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Lawrence Kestenbaum, Washtenaw Co



## MASTER DEED

### MILAN CROSSING II

(A Residential Condominium)

### WASHTENAW COUNTY CONDOMINIUM

SUBDIVISION PLAN NO. 623

This Master Deed is made and executed on August 10, 2015 by Milan Crossing II, LLC, a Michigan limited liability company ("Developer"), whose address is 1300 Eisenhower Lane, Milan, Michigan 48160, pursuant to the provisions of the Michigan Condominium Act (Act 59 of the Public Acts of 1978, as amended) (the "Act").

### RECITALS

Developer desires by recording this Master Deed, together with the Bylaws attached as Exhibit A and together with the Condominium Subdivision Plan attached as Exhibit B (both of which are incorporated by reference and made a part of this Master Deed), to establish the real property described in Article 2 below, together with the improvements located and to be located thereon, and the appurtenances thereto, as a residential Condominium Project under the provisions of the Act.

Developer does, upon recording this Master Deed, establish Milan Crossing II as a Condominium Project under the Act and declares that Milan Crossing II (referred to as the "Condominium," the "Project" or the "Condominium Project") shall, after such establishment, be held, conveyed, hypothecated, encumbered, leased, rented, occupied, improved, or in any other manner used subject to the provisions of the Act, and to the covenants, conditions, restrictions, uses, limitations and affirmative obligations set forth in this Master Deed and Exhibits A and B hereto, all of which shall be deemed to run with the land and shall be a burden and a benefit to Developer, its successors and assigns, and any persons acquiring or owning an interest in the Condominium, their grantees, successors, transferees, heirs, personal representatives and assigns.



Time Submitted for Recording  
Date 8-10 2015 Time 2:22pm  
Lawrence Kestenbaum  
Washtenaw County Clerk/Register

WASHTENAW COUNTY TREASURER  
TAX CERTIFICATE NO. 9743912

The Project consists of 44 Units which are contained within 3 six Unit buildings, 6 four Unit buildings, and 1 two Unit building. Each Unit is capable of individual use because it has access to a public road, private road or Common Element of the Condominium. Each Unit Owner will hold an absolute and undivided title to such Owner's Unit and an undivided inseparable right to share with other Co-Owners the Common Elements of the Condominium.

In furtherance of the establishment of the Condominium Project, it is provided as follows:

## **ARTICLE 1**

### **TITLE AND NATURE**

The Condominium Project shall be known as Washtenaw County Condominium Subdivision Plan No. 623. The engineering and architectural plans for the Project are on file with the City of Milan. The Condominium Project is established in accordance with the Act. The Units contained in the Condominium, including the number, boundaries, dimensions and area of each Unit, are set forth completely in the Condominium Subdivision Plan attached as Exhibit B hereto. Each individual Unit has been created for residential purposes and each Unit is capable of individual use. Each Co-Owner in the Condominium Project shall have an exclusive right to such Co-Owner's Unit except to the extent of any Common Elements located thereon, and shall have an undivided and inseparable rights to share with the other Co-Owners the Common Elements of the Condominium Project as are designated by the Master Deed. Nothing in this Master Deed shall be construed to impose upon Developer any contractual or other legal obligation to build, install or deliver any structure or Improvement which is labeled on the Condominium Subdivision Plan attached as Exhibit "B" as "need not be built."

## **ARTICLE 2**

### **LEGAL DESCRIPTION**

The land which is submitted to the Condominium Project is established by this Master Deed and is particularly described as follows:

#### **LEGAL DESCRIPTION - "MILAN CROSSING II"**

Land situated in the City of Milan, County of Washtenaw, State of Michigan, is described as follows:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 35, T4S, R6E, CITY OF MILAN, WASHTENAW COUNTY, MICHIGAN; THENCE S00°15' 50"W 786.31 FEET ALONG THE EAST LINE OF SAID SECTION 35 AND THE CENTERLINE OF CARPENTER ROAD (100.00 FEET WIDE); THENCE N87°26' 40"W 501.14 FEET FOR A PLACE OF BEGINNING; THENCE N87°26' 40"W 790.94 FEET; THENCE S01°02'04"W 574.36 FEET ALONG THE EAST LINE OF

"MEADOWBROOK" CONDOMINIUM, AS RECORDED IN LIBER 4310, PAGE 709, WASHTENAW COUNTY RECORDS; THENCE S89°45'30"E 273.15 FEET ALONG THE NORTH LINE OF "SUPERVISOR'S PLAT NO. 10" AS RECORDED IN LIBER 10, PAGE 43, WASHTENAW COUNTY RECORDS; THENCE N00°14' 30"E 154.33 FEET; THENCE S89°45'30"E 238.34 FEET; THENCE N00°14' 30"E 84.33 FEET; THENCE S89°45'30"E 35.42 FEET; THENCE N00°14'30"E 196.38 FEET; THENCE S89°45'30"E 231.64 FEET; THENCE 19.70 FEET ALONG THE ARC OF A 217.00 FOOT RADIUS CIRCULAR CURVE TO THE RIGHT, WITH A CHORD BEARING S87°09'24"E 19.69 FEET; THENCE N00°14'30"E 108.21 FEET TO THE PLACE OF BEGINNING, BEING PART OF THE NORTHEAST 1/4 OF SAID SECTION 35, CONTAINING 6.64 ACRES OF LAND, MORE OR LESS, BEING SUBJECT TO EASEMENTS, CONDITIONS, RESTRICTIONS AND EXCEPTIONS OF RECORD, IF ANY.

PARENT PARCEL #5

19-R-35-160-019 to 045

Original Parcel No. 19-19-35-100-021

19-19-35-160-068 to 079

Individual Parcel Numbers;

19-19-35-161-014 to -045

(32 units)

19-19-35-161-068 to -079

(12 units)



**Together with and subject to the following:**

1. Terms and Conditions contained in Building & Use Restrictions and Easement Agreement, as disclosed by instrument recorded in Liber 3860, page 668, and as amended in Liber 3860, page 669.
2. Covenants, conditions, restrictions and other provisions but omitting restrictions, if any, based on race, color, religion, sex, handicap, familial status or national origin as contained in instrument recorded in Liber 273, page 536 and Liber 2987, page 607.
3. Terms and Conditions contained in Roadway and Easement Agreement, as disclosed by instrument recorded in Liber 2982, page 688, and re-recorded in Liber 2987, page 625, and as amended in Liber 3191, page 479.
4. Terms and Conditions contained in Utilities and Signage Easement Agreement, as disclosed by instrument recorded in Liber 2987, page 616 and as amended in Liber 3191, page 479.
5. Terms and Conditions contained in Easement for Construction, Improvement, Use, Maintenance, Replacement and Repair of Public Utilities, as disclosed by instrument recorded in Liber 3675, page 585.

6. Building and Use Restrictions as set forth in Deeds recorded in Liber 4293, page 931 and Liber 4306, page 381.

7. Sanitary sewer easement and pump station as shown on Exhibit B.

8. Liens for taxes and assessments that are not yet due and payable.

9. All governmental limitations.

10. The terms and conditions of the Milan Crossing II Residential Planned Unit Development Agreement ("PUD Agreement") between the City of Milan and Developer dated 19<sup>th</sup> of May, 2015, which has or will be recorded in the Washtenaw County Records ("PUD Agreement"), and any and all applicable terms and conditions of the Milan Crossing Residential Planned Unit Development Agreement ("existing PUD Agreement"), dated October 21, 2003, and recorded at Liber 4356, P 487, Washtenaw County Records, as amended.

11. This Condominium Project and all uses contained therein are expressly subject to the terms and conditions of the Planned Unit Development (PUD) dated April 22, 2004.

### **ARTICLE 3**

#### **DEFINITIONS**

Certain terms are used not only in this Master Deed and Exhibits A and B hereto, but are or may be used in various other instruments such as, by way of example and not limitation, the Articles of Incorporation and rules and regulations of Milan Crossing II, Condominium Association, a Michigan non-profit corporation, and deeds, mortgages, liens, land contracts, easements and other instruments affecting the establishment of, or transfer of, interests in Milan Crossing II as a condominium. Wherever used in such documents or any other pertinent instruments, the terms set forth below shall be defined as follows:

Section 3.1. **Act**. The "Act" means the Michigan Condominium Act, being Act 59 of the Public Acts of 1978, as amended.

Section 3.2. **Association**. "Association" means Milan Crossing II, Condominium Association, which is the non-profit corporation organized under Michigan law of which all Co-owners shall be members, which corporation shall administer, operate, manage and maintain the Condominium.

Section 3.3. **Bylaws**. "Bylaws" means Exhibit A hereto, being the Bylaws setting forth the substantive rights and obligations of the Co-owners and required by Section 3(8) of the Act to be recorded as part of the Master Deed. The Bylaws shall also constitute the corporate bylaws of the Association as provided for under the Michigan Nonprofit Corporation Act.

Section 3.4. **City.** “City” means the City of Milan, Michigan.

Section 3.5. **Common Elements.** “Common Elements”, where used without modification, means both the General and Limited Common Elements described in Article 4 below.

Section 3.6. **Condominium Documents.** “Condominium Documents” means and includes this Master Deed and Exhibits A and B hereto, the Articles of Incorporation, and the rules and regulations, if any, of the Association, as all of the same may be amended from time to time.

Section 3.7. **Condominium Premises.** “Condominium Premises” means and includes the land described in Article 2 above and all easements, rights and appurtenances belonging to Milan Crossing as described above.

Section 3.8. **Condominium Project, Condominium or Project.** “Condominium Project”, “Condominium” or “Project” means Milan Crossing II as a Condominium Project established in conformity with the provisions of the Act.

Section 3.9. **Condominium Subdivision Plan.** “Condominium Subdivision Plan” means Exhibit B hereto.

Section 3.10. **Consolidating Master Deed.** “Consolidating Master Deed” means the final amended Master Deed, if any, which shall describe Milan Crossing II as a completed Condominium Project and shall reflect the land area, if any, converted pursuant to Article 8 below, or contracted pursuant to Article 9 below, and all Units and Common Elements therein, and which shall express percentages of value pertinent to each Unit as finally readjusted, if necessary. Such Consolidating Master Deed, if and when recorded in the office of the Washtenaw County Register of Deeds, shall supersede the previously recorded Master Deed for the Condominium and all amendments thereto, but until such time, the terms of this Master Deed, as it may be amended, shall control. In the event the Units and Common Elements in the Condominium are constructed in substantial conformance with the proposed Condominium Subdivision Plan attached as Exhibit B to the Master Deed, the Developer shall be able to satisfy the foregoing obligation by filing a certificate in the office of the Washtenaw County Register of Deeds confirming that the Units and Common Elements “as built” are in substantial conformity with the proposed Condominium Subdivision Plan and no Consolidating Master Deed need be recorded.

Section 3.11. **Construction and Sales Period.** “Construction and Sales Period,” for the purposes of the Condominium Documents and the rights reserved to Developer thereunder, means the period commencing with the recording of the Master Deed and continuing as long as Developer owns any Unit which it offers for sale, and for so long as the Developer continues or proposes to construct or is entitled to construct additional Units.

Section 3.12. **Co-Owner.** “Co-Owner” means a person, firm, corporation, partnership, association, trust or other legal entity or any combination thereof who or which owns one or more Units in the Condominium Project. The term “Owner”, wherever used, shall be synonymous with the term “Co-Owner.” In the event of the conveyance of a Unit by land contract, the land contract vendees shall be the “Co-Owners” of the Unit and shall bear sole liability for all obligations arising with respect to the Unit to the exclusion of the land contract vendors. The foregoing provision regarding the rights and obligations of land contract vendors and vendees shall apply notwithstanding the definition of “Co-Owner” set forth in Section 6 of the Act, as amended by Public Act 379 of 2000.

Section 3.13. **Developer.** “Developer” means Milan Crossing II, LLC which has made and executed this Master Deed, and its successors and assigns. Both successors and assigns shall always be deemed to be included within the term “Developer” whenever such terms are used in the Condominium Documents.

Section 3.14. **First Annual Meeting.** “First Annual Meeting” means the initial meeting at which non-developer Co-owners are permitted to vote for the election of Directors and upon all other matters which properly may be brought before the meeting. Such meeting is to be held (a) in Developer’s sole discretion after fifty percent (50%) of the Units that may be created are sold, or (b) mandatorily within (i) fifty-four (54) months from the date of the first Unit conveyance, or (ii) one hundred twenty (120) days after seventy-five percent (75%) of all Units that may be created are sold, whichever first occurs.

Section 3.15. **Transitional Control Date.** “Transitional Control Date” means the date on which a Board of Directors of the Association takes office pursuant to an election in which the votes which may be cast by eligible Co-owners unaffiliated with Developer exceed the votes which may be cast by Developer.

Section 3.16. **Unit or Condominium Unit.** “Unit” or “Condominium Unit” each means a single Unit in Milan Crossing II, as such space may be described in Article 5, Section 5.1 hereof and on Exhibit B hereto, and shall have the same meaning as the term “Condominium Unit” as defined in the Act.

## **ARTICLE 4**

### **COMMON ELEMENTS: USE OF COMMON ELEMENTS AND UNITS**

The Common Elements of the Project as described herein and as described in Exhibit B attached hereto, as may be modified from time to time pursuant to certain other provisions of this Master Deed and the Bylaws attached as Exhibit A, and the respective responsibilities for maintenance, decoration, repair or replacement are as follows:

Section 4.1. **General Common Elements.** The General Common Elements are:

4.1.1. **Land.** The land described in Article 2 above (other than that portion thereof described in Section 4.2 or Section 5.1 below or in Exhibit B, attached, as constituting the Condominium Units or Limited Common Elements), including riparian and littoral rights, if any, attributable to such land and including common open space, storm water detention areas, and other land areas designated as General Common Elements on attached Exhibit B.

4.1.2. **Roads.** The roads throughout the Project as shown on Exhibit B except to the extent that such roads have been dedicated to the City of Milan or other governmental authority. As described in Section 6.5 below, Developer intends to dedicate the roads in the Project to the City of Milan.

4.1.3. **Access Drives and Surface Improvements.** The access drives, as shown on Exhibit B, which are private access drives to be maintained by the Association, landscape islands, the boulevard entrance way, the entry way sign, retaining walls, common sidewalks, pedestrian pathways, and other surface improvements not identified as Limited Common Elements and not located within the boundaries of a Unit.

4.1.4. **Building Improvements.** Foundations including the garage/ground floor building slabs, supporting columns, Unit perimeter walls (excluding windows and doors and frames), floors, ceilings, roofs, attics, chimneys and other building improvements designated in Exhibit B as General Common Elements.

4.1.5. **Easements.** All beneficial utility, drainage, access, and other easements pertaining to the Project, including the private road access easement benefiting the Project which provides access from Dexter Street and the beneficial easements for water, sewer and other utilities as shown on Exhibit B.

4.1.6. **Utilities.** Some or all of the utility lines, including electricity, telephone and telecommunications, gas, water, sanitary sewer and storm sewer systems, and storm water detention areas and drainage facilities and equipment described below may be owned by the local public authority, or by the company that is providing the pertinent service. Accordingly, such utility lines, systems and equipment shall be General Common Elements only to the extent of the Co-Owners' interest therein, if any, and Developer makes no warranty whatsoever with respect to the nature or extent of such interest, if any. Certain utilities as shown on Exhibit B may be conveyed or dedicated to the City of Milan or other governmental authority and shall be General Common Elements only to the extent of the Co-Owner's interest therein.

4.1.7. **Electrical.** Subject to 4.1.6, the electrical transmission system throughout the Project or including that contained within any Unit walls up to the point of connection with electric outlets in a Unit.

4.1.8. **Telephone and Telecommunications System.** Subject to 4.1.6, the telephone or telecommunications equipment and system throughout the Project up to the point of connection to telephone equipment in a Unit.

4.1.9. **Gas.** Subject to 4.1.6, the gas distribution system throughout the Project up to the point of connection to the gas fixture in each Unit.

4.1.10. **Water.** Subject to 4.1.6, the water distribution system throughout the Project up to the point of connection to the plumbing fixtures in each Unit.

4.1.11. **Sanitary Sewer.** Subject to 4.1.6, the sanitary sewer system throughout the Project up to the point of connection to the plumbing fixtures in each Unit.

4.1.12. **Storm Sewer/Storm Water Detention Areas and Drainage Facilities.** Subject to 4.1.5, the storm sewer system, storm water detention areas, and drainage facilities throughout the Project including the detention basins shown on Exhibit B.

4.1.13. **Other.** Such other elements of the Project not designated as Limited Common Elements which are not located within the perimeter of a Unit, and which are intended for common use or are necessary to the existence, upkeep and safety of the Project.

Section 4.2. **Limited Common Elements.** Limited Common Elements shall be subject to the exclusive use and enjoyment of the Co-Owners of the Units to which the Limited Common Elements are appurtenant. The Limited Common Elements are:

4.2.1. **Driveways/Walkways.** The driveway and walkway providing access to each Unit as shown on Exhibit B shall be limited in use to the Co-Owner of the Unit served thereby.

4.2.2. **Patios, Porches and Decks.** Each individual porch and any patio, patio areas or privacy fence adjacent to a Unit as generally depicted on Exhibit B is limited in use to the Co-Owner of the Unit served thereby. If a privacy fence serves two adjacent Units, then the privacy fence shall be appurtenant to the two Units served. In addition to the privacy fence between the adjacent Units as depicted on Exhibit B, Developer may also install a Limited Common Element privacy fence serving and appurtenant to a Unit located along the rear edge of the patio and the patio area adjacent to the privacy fence between adjacent Units.

4.2.3. **Air Conditioner Compressor/Condenser.** Each individual air conditioner compressor/condenser, corresponding line set, and its pad in the Project and the ground surface immediately below the same is limited in use to the Co-Owner of the Unit which is served thereby.

4.2.4. **Garage Doors and Garage Door Openers.** Each garage door and its hardware including garage door openers shall be limited in use to the Co-Owner of the Unit served thereby.

4.2.5. **Doors and Windows.** Doors, windows, screens and frames shall be limited in use to the Co-Owner of Unit served thereby.



4.2.6. **Exterior Building Lighting.** The light fixtures attached to the exterior of each Unit shall be limited in use to the Co-Owner of the Unit served thereby.

4.2.7. **Interior Walls, Chimneys, Ceilings, Floors and Surfaces.** The interior walls, chimneys, ceilings, floors and surfaces of a Unit shall limited in use to the Co-Owner of the Unit served thereby.

Section 4.3. **Responsibilities.** The respective responsibilities for the maintenance, decoration, repair and replacement of the Common Elements are as follows:

4.3.1. **Co-Owner Responsibilities.** The responsibility for, and the costs of insurance, maintenance, decoration, repair and replacement of a Unit and any and all improvements located within or upon a Unit and its appurtenant Limited Common Elements shall be borne by the Co-Owner of the Unit. The responsibility for and the costs of insurance, maintenance, decoration, repair and replacement of the Limited Common Elements appurtenant to a Unit shall be borne by the Co-Owner of the Unit which is served thereby as follows:

4.3.1.1. **Driveways/Walkways.** Each Co-Owner shall be responsible for the insurance, maintenance, repair and replacement of the driveway, and walkway appurtenant to such Co-Owner=s Unit.

4.3.1.2. **Patios, Porches and Decks.** Each Co-Owner shall be responsible for the cost of insurance, maintenance, repair and replacement of the patio, porch, and deck appurtenant to such Co-owner's Unit.

4.3.1.3. **Air Conditioner Compressors/Condenser.** Each Co-Owner shall be responsible for the cost of insurance, maintenance, repair and replacement of the individual air conditioner compressor/condenser, pad and the ground surface immediately below the pad, and the corresponding line set appurtenant to such Co-Owner=s Unit.

4.3.1.4. **Garage Doors and Garage Door Openers.** Each Co-Owner shall be responsible for the cost of insurance, repair, replacement and maintenance of the garage door, garage door openers and related equipment appurtenant to such Co-Owner's Unit. The materials and colors of garage doors must be approved in advance by the Association (and the Developer during the Construction and Sale Period.)

4.3.1.5. **Doors and Windows.** Each Co-Owner shall be responsible for insurance, repair, replacement and interior and exterior maintenance of all glass and screen portions of doors and windows referred to in 4.2.5 above appurtenant to such Co-Owner's Unit and the Association shall be responsible for repair, replacement and maintenance of other portions of such doors and windows including frames. No changes in design, material or color of doors, windows glass or screens may be made without the prior written approval of the Association (and the Developer during the Construction and Sales Period).

4.3.1.6. **Exterior Building Lighting.** Each Co-Owner shall be responsible for the insurance, maintenance, repair and replacement and cost of electricity pertaining to the exterior building lighting fixtures attached to such Co-Owner's Unit. The size and nature of light bulbs for the exterior building lighting fixtures shall be determined by the Association in its discretion. No Co-Owner shall modify or change exterior building lighting fixtures in any way and shall not cause the electricity flow for operation thereof to be interrupted at any time. The Association shall replace burned out lightbulbs with lightbulbs of the same kind and character. Some lighting fixtures may operate on photoelectric cells whose timers shall be set by and at the discretion of the Association and shall remain lit at all times determined by the Association.

4.3.1.7. **Interior Walls, Ceilings, Floors and Surfaces.** Each Co-Owner shall be responsible for the cost of insurance, decoration, maintenance, repair and replacement of all interior Unit interior surfaces, including walls, ceilings, and floors appurtenant to such Co-Owner's Unit.

4.3.1.8. **Utility Costs.** Each Co-Owner shall be responsible for the cost of utilities serving such Co-Owner's Unit and appurtenant Limited Common Elements.

4.3.2. **Association Responsibilities.** The Association, by its Board of Directors, shall be responsible for insurance, maintenance, repair and replacement of the General Common Elements. The cost of insurance, maintenance, repair and replacement of all General Common Elements and any Limited Common Elements for which the Association is responsible, including without limitation, perpetual maintenance of the storm water detention areas shown on the Exhibit B shall be borne by the Association, and assessed to the Co Owners as set forth in Article 2 of the Bylaws subject to any provisions of the Master Deed or Bylaws expressly to the contrary.

The Association, by its Board of Directors, shall also be responsible for payment of its share of any expenses associated with insurance, maintenance, repair and replacement of the Shared Facilities and Easements, as that term is defined in the Fourth Amendment to Master Deed of Milan Crossing, (recorded at Liber 4729, Page 5, Washtenaw County Records), and as that term is referenced in Section 6.11, below; such expenses shall be borne by the Association, and assessed to the Co Owners as set forth in Article 2 of the Bylaws subject to any provisions of the Master Deed or Bylaws expressly to the contrary.

The respective decoration, maintenance and replacement responsibilities set forth above shall be in addition to all such responsibilities set forth elsewhere in the Condominium Documents.

Section 4.4. **Use of Common Elements and Units.** No Co-Owner shall use the Co-Owner's Unit or the Common Elements in any manner inconsistent with the purposes of the Project or in any manner which will interfere with or impair the rights of any other Co-Owner in the use and enjoyment of the Co-Owner's Unit or the Common Elements.

Section 4.5. **Residential Use.** The use of the Units is limited to residential use in accordance with this Master Deed and exhibits, the ordinances of the City of Milan and the requirements of other applicable governmental authorities.

Section 4.6. **Planned Unit Development Agreement.** Developer and the City of Milan have entered into a PUD Agreement, described in Article 2 above, which describes the use and development of the Project. In the event of a conflict with any of the condominium documents (Master Deed, Bylaws, any exhibits attached thereto), as amended, the terms and conditions of the PUD Agreement control. In addition, all Co-Owners and Units are bound by the terms and conditions of the PUD Agreement and no portion of the Project may be used in contravention thereof.

## **ARTICLE 5**

### **UNIT DESCRIPTION AND PERCENTAGE OF VALUE**

Section 5.1. **Description of Units.** The project consists of 44 Units numbered 14 through 45 and 68 through 79. Each Unit in the Condominium Project is described in this paragraph with reference to the Condominium Subdivision Plan of Milan Crossing as prepared and surveyed by Atwell-Hicks, Inc. and attached as Exhibit B. Each Unit shall include all that space contained within the interior finished unpainted walls and ceilings and from the finished subfloor as shown on attached Exhibit B and delineated with heavy outlines. Each Unit includes an attached garage with attic space over the garage, and parking within such garage as shown on Exhibit B.

Section 5.2. **Percentage of Value.** The percentage of value assigned to each Unit shall be equal and the number obtained by dividing 100 by the number of Units in the Condominium. The total value of all Units in the Project is 100%.

The determination that the percentages of value of each Unit is equal was made after reviewing the comparative characteristics of each Unit in the Project which would affect maintenance costs and value and concluding that there are no material differences among the Units insofar as the allocation of percentage of value is concerned. The percentage of value assigned to each Unit shall be determinative of each Unit's respective share of the Common Elements of the Condominium Project, and the proportionate share of each Unit in the proceeds and the expenses of administration, and the vote attributed to each Unit at meetings of the Association. All of the Co Owners of a Unit shall be entitled to only one vote at meetings of the Association for each Condominium Unit Owner.

## **ARTICLE 6**

### **EASEMENTS, RESERVATIONS AND AGREEMENTS**

Section 6.1. **Easement for Maintenance of Encroachments and Utilities.** In the event any portion of a Unit or Common Element encroaches upon another Unit or Common Element due to shifting, settling or moving of a building, or due to survey errors, or construction deviations, reciprocal easements shall exist for the maintenance, repair or reconstruction of such encroachment for so long as such encroachment exists, and for maintenance thereof after rebuilding in the event of any destruction. There shall be easements to, through and over those portions of the land, structures, buildings and improvements for the continuing maintenance and repair of all utilities in the Condominium.

Section 6.2. **Easement in Favor of the Association.** There shall be easements to and in favor of the Association, and its officers, directors, agents, and designees, in, on and over all Units and Common Elements in the Project, as it may be expanded, for access to the Units, detention basins, drainage facilities, water and sewage disposal systems and other utilities, and the exterior and interior of each of the buildings that is now existing or hereafter constructed within the Project, as it may be expanded, to permit the maintenance, repair, replacement, and/or decoration thereof in accordance with this Master Deed. Each Co-Owner shall be primarily responsible for maintenance of the Co-Owner's Unit and appurtenant Limited Common Elements as set forth in Article 4 above. In the absence of performance by the Co-Owner involved, the Association may undertake the maintenance of a Unit or Limited Common Element. If such work is performed upon a Unit, or Limited Common Element by the Association, the Co-Owner of the Unit shall reimburse the Association for all costs incurred by the Association within fifteen (15) days of billing or the Association shall have the right to recover its expenses in the same manner as established for the collection of assessments in Article 2 of the Bylaws. In no event shall the Association be liable for the decoration, maintenance, repair, or replacement of any portion of the interior of a Unit. There also shall exist easements to and in favor of the Association, and its officers, directors, agents, and designees, in, on and over all Units and Common Elements of the Project for access to and maintenance of those Common Elements of the Project for which the Association may from time to time be responsible.

Section 6.3. **Grant of Easements by Association.** The Association, acting through its lawfully constituted Board of Directors (including any Board of Directors acting prior to the Transitional Control Date), shall be empowered and obligated to grant such easements, licenses, rights-of-entry and rights-of-way over, under and across the Condominium for utility purposes, access purposes or other lawful purposes as may be necessary for the benefit of the Condominium, subject, however, to the approval of Developer so long as the Construction and Sales Period has not expired. There shall exist for the benefit of the City of Milan or any emergency service agency, an easement over all roads and driveways in the Condominium for use by the City and/or emergency vehicles. Said easement shall be for purposes of ingress and

egress to provide, without limitation, fire and police protection, ambulance and rescue services and other lawful governmental or private emergency services to the Condominium Project and Co-Owners thereof. The U.S. Postal Service shall also have an easement over the roads and access drives in the Condominium for its vehicles for delivery of mail. The granting of these easements shall not be construed as a dedication of any streets, roads or driveways to the public, except as otherwise provided in Section 6.5 below.

Section 6.4. **Easements for Maintenance, Repair and Replacement.** Developer, the Association and all public or private utilities shall have such easements as may be necessary over the Condominium including all Units and Common Elements to fulfill any responsibilities of maintenance, repair, decoration or replacement which they or any of them are required or permitted to perform under the Condominium Documents. These easements include, without any implication of limitation, the right of the Association to obtain access during reasonable hours and upon reasonable notice to water meters, sprinkler controls and valves and other Common Elements located within any dwelling on any Unit or its appurtenant Limited Common Elements.

Section 6.5. **Roadway and Utility Easements; Right of Way Dedication; Private Access Drives.** Developer reserves the right at any time during the Construction and Sales Period to grant easements for utilities over, under and across the Condominium to appropriate governmental agencies or public or private utility companies and to dedicate or transfer title of road rights of way and utilities to state, county or local governments. Any such easement or transfer of title may be conveyed by Developer without the consent of any Co-Owner, mortgagee or other person and may be evidenced by an appropriate amendment to this Master Deed and to Exhibit B hereto, recorded in the Washtenaw County Records. All Co-Owners and mortgagees of Units and other persons interested in the Project from time to time are deemed to have irrevocably and unanimously consented to an amendment or amendments of this Master Deed to effect the foregoing easement or transfer of title. Developer reserves for itself, its successors and assigns, and all future owners of the Project, as it may be expanded, or any portion or portions thereof, an easement for the unrestricted use of the roads in the Condominium for the purpose of ingress and egress to and from all or any portion of the Project, as it may be expanded. Developer also reserves easements over all of the Common Elements areas of the Condominium and the land comprising the Project, as it may be expanded, for the purpose of reasonable access from the roads to the Units and Common Elements.

Developer intends to dedicate the interior road rights-of-way in the Condominium, as shown on Exhibit B, to the City of Milan as public roads. Except to the extent of such dedication and acceptance, the roads in the Project shall be General Common Elements and all expenses of insurance, maintenance, repair and replacement, including snow removal, shall be paid by the Association and assessed to the Co-Owners based on their percentage of value, as provided in Article 2 of the Bylaws.

The interior access drives serving the Project, known as Marvin Court as shown on Exhibit B, are General Common Element private drives and all expenses of insurance,

maintenance, repair and replacement of such drives shall be paid by the Association and assessed to the Co-Owners based on their percentage of value, as provided in Article 2 of the Bylaws.

Section 6.6. **Dexter Street Access Easement.** Access to the Condominium from Dexter Street is over and across a joint access road that serves the Condominium and adjacent property owners as shown on Exhibit B. The Access Easement may be dedicated to the City of Milan as a public road. The Association shall be responsible for the costs of insurance, maintenance, repair and replacement of the joint access road, including snow removal, which costs shall be assessed to the Co-Owners based on their percentage of value.

Section 6.7. **Telecommunications Agreements.** The Association, acting through its duly constituted Board of Directors and subject to Developer's approval during the Construction and Sales Period, shall have the power to grant such easements, licenses and other rights of entry, use and access and to enter into any contract or agreement, including wiring agreements, right-of-way agreements, access agreements and multi-unit agreements and, to the extent allowed by law, contracts for sharing of any installation or periodic subscriber service fees as may be necessary, convenient or desirable to provide for telecommunications, videotext, broad band cable, satellite dish, earth antenna and similar services (collectively "Telecommunications") to the Project or any Unit therein. Notwithstanding the foregoing, in no event shall the Board of Directors enter into any contract or agreement or easement, license or right of entry or do any other act or thing which will violate any provision of any federal, state or local law or ordinance. Any and all sums paid by any Telecommunications or other company or entity in connection with such service, including fees, if any, for the privilege of installing same or sharing periodic subscriber service fees, shall be receipts affecting the administration of the Condominium Project within the meaning of the Act and shall be paid over to and shall be the property of the Association.

Section 6.8. **Storm Water Drainage and Detention Easements; Detention Areas and Drainage Facilities.** Storm water drainage and detention easements for the Project and as it may be expanded are established to assure the perpetual functioning of the storm water drainage and detention system across Units and Common Elements as shown on Exhibit B. To maintain the intended function of the storm water drainage and detention areas and easements, no modification, use or occupancy of such areas is allowed without the prior written approval of the Developer, the Association and applicable governmental authorities. The Association shall be responsible for maintenance of the detention areas and drainage facilities of the Project, as it may be expanded, in accordance with the requirements of applicable governmental authorities.

Section 6.9. **Utility Easements.** Easements for private and public utilities including water mains, storm sewers and sanitary sewers, natural gas, electricity and telecommunication service are reserved and established across the Units and Common Elements, as set forth on Exhibit B. Developer may enter into separate easement agreements and dedication with the City of Milan, the Washtenaw County Drain Commission or utility companies for sewer, water, drainage or utility purposes, the terms of which are incorporated herein by reference. The Developer further reserves the right at any time to grant easements for utilities over, under and across the Project and as it may be expanded to appropriate governmental agencies or to utility

companies and to transfer title to utilities to governmental agencies or to utility companies. Any such easement or transfer of title may be made by the Developer without the consent of any Co-Owner, mortgagee or other person and shall be evidenced by an appropriate amendment to this Master Deed and to Exhibit B hereto, recorded in the Washtenaw County Records or the recordings of a separate easement agreement. All of the Co-Owners and mortgagees of Units and other persons interested or to become interested in the Project from time to time shall be deemed to have irrevocably and unanimously consented to such amendment or amendments of this Master Deed or recording of a separate easement as may be required to effectuate the foregoing grant of easement or transfer of title.

Section 6.10. **Further Rights Reserved to Developer.** Developer reserves the right for itself, the Association, their respective successors and assigns and all Co-Owners of the land described in Article 2, or portion or portions thereof, perpetual easements to use, tap, tie into, extend and enlarge all utility mains located in the Condominium Premises, including, but not limited to, water, gas, telephone, electrical, cable television, storm and sanitary sewer mains and appurtenances. Developer further reserves the right, for itself, the Association, their respective successors and assigns, and the Co-Owners, easements for the unrestricted use of the General Common Elements of the Condominium for the purpose of development and construction of the Project and as it may be expanded. Developer further reserves easements over the land described in Article 2 above for the purpose of reasonable access from the roads to the Units and residences in furtherance of the development of the Project and as it may be expanded.

Section 6.11 **Relationship with Milan Crossing, LLC and/or with Milan Crossing Condominium Association.** On or about April 17, 2009, Milan Crossing, LLC, executed the Fourth Amendment to Master Deed ("Fourth Amendment"), which was recorded on April 20, 2009, at Liber 4729, Page 5 of Washtenaw County Records. Among other things, this Fourth Amendment withdrew a number of units and common elements from that project. The Fourth Amendment also removed real property from that project, and described and defined it as the "Contracted Area". The Fourth Amendment also established easements and other relationships between that project and the Contracted Area.

This Project, Milan Crossing II, seeks to re-establish the units and common elements withdrawn by the Fourth Amendment and the Contracted Area. As such, to the greatest extent possible by law, the terms and conditions of the Fourth Amendment are hereby incorporated, by reference, into this Master Deed, including, without limitation, the following: 1) any and all rights granted to the Contracted Area by the Fourth Amendment are expressly incorporated into this Master Deed as benefitting this Project, the Units therein, and the future Co-Owners thereof; 2) any and all rights or duties set forth as Shared Easements and Facilities described in the Fourth Amendment are expressly incorporated into this Master Deed as benefitting and applying to this Project, the Units therein, and the future Co-Owners thereof; 3) any and all rights or duties regarding the cost allocation and sharing of expenses between the respective Associations described in the Fourth Amendment are expressly incorporated into this Master Deed as benefitting and applying to this Project, the Units therein, and the future Co-Owners thereof; and

4) such costs and expenses shall be expenses of administration of the Milan Crossing II, Condominium Association and assessable against future Co-Owners.

In addition, Milan Crossing, LLC, the Milan Crossing Condominium Association, and the Co-Owners of the Milan Crossing project are expressly entitled to the use and benefit of those Shared Easements and Facilities described in Section 4.2 of the Fourth Amendment.

## **ARTICLE 7**

### **AMENDMENT**

This Master Deed and the Condominium Subdivision Plan (Exhibit B to the Master Deed) may be amended with the consent of sixty-six and two-thirds percent (66 2/3%) of the Co-Owners, except as set forth below:

Section 7.1. **Modification of Units or Common Elements.** No dimensions of any Unit or its appurtenant Limited Common Elements may be modified in any material manner without the written consent of the Co-Owner, except as otherwise expressly provided in this Master Deed.

Section 7.2. **Mortgagees Consent.** To the extent required by Section 90a(9) of the Act, wherever a proposed amendment would alter or change the rights of mortgagees generally, then such amendment shall require the approval of sixty-six and two-thirds percent (66 2/3 %) of all first mortgagees of record allowing one vote for each first mortgage held.

Section 7.3. **By Developer.** Pursuant to Section 90(l) of the Act, Developer hereby reserves the right, on behalf of itself and on behalf of the Association, to amend this Master Deed and the Condominium Documents without approval of any Co-Owner or mortgagee for the purposes of correcting survey or other errors, including building location errors, and for any other purpose unless the amendment would materially alter or change the rights of a Co-Owner and of a mortgagee, in which event Co-Owner and mortgagee consent shall be required as above provided in the introductory paragraph of this Article 7, and in Section 7.2 of this Article, except as otherwise provided in this Article. Any amendment rights granted or reserved to the Developer under this Article are subject to the approval of the City of Milan and must be in conformance with the terms and conditions of the Development Agreement and the PUD Agreement.

Section 7.4. **Changes in Percentage of Value.** The method or formula used to determine the percentage of value of Units in the Project for other than voting purposes, and any provisions relating to the ability or terms under which a Co-Owner may rent a Unit, may not be modified without the consent of each affected Co-Owner and mortgagee.

Section 7.5. **Termination, Vacation, Revocation or Abandonment.** The Condominium Project may not be terminated, vacated, revoked or abandoned without the written consent of 80% of the Co-Owners.



Section 7.6. **Developer Approval.** During the Construction and Sales Period Article 4, Article 5, Article 6, Article 7, Article 8, Article 9, and Article 10 shall not be amended nor shall the provisions thereof be modified by any other amendment to this Master Deed without the written consent of Developer.

Section 7.7. **Further Amendment Rights Reserved to Developer.** Notwithstanding any contrary provisions of the Master Deed or Bylaws, but subject to the limitations set forth in Section 7.4 above and Section 90(3) of the Act, Developer reserves the right to materially amend the Master Deed or any of its exhibits for the following purposes:

7.7.1. To modify the types and sizes of Units and the General Common Elements and Limited Common Elements adjoining or appurtenant to Units prior to sale of such Unit to a Co-Owner so long as such modification complies with the requirements of applicable governmental authorities, and does not interfere with adjacent Units or their appurtenant Limited Common Elements which have been sold to a Co-Owner.

7.7.2. To amend the Bylaws subject to any restriction on amendments stated in the Bylaws.

7.7.3. To correct arithmetic errors, typographical errors, survey or plan errors, deviations in construction or any similar errors in the Master Deed, Condominium Subdivision Plan or Bylaws, or to correct errors in the boundaries or location of improvements.

7.7.4. To clarify or explain the provisions of the Master Deed or Exhibits.

7.7.5. To comply with the Act or rules promulgated thereunder, or any requirements of any governmental or quasi-governmental agency or any financing institution or entity providing mortgage loans for Units to the Condominium.

7.7.6. To make, define or limit easements affecting the Condominium.

7.7.7. To record an "AS BUILT" Condominium Subdivision Plan and/or Consolidating Master Deed and/or designate any improvements shown in Exhibit B as "MUST BE BUILT", subject to any limitations or obligations imposed by the Act.

7.7.8. To convert the Condominium as set forth in Article 8, below.

7.7.9. To contract the Condominium as set forth in Article 9 below.

The amendments described in this Section 7.7 may be made without the consent of Co-Owners or mortgagees. The rights reserved to Developer under this section may not be amended except with the consent of the Developer.

## **ARTICLE 8**

### **CONVERTIBLE AREAS**

The Condominium is established as a convertible condominium in accordance with the provisions of this Article and the Act:

Section 8.1. **Convertible Area.** The General Common Elements designated on the Condominium Subdivision Plan as Convertible Area is the land area within which Units and Common Elements may be expanded and modified and within which Limited Common Elements may be created as provided in this Article 8. The Developer reserves the right, but not the obligation, to convert all or any portion of the Convertible Areas. The Maximum number of additional Units which may be created in the Convertible Area is zero although Units may be expanded, modified or decreased as provided in this Article 8. All structures and improvements within the Convertible Areas of the Condominium shall be compatible with residential uses and with the structures and improvements on other portions of the project, as determined by Developer in its sole discretion.

Section 8.2. **Right to Convert.** The Developer reserves the right, in its sole discretion, during a period ending six years from the date of recording this Master Deed, to modify the size, location, and configuration of any Unit that it owns in the Condominium, and to make corresponding changes to the Common Elements or to create General or Limited Common Elements. The changes in the Common Elements could include (by way of illustration and not limitation) construction of courtyards, patios, decks, porches and other amenities on any portion of the Convertible Area. Provided, however, that no portion of a Unit owned by a Co-Owner other than Developer shall be converted without such Co-Owner's consent.

Section 8.3. **Restrictions on Conversion.** All improvements constructed or installed within the Convertible Areas described above shall be restricted exclusively to residential use and to such Common Elements as are compatible with residential use. There are no other restrictions upon such improvements except those which are imposed by state law, local ordinances or building authorities. The extent to which any change in the Convertible Areas is compatible with the original Master Deed is not limited by this Master Deed but lies solely within the discretion of Developer, subject only to the requirements of state law, local ordinances and building authorities.

Section 8.4. **Consent Not Required.** The consent of any Co-owner shall not be required to convert the Convertible Areas. All of the Co-owners and mortgagees and other persons interested or to become interested in the Condominium from time to time shall be deemed to have irrevocably and unanimously consented to such conversion of the Convertible Areas and any amendment or amendments to this Master Deed to effectuate the conversion and to any reallocation of Percentages of Value of existing Units which Developer may determine necessary in connection with such amendment or amendments. All such interested persons irrevocably appoint the Developer or its successors, as agent and attorney for the purpose of execution of

such amendment or amendments to the Master Deed and all other documents necessary to effectuate the foregoing. Such amendments may be effected without the necessity of re-recording the entire Master Deed or the Exhibits thereto and may incorporate by reference all or any pertinent portions of this Master Deed and the Exhibits hereto. Nothing herein contained, however, shall in any way obligate Developer to convert the Convertible Areas. These provisions give notice to all Co-owners, mortgagees and other persons acquiring interests in the Condominium that such amendments of this Master Deed may be made and recorded, and no further notice of such amendments shall be required.

Section 8.5. **Amendment to Master Deed.** All modifications to Units and Common Elements made pursuant to this Article 8 shall be given effect by appropriate amendments to this Master Deed in the manner provided by law, which amendments shall be prepared by and at the discretion of the Developer and in which the percentages of value set forth in Article 5 hereof shall be proportionately readjusted, if the Developer deems it to be applicable, in order to preserve a total value of 100% for the entire Condominium resulting from such amendments to this Master Deed. The precise determination of the readjustments in percentages of value shall be made within the sole judgment of Developer. Such readjustments, however, shall reflect a continuing reasonable relationship among percentages of value based upon the original method and formula described in Article 5 of this Master Deed. Such amendments to the Master Deed shall also contain such further definitions and redefinition of General or Limited Common Elements as may be necessary to adequately describe and service the Units and Common Elements being modified by such amendments. In connection with any such amendments, Developer shall have the right to change the nature of any Common Element previously included in this Condominium for any purpose reasonably necessary to achieve the purposes of this Article 8.

