

## PROPERTY DONATION AGREEMENT

This Property Donation Agreement (“Agreement”) is made and entered into on 5/25, 2021, by Shaun Llewellyn (“Llewellyn”), whose address is 442 Willow Grove Lane, Rochester Hills, MI 48307; Stephen D. Opatich IV (“Opatich”), whose address is 58030 Cyrenus Lane, Washington, MI 48094; and the City of Rochester Hills (“City”), whose address is 1000 Rochester Drive, Rochester Hills, MI 48309.

WHEREAS, Llewellyn and Opatich together own parcels of real estate located in the City of Rochester Hills, Oakland County, Michigan, hereinafter referred to as the “Property,” described as:

T3N, R11E, Sec 36 Supervisor’s Plat of Brooklands Park No.2 Lots 27 & 28

Parcel Nos. 70-15-36-204-029

70-15-36-204-030

WHEREAS, Llewellyn and Opatich desire to donate and dedicate the Property to the City, and the City gratefully desires to accept ownership of the Property on the terms and conditions set forth herein.

THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS HEREIN CONTAINED, THE PARTIES AGREE AS FOLLOWS:

1. PROPERTY DONATION. Subject to the terms hereof, Llewellyn and Opatich agree to donate and transfer, and City agrees to accept, ownership of the Property.

2. CONVEYANCE, TITLE AND SURVEY. Title to the Property shall be conveyed at closing by warranty deed. The deed shall convey marketable title, subject only to real estate taxes not then delinquent, and covenants, conditions, restrictions, easements and rights-of-way of record. As of the date hereof, the City has not examined the title to the Property. If an examination of the title to the Property discloses a title defect or condition which, in City’s judgment, may interfere with City’s intended ownership and use of the Property, then, prior to closing, the City shall provide written notice thereof to Llewellyn and Opatich. If Llewellyn and Opatich are unable or unwilling to remedy any such title defect or condition, then the City, at its election, may either accept ownership of the Property subject to the title defect or condition or may terminate this Agreement without further liability to any party.

Prior to closing, the City may, at its expense, obtain a boundary survey of the Property. The legal description prepared from that survey shall be used in Llewellyn’s and Opatich’s deed to the City.

3. POSSESSION. Possession of the Property shall be delivered to City at closing, and shall not be subject to any lease, tenancy, or occupancy.

4. PROPERTY TAXES AND ASSESSMENTS. Llewellyn and Opatich shall pay any property taxes, special assessments and utility and capital charges which have become a lien on the Property. Current taxes shall be prorated to the date of the closing, on a due date basis. The parties assume there will be no transfer taxes based on the charitable nature of the transaction as a donation and because the City is tax exempt.

5. CLOSING DATE. Closing shall occur on or before September 7, 2021 at a location to be mutually agreed by Llewellyn, Opatich and the City.

6. SITE INVESTIGATION AND CONDITION OF PROPERTY. Llewellyn and Opatich grant to the City a temporary license to enter onto the Property to conduct such environmental due diligence investigation, inspection, and testing as the City deems appropriate. The City shall conduct its site investigation in such a manner so as to minimize any damage to the Property and, to the extent practicable, the City shall promptly repair any damage and reasonably restore the Property to its prior condition. The City agrees to provide Llewellyn and Opatich with at least one day's advance notice before any of the City's consultants or employees enter onto the Property. The City agrees to hold Llewellyn and Opatich harmless from any liability, loss or damages incurred or suffered by either of them relating to any activities of the City, its employees or contractors on or about the Property prior to the date of closing. Llewellyn and Opatich represent and warrant to the City that at closing, the Property shall be free from any and all city, county, state and federal orders, judgments or enforcement actions affecting the Property. Llewellyn and Opatich further represent and warrant to the City that they have not received notice of any violation of any applicable federal, state or local law, ordinance, order, rule or regulation or of any private covenant, condition, restriction or easement relating to the Property. Llewellyn and Opatich further represent and warrant to the City that, to the best of their knowledge, the Property is free from any and all hazardous substances and hazardous wastes, asbestos, and underground storage tanks.

7. SUCCESSORS and ASSIGNS. This Agreement shall inure to the benefit of and be binding on the parties hereto and their respective successors and assigns; provided, however, that the City shall not have the right, without the consent of Llewellyn and Opatich, to assign this Agreement, except that the City may assign this Agreement to any department, agency or entity that is part of or related to the City without need for Llewellyn's or Opatich's consent.

8. NOTICES. All notices shall be in writing and shall be deemed given when such notices are hand delivered or deposited in a U.S. Mail receptacle addressed to the receiving party with postage prepaid at the following addresses (which may be changed by either party by written notice delivered to the other):

If intended for Llewellyn:

Shaun Llewellyn  
442 Willow Grove Lane  
Rochester Hills, MI 48307

If intended for Opatich:

Stephen D. Opatich IV  
58030 Cyrenus Lane  
Washington, MI 48094

If intended for City:

Mayor Bryan K. Barnett  
City of Rochester Hills  
1000 Rochester Hills Drive  
Rochester Hills, MI 48309

9. PROPERTY RESTRICTIONS. As an integral and material component of this transaction, the use of the Property shall be restricted in perpetuity to the following purpose:

Construction, operation and maintenance of a municipal public parking lot. The City shall have the authority to adopt and enforce parking lot regulations and controls, but the City shall not charge for parking during the first 10 years of operation. Nor may the City allow overnight parking. In the event the Property is not improved and used for a municipal public parking lot by December 31, 2022, or if thereafter it ceases to be used for that purpose, all right, title, and interest in the Property shall revert back to Donor, except that if prior to that deadline the City has been reasonably diligent in developing plans and budget to undertake and complete the project but has been prevented or delayed from doing so by extenuating or unforeseen circumstances or force majeure, the stated deadline shall be extended for a reasonable amount of time necessary for the City to complete the project.

10. POST CLOSING COOPERATION. The Parties agree that Llewellyn's and Opatich's donation of the Property, and the City's development and use of the Property as a municipal public parking lot as part of the City's Auburn Road Corridor Improvement Project is a mutual benefit to all the parties and to the community and public at large. Therefore, the parties agree to reasonably cooperate with each other post-closing for the purpose of developing and using the Property for a municipal public parking lot in connection with the City's Auburn Road Corridor Improvement Project.

11. MISCELLANEOUS PROVISIONS. The foregoing Agreement contains the entire understanding between Llewellyn, Opatich, and the City relative to the subject matter hereof, and no oral representations heretofore made by any party to the others shall be binding upon any of them. The agreements and representations made herein shall survive the closing and shall not be merged in the closing. This Agreement shall be binding upon and inure to the benefit of the parties, their respective heirs, successors and permitted assigns. This Agreement shall be governed by Michigan law.

12. CHARITABLE GIFT. The Property is being donated by Llewellyn and Opatich to the City as a charitable gift. The City intends to use the Property exclusively for public purposes within the meaning of Internal Revenue Code Sec. 170(c)(1) and as set forth particularly herein.

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

  
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Shaun Mewellyn

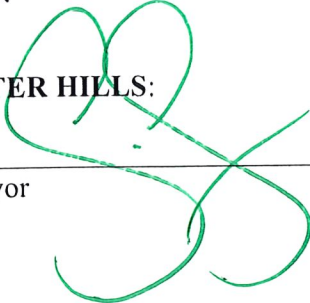
Date: 5-24-21, 2021

  
\_\_\_\_\_  
Stephen D. Opatich IV

Date: 5-24-21, 2021

**CITY OF ROCHESTER HILLS:**

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Bryan K. Barnett, Mayor



Date: 5-25-21, 2021