-family housing within the Village.

G. The Township desires to ensure that the Property is developed and used in accordance with this Agreement and the approved GPUD Site Plan, together with all attachments, exhibits, and as conditioned in the attached motion of the Hamburg Township Board of Trustees, dated May 7, 2024, attached as Exhibit C, and all applicable laws, ordinances and regulations.

H. The Township of Hamburg approved the Hamburg Village Townhomes GPUD by resolution at the Board of Hamburg Township meeting on May 7, 2024.

NOW, THEREFORE, the Developer and the Township have, in consideration of the mutual covenants described herein, and with the expressed understanding that this Agreement contains important and essential terms as set forth in all of the attachments, exhibits, and motions, as referenced above, hereby agree as follows:

1. Incorporation of Recitals. The parties acknowledge and represent that the foregoing recitals are true and accurate and binding upon the parties, and are incorporated into this Agreement.

2. GPUD Approval.

a. The parties acknowledge and agree that the development of the Project has been granted Final GPUD Approval by the Trustees in accordance with the GPUD Ordinance, Approval of the GPUD includes GPUD Site Plan, and is subject to the preparation, review and approval of this Agreement and the Declaration of Easements, Covenants and Restrictions for the GPUD Development. In addition, approval of the GPUD is subject to the following:

- i. All applicable provisions of the Hamburg Township General and Zoning Ordinances, except as modified in the Approved GPUD Plans and set forth herein;
- ii. The Approved GPUD Plan, and the Approved Site Plans, as such GPUD Plan was approved by the Township Board of Trustees on May 7, 2024;
- iii. Engineering construction plan review and approval by the Township Engineer, which plans have been or shall be submitted in accordance with all applicable laws, ordinances, regulations and standards;
- iv. Conditions set forth in the Township Board minutes dated May 7, 2024;
- v. Submittal, review and approval of a Declaration of Easements, Covenants, and Restrictions for the GPUD Development;
- vi. The landscape plans as approved by the Township; and
- vii. This GPUD Agreement.

b. The Developer's right to develop the Property as provided for in this Agreement and the attached Exhibits is fully vested upon the execution of this Agreement, subject to obtaining the required permits under Township Ordinances. In the event that any part of this Agreement or Exhibits B and C are inconsistent in any way with the Township Code of Ordinances in existence as of this date, or any Township Ordinance that is enacted at any future time, other than the GPUD Ordinance, then this Agreement and Exhibits B and C shall control. This Agreement shall not prevent the Township from applying new or amended regulations that do not conflict with, and do not address subjects already contemplated in this Agreement.

3. Development Sequence / Phasing. The GPUD shall be constructed in two Phases in accordance with the Approved GPUD Plan submitted to and approved by the Township, as set forth in the attached and incorporated Exhibit B:

a. Phase One shall include a gas station building (2-story, 5,475 SF) attached to a mixed-use retail building (2-story, 2,400 SF), as well as a gas station canopy with 12 stalls and a height of 17', installed on parcel B, and all improvements associated with the portion of the development as shown in the Phase One Final GPUD Plan, as set forth in the attached and incorporated Exhibit B. Construction of Phase One the lift station and shall be commenced within one year of Final GPUD Site Plan Approval, and shall be completed within two years from commencement.

b. Phase Two will include 40 for rental units (townhomes) in nine buildings, inclusive of the clubhouse, with between 4-7 units in each building and a 1400 sq ft community center/office management building on parcel A. The construction of Phase Two phase two shall commence within three years of the issuance of final Certificates of Occupancy for Phase I. Commencement shall be deemed the issuance of the initial permit for the development.

Developer shall, at its sole expense, construct and install the storm water facilities and base course of the interior roads necessary to serve any part of the GPUD, as well as all paved pathways, in accordance with the Approved GPUD Plan, Engineering Plans and all applicable ordinances and regulations prior to the issuance of any building permits within the Development. The final wearing course for the interior roads shall be installed on or after the issuance of final Certificates of Occupancy for all buildings within the Development. Developer, at its sole expense, shall construct, install and maintain all site landscaping, green/open space and landscaping amenities, in accordance with the Approved GPUD Plan, the approved Landscape Plan and details, and all applicable ordinances and regulations.

