

10.

COPY

DEVELOPMENT AGREEMENT

Agreement made November 27, 2002, between the City of Pontiac, a Michigan home rule city ("City"), the Charter Township of Bloomfield ("Township"), and Harbor Telegraph-2103 L.L.C., Bloomfield Acres Acquisition Company L.L.C., Harbor Telegraph-1881 L.L.C., Harbor Telegraph-1899 L.L.C. and Harbor Vogue Plaza L.L.C. (herein collectively "Harbor").

Recitations:

1. Harbor owns land described on Exhibit A hereto (the "Land"). Harbor represents that there are no other individuals, legal entities or lending institutions which have an interest in the Land and whose consent is required for the entry of this Development Agreement.
2. The Land is the subject of an agreement between the City and the Township made pursuant to 1984 PA 425 (the "Act 425 Agreement"), attached as Exhibit B hereto.
3. The Land is a subject of several suits pending in Oakland County Circuit Court and the Michigan Supreme Court listed on Exhibit C hereto (the "Litigation").
4. Development and use of the Land is subject to the Town Center District Zoning Ordinance adopted by the City, except where this Agreement provides otherwise, (the "Zoning Ordinance"), which is attached hereto as Exhibit D and shall not be amended during the term of the Act 425 Agreement, except by mutual agreement of the City and the Township.

5. The Act 425 Agreement and this Agreement are part of a settlement of the Litigation, and their purpose is to implement such settlement.

6. Notwithstanding the provisions of the Zoning Ordinance the parties have agreed that the development and use of the Land will be governed by the provisions of this Agreement. Any conflict between the terms of the Zoning Ordinance and this Agreement will be resolved in favor of the terms of this Agreement.

AGREEMENT

In consideration of the premises, the parties agree as follows:

1. The development and use of the Land shall be limited as set forth below.

2. Uses on the Land shall be such uses as are permitted in both the Zoning Ordinance and this Agreement, and shall be limited to:

a. No more than 1100 residential units, up to a total of 2.2 million square feet of leasable residential space (the area within the walls of the residential units), subject to paragraph 2(e) below, which would allow a combined maximum of 1234 residential units, each with a minimum square footage of 1100 square feet, up to a combined maximum of 2.468 million square feet of leasable residential space.

b. No more than 2 million gross square feet of non-residential space, including office, commercial, a hotel, health clubs, theaters and other non-residential uses. Tennis courts (but not to exceed 16 in number whose location shall be limited to the health club and one structure or building adjacent thereto or across a street therefrom) shall not be included in the area limitation, but shall nevertheless be subject to the Tiers B and C height limitations for

health clubs. Tennis courts shall be fully enclosed within buildings and not within air supported domes or domes of any kind.

c. All or part of the first floor of any of the residential and office buildings erected pursuant to subsections a and b above may be used for retail commercial uses and service uses listed in the Zoning Ordinance.

d. Casinos and similar gaming facilities, adult uses, and telecommunication towers, as defined in this Agreement, shall not be permitted.

e. Residential units may be substituted for non-residential space under paragraph 2b above, up to not more than 134,000 square feet of non-residential space, at a ratio of one residential unit to 1,000 square feet of non-residential space.

f. No more than 1 single hotel may be located within the development which may be located in either Tier B or C.

3. No building shall be less than thirty (30) feet in height. Building heights shall be limited as follows:

a. Tier A. For the first 350 feet from the right of way at Telegraph Road, height shall not exceed three stories and shall not exceed 46 feet, exclusive of rooftop utility equipment, which shall be no higher than six feet, visually screened, and set back at least 20 feet from the Telegraph Road side of the building. All buildings shall be set back a minimum of 40 feet from the Telegraph Road property line (right-of-way).

b. Tier B. Between 350 feet and 500 feet from the right-of-way at Telegraph Road, height shall not exceed:

1. 5 stories and shall not exceed 71 feet if devoted primarily to non residential uses;

2. 6 stories and shall not exceed 84 feet if devoted to primarily residential use;
3. 4 stories and shall not exceed 84 feet for a health club;
4. 6 stories and shall not exceed 84 feet for a single hotel only;
5. Rooftop utility equipment, no higher than 6 feet, visually screened, set back at least 20 feet from Telegraph side of building.

c. Tier C. 500 feet or more from Telegraph Road, height shall not exceed:

1. 7 stories and shall not exceed 97 feet if devoted primarily to non residential uses;
2. 8 stories and shall not exceed 110 feet if devoted primarily to residential uses;
3. 8 stories and a habitable attic including architectural features such as gable, mansard or sloped roof with not less than a 12/12 pitch enclosing all rooftop utility equipment, shall not exceed 123 feet to the roof peak if devoted primarily to residential uses;
4. 8 stories and shall not exceed 110 feet for a single hotel only;
5. 4 stories and shall not exceed 90 feet for a health club;
6. Rooftop utility equipment, except with respect to buildings constructed pursuant to Tier C, subparagraph 3 above, no higher than 6 feet, visually screened, set back at least 20 feet from Telegraph side of building.

d. Antennas, telecommunication antennas, and rooftop peaks and other architectural features are permitted, but in no event shall they exceed a maximum height of 6 feet over the maximum allowable height for all buildings, other than those buildings permitted pursuant to Tier C, subparagraph 3 (habitable attic).

e. In Tiers B and C, with the exception of the buildings mentioned in Tier C, subparagraph 3, parapet screening shall be permitted. The parapet screening may extend in a straight line parallel to or as an extension of the outer walls of a building if it contains decorative elements. If it does not contain decorative elements, it shall be sloped. The parapet screening shall be non-usable and exclusively for screening. If sloped, it shall be at an angle so as to screen all rooftop utility equipment. In no event shall the parapet exceed a maximum height of 6 feet at the top of the slope. A parapet shall not extend to a point higher than 6 feet over the maximum height allowable for such building.

f. If a building straddles 2 or more Tiers, the entire building must comply with the height restrictions of the more restrictive Tier.

4. Parking shall be required and regulated as follows:

a. As provided for such uses in the Zoning Ordinance.

b. Bearing in mind the interrelationship of uses contemplated for the Land, the Joint Development Council established pursuant to the Act 425 Agreement may reduce the parking requirements, on a showing that there is a lesser need for parking because of generally accepted shared parking principles or on a showing based on the nature of the uses or based on experience after development of any portion of the Land.

5. Building lot coverage, including parking structures, shall not exceed 36 acres, and building lot coverage exclusive of parking structures shall not exceed 29 acres.

6. The area shown on Exhibit E hereto, which is adjacent to the Land, together with its associated drainage facilities, may be utilized to provide storm drainage for the Land.

7. Additional provisions which shall govern the use of this land include:

a. **Definitions:** For purposes of this Agreement, the following definitions shall be controlling:

1. Adult Use includes the following:

a. Adult Arcade, defined as a place to which the public is permitted or invited to view motion pictures, video or laser disc pictures or other products of image-producing devices where the images displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas".

b. Adult book store, adult novelty store or adult video store, defined as a commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration reading materials, photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities".

c. Adult cabaret or establishment, defined as a night club, bar, restaurant, salon, barber shop or similar commercial establishment which regularly features: persons who appear in a state of nudity or semi-nudity; live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or, films, motion pictures, videos cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

d. Adult motion picture theater, defined as a commercial establishment whose primary purpose and activity is the exhibition, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

e. Adult theater, defined as a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nudity, or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities". For purposes of this definition, the following additional terms apply:

1. *Nudity* or a *state of nudity* means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or a showing of the covered male genitals in a discernibly turgid state.

2. *Semi-nude or semi-nude condition* means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit or other wearing apparel provided the areola is not exposed in whole or in part.

3. *Specified anatomical areas* means: the human male genitals in a discernibly turgid state, even if completely or opaquely covered; or less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

4. *Specified sexual activities* means any of the following: the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation or sodomy; or excretory functions as part of or in connection with any of the activities previously mentioned in this definition.

2. *Casino*. A room or rooms in which any legal or illegal gambling game is carried on. For purposes of this definition, "gambling game" shall mean any game of chance; banking or percentage game played with cards, dice or any mechanical device or machine for money, property or any token or other representative of value.

3. *Habitable attic*. A finished space between the ceiling joists of the top story and the roof rafters which has a stairway or other permanent means of access and egress and in which the ceiling area is at a height of no less than 7 feet 6 inches above the floor.

4. *Hotel*. A facility offering transient lodging accommodations to the general public, which shall provide additional services, including restaurants, meeting rooms, recreational facilities, and may also provide other customary accessory uses.

5. *Telecommunication Towers*. Wireless communication facilities, including all structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment building and private and commercial mobile radio service facilities. Not included within this definition are: citizen band radio facilities; short wave receiving facilities; radio and television broadcast reception facilities; federally licensed amateur (ham) radio facility; satellite dishes; and governmental facilities which are subject to state and federal law or regulations which preempt municipal regulatory authority.

6. *Telecommunication Antennas.* A device to provide wireless communication that is affixed to buildings and structures that is visually unobtrusive and does not exceed the specified height limitations for each Tier by more than 6 feet, and not exceed the height of the rooftop utility equipment.

b. Landscaping on the Land shall be as required in the Zoning Ordinance except as follows:

1. For every twenty (20) feet along Telegraph Road, within the forty (40) foot setback greenbelt from Telegraph Road, one (1) tree shall be required to be planted within a minimum ten (10) foot landscape buffer strip parallel to the street, taking into consideration the location of any roads or access drives. The ten (10) foot landscape buffer strip along Telegraph Road shall be accented by provisions of shrubbery and annual and/or perennial flowers and shall be irrigated underground.

2. When required, evergreen trees shall be at least eight (8) to ten (10) feet in height and deciduous trees shall be at least three (3) inch caliper at the time of planting, provided, however, ornamental deciduous trees shall be at least one and three-quarter (1-¾) inch caliper at the time of their planting.

c. Lighting within the Land shall comply with the following requirements:

1. In all areas used for outdoor recreational activities, outdoor lighting shall be approved as part of Site Plan Review. Among other considerations, such review shall be conducted to ensure that such lighting does not unreasonably impact upon surrounding uses.

2. No ground mounted exterior lighting shall be permitted to illuminate exterior building walls above the first three (3) stories or forty-six (46) feet whichever is less. Exterior building illumination shall be approved as part of Site Plan Review. Among other considerations, such review shall be conducted to ensure that such lighting does not unreasonably impact upon surrounding uses.

3. All free standing exterior lighting and any supporting standards or bases shall not exceed a height of twenty (20) feet for property fronting Telegraph Road and for any building façade that faces Telegraph Road in Tier A. Exterior wall light fixtures may exceed the height of twenty (20) feet for property fronting Telegraph Road and for any building façade that faces Telegraph Road in Tier A when:

- a. the light source is completely shielded to only allow illumination of the building wall; and
- b. said lighting does not exceed a height of three (3) stories or forty-six (46) feet, whichever is less.

4. Lighting poles and standards on parking structure roofs are permitted at a height not to exceed twelve (12) feet when setback at least twenty (20) feet from the sides of the building and whose lights shall be shielded in a manner so as to illuminate only the roof parking area.

5. Any lighting provided for strict compliance with FAA requirements is exempt from this section.

d. Signage for all development within the Land shall comply with the following requirements:

1. Any sign directed toward off-site adjacent residential uses shall utilize backlit illumination or lighting directed at the signage face only.

2. Wall signs placed on any building shall not exceed the height of the building, and in no case shall wall signs be located above four (4) stories or at a height greater than fifty-eight (58) feet, whichever is less, except for signs that identify the name of the hotel or an office building and are designed as an integral part of the architectural design of the building. Building identification signage shall not be illuminated except for a movie theater, marquee sign, or a hotel sign located no higher than five (5) stories or at a height not greater than seventy-one (71) feet, whichever is less.

