

CITY OF SALINE / SALINE TOWNSHIP
CONDITIONAL TRANSFER AND DEVELOPMENT AGREEMENT

This Conditional Transfer and Development Agreement is made as of _____, 2020, between the Township of Saline, a general law township, the principal business address of which is 5731 Braun Rd., Saline, MI 48176 (the “Township”), the City of Saline, a home rule city, the principal business address of which is 100 N. Harris St., Saline, MI 48176 (the “City”), and M/I Homes of Michigan, LLC, a Delaware limited liability company, the registered legal address of which is 1668 S. Telegraph Rd., Ste. 200, Bloomfield Hills, MI 48302 (“Developer”).

RECITALS

A. 1984 PA 425, as amended, MCL 124.21 *et seq.* (“Act 425”), authorizes two or more “local units” of government to enter into an agreement providing for (i) the conditional transfer of property for the purpose of providing for and enhancing one or more economic development projects, (ii) the jurisdiction over the transferred property, (iii) the sharing of taxes and other specific revenues, and (iv) certain related matters as provided in Act 425.

B. The City and the Township are both “local units” as defined by Act 425.

C. Developer owns approximately 117 acres of land in the Township located on the north side of Michigan Avenue, along the Township-City jurisdictional line, as more particularly described and depicted on the attached **Exhibit A** (the “Property”).

D. In contemplation of a possible future conditional transfer of the Property in accordance with Michigan law, the City and the Township included the Property in their duly adopted master plans for future development and both plans consistently depict the Property as part of an urban development area planned for more intense development consistent with adjacent land uses in the City.

E. Developer submitted to the Township an application for planned unit development (“PUD”) approval and a concept plan depicting a mixed-use development to be known as “Andelina Farms” (or the “Project”). At its August 2017 regular meeting, the Township Board, after the unanimous recommendation of its Planning Commission and planning consultant, approved the PUD area plan for the Project, noting its consistency with the Township’s master plan and zoning ordinance, and authorized the development of the Project with an on-site sewer and water system (the “On-Site Utilities”). On August 7, 2018, the Township Planning Commission approved the Overall Site Plan for the Project consisting of 158 single family homes and 126 multi-family dwelling units, which is attached hereto as **Exhibit B**.

F. At its April 15, 2019 meeting, the Township Planning Commission approved the Final Site/Engineering Plan-Phase I for the Project, prepared by Atwell, LLC (revised as of 12/2018), a copy of which is attached hereto as **Exhibit C** (the “Phase I Final Site Plan”).

G. The Project is also consistent with the City’s master plan and is an economic development project as defined in Act 425.

H. The cooperation between the City and Township reflected in this Agreement facilitates development of the Project and otherwise furthers development goals and objectives in their respective master plans.

I. Furthermore, Township and City cooperation avoids future disputes, better accommodates desired development, assures development in a mutually beneficial manner, improves the development quality, and better utilizes their respective resources.

TERMS AND CONDITIONS

In exchange for the consideration in and referred to by this Agreement, the parties agree as follows:

ARTICLE I

Purpose, Authority, Representations and Findings

1.1 Purpose. This Agreement is intended to fully address the conditional transfer of the Property from the jurisdiction of the Township to the jurisdiction of the City. The Recitals stated above are fully incorporated into this Agreement.

1.2 Authority. This Agreement is made pursuant to Act 425, as well as the general authority each party has under the statutes authorizing its organization and existence, as well as the City Charter of the City.

1.3 Findings and Representations. The City, by action of its City Council in approving this Agreement, and the Township, by action of its Township Board in approving this Agreement, make the following findings and representations.

(a) Local Units. The City, organized and existing as a home rule city under the Home Rule Cities Act, Act 279 of the Public Acts of Michigan of 1909, as amended, MCL 117.1 *et seq.*, and the Township, organized and existing as a general law township pursuant to Article VII, Section 17 of the 1963 Michigan Constitution and Revised Statutes of Michigan of 1846, c.16, as amended, MCL 41.1 *et seq.*, are both “local governmental units” as defined by Act 425.

