



AGENDA
Committee of the Whole
Monday, March 25, 2019, @ 5:30 p.m.
City Council Chambers, City Hall 10th Floor

Council Member Wood, Chairperson
Council Member Spadafore, Vice Chairperson

1. **Call to Order**
2. **Roll Call**
3. **Minutes**
 - March 11, 2019
4. **Public Comment on Agenda Items (Up to 3 Minutes)**
5. **Presentation**
6. **Discussion/Action:**
 - A.) RESOLUTION – Correction to Resolution 2019-031; RE: Groesbeck Golf Course
 - B.) DISCUSSION – MOU and Ordinance Review on Employees Retirement
 - C.) RESOLUTION – Set Public Hearing; Red Cedar Development; Seventh Amendment to the Amended and Restated Real Estate Purchase and Development Agreement

{Closed Session}

 - Ratification of the Teamsters 214 Collective Bargaining Agreement

{Reconvene}

 - D.) RESOLUTION- Ratification of the Teamsters 214 Collective Bargaining Agreement
7. **Other**
8. **Adjourn**

The City of Lansing's Mission is to ensure quality of life by:

- I. Promoting a vibrant, safe, healthy and inclusive community that provides opportunity for personal and economic growth for residents, businesses and visitors
- II. Securing short and long term financial stability through prudent management of city resources.
- III. Providing reliable, efficient and quality services that are responsive to the needs of residents and businesses.
- IV. Adopting sustainable practices that protect and enhance our cultural, natural and historical resources.
- V. Facilitating regional collaboration and connecting communities

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MINUTES **Committee of the Whole** **Monday, March 11, 2019 @ 5:30 p.m.** **City Council Chambers**

CALL TO ORDER

Council Member Wood called the meeting called to order at 5:30 p.m.

PRESENT

Councilmember Kathie Dunbar
Councilmember Jeremy A. Garza
Councilmember Adam Hussain
Council Member Brian T. Jackson
Councilmember Peter Spadafore
Councilmember Patricia Spitzley
Councilmember Jody Washington
Councilmember Carol Wood

OTHERS PRESENT

Sherrie Boak, Council Staff
Samantha Harkins, Mayor Executive Assistant
Jim Smiertka, City Attorney
Joseph Abood, Chief Deputy City Attorney
Eric Brewer, Council Internal Auditor
Jeff McAlvey, EOCC
Derek Melot, EOCC
Andy Kilpatrick Public Service Director
Lori Welch, City Recycling
Dennis Parker
Mark Parker
Eric Hassett
Loretta Stanaway
Ken Lane
Mayor Schor
Angela Bennett, Finance Director
Robert Harr
Charles Hauser

Approval of Minutes

MOTION BY COUNCILMEMBER SPADAFORE TO APPROVE THE MINUTES OF MARCH 4, 2019 AS PRESENTED. MOTION CARRIED 8-0.

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Public Comment on Agenda Items

No comments.

Council President Wood spoke about potential new dates for the budget schedule, proposing all items from the currently posted April 1st date to be moved to April 15th. That would cancel the April 1st Committee of the Whole meeting. Mr. Smiertka asked when the Red Cedar Development was planned to be heard, and it was stated that hearing would not even be until April 8th, 2019 so there would be nothing on the April 1st agenda on it.

PRESENTATIONS

2019 Elected Officers Compensation Commission (EOCC)

Mr. Melot and Mr. McAlvey provided a power point presentation (part of the meeting packet) to the Committee. Council President Wood asked them to address the roll of the EOCC and why they are presenting to the Committee. Mr. Melot referred to slide 2 and 3 which outlined the purpose and procedure of the Commission, noting that they have had 4 meetings to date, and have to make a recommendation by March 23, 2019. Mr. Melot then explained that the focus of the Commission in 2019 was to address the fact that there has been no adjustment since 2015 for the elected officials, not even to meet inflation. He continued clarifying that when looking at the Mayor's position he was not identify that any Mayor from Lansing has gone onto a higher elected positions, so they approached his position as a "Chief Administrative Officer", and compared to Madison, WI which had similar population in an urban area, is also a Big 10 college town, with a strong Mayor government, and that person is \$141,000. Moving on, the slide referenced comparisons to non-profit executive salaries from 2016, and comparisons for Council and the Clerk, were noted be based on information provided by City staff. Mr. Melot noted that some municipalities Council only had 24 meetings in a year, and City staff noted that the Lansing City Council holds 48+ per year, which is more than their counterparts in comparison cities. Mr. Melot then outlined the proposal the Commission was considering, which he noted would bring the elected officials up to 2019 with inflation from 2015, and then moving forward it would set the inflation rate increase in 2020 and 2021, since the Commission will not reconvene until 2021. Lastly, it was noted that there were no recommended changes to the fringe benefits.

Slide 11 outlined he proposed compensation for the Mayor at 2019-\$138,778; 2020-\$141,554 and 2021-\$144,527. The Clerk's rate at 2019-\$94,102; 2020-\$95,984 and 2021-\$98,000.

Lastly the slides outlined the proposed Council rates at:

President- 2019-\$28,793; 2020-\$29,387; 2021-\$30,004

Vice President- 2019-\$27,172; 2020-\$27,715; 2021-\$28,297

Council Members – 2019-\$26,199; 2020-\$26,723; 2021-\$27,284

Mr. Melot concluded the details on the salary increases by stating that the total adjustments in calendar year 2019 would be \$33,353.00

Council Member Jackson recognized that the EOCC Members individually reached out to Council and also invited them to their meetings, and asked if the EOCC received the answers and information they were looking for. Mr. Melot confirmed and those parties that did attend their meetings brought forth input that was useful. Mr. McAlvey added that the Commission also wanted to have better understanding of everyone's role, what their tasks are involved, and any growth in their jobs.

Council Member Hussain informed the EOCC Members that in 2017 it was rejected because there was a 20% increase in 2015 which the Council at the time in 2017 was overshoot. He continued, stating in his opinion that the recent proposal they just presented on would be undoing what Council did in 2017, and he was struggling with the large increases. Mr. Melot acknowledged he was not part of the EOCC in 2017, so could not speak their 2017

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recommendation, but what has been guiding deliberations in the EOCC is that no one is interested in issuing pay cuts for those that make the large decisions for the City. When inflation hits and there are no increase, they view it as a “pay cut”, and that is why the proposal is approach as a two phase, noting to Council that they do not need to take any action, and no action would be it passes, if they took action it would be to reject it under a super majority. Mr. McAlvey added to the discussion that the EOCC members were presenting because it has never been done before so they wanted to explain what the Commission does, is considering and hear from the Council.

Council Member Washington spoke in opposition and acknowledged she also was against the 20% in 2015, but that rejection did not pass. In 2017 she confirmed she attended the Commission’s meetings and asked for no increases. Council Member Washington went on to explain that the median household income in the City is \$36,145 and those people are the ones that will be paying for the wages. In her the elected officials are public servants and she would not support a raise and playing “catch-up” is unfair to the citizens. She concluded by stating she would not spear head a failed resolution to reject again this year.

Council Member Spitzley acknowledged the EOCC presentation, and noted that in 2015 the economy was different then what it is now, when trying to attract the best and brightest employees, you need to be competitive, and she appreciated the comparison from other cities. She noted it appeared to be roughly a 10% increase and hard to understand, because she understood inflation should have been incorporated last time and so now the Council is hearing a proposal for large percentage raises. It should be considered a cost of living not an enrichment, and the City staff has received a cost of living increase and Council has other jobs with this being their second job, but the Mayor and Clerk need to be paid comparable salaries.

Council Member Spadafore stated he could not support inflation increases in a catch up provisions, and he ran for the Council knowing what the salary was and the Mayor and Clerk also knew. He concluded by stating he could not support an increase for catch-up.

Council Member Hussain stated an earlier statement that their recommendation in 2017 was rejected because he believed they over shot their recommended for compensation. He then asked how they came up with 48 meetings for the City of Lansing City Council. Mr. Melot stated it was provided by staff, and Council President Wood asked Ms. Boak if she calculated the number from Council meetings, Committee of the Whole meetings and other Committee meetings, and Ms. Boak confirmed. Council Member Hussain then went on to state that in his opinion the City is in the top of poverty rates and bottom of median household income.

Council Member Spadafore stepped away from the meeting at 6:00 p.m.

He continued that he understood if the amount was \$33,000 in 2019, that would not fix all the issues in the City, but it would be the message it sends.

Council Member Dunbar spoke on what was done in the past where when employees were put on furlough, Council took a 10% voluntary pay cut, and the Council has never asked their employees to lower their wages when the elected offices don’t get paid he same amount as their counterparts.

Council Member Spadafore returned to the meeting at 6:02 p.m.

She acknowledged that there are industries jobs where they are lower paid, but these positions are a non-comparable position, the City has never asked their employees to never take a raise because the citizens they service do not make the same as them. She then

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referred back the 2015 increase where it was stated the EOCC studied the union increases and negotiations, and asked if this current EOCC has done the same. Mr. Melot confirmed they were provided data on all bargaining unions, and explained to the Committee that this is the crux of the process; playing a hypothetical no action taken or going forward not back, but constantly playing catch up. In 2015 it looked like a big number because there had been no action for an extended period of time. Mr. Melot recommended that if the City can get into a process for an annual cost of living adjustment built in it would help, and the proposal would not allow the elected officials to fall behind. The Elected Officers Compensation Commission's job is to evaluate and make the best assessment on what to do. Council Member Dunbar asked that they review the union negotiated list for what the employees increases are.

Council Member Jackson stated that it appeared there was almost a conflict of interest with the Council determining their own salary, and every 2 years, Ward 1 and 3 are up for election along with (2) two At-Large Members, so it always appears to be bad optics for those running for re-election during the determination of the EOCC. Mr. Melot pointed out again that the Council only takes action to reject it, and to accept it does not require a vote so the optics on each member to accept it would not be visible. Council Member Jackson acknowledged and confirmed they are looking for recommendations from those that are making the recommendation for guidance.

Council Member Spitzley agreed with the earlier statement that these positions are political and they are aware of that when they run for office, and as to the "no action" option, her belief is that they are still taking action in what it represents even when they do not formally accept it. Council Member Spitzley went on to recommend that the Commission implement a cost of living so it does not happen again, but whether they are currently behind is not all relative, 10% is a large amount. She would not support a large percentage increase, but it did sound reasonable to give increases. Mr. McAlvey recommended a change in the ordinance if the Council had concerns on timing and any conflicts. He then added that the EOCC is trying to make the appropriate and fair decision, they are currently considering what is presented.

Council Member Washington acknowledge that she understand the thinking behind the recommendations and contrary to what was stated earlier, she would not care if it was an election year because her stand is her stand. It appeared Council would support inflation increases but she agreed with Council Member Hussain and Spadafore that she did not support an increase to catch up, and a 10% increase she would not even consider.

