

AGREEMENT

Meredith THIS AGREEMENT ("Agreement") is made on this 15th day of March, 2007, by and among JOSHUA HILL, INC., a Pennsylvania corporation ("Joshua Hill"), MARC A. ZAID ("Zaid") (Joshua Hill and Zaid are sometimes together referred to herein as the "JH/Zaid"), WHITEMARSH TOWNSHIP AUTHORITY ("Authority") and WHITEMARSH TOWNSHIP (together with the Authority, herein referred to as the "Township").

BACKGROUND

A. Joshua Hill is the owner of a certain 11.63 acre parcel of land, designated as tax parcel number 650006406009, in Whitemarsh Township, Montgomery County, PA (the "Property").

B. As a part of a proposed Stipulation and Order (the "Stipulation"), to be entered by the United States Bankruptcy Court for the Eastern District of Pennsylvania ("Bankruptcy Court"), regarding Chapter 11 Bankruptcy Case No. 03-33836KJC ("Bankruptcy Case") and Adversary Proceedings Nos. 03-01263KJC and 03-01125KJC (together, the "Adversary Proceedings"), the terms of which are incorporated herein by reference, Joshua Hill, Zaid, the Authority and the Township have agreed upon a conceptual plan for the development of the Property ("Conceptual Agreement").

C. As a result of the Conceptual Agreement, Joshua Hill caused E. Van Rieker, AICP ("Rieker") to prepare the Settlement Plan #3 dated June 15, 2006 which is attached hereto as Exhibit "A" and made a part hereof ("Settlement Plan"). The Settlement Plan depicts the development of the Property with thirty-six (36) single-family attached dwelling units (individually, a "Unit" and collectively, "Units") and the streets, detention basins, and common open space to be associated with the said development of the Property ("Proposed Development").

D. The Property is presently located in an LIM - Limited Industrial Zoning District ("LIM District") of the Township. The Proposed Development does not comply with all of the provisions of the LIM District, nor with all of the provisions of the Township's Subdivision and Land Development Ordinance ("SALDO") (the Zoning Ordinance and SALDO are hereinafter collectively referred to as the "Ordinances").

E. The Township Board of Supervisors (the "Board") has reviewed the Settlement Plan and has concluded that in order to end the Adversary Proceedings without further expense or liability to the Township, that Joshua Hill should be permitted to develop the Property in accordance with the conceptual design depicted on the Settlement Plan and the use and dimensional criteria set forth in this Agreement ("Design Criteria") so as to permit the Property to be developed in accordance with the Design Criteria and the Settlement Plan.

F. It is intended that immediately subsequent to the Township and Authority complying with this Agreement, such that the Board will have issued all approvals necessary for Joshua Hill to proceed with development of the Property in accordance with the Development Plan, the Township and Authority will bear no liability or expense associated with any claims asserted or which could have been asserted in the Adversary Proceeding against the Township and Authority.

G. The Design Criteria are as follows:

(1) Not more, and not less, than thirty-six (36) Units, and not more than four (4) Units per building, provided, however, that all parties hereto recognize that certain practical constraints based on generally applicable other government statutes, rules or regulations ("Practical Constraints") may limit the number of Units which can be developed on the Property. Except as otherwise provided for in this Agreement, the Township shall not be obligated to grant any interpretation, waiver, variance or similar relief for the purpose of allowing a density of thirty-six (36) Units to be achieved, when the actual achievable development density may be limited otherwise by such Practical Constraints. Units shall not be constructed with basements and shall be "age-targeted" as fifty-five (55) and over.

(2) Each Unit shall contain at least 1,400 square feet of living area, with a two (2)-car garage (which shall be side entry for end Units).

(3) Total impervious coverage for the Property shall not exceed forty percent (40%).

(4) Total building coverage for the Property shall not exceed twenty percent (20%).

(5) A perimeter setback of seventy-five (75) feet from Joshua Road, and twenty-five (25) feet from all other property lines, which shall be free from impervious coverage of any type (except that paved trails or sidewalks shall be permitted within the ultimate right of way of a public or private street and within ten (10) feet of a Property boundary and contiguous to a Property boundary).