(b) Project. As is indicated in the recitals above, this Agreement is for the purpose of an economic development project permissible under Act 425.

(c) Proposed Transfer. The City and the Township propose that the Property be conditionally transferred from the Township to the City pursuant to Act 425.

(d) Considered Factors. Both the City and the Township have, as required by Act 425, considered certain factors prior to entering into this Agreement, including the following:

(1) Composition of the population; population density; land area and land uses; assessed valuation; topography, natural boundaries and drainage basins; past and probable future growth, including population increase and business, commercial, and industrial development on the Property; and the comparative data for the City and the portion of the City remaining after the transfer of the Property.

(2) Need for organized community services; the present costs and adequacy of governmental services on the Property; the probable future need for services to the Property; the practicability of supplying such services to the Property; the probable effect of the transfer and of alternative courses of action on the cost and adequacy of services on the Property and on the remaining portion of the City; the probable change in taxes and

tax rates on the Property in relation to the benefits expected to accrue from the transfer; and the financial ability of the Township to provide and maintain services to the Property.

(3) The general effect of the conditional transfer upon the City and the Township and the relationship of the conditional transfer to any established land use plans.

(e) Public Hearing. Pursuant to Act 425, the City Council held a public hearing on _____, 2020, at 7:00 p.m., and the Township Board held a public hearing on _____, 2020, at 7:00 p.m., regarding the conditional transfer of the Property, notice of which public hearing was given in the manner provided by the Open Meetings Act, Act 267 of the Public Acts of Michigan of 1976.

(f) Majority Vote. The City Council and the Township Board have each decided, by majority vote of the members elected and serving on each body, to enter into this Agreement.

(g) Hearings, Notice and No Referendum. Neither the City Council nor the Township Board adopted a resolution calling for a referendum on the conditional transfer to be made pursuant to this Agreement. More than 30 days have elapsed since the public hearings held regarding this Agreement since the City Council and the Township Board have adopted resolutions indicating their intention to enter into this Agreement. Neither the City Clerk nor the Township Clerk received a petition for a referendum on this Agreement or the conditional transfer of the Property to occur pursuant to this Agreement.

1.4 Township Representation Concerning Property for Transfer. The Township represents and covenants that it has not pledged any revenue from and has not represented to any obligees, lenders, bond holders, or creditors that it is dependent upon or anticipating any revenue from the Property to meet any obligations of the Township or any entity created or controlled by the Township. The Township also represents and covenants that it knows of no special assessments levied against the Property.

ARTICLE II

Transfer and Effects

2.1 Transfer of Property. The Property is hereby conditionally transferred from the jurisdiction of the Township to the jurisdiction of the City.

2.2 Effect of Transfer. The Property shall, for all purposes, be within the jurisdiction of the City. The Township shall have no further jurisdiction over the Property. Without limiting the generality of the City's jurisdiction and the effect of that jurisdiction, the parties agree as follows:

(a) Zoning and Development of Transferred Area. The City and Township agree that all Township and other agency development approvals for the Project shall remain in effect and/or are transferred over to the City to the extent required or applicable. The City acknowledges and approves the development and use of the Property for the Project in the form and manner approved by the Township and as depicted on the Overall Site Plan (**Exhibit B**) and Phase I Final Site Plan (**Exhibit C**), as such Plans have been revised to eliminate the On-Site Utilities and reflect connection to City water and sewer service in accordance with the terms and conditions of the Development and Utility Service Agreement entered into by the City and Developer dated as of _____, 2020 (the "Development Agreement"). (**Exhibit D** hereto.) The City shall be deemed to have given all

City approvals and variances required for the Project, provided however, that final engineering for future phases of the Development will be submitted to the City for review and approval, consistent with normal City procedures and standards, and shall be approved if consistent with the Overall Site Plan and Phase I Final Site Plan, as amended by the Development Agreement, but will accommodate typical City planning standards/requirements provided that such requirements do not change the layout of the development, road widths and other dimensions and construction standards, lot or unit counts or dimensions and other approved setbacks. The Township agrees that its previous approvals of the PUD Project shall remain in effect and that if the Property reverts to the Township, Developer may continue to pursue the steps to complete the development or Project under the existing approvals and Township Zoning Ordinance.