Mr. Smiertka stated the ordinance was started in 1973 pursuant to the Home Rules Cities Act, which gives permissive powers to the City to adopt this type. The Commission falls under the Charter 104.2 and they may continue to determine compensation and benefits. There is a provisions in that Section of the Charter where Council could amend it.

Council President Wood pointed out that as stated by Council Member Dunbar, when the City employees were furloughed days, and then were brought back up they did not add in the cost of living to make up for the years they did not get it. In her opinion the adjustments in 2015 and 2017 were remembering where the employees were and being treated differently.

Council Member Garza stated he also ran for the position knowing it did not pay a lot, it was a public servant position and therefore was not a Council member for the funds. He added that he could not vote yes on an increase knowing the City needs more employees.

Council President Wood acknowledged Mr. Melot and Mr. McAlvey on their presentation and the work the EOCC has done thus far, making the detail informative. Once it is referred, she

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explained, the Council will have 30 days to reject or deny it with a 2/3 vote of Council or if they take no action during the 30 days it sits it will automatically go into effect.

Council Member Dunbar asked Mr. Smiertka if Council voted to reject it, do they have reject it entirely. Council President Wood stated that Council has always been advised they cannot divide the recommendation, and told it was all or nothing. Mr. Smiertka stated he would research the question to see if there has ever been prior legal opinion on it. Council Member Spitzley asked if the EOCC could bring forth more than one recommendation, and when it comes forth can Council accept part and deny part. Mr. Smiertka stated he wanted to make sure the Office of the City Attorney has not made a contrary opinion in the past.

DISCUSSION/ACTION

DISCUSSION – Ordinance Review on Employees Retirement

Council Member Spadafore stepped away from the meeting at 6:28 p.m.

Council President Wood referred the Committee to the analysis handout and answers to (3) three questions raised by Council Member Spadafore at the last meeting.

Council Member Spadafore returned to the meeting at 6:29 p.m.

Council President Wood then informed the Committee that in order to move forward with the ordinance, they have to work with the Teamsters for collective bargaining on a Memorandum of Understanding (MOU), then once that has been approved, Council can move forward with the draft ordinance in the handout.

Mr. Abood acknowledged that the MOU is part of the methodology because Teamsters the contract has expired, it has to be negotiated with the union and since their CBA is in negotiations, the question is now if the union would enter into a MOU with the City to allow the benefit, then Council can amend the ordinance, but it was stated again that the union needs to sign off first.

Council President Wood confirmed held a discussion with Lynne Meade with the Teamsters prior to this meeting and was assured they would address it ASAP.

Council Member Spitzley asked if the MOU would only apply to just this instance or the other 2 people mentioned at the last meeting. Mr. Abood stated it would be up to the union on who to include. They would include the employees who would be affected, not a single individual. Council Member Spitzley then asked if be conveyed to the Union so they know the MOU does not cover one person. Mr. Abood confirmed that had been discussed already with Mr. Tate, Chief Labor Negotiator for the City, and he has all the materials and will follow up with the bargaining unit.

Mayor Schor stated he was not present at the last Committee of the Whole meeting when this discussion began, however he was in attendance at the ERS Board meeting, and was opposed to the action at the time, because the attorney recommended to the City that Mr. Hassett was not qualified to retire under the conditions in the current ordinance. The Mayor then stated if Council had any inclination to change the ordinance, he would support, seeing the City Attorney opinion. He confirmed he would also have Mr. Tate start working on the MOU and move forward down the path towards that resolve, unless hear Council would not consider the ordinance. Council President Wood spoke on behalf of Council stating that 90-100% of Council said that if the ordinance is what is needed them will move forward, and no Council Member objected to that statement. She then asked that the MOU be completed by March 25th and at that time the Committee can address the introduction of the ordinance. Council Member Washington asked that the MOU and ordinance be a priority.

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Council Member Jackson asked if the MOU would affect only 3 people, and Mr. Dennis Parker confirmed. Council Member Jackson asked if the City funds were calculated on the balance of his retirement. Mr. Dennis Parker stated they had an actuarial done, but he did not offset the savings or reduction due to these employees not gaining any more time. Mr. Brewer was asked for an end equation, and if this ordinance help or make it worse. Council President Wood stated that if he retired today, his retirement would be based on 25 years of service. Council Member Jackson then stated that if Council did step in with the ordinance it would be a cost savings to the City. Mr. Brewer clarified that Mr. Hassett funds would no longer come from the general fund for wages, but out of the retirement fund.

Council Member Washington stepped away from the meeting at 6:38 p.m.

So there would be savings on wages if he retires early. Council Member Spadafore asked if the pension would be calculated on 25 years or 25 years plus the 18 months he is asking for. Mr. Hassett confirmed it is the later; he is asking for the time.

Council Member Washington returned to the meeting at 6:40 p.m.

City Recycling and a Ten Year Recycling Agreement- Questions/Answers

Mr. Kilpatrick provided a presentation updated from the last meeting which spoke to the existing process. (Part of the packet)

Council Member Garza stepped away from the meeting at 6:42 p.m.

Council President Wood explained to the public that it has been brought to Council's attention that the contract with Emterra had inadvertently been sent to Council so Council will not be taking any action, but action will be taken with the Mayor. However, since there were a number of questions by Council, Mr. Kilpatrick is present to provide clarification and hopefully answers to questions. Mayor Schor explained that the Emterra contract is actually a service agreement, not a contract, so as Mayor he can sign. He continued to explain that since the last meeting there has been 2 changes made; 1) they have insisted the facility be in the City of Lansing, and 2nd that it now include language on commercial recycling. He assured Council he has not signed anything yet. Council Member Spitzley asked if the changes now change how the other bidders would have submitted.

Council Member Garza returned to the meeting at 6:46 p.m.

Mayor Schor stated it would not change anything.

Mayor Schor went through the presentation outlining collection transferring, hauling process, and the "tipping" operation which occurs at what was designed as the salt shed- making the process single stream. Mr. Kilpatrick explained the reason an RFP was done was because they are still using the old salt shed, and it is dumping salt into other materials because it is now a sound structure. It was noted that if they do not address a new recycling facility they will need to build a new salt shed. It was also noted that there is one FT employee who is currently moving recyclables and hauling. The Committee then reviewed the slide on the proposals that were submitted and what each offered to do.

Council Member Dunbar returned to the meeting at 6:50 p.m.

Mr. Kilpatrick proceeded with his presentation which included a map outlining the locations of Waste Management (26), Republic (12) and Emterra (1). Outlined on the next slides were details on the current process based on the 2017 data, which broke down transfer was

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\$29.05/ton for transfer; \$21.16/ton for haul and \$.078/ton for processing. This brought the overall for 2017 actual to \$50.99/ton. It was noted on the cost alternatives slides that Grangers 1st option in the RFP would be \$100.00/ton; second option would be \$75.05/ton; CE/Republic at \$78.05/ton and Emterra proposal would be \$56.74/ton all based on the 2017 data. Council Member Dunbar asked if these breakdowns now explained her question from the last meeting on the handout from that night, and Mr. Kilpatrick confirmed this better explained the details.

Council Member Hussain stepped away from the meeting at 6:55 p.m.

Council Member Hussain returned to the meeting at 6:56 p.m.

Mr. Kilpatrick acknowledged that he did not have the answers to the questions from the last meeting, and will get those along with any questions from tonight answered within the next few days. He was able to state that regarding one question on tonnage in 2017, 75% of that was generated in the City of Lansing and the other 25% was East Lansing. Republic is collecting some in the City and is starting to contribute some tonnage, but still 92% is the City. The City is still promoting recycling but will not intend to get into the commercial recycling business.

Council Member Spadafore asked if they plan to take the section out of the contract that speaks to multi-family, do they still plan try to get multi-family units recycling. Mr. Kilpatrick stated that if multi-family could use carts they would consider, but the City will not get into dumpsters and new equipment to handle those. They do not have any intent to expand, and few years ago there was a commercial rate and also a second recycle bin rate.

Council Member Washington acknowledge Mr. Kilpatrick for taking Council Members on a site tour of the facility, and asked for them to consider more educational pieces on what to and what not to recycle.

Council Member Garza asked if the City of Lansing materials will be recycled with Emterra into the resin they represented at the March 11, 2019 Committee presentation. Mr. Kilpatrick stated they do that with a subsidiary in Canada and is not planned for Lansing. The Emterra facility will be automated with 12+ employees to separate the materials.

Council President Wood recapped that there are still outstanding questions on how Emterra will address and abate the noise and odor before they even begin their business; if the City has looked at how to grow the interest in recycling because there would be a concern they could not "grow" what they need in tonnage. They need to also address what the trucks with the new facility will cause on the City streets.

Council Member Spadafore stated that the discussion will continue in May at the Committee on Public Service.

OTHER

DISCUSSION- Committee on Intergovernmental Relations' Resolution for Budget Transfer
RE: Climate Action Plan Program

No discussion taken at this meeting, the item would be on the Council agenda later for action.

ADJOURN

The meeting was adjourned at 7:07 p.m.

Respectfully Submitted by, Sherrie Boak, Recording Secretary

Lansing City Council

Approved by the Committee on

BY THE COMMITTEE OF THE WHOLE
RESOLVED BY THE CITY COUNCIL OF THE CITY OF LANSING

WHEREAS, on February 11, 2019 City Council adopted Resolution 2019-031, authorizing the State of Michigan to reconvey the property known as Groesbeck Golf Course back to the City, without the reverter interest attached, allowing for different greens fees for residents and nonresidents of the City of Lansing; and

WHEREAS, Resolution 2019-031 contained a legal description that did not match exactly in all respects, the legal description provided in 2018 PA 333; and

WHEREAS, the Lansing City Council now desires to correct Resolution No. 2019-031 to state the matching legal description of Groesbeck Golf Course;

NOW, THEREFORE, BE IT RESOLVED, that Resolution 2019-031 of February 11, 2019 is hereby amended, *nunc pro tunc*, and the first and second "Resolved" clauses of said resolution are corrected and replaced by this resolution.

BE IT FURTHER RESOLVED, that the Lansing City Council hereby approves the conveyance of Groesbeck Golf Course to the State of Michigan for the purpose of releasing the restriction on the property, legally described as:

Property located in the County of Ingham, State of Michigan, City of Lansing, Township 4 North, Range 2 West, the east 1,079.9 feet of the north 110 rods (1,815 feet) of the southeast 1/4, section 10, subject to road easements containing 45 acres, more or less, and

The East 1320 feet of the South 1294 feet of the Northeast 1/4 of Section 10, T4N R2W, City of Lansing, Ingham County, Michigan.