## **ARTICLE 9**

### **CONTRACTION OF CONDOMINIUM**

Section 9.1. **Roadway and Units.** As of the date this Master Deed is recorded, the Developer intends to dedicate to public use the roads and road right-of-ways shown on Exhibit B. Developer therefore reserves the right to withdraw from the Condominium that portion of the Project, as it may be expanded, that consists of the Condominium roads and road rights-of-way as the same are shown on the Condominium Subdivision Plan. Developer also reserves the right to withdraw from the Condominium all or any of the following described land areas including the present or future Units and appurtenant Common Elements of the Condominium and any Common Elements within such land areas. ("Contractible Areas"):

Contractible Area "A":

COMMENCING AT THE NORTHEAST CORNER OF SECTION 35, T4S, R6E,  
CITY OF MILAN, WASHTENAW COUNTY, MICHIGAN; THENCE S00°15'  
50"W 786.31 FEET ALONG THE EAST LINE OF SAID SECTION 35 AND THE

CENTERLINE OF CARPENTER ROAD (100.00 FEET WIDE); THENCE N87°26' 40"W 501.14 FEET FOR A PLACE OF BEGINNING; THENCE N87°26' 40"W 790.94 FEET; THENCE S01°02'04"W 574.36 FEET ALONG THE EAST LINE OF "MEADOWBROOK" CONDOMINIUM, AS RECORDED IN LIBER 4310, PAGE 709, WASHTENAW COUNTY RECORDS; THENCE S89°45'30"E 273.15 FEET ALONG THE NORTH LINE OF "SUPERVISOR'S PLAT NO. 10" AS RECORDED IN LIBER 10, PAGE 43, WASHTENAW COUNTY RECORDS; THENCE N00°14' 30"E 154.33 FEET; THENCE S89°45'30"E 238.34 FEET; THENCE N00°14' 30"E 84.33 FEET; THENCE S89°45'30"E 35.42 FEET; THENCE N00°14'30"E 196.38 FEET; THENCE S89°45'30"E 231.64 FEET; THENCE 19.70 FEET ALONG THE ARC OF A 217.00 FOOT RADIUS CIRCULAR CURVE TO THE RIGHT, WITH A CHORD BEARING S87°09'24"E 19.69 FEET; THENCE N00°14'30"E 108.21 FEET TO THE PLACE OF BEGINNING, BEING PART OF THE NORTHEAST 1/4 OF SAID SECTION 35, CONTAINING 6.64 ACRES OF LAND, MORE OR LESS, BEING SUBJECT TO EASEMENTS, CONDITIONS, RESTRICTIONS AND EXCEPTIONS OF RECORD, IF ANY.

At the option of the Developer, within a period ending no later than six years from the date of recording this Master Deed, the land included in the Condominium may be contracted to withdraw from the Condominium the roads and road right-of-ways dedicated to public use and any present or future Units of the Condominium ("Contractible Area"). Provided, however, the consent of any Unit owner to the contraction of such owner's Units shall be obtained prior to contraction of a Unit owned by an owner other than Developer.

Section 9.2. **Withdrawal of Land.** In connection with such contraction, Developer unconditionally reserves the right to withdraw from the Condominium that portion of the land described in Article 2 that is dedicated to public use as a road and/or road right-of-way and all or any portion of the Contractible Areas described above. The withdraw of such land pursuant to this Article 9 shall be effected by an amendment of the Master Deed as provided in Section 9.4 below, and by a conveyance or dedication or grant of easement of the roads and road rights-of-way in the Condominium to the City of Milan (or any other appropriate governmental unit with appropriate jurisdiction) in the case of withdrawal of the roads and rights-of-way.

Section 9.3. **Restrictions on Contraction.** Apart from satisfying any governmental conditions to dedication of the road and road right-of-ways or other contraction, there are no restrictions on Developer's right to contract the Condominium as provided in this Article 9, except as set forth in the last sentence of Section 9.1 above.

Section 9.4. **Consent Not Required.** The consent of any Co-Owner shall not be required to contract the Condominium or to dedicate the roads and road right-of-ways to public use except as set forth in the last sentence of Section 9.1. All of the Co-Owners and mortgagees

an other persons interested or to become interested in the Condominium from time to time shall be deemed to have irrevocably and unanimously consented to contraction of the Condominium and any amendment or amendments to this Master Deed to effectuate the contraction. All such interested persons irrevocably appoint the Developer or its successors, as agent and attorney for the purpose of execution of such amendment or amendments to the Master Deed and all other documents necessary to effectuate the foregoing. Such amendments may be effected without the necessity of re-recording an entire Master Deed or the Exhibits thereto and may incorporate by reference all or any pertinent portions of this Master Deed and the Exhibits hereto. Nothing herein contained, however, shall in any way obligate Developer to dedicate the roads and road right-of-ways in the Condominium to public use or to thereafter contract the Condominium as herein provided. These provisions give notice to all Co-Owners, mortgagees and other persons acquiring interests in the Condominium that such amendments of this Master Deed may be made and recorded, and no further notice of such amendment shall be required.

Section 9.5. **Redefinition of Common Elements.** The amendment or amendments to the Master Deed contracting the Condominium shall also contain such further definitions and redefinition of General Common Elements or Limited Common Elements and maintenance responsibilities as may be necessary adequately to describe, serve and provide access to the Project as reduced and otherwise comply with agreements and requirements of applicable governmental authorities for development of the Condominium. In connection with any such amendment(s), Developer shall have the right to change the nature of any Common Element or easement previously included in the Project for any purpose reasonably necessary to achieve the purposes of this Article 9.

Section 9.6. **Consolidating Master Deed.** A Consolidating Master Deed may be recorded pursuant to the Act when the Project is finally concluded as determined by Developer in order to incorporate into one set of instruments all successive stages of development. The Consolidating Master Deed, when recorded, and as above provided in Section 3.10, shall supersede the previously recorded Master Deed and all amendments thereto.

## **ARTICLE 10**


### **ASSIGNMENT**

Any or all of the rights and powers granted or reserved to Developer in the Condominium Documents or by law, including the power to approve or disapprove any act, use or proposed action or any other matter or thing, may be assigned by Developer to any other entity or to the Association. Any such assignment or transfer shall be made by appropriate instrument in writing duly recorded in the Office of the Washtenaw County Register of Deeds.

SIGNATURE(S)/JURAT ON NEXT PAGE

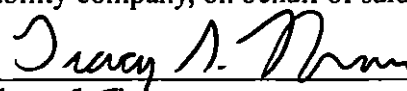
Dated: August 10, 2015


MILAN CROSSING II, LLC, a Michigan limited liability company

By:   
**Robin Souders**  
**Its Authorized Agent**

STATE OF MICHIGAN                    )  
  ) ss.  
COUNTY OF WASHTENAW         )

On this 10 day of August, 2015, the foregoing Master Deed was acknowledged before me by **Robin Souders**, the Authorized Agent of Milan Crossing II, LLC, a Michigan limited liability company, on behalf of said company.

  
Tracy S. Thomas Notary Public  
Washtenaw County, Michigan  
My Commission Expires: 6/19/2020

PREPARED BY AND WHEN  
RECORDED RETURN TO:   
**Tracy S. Thomas (P45915)**  
Law Offices of Tracy S, Thomas, PLC  
494 N. Mill Street  
Plymouth, Michigan 48170  
(734) 455-2700

**EXHIBIT A**

**BYLAWS**

**MILAN CROSSING II**

**ARTICLE 1.****ASSOCIATION OF CO-OWNERS**

Milan Crossing II, a residential Condominium Project located in the City of Milan, Washtenaw County, Michigan, shall be administered by the Milan Crossing II, Condominium Association, an organization of Co-Owners which is a non-profit corporation (the "Association"), organized under the applicable laws of the State of Michigan, and responsible for the management, maintenance, operation and administration of the Common Elements, easements and affairs of the Condominium in accordance with the Condominium Documents and the laws of the State of Michigan. These Bylaws shall constitute both the Bylaws referred to in the Master Deed and required by Section 3(8) of the Michigan Condominium Act, as amended, (the "Act") and the Bylaws of the Association provided for under the Michigan Non-profit Corporation Act. Each Co-Owner shall be entitled to membership and no other person or entity shall be entitled to membership in the Association. The share of a Co-Owner in the funds and assets of the Association cannot be assigned, pledged or transferred in any manner except as an appurtenance to the Co-Owner's Unit. The Association shall keep current copies of the Master Deed, all amendments to the Master Deed, and other Condominium Documents for the Condominium available at reasonable hours to Co-Owners, prospective purchasers and prospective mortgagees of Units in the Condominium. All Co-Owners in the Condominium and all persons using or entering upon or acquiring any interest in any Unit or the Common Elements of the Project shall be subject to the provisions and terms set forth in Condominium Documents.

**ARTICLE 2.****ASSESSMENTS**

All expenses arising from the management, administration and operation of the Association in pursuance of its authorizations and responsibilities as set forth in the Condominium Documents and the Act shall be levied by the Association against the Units and the Co-Owners in accordance with the following provisions:

Section 2.1. **Assessments for Common Elements.** All costs incurred by the Association in satisfaction of any, improvement or maintenance costs or liability arising within, caused by, or connected with the Common Elements and easements for which the Association has improvements or maintenance responsibility or the administration of the Condominium Project and charges relating to insurance, repairs, or maintenance of the Common Elements and easement areas of the Condominium shall constitute expenditures affecting the administration of the Project, and shall be billed to the Co-Owners as set forth in the Master Deed and Bylaws, and all sums received as the proceeds of, or pursuant to, any policy of insurance securing the interest of the Co-Owners against liabilities or losses arising within, caused by, or connected with the Common Elements or the administration of the Condominium Project shall constitute receipts affecting the administration of the Condominium Project, within the meaning of Section 54(4) of the Act.



Section 2.2. **Determination of Assessments.** Assessments shall be determined in accordance with the following provisions:

2.2.1. **Budget and General Assessments.** The Board of Directors of the Association shall establish an annual budget in advance for each fiscal year and such budget shall project all expenses for the forthcoming year which may be required for the proper operation, management and maintenance of the Condominium Project, including a reasonable allowance for contingencies and reserves. An adequate reserve fund for maintenance, repairs and replacement of those Common Elements that must be replaced on a periodic basis shall be established in the budget and must be funded by regular monthly, annual, or other periodic assessment payments as determined by the Board of Directors, rather than by special assessments. At a minimum, the reserve fund shall be equal to ten percent (10%) of the Association's current annual budget on a noncumulative basis. Since the minimum standard required by this subparagraph may prove to be inadequate for this particular Project, the Association should carefully analyze the Condominium Project to determine if a greater amount should be set aside, or if additional reserve funds should be established for other purposes from time to time. Upon adoption of an annual budget by the Board of Directors, copies of the budget shall be delivered to each Co-Owner and the periodic assessment for said year shall be established based upon said budget, although the failure to deliver a copy of the budget to each Co-Owner shall not affect or in any way diminish the liability of any Co-Owner for any existing or future periodic assessments. Should the Board of Directors at any time determine, in the sole discretion of the Board of Directors, that the periodic assessments levied are or may prove to be insufficient to pay the costs of operation and management of the Condominium, to provide replacements of existing Common Elements, to provide additions to the Common Elements not exceeding Ten Thousand (\$10,000) Dollars or that an event of emergency exists, the Board of Directors shall have the authority to increase the general periodic assessment or to levy such additional assessment or assessments as it shall deem to be necessary. The Board of Directors also shall have the authority, without Co-Owner consent, to levy assessments pursuant to the provisions of Article 5, Section 5.4 of these Bylaws. The discretionary authority of the Board of Directors to levy assessments pursuant to this subparagraph shall rest solely with the Board of Directors for the benefit of the Association and the members thereof, and shall not be enforceable by any creditors of the Association or the members thereof.

2.2.2. **Special Assessments.** Special assessments, in addition to those required in subparagraph 2.2.1 above, may be made by the Board of

Directors from time to time and approved by the Co-Owners as hereinafter provided to meet other needs or requirements of the Association, including, but not limited to: (1) assessments for additions to the Common Elements or costs exceeding Ten Thousand (\$10,000) Dollars for the entire Condominium Project per year, (2) assessments to purchase a Unit upon foreclosure of the lien for assessments described in Section 2.5 hereof, (3) assessments for any other appropriate purpose not elsewhere herein described. Special assessments referred to in this subparagraph 2.2.2 (but not including those assessments referred to in subparagraph 2.2.1 above, which shall be levied in the sole discretion of the Board of Directors) shall not be levied without the prior approval of more than sixty percent (60%) of all Co-Owners. The authority to levy assessments pursuant to this subparagraph is solely for the benefit of the Association and the members thereof and shall not be enforceable by any creditors of the Association or of the members thereof.

Section 2.3. **Apportionment of Assessments and Penalty for Default.** Unless otherwise provided herein or in the Master Deed, all assessments levied against the Co-Owners to cover expenses of administration shall be apportioned among and paid by the Co-Owners in accordance with the percentage of value allocated to each Unit in Article 5 of the Master Deed, without increase or decrease for the existence of any rights to the use of any Limited Common Elements appurtenant to a Unit. Annual assessments as determined in accordance with subparagraph 2.2.1 above shall be payable by Co-Owners monthly unless otherwise determined by the Board of Directors, commencing with acceptance of a deed to a Unit or a land contract vendee's interest in a Unit, or with the acquisition of fee simple title to a Unit by any other means. The payment of an assessment shall be in default if such assessment, or any part thereof, is not paid to the Association in full on or before the due date for such payment.

Each installment in default for ten (10) or more days shall be subject to a fixed late fee of \$25 payable to the Association by the delinquent Co-Owner to compensate the Association for its administrative costs associated with the late payment ("Late Fee"). The Late Fee established by this section may be modified by resolution of the Board of Directors if warranted by changes in administrative costs. A copy of any such resolution shall be provided to each Co-owner. In the event any assessment installment is thirty (30) days or more overdue, such installment shall bear interest from the initial due date at the rate of seven percent (7%) per annum until such installment is paid in full. The Association may, pursuant to Article 19, Section 19.4, levy fines for the late payment in addition to such interest. Each Co-Owner (whether one or more persons) shall be, and remain, personally liable for the payment of all assessments (including fines for late payment and costs of collection and enforcement of payment) pertinent to such Co-Owner's Unit which may be levied while such Co-Owner is the Owner thereof, except a land contract purchaser from any Co-Owner including from Developer shall be so

personally liable and such land contract seller shall not be personally liable for all such assessments levied up to and including the date upon which such land contract seller actually takes possession of the Unit following extinguishment of all rights of the land contract purchaser in the Unit. Payments on account of installments of assessments in default shall be applied as follows: first, to costs of collection and enforcement of payment, including reasonable attorneys' fees; second, to any interest charges and fines for late payment on such installments; and third, to installments in default in order of their due dates.

Section 2.4. **Waiver of Use or Abandonment of Unit.** No Co-Owner is exempt from liability for contribution toward the expenses of administration by waiver of the use or enjoyment of any of the Common Elements or by the abandonment of the Co-Owner's Unit.

Section 2.5. **Enforcement.**

2.5.1. **Remedies.** In addition to any other remedies available to the Association, the Association may enforce collection of delinquent assessments by a suit at law for a money judgment or by foreclosure of the statutory lien and the lien created by the Condominium Documents that secures payment of assessments. In the event of default by any Co-Owner in the payment of any installment of the annual assessment levied against such Co-Owner's Unit, the Association shall have the right to declare all unpaid installments of the annual assessment for the pertinent fiscal year immediately due and payable. The Association also may discontinue the furnishing of any utilities or other services to a Co-Owner in default upon seven (7) days' written notice to such Co-Owner of the Association's intention to do so. A Co-Owner in default shall not be entitled to utilize any of the General Common Elements of the Project and shall not be entitled to vote at any meeting of the Association so long as such default continues; provided, however, this provision shall not operate to deprive any Co-Owner of ingress or egress to and from such Co-Owner's Unit. In a judicial foreclosure action, a receiver may be appointed to collect a reasonable rental for the Unit from the Co-Owner thereof or any persons claiming under such Co-Owner. All of these remedies shall be cumulative and not alternative and shall not preclude the Association from exercising such other remedies as may be available at law or in equity.

2.5.2. **Foreclosure Proceedings.** Each Co-Owner, and every other person who from time to time has any interest in the Project, shall be deemed to have granted to the Association the unqualified right to elect to foreclose the lien securing payment of assessments either by judicial action or by advertisement. The provisions of Michigan law pertaining to foreclosure of mortgages by judicial action and by advertisement, as the same may be amended from time to time, are incorporated herein by reference for the purposes of establishing the alternative

procedures to be followed in lien foreclosure actions and the rights and obligations of the parties to such actions. Further, each Co-Owner and every other person who from time to time has any interest in the Project shall be deemed to have authorized and empowered the Association to sell or to cause to be sold the Unit with respect to which the assessment(s) is or are delinquent and to receive, hold and distribute the proceeds of such sale in accordance with the priorities established by applicable law. Each Co-Owner of a Unit in the Project acknowledges that at the time of acquiring title to such Unit such Co-Owner was notified of the provisions of this subparagraph and that the Co-Owner voluntarily, intelligently and knowingly waived notice of any proceedings brought by the Association to foreclose by advertisement the lien for nonpayment of assessments and a hearing on the same prior to the sale of the subject Unit.

**2.5.3. Notice of Action.** Notwithstanding the foregoing, neither a judicial foreclosure action nor a suit at law for a money judgment shall be commenced, nor shall any notice of foreclosure by advertisement be published, until the expiration of ten (10) days after mailing, by first class mail, postage prepaid, addressed to the delinquent Co-Owner(s) at the last known address of such Co-Owner(s), a written notice that one or more installments of the general periodic or special assessment levied against the pertinent Unit is or are delinquent and that the Association may invoke any of its remedies hereunder. Such written notice shall be accompanied by a written affidavit of an authorized representative of the Association that sets forth (1) the affiant's capacity to make the affidavit, (2) the statutory and other authority for the lien, (3) the amount outstanding (exclusive of interest, costs, attorneys' fees and future assessments), (4) the legal description of the subject Unit(s), and (5) the name(s) of the Co-Owner(s) of record. If the delinquency is not cured within the ten-day period, the Association may take such remedial action as may be available to it hereunder or under Michigan law.

**2.5.4. Expenses of Collection.** The expenses incurred in collecting unpaid assessments, including interest, costs, actual attorneys' fees (not limited to statutory fees) and advances for taxes or other liens paid by the Association to protect its lien, shall be chargeable to the Co-Owner in default and shall be secured by the lien on such Co-Owner's Unit.

**Section 2.6. Liability of Mortgagee.** Notwithstanding any other provisions of the Condominium Documents, the holder of any first mortgage covering any Unit in the Project which comes into possession of the Unit pursuant to the remedies provided in the mortgage or by deed (or assignment) in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take the property free of any claims for unpaid assessments or charges against the mortgaged Unit which accrue prior to the time such holder comes into possession of the Unit (except for claims for a pro rata share of such assessments or charges resulting from a pro rata reallocation of such assessments or charges to all Units

including the mortgaged Unit and except for assessments that have priority over the first mortgage as provided in Section 108 of the Act).

Section 2.7. **Developer's Responsibility for Assessments.** The Developer of the Condominium, although a member of the Association, shall not be responsible at any time for payment of the Association assessments. Developer, however, shall at all times pay all expenses of maintaining the Units that it owns and a proportionate share of all current expenses of administration actually incurred by the Association from time to time, except expenses related to maintenance and use of the Units in the Project and other improvements constructed within or appurtenant to the Units that are not owned by Developer. For purposes of the foregoing sentence, Developer's proportionate share of such expenses shall be based upon the ratio of Units owned by Developer at the time the expense is incurred to the total number of Units then in the Project. In no event shall Developer be responsible for payment of any assessments for deferred maintenance, reserves for replacement, for capital improvements or other special assessments.

Section 2.8. **Property Taxes and Special Assessments.** All property taxes and special assessments levied by any public taxing authority shall be assessed in accordance with Section 131 of the Act.

Section 2.9. **Personal Property Tax and Special Tax Assessment of Association Property.** The Association shall be assessed as the person or entity in possession of any tangible personal property of the Condominium owned or possessed in common by the Co-Owners, and personal property taxes based thereon shall be treated as expenses of administration.

Section 2.10. **Construction Lien.** A construction lien otherwise arising under Act No. 497 of the Michigan Public Acts of 1980, as amended, shall be subject to Section 132 of the Act.

Section 2.11. **Statements as to Unpaid Assessments.** The purchaser of any Unit may request a statement of the Association as to the amount of any unpaid Association assessments thereon, whether regular or special and Related Costs described below. Upon written request to the Association accompanied by a copy of the executed purchase agreement pursuant to which the purchaser holds the right to acquire a Unit, the Association shall provide a written statement of such unpaid assessments and Related Costs as may exist or a statement that none exists, which statement shall be binding upon the Association for the period stated therein. The written statement from the Association shall also disclose the amount of interest, late charges, fines, costs and attorneys' fees due and owing with respect to the Unit ("Related Costs"). Upon the payment of that sum set forth in the Association's written statement within the period stated, the Association's lien for assessments and Related Costs as to such Unit shall be deemed satisfied. Provided, however, the failure of a purchaser to request such statement at least five (5) days prior to the closing of the purchase of such Unit shall render any unpaid assessments and Related

Costs and the lien securing same fully enforceable against such purchaser and the Unit itself, to the extent provided by the Act. Under the Act, unpaid assessments and Related Costs constitute a lien upon the Unit and the proceeds of sale thereof prior to all claims except real property taxes and first mortgages of record

### ARTICLE 3.

#### **ARBITRATION / JUDICIAL ACTIONS AND CLAIMS**

Section 3.1. **Scope and Election.** Disputes, claims or grievances arising out of or relating to the interpretation or the application of the Condominium Documents, or any disputes, claims or grievances arising among or between the Co-Owners or among or between a Co-Owner and the Association, upon the election and written consent of the parties to any such disputes, claims or grievances (which consent shall include an agreement of the parties that the judgment of any circuit court of the State of Michigan may be rendered upon any award pursuant to such arbitration), and upon written notice to the Association, shall be submitted to arbitration and the parties thereto shall accept the arbitrator's decision as final and binding and judgment on such decision shall be entered by any court of competent jurisdiction, provided that no question affecting the claim of title of any person to any fee or life estate in real estate is involved. The Commercial Arbitration Rules of the American Arbitration Association as amended and in effect from time to time hereafter shall be applicable to any such arbitration. In the absence of agreement to the contrary, the arbitration shall be conducted by the American Arbitration Association. The costs of the arbitration shall be paid equally by the parties to the arbitration proceedings.

Section 3.2. **Judicial Relief.** In the absence of the election and written consent of the parties pursuant to Section 3.1 above, no Co-Owner or the Association shall be precluded from petitioning the courts to resolve any such disputes, claims or grievances.

Section 3.3. **Election of Remedies.** Such election and written consent by Co-Owners or the Association to submit any such dispute, claim or grievance to arbitration shall preclude such parties from litigating such dispute, claim or grievance in the courts.

Section 3.4 **Judicial Claims and Actions.** Actions on behalf of and against the Co-Owners shall be brought in the name of the Association. Subject to the express limitations on actions in these Bylaws and in the Association's Articles of Incorporation, the Association may assert, defend or settle claims on behalf of all Co-Owners in connection with the Common Elements of the Condominium. As provided in the Articles of Incorporation of the Association, the commencement of any civil action (other than one to enforce these Bylaws or collect delinquent assessments) shall require the approval of a majority in number and in value of the Co-Owners, and shall be governed by the requirements of this Section. The requirements of this Section will ensure that the Co-Owners are fully informed regarding the prospects and likely costs of any civil action the Association proposed to engage in, as well as the ongoing status of any civil actions

actually filed by the Association. These requirements are imposed in order to reduce both the cost of litigation and the risk of improvident litigation, and in order to avoid the waste of the Association's assets in litigation where reasonable and prudent alternatives to the litigation exist. Each Co-Owner shall have standing to sue to enforce the requirements of this Section. The following procedures and requirements apply to the Association's commencement of any civil action other than an action to enforce these Bylaws or to collect delinquent assessments:

**3.4.1. Board of Director's Recommendation to Co-Owners.**

The Association's Board of Directors shall be responsible in the first instance for recommending to the Co-Owners that a civil action be filed, and supervising and directing any civil actions that are filed.

**3.4.2. Litigation Evaluation Meeting.** Before an attorney is engaged for purposes of filing a civil action on behalf of the Association, the Board of Directors shall call a special meeting of the Co-Owners ("litigation evaluation meeting") for the express purpose of evaluating the merits of the proposed civil action. The written notice to the Co-Owners of the date, time and place of the litigation evaluation meeting shall be sent to all Co-Owners not less than twenty (20) days before the date of the meeting and shall include the following information:

(A) A certified resolution of the Board of Directors setting forth in detail the concerns of the Board of Directors giving rise to the need to file a civil action and further certifying that:

- (1) it is in the best interests of the Association to file a lawsuit;
- (2) that at least one member of the Board of Directors has personally made a good faith effort to negotiate a settlement with the putative defendant(s) on behalf of the Association, without success;
- (3) litigation is the only prudent, feasible and reasonable alternative; and
- (4) the Board of Directors' proposed attorney for the civil action is of the written opinion that litigation is the Association's most reasonable and prudent alternative.

(B) A written summary of the relevant experience of the attorney ("litigation attorney") the Board of Directors recommends be retained to represent the Association in the proposed civil action, including the following information:

- (1) the number of years the litigation attorney has practiced law; and

(2) the name and address of every condominium and homeowner association for which the attorney has filed a civil action in any court, together with the case number, county and court in which each civil action was filed.

(C) The litigation attorney's written estimate of the amount of the Association's likely recovery in the proposed lawsuit, net of legal fees, court costs, expert witness fees and all other expenses expected to be incurred in the litigation.

(D) The litigation attorney's written estimate of the cost of the civil action through a trial on the merits of the case ("total estimated cost"). The total estimated cost of the civil action shall include the litigation attorney's expected fees, court costs, expert witness fees, and all other expenses expected to be incurred in the civil action.

(E) The litigation attorney's proposed written fee agreement.

(F) The amount to be specially assessed against each Unit in the Condominium to fund the estimated cost of the civil action both in total and on a monthly per Unit basis, as required by this Section.

**3.4.3. Independent Expert Opinion.** If the lawsuit relates to the condition of any of the Common Elements of the Condominium, the Board of Directors shall obtain a written independent expert opinion as to reasonable and practical alternative approaches to repairing the problems with the Common Elements, which shall set forth the estimated costs and expected viability of each alternative. In obtaining the independent expert opinion required by the preceding sentence, the Board of Directors shall conduct its own investigation as to the qualifications of any expert and shall not retain any expert recommended by the litigation attorney or any other attorney with whom the Board of Directors consults. The purpose of the independent expert opinion is to avoid any potential confusion regarding the condition of the Common Elements that might be created by a report prepared as an instrument of advocacy for use in a civil action. The independent expert opinion will ensure that the Co-Owners have a realistic appraisal of the condition of the Common Elements, the likely cost of repairs to or replacement of the same, and the reasonable and prudent repair and replacement alternatives. The independent expert opinion shall be sent to all Co-Owners with the written notice of the litigation evaluation meeting.

**3.4.4. Fee Agreement with Litigation Attorney.** The Association shall have a written fee agreement with the litigation attorney and any



other attorney retained to handle the proposed civil action. The Association shall not enter into any fee agreement that is a combination of the retained attorney's hourly rate and a contingent fee arrangement unless the existence of the agreement is disclosed to the Co-Owners in the text of the Association's written notice to the Co-Owners of the litigation evaluation meeting.

**3.4.5. Co-Owner Vote Required.** At the litigation evaluation meeting the Co-Owners shall vote on whether to authorize the Board of Directors to proceed with the proposed civil action and whether the matter should be handled by the litigation attorney. The commencement of any civil action by the Association (other than a suit to enforce these Bylaws or collect delinquent assessments) shall require the approval of a majority in number and in value of the Co-Owners. Any proxies to be voted at the litigation evaluation meeting must be signed at least seven (7) days prior to the litigation evaluation meeting.

**3.4.6. Litigation Special Assessment.** All legal fees incurred in pursuit of any civil action that is subject to this Section shall be paid by special assessment of the Co-Owners of the Association ("litigation special assessment"). The litigation special assessment shall be approved at the litigation evaluation meeting (or at any subsequent duly called and noticed meeting) by a majority in number and in value of all Co-Owners of the Association in the amount of the estimated total cost of the civil action. If the litigation attorney proposed by the Board of Directors is not retained, the litigation special assessment shall be in an amount equal to the retained attorney's estimated total cost of the civil action, as estimated by the attorney actually retained by the Association. The litigation special assessment shall be apportioned to the Co-Owners in accordance with their respective percentage of value interests in the Condominium and shall be collected from the Co-Owners on a monthly basis. The total amount of the litigation special assessment shall be collected monthly over a period not to exceed twenty-four (24) months.

**3.4.7 Attorney's Written Report.** During the course of any civil action authorized by the Co-Owners pursuant to this Section, the retained attorney shall submit a written report ("attorney's written report") to the Board of Directors every thirty (30) days setting forth:

(A) The attorney's fees, the fees of any experts retained by the attorney, and all other costs of the litigation during the thirty (30) day period immediately preceding the date of the attorney's written report ("reporting period").

(B) All actions taken in the civil action during the reporting period, together with copies of all pleadings, court papers and correspondence filed with the court or sent to opposing counsel during the reporting period.

(C) A detailed description of all discussions with opposing counsel during the reporting period, written and oral, including, but not limited to, settlement discussions.

(D) The costs incurred in the civil action through the date of the written report, as compared to the attorney's estimated total cost of the civil action.

(E) Whether the originally estimated total cost of the civil action remains accurate.

3.4.8. **Monthly Board Meetings**. The Board of Directors shall meet monthly during the course of any civil action to discuss and review:

(A) The status of the litigation.

(B) The status of settlement efforts, if any.

(C) The attorney's written report.

3.4.9. **Changes in the Litigation Special Assessment**. If, at any time, during the course of a civil action, the Board of Directors determines that the originally estimated total cost of the civil action or any revision thereof is inaccurate, the Board of Directors shall immediately prepare a revised estimate of the total cost of the civil action. If the revised estimate exceeds the litigation special assessment previously approved by the Co-Owners, the Board of Directors shall call a special meeting of the Co-Owners to review the status of the litigation, and to allow the Co-Owners to vote on whether to continue the civil action and increase the litigation special assessment. The meeting shall have the same quorum and voting requirements as a litigation evaluation meeting.

3.4.10. **Disclosure of Litigation Expenses**. The attorneys' fees, court costs, expert witness fees and all other expenses of any civil action filed by the Association ("litigation expenses") shall be fully disclosed to Co-Owners in the Association's annual budget. The litigation expenses for each civil action filed by the Association shall be listed as a separate line item captioned "litigation expenses" in the Association's annual budget.

**ARTICLE 4.****INSURANCE**

Section 4.1. **Extent of Coverage.** The Association shall, to the extent appropriate given the nature of the General Common Elements, and Limited Common Elements which are the Association's responsibility to maintain pursuant to Section 4.3 of the Master Deed, and such common amenities or areas as may be located outside of the Condominium but placed under the management and control of this Association, if any, carry fire and extended coverage, vandalism and malicious mischief and liability insurance, and workers compensation insurance, if applicable, pertinent to the ownership, use and maintenance of the such Common Elements of the Condominium Project and common amenities or areas, and such insurance shall be carried and administered in accordance with the following provisions. The Co-Owner of a Unit shall be responsible for insurance on such Co-Owner's Unit and its appurtenant Limited Common Elements which are such Co-Owner's responsibility to maintain pursuant to Section 4.3 of the Master Deed.

4.1.1. **Responsibilities of Association.** All such insurance which the Association is required to purchase shall be purchased by the Association for the benefit of the Association, and the Co-Owners and their mortgagees, as their interests may appear, and provision shall be made for the issuance of certificates of mortgagee endorsements to the mortgagees of Co-Owners.

4.1.2. **Insurance on Common Elements.** All Common Elements of the Condominium Project if insurable shall be insured against fire and other perils covered by a standard extended coverage endorsement, if appropriate, in an amount equal to the maximum insurable replacement value, excluding foundation and excavation costs, as determined annually by the Board of Directors of the Association in consultation with the Association's insurance carrier and/or its representatives in light of commonly employed methods for the reasonable determination of replacement costs. Such coverage shall be effected upon an agreed-amount basis for the entire Condominium Project with appropriate inflation riders in order that no co-insurance provisions shall be invoiced by the insurance carrier in a manner that will cause loss payments to be reduced below the actual amount of any loss (except in the unlikely event of total project destruction if the insurance proceeds failed for some reason, to be equal to the total cost of replacement). All information in the Association's records regarding insurance coverage shall be made available to all Co-Owners upon request and reasonable notice during normal business hours so that Co-Owners shall be enabled to judge the adequacy of coverage and, upon the taking of due Association procedures,

to direct the Board at a properly constituted meeting to change the nature and extent of any applicable coverages, if so determined. Upon such annual re-evaluation and effectuation of coverage, the Association shall notify all Co-Owners of the nature and extent of all changes in coverages.

4.1.3. **Liability Insurance.** The Association shall carry liability insurance on the General Common Elements and the assets of the Association, and, to the extent reasonably available, shall carry officer's and director's liability insurance insuring its officers and directors.

4.1.4. **Premium Expenses.** All premiums for insurance purchased by the Association pursuant to these Bylaws shall be expenses of administration.

4.1.5. **Proceeds of Insurance Policies.** Proceeds of all insurance policies owned by the Association shall be received by the Association, held in a separate account and distributed to the Association, and the Co-Owners and their mortgagees, as their interests may appear. Provided, however, whenever repair or reconstruction of the Condominium shall be required as provided in Article 5 of these Bylaws, the proceeds of any insurance received by the Association as a result of any loss requiring repair or reconstruction shall be applied for such repair or reconstruction and in no event shall hazard insurance proceeds be used for any purpose other than for repair, replacement or reconstruction of the Project unless two-thirds (2/3) of the institutional holders of first mortgages on Units in the Project have given their prior written approval.

Section 4.2. **Authority of Association to Settle Insurance Claims.** Each Co-Owner, by ownership of a Unit in the Condominium Project, shall be deemed to have appointed the Association as such Co-Owner's true and lawful attorney-in-fact to act in connection with all matters concerning the maintenance of fire and extended coverage, vandalism and malicious mischief, liability insurance and workers compensation insurance, if applicable, pertinent to the Condominium Project and the General Common Elements thereof, and with such insurer as may, from time to time, provide such insurance for the Condominium Project. Without limitation on the generality of the foregoing, the Association as said attorney shall have full power and authority to purchase and maintain such insurance, to collect and remit premiums therefor, to collect proceeds and to distribute the same to the Association, the Co-Owners and respective mortgagees, as their interests may appear (subject always to the Condominium Documents), to execute releases of liability and to execute all documents and to do all things on behalf of such Co-Owner and the Condominium as shall be necessary or convenient to the accomplishment of the foregoing.

Section 4.3. **Responsibility of Co-Owners**. Each Co-Owner shall obtain fire, extended coverage, vandalism and malicious mischief insurance coverage at such Co-Owner's expense upon the Co-Owner's Unit and the appurtenant Limited Common Elements which are the Co-Owner's responsibility to maintain as set forth in Section 4.3 of the Master Deed. It shall be each Co-Owner's responsibility to determine by personal investigation or from such Co-Owner's insurance advisors the nature and extent of insurance coverage needed and to obtain insurance coverage for such Co-Owner's personal property and the fixtures, appliances, equipment and trim located within the Co-Owner's Unit or elsewhere on the Condominium, including appurtenant Limited Common Elements which are the Co-Owner's responsibility to maintain as set forth in Section 4.3 of the Master Deed, and for the Co-Owner's personal liability for occurrences within the Co-Owner's Unit or upon Limited Common Elements appurtenant to the Unit, and also for alternative living expense in the event of fire or other casualty, and the Association shall have absolutely no responsibility for obtaining such coverages. All such insurance shall be carried by each Co-Owner in an amount equal to the maximum insurable replacement value. In the event of the failure of a Co-Owner to obtain such insurance, the Association may obtain such insurance on behalf of such Co-Owner and the premiums therefor shall constitute a lien against the Co-Owner's Unit, which may be collected from the Co-Owner in the same manner that Association assessments are collected in accordance with Article 2. The Association shall under no circumstances have any obligation to obtain any of the insurance coverage described in this Section 4.3 or any liability to any person for failure to do so.

Section 4.4. **Waiver of Right of Subrogation**. The Association and all Co-Owners shall use their best efforts to cause all property and liability insurance carried by the Association or any Co-Owner to contain appropriate provisions whereby the insurer waives its right of subrogation as to any claims against any Co-Owner or the Association.

Section 4.5. **Indemnification**. Each individual Co-owner shall indemnify and hold harmless every other Co-owner, the Developer and the Association for all damages and costs, including attorneys' fees, which such other Co-owners, the Developer or the Association may suffer as a result of defending any claim arising out of an occurrence on or within such individual Co-owner's Unit or appurtenant Limited Common Elements and shall carry insurance to secure this indemnity if so required by the Developer (and thereafter the Association). This Section 4.5 shall not, however, be construed to give any insurer any subrogation right or other right or claim against any individual Co-owner.

## ARTICLE 5.

### **RECONSTRUCTION OR REPAIR**

Section 5.1 **Determination to Reconstruct or Repair**. If any part of the Condominium Project shall be damaged, the determination of whether or not it shall be reconstructed or repaired shall be made in the following manner:

5.1.1. **Partial Damage.** If the damaged property is a Common Element or Unit, the property shall be rebuilt or repaired if any Unit in the Condominium is tenantable, unless it is determined by vote of eighty (80%) percent of the Co-Owners in the Condominium that the Condominium shall be terminated.

5.1.2 **Total Destruction.** If the Condominium is so damaged that no Unit is tenantable, the damaged property shall not be rebuilt unless eighty (80%) percent or more of the Co-Owners agree to reconstruction by vote or in writing within ninety (90) days after the destruction.

Section 5.2. **Repair in Accordance with Master Deed.** Any such reconstruction or repair shall be substantially in accordance with the Master Deed and the plans and specifications on file with the City of Milan unless eighty (80%) percent of the Co-Owners shall decide otherwise.

Section 5.3. **Co-Owner Responsibility for Repair.**

5.3.1. **Definition of Co-Owner.** Responsibility. If the damage is only to a part of the contents of a Unit or Limited Common Elements which are the responsibility of a Co-Owner to maintain, repair or replace, it shall be the responsibility of the Co-Owner to maintain, repair and replace such damage in accordance with subparagraph 5.3.2 below. In all other cases, the responsibility for maintenance, repair and replacement shall be that of the Association.

5.3.2. **Damage of Unit or Limited Common Elements.** Each Co-Owner shall be responsible for the maintenance, repair and replacement of the contents of such Co-Owner's Unit, including, but not limited to, floor coverings, wall coverings, window shades, draperies, interior walls including appurtenant Limited Common Elements that are the Co-Owner's responsibility to maintain, interior trim, furniture, light fixtures and all appliances, whether free-standing or built-in. In the event damage to pipes, wires, conduits, ducts or other General Common Elements, or to any fixtures and equipment which are standard items covered by insurance held by the Association, then the replacement or repair shall be the responsibility of the Association in accordance with Section 5.4 below. If any other items located within a Unit are covered by insurance held by the Association for the benefit of the Co-Owner, the Co-Owner shall be entitled to receive the proceeds of such insurance, and if there is a mortgagee's endorsement, the proceeds shall be payable to the Co-Owner and the mortgagee jointly. In the event of substantial damage to or destruction of any Unit or any part of the Common Elements, the

Association promptly shall so notify each institutional holder of a first mortgage lien on any of the Units in the Condominium.

Section 5.4. **Association Responsibility for Repair.** Except as otherwise provided in Section 5.3 above and in the Master Deed, the Association shall be responsible for the reconstruction, repair and maintenance of the General Common Elements. Immediately after a casualty causing damage to property for which the Association has the responsibility of maintenance, repair and reconstruction, the Association shall obtain reliable and detailed estimates of the cost to replace the damaged property in a condition as good as that existing before the damage. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction or repair required to be performed by the Association, or if at any time during such reconstruction or repair, or upon completion of such reconstruction or repair, the funds for the payment of the cost thereof are insufficient, special assessment shall be made against all Co-Owners for the cost of reconstruction or repair of the damaged property in sufficient amounts to provide funds to pay the estimated or actual cost of repair.

Section 5.5. **Timely Reconstruction and Repair.** If damage to Common Elements or of a Unit adversely affects the appearance of the Project, the Association or Co-Owner responsible for the reconstruction, repair and maintenance thereof shall proceed with replacement of the damaged property without delay.

Section 5.6. **Eminent Domain.** Section 133 of the Act and the following provisions shall control upon any taking by eminent domain:

5.6.1. **Taking of Unit.** In the event of any taking of an entire Unit by eminent domain, the award for such taking shall be paid to the Co-Owner of such Unit and the mortgagee thereof, as their interests may appear. After acceptance of such award by the Co-Owner and the Co-Owner's mortgagee, they shall be divested of all interest in the Condominium Project. In the event that any condemnation award shall become payable to any Co-Owner whose Unit is not wholly taken by eminent domain, then such award shall be paid by the condemning authority to the Co-Owner and the Co-Owner's mortgagee, as their interest may appear.

5.6.2. **Taking of Common Elements.** If there is any taking of any portion of the Condominium other than any Unit, the condemnation proceeds relative to such taking shall be paid to the Co-Owners and their mortgagees in proportion to their respective interests in the Common Elements and the affirmative vote of more than two-thirds (2/3) of the Co-Owners shall determine whether to rebuild, repair or replace the portion so taken or to take such other action as they deem appropriate.

**5.6.3. Continuation of Condominium After Taking.** In the event the Condominium Project continues after taking by eminent domain, then the remaining portion of the Condominium Project shall be re-surveyed and the Master Deed amended accordingly, and, if any Unit shall have been taken, then Article 5 of the Master Deed shall also be amended to reflect such taking and to proportionately readjust the percentages of value of the remaining Co-Owners based upon the continuing value of the Condominium as one hundred percent (100%). Such amendment may be effected by an officer of the Association duly authorized by the Board of Directors without the necessity of execution or specific approval thereof by any Co-Owner or other person having any interest whatever in the Project, as mortgagee or otherwise.

**5.6.4. Notification of Mortgagees.** In the event any Unit (or improvements located within the perimeter thereof) in the Condominium, or any portion thereof, or the Common Elements or any portion thereof, is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the Association promptly shall so notify each institutional holder of first mortgage lien on any of the Units in the Condominium.

Section 5.7. **Notification of FHLMC.** In the event any mortgage in the Condominium is held by the Federal Home Loan Mortgage Corporation ("FHLMC") or the Federal National Mortgage Association ("FNMA") then, upon request by FHLMC or FNMA, the Association shall give it written notice at such address as it may, from time to time, direct of any loss to or taking of the Common Elements of the Condominium if the loss or taking exceeds Ten Thousand Dollars (\$10,000.00) in amount, or if damage to a Condominium Unit covered by a mortgage purchased in whole or in part by FHLMC or FNMA exceeds One Thousand Dollars (\$1,000.00).

Section 5.8. **Priority of Mortgagee Interests.** Nothing contained in the Condominium Documents shall be construed to give a Condominium Unit Owner, or any other party, priority over any rights of first mortgagees of Condominium Units pursuant to their mortgages in the case of a distribution to Condominium Unit Owners of insurance proceeds or condemnation awards for losses to or a taking of Condominium Units and/or Common Elements.

## **ARTICLE 6.**

### **RESTRICTIONS / ARCHITECTURAL CONTROL**

All of the Units in the Condominium and appurtenant Limited Common Elements shall be held, used and enjoyed subject to the following limitations and restrictions:



Section 6.1. **Residential Use.** All Units shall be used for private residential purposes only in accordance with the Master Deed and By-laws and ordinances and restrictions of applicable governmental authorities. Notwithstanding the foregoing, Developer may erect and maintain models on any Units owned by Developer until such time as all Units which Developer owns are sold. The Common Elements shall be used only for purposes consistent with such residential use.