4. Project Status. The Developer shall provide the Township with a written report of the status of the development of the Project on an annual basis commencing one year from the date of this Agreement until project development is completed.

5. General Requirements of the Project. The Developer agrees that the Project will be developed in accordance with the following requirements:

a. The Approved GPUD Plan, approved by the Township Board of Trustees on May 7, 2024 (subject to the Project not being developed as a condominium and not having any parks; and subject to Condition 1 being deemed to require two land use permits, one for each Phase, with the appropriate approvals for a Phase received prior to issuance of the land use permit for that Phase);

b. The Project shall have paved private roads as shown on Exhibit B, which shall be maintained, repaired, and replaced by the Developer or its successors and assigns on a permanent basis which maintenance shall be addressed in the Declaration of Easements, Covenants and Restrictions for the Development. The Parties acknowledge that the roads

do not presently and are not proposed to meet public road standards, but shall allow public access.

- c. The Project, including underground construction, installation of utilities and dewatering, shall not cause damage to or interfere with abutting properties. The Developer shall be responsible for repairing such damage, if that becomes necessary.
- d. Developer shall provide a cross access agreement, which shall be referenced in a Declaration of Covenants, Easements and Restrictions for the GPUD Development, that allows public use of the private roadways and sidewalks within the project.
- e. The lift station will be shown on the site plan between the gas station and the community center. The Phase 2 lighting plan will be reviewed by the Zoning Administrator and a Planning Commission representative.
- f. The Declaration of Easements, Covenants and Restrictions for the GPUD shall require the Developer to grant any required cross access easements for the use of the roadways and pathways for use by the public.

6. Shared Utilities. Developer may, in its discretion, enter into agreements with neighboring landowners (or those controlling neighboring lands, such as a condominium association) to share utility improvement expenses and facilities such as storm sewers, water distribution systems, and grinder pumps. The Township and the Developer agree to work together in good faith with respect to any sharing of utility facilities between the Developer and a neighboring landowner.

7. Wetland, Natural Features Setback and Storm Drainage Requirements.

- a. Wetlands. The Developer shall comply with all applicable requirements of the Township Code of Ordinances, the Michigan Department of Environment, Great Lakes and Energy, ("EGLE"), and all other governmental entities relating to wetlands, if any, and shall secure all necessary permits for the Project. Physical delineation of the wetlands, if any, and corresponding signage, including the areas where the wetlands encroach upon a unit, shall be provided by Developer. The Declaration of Easements, Covenants and Restrictions for the GPUD Development shall prohibit the owner from removing or interfering with the delineated areas or signage, if any are required.
- b. Natural Features Setback. The developer has provided and the Township has accepted a natural features impact statement that permits limited encroachment upon the natural features, as shown on the Approved GPUD Plans. Upon completion of the construction activities, the Developer shall restore the disturbed natural features to substantially the same condition that existed prior to construction. The Township has determined the proposed development of improvements and construction of the same, in accordance with Exhibit B, are not likely to endanger or materially and adversely affect any natural features adjacent to such setbacks and natural features.
- c. Storm Water/Retention System. The Developer agrees to construct the storm water detention/retention system in the location approved by the Township in accordance with the Approved GPUD Plans, corresponding Engineering Plans, and all applicable ordinances and regulations. The Developer shall maintain the storm water

detention/retention system in compliance with applicable standards. The Developer shall enter into a storm water detention/retention basin maintenance agreement with the Township, which shall be satisfactory to the Township and which shall be recorded. In the event the storm drain in the Project requires repair in the future, it will be the responsibility of the Developer to remove and restore any landscaping as may be shown on Exhibit B if such landscaping has been damaged.

8. Tree Conservation. The Tree Conservation Ordinance of the Township Code of Ordinances requires that trees shall be preserved. Those trees to be preserved in the Development are shown on the Landscape Plan (included in Exhibit B). The Landscape Plan also identifies "trees to be removed" and there is no obligation on the Developer to replace the trees to be removed. Any future tree removal (i.e., beyond those trees listed in the Landscape Plan as "to be removed") shall comply with Township Ordinances.