BE IT FURTHER RESOLVED that the Lansing City Council hereby approves the re-acquisition of Groesbeck Golf Course, legally described as:

Property located in the County of Ingham, State of Michigan, City of Lansing, Township 4 North, Range 2 West, the east 1,079.9 feet of the north 110 rods (1,815 feet) of the southeast 1/4, section 10, subject to road easements containing 45 acres, more or less, and

The East 1320 feet of the South 1294 feet of the Northeast 1/4 of Section 10, T4N R2W, City of Lansing, Ingham County, Michigan.

for consideration of \$1.00.

BE IT FINALLY RESOLVED that in all other respects, Resolution 2019-031 is unchanged and remains in full force and effect as originally adopted and written.

MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF LANSING
AND THE TEAMSTERS LOCAL 243 SUPERVISORY BARGAINING UNIT
REGARDING ACCRUED UAW TIME AND SERVICE CREDITS

The City of Lansing ("City") and the Teamsters Local 243 Supervisory Bargaining Unit ("Union") are party to a collective bargaining agreement effective from February 1, 2016, through January 31, 2019 (the "CBA"). The parties are desirous of fully and permanently resolving any and all issues that may arise from the prospective use of Local 2256, United Auto Workers (UAW) service time for the purpose of calculating an employee's retirement eligibility. Accordingly, the parties agree as follows in this Agreement:

1. The CBA between the City and the Union expired on January 31, 2019.
2. The City and the Union will negotiate the prospective use of UAW service time during collective bargaining negotiations for a new contract.
3. The following language modifies Article 25, Section 2, Paragraph 2 of the expired collective bargaining agreement:

2. Employees hired after October 29, 1990 and prior to October 1, 2003 or were hired prior to October 29, 1990 and who participated in the former Defined Contribution Plan:

- A. Shall be eligible to retire at age fifty (50) with twenty-five (25) years of credited service, or at age fifty-eight (58) with eight (8) years of credited service. Vesting shall be at eight (8) years of full-time City service. Commencing March 15th 2019, current employees who between October 29, 1990 and September 30, 2003, transferred from a full-time City UAW position but was not vested in the Employees Retirement System (ERS) at the time of transfer, may use the accrued UAW time for calculation of the employee's service credit vesting but not for pension benefit multiplier purposes.
- B. Shall receive a defined benefit pension that shall provide a straight life retirement allowance equal to the number of years and fraction of a year, through a maximum of thirty-five (35) years, of the member's credited service beginning October 1, 2003 and including any prior years of service purchased, multiplied by one and eight-tenths percent (1.8%) of the member's final average compensation. Credited service in excess of thirty-five (35) and through forty (40) years shall be multiplied by one and one-half percent (1.5%) of the member's final average compensation and shall be included in the member's straight life retirement allowance. Credited service in excess of forty (40) years shall be multiplied by one per cent (1%)

of the member's final average compensation and included in the member's straight life retirement allowance. In no case shall the pension exceed 100% of a member's final average compensation unless allowed by law.

4. The parties agree that this Agreement completely and totally resolves this matter and that there shall be no grievance or other action pursued that in any way related to this matter.
5. This Agreement represents the full agreement of the parties in this matter. The parties agree to no other terms outside of this Agreement concerning this subject.
6. This Agreement is entered in to with prejudice and without precedent.

Signed this 22nd day of March, 2019.

FOR THE CITY



Mayor



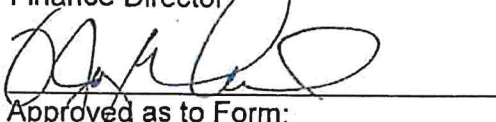
Chief Labor Negotiator



Director of Human Resources

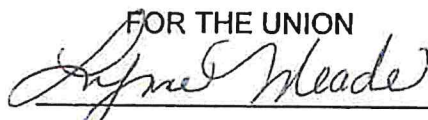


Certification of Appropriation of Funds:
Finance Director



Approved as to Form:
City Attorney

FOR THE UNION



Lynne Meade, Business Representative
Teamsters 243 Supervisory Bargaining
Unit

RESOLUTION 2019-_____
BY THE COMMITTEE OF THE WHOLE
RESOLVED BY THE CITY COUNCIL OF THE CITY OF LANSING

WHEREAS, the City Council of the City Lansing previously approved the sale of the former Red Cedar Golf Course containing approximately 32.29 acres of land pursuant to the Amended and Restated Real Estate Real Estate Purchase Agreement (the "Agreement"), on July 23, 2018; and

WHEREAS, the Agreement was amended substantively by a First Amendment, which was also approved by City Council on July 23, 2018; and

WHEREAS, the Agreement has been extended by the Second through Sixth Amendments ; and

WHEREAS, a certain Seventh Amendment to the Agreement has been proposed that makes substantive changes to the Agreement as amended, and requires the consideration and approval of the City Council of the City of Lansing; and

WHEREAS, the Seventh Amendment to the Amended and Restated Real Estate Purchase And Development Agreement was placed on file with the Lansing City Clerk pursuant to Section 208.08 of the Codified Ordinances on February 25, 2019; and

WHEREAS, pursuant to Section 208.08 of the Codified Ordinances a public hearing on the Seventh Amendment shall be held and notice of the public hearing shall be published in accordance with the Code Section; and

WHEREAS, Pursuant to the testimony taken at the public hearings on this matter and the vote of the people, the Red Cedar Property is no longer needed for public purposes;

NOW THEREFORE, BE IT RESOLVED, that a public hearing be held in the City Council Chambers on April 8, 2019, at 7:00 P.M., or as soon thereafter as the matter shall have come on to be heard, on the proposed Seventh Amendment to the Amended and Restated Real Estate Real Estate Purchase Agreement filed with the City Clerk;

BE IT FINALLY RESOLVED, that the City Clerk publish and provide notice of the public hearing pursuant to Section 208.08 of the Codified Ordinances.

**SEVENTH AMENDMENT TO THE AMENDED AND RESTATED
REAL ESTATE PURCHASE AND DEVELOPMENT AGREEMENT**

This is the Seventh Amendment (the “Amendment”) to the Amended and Restated Real Estate Purchase and Development Agreement dated July 23, 2018, as amended by the First Amendment, Second Amendment, Third Amendment, Fourth Amendment, Fifth Amendment, and Sixth Amendment (the “Agreement”), by and between the City of Lansing, a Michigan municipal corporation (the “City”), and Continental/Ferguson Lansing, LLC, a Delaware limited liability company (“Developer”).

RECITALS

WHEREAS, the Developer and the City entered into the Amended and Restated Real Estate Purchase and Development Agreement which was amended by the First Amendment to the Amended and Restated Real Estate Purchase and Development Agreement; and

WHEREAS, the Second Amendment to the Amended and Restated Real Estate Purchase and Development Agreement removed the date of November 30, 2018 in Section 2.1 and replaced it with December 14, 2018; and

WHEREAS, the Third Amendment to the Amended and Restated Real Estate Purchase and Development Agreement removed the date of December 14, 2018 in Section 2.1 and replaced it with January 11, 2019; and

WHEREAS, the Fourth Amendment to the Amended and Restated Real Estate Purchase and Development Agreement removed the date of January 11, 2019 in Section 2.1 and replaced it with February 11, 2019; and

WHEREAS, the Fifth Amendment to the Amended and Restated Real Estate Purchase and Development Agreement removed the date of February 11, 2019 in Section 2.1 and replaced it with March 4, 2019; and

WHEREAS, the Sixth Amendment to the Amended and Restated Real Estate Purchase and Development Agreement removed the date of March 4, 2019 in Section 2.1 and replaced it with April 26, 2019; and

WHEREAS, the Developer and City are hereby agreeing to amend the Agreement according to the terms set forth herein;

NOW, THEREFORE, in consideration of the mutual promises hereinafter contained and other good and valuable consideration, the parties agree as follows:

WITNESSED AND
SIGNED this 11th day of
August 2019
ATTEST:

AMENDMENTS TO THE AGREEMENT

1. Section 1.2 is amended to increase the Purchase Price from Two Million Two Hundred Thousand and 00/100 Dollars (\$2,200,000.00) to Two Million Two Hundred Twenty One Thousand Six Hundred Seventy and 00/100 Dollars (\$2,221,670.00), in consideration for the delay in Closing.
2. Section 2.1, is amended to remove the date of April 26, 2019, and replace it with July 31, 2019.
3. Section 5.1.1 (b) is amended to remove all text and replace it with, "Within the same structure that contains the Full Service Hotel, a Select Service Hotel containing not less than 128 guest rooms ("Select Service Hotel")."
4. Section 5.1.1 (c) is amended to remove "40,000" and replace it with "35,550".
5. Section 5.1.1 (d) is amended to remove "two hundred (200)" and replace it with "one hundred and fifty (150)"
6. Section 5.1.1 (d1) is removed in its entirety.
7. Section 5.1.1 (e) is amended to remove "exclusively in that portion of the Purchase Property that is east of the easternmost point of the portion of the Red Cedar Property" and replaced with "in the eastern and southern portions of the Purchase Property that front on Michigan Avenue", and to remove "1,222" and replace it with "1,100".
8. Section 5.1.1 (h) is amended to removed "116" and replace it with "120".
9. Section 5.1.1 (j) is amended to remove "will be owned constructed and maintained by the Developer" and replace it with, "may be partially publicly owned, but will be constructed and maintained exclusively by Developer."
10. Section 5.6 is amended to insert ", and associated site preparation" to the end of the first sentence, and to insert ", and anything owned, maintained, and operated by a public entity so long as it is within a public right of way or easement" to the end of the third sentence.
11. Section 7.3.1. is amended to remove "City will reasonably pursue" and replace it with "Developer will reasonably pursue".
12. Section 7.3.1 (a) is amended to remove, "Ten Million Seven Hundred Fifteen Thousand Six Hundred Sixty-Nine and 00/100 Dollars (\$10,715,669.00)", and replace it with, "the Project costs that qualify for tax exempt bonding, as determined by the LBRA in its sole and exclusive discretion in consultation with its bond counsel,".
13. Section 7.4 is amended to strike the dates October 1, 2017 through September 30, 2018 and replace them with the dates October 1, 2018 through September 30, 2019.

14. At the end of the Agreement, the Exhibits are modified as follows:
 - a. Exhibit C-1 is replaced with Revised Exhibit C-1, dated January 18, 2019, as attached to this Amendment;
 - b. Exhibit C-2 is replaced with Revised Exhibit C-2, dated February 6, 2019, as attached to this Amendment;
 - c. Exhibit D is replaced with Revised Exhibit D, dated January 16, 2019, as attached to this Amendment;
15. An electronic copy of a signature to this Amendment or the Agreement will be deemed the same as an original.
16. This Agreement may be executed in counterparts, each of which shall be an original and all of which should constitute the same instrument.
17. All other terms and conditions of the Agreement, except as modified herein, remain in full force and effect.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Developer has executed this Seventh Amendment to the Amended and Restated Real Estate Purchase and Development Agreement, as of the date signed.