3. Wall, ground and temporary signs for buildings having Telegraph Road frontage shall be subject to Site Plan Review unless otherwise noted and shall comply as follows:

a. Wall signs shall not exceed six (6) percent of the total area of the street side façade, including the area of all fenestration, and in no instance shall the wall sign exceed one hundred twenty (120) square feet in area for purposes of calculating total wall sign area.

b. Ground signs, including temporary ground signs, shall be setback at least twenty-five (25) feet from the Telegraph Road right-of-way except for entrance signs referred to in paragraph 7.d.4 hereof. Ground signs shall not exceed five (5) ft. in height above the ground. The surface area of any permissible ground signs shall not exceed thirty-two (32) square feet per side, or sixty-four (64) square feet total per sign.

c. One (1) temporary sign advertising a building under construction having frontage on Telegraph Road may be erected for the period of construction and shall not exceed thirty two (32) square feet of total sign area. Such sign shall be erected on the building or lot where such construction is being carried on and shall advertise only the development name, architect, engineers, developer, owner, contractor, subcontractor or builder. No advertisement of any products may be included. Such signs shall not require site plan review.

d. One (1) sign advertising the rental, sale or lease of development property, including individual tenant space(s) or buildings having sixteen (16) square feet of total sign area shall be allowed. Such signs shall be setback twenty-five (25) feet along the Telegraph Road frontage and removed within fourteen (14) days of the sale, rental, or lease. Such signs shall not require Site Plan Review.

e. Temporary interior business signs placed in the window of buildings having Telegraph Road frontage may not exceed ten (10) percent of the total window area of the front facade and shall not be displayed for more than fourteen (14) days. Such signs shall not require Site Plan Review.

f. Election or Political Campaign Signs announcing the candidates seeking public political office or political issue, and other data pertinent thereto, shall be confined to private property and be installed not more than thirty (30) calendar days prior to the election and shall be removed within three (3) business days after the date of the election. Signs shall not exceed four (4) square feet in area, per face with a maximum of two (2) faces, and five (5) ft. in height above the ground with no illumination. Such signs shall be set back at least fifteen (15) feet from the Telegraph Road right-of-way. Such signs shall not require Site Plan Review. Only one such sign shall be permitted per lot.

4. Not more than one (1) ground sign may be erected for identification of the development at each entrance drive, but not to exceed three signs. Such signs shall be setback at least fifteen (15) feet from the Telegraph Road street right-of-way, and the height and area of such signs shall be governed by paragraph 7.d, subparagraph 3.b. hereof.

e. **Site Plan Review Application Process is governed by Section 7.118 of the Zoning Ordinance except:**

1. Review shall be by the Joint Development Council, instead of the Planning Commission.

2. Six copies of any application shall be filed with the City Clerk, and 3 copies with the Township Clerk along with the site plan review fee established by resolutions of the Township Board and the City Commission. The current site plan review fee schedule in the City of Pontiac is attached as Exhibit F. The Township shall adopt an identical fee schedule by Board resolution and said review fee shall at all times represent normal in-house administrative costs and expenses. This review fee, but not the schedule, may be amended from time-to-time to cover increases in in-house administration costs and expenses but such fees shall not include reimbursement for any costs other than such in-house administrative costs and expenses. The City Clerk will forthwith deliver 3 copies to the Joint Development Council.

3. Applications will be reviewed for compliance with this Development Agreement and Pontiac's Town Center District requirements.

4. The Joint Development Council will schedule a public hearing, to be held in no less than 30 days and within 45 days of filing of the application, at a time and place to be designated by the Joint Development Council.

5. Each Clerk shall mail due notice of hearing to all property owners within 300 feet of the development property within such Clerk's respective jurisdiction. The respective Clerk's office shall keep an affidavit of mailing labels.

6. Each Clerk shall provide copies of any correspondence and of any reports and recommendations from the respective jurisdiction and its staff and consultants to the Joint Development Council and the applicant no later than the time of the public hearing.

7. The Joint Development Council will deliver to the City and Township copies of the Final Site Plan with signatures of the members of the Joint Development Council thereon, duly noting all conditions of approval, if any, and all variances granted, if any.

8. The Joint Development Council shall review site plans and proposed uses for all developments proposed for the Land. In addition to the site plan and application, the Joint Development Council may require the applicant to provide additional information to assure an adequate analysis of all existing and proposed site features, conditions and impacts. Any use which is permitted in the Zoning Ordinance, as limited by this Agreement, and any site plan which meets the standards contained in this Agreement and in the Zoning Ordinance shall be approved.

9. The Joint Development Council shall have authority to grant variances from the Zoning Ordinance pursuant to the standards set forth in Section 5 of the City and Village Zoning Act, MCL 125.585 (practical difficulties for non-use variances and unnecessary hardship for use variances) and the procedures therein set forth, except that any decision granting a variance shall be unanimous. There shall be no variances granted from the terms of this Agreement.

10. All references to the City Planning Commission in the Zoning Ordinance shall mean the Joint Development Council established pursuant to this Agreement and the 425 Agreement.

11. This Agreement shall inure to the benefit of and shall be binding upon the parties and their heirs, successors and assigns.

12. This Agreement constitutes the entire agreement between the parties hereto and, together with the Act 425 Agreement, constitutes the entire agreement between the City and the Township. It may not be amended or terminated except in a writing signed by all the parties hereto.

13. After the termination of the 425 Agreement for any reason, Sections 8, 9 and 10 of this Agreement shall terminate upon the establishment of jurisdiction in either the City or the Township, as provided for in the 425 Agreement, and upon such termination, the authority of the Joint Development Council shall devolve to the agencies of the surviving municipality responsible for site plan and other land use approvals and variances; provided, however, that such municipality may grant variances from the Zoning Ordinance as provided by law after the Act 425 Agreement expires but the remainder of the terms of this Agreement shall remain in effect. In the event of conflict between this Agreement and the applicable Zoning Ordinance, the provisions of this Agreement shall control. Development pursuant to this Agreement, including uses and structures, shall be deemed to be lawfully conforming.

14. The Oakland County Circuit Court shall have jurisdiction for the purpose of enforcing and effectuating the terms of this Agreement except as may be provided in the

Agreement for Conditional Transfer of Property between the Township of Bloomfield and Pontiac.

15. This Agreement shall be recorded with the Oakland County Register of Deeds and shall run with the land.

SIGNED AND SEALED
THIS 27TH DAY OF NOVEMBER, 2002, IN THE PRESENCE OF:

CAUTION: READ BEFORE SIGNING.

WITNESS:

Rebecca Poffi
Cheryl Hansen

HARBOR TELEGRAPH-2103 L.L.C.

Craig Schubiner
Craig Schubiner, Managing Member

WITNESS:

Rebecca Poffi
Cheryl Hansen

BLOOMFIELD ACRES ACQUISITION
COMPANY L.L.C.

Craig Schubiner
Craig Schubiner, Managing Member

WITNESS:

Rebecca Poffi
Cheryl Hansen

HARBOR TELEGRAPH-1881 L.L.C.

Craig Schubiner
Craig Schubiner, Managing Member

WITNESS:

Rebecca Pappi
Cheryl Hansen

HARBOR TELEGRAPH-1899 L.L.C.

Craig Schubiner
Craig Schubiner, Managing Member

WITNESS:

Rebecca Pappi
Cheryl Hansen

HARBOR VOGUE PLAZA L.L.C.

Craig Schubiner
Craig Schubiner, Managing Member

WITNESS:

William K. Fisher
Cheryl Hansen

CHARTER TOWNSHIP OF
BLOOMFIELD

David Payne
David Payne, Supervisor

Dan Devine, Jr.
Dan Devine, Jr., Treasurer

WITNESS:

Rebecca A. Pappi
Christina A. Hall

CITY OF PONTIAC

Willie Payne
Willie Payne, Mayor

Vivian Spann
Vivian Spann, Clerk

STATE OF MICHIGAN)

ss.

OAKLAND COUNTY)

On this 27TH day of November 2002 before me personally appeared Craig Schubiner, Managing Member, to me known to be the person described in and who executed the foregoing Development Agreement, on behalf of Harbor Telegraph-2103 L.L.C., Bloomfield Acres Acquisition Company, L.L.C., Harbor Telegraph-1881, L.L.C., Harbor Telegraph-1899, L.L.C and Harbor Vogue Plaza, L.L.C., and acknowledged that he executed the same as his free act and deed with full authority to act on behalf of the hereinabove mentioned entities.

Cheryl C. Hansen

Notary Public, Oakland County

My commission expires:

CHERYL C. HANSEN

Notary Public, Macomb County, MI
My Commission Expires 09/29/2003

STATE OF MICHIGAN)

ss.

OAKLAND COUNTY)

On this 27TH day of November 2002 before me personally appeared David Payne, Supervisor of the Charter Township of Bloomfield and Dan Devine, Jr., Treasurer, of the Charter Township of Bloomfield, to me known to be the persons described in and who executed the foregoing Development Agreement, and acknowledged that they executed the same as their free act and deed with full authority pursuant to Township Board Resolution.

Cheryl C. Hansen

Notary Public, Oakland County

My commission expires:

CHERYL C. HANSEN

Notary Public, Macomb County, MI
My Commission Expires 09/29/2003

STATE OF MICHIGAN)

ss.

OAKLAND COUNTY)

On this 27TH day of November 2002 before me personally appeared Willie Payne, Mayor of the City of Pontiac, and Vivian Spann, Clerk of the City of Pontiac, to me known to be the persons described in and who executed the foregoing Development Agreement and acknowledged that they executed the same as their free act and deed with full authority pursuant to City Commission Resolution.

Rebecca C. Pozzi

Notary Public, Oakland County

My commission expires: _____.

REBECCA A. PASTI
Notary Public, Oakland County, MI
My Commission Expires Nov. 8, 2004

Drafted by and when recorded return to:

William P. Hampton, Esq.

P.O. Box 3040

Farmington Hills, MI 48334-3040

(248) 851-9500

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DEVELOPMENT AGREEMENT
INDEX OF EXHIBITS

- ❖ Exhibit A – Land Legal Description
- ❖ Exhibit B – Agreement for Conditional Transfer
- ❖ Exhibit C – Litigation List
- ❖ Exhibit D – Pontiac Town Center Ordinance
- ❖ Exhibit E – Legal Description – Storm Drainage Area
- ❖ Exhibit F – Site Plan Review Fee Schedule

EXHIBIT A

part of Bloomfield Acres Subdivision Lots 1 thru 30, Lots 41 thru 50, and Lot 63, and also that part of Hood Road, Rotzel Road and Myrtle Road, which are adjoining, said above described lots in Bloomfield Acres Subdivision as recorded in Liber 41 Page 49 of Plats of Oakland County Records, and also Tax Parcels: 19-05-176-001, 19-05-176-003, 19-06-226-008 being on the Charter Township of Bloomfield Tax Roll. Said area contains approximately 74.73 acres including the above mentioned public roadway; and is legally described as follows:

Part of "Bloomfield Acres", a subdivision of part of the SW 1/4 of the NW 1/4 of Section 5, as recorded in Liber 41, Page 49, Oakland County Records, and part of the West 1/2 of Section 5, and part of the NE 1/4 of Section 6, T. 2N., R. 10E., Bloomfield Township, Oakland County, Michigan, being more particularly described as commencing at the West 1/4 corner of Section 5, T. 2N., R. 10E.; thence N. 01° 51' 17" W., 702.26 feet to the point of beginning; thence N. 50° 14' 30" W., 200.00 feet along the Northerly R.O.W. line of Telegraph Road (204 feet wide); thence N. 39° 45' 30" E., 125.00 feet; thence S. 50° 14' 30" E., 89.66 feet; thence N. 01° 40' 30" W., 767.44 feet along the West line of said "Bloomfield Acres"; thence N. 87° 53' 00" E., 1285.47 feet along the North line of said "Bloomfield Acres"; thence N. 87° 54' 49" E., 1136.23 feet; thence S. 05° 08' 58" E., 1227.51 feet; thence S. 04° 21' 42" E., 427.22 feet to the center of said Section 5; thence S. 88° 13' 20" W., 1019.25 feet along the East and West 1/4 line of said Section 5; thence N. 02° 02' 50" W., 496.39 feet; thence S. 88° 09' 40" W., 258.15 feet; thence N. 71° 03' 18" W., 320.95 feet; thence S. 39° 45' 34" W., 188.74 feet; thence N. 50° 14' 30" W., 353.09 feet; thence S. 39° 45' 34" W., 60.00 feet; thence S. 39° 45' 34" W., 300.00 feet; thence N. 50° 14' 30" W., 409.92 feet along the Northerly R.O.W. line of Telegraph Road (204 feet wide) to the point of beginning.