9. Maintenance of Improvements. On-going maintenance obligations shall be set forth within the Declaration of Easements, Covenants and Restrictions for the Development, and shall require that the Developer, at its expense, to operate, maintain, repair, manage, improve and preserve and maintain all storm water detention and retention facilities and all private roadways and sidewalks, which are located within the Development, unless and until such improvements are accepted by the local public authority for public use and maintenance, to ensure that the same continue to function as intended. The Developer shall also have the responsibility to preserve and maintain all preserved woodlands, wetlands, and green/open space areas located within the Development, including amenities located therein. The Developer shall establish a regular and systematic program of maintenance for the improvements to ensure that the physical condition and intended function of such areas and facilities shall be perpetually preserved and/or maintained.

In the event that the Developer shall at any time fail to carry out the responsibilities above, and/or in the event of a failure to preserve and/or maintain such areas or facilities in reasonable order and condition, the Township may serve written notice upon the Developer setting forth the deficiencies in maintenance and/or preservation. Notice shall also set forth a demand that the deficiencies be cured within a stated reasonable time period, and the date, time, and place of the hearing before the Township Board, or such other Board, body or official delegated by the Township Board, for the purpose of allowing the Developer to be heard as to why the Township should not proceed with the maintenance and/or preservation which has not been undertaken. At the hearing, the time for curing the deficiencies and the hearing itself may be extended and/or continued to a date certain. If, following the hearing, the Township Board or other body or official designated to conduct the hearing, shall determine that maintenance and/or preservation have not been undertaken within the time specified in the notice, the Township shall thereupon have the power and authority, but not obligation, to enter upon the property, or cause its agents or contractors to enter upon the property and perform such maintenance and/or preservation as reasonably found by the Township to be appropriate. The cost and expense of making and financing such maintenance and/or preservation, including the cost of notices by the Township an reasonable legal fees incurred by the Township, plus an administrative fee in the amount of 25% of the total of all costs and expenses incurred, shall be paid by the Developer, and such amount shall constitute a lien on an equal pro rata basis as to all of the residential lots on the property. The Township may require the payment of such monies prior to the commencement of work. If such costs and expenses have not been paid within 30 days of a billing to the Developer, all unpaid amounts may be placed on the delinquent tax roll of the Township, , and shall accrue interest and penalties, and be collected as, and deemed delinquent real property taxes, according

to the laws made and provided for the collection of delinquent real property taxes. In the discretion of the Township, such costs and expenses may be collected by suit initiated against the Developer and, in such event, the Developer shall pay all court costs and reasonable attorney fees incurred by the Township in connection with such suit.

10. Zoning Ordinance Requirements. The height, bulk, density and area requirements of the Project shall be as shown on Exhibit B and Exhibit C. No subsequent zoning or other action by the Township shall impair the rights of the Developer hereunder, and any further development of the Property by the Developer generally consistent, as determined by the Township, with Exhibit B that does not increase the density of the Property shall be deemed to be a lawful, conforming use. In the event this Agreement or Exhibits B and C are inconsistent with the Township Code of Ordinances, Zoning Ordinances, regulations or design standards in existence on the date of this Agreement, then this Agreement and Exhibits B and C shall control. Except for any such conflict, the provisions of the Zoning Ordinance through the date of this Agreement, shall apply. The Zoning Board of Appeals shall have no jurisdiction over the Property or the application of this Agreement. To the extent that the Township enacts any new regulations governing permitted uses of land, density, design, improvement and construction standards and specifications applicable to the development of the Property, such new regulations shall apply to the Property only to the extent they do not conflict with this Agreement or the approved Site Plans. In the event that new regulations are enacted, modifications may be requested by Developer to vary from the requirements of the Township Zoning Ordinance, and design standards.

11. Minor/Major Modifications and Amendments. Modifications and amendments to this Agreement, or any of its attachments, shall follow the adopted process of the Township's Ordinances, unless otherwise stated below. No modification or amendments of this Agreement or its attached Exhibits shall occur without written consent of the Township acting through the Township Board of Trustees, except for permit review of residential units and minor improvements, which will be handled administratively through the Zoning Administrator. The Developer shall have the ability to appeal a decision of the Zoning Administrator to the Planning Commission, without amending the GPUD. Further, improvements to site amenities and landscaping may be implemented by the Developer without amending the GPUD agreement, provided the requirements of the approved GPUD and associated Exhibits are not materially violated.