(6) The height of each Unit shall not exceed thirty five (35) feet.

(7) Decks and patios shall not extend more than 15 feet from the facade of each Unit.

(8) Minimum Building to Building Setbacks:

(i) Side to Side: 30 feet

(ii) Side to Front: 60 feet if the angle is 90 degrees or more

(iii) Side To Rear: 60 feet if the angle is 90 degrees or more

(iv) Rear to Rear or Front to Front: 60 feet

(v) Front to Rear: 60 feet

(vi) Side to Front - Side to Rear (other than (ii) and (iii) above): 50 feet

(9) Minimum parking of two (2) spaces per Unit plus one (1) parking space per unit for guest or overflow spaces.

(10) The cul-de-sac on the stub road as presently shown on the Settlement Plan (which will be revised on the Preliminary Plan to reflect a through road to be later connected to the road leading to the Township park property) shall be designed to a 35 foot radius.

(11) All road and other improvements shall be privately owned and maintained, but available to the public for access to the Township park property. All open space shall be offered for dedication to the Township. The Township shall review and approve (such approval not to be unreasonably withheld, conditioned or delayed) all homeowners' association documentation.

NOW, THEREFORE, in consideration of the facts set forth in the Background to this

Agreement, and in consideration of the mutual covenants and agreements contained herein, the parties hereto, intending to be legally bound hereby, agree as follows:

1. **Incorporation of Background.** The Background to this Agreement is incorporated into the body of this Agreement as if fully set forth in the body of this Agreement.

2. **Approval of the Settlement Plan.** The Board hereby agrees that the Property may be developed as depicted on the Settlement Plan, in accordance with the Design Criteria and the provisions of this Agreement.

3. **Land Development Process.** Based upon the acknowledgments and assurances set forth in this Agreement, as soon as possible after (a) the execution of this Agreement, (b) the issuance of the Order (hereinafter defined), and (c) obtaining the final and unappealable Act 2 release from the Commonwealth of Pennsylvania, Department of Environmental Protection, appropriate to permit the development of the Property in accordance with the Settlement Plan, Joshua Hill shall arrange for the preparation of a preliminary land development plan (the "**Preliminary Plan**") by a qualified civil engineer ("**Engineer**") and will submit the Preliminary Plan to the Board and Township Engineer. The Preliminary Plan shall be processed in good faith, and in a timely manner, by the Township in accordance with the procedures set forth in SALDO and the Pennsylvania Municipalities Planning Code ("**MPC**"). The Township and Joshua Hill acknowledge that it is difficult at this early stage of the design process to identify each and every provision of SALDO and applicable local codes with which it is not practical for the proposed Land Development Plan to comply, and it is difficult to identify issues which may arise from the Commonwealth of Pennsylvania Act 2 approval and related environmental remediation process. The Land Development Plan shall comply with SALDO and applicable local codes except to the extent set forth herein and except as necessary to maintain the design and details depicted conceptually on the Settlement Plan. The Township shall timely grant those waivers from SALDO and applicable local codes as shall be necessary to maintain the letter, intent and spirit of the design and details depicted conceptually on the Settlement Plan, provided that the Land Development Plan otherwise complies with the terms of this Agreement, the Township's zoning code and SALDO.

4. **Final Approval.**

A. **Other Permits.** Promptly after approval of the Preliminary Plan by the Board, Joshua Hill, at its sole (or solely arranged) cost, shall take the additional actions necessary to obtain all of the permits, approvals, waivers and agreements required to be obtained by it from governmental agencies and public and municipal authorities, other than the Township and those entities controlled by or appointed by the Board, which have jurisdiction over the development of the Property (collectively, the "**Agency Permits**"). The Board and its consultants shall have the right to offer comments, but otherwise shall not interfere in any manner with or delay Joshua Hill's good faith efforts to obtain the Agency Permits. Joshua Hill shall deliver copies of the Agency Permits to the Township.

