

SANITARY SEWER SERVICE AGREEMENT
AMONG THE CHARTER TOWNSHIP OF SHELBY, THE CITY OF ROCHESTER HILLS
AND OWNERS OF UNIT 2, CHRISTENBURY SITE CONDOMINIUM-
VITALIANO AND MONICA TERRACCIANO

This agreement is made on the 12th day of August, 2020, among the CHARTER TOWNSHIP OF SHELBY (“Shelby Township”), whose administrative office is located at 52700 Van Dyke, Shelby Township, MI 48316-3572, the CITY OF ROCHESTER HILLS, (“Rochester Hills”), whose administrative office is located at 1000 Rochester Hills Drive, Rochester Hills, MI 48309-3033 and Vitaliano and Monica Terracciano (“Customer”) whose address is 19910 Westchester Drive, Clinton Township, MI 48038.

WHEREAS, Customer owns property (the “Property”) located in the City of Rochester Hills, Oakland County, Michigan, more particularly described as:

Part of Parcel Numbers 70-15-01-278-005 and 70-15-01-278-007, described as:

Unit 2 of the Christenbury Site Condominium; Oakland County Condominium Subdivision Plan No. 2278 ; recorded at the Oakland County Register of deeds on 10/24/19, Liber # 53415, Page #355 and the First Amendment to the Master Deed recorded on 7/28/20, Liber #54563, Page #829.

WHEREAS, Customer intends to develop the Property for residential use, and sanitary sewer service to the Property is not yet available from Rochester Hills; and

WHEREAS, Shelby Township has a nearby sanitary sewer on the west side of Dequindre Road available to service the Property; and

WHEREAS, pursuant to a certain Sanitary Sewer Service Agreement Among the Charter Township of Shelby, the City of Rochester Hills and Christenbury Development, LLC, dated July 30, 2013, sanitary sewer service is already provided to 1930 and 1988 Christenbury Court (parcel nos. 15-01-278-007 & 008) via a Rochester Hills sanitary sewer located along Christenbury Court and Dequindre Road, which crosses Dequindre Road and connects to the Shelby Township Sewer; and **WHEREAS**, Shelby Township is willing to enter into this Agreement with Rochester Hills and the Customer to provide sanitary sewer service to the Property via an extension of the Rochester Hills sanitary sewer on Christenbury Court to the Property to convey sanitary sewage from the Property to the Shelby Township sewer until such time as Rochester Hills makes sanitary sewer available:

NOW THEREFORE, the parties agree:

1. Customer shall be a customer of both Rochester Hills and Shelby Township for sanitary sewer service. Customer shall pay all fees, costs, and charges, including debt service charges, required by Rochester Hills and shall apply to Rochester Hills for all permits necessary under Rochester Hill's Ordinances and state law to extend, and connect the Property to, the sanitary sewer of Rochester Hills along Christenbury Court to convey sewage to Shelby Township. After Customer also provides and pays to Shelby Township all documentation, charges and fees required under Shelby Township's Ordinance, Customer shall be authorized by Rochester Hills to apply to Shelby Township for all approvals and permits necessary under state law and Shelby Township's Ordinance to connect to Shelby Township's sanitary sewer system.

2. Shelby Township shall, upon receiving all documentation, charges and fees required for issuance of permits under its Ordinances, issue a permit to Customer allowing connection to the Shelby Township sanitary sewer system to provide sanitary sewer service to the Property. The charges to be paid by Customer to Shelby Township shall include Shelby Township's applicable capital charge, which Customer shall pay in full prior to connection.

3. Both Rochester Hills and Shelby Township may supervise, inspect, test and approve the construction of any sanitary sewer lead connecting to Rochester Hills sewer and Shelby Township's sanitary sewer system. Shelby Township shall directly bill Customer for Shelby Township's cost of supervising, inspecting,

testing and approval, and Customer shall pay such bill within thirty (30) days. Rochester Hills shall bill Customer for Rochester Hills' cost of supervising, inspecting, testing and approval, and Customer shall pay such bill within thirty (30) days.

4. Customer shall respect and comply with all Shelby Township Ordinances, rules, regulations and standards regarding prevention of storm water and foreign matter infiltration, other than ordinary sanitary sewage, into the sanitary sewer. Shelby Township may inspect the sanitary sewer connection at any reasonable time to verify compliance. Shelby Township shall notify Customer regarding any non-compliance or need for corrective action or maintenance. If Customer does not undertake the necessary corrective action or maintenance within a reasonable time after notice to do so, Shelby Township may perform the corrective action or maintenance and charge the cost thereof to Customer. With respect to necessary emergency repairs or maintenance, Shelby Township may, without advance notice to Customer, perform the same and charge the cost thereof to Customer.