12. Site Plan Review. Developer acknowledges that, at the time of the execution of this Agreement, Developer has not yet obtained engineering plan approvals for the Development. Developer acknowledges that the Township Engineer may impose additional reasonable conditions other than those contained in this Agreement during engineering plan reviews and approvals as authorized by law; provided, however, that such conditions shall not be inconsistent with the Approved GPUD Plan or documents and shall not change or eliminate any development right authorized thereby. Such conditions shall be incorporated into and made a part of this Agreement, and shall be enforceable against Developer, in the event Developer proceeds with the Development. Site and engineering plan review for all improvements to be constructed on the Property or the addition to or modification of any buildings or improvements shall follow the adopted process of the Township's Ordinances, The Township and the Developer agree to work together in good faith with respect to the foregoing requirements so as to both accommodate the policies of the Township and implement the intent of Exhibits B and C and Agreement.

13. Permits and Approvals. The procedure for the Township to review plans and construction drawings for clearing, grading, utilities, landscaping, building and related approvals and permits

requested by the Developer for the construction of any improvement on the Property, shall be performed following the formal operating procedures of the Township. The Township agrees to cooperate with and support requests by the Developer to any governmental agency or authority with jurisdiction over the Project, for permits, approvals or consents to facilitate the development and construction of the Project generally in accordance with this Agreement and Exhibits B and C.

In the event Developer is denied any necessary permits or approvals, or if there are any conditions placed upon the issuance of any necessary permits or approvals that are not acceptable to the Developer with respect to Phase I, and if the Developer has not started the physical improvements for Phase I, the Developer may notify the Township in writing, and if not resolved to the satisfaction of the Developer, the Developer may terminate this Agreement.

If Developer determines in its discretion not to proceed with Phase II, Developer may withdraw Phase II from the project and it shall no longer be subject to the PUD Development Agreement; however Phase II shall then be subject to all of the then applicable ordinances, laws, standards, and regulations for a property in the Township.

14. Completion of Improvements; Performance Guarantee. All on-site and off-site improvements of the GPUD, for Phase I including without limitation, all road improvements, drives, entranceways, storm water drainage system, detention and retention facilities, gas and electric utilities, lighting, signage, landscaping, landscaping amenities, sidewalks, green/open spaces with related amenities and improvements, barrier or screening walls, soil erosion and sedimentation controls, and any other improvements within or for Phase I of the Development shall be completely constructed and provided to all buildings and facilities within Phase I of the Development as required and as set forth in the Approved GPUD Plans, any other approvals or permits granted by the Township, and all applicable ordinances, laws, standards, and regulations. During the construction of the Development, Developer shall be obligated to maintain the above improvements and amenities.

Developer shall provide a performance guarantee for completion, preservation, and maintenance of the infrastructure improvements for Phase I (and for Phase II when seeking a land use permit for Phase II).

The performance guarantee may be in the form of a written escrow agreement with a title company acceptable to both parties. The lender (Huntington Bank) will make the initial draw payable to the escrow account. The initial draw will be in the amount determined by the parties to cover the Phase I infrastructure (currently estimated at \$421,793.00 – see Preliminary Infrastructure Estimate dated 6/17/24, attached hereto as Exhibit D).

The escrow agreement will authorize distributions from the escrow to contractors, or to the Developer, as applicable, for specific infrastructure work. The title company will pay the invoices for work completed upon their presentation, coupled with waivers of lien.

Once the infrastructure identified on Exhibit D for Phase I is completed, any excess money will be released to the Developer, upon written approval of both parties, or a court order.

The escrow funds will not be released in any other fashion without the written approval of both parties, or a court order.

The same conditions and escrow process may be used in connection with Phase II at the time the Developer seeks a land use permit for Phase II.

Pursuant to this Agreement in accordance with the procedure set forth below, the Township shall have the right, but not the obligation, to complete the improvements, or restore the property, using the escrow funds if Developer has failed to complete and/or maintain the improvements within the time specified therein. If Developer proceeds with any phase within the development of the Property, Developer shall be obligated to design and completely construct all of the improvements and amenities required for said phase.