B. **Final Plan.** The Engineer shall add to the Preliminary Plan those additional categories of items that are necessary to convert the Preliminary Plan to a Final Plan in accordance with SALDO (the "**Final Plan**"). The Final Plan shall be processed in good faith by the Township in accordance with the procedures set forth in SALDO and the MPC.

C. **Final Approval.** Any approval of the Final Plan shall be subject to the posting of financial security and execution of the Township's standard form of development agreements within ninety (90) days as required by SALDO and the MPC (collectively, the "**Development Documents**").

D. **Signing of Final Plan.** At least thirty (30) days prior to the public meeting at which the Final Plans is to be approved by the Board, the Joshua Hill shall deliver to the Township all required copies of the Final Plan and those sheets of the Final Plan (in paper and mylar form) which are to be recorded. Such sheets shall have been appropriately signed by the Joshua Hill and sealed by the 'Engineer. The Township Manager shall cause the Township Engineer and representatives of the Board to sign the Final Plan at which time the Final Plan shall be delivered to the Township Solicitor to be held in escrow.

E. **Determination of Amount of Financial Security.** At such time as the Joshua Hill, or its nominee or assignee, desires to commence the construction of the improvements depicted on the Final Plan, Joshua Hill, or its nominee or assignee, as applicable, shall sign the Development Documents and deliver financial security (the "Security") to the Township in one of the forms permitted by Section 509 of the Municipalities Planning Code, exclusive of a surety bond. Upon delivery of the Development Documents and the Security, the Township Solicitor shall cause the signed copies of the Final Plan to be recorded.

5. **Court Approval.** Immediately after the date of complete execution of this Agreement, the parties hereto shall take all action necessary to secure the approval by the Court of this Agreement in accordance with the Order. The execution of this Agreement by Joshua Hill is subject to Bankruptcy Court approval. The Bankruptcy Court shall retain jurisdiction over this Agreement to resolve any disputes.

6. **Zoning Status.** Joshua Hill has the right to develop the Property in accordance with this Agreement, without having to apply for or obtain any zoning approvals, conditional uses, variances or special exceptions now or hereafter required by the Township zoning ordinance, unless the Preliminary Plan or Final Plan should deviate from the dimensional criteria set forth in this Agreement or as depicted on the Settlement Plan.

7. **Fees.** Notwithstanding this Agreement, Joshua Hill, or its nominee or assignee, as applicable, shall pay specified fees required of all developers by existing Township codes and ordinances as of the date of this Agreement, including but not limited to (i) reimbursement of the Township's consultants' fees; (ii) any Park and Recreation Fee in lieu of the dedication of land; (iii) Application and escrow fees; and (iv) sanitary sewer connection and tapping fees.

8. **General Provisions.** Notwithstanding anything contained herein to the contrary, the following general provisions shall apply to a development of the Property:

(a) reasonable and timely connection to the Township's public sewer system shall be available at customary connection fees in effect at the time of Final Approval,

(b) the construction of buildings in this development project will employ the "slab-on-grade" method with minimal disturbance to the underground conditions,

(c) the Township shall be granted an easement for a public recreational (for pedestrian and bicycle use only) trail through the Property, and

(d) the locations of the buildings containing dwelling units, of the roads and other improvements, and of the recreational trail easement, shall be substantially in accordance with the Settlement Plan.

(e) the Township stipulates and agrees to support Joshua Hill's proposed Plan of Reorganization which will contain the elements set forth in this Agreement and the Stipulation.

(f) Joshua Hill agrees to timely arrange for payment for all costs of Property testing, Property characterization and remediation as required by PADEP for an appropriate Act 2 release of liability in favor of all parties to whom such release is permitted by law to apply, and to expeditiously obtain the Act 2 release. If, despite reasonable, adequately funded and timely efforts by Joshua Hill and/or its designee, the appropriate PADEP Act 2 release of liability (based on PADEP requirements which are cost-effective in relation to projected development proceeds) will not have been obtained within two (2) years after the date of the Bankruptcy Court's unappealable Order confirming the contemplated Plan of Reorganization, the Township and Joshua Hill each reserves the right to make application to the Bankruptcy Court for approval of a termination of this Agreement, upon good cause shown.