CONTINENTAL/FERGUSON LANSING, LLC:

By: Hallmark Lansing, LLC

Its: Member

By: Franklin E. Kass

Its: Member

STATE OF OHIO)

)ss

COUNTY OF FRANKLIN)

The foregoing instrument was acknowledged before me this 22 day of February, 2019 by Franklin E. Kass, as Member of Hallmark Lansing, LLC as Member of Ferguson/Continental Lansing, LLC, by him to be his free act and voluntary deed.

Shayla M. Moffitt
_____, Notary Public
_____, County, _____



SHAYLA MOFFITT
Notary Public, State of Ohio
My Commission Expires 1-21-20

CONTINENTAL/FERGUSON LANSING, LLC:

By: Red Cedar Investor, LLC

Its: Member

By: Joel I. Ferguson

Its: Member

STATE OF MICHIGAN)

)ss

COUNTY OF INGHAM)

The foregoing instrument was acknowledged before me this 22 day of February, 2019 by Joel I. Ferguson, as Member of Red Cedar Investor, LLC as Member of Ferguson/Continental Lansing, LLC, by him to be his free act and voluntary deed.

Kelly Marie Clark
_____, Notary Public
Livingston County, adjoining in Ingham
My commission expires: 1.28.2023

KELLY MARIE CLARK
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF LIVINGSTON
My Commission Expires January 28, 2023

Email from Law – 2.26.2019

In orange are the changes of the First Amendment (which was substantive, and Council saw prior to approving the CDA); in blue are the changes of the proposed Seventh Amendment. By way of summary, the changes are as follows:

- The purchase price is increased by \$21,670.00; this was done in recognition of the delay in closing until after the new year.
- Signal to close is moved to July 31, 2019, closing must still happen within 30 days of that date, so August 30 at the latest.
- There are several changes to the physical layout of the project, due to developer eliminating one of the two remaining plinths (called “IPS” in the agreement), those changes are:
 - o Now the two hotels, a full service and select service, are housed in the same structure, instead of two structures;
 - o The total square footage of restaurant and retail is reduced from 40,000 to 35,550;
 - o The number of market rate units is reduced from 200 to 150;
 - o The separate structure for market rate “active senior” housing is eliminated entirely, it had 98 proposed units;
 - o Student housing is now located on the main section of the development, instead of being right next to MSU (that area, not visible from Michigan Ave., is now all parking);
 - o Student housing will be in three buildings, instead of one or two, and the number of beds is reduced from 1,222 to 1,100;
 - o The assisted living “Senior Housing” component is increased from 116 to 120 units;
- The single IPS is now contemplated to be partially owned by the City, only to extent that parts will be freely open to the public, subject to Public Service’s letter of intent process whereby a developer constructs infrastructure to our standards with the agreement that they deed it to us when complete.
- The definitions of what may be public were expanded to reflect the items that would become ours through letter of intent already.
- The bonding section was amended to clarify that the Developer is the one doing bonding, not the City. This was overlooked previously, and all parties agreed it needed to change regardless of other amendments; it should have come out when our bonding obligation was eliminated.
- The cap on developer’s tax exempt bonding, formerly our bonding, was removed. Instead of being capped at \$10.7MM, it is now set at whatever amount ultimately qualifies for tax exempt bonds as determined by LBRA and its bond counsel. This is a legal analysis that is already underway and fluid based on whatever will be “public” after final drawings are completed. Still no City bonding.
- The fiscal year for developer’s application to MCRP through MEDC was changed from last year to this year.

- Finally, the exhibits that show that overhead map (C-1), the spreadsheet of each component of the project (C-2), and the project schedule (D) have been updated/replaced to reflect the changes in the project. Those are attached to the Seventh Amendment that is on file.

Hopefully that responds to the question posed. If there are any further questions, or clarification sought, we are happy to provide it.

Sincerely,

Gregory S. Venker

Assistant City Attorney

Office of the City Attorney

124 W. Michigan Ave. | Lansing, MI 48933

O: 517-483-4321 | E: gregory.venker@lansingmi.gov



Exhibit C-2: Red Cedar Development - Lansing, Michigan

as of February 6, 2019 (per January 18, 2019 Red Cedar Development "Conceptual Master Plan")

Master Developer: Continental/Ferguson Lansing, LLC

Construction Type	Construction Description	Investor
Vertical Construction (All Structures will be built upon Three Integrated Parking Structures)	Structure and Exterior Materials	Ownership/Building Developer
Full Service Hotel (80 feet above Michigan Ave., 5-stories on IPS - 152 Keys, Restaurant and Ballrooms)	Structure - steel frame and concrete with engineered metal stud. Exterior - EIFS, masonry and decorative metal exterior finishes with aluminum and glass window systems.	Concord Hospitality Enterprise Company/Continental Real Estate Companies and Continental/Ferguson Lansing, LLC
Select Service Hotel (80 feet above Michigan Ave., 5-stories on IPS - 128 Keys)	Structure - steel frame and concrete with engineered metal stud. Exterior - EIFS, masonry and decorative metal exterior finishes with aluminum and glass window systems.	Concord Hospitality Enterprise Company/Continental Real Estate Companies and Continental/Ferguson Lansing, LLC
Restaurants and In-Line Retail (35,550 SF)	Structure - steel frame and concrete with light gauge metal stud. Exterior - EIFS, masonry and decorative metal exterior finishes with aluminum and glass storefront and windows.	Continental/Ferguson Lansing, LLC
Multifamily Housing with First Floor Retail (10,000 SF) (55 feet above Michigan Ave., 5-stories - 150 Marketrate Units)	Structure - steel and light gauge metal stud; wood stud with engineered wood floor/roof structure. Exterior - EIFS, masonry and decorative metal exterior finishes with aluminum and glass window systems.	Continental/Ferguson Lansing, LLC
Student Housing (55 feet above Michigan Ave., 5-stories on IPS - 1,100 Beds)	Structure - steel and wood stud with engineered wood floor/roof structure. Exterior - EIFS, masonry and decorative metal exterior finishes with aluminum clad and glass window systems.	Hallmark Communities/Continental Real Estate Companies and Continental/Ferguson Lansing, LLC
Senior Village - Assisted Living / Memory Care Facility (27 to 50 feet above and facing Michigan Ave., 2 to 4-stories above-grade along Michigan Ave. - 120 Units)	Structure - steel frame and concrete with engineered metal stud. Exterior - combination of masonry and fiber cement siding.	Continental Senior Housing
On-site and Off-Site Improvements (Includes Integrated Parking Structure)		
Privately Funded Improvements	Public and private infrastructure, environmental remediation, asbestos abatement, demolition and site preparation.	Continental/Ferguson Lansing, LLC-Tax-Exempt/Taxable Revenue Bonds and Private Lender Financing
Lansing Board Water & Light Improvements	Public infrastructure in public rights-of-way and easements.	Lansing Board Water & Light

Exhibit D: Project Schedule
Red Cedar Redevelopment - Lansing, Michigan
Preliminary as of January 16, 2019

[illegible]

AMENDED AND RESTATED REAL ESTATE PURCHASE AND DEVELOPMENT
AGREEMENT

THIS AMENDED AND RESTATED REAL ESTATE PURCHASE AND DEVELOPMENT AGREEMENT (this “Agreement”) is made and entered into as of the ____ day of _____, 2018, by and between the CITY OF LANSING, a Michigan municipal corporation (the “City”) and CONTINENTAL/FERGUSON LANSING, LLC, a Delaware limited liability company (“Developer”). The City and Developer are individually each a “Party” and collectively the “Parties.”

RECITALS

A. The City, Developer, the Lansing Economic Development Corporation (“LEDC”), the Lansing Brownfield Redevelopment Authority (“LBRA”), Joel Ferguson (“Ferguson”), and Frank Kass (“Kass”) entered into that certain Real Estate Purchase and Development Agreement dated November 6, 2014 (the “November 2014 Agreement”).

B. The City is a municipal corporation organized and existing under and pursuant to the Michigan Home Rule Cities Act, 1909 PA 279, as amended (M.C.L. §§ 117.1 *et seq.*), and exercising all of the powers provided for therein and pursuant to Lansing City Charter, approved August 8, 1978, and as subsequently amended.

C. Developer is a Delaware limited liability company authorized to do business in Michigan.

D. By entering into this Agreement, the City and Developer desire to amend and restate the terms of the November 2014 Agreement and, in so doing, remove LEDC, LBRA, Ferguson, and Kass as parties to the Agreement.

E. The City owns the following parcels of real property:

1. The approximately 35.57- acre parcel described on Exhibit A-1 ⁴attached hereto and made a part hereof (the “Purchase Property”), which consists of the following:
 - a. The approximately 30.77-acre parcel described on Exhibit A-1-A attached hereto and made a part hereof (the “Red Cedar Property”);
 - b. The approximately 1.52-acre parcel described on Exhibit A-1-B attached hereto and made a part hereof (the “Supplemental Parcel”);
 - c. The approximately 3.28-acre parcel described on Exhibit A-1-C attached hereto and made a part hereof (the “Corner Parcel”); and
2. The approximately 19.90 acre parcel described on Exhibit A-2 attached hereto and made a part hereof (the “Park Property”).

F. The voters of the City, by ballot proposals on November 8, 2011, and November 6, 2012, authorized the City to sell the Red Cedar Property and the Supplement Supplemental Parcel.

G. Developer desires to purchase the Red Cedar Property, Supplemental Parcel, and Corner Parcel (collectively, the “Purchase Property”) from the City.

H. The City desires that Developer purchase and develop the Purchase Property as a mixed-use project, including an infrastructure of roads and utilities, and construct certain improvements on the Park Property, as provided herein (the “Project”).

I. On November 25, 2015, the City and Developer entered into a Real Estate Purchase Agreement (the “Sparrow Health Purchase Agreement”) to sell the Corner Parcel and Supplemental Parcel to Edward R. Sparrow Hospital Association (“Sparrow Health”). The Sparrow Health Purchase Agreement, as amended, has expired and is of no further force or effect.

J. The Red Cedar Property and the Park Property are located in a floodplain and floodway and may be the subject of environmental contamination (collectively, the “Preexisting Conditions”). Because these Preexisting Conditions may inhibit and directly affect development of the Red Cedar Property and the construction of certain improvements on the Park Property, certain infrastructure improvements and remediation at additional costs will be required to address the Preexisting Conditions, as set forth in this Agreement.