Section 6.2. **Alterations and Modifications.** No Co-owner shall make alterations in exterior appearance or make structural modifications to any Unit (including interior walls through or in which there exist easements for support or utilities) or make changes in any of the Common Elements, limited or general, without the prior written approval of the Board of Directors including but not limited to, exterior painting or the erection decks, antennas, lights, aerials, awnings, doors, shutters or other exterior attachments or modifications; nor shall any Co-owner damage or make modifications or attachments to Common Element walls between Units which in any way impair sound conditioning qualities of the walls. The Board of Directors may approve only such modifications as do not impair the soundness, safety, utility or appearance of the Condominium.

Section 6.3. **Home Occupations, Nuisances and Activities.** No immoral, improper, unlawful or offensive activity shall be carried on in any Unit or upon the Common Elements, nor shall anything be done which may be or become an annoyance or a nuisance to the Co-owners of the Condominium, nor shall any unreasonably noisy activity be carried on in or on the Common Elements or within any Unit at any time. No home occupation or professional or commercial activity that requires members of the public to visit a Co-Owner's Unit or requires commercial vehicles to travel to and from a Co-Owner's Unit shall be conducted in any Unit in the Condominium, with the exception of model homes owned by, and the sales activities of, the Developer or builders, developers, and real estate companies which own or hold any Units for resale to customers in the ordinary course of business. No Co-owner shall do or permit anything to be done or keep or permit to be kept in the Co-owner's Unit or in the Common Elements anything that will increase the rate of insurance on the Condominium without the written approval of the Association, and each Co-owner shall pay to the Association the increased cost of insurance premiums resulting from any such activity or the maintenance of any such condition even if approved, which increased cost may be assessed to and collected from the Co-owner in the manner provided in Article 2 hereof.

Section 6.4. **Animals and Pets.** Without prior written consent of the Board of Directors, no animal or pet other than two cats or one dog or one cat and one dog, each not to exceed thirty (30) pounds in weight (per animal or pet) shall be kept in the Condominium by a Co-owner. Any pets kept in the Condominium shall have such care and restraint as not to be obnoxious on account of noise, odor or unsanitary conditions. No savage or dangerous animal shall be kept. No animal may be permitted to run loose upon the Common Elements, and any animal shall at all times be attended by a

responsible person while on the Common Elements. Any person who causes or permits an animal to be brought or kept on the Condominium property shall indemnify, defend (with counsel approved by the Association), and hold harmless the Association for any loss, damage or liability which the Association may sustain as a result of the presence of such animal on the Condominium. Each Co-owner shall be responsible for the collection and sanitary disposition of all matter deposited by any pet maintained by such Co-owner or their guest(s). The term "animal or pet" as used in this Section shall not include small animals, which are constantly caged such as a small bird or fish. All pets must be registered with the Board of Directors of the Association.

Section 6.5. **Aesthetics**. The Common Elements shall not be used for storage of supplies, materials, personal property or trash or refuse of any kind, except as provided in the Master Deed or in duly adopted rules and regulations of the Associations. All rubbish, trash, garbage and other waste shall be regularly removed from each Unit and shall not be allowed to accumulate therein. Unless special areas are designated by the Association, trash receptacles shall not be permitted on the Common Elements except for such short periods of time as may be reasonably necessary to permit periodic collection of trash. The Common Elements shall not be used in any way for the drying, shaking, or airing of clothing or other fabrics. Automobiles may only be washed in areas approved by the Board of Directors. No unsightly condition shall be maintained on any porch or patio. Spas, hot tubs, and pools are not permitted on any patio or outside area. In general, no activity shall be carried on nor condition maintained by a Co-owner, either in a Unit or upon the Common Elements, which is detrimental to the appearance of the Condominium.

Section 6.6. **Common Elements**. Each driveway leading into a garage may only be used by the Co-owner entitled to use the garage. The Common Elements shall not be obstructed in any way nor shall they be used for purposes other than for which they are reasonably and obviously intended. No Co-owner may leave personal property of any description (including by way of example and not limitation bicycles, vehicles, chairs and benches) unattended on or about the Common Elements. Use of all General Common Elements may be limited to such times and in such manner as the Board of Directors shall determine by duly adopted regulations under Section 6.10 below.

Section 6.7. **Vehicles**. No house trailers, motor homes, commercial vehicles, boat trailers, boats, camping vehicles, camping trailers, snowmobiles, snowmobile trailers, or recreational vehicles other than automobiles may be parked or stored upon the premises of the Condominium, unless parked in a garage with the door closed or unless parked in an area specifically designated by the Board of Directors.

Section 6.8. **Weapons**. No Co-owner shall use, or permit the use by any occupant, agent, employee, invitee, guest or member of his or her family of any firearms, air rifles, pellet guns, B-B guns, bows and arrows, sling shots, or other similar weapons, projectiles or devices anywhere on or about the Condominium.

Section 6.9. **Signs and Advertising.** No signs or other advertising devices shall be displayed which are visible from the exterior of a Unit or on the Common Elements, including "For Sale" signs, without written permission from the Board of Directors, except that one (1) "For Sale" or "For Rent" sign, less than 3 square feet in area, may be displayed in a Unit's front window without such permission.

Section 6.10. **Regulations.** Reasonable regulations consistent with all laws and the Condominium Documents concerning the use of the Common Elements or the rights and responsibilities of the Co-owners and the Association with respect to the Condominium or the manner of operation of the Association and of the Condominium may be made and amended from time to time by any Board of Directors of the Association including the first Board of Directors (or its successors)' prior to the Transitional Control Date. Copies of all such regulations and amendments thereto shall be furnished to all Co-owners or posted on a General Common Element. Any such regulation or amendment may be revoked at any time by the affirmative vote of a majority of the Co-owners.

Section 6.11. **Associations' Rights of Access.** The Association or its duly authorized agents shall have access to each Unit and any Limited Common Elements appurtenant thereto from time to time, during reasonable working hours, upon notice to the Co-owner thereof as may be necessary for the maintenance, repair or replacement of any of the Common Elements. The Association or its agent shall also have access to each Unit and any Limited Common Elements appurtenant thereto at all times without notice as may be necessary to make emergency repairs to prevent damage to the Common Elements or to another Unit. It shall be the responsibility of each Co-owner to provide the Association means of access to the Co-owners' Unit and any Limited Common Elements appurtenant thereto during all periods of absence and in the event of the failure of such Co-owner to provide means of access, the Association may gain access in such manner as may be reasonable under the circumstances and shall not be liable to such Co-owner for any necessary damage to any Unit or any Limited Common Elements appurtenant thereto caused thereby or for repair or replacement of such damage. Subject to the foregoing and other provisions in the Master Deed and these Bylaws, each Co-owner shall be entitled to exclusive occupancy and control over the Co-Owner's Unit and all Limited Common Elements appurtenant thereto.

Section 6.12. **Landscaping.** Each Co-owner may plant flowers, only, in the General Common Element lawn area in front of the Co-owner's Unit. Other than this limited right to plant flowers, only, no Co-owner shall perform any landscaping or plant any trees, shrubs or flowers or place any ornamental materials upon the Common Elements unless approved by the Board of Directors in writing or unless permitted by the Master of Deed or the regulations of the Association.

Section 6.13. **Co-Owner Maintenance.** Each Co-owner shall maintain the Unit owned and any Limited Common Elements appurtenant thereto for which the Co-owner

has maintenance responsibility in a safe, clean and sanitary condition. Each Co-owner shall also use due care to avoid damaging any of the Common Elements including but not limited to the telephone, water, gas, plumbing, electrical or other utility conduits and systems and any other elements in any Unit which are appurtenant to or which may affect any other Unit. Each Co-owner shall be responsible for damages or costs to the Association resulting from negligent damage to or misuse of any of the Common Elements by the Co-owner family, guests, agents or invitees, unless such damages or costs are covered by insurance carried by the Association in which the case there shall be no such responsibility, unless reimbursement to the Association is excluded by virtue of a deductible provision, in which case the responsible Co-owner shall be the expense to the extent of the deductible amount. Any costs or damages to the Association may be assessed to and collected from the responsible Co-owner in the manner provided in Article 2 hereof.

**Section 6.14. Reserved Rights of Developer.**

**6.14.1. Prior Approval by Developer.** As long as Developer owns any Unit which Developer offers for sale, no buildings, fences, walls, retaining walls, decks, drives, walks or other structure or improvements shall be commenced, erected, maintained, nor shall any addition to, or change or alternation to any structure be made (including in color or design), except interior alterations which do not affect structural elements of any Unit, nor shall any hedges, trees or substantial plantings or landscaping modifications be made, until plans and specifications, acceptable to the Developer, showing the nature, kind, shape, height, materials, color, scheme, location and approximate cost of such structure or improvement on the grading or landscaping plan of the area to be affected shall have been submitted to and approved in writing by Developer, its successors or assigns, and a copy of said plans and specifications, as finally approved, lodged permanently with Developer. Developer shall have the right to refuse to approve any such plan or specifications, grading or landscaping plans which are not suitable or desirable in its opinion for aesthetic or other reasons; and in passing upon such plans, specifications, grading or landscaping, it shall have the right to take into consideration the suitability of the proposed structure, improvement or modification, the site upon which it is proposed to effect the same, and the degree of harmony thereof with the Condominium as a whole and any adjoining properties under development or proposed to be developed by Developer. The purpose of this Section is to assure the continued maintenance of the Condominium as a beautiful and harmonious residential development, and shall be binding upon both the Association and upon all Co-owners.

**6.14.2. Developer's Rights in Furtherance of Development and Sales.** None of the restrictions contained in this Article 6 shall apply to the commercial activities or signs or billboards of the Developer with respect to unoccupied Units

owned by the Developer, or of the Association in furtherance of its powers and purposes. Notwithstanding anything to the contrary elsewhere herein contained, until all Units in the entire planned Condominium are sold by Developer, Developer shall have the right to maintain a sales office, a business office, a construction office, model units, storage areas and reasonable parking incident to the foregoing and such access to, from and over the Condominium as may be reasonable to enable development and sale of the entire Condominium by the Developer.

6.14.3. **Enforcement of Bylaws.** The Condominium shall at all times be maintained in a manner consistent with the highest standards of a beautiful, serene, private residential community for the benefit of the Co-owners and all persons having interests in the Condominium. If at any time the Association fails or refuses to carry out its obligation to maintain, repair, replace and landscape in a manner consistent with the maintenance of such high standards, then the Developer, or any entity to which it may assign this right, at its option, may elect to maintain, repair and/or replace any Common Elements and/or to do any landscaping required by these Bylaws and to charge the cost thereof to the Association as an expense of administration. The Developer shall have the right to enforce these Bylaws so long as Developer owns any Unit which Developer offers for sale, which right of enforcement shall include without limitation an action to restrain the Association or any Co-owner from any activity prohibited by these Bylaws.

Section 6.15. **Stormwater Management.** In order to assure that stormwater drainage is properly maintained, all stormwater drainage facilities in the Condominium have been designated General Common Elements in Article 4 of the Master Deed. Accordingly, the Association will maintain, repair and replace all stormwater drainage systems and areas in the Condominium for the benefit of all Co-owners, the cost of which will be an expense of administration of the Condominium.

Section 6.16. **Leasing and Rental.**

6.16.1. **Right to Lease.** A Co-Owner may lease a Co-Owner's Unit for the same purposes set forth in Section 6.1 of these Bylaws and Section 4.5 of the Master Deed, provided that written disclosure of such lease transaction is submitted to the Board of Directors of the Association in the manner specified below. With the exception of a lender in possession of a Unit following a default of the first mortgage, foreclosure or deed or other arrangement in lieu of foreclosure, no Co-Owner shall lease less than an entire Unit in the Condominium and no tenant shall be permitted to occupy except under a lease the initial term of which is at least six (6) months unless specifically approved in writing by the Association. The terms of all leases, occupancy agreements and occupancy arrangements shall incorporate, or be deemed to incorporate, all of the provisions

of the Condominium Documents. The Developer, or its assigns, may lease any number of Units in the Condominium in its discretion and shall not be subject to the foregoing, or the leasing procedures set forth below, except for disclosure of the leasing arrangement to the Association. These leasing provisions may not be revised prior to the Transitional Control Date without Developer's prior written consent and may not be materially amended without Developer's prior written consent so long as Developer owns a Unit.

6.16.2. **Leasing Procedures.** The leasing of Units in the Project shall conform to the following provisions:

6.16.2.1. A Co-Owner desiring to rent or lease a Unit, shall disclose that fact in writing to the Association at least ten (10) days before presenting a lease form or otherwise agreeing to grant possession of a Condominium Unit to a potential lessee of the Unit and, at the same time, shall supply the Association with a copy of the exact lease form for its review for its compliance with the Condominium Documents. If no lease form is to be used, then the Co-Owner shall supply the Association with the name and address of the potential lessee, along with the rental amount and the due dates under the proposed agreement.

6.16.2.2. Tenants or non-owner occupants shall comply with all of the conditions of the Condominium Documents of the Condominium Project and all leases and rental agreements shall so state.

6.16.2.3. If the Association determines that the tenant or non-owner occupant has failed to comply with the conditions of the Condominium Documents, the Association shall take the following action:

6.16.2.3.1. The Association shall notify the Co-Owner by Certified Mail advising of the alleged violation by the tenant.

6.16.2.3.2. The Co-Owner shall have fifteen (15) days after receipt of such notice to investigate and correct the alleged breach by the tenant or advise the Association that a violation has not occurred.

6.16.2.3.3. If after fifteen (15) days the Association believes that the alleged breach is not cured or may be repeated, it may institute on its behalf or derivatively by the

Co-Owners on behalf of the Association, if it is under the control of the Developer, an action for eviction against the tenant or non-owner occupant and simultaneously for money damages in the same action against the Co-Owner and tenant or non-owner occupant for breach of the condition of the Condominium Documents. The relief provided in this subparagraph may be by summary proceeding. The Association may hold both the tenant and the Co-Owner liable for any damages to the Common Elements caused by the Co-Owner or tenant in connection with the Unit or Condominium Project.

6.16.2.3.4. When a Co-Owner is in arrears to the Association for assessments, the Association may give written notice of the arrearage to the tenant occupying a Co-Owner's Unit under a lease or rental agreement and the tenant, after receiving the notice, shall deduct from rental payments due the Co-Owner the arrearage and further assessments as they fall due and pay them to the Association. The deductions shall not constitute a breach of the rental agreement or lease by the tenant. If the tenant, after being notified, fails or refuses to remit rent otherwise due the Co-Owner to the Association, then the Association may do the following:

6.16.2.3.5. Issue a statutory notice to quit for non-payment of rent to the tenant and shall have the right to enforce that notice by summary proceeding.

6.16.2.3.6. Initiate proceedings pursuant to 6.16.2.3.4 above.

## ARTICLE 7.

### MORTGAGES

Section 7.1. Notice to Association. Any Co-Owner who mortgages such Co-Owner's Unit shall notify the Association of the name and address of the mortgagee, and the Association shall maintain such information in a book entitled "Mortgagees of Units." The Association may, at the written request of a mortgagee of any such Unit, report any unpaid assessments due from the Co-Owner of such Unit. The Association shall give to the holder of any first mortgage covering any Unit in the Project written notification of any default in the performance of the obligations of the Co-Owner of such Unit that is not cured within sixty (60) days.

Section 7.2. **Insurance.** The Association shall notify each mortgagee appearing in the book of Mortgagees of Units of the name of each company insuring the Condominium against fire, perils covered by extended coverage, and vandalism and malicious mischief and the amounts of such coverage, to the extent the Association is required by these Bylaws to obtain such coverage. The Association shall provide prompt, written notice to each mortgagee appearing in the book of Mortgagees of Units of any lapse, cancellation, or material modification of any insurance policy maintained by the Association.

Section 7.3. **Notification of Meetings.** Upon written request submitted to the Association, any institutional holder of a first mortgage lien on any Unit in the Condominium shall be entitled to receive written notification of every meeting of the members of the Association and to designate a representative to attend such meeting.

## **ARTICLE 8.**

### **VOTING**

Section 8.1. **Vote.** Except as limited in these Bylaws, all of the Co-Owners of a Unit shall be entitled to only one vote for each Unit owned, and the value of the vote attributed to each Unit shall be equal.

Section 8.2. **Eligibility to Vote.** No Co-Owner, other than Developer, shall be entitled to vote at any meeting of the Association until such Co-Owner has presented evidence of ownership of a Unit in the Condominium Project to the Association. Except as provided in Section 9.2 and Section 11.2 of these Bylaws, no Co-Owner, other than Developer, shall be entitled to vote prior to the date of the First Annual Meeting held in accordance with Section 9.2 and Section 11.2. The vote of each Co-Owner may be cast only by the individual representative designated by such Co-Owner in the notice required in Section 8.3 of this Article 8 or by a proxy given by such individual representative. Until the First Annual Meeting Developer shall be entitled to vote notwithstanding the fact that Developer may own no Units at some time or from time to time during such period. At and after the First Annual Meeting Developer shall be entitled to one vote for each Unit which Developer owns.

Section 8.3. **Designation of Voting Representative.** Each Co-Owner shall file a written notice with the Association designating the individual representative who shall vote at meetings of the Association and receive all notices and other communications from the Association on behalf of such Co-Owner. Such notice shall state the name and address of the individual representative designated, the number or numbers of the Unit or Units owned by the Co-Owner, and the name and address of each person, firm, corporation, partnership, association, trust or other entity who is the Co-Owner. Such notice shall be signed and dated by the Co-Owner. The individual representative designated may be changed by the Co-Owners of a Unit at any time by filing a new notice in the manner herein provided.



Section 8.4. **Quorum**. Those Co-Owners present in person or by proxy at the First Annual Meeting held in accordance with Section 9.2 and Section 11.2 shall constitute a quorum for such meeting. At all other meetings of Co-Owners, the presence in person or by proxy of thirty-five percent (35%) of the Co-Owners qualified to vote shall constitute a quorum for holding a meeting of the members of the Association, except for voting on questions specifically required by the Condominium Documents to have a greater quorum. The written vote of any person furnished at or prior to any duly called meeting at which meeting said person is not otherwise present in person or by proxy shall be counted in determining the presence of a quorum with respect to the question upon which the vote is cast.

Section 8.5. **Voting**. Votes may be cast only in person, or by a writing duly signed by the designated voting representative not present at a given meeting in person, or by proxy. Proxies and any written votes must be filed with the Secretary of the Association at or before the appointed time of each meeting of the members of the Association. Cumulative voting shall not be permitted.

Section 8.6. **Majority**. A majority, except where otherwise provided herein, shall consist of more than fifty percent (50%) of those qualified to vote and present in person or by proxy (or written vote, if applicable) at a given meeting of the members of the Association where a quorum is present. Whenever provided specifically in the Condominium Documents, a majority may be required to exceed the simple majority herein above set forth of designated voting representatives present in person or by proxy, or by written vote, if applicable, at a given meeting of the members of the Association.

## ARTICLE 9.

### **MEETINGS**

Section 9.1. **Place of Meeting**. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Co-Owners as may be designated by the Board of Directors. Meetings of the Association shall be conducted in accordance with Sturgis' Code of Parliamentary Procedure, Roberts Rules of Order or some other generally recognized manual of parliamentary procedure as selected by the Board of Directors, when not otherwise in conflict with the Condominium Documents or the laws of the State of Michigan.

Section 9.2. **First Annual Meeting**. The First Annual Meeting may be convened only by the Developer and may be called at any time after more than fifty percent (50%) of the Units that may be created have been sold and the purchasers thereof qualified as members of the Association. In no event, however, shall such meeting be called later than one hundred twenty (120) days after the conveyance of legal or equitable title to non-developer Co-Owners of seventy-five percent (75%) in number of all Units that may be created or fifty-four (54) months after the first conveyance of legal or equitable title to a non-developer Co-Owner of a Unit in the Project, whichever first occurs. Developer

may call meetings of members for informative or other appropriate purposes prior to the First Annual Meeting and no such meeting shall be construed as the First Annual Meeting. The date, time and place of such meeting shall be set by the Board of Directors, and at least ten (10) days' written notice thereof shall be given to each Co-Owner. The phrase "Units that may be created" as used in this paragraph and elsewhere in the Condominium Documents refers to the maximum number of Units, which Developer is permitted, under the Condominium Documents as they may be amended, to include in the Condominium.

Section 9.3. **Annual Meetings.** Annual meetings of the Association shall be held in October each succeeding year after the year in which the First Annual Meeting is held at such time and place as shall be determined by the Board of Directors; provided, however, that the second annual meeting shall not be held sooner than eight (8) months after the date of the First Annual Meeting. At such meetings there shall be elected by ballot of the Co-Owners a Board of Directors in accordance with the requirements of Article 11 of these Bylaws. The Co-Owners may also transact at the annual meetings such other business of the Association as may properly come before them.

Section 9.4. **Special Meetings.** It shall be the duty of the President to call a special meeting of the Co-Owners as directed by resolution of the Board of Directors or upon a petition signed by one-third (1/3) of the Co-Owners presented to the Secretary of the Association. Notice of any special meeting shall state the time and place of such meeting and the purposes thereof. No business shall be transacted at a special meeting except as stated in the notice.

Section 9.5. **Notice of Meetings.** It shall be the duty of the Secretary (or other Association officer in the Secretary's absence) to serve a notice of each annual or special meeting, stating the purpose thereof as well as of the time and place where it is to be held, upon each Co-Owner of record, at least ten (10) days but not more than sixty (60) days prior to such meeting. The mailing, postage prepaid, of a notice to the representative of each Co-Owner at the address shown in the notice required to be filed with the Association by Article 8, Section 8.3 of these Bylaws shall be deemed notice served. Any member may, by written waiver of notice signed by such member, waive such notice, and such waiver, when filed in the records of the Association, shall be deemed due notice.

Section 9.6. **Adjournment.** If any meeting of Co-Owners cannot be held because a quorum is not in attendance, the Co-Owners who are present may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called.

Section 9.7. **Order of Business.** The order of business at all meetings of the members shall be as follows: (1) roll call to determine the voting power represented at the meeting; (2) proof of notice of meeting or waiver of notice; (3) reading of minutes of preceding meeting; (4) reports of officers; (5) reports of committees; (6) appointment of

inspector of elections (at annual meetings or special meetings held for purpose of election of Directors or officers); (7) election of Directors (at annual meeting or special meetings held for such purpose); (8) unfinished business; and (9) new business. Meetings of members shall be chaired by the most senior officer of the Association present at such meeting. For purposes of this Section, the order of seniority of officers shall be President, Vice President, Secretary and Treasurer.

Section 9.8. **Action Without Meeting.** Any action which may be taken at a meeting of the members (except for the election or removal of Directors) may be taken without a meeting by written ballot of the members, which ballots are signed within no more than a sixty (60) day period, as determined by the Board of Directors. Ballots shall be solicited in the same manner as provided in Section 9.5 for the giving of notice of meetings of members. Such solicitations shall specify (1) the number of responses needed to meet the quorum requirements; (2) the percentage of approvals necessary to approve the action; and (3) the time by which ballots must be received in order to be counted. The form of written ballot shall afford an opportunity to specify a choice between approval and disapproval of each matter and shall provide that, where the member specifies a choice, the vote shall be cast in accordance therewith. Approval by written ballot shall be constituted by receipt within the time period specified in the solicitation of (1) a number of ballots which equals or exceeds the quorum which would be required if the action were taken at a meeting; and (2) a number of approvals which equals or exceeds the number of votes which would be required for approval if the action were taken at a meeting at which the total number of votes cast was the same as the total number of ballots cast.

Section 9.9. **Consent of Absentees.** The transactions at any meeting of members, either annual or special, however called and noticed, shall be as valid as though made at a meeting duly held after regular call and notice, if a quorum be present either in person or by proxy and if, either before or after the meeting, each of the members not present in person or by proxy, signs a written waiver of notice, or a consent to the holding of such meeting, or an approval of the minutes thereof. All such waivers, consents or approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

Section 9.10. **Minutes, Presumption of Notice.** Minutes or a similar record of the proceedings of meetings of members, when signed by the President or Secretary, shall be presumed truthfully to evidence the matters set forth therein. Recitation in the minutes of any such meeting that notice of the meeting was properly given shall be prima facie evidence that such notice was given.

## **ARTICLE 10.**

### **ADVISORY COMMITTEE**

Within one (1) year after conveyance of legal or equitable title to the first Unit in the Condominium to a purchaser or within one hundred twenty (120) days after conveyance to

purchasers of one-third (1/3) of the total number of Units that may be created, whichever first occurs, Developer shall cause to be established an Advisory Committee consisting of at least three (3) non-developer Co-Owners. The Committee shall be established and perpetuated in any manner Developer deems advisable, except that if more than fifty percent (50%) of the non-developer Co-Owners petition the Board of Directors for an election to select the Advisory Committee, then an election for such purpose shall be held. The purpose of the Advisory Committee shall be to facilitate communications between the Board of Directors and the non-developer Co-Owners and to aid the transition of control of the Association from Developer to non-developer Co-Owners. The Advisory Committee shall cease to exist automatically when the non-developer Co-Owners have the voting strength to elect a majority of the Board of Directors of the Association. Developer may remove and replace at its discretion at any time any member of the Advisory Committee who has not been elected by the Co-Owners.

## **ARTICLE 11.**

### **BOARD OF DIRECTORS**

Section 11.1. **Number and Qualification of Directors.** The Board of Directors shall be comprised of three (3) members all of whom must be members of the Association or officers, partners, trustees, employees or agents of members of the Association. Directors shall serve without compensation.

#### Section 11.2. **Election of Directors.**

11.2.1. **First Board of Directors.** The first Board of Directors shall be composed of three (3) persons and such first Board of Directors or its successors as selected by Developer shall manage the affairs of the Association until the appointment of the first non-developer Co-Owners to the Board. Thereafter, elections for non-developer Co-Owner Directors shall be held as provided in subsections 11.2.2 and 11.2.3 below. The Directors shall hold office until their successors are elected and hold their first meeting.

11.2.2. **Appointment of Non-developer Co-Owners to Board Prior to First Annual Meeting.** Not later than one hundred twenty (120) days after conveyance of legal or equitable title to non-developer Co-Owners of twenty-five percent (25%) of the Units that may be created, one (1) of the three (3) Directors shall be selected by non-developer Co-Owners. When the required percentage level of conveyance has been reached, Developer shall notify the non-developer Co-Owners and request that they hold a meeting and elect the required Director. Upon certification to Developer by the Co-Owners of the Director so elected, Developer shall then immediately appoint such Director to the Board to serve until the First Annual Meeting unless such Director is removed pursuant to Section 11.7 of this Article or such Director resigns or becomes incapacitated.

**11.2.3. Election of Directors At and After First Annual Meeting.**

11.2.3.1. Not later than one hundred twenty (120) days after conveyance of legal or equitable title to non-developer Co-Owners of seventy-five percent (75%) of the Units that may be created, and before conveyance of ninety percent (90%) of such Units, the non-developer Co-Owners shall elect all Directors on the Board except that Developer shall have the right to designate at least one (1) Director as long as the Units that remain to be created and sold equal at least ten percent (10%) of all Units that may be created in the Project. Whenever the seventy-five percent (75%) conveyance level is achieved, a meeting of Co-Owners shall be promptly convened to effectuate this provision, even if the First Annual Meeting has already occurred.

11.2.3.2. Regardless of the percentage of Units which have been conveyed, upon the expiration of fifty-four (54) months after the first conveyance of legal or equitable title to a non-developer Co-Owner of a Unit in the Project, the non-developer Co-Owners have the right to elect a number of members of the Board of Directors equal to the percentage of Units they own, and Developer has the right to elect a number of members of the Board of Directors equal to the percentage of Units which are owned by Developer. This election may increase, but shall not reduce, the minimum election and designation rights otherwise established in subsection 11.2.3.1. Application of this subsection does not require a change in the size of the Board of Directors.

11.2.3.3. If the calculation of the percentage of members of the Board of Directors that the non-developer Co-Owners have the right to elect under subsection 11.2.3.2, or if the product of the number of members of the Board of Directors multiplied by the percentage of Units held by the non-developer Co-Owners under subsection 11.2.2 results in a right of non-developer Co-Owners to elect a fractional number of members of the Board of Directors, then a fractional election right of 0.5 or greater shall be rounded up to the nearest whole number, which number shall be the number of members of the Board of Directors that the non-developer Co-Owners have the right to elect. After application of this formula Developer shall have the right to elect the remaining members of the Board of Directors. Application of this subsection shall not eliminate the right of Developer to designate one (1) member as provided in subsection 11.2.3.1.

11.2.3.4. At the First Annual Meeting two (2) Directors shall be elected for a term of two (2) years and one (1) Director shall be elected for a term of one (1) year. At such meeting all nominees shall stand for election as one (1) slate and the two (2) persons receiving the highest number of votes shall be elected for a term of two (2) years and the one (1) person receiving the next highest number of votes shall be elected for a term of one (1) year. After the First Annual Meeting, the term of office (except for one (1) of the Directors elected at the First Annual Meeting for a one year term) of each Director shall be two (2) years. At each annual meeting held after the first, either one (1) or two (2) Directors shall be elected depending upon the number of Directors whose terms expire. The Directors shall hold office until their successors have been elected and hold their first meeting.

11.2.3.5. Once the Co-Owners have acquired the right hereunder to elect a majority of the Board of Directors, annual meetings of Co-Owners to elect Directors and conduct other business shall be held in accordance with the provisions of Article 9, Section 9.3 above.

11.2.3.6. **Status of Units Conveyed to Residential Builders.** For purposes of calculating the timing of events described in Article 10 above and this Section 11.2, the conveyance by the Developer of a Unit to a Residential Builder, whether or not the Residential Builder is affiliated with the Developer as defined by the Act, shall not be considered a sale to a non-Developer Co-Owner until such time as the Residential Builder conveys the Unit with a completed Residence on it or until the Unit contains a completed and occupied Residence.

Section 11.3. **Powers and Duties.** The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may do all acts and things as are not prohibited by the Condominium Documents or required thereby to be exercised and done by the Co-Owners.

Section 11.4. **Other Duties.** In addition to the foregoing duties imposed by these Bylaws or any further duties which may be imposed by resolution of the members of the Association, the Board of Directors shall be responsible specifically for the following:

11.4.1. To manage and administer the affairs of and to maintain the Condominium Project and the Common Elements thereof.

11.4.2. To levy and collect assessments from the members of the Association and to use the proceeds thereof for the purposes of the Association.

11.4.3. To carry insurance and collect and allocate the proceeds thereof.

11.4.4. To rebuild improvements to the Common Elements after casualty (subject to the provisions of the Condominium Documents).

11.4.5. To contract for and employ persons, firms, corporations or other agents to assist in the management, operation, maintenance and administration of the Condominium Project.

11.4.6. To acquire, maintain and improve, and to buy, operate, manage, sell, convey, assign, mortgage or lease any real or personal property (including any Unit in the Condominium and easements rights-of-way and licenses) on behalf of the Association in furtherance of any of the purposes of the Association.

11.4.7. To borrow money and issue evidences of indebtedness in furtherance of any or all of the purposes of the Association; and to secure the same by mortgage, pledge, or other lien on property owned by the Association; provided, however, that any such action shall also be approved by affirmative vote of seventy-five percent (75%) of all of the members of the Association.

11.4.8. To make rules and regulations in accordance with these Bylaws.

11.4.9. To establish such committees as the Board of Directors deems necessary, convenient or desirable and to appoint persons thereto for the purpose of implementing the administration of the Condominium and to delegate to such committees any functions or responsibilities which are not by law or the Condominium Documents required to be performed by the Board.

11.4.10. To enforce the provisions of the Condominium Documents.

Section 11.5. **Management Agent.** The Board of Directors may employ for the Association a professional management agent (which may include Developer or any person or entity related thereto) at reasonable compensation established by the Board to perform such duties and services as the Board shall authorize, including, but not limited to, the duties listed in Section 11.3 and Section 11.4 of this Article, and the Board may delegate to such management agent any other duties or powers which are not by law or by the Condominium Documents required to be performed by or have the approval of the Board of Directors or the members of the Association. In no event shall the Board be authorized to enter into any contract with a professional management agent, or any other contract providing for services by Developer, in which the maximum term is greater than three (3) years or which is not terminable by the Association upon ninety (90) days'

written notice thereof to the other party and no such contract shall violate the provisions of Section 55 of the Act.

Section 11.6. **Vacancies.** Vacancies in the Board of Directors which occur after the Transitional Control Date caused by any reason other than the removal of a Director by a vote of the members of the Association shall be filled by vote of the majority of the remaining Directors, even though they may constitute less than a quorum, except that Developer shall be solely entitled to fill the vacancy of any Director whom Developer is permitted in the first instance to designate. Each person so elected shall be a Director until a successor is elected at the next annual meeting of the Association. Vacancies among non-developer Co-Owner elected Directors, which occur prior to the Transitional Control Date may be filled only through election by non-developer Co-Owners and shall be filled in the manner specified in subsection 11.2.2 of this Article.

Section 11.7. **Removal.** At any regular or special meeting of the Association duly called with due notice of the removal action proposed to be taken, any one or more of the Directors may be removed with or without cause by the affirmative vote of more than fifty percent (50%) of all the Co-Owners, not just of those present, and a successor may then and there be elected to fill any vacancy thus created. The quorum requirement for the purpose of filling such vacancy shall be the normal thirty-five percent (35%) requirement set forth in Article 8, Section 8.4. Any Director whose removal has been proposed by the Co-Owners shall be given an opportunity to be heard at the meeting. The Developer may remove and replace any or all of the Directors selected by it at any time or from time to time in its sole discretion. Likewise, any Director selected by the non-developer Co-Owners to serve before the First Annual Meeting may be removed before the First Annual Meeting in the same manner set forth in this paragraph for removal of Directors generally.

Section 11.8. **First Meeting.** The first meeting of a newly elected Board of Directors shall be held within ten (10) days of election at such place as shall be fixed by the Directors at the meeting at which such Directors were elected, and no notice shall be necessary to the newly elected Directors in order legally to constitute such meeting, providing a majority of the whole Board of Directors shall be present.

Section 11.9. **Regular Meetings.** Regular meetings of the Board of Directors may be held at such times and places as shall be determined from time to time by a majority of the Directors, but at least two (2) such meetings shall be held during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each Director, personally, by mail, telephone or facsimile at least ten (10) days prior to the date named for such meeting.

Section 11.10. **Special Meetings.** Special meetings of the Board of Directors may be called by the President on three (3) days' notice to each Director, given personally, by mail, telephone or facsimile which notice shall state the time, place and purpose of the



meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of two (2) Directors.

Section 11.11. **Waiver of Notice.** Before or at any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board of Directors shall be deemed a waiver of notice by the Director of the time and place thereof. If all Directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

Section 11.12. **Quorum.** At all meetings of the Board of Directors a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors, less than a quorum is present, the majority of those present may adjourn the meeting to a subsequent time upon twenty-four (24) hours' prior written notice delivered to all Directors not present. At any such adjourned meeting, any business, which might have been transacted at the meeting as originally called, may be transacted without further notice. The joinder of a Director in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such Director for purposes of determining a quorum.

Section 11.13. **First Board of Directors.** The actions of the first Board of Directors of the Association or any successors thereto selected or elected before the Transitional Control Date shall be binding upon the Association so long as such actions are within the scope of the powers and duties which may be exercised generally by the Board of Directors as provided in the Condominium Documents.

Section 11.14. **Fidelity Bonds.** The Board of Directors may require that all officers and employees of the Association handling or responsible for Association funds shall furnish adequate fidelity bonds, insuring against theft, dishonesty, and other standard coverage of fidelity bonds. The premiums on such bonds shall be expenses of administration.

## **ARTICLE 12.**

### **OFFICERS**

Section 12.1. **Officers.** The principal officers of the Association shall be a President, who shall be a member of the Board of Directors, a Secretary and a Treasurer. The Directors may appoint an Assistant Treasurer, and an Assistant Secretary, and such other officers as in their judgment may be necessary. Any two (2) offices except that of President may be held by one person.

12.1.1. **President**. The President shall be the chief executive officer of the Association. The President shall preside at all meetings of the association and of the Board of Directors and shall have all the general powers and duties which are usually vested in the office of the President of an association, including, but not limited to, the power to appoint committees from among the members of the Association from time to time as the President may in the President's discretion deem appropriate to assist in the conduct of the affairs of the Association.

12.1.2. **Secretary**. The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the members of the Association; the Secretary shall have charge of the corporate seal, if any, and of such books and papers as the Board of Directors may direct; and the Secretary shall, in general, perform all duties incident to the office of the Secretary.

12.1.3. **Treasurer**. The Treasurer shall have responsibility for the Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. The Treasurer shall be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Association, and in such depositories as may, from time to time, be designated by the Board of Directors.

Section 12.2. **Election**. The officers of the Association shall be elected annually by the Board of Directors at the organizational meeting of each new Board of Directors and shall hold office at the pleasure of the Board of Directors.

Section 12.3. **Removal**. Upon affirmative vote of a majority of the members of the Board of Directors, any officer may be removed either with or without cause, and such officer's successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board of Directors called for such purpose. No such removal action may be taken, however, unless the matter shall have been included in the notice of such meeting. The officer who is proposed to be removed shall be given an opportunity to be heard at the meeting.

Section 12.4. **Duties**. The officers shall have such other duties, powers and responsibilities as shall, from time to time, be authorized by the Board of Directors.

## **ARTICLE 13.**

### **SEAL**

The Association may (but need not) have a seal. If the Board of Directors determines that the Association shall have a seal then it shall have inscribed thereon the name of the Association, the words "corporate seal," and "Michigan."

**ARTICLE 14.****FINANCE**

Section 14.1. **Records.** The Association shall keep detailed books of account showing all expenditures and receipts of administration, which shall specify the maintenance and repair expenses of the Common Elements, and any other expenses incurred by or on behalf of the Association and the Co-Owners. Such accounts and all other Association records shall be open for inspection by the Co-Owners and their mortgagees during reasonable working hours. The Association shall prepare and distribute to each Co-Owner at least once a year a financial statement, the contents of which shall be defined by the Association. The books of account shall be reviewed at least annually by qualified independent accountants; provided, however, that such accountants need not be certified public accountants nor does such review need to be a certified review. Any institutional holder of a first mortgage lien on any Unit in the Condominium shall be entitled to receive a copy of such annual reviewed financial statement starting ninety (90) days following the end of the Association's fiscal year upon request therefore. The costs of any such review and any accounting expenses shall be expenses of administration.

Section 14.2. **Fiscal Year.** The fiscal year of the Association shall be an annual period commencing on such date as may be initially determined by the Directors. The commencement date of the fiscal year shall be subject to change by the Directors for accounting reasons or other good cause.

Section 14.3. **Bank.** Funds of the Association shall be initially deposited in such bank or savings association as may be designated by the Directors and shall be withdrawn only upon the check or order of such officers, employees or agents as are designated by resolution of the Board of Directors from time to time. The funds may be invested from time to time in accounts or deposit certificates of such bank or savings association as are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation and may also be invested in interest-bearing obligations of the United States Government.

**ARTICLE 15.****INDEMNIFICATION OF OFFICERS AND DIRECTORS**

.Every Director and officer of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon such Director or officer in connection with any proceeding to which the Director or officer may be a party or in which the Director or officer may become involved by reason of being or having been a Director or officer of the Association, whether or not such office is held at the time such expenses are incurred, except in such cases wherein the Director or officer is adjudged guilty of willful or wanton misconduct or gross negligence in the performance of duties; provided that, in the event of any claim for reimbursement or indemnification hereunder based

upon a settlement by the Director or officer seeking such reimbursement or indemnification, the indemnification herein shall apply only if the Board of Directors (with the Director seeking reimbursement abstaining) approves such settlement and reimbursement as being in the best interest of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Director or officer may be entitled. At least ten (10) days prior to payment of any indemnification which it has approved, the Board of Directors shall notify all Co-Owners thereof. Further, the Board of Directors is authorized to carry officers' and Directors' liability insurance covering acts of the officers and Directors of the Association in such amounts as it shall deem appropriate.

#### **ARTICLE 16.**

##### **AMENDMENTS**

These Bylaws may be amended by the Association or by the Developer in the manner provided in the Master Deed. Any amendment to these Bylaws shall become effective upon recording in the office of the register of deeds in the county in which the Condominium is located. A copy of each amendment to these Bylaws shall be made available to every member of the Association after adoption; provided, however, that any amendment adopted in accordance with this Article shall be binding upon all persons who have an interest in the Condominium irrespective of whether such persons actually receive a copy of the amendment. These Bylaws may not be amended in any manner to eliminate or conflict with any mandatory provision of the Act or any applicable law or provision of the Master Deed; nor may they be amended to materially reduce or eliminate the rights of any first mortgagees without the consent of the mortgagees affected.

#### **ARTICLE 17.**

##### **COMPLIANCE**

The Association of Co-Owners and all present or future Co-Owners, tenants, or any other persons acquiring an interest in or using the facilities of the Project in any manner are subject to and shall comply with the Act, as amended, and the mere acquisition, occupancy or rental of any Unit or an interest therein or the utilization of or entry upon the Condominium Premises shall signify that the Condominium Documents are accepted and ratified. In the event the Condominium Documents conflict with the provisions of the Act, the Act shall govern.

#### **ARTICLE 18.**

##### **DEFINITIONS**

All terms used herein shall have the same meaning as set forth in the Master Deed to which these Bylaws are attached as an Exhibit or as set forth in the Act.

**ARTICLE 19.****REMEDIES FOR DEFAULT**

Any default by a Co-Owner shall entitle the Association or another Co-Owner or Co-Owners to the following relief:

Section 19.1. **Legal Action.** Failure to comply with any of the terms or provisions of the Condominium Documents shall be grounds for relief, which may include, without intending to limit the same, an action to recover sums due for damages, injunctive relief, foreclosure of lien (if default in payment of assessment) or any combination thereof, and such relief may be sought by the Association or, if appropriate, by an aggrieved Co-Owner or Co-Owners.

Section 19.2. **Recovery of Costs.** In any proceeding arising because of an alleged default by any Co-Owner, the Association, if successful, shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees (not limited to statutory fees) as may be determined by the court, but in no event shall any Co-Owner be entitled to recover such attorneys fees.

Section 19.3. **Removal and Abatement.** The violation of any of the provisions of the Condominium Documents shall also give the Association or its duly authorized agents the right, in addition to the rights set forth above, to enter upon the Common Elements, Limited or General, or into any Unit and the improvements thereon, where reasonably necessary, and summarily remove and abate, at the expense of the Co-Owner in violation, any structure, thing or condition existing or maintained contrary to the provisions of the Condominium Documents. The Association shall have no liability to any Co-Owner arising out of the exercise of its removal and abatement power authorized herein.

Section 19.4. **Assessment of Fines.** The violation of any of the provisions of the Condominium Documents by any Co-Owner shall be grounds for assessment by the Association, acting through its duly constituted Board of Directors, of monetary fines for such violations. No fine may be assessed unless rules and regulations establishing such fine have first been duly adopted by the Board of Directors of the Association and notice thereof given to all Co-Owners in the same manner as prescribed in Article 9, Section 9.5 of these Bylaws. Thereafter, fines may be assessed only upon notice to the offending Co-Owners as prescribed in said Article 9, Section 9.5, and an opportunity for such Co-Owner to appear before the Board no less than seven (7) days from the date of the notice and offer evidence in defense of the alleged violation. All fines duly assessed may be collected in the same manner as provided in Article 2 of these Bylaws. No fine shall be levied for the first violation. No fine shall exceed Twenty-Five Dollars (\$25.00) for the second violation, Fifty Dollars (\$50.00) for the third violation or One Hundred Dollars (\$100.00) for any subsequent violation.

Section 19.5. **Collection**. The fines levied pursuant to Section 19.4 above shall be assessed against the Co-Owner and shall be due and payable together with the regular Condominium assessment on the first of the next following month. Failure to pay the fine will subject the Co-Owner to all liabilities set forth in the Condominium Documents.

Section 19.6. **Developer Exempt from Fines**. The Association shall not be entitled to assess fines against the Developer during the Construction and Sales Period for any alleged violations of the Condominium Documents but shall be rely solely to its other legal remedies for redress of such alleged violations.