15. Township Enforcement. In the event there is a failure by the Developer to timely perform any obligation or undertaking required under or in accordance with the GPUD Documents, the Township may serve written notice upon the Developer, setting forth such deficiencies, and may serve a demand that the deficiencies be cured within a time period consistent with Paragraph 23 of this Agreement. Such notice shall also state a reasonable date, time, and place for a hearing before the Township Board, or such other board, body, or official delegated by the Township Board, for the purpose of allowing the Developer an opportunity to be heard as to why the Township should not proceed with the correction of the deficiency or obligation. At any such hearing, the time for curing and the hearing itself may be extended and/or continued to a date certain. The foregoing notice and hearing requirements shall not be necessary in the event the Township determines in its reasonable discretion that an emergency situation exists endangering the public health and safety requiring immediate action. If, following the hearing described above, the Township Board, or such other board, body, or official designated to conduct the hearing, shall determine that the obligation has not been fulfilled or failure corrected within the time specified in the notice, or if an emergency circumstance exists as determined by the Township in its reasonable discretion, the Township shall thereupon have the power and authority, but not the obligation, to take any or all of the following actions, in addition to any actions authorized under Township ordinances and/or State laws:

- (A) Enter upon the Property, or cause its agents or contractors to enter the Property, and perform such obligation or take such corrective measures as reasonably found by the Township to be appropriate. The cost and expense of making and financing such actions by the Township, including notices by the Township and legal fees incurred by the Township, plus an administrative fee in an amount equivalent to twenty-five percent (25%) of the total of all such costs and expenses incurred, shall be paid by the violating party within thirty (30) days of a billing to the Developer. The payment obligation under this paragraph shall be secured by the performance guarantee posted and by a lien against Property, which lien shall be deemed effective as of the date of the initial written notice of deficiency provided to the violating party pursuant to this paragraph, or in emergency circumstances, the date at which the Township incurred its first cost or expense in taking corrective action. In the event the Performance Guarantee is not adequate to cover the costs incurred by the Township, such security shall be realized by placing a billing which has been unpaid by the Developer for more than thirty (30) days on the delinquent tax rolls of the Township relative to such portion of the Property, to accumulate interest and penalties, and to be deemed and collected, as and in the same manner as made and provided for collection of delinquent real property taxes. In the discretion of the Township, such costs and expenses may be collected by suit initiated against the Developer, and, in such event, the Developer shall pay all court costs and attorney fees incurred by the Township in connection with such suit if the Township prevails in collecting funds thereby.

- (B) Initiate legal action for the enforcement of any of the provisions, requirements, or obligations set forth in the GPUD Documents. Except in emergency circumstances, the Developer shall be provided notice of the deficiencies from the Township and shall be afforded an opportunity to timely correct.
- (C) The Township may issue a stop work order as to any aspect of the Development, may deny the issuance of a requested building permit or certificate of occupancy, and may suspend further inspections and may suspend further inspections of such aspects of the Development.

16. Delay in Enforcement; Severability. Any failure or delay by the Township to enforce any provision herein contained shall in no event be deemed, construed, or relied upon as a waiver or estoppel of the right to eventually do so thereafter. Each provision and obligation contained herein shall be considered to be an independent and separate covenant and agreement, and in the event one or more of the provisions and/or obligations shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, all remaining provisions and/or obligations shall nevertheless remain in full force and effect.

17. Access to Property. In all instances in which the Township utilizes the proceeds of a performance guarantee given to ensure completion or maintenance of improvements, and at any time throughout the period of development and construction of any part of the Development, the Township and its contractors, representatives, consultants, and agents shall be permitted and are hereby granted authority to enter upon all or any portion of the Property for the purpose of inspecting and/or completing the respective improvements and for the purposes of inspecting for compliance with and enforcing the GPUD Documents.

18. Consents/Approvals. Whenever the consent, approval or permit issuance of the Trustees, Planning Commission or any Township Board, department, staff, attorney or representative is required, such consent, approval or permit issuance shall be processed in accordance with the Township's standard operating procedures.

19. Sale of Property. This Agreement shall run with the land described herein as the Property and bind the parties, their heirs, successors, and assigns. This Agreement or an Affidavit identifying this Agreement, shall be recorded in the Livingston County Register of Deeds. The Developer shall have the right to sell, transfer, assign or mortgage all or any portion of the Property. In the event, all or any portion of the Property changes ownership or control prior to completion of the Project, the terms and conditions of this Agreement shall be binding on any successor owner of all or any portion of the Property. The Township acknowledges and represents that this Agreement may be relied upon for the future land use and development of the Property by the Developer and its successors, assigns, mortgagees and transferees. The Developer agrees that the Property shall be used only as set forth in this Agreement including Exhibits B and C, as may be amended.