K. The Purchase Property is located within the Montgomery Drainage District, which is a drainage district within the meaning M.C.L. § 280.5. The City has requested the Ingham County Drain Commissioner undertake a proposed drain project on the Montgomery Drain of the Montgomery Drainage District, and it is the expectation of the parties that any and all action taken in relation to such proposed drain project will be consistent with the Drain Code of 1956, M.C.L. §§ 280.1, *et. seq.*

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements contained herein, the Parties agree as follows:

ARTICLE 1

SALE AND PURCHASE TERMS

1.1 SALE. Subject to the City’s governing body approving this Agreement, the City agrees to sell to the Developer, and the Developer agrees to purchase from the City, the Purchase Property subject to the terms and conditions set forth herein.

1.2 PURCHASE PRICE. Developer shall pay to the City for the Purchase Property the stipulated purchase price of Two Million Two Hundred Twenty One Thousand Six Hundred Seventy and 00/100 Dollars (~~\$2,200,000.00~~\$2,221,670.00) (the “Purchase Price”), which amount shall be paid at the Closing in full by wire transfer or cashier’s check of immediately available funds.

1.3 DUE DILIGENCE

1.3.1 TITLE.

(a) Developer acknowledges that it has had the opportunity to review a title commitment prepared by Fidelity National Title Insurance Company (the "Title Company") for the Red Cedar Property and Supplemental Parcel identified as Commitment No. 16-110260 (the "Commitment") and hereby accepts title to the Red Cedar Property and Supplemental Parcel subject to the matters of record, exceptions and restrictions identified therein. Subject to the removal of the right of reverter and the release of State of Michigan's subsurface rights to the Corner Parcel, Developer shall accept title to the Corner Parcel in the condition that exists as of this date. In the event the City is unable or unwilling to obtain the release of the State of Michigan subsurface rights on or before May 1, 2018, Developer agrees to accept the Corner Parcel at closing subject to said reservation.

(b) The Title Company, and the Title Policy will be issued with standard exceptions (except for any survey exception that Developer removes by providing a survey to the Title Company).

1.3.2 ACCESS. At all times prior to the Closing during the term of this Agreement, upon not less than two (2) business days prior notice to the City, Developer, its agents and representatives, shall be entitled to inspect, examine, review, consider and investigate the Purchase Property and Park Property and all matters relating thereto. If, as a result of Developer's exercise of its rights under this Section 1.3.2, any damage or physical change occurs to the Purchase Property, Park Property, or adjoining lands, then Developer shall promptly repair such damage or return such property to its original condition, at Developer's sole cost and expense, so as to return any property so damaged to substantially the same condition as existed prior to such damage or physical change and such obligation shall survive the termination or expiration of this Agreement. Developer shall furnish evidence of liability insurance of Developer and Developer's contractors in amounts reasonably acceptable to the City prior to entry on the Purchase Property or Park Property.

1.4 CONDITION OF PROPERTY. Except as expressly set forth in this Agreement and those required to be given under the deed, it is understood and agreed that City is not making and has not at any time made any warranties or representations of any kind or character, expressed or implied, with respect to the Purchase Property and such investigations of the Park Property, for work performed by Developer on the Park Property, including, but not limited to, any warranties or representations as to habitability, merchantability, fitness for a particular purpose, title, zoning, tax consequences, soil conditions, subsurface conditions, latent or patent physical or environmental conditions, conditions for flooding, utilities, operating history, valuation, governmental approvals, the compliance of the property with governmental laws, the truth, accuracy or completeness of the property documents, or any other matter or thing regarding the Purchase Property or Park Property. Developer acknowledges and agrees that upon closing City shall sell and convey to Developer and Developer shall accept the Purchase Property "as is, where is, with all faults", except to the extent expressly provided otherwise in this Agreement. Developer has not relied and will not rely on, and City is not liable for or bound by, any expressed or implied warranties, guaranties, statements, representations or information pertaining to the property or

relating thereto made or furnished by City or any agent representing or purporting to represent City, to whomever made or given, directly or indirectly, orally or in writing, unless specifically set forth in this Agreement. Developer represents to City that Developer has conducted, or will conduct prior to closing, such investigations of the Purchase Property and Park Property, including but not limited to, the physical and environmental conditions thereof, as Developer deems necessary to satisfy itself as to the condition of the property and the existence or nonexistence or curative action to be taken with respect to any hazardous or toxic substances on or discharged from either property, and will rely solely upon same and not upon any information provided by or on behalf of City or its agents or employees with respect thereto, other than such representations, warranties and covenants of City as are expressly set forth in this Agreement in Article 4. Upon closing, Developer shall be deemed to have waived, relinquished and released City from and against any and all claims, demands, causes of action, in law or in equity (including but not limited to causes of action in tort and contract), losses, damages, liabilities, costs and expenses (including attorneys' fees and court costs) of any and every kind or character, known or unknown, which Developer might have asserted or alleged against City at any time by reason of physical conditions or violations of any applicable laws (including, without limitation, any environmental laws) relating to the Purchase Property or for work performed by Developer on the Park Property.

ARTICLE 2

CLOSING

2.1 TIME AND PLACE FOR CLOSING. The closing on the conveyance of the Purchase Property to Developer contemplated herein shall occur within ~~sixty (60)~~thirty (30) days following the satisfaction (or waiver) of all conditions precedent set forth in Section 2.4.1 and 2.4.2 (Closing). If all conditions identified in Section 2.4.1 and 2.4.2 hereof are not met or waived by ~~September~~November 30, 2018, this Agreement shall be deemed terminated and without any further force or effect (except for those obligations that are specifically stated in this Agreement to survive its termination), without any action required by either party. The Closing shall occur at a mutually agreeable time and date at the office of the Title Company or such other location as mutually agreed upon by the City and the Developer.

2.2 CLOSING DELIVERABLES.

2.2.1 CITY CLOSING DELIVERABLES. The City shall deliver to the Title Company, on or before the date of Closing, the following documents (collectively, the "City Closing Deliverables"):

- (a) A quit claim deed (the "**Quit Claim Deed**");
- (b) A certificate made by the City stating that the representations and warranties set forth in Article 4 are true and correct as of the date of Closing;
- (c) Duplicate counterparts to a closing statement identifying the closing costs;
- (d) Duplicate counterparts to the Parks Agreement identified in Section 5.8; and

(e) All documents reasonably required by the Title Company to issue the Title Policy.

2.2.2 DEVELOPER CLOSING DELIVERABLES. The Developer shall deliver to the Title Company, on or before the date of Closing, the following monies and documents (collectively, the “Developer Closing Deliverables”):

(a) The Purchase Price, plus all closing costs pursuant to the terms of this Agreement, including but not limited to the City’s legal fees;

(b) A certificate made by the Developer stating that the representations and warranties set forth in Article 3 are true and correct as of the date of Closing;

(c) Proof of Developer’s authority and authorization to enter into this Agreement and perform Developer’s obligations under this Agreement as may be reasonably required by the Title Company;

(d) Duplicate counterparts to a closing statement identifying the closing costs;

(e) Duplicate counterparts to the Parks Agreement; and

(f) All documents reasonably required by the title Company in order to issue the Title Policy.

2.3 CLOSING COSTS.

2.3.1 TAXES AND SPECIAL ASSESSMENTS. The Purchase Property will be exempt from taxation at the time of Closing. The Developer understands that the Purchase Property shall be placed on the appropriate tax rolls on the 31st day of December immediately following the sale of the Purchase Property. The Developer shall be responsible for the payment of all taxes, special assessments, and other fees which occur subsequent to the date of Closing, as well as any assessments allocated to the Purchase Property as a result of the Montgomery Drain District, regardless of the date of imposition of such assessments.

2.3.2 TITLE INSURANCE. The Developer shall pay the premium for the Title Policy, any Lender’s Policy of Title Insurance, and the cost of any endorsements to either.

2.3.3 RECORDING FEES. Developer shall pay all costs associated with recording the Quit Claim Deed.

2.3.4 ESCROW FEES AND OTHER CLOSING COSTS. Developer shall be responsible for 100% of any and all escrow fees or other closings costs charged by the Title Company.

2.3.5 SURVEYS. Developer shall pay the cost of any surveys or drawings which it obtains or which may be reasonably requested by the City for the purpose of obtaining approvals related to the Project.

2.4 CONDITIONS PRECEDENT TO CLOSING.

2.4.1 Developer's obligation to Close is and shall be conditioned on the following conditions being satisfied or waived by the Developer by the applicable deadline (collectively, the "Developer Conditions Precedent"):

(a) Developer shall have obtained a joint permit from the MDEQ and the U.S. Army Corps of Engineers and necessary permits from the Ingham County Drain Commissioner for the Drainage Improvements (as defined in Section 2.4.2(n));

(b) the City shall have approved the Conceptual Drawings of the building(s) to be located on the Purchase Property;

(c) The City through its Planning and Neighborhood Development Department Site Plan Review Process shall have approved Site Plan for the Purchase Property; provided, however, that nothing herein contained constitutes a representation nor warranty that such Site Plan will be approved pursuant to the City Planning and Neighborhood Development Department Site Plan Review Process;

(d) The City shall have reviewed and approved the Park Property Riverwalk Plan and the City Lansing Park Board shall have reviewed and provided comments thereto;

(e) The City through its Planning and Neighborhood Development Department Site Plan Review Process shall have approved Site Plans for the Park Property Riverwalk; provided, however, that nothing herein contained constitutes a representation nor warranty that the Park Property Riverwalk Site Plans will be approved pursuant to the City Planning and Neighborhood Development Department Site Plan Review Process;

(f) In connection with the terms for funding the Project as set forth in Article 7, the City and LBRA shall have further approved the Brownfield Plan and Act 381 Work Plan, to be closed at a time mutually agreed upon between the City and Developer; provided, however, that nothing herein contained constitutes a representation or warranty that the Brownfield Plan or Act 381 Work Plan will be approved by the governing bodies of the City and/or LBRA;

(g) The Brownfield Plan and the Act 381 Work Plan shall have received all other necessary state and local approvals;

(h) The City shall have delivered to the Title Company the City Closing Deliverables.

(i) The City shall be in compliance with all of its obligations under this Agreement;

(j) The City of East Lansing shall have adopted a resolution or resolutions vacating the public right-of-way and properly filed the same pursuant to M.C.L. 560.257 with respect to those portions of Reniger Court and Church Street presently within the City of East Lansing limits and within the Purchase Property;

(k) The City shall have adopted a resolution vacating the public right-of-way and properly filed same pursuant to M.C.L. 560.257 with respect to the portion of Church Street within the area of the Purchase Property and within the limits of the City.

