

# **WASHINGTON LANDING**

## **PLANNED UNIT DEVELOPMENT AGREEMENT**

THIS PLANNED UNIT DEVELOPMENT AGREEMENT (“Agreement”) is made this \_\_\_\_ day of \_\_\_\_\_, by and between the Charter Township of Washington, a Michigan municipal corporation (“Township”), whose address is 57900 Van Dyke, Washington, Michigan 48094, and Biltmore Land LLC (“Developer”) whose address is 13910 Simone, Shelby Township, Michigan 48315.

### **RECITALS:**

This Agreement is made with reference to the following underlying facts and objectives:

WHEREAS, Developer has the contract right to purchase the property described on the attached Exhibit A, which constitutes approximately 211.73 Gross Acres (205.33 Net) and is located on 32 Mile Road and Powell Road in the Township (the “Property”). Developer has submitted an application (“PUD Application”) to develop the Property under the planned unit development regulations of the Washington Township, Zoning Ordinance for a multi-use, planned unit development (“PUD”) including commercial and a mix of residential uses to be known as “Washington Landing”. The following terms are used in this Agreement:

**A. Project:** “Project” means the proposed PUD Property as depicted on the Final PUD Plan attached as Exhibit B and as described in this Agreement including the White Book attached as Exhibit C, with not less than 15% of the overall acreage being land designated for open space.

**B. Final PUD Plan:** “Final PUD Plan” means the following plans, which are attached as Exhibit B:

- Sheet 1 – Cover Sheet
- Sheet 2 – Existing Conditions
- Sheet 3 – Concept Site Plan
- Sheet 4 – Open Space and Landscape Guidelines
- Sheet 5 – Concept Open Space & Landscape Design Plan
- Sheet 6 – Residential Design Guidelines
- Sheet 7 – Residential Design Guidelines

C. **White Book:** “White Book” means the Washington Landing PUD White Book attached as Exhibit C.

D. **Net developable land:** “net developable land” is the gross land area less existing open bodies of water, regulated wetlands, the 32 Mile Road and Powell Road rights-of-way, and the private access Easement Area described in Section 2.F. below.

E. **Commercial:** “Commercial” means all permitted uses in Section 8.02 of the Township Zoning Ordinance, General Commercial District (GC), and all special land uses described in Sections 8.02B.1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, and 14 of the Zoning Ordinance. Commercial uses are permitted as a matter of right on land area designated Commercial on the Final PUD Plan of Washington Landing.

F. **Office:** “Office” as used in this Agreement means all uses permitted in the O-1 Office District of the Township Zoning Ordinance.

G. **Residential:** “Residential” consists of the Cottage, Village, Estate, Carriage and Multifamily residential uses, or a combination of them, permitted by and described in the Final PUD Plan and the White Book, subject to the density limitations of this Agreement. The Project includes 930 Residential units, which are approved for development subject to and in accordance with the terms of this Agreement. The residential guidelines and Schedule of Regulations attached as part of the White Book shall control the development of Residential uses within the Project.

H. **Pod or Pods:** “Pod” or “Pods” means the development Pods shown on the Final PUD Plan and described in the White Book. The Pods in the Project are further defined and described in Section 2 below. The acreage of each Pod is approximate based on the conceptual planning and surveying detail in the Final PUD Plan. As individual site plans for development of the Pods are prepared, the actual field-surveyed acreage of each Pod will be established. An amendment of this Agreement, or any other approval, is not required to adjust the Pod acreage from approximate to actual so long as the actual acreage for each Pod as shown on site plans does not vary from the approximate acreage described in this Agreement by more than ten percent.

I. **Unit types:** “unit types” are the Cottage, Village, Estate, Carriage and Multifamily unit types defined and described in the White Book. Additional unit types, including without limitation unit types for senior housing, may be added to this Agreement, the Final PUD Plan and the White Book with the approval of the Township Administrative Review Committee, subject to the density limitations provided in herein.

J. **Unused Residential density:** “unused Residential density” is density that is approved by this Agreement for Pod B, Pod C or Pod D but which is not fully utilized in the development of those areas of the Project. Unused Residential density may be transferred as described in Section 2 below. Except as provided in Section 2, unused Residential density may not be transferred within the Project.

WHEREAS, the PUD is consistent with the intent of, and satisfies the conditions of the Zoning Ordinance provisions required to approve the PUD. The PUD has undergone preliminary review by the Township Planning Commission and Township Board, who have preliminarily approved the PUD. The Zoning Ordinance requires the execution and recording of this Agreement in connection with the final approval of the PUD, setting forth the conditions upon which such approval is based. The Township has determined that it is in furtherance of the Township's interest to permit Developer to develop the Property as a PUD in accordance with the terms and conditions of this Agreement. By entering into this Agreement, Developer and the Township desire to set forth their respective obligations with respect to the PUD and the conditions under which the Township is approving the Project. The Township is willing to establish the Property as a PUD and Developer is willing to develop and maintain the Project subject to the terms and conditions of this Agreement, Final PUD Plan, and the approved site plan(s).

NOW, THEREFORE, the Developer and the Township, declare and agree that the Property as described on Exhibit A is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, easements, restrictions, grants and reservations set forth in this Agreement, all of which are for the benefit of and shall run with and bind the Property and all parties having any right, title and interest in all or any portion of the Property, as well as their heirs, successors and assigns.

1. **Incorporation of Recitals.** The parties acknowledge and represent that the

foregoing recitals are true and accurate and are hereby incorporated into this Agreement to be binding upon the parties.

2. **PUD Approval**. The parties acknowledge and agree that the Project has been granted final PUD approval by the Township Board for the development of the following pods of development and uses as depicted in the Final PUD Plan and as further described and defined in the White Book:

A. **Pod A:** “Pod A” consists of approximately 13 acres along the Project’s 32 Mile Road frontage, which shall be developed only with Commercial uses.

B. **Pod B:** “Pod B” consists of Pod B-1, Pod B-2, Pod B-3, Pod B-4, and Pod B-5 as follows:

(1) **Pod B-1:** “Pod B-1” consists of approximately 21 acres, which shall be developed with Commercial uses, Office uses, Residential uses, or a combination thereof. To encourage development of non-Residential uses, Developer agrees that, for a period of four (4) years after the date of this Agreement, no Residential uses, of any kind, may be approved for development on Pod B-1 without the prior approval of the Washington Township Board. At the expiration of the four (4) year period, Pod B-1 may be developed with Residential uses, Commercial uses and Office uses, or a combination thereof. Pod B-1 may also be developed with housing targeted or exclusively for seniors ranging from independent living to assisted living or nursing care, or a combination thereof. Unless unused Residential density is transferred from another Pod, the density of Residential uses in Pod B-1 shall not exceed 10 units per acre of net developable land. Unused residential density from Pod B-2, Pod B-3, Pod B-4, Pod B-5, Pod C, and Pod D may be transferred to Pod B-1 so long as the overall density of Pod B-1 does not exceed 20 units per acre of net developable land.

(2) **Pod B-2:** “Pod B-2” consists of approximately 13 acres, which shall be developed only with Residential uses. Pod B-2 may also be developed with housing targeted or exclusively for seniors ranging from independent living to assisted living or nursing care or a combination thereof. Unless unused Residential density is transferred from another Pod, the Residential density in Pod B-2 shall not exceed 10 units per acre

of net developable land. Unused residential density from Pod B-1, Pod B-3, Pod B-4, Pod B-5, Pod C, and Pod D may be transferred to Pod B-1 so long as the overall density of Pod B-1 does not exceed 20 units per acre of net developable land.

(3) **Pod B-3:** “Pod B-3” consists of approximately 16 acres, which shall be developed with Commercial uses or Residential uses, or a combination thereof. Pod B-3 may also be developed with housing targeted or exclusively for seniors ranging from independent living to assisted living or nursing care or a combination thereof. Unless unused Residential density is transferred from another Pod, the Residential density in Pod B-3 shall not exceed 6 units per acre of net developable land. Unused residential density from Pod B-1, Pod B-2, Pod B-4, Pod B-5, Pod C, and Pod D may be transferred to Pod B-3 so long as the overall density of Pod B-3 does not exceed 20 units per acre of net developable land.

(4) **Pod B-4:** “Pod B-4” consists of approximately 14 acres, which shall be developed with Residential uses. Pod B-4 may also be developed with housing targeted or exclusively for seniors ranging from independent living to assisted living or nursing care or a combination thereof. Residential density in Pod B-4 shall not exceed 5 units per acre of net developable land. Unused Residential density in Pod B-4 may only be transferred to any or all of Pod B-1, Pod B-2, and Pod B-3. Unused Residential density from other Pods may not be transferred to Pod B-4.

(5) **Pod B-5:** “Pod B-5” consists of approximately 26 acres, which shall be developed with Residential uses. Pod B-5 may also be developed with housing targeted or exclusively for seniors ranging from independent living to assisted living or nursing care or a combination thereof. Residential density in Pod B-5 shall not exceed 5 units per acre of net developable land. Unused Residential density in Pod B-5 may only be transferred to any or all of Pod B-1, Pod B-2, and Pod B-3. Unused Residential density from other Pods may not be transferred to Pod B-5.

