



PROPOSED AGENDA
SPECIAL MEETING OF THE CHARLOTTE CITY COUNCIL
111 E. Lawrence Ave, Charlotte, MI 48813 (517) 543-2750
7:00 P.M. Wednesday September 13, 2023

Interested persons can participate in-person or via Zoom
Connect to Zoom from your computer, tablet, or smartphone
Website: <https://us02web.zoom.us/j/84298234010>
One tap mobile: +16465588656,,84298234010#
Telephone: (312) 626-6799 Webinar ID: 842 9823 4010

- 1. Call to Order**
- 2. Roll Call**
- 3. Pledge of Allegiance**
- 4. Absence of Council Members**
- 5. Public Comment** - Limit presentation to five (5) minutes
- 6. Approval of Agenda**
- 7. Business Agenda**
 - a. Approval of final airport easement agreement with Meadowbrook Mobile Home Park
 - b. Discussion on Eaton Area EMS contract
- 8. Public Comment**
- 9. Mayor and Council Comments**
- 10. Adjourn**

~Mary LaRocque, City Clerk

ADDRESSING THE CITY COUNCIL

*Comments shall be made only during times set aside for that purpose.
Each citizen may speak for up to 5 minutes during each public hearing and comments period.
Comments made during public hearings shall be relevant to the subject of the public hearing.
Comments shall be made from the podium unless otherwise directed by the Mayor.
Comments shall be directed to the Mayor and Council members.
Speakers shall begin by stating their name and indicate if they are a resident or non-resident of the City.
Speakers shall refrain from using vulgarity, hate speech or "fighting words."*

CITY OF CHARLOTTE

RESOLUTION NO. 2023-41

RESOLUTION TO EXECUTE AVIGATION EASEMENTS
BETWEEN THE CITY OF CHARLOTTE AND MEADOWS
MOBILE HOME PARK AND SALES, L.L.C.

WHEREAS, as a result of the mediation process, the City of Charlotte and Meadows Mobile Home Park and Sales, L.L.C. executed an agreement entitled "Settlement Agreement Following Mediation ("Agreement") whereby the City will compensate the Meadows \$800,000 in exchange for its execution of an agreed upon avigation easement over the Property; and

WHEREAS, the final forms of the Easement Agreements for E17 and E18 have been agreed upon; and

WHEREAS, the City Council finds that acquiring the easements pursuant to those terms as set forth therein is in the best interest of maintaining the Fitch H. Beach Airport, which will permit the reinstitution of instrument rated takeoffs and landings, (including nighttime) and will promote the health and safety of persons using the airport, as well as those persons on the ground near the intersection of Lansing Road and Packard Highway, by removing or topping off all trees that currently encroach into the Part 77 Surface Areas within the affected area, and providing for the removal of future encroachments over the Property.

NOW, THEREFORE, BE IT RESOLVED, that the City Council agrees to the terms of the easements for E17 and E18 attached hereto and authorizes the Mayor and/or City Clerk to execute these easements and all necessary documents in order to acquire easements E17 and E18.

The foregoing Resolution was moved for adoption by Council Member _____ and seconded by Council Member _____ and declared adopted by the following vote:

AYES:

NAYES:

ABSENT:

RESOLUTION DECLARED ADOPTED.

STATE OF MICHIGAN)

:ss.

COUNTY OF EATON)

I, the undersigned, the duly qualified and acting Clerk of the City of Charlotte, County of Eaton, State of Michigan, do hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council of the City of Charlotte at a special meeting held on Wednesday September 13, 2023, relevant to the Michigan Open Meetings Act, the original of which is on file in my office as part of the council minutes.

IN WITNESS WHEREOF, I have hereunto set my official signature, this _____ day of _____ 2023.

Mary LaRocque, City Clerk
City of Charlotte
Eaton County, Michigan

Approved as to Form:

Thomas M. Hitch (P25558)
Charlotte City Attorney

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Mary LaRocque, City Clerk
City of Charlotte
Eaton County, Michigan

Approved as to Form:

Thomas M. Hitch (P25558)
Charlotte City Attorney

AVIGATION EASEMENT
(for properties located outside Runway Protection Zones)

THIS AGREEMENT is made this ____ day of _____, 2023 between **Charlotte Estates L.L.C.**, a Michigan limited liability company, whose address is 5640 W. Maple Road, Suite 303, West Bloomfield, MI 48322 ("GRANTOR"), and **City of Charlotte**, a Michigan municipal corporation, whose address is 111 E. Lawrence Avenue, Charlotte, MI 48813 ("GRANTEE").

WHEREAS, the GRANTEE is the owner and operator of the Charlotte, Fitch H. Beach Municipal Airport ("Airport"), situated in Eaton County, Michigan, and in close proximity to property owned by the GRANTOR;

WHEREAS, the GRANTEE desires to obtain and preserve for the use and benefit of the public a right of free and unobstructed flight for aircraft landing upon, taking off from, or maneuvering about the Airport; and

WHEREAS, the parties are entering into this Agreement, as a result of the parties' intention to provide the grant of an easement and the acceptance thereof, pursuant to the terms contained herein, which terms have arisen from GRANTEE's threat of an imminent condemnation.

NOW THEREFORE, for the full consideration set forth in the accompanying Real Estate Transfer Tax Valuation Affidavit, the receipt and sufficiency of which is acknowledged, the GRANTOR conveys to the GRANTEE, its successors and assigns, for the benefit of the general public at large, an easement for the free, unobstructed passage of aircraft landing upon, taking off from, or maneuvering about the Airport, as legally permitted by state and federal statutes, rules and/or regulations governing aircraft operations on or near airports, in and through the air space over and across the "Easement Property" (described herein), subject to the terms stated below:

1. **Definitions.** The following terms shall have the following meaning for purposes of this Agreement:

(a) "Easement Property" shall mean that portion of GRANTOR's Parcel legally described in Sheet 2 of 2 of **Exhibit "X"** dated 05/10/2021, attached hereto and incorporated herein by this reference, being the area (i) over which GRANTEE has certain rights to the airspace, and to the protection of such airspace, under this Agreement, and (ii) the boundaries of which are outlined by "PARCEL/EASEMENT" lines on Exhibit "X."

(b) "Grantor's Parcel" shall mean real property owned by GRANTOR, which is legally described in **Exhibit "A"** attached hereto and incorporated herein by this reference.

(c) "Landscaping Work" shall mean work shall mean trimming, cutting, removing and otherwise altering soil, grass, trees, shrubbery, crops, vegetation and other natural growth, and removing the associated debris, and planting of new trees or other vegetation where provided hereunder.

Avigation Easement – Airport Parcel #: E17 (Ch. Estates) Airport Name: Charlotte FPK (9/5/23):

(d) "Prior Easements" shall mean, if and to the extent currently applicable to the Grantor's Parcel, (i) that certain Avigation Easement dated October 22, 1963, recorded October 30, 1963 in Liber 356, Page 40, Eaton County Records, and (ii) that certain Avigation Easement dated December 28, 1967 recorded April 9, 1968 in Liber 397, Page 353, Eaton County Records.

2. **Rights Dependent Upon Airport Use.** This easement shall terminate at such time that the Airport is no longer used for public airport purposes.

3. **GRANTEE's Rights.** In furtherance of the purpose of this easement, the GRANTEE is permitted to do the following:

(a) GRANTEE may keep the air space above the heights described and depicted on the attached Exhibit "X" clear and free from any and all fences, crops, trees, poles, buildings and other obstructions of any kind or nature which now extend, or which may at any time in the future extend, above those heights.

(b) GRANTEE shall have a non-exclusive right when and as reasonably needed, under which it may, from time to time, remove to ground level any or all natural growths which extend on the Easement Property above the heights described and depicted on the attached Exhibit "X" to the extent such action is reasonably necessary in furtherance of the purpose of this easement. Examples include situations in which: (i) trimming is unsafe or not reasonably possible, (ii) the species of the tree or other natural growth is too fast growing, or (iii) trimming would have a reasonable probability of killing the tree or other natural growth or causing it to become susceptible to disease. GRANTEE shall provide written notice to GRANTOR, in accordance with Section 6(a) hereof, prior to exercising GRANTEE's rights and undertaking any such activities under this Subsection (b).

(c) GRANTEE shall have a non-exclusive right when and as reasonably needed, under which it may, from time to time, remove obstructions from the Easement Property to the extent such action is reasonably necessary in furtherance of the purpose of this easement. GRANTEE shall provide written notice to GRANTOR, in accordance with Section 6(a) hereof, prior to exercising GRANTEE's rights and undertaking any such activities under this Subsection (c).

(d) GRANTEE may use the air space above the Easement Property for any and all lawful activities that are inherent in the operation of aircraft operated in compliance with applicable law, subject to the terms of Paragraph 5, below. Said operation of aircraft includes landing at, taking off from, or operating on or near the Airport. The air space which Grantee may use under this Agreement consists of the air space above the height of a conceptual surface represented by the Airspace Contours shown on Exhibit "X."

4. **Restrictions and Covenants Relating to GRANTOR.** In furtherance of this Agreement, the GRANTOR covenants, both on its own behalf and on behalf of its successors and assigns, for and during the term of this easement, as follows:

(a) The GRANTOR shall not construct upon the Easement Property any structure that extends above the heights described and depicted on the attached Exhibit "X." Provided, however, that any removal or trimming of trees or other natural growth on the Easement Property, as required, permitted or otherwise contemplated herein, shall be conducted by the GRANTEE or the GRANTEE's agents at the GRANTEE'S sole cost.

(b) The GRANTOR shall not promote any activity on the Easement Property that is incompatible, in a material respect, with the purpose of this easement. GRANTOR shall not be responsible or liable to any extent for, and GRANTOR shall be exonerated from any claims attributable to, negligent or unlawful activities conducted by anyone on Grantor's Parcel, including but not limited to GRANTOR's

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tenants and their visitors and guests. However, if GRANTEE informs GRANTOR, in writing, that such negligent or unlawful activities are taking place on Grantor's Parcel, then GRANTOR shall not be exonerated from any responsibility that may exist under applicable law (determined without regard to this Agreement) for any act undertaken by GRANTOR which causes or which worsens the ongoing conduct of such negligent or unlawful activities.

(c) The GRANTOR shall not intentionally and knowingly cause to be located in the Easement Property any device that will create electrical interference with radio communication between the installation upon the Airport and aircraft, or that will impair visibility in the vicinity of the Airport, or that will otherwise endanger the landing, taking-off or maneuvering of aircraft. GRANTEE shall provide prompt written responses to GRANTOR's inquiries concerning devices that are permitted or prohibited, with such back-up detail as GRANTOR may reasonably request. GRANTOR shall have the right to rely upon such written information from GRANTEE in GRANTOR's purchase or installation of devices, which GRANTOR can then maintain. GRANTEE shall pay additional compensation to GRANTOR, as warranted from time to time, for the reasonable cost of GRANTOR switching to alternative devices due to a change in applicable restrictions. Until GRANTEE provides written notice to GRANTOR of specific devices actually being used by GRANTOR that violate the restrictions imposed upon GRANTOR hereunder, and a reasonable period in which GRANTOR may cure the violation, GRANTOR shall have the right to operate devices, now or in the future, which are commonly used by residential communities, such as but not limited to remote readers which measure the use or consumption of water, gas, electricity and other utilities. For the avoidance of doubt, GRANTOR shall have the unrestricted right to operate devices, now or in the future, which are commonly considered FCC compliant.

(d) Except as otherwise expressly permitted hereunder or described herein, the GRANTOR shall not alter the current nature of the Easement Property for any new use that would be incompatible with the operation of the Airport, in a material respect, including the following: landfills, open dumps, waste disposal sites, storm water retention ponds and new wetlands, planting of crops that would attract or sustain hazardous bird movements, or any new use that would be incompatible, in a material respect, with the operation of the Airport. For the avoidance of doubt, this Agreement does not prohibit GRANTOR's use of customary dumpsters.

(e) GRANTOR, in selecting new trees as part of the future landscaping, shall not plant such trees that it reasonably expects will grow and reach heights that breach the surfaces as depicted in Exhibit "X" within an unreasonably short period of time in light of the goal of the parties to minimize need for significant future trimming of trees.

5. **Restrictions and Covenants Relating to GRANTEE.** In furtherance of this Agreement, the GRANTEE covenants, both on its own behalf and on behalf of its successors and assigns, for and during the term of this easement, as follows:

(a) If GRANTEE removes any trees or natural growth from the Easement Property, then at GRANTEE's sole expense, GRANTEE must (i) grind the stump and vegetation down to surface level, and (ii) grade the surface to a smooth plane. GRANTEE shall be responsible for payment of all costs related to such work, including removing the tree and associated debris from the Grantor's Parcel and properly disposing of the same.

(b) The GRANTEE shall not promote any activities over the Easement Property that are incompatible, in a material respect, with the lawful use of Grantor's Parcel. In addition, GRANTEE's use of air space and the Easement Property under this Agreement shall not include any aircraft landing, aircraft trespass, explosion, crash, falling objects, dumping or spillage of liquid fuel or any other occurrence causing direct physical injury to persons or direct physical damage to property.

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(c) The GRANTEE shall supervise the operation of the Airport to assure compliance with the Airport Rules and Regulations promulgated or approved by the Charlotte City Council in accordance with the Charlotte Code of Ordinances, and to assure compliance with other applicable ordinances and laws and compliance with advisories or pronouncements from governing agencies, as in effect from time to time.

6. **GRANTEE's Activities.**

(a) Except to the extent necessary to prevent imminent danger to health, safety or welfare, if GRANTEE intends to enter upon the Easement Property for purposes of engaging in any Landscaping Work or otherwise exercising any rights hereunder, then GRANTEE shall notify GRANTOR in writing of GRANTEE'S intent at least forty five (45) days prior to entry. As part of the notice required under the preceding sentence, GRANTEE shall provide GRANTOR reasonably detailed plans describing the planned Landscaping Work, including details on vegetation to be removed, details on vegetation to be planted, and the proposed schedule for entry onto Grantor's Parcel. GRANTOR shall then have the period of fifteen (15) days following its receipt of the plan documents to provide GRANTEE with detailed objections or requests for revisions thereto. If GRANTOR raises any objections or provides any requests for revisions, GRANTEE, together with its consultants and representatives of any governing agencies (if applicable), shall meet with GRANTOR and its consultants in an effort to resolve any differences prior to GRANTEE commencing Landscaping Work. If the parties cannot reach agreement, then the parties will discuss whether to seek a nonbinding opinion from a licensed landscape architect in an effort to resolve any disputed matters. The parties would jointly select such architect, and the architect's fees would be paid as mutually agreed in writing at that time.

(b) Prior to commencing any Landscaping Work on the Easement Property, GRANTEE shall procure, or GRANTEE shall cause its contractors and subcontractors to procure, the insurance coverages specified herein below. Such insurance shall be maintained in effect during the course of work on the Easement Property.

(c) GRANTEE and its contractors or agents shall perform all Landscaping Work on the Easement Property in a good, safe, workmanlike and lien-free manner in accordance with all applicable laws, rules, orders and regulations or codes. Furthermore, while engaging in any Landscaping Work on the Easement Property, GRANTEE shall not unreasonably or materially interfere with use of Grantor's Parcel by GRANTOR's tenants, their visitors and other invitees.

(d) GRANTEE shall, at its sole cost and expense, promptly remove any debris resulting from Landscaping Work and from GRANTEE's entry upon the Easement Property, and promptly repair any damage to the GRANTOR's Parcel caused by GRANTEE or its contractors or agents. GRANTEE shall, at its sole cost and expense, promptly restore the impacted areas of the GRANTOR's Parcel (other than permanent changes permitted by this Agreement) to substantially the same condition that existed before the commencement of such Landscaping Work and entry.

(e) If GRANTEE fails to perform any obligation in this Agreement, and fails to cure such nonperformance within thirty (30) days after written notice from GRANTOR (as extended for weather, disease, government shut-down orders and/or other delays outside of GRANTEE's reasonable control), then GRANTOR shall have the right, but not the obligation to perform the obligation and be reimbursed for the reasonable cost of that performance by GRANTEE within thirty (30) days after receipt of an invoice with reasonable supporting documentation.

7. **GRANTOR's Retained Rights.**

(a) GRANTOR hereby reserves for itself, its successors and assigns, all right, title and interest in

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and to Grantor's Parcel and the Easement Property, which GRANTOR shall have the right to use and enjoy in any manner that does not materially interfere with the rights and benefits expressly provided herein for GRANTEE. By way of example, without being limited by the preceding sentence, GRANTOR reserves any and all rights it may now or hereafter possess, subject to GRANTOR's compliance with governing federal, state and local law and the requirements of governing Federal Aviation Administration regulations, (i) to establish and maintain detention ponds anywhere on Grantor's Parcel if approved (when required) by the Eaton County Drain Commissioner's office or other local land use authority, and (ii) to establish and maintain retention ponds or wetlands on areas on Grantor's Parcel that are outside the Easement Property.

(b) GRANTOR shall have the ongoing right to grant other easements over, under and across the Easement Property, provided that such subsequent easements do not materially interfere with the rights and benefits expressly provided herein for GRANTEE.

(c) The terms of this Agreement shall not operate to deprive GRANTOR or GRANTOR's directors, officers, members, managers, shareholders, partners, principals, agents, employees, representatives, affiliates and subsidiaries, or their tenants, visitors and guests, of any rights which they may from time to time have against any air carrier or private operator for negligent or unlawful operation of aircraft, or for any other incident which causes actual physical injury to individuals or damage to property, including but not limited to the right to pursue claims in a court of competent jurisdiction.

(d) The terms of this Agreement shall not operate to preclude GRANTOR or its tenants from participating in any noise mitigation programs for which they may be eligible, provided by GRANTEE, by the Federal Aviation Administration or by any other governmental or non-governmental agency. Further, upon request, GRANTEE shall affirmatively assist GRANTOR and its tenants in seeking any such benefits which may be available.

8. **Indemnification by GRANTEE.** GRANTEE shall indemnify, defend and hold harmless GRANTOR and GRANTOR's directors, officers, members, managers, shareholders, partners, principals, agents, employees, representatives, affiliates and subsidiaries (collectively the "Indemnitees") from and against any and all claims, debts, causes of actions, judgments, liabilities, losses, demands, damages or expenses, including reasonable attorneys' fees, suffered by any of the Indemnitees to the extent due to or arising from (i) the actions within or around, or the use of, the Easement Property by GRANTEE or its contractors, subcontractors, agents, employees and representatives, (ii) any injury or death to person or damage to property (including but not limited to damage to above-ground and underground utilities and facilities) arising from or in any manner relating to the exercise by GRANTEE of its rights or privileges granted hereunder, and/or (iii) GRANTEE's failure to comply with or breach of any of the covenants, terms, or conditions of this Agreement. Provided, however, nothing herein shall be construed as waiving any rights or privileges of governmental immunity existing under any applicable law, including as provided by MCL 691.1401 *et seq.* The terms and conditions of this Section shall survive any termination of this Agreement with respect to matters occurring prior to such termination. For the avoidance of doubt, the parties affirm that GRANTEE is not assuming responsibility for personal injury or property damage to the extent attributable to negligent or unlawful operation of aircraft by any air carrier or private operator.

9. **Insurance.** The GRANTEE covenants and agrees that any contractors, subcontractors or agents of GRANTEE who enter upon the Easement Property will be insured through their own policies and/or through GRANTEE's policies, at the sole cost and expense of the principal insured party, with commercial general liability insurance covering their activities on the Easement Property under this Agreement against claims for personal injury or death and property damage, such insurance to be written on an occurrence basis (not a claims made basis), with combined single limit coverage of not less than Two Million Dollars (\$2,000,000.00) and with a general aggregate limit of not less than Three Million Dollars (\$3,000,000.00) for each policy year. GRANTOR may from time to time require reasonable increases in any such limits. Such policy shall name GRANTOR, and any other party reasonably designated by

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GRANTOR, as an additional insured party and such coverage for the additional insured shall be at least as broad as that afforded to the principal insured party. The limits of insurance provided to the additional insured shall be the greater of that set forth in this Agreement or the full per occurrence limit set forth in the policy. Such policy shall contain a provision that the insurer will give to GRANTOR and such other parties in interest at least thirty (30) days notice in writing in advance of any cancellation, termination or lapse of insurance. Such policy shall be written as a primary policy which does not contribute to and is not in excess of coverage which GRANTOR may carry. Certificates of insurance shall be provided to GRANTOR upon request.

10. **Liens.** GRANTEE has no authority or power to cause or permit any lien or encumbrance of any kind whatsoever, whether created by GRANTEE, operation of law or otherwise, to attach to or be placed upon GRANTOR's title or interest in the Easement Property or any other portion of the Grantor's Parcel, and any and all liens and encumbrances created by GRANTEE shall attach to GRANTEE's interest only. GRANTEE shall not cause or permit any mechanics or materialmen liens to attach to or be placed upon the Easement Property or any other portion of the Grantor's Parcel.

11. **Liability Limitations.** Neither GRANTOR nor any director, officer, member, manager, shareholder, partner, principal, agent, employee or representative of GRANTOR shall have any personal liability with respect to any of the provisions of this Agreement. In the event GRANTOR is in breach or default with respect to GRANTOR's obligations under this Agreement, GRANTEE shall look solely to the equity of GRANTOR in the Grantor's Parcel for the satisfaction of GRANTEE's remedies. In no event shall GRANTOR be liable for any punitive, speculative, special or consequential damages.

12. **Title; Prior Easements Superseded.** GRANTOR makes no representations or warranties with respect to the state of title to the Grantor's Parcel. This Agreement and the easements granted herein shall be subject to, and GRANTEE shall comply with, any and all recorded encumbrances, easements, rights-of-way and restrictions affecting the Grantor's Parcel. Notwithstanding the foregoing, this Agreement shall be deemed to amend the Prior Easements, and this Agreement shall supersede the application of the Prior Easements for all purposes, with respect to Grantor's Parcel (but not with respect to any other land covered thereby); and the Prior Easements shall have no further force or effect with respect to Grantor's Parcel, from and after the date hereof.

13. **Mortgagee Protections.** The following provisions are for the benefit of the holder ("Mortgagee") of any first mortgage ("Mortgage") encumbering the Grantor's Parcel. Any Mortgagee who provides a written request to the GRANTEE stating its name and address and indicating that its Mortgage encumbers all or part of the Grantor's Parcel shall be entitled to a copy of any notice of default by GRANTOR under this Agreement, and the Mortgagee shall have the right, but not the obligation, to cure any such default within thirty (30) days after its receipt of such notice of default, or within such longer period of time as may be reasonably required under the circumstances.

14. **Estoppel Certificates.** Within twenty (20) days of delivery of a written request from either party to the other party, such recipient shall execute and deliver a certificate addressed to such persons as the requesting party may reasonably request confirming, if such then be the fact, (i) that this Agreement is in full force and effect, (ii) that the party executing the certificate knows of no existing defaults by the requesting party under this Agreement, or if such defaults are known, specifying the same, and (iii) the status of any other matter regarding this Agreement requested by the requesting party. In addition to the requesting party, the parties to whom such estoppel certificate is certified shall be entitled to rely on the certificate.

15. **Entire Agreement.** Apart from the consideration paid by GRANTEE to GRANTOR for the grant of easements hereunder, this Agreement contains the entire understanding of the parties regarding the grant of easements set forth herein; and the parties acknowledge that there have been no representations or understandings other than those expressly set forth in this Agreement.

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16. **Notices.** Notices to a party as permitted or required hereunder shall be in writing and shall be delivered or sent by personal delivery, by certified mail (postage prepaid and return receipt requested), or by overnight delivery by a reputable national carrier. Notice may also be given by telefax, email or other electronic means, if the recipient provides written confirmation of receipt or if there is other reliable proof of delivery. In addition, a copy of each such notice intended for a party shall be furnished to such additional addressees for that party as may be specified herein or specified in a like notice. Delivery shall be deemed to have been made upon personal delivery (including by electronic means), three (3) business days after deposit with the US Postal Service for certified mail delivery, and one (1) business day after deposit with an overnight courier service for next day delivery.

For purposes hereof, the address of each party shall be as follows:

If to GRANTOR:

Robert Goodman
5640 W. Maple Road, Suite 303
West Bloomfield, MI 48322
rgoodman@westmaplegroup.com
248-789-5335 Phone (cell)
248-626-2127 Fax

With a copy to:

Steven R. Cole
Bodman PLC
201 W. Big Beaver, Suite 500
Troy, Michigan 48084
scole@bodmanlaw.com
248-470-2172 Phone (cell)
248-743-6002 Fax

And with a copy to:

Mark S. Kassab
Senior Vice President
M. Shapiro Real Estate Group
31550 Northwestern Highway, Suite 220
Farmington Hills, MI 48334
mkassab@mshapirorealestate.com
248-865-0066 Phone
248-865-1166 Fax

If to GRANTEE:

City of Charlotte
Attention: City Clerk and Chairperson of Airport Advisory Board
111 E. Lawrence Avenue
Charlotte, MI 48813

With a copy to:

City Manager, City of Charlotte
111 E. Lawrence Avenue
Charlotte, MI 48813

Avigation Easement – Airport Parcel #: E17 (Ch. Estates) Airport Name: Charlotte FPK (9/5/23):

Any party may change its address for notice (or for copies) by written notice to the other party in the manner specified above.

17. **Governing Law.** This Agreement shall be construed in accordance with the laws of the State of Michigan and any applicable federal laws and regulations.