Section 19.7. **Non-Waiver of Right**. The failure of the association or of any Co-Owner to enforce any right, provision, covenant or condition which may be granted by the Condominium Documents shall not constitute a waiver of the right of the Association or of any such Co-Owner to enforce such right, provision, covenant or condition in the future.

Section 19.8. **Cumulative Rights, Remedies and Privileges**. All rights, remedies and privileges granted to the Association or any Co-Owner or Co-Owners pursuant to any terms, provisions, covenants or conditions of the Condominium Documents shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be available to such party at law or in equity.

Enforcement of Provisions of Condominium Documents . A Co-Owner may maintain an action against the Association and its officers and Directors to compel such persons to enforce the terms and provisions of the Condominium Documents. A Co-Owner may maintain an action against any other Co-Owner for injunctive relief or for damages or any combination thereof for noncompliance with the terms and provisions of the Condominium Documents or the Act.

## **ARTICLE 20.**

### **RIGHTS RESERVED TO DEVELOPER**

Any or all of the rights and powers granted or reserved to Developer in the Condominium Documents or by law, including the right and power to approve or disapprove any act, use, or proposed action or any other matter or thing, may be assigned by it to any other entity or to the Association. Any such assignment or transfer shall be made by appropriate instrument in writing in which the assignee or transferee shall join for the purpose of evidencing its consent to the acceptance of such powers and rights and such assignee or transferee shall thereupon have the same rights and powers as herein given and reserved to Developer. Any rights and powers reserved or retained by Developer or its successors shall expire and terminate, if not sooner assigned to the Association, at the conclusion of the Construction and Sales Period as defined in Article 3 of the Master Deed. The immediately preceding sentence dealing with the expiration


and termination of certain rights and powers granted or reserved to Developer is intended to apply, insofar as Developer is concerned, only to Developer's rights to improve and control the administration of the Condominium and shall not under any circumstances be construed to apply to or cause the termination and expiration of any real property rights granted or reserved to Developer or its successors and assigns in the Master Deed or elsewhere (including, but not limited to, access easements, utility easements and all other easements created and reserved in such documents which shall be governed only in accordance with the terms of their creation or reservation and not hereby).

## ARTICLE 21.

### **SEVERABILITY**

In the event that any of the terms, provisions or covenants of these Bylaws or the Condominium Documents are held to be partially or wholly invalid or unenforceable for any reason whatsoever, such holding shall not affect, alter, modify or impair in any manner whatsoever any of the other terms, provisions or covenants of such Condominium Documents or the remaining portions of any terms, provisions or covenants held to be partially invalid or unenforceable.

MILAN CROSSING II, LLC, a Michigan limited liability company

By:   
**Robin Souders**  
**Its Authorized Agent**

Dated: August 10, 2015

**EXHIBIT B**

**CONDOMINIUM SUBDIVISION PLAN**

**MILAN CROSSING II**



WASHTENAW COUNTY CONDOMINIUM  
SUBDIVISION PLAN NO. 623

EXHIBIT B TO THE  
MASTER DEED OF

# MILAN CROSSING II

A CONDOMINIUM IN THE  
CITY OF MILAN  
WASHTENAW COUNTY, MICHIGAN

DEVELOPER  
MILAN CROSSING II, LLC  
1264 JEWELL ROAD  
MILAN, MICHIGAN 48160

ENGINEER AND SURVEYOR  
ATWELL, LLC  
TWO TOWNE SQUARE SUITE 700  
SOUTHFIELD, MI 48076  
PHONE (248) 447-2000  
FAX (248) 447-2001

PROPOSED DATED - JANUARY 13, 2015

*Atwell*



USA M. DRUGILLARD  
LICENSED PROFESSIONAL SURVEYOR NO. 46723  
ATWELL, LLC  
TWO TOWNE SQUARE, SUITE 700  
SOUTHFIELD, MI 48076  
(248) 447-2000

ATTENTION: COUNTY REGISTER OF DEEDS  
THE CONDOMINIUM PLAN NUMBER MUST BE ASSIGNED IN SEQUENCE. WHEN A  
NUMBER HAS BEEN ASSIGNED TO THIS PROJECT, IT MUST BE PROPERLY SHOWN  
IN THE TITLE OF THIS SHEET AND IN THE SURVEYOR'S CERTIFICATE ON SHEET 2

SHEET INDEX	
SHEET NO.	DESCRIPTION
1	TITLE AND DESCRIPTION
2	SURVEY PLAN
3	EASEMENT PLAN
4	SITE PLAN
5	UTILITY PLAN
6	BUILDING PERIMETER PLAN, BUILDINGS 4-6, 8-10 & 18
7	BUILDING PERIMETER PLAN BUILDINGS 7, 16, 17
8	UNIT TYPES "A" & "B"
9	UNIT TYPE "C"
10	UNIT TYPE "D"

LEGAL DESCRIPTION (PER FOURTH AMENDMENT TO MASTER DEED OF MILAN CROSSING  
RECORDED IN L4729, P.5)

Commencing at the Northeast Corner of Section 35, T4S, R6E, City of Milan, Washtenaw County, Michigan, thence S00°15'50"W 786.31 feet along the East line of said Section 35 and the centerline of Carpenter Road (100.00 feet wide), thence N87°25'40"W 501.14 feet for a PLACE OF BEGINNING; thence N87°26'40"W 750.84 feet; thence S01°02'04"W 574.36 feet along the East line of "Meadowbrook" Condominium, as recorded in Liber 4310, Page 709, Washtenaw County Records; thence S89°45'30"E 273.15 feet along the North line of "Supervisor's Plat No. 10" as recorded in Liber 10, Page 43, Washtenaw County Records; thence N00°14'30"E 154.33 feet; thence S89°45'30"E 238.34 feet; thence N00°14'30"E 84.33 feet; thence S89°45'30"E 35.42 feet; thence N00°14'30"E 196.38 feet; thence S89°45'30"E 231.64 feet; thence 19.70 feet along the arc of a 217.00 foot radius circular curve to the right, with a chord bearing S87°09'24"E 19.69 feet; thence N00°14'30"E 108.21 feet to the Place of Beginning, being part of the Northeast 1/4 of said Section 35, containing 6.64 acres of land, more or less, being subject to easements, conditions, restrictions and exceptions of record, if any.

## TITLE AND DESCRIPTION MILAN CROSSING II

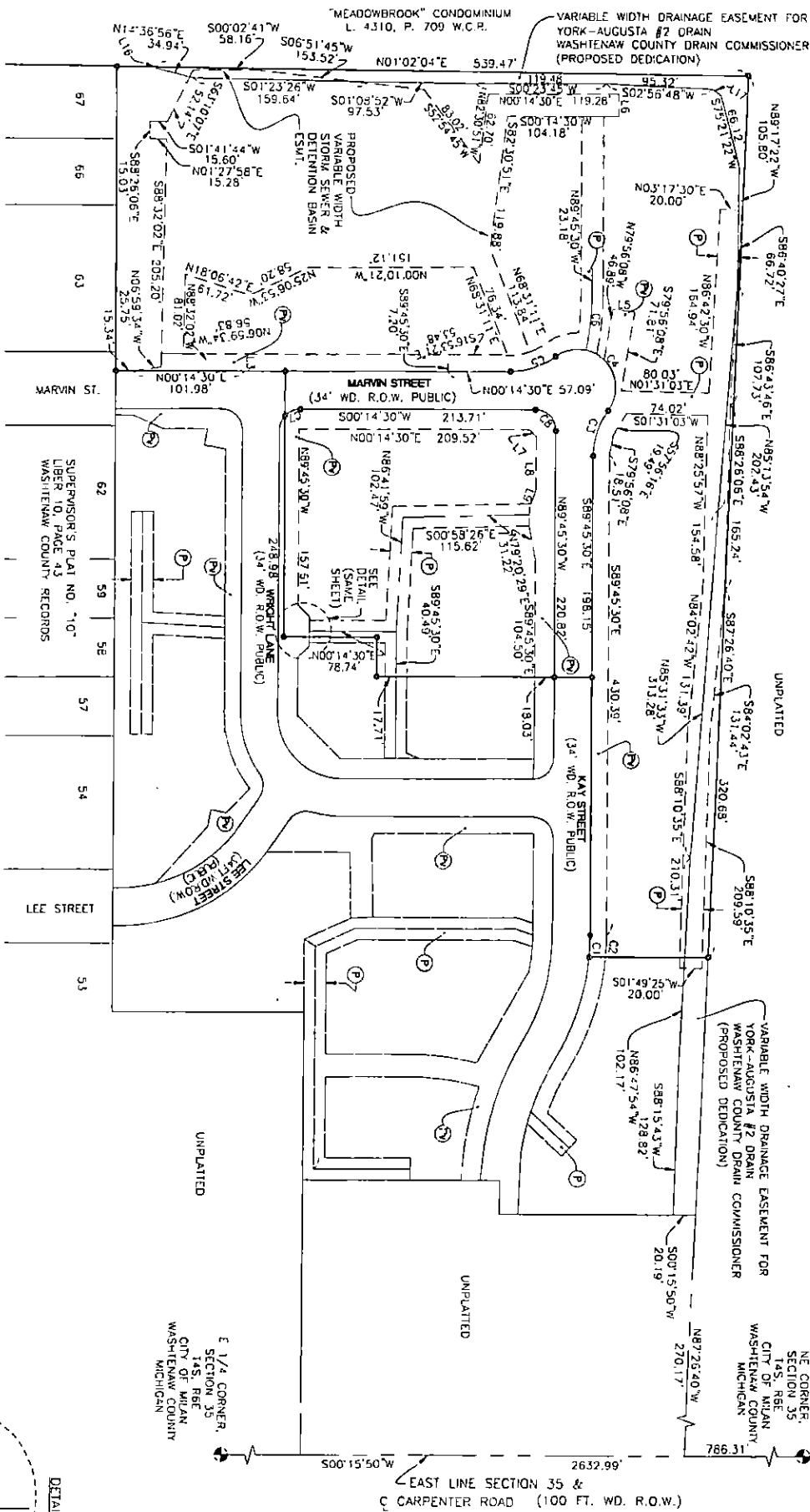
1	1 OF 10
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**811**  
Know what's below.  
Call before you dig.  
1-800-4-A-DIG  
or 1-800-486-6841  
www.811.org  
Michigan  
Call before you dig  
1-800-4-A-DIG  
or 1-800-486-6841  
www.811.org

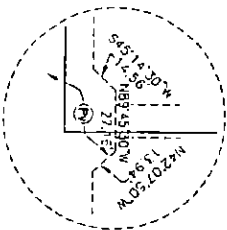
CLAIM	
JAN 13 2015	MILAN CROSSING II, LLC
	TOWN 4 NORTH, RANGE 6 EAST
	CITY OF MILAN
WASHTENAW COUNTY, MICHIGAN	
TITLE AND DESCRIPTION MILAN CROSSING II	





LINE	BEARING	LENGTH
L1	N88°45'30\"	12.84'
L2	N08°37'25\"	20.00'
L3	S89°45'30\"	20.00'
L4	N4°51'30\"	8.75'
L5	S89°45'30\"	49.09'
L6	N68°25'15\"	55.86'
L7	N65°29'09\"	1.27'

CURVE	LENGTH	RADIUS	CHD. BEARING	CHORD	DELTA
C1	19.70'	217.00'	N87°09'24\"	19.69'	051°12'02\"
C2	19.65'	217.00'	S87°19'42\"	19.65'	21°04'31\"
C3	43.86'	69.00'	S71°37'53\"	42.94'	36°15'15\"
C4	49.55'	34.50'	S85°20'51\"	45.40'	82°17'46\"
C5	23.56'	69.00'	N09°32'18\"	23.44'	19°33'37\"
C6	50.47'	230.00'	N83°28'18\"	50.37'	32°34'24\"
C7	15.74'	19.00'	S23°29'29\"	15.29'	47°27'57\"
C8	29.85'	19.00'	S45°14'30\"	26.87'	90°00'00\"



SCALE: 1"=30'

PROPOSED DATED - JANUARY 13, 2015  
LISA M. DRONILARD  
LICENSED PROFESSIONAL SURVEYOR NO. 46723  
200 E. L. CORNWALL  
SOUTHFIELD, MI 48078  
(248) 447-2000



# EASEMENT PLAN MILAN CROSSING II

3

3 OF 10

NOTES:  
BEARINGS ARE BASED ON  
SUPERVISOR'S PLAT NO. 10 AS  
RECORDED IN LIBER 10 OF  
PLATS, PAGE 43, WASHIENAW  
COUNTY RECORDS

- CONCRETE MONUMENT
- SECTION CORNER
- POB PLACE OF BEGINNING
- PROPOSED ESMT.
- EXISTING EASEMENT
- PROPOSED 20' WD. PUBLIC UTILITY EASEMENT
- PROPOSED VARIABLE WIDTH PUBLIC UTILITY EASEMENT



SECTION 35  
TOWN 4 NORTH, RANGE 6 EAST  
CITY OF MILAN  
WASHIENAW COUNTY, MICHIGAN

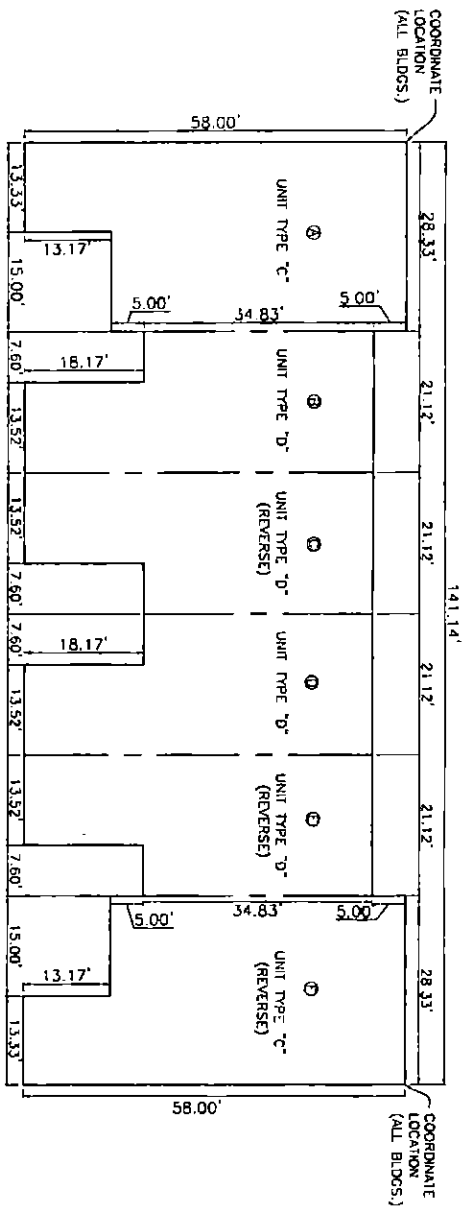
EASEMENT PLAN  
MILAN CROSSING II

CLIENT: MILAN CROSSING II, LLC  
DATE: JANUARY 13, 2015  
SHEET NO. 3 OF 10





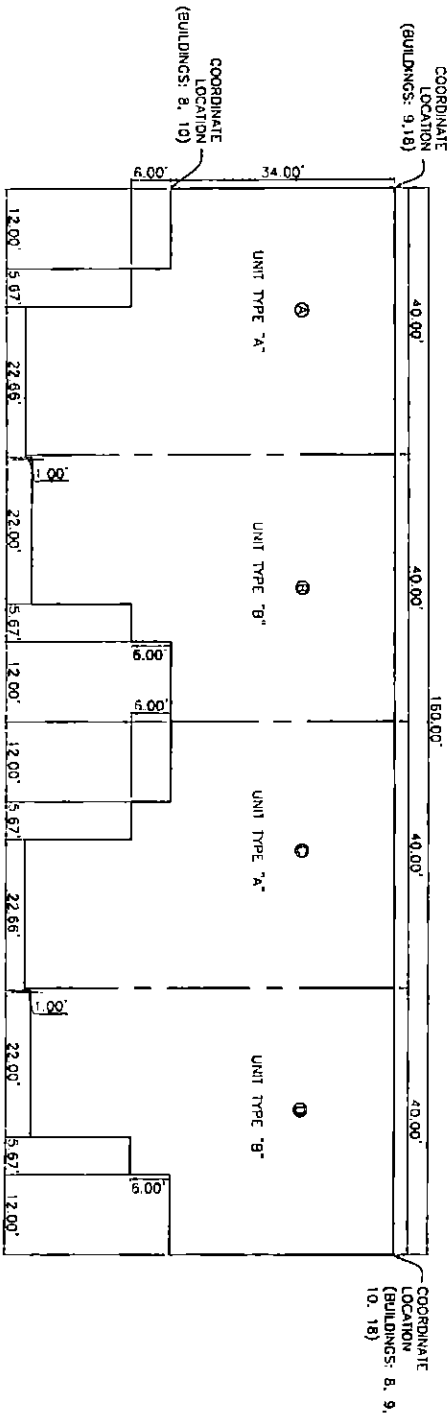
PERIMETER PLAN - BUILDINGS 4, 5, 6



LEGEND  
"A" UNIT TYPE  
"B" UNIT IDENTIFIER  
(REFER TO UNIT SCHEDULE)

UNIT NO. SCHEDULE		UNIT IDENTIFIER	
1	1	1	1
2	2	2	2
3	3	3	3
4	4	4	4
5	5	5	5
6	6	6	6
7	7	7	7
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PERIMETER PLAN - BUILDINGS 8, 9, 10, & 18



UNIT NO. SCHEDULE		UNIT IDENTIFIER	
1	1	1	1
2	2	2	2
3	3	3	3
4	4	4	4
5	5	5	5
6	6	6	6
7	7	7	7
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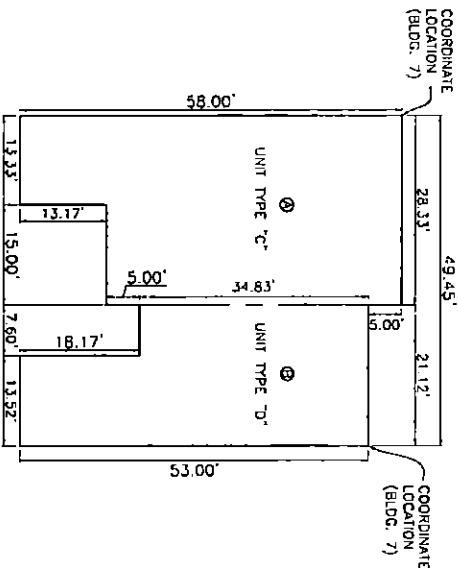


PROPOSED DATED - JANUARY 13, 2015  
USA M. DROUKLARD  
LICENSED PROFESSIONAL SURVEYOR NO. 46723  
ATWELL, LLC  
TWO DRIVE SQUARE, SUITE 700  
SOUTHFIELD, MI 48075  
(248) 447-2000

BUILDING PERIMETER PLAN -  
MILAN CROSSING II



PERIMETER PLAN - BUILDING 7

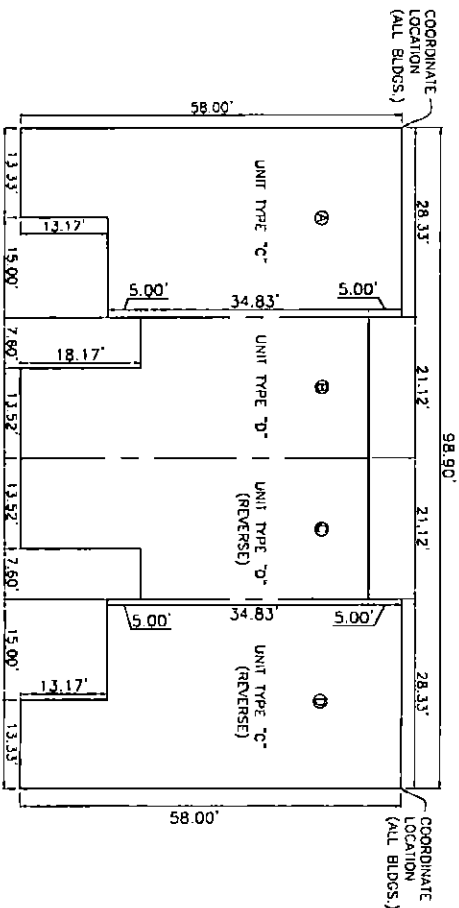


LEGEND  
"A" UNIT TYPE  
UNIT IDENTIFIER  
(REFER TO UNIT SCHEDULE)

○ ○ ○ ○

UNIT SCHEDULE		UNIT IDENTIFIER	
BUILDING	UNIT	UNIT	UNIT
7	1	1	1
7	2	2	2
7	3	3	3
7	4	4	4
7	5	5	5
7	6	6	6
7	7	7	7
7	8	8	8
7	9	9	9
7	10	10	10
7	11	11	11
7	12	12	12

PERIMETER PLAN - BUILDINGS 16 & 17



NOTE:  
1. BUILDING DIMENSIONS HAVE BEEN PROVIDED BY THE DEVELOPER. ARCHITECTS FINAL DIMENSIONS MAY VARY FROM PLAN

BUILDING PERIMETER PLAN  
MILAN CROSSING II

PROPOSED DATED - JANUARY 13, 2015  
LISA M. BOUILLARD  
LICENSED PROFESSIONAL SURVEYOR NO. 46723  
MILAN CROSSING II, LLC  
TWO TOWNE SQUARE, SUITE 700  
SOUTHFIELD, MI 48076  
(248) 447-2000



*[Signature]*



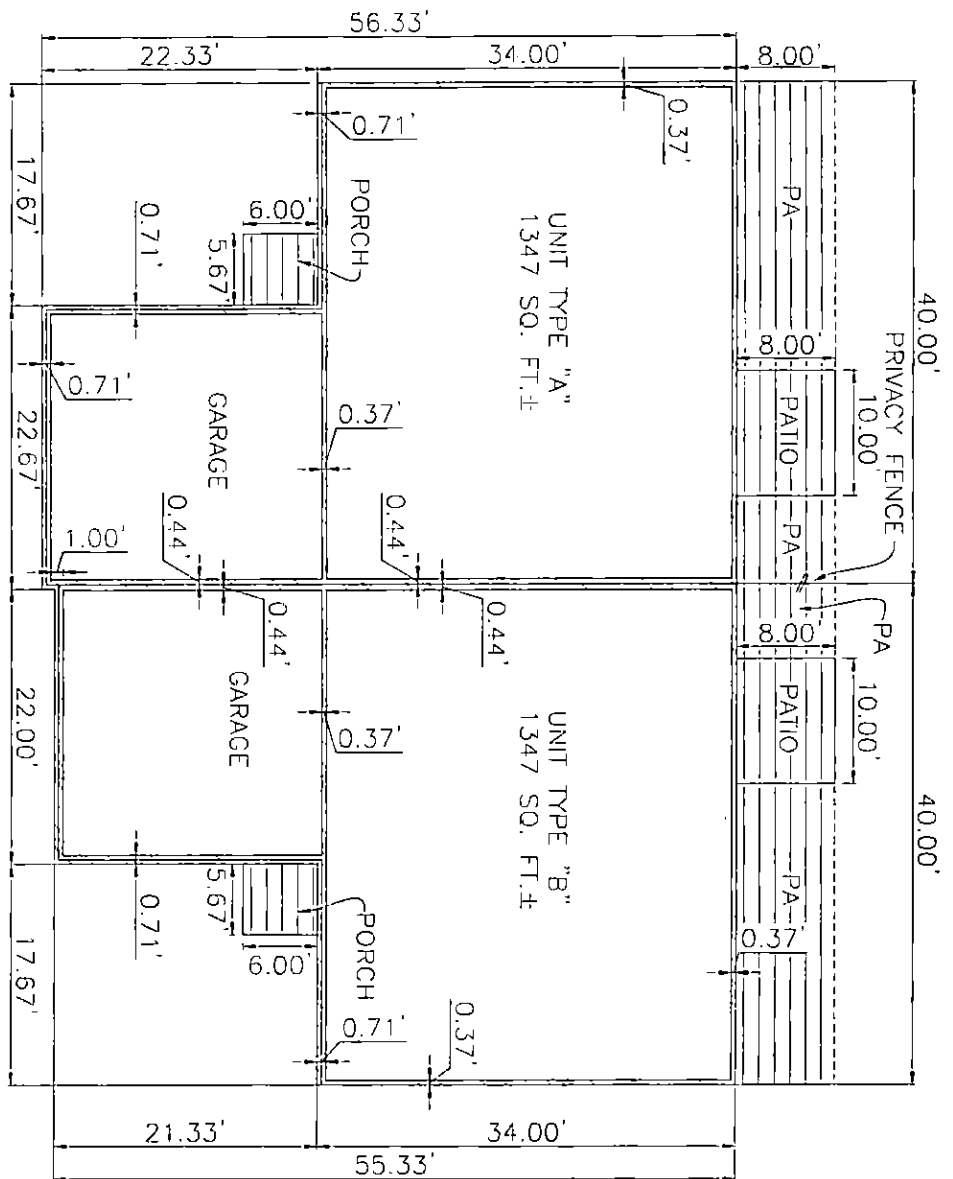
811  
Before any excavation, call 811 to locate underground utilities. This is a legal requirement in Michigan. Failure to call 811 can result in fines and damage to utilities. ATWELL is a member of the 811 network.

SECTION 35  
TOWN 6 NORTH, RANGE 6 EAST  
CITY OF MILAN  
WASHTENAW COUNTY, MICHIGAN

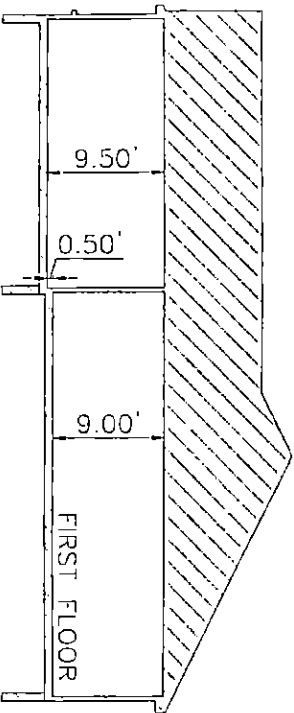
MILAN CROSSING II, LLC  
BUILDING PERIMETER PLAN  
MILAN CROSSING II

DATE: JANUARY 13, 2015  
SCALE: 1" = 10 FEET  
BY: LISA M. BOUILLARD  
CHECKED BY: [Signature]  
7 OF 10

FIRST FLOOR PLAN






## BUILDING SECTION



0 5 10 15  
SCALE 3/16" inch = 1'-0" ft.

LEGEND

	GENERAL COMMON ELEMENT
	LIMITED COMMON ELEMENT
	6'-8' PRIVACY FENCE
PA	PALIO AREA

NOTE:

1. BUILDING DIMENSIONS HAVE BEEN PROVIDED BY THE DEVELOPER. ARCHITECTS FINAL DIMENSIONS MAY VARY FROM PLAN.
2. PATIOS "NEED NOT BE BUILT".

PROPOSED DATED - JANUARY 13, 2015

LISA M. DROUNLARD  
LICENSED PROFESSIONAL SURVEYOR NO. 46723  
AIMELL, LLC  
TWO TORNE SQUARE, SUITE 700  
SOUTHFIELD, MI 48076  
(248) 447-2000

# UNIT TYPES "A" AND "B" MILAN CROSSING II

∞

8 OF 10







## BUILDING AND USE RESTRICTION AGREEMENT

THIS BUILDING AND USE RESTRICTION AGREEMENT (the "Agreement") is entered into as of this 26th day of April, 1994 by and between DAVID V. JOHNSON ("Seller"), whose address is 27400 Northwestern Highway, Suite 400, Southfield, Michigan 48034 and ROSS and PATRICIA PEPPERMAN ("Purchaser"), whose address is 2300 Oak Grove Road, Howell, Michigan 48843-9704.

The circumstances underlying the execution of this Agreement are as follows:

A. Seller is the owner of certain real property located in the City of Milan, Washtenaw County, Michigan and more particularly described in attached Exhibit A as Parcels A and E. Such property is referred to herein as the "Property."

B. Concurrently herewith, Seller is selling to Purchaser the portion of the Property described as Parcel A in attached Exhibit A (the "Pepperman Property") for use as the site of an Arby's Restaurant. The portion of the Property described as Parcel E in attached Exhibit A is referred to herein as the "Remaining Property."

C. Seller intends to develop the Remaining Property for commercial or retail purposes. Accordingly, Seller has a vital interest in ensuring that the architectural features, level of operation and other attributes of the buildings and improvements on the Pepperman Property will be reasonably compatible with present and future buildings on the Remaining Property.

NOW THEREFORE, the parties agree as follows:

ARTICLE I  
(Restrictions Applicable to the Pepperman Property)

1.1 Restrictions on the Pepperman Property. The Pepperman Property is being conveyed by Seller to Purchaser subject to the following restrictions, and the same are hereby imposed on the Pepperman Property and shall be binding upon any party having an interest therein from time to time:

(a) The initial business operated on the Pepperman Property shall be an Arby's fast food restaurant.

(b) Any structure initially constructed on the Pepperman Property shall be substantially consistent with the materials previously submitted to the City of Milan (the "City") in connection with Purchaser's application for site plan approval and shall conform

to and comply with the applicable terms and conditions of the site plan approval granted by the City in all material respects.

(c) Prior to commencing construction of any structure or improvements on the Pepperman Property, Purchaser shall procure the written approval of Seller with respect to Purchaser's final site plan, landscaping plan, exterior building plans, signage, lighting and other exterior features of any building or other structure erected at any time on the Pepperman Property; provided, however, that Seller shall not unreasonably withhold or delay such approval. Seller hereby approves the proposed structure, landscaping, signage and lighting described in the plans attached hereto as Exhibit B (the "Approved Plans"), and agrees that such structure, landscaping, signage and lighting may be constructed on the Pepperman Property. After Purchaser has constructed the structure, landscaping, signage and lighting described in the Approved Plans, Seller's approval shall not be required with respect to any further construction on the Pepperman Property, provided that Purchaser operates a nationally or regionally recognized fast-food type restaurant and the site plan, landscaping plan, exterior building plans, signage, lighting and other exterior features of any building or other structure erected at any time on the Pepperman Property are substantially in accordance with other similar type restaurants and are approved by the relevant franchisor.

(d) The Pepperman Property shall be used solely for the construction and operation of a "fast food" or similar type restaurant, and for no other purpose without the consent of Seller, which consent Seller agrees not to unreasonably withhold or delay. In no event shall the Pepperman Property be used as a site for topless dancing or similar lascivious attractions or activities.

(e) The maintenance and operations of the Pepperman Property and any business located thereon shall be in a first-class manner.

1.2 Termination of Restrictions. The restrictions set forth in this Agreement shall terminate on the date twenty (20) years after the date of this Agreement.

ARTICLE II  
(General Provisions)

2.1 Seller's Remedies.

(a) If Purchaser breaches any of the provisions set forth in Article I of this Agreement, and such breach continues for more than thirty (30) days after Purchaser has received written notice of such breach, Seller shall have the right to enter upon the Pepperman Property and abate or otherwise remedy each and every such breach.

(b) Purchaser shall reimburse Seller for any costs incurred by Seller in entering upon the Pepperman Property and abating or otherwise remedying such breach pursuant to Subsection (a) of this Section, which reimbursement shall be due and payable promptly after Seller advises Purchaser of the amount of such costs. Upon request, Seller shall provide Purchaser with reasonable documentation or other substantiation of such costs. Interest shall accrue on any such amounts at the rate of two percent (2%) above the base lending rate of Comerica Bank from time to time.

(c) The remedies set forth in Subsection (a) and (b) of this Section shall be in addition to, and cumulative with, any other remedy(ies) available to Seller at law or in equity.

2.2 Notices. Any notices required or permitted under this Agreement may be delivered personally or may be sent by certified or registered mail, return receipt requested, or prepaid courier service addressed to the addressee at the address set forth above or at such other address as a party may hereafter furnish in writing to the other party. If notices are sent by mail, the date such notices are postmarked shall be deemed the date upon which such notice was given. If a notice is sent by prepaid courier service, the delivery date thereof shall be deemed the date upon which such notice was given.

2.3 Assignment. Seller shall have the right to assign its rights under this Agreement to a successor developer of all or substantially all of the Remaining Property, or to a mortgagee of the Remaining Property or any part thereof, or to any affiliate, subsidiary or related entity in which David V. Johnson or Victor International Corporation has a controlling interest.

2.4 Miscellaneous.

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan.

(b) This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective heirs, personal representatives, successors and assigns.

(c) This Agreement is not intended to inure to the benefit of any third party, except as specifically set forth herein.

(d) This Agreement represents the entire agreement and understanding of the parties relative to the subject matter of this Agreement, and supercedes those provisions of the Real Estate Purchase Agreement between Seller and Purchaser that pertain to the subject matter of this Agreement.

(e) This Agreement may be executed in several counterparts, each of which, for all purposes, shall be deemed to constitute an original and all of which, when taken together, shall be deemed to constitute one and the same agreement, even though all of the parties hereto may not have executed the same counterpart.

(f) Both parties to this Agreement have participated fully and equally in the negotiation and preparation hereof, and this Agreement shall not be more strictly construed against, or any ambiguities resolved against, either party.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

WITNESSED BY:

SELLER:

*Mark E. Johnson*  
Name: Mark E. Johnson  
*Suzanne G. Knorr*  
Name: Suzanne G. Knorr

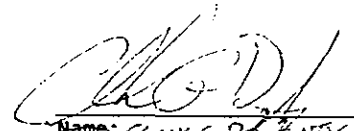
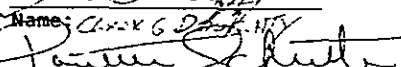
*David V. Johnson*  
David V. Johnson  
A MARRIED MAN

STATE OF MICHIGAN )  
COUNTY OF Oakland ss.

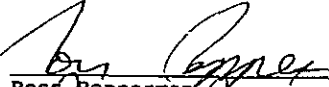
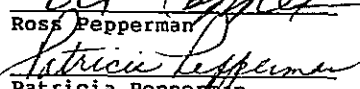
The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of April, 1994 by David V. Johnson.

*Suzanne G. Knorr*  
Notary Public, Oakland County, Michigan  
My Commission Expires: \_\_\_\_\_

SUZANNE G. KNORR  
Notary Public, Oakland County, MI  
My Commission Expires May 21, 1998

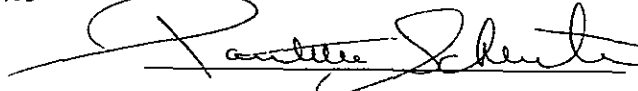
  
Name: Cameron H. Piggott  
  
Name: Paillette Schlueter

PURCHASER:

  
Ross Pepperman  
  
Patricia Pepperman

STATE OF MICHIGAN )  
COUNTY OF Livingston ) ss.

The foregoing instrument was acknowledged before me  
this 26 day of April, 1994 by Ross Pepperman and Patricia  
Pepperman. HUSBAND + WIFE



Notary Public, \_\_\_\_\_ County, Michigan  
My Commission Expires: \_\_\_\_\_

DRAFTED BY AND WHEN  
RECORDED RETURN TO:

Cameron H. Piggott, Esq.  
DYKEMA GOSSETT PLLC  
400 Renaissance Center  
Detroit, MI 48243-1668

PAILETTE SCHLUETER  
Notary Public, Livingston County, MI  
My Commission Expires Apr 9 1998

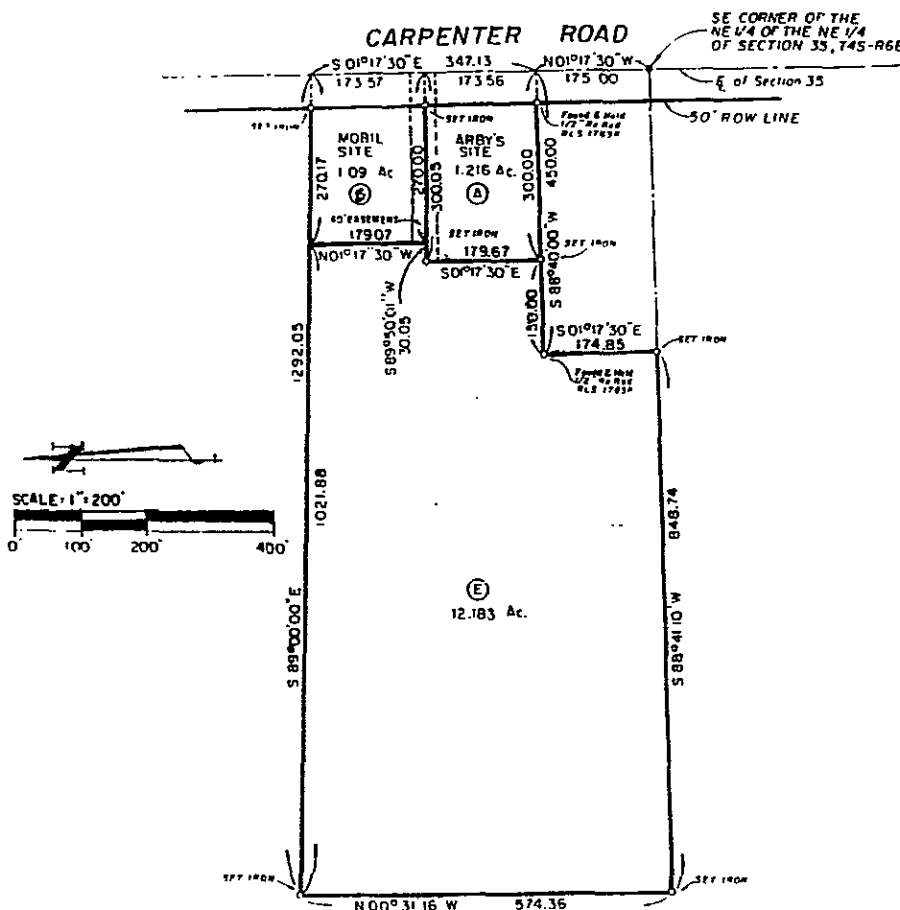
SAK4158  
4/25/94



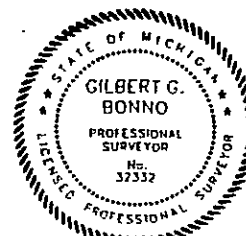
# CERTIFICATE OF SURVEY

For: VICTOR INTERNATIONAL  
27400 Northwestern Hwy.  
Suite 400  
Southfield, Michigan. 48034

EXHIBIT A



I hereby certify that this survey was prepared by me or under my direct supervision, that I am a duly Licensed Professional Surveyor under the laws of the State of Michigan, that this survey complies with the requirements of Section No. 3, P.A. No. 132 of 1970, and that the error of closure is no greater than 1 in 5000. The ratio of closure of the unadjusted field observations of this survey was 1/5000.



## CORNERSTONE

SURVEYING AND ENGINEERING INC.

212 SILVER LAKE RD FENTON, MICHIGAN 48430  
810-750-0100 810-743-3770 FAX 810-750-0194

*Gilbert G. Bonno*

GILBERT G BONNO P.S. No. 32332

DATE 1-21-94 SCALE 1"=200' DRAWN BY WPM CHECKED BY GGB DESIGNED BY GGB TITLE 2 of 2

2987-614

JOB No. 894-14

# CERTIFICATE OF SURVEY

EXHIBIT A

For

Victor International  
27400 Northwestern Hwy.  
Suite 400  
Southfield, MI 48034

## PARCEL A (ARBY'S SITE)

A parcel of land located in the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 35, T4S-R6E, City of Milan, Washtenaw County, Michigan described as follows: Commencing at the SE corner of the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 35; thence N01°17'30"W along the East line of Section 35 a distance of 175.00 feet to the POINT OF BEGINNING of this description; thence S88°40'00"W 300.00 feet; thence N01°17'30"W parallel with said East line of Section 35 a distance of 179.67 feet; thence N89°50'01"E 300.05 feet to a point on said East line of Section 35; thence S01°17'30"E along said East line 173.56 feet to the point of beginning. Containing 1.216 gross acres (1.016 net acres) and being subject to that part now used as Carpenter Road so-called.

## PARCEL B (MOBIL SITE)

A parcel of land located in the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 35, T4S-R6E, City of Milan, Washtenaw County, Michigan described as follows: Commencing at the SE corner of the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 35; thence N01°17'30"W along the East line of Section 35 a distance of 348.56 feet to the POINT OF BEGINNING of this description; thence S89°50'01"W 270.00 feet; thence N01°17'30"W parallel with said East line of Section 35 a distance of 179.07 feet; thence S89°00'00"E 270.17 feet to a point on said East line of Section 35; thence S01°17'30"E along said East line 173.57 feet to the point of beginning. Containing 1.091 gross acres and being subject to that part now used as Carpenter Road so-called.

## PARCEL E (BALANCE OF PROPERTY)

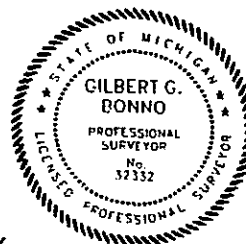
A parcel of land located in the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 35, T4S-R6E, City of Milan, Washtenaw County, Michigan described as follows: Commencing at the SE corner of the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 35; thence N01°17'30"W along the East line of Section 35 a distance of 175.00 feet; thence S88°40'00"W 300 feet to the POINT OF BEGINNING of this description; thence S88°40'00"W 150.00 feet; thence S01°17'30"E 174.85 feet; thence S88°41'10"W 848.74 feet; thence N00°31'16"W 574.36 feet thence S89°00'00"E 1041.89 feet thence S01°17'30"E parallel with said East line of Section 35 a distance of 179.07 feet; thence S89°50'01"W 30.05 feet; thence S01°17'30"E 179.67 feet to the point of beginning. Containing 12.183 acres of land.

FILED IN FILES  
COUNTY OF ER/REGISTER

JUN 10 3 24 PM '94

RECORDED  
WASHTENAW COUNTY, MI

I hereby certify that this survey was prepared by me or under my direct supervision, that I am a duly licensed Professional Surveyor under the laws of the State of Michigan, that this survey complies with the requirements of Section No. 3, P.A. No. 132 of 1970, and that the error of closure is no greater than 1 in 5400. The ratio of closure of the unadjusted least observations of this survey was 1:5000.