C. **Pod C:** “Pod C” consists of approximately 18 acres, which shall be developed with Residential uses at a density that shall not exceed 6 units per acre of net developable land. Unused Residential density in Pod C may only be transferred to any or all of Pod B-1, Pod B-2, Pod B-3, and Pod D-1. Unused Residential density from other

Pods may not be transferred to Pod C.

D. **Pod D:** “Pod D” consists of Pods D-1, D-2, and D-3 as follows:

(1) **Pod D-1:** “Pod D-1” consists of approximately 30 acres, which shall be developed with Residential uses. Unless unused Residential density is transferred from Pod C, Pod D-2, or Pod D-3, the Residential density of Pod D-1 shall not exceed 4 units per acre of net developable land. Unused residential density from Pod C, Pod D-2, and Pod D-3 may be transferred to Pod D-1 so long as the overall density of Pod D-1 does not exceed 6 units per acre of net developable land. Unused residential density from Pod D-1 may be transferred to any or all of Pod B-1, Pod B-2, and Pod B-3.

(2) **Pod D-2:** “Pod D-2” consists of approximately 4 acres, which shall be developed only with single-family Residential uses at a density not to exceed 3 units per acre of net developable land. Unused Residential density from other Pods may not be transferred to Pod D-2. Unused residential density from Pod D-2 may be transferred to any or all of Pod B-1, Pod B-2, and Pod B-3.

(3) **Pod D-3:** “Pod D-3” consists of approximately 18 acres, which shall be developed only with single-family Residential uses at a density not to exceed 3 units per acre of net developable land. Unused Residential density from other Pods may not be transferred to Pod D-3. Unused residential density within Pod D-3 may be transferred to any or all of Pod B-1, Pod B-2, and Pod B-3.

E. **Open Space:** The Project shall be developed with a minimum of 15% of the of net developable land in the Project as open space. Open space in the Project will include but not be limited to streetscapes, greenbelts, landscape buffers and greenways, pocket parks, naturalized preservation areas and a central open space amenity, all as further described in the Open Space & Landscape Design Guidelines that are part of the Final PUD Plan (page 2 of the Concept Plan). The Open Space & Landscape Design Concept Plan attached as page 3 of the Concept Plan shows open space, including but not limited to, landscape buffers, a naturalized open space and regional stormwater area on approximately 20 acres along Powell Road, greenbelts, greenways, and a central open space amenity of approximately 6 acres. As shown on the Final PUD Plan, the open

space in the Project includes approximately 6 acres in a central location and approximately 20 acres along Powell Road. The 20 acres of open space along Powell Road may also be used for regional storm water management and utility installations. Additional open space to meet the minimum 15% requirement will be included in site plans for the Project. Open space may be dedicated by site plan or separately by declaration or other dedication and may not be contiguous to the development proposed in a site plan.

F. **Site Plans:** The individual site plans for the Project, each of which is referred to in this Agreement as a “phase”, shall each provide a development that is not dependent on the construction of any future phase. Each site plan shall have or provide for its own public utilities and its own means of ingress and egress to 32 Mile Road and/or Powell Road. All roads, utilities and open space required for a phase shall be shown on the proposed site plan for the phase (or included in a previously approved site plan) and shall be built with the development of the phase. As each site plan is submitted, an updated overall site plan showing previously approved site plans shall also be submitted. As site plans are submitted for each phase the phase's compliance with the 15% open space requirement shall be calculated on a cumulative basis, i.e., the acreage in the currently proposed phase, together with the land included in any previously approved phases. Individual site plans are not required to include a minimum of 15% open space so long as previously approved site plans for the Project, separately dedicated open space, if any, and the proposed site plan collectively provide a minimum 15% open space. Developer will construct the neighborhood parks, greenways, and all other common open space areas in a manner that is consistent with the timing of construction of the various phases of the Project (i.e., paths, trails, and landscaping within a phase shall be installed as the phase is built, weather permitting). All such open space areas in Pods developed with residential uses shall be maintained by a master association unless donated to the Township or accepted (if ever) for public dedication. Open space may be dedicated by site plan or separately by declaration or other dedication and may not be contiguous to the development proposed in a site plan. Developer retains the right to create, as it deems necessary, easements for the use of the parks, pedestrian trails, and other open space areas, to ensure that all persons residing within the Project have an equitable degree of access to the open space areas and an equitable obligation to pay the cost of maintaining and repairing such areas. Such easements and obligations shall be created by deed

restrictions or in a separate instrument.

**G. Residential Site Plan Information:** Each Residential site plan submitted for the Project shall include the following information:

1. The total number of Units included in the final site plan, the number of Units in the same Pod for which final site plan approval was previously granted, and the total number of such proposed and previously approved Units in the Pod.

2. The acreage included in the site plan, the acreage included in all site plans in the same Pod for which approval was previously granted, and the total of all such acreage.

3. The density of Units per acre included in the site plan, the density of Units per acre in the same Pod for which site plan approval was previously granted, and the total density of Units per acre for such proposed and previously approved site plans in the Pod.

4. The acreage of open space included in the site plan, the acreage of open space included in all final site plans in the same Pod for which approval was previously granted, and the total acreage of open space shown on such proposed and previously approved final site plans in the Pod.

5. The percentage of open space included on the site plan, and the resulting open space for the entire Project for which site plan approval was previously granted.

**H. Master Association.** The master association shall govern the open space areas within Residential use areas of the Project and shall be formed and organized by Developer, pursuant to the Deed Restrictions (defined below), after recordation of the first plat or condominium subdivision plan within the Project and before the sale of, and conveyance of title to, the first home built in the Project. Each Residential unit in the



Project shall have access to open space areas that are maintained by the master association. The organizational documents of the master association shall: (a) conform to this Agreement; and (b) empower and require the master association, or its sub-associations, as the case may be, to: (i) provide effectively for ownership, operation, maintenance, improvement, repair and replacement of the open space and any other common improvements within the Project, including, without limitation spreading the master association's budgeted costs ratably against all Residential units within the Project, by annual and special assessments, each of which shall become a lien upon the land assessed and the personal obligation of the delinquent property owner; (ii) establish and maintain a capital fund to be held in reserve for replacement of the open space and any other common improvements of the Project; and (iii) enforce the Deed Restrictions.

I. **Deed Restrictions:** The Developer shall record deed restrictions ("Deed Restrictions") encumbering the Project on a phase-by-phase basis. The Deed Restrictions will mandate and ensure the master association's permanent maintenance of the open space and other common improvements in the Project. In preparing and recording the Deed Restrictions, which include any declarations for individual subdivision(s) and/or master deeds for individual condominium(s), Developer shall include on a phase-by-phase basis standards and requirements for construction, maintenance and upkeep of all improvements, trees and other landscaping in the Project to ensure, to the maximum extent possible, that the Residential components of the Project are established and maintained as a high quality residential development. The Deed Restrictions will also require that the Commercial and Office use areas be maintained consistent with such high standards with appropriate maintenance and care for landscaping and open space. The Deed Restrictions will provide the Township assured access rights to the roadways, open space and other common improvements within the Project to ensure that police and fire protection is available to the area, to meet emergency needs, to provide and conduct Township services, and in general, to ensure the health and safety of the residents in the Project. The Deed Restrictions shall be submitted to and approved by the Township during the site plan approval process, to ensure compliance with this Agreement.

J. **Private Access Easement:** As shown on the Final PUD Plan, a private access easement extending south from 32 Mile Road, 60 feet wide, crosses the Property

for the benefit of a parcel of land abutting and directly south of the Property. The private access easement area consists of approximately 3 to 4 acres (“Easement Area”). Developer is working to terminate the private access easement and to provide substitute access to the benefitted parcel over the roads in the Project. If the private access easement is terminated, the Easement Area will be incorporated into adjacent Pods, which will increase in size accordingly and the total number of permitted Residential units will also increase in adjacent Residential Pods. Developer has the right, without amending this Agreement, to incorporate the Easement Area into future site plans for the Project and to extend the Project’s road system to the parcel benefitted by the easement.

The uses permitted in this Section 2 are subject to the terms of this Agreement, including the White Book, and compliance with the Final PUD Plan. The final PUD approval for Washington Landing includes approval of the Final PUD Plan, this Agreement and its exhibits including the White Book (together the “Washington Landing PUD Approval”). The Washington Landing PUD Approval takes precedence over and supersede all Township ordinances to the contrary. The Washington Landing PUD Approval also supersedes all prior reports, agreements, plans and other prior submissions to the Township relative to the Property.

3. **Permitted Uses.** The Pods designated for Residential use may be used for any of the Residential uses described in this Agreement subject to the density limitations. The Pods designated for Commercial may be used for any of the Commercial uses described in this Agreement.