18. **Waiver of Default.** No waiver of any default by any party to this Agreement shall be implied from any omission by any other party to take any action in respect of such default. No express waiver of any default shall affect any default or cover any period of time other than the default and period of time specified in such express waiver. One or more waivers of any default in the performance of any term, provision or covenant contained in this Agreement shall not be deemed to be a waiver of any subsequent default in the performance of the same term, provision or covenant or any other term, provision or covenant contained in this Agreement. The rights and remedies given to any party to this Agreement shall be deemed to be cumulative and no one of such rights and remedies shall be exclusive of any of the others, or of any other right or remedy at law or in equity which any such party might otherwise have by virtue of a default under this Agreement, and the exercise of one such right or remedy by any such party shall not impair such party's standing to exercise any other right or remedy.

19. **Severability.** If any term, provision or condition contained in this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement (or the application of such term, provision or condition to persons or circumstances other than those in respect of which it is invalid or unenforceable) shall not be affected thereby, and each term, provision or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law, provided that any such deletions can be made without materially changing the basic agreement between the parties. If such deletions cannot be made without materially changing the basic agreement between the parties, then the parties agree to amend, or to permit the court to amend, this Agreement to accomplish essentially the same transaction without such illegal, invalid or unenforceable provisions.

20. **Amendment.** This Agreement may be modified or amended, in whole or in part, only by an amendment in writing, executed and acknowledged by the parties and duly recorded with the Eaton County Register of Deeds.

21. **Agreements Run With Land.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, solely in their capacity as owners of their respective parcels described herein, and solely during their ownership of such parcels. The terms of this Agreement shall run with the land for the benefit of GRANTOR and GRANTEE, and their successors and assigns, and shall expire upon termination of the easement rights granted herein.

22. **Attorneys' Fees.** If any party brings an action to enforce the terms of this Agreement or to declare rights hereunder, the prevailing party in any such action, on trial or appeal or post-judgment collection, shall be entitled to its reasonable attorneys' fees to be paid by the losing party as determined by the court. The parties agree that "prevailing party" means the party who successfully prosecutes the action or successfully defends against it, prevailing on the main issue, even though not necessarily receiving an award of damages (or the extent of damages sought) or other form of recovery.

23. **No Partnership or Joint Venture.** Nothing in this Agreement shall be construed to make the parties herein partners or joint venturers or render any of the parties liable for the debts or obligations of the other.

24. **Headings.** The headings in this Agreement are provided for convenient reference only, are wholly without substantive effect, and shall not be employed in the interpretation or enforcement of this Agreement.

Avigation Easement – Airport Parcel #: E17 (Ch. Estates) Airport Name: Charlotte FPK (9/5/23):

25. **Construction.** Each party has participated fully in the negotiation and preparation of this Agreement with full benefit or availability of counsel. Accordingly, this Agreement shall not be more strictly construed against either party.

26. **Counterparts.** This Agreement may be executed by the parties on any number of separate counterparts and all such counterparts so executed constitute one agreement binding on the parties, notwithstanding that all parties are not signatories to the same counterpart.

27. **No Dedication to Public.** Nothing contained herein shall be construed as creating any rights in the general public or as dedicating for public use any portion of Grantor's Parcel, except for the limited rights expressly stated herein. No easements, except as expressly set forth herein, shall be implied by this Agreement.

28. **Transfer Tax.** This instrument is not exempt from state or county real estate transfer tax. From its own funds, GRANTEE shall pay the full amount of such taxes, on behalf of GRANTOR, simultaneous with the recording of this Agreement.

[Remainder of page intentionally left blank]

Signature page attached to and part of Avigation Agreement – Parcel # E17

EXECUTION BY GRANTOR

SIGNED THIS _____ DAY OF _____, 2023:

Charlotte Estates L.L.C., a Michigan limited liability company

By: _____
Robert Goodman
Title: Manager

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

On this ____ day of _____, 2023, before me, a Notary Public in and for the county stated below, personally appeared Robert Goodman, to me known to be the same person described in, and who executed, the within instrument as Manager of Charlotte Estates L.L.C., a Michigan limited liability company, for the company.

Notary Public, _____ County, Michigan

My Commission Expires: _____

Acting in the County of Oakland

[GRANTEE's signature is on the next page]

Avigation Easement – Airport Parcel #: E17 (Ch. Estates) Airport Name: Charlotte FPK (9/5/23):

Signature page attached to and part of Avigation Agreement – Parcel # E17

EXECUTION BY GRANTEE

SIGNED THIS _____ DAY OF _____, 2023:

City of Charlotte, a Michigan municipal corporation

By: _____
Michael Armitage
Title: Mayor

By: _____
Mary LaRocque
Title: City Clerk

STATE OF MICHIGAN)
) ss.
COUNTY OF EATON)

On this ____ day of _____, 2023, before me, a Notary Public in and for the county stated below, personally appeared Michael Armitage, Mayor, and Mary LaRocque, City Clerk, of the City of Charlotte, a Michigan municipal corporation, to me known to be the same persons described in, and who executed, the within instrument for the City.

Notary Public, _____ County, Michigan
My Commission Expires: _____
Acting in the County of Eaton

[GRANTOR's signature is on the preceding page]

<u>Drafted by and when recorded please return to the following (name and address):</u> Steven R. Cole Bodman PLC 201 W. Big Beaver, Suite 500 Troy, Michigan 48084	<u>State Transfer Tax and County Transfer Tax:</u> See Real Estate Transfer Tax Valuation Affidavit
--	--

Parcel No.: E17

Name: Charlotte Estates L.L.C.

Federal Project No.:

Avigation Easement – Airport Parcel #: E17 (Ch. Estates) Airport Name: Charlotte FPK (9/5/23):

Exhibit "A" – GRANTOR's Parcel

AVIGATION EASEMENT

Property Tax Code: 200-005-300-120-00	Parcel No.: E17
---------------------------------------	-----------------

PROPERTY DESCRIPTION (entire parcel):

The land referred to in this commitment, situated in the Township of Eaton, County of Eaton, and State of Michigan, is described as follows:

Commencing at the South 1/4 corner of Section 5, Town 2 North, Range 4 West, Eaton Township, Eaton County, Michigan; thence North 89 degrees 25 minutes 33 seconds West 396.00 feet along the South line of said Section to the true point of beginning; thence North 89 degrees 25 minutes 33 seconds West 150.00 feet along said South line; thence North 00 degrees 02 minutes 30 seconds West 408.40 feet parallel with the North-South 1/4 line of said Section; thence North 89 degrees 25 minutes 33 seconds West 1193.11 feet parallel with the South line of said Section; thence along the Southeasterly right of way line of highway 1-69, 1371.31 feet along a 4283.66 feet radius curve concave to the Southeast whose chord bears North 48 degrees 29 minutes 34 seconds East 1365.46 feet; thence South 89 degrees 32 minutes 50 seconds East 715.82 feet along the East-West 1/8 line of the Southwest 1/4 of said Section; thence South 00 degrees 02 minutes 30 seconds East 703.36 feet along the North-South 1/4 line of said Section; thence North 89 degrees 25 minutes 33 seconds West 396.00 feet; thence South 00 degrees 02 minutes 30 seconds East 621.72 feet to the point of beginning.

Commonly known as vacant land, Charlotte, Michigan.

Avigation Easement – Airport Parcel #: E17 (Ch. Estates) Airport Name: Charlotte FPK (9/5/23):

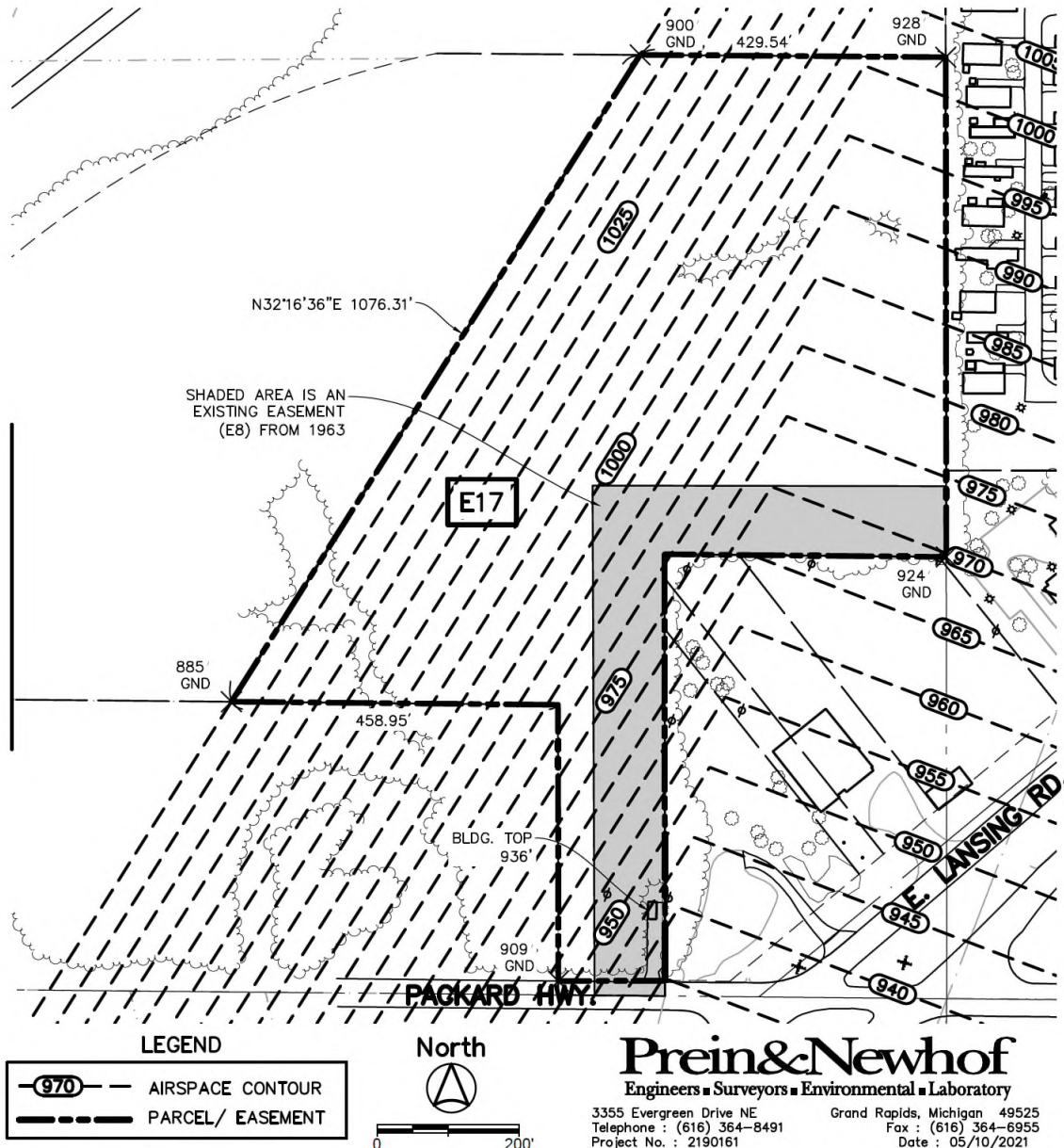
Exhibit "X"

EXHIBIT "X" E17

SHEET 1 OF 2

PARCEL NO. 200-005-300-120-00 (PACKARD HWY.)
FITCH H. BEACH AIRPORT – CHARLOTTE, MI

SEE NOTES AND AVIGATION EASEMENT ON THE FOLLOWING PAGE.



Avigation Easement – Airport Parcel #: E17 (Ch. Estates) Airport Name: Charlotte FPK (9/5/23):

Exhibit "X" - continued

EXHIBIT "X" E17

SHEET 2 OF 2

PARCEL NO. 200-005-300-120-00 (PACKARD HWY.)

FITCH H. BEACH AIRPORT – CHARLOTTE, MI

AVIGATION EASEMENT LEGAL DESCRIPTION

NOTES

THE FOLLOWING NOTES ARE SUBJECT TO THE TERMS OF THE ACCOMPANYING AVIGATION EASEMENT:

1. ALL DIMENSIONS ARE SHOWN IN FEET AND DECIMAL THEREOF. ALL ALLOWABLE ELEVATIONS SHOWN ARE IN FEET ABOVE MEAN SEA LEVEL.
2. IN ORDER TO PREVENT FREQUENT MAINTENANCE TO PROPERTIES WITH AVIGATION EASEMENTS, ALL VEGETATION GROWING WITHIN TEN FEET (10.0') OF THE FAR PART 77 CONTOUR MAY BE REMOVED TO GROUND AS PART OF THIS AVIGATION EASEMENT.
3. ANY VEGETATION WITHIN THE BOUNDARIES OF THE EASEMENT THAT PENETRATE OR GROW TO WITHIN TEN FEET (10') OF THE APPROACH SURFACE IN THE FUTURE WILL ALSO BE ELIGIBLE FOR REMOVAL BY THE CITY OF CHARLOTTE OR ITS AGENTS UNDER THE CONDITIONS OF THIS EASEMENT.
4. ELEVATIONS ARE BASED ON SURVEY FROM APRIL OF 2019.

EASEMENT DESCRIPTION

AN AVIGATION EASEMENT CONSISTING OF THE AIRSPACE AS DESCRIBED BELOW; ABOVE THE FAR PART 77 SURFACES OF THE FITCH H. BEACH AIRPORT. THESE SURFACES ARE MORE COMMONLY DESCRIBED AS; COMMENCING AT RUNWAY 21 AT AN ELEVATION OF 891' AND RISING NORTHERLY OVER THE PARCEL AT THE ELEVATIONS INDICATED ON THIS EXHIBIT X DRAWING.

ALL THAT PART OF THE SOUTHWEST 1/4 OF SECTION 5, T2N, R4W, EATON TOWNSHIP, EATON COUNTY, MICHIGAN, DESCRIBED AS: COMMENCING AT THE SOUTH 1/4 CORNER OF SAID SECTION; THENCE N89°25'33"W 396.00 FEET ALONG THE SOUTH LINE OF SAID SECTION TO THE POINT OF BEGINNING; THENCE CONTINUING N89°25'33"W 150.00 FEET ALONG SAID SOUTH LINE; THENCE N00°02'30"W 408.40 FEET PARALLEL WITH THE NORTH-SOUTH 1/4 LINE OF SAID SECTION; THENCE N89°25'33"W 458.95 FEET PARALLEL WITH THE SOUTH LINE OF SAID SECTION; THENCE N32°16'36"E 1076.31 FEET TO THE EAST-WEST 1/8 LINE OF THE SOUTHWEST 1/4 OF SAID SECTION; THENCE S89°32'50"E 429.54 FEET ALONG SAID 1/8 LINE TO THE NORTH-SOUTH 1/4 LINE OF SAID SECTION; THENCE S00°02'30"E 703.36 FEET ALONG SAID 1/4 LINE; THENCE N89°25'33"W 396.00 FEET; THENCE S00°02'30"E 621.72 FEET TO THE POINT OF BEGINNING.

Prein & Newhof
Engineers • Surveyors • Environmental • Laboratory

3355 Evergreen Drive NE
Telephone : (616) 364-8491
Project No. : 2190161

Grand Rapids, Michigan 49525
Fax : (616) 364-6955
Date : 05/10/2021

Avigation Easement – Airport Parcel #: E17 (Ch. Estates) Airport Name: Charlotte FPK (9/5/23):

AVIGATION EASEMENT
(for properties located outside Runway Protection Zones)

THIS AGREEMENT is made this ____ day of _____, 2023 between **Meadows Mobile Home Park and Sales L.L.C.**, a Michigan limited liability company, whose address is 5640 W. Maple Road, Suite 303, West Bloomfield, MI 48322 ("GRANTOR"), and **City of Charlotte**, a Michigan municipal corporation, whose address is 111 E. Lawrence Avenue, Charlotte, MI 48813 ("GRANTEE").

WHEREAS, the GRANTEE is the owner and operator of the Charlotte, Fitch H. Beach Municipal Airport ("Airport"), situated in Eaton County, Michigan, and in close proximity to property owned by the GRANTOR;

WHEREAS, the GRANTEE desires to obtain and preserve for the use and benefit of the public a right of free and unobstructed flight for aircraft landing upon, taking off from, or maneuvering about the Airport; and

WHEREAS, the parties are entering into this Agreement, as a result of the parties' intention to provide the grant of an easement and the acceptance thereof, pursuant to the terms contained herein, which terms have arisen from GRANTEE's threat of an imminent condemnation.

NOW THEREFORE, for the full consideration set forth in the accompanying Real Estate Transfer Tax Valuation Affidavit, the receipt and sufficiency of which is acknowledged, the GRANTOR conveys to the GRANTEE, its successors and assigns, for the benefit of the general public at large, an easement for the free, unobstructed passage of aircraft landing upon, taking off from, or maneuvering about the Airport, as legally permitted by state and federal statutes, rules and/or regulations governing aircraft operations on or near airports, in and through the air space over and across the "Easement Property" (described herein), subject to the terms stated below:

1. **Definitions.** The following terms shall have the following meaning for purposes of this Agreement:

(a) "Easement Property" shall mean that portion of GRANTOR's Parcel legally described in Sheet 2 of 2 of **Exhibit "X"** dated 05/10/2021, attached hereto and incorporated herein by this reference, being the area (i) over which GRANTEE has certain rights to the airspace, and to the protection of such airspace, under this Agreement, and (ii) the boundaries of which are outlined by "PARCEL/EASEMENT" lines on Exhibit "X."

(b) "Grantor's Parcel" shall mean real property owned by GRANTOR, which is legally described in **Exhibit "A"** attached hereto and incorporated herein by this reference.

(c) "Landscaping Work" shall mean work shall mean trimming, cutting, removing and otherwise altering soil, grass, trees, shrubbery, crops, vegetation and other natural growth, and removing the associated debris, and planting of new trees or other vegetation where provided hereunder.

Avigation Easement – Airport Parcel #: E18 (Meadows) Airport Name: Charlotte FPK (9/5/23):

(d) "Prior Easements" shall mean, if and to the extent currently applicable to the Grantor's Parcel, (i) that certain Avigation Easement dated December 13, 1963, recorded December 19, 1963 in Liber 356, Page 408, Eaton County Records, and (ii) that certain Avigation Easement dated December 13, 1963 recorded January 27, 1964 in Liber 357, Page 30, Eaton County Records.

2. **Rights Dependent Upon Airport Use.** This easement shall terminate at such time that the Airport is no longer used for public airport purposes.

3. **GRANTEE's Rights.** In furtherance of the purpose of this easement, the GRANTEE is permitted to do the following:

(a) GRANTEE may keep the air space above the heights described and depicted on the attached Exhibit "X" clear and free from any and all fences, crops, trees, poles, buildings and other obstructions of any kind or nature which now extend, or which may at any time in the future extend, above those heights.

(b) GRANTEE shall have a non-exclusive right when and as reasonably needed, under which it may, from time to time, remove to ground level any or all natural growths which extend on the Easement Property above the heights described and depicted on the attached Exhibit "X" to the extent such action is reasonably necessary in furtherance of the purpose of this easement. Examples include situations in which: (i) trimming is unsafe or not reasonably possible, (ii) the species of the tree or other natural growth is too fast growing, or (iii) trimming would have a reasonable probability of killing the tree or other natural growth or causing it to become susceptible to disease. GRANTEE shall provide written notice to GRANTOR, in accordance with Section 6(a) hereof, prior to exercising GRANTEE's rights and undertaking any such activities under this Subsection (b).

(c) GRANTEE shall have a non-exclusive right when and as reasonably needed, under which it may, from time to time, remove obstructions from the Easement Property to the extent such action is reasonably necessary in furtherance of the purpose of this easement. GRANTEE shall provide written notice to GRANTOR, in accordance with Section 6(a) hereof, prior to exercising GRANTEE's rights and undertaking any such activities under this Subsection (c).

(d) GRANTEE may use the air space above the Easement Property for any and all lawful activities that are inherent in the operation of aircraft operated in compliance with applicable law, subject to the terms of Paragraph 5, below. Said operation of aircraft includes landing at, taking off from, or operating on or near the Airport. The air space which Grantee may use under this Agreement consists of the air space above the height of a conceptual surface represented by the Airspace Contours shown on Exhibit "X."

4. **Restrictions and Covenants Relating to GRANTOR.** In furtherance of this Agreement, the GRANTOR covenants, both on its own behalf and on behalf of its successors and assigns, for and during the term of this easement, as follows:

(a) The GRANTOR shall not construct upon the Easement Property any structure that extends above the heights described and depicted on the attached Exhibit "X." Provided, however, that any removal or trimming of trees or other natural growth on the Easement Property, as required, permitted or otherwise contemplated herein, shall be conducted by the GRANTEE or the GRANTEE's agents at the GRANTEE'S sole cost.

(b) The GRANTOR shall not promote any activity on the Easement Property that is incompatible, in a material respect, with the purpose of this easement. GRANTOR shall not be responsible or liable to

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any extent for, and GRANTOR shall be exonerated from any claims attributable to, negligent or unlawful activities conducted by anyone on Grantor's Parcel, including but not limited to GRANTOR's tenants and their visitors and guests. However, if GRANTEE informs GRANTOR, in writing, that such negligent or unlawful activities are taking place on Grantor's Parcel, then GRANTOR shall not be exonerated from any responsibility that may exist under applicable law (determined without regard to this Agreement) for any act undertaken by GRANTOR which causes or which worsens the ongoing conduct of such negligent or unlawful activities.

(c) The GRANTOR shall not intentionally and knowingly cause to be located in the Easement Property any device that will create electrical interference with radio communication between the installation upon the Airport and aircraft, or that will impair visibility in the vicinity of the Airport, or that will otherwise endanger the landing, taking-off or maneuvering of aircraft. GRANTEE shall provide prompt written responses to GRANTOR's inquiries concerning devices that are permitted or prohibited, with such back-up detail as GRANTOR may reasonably request. GRANTOR shall have the right to rely upon such written information from GRANTEE in GRANTOR's purchase or installation of devices, which GRANTOR can then maintain. GRANTEE shall pay additional compensation to GRANTOR, as warranted from time to time, for the reasonable cost of GRANTOR switching to alternative devices due to a change in applicable restrictions. Until GRANTEE provides written notice to GRANTOR of specific devices actually being used by GRANTOR that violate the restrictions imposed upon GRANTOR hereunder, and a reasonable period in which GRANTOR may cure the violation, GRANTOR shall have the right to operate devices, now or in the future, which are commonly used by residential communities, such as but not limited to remote readers which measure the use or consumption of water, gas, electricity and other utilities. For the avoidance of doubt, GRANTOR shall have the unrestricted right to operate devices, now or in the future, which are commonly considered FCC compliant.

(d) Except as otherwise expressly permitted hereunder or described herein, the GRANTOR shall not alter the current nature of the Easement Property for any new use that would be incompatible with the operation of the Airport, in a material respect, including the following: landfills, open dumps, waste disposal sites, storm water retention ponds and new wetlands, planting of crops that would attract or sustain hazardous bird movements, or any new use that would be incompatible, in a material respect, with the operation of the Airport. For the avoidance of doubt, this Agreement does not prohibit GRANTOR's use of customary dumpsters.

(e) GRANTOR, in selecting new trees as part of the future landscaping, shall not plant such trees that it reasonably expects will grow and reach heights that breach the surfaces as depicted in Exhibit "X" within an unreasonably short period of time in light of the goal of the parties to minimize need for significant future trimming of trees.

5. **Restrictions and Covenants Relating to GRANTEE.** In furtherance of this Agreement, the GRANTEE covenants, both on its own behalf and on behalf of its successors and assigns, for and during the term of this easement, as follows:

(a) If GRANTEE removes any trees or natural growth from the Easement Property, then at GRANTEE's sole expense, GRANTEE must (i) remove the entire stump and natural growth, and (ii) grade the surface to a smooth plane. GRANTEE shall be responsible for payment of all costs related to such work, including removing the tree and associated debris from the Grantor's Parcel and properly disposing of the same.

(b) The GRANTEE shall not promote any activities over the Easement Property that are incompatible, in a material respect, with the lawful use of Grantor's Parcel. In addition, GRANTEE's use of air space and the Easement Property under this Agreement shall not include any aircraft

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landing, aircraft trespass, explosion, crash, falling objects, dumping or spillage of liquid fuel or any other occurrence causing direct physical injury to persons or direct physical damage to property.

(c) The GRANTEE shall supervise the operation of the Airport to assure compliance with the Airport Rules and Regulations promulgated or approved by the Charlotte City Council in accordance with the Charlotte Code of Ordinances, and to assure compliance with other applicable ordinances and laws and compliance with advisories or pronouncements from governing agencies, as in effect from time to time.

6. **GRANTEE's Activities.**

(a) Except to the extent necessary to prevent imminent danger to health, safety or welfare, if GRANTEE intends to enter upon the Easement Property for purposes of engaging in any Landscaping Work or otherwise exercising any rights hereunder, then GRANTEE shall notify GRANTOR in writing of GRANTEE'S intent at least forty five (45) days prior to entry. As part of the notice required under the preceding sentence, GRANTEE shall provide GRANTOR reasonably detailed plans describing the planned Landscaping Work, including details on vegetation to be removed, details on vegetation to be planted, and the proposed schedule for entry onto Grantor's Parcel. GRANTOR shall then have the period of fifteen (15) days following its receipt of the plan documents to provide GRANTEE with detailed objections or requests for revisions thereto. If GRANTOR raises any objections or provides any requests for revisions, GRANTEE, together with its consultants and representatives of any governing agencies (if applicable), shall meet with GRANTOR and its consultants in an effort to resolve any differences prior to GRANTEE commencing Landscaping Work. If the parties cannot reach agreement, then the parties will discuss whether to seek a nonbinding opinion from a licensed landscape architect in an effort to resolve any disputed matters. The parties would jointly select such architect, and the architect's fees would be paid as mutually agreed in writing at that time.