2.4.2 The City's obligation to Close on the Purchase Property is and shall be conditioned on the following conditions being satisfied or waived by the City by the applicable deadline (collectively, the "City Conditions Precedent"):

(a) The City shall have approved the Conceptual Drawings of the building(s) to be located on Purchase Property;

(b) The City through its Planning and Neighborhood Development Department Site Plan Review Process shall have approved Site Plans for the Purchase Property provided, however, that nothing herein contained constitutes a representation nor warranty that such site plans will be approved pursuant to the City Planning and Neighborhood Development Department Site Plan Review Process;

(c) The City shall have reviewed and approved the Park Property Riverwalk Plans and Specifications and the City Lansing Park Board shall have reviewed and provided comments thereto;

(d) The City through its Planning and Neighborhood Development Department Site Plan Review Process shall have approved site plans for the Park Property Riverwalk; provided, however, that nothing herein contained constitutes a representation nor warranty that the Park Property Riverwalk site plans will be approved pursuant to the City Planning and Neighborhood Development Department Site Plan Review Process;

(e) The City's approval of the Developer's Project Schedule, which shall contain at least all the project requirements set forth in Sections 5.1.1, 5.1.2, 5.1.3, and herein, and shall contain affirmative representation from the Developer that there is no known information, up to and at Closing, such that Completion of Constructions will not be completed within the timeframes set forth ("Project Schedule").

(f) Each of the representations and warranties made by Developer in Article 3 of this Agreement and elsewhere in this Agreement shall be true and correct as of the date of Closing;

(g) Developer shall have delivered to the Title Company the Developer Closing Deliverables;

(h) Developer shall be in compliance with all of its obligations under this Agreement and any other agreement required herein, and Developer, its principals, and any

entities controlled by any of Developer's principals or whose obligations are guaranteed by Developer's principals shall be in compliance with all of their obligations under any other agreement with the City.

(i) In connection with the terms for funding the Project as set forth in Article 7, the City and LBRA shall have satisfied themselves that the Project will generate sufficiently capture of taxes in an amount necessary to: (i) timely make all payments required under the terms of the LBRA Bonds (as defined below) and this Agreement; (ii) enable the Developer to make all payments required pursuant to the terms of the Additional Funding (as defined below); and (iii) to distribute the tax capture in accordance with the allocations and for the purposes more particularly set forth in Article 7;

(j) In connection with the terms for funding the Project as set forth in Article 7, Developer shall have obtained the funding to pay for the Additional Funding (as defined below) in accordance with the Brownfield Plan, and provided evidence of same satisfactory to the City in its reasonable discretion, which evidence may include the depositing of the proceeds of such Additional Funding into a controlled account; and

(k) In connection with the terms for funding the Project as set forth in Article 7, the City and LBRA shall have further approved the Brownfield Plan and Act 381 Work Plan, to be closed at a time mutually agreed upon between the City and Developer; provided, however, that nothing herein contained constitutes a representation or warranty that the Brownfield Plan or Act 381 Work Plan will be approved by the governing bodies of the City and/or LBRA;

(l) The City shall have approved all documentation related to the issuance of the LBRA Bonds (as defined in Section 7.3); provided, however, that nothing herein contained constitutes a representation nor warranty that the documents related to the issuance of the LBRA Bonds will be approved by the City;

(m) The Brownfield Plan and the Act 381 Work Plan shall have received all other necessary state and local approvals;

(n) The Ingham County Drain Commissioner shall have substantially completed the Montgomery Drain District drainage design documents for the proposed Montgomery Drain District improvements (the "Drainage Improvements");

(o) Developer and City shall have agreed upon a mutually agreeable Parks Agreement as provided in Section 5.8;

(p) By ~~May-September~~ 1, 2018, Developer shall have procured and provided to the City an economic impact study prepared by Public Sector Consultants, Inc. or other such entity designated by the City.

2.4.3 In the event that any of the conditions precedent contained in Sections 2.4.1 and 2.4.2 have not been met, extinguished, waived in writing, or extended in writing, by mutual agreement, this Agreement shall be terminated upon written notice of either party to the other and this Agreement will be null and void except for obligations that are provided to expressly survive the termination or expiration of this Agreement.

ARTICLE 3

REPRESENTATIONS AND WARRANTIES OF DEVELOPER

As a material inducement for execution of this Agreement by the City, Developer represents and warrants to the City as follows, as of the date hereof and as of the date of Closing:

3.1 ORGANIZATION. The Developer is duly organized under the laws of the State of Delaware and is authorized to do business in the State of Michigan.

3.2 AUTHORITY. The Developer has (i) all power and authority to enter into this Agreement and perform its covenants and obligations as set forth hereunder and (ii) entered into no agreement that would limit or restrict its right to enter into this Agreement and fulfill its obligations hereunder.

3.3 NO LITIGATION. The Developer has not received any notice of, nor is it aware of, any pending demand, cause of action, suit, administrative, civil or criminal proceeding asserted by or against Developer that would materially and adversely impair its ability to perform its covenants and obligations under this Agreement other than Christopher Jerome, et al. v. Joel Ferguson, et al., Case 1:16-cv-01116 filed in the United States District Court Western District of Michigan.

3.4 OTHER AGREEMENTS. Developer is not a party to any agreement or instrument materially and adversely affecting its present or proposed business, properties or assets, operation or condition, financial or otherwise, or relating to Montgomery drain design, assessments, reconstruction, improvements or maintenance, not disclosed to the City in writing; and Developer is not in default in the performance, observance, or fulfillment of any of the material obligations, covenants, or conditions set forth in any agreement or instrument to which it is a party.

3.5 OTHER INFORMATION. All other written information, reports, papers, and data given to the City by Developer with respect to it are accurate and correct in all material respects and substantially complete insofar as completeness may be necessary to give the City a true and accurate knowledge of the subject matter, and all projections of future results are, in Developer's opinion, reasonable.

ARTICLE 4

REPRESENTATIONS AND WARRANTIES OF THE CITY

Subject to the Lansing City Council approval of this Agreement, the City (i) has the authority to enter into this Agreement and perform its covenants and obligations as set forth hereunder and (ii) has entered into no agreement that would limit or restrict the City's right to enter into this Agreement and fulfill its obligations hereunder.

ARTICLE 5

DEVELOPMENT OBLIGATIONS

5.1 DEVELOPMENT OF PROJECT. Developer shall develop the Project according to the terms and conditions of this Agreement, including the following:

5.1.1 MINIMUM PROJECT REQUIREMENTS. The Project shall, at a minimum, feature the following uses and design elements as set forth in Exhibits C-1 and C-2:

(a) A full-service hotel located on Michigan Avenue (“Full Service Hotel”) of not less than five (5) stories and not less than eighty (80) feet above the grade of Michigan Avenue to contain: (i) not less than ~~130-152~~ guest rooms; (ii) meeting facilities; and (iii) at least one commercial space for a restaurant use that is connected to or otherwise residing within the same structure as the foregoing uses comprising the Full-Service Hotel;

(b) ~~A second and separate structure, a Select Service Hotel structure of not less than five (5) stories and not less than 80 feet above the grade of Michigan Avenue to contain not less than 120-112 rooms (“Select Service Hotel”). Within the same structure that contains the Full Service Hotel, a Select Service Hotel containing not less than 128 guest rooms (“Select Service Hotel”);~~

(c) Commercial spaces for full-service restaurants, plus other general commercial and retail space (collectively, the ~~“Commercial Space”~~ “Restaurants and In-Line Retail”), not less than ~~40,000~~35,550 square feet in the aggregate, which shall, at a minimum, be specifically located within buildings as specified by Section 5.1.3 and attached Exhibit C-1; and

(d) ~~Market-rate housing with first floor retail (the “Multifamily Housing”) targeting professionals and “empty nester” markets (the “Market Rate Non-Student Housing”), which shall be sited on the Purchase Property pursuant to this Agreement and consisting of not less than fifty-five (55) one-bedroom units and 115 two-bedroom units as depicted in Exhibit C-1 shall consist of not less than four (4) stories and not less than fifty (50) feet above the grade of Michigan Avenue. The Multifamily Housing shall consist of not less than a total of two hundred (200) one hundred and fifty (150) units;~~

~~(d1) Active Senior Multifamily Housing (the “Active Senior Multifamily Housing”) targeting the “empty nester” market, shall be sited on the Purchase Property pursuant to this Agreement and shall consist of not less than five (5) stories and not less than sixty (60) feet above the grade of Michigan Avenue. The Active Senior Multifamily Housing shall consist of not less than 98 units;~~

~~(d)~~

(e) Housing designed in a manner appealing to a student population (the “Student Housing”), which shall be sited ~~exclusively in that portion of the Purchase Property that is east of the easternmost point of the portion of the Red Cedar Property in the eastern and southern portions of the Purchase Property that front on Michigan Avenue~~ as depicted in Exhibit C-1 and shall consist of at least ~~1,248~~1,221,100 beds and consisting of at least four (4) stories above grade.

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(f) A boardwalk from the easternmost boundary to the westernmost boundary of the Red Cedar Property (the “Red Cedar Property Riverwalk”) as depicted in Exhibit C and connected to any municipal river trail, or sidewalk network, abutting the Red Cedar Property, which such Red Cedar Property Riverwalk shall be designed and constructed of a quality appropriate to withstand local weather and occasional flood conditions, be compliant with any necessary MDEQ permit specifications, be ADA compliant, and be of an appearance appropriate for its location as improved, subject to the review of the Lansing Park Board and approval by the City through its Planning and Neighborhood Development Department Site Plan Review Process;

(g) A walkable pathway connecting the network of rights of way and walking paths in the Project to the Michigan State University student residence halls bounded by North Brody Road, West Brody Road, South Brody Road, and East Brody Road (the “Brody Residence Halls”); and

(h) An assisted living, skilled nursing, and memory care facility ~~(the “Senior Village”) with a height consisting of at least four (4) stories and not less than twenty-seven (27) feet above the grade of Michigan Avenue, along the Michigan Avenue frontage and not less than 112 units sited on the Corner Parcel (“Senior Housing”) pursuant to the Approved Development Plans. The Senior Village shall consist of not less than 116 units.~~ shall consist of not less than two (2) stories and not less than twenty-seven (27) feet above the grade of Michigan Avenue, along the Michigan Avenue frontage and not less than 112 units sited on the Corner Parcel (“Senior Housing”) pursuant to the Approved Development Plans. The Senior Village shall consist of not less than 120 units.

(i) Aesthetically appealing streetscape designs.

(j) Construction of an integrated parking structure (“Integrated Parking Structure”) which ~~will be owned, constructed and maintained by the Developer~~ may be partially publicly owned, but will be constructed and maintained exclusively by Developer.