4. **Area, Setback, Building Height and Other Residential Regulations.** The lot size, building height, lot coverage, utility location, setback requirements and other ordinance modifications set forth in this Agreement, including the White Book, and on the Final PUD Plan of Washington Landings shall control all development in the Project. All Residential buildings shall comply with the lot size, setback and other dimensional requirements set forth in the Schedule of Regulations that is included as part of the White Book This Agreement provides for the following modifications, among others, of the Township's ordinances applicable to all Residential unit types in Washington Landing:

A. Eaves, gutters, bay windows, so-called “boxouts”, cornices and chimneys of may project a maximum of 2 feet from an exterior building wall into any required yard setback, provided that any such projection shall be setback from the side lot line at least 3 feet.

B. Porches, stoops and steps may project a maximum of 8 feet into a required front yard setback.

C. Each single family residential unit shall have a minimum of two parking spaces located within a garage. Front access and courtyard access garages are expressly permitted for all Residential unit types other than Estate units and shall be setback a minimum of 25 feet from the front property line. Estate units shall have side or courtyard access garages. Side entry garages are permitted on any unit so long as the face of the side entry garage door is setback a minimum of 25 feet from a side lot line. The Deed Restrictions will include the following restrictions on use of garages:

Garages are to be used for vehicle parking. Garage doors shall be kept closed at all times except as may be reasonably necessary to gain access to or from the garage. No garage shall be converted into any use that would prevent its use for parking the number of vehicles for which the garage was designed. Garages shall not be used as living spaces such as by way of example and not limitation, a bedroom, smoking lounge, den, recreation room or any similar use. No couches, sofas, benches or other furniture may be used in a garage. Garage doors with screens of any type are prohibited.

D. Rear yard setbacks for all single family Residential units are 30 feet (reduced to 25 feet where the entire rear lot line abuts a common open space).

E. The first 15 feet behind each single-family home and Carriage Unit (the “Patio Space”) is reserved for a porch, deck and/or patio. In many cases a storm sewer easement will run along the rear property line of, and extend into, each rear yard setback. To avoid any conflict between Patio Space improvements and a rear yard storm sewer easement, no storm sewer easement may be located within or encroach into the 15-foot

Patio Space. The location of the Patio Space and rear yard storm sewer easement (if any) shall be shown on the construction plot plan submitted by the home builder.

F. Corner single family residential units have one front yard, which shall be designated by the Developer. The Developer's designation shall take into consideration the side yard setbacks on the adjacent single family residential units.

G. The maximum lot coverage for Cottage, Village and Estate unit types shall be the maximum footprint of the single family home as regulated by the setbacks established in the Schedule of Regulations (and as shown on the Building Placement Guidelines for each unit type in the White Book) aggregated with the area of the 15' Patio Space described in this Agreement and the White Book.

H. The maximum impervious surface for Cottage, Village and Estate unit types shall be the maximum footprint of the single family home as regulated by the setbacks established in the Schedule of Regulations (and as shown on the Building Placement Guidelines for each unit type in the White Book) aggregated with the area of the 15' Patio Space, driveways to each garage servicing the home and paved walkways.

I. The maximum lot coverage for a Carriage Unit building shall be the maximum footprint of the building as regulated by the setbacks established in the Schedule of Regulations (and as shown on the Building Placement Guidelines for Carriage Units in the White Book) aggregated with the area of the 15' Patio Spaces described in this Agreement and the White Book.

J. The maximum impervious surface for a Carriage Unit building shall be the maximum footprint of the building as regulated by the setbacks established in this Schedule of Regulations (and as shown on the Building Placement Guidelines for Carriage Units in the White Book) aggregated with the area of the 15' Patio Spaces, driveways to each garage servicing the building and paved walkways.

K. There shall be no Maximum Lot Coverage and no Maximum Impervious Surface restrictions for Multifamily buildings of any type in the Project.

L. In lieu of a Maximum Length of Building, the Schedule of Regulations provides the maximum number of units that may be included in any building in the Project.

M. The building height of the Cottage, Village, Estate and Carriage unit types in the Project shall not exceed thirty-five (35') feet, and no such building shall exceed two and one-half stories.

N. The building height of Multifamily unit types in the Project shall not exceed forty (40) feet.

O. As used in this Agreement, building height means the vertical distance measured from grade to the highest point of flat roofs, to the deck line of mansard roofs, and to the average height between eaves and ridge for gable, hip and gambrel roofs.

5. **Modification of Collector Streets.** The collector roads shown on the Final PUD Plan are a conceptual depiction of a collector road layout serving the Property. The location of the collector roads may be modified by Developer without amendment of this Agreement and as a matter of right if the revised layout is substantially similar to that shown on the Final PUD Plan, with two entrances from 32 Mile Road and one entrance from Powell Road. Developer also has the right, without amending this Agreement, to adjust the size of adjacent Pods so long as the affected Pods do not increase or decrease by more than 5 acres. If the size of any Pod changes by more than 5 acres, the changes required shall be a minor modification pursuant to Section 7 below. Any changes required by this Section shall be shown on site plans for the affected phases as the same are developed.

6. **Road Connections to Adjacent Properties.** The Final PUD uses gray arrows to show future connections to Augustine Road to the west and the property south of the Project. The connections shown are illustrative of a future connection but are not necessarily the locations of the actual road connections. The actual road connections to Augustine Road and the property to the south will be determined during the site planning and governmental agency review process.

7. **Minor Modifications.** Modifications to the Final PUD Plan may be required

for engineering or other reasons. For purposes of expediency, minor changes to the Final PUD Plan shall be reviewed and approved by the Township Administrative Review Committee without amendment of this Agreement, provided that such changes do not materially affect the character of the Project. Minor changes include, without limitation: (a) modification of the Final PUD Plan that do not increase the Residential density or the area of Commercial buildings; (b) the addition of new unit types so long as the Residential density limitations of this Agreement are met; (c) in addition to the modifications permitted as of right in Section 5, modification of the internal primary local street layout and corresponding adjustment of the Pods to the extent that the size of any Pod changes by more than 2 acres; and (d) the location and size of permitted signs. Any modifications sought that exceed the authority granted to the Township Administrative Review Committee, in the sole judgment of the Township Administrative Review Committee, shall be submitted to the Planning Commission for recommendation and to Township Board for approval.

8. **Phasing; Development of the Property.** To allow Developer maximum flexibility to meet market demand the Final PUD Plan does not include proposed phases of development. It is understood and agreed that Developer will include in its first phase of development the sanitary sewer and water lines described in Exhibits E and F, respectively. Developer will not be required to complete the development of a particular phase before commencing work on another phase or phases. It is therefore possible that some or all of the phases could be developed simultaneously. The Property shall be developed in accordance with the Final PUD Plan, this Agreement and its Exhibits including the White Book, the approved site plan(s), and the Township Ordinances in effect on the date of this Agreement that are not inconsistent with the Washington Landing PUD Approval.

9. **Public Roads; Vehicular and Pedestrian Circulation.** The roads in the Project will be dedicated to public use and built to the applicable residential standards of the Macomb Department of Roads, excepting however private drives and roads located within Commercial, Office or Multifamily parcels, which will be privately owned and maintained. The Township supports, approves of, and will not oppose Developer's dedication to public use of the road system. Vehicular and pedestrian circulation design

elements are to be incorporated to encourage connectivity with adjacent properties and within the Project. As shown on the Final PUD Plan and described in the White Book, when fully developed the Project will have road connections to 32 Mile Road, Powell Road, Augustine Road, and the parcel south of the Project. The Township supports, approves of, and will not oppose, the location of the 32 Mile Road access easement to Pod B, as shown on the Final PUD Plan. Pedestrian and bicycle design elements shall include an eight (8) foot wide asphalt, shared use path along the Property's 32 Mile Road Powell Road frontage, and the other pedestrian amenities described in the White Book.

10. **Powell Road Paving Project.** The Developer agrees to contribute the local match (not to exceed 20% of the total hard cost of construction) for the paving of Powell Road between 31 Mile Road and 32 Mile Road by the Macomb County Department of Roads. Alternatively, Developer agrees that the benefitted portion of the Property along with all other benefitted properties in a special assessment district for the paving of Powell Road from 31 Mile Road to 32 Mile Road. The Township agrees that Developer shall have no obligation to pave Powell Road.

11. **Residential Driveway Plan.** When it submits engineering plans for a phase, Developer will also submit a driveway plan for all Residential unit types shown in the phase. The driveway plan will show the locations of the driveways serving each of the residential units included on the site plan, other than corner units. Driveways for each corner unit will be designated when a building permit application for the unit is submitted.

12. **Residential Signage.** Permanent subdivision entry signs will be constructed on 32 Mile Road, Augustine Road and Powell Road. In addition to those subdivision entry signs, signs temporarily advertising units in the Project for sale shall be permitted as follows: two on 32 Mile Road, one on Powell Road; and one at each road entry from Augustine Road to a Residential pod. On each single family home site a sign not larger than eight (8) square feet may be placed designating the number and/or Phase of each site.

13. **Commercial Signage.** Site signage for Commercial uses shall be in accordance with the Washington Township sign ordinance for general commercial developments and design standards in effect on the date of this Agreement, except as

modified herein or in the White Book:

A. Permanent signage denoting the Residential uses of the Project shall be permitted at the 32 Mile Road commercial entrances.

B. Wall mounted signs, for all commercial outlot buildings, shall meet the requirements of the Washington Township sign ordinance for general commercial.