(b) Prior to commencing any Landscaping Work on the Easement Property, GRANTEE shall procure, or GRANTEE shall cause its contractors and subcontractors to procure, the insurance coverages specified herein below. Such insurance shall be maintained in effect during the course of work on the Easement Property.

(c) GRANTEE and its contractors or agents shall perform all Landscaping Work on the Easement Property in a good, safe, workmanlike and lien-free manner in accordance with all applicable laws, rules, orders and regulations or codes. Furthermore, while engaging in any Landscaping Work on the Easement Property, GRANTEE shall not unreasonably or materially interfere with use of Grantor's Parcel by GRANTOR's tenants, their visitors and other invitees.

(d) GRANTEE shall, at its sole cost and expense, promptly remove any debris resulting from Landscaping Work and from GRANTEE's entry upon the Easement Property, and promptly repair any damage to the GRANTOR's Parcel caused by GRANTEE or its contractors or agents. GRANTEE shall, at its sole cost and expense, promptly restore the impacted areas of the GRANTOR's Parcel (other than permanent changes permitted by this Agreement) to substantially the same condition that existed before the commencement of such Landscaping Work and entry.

(e) If GRANTEE fails to perform any obligation in this Agreement, and fails to cure such nonperformance within thirty (30) days after written notice from GRANTOR (as extended for weather, disease, government shut-down orders and/or other delays outside of GRANTEE's reasonable control), then GRANTOR shall have the right, but not the obligation to perform the obligation and be reimbursed for the reasonable cost of that performance by GRANTEE within thirty (30) days after receipt of an invoice with reasonable supporting documentation.

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7. **GRANTOR's Retained Rights.**

(a) GRANTOR hereby reserves for itself, its successors and assigns, all right, title and interest in and to Grantor's Parcel and the Easement Property, which GRANTOR shall have the right to use and enjoy in any manner that does not materially interfere with the rights and benefits expressly provided herein for GRANTEE. By way of example, without being limited by the preceding sentence, GRANTOR reserves any and all rights it may now or hereafter possess, subject to GRANTOR's compliance with governing federal, state and local law and the requirements of governing Federal Aviation Administration regulations, (i) to establish and maintain detention ponds anywhere on Grantor's Parcel if approved (when required) by the Eaton County Drain Commissioner's office or other local land use authority, and (ii) to establish and maintain retention ponds or wetlands on areas on Grantor's Parcel that are outside the Easement Property.

(b) GRANTOR shall have the ongoing right to grant other easements over, under and across the Easement Property, provided that such subsequent easements do not materially interfere with the rights and benefits expressly provided herein for GRANTEE.

(c) The terms of this Agreement shall not operate to deprive GRANTOR or GRANTOR's directors, officers, members, managers, shareholders, partners, principals, agents, employees, representatives, affiliates and subsidiaries, or their tenants, visitors and guests, of any rights which they may from time to time have against any air carrier or private operator for negligent or unlawful operation of aircraft, or for any other incident which causes actual physical injury to individuals or damage to property, including but not limited to the right to pursue claims in a court of competent jurisdiction.

(d) The terms of this Agreement shall not operate to preclude GRANTOR or its tenants from participating in any noise mitigation programs for which they may be eligible, provided by GRANTEE, by the Federal Aviation Administration or by any other governmental or non-governmental agency. Further, upon request, GRANTEE shall affirmatively assist GRANTOR and its tenants in seeking any such benefits which may be available.

8. **Indemnification by GRANTEE.** GRANTEE shall indemnify, defend and hold harmless GRANTOR and GRANTOR's directors, officers, members, managers, shareholders, partners, principals, agents, employees, representatives, affiliates and subsidiaries (collectively the "Indemnitees") from and against any and all claims, debts, causes of actions, judgments, liabilities, losses, demands, damages or expenses, including reasonable attorneys' fees, suffered by any of the Indemnitees to the extent due to or arising from (i) the actions within or around, or the use of, the Easement Property by GRANTEE or its contractors, subcontractors, agents, employees and representatives, (ii) any injury or death to person or damage to property (including but not limited to damage to above-ground and underground utilities and facilities) arising from or in any manner relating to the exercise by GRANTEE of its rights or privileges granted hereunder, and/or (iii) GRANTEE's failure to comply with or breach of any of the covenants, terms, or conditions of this Agreement. Provided, however, nothing herein shall be construed as waiving any rights or privileges of governmental immunity existing under any applicable law, including as provided by MCL 691.1401 *et seq.* The terms and conditions of this Section shall survive any termination of this Agreement with respect to matters occurring prior to such termination. For the avoidance of doubt, the parties affirm that GRANTEE is not assuming responsibility for personal injury or property damage to the extent attributable to negligent or unlawful operation of aircraft by any air carrier or private operator.

9. **Insurance.** The GRANTEE covenants and agrees that any contractors, subcontractors or agents of GRANTEE who enter upon the Easement Property will be insured through their own policies and/or through GRANTEE's policies, at the sole cost and expense of the principal insured party, with commercial general liability insurance covering their activities on the Easement Property under this Agreement

Avigation Easement – Airport Parcel #: E18 (Meadows) Airport Name: Charlotte FPK (9/5/23):

against claims for personal injury or death and property damage, such insurance to be written on an occurrence basis (not a claims made basis), with combined single limit coverage of not less than Two Million Dollars (\$2,000,000.00) and with a general aggregate limit of not less than Three Million Dollars (\$3,000,000.00) for each policy year. GRANTOR may from time to time require reasonable increases in any such limits. Such policy shall name GRANTOR, and any other party reasonably designated by GRANTOR, as an additional insured party and such coverage for the additional insured shall be at least as broad as that afforded to the principal insured party. The limits of insurance provided to the additional insured shall be the greater of that set forth in this Agreement or the full per occurrence limit set forth in the policy. Such policy shall contain a provision that the insurer will give to GRANTOR and such other parties in interest at least thirty (30) days notice in writing in advance of any cancellation, termination or lapse of insurance. Such policy shall be written as a primary policy which does not contribute to and is not in excess of coverage which GRANTOR may carry. Certificates of insurance shall be provided to GRANTOR upon request.

10. **Liens.** GRANTEE has no authority or power to cause or permit any lien or encumbrance of any kind whatsoever, whether created by GRANTEE, operation of law or otherwise, to attach to or be placed upon GRANTOR's title or interest in the Easement Property or any other portion of the Grantor's Parcel, and any and all liens and encumbrances created by GRANTEE shall attach to GRANTEE's interest only. GRANTEE shall not cause or permit any mechanics or materialmen liens to attach to or be placed upon the Easement Property or any other portion of the Grantor's Parcel.

11. **Liability Limitations.** Neither GRANTOR nor any director, officer, member, manager, shareholder, partner, principal, agent, employee or representative of GRANTOR shall have any personal liability with respect to any of the provisions of this Agreement. In the event GRANTOR is in breach or default with respect to GRANTOR's obligations under this Agreement, GRANTEE shall look solely to the equity of GRANTOR in the Grantor's Parcel for the satisfaction of GRANTEE's remedies. In no event shall GRANTOR be liable for any punitive, speculative, special or consequential damages.

12. **Title; Prior Easements Superseded.** GRANTOR makes no representations or warranties with respect to the state of title to the Grantor's Parcel. This Agreement and the easements granted herein shall be subject to, and GRANTEE shall comply with, any and all recorded encumbrances, easements, rights-of-way and restrictions affecting the Grantor's Parcel. Notwithstanding the foregoing, this Agreement shall be deemed to amend the Prior Easements, and this Agreement shall supersede the application of the Prior Easements for all purposes, with respect to Grantor's Parcel (but not with respect to any other land covered thereby); and the Prior Easements shall have no further force or effect with respect to Grantor's Parcel, from and after the date hereof.

13. **Mortgagee Protections.** The following provisions are for the benefit of the holder ("Mortgagee") of any first mortgage ("Mortgage") encumbering the Grantor's Parcel. Any Mortgagee who provides a written request to the GRANTEE stating its name and address and indicating that its Mortgage encumbers all or part of the Grantor's Parcel shall be entitled to a copy of any notice of default by GRANTOR under this Agreement, and the Mortgagee shall have the right, but not the obligation, to cure any such default within thirty (30) days after its receipt of such notice of default, or within such longer period of time as may be reasonably required under the circumstances.

14. **Estoppel Certificates.** Within twenty (20) days of delivery of a written request from either party to the other party, such recipient shall execute and deliver a certificate addressed to such persons as the requesting party may reasonably request confirming, if such then be the fact, (i) that this Agreement is in full force and effect, (ii) that the party executing the certificate knows of no existing defaults by the requesting party under this Agreement, or if such defaults are known, specifying the same, and (iii) the status of any other matter regarding this Agreement requested by the requesting party. In addition to the requesting party, the parties to whom such estoppel certificate is certified shall be entitled to rely on the

Avigation Easement – Airport Parcel #: E18 (Meadows) Airport Name: Charlotte FPK (9/5/23):

certificate.

15. **Entire Agreement.** Apart from the consideration paid by GRANTEE to GRANTOR for the grant of easements hereunder, this Agreement contains the entire understanding of the parties regarding the grant of easements set forth herein; and the parties acknowledge that there have been no representations or understandings other than those expressly set forth in this Agreement.

16. **Notices.** Notices to a party as permitted or required hereunder shall be in writing and shall be delivered or sent by personal delivery, by certified mail (postage prepaid and return receipt requested), or by overnight delivery by a reputable national carrier. Notice may also be given by telefax, email or other electronic means, if the recipient provides written confirmation of receipt or if there is other reliable proof of delivery. In addition, a copy of each such notice intended for a party shall be furnished to such additional addressees for that party as may be specified herein or specified in a like notice. Delivery shall be deemed to have been made upon personal delivery (including by electronic means), three (3) business days after deposit with the US Postal Service for certified mail delivery, and one (1) business day after deposit with an overnight courier service for next day delivery.

For purposes hereof, the address of each party shall be as follows:

If to GRANTOR:

Robert Goodman
5640 W. Maple Road, Suite 303
West Bloomfield, MI 48322
rgoodman@westmaplegroup.com
248-789-5335 Phone (cell)
248-626-2127 Fax

With a copy to:

Steven R. Cole
Bodman PLC
201 W. Big Beaver, Suite 500
Troy, Michigan 48084
scole@bodmanlaw.com
248-470-2172 Phone (cell)
248-743-6002 Fax

And with a copy to:

Mark S. Kassab
Senior Vice President
M. Shapiro Real Estate Group
31550 Northwestern Highway, Suite 220
Farmington Hills, MI 48334
mkassab@mshapirorealestate.com
248-865-0066 Phone
248-865-1166 Fax

If to GRANTEE:

City of Charlotte
Attention: City Clerk and Chairperson of Airport Advisory Board
111 E. Lawrence Avenue

Avigation Easement – Airport Parcel #: E18 (Meadows) Airport Name: Charlotte FPK (9/5/23):

Charlotte, MI 48813

With a copy to:

City Manager, City of Charlotte
111 E. Lawrence Avenue
Charlotte, MI 48813

Any party may change its address for notice (or for copies) by written notice to the other party in the manner specified above.

17. **Governing Law.** This Agreement shall be construed in accordance with the laws of the State of Michigan and any applicable federal laws and regulations.

18. **Waiver of Default.** No waiver of any default by any party to this Agreement shall be implied from any omission by any other party to take any action in respect of such default. No express waiver of any default shall affect any default or cover any period of time other than the default and period of time specified in such express waiver. One or more waivers of any default in the performance of any term, provision or covenant contained in this Agreement shall not be deemed to be a waiver of any subsequent default in the performance of the same term, provision or covenant or any other term, provision or covenant contained in this Agreement. The rights and remedies given to any party to this Agreement shall be deemed to be cumulative and no one of such rights and remedies shall be exclusive of any of the others, or of any other right or remedy at law or in equity which any such party might otherwise have by virtue of a default under this Agreement, and the exercise of one such right or remedy by any such party shall not impair such party's standing to exercise any other right or remedy.

19. **Severability.** If any term, provision or condition contained in this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement (or the application of such term, provision or condition to persons or circumstances other than those in respect of which it is invalid or unenforceable) shall not be affected thereby, and each term, provision or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law, provided that any such deletions can be made without materially changing the basic agreement between the parties. If such deletions cannot be made without materially changing the basic agreement between the parties, then the parties agree to amend, or to permit the court to amend, this Agreement to accomplish essentially the same transaction without such illegal, invalid or unenforceable provisions.

20. **Amendment.** This Agreement may be modified or amended, in whole or in part, only by an amendment in writing, executed and acknowledged by the parties and duly recorded with the Eaton County Register of Deeds.

21. **Agreements Run With Land.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, solely in their capacity as owners of their respective parcels described herein, and solely during their ownership of such parcels. The terms of this Agreement shall run with the land for the benefit of GRANTOR and GRANTEE, and their successors and assigns, and shall expire upon termination of the easement rights granted herein.

22. **Attorneys' Fees.** If any party brings an action to enforce the terms of this Agreement or to declare rights hereunder, the prevailing party in any such action, on trial or appeal or post-judgment collection, shall be entitled to its reasonable attorneys' fees to be paid by the losing party as determined by the court. The parties agree that "prevailing party" means the party who successfully prosecutes the action or successfully defends against it, prevailing on the main issue, even though not necessarily receiving an award of damages (or the extent of damages sought) or other form of recovery.

Avigation Easement – Airport Parcel #: E18 (Meadows) Airport Name: Charlotte FPK (9/5/23):

23. **No Partnership or Joint Venture.** Nothing in this Agreement shall be construed to make the parties herein partners or joint venturers or render any of the parties liable for the debts or obligations of the other.

24. **Headings.** The headings in this Agreement are provided for convenient reference only, are wholly without substantive effect, and shall not be employed in the interpretation or enforcement of this Agreement.

25. **Construction.** Each party has participated fully in the negotiation and preparation of this Agreement with full benefit or availability of counsel. Accordingly, this Agreement shall not be more strictly construed against either party.

26. **Counterparts.** This Agreement may be executed by the parties on any number of separate counterparts and all such counterparts so executed constitute one agreement binding on the parties, notwithstanding that all parties are not signatories to the same counterpart.

27. **No Dedication to Public.** Nothing contained herein shall be construed as creating any rights in the general public or as dedicating for public use any portion of Grantor's Parcel, except for the limited rights expressly stated herein. No easements, except as expressly set forth herein, shall be implied by this Agreement.

28. **Transfer Tax.** This instrument is not exempt from state or county real estate transfer tax. From its own funds, GRANTEE shall pay the full amount of such taxes, on behalf of GRANTOR, simultaneous with the recording of this Agreement.

[Remainder of page intentionally left blank]

Avigation Easement – Airport Parcel #: E18 (Meadows) Airport Name: Charlotte FPK (9/5/23):

Signature page attached to and part of Avigation Agreement – Parcel # E18

EXECUTION BY GRANTOR

SIGNED THIS _____ DAY OF _____, 2023:

Meadows Mobile Home Park and Sales L.L.C., a
Michigan limited liability company

By: _____
Robert Goodman
Title: Manager

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

On this ____ day of _____, 2023, before me, a Notary Public in and for the county stated below, personally appeared Robert Goodman, to me known to be the same person described in, and who executed, the within instrument as Manager of Meadows Mobile Home Park and Sales L.L.C., a Michigan limited liability company, for the company.

Notary Public, _____ County, Michigan
My Commission Expires: _____
Acting in the County of Oakland

[GRANTEE's signature is on the next page]

Avigation Easement – Airport Parcel #: E18 (Meadows) Airport Name: Charlotte FPK (9/5/23):

Signature page attached to and part of Avigation Agreement – Parcel # E18

Mortgagee's Consent to Avigation Easement

First Merchants Bank, an Indiana chartered bank, successor by merger to Level One Bank, ("Mortgagee"), with an office located at 32991 Hamilton Court, Farmington Hills, Michigan 48334, is delivering this Consent to Avigation Easement in its capacity as (i) the mortgagee under a Future Advance Mortgage granted by Meadows Mobile Home Park and Sales L.L.C., a Michigan limited liability company, as mortgagor, dated May 1, 2013, recorded May 20, 2013 in Liber 2464, Page 92, Eaton County Records, and (ii) the assignee under an Assignment of Rents and Leases granted by Meadows Mobile Home Park and Sales L.L.C., a Michigan limited liability company, as assignor, dated May 1, 2013, recorded May 20, 2013 in Liber 2464, Page 108, Eaton County Records, in each case covering the real property in the Township of Eaton, County of Eaton, and State of Michigan, described on **Exhibit A** attached hereto.

Execution by First Merchants Bank

SIGNED THIS _____ DAY OF _____, 2023

First Merchants Bank, an Indiana chartered bank,
successor by merger to Level One Bank

By: _____
Jonathan Thornburg
Title: First Vice President, Regional Chief Credit
Officer

STATE OF _____)
) ss.
COUNTY OF _____)

On this ____ day of _____, 2023, before me, a Notary Public in and for the state and county stated below, personally appeared Jonathan Thornburg, First Vice President, Regional Chief Credit Officer of First Merchants Bank, an Indiana chartered bank, successor by merger to Level One Bank, on behalf of said bank.

Notary Public, _____ County, _____,
My Commission Expires: _____
Acting in the County of _____

Avigation Easement – Airport Parcel #: E18 (Meadows) Airport Name: Charlotte FPK (9/5/23):

Exhibit "A" – GRANTOR's Parcel

AVIGATION EASEMENT

Property Tax Code: 200—005-400-003-00	Parcel No.: E18
--	------------------------

PROPERTY DESCRIPTION (entire parcel):

Land situated in the Township of Eaton, County of Eaton, and State of Michigan, is described as follows:

That part of the Southeast 1/4 of Section 5, Town 2 North, Range 4 West, Eaton Township, Eaton County, Michigan, described as: Commencing at the South 1/4 corner of Section 5, Town 2 North, Range 4 West; thence North 00 degrees 29 minutes 12 seconds West, 216.16 feet on the North-South 1/4 line of said Section 5 to the centerline of Westbound Lansing Road; thence North 50 degrees 52 minutes 21 seconds East, 607.47 feet on the said centerline; thence North 00 degrees 29 minutes 12 seconds West, 55.06 feet to the Northerly right of way of Lansing Road and the point of beginning of the following described parcel; thence North 39 degrees 07 minutes 39 seconds West, 114.44 feet; thence South 89 degrees 30 minutes 48 seconds West, 403.01 feet to the North-South 1/4 line of said Section 5; thence North 00 degrees 29 minutes 12 seconds West, 1154.21 feet on said North-South 1/4 line to the South right of way line of Highway 1-69; thence North 74 degrees 45 minutes 19 seconds East, 1363.53 feet on said right of way; thence South 00 degrees 32 minutes 54 seconds East, 797.41 feet; thence North 89 degrees 56 minutes 09 seconds West, 198.00 feet; thence South 00 degrees 32 minutes 54 seconds East, 110.00 feet; thence South 89 degrees 56 minutes 09 seconds East, 198.00 feet to a point on the Northerly right of way of Westbound Lansing Road; thence South 00 degrees 32 minutes 54 seconds East, 20.00 feet, thence North 89 degrees 56 minutes 09 seconds West, 845.10 feet; thence South 00 degrees 29 minutes 12 seconds East, 564.96 feet; thence South 39 degrees 07 minutes 39 seconds East, 82.56 feet to the Northerly right of way of Lansing Road; thence South 50 degrees 52 minutes 21 seconds West, 66.00 feet on said right of way to the point of beginning.

Commonly known as 1563 E. Lansing Road, Charlotte, Michigan.

Avigation Easement – Airport Parcel #: E18 (Meadows) Airport Name: Charlotte FPK (9/5/23):

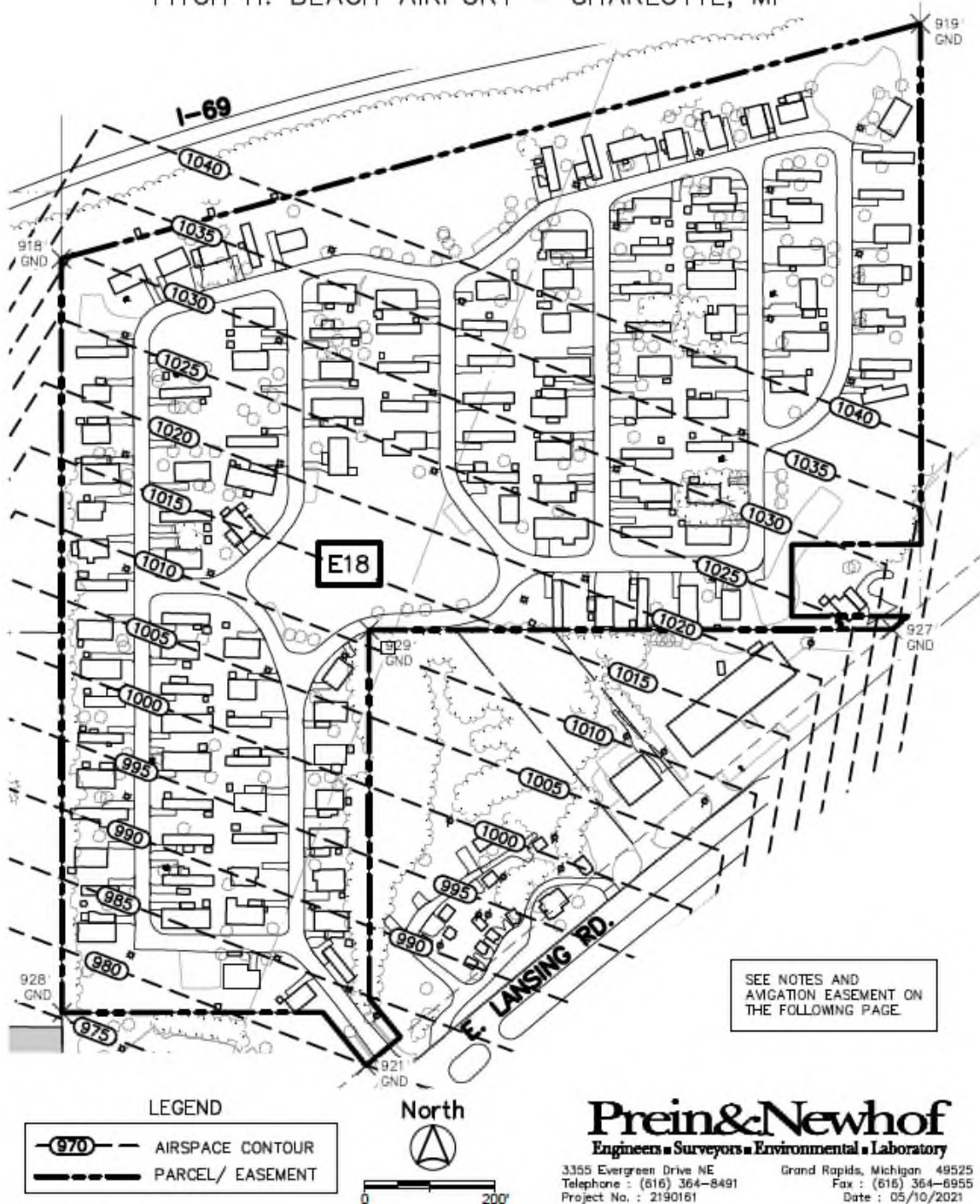
Exhibit "X"

EXHIBIT "X" E18

SHEET 1 OF 2

PARCEL NO. 200-005-400-003-00 (1563 LANSING RD.)

FITCH H. BEACH AIRPORT – CHARLOTTE, MI



Avigation Easement – Airport Parcel #: E18 (Meadows) Airport Name: Charlotte FPK (9/5/23):

Exhibit "X" - continued

EXHIBIT "X" E18

SHEET 2 OF 2

PARCEL NO. 200-005-400-003-00 (1563 LANSING RD.)
FITCH H. BEACH AIRPORT – CHARLOTTE, MI

NOTES

THE FOLLOWING NOTES ARE SUBJECT TO THE TERMS OF THE
ACCOMPANYING AVIGATION EASEMENT:

1. ALL DIMENSIONS ARE SHOWN IN FEET AND DECIMAL THEREOF.
ALL ALLOWABLE ELEVATIONS SHOWN ARE IN FEET ABOVE
MEAN SEA LEVEL.
2. IN ORDER TO PREVENT FREQUENT MAINTENANCE TO
PROPERTIES WITH AVIGATION EASEMENTS, ALL VEGETATION
GROWING WITHIN TEN FEET (10.0') OF THE FAR PART 77
CONTOUR MAY BE REMOVED TO GROUND AS PART OF THIS
AVIGATION EASEMENT.
3. ANY VEGETATION WITHIN THE BOUNDARIES OF THE EASEMENT
THAT PENETRATE OR GROW TO WITHIN TEN FEET (10') OF
THE APPROACH SURFACE IN THE FUTURE WILL ALSO BE
ELIGIBLE FOR REMOVAL BY THE CITY OF CHARLOTTE OR ITS
AGENTS UNDER THE CONDITIONS OF THIS EASEMENT.
4. ELEVATIONS ARE BASED ON SURVEY FROM APRIL OF 2019.