5.1.2 PARK PROPERTY RIVERWALK. Subject to review of the Lansing Park Board and approval by the City, and any other local approvals required to be obtained, prior to a Closing on the Purchase Property, the Developer shall further design and construct, at its own expense, a connected riverwalk or boardwalk along the Red Cedar River from the easternmost boundary to the westernmost boundary of the Park Property (the “Park Property Riverwalk”) that is connected to the municipal river trail, or sidewalk network, abutting the Park Property, as depicted in Exhibit C-1, which such Park Property Riverwalk shall be designed and constructed in a manner that is consistent with the same standards as the Red Cedar Property Riverwalk.

5.1.3 OTHER REQUIREMENTS. Except as otherwise provided in Section 5.1.1, the Project shall further be consistent with the following uses and design elements:

(a) The main entrance to the Project (“Main Entrance”) shall be sited on Michigan Avenue;

(b) All buildings with frontage on, or which otherwise feature built space that abuts, Michigan Avenue (the “Michigan Avenue Buildings”) shall be primarily dedicated to commercial uses and shall be a minimum of two (2) stories pursuant to the Approved Development Plans;

(c) Those buildings behind the Michigan Avenue Buildings and on either side of the Main Entrance drive ("Main Entrance Buildings") shall dedicate the first floor to retail or restaurant and the upper floors to be residential or offices as depicted in Exhibit C-1; and,

(d) There shall be no building or other structure or improvement on, over, or within the boundary lines of any easement for public utilities described or referred to in this Agreement, the ALTA/NSPS Land Title Survey for Red Cedar Renaissance, Michigan Avenue & Clippert Street, East Lansing, Michigan prepared by LSG Engineers & Surveyors dated 10/26/2016 and identified as File No. 1062.DWG (the "ALTA Survey"), or the Quit Claim Deed, unless such construction is provided for in such easement or has been approved by the easement holder.

(e) No relocation of the Board of Water and Light substation located on the Red Cedar Property will be required because the substation is out of service and decommissioned.

5.2 DEVELOPMENT PLANS. Prior to closing, Developer shall submit to the City, Conceptual Drawings for all improvements to be constructed on or to the Purchase Property, whether public or private improvements, including landscape plans and elevations as well as the streetscape identified in Section 5.1.1(i) (the "Development Plans") and the Park Property (the "Park Property Riverwalk Plans"). Such Development Plans and the Park Property Riverwalk Plans shall incorporate those uses and design elements described in Sections 5.1.1, 5.1.2, and 5.1.3, as applicable, and shall be of sufficient completeness and detail to demonstrate that design and construction of the Project will be in accordance with this Agreement. The City's review and approval of the Development Plans for compliance with the terms of this Agreement shall be a precursor to the formal site plan review process conducted by the City Planning and Neighborhood Development Department and such approval shall not constitute approval of the Site Plan. The Park Property Riverwalk Plans shall be subject to the approval of the MDEQ and the DNR for permit approval.

5.3 REVIEW AND APPROVAL BY WRITTEN NOTICE. In the event the City approves either of the Development Plans and the Park Property Riverwalk Plans and Specifications submitted pursuant to Section 5.2, the City shall so notify Developer in a writing attaching any portion or all of the materials submitted by Developer as Development Plans (the "Development Approval Notice") or Park Property Riverwalk Plans and Specifications (the "Park Property Riverwalk Approval Notice") that the City wishes to become Exhibit B-1 ("Approved Development Plans") or Exhibit B-2 (the "Approved Park Property Riverwalk Plans and Specifications"), respectively, of this Agreement. The Approved Development Plans and the Approved Park Property Riverwalk Plans and Specifications are collectively referred to herein as the "Approved Plans and Specifications".

5.4 EFFECT OF APPROVAL NOTICES. Developer shall construct the Project in conformance with the Approved Development Plans and the Approved Park Property Plans and Specifications. Upon and by operation of the Development Approval Notice, the enclosures to such Development Approval Notice shall be deemed the Approved Development Plans, for purposes of this Agreement, and be automatically incorporated as Exhibit B-1 of this Agreement. Upon and by operation of the Park Property Riverwalk Approval Notice, the enclosures to such

Park Property Riverwalk Approval Notice shall be deemed the Approved Park Property Riverwalk Plans and Specifications, for purposes of this Agreement, and be incorporated as Exhibit B-2 of this Agreement. It is the express intent and agreement of the parties that any such incorporation of the Approved Development Plans by operation of the Development Approval Notice or the Approved Park Property Riverwalk Plans and Specifications by operation of the Park Property Riverwalk Approval Notice shall not constitute an Amendment (as defined below) for purposes of Section 11.8 of this Agreement.

5.5 PERMITS; BUILDING CODE. Prior to commencing construction, Developer shall obtain all required permits, including any necessary reviews and approvals. The Approved Development Plans, and any construction pursuant thereto, shall be in full compliance with this Agreement and the Michigan Building Code – Stille Derosssett-Hale-Single State Construction Act, Act 230 of 1972, known as the “Michigan Building Code.”

5.6 UTILITY AND INFRASTRUCTURE IMPROVEMENTS. Except for the improvements undertaken by the Drain Commissioner, the Developer shall be responsible for construction, relocation and installation of any and all utilities for the Project, including connections or improvements to existing utility systems, and associated site preparation. The utilities include but are not limited to water, sanitary sewer, storm sewer and drain mains, electric, telephone or other public utility lines, owned by any public utility company. The Developer shall be responsible for construction, relocation and installation of any other infrastructure improvements including the roads, and anything owned, maintained, and operated by a public entity so long as it is within a public right of way or easement. The Developer shall be responsible for any easements and permits required for any such installations without any cost to the City. The public infrastructure and any ~~GO-Bond~~TE Bond obligations shall be completed in accordance with the City’s letter of intent process, and Developer shall be responsible for the cost of an oversight consultant, selected by and hired to act on behalf of the City, the cost of which can be included in the ~~GO-Bonds~~TE Bonds.

5.7 RELOCATION OF EXISTING BUSINESSES. Until the first complete lease-up of the ~~Commercial Space~~Restaurants and In-Line Retail, or January 1, 2024, whichever is earlier, no existing retail or restaurant business operating within the boundaries of the City of Lansing or East Lansing (the “Protected Area”) will be relocated to the Purchase Property (“Relocating Tenant”) without the prior written consent of the City.

5.8 MAINTENANCE OF PARK PROPERTY RIVERWALK. Maintenance of the Park Property and Park Property Riverwalk, including lawn mowing, maintenance of signage, repairs of any broken materials and removal of trash, debris, and snow, as necessary, shall be the responsibility of the Developer, as outlined in an agreement to be entered into between Developer and the City (the “Parks Agreement”).

5.9 PREVAILING WAGE. All work performed on the Purchase Property, Park Property, and Park Property Riverwalk that is funded by the Brownfield Plan and 381 Work Plan shall be compensated at prevailing wages (the Prevailing Wage Work). ~~Developer will use its best efforts to use available and qualified local Lansing area residents and local firms within a 50-mile radius of the project, employing Michigan workers, with an emphasis on engaging women and minority-owned firms or individuals.~~ In no event shall the City be responsible for the costs of the

City or a third-party organization to monitor the Prevailing Wage Work compliance on the Project. Developer shall require ~~that all contracts and subcontracts for Brownfield Eligible Activities require that the parties thereto will~~its general contractor/construction manager to comply with the monitoring procedures of such third-party monitor. Evidence of compliance with ~~this Section~~the Prevailing Wage Work shall be submitted along with disbursement requests, and disbursements from the Project fund will be conditioned upon such compliance ~~with this Section~~. This requirement shall remain in effect through Completion of ~~Construction of the entire Project~~the Prevailing Wage Work._____

Developer, through subcontractors hired by its general contractor/construction manager, intends to use as much available and qualified Local Labor as possible in accordance with the Local Labor Agreement, entered into by the Parties on June 4, 2018, and appended to this Agreement as Exhibit E (the "Local Labor Agreement"). Notwithstanding anything in the Local Labor Agreement to the contrary, nothing in the Local Labor Agreement shall be interpreted to require Developer to withhold, pay or be responsible for City Income Tax for or on behalf of the general contractor/construction manager or subcontractors working on the Project. Developer's general contractor/construction manager shall require any subcontractor hired to contractually agree to comply with any City Income Tax reporting requirements. In the event of a conflict between this Section 5.9 and the Local Labor Agreement, this Section 5.9 shall control.

ARTICLE 6

CONSTRUCTION

6.1 SCHEDULE. Developer shall promptly begin and diligently prosecute to completion the construction of the Project on the Purchase Property according to this Agreement and the Approved Development Plans, the Approved Park Property Riverwalk Plans, and the Approved Project Schedule. Such construction shall commence no later than sixty (60) calendar days from the date of Closing, and thereafter proceed in accordance with and be completed by the date of completion of construction set forth in in the Project Schedule (the "Project Schedule") and attached as Exhibit D. For purposes of this Section 6.1, commencement of construction shall include the commencement of construction of Project infrastructure, including roads and utilities, and the Integrated Parking Structures, as well as environmental remediation. The Project Schedule may be amended by mutual agreement of the City and the Developer subsequent to the execution hereof.

6.2 COMPLETION. Subject to the provisions of this Agreement, Developer hereby covenants that after commencing construction in accordance with Section 6.1, it shall diligently prosecute the Project to completion, in accordance with this Agreement and the Project Schedule. For purposes of this Agreement, "Completion of Construction" means the date on which the Developer substantially completes construction of the Project in accordance with the Approved Plans and Specifications and is issued all certificates of occupancy.

6.3 PROGRESS REPORTS. Subsequent to conveyance of the Purchase Property to the Developer and until Completion of Construction, the Developer shall make quarterly written reports to the City as to the actual progress of the Developer with respect to such construction, with such reports to be provided within thirty (30) days of the applicable quarter. Upon the request

of the City, Developer shall provide additional updates but in no event shall such update be due less than fifteen (15) days and no less than thirty (30) days following a request for same by the City.

6.4 CONSTRUCTION STANDARDS. All construction shall be carried out in a good and workman like manner, using first class materials, and in accordance with this Agreement and all applicable Federal, State and local laws, ordinances, rules and regulations of governmental authorities having jurisdiction over the construction, the Developer, or the Project, and the construction shall be performed in accordance with the Approved Plans and Specifications and in accordance with this Agreement and applicable federal, state and local laws, ordinances, rules and regulations. Developer agrees to require Developer's subcontractors and other third parties to comply with the Developer's obligation under this Section 6.4. Developer and its assigns, contractors, agents, representatives and heirs (collectively, the "Development Parties") do hereby agree that once the value of permits and fees are determined and paid for on the Developer's behalf, amounts expended for such permits and fees shall not be contested or refunded to any Development Party to include, but not be limited to, plan review, building permits, trade permits, site plans, etc.

