

**DECLARATION OF EASEMENTS AND AGREEMENT
FOR MAINTENANCE REGARDING PRIVATE
ROADS AND COMMON FACILITIES**

THIS DECLARATION OF EASEMENTS AND AGREEMENT FOR MAINTENANCE ("Declaration") is made this ___ day of _____, 2014, by **ASBURY HILL VILLAGE ASSOCIATION** (the "Village Association"), a Michigan non-profit corporation whose address is 3696 Sleeth Road, Commerce Township, Michigan 48382 and **ASBURY HILL ESTATES ASSOCIATION, INC.**, a Michigan non-profit corporation (the "Estates Association"), whose initial address is 3696 Sleeth Road, Commerce Township, Michigan 48382.

RECITALS:

A. The Estates Association is the administrator of and Condominium Association for Asbury Hill Estates, a Condominium Project which has been or will be created on the land described on Exhibit A.

B. Immediately adjacent to the land upon which the Asbury Hill Estates Condominium will be constructed is Asbury Hill Village, a Condominium Project established pursuant to that certain Master Deed recorded on November 29, 2004, in Liber 35045, Pages 781-894, inclusive, Oakland County Records, and known as Oakland County Condominium Subdivision Plan No. 1714, which Master Deed was amended by that certain First Amendment to the Master Deed of Asbury Hill Village recorded on _____, 2014, in Liber _____, Page _____, Oakland County Records (the "Asbury Hill Village Condominium").

C. Asbury Hill Condominium Community Association, Inc., a Michigan non-profit corporation ("Asbury Hill Community Association"), whose address was 520 Knobby Hill Drive, Highland, Michigan 48257, was previously designated as the administrator of the Asbury Hill Village Condominium under the Michigan Condominium Act (MCL 559.101, et. seq., Public Act 59, Public Acts of 1978, as amended ("Act")). It is no longer the administrator as the corporation was dissolved by the State of Michigan on October 1, 2011. The Village Association has been designated as the new administrator and, as such, is, among other things, empowered to act on behalf of the co-owners of the Asbury Hill Village Condominium.

D. Asbury Building and Development, LLC, a Michigan limited liability company, whose address is 5201 Knobby Hill Drive, Highland, Michigan 48257 did, on or about October 9, 2002, grant to the Asbury Hill Community Association that certain

Asbury Hill Private Road Easement Agreement which was recorded on October 31, 2002, in Liber 26950, Page 850 ("Easement Agreement"), which Easement Agreement has been terminated by that certain Termination of Asbury Hill Drive Private Road Easement Agreement dated _____, 2014 and recorded on _____, 2014 in Liber _____, Page _____, Oakland County Records.

E. Asbury Building and Development, LLC, on or about October 9, 2002, also granted to the Asbury Hill Community Association that certain Asbury Hill Private Road Maintenance Agreement which was recorded on October 31, 2002, in Liber 26950, Page 860 ("Maintenance Agreement"), which Maintenance Agreement has been terminated by that certain Termination of Asbury Hill Drive Private Road Maintenance Agreement dated _____, 2014 and recorded on _____, 2014 in Liber _____, Page _____, Oakland County Records.

F. The Village Association is responsible for the administration, maintenance, upkeep, repair, replacement and improvements to the Asbury Hill Village Condominium as agent and representatives of the Co-owners of the Asbury Hill Village Condominium.

G. The Estates Association shall also be responsible for the administration, maintenance, upkeep, repair, replacement and improvements to the Asbury Hill Estates Condominium as agent and representative of the Co-owners of the Condominium.

H. It is desirable that there be common access roadways (such as Asbury Hill Court and Asbury Hill Drive) over portions of the respective Condominiums for purposes of providing ingress and egress to: (i) the Asbury Hill Village Condominium; and (ii) to Asbury Hill Estates Condominium and its Co-owners to and from Grand River Avenue, a public road, and the parties desire to: (1) create easements for such purposes, which in all events shall comply with all current requirements of the Lyon Township Private Road Ordinance; and (2) to provide a method for apportioning maintenance expenses of road and other jointly used facilities by and among the Asbury Hill Village Condominium and its Co-owners and the Asbury Hill Estates Condominium and its Co-owners.

I. It is desirable that easements be created or restated over the Asbury Hill Estates Condominium and Asbury Hill Village Condominium for the installation, maintenance, repair, and replacement of utilities installed in the Asbury Hill Village Condominium and Asbury Hill Estates Condominium which will service both: (i) the Asbury Hill Village Condominium and its Co-owners; and (ii) the Asbury Hill Estates Condominium and its Co-owners; and which will provide a method of apportioning the maintenance expenses of such utilities.