This site contains 3,254,690 s.f. or 74.73 acres including public roadways and contains 3,113,160 s.f. or 71.47 acres excluding public roadways and is subject to any restrictions or easements of record.

Parcels contained within Exhibit A Description (Land annexed to Pontiac)

All lots listed below are a part of "Bloomfield Acres" a subdivision of part of the SW ¼ of the NW ¼ of Section 5, T2N, R10E, Bloomfield Township, Oakland County, Michigan, as recorded in Liber 41 of Plats, Page 48, Oakland County Records.

LOT 1 – 19-05-151-001 -- 19-05-151-010 ANNEX
LOT 2 – 19-05-151-002 -- 19-05-151-011 ANNEX
LOT 3 – 19-05-151-003 -- 19-05-151-012 (ANNEX)
LOT 4 – 19-05-151-004 -- 19-05-151-013 ANNEX
LOT 5 – 19-05-151-005 -- 19-05-151-014 ANNEX
LOTS 6 & 7 – 19-05-151-009 -- 19-05-151-015 ANNEX
LOT 8 – 19-05-151-008 -- 19-05-151-016 ANNEX
LOT 9 – 19-05-152-008 -- 19-05-152-022 ANNEX
LOT 10 – 19-05-152-007 -- 19-05-152-021 ANNEX
LOT 11 – 19-05-152-006 -- 19-05-152-020 ANNEX
LOT 12 – 19-05-152-005 -- 19-05-152-019 ANNEX
LOT 13 – 19-05-152-004 -- 19-05-152-018 ANNEX
LOT 14 – 19-05-152-003 -- 19-05-152-017 ANNEX
LOT 15 – 19-05-152-002 -- 19-05-152-016 ANNEX
LOT 16 – 19-05-152-001 -- 19-05-152-015 ANNEX
LOT 17 – 19-05-152-009 -- 19-05-152-023 ANNEX
LOT 18 – 19-05-152-010 -- 19-05-152-024 ANNEX
LOT 19 – 19-05-152-011 -- 19-05-152-025 ANNEX
LOT 20 – 19-05-152-012 -- 19-05-152-026 ANNEX
LOT 21 – 19-05-152-013 -- 19-05-152-027 ANNEX
LOT 22 – 19-05-152-014 -- 19-05-152-028 ANNEX
LOT 23 – 19-05-156-006 -- 19-05-156-021 ANNEX
LOT 24 – 19-05-156-005 -- 19-05-156-020 ANNEX
LOT 25 – 19-05-156-004 -- 19-05-156-019 ANNEX
LOT 26 – 19-05-156-003 -- 19-05-156-018 ANNEX
LOT 27 – 19-05-156-002 -- 19-05-156-017 ANNEX
LOT 28 – 19-05-156-001 -- 19-05-156-016 ANNEX
LOT 29 – 19-05-156-007 -- 19-05-156-022 ANNEX
LOT 30 – 19-05-156-008 -- 19-05-156-023 ANNEX
LOTS 41, 48, 49, 50, & the SEly ½ Lot 42 – 19-05-155-033 -- 19-05-155-039 ANNEX
LOT 43 & the NWly ½ of Lot 42 – 19-05-155-030 -- 19-05-155-038 ANNEX
LOTS 44 and 45 – 19-05-155-010 -- 19-05-155-036 ANNEX
LOTS 46 and 47 – 19-05-155-032 -- 19-05-155-037 ANNEX
LOT 63 – 19-05-153-001 -- 19-05-153-002 ANNEX
PARCEL 19-06-226-008 -- 19-06-226-012 ANNEX
PARCEL 19-05-176-001 -- 19-05-176-005 ANNEX
PARCEL 19-05-176-003 -- 19-05-176-006 ANNEX

EXHIBIT B - SEE ATTACHED

AGREEMENT FOR CONDITIONAL TRANSFER OF PROPERTY

THIS AGREEMENT made this 27TH day of NOVEMBER, 2002, between the CITY OF PONTIAC ("City"), a Michigan municipal corporation, 47450 Woodward, Pontiac, Michigan 48342, and THE CHARTER TOWNSHIP OF BLOOMFIELD ("Township"), a Michigan municipal corporation, 4200 Telegraph Road, Bloomfield Hills, Michigan 48303.

Recital of Facts

The City and Township are "local units" as defined by Public Act 425 of 1984, as amended ("Act 425") (MCLA 124.21 et seq.). Act 425 enables two or more local units of government to conditionally transfer property by written agreement for the purpose of economic development projects, as defined in the Act.

The City and Township have proposed that certain property, legally described in the attached Exhibit A ("Transferred Area"), be conditionally transferred from the Township to the City pursuant to Act 425 to promote one or more economic development projects within the Transferred Area. The City and Township have considered and agreed upon certain factors prior to entering into this Agreement conditionally transferring property and pursuant to Act 425, the Township Board held a public hearing on Nov 25, 2002, and the City Council held a public hearing on Nov 27, 2002, regarding this conditional transfer, all preceded by notice in accordance with the requirements of Michigan's Open Meetings Act.

The City and Township acknowledge that the Transferred Area is the subject of pending litigation and/or appellate review, between all or some of the parties. The litigation includes, but is not limited to challenges with regard to the jurisdiction and control of the property including the following: 1) Petitions filed for a referendum to annex the Transferred Area from the Township to the City. An annexation election was held on September 11, 2001 by the City and annexation approved by the individuals voting in said election. Legal challenges have been raised as to the validity and effect of said election; 2) Challenges raised with regard to the execution, validity and filing of an Act 425 Agreement on August 30, 2001 between the Township and the City of Birmingham which included a portion of the Transferred Area; 3) A Quo Warranto action filed by individual citizens alleging fraud or error in the September 11, 2001 annexation election; and 4) Challenges raised as to the legality of a Detachment election scheduled by the Oakland County Board of Commissioners for February 5, 2002, but vetoed by the County Executive. It is the intent of the parties that the execution of this *Agreement For Conditional Transfer of Property*, along with execution of a Development Agreement and a Stipulation to Dismiss and Remand for Entry of Consent Judgments ("Consent Judgment"), shall constitute the full and complete resolution of all claims and issues between the parties with regard to the property located in the Transferred Area and, that the annexation, the detachment, the Birmingham-Bloomfield Act 425 Agreement, and all litigation and appeals with respect thereto shall be dissolved, withdrawn, and dismissed with respect to the Transferred Area only, in accordance with the Consent Judgment between the parties.

The City and Township find that the conditional transfer of property from the Township to the City pursuant to this Agreement will: 1) provide for the division of municipal powers, functions and responsibilities to allow for the joint administration of the Transferred

Area, 2) assist economic development and be beneficial to the residents of the City and the Township and 3) work to prevent conditions of unemployment. The parties further find that through this Agreement, the City and the Township will be better able to promote such economic development of the Transferred Area.

The City and the Township find that Act 425 provides for the adoption and enforcement of ordinances by or with the assistance of the participating local units. The parties further find that through this Agreement, the City and the Township will be best served by the Zoning Ordinance enacted by the City, attached hereto as Exhibit B and incorporated by reference herein.

NOW THEREFORE, pursuant to Act 425 and the mutual covenants herein, the parties agree as follows:

ARTICLE I

DEFINITIONS AND REPRESENTATIONS

Section 1.1 Definitions.

- A. "Agreement" means this Agreement for Conditional Transfer of Property.
- B. "Transferred Area" means the property legally described and depicted in Exhibit A.
- C. "Zoning Ordinance" means the Town Center District Zoning Ordinance which governs the Transferred Area adopted by the City, attached hereto as Exhibit B.
- D. "Development Agreement" means the document attached hereto as Exhibit C.

Section 1.2 Representations.

The City and the Township represent that before entering into this Agreement the following factors were considered:

- A. Composition of the population; population density; land areas and land uses; assessed valuation; topography, natural boundaries and drainage basins; and past and probable future growth, including population increase and business and commercial development in the area and the comparative data for the Township and the portion of the Township remaining after the transfer of the Transferred Area.
- B. Need for organized community services; the present costs and adequacy of governmental services in the Transferred Area; the practicality of supplying such services to the Transferred Area; the probable effect of the transfer and of the alternative courses of action on the costs and adequacy of services in the Transferred Area and on the remaining portion of the Township; the probable change in taxes and tax rate in the

Transferred Area in relation to the benefits expected to accrue from such transfer; and the financial ability of the City and the Township to jointly provide governmental services in the Transferred Area.

C. General effect upon the parties of the transfer; and the relationship of the transfer to applicable land use plans.

ARTICLE II

AREA AND JURISDICTION TRANSFERRED

Section 2.1 Transfer of Property.

The Transferred Area shall be conditionally transferred from the jurisdiction of the Township to the jurisdiction of the City for all purposes, except as specifically provided otherwise in this Agreement. No party shall seek to have the current post office address for the Transferred Area changed from its current address.

Section 2.2 Jurisdiction After Termination or Expiration.

Not later than the last general election preceding the termination, expiration, or non-renewal of this Agreement, the jurisdiction over the Transferred Area shall be determined at an election by the qualified electors residing within the City and the Township. The election shall be conducted by the City Clerk and the Township Clerk, and the following question shall be presented to the qualified electors at the election:

"On _____, 2102, the Agreement for Conditional Transfer of Property between the City of Pontiac (or its successor) and Bloomfield Charter Township (or its successor) shall expire. Upon expiration of the Agreement, should governmental jurisdiction over the Transferred Area remain in the City of Pontiac (or its successor)? Yes _____ No _____"

If a majority of qualified electors, within the City and the Township, voting as a single constituency in the election vote "Yes," then the Transferred Area shall remain in the City (or its successor) for all purposes. If a majority of qualified electors voting in the election do not vote "Yes," then the Transferred Area shall come under the jurisdiction of the Township (or its successor) for all purposes. In either event, development pursuant to the Development Agreement, including uses and structures, shall be deemed to be lawfully conforming.

Section 2.3 Jurisdiction - Governmental Services.

A. Water Distribution, Sanitary Sewer and Storm Sewer.

Public water distribution, sanitary sewer, and storm sewer for the Transferred Area shall be provided by the City, except that for the portion of the Transferred Area within

350 feet from the edge of the Telegraph Road right-of-way, the property owner may request water and sanitary sewer services from the Township, and the Township may provide such services if it has adequate system and line capacity to do so. The area shown on Exhibit D hereto, which is adjacent to the Transferred Area, together with associated drainage facilities, may be utilized to provide storm drainage for the Transferred Area.

Upon termination of this Agreement, the municipal public utility infrastructure, all other infrastructure financed by the City, public parking structures, and all utility easements and rights-of way within the Transferred Area shall remain the property of the City, and the City shall thereafter continue to provide such public utility services to the Transferred Area, unless the parties agree otherwise.

B. Fire, Police and Emergency Medical Services.

In the Transferred Area, fire and police protection and emergency medical services shall be provided by and under the jurisdiction of the City, except as provided in this Agreement. Nothing in this section shall be construed to terminate or modify the terms of any police, fire or emergency medical services mutual aid agreements to which the City or the Township is a party.