(b) Governmental Services. The City shall provide all governmental service available to other property in the City, including, without limitation, sanitary sewer and water service, police and fire protection, economic development services, real and personal property assessment and collection services, building permits and inspection services, street and road maintenance and repair, real and personal property tax abatement, and other municipal facilities and services to the Property area and its occupants on the same basis and to the same extent as the City provides such governmental services within the legal limits of the City. The Township shall have no obligation to provide any services to the Property or its occupants.

(c) Applicability and Enforcement of Ordinances. The Property will be treated as being within the legal limits of the City for the purpose of applying and enforcing all ordinances, rules, and regulations, subject to the provisions set forth above. The City shall be responsible for enforcing all such ordinances, rules and regulations.

(d) Water and Sewer Services. In connection with the proposed Project, the City and Developer have entered into the Development Agreement, which provides, among other things, the terms and conditions of the City extending sewer and water lines to serve the Project. The effectiveness of the Development Agreement is conditional on the Parties' approval and execution of this Agreement.

(e) Taxes. For the purposes of all taxation, including, without limitation, *ad valorem* real and personal property taxes, income taxes, hotel/motel tax, etc., the Property shall be considered as being within the legal limits and jurisdiction of the City, except that any property taxes against the Property arising out of the Township's tax roll for 2019 and prior years shall remain a lien on the affected parcel(s) in the Property.

(f) Special Assessments. The Property shall be within the legal limits and jurisdiction of the City for purposes of special assessments.

(g) Rates, Charges and Fees. All rates, charges, fees and other costs for governmental services provided in the Property shall be calculated, levied, charged, billed and collected on the same basis as all other similarly situated property within the legal limits and jurisdiction of the City.

(h) Voting. Any persons residing on the Property shall be entitled to vote on the same basis as all other persons residing within the legal limits of the City.

2.3 Sharing of Revenues.

(a) The Property shall be within the City for purposes of all taxation, state revenue sharing, grants and other possible sources of revenues. Therefore the City shall levy and collect *ad valorem* real and personal property taxes (including, without limitation, any industrial facilities taxes or other property taxes in lieu of abated *ad valorem* real and personal property taxes) from the Property. The City will also retain any revenue sharing, grants or other amounts received because the Property and any improvements to and occupants of the Property are within the City. The parties agree that the current taxable value of the Property shall not be increased by virtue of or as a result of this Agreement or transfer of the Property to the City pursuant to this Agreement, provided however, that as improvements, utilities and services are constructed upon and/or provided to the Property, such activities may affect the current taxable value. However, it is possible the conditional transfer of the Property pursuant to this Agreement may affect (increasing or decreasing) the true cash and assessed value of the Property and that may be reflected upon conveyance of some or all of the Property or another event resulting in an “uncapping” of the taxable value.

(b) The City shall pay to the Township an amount equal to the taxes generated by ¼ mills levied against the taxable value of all real and personal property comprising or located on the Property, for a period of 5 years, beginning on August 1, 2025, and continuing thereafter for 5 years.

(c) The granting of any tax abatements or exemptions shall be solely within the discretion of the City which shall address any requests for abatements or exemptions in accordance with state law.

ARTICLE III **Term and Termination**

3.1 Term. This Agreement shall, unless earlier terminated, terminate on December 31, 2031.

3.2 Jurisdiction of Property at Termination. Upon the termination of this Agreement as provided in section 3.1, the Property shall for all purposes be within the legal limits and jurisdiction of the City.