# CORNERSTONE

## SURVEYING AND ENGINEERING INC.

212 SILVER LAKE RD. FENTON MICHIGAN 48430  
810-750-0100 810-743-3770 FAX 810-750-0194

GILBERT G. BONNO P.S. No. 32332

1/21/94

DATE

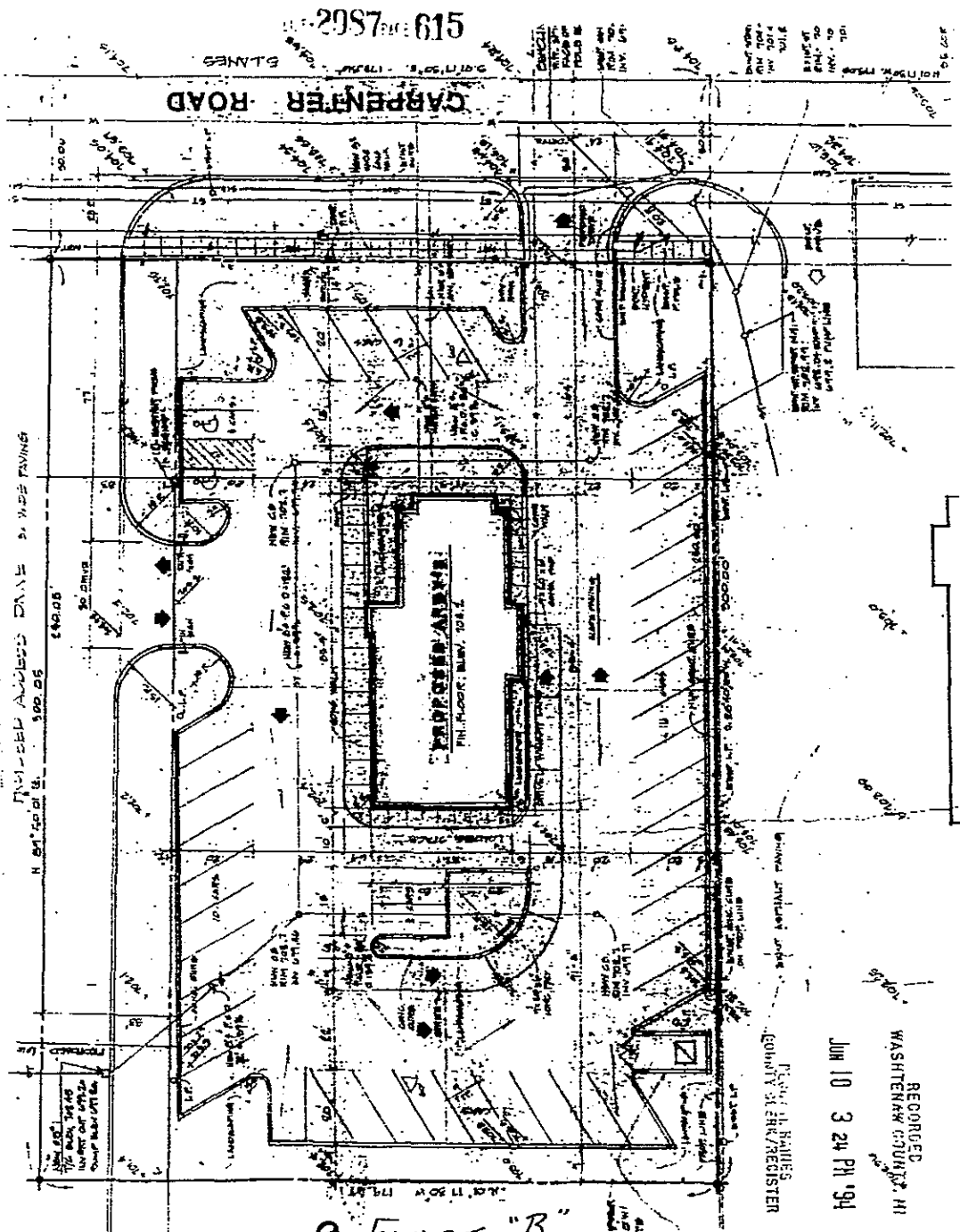
DRAWN BY

CHECKED BY

APPROVED BY

SHEET

1 OF 2



9 EXHIBIT "B"

UTILITIES AND SIGNAGE EASEMENT AGREEMENT

THIS AGREEMENT is made and entered into effective as of the 26<sup>th</sup> day of April, 1994 by and among ROSS AND PATRICIA PEPPERMAN (together "Pepperman"), whose address is c/o 2300 Oak Grove Road, Howell, Michigan 48843-9704, and DAVID V. JOHNSON ("Johnson") whose address is c/o 27400 Northwestern Highway, Suite 400, Southfield, Michigan 48034.

**RECITALS:**

Pepperman has purchased from Johnson certain real property located in the City of Milan, Washtenaw County, Michigan, and more particularly described as "Parcel A" on the attached Exhibit "A" (the "Pepperman Parcel"). Johnson is the fee owner of the parcels of real property located in the City of Milan, Washtenaw County, Michigan, and more particularly described as "Parcel E" on the attached Exhibit "A" (the "Johnson Parcel"), located adjacent to the Pepperman Parcel. Johnson wishes to have the ability to install, maintain, repair, operate and replace improvements (including without limitation wiring, conduits, connections, meters or like improvements) necessary or appropriate to provide utility service (including without limitation electric, telephone, cable television, water, gas, storm and sanitary sewer mains) to or for the benefit of Parcel "E".

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

1. **Grant of Utilities Easement.** Pepperman hereby grants to Johnson and his respective representatives, successors, heirs and assigns, a non-exclusive easement (the "Utilities Easement") under and upon the northernmost 20 feet of the Pepperman Parcel for the purpose of the installation, maintenance, repair, operation and replacement of improvements (including without limitation wiring, conduits, connections, meters or like improvements) necessary or appropriate to provide utility service (including without limitation electric, telephone, cable television, water, gas, storm and sanitary sewer mains) (the "Utilities") to or for the benefit of Parcel "E".

2. **Grant of Signage Easement.** Pepperman hereby grants to Johnson and his respective representatives, successors, heirs and assigns the right to erect a sign (the "Signage Easement") for the benefit of Parcel E within the above referenced utility easement, subject to Pepperman's approval of signage and location, which approval shall not be unreasonably withheld, provided that: (i) the proposed signage does not affect Pepperman's right to signage customary to restaurants similar to the type operated or to be operated by Pepperman on the Pepperman Parcel; (ii) does not obstruct or obscure Pepperman's signage; (iii) does not provide advertising for any establishment which directly competes with Pepperman; (iv) the proposed signage complies with and is in accordance with all applicable rules, regulations, ordinances and statutes, and has obtained all necessary governmental approvals.

3. Scope of Easements. The Easements granted herein are perpetual easements for the benefit of Parcel E. Notwithstanding the foregoing, in the event the current agreement Johnson has entered into with Mohamad Ouza for the sale of that parcel of real property designated on the attached Exhibit "A" as Parcel "C" shall terminate and not be consummated, and if permitted by the City of Milan, Johnson shall use that Parcel "C" for location of his signage, and the Signage Easement referenced in Paragraph 2, above shall terminate and be null and void.

4. Construction, Repairs, Maintenance and Improvements. Johnson shall have the responsibility to construct and install the Utilities within the Utilities Easement, which shall be constructed in accordance with all applicable codes, ordinances, rules, restrictions and necessary governmental approvals. The cost and expense of installing the Utilities shall be the responsibility of Johnson. In the event Johnson shall disturb the soil or landscaping or make any change to any existing improvements in connection with the exercise of rights under this Easement Agreement, Johnson shall, at his own costs and expense, fully and promptly restore the property, landscaping and improvements to at least that state and condition in which they existed as of the date of that disturbance or change. In addition, Johnson shall not interfere with access to Pepperman's Parcel by Pepperman, his employees, customers, guests or invitees. Pepperman reserves the right to temporarily modify or alter this easement for a reasonable period of time if necessary for construction on Pepperman's Parcel and further reserves the right to alter the property, landscaping and improvements if necessary for construction on Pepperman's Parcel, provided that Pepperman will be responsible for any cost that may be necessary to adapt the Utilities to such alterations. Pepperman, his successors, representatives and assigns shall be under no obligation to contribute toward installation, maintenance and/or repair of the Utilities except for repairs or maintenance the necessity of which arises from the acts of Grantor. Exercise of rights under this Easement Agreement shall constitute acceptance of the foregoing responsibility and acknowledgment of liability for restoration.

5. Use of Easements. Pepperman and Johnson each acknowledge that the Easements granted hereunder are permanent, common non-exclusive and run with the land and each reserves the right to use their respective parcels, including, without limitation, easement areas and easements located on their respective parcels in any manner and for any purpose not inconsistent with the grants of easement hereunder.

6. Storm Sewer Easement. Johnson hereby grants to Pepperman and his respective representatives, successors, heirs and assigns, a non-exclusive easement (the "Storm Sewer Easement") under, over, across and upon the westernmost 10 feet of Parcel B as designated on the attached Exhibit "A" for the purpose of the installation, maintenance, repair, operation and replacement of a twelve inch(12") storm drain and related improvements necessary or appropriate to provide storm sewer service to or for the benefit of the Pepperman Parcel. Johnson retains the right to hook into any such storm drain located within the Storm Sewer Easement, at Johnson's cost and expense. Pepperman and Johnson both acknowledge that Johnson may have sold Parcel B to

Mohamad Ouza ("Ouza") on or before the date of this Agreement. Johnson represents and warrants that he has reserved a storm sewer easement sufficient to permit the grant of easement to Pepperman made herein, pursuant to the terms and conditions of a certain Building and Use Restriction and Easement Agreement between Johnson and Ouza ("Restriction Agreement"), and hereby assigns all of his right, title and interest in and to the storm sewer easement and the provisions under the Restriction Agreement related thereto, subject to Johnson's reservation of the right to tap into the storm sewer, as set forth above.

7. **Indemnification.** Pepperman and Johnson shall each indemnify and hold the other harmless from any and all claims, costs and/or expenses (including reasonable attorneys' fees and expenses) related to any injury, death, damage and/or legal action resulting from the use of the Easements by the indemnifying party, its agents, successors, lessees, invitees, employees, heirs and assigns, including but not limited to any environmental contamination which may arise as a result of the use of the Easements by the indemnifying party, its agents, successors, lessees, invitees, employees, heirs and assigns, or in connection with the enforcement of this provision. Each party shall at all times maintain insurance against claims for personal injury and/or property damage in an amount of not less than \$1,000,000. All such policies shall, upon written request, name each other party (and their respective mortgagees) as additional insureds. In addition, upon written request, each party shall provide each requesting party with a certificate evidencing that insurance, together with a copy of the insurance policy, if requested.

8. **Attorneys' Fees.** Any party may enforce any breach of the terms and conditions contained in this Agreement by appropriate legal action, and the prevailing party in such litigation shall be entitled to recover, as part of its costs and expenses, reasonable attorneys' fees incurred in connection therewith.

9. **Notices.** Any notice, demand, request or other instrument that may be or is required to be given to any party under the terms of this Agreement shall be served personally or by United States mail, certified or registered, postage prepaid, return receipt requested, at its address as set forth in the beginning of this Agreement.

10. **Partial Invalidity.** If any term or provision of this Agreement, or any application thereof to any circumstance, shall to any extent be invalid or unenforceable, the remainder hereof, or the application thereof to any other circumstance, shall not be affected thereby.

11. **Entire Agreement.** This Agreement constitutes the entire agreement among the parties with respect to its subject matter and may not be amended or modified except by a further agreement in writing signed by the party against whom enforcement is sought.

12. **Waiver.** No waiver by any party of any breach or failure on the part of any other party shall be effective unless in writing and shall in no event constitute a waiver of

any breach or failure or future breach or failure, whether of similar or dissimilar nature and whether declared or undeclared by the non-defaulting party.

13. Additional Documents. All parties shall execute, acknowledge and deliver such other instruments, documents or agreements (in customary form reasonably acceptable to the executing party) as shall be reasonably necessary in order to fully bring into effect the intent and purpose of this Agreement.

14. Captions. Captions to paragraphs and sections of this Agreement have been included solely for the sake of convenient reference and are entirely without substantive effect.

15. Successors and Assigns. The terms, covenants, restrictions and conditions of this Agreement shall inure to the benefit of and be binding upon the parties' respective successors, representatives, lessees, licensees, heirs and assigns. Notwithstanding the foregoing, if a Parcel owner transfers his or its interest in any Parcel to any other person, the transferor shall be released, as of the date of such transfer, from any obligation or liability thereafter accruing that is attributable to the Parcel with respect to which such Parcel owner's interest is transferred, provided that the transferee of such Parcel owner's interest assumes such Parcel owner's obligations hereunder with respect to such Parcel.

*(Signatures to this Signage and Utilities Easement Agreement dated April 26, 1994 are set forth on the following page)*

THIS AGREEMENT has been entered into effective as of the date first set forth above.

## WITNESSES:

[Signature]  
Charles G. Dougherty

[Signature]  
Patricia Pepperman

[Signature]  
Patricia Pepperman

[Signature]  
Patricia Pepperman

"Pepperman"

[Signature]  
Mark E. Hubbard

[Signature]  
DAVID V. JOHNSON

[Signature]  
Suzanne G. Knorr

[Signature]  
LESLI R. JOHNSON, his wife, who joins  
in the execution of this Agreement solely  
for the purposes of waiving her dower  
interest

"Johnson"

STATE OF MICHIGAN  
COUNTY OF Oakland ss

April The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of  
1994, by David V. Johnson and Lesli R. Johnson, his wife.

[Signature]  
SUZANNE G. KNORR  
Notary Public, Oakland County, MI  
My Commission Expires May 21, 1995

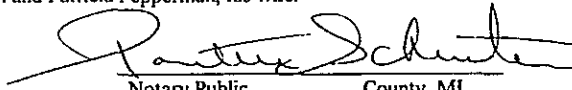


The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 1994, by David V. Johnson and Leslie R. Johnson, his wife.

Notary Public, \_\_\_\_\_ County, MI  
My Commission Expires: \_\_\_\_\_

STATE OF MICHIGAN }  
COUNTY OF LIVINGSTON } SS

The foregoing instrument was acknowledged before me this 26 day of APRIL, 1994 by Ross Pepperman and Patricia Pepperman, his wife.

  
Notary Public, \_\_\_\_\_ County, MI  
My Commission Expires: \_\_\_\_\_

PALETTE SCHLUETER  
Notary Public, Livingston County, MI  
My Commission Expires Apr 9 1998

**Drafted by, and when  
recorded please return to:**

Clark G. Doughty Esq.  
Simpson & Berry, P.C.  
260 East Brown Street  
Suite 300  
Birmingham, Michigan 48009  
Telephone: (810) 647-0200

EXHIBIT A

SE CORNER OF THE  
NE 1/4 OF THE NE 1/4  
OF SECTION 33, T4S-R6E

CARPENTER ROAD

S 01°17'30" E 173.57 347.13 N 01°17'30" W 175.00

E of Section 33

50' ROW LINE

SET IRON

MORIL SITE  
1.09 Ac  
(E)

ARBY'S SITE  
1.216 Ac.  
(A)

40' EASEMENTS  
179.07

N 01°17'30" W 179.67

50°17'30" E

1292.05

1021.88

S 89°41'00" E

S 89°40'01" W 30.05

SET IRON

588°40'01" W 450.00

588°40'01" W 138.00

S 01°17'30" E 174.85

SET IRON

848.74

588°41'0" W

SET IRON

12.183 Ac.  
(E)

N 00°31'16" W 574.36

400'

0'

SCALE: 1" = 200'

A circular professional seal for Gilbert G. Bonno, a Professional Surveyor in the State of Michigan. The seal features a double-lined circular border. Between the lines, the words "STATE OF MICHIGAN" are written along the top arc, and "LICENSED PROFESSIONAL SURVEYOR" along the bottom arc. Two small stars separate the top and bottom text. In the center of the seal, the name "GILBERT G. BONNO" is printed in a large, bold, sans-serif font. Below the name, the title "PROFESSIONAL SURVEYOR" is printed in a smaller, bold, sans-serif font. At the very bottom of the center, the license number "No. 32332" is printed in an even smaller, regular, sans-serif font.

Hubert J. Brown

GILBERT G BONNO P.S. No.32332

148

# CERTIFICATE OF SURVEY

EXHIBIT A

For

Victor International  
27400 Northwestern Hwy.  
Suite 400  
Southfield, MI 48034

## PARCEL A (ARBY'S SITE)

A parcel of land located in the NE¼ of the NE¼ of Section 35, T4S-R6E, City of Milan, Washtenaw County, Michigan described as follows: Commencing at the SE corner of the NE¼ of the NE¼ of Section 35; thence N01°17'30"W along the East line of Section 35 a distance of 175.00 feet to the POINT OF BEGINNING of this description; thence S88°40'00"W 300.00 feet; thence N01°17'30"W parallel with said East line of Section 35 a distance of 179.67 feet; thence N69°50'01"E 300.05 feet to a point on said East line of Section 35; thence S01°17'30"E along said East line 173.56 feet to the point of beginning. Containing 1.216 gross acres (1.016 net acres) and being subject to that part now used as Carpenter Road so-called.

## PARCEL B (MOBIL SITE)

A parcel of land located in the NE¼ of the NE¼ of Section 35, T4S-R6E, City of Milan, Washtenaw County, Michigan described as follows: Commencing at the SE corner of the NE¼ of the NE¼ of Section 35; thence N01°17'30"W along the East line of Section 35 a distance of 348.56 feet to the POINT OF BEGINNING of this description; thence S89°50'01"W 270.00 feet; thence N01°17'30"W parallel with said East line of Section 35 a distance of 179.07 feet; thence S89°00'00"E 270.17 feet to a point on said East line of Section 35; thence S01°17'30"E along said East line 173.57 feet to the point of beginning. Containing 1.091 gross acres and being subject to that part now used as Carpenter Road so-called.

## PARCEL E (BALANCE OF PROPERTY)

A parcel of land located in the NE¼ of the NE¼ of Section 35, T4S-R6E, City of Milan, Washtenaw County, Michigan described as follows: Commencing at the SE corner of the NE¼ of the NE¼ of Section 35; thence N01°17'30"W along the East line of Section 35 a distance of 175.00 feet; thence S88°40'00"W 300 feet to the POINT OF BEGINNING of this description; thence S88°40'00"W 150.00 feet; thence S01°17'30"E 174.85 feet; thence S88°41'10"W 848.74 feet; thence N00°31'16"W 574.36 feet thence S89°00'00"E 1041.89 feet thence S01°17'30"E parallel with said East line of Section 35 a distance of 179.07 feet; thence S89°50'01"W 30.05 feet; thence S01°17'30"E 179.67 feet to the point of beginning. Containing 12.183 acres of land.

RECORDED  
JUN 10 3 25 PM '94  
WASHTENAW COUNTY, MI  
COUNTY CLERK/REGISTER

I hereby certify that this survey was prepared by me or under my direct supervision, that I am a duly Licensed Professional Surveyor under the laws of the State of Michigan, that the survey complies with the requirements of Section No. 132 of P.A. No. 132 of 1970, and that the error of closure is no greater than 1 in 5400. The ratio of closure of the undistorted observations of this survey was 1 in 5000.



## CORNERSTONE

SURVEYING AND ENGINEERING INC.

212 SILVER LAKE RD FENTON, MICHIGAN 48430  
810-750-0100 810-743-3770 FAX 810-750-0194

*Gilbert G. Bonno*  
GILBERT G. BONNO P.S. No. 32332

DATE 1/21/94 DRAWN BY CHECKED BY SHEET 1 OF 2

4/22/94

ROADWAY AND EASEMENT AGREEMENT

THIS AGREEMENT is made and entered into effective as of the 29<sup>th</sup> day of April, 1994 by and among ROSS, AND PATRICIA PEPPERMAN (collectively, "Pepperman"), whose address is c/o 2300 Oak Grove Road, Howell, Michigan 48834-9704, MOHAMAD OUZA ("Ouza"), whose address is 4858 Westland, Dearborn, Michigan 48126, and DAVID V. JOHNSON ("Johnson") whose address is c/o 27400 Northwestern Highway, Suite 400, Southfield, Michigan 48034.

R E C I T A L S:

Pepperman has purchased from Johnson certain real property located in the City of Milan, Washtenaw County, Michigan, and more particularly described as "Parcel A" on attached Exhibit "A" (the "Pepperman Parcel"). Ouza and Johnson are the fee owners of the parcels of real property located in the City of Milan, Washtenaw County, Michigan, and more particularly described as "Parcel B" and "Parcel E", respectively, on attached Exhibit "A". Parcel B (the "Ouza Parcel") and Parcel E (the "Johnson Parcel") are located adjacent to the Pepperman Parcel, with Parcel B being located to the north of the Pepperman Parcel and Parcel E being located to the west of the Pepperman Parcel. Johnson wishes to construct a roadway (the "Roadway") over and upon the portion of the Pepperman Parcel, the Ouza Parcel and the Johnson Parcel that is described on attached Exhibit "B" (the "Roadway Parcel"), for the benefit of each of the Parcels (as herein-after defined). For purposes hereof, the term "Parcels" shall refer collectively to the Ouza Parcel, the Johnson Parcel and the Pepperman Parcel, together with any subdivisions of any of the foregoing. Each of the Parcels may be referred to sometimes hereinafter as a "Parcel".

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which hereby are acknowledged, the parties hereto agree as follows:

1. Grant of Easements. Pepperman, Ouza and Johnson grant, convey and assign to each other, and their respective representatives, successors, heirs, assigns, invitees, tenants, employees, lessees and guests, non-exclusive easements (the "Easements") over and upon their respective portions of the Roadway Parcel for the purpose of providing ingress to and egress from Carpenter Road and the respective Parcels.

2. Scope of Easements. The Easements granted herein are perpetual easements for the construction, maintenance and repair of the Roadway for the benefit of each of the respective Parcels.

3. Construction, Repairs, Maintenance and Improvements. Johnson, as owner of Parcel E, shall construct and install the Roadway upon the Roadway Parcel. The Roadway shall be constructed in accordance with Pepperman's plans and specifications, which shall be subject to the reasonable approval of Johnson, as owner of Parcel E. The cost and expense of installing the Roadway shall be the responsibility of Johnson. Johnson shall install the Roadway so as to correspond and coordinate with Pepperman's construction of the improvements to be located upon the Pepperman Parcel. The Roadway and Roadway Parcel shall be maintained in such a manner as to maintain a first-class access drive. Until such time as construction of any building improvements is commenced on any portion of the Johnson Parcel, Ouza and Pepperman together shall have control with respect to the repairs, maintenance and improvements of the Roadway and shall agree upon who shall provide snow removal services, lawn care services, roadway maintenance and repair services and maintain the Roadway; however, if Ouza and Pepperman are unable to agree, then either of them may provide the services, provided the Roadway and Roadway Parcel are maintained in a first-class condition. Upon the commencement of construction of any improvements on any portion of the Johnson Parcel, Johnson shall have the right to assume, by written notice to the owner(s) of the Ouza Parcel and the Pepperman Parcel, the responsibility for repairing and maintaining the Roadway, including without limitation by providing snow removal and lawn care services with respect to the Roadway Parcel. However, if Johnson declines to assume the responsibility for repairing and maintaining the Roadway, then the responsibility for repairing and maintaining the Roadway shall be determined as otherwise set forth in this Section. If Johnson assumes the responsibility for repairing and maintaining the Roadway, Johnson shall maintain the Roadway in first-class condition and, if Johnson thereafter fails to maintain the Roadway in first-class condition, either of the owner of the Ouza Parcel or the Pepperman Parcel may, after written notice to Johnson and Johnson's failure thereafter to correct such failure within a reasonable period of time under the circumstances, cure such failure.

4. Expenses. (a) So long as no owner of any portion of the Johnson Parcel has commenced construction of any improvements on any portion of the Johnson Parcel and no owner of any portion of the Johnson Parcel utilizes any portion of the Roadway, each of Ouza and Pepperman shall be responsible for fifty percent (50%) of the costs of all maintenance, repairs and capital improvements (expressly excluding the cost and expense of constructing and installing the Roadway, which shall be the sole obligation of Johnson) required to be made to the Roadway and the Roadway Parcel (the "Maintenance Costs").

(b) At such time as the owner of Parcel C or Parcel D (as depicted on attached Exhibit C) commences construction of any improvements on Parcel C or Parcel D, as the case may be, the owners of the Ouza Parcel, the Pepperman Parcel and Parcel C and/or Parcel D, as the case may be, the Maintenance Costs shall be divided equally between the owners of the Ouza Parcel, the Pepperman Parcel and Parcel C and/or Parcel D, as the case may be. For example, if construction is commenced on Parcel C but not on Parcel D, the owners of each of the Ouza Parcel, the Pepperman Parcel and Parcel C shall bear one-third of the Maintenance Costs.

(c) At such time as the owner of any portion of Parcel E (as depicted on attached Exhibit C) commences construction of any improvements on such Parcel E, each of the owners of the Ouza Parcel, the Pepperman Parcel and any other Parcels upon which construction of any improvements has been commenced shall be responsible for its pro-rata share of the Maintenance Costs. For purposes hereof, the term "pro-rata share" shall mean a fraction, the numerator of which is the number of acres in the particular Parcel with respect to which such pro-rata share is being determined, and the denominator of which is the aggregate number of acres of land included in the Ouza Parcel, the Pepperman Parcel and the other Parcels upon which construction of any improvements has been commenced; provided, however, that Pepperman's pro-rata share shall not exceed ten percent (10%).

(d) At such time as the owner of any Parcel incurs any Maintenance Costs, the Parcel owner incurring such Maintenance Costs shall provide to the other Parcel owner(s) a statement, including detailed invoices, setting forth the total Maintenance Costs so incurred and the portion thereof payable by each Parcel owner. Each Parcel owner shall pay the portion of such Maintenance Costs payable by it to the Parcel owner incurring such Maintenance Costs within 30 days after receipt of the statement described in the immediately preceding sentence. If any Parcel owner fails to pay the portion of the Maintenance Costs payable by it to the Parcel owner incurring the Maintenance Costs within the foregoing 30 day period, the Parcel owner incurring such Maintenance Costs shall be entitled to (i) a lien, in the amount of the defaulting Parcel owner's portion of such Maintenance Costs, against the defaulting Parcel owner's Parcel and (ii) record with the Washtenaw County Register of Deeds evidence of that lien.

5. Use of Easements. Pepperman, Ouza and Johnson each acknowledge that the Easements granted hereunder are permanent, common, non-exclusive and run with the land, and each reserves the right to use its Parcel, including, without

11-  
Cuza  
limitation, easement areas and easements located on its Parcel, in any manner and for any purpose not inconsistent with the grants of easement hereunder. Notwithstanding the foregoing, Pepperman, and Johnson agree that vehicles shall not be parked on the Roadway or otherwise obstruct the flow of traffic onto the Parcels.

6. Indemnification. Each of Pepperman, Ouza and Johnson shall indemnify, defend and hold the other harmless from any and all claims, liability, damages, costs and/or expenses (including reasonable attorneys' fees and expenses) related to any injury, death, damage and/or legal action resulting from the use of the Easements by the indemnifying party, its agents, successors, lessees, invitees, employees, heirs and assigns, including but not limited to any environmental contamination which may arise as a result of the use of the Easements by the indemnifying party, its agents, successors, lessees, invitees, employees, heirs and assigns, or in connection with the enforcement of this provision. Each Parcel owner shall at all times maintain insurance against claims for personal injury and/or property damage in an amount of not less than \$1,000,000. All such policies shall, upon written request, name each other party (and their respective mortgagees) as additional insureds. In addition, upon written request, each party shall provide each requesting party with a certificate evidencing that insurance, together with a copy of the insurance policy, if requested.

7. Attorneys Fees. Any party may enforce any breach of the terms and conditions contained in this Agreement by appropriate legal action, and the prevailing party in such litigation shall be entitled to recover, as part of its costs and expenses, reasonable attorneys' fees incurred in connection therewith.

8. Notices. Any notice, demand, request or other instrument that may be or is required to be given to any party under the terms of this Agreement shall be served personally or by United States mail, certified or registered, postage prepaid, return receipt requested, at its address as set forth in the beginning of this Agreement.

9. Partial Invalidity. If any term or provision of this Agreement, or any application thereof to any circumstance, shall to any extent be invalid or unenforceable, the remainder hereof, or the application thereof to any other circumstance, shall not be affected thereby.

10. Entire Agreement. This Agreement constitutes the entire agreement among the parties with respect to its subject



matter and may not be amended or modified except by a further agreement in writing signed by the party against whom enforcement is sought.

11. Waiver. No waiver by any party of any breach of failure on the part of any other party shall be effective unless in writing and shall in no event constitute a waiver of any breach or failure or future breach or failure, whether of similar or dissimilar nature and whether declared or undeclared by the non-defaulting party.

12. Additional Documents. All parties shall execute, acknowledge and deliver such other instruments, documents or agreements (in customary form reasonably acceptable to the executing party) as shall be reasonably necessary in order to fully bring into effect the intent and purpose of this Agreement.

13. Captions. Captions to paragraphs and sections of this Agreement have been included solely for the sake of convenient reference and are entirely without substantive effect.

14. Successors and Assigns. The terms, covenants, restrictions and conditions of this Agreement shall inure to the benefit of and be binding upon the parties' respective successors, representatives, lessees, licensees, heirs and assigns. Notwithstanding the foregoing, if a Parcel owner transfers his or its interest in any Parcel to any other person, the transferor shall be released, as of the date of such transfer, from any obligation or liability thereafter accruing that is attributable to the Parcel with respect to which such Parcel owner's interest is transferred (including without limitation the obligations pursuant to Section 6 above), provided that the transferee of such Parcel owner's interest assumes such Parcel owner's obligations hereunder with respect to such Parcel.

THIS AGREEMENT has been entered into effective as of the date first set forth above.

WITNESSES:

[Signature]  
Name: CLARK G. DOLG MIT  
[Signature]  
Name: PATRICK SCHLUETER  
[Signature]  
Name: ROSS PEPPERMAN  
[Signature]  
Name: PATRICIA PEPPERMAN  
"Pepperman"

STATE OF MICHIGAN )  
COUNTY OF LIVINGSTON ss

The foregoing instrument was acknowledged before me this 26 day of April, 1994 by Ross Pepperman and Patricia Pepperman, H/W

[Signature]  
Notary Public, \_\_\_\_\_ County, MI  
My Commission Expires: \_\_\_\_\_

PATRICK SCHLUETER  
Notary Public, Livingston  
My Commission Expires 4/9

PATRICK SCHLUETER  
Notary Public, Livingston County, MI  
My Commission Expires Apr 9 1999

2987 PAGE 631

Re - RECORDED

2982 PAGE 694

Susan Allene Kouch  
Name: SUSAN ALLENE KOUCH

Mark E. Hubbard  
Name: MARK E. HUBBARD

Mohamad Ouza  
MOHAMAD OUZA A MARRIED MAN

~~who joins in the execution of  
this Agreement solely for the  
purposes of waiving her dower  
interest~~

~~"Ouza"~~

STATE OF MICHIGAN )  
COUNTY OF Oakland ) ss

The foregoing instrument was acknowledged before me  
this 15 day of April, 1994 by Mohamad Ouza and ~~his wife~~.

Suzanne G. Knorr  
Notary Public, Oakland County, MI  
My Commission Expires:

SUZANNE G. KNORR  
Notary Public, Oakland County, MI  
My Commission Expires May 21, 1998

Linda Radtka  
Name: LINDA RADTKA  
Donald B. Mouchet  
Name: DONALD B. MOUCHET

MOHAMAD OUZA  
X Ehsan Ouz  
EHSAN OUZA, his wife,  
who joins in the execution of  
this Agreement solely for the  
purposes of waiving her dower  
interest

"Ouza"

STATE OF MICHIGAN )  
COUNTY OF WAYNE ) SS

The foregoing instrument was acknowledged before me  
this 27 day of April, 1994 by ~~Mohamad Ouza~~ and EHSAN OUZA,  
his wife. MAY

Donald B. Mouchet  
Notary Public, WAYNE County, MI  
My Commission Expires: APR 10, 1994  
DONALD MOUCHET

USE 2987 PAGE 633  
Re-Recorded

USE 2982 PAGE 695

Susan Allene Kovach  
Name: SUSAN ALLENE KOVACH

Mark E. Hussard  
Name: MARK E. HUSSARD

David V. Johnson  
DAVID V. JOHNSON

Lesli R. Johnson  
LESLI R. JOHNSON, his wife,  
who joins in the execution of  
this Agreement solely for the  
purposes of waiving her dower  
interest

"Johnson"

STATE OF MICHIGAN )  
COUNTY OF Oakland ) ss

The foregoing instrument was acknowledged before me  
this 15<sup>th</sup> day of April, 1994 by David V. Johnson and Lesli R.  
Johnson, his wife.

Suzanne G. Knorr  
Notary Public, Oakland County, MI  
My Commission Expires:

SUZANNE G. KNORR  
Notary Public, Oakland County, MI  
My Commission Expires May 21, 1998

Drafted by, and when  
recorded please return to:

Clark G. Doughty, Esq.  
Simpson & Berry, P.C.  
260 East Brown Street  
Suite 300  
Birmingham, Michigan 48009  
Telephone: (810) 647-0200

SAK4202  
4/22/94

Re-Recorded

# CERTIFICATE OF SURVEY

EXHIBIT A

For

Victor International  
27400 Northwestern Hwy.  
Suite 400  
Southfield, MI 43034

## PARCEL A (ARBY'S SITE)

A parcel of land located in the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 35, T4S-R5E, City of Milan, Washtenaw County, Michigan described as follows: Commencing at the SE corner of the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 35; thence N01°17'30"W along the East line of Section 35 a distance of 175.00 feet to the POINT OF BEGINNING of this description; thence S88°40'00"W 300.00 feet; thence N01°17'30"W parallel with said East line of Section 35 a distance of 179.67 feet; thence N69°50'01"E 300.05 feet to a point on said East line of Section 35; thence S01°17'30"E along said East line 173.56 feet to the point of beginning. Containing 1.216 gross acres (1.016 net acres) and being subject to that part now used as Carpenter Road so-called.

## PARCEL B (MOBIL SITE)

A parcel of land located in the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 35, T4S-R6E, City of Milan, Washtenaw County, Michigan described as follows: Commencing at the SE corner of the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 35; thence N01°17'30"W along the East line of Section 35 a distance of 348.56 feet to the POINT OF BEGINNING of this description; thence S89°50'01"W 270.00 feet; thence N01°17'30"W parallel with said East line of Section 35 a distance of 179.07 feet; thence S89°00'00"E 270.17 feet to a point on said East line of Section 35; thence S01°17'30"E along said East line 173.57 feet to the point of beginning. Containing 1.091 gross acres and being subject to that part now used as Carpenter Road so-called.

## PARCEL E (BALANCE OF PROPERTY)

A parcel of land located in the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 35, T4S-R6E, City of Milan, Washtenaw County, Michigan described as follows: Commencing at the SE corner of the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 35; thence N01°17'30"W along the East line of Section 35 a distance of 175.00 feet; thence S88°40'00"W 300 feet to the POINT OF BEGINNING of this description; thence S88°40'00"W 150.00 feet; thence S01°17'30"E 174.85 feet; thence S88°41'10"W 848.74 feet; thence N00°31'16"W 574.36 feet thence S89°00'00"E 1041.89 feet thence S01°17'30"E parallel with said East line of Section 35 a distance of 179.07 feet; thence S89°50'01"W 30.05 feet; thence S01°17'30"E 179.67 feet to the point of beginning. Containing 12.183 acres of land.

I hereby certify that this survey was prepared by me or under my direct supervision, that I am a duly Licensed Professional Surveyor under the laws of the State of Michigan, that this survey complies with the requirements of Section 110, P.A. No. 132 of 1970, and that the error of closure is no greater than 1 in 5400, the ratio of closure of the unadjusted field observations of this survey was 1/5000.



## CORNERSTONE

SURVEYING AND ENGINEERING INC.

212 SILVER LAKE RD FENTON, MICHIGAN 48430  
810-750-0100 810-743-3770 Fax 810-750-0194

*Gilbert G. Bonno*

GILBERT G. BONNO P.S. No. 32332

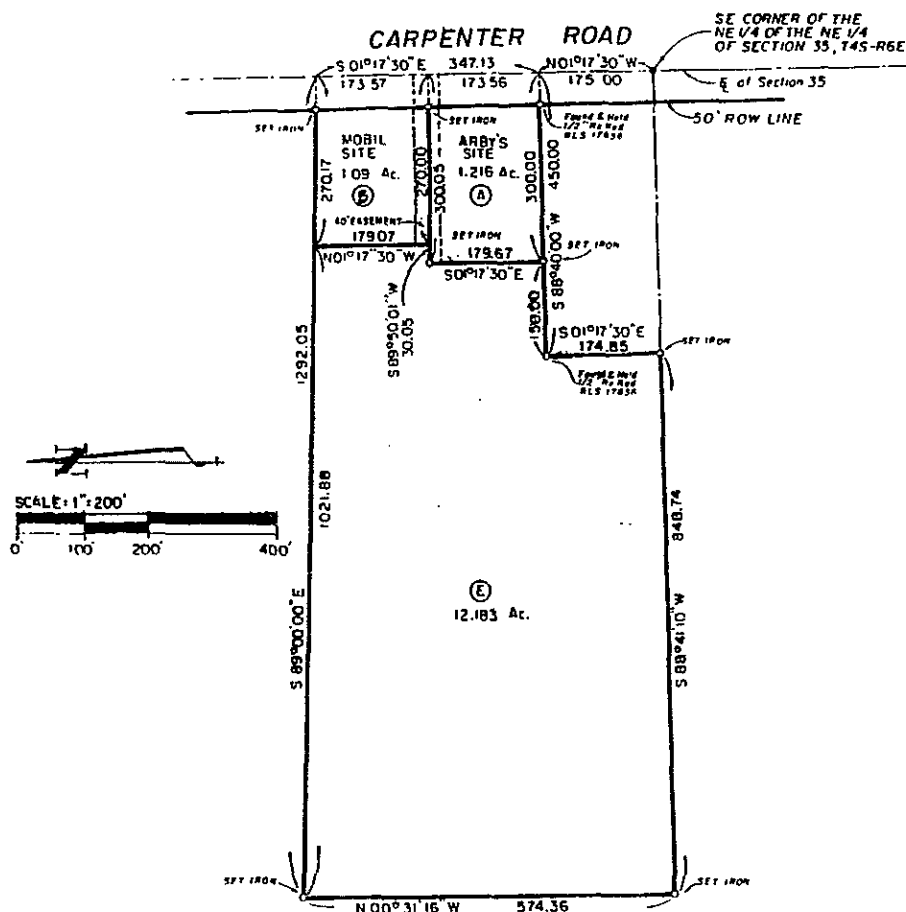
DATE 1/21/94	SCALE	LEGEND	FIELD NOTES	CHECKED BY	SHEET 1 OF 2
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- Re: RECORDED

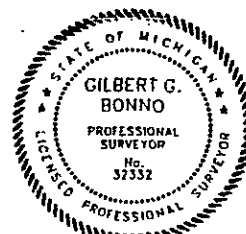
# CERTIFICATE OF SURVEY

For: VICTOR INTERNATIONAL  
27400 Northwestern Hwy .  
Suite 400  
Southfield, Michigan. 48034

EXHIBIT A



I hereby certify that this survey was prepared by me or under my direct supervision, that I am a duly licensed Professional Surveyor under the laws of the State of Michigan, that this survey complies with the requirements of Section 10, 3, P.A. No 132 of 1970, and that the error of closure is no greater than 1 in 5900. The ratio of closure of the unadjusted field observations of this survey was 1/ 5000.



# CORNERSTONE

**SURVEYING AND ENGINEERING INC.**

212 SILVER LAKE RD FENTON, MICHIGAN 48430  
810-750-0100 810-743-3770 FAX 810-750-0194

Yehat y. Bonno

GILBERT G BONNO P.S No.32332

1-21-94

1"=200'

ကံကံ၊ ပုံ

CPW CHEF.  
CCD

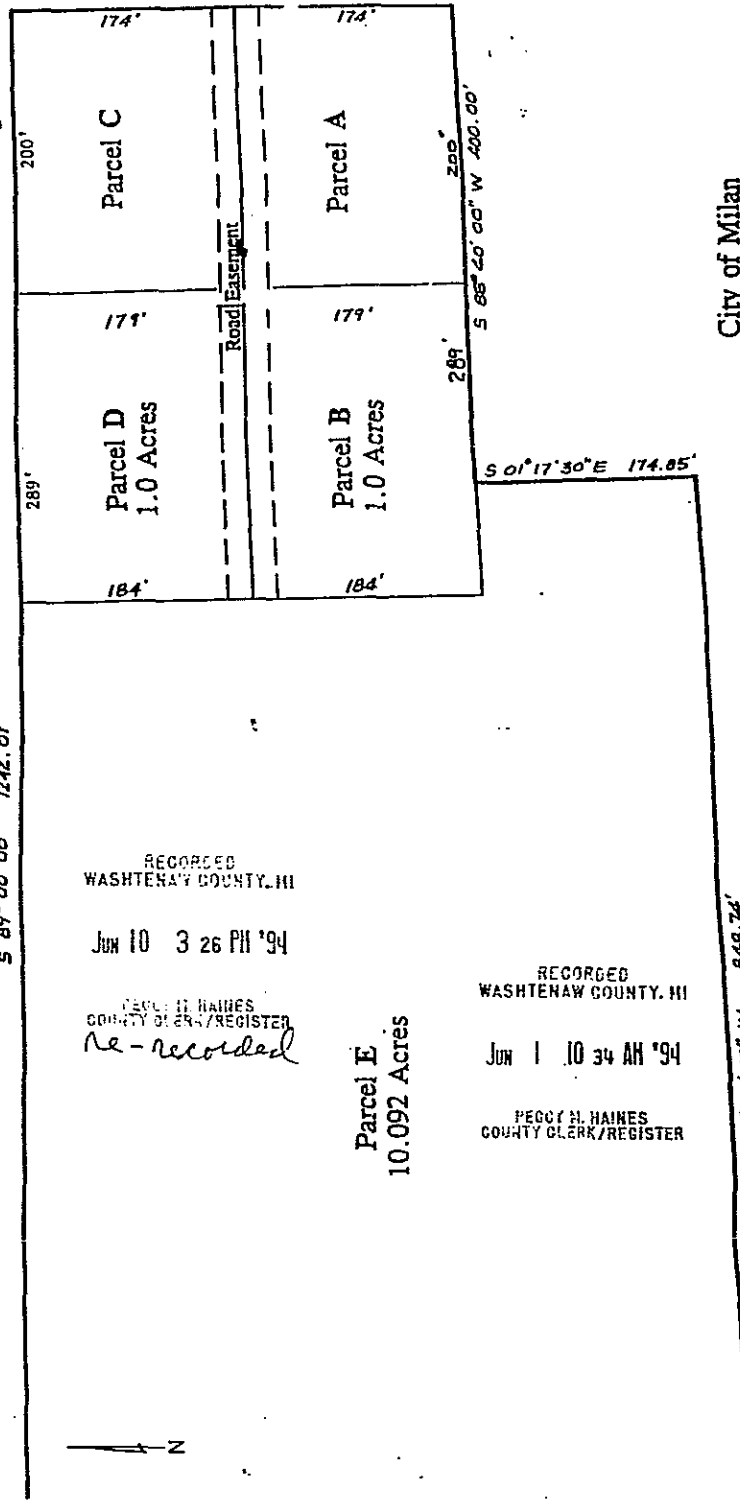
**6.047**

2000

LIB-2987 PAGE 636  
Re-Recorded

EXHIBIT C

LIB-2982 PAGE 698



City of Milan  
Proposed Parcel Split  
NE 1/4, Section 35

April 1992  
MKC

Scale: 1 inch = 100 feet



85169

D

**FIRST AMENDMENT TO UTILITIES AND SIGNAGE  
AGREEMENT AND ROADWAY AND EASEMENT AGREEMENT**

THIS AMENDMENT, made and entered into as of the 16<sup>th</sup> day of December, 1995, by and among ROSS <sup>Pepperman</sup> and PATRICIA PEPPERMAN (together "Pepperman"), whose address is c/o 2300 Oak Grove Road, Howell, Michigan 48834-9704, MOHAMAD OUZA ("Ouza"), whose address is 4858 Westland, Dearborn, Michigan \_\_\_\_\_ and DAVID V. JOHNSON ("Johnson"), whose address is c/o 27400 Northwestern Highway, Suite 400, Southfield, Michigan 48034.

**R E C I T A L S:**

On April 25, 1994, Pepperman, Ouza and Johnson entered into a certain Roadway And Easement Agreement (the "Roadway Agreement"), which was recorded in Washtenaw County Records at Liber 2982, Pages 688-698 and re-recorded at Liber 2987, Pages 625-636. The Roadway Agreement set forth the mutual rights and obligations of the parties with respect to the roadway designated therein.

On April 26, 1994, Pepperman and Johnson entered into an Utilities And Signage Easement Agreement (the "Signage Agreement") which was recorded in Washtenaw County Records at Liber 2987, Pages 616-624.

Due to certain terms and conditions of the Roadway Agreement, the Signage Agreement and certain other documents of record as well as certain unrecorded documents, an issue has arisen as to whether a discrepancy exists as to the width of the Roadway and the Roadway Easement. The parties hereto wish to clarify the Roadway Easement and resolve any such discrepancies.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto hereby agree as follows

1. **Clarification Of Easement.** Notwithstanding anything to the contrary contained within the Roadway Agreement, the Signage Agreement or any related documentation, the parties hereto hereby acknowledge and agree that the Roadway Parcel (as defined in the Roadway Agreement) and the Roadway Easements granted therein are intended to be, and hereby are, a total of sixty-six (66) feet wide, being thirty-three (33) feet either side of a line which is the north lot line of the Pepperman Parcel and the south lot line of the Ouza Parcel, as defined in the Roadway Agreement and as more particularly described on the attached Exhibit "A".