ACCESS EASEMENT

1. **Roads; Use; Access.** The Estates Association and the Village Association declare, grant and convey non-exclusive, perpetual, reciprocal easements for the benefit of the respective Co-Owners of each Condominium and from time to time of the Asbury Hill Estates Condominium and the Asbury Hill Village Condominium, and the respective successors and assigns of each and the agents, employees, tenants and invitees of each, over that real property more particularly described in **Exhibits A and B** attached hereto for egress and ingress to, through and from the Asbury Hill Estates Condominium and the Asbury Hill Village Condominium to the public right-of-way commonly known as Grand River Avenue and for use of all of the roads in the two Condominium Projects. Repairs to the roads and installation of the top course of asphalt shall be completed by Healy Homes, LLC, a Michigan limited liability company within ____ (___) months of the issuance of a certificate of occupancy for the last residence in the Asbury Hill Estates Condominium.

2. **Expenses.** Persons from time to time being Co-owners of the Asbury Hill Estates Condominium or the Asbury Hill Village Condominium (or any part of them) shall be responsible during the time of their ownership for the payment of a portion of the expenses of maintenance, upkeep, repair and replacement of all roads which share of expenses based on the following proportions: Asbury Hill Village 11.86% and Asbury Hill Estates 88.14%. Those expenses shall be expenses of administration of each Condominium.

3. **Utility Easements.** ALSO, the Estates Association and the Village Association declare and grant perpetual non-exclusive reciprocal easements for the benefit of the respective Co-owners from time to time of the Asbury Hill Estates Condominium or the Asbury Hill Village Condominium (or any part of them) and the respective successors and assigns of each and the agents, employees, tenants and invitees of each for the use, enjoyment, operation, maintenance, repair and replacement of the sanitary sewers, detention pond, storm sewer mains and leads, the water mains and leads, the natural gas, electric power, telephone mains and leads and television cables (if any) located on the Asbury Hill Estates Condominium and the Asbury Hill Village Condominium. The easements shall extend six feet on either side of said mains and/or leads as installed, all as on the land described in Exhibits A and B, as the same may be amended from time to time to reflect "as built" locations.

4. **Expenses.** Persons from time to time being Co-owners of the Asbury Hill Estates Condominium and the Asbury Hill Village Condominium (or any parts of them) shall be responsible during the time of their ownership for the payment of a portion of the expenses of maintenance, upkeep, repair and replacement of the above described utility mains which share of expenses shall be 11.86% for Asbury Hill Village Condominium and 88.14% for Asbury Hill Estates Condominium. These charges shall be expenses of administration for each Condominium Project. However, the expense of maintenance, upkeep, repair and replacement of utility leads serving a Unit, building or

dwelling shall be borne by the Co-owners of the parcel or portion of the parcel upon which are located the dwelling units which such lead or leads service.

5. No Other Responsibilities for Asbury Hill Village Condominium Common Elements. The Estate Association shall have no obligation or duty to otherwise maintain, repair, replace or insure and other Common Elements or any of the Units in Asbury Hill Village; those mowing responsibilities remain that of the Village Association. Thus, by way of illustration, mowing landscaped areas in Asbury Hill Village Condominium, snow removal on driveways or sidewalks in Asbury Hill Village Condominium and repairs and maintenance of the buildings containing the Units in Asbury Hill Village remain the responsibility of the Village Association and the Estates Association shall have no responsibility or duties in those regards.

6. Right to Dedicate. Without the consent of any person interested in the Asbury Hill Estates Condominium and the Asbury Hill Village Condominium, the Association may dedicate to the public, in fee or otherwise, the roads, rights or way, utilities and easement areas established by this Declaration. In the event of any such dedication, the Association shall cause an amendment to be made to this Declaration and to be duly recorded in order to properly reflect such dedication. Upon recordation of such separate Declaration or any such amendment, any newly resulting easements shall be administered as originally provided herein. Nothing stated in this Declaration is intended to suggest deduction will occur. Acceptance of a declaration is a decision solely within the discretion of the public body with jurisdiction over roads and is unlikely to occur because of the physical characteristics of the Project and the requirements of the local public authorities.

7. Administration by Estates Association. The easements created shall be administered by the Estates Association or by such successor or successors thereof as shall be assigned the administrative responsibilities hereunder pursuant to recorded instrument executed by the Estates Association.

8. Binding Effect; Successors and Assigns; Runs with Land. The easements granted and declared shall run with the land and shall be reciprocal, non-exclusive perpetual easements and shall be of both benefit and burden to the Co-owners of the Asbury Hill Estates Condominium and the Asbury Hill Village Condominium, and any parts of them, and their respective successors and assigns. The easements, however, are private and nothing contained in this Declaration shall be deemed to constitute a dedication of the same to the public absent dedication by separate specific recorded instrument.