C. Streets, Roads and Sidewalks.

Jurisdiction, maintenance, repair and cleaning of all public streets, public roads, public sidewalks and public road drainage structures within the Transferred Area shall be under the jurisdiction of the City, the Road Commission for Oakland County, and/or the Michigan Department of Transportation. Any required local funds for roads within the Transferred Area shall be provided by the City and not by the Township, except as provided in this Agreement. The roads and population within the Transferred Area shall be deemed to be within the City for purposes of calculating the gas and weight tax distributions under 1951 PA 51, and the City shall retain all funds received under Act 51 with respect to the Transferred Area.

D. Drainage.

Maintenance, repair and cleaning of any drainage structures in the Transferred Area shall be subject to the jurisdiction of the City and the Oakland County Drain Commissioner, as provided by the Drain Code, except as provided in this Agreement.

E. Refuse Collection.

In the Transferred Area, refuse collection shall be provided by private waste haulers under the regulatory jurisdiction of the City, except as provided in this Agreement.

F. District Court Services.

The Transferred Area shall be deemed to be within the City for the purposes

of the Revised Judicature Act ("RJA"), and the City shall be the district control unit for the Transferred Area pursuant to MCL 600.8104 and 600.8123, except as provided in this Agreement.

G. Zoning and Land Use.

In the Transferred Area, zoning of the entire area shall be governed by the Zoning Ordinance, except as limited by the Development Agreement, and shall be enforced and administered by the City, except for such decision-making authority as is given to the Joint Development Council under Article IV of this Agreement. All zoning, planning, and other land use decisions by the City and the Joint Development Council within the Transferred Area shall be in accordance with the provisions of the Development Agreement.

H. Building and Trades.

In the Transferred Area, sign regulations and approvals, building permits and plan review, and building code, fire code, electrical code, mechanical code, plumbing code, property maintenance code, and housing code regulations and approvals and appeals under all such codes shall be provided under the jurisdiction of the City, subject to the terms of the Development Agreement.

I. Economic Development Services.

The Transferred Area shall be within the jurisdiction of the City for purposes of all economic development services and programs operated by the City, including, without limitation, any services or programs under the Economic Development Corporations Act (Public Act 338 of 1974, as amended), the Downtown Development Authority Act (Public Act 197 of 1975, as amended), the Technology Park Development Act (Public Act 385 of 1984, as amended), the Tax Increment Finance Authority Act (Public Act 450 of 1980, as amended), the Michigan Strategic Fund Act (Public Act 270 of 1984, as amended), and other similar laws and programs authorized for economic development within the City. If the Township is or becomes eligible for such economic development services or programs that can assist in the development of the Transferred Area, a developer within the Transferred Area may apply to participate in such services and programs.

Section 2.4 Jurisdiction - Applicability and Enforcement of Ordinances.

The Transferred Area shall be treated as being within the City and subject to all City ordinances, rules and regulations enacted now and during the term of this Agreement or any renewal thereof, except as specifically provided otherwise in this Agreement or in the Development Agreement.

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G. Zoning and Land Use.

In the Transferred Area, zoning of the entire area shall be governed by the Zoning Ordinance, except as limited by the Development Agreement, and shall be enforced and administered by the City, except for such decision-making authority as is given to the Joint Development Council under Article IV of this Agreement. All zoning, planning, and other land use decisions by the City and the Joint Development Council within the Transferred Area shall be in accordance with the provisions of the Development Agreement.

H. Building and Trades.

In the Transferred Area, sign regulations and approvals, building permits and plan review, and building code, fire code, electrical code, mechanical code, plumbing code, property maintenance code, and housing code regulations and approvals and appeals under all such codes shall be provided under the jurisdiction of the City, subject to the terms of the Development Agreement.

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The Transferred Area shall be within the jurisdiction of the City for purposes of all economic development services and programs operated by the City, including, without limitation, any services or programs under the Economic Development Corporations Act (Public Act 338 of 1974, as amended), the Downtown Development Authority Act (Public Act 197 of 1975, as amended), the Technology Park Development Act (Public Act 385 of 1984, as amended), the Tax Increment Finance Authority Act (Public Act 450 of 1980, as amended), the Michigan Strategic Fund Act (Public Act 270 of 1984, as amended), and other similar laws and programs authorized for economic development within the City. If the Township is or becomes eligible for such economic development services or programs that can assist in the development of the Transferred Area, a developer within the Transferred Area may apply to participate in such services and programs.

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The Transferred Area shall be treated as being within the City and subject to all City ordinances, rules and regulations enacted now and during the term of this Agreement or any renewal thereof, except as specifically provided otherwise in this Agreement or in the Development Agreement.

Section 2.5 Jurisdiction - Taxes.

A. Real and Personal Property Taxing Jurisdiction.

Subject to Section 3.1 below, for the purposes of real and personal property taxation, including the granting of exemptions under MCL 211.9f, the Transferred Area shall be considered as being within the corporate limits and jurisdiction of the City. Upon the transfer of taxing jurisdiction to the City, the taxable value of the Transferred Area shall thereafter be determined by the City in accordance with the tax laws and tax manuals of the State of Michigan. The assessment of real and personal property within the Transferred Area shall be the responsibility of the City commencing on December 31, 2002. The City shall appear and defend all assessment appeals filed by property owners within the Transferred Area. The City shall collect all *ad valorem* real and personal property taxes and payments in lieu of such taxes within the Transferred Area, and may collect and retain all of the one (1%) percent property tax administration fee within the Transferred Area. All taxes assessed and levied after December 31, 2001, by the City of Birmingham or the Township on any property in the Transferred Area shall be assigned to the City. The parties shall thereafter take such actions as necessary, including amending the tax rolls with respect to the Transferred Area, to eliminate any duplicate tax assessments or levies. For the tax years commencing January 1, 2002, 2003, and 2004, the City shall levy and collect within the Transferred Area the same millage levied and collected by the Township in the balance of the Township territory, subject to sharing with the Township of the full three (3) mills pursuant to Section 3.1.A, without reduction pursuant to Section 3.1.C. For all tax years commencing after December 31, 2004, the City shall levy and collect within the Transferred Area the same millage levied and collected by the City in the balance of the City, subject to sharing with the Township pursuant to Section 3.1.

B. Income Taxing Jurisdiction.

As of the effective date of this Agreement, and for the remaining term of this Agreement and any renewal term, for the purposes of local income taxes, the Transferred Area and the residents therein shall be considered as being within the corporate limits and jurisdiction of the City.

Section 2.6 Jurisdiction - Special Assessments.

The Transferred Area shall be treated as being within the City for purposes of special assessments, except as provided in this Agreement.

Section 2.7 Jurisdiction - Rates and Charges.

All rates, charges and fees for water service, sewer service, emergency medical service, and other fee-based services provided by the City or by the Township shall be calculated, levied, collected, and retained by the City or the Township, whichever provides such service under this Agreement, in accordance with the then current rates and ordinances applicable to other service users within the corporate limits of the City or the

Township.

Section 2.8 Liens.

Liens for water distribution, sanitary sewer service and refuse collection made against real property in the Transferred Area prior to the execution of this Agreement shall be created and remain in full force and effect as if the Transferred Area were within the Township.

Section 2.9 Voting.

For purposes of voting jurisdiction, any qualified electors residing in the Transferred Area shall be considered qualified electors of the City entitled to vote on all City, state, and federal matters.

Section 2.10 Jurisdiction - Liquor Licenses.

The Transferred Area shall be treated as being within the City for the purposes of granting consent for liquor licenses for any premises located within the Transferred Area. The City shall receive and retain all state liquor license taxes and fees distributed by the state with respect to the Transferred Area. The Township may be permitted, but shall not be mandated or required, to pool or allocate any of its available and unissued liquor licenses to the Transferred Area; provided that such pooling or allocation shall be solely within the unfettered discretion of the Township Board, which discretionary decision shall not be subject to review or reversal in any action or proceeding whatsoever.

Section 2.11 Utility Rights of Way and Franchises.

During the term of this Agreement and any renewals, the Transferred Area shall be treated as being within the City for purposes of granting consents or franchises to any public or private utility companies pursuant to Mich Const 1963, art 7, § 29, the Federal Telecommunications Act, the Michigan Telecommunications Act, the Metropolitan Telecommunications Act, the Federal Cable Communications Policy Act, and any amendments to those acts.

ARTICLE III

TAXES AND OTHER REVENUE

Section 3.1 Sharing of Tax Collections.

A. During the term of this Agreement and any renewals, the City shall annually pay to the Township the equivalent of 3 mills of the City's then-prevailing property tax millage assessed against the taxable value of all real and personal property within the Transferred Area.

B. All tax sharing due to the Township under this Section shall be paid by the City no later than forty-five (45) days following receipt by the City. Any amount not paid as provided herein shall bear interest at the rate certified by the Michigan Department of Treasury pursuant to MCL 205.737.

C. In the event of any tax increment financing, tax abatements, or tax exemptions within the Transferred Area, any payments received by the City in lieu of taxes shall be allocated to the Township in the same proportion as the Township's portion of the millage under this Agreement bears to the City's then-current millage, and the 3 mills provided for under Section 3.1 shall be paid to the Township based upon the taxable value remaining after reduction by any exemptions, abatements or capture. For purposes of this paragraph, the Township shall be considered to be a "taxing jurisdiction" with such authority as may be provided by law to exempt its taxes from such exemption, abatement or capture, including without limitation, under MCL 125.1653 and 125.2154.

D. In the event that the total property tax operating millage rate levied by the City in any tax year is reduced to less than its current operating millage of 16.2 mills by operation of Mich Const 1963, art 9, § 31 and MCL 211.34d(6)-(16), then the amount of millage shared with the Township under this Section for that tax year shall be adjusted as follows: During the first 25 tax years following the effective date of this Agreement, 2003-2027 inclusive, the amount of millage shared with the Township shall be fixed at 3 mills annually. During the remaining term of this Agreement and any renewals, the amount of millage shared with the Township under this Section shall be adjusted annually by the millage reduction fraction determined for the City for that year in accordance with MCL 211.34d(7); provided that the amount of millage shared with the Township under this Section shall not under any circumstances be reduced to less than 2.5 mills nor more than 3.0 mills annually.

Section 3.2 Gifts, Grants, Revenue Sharing, Etc.

A. Except as otherwise provided in this Agreement, all gifts, grants, assistance funds, bequests, or other funds from any private or public source given to the City with respect to the Transferred Area and activity performed upon or within the Transferred Area, the population or occupancy of the Transferred Area, or for any other reason arising from the existence of or jurisdiction over the Transferred Area, shall belong to the City. The population and occupancy of the Transferred Area shall be deemed to be within the City for purposes of state and federal revenue sharing.

B. During the term of this Agreement and any renewals, the City shall annually pay to the Township the equivalent of the amount of state and federal revenue sharing payments, if any, that the Township would receive if the Transferred Area were considered to be part of the Township, but not more than twenty-five (25%) percent of the state and federal revenue sharing payments received by the City for population within the Transferred Area. During calendar year 2003, the amount shared with the Township under this paragraph shall not exceed \$60.00 per capita. The City shall pay the Township its share of any state and federal revenue sharing payments within thirty (30) days after receipt by

the City of such periodic payments. Any amount not paid by that date shall bear interest at the rate provided in Section 3.1B until paid.

ARTICLE IV

JOINT DEVELOPMENT COUNCIL

Section 4.1 Joint Development Council; Jurisdiction and Authority.

There is hereby established a Joint Development Council to grant zoning, planning and other land use approvals within the Transferred Area, to implement the detailed provisions of the Development Agreement, and to serve as the Board of Appeals for the purposes provided in MCL 125.585. Decisions by the Joint Development Council shall be by majority vote, except that the Joint Development Council shall not grant any zoning variance or zoning amendment without a unanimous vote of the three members of the Joint Development Council. The Joint Development council shall be a public body governed by the Michigan Open Meetings Act and Freedom of Information Act.

Section 4.2 Membership; Terms; Dispute Resolution.