2. **Ratification.** Except as expressly modified hereby, the Roadway Agreement and Signage Agreement are hereby ratified and affirmed to be in full force and effect, in accordance with their terms.

95 CGD KAM(5724) (S: P007380) AMENDMENT 1122-B

1

RECORDED  
WASHTENAW COUNTY, MI

Dec 13 12 23 PM '95

PEGGY H. JAINES  
COUNTY CLERK/REGISTER

RECORDED  
WASHTENAW CO  
Dec 13 12 23 PM  
COUNTY CLERK/REGISTER

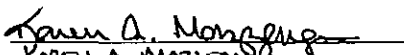
3. **Counterparts.** This Amendment may be executed in one or more counterparts. Each executed counterpart shall constitute an original Amendment once all parties hereto have executed at least one such counterpart. The counterparts shall together constitute one Amendment.

THIS AMENDMENT was executed as of the date and year first set forth above.

WITNESSES:

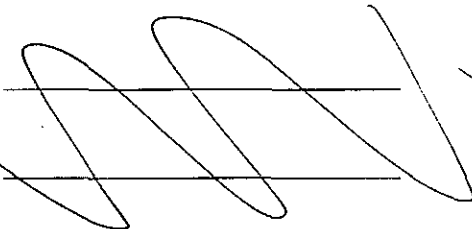
  
CLARK G. DOBSON

  
ROSS PEPPERMAN

  
KAREN A. MAZZENDA

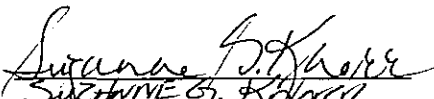
  
PATRICIA PEPPERMAN, his wife

"Pepperman"

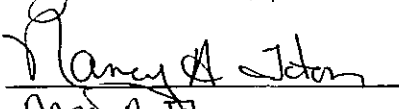


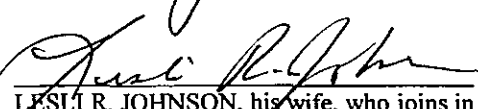
MOHAMAD OUZA

"Ouza"

  
SUZANNE G. KHORE

  
DAVID V. JOHNSON

  
NANCY A. JOHNSON

  
LESLIE R. JOHNSON, his wife, who joins in the execution of this Amendment solely for the purposes of waiving her dower interest, if any

3. **Counterparts.** This Amendment may be executed in one or more counterparts. Each executed counterpart shall constitute an original Amendment once all parties hereto have executed at least one such counterpart. The counterparts shall together constitute one Amendment.

THIS AMENDMENT was executed as of the date and year first set forth above.

WITNESSES:

\_\_\_\_\_  
ROSS PEPPERMAN

\_\_\_\_\_  
PATRICIA PEPPERMAN, his wife

"Pepperman"

\_\_\_\_\_  
DONALD B. MOUCHET

x \_\_\_\_\_  
MOHAMAD OUZA

"Ouza"

\_\_\_\_\_  
LINDA RADTKA

\_\_\_\_\_  
DAVID V. JOHNSON

\_\_\_\_\_  
LESLI R. JOHNSON, his wife, who joins in  
the execution of this Amendment solely for  
the purposes of waiving her dower interest,  
if any

Page 4 of 6

STATE OF MICHIGAN )  
 )ss.  
COUNTY OF Oakland )

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of DECEMBER, 1995 by Ross Pepperman and Patricia Pepperman, his wife.

Karen A. Mazzenga  
Notary Public, \_\_\_\_\_ County, MI  
My Commission Expires: \_\_\_\_\_

KAREN A. MAZZENGA  
NOTARY PUBLIC - MACOMB COUNTY, MI  
MY COMMISSION EXPIRES 08/20/99  
ACTING IN OAKLAND COUNTY

STATE OF MICHIGAN )  
 )ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 1995 by Mohamad Ouza.

\_\_\_\_\_  
Notary Public, \_\_\_\_\_ County, MI  
My Commission Expires: \_\_\_\_\_

STATE OF MICHIGAN )  
 )ss.  
COUNTY OF Oakland )

The foregoing instrument was acknowledged before me this 30<sup>th</sup> day of November, 1995 by David V. Johnson and Lesli R. Johnson, his wife.

NANCY A. PETERSON  
Notary Public, Oakland County, MI  
My Commission Expires Aug. 20, 1996

Nancy A. Peterson  
Notary Public, Oakland County, MI  
My Commission Expires: 8/20/96

STATE OF MICHIGAN )  
 )ss.  
COUNTY OF )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 1995 by Ross Pepperman and Patricia Pepperman, his wife.

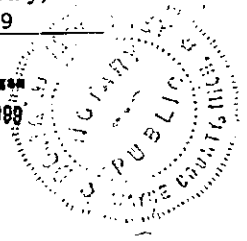
Notary Public, \_\_\_\_\_ County, MI  
My Commission Expires: \_\_\_\_\_

STATE OF MICHIGAN )  
 )ss.  
COUNTY OF WAYNE )

The foregoing instrument was acknowledged before me this 5 day of DECEMBER, 1995 by Mohamad Ouza.

*Donald Mouchet*  
Notary Public, Wayne County, MI  
My Commission Expires: 03/21/99

DONALD MOUCHEY  
Notary Public, Wayne County, Michigan  
My Commission Expires MAR. 21 1999



STATE OF MICHIGAN )  
 )ss.  
COUNTY OF )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 1995 by David V. Johnson and Lesli R. Johnson, his wife.

Notary Public, \_\_\_\_\_ County, MI  
My Commission Expires: \_\_\_\_\_

EXHIBIT "A"

LEGAL DESCRIPTIONS

PEPPERMAN PARCEL:

A parcel of land located in the NE1/4 of the NE1/4 of Section 35, T4S-R6E, City of Milan, Washtenaw County, Michigan, described as follows: Commencing at the SE corner of the NE1/4 of the NE1/4 of Section 35; thence N01°17'30"W along the East line of Section 35 a distance of 175.00 feet to the POINT OF BEGINNING of this description; then S88°40'00"W 300.00 feet; thence N01°17'30"W parallel with said East line of Section 35 a distance of 179.67 feet; thence N89°50'01"E 300.05 feet to a point on said East line of Section 35; thence S01°17'30"E along said East line 173.56 feet to the point of beginning. Containing 1.216 gross acres (1.016 net acres) and being subject to that part now used as Carpenter Road so-called.

OUZA PARCEL:

A parcel of land located in the NE1/4 of the NE1/4 of Section 35, T4S-R6E, City of Milan, Washtenaw County, Michigan, described as follows: Commencing at the SE corner of the NE1/4 of the NE1/4 of Section 35; thence N01°17'30"W along the East line of Section 35 a distance of 348.56 feet to the POINT OF BEGINNING of this description; then S89°50'01"W 270.00 feet; thence N01°17'30"W parallel with said East line of Section 35 a distance of 179.07 feet; thence N89°00'00"E 270.17 feet to a point on said East line of Section 35; thence S01°17'30"E along said East line 173.57 feet to the point of beginning. Containing 1.011 gross acres and being subject to that part now used as Carpenter Road so-called.

DRAFTED BY AND WHEN  
RECORDED RETURN TO:

CLARK G. DOUGHTY, ESQ.  
Seyburn, Kahn, Ginn,  
Bess, Deitch And Serlin  
2000 Town Center  
Suite 1500  
Southfield, Michigan 48075-1195

RECORDED  
WASHTENAW COUNTY, MI  
DEC 13 12 23 PM '95  
REGISTER  
COUNTY CLERK

RECORDED  
WASHTENAW COUNTY, MI

JUN 3 9 28 AM '98

PEGGY J. JAMES  
COUNTY CLERK

**EASEMENT FOR CONSTRUCTION, IMPROVEMENT, USE, MAINTENANCE,  
REPLACEMENT AND REPAIR OF PUBLIC UTILITIES**

**FOR AND IN CONSIDERATION** of the extension by the City of Milan, a Michigan municipal corporation, 147 Wabash, Milan, Michigan (hereinafter "Grantee" or "City"), which extensions will be installed by the City at the same time that the City completes all of the other work that is described in this easement, of two (2) service leads to provide future utility service, these utility extensions being (1) one eight inch sewer from the paved driveway west of Dexter Street between the Mobile gas station and Arby's restaurant approximately 150' to the west; and (2) one eight inch sewer approximately 400' to the north from the Marvin Street area, and these utilities extensions also being more particularly described in **Exhibit A** attached hereto; provided however, that Grantor shall have the option of relocating the above-described extensions at Grantor's cost and consistent with the City of Milan's standards, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, David V. Johnson, a single man, of 27400 Northwestern Highway, Suite 400 Southfield, Michigan (hereinafter "Grantor"), hereby grants and conveys to the City a permanent easement for the purpose of installation and related work in connection with Grantee's public water and sanitary sewer improvements, including, without limitation, the perpetual easement to enter upon the real estate hereinafter described at any time, upon reasonable notice, and to construct, repair, improve, replace and maintain the above ground pump lift station and manholes and/or underground water, sewer, mains, and pump station utilities, including necessary appurtenances and related fixtures and equipment (See drawing attached as **Exhibit B** hereto), across, over, on, through and under the lands hereinafter described together with the right to excavate and refill ditches and/or trenches for the location of such utilities, with the right of ingress and egress solely for the purposes herein specified, and the further right to remove trees, bushes, undergrowth, and other obstructions interfering with the location, construction, repair, improvement, use replacement and maintenance of such utilities, under, over and upon the following parcels of land located in the City of Milan, County of Washtenaw, State of Michigan ("Easement Parcels"), described as follows:

**Parcel 1A**

Part of the Northeast ¼ of the Northeast ¼ of Section 35, Town 4 South, Range 6 East, City of Milan, Washtenaw County, Michigan described as Commencing at the Northeast Corner of said Section 35; thence S 01° 17' 30" E 959.88 feet along the East line of said Section 35 and the Centerline of Carpenter Road; thence S 89° 50' 01" W 270.00 feet along the centerline of a Private Easement for Ingress and Egress (Liber 3191, Page 479) to the Point of Beginning of this description; thence S 89° 50' 01" W 30.05 feet; thence S 01° 17' 30" E 179.67 feet; thence S 88° 40' 00" W 150.00 feet; thence S 01° 17' 30" E 174.85 feet; thence along the North line of "Supervisor's Plat No. 10", as recorded in Liber 10 of plats, Page 43, Washtenaw County Records, S 88° 41' 10" W (previously recorded as N 89° 45' 30" W) 592.35 feet to the Northeast corner of Lot 63 of said "Supervisor's Plat No. 10"; thence N 01° 17' 30" W 30.00 feet; thence N 88° 41' 10" E 562.35 feet; thence N 01° 17' 30" W 174.84 feet; thence N 88° 40' 00" E 150.00 feet; thence N 01° 17' 30" W 183.29 feet; thence N 89° 50' 01" E 60.06 feet; thence S 01° 17' 30" E 33.00 feet back to the Point of Beginning.

**Parcel 1B**

Also, a parcel of land described as Commencing at the previously described Northeast Corner of Lot 63, "Supervisor's Plat No. 10", thence S 88° 41' 10" W 40.00 feet to the Point of Beginning, thence continuing along the North line of said "Supervisor's Plat No. 10", S 88° 41' 10" W 216.39 feet; thence N 00° 31' 16" W 30.00 feet; thence N 88° 41' 10" E 215.99 feet; thence S 01° 17' 30" E 30.00 feet back to the Point of Beginning.

**Parcel 2**

Part of the Northeast ¼ of the Northeast ¼ of Section 35, Town 4 South, Range 6 East, City of Milan, Washtenaw County, Michigan described as Commencing at the Northeast Corner of said Section 35; thence S 01° 17' 30" E 959.88 feet along the East line of said Section 35 and the Centerline of Carpenter Road; thence S 89°

50' 01" W 270.00 feet along the centerline of a Private Easement for Ingress and Egress (Liber 3191, Page 479) to the Point of Beginning of this description; thence S 89° 50' 01" W 30.05 feet; thence S 01° 17' 30" E 179.67 feet; thence S 88° 40' 00" W 150.00 feet; thence S 01° 17' 30" E 174.85 feet; thence along the North line of "Supervisor's Plat No. 10", as recorded in Liber 10 of plats, Page 43, Washtenaw County Records, S 88° 41' 10" W (previously recorded as N 89° 45' 30" W) 592.35 feet to the Northeast corner of Lot 63 of said "Supervisor's Plat No. 10"; thence S 88° 41' 10" W 40.00 feet; thence N 01° 1' 30" W 40.00 feet; thence N 88° 41' 10" E 40.00 feet; thence S 01° 17' 30" E 40.00 feet back to the Point of Beginning:

Provided, that in the event that Grantee removes or abandons the above-described utilities or does not begin to install these utilities on or before December 31, 1999, the easement shall terminate with the execution of the appropriate documents. Further Provided, however, that Grantee shall give prior notice of any planned tree removal and Grantee shall make commercially reasonable steps to avoid unnecessary tree removal.

Upon completion of the construction, improvement, maintenance, use, replacement and/or repair of the above-described public utilities, the City will immediately restore the easement property to the same condition as it was prior to such construction, improvement, maintenance, use, replacement and/or repairs and without cost to the Grantor, and the City will maintain the above-described utilities in good condition and repair; provided that the Grantor shall repair the damage done to any fixed structures constructed after the original utility installation if the damage is caused by Grantor or anyone acting on Grantor's behalf, other than Grantee. The City shall use reasonable care to protect such fixed structures and landscaping and shall restore to grade and re-seed all lawn areas. The parties expressly agree that after City's completion of initial construction and installation of the above-described public utilities, the Grantor may landscape or build a parking lot on the Easement Parcels, provided that Grantor shall bear all costs associated with the repair of any and all portions of such landscaping and/or parking lot which are removed, altered or damaged in any way by virtue of the Grantee's use of the Easement Parcels by Grantee or its agents, employees, representatives, or contractors, as permitted herein.

Grantee agrees that the area of the Easement Parcels shall be included when calculating compliance with the City of Milan set-back requirements, and shall not operate to enlarge any required set-back.

Grantor, for itself and for its heirs, successors and assigns, agrees that if any buildings or other structure, are constructed and/or placed by or with the consent of Grantor or its heirs, successors, assigns or agents, on, or within the Easement Parcels, and, because of the construction or placement of such buildings and other structures, it should become necessary to relocate, structurally support, shore, brace or otherwise provide for the stability of such buildings or surface or subsurface structures so that the City may perform the work of maintaining, replacing and repairing the utilities and the pertinent facilities, Grantor shall assume all expense for such relocation, support, shoring and bracing; provided, however, that the City shall consult with Grantor, its successors and assigns before performing the work with respect to alternative methods of repair, improvement, construction, maintenance or replacement. Grantor and City shall confer promptly and shall avoid jeopardizing the health, welfare and safety of the public by unnecessary delays in consultation.

Grantor covenants and warrants to Grantee that fee simple title to the Easement Parcels is vested solely in Grantor, and that no consent or signature of any other person is required to legally vest in Grantee the rights herein conveyed.



IN WITNESS WHEREOF, we have hereunto set our hands and seals this 18th day of MAY, 1998.

In Presence of:

"GRANTOR"

Sign here: [Signature]

Sign here: [Signature]

Type here: JOHN R. TURNER

Type here: DAVID V. JOHNSON

Sign here: [Signature]

Sign here: \_\_\_\_\_

Type here: Nancy A. Toton

Type here: \_\_\_\_\_

**Acknowledgement**

State of Michigan }  
County of OAKLAND } ss:

On this 18 day of MAY, A.D., 1998, before me, the undersigned, a Notary Public in and for said County, personally appeared David V. Johnson, and being by me duly sworn, did himself say that he executed the within instrument, and acknowledged said instrument to be his own free act and deed.

NANCY A. TOTON  
Notary Public, Oakland County, MI  
My Commission Expires Apr. 15, 2001

[Signature], Notary Public  
Oakland County, Michigan

My Commission Expires: \_\_\_\_\_

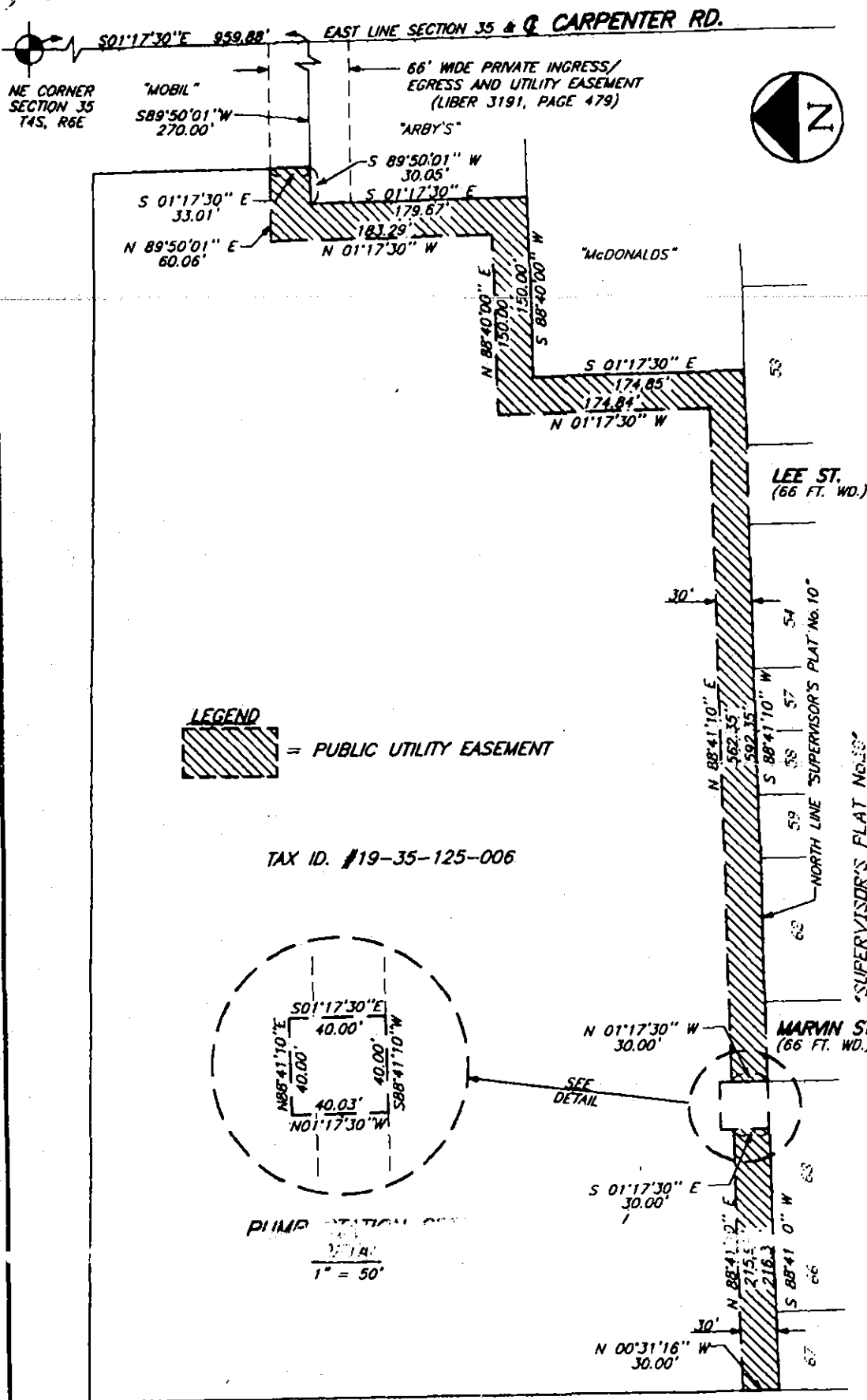
**Drafted By:**

Mark S. Kopson, Esq.  
Wachler & Kopson, P.C.  
210 E. Third Street, Suite 204  
Royal Oak, Michigan 48067

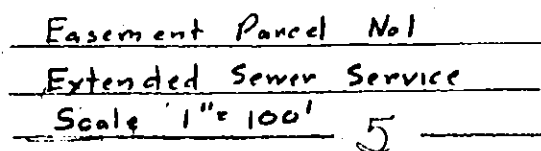
After recording, return instrument to Drafter.

3675 10588

# EXHIBIT A



<b>McNAMEE PORTER &amp; SEELEY INC.</b> FIRST-CHOICE FIRM SINCE 1914		CITY OF MILAN, MICHIGAN NORTHSIDE UTILITY PROJECT <b>EASEMENT PARCEL No. 1</b>		CONTRACT 0186.136-S-1
SCALE: 1" = 100'	DATE 02-12-98	4		SHEET 2
DESIGNED RAR	CHECKED AMP			



B. J. J. J.  
5/12/98

**BUILDING AND USE RESTRICTION AND EASEMENT AGREEMENT**

LIB 53624  
THIS BUILDING AND USE RESTRICTION AND EASEMENT AGREEMENT (the "Agreement") is entered into as of this 25<sup>th</sup> day of April, 1994 by and between David V. Johnson ("Seller"), whose address is 27400 Northwestern Highway, Suite 400, Southfield, Michigan 48034 and MOHAMAD OUZA ("Purchaser"), whose address is 4857 Westland, Dearborn, Michigan 48126. 29

The circumstances underlying the execution of this Agreement are as follows:

A. Seller is the owner of certain real property located in the City of Milan, Washtenaw County, Michigan and more particularly described in attached Exhibit A as Parcels B and E. Such property is referred to herein as the "Property."

B. Concurrently herewith, Seller is selling to Purchaser the portion of the Property described as Parcel B in attached Exhibit A (the "Ouza Property") for use as the site of a gasoline station. The portion of the Property described as Parcel E in attached Exhibit A is referred to herein as the "Remaining Property."

D. Seller intends to develop the Remaining Property for commercial or retail purposes. Accordingly, Seller has a vital interest in ensuring that the architectural features, level of operation and other attributes of the buildings and improvements on the Ouza Property will be reasonably compatible with present and future buildings on the Remaining Property.

NOW THEREFORE, the parties agree as follows:

**ARTICLE I**  
**(Restrictions Applicable to the Ouza Property)**

1.1 Restrictions on the Ouza Property. The Ouza Property is being conveyed by Seller to Purchaser subject to the following restrictions, and the same are hereby imposed on the Ouza Property and shall be binding upon any party having an interest therein from time to time:

(a) The initial business operated on the Ouza Property shall be a gasoline station and food shop.

(b) Any structure initially constructed on the Ouza Property shall be consistent with the materials previously submitted to the City of Milan (the "City") for site plan approval and shall conform to and comply with the applicable terms and conditions of the site plan approval granted by the City.

(c) Prior to constructing any improvements or structure on the Ouza Property, Purchaser shall procure the written approval of Seller for any structure or improvements on the Ouza Property, which approval may not be unreasonably withheld. Seller hereby approves the proposed structure

and agrees that such structure may be constructed on the Ouza Property. However, if and at such time as Purchaser constructs any other improvement or structure on the Ouza Property, Purchaser shall be required to obtain the consent of Seller as set forth in the first sentence of this Subsection.

(d) All uses of the Ouza Property and any structures or improvements thereon shall be in conformity with the zoning classification from time to time applicable to the Ouza Property. In no event shall Purchaser seek any zoning change or variance for any structure on the Ouza Property without Seller's prior written approval, which approval may not be unreasonably withheld. However, in determining whether to grant, withhold or conditionally grant its approval under this Subsection or the preceding Subsection, Seller may take into consideration the impact or effect thereof (or of any potential resulting uses) on the Ouza Property, and shall be entitled to withhold approval if in his reasonable judgment the structure, the zoning change or the variance, as the case may be, would have an unduly negative impact thereon.

(e) The Ouza Property shall at all times be used for the construction of a gas station and food shop and for no other purpose without the prior written consent of Seller. In no event shall the Ouza Property be used as a site for topless dancing or similar lascivious attractions or activities.

(f) The Ouza Property and any buildings or other improvements located thereon shall be maintained in a first-class condition.

(g) No permanent structures shall be installed or maintained on the areas reserved as easements under Section 2.1 below, although driveways, entranceways, parking areas and landscaping may be installed and maintained on such areas.



Peggy M. Haines - Washtenaw Co. AG

5026585  
Page: 2 of 11  
04/01/1999 11:38A  
L-3860 P-668

1.2 Termination of Restrictions. The restrictions set forth in Section 1.1 above shall terminate on the date fifty (50) years after the date of this Agreement.

## ARTICLE II

**(Reservation of Signage and Utility Easements)**

## 2.1 Easements.

(a) Purchaser acknowledges that it is purchasing the Ouza Property subject to, among other encumbrances, the terms and conditions set forth in a certain Roadway and Easement Agreement dated April 25, 1994 between Seller and Pepperman, Inc. (the "Roadway Easement"), ~~as recorded in Liber \_\_\_\_\_, Page \_\_\_\_\_, Washtenaw County Records.~~ Seller hereby assigns to Purchaser all of Seller's right, title and interest in the Roadway Easement to the extent, and only to the extent, that Seller's right, title and interest relates to the ~~\_\_\_\_\_~~ expressly reserves all of the Roadway Easement interest in the Remaining Roadway Easement relates to the Remaining Roadway Easement assumes and agrees to perform under the Roadway Easement under the Roadway Easement ly to the extent, that the Ouza Property.

(b) Seller, over, under and across an parcel of the Ouza Property p and lies immediately to the north of the Roadway Parcel (as defined in the Roadway Easement) for the signage and utility purposes (the "Easement Area"). Such easements shall afford (i) Seller with the right to erect, install, operate, maintain, repair and replace signage in the Easement Area, provided that Seller complies with applicable law and (ii) Seller and the applicable utility company with the right to install, operate, maintain, repair and replace utility lines, connections and associated equipment in the Easement Area for the following utility services: water, gas, electric, sanitary sewer, telephone and cable television.

2.2 Provisions Applicable to Utility Easements. Any utility lines, connections or other equipment installed or maintained pursuant to this Article shall be subject to the following requirements:



(a) All utility lines shall be installed under the ground, but not under any building (although the same may be installed under parking areas, entranceways and like improved areas).

(b) All utility lines shall be installed in such a fashion as to reasonably minimize any resulting disruption to any construction being performed on the Ouza Property and so as to reasonably minimize any disruption to any business being conducted on the Ouza Property.

(c) Promptly after any utility line is installed, repaired or replaced, any damage to the Ouza Property shall be rectified so as to restore the Ouza Property to substantially its condition prior to such work to the extent reasonably practical (e.g., parking areas disturbed by construction need only be patched and not completely resurfaced).

(d) Purchaser shall be afforded prior written notice before any construction for improvements is commenced; provided, emergency work may be performed without notice if it is not practical to give notice prior to commencing such work.

(e) The party owning any utility improvements (i.e., either Seller or the applicable utility or governmental authority) shall indemnify and hold harmless Purchaser from and against any liability, obligation or expense, including reasonable attorney's fees, arising out of the construction, operation, repair or replacement of the same, including without limitation liability for construction liens arising from such activities; provided, such obligation shall not apply to liability, obligation or expense occasioned by the acts or omissions of Purchaser or Purchaser's contractors, employees, representatives or agents.

(f) If the party installing such improvements is not a utility company or governmental authority, prior to commencing construction it shall procure liability insurance in an amount not less than one million (\$1,000,000) dollars issued by an insurance company of recognized standing, which insurance shall name Purchaser as an additional insured. Purchaser shall be provided with a certificate of insurance confirming such coverage.



Peggy M. Haines - Washtenaw Co. AG

5026585

Page: 4 of 11  
04/01/1999 11:38A

L-3860 P-668

2.3 Permitted Uses for Easements; Beneficiaries of Easements; Seller's Right to Dedicate Utilities.

(a) The utility lines, connections and other equipment installed in the easements reserved in this Article may be used to provide the applicable utility services to persons having an interest in the Remaining Property, including the owners or occupants of lots on the Remaining Property. In addition, the applicable utility company shall have the right to have the applicable utility lines provide service to other of its customers.

(b) The beneficiaries of the easements reserved in this Article shall include Seller, the applicable utility companies providing the relevant utility service from time to time, and the persons having an interest from time to time in the Remaining Property.

(c) Notwithstanding anything herein to the contrary, Seller hereby reserves the right to transfer or dedicate the foregoing easements or any utility lines or improvements installed therein under the terms of this Agreement to the applicable utility company for such utility service, which dedication shall afford the utility company with the right to use the easements in common with others having rights with regard to such easements, subject to the terms and conditions of this Agreement. Purchaser agrees to join in any such dedication and, in connection therewith, to sign such documents as may be necessary to effectuate the same; provided, Seller shall reimburse Purchaser for all out-of-pocket costs, if any, incurred by Purchaser in joining in such dedication.

(d) Notwithstanding anything herein to the contrary, any further obligation of Seller relative to a particular utility service, including any obligation under Section 2.2 above, shall terminate upon the transfer or dedication of the utility to the applicable utility company or governmental authority; provided, however, that such transfer or dedication shall not relieve Seller of any liability with respect to matters that arose prior to such transfer or dedication.

2.4 Nature and Duration of Easements. The easements reserved in this Article shall be non-exclusive, and shall be enjoyed in common with others having an interest in the



Peggy M. Haines - Washtenaw Co. AG

5026585

Page: 5 of 11  
04/01/1999 11:38A

L-3860 P-668



applicable property, although each party owning a utility line, connection or related equipment shall have exclusive rights in and to such line, connection and equipment. The easements reserved in this Article shall be perpetual.

2.5 Real Covenants. The easements set forth herein shall be deemed to be real covenants that run with the Remaining Property and the Ouza Property, respectively, and unless otherwise provided herein shall inure to the benefit of and be binding upon the owners of such properties from time to time.

### ARTICLE III (General Provisions)

#### 3.1 Seller's Remedies.

(a) If Purchaser breaches any of the provisions set forth in Article I of this Agreement, and such breach continues for more than thirty (30) days after Purchaser has received written notice of such breach, Seller shall have the right to enter upon the Ouza Property and abate or otherwise remedy each and every such breach.

(b) Purchaser shall reimburse Seller for any costs incurred by Seller in entering upon the applicable property and abating or otherwise remedying such breach pursuant to Subsection (a) of this Section, which reimbursement shall be due and payable promptly after Seller advises Purchaser of the amount of such costs. Upon request, Seller shall provide Purchaser with reasonable documentation or other substantiation of such costs. Interest shall accrue on any such amounts at the rate of two percent (2%) above the base lending rate of Comerica Bank from time to time.

(c) The remedies set forth in Subsection (a) and (b) of this Section shall be in addition to, and cumulative with, any other remedy(ies) available to Seller at law or in equity.

3.2 Notices. Any notices required or permitted under this Agreement may be delivered personally or may be sent by certified or registered mail, return receipt requested, or prepaid courier service addressed to the addressee at the address set forth above or at such other address as a party may hereafter furnish in writing to the other party. If notices



Peggy M. Haines - Washtenaw Co. AG

5026585

Page: 6 of 11  
04/01/1999 11:38A

L-3860 P-668

are sent by mail, the date such notices are postmarked shall be deemed the date upon which such notice was given. If a notice is sent by prepaid courier service, the delivery date thereof shall be deemed the date upon which such notice was given.

3.3 Assignment. Seller shall have the right to assign its rights under this Agreement to a successor developer of the Remaining Property, or to a mortgagee of the Remaining Property or any part thereof, or to any affiliate, subsidiary or related entity in which David V. Johnson or Victor International Corporation has a controlling interest, or to the Owners Association for any subdivision established within the Remaining Property.

3.4 Miscellaneous.

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan.

(b) This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective heirs, personal representatives, successors and assigns.

(c) This Agreement is not intended to inure to the benefit of any third party, except as specifically set forth herein.

(d) This Agreement represents the entire agreement and understanding of the parties relative to the subject matter of this Agreement, and supercedes those provisions of the Purchase and Sale Agreement between Seller and Purchaser that pertain to the subject matter of this Agreement.

(e) This Agreement may be executed in several counterparts, each of which, for all purposes, shall be deemed to constitute an original and all of which, when taken together, shall be deemed to constitute one and the same agreement, even though all of the parties hereto may not have executed the same counterpart.

(f) Both parties to this Agreement have participated fully and equally in the negotiation and preparation hereof, and this Agreement shall not be more strictly construed against, or any ambiguities resolved against, either party.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.



Peggy M. Haines - Washtenaw Co. AG

5026585

Page: 7 of 11  
04/01/1999 11:38A

L-3860 P-668

WITNESSED BY:

[Signature]  
Name: JOHN R. TURNER

[Signature]  
Name: Ellen S. Mahony

[Signature]  
Name: Ellen S. Mahony

[Signature]  
Name: DONALD B. MOUCHET

SELLER:

[Signature]  
David V. Johnson

PURCHASER:

[Signature]  
Mohamad Ouza

STATE OF MICHIGAN )  
COUNTY OF Oakland ) ss.

The foregoing instrument was acknowledged before me  
this 11 day of February, 1999 by David V. Johnson.

February, 1999

[Signature]  
Notary Public, Wayne County, Michigan  
My Commission Expires:

NANCY A. TOLON  
Notary Public, Oakland County, MI  
My Commission Expires Apr. 15, 2001

STATE OF MICHIGAN )  
COUNTY OF WASHTENAW ) ss.

The foregoing instrument was acknowledged before me  
this 11 day of April, 1999 by Mohamad Ouza.

FEBRUARY 1999

[Signature]  
DONALD MOUCHET  
Notary Public, Wayne County, Michigan  
My Commission Expires: MARCH 21, 2003

ACTING IN WASHTENAW COUNTY



Peggy M. Haines - Washtenaw Co. AG

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Page: 8 of 11  
04/01/1999 11:38A  
L-3860 P-668

DRAFTED BY ~~AND WHEN~~  
~~RECORDED RETURN TO:~~

Cameron H. Piggott, Esq.  
DYKEMA GOSSETT  
400 Renaissance Center  
Detroit, MI 48243

SAK4159  
4/8/94

*When recorded, return to:*

*Ellen S. Mahoney  
27400 Northwestern Hwy. ✓  
Suite 400  
Southfield, MI 48034*



5026585

Page: 9 of 11  
04/01/1999 11:38A

Peggy M. Haines - Washtenaw Co. AG

L-3860 P-668



5026585  
Page: 10 of 11  
04/01/1999 11:38A  
L-3860 P-668

Peggy M. Haines - Washtenaw Co. AG

# CERTIFICATE OF SURVEY

For:

Victor International  
27400 Northwestern Hwy.  
Suite 400  
Southfield, MI 48034

EXHIBIT A

## PARCEL A (ARBY'S SITE)

A parcel of land located in the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 35, T4S-R6E, City of Milan, Washtenaw County, Michigan described as follows: Commencing at the SE corner of the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 35; thence N01°17'30"W along the East line of Section 35 a distance of 175.00 feet to the POINT OF BEGINNING of this description; thence S88°40'00"W 300.00 feet; thence N01°17'30"W parallel with said East line of Section 35 a distance of 179.67 feet; thence N88°50'01"E 300.05 feet to a point on said East line of Section 35; thence S01°17'30"E along said East line 173.56 feet to the point of beginning. Containing 1.216 gross acres (1.018 net acres) and being subject to that part now used as Carpenter Road so-called.

TAX # 19-35-125-006

## PARCEL B (MOBIL SITE)

A parcel of land located in the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 35, T4S-R6E, City of Milan, Washtenaw County, Michigan described as follows: Commencing at the SE corner of the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 35; thence N01°17'30"W along the East line of Section 35 a distance of 348.56 feet to the POINT OF BEGINNING of this description; thence S89°50'01"W 270.00 feet; thence N01°17'30"W parallel with said East line of Section 35 a distance of 179.07 feet; thence S89°00'00"E 270.17 feet to a point on said East line of Section 35; thence S01°17'30"E along said East line 173.57 feet to the point of beginning. Containing 1.091 gross acres and being subject to that part now used as Carpenter Road so-called.

TAX # 19-35-125-006

## PARCEL E (BALANCE OF PROPERTY)

A parcel of land located in the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 35, T4S-R6E, City of Milan, Washtenaw County, Michigan described as follows: Commencing at the SE corner of the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 35; thence N01°17'30"W along the East line of Section 35 a distance of 175.00 feet; thence S88°40'00"W 300 feet to the POINT OF BEGINNING of this description; thence S88°40'00"W 150.00 feet; thence S01°17'30"E 174.85 feet; thence S88°41'10"W 848.74 feet; thence N00°31'18"W 574.38 feet thence S89°00'00"E 1041.89 feet thence S01°17'30"E parallel with said East line of Section 35 a distance of 179.07 feet; thence S89°50'01"W 30.05 feet; thence S01°17'30"E 179.67 feet to the point of beginning. Containing 12.183 acres of land.

TAX # 19-35-125-006

I hereby certify that this survey was prepared by me or under my direct supervision, that I am a duly licensed Professional Surveyor under the laws of the State of Michigan, that this survey complies with the requirements of Section No. 3, P.A. No. 132 of 1970, and that the error of closure is no greater than 1 in 5000. The ratio of closure of the unadjusted field observations of this survey was 1/ 5000



**CORNERSTONE**  
SURVEYING AND ENGINEERING INC.

*H. L. & S. R.*

# CERTIFICATE OF SURVEY

For: VICTOR INTERNATIONAL  
27400 Northwestern Hwy .  
Suite 400  
Southfield, Michigan. 48034

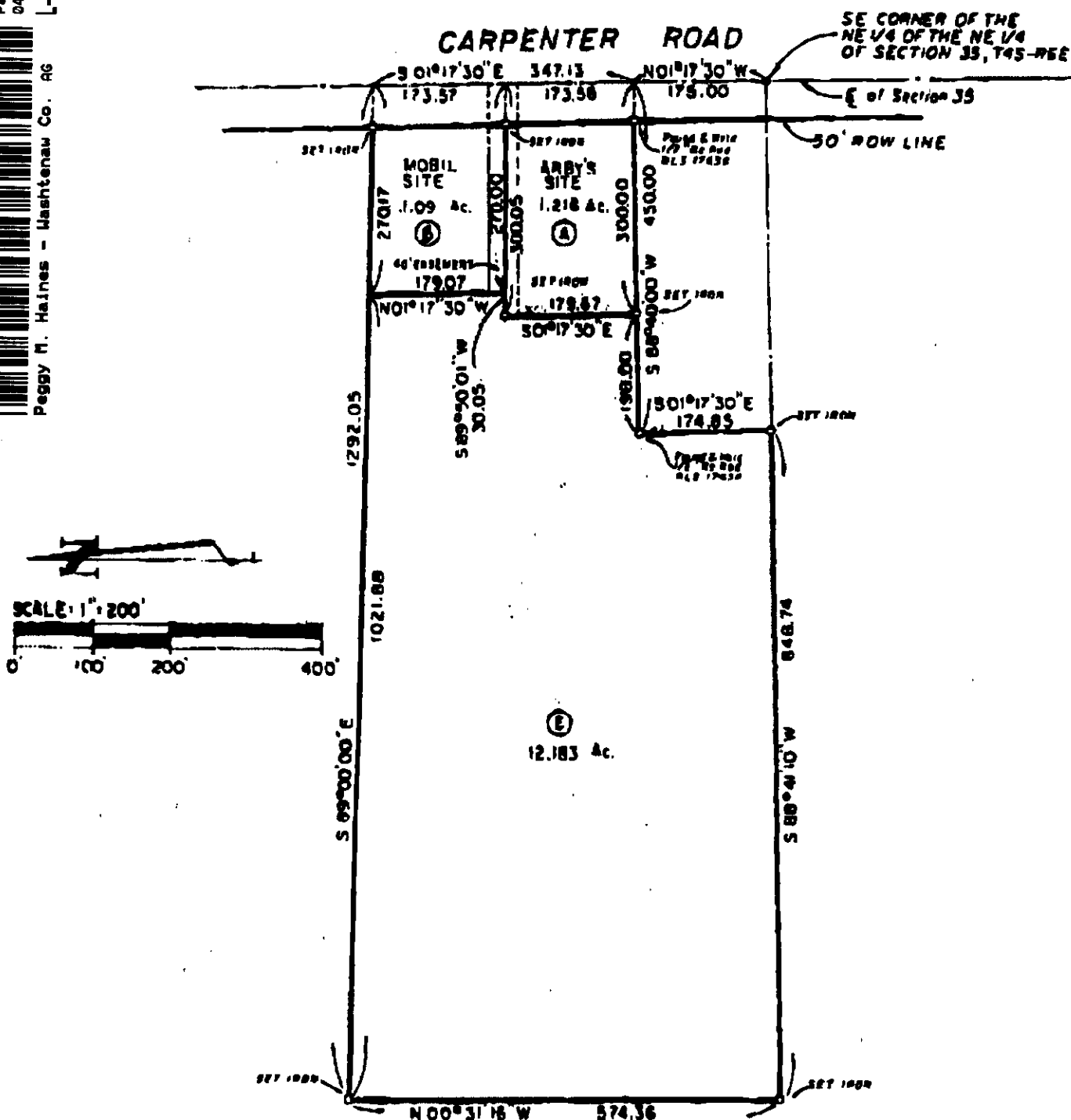
**EXHIBIT A**

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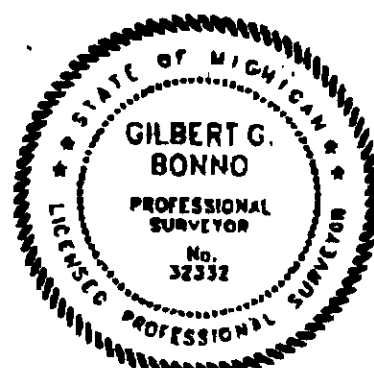
Page: 11 of 11  
24/01/1999 11:38A

**L-3860 P-668**

**Peggy M. Haines - Washtenaw Co. AG**



I hereby certify that this survey was prepared by me or under my direct supervision, that I am a duly Licensed Professional Surveyor under the laws of the State of Michigan, that this survey complies with the requirements of Section No. 1, P.A. No. 132 of 1970, and that the error of closure is no greater than 1 in 5000. The ratio of closure of the unadjusted field observations of this survey was 1/5000.



# CORNERSTONE

SURVEYING AND ENGINEERING INC.



Peggy M. Haines - Washtenaw Co. AM

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Page: 1 of 6  
04/01/1999 11:38A

L-3860 P-669

FIRST AMENDMENT TO BUILDING AND USE RESTRICTION AND EASEMENT AGREEMENT

*LIB 53624*

THIS FIRST AMENDMENT TO BUILDING AND USE RESTRICTION AND EASEMENT AGREEMENT (this "First Amendment") is made as of the 11th day of February, 1999, by DAVID V. JOHNSON, whose address is Suite 400, 27400 Northwestern Highway, Southfield, Michigan 48034 ("Seller"), and MOHAMAD OUZA, whose address is 4857 Westland, Dearborn, Michigan 48126 ("Purchaser").

Pursuant to a certain Building and Use Restriction and Easement Agreement dated April 25, 1994, and recorded on 4/1/99, ~~1994~~, in Liber 3860, Page 668, Washtenaw County Records, (the "Restriction and Easement Agreement"), Seller and Purchaser agreed that certain property that is located in WASHTENAW COUNTY, MICHIGAN, that is more particularly described in the Restriction and Use Agreement, and that is referred to in the Building and Use Agreement as the "Ouza Property", would be subject to the terms of the Restriction and Easement Agreement. The property that is described in the Restriction and Easement Agreement is sometimes referred to in this First Amendment as the "Original Ouza Property".

On the same day as the date of this First Amendment, Seller has conveyed to Purchaser certain property that is located in WASHTENAW COUNTY, MICHIGAN, that is contiguous to the Original Ouza Property, that is more particularly described in attached Exhibit A, and that is sometimes referred to in this First Amendment as the "Additional Ouza Property".