9. Estate Association; Control; Decision. The costs of maintenance, repair, replacement and insurance shall be considered expenses of administration of each Condominium Project. All decisions related to administration of the easements and this Declaration shall be made solely by the Estates Association in its sole and

absolute discretion. The costs and expenses shall be deemed to include, by way of example but not as a limitation, snow removal, road clearing, road patching, re-paving, insurance, mowing and related maintenance, repairs and replacement of the roads and detention pond.

10. Remedies. The Estates shall have all rights and remedies available to the Village Association to proportionately collect unpaid fees, expenses, costs and attorney's fees under this Declaration from the Village Association and its members as provided under the Asbury Hill Village condominium documents in effect as of the date of this Declaration, including but not limited to a right to file a lien on an individual Unit for the Unit's proportionate share of the expenses, costs and attorney's fees and the right to foreclose that lien in the manner provided for foreclosing mortgages by judicial action or by advertisement under Michigan law.

IN WITNESS WHEREOF, this Declaration was executed as of the day and year first written above.

**ASBURY HILL VILLAGE ASSOCIATION, a
Michigan non-profit corporation**

By: _____

Jack Healy

Its: President

Acknowledged before me in Oakland County, Michigan, on _____,
2014, by Jack Healy, President of ASBURY HILL VILLAGE ASSOCIATION, a Michigan
non-profit corporation, on behalf of the Association.

Notary's Stamp
(NOTARY NAME, COUNTY, ACTING IN COUNTY
AND DATE COMMISSION EXPIRES)

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

**ASBURY HILL ESTATES ASSOCIATION,
INC., a Michigan non-profit corporation**

By: _____
Jack Healy
Its: President

Acknowledged before me in Oakland County, Michigan, on _____, 2014, by Jack Healy, President of ASBURY HILL ESTATES ASSOCIATION, INC., a Michigan non-profit corporation, on behalf of the corporation.

Notary's Stamp
(NOTARY NAME, COUNTY, ACTING IN COUNTY
AND DATE COMMISSION EXPIRES)

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

Drafted By and When Recorded Return To:
Gregory J. Gamalski, Esq.
Giarmarco, Mullins & Horton, P.C.
101 West Big Beaver Road, Suite 1000
Troy, MI 48084-5280

EXHIBIT "A"

LEGAL DESCRIPTION OF ASBURY HILL ESTATES CONDOMINIUM

A PARCEL OF LAND BEING PART OF THE NORTH 1/2 OF SECTION 5, T. 1N., R. 7E., LYON TOWNSHIP, OAKLAND COUNTY, MICHIGAN, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SECTION 5, T.1N., R.7E., THENCE PROCEEDING ALONG THE NORTH AND SOUTH 1/4 LINE OF SAID SECTION 5, NORTH 00 DEGREES 49 MINUTES 08 SECONDS EAST, 862.09 FEET TO A POINT, SAID POINT BEING DISTANT SOUTH 00 DEGREES 49 MINUTES 08 SECONDS WEST, 2405.25 FEET FROM THE NORTH 1/4 POST OF SAID SECTION 5; THENCE NORTH 86 DEGREES 46 MINUTES 25 SECONDS WEST, 511.10 FEET; THENCE NORTH 00 DEGREES 44 MINUTES 27 SECONDS EAST, 910.00 FEET TO THE SOUTHERLY LINE OF GRAND RIVER AVENUE (100 FEET WIDE); THENCE ALONG THE SOUTHERLY LINE OF GRAND RIVER AVENUE, SOUTH 86 DEGREES 46 MINUTES 25 SECONDS EAST, 284.99 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG THE SOUTHERLY LINE OF GRAND RIVER AVENUE SOUTH 86 DEGREES 46 MINUTES 25 SECONDS EAST, 164.95 FEET TO THE NORTHWEST CORNER OF ASBURY HILL VILLAS CONDOMINIUM SUBDIVISION PLAN NUMBER 1715, OAKLAND COUNTY RECORDS; THENCE SOUTH 00 DEGREES 44 MINUTES 27 SECONDS WEST, 193.39 FEET; THENCE NORTH 89 DEGREES 07 MINUTES 05 SECONDS WEST, 110.85 FEET; THENCE SOUTH 54 DEGREES 48 MINUTES 26 SECONDS WEST, 96.48 FEET; THENCE SOUTH 35 DEGREES 44 MINUTES 19 SECONDS EAST, 127.84 FEET; THENCE SOUTH 25 DEGREES 40 MINUTES 23 SECONDS WEST, 89.19 FEET; THENCE NORTH 56 DEGREES 50 MINUTES 43 SECONDS WEST, 92.91 FEET; THENCE NORTH 35 DEGREES 44 MINUTES 19 SECONDS WEST, 129.95 FEET; THENCE NORTH 54 DEGREES 19 MINUTES 09 SECONDS EAST, 174.74 FEET; THENCE NORTH 01 DEGREES 00 MINUTES 31 SECONDS EAST, 182.52 FEET TO THE POINT OF BEGINNING. CONTAINING 1.30 ACRES OF LAND, MORE OR LESS. BEING SUBJECT TO THE RIGHT OF THE PUBLIC AND OR ANY GOVERNMENTAL UNIT IN THAT PART OF GRAND RIVER AVENUE TAKEN, OR DEEDED FOR STREET, ROAD, HIGHWAY, OR PUBLIC UTILITY PURPOSES. ALSO BEING SUBJECT TO ANY OTHER EASEMENTS RESTRICTIONS OR CONDITIONS OF RECORD.