ARTICLE IV **Miscellaneous**

4.1 Notices. Any notice, demand, or communication required, permitted, or desired to be given under this Agreement shall be deemed effectively given when personally delivered to those addresses first provided above. The parties may, by written notice, designate any further or different address to which subsequent notices, demands, or communications may be given.

4.2 Interpretation.

(a) Headings. The headings in this Agreement are for reference purposes only and shall not affect its interpretation. However, the Recitals are an integral part of this Agreement.

(b) Entire Agreement. This is the entire agreement between the parties regarding its subject matter. It supersedes and replaces all previous or contemporaneous, express or implied, written or oral statements, covenants, representations or agreements. The parties acknowledge, in entering into and signing this Agreement, they are relying solely upon the terms of this Agreement.

(c) Amendment. This Agreement may not be amended except in writing signed by the parties following public hearings before and resolutions adopted by the Township Board and the City Council.

(d) Benefits. No party shall be entitled to benefits other than those specified herein. No other party is intended to be a beneficiary of this Agreement.

(e) Counterparts. A number of copies of this Agreement were signed. Each is a valid original.

(f) Counsel. All parties were represented by legal counsel who had input into the drafting of this Agreement. It is therefore to be construed as mutually drafted.

(g) Successors and Assigns. This Agreement shall bind the Developer and its successors and assigns in interest, including the future unit owners of the Development and the condominium association to the obligations herein, and the Developer shall record such documents necessary to effectuate this provision. This Agreement shall not be assigned without the written consent to the Parties hereto.

4.3 Remedies. The parties agree legal remedies are inadequate so any party has a right to equitable remedies including, without limitation, mandamus, specific performance, and injunctive relief. Before a party may initiate any legal or equitable action pursuant to or to enforce any provision of this Agreement, that party shall first notify the other parties of the basis for its claim, including details of the facts and the law upon which it is relying. Each recipient party shall, within 21 days of receiving the claim, respond in writing identifying those issues on which it agrees and stating in detail the facts and law upon which it is relying. The parties shall meet within 14 days after the date the response is due to discuss and seek to resolve the dispute. These time frames may be adjusted by the parties' written consent.

4.4 Filing and Effective Date.

(a) Initial Filing and Effective Date. In accordance with Act 425, when signed by all parties, a duplicate original of the Agreement shall be filed with the Clerk of Washtenaw County and with the Michigan Secretary of State. This Agreement, certified by such County Clerk or the Secretary of State, shall be *prima facie* evidence of the conditional transfer of the areas pursuant to this Agreement. This Agreement shall be effective at 12:01 a.m. on _____, 2020, provided it has been filed with the County Clerk and the Secretary of State.

(b) Additional Filing. The parties agree to sign and file any additional documents, such as notices, forms and reports that may be required or requested by county, state or other agencies, that may be needed to give full effect to and to fully implement this Agreement.

(Signatures on following page)

The parties signed this Agreement as of the date first written above.

TOWNSHIP OF SALINE

CITY OF SALINE

By: _____
James Marion, Supervisor

By: _____
Brian Marl, Mayor

By: _____
Kelly Marion, Township Clerk

By: _____
Terri Royal, City Clerk

Date signed: _____, 2020

Date signed: _____, 2020

**M/I HOMES OF MICHIGAN, LLC, a
Delaware limited liability company**

By: _____
_____, Member

Date signed: _____, 2020

Attachments:

- Exhibit A – Description and Depiction of Property
- Exhibit B – Overall Site Plan
- Exhibit C – Phase I Final Site Plan
- Exhibit D – Development and Utility Services Agreement

EXHIBIT A

DESCRIPTION AND DEPICTION OF PROPERTY

EXHIBIT B
OVERALL SITE PLAN

EXHIBIT C
PHASE I FINAL SITE PLAN

EXHIBIT D

DEVELOPMENT AND UTILITY SERVICES AGREEMENT