C. The Township Administrative Review Committee may approve additional 32 Mile signage and modification of the Commercial use signage permitted for GC uses under the Township's ordinances.

D. Each separate commercial building will be allowed a single monument with tenant listings (maximum of 64 square feet).

E. With Township Administrative Review Committee approval, multiple commercial buildings may use a shared sign, with a total sign area not to exceed the sum of the areas that would be allowed for separate signs.

14. **Demolition of Existing Structures.** By signing this Agreement, the Township agrees that upon proper application by Developer the Township shall approve the demolition of the existing residential structures designated for removal on the final PUD Plan and the removal of all appurtenances to those structures.

15. **Sanitary Sewer Pump Station.** During the course of the Project the Developer may be required to install sanitary sewer pump station serving a portion of the Project. The sanitary sewer pump station if installed, will be dedicated to public use and conveyed to the Township when the infrastructure it is complete and the pump station is operational.

16. **Development Fees.** Any and all fees set forth in the fee schedule adopted by Washington Township applicable to the Project at the time of development, rather than the effective date of this agreement, shall be paid by Developer.

17. **Project Commencement.** The term of this Agreement shall remain in effect provided Developer has applied for site plan approval for any component of the Project



within five (5) years of this Agreement being executed and Developer has applied for a building permit for any part of the Project within three (3) years of the Township's approval of the site plan for the first development component. The timeframes within this Section may be extended by the Township Board, at the Board's discretion. Notwithstanding the foregoing, this Agreement shall not create or impose any obligation on Developer to build, open, operate, or continuously operate, a business or any particular business on the Property.

18. **Financial Security.** The Township may, pursuant to Township ordinances, require the Owners to provide financial guarantees for the completion of roads, water mains, sanitary sewers and storm drains and all other improvements within each proposed site plan of the Project. All required financial assurances, performance and maintenance guarantee bonds and all other financial security otherwise required under Township Ordinances in connection with the installations of improvements or otherwise may be provided in the form of cash bonds, surety bonds or letters of credit, as elected by Developer.

19. **Agreements with Adjacent Property Owners.** The Developer may, in Developer's discretion, enter into agreements with adjacent property owners for the final location, geometrics, and cost sharing associated with the construction and/or installation of road and utility improvements, including, but not limited to the traffic signal, utilities, street lights, right-of-way dedication.

20. **Sanitary Sewer.** It is anticipated that the Project will be connected to off-site public sanitary sewer lines installed by the developer of Washington Corners PUD ("Adjacent Project"), which is adjacent to the Property. To provide an alternative, the Developer will execute an Agreement for Extension of Sewer Main, attached as Exhibit E ("Sewer Extension Agreement"), which will apply to Developer's installation of the off-site sanitary lines if those lines have not been installed when the first phase of Washington Landings is proposed for development. If Developer proceeds pursuant to the Sewer Extension Agreement, neither Developer nor any part of the Project will have any obligations under the sewer extension agreement for the Adjacent Project. In addition to the foregoing, Developer at its election may enter into a separate agreement with the

owner of the Adjacent Project for cost sharing of the installation of the off-site public sanitary sewer lines, in which event the Agreement for Extension of Sewer Main attached as Exhibit E will remain in effect and the Frontage Fees shall be shared by Developer and the owner of the Adjacent Project in proportion to their respective shares of the cost of installation. In lieu of the foregoing, the Township and Developer may enter into an Intergovernmental agreement with the Village of Romeo for sanitary sewer service. After the sanitary sewer line described in the Sewer Extension Agreement is installed, the Township shall provide uninterrupted municipal (public) sanitary sewer service to the Project, on an on-going basis as the Project is developed, so that as sanitary sewer lines are installed within the Property the Township will continually provide an outlet for sewage from those lines.

21. **Public Water.** The Township will provide municipal (public) water sewer service to the Project. It is anticipated that the Project will be connected to off-site public water lines installed by the developer of the Adjacent Project, which is adjacent to the Property. To provide an alternative, the Developer will execute an Agreement for Extension of Water Main, attached as Exhibit F ("Water Extension Agreement"), which will apply to Developer's installation of the off-site water lines if those lines have not been installed when the first phase of Washington Landings is proposed for development. If Developer proceeds pursuant to the Water Extension Agreement, Developer will have no obligations under the water extension agreement for the Adjacent Project. In addition to the foregoing, Developer at its election may enter into a separate agreement with the owner of the Adjacent Project for cost sharing of the installation of the off-site public water lines, in which event the Agreement for Extension of Water Main attached as Exhibit F will remain in effect and the Frontage Fees payable thereunder shall be shared by Developer and the owner of the Adjacent Project in proportion to their respective shares of the cost of installation. In lieu of the foregoing, the Township and Developer may enter into an Intergovernmental agreement with the Village of Romeo for water service. After the water line described in the Water Extension Agreement is installed, the Township shall provide municipal (public) water service to the Project, on an on-going basis as the Project is developed.

22. **Stubs to Abutting Parcels.** At such time as Developer installs sanitary

sewer or water lines within 100 feet of the two abutting parcels located south of the Property, Developer will also install sanitary sewer or water stubs, as the case may be, to those parcels.

23. **Floodplain.** The Project may require floodplain relocation. If so, the Township agrees that it will support, approve, and will not oppose Developer's application to relocate and/or mitigate the floodplains that may exist on the Property.

24. **Consents/Approvals.** The Township shall approve site plans submitted for the Project if they substantially comply with the Washington Landing PUD Approval. Whenever any other consent, approval or permit issuance of the Township Board, Planning Commission or any Township commission, department, staff, attorney or representative is required, such consent, approval or permit issuance shall not be unreasonably delayed, conditioned or withheld and shall be granted if it substantially complies with the requirements of the Washington Landing PUD Approval. The Project shall be subject to engineering review, approval, and inspections by the Township engineers and water and sewer department as to the public water system, sanitary sewers, storm drainage system and site improvements on the Property which serve the Property and the payment of applicable permit and inspection fees. Except as provided by this Agreement, regulations governing permitted uses of land, density, design, improvements, construction standards and specifications applicable to development of land shall be the regulations in effect on the date of this Agreement.

25. **Sale of Property.** Developer shall have the right to sell, transfer, assign and/or mortgage all or any portion of the Property. All such conveyances and divisions shall be in accordance with state law and local ordinances. In the event all or any portion of the Property changes ownership or control, the terms and conditions of this Agreement shall be binding on any successor owner of all or any portion of the Property. The Township acknowledges and represents that this Agreement may be relied upon for the future land use and development of the Property by Developer and its successors and assigns and transferees.

26. **Zoning Board of Appeals.** The Zoning Board of Appeals shall have the authority to hear and decide appeals by Developer for variances from the Zoning

Ordinance. However, the Zoning Board of Appeals shall not have the authority to modify, change conditions, or make interpretations or amendments to this Agreement, its Exhibits, or the Final PUD Plan or written conditions, which rights are reserved to the Township Board.

27. **Integration/Amendments.** This Agreement and its exhibits set forth the entire agreement between the parties relative to the subject matter hereof. No prior or contemporaneous oral or written representations, statements, promises, agreements or undertakings made by either party or agent of either party that are not contained in this Agreement shall be valid or binding. This Agreement may not be amended except in writing signed by the parties and recorded in the same manner as this Agreement. Amendments shall be processed as provided by the Township Code of Ordinances. Remedial amendments to correct errors and omissions may be approved and executed by the Supervisor so long as they are consistent with the spirit and intent of this Agreement.

28. **Severability.** It is understood and agreed by the parties that if any part, term or provision of this Agreement is finally held by the courts to be illegal or in conflict with any statute, ordinance, rule, regulation or other applicable law, the validity of the remaining portions or provisions of this Agreement shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular part, term or provision held to be invalid.

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

30. **Waiver.** No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach.

31. **Terminology.** As used in this Agreement, the term “including” means “including, but not limited to” or “including, without limitation,” and is for example only and not a limitation.

32. **Remedies: Violation of Agreement.** In the event that the Township believes that the Developer is not acting in conformity with, provisions related to public improvements and/or the shared use path set forth in this Agreement, then the Township shall give written notice of the alleged violation or material breach to the Developer in accordance with the notice provisions of this Agreement. If the Developer fails to cure the violation or alleged breach within 30 days after notice thereof from the Township, weather permitting, or if Developer shall not within such 30 day period commence with due diligence and dispatch the curing of such default, then the Township may proceed with action to abate the violation or breach. In such case, the Township shall be entitled to actual costs incurred, including reasonable attorney fees and expert witness fees from the Developer. All remedies afforded in this Agreement shall be taken and construed as cumulative, that is, in addition to every other remedy provided by law.

33. **Inconsistency.** To the extent that this Agreements and its Exhibits conflict with Township Ordinance requirements, the terms of this Agreement and its Exhibits will control. The text of this Agreement controls in the event of any conflict with the Final PUD Plan or the White Book. In the event of a conflict between the Final PUD Plan and the White Book, the Final PUD Plan controls. Any clerical errors or mistakes in this Agreement or its exhibits may be corrected by any of the parties, and all parties agree to cooperate in making such corrections in order to effectuate the intent of the parties in entering into this Agreement. In all events any reference to Township Ordinances shall mean existing Ordinances of the Township at time of execution of this Agreement.