- A. The Joint Development Council shall be comprised of three members.
- B. One member representative shall be selected by the City, and one member representative shall be selected by the Township.
- C. One neutral member, who shall act as chairperson, shall be jointly selected by the City and the Township. The City and the Township shall agree on the initial neutral member within thirty (30) days of the date of this Agreement and, if unable to agree, the procedure set forth in paragraph F below shall be used to select the neutral member.
- D. The neutral member may not be a past or present elected or appointed official, employee or contractor of the City, the Township, the City of Birmingham, the County of Oakland or the owner or developer of any property within the Transferred Area, nor a relative of such owner or developer unless the parties otherwise agree.
- E. Joint Development Council members shall serve three-year terms.
- F. The City and the Township may agree to continue the neutral member for successive terms. Should the City and the Township fail to agree on a successor neutral member at the end of any term, the current neutral member shall continue until the end of the next term or until the City and Township agree on a successor neutral member. In the event that the neutral member resigns or becomes incapacitated prior to the end of a term, the City and the Township shall agree to a successor neutral member. If the parties are unable to agree on an initial neutral member, both parties will jointly submit an alphabetical list which includes all of the persons proposed by both parties to Facilitators, George A. Googasian and A. Kay Stanfield Brown. The alphabetical list shall not identify the

recommendations of either party. The Facilitators shall then select the neutral member, but shall not be restricted to the persons on the list submitted by the parties. In the event the parties are thereafter unable to agree on a successor neutral member within thirty (30) days after a vacancy in such position occurs, then in such event, the neutral member shall be selected by the Judge of the Oakland County Circuit Court presiding in Case No. 01-033228-CZ, whose decision shall be binding upon the parties hereto.

G. The City and the Township may reappoint their members for subsequent terms. Should a member appointed by the City or the Township resign or become incapacitated, the appropriate party may designate a successor to fill the remainder of that term, and until the successor assumes the office, the other members shall have the authority to exercise all powers of the Joint Development Council.

H. The City and the Township shall jointly agree upon the compensation to be paid for the neutral member of the Joint Development Council, and in absence of their agreement, such compensation shall be fixed by the aforementioned Judge of the Oakland County Circuit Court. The City and the Township shall each pay fifty (50%) percent of the compensation for the neutral member and the reasonable administrative expenses of the Joint Development Council. In addition, the City and the Township shall be responsible for compensating their respective members, if any compensation is to be paid.

I. The Joint Development Council shall only have the power and duties prescribed in this Agreement, the Development Agreement, and the Zoning Ordinance.

J. Any dispute by a party with a decision of the Joint Development Council shall be instituted by the filing of a notice of appeal, as provided in Section 6.2 of this Agreement.

ARTICLE V

TERM AND TERMINATION

Section 5.1 Term.

The term of this Agreement shall commence upon the filing of this Agreement after its execution and continue for fifty (50) years. The Agreement shall thereupon be automatically renewed for a second term of fifty (50) years. The second term shall be on the same terms and conditions as stated in this Agreement, unless the parties agree otherwise in writing.

Section 5.2 Termination - Recission.

This Agreement may be terminated:

A. by the expiration of the initial term and the renewal term of this Agreement;

B. by mutual written agreement approved by the governing bodies of the parties;
or

C. by operation of law should a court of competent jurisdiction order the termination of this Agreement. Provided however, no party to this Agreement shall institute or seek termination of this Agreement or challenge any provision of this Agreement. The parties' sole and exclusive remedy with regard to any dispute or controversy arising out of this Agreement is set forth in Article VI below.

Section 5.3 Prohibition of Annexation, Detachment or Transfer.

While this Agreement is in effect, no other method of annexation, detachment or transfer shall take place for any portion of the Transferred Area.

ARTICLE VI

ENFORCEMENT

Section 6.1 Retention of Jurisdiction

In the event of an issue, dispute, or controversy between the parties on the interpretation of this Agreement, except for land use decisions made by the Joint Development Council, the matter shall be heard and determined by the Oakland County Circuit Court by the Judge presiding in Oakland County Circuit Court Case No. 01-033228-CZ.

Section 6.2 Land Use Decisions

Each party shall have a right to appeal a final land use decision of the Joint Development Council to an arbitrator selected by the parties, or if agreement of the parties to an arbitrator cannot be obtained within thirty (30) days after the filing of an appeal hereunder, then such arbitrator shall be selected by petition to the Oakland County Circuit Court, and the arbitrator may grant appropriate relief if substantial rights of the party have been prejudiced because the decision or order is any of the following:

- A. In violation of the Constitution or a statute or the Zoning Ordinance, or the terms of the Development Agreement.
- B. In excess of the authority or jurisdiction of the Joint Development Council.
- C. Made upon unlawful procedure resulting in material prejudice to such party.
- D. Not supported by competent, material, and substantial evidence on the whole record.

- E. Arbitrary, capricious or clearly an abuse or unwarranted exercise of discretion.
- F. Affected by other substantial and material error of law.

Any such appeal under this section shall be taken by the filing of a notice of appeal specifying the grounds for appeal within twenty-one (21) days from the date of a final decision by the Joint Development Council. The appeal shall be reviewed and decided based upon the written record made before the Joint Development Council. A restraining order may be granted by the arbitrator, on application, on notice to the other party and to the affected property owner, and on due cause shown. Upon hearing the appeal, the arbitrator, as appropriate, may affirm, reverse, or modify the decision or order or remand the case to the Joint Development Council for further proceedings. The arbitrator shall render a decision within thirty (30) days after the close of the appeal hearing. The decision of the arbitrator shall be final and binding on the parties, and may be enforced by order of the Oakland County Circuit Court.

6.3 Remedies.

In the event of any other issue, dispute, or controversy between the parties arising under this Agreement outside of the scope of Sections 6.1, 6.2, or 4.2F, such issue, dispute, or controversy shall be resolved in an action commenced in the Oakland County Circuit Court and under Michigan law.

ARTICLE VII

MISCELLANEOUS

Section 7.1 Amendment.

This Agreement may be amended with the prior written approval of the City and the Township. No third parties shall have any vested rights by virtue of this Agreement.

Section 7.2 Employees and Liabilities.

The City and the Township shall each be solely responsible for the manner of employing, engaging, compensating, transferring or discharging their own employees, independent contractors or other personnel with respect to the government services they each shall provide under this Agreement, unless otherwise mutually agreed by the parties in writing. The City and the Township shall each be responsible for such liabilities as may be incurred through their respective provision of governmental services and other performance of this Agreement under Article II, shall respond to and provide for such potential liabilities on the same basis as each does generally, subject to their governmental immunity, and shall insure against and indemnify the other party from and against such liabilities.

Section 7.3 Notices.

Any notice, demand, or communication required, permitted or desired to be given under this Agreement shall be deemed effectively given when personally delivered or mailed by first class or certified mail addressed as follows:

If to the City: Pontiac City Clerk
47450 Woodward
Pontiac, MI 48342

If to the Township: Bloomfield Township Clerk
4200 Telegraph Road
P.O. Box 489
Bloomfield Hills, MI 48303

The parties may, by written notice, designate any further or different address to which subsequent notices, demands, or communications may be given.

Section 7.4 Governing Law.

This Agreement has been executed and delivered and it shall be interpreted, construed, and enforced pursuant to and in accordance with the laws of the State of Michigan. All duties and obligations of the parties created under this Agreement shall be performed in Oakland County, Michigan. The parties agree that this Agreement was mutually drafted and cannot be construed against the City and the Township upon the basis that one was the scrivener of this Agreement.

Section 7.5 Assignment.

No assignment of this Agreement or any of the rights and obligations thereunder shall be valid without the specific written consent of all parties hereto.

Section 7.6 Severability.

In the event any portion of this Agreement is held to be unenforceable or any portion of the Transferred Area is held to be invalidly transferred for any reason, the unenforceability or invalidity thereof shall not affect the remainder of this Agreement which shall remain in full force and effect and enforceable in accordance with its terms, unless such enforcement results in substantial frustration of the purposes and intent of this Agreement. If, because of the invalidity of all or any part of this Agreement or major changes in state or federal law, this Agreement is deemed incapable of performance, the parties shall renegotiate in good faith to amend the Agreement to make it valid and satisfactory to all parties. In the event this Agreement is held to be void, the parties shall return to their respective positions before this Agreement was executed, including the reinstatement of any proceedings, litigation, and appeals that were dissolved, withdrawn or dismissed under the Stipulation to Dismiss and Remand for Entry of Consent

Judgments; provided that, pending final resolution of such reinstated proceedings, litigation and appeals, the Transferred Area shall remain under the continuing jurisdiction of the City for all purposes, including zoning under the provisions of the Zoning Ordinance, as provided in this Agreement.

Section 7.7 Articles and Other Headings.

The articles and other headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

Section 7.8 Counterparts.

This Agreement may be executed in any number of counterparts and each such counterpart shall be considered a valid original.

Section 7.9 Entire Agreement.

This Agreement supersedes all previous and contemporaneous contracts and constitutes the entire agreement between the parties with respect to the Transferred Area, together with the Development Agreement and the Stipulation to Dismiss and Remand for Entry of Consent Judgments. No party shall be entitled to benefits other than those specified in this Agreement and consistent with state and federal law. No oral statements or prior or contemporaneous written material not specifically incorporated or referenced herein shall be of any force and effect, and all parties specifically acknowledge in entering into and executing this Agreement they rely solely upon the representations and agreements contained in this Agreement, and in the other contracts specified herein, including the Development Agreement and the Stipulation to Dismiss and Remand for Entry of Consent Judgments.

Section 7.10 Allocation of Cost of Litigation.

In the event a lawsuit or action is filed by any third party challenging this Agreement, all parties shall vigorously defend such suit or action in good faith, including the exhaustion of any available appeals, and each shall bear its own costs of defending this Agreement, including attorney fees, unless the parties otherwise agree in writing.

Section 7.11 Filing and Effective Date.

In accordance with Act 425, following the execution of this Agreement by the City and the Township, a duplicate original of the Agreement shall be filed with the Clerk of Oakland County and with the Michigan Secretary of State. This Agreement, certified by the County Clerk or Secretary of State, shall be *prima facie* evidence of the conditional transfer of the Transferred Area. This Agreement shall be effective on the day it is filed with the Oakland County Clerk and Secretary of State.

Section 7.12 Referendum.

No party shall call for a referendum on this Agreement, nor shall directly or indirectly encourage, assist or support in the petitioning for or in the defeat of any such referendum in any attempt to defeat or disapprove this Agreement.

Section 7.13 Access.

If the City elects to acquire and improve Lot 33 of Bloomfield Acres Subdivision through condemnation or otherwise, to provide access to the Transferred Area, the Township will not oppose such acquisition and improvement. If the developer and the owners of Lots 31, 32, 35, 61 and 62 of Bloomfield Acres Subdivision (the "Anderson Property") reach an agreement respecting access to the Transferred Area over the Anderson Property, the City and the Township will not oppose such access, and will take all necessary steps for the vacation of such portions of Hood and Rotsel Roads as the developer may request.

Section 7.14 Good Faith.

The parties will cooperate in good faith to uphold the validity of this Agreement and to further the economic development of the Transferred Area in accordance with the parties' agreements.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first written above by authority of the respective City Councils and Township Board.