Attached to this First Amendment as Exhibit B is a legal description that is labelled "Ouza Property" and that includes all of the Additional Ouza Property and all of the Original Ouza Property. Exhibit B also describes certain remaining property that is owned by Seller and that is referred to in Exhibit B as the "Remaining Property". Seller and Purchaser each desire to amend the Building and Use Agreement in order that all of the property that is described in attached Exhibit B and that is referred to as the "Ouza Property" will be subject to the terms of the Building and Use Agreement; and it is in consideration of the sale and purchase of the property that is described in attached Exhibit A and of the terms of this First Amendment that Seller and Purchaser agree that:

1. Amendment of the Building and Use Agreement.

(a) Exhibit A to the Restriction and Easement Agreement is deleted and replaced in its entirety by Exhibit B to this First Amendment; and whenever appearing in the Restriction and Easement Agreement, "Ouza Property" means all of the property that is described in Exhibit B to this First Amendment and that is referred to as the "Ouza Property", and "Remaining Property" means all of the property that is described in attached Exhibit B and that is referred to as the "Remaining Property".

(b) Regardless of any of the terms of the Restriction and Easement Agreement, access of any kind is not permitted between the Additional Ouza Property and the Remaining Property (including without limitation any roadway that has been constructed over and across the Remaining

*JTS 19.00*

Property); and the only permitted access to the Additional Ouza Property is over and across the Original Ouza Property.

(c) Subject to the terms of Article II of the Restriction and Easement Agreement, Seller reserves an easement over, under, and across the Additional Ouza Property for the purpose of installing, operating, maintaining, repairing, or replacing utility lines under and across an approximately 15 foot wide portion of the Additional Ouza Property that is parallel to Carpenter Road.

2. Miscellaneous.

(a) This First Amendment will be recorded against all of the Ouza Property for the benefit of all of the Remaining Property.

(b) Except amended by this First Amendment, the Restriction and Easement Agreement has not been modified or amended and remains in full force and effect.

[Signatures appear on succeeding page.]



Peggy M. Haines - Washtenaw Co. AM

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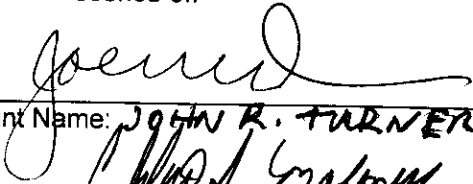
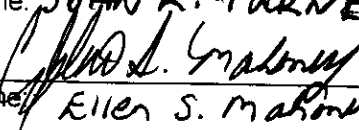
Page: 2 of 6  
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L-3860 P-669

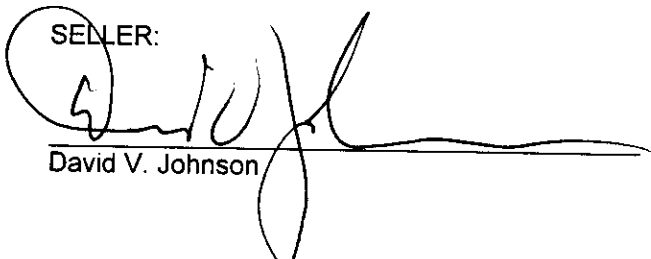


IN WITNESS WHEREOF, the undersigned have each signed this First Amendment as of the date first written above.

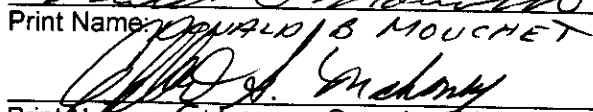
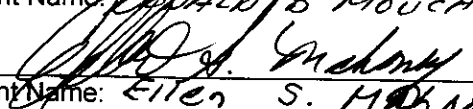
In the Presence of:


  
Print Name: JOHN R. TURNER  
  
Print Name: ELLEN S. MAHONEY

SELLER:

  
David V. Johnson

PURCHASER:

  
Print Name: DONALD B. MOUCHET  
  
Print Name: ELLEN S. MAHONEY

  
Mohamad Ouza



Peggy M. Haines - Washtenaw Co. AM

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Page: 3 of 6  
04/01/1999 11:38A

L-3860 P-669



5026586  
Page: 4 of 6  
04/01/1999 11:38A  
L-3860 P-669

State of Michigan )  
County of Oakland ) ss

The foregoing instrument was acknowledged before me this 14th day of February, 1999, by David V. Johnson.

Nancy A. Toton  
Notary Public  
County, Michigan

My Commission Expires:

NANCY A. TOTON  
Notary Public, Oakland County, MI  
My Commission Expires Apr. 15, 2001

State of Michigan )  
County of WASHTENAW ) ss

The foregoing instrument was acknowledged before me this 11 day of February, 1999, by Mohamad Ouza.

Donald Moulhet  
DONALD MOULHET, Notary Public  
WASHTENAW County, Michigan

My Commission Expires: ACTIVE  
IN WASHTENAW CO

MARCH 21, 2002

This instrument was drafted by  
and when recorded return to:

✓ John R. Turner  
Suite 400  
27400 Northwestern Highway  
Southfield, Michigan 48034

**EXHIBIT A**

(The Additional Ouza Property)

Part of the NE ¼ of the NE ¼ of Section 35, T4S, R6E, City of Milan, Washtenaw County, Michigan, described as follows: Commencing at the SE corner of the NE ¼ of the NE ¼ of said Seciton 35; thence N 01°17'30" W 348.56 feet; thence S 89°49'56" W 270.00 feet; thence N01°17'30" W 33.01 feet to the Point of Beginning of this description; thence S89°49'56" W 292.16 feet; thence ; thence N01°17'30" W 152.01 feet; thence S 89°00'00" E 292.34 feet; thence S01°17'30" E 146.06 feet to the Point of Beginning /

09-35-125-006



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Page: 5 of 6  
04/01/1999 11:38A

Peggy M. Haines - Washtenaw Co. AM

L-3860 P-669



Peggy M. Haines - Washtenaw Co. AM

**EXHIBIT B**

(The Ouza Property)

**PARCEL B:**

A parcel of land located in the NE 1/4 of the NE 1/4 of Section 35, T4S, R6E, City of Milan, Washtenaw County, Michigan described as follows: Commencing at the SE corner of the NE 1/4 of the NE 1/4 of Section 35; thence N 01° 17' 30" W along the East line of Section 35 a distance of 348.56 feet to the POINT OF BEGINNING of this description; thence S 89° 50' 01" W 270.00 feet; thence N 01° 17' 30" W parallel with said East line of Section 35 a distance of 179.07 feet; thence S 89° 00' 00" E 270.17 feet to a point on said East line of Section 35; thence S 01° 17' 30" E along said East line 173.57 feet to the point of beginning. *Tax # 19-35-125-006*

Part of the NE 1/4 of the NE 1/4 of Section 35, T4S, R6E, City of Milan, Washtenaw County, Michigan, described as follows: Commencing at the SE corner of the NE 1/4 of the NE 1/4 of said Section 35; thence N 01°17'30" W 348.56 feet; thence S 89°49'56" W 270.00 feet; thence N 01°17'30" W 33.01 feet to the Point of Beginning of this description; thence S 89°49'56" W 292.16 feet; thence ; thence N 01°17'30" W 152.01 feet; thence S 89°00'00" E 292.34 feet; thence S 01°17'30" E 146.06 feet to the Point of Beginning

*(The Remaining Property)*

**REVISED PARCEL C  
LEGAL DESCRIPTION**

PART OF THE NE 1/4 OF THE NE 1/4 OF SECTION 35, T4S-R6E, CITY OF MILAN, WASHTENAW COUNTY, MICHIGAN, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE EAST LINE OF SAID SECTION 35, WHICH IS N 01°17'30"W 348.56 FEET FROM THE SE CORNER OF THE NE 1/4 OF THE NE 1/4 OF SECTION 35; THENCE FROM THE POINT OF BEGINNING S 89°49'56"W 270.00 FEET; THENCE N 01°17'30"W 33.01 FEET; THENCE S 89°49'56"W 292.16 FEET; THENCE N 01°17'30"W 152.01 FEET; THENCE S 89° 00'00"E 562.51 FEET TO SAID EAST LINE; THENCE S 01°17'30"E 173.57 FEET ALONG SAID EAST LINE TO THE POINT OF BEGINNING. SAID PARCEL CONTAINS 2.09 ACRES OF LAND. BEING SUBJECT TO THAT PART NOW USED AS CARPENTER ROAD SO-CALLED AND IS ALSO SUBJECT TO A 66.00 FEET WIDE PRIVATE INGRESS/EGRESS EASEMENT OVER THE SOUTH 33.00 FEET OF THE EAST 270.00 FEET OF SAID PROPERTY. *19-35-125-006*

**REVISED PARCEL E  
LEGAL DESCRIPTION**

PART OF THE NE 1/4 OF THE NE 1/4 OF SECTION 35, T4S-R6E, CITY OF MILAN, WASHTENAW COUNTY, MICHIGAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SE CORNER OF THE NE 1/4 OF THE NE 1/4 OF SAID SECTION 35; THENCE N 01°17'30"W 348.56 FEET; THENCE S 89°49'56"W 300.06 FEET TO THE POINT OF BEGINNING; THENCE S 01°17'30"E 179.87 FEET; THENCE S 88°40'00"W 150.00 FEET; THENCE S 01° 17'30"E 174.85 FEET; THENCE S 88°41'10"W 848.74 FEET; THENCE N 00°31'16"W 574.36 FEET; THENCE N 89°00'00"W 729.54 FEET; THENCE S 01°17'30"E 152.01 FEET; THENCE N 89°49'56"E 292.16 FEET TO THE POINT OF BEGINNING.

*19-35-125-006*



Peggy M Haines, Washtenaw

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Page: 1 of 3

08/05/2003 08:15A

L-4293 P-931

**Metropolitan Title Company**

America's Premier Independent Title Agency

**WARRANTY DEED**

(Unplatted Land)

*Statutory Form*

*Know All Persons by These Presents:* That **Mohamad Ouza**, a married man, individually and as Attorney in Fact for **Ehsan Ouza**, his wife by Power of Attorney as recorded in Liber 4293, Page 929, Washtenaw County Records.

whose address is 1230 Dexter St., Milan, MI 48160

Convey(s) and Warrants(s) to **Harold B. Heath and Beth K. Heath, husband and wife**

whose address is 16548 Cone Rd, Milan, MI 48160

the following described premises situated in the City of **Milan**, County of **Washtenaw** and State of Michigan, to-wit:

**PARCEL C:**

**Part of the Northeast 1/4 of the Northeast 1/4 of Section 35, Town 4 South, Range 6 East, City of Milan, Washtenaw County, Michigan, described as follows: Commencing at the Southeast corner of the Northeast 1/4 of the Northeast 1/4 of said Section 35; thence North 01 degrees 17 minutes 30 seconds West 348.56 feet; thence South 89 degrees 49 minutes 56 seconds West 270.00 feet; thence North 01 degrees 17 minutes 30 seconds West 33.01 feet to the POINT OF BEGINNING of this description; thence South 89 degrees 49 minutes 56 seconds West 292.16 feet; thence North 01 degrees 17 minutes 30 seconds West 152.01 feet; thence South 89 degrees 00 minutes 00 seconds East 292.34 feet; thence South 01 degrees 17 minutes 30 seconds East 146.06 feet to the POINT OF BEGINNING.**

More commonly known as: **Dexter Street**

For the full consideration of: **\$1.00 and other good and valuable consideration.** ~~See Real Estate Transfer Valuation Affidavit attached herewith.~~ Please affix revenue stamps after recording.

**Subject to:** Building and use restrictions, reservations, and easements of record. Grantee agrees not to build any business or establishment that is directly or indirectly affiliated with the lodging industry; i.e. Hotel or Motel, on the property described in this deed and grantee's adjacent property Parcel ID # 19-19-35-125-008.

The grantor grants to the grantee the right to make all division(s) under section 108 of the land division act, Act No. 288 of the Public Acts of 1967. This property may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan Right To Farm Act.

Dated this **28th day of July, 2003.**

**WASHTENAW COUNTY TREASURER**  
**TAX CERTIFICATE NO. 137640**

**Drafted by:**

Dan Shemke  
214 S. Main St. Suite 206  
Ann Arbor, MI 48104

Assisted by: Metropolitan Title Company

**Return To:**

Harold B. Heath  
16548 Cone Rd  
Milan MI 48160

**Send Tax Bills To:**

Harold B. Heath  
16548 Cone Rd  
Milan MI 48160

Recording Fee: \$18.00

File Number: W-462772

Tax Parcel No.:

19-35-125-007

T700

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(Attached to and becoming a part of Warranty Deed dated: July 28, 2003, between Mohamad Ouza, a married man, individually and as Attorney in Fact for Ehsan Ouza, his wife by Power of Attorney as recorded in Liber 4293, Page 929, Washtenaw County Records. , as Seller(s) and Harold B. Heath and Beth K. Heath, husband and wife , as Purchaser(s).)

Witnesses:

Signed and Sealed:

M. Ouza INDIVIDUALLY ATTORNEY FACT FOR  
Mohamad Ouza, Individually and as Attorney in Fact for EHSAN OUZA  
Ehsan Ouza

State of Michigan  
County of Washtenaw

Notary Public:  
County in Michigan:  
Commission Expires:

The foregoing instrument was acknowledged before me this July 28, 2003, by Mohamad Ouza, a married man, individually and as Attorney in Fact for Ehsan Ouza, his wife

CHRISTIE LEIGH TAYLOR  
Notary Public, Washtenaw County, MI  
My Commission Expires 12-26-06



**Metropolitan Title Company**  
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Peggy M Haines, Washtenaw DW

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Page: 2 of 3  
08/05/2003 08:15A  
L-4293 P-931

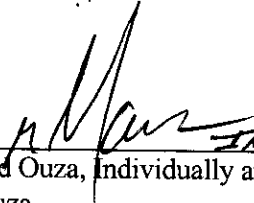
**NOTICE OF PRIVATE ROAD**  
**PURSUANT TO M.C.L.A. 560.261 (P.A. 1967 NO. 288)**

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**File Number:** W-462772  
**Date:** July 28, 2003  
**Reference:** Heath / Ouza  
**Property Address:** Dexter Street

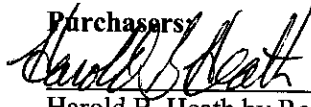
We, the undersigned seller(s) hereby notify the purchaser(s) that pursuant to Section 261 of the Subdivision Control Act of 1967 that you are purchasing a parcel of land that abuts a private road which is not required to be maintained by the Board of County Road Commissioners.


**Sellers:**

  
Mohamad Ouza, individually and as Attorney in Fact for *INDIVIDUALLY ATTORNEY IN FACT*  
Ehsan Ouza *EH SAN OULA*

The undersigned purchaser(s) hereby acknowledge that they have read the above.

**Purchasers:**

  
Harold B. Heath by Robert H. Heath, Sr., his Attorney in Fact

  
Beth K. Heath by Robert H. Heath, Sr., his Attorney in Fact

*This is to be attached to the deed, land contract or other instrument conveying any interest in land.*



**Metropolitan Title Company**  
America's Premier Independent Title Agency



Peggy M Haines, Washtenaw DW 5460091

Page: 3 of 3  
08/05/2003 08:15A  
L-4293 P-931



Page: 1 of 2  
09/02/2003 01:37P  
L-4306 P-381

## WARRANTY DEED

**HAROLD B. HEATH AND BETH HEATH**, husband and wife, whose address is 16548 Cone Road, Milan, Michigan 48160 ("Grantor"), convey and warrant to **MILAN CROSSING, LLC**, a Michigan limited liability company, whose address is 16548 Cone Road, Milan, Michigan 48160 ("Grantee"), the following described premises situated in the City of Milan, County of Washtenaw and State of Michigan (the "Property"):

Part of the Northeast  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  of Section 35, Town 4 South, Range 6 East, City of Milan, Washtenaw County, Michigan, described as follows: Commencing at the Southeast corner of the Northeast  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  of said Section 35; thence North  $01^{\circ}17'30''$  W 348.56 feet; thence South  $89^{\circ}49'56''$  W 270.00 feet; thence North  $01^{\circ}17'30''$  W 33.01 feet to the POINT OF BEGINNING of this description; thence South  $89^{\circ}49'56''$  W 292.16 feet; thence North  $01^{\circ}17'30''$  W 152.01 feet; thence South  $89^{\circ}00'00''$  E 292.34 feet; thence South  $01^{\circ}17'30''$  E 146.06 feet the POINT OF BEGINNING.

Tax Item No. 19-19-35-125-007 Address: Parcel C Dexter Street

Subject to building and use restrictions, reservations, and easements of record. Grantee agrees not to build any business or establishment that is directly or indirectly affiliated with the lodging industry; i.e. Hotel or Motel on the Property described in this deed or Grantee's adjacent property Parcel ID No. 19-19-35-125-008.

For the full consideration of less than One Hundred and 00/100 Dollars (\$100.00). This transfer is exempt from state and local transfer tax pursuant to MCL 207.526(a) and MCL 207.505(a). The Grantor grants to the Grantee the right to make all divisions under Section 108 of the land division act, Act No. 288 of the Public Acts of 1967, as amended. This property may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors and other associated conditions may be used and are protected by the Michigan Right to Farm Act.

Dated: Aug 29, 2003

Harold B. Heath  
Harold B. Heath

Beth K. Heath  
Beth K. Heath

WASHTENAW COUNTY TREASURER  
TAX CERTIFICATE NO. 14763 ac

AnnArbor 67068\_1





Peggy M Haines, Washtenaw DW 5472544

STATE OF MICHIGAN )  
COUNTY OF Washtenaw ) ss.

The foregoing instrument was acknowledged before me on 8-29, 2003, by Harold B. Heath and Beth K. Heath, husband and wife.

Sandra L Sorini  
Sandra L. Sorini, Notary Public  
Washtenaw County, Michigan  
My commission expires: 9-9-04

✓  
PREPARED BY AND WHEN  
RECORDED RETURN TO:  
Sandra L. Sorini (P36305)  
Bodman, Longley & Dahling LLP  
110 Miller, Suite 300  
Ann Arbor, Michigan 48104  
(734) 761-3780



OFFICIAL SEAL

01/23/2004

L-4356 P-487

Washtenaw Co., MI

Peggy M. Haines

CLERK  
REGISTER

Peggy M Haines, Washtenaw AG

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Page: 1 of 11  
01/23/2004 10:26A

L-4356 P-487

## MILAN CROSSING RESIDENTIAL PLANNED UNIT DEVELOPMENT

44-  
(11)

### DEVELOPMENT AGREEMENT

AGREEMENT, dated this 21<sup>st</sup> day of October, 2003, by and between Milan Crossing, LLC ("Developer"), a Michigan limited liability company, with offices at 16548 Cone Road, Milan, Michigan 48160, and the City of Milan, a Michigan municipal corporation ("City"), with offices at 147 Wabash Street, Milan, Michigan 48160, to confirm certain rights and obligations relating to development and use of a development located in the City of Milan on property more particularly described on the attached and incorporated Exhibit "A" (the "Property").

#### RECITATIONS:

Developer is the owner and fee title holder of the Property and is the developer and proprietor of a proposed residential planned unit development encompassing the Property to be known as "Milan Crossing Residential Planned Unit Development", which development is sometimes referred to herein as the "PUD", "R-PUD" and the "Development". Developer, representing to the City that it has full power and authority as owner of the Property, has applied for approval of an amendment to the City Zoning Ordinance granting a rezoning of the Property to R-3 residential and an overlay designation of Residential Planned Unit Development (R-PUD), and approval of a Conceptual R-PUD Site Plan for the Development. Simultaneous with this rezoning request, Developer has submitted an overall Site Map showing the layout of the proposed R-PUD based upon and conditioned upon a rezoning of the Property from the current zoning of C-3 to R-3, which site map and text cover the entire Property, and are collectively referred to in this Agreement as the "Conceptual R-PUD Site Plan", as such term is used in the City Zoning Ordinance, as amended.

The approved Conceptual R-PUD Site Plan includes a residential site condominium consisting of 12.183 acres and containing 81 single family attached residential units to be known as Milan Crossing.

As part of the application process, Developer, as owner of the Property, has offered and agreed to complete certain improvements, and to proceed with other undertakings set forth in the Development Agreement and the R-PUD Documents, all of which Developer and the City agreed were necessary and roughly proportional to the burden imposed, in order to ensure that public services and facilities necessary for and affected by the Milan Crossing Residential Planned Unit Development will be capable of accommodating increased service and facility loads caused by the PUD development, to protect the natural environment and conserve natural resources, 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 legitimate objectives authorized under applicable law.

For the purpose of confirming the rights and obligations in connection with the improvements and other obligations to be undertaken in connection with development of the Milan Crossing Residential Planned Unit Development on the Property, the parties have entered into this Development Agreement to take effect on the effective date of the City's ordinance granting rezoning of the Property to R-3 with an overlay designation of R-PUD for the Milan Crossing Residential Planned Unit Development.

NOW THEREFORE, as an integral part of the grant of rezoning of the Property to the Milan Crossing Residential Planned Unit Development, and as an integral part of the approval of the R-PUD Conceptual Site Plan,

IT IS AGREED AS FOLLOWS:

1. **Development of R-PUD.** The Property shall be developed, if at all, only in accordance with: (i) this Development Agreement; (ii) the R-PUD Conceptual Site Plan; (iii) the Ordinance granting The Milan Crossing Residential Planned Unit Development adopted and published by the City; (iv) the terms and conditions of the City's approval of such ordinance and the approval of the R-PUD Conceptual Site Plan (as contained in the official approved minutes of the City Council); and (v) the underlying zoning of the Property as it establishes residential use standards. The foregoing documents and plans are together referred to herein collectively as the "PUD Documents". Furthermore, all development of the Property shall be subject to and in accordance with all applicable City ordinances and any City approvals of Final Development Plans for the Milan Crossing Residential Planned Unit Development pursuant to all applicable City ordinances and State laws. The terms and provisions of the PUD Documents shall govern the development of the Property, including deviations granted from the Zoning Ordinance.

2. **Effect of Approval.** By adoption of the Ordinance granting the Milan Crossing Residential Planned Unit Development and approval of the Conceptual R-PUD Site Plan, the City has reclassified the zoning of the Property to R-PUD and conferred upon Developer approval of the Conceptual R-PUD Site Plan and shall confer upon the Developer the right to proceed through the Final R-PUD Site Plan review for a period not to exceed two (2) years. The approval confers the right of attached single-family use of the Property consistent with the underlying zoning classification, and approval of a Final R-PUD Site Plan shall be required in order to develop the Property. For two years after the approval of the Ordinance granting the Conceptual R-PUD Site Plan, Developer shall be permitted by the City to submit application for Final R-PUD Site Plan Approval in accordance with then applicable state law and City's Zoning Ordinance, Codes and Regulations in effect on the date of such Conceptual R-PUD Site Plan approval; thereafter, applications for Final R-PUD Site Plan approval shall be in accordance with then applicable state law and City Ordinance. No construction of any improvements on the Property including the residential components, shall commence until approval for the Final R-PUD Site Plan approval has been granted for Development and until approval by the City of the final site plan or site condominium for the Development.

3. **Phasing and Timing.** The Milan Crossing Residential Planned Unit Development shall be constructed in one phase. Construction of the Development, shall commence within two (2) years of the effective date of the grant of Final R-PUD Site Plan approval for the Development, subject to extension permitted by the City Zoning Ordinance. If construction is not commenced within that time, the City, following a hearing on fifteen (15) days notice to Developer, may adopt a resolution declaring all approvals granted under the Zoning Ordinance shall be null and void, and the City may, but is not required to, rezone the Property, or any portion thereof, to an appropriate zoning classification as determined in its reasonable discretion. In the event that the City declares all approvals null and void, the Developer agrees that it will not take any action, either administratively or in civil court, to oppose the City's request to rezone those portions of the Property where construction of the approved Development has not yet been commenced. The City may require the execution and/or recordation of permanent or temporary easements, open space agreements, and other instruments or agreements in order to insure the use and development of the Property as proposed is consistent with and/or promotes and/or protects the public health, safety and welfare in a specific manner, in accordance with the intent and spirit of the PUD Documents.

"Construction" means the installation of the improved infrastructure including, but not limited to, sewer, waterlines, roads, curbs, sidewalks, etc., and/or building and/or erection of the actual condominiums including foundations and footings. Construction must be diligent and continuous



Page: 2 of 11  
01/23/2004 10:26A  
L-4356 P-487

4. **Water, Sanitary Sewer & Utility Systems.** Developer shall design, construct and install a public water distribution system and a public sanitary sewer system, which shall service and meet the demands of the entire PUD on the Property. The water distribution system shall be designed and constructed in a manner, which provides a loop of the system as it connects with the existing City of Milan water distribution system. Such systems shall be designed and constructed in accordance with all applicable City, State and County standards, codes, regulations, ordinances and laws. Such water and sanitary sewer service facilities, including any off-site extensions and on-site facilities, together with the reasonable cost of easements to reach the area to be served, shall be provided by and at the sole expense of Developer, and shall be completed, approved and dedicated to the City. Developer shall be responsible for, and make timely payment of, all tap fees, inspection fees, Capital Benefit Charges, or any other applicable fees or charges associated with the design and installation of water, sanitary sewer and utility systems.

The sanitary sewer system and water system shall be dedicated to the City. The water distribution system servicing the PUD and the sanitary sewer system, until such time as it is dedicated to and accepted by the City shall be maintained and repaired by Developer.

All public utilities shall be approved by the appropriate agencies, which have jurisdiction. If during engineering review, utility easement, size, location and placement are not accepted as proposed, site plan amendment procedures will be followed.

5. **Storm Drainage System.** Developer, at its sole expense, agrees to construct the storm drainage throughout the PUD, in accordance with all PUD Documents, any and all approvals and engineering approvals, and all applicable City, State ordinances, laws, regulations and standards. Such system will include, without limitation, temporary basins and facilities during the period of development and construction of the PUD. All temporary and permanent storm water system basins, components, and other improvements, and storm water discharge flows and rates, shall comply with all City requirements and approvals for same in terms of final design, engineering, construction and maintenance, and shall be subject to review by the City engineer and approval by the City as part of the final development plans to be submitted. Developer shall be responsible for, and make timely payment of all tap fees, inspection fees, or any other applicable fees or charges associated with the design and installation of storm drainage systems.

The storm drainage system throughout the PUD shall either be dedicated to the City, and accepted and approved, as a City Drain or such system shall be dedicated to the City and accepted and approved, as a City Drain and be the subject of a separate agreement to ensure proper construction and long term maintenance, approved by the City. Developer shall make all improvements and obtain and convey all access and maintenance easements in favor of the City required in order to accept such dedication of the storm drainage system and to provide continuity in the flow, and to permit access to and maintenance of the entire system. In all respects, Developer agrees, on behalf of all property owners and all future owners of property within the PUD, to fully cooperate and assist in the establishment of the City Drain (or in the establishment of a counterpart separate agreement approved by the Drain Commissioner).

Developer shall also identify and provide for all necessary or required storm drainage easements in the master deed for Milan Crossing, including without limitation easements for all basins, piping, rear-end side yard drainage swales, and other storm drainage improvements and facilities. Such easements shall be reserved and granted for the benefit of Developer, the homeowners' association and the City, if applicable.

Until such time as the storm drainage system is fully dedicated, it shall be the responsibility and obligation of Developer to regularly employ an expert, and to inspect, maintain and repair the storm drainage system and to ensure that it continually operates and functions as intended and designed.

6. **Density and Land Use.** The permitted type of land use, acreage, minimum amount of open space, maximum permitted lots or units, and density for the Milan Crossing Residential Planned Unit Development as a whole, shall be dependent upon the underlying R-3 zoning of the Property and set forth on the Conceptual R-PUD Site Plan.



Peggy M Haines, Washtenaw AG

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Page: 3 of 11  
01/23/2004 10:26A  
L-4356 P-487

7. **Area, Setbacks, Building Height and Other Regulations.** All regulations in the R-3 zoning district and the PUD Documents, including without limitation those listed within the table of this section of the Development Agreement, and those on the Conceptual R-PUD Site Plan, shall govern and regulate development and use of, and structures in the Milan Crossing Residential Planned Unit Development, and shall be dependant upon the actual underlying zoning classification of the Property at the time that the Final R-PUD Site Plan is approved for project.

	<b><u>Underlying R-3 Zoning Requirement</u></b>	<b><u>Approval for this Specific R-PUD</u></b>
Minimum Unit Area	4,350 ft.	5,175 ft.
Site Setbacks:		
Front	35 ft.	20 ft.
Side	10 ft.	NA
Rear	20 ft.	30 ft. +
Between Buildings	30 ft. minimum	25 ft. minimum
Units	110-121 units	81 units
Overall Units Per Acre		6.65
Gross Site Area		12.18 acres

9. **Signage and Street Lighting.** All signage and street lighting on the Property shall comply with the requirements and specifications set forth in the approved Final R-PUD Site Plan Documents, and approved pursuant to the City's Zoning Ordinance.

10. **Completion of Improvements; Financial Assurances.** All on-site and off-site improvements of the PUD, including without limitation all roads, public sanitary sewer service system, public water service system, storm water drainage systems, detention and retention facilities, street lighting, gas and electric utilities, landscaping, walkways, soil erosion and sedimentation controls, and entranceways shall be completely constructed and provided to all residents and buildings within the PUD as required and as set forth in the PUD Documents, the Final R-PUD Site Plan and any other approvals or permits granted by the City, and all applicable ordinances, laws, standards and regulations. If development of the Property proceeds, the Developer shall be obligated to design and completely construct all such improvements as provided for, and in the order specified, in the PUD Documents. If Developer seeks building permits before completing improvements, Developer shall provide financial assurances, in the form of cash, an irrevocable letter of credit, or other surety mechanism, approved by the City, in an amount equal to one hundred twenty-five percent (125%) of the estimated cost of construction as specified in a bona fide contract for construction of all such improvements, approved by the City, together with an agreement with the City, approved by the City Attorney, authorizing the City to, at its option, install and maintain all such improvements as required in the PUD Documents and as required by the City.

11. **Entranceways, Streets and Access Drives.** The main streets in the Development consisting of Marvin Street, Kay Street, Wright Lane and Lee Street shall be public streets dedicated to the City of Milan. The access drives consisting of Gray Court, Marvin Court and Wright Court shall be private. The Master Deed shall cause the access drives to be privately maintained at all times, at the expense of the owners of the Property. Developer shall be entitled to post security in the form of cash, an irrevocable letter of credit, or other surety mechanism, approved by the City and issued by an institution doing business in the State of Michigan, in an amount equal to one hundred twenty-five percent (125%) of the estimated cost of construction as specified in a bona fide contract for construction of all entranceways, streets and access drives for the Development, approved by the City, together with an agreement with the City, approved by the City

Attorney, authorizing the City to, at its option, install the streets, access drives and entranceways in the Development if the Developer has failed to do so within the time specified therein.

In such case, building permits for residential dwellings within the Development shall be issued upon final approval of the R-PUD for the two (2) buildings located on Gray Court (building numbers 12, and 13 containing 4 and 5 dwelling units respectively) and the first two (2) buildings at the entrance of Kay Street off of Dexter (buildings 5 and 6 containing 6 and 4 dwelling units respectively). These permits will be subject to installation and maintenance of an adequate gravel subsurface base for all entranceways and internal roadway areas to provide access for construction traffic, city personnel, emergency and fire fighting equipment. Building permits for units in excess of these four (4) buildings will not be issued until the entranceways and internal roadway areas are a minimum base coat of asphalt and the Department of Public Works has approved the public water and sewer system. Certificates of Occupancy of any type will be limited to three (3) model units located in buildings 12 and 13 on Gray Court (model units being individual living units, whether attached or unattached) until the entranceways and internal roadway areas are a minimum base coat of asphalt and the Department of Public Works has approved the public water and sewer system.

The aforementioned agreement for completion shall also provide that all entranceways, streets and access drives designed to serve, directly or indirectly, any residential unit shall in all events be top coated prior to issuance of certificates of occupancy for any residential dwelling after 95% of the certificates of occupancy have been issued for the Development. Until such time as the development and construction of the PUD Development have been completed and received all required governmental approvals, and where public roads are concerned, until such time as the dedication of such roads to the City Developer or any assigns and delegates of Developer shall be responsible for maintenance and repairs of the streets, access drives and entranceways. Where private access drives are concerned, until the expiration of two (2) years from the date of completion of the final wearing course for such access drives, Developer or any assigns and delegates of Developer, including but not limited to the condominium associations, shall be responsible for maintenance and repairs of the access drives. As to each such private access drive, for the period of time provided in the preceding sentence, Developer, Developer's assignees, and delegates shall post security in the form of cash, an irrevocable letter of credit, or other surety mechanism, approved by the City and issued by an institution doing business in the State of Michigan in an amount equal to forty percent (40%) of construction cost of such access drive improvements, together with an agreement with the City, approved by the City Attorney, obligating Developer, or Developer's designees and assignees to perform such maintenance, and authorizing the City to, at its option, perform such maintenance if there has been failure to perform such maintenance following notice from the City. For purposes of such maintenance of the roads, the term "maintenance" shall mean and include regular inspections, grading, and other earth moving, removing dirt, debris, and any obstacles, repairing potholes and cracks, adding new materials, providing for drainage, constructing any needed structures (e.g. without limitation, to provide lateral support, curbing, drainage, etc.) graveling, sealing, resurfacing and such other action as shall be necessary or expedient to provide structural integrity and substantially continuous, unobstructed and safe vehicular passage to and through the PUD Development, or any portion thereof.

12. **Open Space.** For the purpose of ensuring long-term preservation of open space and natural features within the PUD Development, all open space areas shall be perpetually preserved as open space areas pursuant to the provisions of an Open Space Easement approved by the City which shall be fully executed and delivered to the City Attorney for recording, at Developer's expense, with the County Register of Deeds. Immediately following City approval of the Conceptual R-PUD Site Plan and rezoning, Developer shall place into escrow with the City Attorney the Open Space Easement with a description of an area or areas that clearly include all open space within the PUD Development, together with an Affidavit to be recorded with the Register of Deeds office providing notice of such escrow, and notice of the anticipation for the modification of the descriptions of the areas to be preserved, as provided below. As the Development proceeds, and specific legal descriptions become available which are substantially in conformance with the Conceptual R-PUD Site Plan, such legal descriptions shall be substituted for the corresponding portion of the description attached to the Open Space Easement in escrow. At such time as the project has been completed, or in the event the project is abandoned for more than six months, the Open Space Easement shall be released from escrow and recorded with the office of the Register of Deeds, at Developer's expense. The intent of the parties in this arrangement is to achieve a specific description of the areas to be preserved, while allowing development to proceed without having to undertake complete engineering for the entire site at the outset. In acting as escrow agent, the City Attorney shall be acting solely as a contractor for the City, and neither the City Attorney nor his or her firm shall have personal liability in connection with the transaction.



Amenities and improvements for the open space, which include the pedestrian nodes<sup>1</sup>, shall be included in the Final R-PUD Site Plan Documents. Open space and amenity maintenance shall be the sole responsibility of the homeowners' association.

13. **Construction Traffic and Model Homes.** Developer shall be responsible for and obligated to direct all traffic relating to construction activities on the Property via City approved routes which shall cause the least amount of interference with other existing residential neighborhoods in the area, that will cause the least amount of interference and congestion with existing traffic flows, and that causes the least potential for damage to existing roads in the City. Developer shall submit with its Final R-PUD Site Plan application materials, a proposed route and plan for construction traffic addressing the aforementioned factors and considerations. Developer shall post signs directing construction traffic, if and to the extent required by the City. Developer shall be responsible for clearing obstructions and construction debris from the public roads adjoining the Property, and repairing any damage to the roads, caused by construction traffic resulting from the Development.

14. **Wetlands, Watercourses and Natural Features.** All construction, development and other activities on the Property shall at all times comply with any wetlands and natural feature permits or both, issued, or that may be issued by the Michigan Department of Environmental Quality ("DEQ"), as well as any and all applicable City Ordinances and county, state and federal laws pertaining to wetlands, if any, natural features areas and water courses located on the Property.

15. **Condominium Master Deed.** Developer shall submit to the City a condominium master deed with bylaws and condominium subdivision plan for Milan Crossing Residential Planned Development which shall be subject to review by the City Attorney, approved by the City and recorded with the Country Register of Deeds, at Developer's expense, prior to the approval of any building permits for the Milan Crossing Residential Planned Development. In all events, as part of such master deed, there shall be provisions obligating Developer, and all other and future successor owners of property within the PUD Property, to maintain, repair and preserve the private storm drainage, detention and retention facilities servicing the Property, the internal private access drives constructed on the Property, and all safety paths, walkways, entranceways, signs, lighting, drains, open spaces, common areas and amenities, and common area landscaping on the Property, and such provisions shall further provide that, in the event Developer or successor owners at any time fail to carry out the aforementioned responsibilities and obligations pertaining to any such areas, structures or facilities, the master deed shall give the City the right, but not the obligation, to serve written notice upon Developer and/or the homeowners' association setting forth the deficiencies in maintenance, repair, and/or preservation, which notice shall also set forth a demand that the deficiencies be cured within a stated reasonable time period. If the City shall determine that the maintenance, repairs and/or preservation has not been completed within the time specified in the notice, the City shall thereupon have the power and authority, but not the obligation, to enter upon the Property, or cause its agents or contractors to enter upon the Property, and perform such maintenance, repairs and/or preservation, including the cost of notices by the City and reasonable legal fees incurred by the City, plus a reasonable administrative fee shall be paid by Developer and/or the homeowners' association; and the City may require such costs and expenses to be paid prior to the commencement of work; and if such costs and expenses to be paid prior to the commencement of work; and if such costs and expenses have not been paid within sixty (60) days of a billing to Developer and/or any of the homeowners' association, all unpaid amounts may be placed on the delinquent tax roll of the City, as to the respective residential neighborhood component portion of the Property and shall accrue interest and penalties, and shall be collected as, and shall be deemed delinquent real property taxes.

17. **Ambiguities and Inconsistencies.** Where there is a question with regard to applicable regulations for a particular aspect of the PUD Development, or with regard to clarification, interpretation, or definition of terms or regulations, and there are no apparent express provisions of the PUD Documents which apply, the City, in the reasonable exercise of its discretion, shall determine the regulations of the City's Zoning Ordinance, which shall be applicable provided such determination is not inconsistent with the nature and intent of the PUD Documents. In the event of a conflict of inconsistency between two or more provisions of the PUD Documents, or between the PUD Documents and applicable City ordinances, the PUD Documents shall apply.

18. **Access to Property.** In all instances in which the City utilizes the proceeds of a financial assurance given to ensure completion or maintenance of improvements, and throughout the period of development and construction of any part of the Development, the City and its contractors and agents, shall be permitted, and are hereby granted

authority, to enter upon all or any portion of the Property at reasonable times for the purpose of inspecting and/or completing the respective improvements, and for purposes of inspection for compliance with and enforcing the PUD Documents.

19. **Single Ownership and/or Control of PUD Property.** Developer has represented, and hereby reasserts and acknowledges, to the City, that for all purposes required under the Zoning Ordinance "sole control" of the Property has been and is vested in Developer, and that Developer is fully authorized and empowered as the owner of the Property, to rezone and develop the Property in accordance with and pursuant to the PUD Documents and City Zoning Ordinance, and that Developer is fully authorized and empowered to enter into this Agreement and all other agreements, dedications, and recordings applicable to the Milan Crossing Residential Planned Unit Development as approved by the City.

20. **City Enforcement.** In the event there is a failure to timely perform any obligation or undertaking required under or in accordance with the PUD Documents, the City, except in emergency circumstances, shall serve written notice upon Developer setting forth such deficiencies and a demand that the deficiencies be cured within a stated reasonable time period, and the date, time and place for a hearing before the City Council or such other board, body or official delegated by the City Council, for the purpose of allowing Developer an opportunity to be heard as to why the City should not proceed with the correction of the deficiency or obligation which has not been undertaken or properly fulfilled. At any such hearing, the time for curing and the hearing itself may be extended and/or continued to a date certain. If following such hearing, the City Council, or the 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 any emergency circumstance exists as determined by the City in its reasonable discretion, the City shall thereupon have the power and authority, but not the obligation, to enter upon the Property, or cause its agents or contractors to enter upon the Property, and perform such obligation or take such corrective measures as reasonably found by the City to be appropriate. In addition to any financial assurances given to insure completion of the improvements, the cost and expense of making and financing such actions by the City, including the notices by the City and reasonable legal fees incurred by the City, plus reasonable administrative fee, shall be paid by Developer within thirty (30) days of a billing to Developer. If and to the extent a billing has been unpaid by Developer for more than sixty (60) days, such unpaid amount shall be placed on the delinquent tax rolls of the City relative to such aforementioned 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.

21. **Agreement Jointly Drafted.** Developer has negotiated with the City the terms of the PUD Documents, including without limitation this Development Agreement, and such documentation represents the product of the joint efforts and mutual agreements of Developer and the City. The City and the Developer fully accept and agree to the final terms, conditions, requirements and obligations of the PUD Documents. Furthermore, it is agreed that the improvements and undertakings described in the PUD Documents are necessary and roughly proportional to the burden imposed, and are necessary in order to: (i) ensure that public services and facilities necessary for and affected by the PUD will be capable of accommodating the development on the Property and the increased service and facility loads caused by the PUD; (ii) protect the natural environment and conserve natural resources; (iii) ensure compatibility with adjacent uses of land; (iv) promote use of the Property in a socially, environmentally and economically desirable manner; and (v) achieve other legitimate objectives authorized under the City Zoning Enabling Act. It is further agreed and acknowledged hereby that all such improvements, both on-site and off-site, are clearly and substantially related to the burdens to be created by the development of the Property, and all such improvements without exception are clearly and substantially related to the City's legitimate interests in protecting the public health, safety and general welfare.

22. **Running with the Land; Governing Law.** This Development Agreement shall run with the land constituting the Property, and shall be binding upon an inure to the benefit of all contract sellers of and those having an existing ownership interest in the Property or any portion thereof, all future owners, developers and builders of any part of the PUD, all undersigned parties, and all of their respective heirs, successors, assigns, and transferees. An affidavit providing notice of the rezoning of the Property, and of the PUD Documents, including this Development Agreement shall be executed by the property owners and may be recorded by any of the undersigned parties following the execution of this Agreement and approval of the PUD. This Development Agreement shall be interpreted and constituted in accordance with Michigan law, and shall be subject to enforcement only in Michigan courts. The parties understand and agree that this Development Agreement is consistent with the intent and provisions of the Michigan and U.S. Constitution and all applicable law.





IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day first above written.