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

35. **Limitation of Township's Liability.** This Project is a private undertaking, and the parties understand and agree that: (a) this Project is a development with public roads; (b) the Township has no interest or responsibilities for or duty to third parties concerning any improvements on the Property except and only until such time that the

Township accepts any public improvements pursuant to this Agreement and the Final PUD Plan; (c) Developer shall have full and exclusive control of the Property subject to the limitations and obligations of Developer under this Agreement; and (d) the contractual relationship between the Township and Developer is such that Developer is an independent contractor and not an agent, partner or joint venturer of or with the Township.

36. **Binding Effect.** This Agreement shall be effective upon execution by all parties. The Agreement shall be recorded in the office of the Macomb County Register of Deeds and a certified copy of the recorded Agreement shall be delivered to the Township by the Developer. This Agreement shall run with the land and bind the parties, their heirs, successors, and assigns. It is also understood that the members of the Township Board and/or the Township Administration and/or its departments may change, but the Township shall nonetheless remain bound by this Agreement.

37. **Notices.** Any notice required or permitted to be given under this Agreement shall be deemed given by certified mail, return receipt requested, personal delivery by Federal Express or other national overnight carrier, charges prepared, as follows:

If to Township: Charter Township of Washington  
Attn: Township Supervisor  
57900 Van Dyke  
Washington, MI 48094

With a copy to: Seibert and Dloski, P.C.  
19500 Hall Road, Suite 101  
Clinton Township, MI 48083

If to Owner: Biltmore Land LLC  
Attn: David J. Stollman  
13910 Simone  
Shelby Township, MI 48315

With a copy to: Kevin Kohls PLC  
P.O. Box 216  
Novi, MI 48376-0216

**[Signatures on Following Page]**



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

**DEVELOPER:**

BILTMORE LAND LLC  
a Michigan limited liability company

By: \_\_\_\_\_  
David J. Stollman  
Its: President

STATE OF MICHIGAN    )  
COUNTY OF MACOMB    )

On this \_\_\_ day of \_\_\_\_\_, before me a Notary Public in and for the County, personally appeared David J. Stollman to me personally known, who, being by me duly sworn, did say that he is the President of Biltmore Land LLC, and that he signed this Agreement and acknowledged the instrument to be the free act and deed of Biltmore Land LLC, a Michigan Limited Liability Company.

\_\_\_\_\_, Notary Public  
\_\_\_\_\_ County, Michigan  
My Commission Expires: \_\_\_\_\_  
Acting in the County of \_\_\_\_\_

**TOWNSHIP:**

CHARTER TOWNSHIP OF WASHINGTON,  
a Michigan municipal corporation

\_\_\_\_\_  
By: DAN O'LEARY  
Its: Supervisor

STATE OF MICHIGAN    )  
COUNTY OF MACOMB    )

On this \_\_\_ day of \_\_\_\_\_, before me a Notary Public in and for the County, personally appeared Dan O'Leary, to me personally known, who, being by me duly sworn, did say that he is the Supervisor of the Charter Township of Washington and that he signed this Agreement on behalf the municipal corporation by authority of its Board of Trustees; and acknowledged the instrument to be the free act and deed of the Charter Township of Washington, a Michigan municipal corporation.

\_\_\_\_\_, Notary Public  
\_\_\_\_\_ County, Michigan  
My Commission Expires: \_\_\_\_\_  
Acting in the County of \_\_\_\_\_



INDEX OF EXHIBITS

Exhibit A	Legal Description of the Property
Exhibit B	Final PUD Plan
Exhibit C	White Book
Exhibit D	List of Ordinance Waivers
Exhibit E	Agreement for Extension of Sewer Main
Exhibit F	Agreement for Extension of Water Main

EXHIBIT A

Legal Description of Property

PARCEL NOS. 24-04-01-100-009, 24-04-01-200-043, AND 24-04-01-200-044, EXCEPTING THE NORTHERLY 400 FEET OF PARCEL NOS. 24-04-01-200-043 AND 24-04-01-200-044, LEGALLY DESCRIBED AS FOLLOWS:

A 211.73 ACRE PARCEL OF LAND LOCATED IN SECTION 1, TOWN 4 NORTH, RANGE 12 EAST, WASHINGTON TOWNSHIP, MACOMB COUNTY, MICHIGAN COMMENCING AT THE NORTHWEST CORNER OF SECTION 1, TOWN 4 NORTH, RANGE 12 EAST, WASHINGTON TOWNSHIP, MACOMB COUNTY, MICHIGAN; THENCE N87°21'50"E (RECORDED AS N89°37'00"E) 752.53 FEET ALONG THE CENTERLINE OF 32 MILE ROAD (VARIABLE WIDTH); THENCE N87°56'50"E (RECORDED AS S89°48'00"E) 562.05 FEET ALONG THE CENTERLINE OF SAID 32 MILE ROAD FOR A PLACE OF BEGINNING; THENCE N87°56'50"E (RECORDED AS S89°48'00"E) 853.95 FEET ALONG THE CENTERLINE OF SAID 32 MILE ROAD; THENCE N86°55'51"E (RECORDED AS N89°11'01"E) 435.84 FEET ALONG THE CENTERLINE OF SAID 32 MILE ROAD; THENCE S01°41'00"E (RECORDED AS S00°34'09"W) 400.12 FEET; THENCE N86°55'51"E 153.12 FEET; THENCE N87°02'12"E 2437.01 FEET; THENCE S02°24'13"E (RECORDED AS S00°09'03"E) 627.05 FEET ALONG THE CENTERLINE OF POWELL ROAD (33 FOOT HALF WIDTH) AND THE EAST LINE OF SAID SECTION 1; THENCE S28°03'47"W (RECORDED AS S30°18'57"W) 2581.20 FEET ALONG THE CENTERLINE OF SAID POWELL ROAD; THENCE S28°29'05"W (RECORDED AS S30°44'15"W) 563.15 FEET ALONG THE CENTERLINE OF SAID POWELL ROAD; THENCE N60°11'44"W (RECORDED AS N57°56'34"W) 789.54 FEET; THENCE N64°17'25"W (RECORDED AS N62°02'15"W) 258.87 FEET; THENCE N01°40'31"W (RECORDED AS N00°34'39"E) 271.22 FEET; THENCE N01°40'31"W (RECORDED AS N00°34'39"E) 566.03 FEET; THENCE S88°38'50"W 941.85 FEET; THENCE S00°53'09"W (RECORDED AS S03°08'19"W) 350.57 FEET; THENCE N83°58'53"W (RECORDED AS N81°43'43"W) 275.26 FEET;

THENCE S63°29'36"W (RECORDED AS S65°44'46"W) 205.12 FEET; THENCE N01°45'51"W (RECORDED AS N00°29'19"E) 2706.13 FEET TO THE PLACE OF BEGINNING, CONTAINING 211.73 ACRES OF LAND, MORE OR LESS, BEING SUBJECT TO THE RIGHTS OF THE PUBLIC OVER THE NORTHERLY PORTION THEREOF AS OCCUPIED BY SAID 32 MILE ROAD AND THE EASTERLY PORTION THEREOF AS OCCUPIED BY SAID POWELL ROAD.

EXHIBIT B  
Final PUD PLAN

EXHIBIT C  
White Book

EXHIBIT D  
PUD Ordinance Waivers

In connection with the approval of Washington Landing, and due to the scale and size of the Project and its inherent need for flexibility to meet market demand, ordinance waivers have been granted as described in the Agreement and its Exhibits. In addition, the Township waives the below requirements of Section 12.47C2.c. Except as noted, each of the requirements waived will be addressed as site plans are submitted, as to the part of the Project covered by each site plan.

1. A formal site plan in compliance with Section 3.02 of the Zoning Ordinance. Section 12.47C2.c.(1).
2. A phasing plan. Section 12.47C2.c.(3).
3. A description of all landscaping, lighting and architectural themes, renderings and materials used for each building. Section 12.47C2.c.(4).
4. A coordinated sign package. Section 12.47C2.c.(5).
5. Legal documents in recordable form including Master Deed and Bylaws, access agreements and conservation easements, if applicable. Section 12.47C2.c.(6).

EXHIBIT E

Agreement for Extension of Sanitary Sewer

## AGREEMENT FOR EXTENSION OF SEWER MAIN

This Agreement for Extension of Sewer Main (“Agreement”), made and entered into as of the \_\_\_ day of \_\_\_\_\_, 2018, by and between the Charter Township of Washington, a Michigan municipal corporation (“Township”), whose address is 57900 Van Dyke, Washington, Michigan 48094, and Biltmore Land LLC (“Developer”), whose address is 13910 Simone, Shelby Township, Michigan 48315, is based upon the following:

A. Developer has the contract right to purchase a certain parcel of land located in the Township of Washington, Macomb County, Michigan, as is more particularly described on Exhibit “A” attached hereto and made a part hereof (the “Property”).

B. Developer desires to develop the Property in accordance with the applicable ordinances of the Township and the Washington Landings PUD Agreement.