AVIGATION EASEMENT LEGAL DESCRIPTION

AN AVIGATION EASEMENT CONSISTING OF THE AIRSPACE OVER THE BELOW DESCRIBED
PARCEL; ABOVE THE FAR PART 77 SURFACES OF THE FITCH H. BEACH AIRPORT. THESE
SURFACES ARE MORE COMMONLY DESCRIBED AS; COMMENCING AT RUNWAY 21 AT AN
ELEVATION OF 891' AND RISING NORTHERLY OVER THE PARCEL AT THE ELEVATIONS
INDICATED ON THIS EXHIBIT X DRAWING.

PARCEL LEGAL DESCRIPTION

COM S 1/4 COR, N 216.16 FT, N 50DEG 52MIN 21SEC E 607.47 FT, N 55.06 FT TO NLY R/W
LANSING RD & P.O.B., N 39DEG 07MIN 39SEC W 114.44 FT, W 403.01 FT TO NS 1/4 LINE, N
1154.21 FT TO S R/W HWY I-69, N 74DEG 45MIN 19SEC E ON R/W 1363.53 FT, S 797.41 FT, W 198
FT, S 110 FT, E 198 FT, S 20 FT, W 845.1 FT, S 564.96 FT, S 39DEG 07MIN 39SEC E 82.56 FT TO
NLY R/W LANSING RD, S 50DEG 52MIN 21SEC W 66 FT TO BEG. SEC.5, T2N,R4W, CITY OF
CHARLOTTE 7-11-2001

Prein & Newhof
Engineers ■ Surveyors ■ Environmental ■ Laboratory

3355 Evergreen Drive NE
Telephone : (616) 364-8491
Project No. : 2190161

Grand Rapids, Michigan 49525
Fax : (616) 364-6955
Date : 05/10/2021

Avigation Easement – Airport Parcel #: E18 (Meadows) Airport Name: Charlotte FPK (9/5/23):

Signature page attached to and part of Avigation Agreement – Parcel # E18

Mortgagee's Consent to Avigation Easement

First Merchants Bank, an Indiana chartered bank, successor by merger to Level One Bank, ("**Mortgagee**"), with an office located at 32991 Hamilton Court, Farmington Hills, Michigan 48334, is delivering this Consent to Avigation Easement in its capacity as (i) the mortgagee under a Future Advance Mortgage granted by Meadows Mobile Home Park and Sales L.L.C., a Michigan limited liability company, as mortgagor, dated May 1, 2013, recorded May 20, 2013 in Liber 2464, Page 92, Eaton County Records, and (ii) the assignee under an Assignment of Rents and Leases granted by Meadows Mobile Home Park and Sales L.L.C., a Michigan limited liability company, as assignor, dated May 1, 2013, recorded May 20, 2013 in Liber 2464, Page 108, Eaton County Records, in each case covering the real property in the Township of Eaton, County of Eaton, and State of Michigan, described on **Exhibit A** attached hereto.

Execution by First Merchants Bank

SIGNED THIS 6 DAY OF Sept., 2023

First Merchants Bank, an Indiana chartered bank,
successor by merger to Level One Bank

By: 
Glen Maurer
Title: Vice President, Commercial Lending

STATE OF MI)
) ss.
COUNTY OF Oakland)

On this 6 day of Sept., 2023, before me, a Notary Public in and for the state and county stated below, personally appeared Glen Maurer, Vice President, Commercial Lending of First Merchants Bank, an Indiana chartered bank, successor by merger to Level One Bank, on behalf of said bank.


Notary Public, _____ County, _____,
FRED P RASHID
My Commission Expires: NOTARY PUBLIC STATE OF MICHIGAN
COUNTY OF OAKLAND
Acting in the County of _____
My Commission Expires 03/09/2030
Acting in the County of: _____

Avigation Easement – Airport Parcel #: E18 (Meadows) Airport Name: Charlotte FPK (9/5/23):

AVIGATION EASEMENT
(for properties located outside Runway Protection Zones)

THIS AGREEMENT is made this ____ day of _____, 2023 between **Charlotte Estates L.L.C.**, a Michigan limited liability company, whose address is 5640 W. Maple Road, Suite 303, West Bloomfield, MI 48322 ("GRANTOR"), and **City of Charlotte**, a Michigan municipal corporation, whose address is 111 E. Lawrence Avenue, Charlotte, MI 48813 ("GRANTEE").

WHEREAS, the GRANTEE is the owner and operator of the Charlotte, Fitch H. Beach Municipal Airport ("Airport"), situated in Eaton County, Michigan, and in close proximity to property owned by the GRANTOR;

WHEREAS, the GRANTEE desires to obtain and preserve for the use and benefit of the public a right of free and unobstructed flight for aircraft landing upon, taking off from, or maneuvering about the Airport; and

WHEREAS, the parties are entering into this Agreement, as a result of the parties' intention to provide the grant of an easement and the acceptance thereof, pursuant to the terms contained herein, which terms have arisen from GRANTEE's threat of an imminent condemnation.

NOW THEREFORE, for the full consideration set forth in the accompanying Real Estate Transfer Tax Valuation Affidavit, the receipt and sufficiency of which is acknowledged, the GRANTOR conveys to the GRANTEE, its successors and assigns, for the benefit of the general public at large, an easement for the free, unobstructed passage of aircraft landing upon, taking off from, or maneuvering about the Airport, as legally permitted by state and federal statutes, rules and/or regulations governing aircraft operations on or near airports, in and through the air space over and across the "Easement Property" (described herein), subject to the terms stated below:

1. **Definitions.** The following terms shall have the following meaning for purposes of this Agreement:

(a) "Easement Property" shall mean that portion of GRANTOR's Parcel legally described in Sheet 2 of 2 of **Exhibit "X"** dated 05/10/2021, attached hereto and incorporated herein by this reference, being the area (i) over which GRANTEE has certain rights to the airspace, and to the protection of such airspace, under this Agreement, and (ii) the boundaries of which are outlined by "PARCEL/EASEMENT" lines on Exhibit "X."

(b) "Grantor's Parcel" shall mean real property owned by GRANTOR, which is legally described in **Exhibit "A"** attached hereto and incorporated herein by this reference.

(c) "Landscaping Work" shall mean work shall mean trimming, cutting, removing and otherwise altering soil, grass, trees, shrubbery, crops, vegetation and other natural growth, and removing the associated debris, and planting of new trees or other vegetation where provided hereunder.

Avigation Easement – Airport Parcel #: E17 (Ch. Estates) Airport Name: Charlotte FPK (9/5/23):

(d) "Prior Easements" shall mean, if and to the extent currently applicable to the Grantor's Parcel, (i) that certain Avigation Easement dated October 22, 1963, recorded October 30, 1963 in Liber 356, Page 40, Eaton County Records, and (ii) that certain Avigation Easement dated December 28, 1967 recorded April 9, 1968 in Liber 397, Page 353, Eaton County Records.

2. **Rights Dependent Upon Airport Use.** This easement shall terminate at such time that the Airport is no longer used for public airport purposes.

3. **GRANTEE's Rights.** In furtherance of the purpose of this easement, the GRANTEE is permitted to do the following:

(a) GRANTEE may keep the air space above the heights described and depicted on the attached Exhibit "X" clear and free from any and all fences, crops, trees, poles, buildings and other obstructions of any kind or nature which now extend, or which may at any time in the future extend, above those heights.

(b) GRANTEE shall have a non-exclusive right when and as reasonably needed, under which it may, from time to time, remove to ground level any or all natural growths which extend on the Easement Property above the heights described and depicted on the attached Exhibit "X" to the extent such action is reasonably necessary in furtherance of the purpose of this easement. Examples include situations in which: (i) trimming is unsafe or not reasonably possible, (ii) the species of the tree or other natural growth is too fast growing, or (iii) trimming would have a reasonable probability of killing the tree or other natural growth or causing it to become susceptible to disease. GRANTEE shall provide written notice to GRANTOR, in accordance with Section 6(a) hereof, prior to exercising GRANTEE's rights and undertaking any such activities under this Subsection (b).

(c) GRANTEE shall have a non-exclusive right when and as reasonably needed, under which it may, from time to time, remove obstructions from the Easement Property to the extent such action is reasonably necessary in furtherance of the purpose of this easement. GRANTEE shall provide written notice to GRANTOR, in accordance with Section 6(a) hereof, prior to exercising GRANTEE's rights and undertaking any such activities under this Subsection (c).

(d) GRANTEE may use the air space above the Easement Property for any and all lawful activities that are inherent in the operation of aircraft operated in compliance with applicable law, subject to the terms of Paragraph 5, below. Said operation of aircraft includes landing at, taking off from, or operating on or near the Airport. The air space which Grantee may use under this Agreement consists of the air space above the height of a conceptual surface represented by the Airspace Contours shown on Exhibit "X."

4. **Restrictions and Covenants Relating to GRANTOR.** In furtherance of this Agreement, the GRANTOR covenants, both on its own behalf and on behalf of its successors and assigns, for and during the term of this easement, as follows:

(a) The GRANTOR shall not construct upon the Easement Property any structure that extends above the heights described and depicted on the attached Exhibit "X." Provided, however, that any removal or trimming of trees or other natural growth on the Easement Property, as required, permitted or otherwise contemplated herein, shall be conducted by the GRANTEE or the GRANTEE's agents at the GRANTEE'S sole cost.

(b) The GRANTOR shall not promote any activity on the Easement Property that is incompatible, in a material respect, with the purpose of this easement. GRANTOR shall not be responsible or liable to any extent for, and GRANTOR shall be exonerated from any claims attributable to, negligent or unlawful activities conducted by anyone on Grantor's Parcel, including but not limited to GRANTOR's

Avigation Easement – Airport Parcel #: E17 (Ch. Estates) Airport Name: Charlotte FPK (9/5/23):

tenants and their visitors and guests. However, if GRANTEE informs GRANTOR, in writing, that such negligent or unlawful activities are taking place on Grantor's Parcel, then GRANTOR shall not be exonerated from any responsibility that may exist under applicable law (determined without regard to this Agreement) for any act undertaken by GRANTOR which causes or which worsens the ongoing conduct of such negligent or unlawful activities.

(c) The GRANTOR shall not intentionally and knowingly cause to be located in the Easement Property any device that will create electrical interference with radio communication between the installation upon the Airport and aircraft, or that will impair visibility in the vicinity of the Airport, or that will otherwise endanger the landing, taking-off or maneuvering of aircraft. GRANTEE shall provide prompt written responses to GRANTOR's inquiries concerning devices that are permitted or prohibited, with such back-up detail as GRANTOR may reasonably request. GRANTOR shall have the right to rely upon such written information from GRANTEE in GRANTOR's purchase or installation of devices, which GRANTOR can then maintain. GRANTEE shall pay additional compensation to GRANTOR, as warranted from time to time, for the reasonable cost of GRANTOR switching to alternative devices due to a change in applicable restrictions. Until GRANTEE provides written notice to GRANTOR of specific devices actually being used by GRANTOR that violate the restrictions imposed upon GRANTOR hereunder, and a reasonable period in which GRANTOR may cure the violation, GRANTOR shall have the right to operate devices, now or in the future, which are commonly used by residential communities, such as but not limited to remote readers which measure the use or consumption of water, gas, electricity and other utilities. For the avoidance of doubt, GRANTOR shall have the unrestricted right to operate devices, now or in the future, which are commonly considered FCC compliant.

(d) Except as otherwise expressly permitted hereunder or described herein, the GRANTOR shall not alter the current nature of the Easement Property for any new use that would be incompatible with the operation of the Airport, in a material respect, including the following: landfills, open dumps, waste disposal sites, storm water retention ponds and new wetlands, planting of crops that would attract or sustain hazardous bird movements, or any new use that would be incompatible, in a material respect, with the operation of the Airport. For the avoidance of doubt, this Agreement does not prohibit GRANTOR's use of customary dumpsters.

(e) GRANTOR, in selecting new trees as part of the future landscaping, shall not plant such trees that it reasonably expects will grow and reach heights that breach the surfaces as depicted in Exhibit "X" within an unreasonably short period of time in light of the goal of the parties to minimize need for significant future trimming of trees.

5. **Restrictions and Covenants Relating to GRANTEE.** In furtherance of this Agreement, the GRANTEE covenants, both on its own behalf and on behalf of its successors and assigns, for and during the term of this easement, as follows:

(a) If GRANTEE removes any trees or natural growth from the Easement Property, then at GRANTEE's sole expense, GRANTEE must (i) grind the stump and vegetation down to surface level, and (ii) grade the surface to a smooth plane. GRANTEE shall be responsible for payment of all costs related to such work, including removing the tree and associated debris from the Grantor's Parcel and properly disposing of the same.

(b) The GRANTEE shall not promote any activities over the Easement Property that are incompatible, in a material respect, with the lawful use of Grantor's Parcel. In addition, GRANTEE's use of air space and the Easement Property under this Agreement shall not include any aircraft landing, aircraft trespass, explosion, crash, falling objects, dumping or spillage of liquid fuel or any other occurrence causing direct physical injury to persons or direct physical damage to property.

Avigation Easement – Airport Parcel #: E17 (Ch. Estates) Airport Name: Charlotte FPK (9/5/23):

(c) The GRANTEE shall supervise the operation of the Airport to assure compliance with the Airport Rules and Regulations promulgated or approved by the Charlotte City Council in accordance with the Charlotte Code of Ordinances, and to assure compliance with other applicable ordinances and laws and compliance with advisories or pronouncements from governing agencies, as in effect from time to time.

6. **GRANTEE's Activities.**

(a) Except to the extent necessary to prevent imminent danger to health, safety or welfare, if GRANTEE intends to enter upon the Easement Property for purposes of engaging in any Landscaping Work or otherwise exercising any rights hereunder, then GRANTEE shall notify GRANTOR in writing of GRANTEE'S intent at least forty five (45) days prior to entry. As part of the notice required under the preceding sentence, GRANTEE shall provide GRANTOR reasonably detailed plans describing the planned Landscaping Work, including details on vegetation to be removed, details on vegetation to be planted, and the proposed schedule for entry onto Grantor's Parcel. GRANTOR shall then have the period of fifteen (15) days following its receipt of the plan documents to provide GRANTEE with detailed objections or requests for revisions thereto. If GRANTOR raises any objections or provides any requests for revisions, GRANTEE, together with its consultants and representatives of any governing agencies (if applicable), shall meet with GRANTOR and its consultants in an effort to resolve any differences prior to GRANTEE commencing Landscaping Work. If the parties cannot reach agreement, then the parties will discuss whether to seek a nonbinding opinion from a licensed landscape architect in an effort to resolve any disputed matters. The parties would jointly select such architect, and the architect's fees would be paid as mutually agreed in writing at that time.

(b) Prior to commencing any Landscaping Work on the Easement Property, GRANTEE shall procure, or GRANTEE shall cause its contractors and subcontractors to procure, the insurance coverages specified herein below. Such insurance shall be maintained in effect during the course of work on the Easement Property.

(c) GRANTEE and its contractors or agents shall perform all Landscaping Work on the Easement Property in a good, safe, workmanlike and lien-free manner in accordance with all applicable laws, rules, orders and regulations or codes. Furthermore, while engaging in any Landscaping Work on the Easement Property, GRANTEE shall not unreasonably or materially interfere with use of Grantor's Parcel by GRANTOR's tenants, their visitors and other invitees.

(d) GRANTEE shall, at its sole cost and expense, promptly remove any debris resulting from Landscaping Work and from GRANTEE's entry upon the Easement Property, and promptly repair any damage to the GRANTOR's Parcel caused by GRANTEE or its contractors or agents. GRANTEE shall, at its sole cost and expense, promptly restore the impacted areas of the GRANTOR's Parcel (other than permanent changes permitted by this Agreement) to substantially the same condition that existed before the commencement of such Landscaping Work and entry.

(e) If GRANTEE fails to perform any obligation in this Agreement, and fails to cure such nonperformance within thirty (30) days after written notice from GRANTOR (as extended for weather, disease, government shut-down orders and/or other delays outside of GRANTEE's reasonable control), then GRANTOR shall have the right, but not the obligation to perform the obligation and be reimbursed for the reasonable cost of that performance by GRANTEE within thirty (30) days after receipt of an invoice with reasonable supporting documentation.

7. **GRANTOR's Retained Rights.**

(a) GRANTOR hereby reserves for itself, its successors and assigns, all right, title and interest in

Avigation Easement – Airport Parcel #: E17 (Ch. Estates) Airport Name: Charlotte FPK (9/5/23):

and to Grantor's Parcel and the Easement Property, which GRANTOR shall have the right to use and enjoy in any manner that does not materially interfere with the rights and benefits expressly provided herein for GRANTEE. By way of example, without being limited by the preceding sentence, GRANTOR reserves any and all rights it may now or hereafter possess, subject to GRANTOR's compliance with governing federal, state and local law and the requirements of governing Federal Aviation Administration regulations, (i) to establish and maintain detention ponds anywhere on Grantor's Parcel if approved (when required) by the Eaton County Drain Commissioner's office or other local land use authority, and (ii) to establish and maintain retention ponds or wetlands on areas on Grantor's Parcel that are outside the Easement Property.

(b) GRANTOR shall have the ongoing right to grant other easements over, under and across the Easement Property, provided that such subsequent easements do not materially interfere with the rights and benefits expressly provided herein for GRANTEE.

(c) The terms of this Agreement shall not operate to deprive GRANTOR or GRANTOR's directors, officers, members, managers, shareholders, partners, principals, agents, employees, representatives, affiliates and subsidiaries, or their tenants, visitors and guests, of any rights which they may from time to time have against any air carrier or private operator for negligent or unlawful operation of aircraft, or for any other incident which causes actual physical injury to individuals or damage to property, including but not limited to the right to pursue claims in a court of competent jurisdiction.

(d) The terms of this Agreement shall not operate to preclude GRANTOR or its tenants from participating in any noise mitigation programs for which they may be eligible, provided by GRANTEE, by the Federal Aviation Administration or by any other governmental or non-governmental agency. Further, upon request, GRANTEE shall affirmatively assist GRANTOR and its tenants in seeking any such benefits which may be available.

8. **Indemnification by GRANTEE.** GRANTEE shall indemnify, defend and hold harmless GRANTOR and GRANTOR's directors, officers, members, managers, shareholders, partners, principals, agents, employees, representatives, affiliates and subsidiaries (collectively the "Indemnitees") from and against any and all claims, debts, causes of actions, judgments, liabilities, losses, demands, damages or expenses, including reasonable attorneys' fees, suffered by any of the Indemnitees to the extent due to or arising from (i) the actions within or around, or the use of, the Easement Property by GRANTEE or its contractors, subcontractors, agents, employees and representatives, (ii) any injury or death to person or damage to property (including but not limited to damage to above-ground and underground utilities and facilities) arising from or in any manner relating to the exercise by GRANTEE of its rights or privileges granted hereunder, and/or (iii) GRANTEE's failure to comply with or breach of any of the covenants, terms, or conditions of this Agreement. Provided, however, nothing herein shall be construed as waiving any rights or privileges of governmental immunity existing under any applicable law, including as provided by MCL 691.1401 *et seq.* The terms and conditions of this Section shall survive any termination of this Agreement with respect to matters occurring prior to such termination. For the avoidance of doubt, the parties affirm that GRANTEE is not assuming responsibility for personal injury or property damage to the extent attributable to negligent or unlawful operation of aircraft by any air carrier or private operator.

9. **Insurance.** The GRANTEE covenants and agrees that any contractors, subcontractors or agents of GRANTEE who enter upon the Easement Property will be insured through their own policies and/or through GRANTEE's policies, at the sole cost and expense of the principal insured party, with commercial general liability insurance covering their activities on the Easement Property under this Agreement against claims for personal injury or death and property damage, such insurance to be written on an occurrence basis (not a claims made basis), with combined single limit coverage of not less than Two Million Dollars (\$2,000,000.00) and with a general aggregate limit of not less than Three Million Dollars (\$3,000,000.00) for each policy year. GRANTOR may from time to time require reasonable increases in any such limits. Such policy shall name GRANTOR, and any other party reasonably designated by

Avigation Easement – Airport Parcel #: E17 (Ch. Estates) Airport Name: Charlotte FPK (9/5/23):

GRANTOR, as an additional insured party and such coverage for the additional insured shall be at least as broad as that afforded to the principal insured party. The limits of insurance provided to the additional insured shall be the greater of that set forth in this Agreement or the full per occurrence limit set forth in the policy. Such policy shall contain a provision that the insurer will give to GRANTOR and such other parties in interest at least thirty (30) days notice in writing in advance of any cancellation, termination or lapse of insurance. Such policy shall be written as a primary policy which does not contribute to and is not in excess of coverage which GRANTOR may carry. Certificates of insurance shall be provided to GRANTOR upon request.

10. **Liens.** GRANTEE has no authority or power to cause or permit any lien or encumbrance of any kind whatsoever, whether created by GRANTEE, operation of law or otherwise, to attach to or be placed upon GRANTOR's title or interest in the Easement Property or any other portion of the Grantor's Parcel, and any and all liens and encumbrances created by GRANTEE shall attach to GRANTEE's interest only. GRANTEE shall not cause or permit any mechanics or materialmen liens to attach to or be placed upon the Easement Property or any other portion of the Grantor's Parcel.

11. **Liability Limitations.** Neither GRANTOR nor any director, officer, member, manager, shareholder, partner, principal, agent, employee or representative of GRANTOR shall have any personal liability with respect to any of the provisions of this Agreement. In the event GRANTOR is in breach or default with respect to GRANTOR's obligations under this Agreement, GRANTEE shall look solely to the equity of GRANTOR in the Grantor's Parcel for the satisfaction of GRANTEE's remedies. In no event shall GRANTOR be liable for any punitive, speculative, special or consequential damages.

12. **Title; Prior Easements Superseded.** GRANTOR makes no representations or warranties with respect to the state of title to the Grantor's Parcel. This Agreement and the easements granted herein shall be subject to, and GRANTEE shall comply with, any and all recorded encumbrances, easements, rights-of-way and restrictions affecting the Grantor's Parcel. Notwithstanding the foregoing, this Agreement shall be deemed to amend the Prior Easements, and this Agreement shall supersede the application of the Prior Easements for all purposes, with respect to Grantor's Parcel (but not with respect to any other land covered thereby); and the Prior Easements shall have no further force or effect with respect to Grantor's Parcel, from and after the date hereof.

13. **Mortgagee Protections.** The following provisions are for the benefit of the holder ("Mortgagee") of any first mortgage ("Mortgage") encumbering the Grantor's Parcel. Any Mortgagee who provides a written request to the GRANTEE stating its name and address and indicating that its Mortgage encumbers all or part of the Grantor's Parcel shall be entitled to a copy of any notice of default by GRANTOR under this Agreement, and the Mortgagee shall have the right, but not the obligation, to cure any such default within thirty (30) days after its receipt of such notice of default, or within such longer period of time as may be reasonably required under the circumstances.

14. **Estoppel Certificates.** Within twenty (20) days of delivery of a written request from either party to the other party, such recipient shall execute and deliver a certificate addressed to such persons as the requesting party may reasonably request confirming, if such then be the fact, (i) that this Agreement is in full force and effect, (ii) that the party executing the certificate knows of no existing defaults by the requesting party under this Agreement, or if such defaults are known, specifying the same, and (iii) the status of any other matter regarding this Agreement requested by the requesting party. In addition to the requesting party, the parties to whom such estoppel certificate is certified shall be entitled to rely on the certificate.

15. **Entire Agreement.** Apart from the consideration paid by GRANTEE to GRANTOR for the grant of easements hereunder, this Agreement contains the entire understanding of the parties regarding the grant of easements set forth herein; and the parties acknowledge that there have been no representations or understandings other than those expressly set forth in this Agreement.

Avigation Easement – Airport Parcel #: E17 (Ch. Estates) Airport Name: Charlotte FPK (9/5/23):

16. **Notices.** Notices to a party as permitted or required hereunder shall be in writing and shall be delivered or sent by personal delivery, by certified mail (postage prepaid and return receipt requested), or by overnight delivery by a reputable national carrier. Notice may also be given by telefax, email or other electronic means, if the recipient provides written confirmation of receipt or if there is other reliable proof of delivery. In addition, a copy of each such notice intended for a party shall be furnished to such additional addressees for that party as may be specified herein or specified in a like notice. Delivery shall be deemed to have been made upon personal delivery (including by electronic means), three (3) business days after deposit with the US Postal Service for certified mail delivery, and one (1) business day after deposit with an overnight courier service for next day delivery.