5. Shelby Township shall directly bill Customer for sanitary sewer service furnished to the Property at the rate of 200% of the normal service and usage rate charged by Shelby Township for sanitary sewer service, the rate being subject to change by Shelby Township at any time, consistent with the rate charges applicable to customers of Shelby Township who are residents of the Township. Customer shall pay such bill within twenty (20) days. Customer hereby voluntarily and knowingly releases and holds Rochester Hills harmless from and against any claims or disputes relating to the bills, rates, fees, and charges of Shelby Township.

6. Any charges billed, pursuant to this Agreement, by Shelby Township to Customer, but not paid by Customer by the due date stated on the bill, shall be considered delinquent. Shelby Township shall notify Rochester Hills of any charges that are delinquent for six (6) months or more, and Rochester Hills shall place any delinquent charges, plus any late fees required under Shelby Townships ordinance, on the property tax roll as provided by Rochester Hills' Ordinance as a lien on the Property, to be collected and enforced in the same manner as general property taxes against the Property are collected and the lien thereon enforced. Upon receipt of payment, either from the Customer or from the County if returned delinquent, Rochester Hills shall forward such payment to Shelby Township.

7. In the event sanitary sewer service from Rochester Hills becomes available to service the Property, Customer shall, within sixty (60) days of written notice thereof, weather permitting, disconnect In the event sanitary sewer service from Rochester Hills becomes available to service the Property, Customer shall, within sixty (60) days of written notice thereof, weather permitting, disconnect from Shelby Township's sanitary sewer system, connect to Rochester Hills system and pay Rochester Hills any additional charges that may be due pursuant to Rochester Hills' Ordinances in effect at that time including any and all outstanding charges, fees and bills, and this Amended and Restated Agreement shall terminate. Furthermore, Shelby Township reserves the right to discontinue sanitary sewer service to the Property upon Customer's neglect or failure to disconnect as required under this paragraph.

8. Shelby Township may discontinue sanitary sewer service to the Property and terminate this Amended and Restated Agreement after giving both Rochester Hills and Customer five (5) days notice, in writing, of its intention to do so and affording the Customer an opportunity to be heard, due to the failure of Customer to fulfill any obligations or conditions provided in this Amended and Restated Agreement, including, but not limited to, the obligation to timely pay all charges, fees and bills. The discontinuance of sanitary sewer service for such cause shall not release Customer from any obligation to pay any and all bills due in accordance with this Agreement. In the event Shelby Township discontinues sanitary sewer service pursuant to this paragraph or paragraph 7 above, Shelby Township shall have no obligation to reimburse or pay Customer for costs or damages incurred by Customer as the result of the discontinuance.

9. In addition, either Shelby Township or Rochester Hills may temporarily discontinue sanitary sewer service when necessary for repair, replacement or maintenance, and Customer waives any claim Customer may acquire for damages for such discontinuance against Shelby Township or Rochester Hills, or their respective officials, employees or agents, provided that whenever Shelby Township or Rochester Hills anticipates a temporary discontinuance, as distinguished from an unforeseen or emergency discontinuance, Shelby Township or Rochester Hills shall attempt to provide reasonable advance notice to Customer. Shelby Township's temporary discontinuance of sanitary sewer services pursuant to this paragraph shall not release Customer from Customer's obligation to pay all amounts due under this Agreement.

10. Customer shall indemnify, hold harmless and defend Shelby Township and Rochester Hills, their respective officers, employees and agents from any claims, liability, damages or expenses, including attorney fees, which may arise out of making, fulfilling or enforcing this Agreement and furnishing sanitary sewer service to the Property, except that Customer shall not be obligated to indemnify, hold harmless or defend a party for any claim, liability, damages or expenses resulting from that party's gross or sole negligence.

11. No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this Agreement shall be taken and construed as cumulative, that is, in addition to every other remedy provided by law.

12. This Agreement shall be recorded at the Oakland County Register of Deeds, and the obligations stated herein shall bind the parties, their successors, grantees and assignees and shall run with the land.

13. This Agreement remains subject to cancellation in the event a court of competent jurisdiction restricts or limits Shelby Township's right to obtain, sell, contract for or distribute sanitary sewer service.

14. This Agreement shall be construed under Michigan law, and if a court of competent jurisdiction determines any part, term or provision of this Agreement is illegal or in conflict with any law, the validity of the remaining parts, terms and provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as though the Agreement did not obtain the particular part, term or provision held to be invalid.

15. This Agreement shall remain in effect until terminated as herein provided, or terminated by mutual agreement of the parties.

16. This Agreement constitutes the full agreement of the parties and supersedes any prior agreements or understandings. Any amendments shall be made in writing executed by all of the parties.