CITY OF MILAN, MICHIGAN  
147 Wabash Street  
Milan, Michigan 48160

Witnesses:

Heather Conley  
Heather Conley

By:

David P. Ludwig  
David P. Ludwig, Mayor

Candy S. Hines  
Candy S. Hines

By:

Sherry Steinwedel  
Sherry Steinwedel, City  
Clerk/Treasurer

MILAN CROSSING, LLC  
16548 Cone Road  
~~Bloomfield Hills~~, MI 48160  
Milan

Witnesses:

John Kormash  
John Kormash

By:

Robert H. Heath  
Robert H. Heath  
Its: Manager  
Manager

This instrument, consisting of thirteen (13) pages was drafted by:

Sandra L. Sorini  
Bodman, Longley & Dahling, L.L.P.  
110 Miller, Suite 300  
Ann Arbor, MI 48104  
(734) 930-2495

STATE OF MICHIGAN)  
COUNTY OF WASHTENAW)

When recorded, return to,  
Michael J. Czymbor, City Administrator  
City of Milan  
147 Wabash St.  
Milan, MI 48160 ✓  
(734) 439-1501

The foregoing instrument was acknowledged before me this  
21st day of October, 2003, by David P. Ludwig, Mayor, City of Milan  
Sherry Steinwedel, City Clerk/Treasurer and Robert H. Heath  
Manager, \*City of Milan

\*Milan Crossing LLC

Tracy S. Soltis  
Tracy S. Soltis, Notary Public  
Oakland A/I Washtenaw County/Michigan  
My Commission Expires: 11/7/03



Peggy M Haines, Washtenaw AG

5522701

Page: 8 of 11  
01/23/2004 10:26A  
L-4356 P-487

**Exhibit A**

**DESCRIPTION OF A 12.18 ACRE PARCEL OF LAND  
IN THE NE ¼ OF SECTION 35 OF  
THE CITY OF MILAN,  
WASHTENAW COUNTY, MICHIGAN**

Commencing at the Northeast corner of Section 35, T4S, R6E, City of Milan, Washtenaw County, Michigan; thence S01°17'30"E 786.31 feet along the East line of said Section 35 and the centerline of Carpenter Road (100.00 feet wide); thence N89°00'00"W 562.51 feet for a **PLACE OF BEGINNING**; thence S01deg17'30"E 179.06 feet; thence S89°49'56"W 30.06 feet; thence S01°17'30"E 179.67 feet; thence S88°40'00"W 150.00 feet; thence S01°17'30"E 174.85 feet; thence S88°41'10"W 848.74 feet; thence N00°31'16"W 574.38 feet; thence S89°00'00"E 1021.88 feet to the Place of Beginning, being part of the Northeast ¼ of said Section 35, containing 12.18 acres of land, more or less, subject to easements, conditions, restrictions and exceptions of record, if any.

Parcel No. 19-19-35-125-008 and 19-35-125-007



Peggy M Haines, Washtenaw AG

5522701

Page: 9 of 11  
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L-4356 P-487

**Exhibit B**

Conceptual R-PUD Site Plan  
(See Attached)

 Page: 10 of 11  
01/23/2004 10:26A  
Peggy M Haines, Washtenaw AG 5522701 L-4356 P-487



1/28/04



OFFICIAL SEAL

02/11/2004

L-4361 P-444

Washtenaw Co., MI  
Peggy M. Haines  
CLERK  
REGISTER



Page: 1 of 5

02/11/2004 11:11A

Peggy M Haines, Washtenaw

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### EASEMENT AGREEMENT

**THIS AGREEMENT**, made and entered into this 30<sup>th</sup> day of January, 2004 for and in consideration of prospective benefits to be derived by reason of the construction, operating and maintaining of the York-Augusta #2 Drain under the supervision of the Washtenaw County Drain Commissioner and the County of Washtenaw and the State of Michigan, as hereinafter described, Milan Crossing, LLC, a Michigan limited liability company, with offices at 16548 Cone Road, Milan, Michigan 48160 (the "**Landowner**") does hereby convey and release to Janis A. Bobrin, Washtenaw County Drain Commissioner on behalf of the **York-Augusta #2 Drain Drainage District**, (the "**District**") of Western County Service Center, P.O. Box 8645, Ann Arbor, Michigan 48107-8645, an Easement for the York-Augusta #2 Drain situated in the City of Milan, York Township, County and State aforesaid. Landowner does hereby convey and release to the District the following Drainage Easement for the sole and only purpose of locating, establishing, constructing, operating and maintaining over and across said premises the York-Augusta #2 Drain.

**WHEREAS**, Landowner is the owner of lands in the aforesaid County described as:

Commencing at the Northeast Corner of Section 35, T4S, R6E, City of Milan, Washtenaw County, Michigan; thence S00°15'50"W 786.31 feet along the East line of said Section 35 and the centerline of Carpenter Road (100.00 feet wide); thence N87°26'40"W 270.17 feet for a **PLACE OF BEGINNING**; thence S00°15'50"W 179.06 feet; thence N88°36'44"W 30.06 feet; thence S00°15'50"W 179.67 feet; thence N89°46'40"W 150.00 feet; thence S00°15'50"W 174.85 feet; thence N89°45'30"W 848.74 feet along the North line of "Supervisor's Plat No. 10" as recorded in Liber 10, Page 43, Washtenaw County Records; thence N01°02'04"E 574.36 feet along the East line of "Meadowbrook" Condominium, as recorded in Liber 4310, Page 709, Washtenaw County Records; thence S87°26'40"E 1021.89 feet to the Place of Beginning, being part of the Northeast ¼ of said Section 35, containing 12.18 acres of land, more or less, being subject to easements, conditions, restrictions and exceptions of record, if any.

**WHEREAS**, the District wishes to obtain an easement from Landowner for the purpose of locating, establishing, constructing, operating and maintaining over and across said premises Landowner's property the York-Augusta #2 Drain.

**NOW THEREFORE**, the parties hereto agree as follows:

1. Landowner hereby grants, conveys and releases unto the District an Easement for reasonable access over and upon its lands for the purpose of locating, establishing,

1/28/04

constructing, operating and maintaining the Drain within the Easement described below located on the Landowner's property.

2. Said Easement is described separately as follows:

Commencing at the Northeast corner of Section 35, T4S, R6E, City of Milan, Washtenaw County, Michigan; thence S00°15'50"W 786.31 feet along the East line of said Section 35 and the centerline of Carpenter Road (100.00 feet wide); thence N87°26'40"W 270.17 feet for a PLACE OF BEGINNING; thence S00°15'50"W 20.12 feet; thence N88°15'55"W 128.81 feet; thence N86°48'06"W 191.23 feet; thence N85°31'33"W 313.28 feet; thence N85°13'54"W 202.43 feet; thence N89°17'22"W 105.80 feet; thence S75°21'22"W 66.12 feet; thence S34°37'34"W 9.68 feet; thence S02°56'48"W 95.32 feet; thence S00°23'45"W 119.48 feet; thence S01°08'52"W 97.53 feet; thence S01°23'26"W 159.64 feet; thence S14°36'56"W 34.94 feet; thence S63°29'09"W 1.27 feet; thence N01°02'04"E 539.47 feet along the East line of "Meadowbrook" a Site Condominium, as recorded in Liber 4310, Page 709, Washtenaw County Records; thence S87°26'40"E 1021.89 feet to the Place of Beginning, being part of the Northeast ¼ of said Section 35.

3. Landowner, its successors and assigns reserves its rights and privileges to the area encompassed by the Easement as may be used and enjoyed so long as the use(s) do not materially interfere with or abridge the rights granted to and easement hereby acquired by the District. Any permanent structures/obstructions will require a permit from the Drain Commissioner's Office;
4. Landowner, its successors and assigns holds the District harmless from all claims to damages in any way arising from or incident to the drainage and any increased flow onto said premises by reason of the drain and proper maintenance or improvement thereof. During the time of proper maintenance and improvement of said drain, or at any time in the future, such release for damages releases the Drainage District, its successors and assigns from any damages whatsoever arising out of the flooding of said lands within the easement right of way to any depth at any time in the future by reason of the proper construction of such drainage improvements and the flooding caused by such proper construction or their use during the time of such proper construction or at any time in the future;
5. This Easement may be terminated in whole or in part by written agreement of all of the parties;
6. This conveyance shall be deemed sufficient to vest in the District an Easement in said lands for the uses and purposes of locating, establishing, constructing, operating and maintaining said drain on Landowner's property.

1/28/04



Peggy M Haines, Washtenaw

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Page: 3 of 5

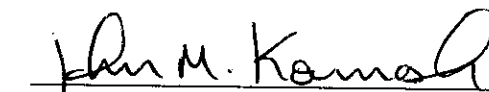
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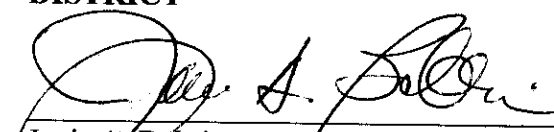
In witness whereof, the parties hereto have executed this Agreement the day and year first above written.

**LANDOWNER:**

MILAN CROSSING, LLC

  
John M. Kormash,  
ITS: Authorized Agent

**YORK & AUGUST #2 DRAIN DRAINAGE  
DISTRICT**

  
Janis A. Bobrin  
Washtenaw County Drain Commissioner

1/28/04



Page: 4 of 5  
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L-4361 P-444

# ACKNOWLEDGMENT

STATE OF MICHIGAN     )  
                                      )  
COUNTY OF WASHTENAW    )

On this 30th day of January, 2004 before me, a Notary Public in and for said County, appeared JANIS A. BOBRIN, Washtenaw County Drain Commissioner, to me personally known to be the person described in and who executed the foregoing instrument and acknowledged the same to be her free act and deed.

Linda D. Oslin  
Linda D. Oslin, Notary Public  
Washtenaw County, Michigan  
My Commission Expires December 20, 2005



1/28/04




Page: 5 of 5  
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L-4361 P-444

STATE OF MICHIGAN )

COUNTY OF WASHTENAW )

On this 29 day of JANUARY, 2004 before me, a Notary Public in and for said County, appeared **John M. Kormash**, to me personally known, who being duly sworn did say that he is an Authorized Agent of the Milan Crossing, LLC, and that said instrument was signed on behalf of said corporation by authority of its Board of Directors and the said Board acknowledged said instrument to be the free act and deed of said signatory.

PAMELA J. COLF  
Notary Public, Washtenaw County MI  
My Commission Expires Jan. 3, 2008

PAMELA J. COLF   
WASHTENAW, Notary Public  
MILAN, Michigan  
My Commission Expires 1/3/2008

Drafted by: Deborah L. Neaton  
Office of the Drain Commissioner  
P.O. Box 8645  
Ann Arbor MI 48107-8645

When recorded, please return to:  
Office of the Drain Commissioner  
P.O. Box 8645  
Ann Arbor MI 48107-8645 ✓



OFFICIAL SEAL

04/29/2004

L-4385 P-269

Washtenaw Co., MI  
Peggy M. HainesCLERK  
REGISTER

Peggy M Haines, Washtenaw

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Page: 1 of 3  
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### GRANT OF EASEMENT

This Grant of Easement (the "Easement") is dated this 8 day of April, 2004, by Milan Crossing LLC hereinafter referred to as "Grantor," whose address is 16548 Cone Rd, and Comcast of the South, Inc., its successors and assigns, hereinafter referred to as "Grantee," whose address is 29777 Telegraph Rd, Suite 1130, Southfield, MI 48034.

Grantor and Grantee are parties to a certain Installation & Services Agreement pursuant to which Grantee provides certain broadband communications services to the Property described below.

In consideration of One Dollar (\$1.00), Grantor, owner of the Property described below, hereby grants to Grantee, its successors and assigns, an easement in gross and right-of-way to construct, use, maintain, operate, alter, add to, repair, replace, reconstruct, inspect and remove at any time and from time to time a broadband communications system (hereinafter referred to as the "System") consisting of wires, underground conduits, cables, pedestals, vaults, and including but not limited to above ground enclosures, markers and concrete pads or other appurtenant fixtures and equipment necessary or useful for distributing broadband services and other like communications, in, on, over, under, across and along that certain real property (the "Property"), commonly known as Milan Crossing, located in the County of Washtenaw, State of Michigan, described as follows:

#### See Attached Exhibit A—Legal Description

Grantor agrees for itself and its heirs and assigns that the System on the Property shall be and remain the personal property of the Grantee and may not be altered, obstructed or removed without the express written consent of the Grantee. Upon approval by the Association, the Grantee, and its contractors, agents and employees shall have the right to trim or cut trees and/or roots which may endanger or interfere with said System and shall have free access to said System and every part thereof, at all times for the purpose of exercising the rights herein granted; provided, however, that in making any excavation on said Property of the Grantor, the Grantee shall make the same in such manner as will cause the least injury to the surface of the ground

around such excavation, and shall replace the earth so removed by it and restore the area to as near the same condition as it was prior to such excavation as is practical.

This easement shall run with the land for so long as Grantee, its successors or assigns provides broadband services to the Property.

**IN WITNESS WHEREOF**, this Grant of Easement has been executed as of the day and year first above written.

WITNESS/ATTEST:

GRANTOR: Milan Crossing LLC

Barbara J Kaas  
Print Name: Barbara J Kaas

By: John Kormash  
Name: John Kormash  
Title: Authorized Agent

Brenda K. Willwerth  
Print Name: Brenda K. Willwerth

**ACKNOWLEDGEMENT OF GRANTOR**

STATE OF MICHIGAN )  
 ) ss.  
COUNTY OF Washtenaw )

The foregoing instrument was acknowledged before me, a Notary Public, this 8 day of April, 2004, by John Kormash, Authorized Agent, of Milan Crossing LLC, on behalf of the company. He is (personally known to me) or (has presented Driver Lic (type of identification) as identification and did/did not take an oath.

Witness my hand and official seal.

BARBARA J. KAAS  
NOTARY PUBLIC - MICHIGAN  
MONROE COUNTY  
MY COMMISSION EXPIRES OCT. 5, 2005  
acting in Washtenaw County

Barbara J Kaas  
Barbara J Kaas Notary Public  
My Commission Expires: \_\_\_\_\_

When Recorded, Return To:  
Comcast  
29777 Telegraph Suite 1130  
Southfield, MI 48034

Parcel Numbers: 19-19-35-125-007  
19-19-35-125-008

Real Estate Transfer Tax Exemptions:  
MCLA 207.526(6)(a); MCLA 207.505(a)

Drafted By:  
Eddie Young Jr.  
Comcast  
14909 Beck Rd  
Plymouth, MI 48170



## EXHIBIT A

### Legal Description

Land situated in the City of Milan, County of Washtenaw, State of Michigan, is described as follows:

Commencing at the Northeast Corner of Section 35, T4S, R6E, City of Milan, Washtenaw County, Michigan; thence S00°15'50"W 786.31 feet along the East line of said Section 35 and the centerline of Carpenter Road (100.00 feet wide); thence N87°26'40"W 270.17 feet for a PLACE OF BEGINNING; thence S00°15'50"W 179.06 feet; thence N88°36'44"W 30.06 feet; thence S00°15'50"W 179.67 feet; thence N89°46'40"W 150.00 feet; thence S00°15'50"W 174.85 feet; thence N89°45'30"W 848.74 feet along the North line of "Supervisor's Plat No. 10" as recorded in Liber 10, Page 43, Washtenaw County Records; thence N01°02'04"E 574.36 feet along the East line of "Meadowbrook" Condominium, as recorded in Liber 4310, Page 709, Washtenaw County Records; thence S87°26'40"E 1021.89 feet to the Place of Beginning, being part of the Northeast ¼ of said Section 35, containing 12.18 acres of land, more or less, being subject to easements, conditions, restrictions and exceptions of record, if any.

Parcel No. 19-19-35-125-008 and 19-35-125-007



### QUITCLAIM DEED

Pursuant to section 78m of The General Property Tax Act, 1893 PA 206 as amended (MCL 211.78m), Grantor, Catherine McClary, Washtenaw County Treasurer and Foreclosing Governmental Unit for Washtenaw County, whose address is 200 N. Main Street, Suite 200, P.O. Box 8645, Ann Arbor, Michigan 48107-8645, quitclaims to the Grantee, Robins Home Repair LLC, a Michigan limited liability company, whose address is 750 Jefferson Ln., Milan, MI 48160, the premises in the City of Milan, Washtenaw County, Michigan, described as:

SEE ATTACHED EXHIBIT A

for the full consideration of \$30,000.00, subject to any liens, easements, building or use restrictions, governmental interests, or special assessments not extinguished pursuant to section 78k of The General Property Tax Act, 1893 PA 206, as amended (MCL 211.78k), and subject to the lien for taxes levied in calendar year 2014.

By accepting this Deed, the Grantee and its successors and assigns agree to be bound by and comply with the following covenants that shall run with the land conveyed by this Deed:

1. Not to sue the Washtenaw County Treasurer, the County of Washtenaw, or any of its departments, boards, commissions, officers, employees, or agents for any claim, whether legal or equitable, arising under, or in any manner related to this Deed. To release, waive, and discharge the Washtenaw County Treasurer, the County of Washtenaw, and all its departments, boards, commissions, officers, employees, and agents, and its successors and assigns from any and all liability to the Grantee and its successors and assigns, for all losses, injury, or damage to person or property, or death, and any claims or demands therefore arising under, or in any manner related to this Deed whether caused by the Washtenaw County Treasurer, the County of Washtenaw, or any of its departments, agencies, boards, commissions, officers, employees, or agents.

2. To indemnify and hold harmless the Washtenaw County Treasurer, the County of Washtenaw, and all of its departments, agencies, boards, commissions, officers, employees, and agents from any and all claims, demands, judgments, and expenses, including attorney fees, for any and all loss, damage, death, or injury to person or property arising under, or in any manner related to the performance of, this Deed. This indemnification and hold harmless agreement is intended to and shall extend to all loss, damage, death, or injury to person or property, proximately caused in whole or in part by the negligence or other tortious conduct of the Washtenaw County Treasurer, the County of Washtenaw, its departments, boards, commissions, agencies, officers, employees, or agents.

**3. Declaration of Conditions Subsequent.** This Declaration is made to give record notice of the conditions subsequent to the sale of the Property by imposition of the following restrictions on the sale to the Property:

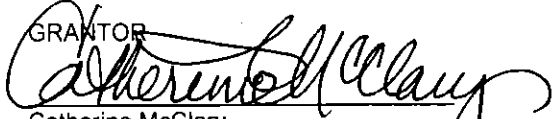
- A. That Grantee or any subsequent Purchaser/Assignee shall pay all tax obligations due on the date the Deed is issued and shall keep current payment on all tax obligations for the two years following the date the deed was issued.
- B. That Grantee or subsequent Purchaser/Assignee shall either demolish the property within six months following the date of the deed or maintain and secure the Property for two years following the date of the deed from Grantor/Treasurer in accordance with local building, health and public safety ordinances.
- C. That failure of the Grantee or subsequent Purchaser/Assignee to comply with above clauses A and/or B or to cure the default within 30 days of written notice may result in a reversion of the title of the Property to the Grantor/Treasurer or assigned to the State of Michigan, County of Washtenaw, City, or Township where the property is located, at the discretion of the Grantor/Treasurer. The right of reversion of title shall reinstate fee simple absolute title to the Grantor/Treasurer or to Treasurer's assignee within 30 days of failure to cure default, unless extended at the Treasurer's sole discretion. Written notice of default and failure to cure default addressed to the Grantee and mailed to the Grantee's address as written on the deed shall be notice to any subsequent Purchaser/Assignee, unless a copy of the Property Transfer Affidavit (PTA) that was filed with the local Assessor and which includes any change of mailing address is hand delivered to and signed as received by said Grantor/Treasurer, or designated representative. DURING THE TAX YEARS THAT THE CONDITIONS SUBSEQUENT APPLY, THIS PROPERTY SHALL NOT BE SOLD, CONVEYED OR TRANSFERRED UNLESS ALL TAXES ARE PAID IN FULL. VIOLATORS SHALL BE PERSONALLY LIABLE TO PURCHASER AND/OR GRANTOR/TREASURER FOR DAMAGES AND AGREE TO SUBMIT TO THE JURISDICTION OF THE COURTS IN THE STATE OF MICHIGAN.

Time Submitted for Recording  
Date 11-25-2014 Time 8:48 AM  
Lawrence Kestenbaum  
Washtenaw County Clerk/Register

The Grantor grants to the Grantee the right to make any authorized division(s) under section 108 of the land division act, Act No. 288 of the Public Acts of 1967.

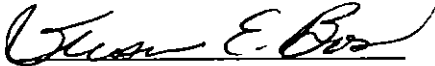
This property may be located within the vicinity of farm land or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan Right to Farm Act.

Dated 9/25/14

GRANTOR  
  
Catherine McClary  
Washtenaw County Treasurer and Foreclosing  
Governmental Unit for Washtenaw County

(STATE OF MICHIGAN ) (WASHTENAW COUNTY )

The foregoing instrument was acknowledged before me on 11-24, 2014 by Catherine McClary, the Washtenaw County Treasurer and Foreclosing Governmental Unit for Washtenaw County.



Notary Public, Washtenaw County

**Susan E. Bos, Notary Public**  
State of Michigan  
County of Washtenaw  
My commission expires June 19, 2018  
Acting in the County Washtenaw

Because in this written instrument the grantor is an officer of a political subdivision of the State of Michigan acting in an official capacity, the instrument is exempt from the state real estate transfer tax pursuant to section 6(h) of the State Real Estate Transfer Tax Act, 1993 PA 330, as amended (MCL 207.526 (h)), and exempt from the real estate transfer tax levied under 1966 PA 134, as amended (MCL 207.501 to 207.513), pursuant to section 5(h) of 1966 PA 134, as amended (MCL 207.505(h)).

When recorded, return to:  
Robins Home Repair LLC  
750 Jefferson Ln.  
Milan, MI 48160

Send subsequent tax bills to:  
Robins Home Repair LLC  
750 Jefferson Ln.  
Milan, MI 48160

Tax Parcel Number  
See Attached Exhibit A

Recording fee:  
\$19.00

Prepared by:  
Jacco J. Gelderloos  
Washtenaw County Treasurer's  
Office  
200 N. Main St., Suite 200  
P.O. Box 8645  
Ann Arbor, MI 48107-8645  
Transfer fee:  
\$ 0.00

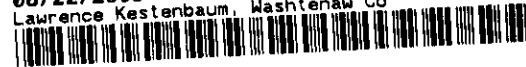
**EXHIBIT A**

<b>Parcel ID</b>	<b>Property Address</b>	<b>Legal Description</b>
19-19-35-160-014	965 KAY ST MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 14 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-015	963 KAY ST MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 15 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-016	959 KAY ST MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 16 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-017	957 KAY ST MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 17 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-018	953 KAY ST MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 18 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-019	951 KAY ST MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 19 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-020	943 KAY ST MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 20 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-021	939 KAY ST MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 21 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-022	935 KAY ST MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 22 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-023	931 KAY ST MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 23 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-024	929 KAY ST MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 24 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-025	925 KAY ST MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 25 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-026	917 KAY ST MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 26 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-027	915 KAY ST MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 27 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-028	913 KAY ST MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 28 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-029	905 KAY ST MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 29 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-030	903 KAY ST MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 30 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-031	901 KAY ST MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 31 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-032	875 MARVIN CT MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 32 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-033	871 MARVIN CT MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 33 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-034	863 MARVIN CT MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 34 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-035	859 MARVIN CT MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 35 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-036	855 MARVIN CT MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 36 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-037	851 MARVIN CT MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 37 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;

**EXHIBIT A**

<b>Parcel ID #</b>	<b>Property Address</b>	<b>Legal Description</b>
19-19-35-160-038	850 MARVIN CT MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 38 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-039	854 MARVIN CT MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 39 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-040	858 MARVIN CT MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 40 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-041	862 MARVIN CT MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 41 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-042	1181 MARVIN ST MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 42 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-043	1177 MARVIN ST MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 43 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-044	1173 MARVIN ST MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 44 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-045	1171 MARVIN ST MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 45 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-068	928 KAY ST MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 68 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-069	924 KAY ST MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 69 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-070	922 KAY ST MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 70 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-071	916 KAY ST MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 71 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-072	1194 MARVIN ST MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 72 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-073	1190 MARVIN ST MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 73 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-074	1184 MARVIN ST MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 74 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-075	1180 MARVIN ST MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 75 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-076	907 WRIGHT LN MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 76 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-077	909 WRIGHT LN MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 77 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-078	919 WRIGHT LN MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 78 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;
19-19-35-160-079	921 WRIGHT LN MILAN, MI 48160	M.D. L4356 P488 01/23/2004 UNIT 79 MILAN CROSSING SPLIT ON 01/28/2004 FROM 19-19-35-125-00719-19-35-125-008;





## MILAN CROSSING II LLC

### RESIDENTIAL PLANNED UNIT DEVELOPMENT

Time Submitted for Recording  
Date 6-22-2015 Time 1:54pm  
Lawrence Kestenbaum  
Washtenaw County Clerk/Register

### DEVELOPMENT AGREEMENT

This **DEVELOPMENT AGREEMENT** (the "Development Agreement") is made effective as of the 18th day of May, 2015 (the "Effective Date"), by and between MILAN CROSSING II, LLC, a Michigan limited liability company, whose address is 1300 Eisenhower Lane, Milan, Michigan, 48160 ("Developer"), and the CITY OF MILAN, a Michigan municipal corporation, whose address is 147 Wabash Street, Milan, MI 48160 (the "City"). The Developer and the City are collectively known as the "parties" and individually known as the "party".

### RECITALS

A. MILAN CROSSING, LLC, a Michigan limited liability company, whose address is 11001 Wabash, Milan, Michigan, 48160 ("Milan Crossing I") is the developer of a residential planned unit development known as "Milan Crossing", which was developed by Milan Crossing I as a residential condominium project (the "Milan Crossing I Condominium") pursuant to the Master Deed, dated January 23, 2004, and recorded at Liber 4356, Page 488, Washtenaw County Records, being Washtenaw County Subdivision Plan No. 444, as amended by the First Amendment to Master Deed of Milan Crossing, recorded, August 24, 2004, in Liber 4419, Page 767, Washtenaw County Records; as further amended by the Second Amendment to Master Deed of Milan Crossing, recorded December 1, 2005, in Liber 4524, Page 586, Washtenaw County Records; as further amended by the Third Amendment to Master Deed of Milan Crossing, recorded on April 23, 2007, in Liber 4620, Page 784, Washtenaw County Records; and as further amended by the Fourth Amendment to Master Deed of Milan Crossing, recorded on April 20, 2009, in Liber 4729, Page 5, Washtenaw County Records (the "Fourth Amendment") (collectively, the "Milan Crossing I Master Deed"). The real property encumbered by the Milan Crossing I Master Deed is herein referred to as the "Milan Crossing I Property". The Milan Crossing I Property is legally described on the attached Exhibit "A".

B. The Milan Crossing I Condominium was developed by Milan Crossing I pursuant to the terms and conditions of the Milan Crossing Residential Planned Unit Development, Development Agreement, dated October 21, 2003, and recorded on January 23, 2004, at Liber 4356, Page 487, Washtenaw County Records; City Resolution No. 2003-18, made effective October 20, 2003; conditional approval from the City of Milan Planning Commission, dated November 18, 2003; and the Municipal Improvements Agreement Planned Unit Development, "Milan Crossing", by and between Milan Crossing I and the City, dated April 22, 2004 (collectively, the "Milan Crossing I Approvals and Agreements").

C. By operation of the Fourth Amendment, a portion of the Milan Crossing I Condominium was contracted out of the Milan Crossing I Master Deed and the Milan Crossing I Condominium (the "Contracted Property").

D. Subsequently, Milan Crossing II sought to establish a residential planned unit development known as "Milan Crossing II" on the Contracted Property (the "Milan Crossing II Property") as a residential condominium project (the "Milan Crossing II Condominium"). Milan Crossing II was submitted for site plan and planned unit development approval to the City on January 5, 2015, and received conditional approval from the City of Milan Planning Commission on February 17, 2015, as indicated in the Final Notice of Action delivered by the City to Milan Crossing II, dated February 19, 2015 (the "Milan Crossing II Approval"). The Master Deed and related condominium documents to be recorded against the Milan Crossing II Property shall be referred to herein as the "Milan Crossing II Master Deed". The Milan Crossing II Property is legally described on the attached Exhibit "B".

E. In accordance with the Milan Crossing II Approval, the parties now wish to enter into this Development Agreement in accordance with the terms and conditions hereof in order to establish and provide record notice that (a) Milan Crossing II agrees to assume the obligations of Milan Crossing I under the Milan Crossing I Approvals and Agreements with respect to the Milan Crossing II Property; (b) confirm that the Milan Crossing II Property and Milan Crossing II Condominium, are all fully encumbered by this Development Agreement; and (c) certain additional obligations and requirements, as further provided herein, are agreed upon by the parties.

F. Developer and City now wish to enter this Development Agreement in the manner provided herein.

### AGREEMENT

IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONSIDERATION SET FORTH IN THIS DEVELOPMENT AGREEMENT, THE PARTIES AGREE TO ENTER THIS DEVELOPMENT AGREEMENT AS FOLLOWS:

1. Assumption of Milan Crossing I Approvals and Agreements. In consideration of the mutual benefits to be gained thereby, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and agreed, Developer does hereby consent to, ratify, confirm and assume all liabilities, duties, covenants, agreements, and obligations of Milan Crossing I under the Milan Crossing I Approvals and Agreements with respect to the Milan Crossing II Property and Milan Crossing II Condominium, and agrees that the Milan Crossing II Property shall be subject to the Milan Crossing I Approvals and Agreements, and each and every provision thereof, in all respects and at all times, with the estates, easements and other rights granted thereunder extending to and upon Developer's interest in the Milan Crossing II Property, and any appendages, strips and gores of land appurtenant to and adjoining the Milan Crossing II Property. The Milan Crossing I Approvals and Agreements with respect to the Milan Crossing II Property shall be binding upon the Milan Crossing II Property, Developer, and Developer's successors and assigns and be for the benefit of the City, its respective successors and assigns, and shall run with the land. The terms and conditions of the Milan Crossing I Approvals and Agreements are hereby incorporated herein fully by reference with respect to the Milan Crossing II Property and Milan Crossing II Condominium.

2. Incorporation of Milan Crossing I Approvals and Agreements. The parties acknowledge and agree that all terms and conditions of the Milan Crossing I Approvals and Agreements, and all other liabilities, covenants, obligations and agreements of Milan Crossing I under the Milan Crossing I Approvals and Agreements which benefit the City with respect to the Milan Crossing II Property are hereby fully incorporated herein by reference and apply with full force and effect to the Milan Crossing II Property and Milan Crossing II Condominium.

3. Integration of Projects. It is the intention of the City and the Developer that the Milan Crossing I Condominium and Milan Crossing II Condominium shall be fully integrated operationally, with cross-access easements benefitting both projects, mutual obligations for care and maintenance of shared infrastructure, and the

like, as further delineated in the Fourth Amendment, Milan Crossing I Master Deed, and Milan Crossing II Master Deed

4. Amendment of Master Deeds. The Milan Crossing II Master Deed may not be altered, amended, or otherwise modified, in any manner which affects any condition, covenant, liability, or obligation imposed by the this Development Agreement without the City's prior written consent.

5. Roadway Improvements and Dedication. Developer represents and warrants that, except for the top coat of asphalt and street lighting which has not yet been installed (the "Top Coat"), the roadway improvements situated within the Milan Crossing II Property (the "Roadway") have been properly constructed in accordance with the City's specifications; all laws, codes, ordinances, rules, and regulations; the Milan Crossing I Approvals and Agreements; and the Milan Crossing II Approval in a manner which will permit the City to accept dedication thereof upon completion of the Top Coat. The City hereby agrees to complete the Top Coat and accept dedication of the Roadway on the following terms and conditions:

- a. Estimated Cost. The parties estimate the cost to complete the Top Coat to be Two Hundred and Forty-Four Thousand and No/100 Dollars (\$244,000.00) (the "Top Coat Estimate"). The parties understand, acknowledge, and agree that the Top Coat Estimate may be revised by the City on an annual basis, on or around July 1 of each year, but no sooner than July 1, 2016; and upon each such revision, the City shall notify the Developer of such revised estimate in writing. The parties agree that 100% of the Top Coat Estimate shall be paid to the City in advance of the City's installation of the Top Coat, in the manner provided in this Section 5.
- b. Reserve Payments. Prior to and in connection with the issuance of a certificate of occupancy for the dwelling to be constructed by the Developer within each Unit, the Developer shall pay to the City an amount equal to the then-current and outstanding Top Coat Estimate, as the same may be adjusted pursuant to Section 5.a and reduced by Reserve Payments previously made by the Developer, multiplied by a fraction, the numerator of which is one (1) and the denominator of which is the number of units in the Milan Crossing II Condominium for which certificates of occupancy have not yet been issued (each, a "Reserve Payment"). By way of example only, assuming 44 units in the Milan Crossing II Condominium, each Reserve Payment will equal \$5,545.45 until such time as the Top Coat Estimate is revised pursuant to Section 5.a; assuming 3 such Reserve Payments are made prior to July 1, 2016, and assuming further that the Top Coat Estimate is increased to \$260,000 on July 1, 2016, then each Reserve Payment following July 1, 2016 shall equal \$5,935.70 (e.g.  $(\$260,000.00 - (\$5,545.45 \times 3))/41$ ) until such time as the Top Coat Estimate is revised again pursuant to Section 5.a; and so on. Such Reserve Payments shall continue until 100% of the final Top Coat Estimate has been paid to the City. Developer covenants, represents, and warrants that all such Reserve Payments shall have been made to the City no later than the thirty-sixth (36<sup>th</sup>) consecutive month following the Effective Date of this Development Agreement (the "Reserve Funding Deadline").
- c. Commencement of Construction. Following the City's receipt of the 36<sup>th</sup> Reserve Payment or upon written notice from the City, whichever first occurs, the Roadway shall be dedicated by the Developer to the City, and the City shall accept such dedication (the "Dedication"). Following the Dedication, the City shall commence construction and installation of the Top Coat.
- d. Reconciliation. Upon completion of the Top Coat, the parties shall proceed as follows: (a) in the event that the actual cost of construction and installation of the Top Coat exceeds the aggregate amount of Reserve Payments received by the City, the Developer shall pay to the City such difference within sixty (60) days of written notice thereof from the City; (b) in the event that the actual cost of construction and installation of the Top Coat is less than the aggregate amount of

Reserve Payments received by the City, the City shall pay to the Developer such difference within sixty (60) days of written notice thereof from the Developer.

- e. Payment & Performance Bond. The Developer's obligations hereunder shall be secured by an irrevocable, unconditional, payment and performance bond in a form and from a surety institution reasonably acceptable to the City (the "Bond") in favor of the City in the amount of One Hundred and Fifty Thousand and No/100 Dollars (\$150,000.00). In the event that the full amount of the Top Coat Estimate has not been fully paid to the City by the Reserve Funding Deadline and/or the Developer fails to discharge its obligations under this Agreement, including, without limitation, its obligations under this Section 5, the City may file a claim against the Bond in order to recover the full amount of the cost of construction and installation of the Top Coat.

6. Developer Obligations. In accordance with the Milan Crossing II Approval, the parties further agree as follows with respect to the Milan Crossing II Property:

- a. Site Plan Completion. The Developer agrees to submit for review and approval by the City, a full, final, and complete site plan,, including, without limitation, all elevations and material samples, and to timely complete installation of all improvements depicted in the originally approved site plan, dated September 5, 2003, and approved November 18, 2003.
- b. Master Deed. The Developer agrees to timely finalize and complete the Milan Crossing II Master Deed and to record the same in the condition approved by the City.
- c. Infrastructure Completion. The Developer agrees to timely complete all infrastructure improvements required under the Milan Crossing II Approvals and the Milan Crossing I Approvals and Agreements with respect to the Milan Crossing II Property, including, without limitation, sidewalks, sewer, water, storm water, amenities, and landscaping improvements in the general common elements. The Developer further agrees that until such time as the same are dedicated to and accepted by the City, such infrastructure improvements with respect to the Milan Crossing II Property, including, without limitation, the water, sanitary sewer, storm water drainage, sidewalks, and roadway systems, will be maintained, repaired, and replaced by and at the sole cost and expense of the Developer.
- d. Driveways and Parking. The Developer agrees that the driveways serving Units 38-45 & 68 -79 within the Milan Crossing II Condominium shall be a minimum of twenty (20) feet in length; and the two (2) westernmost parking spaces depicted at the end of Marvin Court shall be removed in order to comply with the required ten (10) foot paving setback.
- e. Landscaping. The Developer agrees to timely complete all landscaping improvements, including all common area plantings not previously installed, in accordance with the previously approved landscape plan.
- f. Lighting. Excluding the street lighting to be installed in connection with the Top Coat pursuant to Section 5, the Developer agrees to timely complete all lighting improvements in accordance with the previously approved lighting plan.
- g. Construction Traffic. The Developer agrees that no construction traffic in connection with the construction and development of the Milan Crossing II Property shall be permitted upon the Milan Crossing I Property, and all such traffic shall exclusively access the Milan Crossing II Property via Kay Street from Dexter Street.

- h. Unit Construction. The Developer agrees that it shall timely complete construction of the 44 condominium units (each, a "Unit") depicted in the site plan materials submitted for the Milan Crossing II Approval, in accordance with the terms and conditions of this Development Agreement.
- i. Common Amenities. The Developer agrees that, except as otherwise expressly provided herein, it shall timely complete construction of all signs, gazebos, and parking spaces depicted in the site plan materials submitted for the Milan Crossing II Approval, in accordance with the terms and conditions of this Development Agreement.


7. Miscellaneous. In the event of a conflict of inconsistency between this Development Agreement and any other terms of the Milan Crossing I Approvals and Agreements, the terms of this Development Agreement shall govern. The terms of this Development Agreement may only be modified by a writing executed by both parties. This Development Agreement may be executed in multiple counterparts, and all such executed counterparts shall constitute the same Development Agreement. Signatures to this Development Agreement transmitted by electronic mail shall be valid and effective to bind the party so signing. Each party agrees to promptly deliver an execution original of this Development Agreement with its actual signature to the other party, but a failure to do so shall not affect the enforceability of this Development Agreement, it being expressly agreed that each party to this Development Agreement shall be bound by its own electronically mailed signature and shall accept the electronically mailed signature of the other party to this Development Agreement. Delivery of the executed original of this Development Agreement or any electronically mailed signature page thereof may be given on behalf of a party by the attorney of such party. This Development Agreement, and the rights and responsibilities set forth herein, are intended to be and shall be construed as covenants running with the land and shall be binding upon, and shall inure to the benefit of and be enforceable by the City and its grantees, heirs, personal representatives, successors, and assigns. The invalidity or enforceability of any part or provision hereof shall not affect the validity or enforceability of any other part or provision. This Development Agreement shall be governed by the laws of the State of Michigan. No waiver of any of the provisions hereof shall be effective unless it is in writing, signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance which it relates and shall not be deemed to be a continuing and permanent waiver, unless specifically so stated. The term of this Development Agreement shall be perpetual. The Recitals set forth above are, by this reference, incorporated into the text of this Development Agreement as if fully set forth herein. Initially capitalized terms used but not defined in this Development Agreement, but defined in the Milan Crossing I Approvals and Agreements, shall have the meanings given to them in the Milan Crossing I Approvals and Agreements.

*[Signatures and Notarial Acknowledgement on Following Page]*

IN WITNESS WHEREOF, the parties have executed this Development Agreement effective as of the Effective Date.

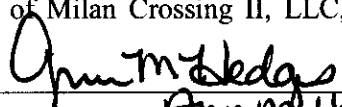
**DEVELOPER:**

MILAN CROSSING II, LLC,  
a Michigan limited liability company

By:   
Name: ROBIN SOUDERS  
Its: MANAGING MEMBER

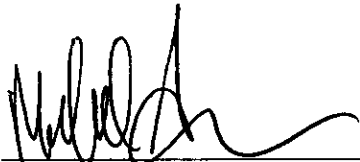
Acknowledged before me in Monroe County, Michigan, on this 29th day of May, 2015, by Robin Souders, of Milan Crossing II, LLC, on behalf of the limited liability company. managing member

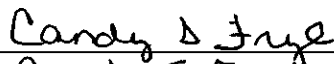
Ann M. Hedges  
Notary Public - State of Michigan  
County of MONROE  
My Commission Expires  
July 15th 2016

  
Ann M. Hedges  
Notary Public Monroe County, Michigan  
My commission expires: 7-15-2016

**CITY:**

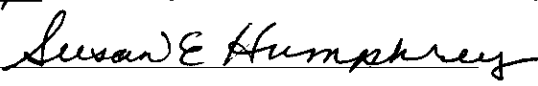
City OF MILAN,  
a Michigan municipal corporation

By:   
Name: Michael Armitage  
Its: Mayor

By:   
Name: Candy S. Frye  
Its: City clerk

Acknowledged before me in Monroe County, Michigan, on this 19th day of May, 2015, by Michael Armitage, Mayor of the City of Milan, on behalf of the City. Candy Frye, Clerk

SUSAN E. HUMPHREY  
NOTARY PUBLIC - STATE OF MICHIGAN  
COUNTY OF WASHTENAW  
My Commission Expires April 25, 2019  
Acting in the County of Monroe

  
Notary Public, Washtenaw County, Michigan  
My commission expires: 4/25/19

Drafted by and after recording return to:

Matthew B. Van Dyk

✓ MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

277 South Street, Suite 5000

Kalamazoo, Michigan 49007

(269) 381-7030

**DRAFTER MAKES NO REPRESENTATION  
REGARDING TITLE OR LEGAL DESCRIPTIONS**

**EXHIBIT "A"****MILAN CROSSING I PROPERTY LEGAL DESCRIPTION**

COMMENCING AT THE NORTHEAST CORNERS OF SECTION 35, T4S, R6E, CITY OF MILAN, WASHTENAW COUNTY, MICHIGAN; THENCE S00°15'50"W 786.31 FEET ALONG THE EAST LINE OF SAID SECTION 35 AND THE CENTERLINE OF CARPENTER ROAD (100.00 FEET WIDE); THENCE N87°26'40"W 270.17 FEET FOR A PLACE OF BEGINNING; THENCE 179.67 FEET; THENCE N89°46'40"W 150.00 FEET; THENCE S00°15'50"W 174.85 FEET; THENCE N89°45'30"W 575.59 FEET ALONG THE NORTH LINE OF 'SUPERVISOR'S PLAT NO. 10' AS RECORDED IN LIBER 10, PAGE 43, WASHTENAW COUNTY RECORDS; THENCE N00°14'30"E 154.33 FEET; THENCE S89°45'30"E 238.34 FEET; THENCE N00°14'30"E 84.33 FWWT; THENCE S89°45'30"E 35.42 FEET; THENCE N00°14'30"E 196.38 FEET; THENCE S89°45'30"E 231.64 FEET; THENCE 19.70 FEET ALONG THE ARC OF A 217.00 FOOT RADIUS CIRCULAR CURVE TO THE RIGHT, WITH A CHORD BEARING S87°09'23"E 19.69 FEET; THENCE N00°14'30"E 108.21 FEET; THENCE S87°26'40"E 230.97 FEET TO THE PLACE OF BEGINNING, BEING PART OF THE NORTHEAST ¼ OF SAID SECTION 35, CONTAINING 5.54 ACRES OF LAND, MORE OR LESS, BEING SUBJECT TO EASEMENTS, CONDITIONS, RESTRICTIONS AND EXCEPTIONS OF RECORD, IF ANY. CITY OF MILAN, WASHTENAW COUNTY, STATE OF MICHIGAN

**EXHIBIT "B"****MILAN CROSSING II PROPERTY LEGAL DESCRIPTION**

Commencing at the Northeast Corner of Section 35, T4S, R6E, City of Milan, Washtenaw County, Michigan; thence S00°15'50"W 786.31 feet along the East line of said Section 35 and the centerline of Carpenter Road (100.00 feet wide); thence N87°26'40"W 501.14 feet for a PLACE OF BEGINNING; thence the following 8 courses along the North and West lines of "Milan Crossing Condominium" Subdivision Plan No. 444 as recorded in Liber 4729, Page 5, Washtenaw County Record: S00°14'30"W 108.21 feet; thence 19.70 feet along the arc of a 217.00 foot radius circular curve to the left, with a chord bearing N87°09'24"W 19.69 feet; thence N89°45'30"W 231.64 feet; thence S00°14'30"W 196.38 feet; thence N89°45'30"W 35.42 feet; thence S00°14'30"W 84.33 feet; thence N89°45'30"W 238.34 feet; thence S00°14'30"W 154.33 feet; thence N89°45'30"W 273.17 along the North line of "Supervisor's Plat No. 10" as recorded in Liber 10, Page 43, Washtenaw County Records; thence N01°02'04"E 574.36 feet along the East line of "Meadowbrook" Condominium, as recorded in Liber 4310, Page 709, Washtenaw County Records; thence S87°26'40"E 790.92 feet to the Place of Beginning, being part of the Northeast ¼ of said Section 35, containing 6.64 acres of land, more or less, being subject to easements, conditions, restrictions and exceptions of record, if any.