Witnesses:

Christina A. Luel
Rebecca A. Pozzi
Christina A. Luel
Rebecca A. Pozzi

CITY OF PONTIAC

By:

Its:

Mayor

By:

Its:

Clerk

Witnesses:

Will: K. Johnson
Cheryl Hansen

Will: K. Johnson
Cheryl Hansen

CHARTER TOWNSHIP OF BLOOMFIELD

By:

Its: Supervisor

By:

Its: Treasurer

Approved as to form only:

Mark D. Hatz
Pontiac City Attorney

William A. Hinton
Bloomfield Charter Township Attorney

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EXHIBIT A

A part of "Bloomfield Acres", a subdivision of part of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 5, as recorded in Liber 41, Page 49, Oakland County Records, and part of the West $\frac{1}{2}$ of Section 5, and part of the NE $\frac{1}{4}$ of Section 6, T. 2N., R. 10E., Bloomfield Township, Oakland County, Michigan, being more particularly described as commencing at the West $\frac{1}{4}$ corner of Section 5, T. 2N., R. 10E.; thence N. $01^{\circ} 51' 17''$ W., 702.26 feet to the point of beginning; thence N. $50^{\circ} 14' 30''$ W., 200.00 feet along the Northerly R.O.W. line of Telegraph Road (204 feet wide); thence N. $39^{\circ} 45' 30''$ E., 125.00 feet; thence S. $50^{\circ} 14' 30''$ E., 89.66 feet; thence N. $01^{\circ} 40' 30''$ W., 767.44 feet along the West line of said "Bloomfield Acres"; thence N. $87^{\circ} 53' 00''$ E., 1285.47 feet along the North line of said "Bloomfield Acres"; thence N. $87^{\circ} 54' 49''$ E., 1136.23 feet; thence S. $05^{\circ} 08' 58''$ E., 1227.51 feet; thence S. $04^{\circ} 21' 42''$ E., 427.82 feet to the center of said Section 5; thence S. $88^{\circ} 13' 20''$ W., 1019.25 feet along the East and West $\frac{1}{4}$ line of said Section 5; thence N. $02^{\circ} 02' 50''$ W., 496.39 feet; thence S. $88^{\circ} 09' 40''$ W., 258.15 feet; thence N. $71^{\circ} 03' 18''$ W., 320.95 feet; thence S. $39^{\circ} 45' 34''$ W., 188.74 feet; thence N. $50^{\circ} 14' 30''$ W., 353.09 feet; thence S. $39^{\circ} 45' 34''$ W., 60.00 feet; thence S. $39^{\circ} 45' 34''$ W., 300.00 feet; thence N. $50^{\circ} 14' 30''$ W., 409.92 feet along the Northerly R.O.W. line of Telegraph Road (204 feet wide) to the point of beginning.

EXHIBIT C

LITIGATION LIST

- a. *Charter Township of Bloomfield v G. William Caddell, in his capacity as Oakland County Clerk and Mary Jo Hammond, in her capacity as Director of Elections for Oakland County and City of Pontiac and Harbor Telegraph-2103 L.L.C., Bloomfield Acres Acquisition Company L.L.C., Harbor Telegraph-1881 L.L.C., Harbor Telegraph-1899 L.L.C. and Harbor Vogue Plaza L.L.C., Supreme Court Case No. 122419, Court of Appeals No. 238209, Oakland County Circuit Court No. 01-033228-CZ.*
- b. Harbor Telegraph-2103 L.L.C., Bloomfield Acres Acquisition Company L.L.C., Harbor Telegraph-1881 L.L.C., Harbor Telegraph-1899 L.L.C. and Harbor Vogue Plaza L.L.C. and City of Pontiac v Oakland County Board of Commissioners, Commissioner Shelly Taub, Commissioner David Buckley and Charter Township of Bloomfield and L. Brooks Patterson, Oakland County Executive, Supreme Court Case Nos. 122420, 122421, 122422 and 122423. Court of Appeals No. 239246, Oakland County Circuit Court No. 01-036872-CZ.
- c. *Harbor Telegraph-2103 L.L.C., Bloomfield Acres Acquisition Company L.L.C., Harbor Telegraph-1881 L.L.C., Harbor Telegraph-1899 L.L.C. and Harbor Vogue Plaza L.L.C. and City of Pontiac v Charter Township of Bloomfield and City of Birmingham, Oakland County Circuit Court Case No. 01-034152-CZ.*
- d. *Edward G. Lennon and Brad Simmons v G. William Caddell, in his capacity as Oakland County Clerk, City of Pontiac, Charter Township of Bloomfield, and City of Birmingham, Oakland County Circuit Court Case No. 01-035302-AW.*
- e. *David Payne, in his capacity as Supervisor, and the Charter Township of Bloomfield v Oakland County and Oakland County Board of Commissioners, Michigan Tax Tribunal Docket No. 0290997.*
- f. City of Birmingham v Oakland County and Oakland County Board of Commissioners, Michigan Tax Tribunal Docket No. 0291089.
- g. *Charter Township of Bloomfield v John R. Nolen and Jeremy Navarre, Oakland County Circuit Court Case No. 01-036364-CZ.*

EXHIBIT D

**TEXT AMENDMENTS SECTION 7.112, 7.113, 7.114,
7.115, 7.116, 7.117 AND 7.118**

Adopted December 27, 2001 by
City Council Resolution #01-730

ARTICLE VII. SCHEDULE OF REGULATIONS

DIVISION 20. TC TOWN CENTER DISTRICT (as recommended 12/05/01)

Sec. 7.112. Intent.

This district is designed to promote a mix of uses within a dense development of land of an exceptional aesthetic quality that encourages the congregation of people, creating new and innovative interdependent residential, office, shopping, and entertainment environments that compliment each other and gain economic advantage from a close proximity and well organized relationship to each other.

A prime characteristic of this district is a core of intense pedestrian activity. Most persons entering the district will come by automobile and typically will park once to carry out several errands. This essential interdependence of activities is given preference in the regulations and the future planning of the district over those types of activities where the customer normally does business as a single purpose trip and desires to park his automobile immediately adjacent to the establishment.

Uses or activities that tend to be incompatible with the intent of this district (drive-thru restaurants for example) shall be appropriately restricted if not prohibited altogether.

Exterior building materials, signage, lighting, landscaping, and other features of the project, shall be designed to provide an environment of high quality and complementary building and site design. The provisions that follow place special emphasis upon regulations, design standards, and improvements that tend to reduce the large-scale visual impact of buildings, to encourage tasteful, imaginative design for individual buildings, and to create a complex of buildings compatible with each other and neighboring residential areas in terms of design, scale and use. To unify the building sites and their architecture, landscaping and other site amenities as a design element will play a key role in creating and conveying a user-friendly environment, as well as to ensure compatibility of neighboring uses.

Sec. 7.113. Permitted Principal Uses.

The following uses are permissible when conducted within fully enclosed buildings, unless otherwise specifically provided:

1. Offices for: lawyers, realtors, architects, engineers, accountants or tax consultants, and similar professional businesses; executive, administrative, professional, non-profit organizations; judicial, law enforcement or governmental agencies; banks or credit unions; commercial and civic organizations; public or private utilities; news media, sales; and similar functions or occupations.
2. Research, design, development, and testing facilities for technological, scientific and business establishments, contained solely within completely enclosed buildings.
3. Medical and dental offices, including outpatient clinics, medical laboratories, but not including veterinarian establishments.
4. Hotels, auditoriums, theaters, display halls, art galleries, cultural centers, health or exercise clubs, courts, libraries, museums, or similar places of assembly.
5. Data processing, computer programming, software development, and archival services.
6. Miscellaneous business services such as consumer credit reporting agencies, mailing lists and stenographic service, business management and consulting services, lithographic, blueprinting and other document reproduction services etc.
7. Commercial, business and/or technical schools and other training facilities located completely within an enclosed building.
8. Banks, credit unions and similar financial services, excluding those with drive-up services (See below - Section 7.115).
9. Studios for radio or television broadcasting, musicians, dancing instruction, photography and artists, including artisan fabrication, such as wood, glass or metal working, model making, rug weaving, lapidary work, and cabinet making, using only hand-held and/or table mounted manual and electric tools.
10. Personal service establishments, such as, but not limited to, repair shops (watches, radio, television, shoe, etc.), tailor shops, beauty parlors, barber shops, interior decorators, and photographers.
11. Any retail business whose principal activity is the sale of new merchandise in an enclosed building, excepting uses such as the following, which tend to detract from or interfere with a high intensity of pedestrian activity: firearm sales, automobile sales, trailer coach sales, motorcycles sales, gasoline service stations, and other retail businesses which require a workshop for assembly, fabrication or repair for a successful operation. However, sales of packaged alcoholic beverages is prohibited unless otherwise permitted pursuant to Sections 7.115 and 14.3 of this Zoning Ordinance.

12. Retail dry cleaning establishments or pickup stations, provided that odorless cleaning fluid is used, all dry cleaning is limited to that material and clothing picked up over the counter of such premises.
13. Restaurants, tea rooms, cafes, and other establishments serving food or beverages, including those with accessory outdoor seating, excepting those with drive-in or drive-thru facilities.
14. Multiple-Family dwellings, either as the exclusive occupant of a building or as a mixed use with a permitted non-residential use.
15. Day care facilities.
16. Police and/or Fire stations.
17. Outdoor parks, playgrounds, skating rinks, tennis courts and passive recreation areas primarily for use of those residing, working or patronizing the businesses located within this district. Outdoor concerts, broadcasts, plays or other outdoor entertainments are subject to Special Exception Permit, pursuant to Sections 7.115 and 14.3 of the Zoning Ordinance.
18. Indoor recreational facilities, places of amusement, entertainment, or recreation, such as dance halls, commercial or private clubs, discotheques, cabarets, bars, taverns, billiard or pool halls, bowling alley, or rental halls for meeting, banquets or social occasions, or similar indoor recreational uses shall not be located within 300 feet of a lot or site-condominium unit upon which a detached single-family residence is located.

Sec. 7.114. Permitted Accessory Buildings, Landscaping, Lighting, Parking, Signs, Structures, Uses, and Utilities.

BUILDINGS

1. Multi-story off-street parking structures, provided their exterior appearance is generally obscured by other building areas from single-family dwellings and principal pedestrian/assembly areas and provided any exterior wall, of said parking structure, located within 300' of and visible from a lot or site condominium unit upon which a detached single-family dwelling exists, shall be solid and/or otherwise improved, to the satisfaction of the Planning Commission, so as to prevent spillover of light and noise generated from within said parking structure from being observed from said residential property.

LANDSCAPING (also see Article IX of this ordinance)

2. Property not utilized for buildings, structures, parking lots, decks, patios or other improved outdoor seating areas and/or improved roadways, driveways or walkways, and no less than 14% of the aggregate area, in addition to any landscape buffer required below at paragraph 4, within the overall development located within this district shall be landscaped with living trees, shrubs, flowers, grass

and/or ground cover. Wetland areas may be retained in their natural condition. All plant materials shall have access to a source of water for irrigation and shall be maintained in a healthy condition.

3. Pursuant to Section 9.2.5, all permissible outside storage areas, loading and unloading areas or service areas shall be visually screened from view from public right-of-ways or adjoining properties by a stone or masonry wall (to match exterior material of the related building) of at least a 6' height or a 20' wide landscape buffer providing 1 tree and 1 shrub for every 5' of the lineal dimension of said buffer, with at least one-half of the required trees being an evergreen variety.
4. Within the required setback from any property line adjacent to or separated by a street, right-of-way or similar easement for vehicular travel, from a lot or site condominium unit upon which a detached single-family residential dwelling exists, the following buffer shall be installed:
 - (a) A 4' high berm (excepting approved passage-ways for pedestrian movement) landscaped with 1 tree and 1 shrub being provided for every 5' of the lineal dimension of said buffer, with at least one-half of the required trees being an evergreen variety; OR
 - (b) if a interior roadway/driveway is located between the on-site buildings located nearest to the neighboring residential properties and the effected property line, then: a continuous (excepting approved passage-ways for pedestrian movement) 6' high stone or masonry wall (to match exterior material of the nearest building), setback 5' to 10' from said interior roadway/drive on that side nearest the neighboring residential property, with 1 tree and 1 shrub, being predominantly provided between said wall and the effected property line. for every 10' of the lineal dimension of said buffer, with at least one-half of the required trees being an evergreen variety; may be substituted for the landscaped berm described above at "(a)".
5. Except as provided above, all surface off-street parking lots shall be screened along their perimeter by a buffer strip of at least a ten-foot (10') width, landscaped with at least one tree for every thirty feet (30') of buffer strip length. The City Planning Commission may approve an alternative screening mechanism, such as a 42" high brick or stone (to match exterior material of related building) wall, during Site Plan Review.
6. Except as provided above, for every 50' along all streets, rights-of-way or similar easements for vehicular travel, one (1) or more tree(s), shall be provided, accented by provision of annual and/or perennial flowers.