(g) Joshua Hill agrees to timely prepare and submit development and construction plans to the Township which will conform substantially with the Settlement Plan.

(h) Joshua Hill agrees to timely submit to the Bankruptcy Court a proposed Plan of Reorganization which will contain the elements set forth in this Agreement and the Stipulation, including arrangements for development and construction funding through Joshua Hill's first mortgagee Lacrue Development Co. and/or other qualified builder/developer, and the Plan shall provide that the Bankruptcy Court shall retain jurisdiction to assure compliance with the confirmed Plan, this Agreement and the Stipulation, including the ability to provide injunctive relief and an award of attorney's fees, delay costs and court costs to any party who should violate the confirmed Plan, this Agreement and/or the Stipulation. The Township confirms that its execution of this Agreement constitutes the Township's affirmative support of Joshua Hill's proposed Plan of Reorganization which will contain the elements set forth in this Agreement and the Stipulation, and in no event will the Township oppose such conforming proposed Plan of Reorganization.

(i) None of the actions, permits and/or approvals required of the Township with regard to the intended development of the Property in accordance with this Agreement shall be unreasonably withheld, conditioned or delayed by the Township and/or its agents, unless there shall have been an uncured breach of this Agreement by Joshua Hill.

9. **Effect on Adversary Proceedings.** Upon Joshua Hill's receipt of unappealable approval by the Bankruptcy Court of the terms of this Agreement and execution of the proposed form of related Stipulation(s) and Order(s), unappealable approval by the Township of the Preliminary Plan, and the Township having taken all necessary and appropriate actions precedent to the subsequent valid recording of the Final Plan, both Adversary Proceedings, and all other related cases involving the same issues and parties, pending in the Montgomery County Court of Common Pleas and/or in the United States District Court for the Eastern District of Pennsylvania, shall be marked settled, discontinued and ended with the respective courts, and the parties thereto shall execute appropriate forms of mutual releases and indemnity agreements consistent with the terms of this Agreement. All proceedings in connection with the Adversary Proceedings are stayed in the meantime, without prejudice.

10. **Formalities.** (a) This Agreement shall inure to the benefit of and be binding upon the parties hereto, and each of their heirs, executors, administrators, successors and assigns.

(b) This Agreement constitutes the entire understanding between the parties hereto and the parties shall not be bound by any agreements, understandings or conditions respecting the subject matter hereof other than those expressly set forth and stipulated in this Agreement. No warranty or representation not set forth in this Agreement has induced any party to execute this Agreement. All terms, conditions, warranties and representations regarding this transaction are contained in this Agreement.

(c) No modification of this Agreement shall be effective unless evidenced by a writing signed by the parties hereto.

(d) The descriptive headings used herein are for convenience and reference only, and are not intended to have any effect whatsoever in determining the rights or obligations of the parties hereto.

(e) This Agreement may be executed in one or more counterparts, each of which shall be an original but all of which together shall constitute one and the same instrument. A telefax signature on this Agreement shall be as effective as an original signature.

(f) This Agreement shall be construed under the laws of the Commonwealth of Pennsylvania.

(g) The parties hereto have been provided a reasonable time period and an opportunity to have legal counsel review this Agreement, and the parties hereto have so arranged for representation by legal counsel or have waived the opportunity to do so.

(h) The failure of any party at any time to require performance by another party of any provision of this Agreement shall not affect in any way the full right to require such performance at any time thereafter, nor shall the waiver by any party of a breach of any provision of this Agreement be held to be a waiver of the provision itself.

(i) Should any provision of this Agreement or the application thereof, to any extent, be held invalid or unenforceable, the remainder of this Agreement and the application thereof other than those provisions as to which it shall have been held invalid or unenforceable, shall not be affected thereby, and shall continue valid and enforceable to the fullest extent permitted by law or equity.

(j) The relationship of the parties hereto shall be construed as a relationship between independent contractors, and not as a partnership or joint venture. Unless expressly contemplated in this Agreement, neither party hereto shall have the right or authority to bind the other party with regard to any subject matter.

