

**CLEAR CREEK SUBDIVISION
FOURTH AMENDED AGREEMENT FOR
SUBDIVISION OPEN SPACE**

THIS FOURTH AMENDED AGREEMENT (“Fourth Amendment”) is made effective as of _____, 2013, by the **City of Rochester Hills**, having an address of 1000 Rochester Hills Drive, Rochester Hills, Michigan 48063 (the “City”), **Kay Clear Creek, LLC**, a Michigan limited liability company, having an address of 57 Kay Industrial Drive, Lake Orion, MI 48359 (the “Sub No. 5 Developer”), and **Clear Creek Community Association**, a Michigan nonprofit corporation, having an address of 57 Kay Industrial Drive, Lake Orion, MI 48359 (“Association”).

BACKGROUND STATEMENT

Clear Creek Community is a residential subdivision located in the City of Rochester Hills, Oakland County, Michigan, established by Subdivision No. 1 recorded in Liber 268, Pages 7 – 20, Subdivision No. 2 recorded in Liber 278, Pages 26 - 31, Subdivision No. 3 recorded in Liber 284, Pages 36 – 43, and Subdivision No. 4 recorded in Liber 293, Pages 28 – 33, in Oakland County Records (collectively, the "Subdivision").

The Subdivision is subject to that certain Clear Creek Subdivision Agreement for Subdivision Open Space Plan recorded in Liber 20527, Pages 881 – 894, Clear Creek Subdivision First Amended Agreement for Subdivision Open Space Plan recorded in Liber 23310, Pages 44 – 46, Clear Creek Subdivision Second Amended Agreement for Subdivision Open Space Plan dated _____ and unrecorded, and Clear Creek Subdivision Third Amended Agreement for Subdivision Open Space Plan recorded in Liber 35751, Pages 370 – 372, in Oakland County Records (collectively, the “Open Space Plan”).

All rights and obligations of “Developer” described in the Open Space Plan with respect to Clear Creek Sub No. 1, 2, 3 and 4 have been assigned to the Association. All rights and obligations of “Developer” described in the Open Space Plan with respect to Clear Creek Sub No. 5 (as defined below) have been assigned to Sub No. 5 Developer pursuant to an Assignment of Developer Rights dated March 8, 2012, and recorded in Liber 44077, Page 567, in Oakland County Records.

The parties hereto desires to add additional land to the Subdivision and subject same to the terms of the Open Space Plan as provided herein.

NOW WHEREFORE:

1. The land described as "Clear Creek Sub No. 5" on Exhibit A attached hereto shall be added to the Subdivision, and to the Open Space Plan.

2. The City agrees to look to the Association for performance of obligations of the "Developer" under the Open Space Plan with respect to Clear Creek Sub Nos. 1, 2, 3 and 4, and to Sub No. 5 Developer for performance of obligations of the "Developer" under the Open Space Plan with respect to Clear Creek Sub No. 5 until such time as the rights of "Developer" are transferred and assigned to, and assumed by, the Association at which time the City agrees to look solely to the Association.

THE UNDERSIGNED have executed this Fourth Amendment with all necessary authority to bind the respective parties hereto and the Association.

ASSOCIATION:
Clear Creek Community Association,
A Michigan nonprofit corporation

SUB NO. 5 DEVELOPER
Kay Clear Creek, LLC,
a Michigan limited liability company

By: Kay Cleark Creek, LLC, its sole director

By: _____
Name: _____
Its: _____

By: _____
Name: _____
Its: _____

CITY:
City of Rochester Hills

By: _____
Name: _____
Its: _____

Exhibit A

Legal Description

Clear Creek Sub No. 5

Part of the northeast 1/4 of Section 2, Town 3 North, Range 11 East, City of Rochester Hills, Oakland County, Michigan, described as follows: Beginning at the north 1/4 corner of said Section 2, thence north 89 degrees 57 minutes 50 seconds east 682.95 feet along the north line of said Section 2, said line also being the centerline of Mead Road; thence south 51 degrees 37 minutes 10 seconds east 42.08 feet; thence south 02 degrees 05 minutes 30 seconds east 873.84 feet; thence north 89 degrees 57 minutes 50 seconds east 615.00 feet, thence north 02 degrees 05 minutes 30 seconds west 371.49 feet; thence south 51 degrees 37 minutes 10 seconds east 932.91 feet; thence the following seven (7) courses along proposed Clear Creek Subdivision No. 4, south 38 degrees 22 minutes 50 seconds west 170.00 feet and north 51 degrees 37 minutes 10 seconds west 40.00 feet and south 38 degrees 22 minutes 56 seconds west 235.00 feet and north 51 degrees 37 minutes 10 seconds west 20.00 feet and south 31 degrees 01 minutes 42 seconds west 241.42 feet and 30.01 feet along the arc of a curve to the right said curve having a radius of 540.00 feet a chord of south 57 degrees 22 minutes 49 seconds east 30.00 feet and south 34 degrees 12 minutes 42 seconds west 170.00 feet; thence the following nine (9) courses along Clear Creek Sub. No. 3, as recorded in liber 284, pages 36-43, Oakland County Records, south 55 degrees 52 minutes 44 seconds west 97.44 feet and north 89 degrees 27 minutes 46 seconds west 680.00 feet and south 00 degrees 32 minutes 14 seconds west 160.00 feet and north 89 degrees 27 minutes 46 seconds west 61.87 feet and 30.32 feet along the arc of a curve to the right said curve having a radius of 60.00 feet a chord of north 74 degrees 59 minutes 07 seconds west 30.00 feet and 57.08 feet along the arc of a curve to the left said curve having a radius of 60.00 feet a chord of north 87 degrees 45 minutes 42 seconds west 54.95 feet and north 72 degrees 23 minutes 56 seconds west 20.00 feet and north 89 degrees 27 minutes 46 seconds west 130.00 feet and south 57 degrees 30 minutes 48 seconds west 81.40 feet; thence south 08 degrees 27 minutes 12 seconds east 355.00 feet along said Clear Creek Sub. No. 3, (liber 284, pages 36-43) and Clear Creek Sub. No. 2 (liber 278, pages 26-31); thence along Clear Creek Subdivision No. 2 as recorded in liber 278, pages 26-31, Oakland County Records north 89 degrees 27 minutes 46 seconds west 395.00 feet; thence north 02 degrees 55 minutes 10 seconds west 1215.11 feet along the north-south 1/4 line of said section 2, said line also being the centerline of Sheldon Road; thence north 87 degrees 04 minutes 50 seconds east 290.40 feet; thence north 02 degrees 55 minutes 10 seconds west 350.00 feet; thence south 87 degrees 04 minutes 50 seconds west 290.40 feet; thence along said centerline Sheldon Road north 02 degrees 55 minutes 10 seconds west 770.00 feet to the point of beginning.