7. Evergreen trees shall be at least a 5' height at the time of their planting. Large deciduous trees shall be at least a 2" caliper at the time of their planting. Ornamental deciduous trees shall be at least a 1 3/4" caliper at the time of their planting.
8. The Planning Commission may modify or waive the minimum landscaping, buffering or wall requirements, when it determines that such a modification will serve the same intent and provide more effective circulation and traffic movement, or will enable a more reasonable and desirable building setting and site design.

LIGHTING

9. Lighting shall provide for the safe and efficient illumination of a site in order to maintain vehicle and pedestrian safety, site security, and accentuate architectural details. However, awnings shall not be internally lit.
10. Distinctive luminaries and decorative supportive structures may be employed along public streets given contribution to the Department of Public Utilities of replacement parts equal to or greater than 10% of the total luminaries and 5% of the total supportive structures installed.

PARKING

11. Since the intent of this district is to promote dense development of land of an exceptional aesthetic quality, off-street parking shall be primarily provided within multi-level parking structures (see above paragraph #1, under accessory "BUILDINGS"). Surface off-street parking shall not exceed 10% of the required (see Article X of the Zoning Ordinance) and actual parking provided for any building, and shall not be permitted within 25' of all State or County rights-of-way, or other rights-of-way classified as a Freeway, Trunkline or Major Arterial, by the 2010 Comprehensive Plan or within 10' of any other street, right-of-way or similar easement for vehicular travel. Given a conclusive shared parking analysis, the aggregate number of required off-street parking spaces, shared between a number of different uses, may be reduced by the Planning Commission in the Site Plan Review process.

SIGNS (also see Article XVIII of this ordinance)

12. All signs shall be designed so as to be integral and compatible with the architecture and landscaping components of the development, and are subject to Site Plan Review pursuant to Section 5.11 of the Zoning Ordinance. All signs, if illuminated, shall be illuminated in a manner that is not intermittent, nor causing a hazard to others.
13. Non-accessory signs and/or Billboards are strictly prohibited.
14. Ground signs shall only be permitted pursuant to specific approval by the Planning Commission during Site Plan Review, and shall be setback at least 25' from the intersection of streets, alleyways or similar

17. Temporary continuous accessory signage regarding:

- a. the architects, engineers, contractors, developer, owner and other individuals or firms involved with building construction, and tenants, but not including any advertisement of any product; and/or
- b. the character of the building enterprises or the purposes for which the building is intended; and/or
- c. space availability, construction schedule, etc. relative to the adjacent building(s) under construction;

shall be permitted on all required barricades designed to protect the public during the construction period. Said signage shall not exceed a twenty-five feet (25') height, and shall be removed prior to occupancy of the related building(s).

18. All signs advertising the sale, rental or lease of space shall be located on the premises so advertised, and be no larger than fifty (50) square feet in area. Such signs shall be removed within fourteen (14) days of the sale, rental or lease.

19. Election/Political Campaign Signs announcing the candidates seeking public political office or political issue, and other data pertinent thereto, shall be confined to private property and be installed not more than thirty (30) calendar days prior to the election and shall be removed within fourteen (14) calendar days after the election.

Maximum Area..... 22"x 28"

Maximum Height..... 4 feet

All such ground signs shall be setback at least 25' from the intersection of streets, alleyways or similar easements for vehicular travel, and at least 10' from the intersection of a driveway with a street, alleyway or similar easement for vehicular travel.

STRUCTURES (other than buildings)

20. Ornamental metal fencing, or brick walled enclosures, of up to an 8' height. However, location of said fencing or walled enclosures shall not be within 10' of any property line, right-of-way or similar easement unless specifically approved during Site Plan Review by the Planning Commission.

21. Transformers, electrical or mechanical equipment and other similar permitted incidental equipment shall be mounted on the interior of a building wherever possible. Exterior location of such structures or equipment that may be visible from any street, right-of-way or similar easement for vehicular travel, or residential use, or district within which a residential dwelling is a permitted use, shall be setback at least 25' from all streets, rights-of-way or similar easement for vehicular travel and at least 15' from any other property line, and shall be screened with either plantings or a durable non-combustible enclosure which are unified and

harmonious with the overall architectural theme, and meet utility provider standards for location and maintenance.

22. Communication antennas, wireless telecommunication antennas and similar incidental non-accessory antennas may be mounted within or upon existing buildings or structures, as provided for above. However, free-standing structure(s) supporting communication antennas, whether accessory or non-accessory, require Special Exception Permit, pursuant to Section 7.115 of the Zoning Ordinance.
23. Loading docks and refuse collection facilities should be located within the envelope of the building they serve. Otherwise, loading docks and/or refuse collection enclosures shall be incorporated into the overall design of the building and the landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets. Wherever possible, said loading docks and refuse collection enclosures shall be located on that side of the building opposite of, or as far removed as possible from, all neighboring residential uses and districts within which detached single-family residential dwellings are permitted. All screening shall be comparable in style and quality to the principal materials of the building and landscape and otherwise comply with Section 9.2.5 of this ordinance. Outdoor storage, excepting that referenced above, shall be strictly prohibited.

ACCESSORY USES

24. An outdoor cafe service operated by an establishment that sells food and/or beverages for immediate consumption, located within the adjacent building may be permitted, subject to the following conditions:
 - a. An outdoor cafe shall be located directly in front of or adjacent to the principal establishment. An outdoor cafe that extends beyond the building frontage of the principal establishment shall require the permission of those business owners who operate within the adjacent building frontage.
 - b. If an outdoor cafe is located along a public or private sidewalk, or pedestrian pathway, a minimum of five (5) feet of unobstructed, pedestrian access along said sidewalk or path shall be maintained.
 - c. An outdoor cafe shall be allowed only during normal operating hours of the principal establishment.
 - d. The exterior of the premises shall be kept clean, orderly and maintained or the permit may be revoked. All food preparation shall be conducted inside of the principal establishment.

- e. The City shall not be held liable or responsible for any type of damage, theft or personal injury, which may occur as a result of a sidewalk cafe operation.
- f. All outdoor cafes shall comply with applicable laws and regulations of the City, County, and the State.
- 25. Interior storage, lounge, waiting room, laundry or similar use when ancillary to and within the same building as a Permitted Principal Use or a use permitted by Special Exception Permit, and occupying no more than 30% of the total useable floor area of the building.
- 26. Characteristically quiet and non-odiferous outdoor entertainments or open air business uses, such as art or book fairs, book readings, skating rinks (without outdoor musical broadcasts) flower vendors, portrait painters, and similar activities when on private property located at least 300' from a lot or site-condominium unit upon which a detached single-family residence is located, and when developed in planned relationship within the Town Center District, subject to Site Plan Review.
- 27. Home occupations as provided at Section 7.3 (14) of the Zoning Ordinance.
- 28. Any use customarily incidental to the permitted use.

UTILITIES

- 29. All exterior on-site utilities, and communication devices, including but not limited to drainage systems, sewers, gas lines, water lines, and electrical, telephone, and communications wires and equipment, shall be installed and maintained underground whenever possible.
- 30. On-site underground utilities, and communication devices, shall be designed and installed to minimize disruption of off-site utilities, communication devices, paving, and landscape during construction and maintenance.

Sec. 7.115, Uses requiring Planning Commission Special Exception Permit (see Section 14.3).

- 1. Public utility buildings, telephone exchange buildings; electric transformer stations and substations; gas regulator stations with service yards, but without storage yards, as required to provide necessary services to the businesses and residents in the district.
- 2. Wireless telecommunication or similar facilities requiring free-standing structure(s) supporting communication antennas. Such facilities shall be setback a distance equal to their height from all lots or site-condominium units upon which a detached single-family residential dwelling is located.
- 3. Interim Parking, as defined at Section 10.9.1 and 10.9.3 of the Zoning Ordinance, on surface lots.

4. Facilities incorporating drive-up services, including restaurants, banks, pharmacies, dry cleaners and other retail and service operations.
5. Sales of packaged alcoholic beverages.
6. Antique dealers.
7. Retail stores or services, not otherwise permitted and conclusively found to be compatible with the intent of this District.
8. Open air business uses as either a principal or incidental use, other than those otherwise permitted above, when developed in a planned relationship within the Town Center District, and subject to Site Plan Review.
9. Outdoor entertainments, within areas designated for such use on an approved Site Plan, as either a principal or incidental use, other than those otherwise permitted above, including musical broadcasts or concerts, theatrical presentations, carnivals, dances or similar activities. Such outdoor entertainments shall not be located within 500 feet of a lot or site-condominium unit upon which a detached single-family residence is located.

Sec. 7.116. Architectural and Development regulations/standards

Materials

Exterior materials shall be predominantly low maintenance face brick or stone, with ornamental metal accents. Pitched roofs shall have a metal surface or decking complimentary to the architectural detail of the building. No more than 10% of the exterior finish may be Dryvit, E.I.F.S. or similar material.

Building Facades

Building facades shall incorporate windows, arcades, recesses, balconies, projections, cornice work, decorative finish or similar features providing architectural interest and/or detail along appropriately substantial portions of their length. Blank walls shall not face a public plaza, street, sidewalk, right-of-way or similar easement for vehicular or pedestrian travel. Glass curtain walls and spandrel-glass strip windows shall not be used above the ground floor as the predominant style of fenestration for buildings in this district. This requirement shall not serve to restrict the use of atrium, lobby or greenhouse-type accent features used as embellishments to the principal building.

Storefronts shall be individually designed for each retail shop, and shall be integrally designed with the upper floors to be compatible with the overall facade character. Buildings with multiple storefronts shall be unified through the use of architecturally compatible materials, colors, details, awnings, signage and lighting fixtures. Ground floor retail, service and restaurant uses shall have large pane display windows, however, such windows shall not exceed seventy-five (75) percent of the total ground level facade area.

Roof soffits shall be elaborated with decorative supporting brackets or other details.

Primary building entrances shall be recessed, or framed by a sheltering element such as an awning, arcade or portico in order to provide shelter from the summer sun and winter weather, or otherwise clearly defined.

Special architectural features, such as bay windows, decorative roofs, colonnades or other covered walkways, trellises, canopies, fabric awnings and entry features may project into a required setback, provided that they are not less than eight (8) feet above any public or private walkway. Building setbacks shall be improved with seating, landscaping, pavers, tables, decorative lighting, water features and/or artworks. No such improvements shall encroach into a right-of-way or similar easement(s) for vehicular travel unless specifically authorized by a license agreement with the City and/or other entities favored by said easement(s).

Building Roofs

There shall be variations in roof lines to reduce the massive scale of the structure and add visual interest.

Parapets shall enclose flat roofs at least 42 inches high, or higher if required to conceal mechanical equipment. In instances where flat roof areas can be viewed from above, care should be taken that all roof vents, roof-mounted mechanical equipment, pipes, etc., are grouped together and painted to match roof color to reduce their appearance. Location of such mechanical equipment shall be as far removed from all neighboring residential uses as is possible.

Pedestrian Pathways and Sidewalks

Pedestrian pathway and sidewalk systems shall provide safe, all-weather, efficient, and aesthetically pleasing means of pedestrian movement between adjacent districts, as well as on-site circulation and shall be an integral part of the overall site design concept. Sidewalks are typically required along all roadways, and elsewhere as determined necessary by the Planning Commission. Pedestrian pathway connections to parking areas, buildings, other amenities and between on-site and perimeter pedestrian systems shall be planned and installed wherever feasible. All paths and sidewalks shall be a minimum of five (5) feet in width, and paved pursuant to the City's design standards. Sidewalks may be excluded from public rights-of-way where a permanent easement abutting said rights-of-way, of a dimension as determined by the City Engineering Division to be necessary to accommodate at least a 5' wide sidewalk, is provided for public pedestrian use, in a form acceptable to the City Law Department that obligates the property owner to improve and maintain in perpetuity such easement pursuant to City standards, including all

necessary repair and snow removal. Auto entrances to parking areas shall be located to minimize pedestrian/auto conflicts.