20. GPUD Approval. The Developer has negotiated with the Township the terms of the GPUD Documents, including this Agreement, and such documentation represents the product of the joint efforts and mutual agreements of Developer and the Township. The Developer fully accepts and agrees to the final terms, conditions, requirements and obligations of the GPUD Documents, and the Developer shall not be permitted in the future to claim that the effect of the GPUD Documents results in an unreasonable limitation upon uses of all or a portion of the Property, or

claim that enforcement of the GPUD Documents causes an inverse condemnation, other condemnation or taking of all or any portion of the Property. The Developer and the Township agree that this Agreement and its terms, conditions, and requirements are lawful and consistent with the intent and provisions of local ordinances, state and federal law, and the Constitutions of the State of Michigan and the United States of America. The Developer has offered and agreed to proceed with the undertakings and obligations as set forth in this Agreement in order to protect the public health, safety, and welfare, and to provide material advantages and development options for the Developer, all of which undertakings and obligations the Developer and the Township agree are necessary in order to ensure public health, safety, and welfare, to ensure compatibility with adjacent uses of land, to promote use of the Property in a socially, environmentally, and economically desirable manner, and to achieve other reasonable and legitimate objective of the Township and the Developer, as authorized under applicable Township ordinances and the Michigan Zoning Enabling Act, MCL 125.3101, *et seq.*, as amended. Furthermore, the Developer fully accepts and agrees to the final terms, conditions, requirements, and obligations of this Agreement, and the Developer shall not be permitted in the future to claim that the effect of this Agreement results in an unreasonable limitation upon use of all or any portion of the Property, or to claim that enforcement of this Agreement causes an inverse condemnation or taking of all or any portion of such property. It is further agreed and acknowledged that the terms, conditions, obligations, and requirements of this Agreement are clearly and substantially related to the burdens to be created by the development and use of the Property under the approved GPUD, and are, without exception, clearly and substantially related to the Township's legitimate interests in protecting the public health, safety and general welfare. Nothing in this paragraph however limits the Developer's right to seek enforcement of this Agreement for the Township's breach of any of its terms.

21. Severability. It is understood and agreed by the parties that if any part, term or provision of this Agreement is finally held by the courts to be illegal or in conflict with any statute, ordinance, rule, regulation or other applicable law, the validity of the remaining portions or provisions of this Agreement shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular part, term or provisions held to be invalid. In the event, any changes in applicable federal or state laws or regulations enacted after the date of this Agreement operate to prevent compliance with parts of the Agreement, or render compliance impractical or unreasonably difficult, the parties will endeavor to make whatever changes necessary to bring this Agreement into compliance.

22. Governing Law. This Agreement shall be governed by the laws of the State of Michigan, both as to interpretation and performance. Any and all suits for any and every breach of this Agreement may be instituted and maintained in any court of competent jurisdiction in the County of Livingston, State of Michigan.

23. Remedies.

- a. A breach of this Agreement shall constitute a nuisance *per se* which shall be abated. The Developer and the Township therefore agree that, in the event of a breach of this Agreement by the Developer, the Township, in addition to any other relief to which it may be entitled at law or in equity or pursuant to this Agreement, shall be entitled under this Agreement to relief in the form of specific performance and an order of the court requiring abatement of the nuisance *per se*. In the event of a breach of this Agreement, the Township may notify Developer of the

occurrence of the breach and issue a written notice requiring the breach be cured within thirty (30) days; provided, however, that if the breach, by its nature, cannot be cured within thirty (30) days, Developer shall not be in the breach hereunder if Developer commences the cure within the thirty (30) day period and diligently pursues the cure to completion. Failure to comply with such notice shall, in addition to any other relief to which the Township may be entitled in equity or at law, render Developer liable to the Township in any suit for enforcement for actual costs incurred by the Township including, but not limited to, attorneys' fees, expert witness fees and the like.