(k) The parties hereto shall be obligated to perform all other acts and to execute and deliver all other documents as may be necessary or appropriate to carry out the intent and purposes of this Agreement.

(l) None of the parties hereto shall have the right to assign this Agreement or any of its rights and obligations without the express written consent of all other parties to this Agreement, not to be unreasonably withheld, conditioned or delayed, and the approval of the Bankruptcy Court.

(m) All notices or other communications required or permitted to be given under the terms of this Agreement shall be in writing and shall be sent by certified mail, postage prepaid or by private carrier guarantying next day delivery, addressed as follows:

If to JH/Zaid, addressed as follows:
Marc A. Zaid Esq.
166 East Levering Mill Road, Suite 200
Bala Cynwyd, PA 19004-2664

With a copy to:

Albert G. Bixler, Esquire
Eckert Seamans Cherin & Mellott, LLC
Two Liberty Place
50 South 16th Street, 22nd Floor
Philadelphia, PA 19102

If to the Township, addressed to:

Whitemarsh Township
616 Germantown Pike
Lafayette Hill, PA 19444
Attention: Township Manager

With copies to:

Neil Andrew Stein, Esquire
Kaplin Stewart Meloff Reiter & Stein
Union Meeting Corporate Center
910 Harvest Drive
Blue Bell, PA 19422

and

Anthony R. Sherr, Esquire
Mayers, Mennies & Sherr LLP
3031 Walton Road, Building A
Suite 230, P.O. Box 1547
Blue Bell, PA 19422

(o) None of the parties hereto, nor any of the litigants in the Adversary Proceedings, shall take any action which may interfere with Joshua Hill's ability to perform in accordance with this Agreement, without first obtaining leave of the Bankruptcy Court upon good cause shown.. This Agreement shall not operate to prejudice any of the rights, remedies and defenses available to the litigants in both Adversary Proceedings, unless and until the terms of this Agreement expressly operate to discontinue both Adversary Proceedings.

11. **No Admissions.** The parties hereto acknowledge that this Agreement shall not be construed as an admission by any party of any liability or wrongdoing whatsoever and that the settlement set forth herein is made by the parties solely in an effort to amicably compromise disputed claims and counterclaims.

12. **No Presumption Against Drafting Party.** This Agreement and the provisions contained herein shall not be construed or interpreted for or against any party hereto because said party drafted or caused the party's legal representative to draft any of the provisions.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

**TOWNSHIP:
WHITEMARSH TOWNSHIP
BOARD OF SUPERVISORS**

ATTEST:

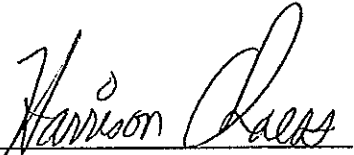


**CHRISTOPHER R. VAN DE VELDE
TOWNSHIP SECRETARY**

EXECUTED BY WHITEMARSH TOWNSHIP
APRIL 26, 2007

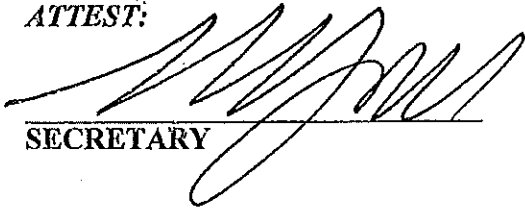
ATTEST:

SECRETARY



Witness

ATTEST:



SECRETARY

By:



**JOSEPH P. CORCORAN, III,
CHAIRMAN**

**WHITEMARSH TOWNSHIP
AUTHORITY**

By:

CHAIRMAN

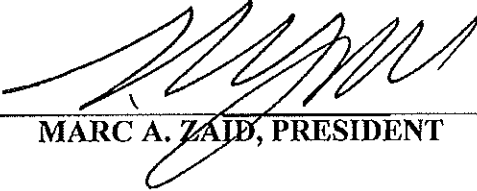
JH/ZAID:



MARC A. ZAID

**JOSHUA HILL, INC.,
A Pennsylvania corporation**

By:



MARC A. ZAID, PRESIDENT

EXHIBIT "A"
SETTLEMENT PLAN
ATTACHED