Street Design

Streets, or similar easements for vehicular travel, shall comply with the requirements of the City Engineering Division and all Design Standards provided by Sections 106-126 through 106-132 of City Code. Typically, streets, or similar easements for vehicular travel which intersect with a State or County rights-of-way, or other rights-of-way classified by the 2010 Comprehensive Plan as a Freeway, Trunkline or Major Arterial, shall be considered Collector Streets with respect to said design standards. However, the City Planning Commission, subsequent to their consideration of the recommendations of the City's Engineering Division and Traffic Safety Committee, may modify said standards, pursuant to Section 106-4 of City Code.

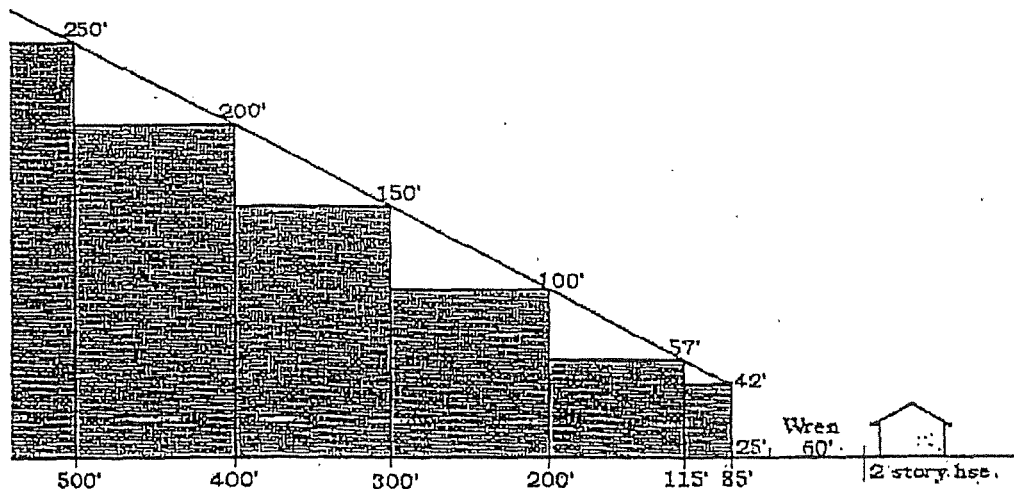
Sec. 7.117. Area, height, bulk and placement regulations.

1. The minimum gross area required for application of the provisions of this Town Center District shall be 25 acres and subject to coordinated ownership or control.
2. All buildings and off-street parking areas shall be setback from rights-of-way or similar easements for vehicular travel or pedestrian movement at least:
 - a) 15' from any State or County rights-of-way, or Freeway, Trunkline or Major Arterial as designated by the City's 2010 Comprehensive Plan;
 - b) 25' from any property line adjacent to or separated by a street, right-of-way or similar easement for vehicular travel, from a lot or site condominium unit upon which a detached single-family residential dwelling exists; and
 - c) within any and all given block(s), the equivalent of 20% of the building street frontage shall be setback 30' OR 25% shall be setback 24' OR 50% shall be setback 12' OR 100% shall be setback 6' to provide opportunities for landscape enhancement, seating or passive recreation areas to be incorporated within the streetscape.
3. All interior roadways shall be setback at least 25' from any property line adjacent to or separated by a street, right-of-way or similar easement for vehicular travel, from a lot or site condominium unit upon which a detached single-family residential dwelling exists.

4. No visual obstruction shall be permitted between 30" and 8' above grade, in a manner that would interfere with traffic visibility:
 - a) Within twenty-five feet (25') of the intersection of all streets, rights-of-way or similar easement(s) for vehicular travel; or
 - b) Within ten feet 10' of the intersections of a driveway with a street or alleyway, or similar easement for vehicular travel.

However, where volumes and/or speed of traffic are exceptionally low, and after consideration of a recommendation of the City's Traffic Safety Committee, the Planning Commission may reduce the required clear vision dimension specified in above paragraph "a" from twenty-five feet (25') to no less than ten feet (10').

5. No building shall be less than 30' in height. Furthermore, all structures and buildings, or portion(s) thereof, shall be setback a distance equal to or greater than 2 times their height, from all lots or site-condominium units upon which a detached single-family residence is located (see illustration below).



Maximum building height at varying setbacks from the property line of the nearest lot with an existing single-family residence.

Building height is also subject to the requirements of the Federal Aviation Administration (FAA).

6. The distance between buildings, and portions (see above illustration of acceptable building step back) or attachments thereto, shall not be less than twenty (20) feet; and wherever the average height of two buildings exceeds forty feet (40') the minimum separation between said buildings shall be increased by one (1) additional foot for every five feet (5') said average height exceeds forty feet (40').

7. The required minimum useable floor area per dwelling unit shall be as follows:

Two or more Bedroom Dwelling Unit 1,000 sq.ft.
One Bedroom (including Efficiency) Dwelling Unit 800 sq.ft.

Sec. 7.118. Planning Commission Site Plan Review; approval or rejection, commencement and completion of construction.

1. Preliminary Site Plan – As a preliminary step toward Site Plan approval regarding contiguous property under common ownership or control located within the Town Center (TC) District, an applicant may present to the Planning Commission, a Preliminary Site Plan within which the applicant specifically identifies certain aspects of said Preliminary Site Plan for which the applicant is seeking the Planning Commission's approval. The applicant shall follow the Site Plan Review requirements provided at Sections 5.11 through 5.13 of the Zoning Ordinance, with respect to all aspects of said Preliminary Site Plan for which the applicant is seeking approval, while providing less detail with respect to the other aspects of the proposed development than would be necessary for Site Plan approval.

The Planning Commission shall review the Preliminary Site Plan to determine whether it meets the intent of the TC District and whether the applicant's specified aspects of the Preliminary Site Plan satisfy the applicable standards and requirements of the City's Zoning Ordinance, Subdivision Ordinance, Woodlands Preservation Ordinance or other applicable provisions of City Code. The Planning Commission may then approve, approve with conditions or reject the proposed Preliminary Site Plan expressing in writing and/or drawings as to the findings of fact and the reason for the decision, with a statement of any conditions or limitations to which an approval is subject. Those aspects so approved by the Planning Commission may be unaltered in subsequent Site Plans duly submitted by the applicant within five (5) years (unless said period has been duly extended) of the Planning Commission's approval of said Preliminary Site Plan, as necessary to proceed with the proposed development. An extension for a specified period may be granted by the City Planning Commission upon good cause shown if such request is made to the City Planning Commission at the time of application or afterwards.

2. Site Plan Review - The Planning Commission shall review and approve, approve with conditions, or reject the proposed Site Plans of all proposed development, pursuant to Section 5.11 and in accordance with all applicable standards and requirements of the City's Zoning Ordinance, Subdivision Ordinance, Woodlands Preservation Ordinance, and other applicable provisions of City Code. A Site Plan that complies with the

specifically approved aspects of a Preliminary Site Plan, which has been approved by the Planning Commission within the past five years (unless said period has been duly extended), and with all other applicable standards and requirements of City's Zoning Ordinance, Subdivision Ordinance, Woodlands Preservation Ordinance and other applicable provisions of City Code, which are not in conflict with said specifically approved aspects of said Preliminary Site Plan, shall be approved.

Where a Site Plan proposes phased construction over a period of several years, a phasing plan shall be included with said Site Plan that identifies the extent of each phase as well as its estimated date of commencement. Each successive phase may rely upon the previous phase(s), but not upon future phases, for necessary infrastructure, off-street parking or other improvements necessary to comply with the City's development regulations and to ensure protection of the health, safety and welfare of the residents and businesses therein, as well as the general public. To ensure completion of required improvements, the City is authorized to impose performance guarantees or require a cash or surety bond or irrevocable letter of credit acceptable to the City in an amount determined to be sufficient to complete the improvements provided for in a given Site Plan. Construction shall be commenced within one (1) year following Site Plan approval by the Planning Commission and phases of said development shall proceed substantially in conformance with the schedule set forth by the applicant as a representation during Site Plan Review. If construction is not commenced within such time, or if phases of said development do not proceed substantially as approved, the Site Plan shall expire and be null and void. However, an extension for a specified period may be granted by the City Planning Commission upon good cause shown. Moreover, in the event approval of the Site Plan has expired, the City Planning Commission shall require a new application and appropriate fee that shall be reviewed in light of an approved Preliminary Site Plan and then existing and applicable ordinance provisions.

EXHIBIT E

Legal Description - Undeveloped Area

A part of the West 1/2 of Section 5, Town 2 North, Range 10 East, Bloomfield Township, Oakland County, Michigan, and part of Lot 34 of "Bloomfield Acres" (as recorded in Liber 41, Page 49, Oakland County Records) is described as follows: Commencing at the West 1/4 corner of said Section 5, Thence N. 01° 40' 30" W., 701.32 feet; thence along the Northeasterly line of Telegraph Road (204 feet wide), S. 50° 14' 30" E., 1212.75 feet; thence N. 39° 46' 29" E., 199.96 feet; thence N. 50° 11' 56" W., 150.00 feet; thence N. 39° 47' 43" E., 160.04 feet along the Southeasterly right-of-way line of Hood Road (60 feet wide); thence N. 39° 46' 17" E., 60.09 feet, to the Point of Beginning; thence, continue, N. 39° 46' 17" E., 242.85 feet; thence N. 86° 38' 38" E., 57.94 feet; thence N. 86° 02' 27" E., 199.82 feet; thence S. 02° 10' 17" E., 497.65 feet; thence S. 01° 26' 37" E., 60.06 feet; thence N 50° 14' 30" W., 563.60 feet to the Point of Beginning.

Subject to any Easements, Reservations, or Restrictions of record.

Containing 140,838 square feet or 3.229 acres.

Sidwell Nos. 19-05-156-015
and 19-05-156-011

EXHIBIT F

SITE PLAN REVIEW FEE SCHEDULE

Multiple-family

Residential Building: \$500+ plus \$10 for each proposed unit.

Non-Residential Building: \$500+ for the first 1,000 sq. ft. of Gross Building Area of proposed building, PLUS \$10 for each additional 1,000 sq. ft. OR fraction thereof of proposed building.

Parking Lots or

Change of use: \$200+ plus \$10 for each additional acre.

ADMINISTRATIVE (i.e. must satisfy all applicable ordinance standards)

Parking Lot or Change of Use: \$100+ plus \$10 for each additional acre.

The Site Plan fee shall be submitted with the application, as a check or money order made payable to the "City of Pontiac."

3. The Planning staff shall review the application and Site Plan, Tree Survey and Landscape Plan and transmit the same, with their findings and recommendations, to the Planning Commission.

4. Applicant(s) will be notified by mail regarding the date their respective request will be on the Planning Commission Agenda.

5. The Planning Administrator shall, within forty-five (45) days of receipt of application, schedule the request for consideration and upon approval shall provide one (1) copy of the approved Site Plan or conditions for approval if applicable to the Applicant; one (1) copy to the City Assessor; one (1) copy to the City Engineering Division; and two (2) copies of the same to the Building and Safety Engineering Division.

6. Any decision of the Planning Commission may be appealed to the City Council within thirty (30) days of the Applicant's receipt of the decision of the Planning Commission. The City Council, shall after consideration of the same, make the final decision which may set aside all or part of the Planning Commission's requirements. The City Council will set out in writing the reasons why it does not concur with the Planning Commission.