- b. In the event that a party believes that the other party is not acting reasonably or in conformity with this Agreement, then the aggrieved party may petition the Livingston County Circuit Court to resolve such dispute and the parties shall make themselves immediately available for a hearing on a date to be set by the Court. In the event that the Court finds that party has not acted in good faith or in conformity with this Agreement, then the Court may order reasonable costs and attorney fees incurred to the prevailing party. All remedies afforded in this Agreement shall be taken and construed as cumulative, that is, in addition to every other remedy provided by law and in equity.
- c. Force Majeure. If either party is prevented or delayed in the performance of any of its obligations under this Agreement due to Force Majeure (defined below), that party will provide written notice to the other party specifying the nature and expected duration of the Force Majeure. The time for performance will be extended, but only for the period of delay or inability to perform due to Force Majeure. As used in this Agreement, "Force Majeure" shall mean any act of God, fire, casualty, flood, war, strike, lockout, labor trouble, or any other circumstances beyond the reasonable control of the party asserting it that prevents or delays the performance of any of its obligations under this Agreement.

24. Inconsistency. Where there is a question with regard to applicable regulations for a particular aspect of the development, or with regard to clarification, interpretation, or definition of terms or regulations, and there are no apparent express provisions of the GPUD Documents which apply, the Township, in the reasonable exercise of its discretion, shall determine the regulations of the Township's Zoning Ordinance, as that Ordinance may have been amended, or other Township Ordinances that shall be applicable, provided that such determination is not inconsistent with the nature and intent of the GPUD Documents and does not change or eliminate any development right authorized by the GPUD documents. In the event of a conflict or inconsistency between two or more provisions of the GPUD Documents, the more restrictive provision, shall apply. To the extent that the Agreement or its Exhibits conflict with Township Ordinance or Zoning Ordinance requirements, the terms of this Agreement and its Exhibits will control. Any clerical errors or mistakes in this Agreement or its Exhibits may be corrected by any of the parties, and all parties agree to cooperate in making such corrections in order to effectuate the intent of the parties in entering into this Agreement. Remedial amendments to correct errors and omissions may be approved and executed by the Township so long as they are consistent with the spirit and intent of this Agreement, in the Township's reasonable judgment. In all events, any reference to the Township Code of Ordinances, Zoning Ordinances and GPUD Ordinance, shall mean the existing Ordinances of the Township as of the date of this Agreement.

25. Authority. The signers of this Agreement warrant and represent that they have the authority to sign this Agreement on behalf of their respective principals and the authority to bind each party to this Agreement according to its terms. Further, each of the parties represents that the execution of this Agreement has been duly authorized and is binding on such party.

26. Limitation of Township's Liability. This GPUD is a private undertaking, and the parties understand and agree that: (a) this GPUD is a private development; (b) the Township has no interest or responsibilities for or duty to third parties concerning any improvements on the Property except and only until such time that the Township accepts any public improvements pursuant to this Agreement and Exhibits B and C; (c) the Developer shall have full and exclusive control of the Property subject to the limitations and obligations of the Developer under this Agreement; ; and (d) none of the terms or provisions of this Agreement shall be deemed to create a partnership or joint venture between Developer and the Township.

27. Binding Effect. This Agreement shall become effective upon execution by all parties and when the Agreement is recorded in the office of the Livingston County Register of Deeds and a certified copy of the recorded Agreement has been delivered to the Township. This Agreement shall run with the land and bind the parties, their heirs, successors, and assigns. It is also understood that the members of the Board of Trustees or the Township Administration or its departments may change, but the Township shall nonetheless remain bound by this Agreement.

28. Issuance of Land Use Permits. In addition to all of the historical requirements relating to the issuance of LUP's, the Developer agrees to apply for all required permits for sewer connections as have been or may be reasonably established by the Township Board.

This Agreement has been executed on the later of the signature dates set forth below.

OWNER:

R.D.H. Properties, L.L.C., a Michigan limited liability company,

By: _____
Ronny Hamama
Managing Member

State of Michigan)
)
County of _____)

The foregoing was acknowledged before me on _____, 2024, by _____

_____, Notary Public
_____, County, Michigan
Acting in _____ County, Michigan
My Commission Expires: _____

EXHIBIT A

Legal Description of Property

EXHIBIT B

Final Approved GPUD Plans

EXHIBIT C

May 7, 2024 Township Board Motion and Conditions of Project Approval