For purposes hereof, the address of each party shall be as follows:

If to GRANTOR:

Robert Goodman
5640 W. Maple Road, Suite 303
West Bloomfield, MI 48322
rgoodman@westmaplegroup.com
248-789-5335 Phone (cell)
248-626-2127 Fax

With a copy to:

Steven R. Cole
Bodman PLC
201 W. Big Beaver, Suite 500
Troy, Michigan 48084
scole@bodmanlaw.com
248-470-2172 Phone (cell)
248-743-6002 Fax

And with a copy to:

Mark S. Kassab
Senior Vice President
M. Shapiro Real Estate Group
31550 Northwestern Highway, Suite 220
Farmington Hills, MI 48334
mkassab@mshapirorealestate.com
248-865-0066 Phone
248-865-1166 Fax

If to GRANTEE:

City of Charlotte
Attention: City Clerk and Chairperson of Airport Advisory Board
111 E. Lawrence Avenue
Charlotte, MI 48813

With a copy to:

City Manager, City of Charlotte
111 E. Lawrence Avenue
Charlotte, MI 48813

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Any party may change its address for notice (or for copies) by written notice to the other party in the manner specified above.

17. **Governing Law.** This Agreement shall be construed in accordance with the laws of the State of Michigan and any applicable federal laws and regulations.

18. **Waiver of Default.** No waiver of any default by any party to this Agreement shall be implied from any omission by any other party to take any action in respect of such default. No express waiver of any default shall affect any default or cover any period of time other than the default and period of time specified in such express waiver. One or more waivers of any default in the performance of any term, provision or covenant contained in this Agreement shall not be deemed to be a waiver of any subsequent default in the performance of the same term, provision or covenant or any other term, provision or covenant contained in this Agreement. The rights and remedies given to any party to this Agreement shall be deemed to be cumulative and no one of such rights and remedies shall be exclusive of any of the others, or of any other right or remedy at law or in equity which any such party might otherwise have by virtue of a default under this Agreement, and the exercise of one such right or remedy by any such party shall not impair such party's standing to exercise any other right or remedy.

19. **Severability.** If any term, provision or condition contained in this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement (or the application of such term, provision or condition to persons or circumstances other than those in respect of which it is invalid or unenforceable) shall not be affected thereby, and each term, provision or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law, provided that any such deletions can be made without materially changing the basic agreement between the parties. If such deletions cannot be made without materially changing the basic agreement between the parties, then the parties agree to amend, or to permit the court to amend, this Agreement to accomplish essentially the same transaction without such illegal, invalid or unenforceable provisions.

20. **Amendment.** This Agreement may be modified or amended, in whole or in part, only by an amendment in writing, executed and acknowledged by the parties and duly recorded with the Eaton County Register of Deeds.

21. **Agreements Run With Land.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, solely in their capacity as owners of their respective parcels described herein, and solely during their ownership of such parcels. The terms of this Agreement shall run with the land for the benefit of GRANTOR and GRANTEE, and their successors and assigns, and shall expire upon termination of the easement rights granted herein.

22. **Attorneys' Fees.** If any party brings an action to enforce the terms of this Agreement or to declare rights hereunder, the prevailing party in any such action, on trial or appeal or post-judgment collection, shall be entitled to its reasonable attorneys' fees to be paid by the losing party as determined by the court. The parties agree that "prevailing party" means the party who successfully prosecutes the action or successfully defends against it, prevailing on the main issue, even though not necessarily receiving an award of damages (or the extent of damages sought) or other form of recovery.

23. **No Partnership or Joint Venture.** Nothing in this Agreement shall be construed to make the parties herein partners or joint venturers or render any of the parties liable for the debts or obligations of the other.

24. **Headings.** The headings in this Agreement are provided for convenient reference only, are wholly without substantive effect, and shall not be employed in the interpretation or enforcement of this Agreement.

Avigation Easement – Airport Parcel #: E17 (Ch. Estates) Airport Name: Charlotte FPK (9/5/23):

25. **Construction.** Each party has participated fully in the negotiation and preparation of this Agreement with full benefit or availability of counsel. Accordingly, this Agreement shall not be more strictly construed against either party.

26. **Counterparts.** This Agreement may be executed by the parties on any number of separate counterparts and all such counterparts so executed constitute one agreement binding on the parties, notwithstanding that all parties are not signatories to the same counterpart.

27. **No Dedication to Public.** Nothing contained herein shall be construed as creating any rights in the general public or as dedicating for public use any portion of Grantor's Parcel, except for the limited rights expressly stated herein. No easements, except as expressly set forth herein, shall be implied by this Agreement.

28. **Transfer Tax.** This instrument is not exempt from state or county real estate transfer tax. From its own funds, GRANTEE shall pay the full amount of such taxes, on behalf of GRANTOR, simultaneous with the recording of this Agreement.

[Remainder of page intentionally left blank]

Signature page attached to and part of Avigation Agreement – Parcel # E17

EXECUTION BY GRANTOR

SIGNED THIS _____ DAY OF _____, 2023:

Charlotte Estates L.L.C., a Michigan limited liability company

By: _____
Robert Goodman
Title: Manager

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

On this ____ day of _____, 2023, before me, a Notary Public in and for the county stated below, personally appeared Robert Goodman, to me known to be the same person described in, and who executed, the within instrument as Manager of Charlotte Estates L.L.C., a Michigan limited liability company, for the company.

Notary Public, _____ County, Michigan

My Commission Expires: _____

Acting in the County of Oakland

[GRANTEE's signature is on the next page]

Avigation Easement – Airport Parcel #: E17 (Ch. Estates) Airport Name: Charlotte FPK (9/5/23):

Exhibit "A" – GRANTOR's Parcel

AVIGATION EASEMENT

Property Tax Code: 200-005-300-120-00	Parcel No.: E17
---------------------------------------	-----------------

PROPERTY DESCRIPTION (entire parcel):

The land referred to in this commitment, situated in the Township of Eaton, County of Eaton, and State of Michigan, is described as follows:

Commencing at the South 1/4 corner of Section 5, Town 2 North, Range 4 West, Eaton Township, Eaton County, Michigan; thence North 89 degrees 25 minutes 33 seconds West 396.00 feet along the South line of said Section to the true point of beginning; thence North 89 degrees 25 minutes 33 seconds West 150.00 feet along said South line; thence North 00 degrees 02 minutes 30 seconds West 408.40 feet parallel with the North-South 1/4 line of said Section; thence North 89 degrees 25 minutes 33 seconds West 1193.11 feet parallel with the South line of said Section; thence along the Southeasterly right of way line of highway 1-69, 1371.31 feet along a 4283.66 feet radius curve concave to the Southeast whose chord bears North 48 degrees 29 minutes 34 seconds East 1365.46 feet; thence South 89 degrees 32 minutes 50 seconds East 715.82 feet along the East-West 1/8 line of the Southwest 1/4 of said Section; thence South 00 degrees 02 minutes 30 seconds East 703.36 feet along the North-South 1/4 line of said Section; thence North 89 degrees 25 minutes 33 seconds West 396.00 feet; thence South 00 degrees 02 minutes 30 seconds East 621.72 feet to the point of beginning.

Commonly known as vacant land, Charlotte, Michigan.

Avigation Easement – Airport Parcel #: E17 (Ch. Estates) Airport Name: Charlotte FPK (9/5/23):

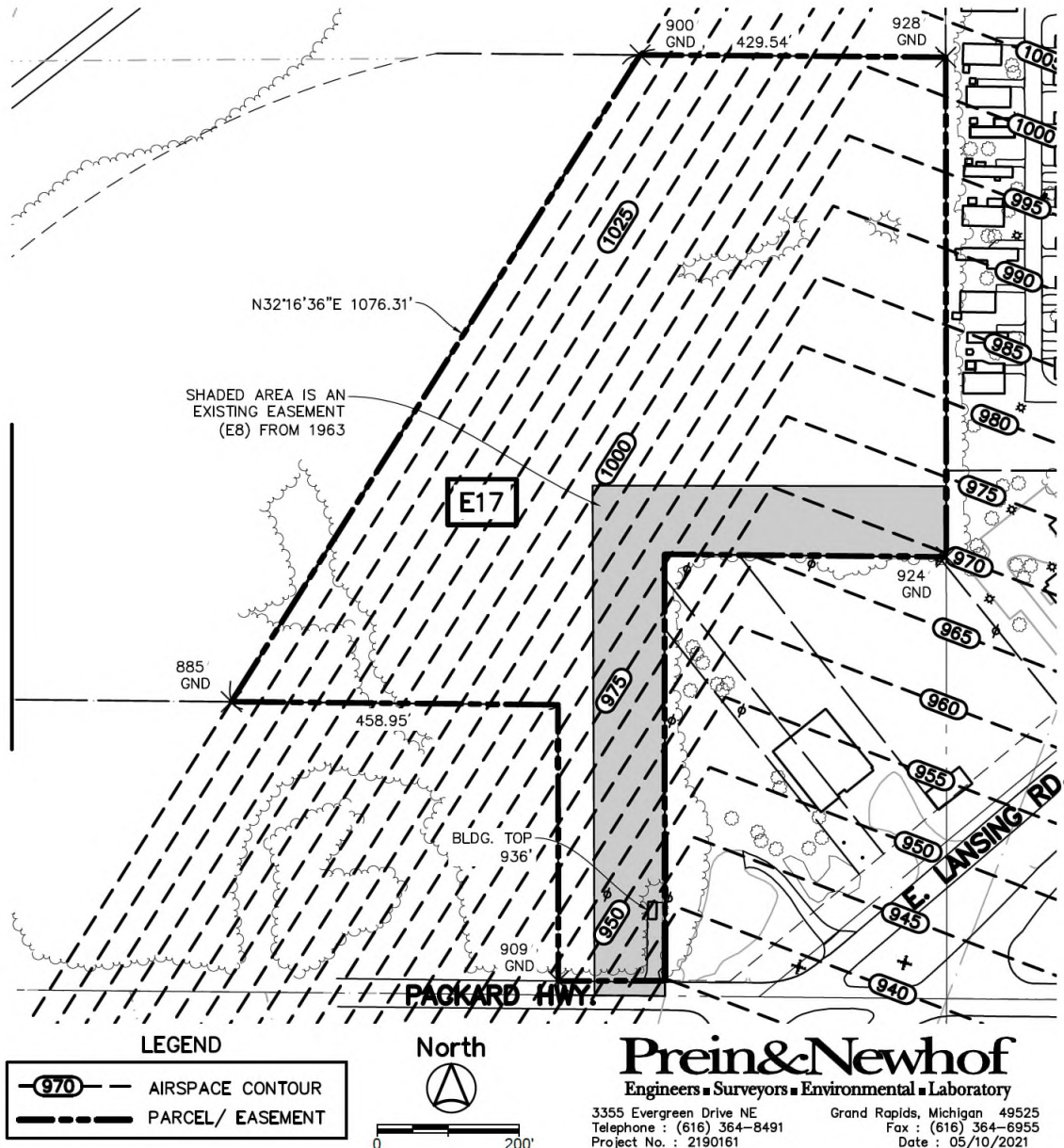
Exhibit "X"

EXHIBIT "X" E17

SHEET 1 OF 2

PARCEL NO. 200-005-300-120-00 (PACKARD HWY.)
FITCH H. BEACH AIRPORT – CHARLOTTE, MI

SEE NOTES AND AVIGATION EASEMENT ON THE FOLLOWING PAGE.



Avigation Easement – Airport Parcel #: E17 (Ch. Estates) Airport Name: Charlotte FPK (9/5/23):

Exhibit "X" - continued

EXHIBIT "X" E17

SHEET 2 OF 2

PARCEL NO. 200-005-300-120-00 (PACKARD HWY.)

FITCH H. BEACH AIRPORT – CHARLOTTE, MI

AVIGATION EASEMENT LEGAL DESCRIPTION

NOTES

THE FOLLOWING NOTES ARE SUBJECT TO THE TERMS OF THE ACCOMPANYING AVIGATION EASEMENT:

1. ALL DIMENSIONS ARE SHOWN IN FEET AND DECIMAL THEREOF. ALL ALLOWABLE ELEVATIONS SHOWN ARE IN FEET ABOVE MEAN SEA LEVEL.
2. IN ORDER TO PREVENT FREQUENT MAINTENANCE TO PROPERTIES WITH AVIGATION EASEMENTS, ALL VEGETATION GROWING WITHIN TEN FEET (10.0') OF THE FAR PART 77 CONTOUR MAY BE REMOVED TO GROUND AS PART OF THIS AVIGATION EASEMENT.
3. ANY VEGETATION WITHIN THE BOUNDARIES OF THE EASEMENT THAT PENETRATE OR GROW TO WITHIN TEN FEET (10') OF THE APPROACH SURFACE IN THE FUTURE WILL ALSO BE ELIGIBLE FOR REMOVAL BY THE CITY OF CHARLOTTE OR ITS AGENTS UNDER THE CONDITIONS OF THIS EASEMENT.
4. ELEVATIONS ARE BASED ON SURVEY FROM APRIL OF 2019.

EASEMENT DESCRIPTION

AN AVIGATION EASEMENT CONSISTING OF THE AIRSPACE AS DESCRIBED BELOW; ABOVE THE FAR PART 77 SURFACES OF THE FITCH H. BEACH AIRPORT. THESE SURFACES ARE MORE COMMONLY DESCRIBED AS; COMMENCING AT RUNWAY 21 AT AN ELEVATION OF 891' AND RISING NORTHERLY OVER THE PARCEL AT THE ELEVATIONS INDICATED ON THIS EXHIBIT X DRAWING.

ALL THAT PART OF THE SOUTHWEST 1/4 OF SECTION 5, T2N, R4W, EATON TOWNSHIP, EATON COUNTY, MICHIGAN, DESCRIBED AS: COMMENCING AT THE SOUTH 1/4 CORNER OF SAID SECTION; THENCE N89°25'33"W 396.00 FEET ALONG THE SOUTH LINE OF SAID SECTION TO THE POINT OF BEGINNING; THENCE CONTINUING N89°25'33"W 150.00 FEET ALONG SAID SOUTH LINE; THENCE N00°02'30"W 408.40 FEET PARALLEL WITH THE NORTH-SOUTH 1/4 LINE OF SAID SECTION; THENCE N89°25'33"W 458.95 FEET PARALLEL WITH THE SOUTH LINE OF SAID SECTION; THENCE N32°16'36"E 1076.31 FEET TO THE EAST-WEST 1/8 LINE OF THE SOUTHWEST 1/4 OF SAID SECTION; THENCE S89°32'50"E 429.54 FEET ALONG SAID 1/8 LINE TO THE NORTH-SOUTH 1/4 LINE OF SAID SECTION; THENCE S00°02'30"E 703.36 FEET ALONG SAID 1/4 LINE; THENCE N89°25'33"W 396.00 FEET; THENCE S00°02'30"E 621.72 FEET TO THE POINT OF BEGINNING.

Prein & Newhof
Engineers • Surveyors • Environmental • Laboratory

3355 Evergreen Drive NE
Telephone : (616) 364-8491
Project No. : 2190161

Grand Rapids, Michigan 49525
Fax : (616) 364-6955
Date : 05/10/2021

Avigation Easement – Airport Parcel #: E17 (Ch. Estates) Airport Name: Charlotte FPK (9/5/23):

AVIGATION EASEMENT
(for properties located outside Runway Protection Zones)

THIS AGREEMENT is made this ____ day of _____, 2023 between **Meadows Mobile Home Park and Sales L.L.C.**, a Michigan limited liability company, whose address is 5640 W. Maple Road, Suite 303, West Bloomfield, MI 48322 ("GRANTOR"), and **City of Charlotte**, a Michigan municipal corporation, whose address is 111 E. Lawrence Avenue, Charlotte, MI 48813 ("GRANTEE").

WHEREAS, the GRANTEE is the owner and operator of the Charlotte, Fitch H. Beach Municipal Airport ("Airport"), situated in Eaton County, Michigan, and in close proximity to property owned by the GRANTOR;

WHEREAS, the GRANTEE desires to obtain and preserve for the use and benefit of the public a right of free and unobstructed flight for aircraft landing upon, taking off from, or maneuvering about the Airport; and

WHEREAS, the parties are entering into this Agreement, as a result of the parties' intention to provide the grant of an easement and the acceptance thereof, pursuant to the terms contained herein, which terms have arisen from GRANTEE's threat of an imminent condemnation.

NOW THEREFORE, for the full consideration set forth in the accompanying Real Estate Transfer Tax Valuation Affidavit, the receipt and sufficiency of which is acknowledged, the GRANTOR conveys to the GRANTEE, its successors and assigns, for the benefit of the general public at large, an easement for the free, unobstructed passage of aircraft landing upon, taking off from, or maneuvering about the Airport, as legally permitted by state and federal statutes, rules and/or regulations governing aircraft operations on or near airports, in and through the air space over and across the "Easement Property" (described herein), subject to the terms stated below:

1. **Definitions.** The following terms shall have the following meaning for purposes of this Agreement:

(a) "Easement Property" shall mean that portion of GRANTOR's Parcel legally described in Sheet 2 of 2 of **Exhibit "X"** dated 05/10/2021, attached hereto and incorporated herein by this reference, being the area (i) over which GRANTEE has certain rights to the airspace, and to the protection of such airspace, under this Agreement, and (ii) the boundaries of which are outlined by "PARCEL/EASEMENT" lines on Exhibit "X."

(b) "Grantor's Parcel" shall mean real property owned by GRANTOR, which is legally described in **Exhibit "A"** attached hereto and incorporated herein by this reference.

(c) "Landscaping Work" shall mean work shall mean trimming, cutting, removing and otherwise altering soil, grass, trees, shrubbery, crops, vegetation and other natural growth, and removing the associated debris, and planting of new trees or other vegetation where provided hereunder.

Avigation Easement – Airport Parcel #: E18 (Meadows) Airport Name: Charlotte FPK (9/5/23):

(d) "Prior Easements" shall mean, if and to the extent currently applicable to the Grantor's Parcel, (i) that certain Avigation Easement dated December 13, 1963, recorded December 19, 1963 in Liber 356, Page 408, Eaton County Records, and (ii) that certain Avigation Easement dated December 13, 1963 recorded January 27, 1964 in Liber 357, Page 30, Eaton County Records.

2. **Rights Dependent Upon Airport Use.** This easement shall terminate at such time that the Airport is no longer used for public airport purposes.

3. **GRANTEE's Rights.** In furtherance of the purpose of this easement, the GRANTEE is permitted to do the following:

(a) GRANTEE may keep the air space above the heights described and depicted on the attached Exhibit "X" clear and free from any and all fences, crops, trees, poles, buildings and other obstructions of any kind or nature which now extend, or which may at any time in the future extend, above those heights.

(b) GRANTEE shall have a non-exclusive right when and as reasonably needed, under which it may, from time to time, remove to ground level any or all natural growths which extend on the Easement Property above the heights described and depicted on the attached Exhibit "X" to the extent such action is reasonably necessary in furtherance of the purpose of this easement. Examples include situations in which: (i) trimming is unsafe or not reasonably possible, (ii) the species of the tree or other natural growth is too fast growing, or (iii) trimming would have a reasonable probability of killing the tree or other natural growth or causing it to become susceptible to disease. GRANTEE shall provide written notice to GRANTOR, in accordance with Section 6(a) hereof, prior to exercising GRANTEE's rights and undertaking any such activities under this Subsection (b).

(c) GRANTEE shall have a non-exclusive right when and as reasonably needed, under which it may, from time to time, remove obstructions from the Easement Property to the extent such action is reasonably necessary in furtherance of the purpose of this easement. GRANTEE shall provide written notice to GRANTOR, in accordance with Section 6(a) hereof, prior to exercising GRANTEE's rights and undertaking any such activities under this Subsection (c).

(d) GRANTEE may use the air space above the Easement Property for any and all lawful activities that are inherent in the operation of aircraft operated in compliance with applicable law, subject to the terms of Paragraph 5, below. Said operation of aircraft includes landing at, taking off from, or operating on or near the Airport. The air space which Grantee may use under this Agreement consists of the air space above the height of a conceptual surface represented by the Airspace Contours shown on Exhibit "X."

4. **Restrictions and Covenants Relating to GRANTOR.** In furtherance of this Agreement, the GRANTOR covenants, both on its own behalf and on behalf of its successors and assigns, for and during the term of this easement, as follows:

(a) The GRANTOR shall not construct upon the Easement Property any structure that extends above the heights described and depicted on the attached Exhibit "X." Provided, however, that any removal or trimming of trees or other natural growth on the Easement Property, as required, permitted or otherwise contemplated herein, shall be conducted by the GRANTEE or the GRANTEE's agents at the GRANTEE'S sole cost.

(b) The GRANTOR shall not promote any activity on the Easement Property that is incompatible, in a material respect, with the purpose of this easement. GRANTOR shall not be responsible or liable to

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any extent for, and GRANTOR shall be exonerated from any claims attributable to, negligent or unlawful activities conducted by anyone on Grantor's Parcel, including but not limited to GRANTOR's tenants and their visitors and guests. However, if GRANTEE informs GRANTOR, in writing, that such negligent or unlawful activities are taking place on Grantor's Parcel, then GRANTOR shall not be exonerated from any responsibility that may exist under applicable law (determined without regard to this Agreement) for any act undertaken by GRANTOR which causes or which worsens the ongoing conduct of such negligent or unlawful activities.

(c) The GRANTOR shall not intentionally and knowingly cause to be located in the Easement Property any device that will create electrical interference with radio communication between the installation upon the Airport and aircraft, or that will impair visibility in the vicinity of the Airport, or that will otherwise endanger the landing, taking-off or maneuvering of aircraft. GRANTEE shall provide prompt written responses to GRANTOR's inquiries concerning devices that are permitted or prohibited, with such back-up detail as GRANTOR may reasonably request. GRANTOR shall have the right to rely upon such written information from GRANTEE in GRANTOR's purchase or installation of devices, which GRANTOR can then maintain. GRANTEE shall pay additional compensation to GRANTOR, as warranted from time to time, for the reasonable cost of GRANTOR switching to alternative devices due to a change in applicable restrictions. Until GRANTEE provides written notice to GRANTOR of specific devices actually being used by GRANTOR that violate the restrictions imposed upon GRANTOR hereunder, and a reasonable period in which GRANTOR may cure the violation, GRANTOR shall have the right to operate devices, now or in the future, which are commonly used by residential communities, such as but not limited to remote readers which measure the use or consumption of water, gas, electricity and other utilities. For the avoidance of doubt, GRANTOR shall have the unrestricted right to operate devices, now or in the future, which are commonly considered FCC compliant.

(d) Except as otherwise expressly permitted hereunder or described herein, the GRANTOR shall not alter the current nature of the Easement Property for any new use that would be incompatible with the operation of the Airport, in a material respect, including the following: landfills, open dumps, waste disposal sites, storm water retention ponds and new wetlands, planting of crops that would attract or sustain hazardous bird movements, or any new use that would be incompatible, in a material respect, with the operation of the Airport. For the avoidance of doubt, this Agreement does not prohibit GRANTOR's use of customary dumpsters.

(e) GRANTOR, in selecting new trees as part of the future landscaping, shall not plant such trees that it reasonably expects will grow and reach heights that breach the surfaces as depicted in Exhibit "X" within an unreasonably short period of time in light of the goal of the parties to minimize need for significant future trimming of trees.

5. **Restrictions and Covenants Relating to GRANTEE.** In furtherance of this Agreement, the GRANTEE covenants, both on its own behalf and on behalf of its successors and assigns, for and during the term of this easement, as follows:

(a) If GRANTEE removes any trees or natural growth from the Easement Property, then at GRANTEE's sole expense, GRANTEE must (i) remove the entire stump and natural growth, and (ii) grade the surface to a smooth plane. GRANTEE shall be responsible for payment of all costs related to such work, including removing the tree and associated debris from the Grantor's Parcel and properly disposing of the same.

(b) The GRANTEE shall not promote any activities over the Easement Property that are incompatible, in a material respect, with the lawful use of Grantor's Parcel. In addition, GRANTEE's use of air space and the Easement Property under this Agreement shall not include any aircraft

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landing, aircraft trespass, explosion, crash, falling objects, dumping or spillage of liquid fuel or any other occurrence causing direct physical injury to persons or direct physical damage to property.

(c) The GRANTEE shall supervise the operation of the Airport to assure compliance with the Airport Rules and Regulations promulgated or approved by the Charlotte City Council in accordance with the Charlotte Code of Ordinances, and to assure compliance with other applicable ordinances and laws and compliance with advisories or pronouncements from governing agencies, as in effect from time to time.

6. **GRANTEE's Activities.**

(a) Except to the extent necessary to prevent imminent danger to health, safety or welfare, if GRANTEE intends to enter upon the Easement Property for purposes of engaging in any Landscaping Work or otherwise exercising any rights hereunder, then GRANTEE shall notify GRANTOR in writing of GRANTEE'S intent at least forty five (45) days prior to entry. As part of the notice required under the preceding sentence, GRANTEE shall provide GRANTOR reasonably detailed plans describing the planned Landscaping Work, including details on vegetation to be removed, details on vegetation to be planted, and the proposed schedule for entry onto Grantor's Parcel. GRANTOR shall then have the period of fifteen (15) days following its receipt of the plan documents to provide GRANTEE with detailed objections or requests for revisions thereto. If GRANTOR raises any objections or provides any requests for revisions, GRANTEE, together with its consultants and representatives of any governing agencies (if applicable), shall meet with GRANTOR and its consultants in an effort to resolve any differences prior to GRANTEE commencing Landscaping Work. If the parties cannot reach agreement, then the parties will discuss whether to seek a nonbinding opinion from a licensed landscape architect in an effort to resolve any disputed matters. The parties would jointly select such architect, and the architect's fees would be paid as mutually agreed in writing at that time.

(b) Prior to commencing any Landscaping Work on the Easement Property, GRANTEE shall procure, or GRANTEE shall cause its contractors and subcontractors to procure, the insurance coverages specified herein below. Such insurance shall be maintained in effect during the course of work on the Easement Property.