C. The Property is not currently served by municipal sewer facilities.

D. Township owns and operates a sewer system in the Township. The location of the nearest adequate supply for the Property is located on north side of 31 Mile Road west of Powell Road.

E. Developer has requested that Township extend the municipal sewer services to the Property in the general location depicted on Exhibit “B” attached hereto and made a part hereof, but Township has advised Owner that Township is without sufficient funds to do so.

F. Developer has offered to design, build and pay the entire cost of the installation of such sewer main extension to service all of the Property (the “Sewer Main Project”).

G. Township has agreed to the extension of such sewer main and the granting of certain reimbursements to Developer, upon and subject to the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants, promises and



agreements and subject to the terms and conditions contained herein, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged by each of the parties, the parties agree as follows:

1. Incorporation of Recitals and PUD Agreement. The parties acknowledge and represent that the foregoing recitals are true and accurate and are hereby incorporated into this Agreement to be binding upon the parties. This Agreement is subject to the Washington Landings PUD Agreement, which is incorporated by this reference.

2. Construction of Sewer Main. Developer shall have the right to construct a 15-inch (or less, if approved by the Township DPW Director) sewer main, and associated appurtenances (collectively referred to in this Agreement as “Sewer Main” or “Sewer Main Improvements”). Developer's engineer shall obtain all required permits, including a MDEQ permit, for the work prior to installation. If it elects to install the Sewer Main, Developer shall cause to prepare and submit for review by the Township engineer plans and specifications (“the Plans”), for the extension to the Property of the Sewer Main. Developer agrees that the Sewer Main Improvements will be designed, built and installed in accordance with the Washington Township Land Development and Utility Ordinance, being Ordinance No. 143 together with required approvals, reviews and inspections by the Township Engineer. Township Ordinances, Codes and Regulations including fee schedules shall be complied with by the Developer provided that all financial assurances, performance and maintenance guarantee bonds or other financial security may be provided in the form of surety bonds. Developer acknowledges that it is solely responsible for obtaining all necessary easements.

A. The Sewer Main shall be constructed and installed contemporaneously with the improvements installed for the first phase of Washington Landings, pursuant to the Washington Landings PUD Agreement. After final engineering approval has been granted and all permits issued for the first phase of improvements, Developer shall cause the construction of the Sewer Main Improvement to be commenced in accordance with the time frame set forth in Section 5 of the Washington Landings PUD Agreement and diligently prosecuted to completion as expeditiously and economically as is possible.

B. In the event Township determines that it is necessary to construct the Sewer

Main prior to final engineering approval having been granted to Developer for the first phase of Washington Landing improvements, Township shall have the right to install the Sewer Main at Township's cost or allow another developer to do so; provided, however, such installation shall be designed to accommodate the Developer's proposed development of the Property pursuant to the Washington Landings PUD Agreement.

C. Notwithstanding anything within this Agreement to the contrary, if the Property becomes serviced by the Village of Romeo's sewer service in lieu of the Township's sewer service, then this Agreement shall automatically terminate, and Developer shall have no obligation to construct the Sewer Main Improvements. The Township shall cooperate with Developer in the event Developer elects to obtain sewer service to the property from the Village of Romeo in accordance with Section 12 of the Washington Corner PUD Agreement. However, nothing in this Agreement requires the Township to enter into an Intergovernmental Agreement with the Village of Romeo. The Township Board may enter into an Intergovernmental Agreement with the Village of Romeo if it determines the terms of that Agreement to be reasonable.

D. "Improvement Costs" shall be defined as the total cost paid by Developer to construct the Sewer Main Improvements, including preparing plans and specifications, acquiring easements, actual construction and installation, and all "soft costs." Developer agrees to utilize its best efforts to minimize all such costs and agrees that such costs will be reasonable according to industry standards.

2. Payback District. The area and properties benefitted by the Sewer Main Improvements ("Sewer District") are set forth on Exhibit "B" attached hereto and made a part hereof. Frontage fees paid by persons or entities in the Sewer District for use of the Sewer Main Improvements shall be paid to Developer in accordance with Paragraph 8 of this Agreement.

3. Deposit of Funds in Escrow: Bonds. Developer shall deposit funds in Escrow or at Developer's election submit surety bonds or letters of credit (in lieu of any other financial security or performance guarantees required by the Washington Township Land Development and Utility Ordinance) prior to commencing construction of the Sewer Main

Improvements.

4. Plans: Submittal, Review and Approval. The Plans will be sealed plans prepared under the supervision of a civil engineer registered in the State of Michigan which shall be submitted and meet all plan requirements set forth in the Washington Township Land Development and Utility Ordinance, being Ordinance No. 143, Appendix A. Construction permits will not be issued until engineering plans have been approved, including any required changes by the Township Engineer, DPW Director or other governmental agency.

5. Selection of Contractors. The contractor selected by Developer shall be subject to approval by the Township Board, which approval shall not unreasonably withheld, conditioned or delayed. Any contractor not approved shall not perform work on the Sewer Main Improvements.

6. Bonds. The Developer shall furnish to the Township surety bonds for site improvements and contractor performance notwithstanding anything to the contrary in the Washington Township Land Development and Utility Ordinance. An acceptable three year maintenance surety bond shall be furnished to the Township before any construction is approved and accepted in an amount equal to 33% of the contract price for the construction of the Sewer Main Improvements. Developer shall obtain a Labor and Material Surety Bond with sureties satisfactory to the Township in an amount equal to 100% of the contract price for the construction of the Sewer Main Improvements. Developer understands and agrees that any contractor failing to post an acceptable bond shall not be permitted to perform work on the Sewer Main Improvements.

7. Stop Work Orders. Developer specifically and explicitly agrees the Township has the right to issue a Stop Work Order during the construction of the Sewer Main Improvements for any work which may be, or appears to be, in conflict with the Plans and specifications or which may be or appears to be in conflict with the requirements of the Washington Township Land Development and Utility Ordinance (except as varied in this Agreement).

8. Accounting: Payback.

A. All costs incurred by Developer on the Sewer Main Project shall be reasonable. The Developer shall provide an accounting to the Township with respect to costs incurred at the following points during the Sewer Main Project:

(i) After submission of plans for review but prior to issuance of a permit, the accounting shall include construction costs estimate and construction costs incurred.

(ii) Upon receipt of bids by Developer.

(iii) Completion of construction.

B. Developer shall be entitled to receive from the Township all Frontage Fees or subsequent similar, or replacement fees, but excluding the proceeds received by the Township from Capacity Fees or subsequent similar or replacement fees, or in connection with the creation of any special assessment district(s) for improvements which connect to the Improvement (collectively, the "Connection Charges"), paid by anyone within the Sewer District who has tapped into the Sewer Main Improvement. For purposes of this Agreement, the terms "Frontage Fee" and "Capacity Fee" shall be defined in accordance with the Washington Township Land Development and Utility Ordinance in effect as of the date hereof, which is incorporated herein.

C. Township shall use its best efforts to promptly collect all Frontage Fees. Township shall pay to Developer on or before the last day of January, April, July and October of each year all Frontage Fees collected by the Township during the immediately preceding quarterly period. Each quarterly payment shall include a statement certifying the Improvement Costs, the Frontage Fees collected during the preceding three (3) month period and the total Frontage Fees paid by the Township to Developer to date.

D. The Township shall not be obligated to pay to Developer any Frontage Fees which are first chargeable more than twenty (20) years after the date on which the Township has accepted the Sewer Main Improvements unless Developer has not recouped 80% of its Improvement Costs by the 20<sup>th</sup> anniversary of the Township's acceptance of the Sewer Main Improvements, then the initial term shall be automatically extended for one (1) additional ten (10) year term. If Developer has recouped 80% of its

Improvement Costs by the 20<sup>th</sup> anniversary of the Township's acceptance of the Sewer Main Improvements, then the recoupment payments terminate on the 20<sup>th</sup> anniversary. The Township shall not be obligated to pay to Developer any Frontage Fees after Developer has been fully repaid all of the Improvement Costs. The Township shall not be obligated to pay Developer any Frontage Fees which are first chargeable more than thirty (30) years after the date on which the Township has accepted the Sewer Main Improvement.

E. The Township shall not be obligated to pay Developer any Frontage Fees if Developer does not complete the construction of the Sewer Main Improvements.

9. Compliance with Washington Township Land Development and Utility Ordinance. Developer agrees and affirms that, except as expressly varied in this Agreement or the Washington Landings PUD Agreement, it will comply with all provisions of the Washington Township Land Development and Utility Ordinance, being Ordinance No. 143, or any subsequent or replacement Ordinance including, but not limited to, the schedule of fees and required inspections.

10. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. Anything contained herein to the contrary notwithstanding, Developer's rights hereunder shall be deemed transferred only if Developer specifically assigns its rights under this Agreement by name and by means of a separate instrument and delivers a copy of such written instrument of assignment to the Township. No person or entity who purchases the Property, or any portion thereof, or any interest therein, from Developer or any other person or entity shall, by virtue of such purchase, be deemed to have acquired any of such Developer's rights hereunder. Developer shall give written notice to the Township of any assignment of such Developer's rights hereunder, and such Developer's assignee shall reaffirm this Agreement in writing and agree to be bound by all of the terms, conditions, and covenants of this Agreement, and further confirm in such writing that its rights are created and limited by the terms, conditions, and covenants of this Agreement.