EXHIBIT "B"

UNITS 1 THROUGH 4 AND UNITS 17 THROUGH 19 ASBURY HILL VILLAGE CONDOMINIUM ACCORDING TO THE MASTER DEED RECORDED IN LIBER 35045, PAGE 849, OAKLAND COUNTY RECORDS AS AMENDED BY THIS FIRST AMENDMENT TO MASTER DEED, OAKLAND COUNTY CONDOMINIUM SUBDIVISION PLAN NO. 1714.

Also described on in The First Amendment to the Master Deed and Replat No.1 of the Condominium Subdivision Plan of Asbury Hill Village as:

A PARCEL OF LAND BEING PART OF THE NORTH 1/2 OF SECTION 5, T. 1N., R. 7E., LYON TOWNSHIP, OAKLAND COUNTY, MICHIGAN, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SECTION 5, T.1N., R.7E., THENCE PROCEEDING ALONG THE NORTH AND SOUTH 1/4 LINE OF SAID SECTION 5, NORTH 00 DEGREES 49 MINUTES 08 SECONDS EAST, 862.09 FEET TO A POINT, SAID POINT BEING DISTANT SOUTH 00 DEGREES 49 MINUTES 08 SECONDS WEST, 2405.25 FEET FROM THE NORTH 1/4 POST OF SAID SECTION 5; THENCE NORTH 86 DEGREES 46 MINUTES 25 SECONDS WEST, 511.10 FEET; THENCE NORTH 00 DEGREES 44 MINUTES 27 SECONDS EAST, 910.00 FEET TO THE SOUTHERLY LINE OF GRAND RIVER AVENUE (100 FEET WIDE); THENCE ALONG THE SOUTHERLY LINE OF GRAND RIVER AVENUE, SOUTH 86 DEGREES 46 MINUTES 25 SECONDS EAST, 284.99 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG THE SOUTHERLY LINE OF GRAND RIVER AVENUE SOUTH 86 DEGREES 46 MINUTES 25 SECONDS EAST, 164.95 FEET TO THE NORTHWEST CORNER OF ASBURY HILL VILLAS CONDOMINIUM SUBDIVISION PLAN NUMBER 1715, OAKLAND COUNTY RECORDS; THENCE SOUTH 00 DEGREES 44 MINUTES 27 SECONDS WEST, 193.39 FEET; THENCE NORTH 89 DEGREES 07 MINUTES 05 SECONDS WEST, 110.85 FEET; THENCE SOUTH 54 DEGREES 48 MINUTES 26 SECONDS WEST, 96.48 FEET; THENCE SOUTH 35 DEGREES 44 MINUTES 19 SECONDS EAST, 127.84 FEET; THENCE SOUTH 25 DEGREES 40 MINUTES 23 SECONDS WEST, 89.19 FEET; THENCE NORTH 56 DEGREES 50 MINUTES 43 SECONDS WEST, 92.91 FEET; THENCE NORTH 35 DEGREES 44 MINUTES 19 SECONDS WEST, 129.95 FEET; THENCE NORTH 54 DEGREES 19 MINUTES 09 SECONDS EAST, 174.74 FEET; THENCE NORTH 01 DEGREES 00 MINUTES 31 SECONDS EAST, 182.52 FEET TO THE POINT OF BEGINNING. CONTAINING 1.30 ACRES OF LAND, MORE OR LESS. BEING SUBJECT TO THE RIGHT OF THE PUBLIC AND OR ANY GOVERNMENTAL UNIT IN THAT PART OF GRAND RIVER AVENUE TAKEN, OR DEEDED FOR STREET, ROAD, HIGHWAY, OR PUBLIC UTILITY PURPOSES. ALSO BEING SUBJECT TO ANY OTHER EASEMENTS RESTRICTIONS OR CONDITIONS OF RECORD.

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