(c) GRANTEE and its contractors or agents shall perform all Landscaping Work on the Easement Property in a good, safe, workmanlike and lien-free manner in accordance with all applicable laws, rules, orders and regulations or codes. Furthermore, while engaging in any Landscaping Work on the Easement Property, GRANTEE shall not unreasonably or materially interfere with use of Grantor's Parcel by GRANTOR's tenants, their visitors and other invitees.

(d) GRANTEE shall, at its sole cost and expense, promptly remove any debris resulting from Landscaping Work and from GRANTEE's entry upon the Easement Property, and promptly repair any damage to the GRANTOR's Parcel caused by GRANTEE or its contractors or agents. GRANTEE shall, at its sole cost and expense, promptly restore the impacted areas of the GRANTOR's Parcel (other than permanent changes permitted by this Agreement) to substantially the same condition that existed before the commencement of such Landscaping Work and entry.

(e) If GRANTEE fails to perform any obligation in this Agreement, and fails to cure such nonperformance within thirty (30) days after written notice from GRANTOR (as extended for weather, disease, government shut-down orders and/or other delays outside of GRANTEE's reasonable control), then GRANTOR shall have the right, but not the obligation to perform the obligation and be reimbursed for the reasonable cost of that performance by GRANTEE within thirty (30) days after receipt of an invoice with reasonable supporting documentation.

Avigation Easement – Airport Parcel #: E18 (Meadows) Airport Name: Charlotte FPK (9/5/23):

7. **GRANTOR's Retained Rights.**

(a) GRANTOR hereby reserves for itself, its successors and assigns, all right, title and interest in and to Grantor's Parcel and the Easement Property, which GRANTOR shall have the right to use and enjoy in any manner that does not materially interfere with the rights and benefits expressly provided herein for GRANTEE. By way of example, without being limited by the preceding sentence, GRANTOR reserves any and all rights it may now or hereafter possess, subject to GRANTOR's compliance with governing federal, state and local law and the requirements of governing Federal Aviation Administration regulations, (i) to establish and maintain detention ponds anywhere on Grantor's Parcel if approved (when required) by the Eaton County Drain Commissioner's office or other local land use authority, and (ii) to establish and maintain retention ponds or wetlands on areas on Grantor's Parcel that are outside the Easement Property.

(b) GRANTOR shall have the ongoing right to grant other easements over, under and across the Easement Property, provided that such subsequent easements do not materially interfere with the rights and benefits expressly provided herein for GRANTEE.

(c) The terms of this Agreement shall not operate to deprive GRANTOR or GRANTOR's directors, officers, members, managers, shareholders, partners, principals, agents, employees, representatives, affiliates and subsidiaries, or their tenants, visitors and guests, of any rights which they may from time to time have against any air carrier or private operator for negligent or unlawful operation of aircraft, or for any other incident which causes actual physical injury to individuals or damage to property, including but not limited to the right to pursue claims in a court of competent jurisdiction.

(d) The terms of this Agreement shall not operate to preclude GRANTOR or its tenants from participating in any noise mitigation programs for which they may be eligible, provided by GRANTEE, by the Federal Aviation Administration or by any other governmental or non-governmental agency. Further, upon request, GRANTEE shall affirmatively assist GRANTOR and its tenants in seeking any such benefits which may be available.

8. **Indemnification by GRANTEE.** GRANTEE shall indemnify, defend and hold harmless GRANTOR and GRANTOR's directors, officers, members, managers, shareholders, partners, principals, agents, employees, representatives, affiliates and subsidiaries (collectively the "Indemnitees") from and against any and all claims, debts, causes of actions, judgments, liabilities, losses, demands, damages or expenses, including reasonable attorneys' fees, suffered by any of the Indemnitees to the extent due to or arising from (i) the actions within or around, or the use of, the Easement Property by GRANTEE or its contractors, subcontractors, agents, employees and representatives, (ii) any injury or death to person or damage to property (including but not limited to damage to above-ground and underground utilities and facilities) arising from or in any manner relating to the exercise by GRANTEE of its rights or privileges granted hereunder, and/or (iii) GRANTEE's failure to comply with or breach of any of the covenants, terms, or conditions of this Agreement. Provided, however, nothing herein shall be construed as waiving any rights or privileges of governmental immunity existing under any applicable law, including as provided by MCL 691.1401 *et seq.* The terms and conditions of this Section shall survive any termination of this Agreement with respect to matters occurring prior to such termination. For the avoidance of doubt, the parties affirm that GRANTEE is not assuming responsibility for personal injury or property damage to the extent attributable to negligent or unlawful operation of aircraft by any air carrier or private operator.

9. **Insurance.** The GRANTEE covenants and agrees that any contractors, subcontractors or agents of GRANTEE who enter upon the Easement Property will be insured through their own policies and/or through GRANTEE's policies, at the sole cost and expense of the principal insured party, with commercial general liability insurance covering their activities on the Easement Property under this Agreement

Avigation Easement – Airport Parcel #: E18 (Meadows) Airport Name: Charlotte FPK (9/5/23):

against claims for personal injury or death and property damage, such insurance to be written on an occurrence basis (not a claims made basis), with combined single limit coverage of not less than Two Million Dollars (\$2,000,000.00) and with a general aggregate limit of not less than Three Million Dollars (\$3,000,000.00) for each policy year. GRANTOR may from time to time require reasonable increases in any such limits. Such policy shall name GRANTOR, and any other party reasonably designated by GRANTOR, as an additional insured party and such coverage for the additional insured shall be at least as broad as that afforded to the principal insured party. The limits of insurance provided to the additional insured shall be the greater of that set forth in this Agreement or the full per occurrence limit set forth in the policy. Such policy shall contain a provision that the insurer will give to GRANTOR and such other parties in interest at least thirty (30) days notice in writing in advance of any cancellation, termination or lapse of insurance. Such policy shall be written as a primary policy which does not contribute to and is not in excess of coverage which GRANTOR may carry. Certificates of insurance shall be provided to GRANTOR upon request.

10. **Liens.** GRANTEE has no authority or power to cause or permit any lien or encumbrance of any kind whatsoever, whether created by GRANTEE, operation of law or otherwise, to attach to or be placed upon GRANTOR's title or interest in the Easement Property or any other portion of the Grantor's Parcel, and any and all liens and encumbrances created by GRANTEE shall attach to GRANTEE's interest only. GRANTEE shall not cause or permit any mechanics or materialmen liens to attach to or be placed upon the Easement Property or any other portion of the Grantor's Parcel.

11. **Liability Limitations.** Neither GRANTOR nor any director, officer, member, manager, shareholder, partner, principal, agent, employee or representative of GRANTOR shall have any personal liability with respect to any of the provisions of this Agreement. In the event GRANTOR is in breach or default with respect to GRANTOR's obligations under this Agreement, GRANTEE shall look solely to the equity of GRANTOR in the Grantor's Parcel for the satisfaction of GRANTEE's remedies. In no event shall GRANTOR be liable for any punitive, speculative, special or consequential damages.

12. **Title; Prior Easements Superseded.** GRANTOR makes no representations or warranties with respect to the state of title to the Grantor's Parcel. This Agreement and the easements granted herein shall be subject to, and GRANTEE shall comply with, any and all recorded encumbrances, easements, rights-of-way and restrictions affecting the Grantor's Parcel. Notwithstanding the foregoing, this Agreement shall be deemed to amend the Prior Easements, and this Agreement shall supersede the application of the Prior Easements for all purposes, with respect to Grantor's Parcel (but not with respect to any other land covered thereby); and the Prior Easements shall have no further force or effect with respect to Grantor's Parcel, from and after the date hereof.

13. **Mortgagee Protections.** The following provisions are for the benefit of the holder ("Mortgagee") of any first mortgage ("Mortgage") encumbering the Grantor's Parcel. Any Mortgagee who provides a written request to the GRANTEE stating its name and address and indicating that its Mortgage encumbers all or part of the Grantor's Parcel shall be entitled to a copy of any notice of default by GRANTOR under this Agreement, and the Mortgagee shall have the right, but not the obligation, to cure any such default within thirty (30) days after its receipt of such notice of default, or within such longer period of time as may be reasonably required under the circumstances.

14. **Estoppel Certificates.** Within twenty (20) days of delivery of a written request from either party to the other party, such recipient shall execute and deliver a certificate addressed to such persons as the requesting party may reasonably request confirming, if such then be the fact, (i) that this Agreement is in full force and effect, (ii) that the party executing the certificate knows of no existing defaults by the requesting party under this Agreement, or if such defaults are known, specifying the same, and (iii) the status of any other matter regarding this Agreement requested by the requesting party. In addition to the requesting party, the parties to whom such estoppel certificate is certified shall be entitled to rely on the

Avigation Easement – Airport Parcel #: E18 (Meadows) Airport Name: Charlotte FPK (9/5/23):

certificate.

15. **Entire Agreement.** Apart from the consideration paid by GRANTEE to GRANTOR for the grant of easements hereunder, this Agreement contains the entire understanding of the parties regarding the grant of easements set forth herein; and the parties acknowledge that there have been no representations or understandings other than those expressly set forth in this Agreement.

16. **Notices.** Notices to a party as permitted or required hereunder shall be in writing and shall be delivered or sent by personal delivery, by certified mail (postage prepaid and return receipt requested), or by overnight delivery by a reputable national carrier. Notice may also be given by telefax, email or other electronic means, if the recipient provides written confirmation of receipt or if there is other reliable proof of delivery. In addition, a copy of each such notice intended for a party shall be furnished to such additional addressees for that party as may be specified herein or specified in a like notice. Delivery shall be deemed to have been made upon personal delivery (including by electronic means), three (3) business days after deposit with the US Postal Service for certified mail delivery, and one (1) business day after deposit with an overnight courier service for next day delivery.

For purposes hereof, the address of each party shall be as follows:

If to GRANTOR:

Robert Goodman
5640 W. Maple Road, Suite 303
West Bloomfield, MI 48322
rgoodman@westmaplegroup.com
248-789-5335 Phone (cell)
248-626-2127 Fax

With a copy to:

Steven R. Cole
Bodman PLC
201 W. Big Beaver, Suite 500
Troy, Michigan 48084
scole@bodmanlaw.com
248-470-2172 Phone (cell)
248-743-6002 Fax

And with a copy to:

Mark S. Kassab
Senior Vice President
M. Shapiro Real Estate Group
31550 Northwestern Highway, Suite 220
Farmington Hills, MI 48334
mkassab@mshapirorealestate.com
248-865-0066 Phone
248-865-1166 Fax

If to GRANTEE:

City of Charlotte
Attention: City Clerk and Chairperson of Airport Advisory Board
111 E. Lawrence Avenue

Avigation Easement – Airport Parcel #: E18 (Meadows) Airport Name: Charlotte FPK (9/5/23):

Charlotte, MI 48813

With a copy to:

City Manager, City of Charlotte
111 E. Lawrence Avenue
Charlotte, MI 48813

Any party may change its address for notice (or for copies) by written notice to the other party in the manner specified above.

17. **Governing Law.** This Agreement shall be construed in accordance with the laws of the State of Michigan and any applicable federal laws and regulations.

18. **Waiver of Default.** No waiver of any default by any party to this Agreement shall be implied from any omission by any other party to take any action in respect of such default. No express waiver of any default shall affect any default or cover any period of time other than the default and period of time specified in such express waiver. One or more waivers of any default in the performance of any term, provision or covenant contained in this Agreement shall not be deemed to be a waiver of any subsequent default in the performance of the same term, provision or covenant or any other term, provision or covenant contained in this Agreement. The rights and remedies given to any party to this Agreement shall be deemed to be cumulative and no one of such rights and remedies shall be exclusive of any of the others, or of any other right or remedy at law or in equity which any such party might otherwise have by virtue of a default under this Agreement, and the exercise of one such right or remedy by any such party shall not impair such party's standing to exercise any other right or remedy.

19. **Severability.** If any term, provision or condition contained in this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement (or the application of such term, provision or condition to persons or circumstances other than those in respect of which it is invalid or unenforceable) shall not be affected thereby, and each term, provision or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law, provided that any such deletions can be made without materially changing the basic agreement between the parties. If such deletions cannot be made without materially changing the basic agreement between the parties, then the parties agree to amend, or to permit the court to amend, this Agreement to accomplish essentially the same transaction without such illegal, invalid or unenforceable provisions.

20. **Amendment.** This Agreement may be modified or amended, in whole or in part, only by an amendment in writing, executed and acknowledged by the parties and duly recorded with the Eaton County Register of Deeds.

21. **Agreements Run With Land.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, solely in their capacity as owners of their respective parcels described herein, and solely during their ownership of such parcels. The terms of this Agreement shall run with the land for the benefit of GRANTOR and GRANTEE, and their successors and assigns, and shall expire upon termination of the easement rights granted herein.

22. **Attorneys' Fees.** If any party brings an action to enforce the terms of this Agreement or to declare rights hereunder, the prevailing party in any such action, on trial or appeal or post-judgment collection, shall be entitled to its reasonable attorneys' fees to be paid by the losing party as determined by the court. The parties agree that "prevailing party" means the party who successfully prosecutes the action or successfully defends against it, prevailing on the main issue, even though not necessarily receiving an award of damages (or the extent of damages sought) or other form of recovery.

Avigation Easement – Airport Parcel #: E18 (Meadows) Airport Name: Charlotte FPK (9/5/23):

23. **No Partnership or Joint Venture.** Nothing in this Agreement shall be construed to make the parties herein partners or joint venturers or render any of the parties liable for the debts or obligations of the other.

24. **Headings.** The headings in this Agreement are provided for convenient reference only, are wholly without substantive effect, and shall not be employed in the interpretation or enforcement of this Agreement.

25. **Construction.** Each party has participated fully in the negotiation and preparation of this Agreement with full benefit or availability of counsel. Accordingly, this Agreement shall not be more strictly construed against either party.

26. **Counterparts.** This Agreement may be executed by the parties on any number of separate counterparts and all such counterparts so executed constitute one agreement binding on the parties, notwithstanding that all parties are not signatories to the same counterpart.

27. **No Dedication to Public.** Nothing contained herein shall be construed as creating any rights in the general public or as dedicating for public use any portion of Grantor's Parcel, except for the limited rights expressly stated herein. No easements, except as expressly set forth herein, shall be implied by this Agreement.

28. **Transfer Tax.** This instrument is not exempt from state or county real estate transfer tax. From its own funds, GRANTEE shall pay the full amount of such taxes, on behalf of GRANTOR, simultaneous with the recording of this Agreement.

[Remainder of page intentionally left blank]

Avigation Easement – Airport Parcel #: E18 (Meadows) Airport Name: Charlotte FPK (9/5/23):

Signature page attached to and part of Avigation Agreement – Parcel # E18

EXECUTION BY GRANTOR

SIGNED THIS _____ DAY OF _____, 2023:

Meadows Mobile Home Park and Sales L.L.C., a
Michigan limited liability company

By: _____
Robert Goodman
Title: Manager

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

On this ____ day of _____, 2023, before me, a Notary Public in and for the county stated below, personally appeared Robert Goodman, to me known to be the same person described in, and who executed, the within instrument as Manager of Meadows Mobile Home Park and Sales L.L.C., a Michigan limited liability company, for the company.

Notary Public, _____ County, Michigan
My Commission Expires: _____
Acting in the County of Oakland

[GRANTEE's signature is on the next page]

Avigation Easement – Airport Parcel #: E18 (Meadows) Airport Name: Charlotte FPK (9/5/23):

Signature page attached to and part of Avigation Agreement – Parcel # E18

Mortgagee's Consent to Avigation Easement

First Merchants Bank, an Indiana chartered bank, successor by merger to Level One Bank, ("Mortgagee"), with an office located at 32991 Hamilton Court, Farmington Hills, Michigan 48334, is delivering this Consent to Avigation Easement in its capacity as (i) the mortgagee under a Future Advance Mortgage granted by Meadows Mobile Home Park and Sales L.L.C., a Michigan limited liability company, as mortgagor, dated May 1, 2013, recorded May 20, 2013 in Liber 2464, Page 92, Eaton County Records, and (ii) the assignee under an Assignment of Rents and Leases granted by Meadows Mobile Home Park and Sales L.L.C., a Michigan limited liability company, as assignor, dated May 1, 2013, recorded May 20, 2013 in Liber 2464, Page 108, Eaton County Records, in each case covering the real property in the Township of Eaton, County of Eaton, and State of Michigan, described on **Exhibit A** attached hereto.

Execution by First Merchants Bank

SIGNED THIS _____ DAY OF _____, 2023

First Merchants Bank, an Indiana chartered bank,
successor by merger to Level One Bank

By: _____
Jonathan Thornburg
Title: First Vice President, Regional Chief Credit
Officer

STATE OF _____)
) ss.
COUNTY OF _____)

On this ____ day of _____, 2023, before me, a Notary Public in and for the state and county stated below, personally appeared Jonathan Thornburg, First Vice President, Regional Chief Credit Officer of First Merchants Bank, an Indiana chartered bank, successor by merger to Level One Bank, on behalf of said bank.

Notary Public, _____ County, _____,
My Commission Expires: _____
Acting in the County of _____

Avigation Easement – Airport Parcel #: E18 (Meadows) Airport Name: Charlotte FPK (9/5/23):

Exhibit "A" – GRANTOR's Parcel

AVIGATION EASEMENT

Property Tax Code: 200—005-400-003-00	Parcel No.: E18
--	------------------------

PROPERTY DESCRIPTION (entire parcel):

Land situated in the Township of Eaton, County of Eaton, and State of Michigan, is described as follows:

That part of the Southeast 1/4 of Section 5, Town 2 North, Range 4 West, Eaton Township, Eaton County, Michigan, described as: Commencing at the South 1/4 corner of Section 5, Town 2 North, Range 4 West; thence North 00 degrees 29 minutes 12 seconds West, 216.16 feet on the North-South 1/4 line of said Section 5 to the centerline of Westbound Lansing Road; thence North 50 degrees 52 minutes 21 seconds East, 607.47 feet on the said centerline; thence North 00 degrees 29 minutes 12 seconds West, 55.06 feet to the Northerly right of way of Lansing Road and the point of beginning of the following described parcel; thence North 39 degrees 07 minutes 39 seconds West, 114.44 feet; thence South 89 degrees 30 minutes 48 seconds West, 403.01 feet to the North-South 1/4 line of said Section 5; thence North 00 degrees 29 minutes 12 seconds West, 1154.21 feet on said North-South 1/4 line to the South right of way line of Highway 1-69; thence North 74 degrees 45 minutes 19 seconds East, 1363.53 feet on said right of way; thence South 00 degrees 32 minutes 54 seconds East, 797.41 feet; thence North 89 degrees 56 minutes 09 seconds West, 198.00 feet; thence South 00 degrees 32 minutes 54 seconds East, 110.00 feet; thence South 89 degrees 56 minutes 09 seconds East, 198.00 feet to a point on the Northerly right of way of Westbound Lansing Road; thence South 00 degrees 32 minutes 54 seconds East, 20.00 feet, thence North 89 degrees 56 minutes 09 seconds West, 845.10 feet; thence South 00 degrees 29 minutes 12 seconds East, 564.96 feet; thence South 39 degrees 07 minutes 39 seconds East, 82.56 feet to the Northerly right of way of Lansing Road; thence South 50 degrees 52 minutes 21 seconds West, 66.00 feet on said right of way to the point of beginning.

Commonly known as 1563 E. Lansing Road, Charlotte, Michigan.

Avigation Easement – Airport Parcel #: E18 (Meadows) Airport Name: Charlotte FPK (9/5/23):

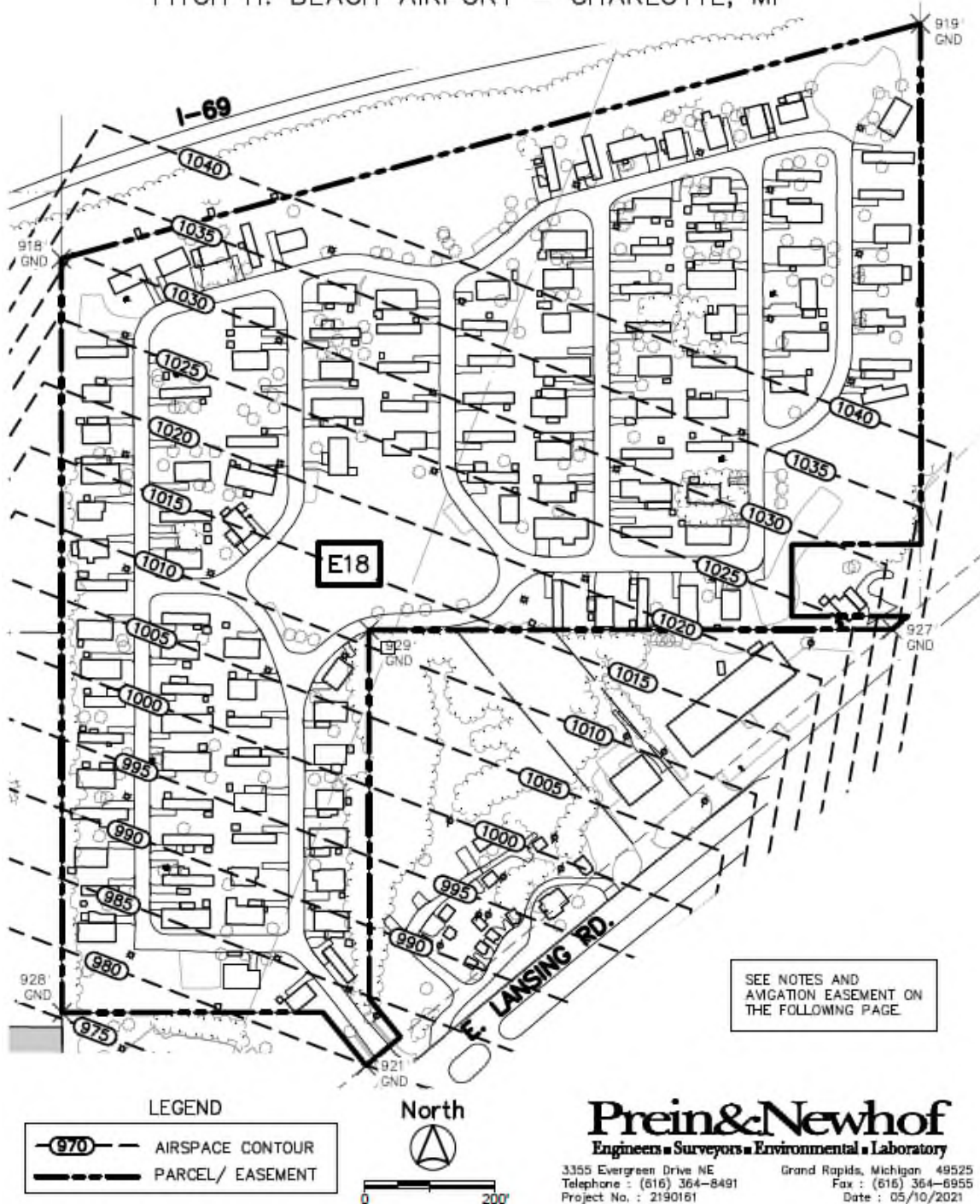
Exhibit "X"

EXHIBIT "X" E18

SHEET 1 OF 2

PARCEL NO. 200-005-400-003-00 (1563 LANSING RD.)

FITCH H. BEACH AIRPORT — CHARLOTTE, MI



Avigation Easement — Airport Parcel #: E18 (Meadows) Airport Name: Charlotte FPK (9/5/23):

Exhibit "X" - continued

EXHIBIT "X" E18

SHEET 2 OF 2

PARCEL NO. 200-005-400-003-00 (1563 LANSING RD.)
FITCH H. BEACH AIRPORT – CHARLOTTE, MI

NOTES

THE FOLLOWING NOTES ARE SUBJECT TO THE TERMS OF THE
ACCOMPANYING AVIGATION EASEMENT:

1. ALL DIMENSIONS ARE SHOWN IN FEET AND DECIMAL THEREOF.
ALL ALLOWABLE ELEVATIONS SHOWN ARE IN FEET ABOVE
MEAN SEA LEVEL.
2. IN ORDER TO PREVENT FREQUENT MAINTENANCE TO
PROPERTIES WITH AVIGATION EASEMENTS, ALL VEGETATION
GROWING WITHIN TEN FEET (10.0') OF THE FAR PART 77
CONTOUR MAY BE REMOVED TO GROUND AS PART OF THIS
AVIGATION EASEMENT.
3. ANY VEGETATION WITHIN THE BOUNDARIES OF THE EASEMENT
THAT PENETRATE OR GROW TO WITHIN TEN FEET (10') OF
THE APPROACH SURFACE IN THE FUTURE WILL ALSO BE
ELIGIBLE FOR REMOVAL BY THE CITY OF CHARLOTTE OR IT'S
AGENTS UNDER THE CONDITIONS OF THIS EASEMENT.
4. ELEVATIONS ARE BASED ON SURVEY FROM APRIL OF 2019.