11. Miscellaneous.

A. Notices. Any notice, request, certificate, or other communication required or permitted hereunder shall be given in writing and shall be effective when received if delivered personally, or one (1) business day after being delivered to a reputable overnight delivery service properly addressed, or two (2) business days after being deposited in the United States mail by certified mail, postage prepaid and properly addressed. For the purposes hereof, the addresses of the parties shall be as follows:

If to Township: Charter Township of Washington  
Attn: Township Supervisor  
57900 Van Dyke  
Washington, MI 48094

With a copy to: Seibert and Dloski, P.C.  
19500 Hall Road, Suite 101  
Clinton Township, MI 48083

If to Developer: Biltmore Land LLC  
Attn: David J. Stollman  
13910 Simone  
Shelby Township, MI 48315

With a copy to: Kevin Kohls PLC  
P.O. Box 216  
Novi, MI 48376-0216

Either party may, from time to time, change its address and/or addressees by notice as provided above.

B. Entire Agreement. This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof, and all prior or contemporaneous agreements or understandings with respect hereto shall be deemed merged into this Agreement.

C. No Oral Amendment or Modifications. No amendments, waivers or modifications hereof shall be made or deemed to have been made unless in writing and executed by the parties hereto.

D. Severability. If any provision of this Agreement shall be declared invalid,

illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby and this Agreement shall be construed as if that provision were not contained in this Agreement.

E. Captions and Headings for Convenience. All headings and captions used herein are for convenience only and shall have no meaning in the interpretation or effect of this Agreement.

F. Applicable Law. This Agreement shall be interpreted and enforced according to the laws of the State of Michigan.

G. No Third Party Reliance. Nothing contained in this Agreement is intended or shall be construed to confer upon or give to any person or entity, other than the parties hereto, any right, remedy or claim under this Agreement. All the terms, conditions and covenants contained herein are for the sole and exclusive benefit of the parties hereto.

H. “Herein” and Similar Words. As used in this Agreement, the words “herein,” “hereof,” “hereunder” and other words of similar import refer to this entire Agreement.

I. Number and Gender. As used herein, the singular shall include the plural and vice versa, and reference to one gender shall include all genders.

J. Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original, although not fully executed, but all of which when taken together shall constitute but one Agreement.

**[Signatures on Following Page]**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement for Extension of Sewer Main as of the date first above written.

**DEVELOPER:**

BILTMORE LAND LLC  
a Michigan limited liability company

By: \_\_\_\_\_  
David J. Stollman  
Its: President

STATE OF MICHIGAN )  
COUNTY OF MACOMB )

On this \_\_\_ day of \_\_\_\_\_, before me a Notary Public in and for the County, personally appeared David J. Stollman to me personally known, who, being by me duly sworn, did say that he is the President of Biltmore Land LLC, and that he signed this Agreement and acknowledged the instrument to be the free act and deed of Biltmore Land LLC, a Michigan Limited Liability Company.

\_\_\_\_\_, Notary Public  
\_\_\_\_\_ County, Michigan  
My Commission Expires: \_\_\_\_\_  
Acting in the County of \_\_\_\_\_

**TOWNSHIP:**

CHARTER TOWNSHIP OF WASHINGTON,  
a Michigan municipal corporation

\_\_\_\_\_  
By: DAN O'LEARY  
Its: Supervisor

STATE OF MICHIGAN )  
COUNTY OF MACOMB )

On this \_\_\_ day of \_\_\_\_\_, before me a Notary Public in and for the County, personally appeared Dan O'Leary, to me personally known, who, being by me duly sworn, did say that he is the Supervisor of the Charter Township of Washington and that he signed this Agreement on behalf the municipal corporation by authority of its Board of Trustees; and acknowledged the instrument to be the free act and deed of the Charter Township of Washington, a Michigan municipal corporation.

\_\_\_\_\_, Notary Public  
\_\_\_\_\_ County, Michigan  
My Commission Expires: \_\_\_\_\_  
Acting in the County of \_\_\_\_\_



EXHIBIT F  
Agreement for Extension of Water

## AGREEMENT FOR EXTENSION OF WATER MAIN

This Agreement for Extension of Water Main (“Agreement”), made and entered into as of the \_\_\_ day of \_\_\_\_\_, 2018, by and between the Charter Township of Washington, a Michigan municipal corporation (“Township”), whose address is 57900 Van Dyke, Washington, Michigan 48094, and Biltmore Land LLC (“Developer”), whose address is 13910 Simone, Shelby Township, Michigan 48315, is based upon the following:

A. Developer has the contract right to purchase a certain parcel of land located in the Township of Washington, Macomb County, Michigan, as is more particularly described on Exhibit “A” attached hereto and made a part hereof (the “Property”).

B. Developer desires to develop the Property in accordance with the applicable ordinances of the Township and the Washington Landings PUD Agreement.

C. The Property is not currently served by municipal water facilities.

D. Township owns and operates a water system in the Township. The location of the nearest adequate supply for the Property is located on north side of 31 Mile Road between Powell Road and M-53.

E. Developer has requested that Township extend the municipal water services to the Property in the general location depicted on Exhibit “B” attached hereto and made a part hereof, but Township has advised Developer that Township is without sufficient funds to do so.

F. Developer has offered to design, build and pay the entire cost of the installation of such water main extension to service all of the Property (“the Water Main Project”).

G. Township has agreed to the extension of such water main and the granting of certain reimbursements to Developer, upon and subject to the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements and subject to the terms and conditions contained herein, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged by each of the parties, the parties agree as follows:

1. Incorporation of Recitals and PUD Agreement. The parties acknowledge and represent that the foregoing recitals are true and accurate and are hereby incorporated into this Agreement to be binding upon the parties. This Agreement is subject to the Washington Landings PUD Agreement, which is incorporated by this reference.

2. Construction of Water Main. Developer shall have the right to construct a 16-inch (or less, if approved by the Township DPW Director) water main, and associated appurtenances (collectively referred to in this Agreement as “Water Main” or “Water Main Improvements”). Developer's engineer shall obtain all required permits, including a MDEQ permit, for the work prior to installation. If it elects to install the Water Main, Developer shall cause to prepare and submit for review by the Township engineer plans and specifications (the “Plans”), for the extension to the Property of the Water Main. Developer agrees that the Water Main Improvements will be designed, built and installed in accordance with the Washington Township Land Development and Utility Ordinance, being Ordinance No. 143 together with required approvals, reviews and inspections by the Township Engineer. Township Ordinances, Codes and Regulations including fee schedules shall be complied with by the Developer provided that all financial assurances, performance and maintenance guarantee bonds or other financial security may be provided in the form of surety bonds. Developer acknowledges that it is solely responsible for obtaining all necessary easements.

A. The Water Main shall be constructed and installed contemporaneously with the improvements installed for the first phase of Washington Landings, pursuant to the Washington Landings PUD Agreement. After final engineering approval has been granted and all permits issued for the first phase of improvements, Developer shall cause the construction of the Water Main Improvements to be commenced in accordance with the

time frame set forth in Section 5 of the Washington Landings PUD Agreement and diligently prosecuted to completion as expeditiously and economically as is possible.

B. In the event Township determines that it is necessary to construct the Water Main prior to final engineering approval having been granted to Developer for the first phase of Washington Landing improvements, Township shall have the right to install the Water Main at Township's cost or allow another developer to do so; provided, however, such installation shall be designed to accommodate the Developer's proposed development of the Property pursuant to the Washington Landings PUD Agreement.

C. Notwithstanding anything within this Agreement to the contrary, if the Property becomes serviced by the Village of Romeo's water service in lieu of the Township's sewer service, then this Agreement shall automatically terminate, and Developer shall have no obligation to construct the Water Main Improvements. The Township shall cooperate with Developer in the event Developer elects to obtain water service to the property from the Village of Romeo in accordance with Paragraph 12 of the Washington Corner PUD Agreement. However, nothing in this Agreement requires the Township to enter into an Intergovernmental Agreement with the Village of Romeo. The Township Board may enter into an Intergovernmental Agreement with the Village of Romeo if it determines the terms of that Agreement to be reasonable.

D. Improvement costs shall be defined as the total cost paid by Developer to construct the Water Main Improvements, including preparing plans and specifications, acquiring easements, actual construction and installation, and all "soft costs." Developer agrees to utilize its best efforts to minimize all such costs and agrees that such costs will be reasonable according to industry standards

2. Payback District. The area and properties benefitted by the Water Main Improvements ("Water District") are set forth on Exhibit "B" attached hereto and made a part hereof. Frontage fees paid by persons or entities in the Water District for use of the Water Main Improvements shall be paid to Developer in accordance with Paragraph 8 hereof.

3. Deposit of Funds in Escrow: Bonds. Developer shall deposit funds in Escrow or at Developer's election submit surety bonds or letters of credit (in lieu of any other financial security or performance guarantees required by the Washington Township Land Development and Utility Ordinance) prior to commencing construction of the Sewer Main Improvements.