AVIGATION EASEMENT LEGAL DESCRIPTION

AN AVIGATION EASEMENT CONSISTING OF THE AIRSPACE OVER THE BELOW DESCRIBED
PARCEL; ABOVE THE FAR PART 77 SURFACES OF THE FITCH H. BEACH AIRPORT. THESE
SURFACES ARE MORE COMMONLY DESCRIBED AS; COMMENCING AT RUNWAY 21 AT AN
ELEVATION OF 891' AND RISING NORTHERLY OVER THE PARCEL AT THE ELEVATIONS
INDICATED ON THIS EXHIBIT X DRAWING.

PARCEL LEGAL DESCRIPTION

COM S 1/4 COR, N 216.16 FT, N 50DEG 52MIN 21SEC E 607.47 FT, N 55.06 FT TO NLY R/W
LANSING RD & P.O.B., N 39DEG 07MIN 39SEC W 114.44 FT, W 403.01 FT TO NS 1/4 LINE, N
1154.21 FT TO S R/W HWY I-69, N 74DEG 45MIN 19SEC E ON R/W 1363.53 FT, S 797.41 FT, W 198
FT, S 110 FT, E 198 FT, S 20 FT, W 845.1 FT, S 564.96 FT, S 39DEG 07MIN 39SEC E 82.56 FT TO
NLY R/W LANSING RD, S 50DEG 52MIN 21SEC W 66 FT TO BEG. SEC.5, T2N,R4W, CITY OF
CHARLOTTE 7-11-2001

Prein & Newhof
Engineers ■ Surveyors ■ Environmental ■ Laboratory

3355 Evergreen Drive NE
Telephone : (616) 364-8491
Project No. : 2190161

Grand Rapids, Michigan 49525
Fax : (616) 364-6955
Date : 05/10/2021

Avigation Easement – Airport Parcel #: E18 (Meadows) Airport Name: Charlotte FPK (9/5/23):

Signature page attached to and part of Avigation Agreement – Parcel # E18

Mortgagee's Consent to Avigation Easement

First Merchants Bank, an Indiana chartered bank, successor by merger to Level One Bank, ("**Mortgagee**"), with an office located at 32991 Hamilton Court, Farmington Hills, Michigan 48334, is delivering this Consent to Avigation Easement in its capacity as (i) the mortgagee under a Future Advance Mortgage granted by Meadows Mobile Home Park and Sales L.L.C., a Michigan limited liability company, as mortgagor, dated May 1, 2013, recorded May 20, 2013 in Liber 2464, Page 92, Eaton County Records, and (ii) the assignee under an Assignment of Rents and Leases granted by Meadows Mobile Home Park and Sales L.L.C., a Michigan limited liability company, as assignor, dated May 1, 2013, recorded May 20, 2013 in Liber 2464, Page 108, Eaton County Records, in each case covering the real property in the Township of Eaton, County of Eaton, and State of Michigan, described on **Exhibit A** attached hereto.

Execution by First Merchants Bank

SIGNED THIS 6 DAY OF Sept., 2023

First Merchants Bank, an Indiana chartered bank,
successor by merger to Level One Bank

By: _____

Glen Maurer

Title: Vice President, Commercial Lending

STATE OF MI)
) ss.
COUNTY OF Oakland)

On this 6 day of Sept., 2023, before me, a Notary Public in and for the state and county stated below, personally appeared Glen Maurer, Vice President, Commercial Lending of First Merchants Bank, an Indiana chartered bank, successor by merger to Level One Bank, on behalf of said bank.

Notary Public, _____ County, _____

FRED P RASHID
My Commission Expires: 03/09/2030
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF OAKLAND
Acting in the County of _____
My Commission Expires: 03/09/2030
Acting in the County of: _____

Avigation Easement – Airport Parcel #: E18 (Meadows) Airport Name: Charlotte FPK (9/5/23):

AGREEMENT FOR AMBULANCE SERVICES FOR MUNICIPALITY RESIDENTS

~~This Agreement~~

~~THIS AGREEMENT is~~ made the first day of ~~April 01, 2021~~January, 2024 between BELLEVUE TOWNSHIP, BROOKFIELD TOWNSHIP, CARMEL TOWNSHIP, CITY OF CHARLOTTE, CITY OF EATON RAPIDS, CITY OF OLIVET, CHESTER TOWNSHIP, EATON RAPIDS TOWNSHIP, EATON TOWNSHIP, HAMLIN TOWNSHIP, KALAMO TOWNSHIP, SUNFIELD TOWNSHIP, VERMONTVILLE TOWNSHIP, WALTON TOWNSHIP, Municipal Corporations within Eaton County, Michigan, ~~and AURELIUS TOWNSHIP A Municipal Corporation within Ingham County, Michigan~~ (collectively, the "PARTICIPATING MUNICIPALITIES" and each a "PARTICIPATING MUNICIPALITY"), and the EATON AREA EMERGENCY MEDICAL SERVICES, a department of Sparrow Eaton Hospital, a Michigan non-profit corporation, (hereinafter "EMS"). The PARTICIPATING MUNICIPALITIES and EMS are sometimes collectively referred to in this Agreement as the "PARTIES" or individually as a "PARTY".

WHEREAS, the PARTICIPATING MUNICIPALITIES wish to assure that the residents and visitors of their communities have access to prompt and effective emergency medical services (ambulance service), and;

WHEREAS, EMS is duly licensed under the laws of the State of Michigan to provide Ambulance Services, is prepared to undertake, and faithfully respond to, all requests for Ambulance Service made by residents of the PARTICIPATING MUNICIPALITIES, and other persons in need of service within the boundaries of the PARTICIPATING MUNICIPALITIES;

NOW, THEREFORE, in consideration of the mutual covenants herein made, it is understood and agreed as follows:

I. EMS DUTIES.

EMS shall provide Ambulance Services for the use and benefit of residents of the PARTICIPATING MUNICIPALITIES, and other persons in need of service within the geographical boundaries of the PARTICIPATING MUNICIPALITIES consistent with the following.

1.1 Operate, staff, maintain and equip ambulances. ~~Consistent with State and Federal regulations~~EMS shall provide:

1.1-1 ~~Two~~One (1) licensed Advance Life Support (ALS) ambulances twenty-four (24) ~~hour~~hours per day, 365 days per year.

1.1-2 ~~A third and / or fourth~~Additional licensed ALS or Basic Life Support (BLS) ambulance available and staffed to meet the demand for ambulance service, hours will vary in accordance with requests for

ambulance service.

1.2 Maintain and equip back up ambulances: Consistent with State and Federal regulations provide two (2) back-up BLS/ALS ambulances that will be available to replace an ALS ambulance, listed in 1.1 above, that is taken out of service for mechanical/repair issues. EMS may staff and operate these back-up ambulances when EMS personnel are available and requests for ambulance service exceeds the capacity of the number of ambulances listed in 1.1 above.

1.3 Response to Needs. Respond to all requests made by persons in need of services within the geographical boundaries of the PARTICIPATING MUNICIPALITIES, including any Police and Fire Agencies of the PARTICIPATING MUNICIPALITIES, as fully and promptly as reasonably possible and without regard to ability to pay.

~~1.4 Long Term Equipment Budget. Submit a three-year equipment acquisition budget/proposal to the PARTICIPATING MUNICIPALITIES for their approval prior to the acceptance or extension of this Agreement. To implement the equipment budget in accordance with the schedule outlined in the budget/proposal.~~

~~1.5~~ 1.4 Operational Report. By February of each year (or such later time as a majority of the PARTICIPATING MUNICIPALITIES request) present an operational report at an annual meeting with the PARTICIPATING MUNICIPALITIES.

1.65 Mutual Aid Agreements. Establish and maintain mutual aid agreement(s) with ambulance agencies operating in areas bordering EMS's response area, to facilitate emergency medical response support at such times when EMS has received more requests for ambulance service than it can timely fulfill.

1.76 Dispatch. Arrange with Eaton County Central Dispatch for the receipt and dispatch of ambulance calls in an effective and efficient manner. The closest available EAEMS ambulance will be dispatched to emergency/911 calls. Vehicles will be moved to central locations in order to provide prompt response time coverage to the greatest number of residents within the service area.

~~1.8 EMS Payment from Users. Except for the costs of equipment contributed in accordance with the provisions below and any separate written provisions a PARTICIPATING MUNICIPALITY may choose to make on behalf of its residents, EMS shall look solely to charges to users and their insurers to cover the expenses of the operation of EMS' ambulance service. In this regard, the MUNICIPALITIES are not obligated to reimburse EMS for any losses from the operation of the ambulance service.~~

1.97 Use of Equipment Payments. Use ~~equipment~~ payments received by EMS from the PARTICIPATING MUNICIPALITIES only for the acquisition operations of,

improvement and maintenance of equipment/software used exclusively by EMS to provide ambulance service within the boundaries of the PARTICIPATING MUNICIPALITIES or for authorized mutual aid.

1.108 Statistical Reports. When requested provide PARTICIPATING MUNICIPALITIES monthly statistical reports, available from Eaton County Central Dispatch (ECCD), related to: total number of runs, number of runs within each municipality, enroute and response time, number of mutual aid responses into EAEMS service area, and other reports which become available from ECCD or EAEMS that provide information related to the efficiency of ambulance coverage plans.

1.119 Informational meetings. When requested provide ~~quarterly~~ informational ~~meeting~~ meetings for PARTICIPATING MUNICIPALITIES ~~in February, May, August, and November.~~ These meetings are intended to provide a venue for PARTICIPATING MUNICIPALITIES to receive information related to the operation of EAEMS, inquire into current operational practices and to provide a forum for questions and feedback to EAEMS.

II. PARTICIPATING MUNICIPALITIES DUTIES.

For in consideration of the duties to be performed by EMS the PARTICIPATING MUNICIPALITIES shall jointly and individually do the following:

2.1 Designation of EMS. Designate in writing to Eaton County Central Dispatch that EMS is the designated EMS provider of the PARTICIPATING MUNICIPALITY for all emergency medical service requests received from their jurisdictions.

2.2 Annual Payment Obligation. Make individual annual payment to EMS as described herein to fund the operations and equipment purchases ~~of equipment needed~~ to effectively operate EMS. Invoices for ~~the annual~~ each payment ~~for each municipality will be~~ shall be issued by EMS as follows: for January 1 through June 30, 2024 (6-month amount) due the first week of January 2024 and thereafter due annually the first week of July and will. The fee shall be effective for each of the three year total of the ~~contract (until 3/31/2021) and shall be:~~ applicable stand by fee based on population plus a prorated portion of a Two Hundred Thousand and 00/100 Dollars (\$200,000.00) fee paid based on the designated percentage of the overall EMS area population listed below.

	<u>YEAR 1</u>	<u>YEAR 2</u>	<u>YEAR 3</u>	<u>Tier</u>
				<u>Population</u>
				<u>Percentage</u>
<u>Aurelius Township</u>	<u>\$ 1,832</u>	<u>\$ 1,832</u>	<u>\$ 1,832</u>	
<u>Bellevue Township</u>	<u>\$ 2,917</u>	<u>\$ 2,917</u>	<u>\$ 2,917</u>	<u>Tier 4</u>
			<u>4.5%</u>	

<u>Brookfield Township</u>	~~\$ 2,786~~	~~\$ 2,786~~	~~\$ 2,786~~	~~Tier 4~~
		3.5%		
<u>Carmel Township</u>	~~\$ 5,471~~	~~\$ 5,471~~	~~\$ 5,471~~	~~Tier 3~~
		6.7%		
<u>Charlotte, City of</u>	~~\$ 35,522~~	~~\$ 35,522~~	~~\$ 35,522~~	~~Tier 1~~
		21.9%		
<u>Chester Township</u>	~~\$ 3,564~~	~~\$ 3,564~~	~~\$ 3,564~~	~~Tier 4~~
		4.2%		
<u>Eaton Rapids, City of</u>	~~\$ 13,938~~	~~\$ 13,938~~	~~\$ 13,938~~	~~Tier 2~~
		12.4%		
<u>Eaton Rapids Township</u>	~~\$ 6,060~~	~~\$ 6,060~~	~~\$ 6,060~~	
<u>Tier 3</u>		9.5%		
<u>Eaton Township</u>	~~\$ 9,332~~	~~\$ 9,332~~	~~\$ 9,332~~	~~Tier 3~~
		9,332.5%		
<u>Hamlin Township</u>	~~\$ 4,492~~	~~\$ 4,492~~	~~\$ 4,492~~	~~Tier 3~~
		7.7%		
<u>Kalamo Township</u>	~~\$ 1,782~~	~~\$ 1,782~~	~~\$ 1,782~~	~~Tier 4~~
		4.2%*		
<u>Olivet, City of</u>	~~\$ 3,862~~	~~\$ 3,862~~	~~\$ 3,862~~	~~Tier 2~~
		4.0%**		
<u>Sunfield Township</u>	~~\$ 4,831~~	~~\$ 4,831~~	~~\$ 4,831~~	~~Tier 4~~
		3.6%		
<u>Vermontville Township</u>	~~\$ 2,636~~	~~\$ 2,636~~	~~\$ 2,636~~	~~Tier 4~~
		2.9%		
<u>Walton Township</u>	~~\$ 4,596~~	~~\$ 4,596~~	~~\$ 4,596~~	~~Tier 3~~
		5.4%		

For purposes of the foregoing,

*Olivet City Tier 2 due to college population

**Kalamo Township stand by fee is 50% since also use Vermontville

Tiered Stand-by Fee based on population:

Tier 1 population over 7,501:	\$25,000
Tier 2 population between 5,001 and 7,500:	\$20,000
Tier 3 population between 2,001 and 5,000:	\$15,000
Tier 4 population under 2,000:	\$10,000

The annual payment is amount described above will increase each year of the Agreement in the amount of five percent (5%) over the prior year.

Payments shall be due within 60 days of invoice by EMS. Interest shall accrue and be paid to EMS at a rate of ~~5%~~five percent (5%) simple interest on the amount of any

payment that is delinquent from the time it was initially due until it is actually paid.

2.3 Selection of Representatives. Arrange for one or more representatives of the MUNICIPALITY to meet annually with representatives of EMS and the other MUNICIPALITIES to receive an EMS operational report.

2.4 Notification of Complaints. Promptly forward to the EMS, complaints received from the general public from the PARTICIPATING MUNICIPALITY regarding the EMS for investigation and reply.

2.5 Continued Participation. Remain a PARTICIPATING MUNICIPALITY which is a PARTY to this Agreement and not withdraw from this Agreement, except as provided by law, or at the end of the Agreement term or in the manner provided below.

III. ADDITIONAL COMMUNITIES SEEKING TO BECOME A PARTICIPATING MUNICIPALITY UNDER THIS AGREEMENT.

Other municipal corporations, not now PARTICIPATING MUNICIPALITIES, shall be entitled to arrange for ambulance service on behalf of their residents from EMS by signing this Agreement and taking on the responsibilities of a PARTICIPATING MUNICIPALITY under this Agreement, including making payment towards the equipment acquisition. The payment obligation of a new PARTICIPATING MUNICIPALITY shall be equal to the payment made by the current PARTICIPATING MUNICIPALITY with the closest population base served by EMS under this Agreement. If a new PARTICIPATING MUNICIPALITY requests that only a portion of their township is to be included in this ~~agreement~~Agreement that Township's payment will be pro-rated based on the number of sections included in this ~~agreement~~Agreement.

IV. PROCEDURES IN THE EVENT OF APPARENT BREACH.

4.1 Breach by a PARTICIPATING MUNICIPALITY. In the event that EMS reasonably believes that one or more PARTICIPATING MUNICIPALITIES are in breach of this Agreement, EMS shall notify each such PARTICIPATING MUNICIPALITY in writing, describing the apparent breach and if correctable how it can be corrected or if it is not correctable what alternative remedy would be acceptable to EMS. The affected PARTICIPATING MUNICIPALITIES shall have thirty (30) days in which to correct such apparent breach or to offer an alternative remedy. Should EMS determine that said breach is not adequately resolved by PARTICIPATING MUNICIPALITY'S corrective action or remedy, EMS will request a review panel be established by the PARTIES to this Agreement, to render a binding judgment regarding compliance with the terms and intent of this Agreement.

4.2 Breach by EMS. In the event that one or more PARTICIPATING MUNICIPALITIES reasonably believes that EMS is in breach of this Agreement, the affected PARTICIPATING MUNICIPALITIES shall notify each EMS in writing, describing

the apparent breach and, if correctable, how it can be corrected or, if it is not correctable, what alternative remedy would be acceptable to PARTICIPATING MUNICIPALITIES. EMS shall have thirty (30) days in which to correct such breach or offer an alternative remedy. Should such PARTICIPATING MUNICIPALITIES determine that the apparent breach is not adequately resolved by EMS' corrective action or remedy, such PARTICIPATING MUNICIPALITIES shall request a review panel be established by the PARTIES to this Agreement, to render a binding judgment regarding compliance with the terms and intent of this Agreement. Notwithstanding the foregoing, a PARTICIPATING MUNICIPALITY which has not paid its allocation of equipment expenses shall have no right to invoke the foregoing procedures or terminate its obligations under this Agreement pursuant to any other provision.

4.3 Review Panel Procedures. For purposes of Sections 4.1 and 4.2 above, the review panel will consist of: two (2) individuals who serve on Sparrow Eaton Hospital's Board of ~~Trustees~~Directors and, if possible, have not previously been involved in the dispute, selected by EMS; two (2) individuals who are representatives of PARTICIPATING MUNICIPALITIES selected by the affected PARTICIPATING MUNICIPALITIES from other PARTICIPATING MUNICIPALITIES not involved in the dispute; and one (1) person mutually agreed to by the other members of the review panel to facilitate the review process and vote in the event of deadlock of the other members. All Parties expressly covenant and agree to be bound by the decision of a majority of this review panel, and accept any decision as a final determination, except a decision based on provable fraud or a decision requiring a Party to pay or expend more money than it would be obliged to pay under the terms of this Agreement. Any disagreement of the review panel on the selection of the fifth member may be resolved, and any binding decision of the review panel may be enforced, by the Eaton County Circuit Court to which all Parties acknowledge jurisdiction for such purpose.

V. LEGAL RELATIONSHIP, INSURANCE, AND INDEMNITY.

5.1 Legal Relationship of the Parties. The legal relationship of the Parties to each other shall be that of independent contractor. The employees of any Party shall not be considered an agent or employee of the other Party for any purpose.

5.2 Liability Insurance of EMS. EMS shall acquire and maintain during the term, and thereafter, extending through the term of this Agreement, liability insurance covering services provided by EMS of the following types and limits:

5.2-1 No fault and automobile liability insurance having a combined single limit of \$1,000,000 per person and accident;

5.2-2 Professional liability insurance having limits of at least \$1,000,000 per occurrence, claim or incident and \$3,000,000 annual aggregate;

5.2-3 General liability insurance having limits of at least \$1,000,000 per occurrence, claim or incident and \$3,000,000 annual aggregate;~~and.~~

5.2-4 Worker's Compensation Insurance as required by State statute.

5.3 Limited Indemnity Obligation of PARTICIPATING MUNICIPALITIES. Each PARTICIPATING MUNICIPALITY shall indemnify and hold harmless EMS and all other PARTICIPATING MUNICIPALITIES for any cost or expense any of them may incur as result of the PARTICIPATING MUNICIPALITY failing to comply with its obligations under this Agreement, including legal and other costs associated with collection of allocated amounts of equipment costs not timely paid by the PARTICIPATING MUNICIPALITY.

5.4 EMS Indemnity Obligation. EMS agrees to indemnify and hold harmless any PARTICIPATING MUNICIPALITY which is in full compliance with this Agreement against claims or damages arising directly out of an error or omission by EMS in the performance of its duties and obligations under this Agreement. In this respect, the following procedures shall apply:

5.4-1 The PARTICIPATING MUNICIPALITY seeking indemnity (the "Indemnatee") shall promptly, and in writing, notify EMS of any claim made against it by any third party as to which it intends to seek indemnification under this Agreement, and shall take action as may be necessary to avoid default or other adverse consequences until such time as EMS has provided written notice that it will assume the defense of the claim, which shall be provided not more than thirty (30) days following receipt of written notice of the claim.

5.4-2 In any claim wherein EMS shall have an obligation to defend under this Agreement, EMS shall have the right to select counsel and to control such defense, provided, however, that the Indemnatee shall be entitled to participate in the defense of such claim and to employ counsel at its own expense to oversee, and if deemed necessary by the Indemnatee assist in, the handling of such claim. The Indemnatee shall provide cooperation and participation of its personnel as required for such defense at the cost and expense of EMS.

VI. TERM AND TERMINATION OF THIS AGREEMENT.

6.1 Term. This Agreement shall be deemed to have commenced on ~~April~~January 1, ~~2021~~2024, and shall continue until December 31, ~~2024~~2028, unless earlier terminated as provided below:

6.1-1 By mutual agreement of all the PARTIES;

6.1-2 By EMS or all the PARTICIPATING MUNICIPALITIES without assignment of cause or reason upon ninety (90) days prior written notice by all the PARTICIPATING MUNICIPALITIES to EMS or by EMS to all the PARTICIPATING MUNICIPALITIES.

6.1-3 By a PARTICIPATING MUNICIPALITY without assignment of cause or reason upon ninety (90) days prior written notice to the other PARTICIPATING MUNICIPALITIES and EMS.

6.2 Termination of a PARTY for Cause. In addition, any PARTY may be terminated at the request of any other PARTY for cause. For this purpose, “cause” is defined as the PARTY to be terminated being unable or unwilling to submit to a review panel hearing as required or to comply with the recommendations of a review panel, constituted in accordance with Section 4 and one or more other parties other PARTY. Unless the underlying reason is non-payment of an equipment payment, in which event EMS may terminate a PARTICIPATING MUNICIPALITY unilaterally after the processes of Article IV have been exhausted, the termination shall not be effective until a majority of the PARTIES, excluding the PARTY(IES) affected, agree or acquiesce to the termination.

6.3 Obligations after Termination. Notwithstanding the termination of this Agreement or a PARTY, the PARTIES shall be required to carry out any provisions hereof which contemplate performance by them subsequent to such termination; and such termination shall not affect any liability or any other obligation which may have accrued prior to such termination.

VII. NOTICES.

Any notice, offer, demand, or communication required or permitted to be given under any provision of this Agreement shall be deemed to have been sufficiently given or served for all purposes if delivered personally to the PARTY to whom the same is directed or if sent, by registered or certified mail, postage and charges prepaid, addressed to the address of the PARTY set forth below. Except as otherwise expressly provided in this Agreement, any such notice shall be deemed to be given on the date on which the same is deposited in a regularly maintained receptacle for the deposit of United States mail, addressed as provided in the immediately preceding sentence. Any PARTY may change its address for the purposes of this Agreement by giving the other notice thereof in the manner herein before provided for the giving of notice.

Unless otherwise required by the Agreement, notices under this Agreement shall be directed to the following:

Supervisor ~~Aurelius Walton~~ Township ~~6933 S. Stine~~ ~~1939 Aurelius Rd.~~ ~~Mason-Olivet~~ , MI ~~48854~~ ~~49076~~	Supervisor Bellevue Township 115 N. Main Street Bellevue, MI 49021	Supervisor Brookfield Township 808 E. Five Point Hwy. Charlotte, MI 48813
Supervisor Carmel Township 661 Beech Hwy. Charlotte, MI 48813	Supervisor Chester Township 3425 W. Gresham Hwy. Charlotte, MI 48813	Manager City of Charlotte 111 East Lawrence Charlotte, MI 48813
Manager City of Eaton Rapids 200 S. Main Street Eaton Rapids, MI 48827	Mayor City of Olivet PO Box 367 Olivet, MI 49076	~~Supervisor~~ ~~Sunfield Township~~ ~~PO Box 68~~ ~~Sunfield, MI 48890~~
Supervisor Eaton Rapids Township 2512 S. Canal Rd. Eaton Rapids, MI 48827	Supervisor Eaton Township 3981 E. Clinton Trail Charlotte, MI 48813	Supervisor Hamlin Township 6463 S. Clinton Trail Eaton Rapids, MI 48827

~~President/CEO~~ Sparrow Eaton Hospital 321 East Harris Street Charlotte, MI 48813	Supervisor Kalamo Township 8940 Spore Hwy. Vermontville, MI 49096	Supervisor _____ ~~Sunfield~~ <u>Vermontville</u> Township _____ ~~P.O.~~ Box ~~68~~ <u>215</u> ~~Sunfield~~ <u>Vermontville</u> , MI ~~48890~~ <u>49096</u>
~~Supervisor~~ ~~Vermontville Township~~ _____ ~~P.O. Box 215~~ _____ ~~Vermontville, MI 49096~~	~~Supervisor~~ ~~Walton Township~~ _____ ~~6933 S. Stine Rd~~ _____ ~~Olivet, MI 49076~~	

VIII. INTERPRETATION, SEVERABILITY AND COMPLIANCE.

8.1 Interpretation and Severability. This Agreement shall be construed and applied in such manner as to minimize unenforceability of any provision. In the event that any provision of this Agreement, in whole or in part (or the application of any provision to a specific situation), is held to be invalid or unenforceable, if possible, such provision shall be deemed rewritten and revised in a manner which eliminates the offending language but maintains the overall intent, in context, of this Agreement. However, if that is not possible, the offending language shall be deemed removed, with this Agreement otherwise remaining in full force and effect, so long as doing so would not result in substantial unfairness or injustice to any of the Parties.

8.2 Compliance With Other Contracts and Laws. It is believed and intended by the PARTIES, and their advisors that all transactions contemplated herein are fully legal and proper based on their current understanding of the law and contracts with third party payors. However, when it may be necessary so as to comply with applicable law and requirements of third parties or any other entity governing or regulating health facilities, third-party payment programs and alternative delivery systems in which EMS participates or applicable to the provision of ambulance services, the PARTIES shall enter into further agreements which may modify the terms of this Agreement. The PARTIES shall negotiate in good faith such further agreements as may be necessary or desirable to modify the terms of this Agreement. In addition, no PARTIES shall use the provisions of this section to its unfair advantage in relation to the other.

IX. GOVERNING LAW.

9.1 This Agreement shall be construed and enforced in accordance with, and governed by, the law and decisions of the State of Michigan.

X. ENTIRE AGREEMENT.

10.1 This Agreement constitutes the entire agreement of the PARTIES. All prior agreements between the PARTIES, whether written or oral, are merged herein and shall be of no force or effect. This Agreement cannot be changed, modified, or discharged orally, but only by an agreement in writing, signed by the PARTIES or PARTY against whom enforcement of the charge, modification or discharge is sought. The selection headings used herein are for convenience only and shall not be used in the construction or interpretation of this Agreement.

XI. ASSIGNMENTS AND BENEFICIARY.

11.1 No Assignments. PARTICIPATING MUNICIPALITIES and EMS shall not assign any of their rights, powers, duties and obligations under this Agreement without the receipt of prior written consent of all PARTIES. This Agreement shall be binding upon and shall ensure to the benefit of successors and assigns of EMS and PARTICIPATING MUNICIPALITIES, including any merged or consolidated entity of which any may become a part.

11.2 No Third- Party Beneficiaries. No person or entity, apart from PARTICIPATING MUNICIPALITIES and EMS as public or corporate entities, is intended to be nor is, in fact, a beneficiary entitled to enforce, use or rely upon this Agreement for any reason or any legal proceeding.

rest of page left blank intentionally

IN WITNESS WHEREOF, the parties have executed this ~~agreement~~Agreement.

EMS

SPARROW EATON HOSPITAL

By: _____

Printed Name: Kira M. Carter- Robertson
~~Title: Senior Vice President Affiliate Operations of~~
~~Sparrow Health System, as the sole Member~~
~~Of Sparrow Eaton Hospital~~

Date: _____

AURELIUS TOWNSHIP

By: _____

Printed Name: _____

Date: _____

BELLEVUE TOWNSHIP

By: _____

Printed Name: _____

BROOKFIELD TOWNSHIP

By: _____

Printed Name: _____

Date: _____

CARMEL TOWNSHIP

By: _____

Printed Name: _____

Date: _____

CITY OF CHARLOTTE

By: _____

Printed Name: _____

Date: _____

CITY OF OLIVET

By: _____

Printed Name: _____

Date: _____

**~~EATON~~
RAPIDS TOWNSHIP**

By: _____

Printed Name: _____

Date: _____

HAMLIN TOWNSHIP

By: _____

Printed Name: _____

Date: _____

SUNFIELD TOWNSHIP

By: _____

Printed Name: _____

Date: _____

Date: _____

CHESTER TOWNSHIP

By: _____

Printed Name: _____

Date: _____

CITY OF EATON RAPIDS

By: _____

Printed Name: _____

Date: _____

WALTON TOWNSHIP

By: _____

Printed Name: _____

Date: _____

EATON TOWNSHIP

By: _____

Printed Name: _____

Date: _____

KALAMO TOWNSHIP

By: _____

Printed Name: _____

Date: _____

VERMONTVILLE TOWNSHIP

By: _____

Printed Name: _____

Date: _____

SUNFIELD TOWNSHIP

By: _____

Printed Name: _____

Date: _____

VERMONTVILLE TOWNSHIP

By: _____

Printed Name: _____

Date: _____

s:\Administration\Legal Counsel\Eaton Area Medical Services\2021-2024 EAEMS contract-final\February 11, 2021

AGREEMENT FOR AMBULANCE SERVICES FOR MUNICIPALITY RESIDENTS

THIS AGREEMENT is made the first day of January, 2024 between BELLEVUE TOWNSHIP, BROOKFIELD TOWNSHIP, CARMEL TOWNSHIP, CITY OF CHARLOTTE, CITY OF EATON RAPIDS, CITY OF OLIVET, CHESTER TOWNSHIP, EATON RAPIDS TOWNSHIP, EATON TOWNSHIP, HAMLIN TOWNSHIP, KALAMO TOWNSHIP, SUNFIELD TOWNSHIP, VERMONTVILLE TOWNSHIP, WALTON TOWNSHIP, Municipal Corporations within Eaton County, Michigan (collectively, the "PARTICIPATING MUNICIPALITIES" and each a "PARTICIPATING MUNICIPALITY"), and the EATON AREA EMERGENCY MEDICAL SERVICES, a department of Sparrow Eaton Hospital, a Michigan non-profit corporation, (hereinafter "EMS"). The PARTICIPATING MUNICIPALITIES and EMS are sometimes collectively referred to in this Agreement as the "PARTIES" or individually as a "PARTY".

WHEREAS, the PARTICIPATING MUNICIPALITIES wish to assure that the residents and visitors of their communities have access to prompt and effective emergency medical services (ambulance service), and;

WHEREAS, EMS is duly licensed under the laws of the State of Michigan to provide Ambulance Services, is prepared to undertake, and faithfully respond to, all requests for Ambulance Service made by residents of the PARTICIPATING MUNICIPALITIES, and other persons in need of service within the boundaries of the PARTICIPATING MUNICIPALITIES.

NOW, THEREFORE, in consideration of the mutual covenants herein made, it is understood and agreed as follows:

I. EMS DUTIES.

EMS shall provide Ambulance Services for the use and benefit of residents of the PARTICIPATING MUNICIPALITIES, and other persons in need of service within the geographical boundaries of the PARTICIPATING MUNICIPALITIES consistent with the following.

- 1.1 Operate, staff, maintain and equip ambulances. EMS shall provide:
 - 1.1-1 One (1) licensed Advance Life Support (ALS) ambulances twenty-four (24) hours per day, 365 days per year.
 - 1.1-2 Additional licensed ALS or Basic Life Support (BLS) ambulance available and staffed to meet the demand for ambulance service, hours will vary in accordance with requests for ambulance service.
- 1.2 Maintain and equip back up ambulances: Consistent with State and Federal regulations provide two (2) back-up BLS/ALS ambulances that will be available to replace

an ALS ambulance, listed in 1.1 above, that is taken out of service for mechanical/repair issues. EMS may staff and operate these back-up ambulances when EMS personnel are available and requests for ambulance service exceeds the capacity of the number of ambulances listed in 1.1 above.

1.3 Response to Needs. Respond to all requests made by persons in need of services within the geographical boundaries of the PARTICIPATING MUNICIPALITIES, including any Police and Fire Agencies of the PARTICIPATING MUNICIPALITIES, as fully and promptly as reasonably possible and without regard to ability to pay.

1.4 Operational Report. By February of each year (or such later time as a majority of the PARTICIPATING MUNICIPALITIES request) present an operational report at an annual meeting with the PARTICIPATING MUNICIPALITIES.

1.5 Mutual Aid Agreements. Establish and maintain mutual aid agreement(s) with ambulance agencies operating in areas bordering EMS's response area, to facilitate emergency medical response support at such times when EMS has received more requests for ambulance service than it can timely fulfill.

1.6 Dispatch. Arrange with Eaton County Central Dispatch for the receipt and dispatch of ambulance calls in an effective and efficient manner. The closest available EAEMS ambulance will be dispatched to emergency/911 calls. Vehicles will be moved to central locations in order to provide prompt response time coverage to the greatest number of residents within the service area.

1.7 Use of Payments. Use payments received by EMS from the PARTICIPATING MUNICIPALITIES only for the operations of, improvement and maintenance of equipment/software used exclusively by EMS to provide ambulance service within the boundaries of the PARTICIPATING MUNICIPALITIES or for authorized mutual aid.

1.8 Statistical Reports. When requested provide PARTICIPATING MUNICIPALITIES monthly statistical reports, available from Eaton County Central Dispatch (ECCD), related to: total number of runs, number of runs within each municipality, enroute and response time, number of mutual aid responses into EAEMS service area, and other reports which become available from ECCD or EAEMS that provide information related to the efficiency of ambulance coverage plans.

1.9 Informational meetings. When requested provide informational meetings for PARTICIPATING MUNICIPALITIES. These meetings are intended to provide a venue for PARTICIPATING MUNICIPALITIES to receive information related to the operation of EAEMS, inquire into current operational practices and to provide a forum for questions and feedback to EAEMS.

II. PARTICIPATING MUNICIPALITIES DUTIES.

For in consideration of the duties to be performed by EMS the PARTICIPATING MUNICIPALITIES shall jointly and individually do the following:

2.1 Designation of EMS. Designate in writing to Eaton County Central Dispatch that EMS is the designated EMS provider of the PARTICIPATING MUNICIPALITY for all emergency medical service requests received from their jurisdictions.

2.2 Annual Payment Obligation. Make individual annual payment to EMS as described herein to fund the operations and equipment purchases needed to effectively operate EMS. Invoices for each payment shall be issued by EMS as follows: for January 1 through June 30, 2024 (6-month amount) due the first week of January 2024 and thereafter due annually the first week of July. The fee shall be the total of the applicable stand by fee based on population plus a prorated portion of a Two Hundred Thousand and 00/100 Dollars (\$200,000.00) fee paid based on the designated percentage of the overall EMS area population listed below.

	<u>Tier</u>	<u>Population Percentage</u>
<u>Bellevue Township</u>	<u>Tier 4</u>	<u>4.5%</u>
<u>Brookfield Township</u>	<u>Tier 4</u>	<u>3.5%</u>
<u>Carmel Township</u>	<u>Tier 3</u>	<u>6.7%</u>
<u>Charlotte, City of</u>	<u>Tier 1</u>	<u>21.9%</u>
<u>Chester Township</u>	<u>Tier 4</u>	<u>4.2%</u>
<u>Eaton Rapids, City of</u>	<u>Tier 2</u>	<u>12.4%</u>
<u>Eaton Rapids Township</u>	<u>Tier 3</u>	<u>9.5%</u>
<u>Eaton Township</u>	<u>Tier 3</u>	<u>9.5%</u>
<u>Hamlin Township</u>	<u>Tier 3</u>	<u>7.7%</u>
<u>Kalamo Township</u>	<u>Tier 4</u>	<u>4.2%*</u>
<u>Olivet, City of</u>	<u>Tier 2</u>	<u>4.0%**</u>
<u>Sunfield Township</u>	<u>Tier 4</u>	<u>3.6%</u>
<u>Vermontville Township</u>	<u>Tier 4</u>	<u>2.9%</u>
<u>Walton Township</u>	<u>Tier 3</u>	<u>5.4%</u>

*Olivet City Tier 2 due to college population

**Kalamo Township stand by fee is 50% since also use Vermontville

Tiered Stand-by Fee based on population:

Tier 1 population over 7,501:	\$25,000
Tier 2 population between 5,001 and 7,500:	\$20,000

Tier 3 population between 2,001 and 5,000:	\$15,000
Tier 4 population under 2,000:	\$10,000

The annual payment amount described above will increase each year of the Agreement in the amount of five percent (5%) over the prior year.

Payments shall be due within 60 days of invoice by EMS. Interest shall accrue and be paid to EMS at a rate of five percent (5%) simple interest on the amount of any payment that is delinquent from the time it was initially due until it is actually paid.

2.3 Selection of Representatives. Arrange for one or more representatives of the MUNICIPALITY to meet annually with representatives of EMS and the other MUNICIPALITIES to receive an EMS operational report.

2.4 Notification of Complaints. Promptly forward to the EMS, complaints received from the general public from the PARTICIPATING MUNICIPALITY regarding the EMS for investigation and reply.

2.5 Continued Participation. Remain a PARTICIPATING MUNICIPALITY which is a PARTY to this Agreement and not withdraw from this Agreement, except as provided by law, or at the end of the Agreement term or in the manner provided below.

III. ADDITIONAL COMMUNITIES SEEKING TO BECOME A PARTICIPATING MUNICIPALITY UNDER THIS AGREEMENT.

Other municipal corporations, not now PARTICIPATING MUNICIPALITIES, shall be entitled to arrange for ambulance service on behalf of their residents from EMS by signing this Agreement and taking on the responsibilities of a PARTICIPATING MUNICIPALITY under this Agreement, including making payment towards the equipment acquisition. The payment obligation of a new PARTICIPATING MUNICIPALITY shall be equal to the payment made by the current PARTICIPATING MUNICIPALITY with the closest population base served by EMS under this Agreement. If a new PARTICIPATING MUNICIPALITY requests that only a portion of their township is to be included in this Agreement that Township's payment will be pro-rated based on the number of sections included in this Agreement.

IV. PROCEDURES IN THE EVENT OF APPARENT BREACH.

4.1 Breach by a PARTICIPATING MUNICIPALITY. In the event that EMS reasonably believes that one or more PARTICIPATING MUNICIPALITIES are in breach of this Agreement, EMS shall notify each such PARTICIPATING MUNICIPALITY in writing, describing the apparent breach and if correctable how it can be corrected or if it is not correctable what alternative remedy would be acceptable to EMS. The affected PARTICIPATING MUNICIPALITIES shall have thirty (30) days in which to correct such

apparent breach or to offer an alternative remedy. Should EMS determine that said breach is not adequately resolved by PARTICIPATING MUNICIPALITY'S corrective action or remedy, EMS will request a review panel be established by the PARTIES to this Agreement, to render a binding judgment regarding compliance with the terms and intent of this Agreement.

4.2 Breach by EMS. In the event that one or more PARTICIPATING MUNICIPALITIES reasonably believes that EMS is in breach of this Agreement, the affected PARTICIPATING MUNICIPALITIES shall notify each EMS in writing, describing the apparent breach and, if correctable, how it can be corrected or, if it is not correctable, what alternative remedy would be acceptable to PARTICIPATING MUNICIPALITIES. EMS shall have thirty (30) days in which to correct such breach or offer an alternative remedy. Should such PARTICIPATING MUNICIPALITIES determine that the apparent breach is not adequately resolved by EMS' corrective action or remedy, such PARTICIPATING MUNICIPALITIES shall request a review panel be established by the PARTIES to this Agreement, to render a binding judgment regarding compliance with the terms and intent of this Agreement. Notwithstanding the foregoing, a PARTICIPATING MUNICIPALITY which has not paid its allocation of equipment expenses shall have no right to invoke the foregoing procedures or terminate its obligations under this Agreement pursuant to any other provision.

4.3 Review Panel Procedures. For purposes of Sections 4.1 and 4.2 above, the review panel will consist of: two (2) individuals who serve on Sparrow Eaton Hospital's Board of Directors and, if possible, have not previously been involved in the dispute, selected by EMS; two (2) individuals who are representatives of PARTICIPATING MUNICIPALITIES selected by the affected PARTICIPATING MUNICIPALITIES from other PARTICIPATING MUNICIPALITIES not involved in the dispute; and one (1) person mutually agreed to by the other members of the review panel to facilitate the review process and vote in the event of deadlock of the other members. All Parties expressly covenant and agree to be bound by the decision of a majority of this review panel, and accept any decision as a final determination, except a decision based on provable fraud or a decision requiring a Party to pay or expend more money than it would be obliged to pay under the terms of this Agreement. Any disagreement of the review panel on the selection of the fifth member may be resolved, and any binding decision of the review panel may be enforced, by the Eaton County Circuit Court to which all Parties acknowledge jurisdiction for such purpose.

V. LEGAL RELATIONSHIP, INSURANCE, AND INDEMNITY.

5.1 Legal Relationship of the Parties. The legal relationship of the Parties to each other shall be that of independent contractor. The employees of any Party shall not be considered an agent or employee of the other Party for any purpose.

5.2 Liability Insurance of EMS. EMS shall acquire and maintain during the term, and thereafter, extending through the term of this Agreement, liability insurance covering services provided by EMS of the following types and limits:

5.2-1 No fault and automobile liability insurance having a combined single limit of \$1,000,000 per person and accident;

5.2-2 Professional liability insurance having limits of at least \$1,000,000 per occurrence, claim or incident and \$3,000,000 annual aggregate;

5.2-3 General liability insurance having limits of at least \$1,000,000 per occurrence, claim or incident and \$3,000,000 annual aggregate.

5.2-4 Worker's Compensation Insurance as required by State statute.

5.3 Limited Indemnity Obligation of PARTICIPATING MUNICIPALITIES. Each PARTICIPATING MUNICIPALITY shall indemnify and hold harmless EMS and all other PARTICIPATING MUNICIPALITIES for any cost or expense any of them may incur as result of the PARTICIPATING MUNICIPALITY failing to comply with its obligations under this Agreement, including legal and other costs associated with collection of allocated amounts of equipment costs not timely paid by the PARTICIPATING MUNICIPALITY.

5.4 EMS Indemnity Obligation. EMS agrees to indemnify and hold harmless any PARTICIPATING MUNICIPALITY which is in full compliance with this Agreement against claims or damages arising directly out of an error or omission by EMS in the performance of its duties and obligations under this Agreement. In this respect, the following procedures shall apply:

5.4-1 The PARTICIPATING MUNICIPALITY seeking indemnity (the "Indemnitee") shall promptly, and in writing, notify EMS of any claim made against it by any third party as to which it intends to seek indemnification under this Agreement, and shall take action as may be necessary to avoid default or other adverse consequences until such time as EMS has provided written notice that it will assume the defense of the claim, which shall be provided not more than thirty (30) days following receipt of written notice of the claim.

5.4-2 In any claim wherein EMS shall have an obligation to defend under this Agreement, EMS shall have the right to select counsel and to control such defense, provided, however, that the Indemnitee shall be entitled to participate in the defense of such claim and to employ counsel at its own expense to oversee, and if deemed necessary by the Indemnitee assist in, the handling of such claim. The Indemnitee shall provide cooperation and participation of its personnel as required for such defense at the cost and expense of EMS.

VI. TERM AND TERMINATION OF THIS AGREEMENT.

6.1 Term. This Agreement shall be deemed to have commenced on January 1, 2024, and shall continue until December 31, 2028, unless earlier terminated as provided below:

6.1-1 By mutual agreement of all the PARTIES;

6.1-2 By EMS or all the PARTICIPATING MUNICIPALITIES without assignment of cause or reason upon ninety (90) days prior written notice by all the PARTICIPATING MUNICIPALITIES to EMS or by EMS to all the PARTICIPATING

MUNICIPALITIES.

6.1-3 By a PARTICIPATING MUNICIPALITY without assignment of cause or reason upon ninety (90) days prior written notice to the other PARTICIPATING MUNICIPALITIES and EMS.

6.2 Termination of a PARTY for Cause. In addition, any PARTY may be terminated at the request of any other PARTY for cause. For this purpose, “cause” is defined as the PARTY to be terminated being unable or unwilling to submit to a review panel hearing as required or to comply with the recommendations of a review panel, constituted in accordance with Section 4 and one or more other parties other PARTY. Unless the underlying reason is non-payment of an equipment payment, in which event EMS may terminate a PARTICIPATING MUNICIPALITY unilaterally after the processes of Article IV have been exhausted, the termination shall not be effective until a majority of the PARTIES, excluding the PARTY(IES) affected, agree or acquiesce to the termination.

6.3 Obligations after Termination. Notwithstanding the termination of this Agreement or a PARTY, the PARTIES shall be required to carry out any provisions hereof which contemplate performance by them subsequent to such termination; and such termination shall not affect any liability or any other obligation which may have accrued prior to such termination.

VII. NOTICES.

Any notice, offer, demand, or communication required or permitted to be given under any provision of this Agreement shall be deemed to have been sufficiently given or served for all purposes if delivered personally to the PARTY to whom the same is directed or if sent, by registered or certified mail, postage and charges prepaid, addressed to the address of the PARTY set forth below. Except as otherwise expressly provided in this Agreement, any such notice shall be deemed to be given on the date on which the same is deposited in a regularly maintained receptacle for the deposit of United States mail, addressed as provided in the immediately preceding sentence. Any PARTY may change its address for the purposes of this Agreement by giving the other notice thereof in the manner herein before provided for the giving of notice.

Unless otherwise required by the Agreement, notices under this Agreement shall be directed to the following:

Supervisor Walton Township 6933 S. Stine Rd Olivet, MI 49076	Supervisor Bellevue Township 115 N. Main Street Bellevue, MI 49021	Supervisor Brookfield Township 808 E. Five Point Hwy. Charlotte, MI 48813
Supervisor Carmel Township 661 Beech Hwy. Charlotte, MI 48813	Supervisor Chester Township 3425 W. Gresham Hwy. Charlotte, MI 48813	Manager City of Charlotte 111 East Lawrence Charlotte, MI 48813
Manager City of Eaton Rapids	Mayor City of Olivet	Supervisor Sunfield Township

200 S. Main Street Eaton Rapids, MI 48827	PO Box 367 Olivet, MI 49076	PO Box 68 Sunfield, MI 48890
Supervisor Eaton Rapids Township 2512 S. Canal Rd. Eaton Rapids, MI 48827	Supervisor Eaton Township 3981 E. Clinton Trail Charlotte, MI 48813	Supervisor Hamlin Township 6463 S. Clinton Trail Eaton Rapids, MI 48827
President Sparrow Eaton Hospital 321 East Harris Street Charlotte, MI 48813	Supervisor Kalamo Township 8940 Spore Hwy. Vermontville, MI 49096	Supervisor Vermontville Township P.O. Box 215 Vermontville, MI 49096

VIII. INTERPRETATION, SEVERABILITY AND COMPLIANCE.

8.1 Interpretation and Severability. This Agreement shall be construed and applied in such manner as to minimize unenforceability of any provision. In the event that any provision of this Agreement, in whole or in part (or the application of any provision to a specific situation), is held to be invalid or unenforceable, if possible, such provision shall be deemed rewritten and revised in a manner which eliminates the offending language but maintains the overall intent, in context, of this Agreement. However, if that is not possible, the offending language shall be deemed removed, with this Agreement otherwise remaining in full force and effect, so long as doing so would not result in substantial unfairness or injustice to any of the Parties.

8.2 Compliance With Other Contracts and Laws. It is believed and intended by the PARTIES, and their advisors that all transactions contemplated herein are fully legal and proper based on their current understanding of the law and contracts with third party payors. However, when it may be necessary so as to comply with applicable law and requirements of third parties or any other entity governing or regulating health facilities, third-party payment programs and alternative delivery systems in which EMS participates or applicable to the provision of ambulance services, the PARTIES shall enter into further agreements which may modify the terms of this Agreement. The PARTIES shall negotiate in good faith such further agreements as may be necessary or desirable to modify the terms of this Agreement. In addition, no PARTIES shall use the provisions of this section to its unfair advantage in relation to the other.

IX. GOVERNING LAW.

9.1 This Agreement shall be construed and enforced in accordance with, and governed by, the law and decisions of the State of Michigan.

X. ENTIRE AGREEMENT.

10.1 This Agreement constitutes the entire agreement of the PARTIES. All prior agreements between the PARTIES, whether written or oral, are merged herein and shall be of no force or effect. This Agreement cannot be changed, modified, or discharged orally, but only by an agreement in writing, signed by the PARTIES or PARTY against whom enforcement of the charge, modification or discharge is sought. The selection headings used herein are for convenience only and shall not be used in the construction or interpretation of this Agreement.

XI. ASSIGNMENTS AND BENEFICIARY.

11.1 No Assignments. PARTICIPATING MUNICIPALITIES and EMS shall not assign any of their rights, powers, duties and obligations under this Agreement without the receipt of prior written consent of all PARTIES. This Agreement shall be binding upon and shall ensure to the benefit of successors and assigns of EMS and PARTICIPATING MUNICIPALITIES, including any merged or consolidated entity of which any may become a part.

11.2 No Third Party Beneficiaries. No person or entity, apart from PARTICIPATING MUNICIPALITIES and EMS as public or corporate entities, is intended to be nor is, in fact, a beneficiary entitled to enforce, use or rely upon this Agreement for any reason or any legal proceeding.

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IN WITNESS WHEREOF, the parties have executed this Agreement.

EMS

SPARROW EATON HOSPITAL

By: _____

Printed Name: _____

Date: _____

BELLEVUE TOWNSHIP

By: _____

Printed Name: _____

Date: _____

BROOKFIELD TOWNSHIP

By: _____

Printed Name: _____

Date: _____

CARMEL TOWNSHIP

CHESTER TOWNSHIP

By: _____

Printed Name: _____

Date: _____

CITY OF CHARLOTTE

By: _____

Printed Name: _____

Date: _____

CITY OF OLIVET

By: _____

Printed Name: _____

Date: _____

RAPIDS TOWNSHIP

By: _____

Printed Name: _____

Date: _____

HAMLIN TOWNSHIP

By: _____

Printed Name: _____

Date: _____

SUNFIELD TOWNSHIP

By: _____

Printed Name: _____

Date: _____

By: _____

Printed Name: _____

Date: _____

CITY OF EATON RAPIDS

By: _____

Printed Name: _____

Date: _____

WALTON TOWNSHIP

By: _____

Printed Name: _____

Date: _____

EATON TOWNSHIP

By: _____

Printed Name: _____

Date: _____

KALAMO TOWNSHIP

By: _____

Printed Name: _____

Date: _____

VERMONTVILLE TOWNSHIP

By: _____

Printed Name: _____

Date: _____