4. Plans; Submittal, Review and Approval. The Plans will be sealed plans prepared under the supervision of a civil engineer registered in the State of Michigan which shall be submitted and meet all plan requirements set forth in the Washington Township Land Development and Utility Ordinance, being Ordinance No. 143, Appendix A. Construction permits will not be issued until engineering plans have been approved, including any required changes by the Township Engineer, DPW Director or other governmental agency.

5. Selection of Contractors. The contractor selected by Developer shall be subject to approval by the Township Board, which approval shall not unreasonably withheld, conditioned or delayed. Any contractor not approved shall not perform work on the Water Main Project.

6. Bonds. The Developer shall furnish to the Township surety bonds for site improvements and contractor performance notwithstanding anything to the contrary in the Washington Township Land Development and Utility Ordinance. An acceptable three-year maintenance surety bond shall be furnished to the Township before any construction is approved and accepted in an amount equal to 33% of the contract price for the construction of the Water Main Improvements. Developer shall obtain a Labor and Material Surety Bond with sureties satisfactory to the Township in an amount equal to 100% of the contract price for the construction of the Water Main Improvements. Developer understands and agrees that any contractor failing to post an acceptable bond shall not be permitted to perform work on the Water Main Improvements.

7. Stop Work Orders. Developer specifically and explicitly agrees the Township has the right to issue a Stop Work Order during the construction of the project for any work which may be, or appears to be, in conflict with the Plans and specifications

or which may be or appears to be in conflict with the requirements of the Washington Township Land Development and Utility Ordinance (except as varied in this Agreement).

8. Accounting: Payback.

A. All costs incurred by Developer on the Water Main Project shall be reasonable. The Developer shall provide an accounting to the Township with respect to costs incurred at the following points during the Water Main Project:

- (i) After submission of plans for review but prior to issuance of a permit, the accounting shall include construction costs estimate and construction costs incurred.
- (ii) Upon receipt of bids by Developer.
- (iii) Completion of construction.

B. Developer shall be entitled to receive from the Township all Frontage Fees or subsequent similar, or replacement fees, but excluding the proceeds received by the Township from Capacity Fees or subsequent similar or replacement fees, or in connection with the creation of any special assessment district(s) for improvements which connect to the Improvement (collectively, the "Connection Charges"), paid by anyone within the Water District who has tapped into the Water Main Improvement. For purposes of this Agreement, the terms "Frontage Fee" and "Capacity Fee" shall be defined in accordance with the Washington Township Land Development and Utility Ordinance in effect as of the date hereof, which is incorporated herein.

C. Township shall use its best efforts to promptly collect all Frontage Fees. Township shall pay to Developer on or before the last day of January, April, July and October of each year all Frontage Fees collected by the Township during the immediately preceding quarterly period. Each quarterly payment shall include a statement certifying the Improvement Costs, the Frontage Fees collected during the preceding three (3) month period and the total Frontage Fees paid by the Township to Developer to date.

D. The Township shall not be obligated to pay to Developer any Frontage Fees which are first chargeable more than twenty (20) years after the date on which the Township has accepted the Water Main Improvements unless Developer has not

recouped 80% of its Improvement Costs by the 20<sup>th</sup> anniversary of the Township's acceptance of the Water Main Improvements, then the initial term shall be automatically extended for one (1) additional ten (10) year term. If Developer has recouped 80% of its Improvement Costs by the 20<sup>th</sup> anniversary of the Township's acceptance of the Water Main Improvements, then the recoupment payments terminate on the 20<sup>th</sup> anniversary. The Township shall not be obligated to pay to Developer any Frontage Fees after Developer has been fully repaid all of the Improvement Costs. The Township shall not be obligated to pay Developer any Frontage Fees which are first chargeable more than thirty (30) years after the date on which the Township has accepted the Water Main Improvements.

E. The Township shall not be obligated to pay Developer any Frontage Fees if Developer does not complete the construction of the Water Main Improvements.

9. Compliance with Washington Township Land Development and Utility Ordinance. Developer agrees and affirms that, except as expressly varied in this Agreement or the Washington Landings PUD Agreement, it will comply with all provisions of the Washington Township Land Development and Utility Ordinance, being Ordinance No. 143, or any subsequent or replacement Ordinance including, but not limited to, the schedule of fees and required inspection.

10. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. Anything contained herein to the contrary notwithstanding, Developer's rights hereunder shall be deemed transferred only if Developer specifically assigns its rights under this Agreement by name and by means of a separate instrument and delivers a copy of such written instrument of assignment to the Township. No person or entity who purchases the Property, or any portion thereof, or any interest therein, from Developer or any other person or entity shall, by virtue of such purchase, be deemed to have acquired any of such Developer's rights hereunder. Developer shall give written notice to the Township of any assignment of such Developer's rights hereunder, and such Developer's assignee shall reaffirm this Agreement in writing and agree to be bound by all of the terms, conditions, and covenants of this Agreement, and further confirm in such writing that its

rights are created and limited by the terms, conditions, and covenants of this Agreement.

11 . Miscellaneous.

A. Notices. Any notice, request, certificate, or other communication required or permitted hereunder shall be given in writing and shall be effective when received if delivered personally, or one (1) business day after being delivered to a reputable overnight delivery service properly addressed, or two (2) business days after being deposited in the United States mail by certified mail, postage prepaid and properly addressed. For the purposes hereof, the addresses of the parties shall be as follows:

If to Township: Charter Township of Washington  
Attn: Township Supervisor  
57900 Van Dyke  
Washington, MI 48094

With a copy to: Seibert and Dloski, P.C.  
19500 Hall Road, Suite 101  
Clinton Township, MI 48083

If to Developer: Biltmore Land LLC  
Attn: David J. Stollman  
13910 Simone  
Shelby Township, MI 48315

With a copy to: Kevin Kohls PLC  
P.O. Box 216  
Novi, MI 48376-0216

Either party may, from time to time, change its address and/or addressees by notice as provided above.

B. Entire Agreement. This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof, and all prior or contemporaneous agreements or understandings with respect hereto shall be deemed merged into this Agreement.

C. No Oral Amendment or Modifications. No amendments, waivers or modifications hereof shall be made or deemed to have been made unless in writing and executed by the parties hereto.

D. Severability. If any provision of this Agreement shall be declared invalid, illegal or unenforceable by a court of competent jurisdiction, the remainder of this



Agreement shall not be affected thereby and this Agreement shall be construed as if that provision were not contained in this Agreement.

E. Captions and Headings for Convenience. All headings and captions used herein are for convenience only and shall have no meaning in the interpretation or effect of this Agreement.

F. Applicable Law. This Agreement shall be interpreted and enforced according to the laws of the State of Michigan.

G. No Third Party Reliance. Nothing contained in this Agreement is intended or shall be construed to confer upon or give to any person or entity, other than the parties hereto, any right, remedy or claim under this Agreement. All the terms, conditions and covenants contained herein are for the sole and exclusive benefit of the parties hereto.

H. “Herein” and Similar Words. As used in this Agreement, the words “herein,” “hereof,” “hereunder” and other words of similar import refer to this entire Agreement.

I. Number and Gender. As used herein, the singular shall include the plural and vice versa, and reference to one gender shall include all genders.

J. Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original, although not fully executed, but all of which when taken together shall constitute but one Agreement.

**[Signatures on Following Page]**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement for Extension of Water Main as of the date first above written.

**DEVELOPER:**

BILTMORE LAND LLC  
a Michigan limited liability company

By: \_\_\_\_\_  
David J. Stollman  
Its: President

STATE OF MICHIGAN )  
COUNTY OF MACOMB )

On this \_\_\_ day of \_\_\_\_\_, before me a Notary Public in and for the County, personally appeared David J. Stollman to me personally known, who, being by me duly sworn, did say that he is the President of Biltmore Land LLC, and that he signed this Agreement and acknowledged the instrument to be the free act and deed of Biltmore Land LLC, a Michigan Limited Liability Company.

\_\_\_\_\_, Notary Public  
\_\_\_\_\_ County, Michigan  
My Commission Expires: \_\_\_\_\_  
Acting in the County of \_\_\_\_\_

**TOWNSHIP:**

CHARTER TOWNSHIP OF WASHINGTON,  
a Michigan municipal corporation

\_\_\_\_\_  
By: DAN O'LEARY  
Its: Supervisor

STATE OF MICHIGAN )  
COUNTY OF MACOMB )

On this \_\_\_ day of \_\_\_\_\_, before me a Notary Public in and for the County, personally appeared Dan O'Leary, to me personally known, who, being by me duly sworn, did say that he is the Supervisor of the Charter Township of Washington and that he signed this Agreement on behalf the municipal corporation by authority of its Board of Trustees; and acknowledged the instrument to be the free act and deed of the Charter Township of Washington, a Michigan municipal corporation.

\_\_\_\_\_, Notary Public  
\_\_\_\_\_ County, Michigan  
My Commission Expires: \_\_\_\_\_  
Acting in the County of \_\_\_\_\_