6.5 CHANGES. If the Developer desires to make any material change in the Approved Development Plans or the Approved Park Property Riverwalk Plans and Specifications after their approval by the City, the Developer shall notify the LBRA and the City of the proposed change and request their review and approval, for the purpose of determining that the proposed change accords with this Agreement and all applicable federal, state, and local laws, ordinances, rules and regulations. The City shall respond in writing within fifteen (15) business days in accordance with the City's right to approve, as set forth in this Agreement.

ARTICLE 7

FINANCIAL INCENTIVES

7.1 COOPERATION. The City shall reasonably cooperate with the Developer and the Developer shall reasonably cooperate with the City to apply for certain financial incentives to assist with the total cost relating to the conditions of the Purchase Property requiring environmental remediation and certain infrastructure improvements (the "Financial Incentives").

7.2 BROWNFIELD PLAN. Developer shall submit to the City and LBRA a Brownfield Plan and an Act 381 Work Plan (collectively, the "Plans") for the capture of property taxes and the disbursement of same pursuant to the terms of the Brownfield Redevelopment Financing Act, 1996 PA 381 (the "Brownfield Act"). If the Act 381 Work Plan is denied approval at the state level, this Agreement shall terminate and be of no further force or effect except for those obligations that survive its termination.

7.2.1 CONTENT. The Plans shall, at a minimum, provide for:

(a) A detailed cost budget for the Project, including a detailed itemized summary of costs for the "Approved Eligible Activities" within the meaning of M.C.L. § 125.2652;

(b) A capture of taxes in an amount necessary to: (i) timely make all payments required under the terms of the LBRA Bonds (as defined below); (ii) enable the Developer to make all payments required pursuant to the terms of the Additional Funding (as defined below); and (iii) to distribute the tax capture in accordance with the allocations and for the purposes more particularly set forth in Section 7.3.5; and

(c) A proposed distribution of the estimated captured property taxes, with such proposed distribution identifying with particularity a mechanism contemplating disbursements to cover payments for annual debt service on both the LBRA Bonds (as defined below) as well as the Additional Funding in accordance with the allocations and for the purposes more particularly set forth in Section 7.3.5.

7.2.2 REVIEW AND APPROVAL. The Plans shall be subject to the review and approval by the City and LBRA in their discretion, including a satisfactory review and assurance that the fair market value of the Purchase Property, after completion of the Project, will generate captured taxes sufficient to repay the LBRA Bonds and Additional Funding (as defined below), plus sufficient additional funds for distribution of the captured taxes in accordance with the allocations and for the purposes more particularly set forth in Sections 7.3.4 and 7.3.5.

7.3 BONDS.

7.3.1 Subject to verification by the City and LBRA of sufficient tax base, and any approvals required by the governing bodies of the City and/or LBRA or State of Michigan, the City-Developer will reasonably pursue the issuance of bonds by the LBRA in amounts not to exceed the following:

(a) ~~General Obligation Bonds~~ Tax Exempt Revenue Bonds in an amount not to exceed ~~Ten Million Seven Hundred Fifteen Thousand Six Hundred Sixty Nine and 00/100 Dollars (\$10,715,669.00)~~ the Project costs that qualify for tax exempt bonding, as determined by the LBRA in its sole and exclusive discretion in consultation with its bond counsel, (the “~~GO Bonds~~ TE Bonds”) to be deposited into the project fund (the “~~GO Bonds~~ TE Bonds Proceeds”), which such ~~GO Bonds~~ TE Bonds are to be backed by the full faith and credit of the City/Developer and for which the City shall have no obligations with respect to repayment thereof, the timing of deposit and disbursement to be determined by the LBRA; and

(b) Revenue Bonds in an amount determined by the bond purchaser and approved by LBRA, and subject to a letter of funding, to be supported by that portion of the Brownfield Plan’s Tax Increment Revenues, within the meaning of the Brownfield Act, for the balance of those funds required to complete the infrastructure components of the Project (the “Revenue Bonds”) (together with the ~~GO Bonds~~ TE Bonds, the “LBRA Bonds”) for which the City shall have no obligations with respect to repayment thereof.

~~GO Bond~~ TE Bond Proceeds shall only be used to fund construction of public infrastructure and will be made available on a pro rata basis with the proceeds from the Revenue Bonds. These LBRA Bonds may include the costs of the City and LBRA in connection with issuance of such bonds including but not limited to the City’s bond counsel fees and expenses and the capitalized interest during construction.

7.3.2 USE OF BONDS. The proceeds of LBRA Bonds will be used only for “Approved Eligible Activities” within the meaning of M.C.L. § 125.2652. For the purposes of this Agreement, such “Approved Eligible Activities” shall specifically include environmental remediation, infrastructure (collectively, the “Work”) and capitalized interest as shall be contained in the Plans and constitute “eligible activities” within the meaning of M.C.L. § 125.2652, subject to the express understanding that the City may select which portion of the Work to fund with the LBRA Bonds (as defined below). Draw procedures shall be established by a separate agreement with the LBRA.

7.3.3 ADDITIONAL FUNDING. Developer will be responsible for obtaining that additional funding (“Additional Funding”) required for paying the cost of Approved Eligible Activities that exceeds the amount of the LBRA Bonds. The Additional Funding shall be in an amount such that the amount of the LBRA Bonds plus the Additional Funding will pay for the Approved Eligible Activities. Joel Ferguson, Frank Kass, and development entities related to Developer will provide guarantees if required by those lenders that provide such Additional Funding. Further, nothing herein contained is intended to prohibit the lender of such Additional Funding from maintaining a dual control over the Additional Funding.

7.3.4 ALLOCATION OF TAX CAPTURE. All property taxes captured (including receipts from the Ingham County Treasurer from the purchase of delinquent property taxes) pursuant to the Brownfield Plan shall be allocated between the LBRA Bonds, the Additional Funding, and such additional uses as may otherwise qualify for allocation pursuant to the as-approved Brownfield Plan and Section 7.3.5. The agreement to be entered into as required under Public Act 381 will conform to the order of priority identified in Section 7.3.5.

7.3.5 ORDER AND PRIORITY. The property taxes actually captured for such year will be distributed as specified below on an annual basis in the following order and priority, to the extent of available funds:

(a) The MEDC Brownfield Redevelopment Fund shall have first priority of reimbursement in the amount equal to three (3) mills of available captured tax revenue; then,

(b) The LBRA shall be reimbursed in the amount of two-and-one-half percent (2.5%) of the amount captured to cover administrative costs; then,

(c) The Local Site Remediation Revolving Fund (LSRRF) shall receive a deposit in the amount of two-and-one-half percent (2.5%) of available captured tax revenue; then

(d) ~~GO Bonds~~TE Bonds, and/or the City in the event it has advanced ~~or paid any costs~~money for the ~~GO Bonds~~TE Bonds, shall be paid an amount equal to the annual debt service ~~which is structured having a not to exceed 1% inflationary adjustment for the first ten years followed by a 0% inflationary adjustment after~~; then,

(e) ~~Commencing with the first year of tax capture, an amount equal to 20% of the maximum annual principal and interest of the GO Bonds shall be deposited into a separate account for the benefit of the City and its retained obligations (“Retained Obligation~~

Fund”) associated with the Project until such amount deposited equals the maximum annual principal and interest on the GO Bonds; then, This section is intentionally left blank.

(f) Notwithstanding Section 7.3.5(e), in the event a disbursement out of the Retained Obligation Fund is made, or in a prior year the tax capture did not satisfy the 20% amount identified in 7.3.5(e), then an amount shall be deposited into the Retained Obligation Fund so that it is equal to the amount the Retained Obligation Fund would otherwise have held if a disbursement had not occurred or the prior year tax captures had satisfied the 20% amount identified in 7.3.5(e); This section is intentionally left blank.

(g) Revenue Bonds shall be paid in an amount not to exceed their annual debt service;

(h) Additional Funding may be paid by additional funds captured, including amounts remaining in the Retained Obligation fund after the full repayment of the amount owed to the MEDC Brownfield Redevelopment Fund identified in 7.3.5 (a), the LBRA administration costs identified in 7.3.5 (b);), the amount owed to the Local Site Remediation Revolving Fund (LSRRF) identified in 7.3.5 (c), the ~~GO Bonds~~TE Bonds, and the Revenue Bonds to reimburse the Developer for the costs of eligible activities identified and approved by the City and MSF in the Brownfield Plan and the Act 381 Plan not paid for by the issuance of the ~~GO Bonds~~TE Bonds or Revenue Bonds.; then

(i) Any amounts remaining in the Retained Obligation Fund on retirement of the LBRA Bonds and the Additional funding will revert to the LBRA. This section is intentionally left blank.

Notwithstanding the foregoing primary priority of funding, if the application of the first priority; after consideration of any funds in the Retained Obligation Account, leaves insufficient funds to cover the next twelve months of LBRA Bond payments, then in such event the allocation percentage shall be adjusted so that LBRA shall receive sufficient funds to make the next twelve months of principal and interest payments on the LBRA Bonds.

7.3.6 CONSTRUCTION CONTRACTS. The City shall be a party to all construction contracts for which it is contemplated that any services performed or materials supplied will be funded in full or in part by proceeds of the LBRA Bonds which contracts shall provide the City the same rights as those provided to the Developer.

7.3.7 During the period in which the LBRA Bonds are outstanding, Developer shall not enter into any transaction, lease, or any other agreement that would render the Purchase Property or any portion thereof tax-exempt or materially alter the tax capture.

7.4 OTHER INCENTIVES. The City will support Developer’s application, for the state fiscal year, October 1, 2017-2018 through September 30, 2018-2019, a Michigan Community Revitalization Program (“MCRP”) grant (“MCRP Grant”) and loan (“MCRP Loan”) from the Michigan Strategic Fund, with support for such MCRP Grant and MCRP Loan prioritized but not exclusive to any other projects in Lansing and support the Project as the number one priority project for the City of Lansing in connection with the MCRP grant and loan programs. Any other

financial incentives as Developer may request and the City may support shall be in their sole discretion.

7.5 MEDC. Nothing in this Agreement shall be construed to require or guarantee approval by the board of the Michigan Strategic Fund on behalf of the Michigan Economic Development Corporation (“MEDC”) for participation by the State of Michigan in any the local tax increment financing-based tax capture of education funds.

ARTICLE 8

DEFAULT & REMEDIES

8.1 GENERAL. If any Party hereto shall fail to perform any of its obligations under this Agreement (the “Defaulting Party”), then the other Party not in default (the “Non-Defaulting Party”) shall provide notice of such failure to the Defaulting Party and afford the Defaulting Party a grace period to cure said failure as follows:

8.1.1 GRACE PERIOD SPECIFIED. Where a grace period is specifically provided for in any section of this Agreement, that specific grace period shall apply.

8.1.2 GRACE PERIOD UNSPECIFIED. Where a grace period is not specifically provided for in any other section of this Agreement, the Defaulting Party shall afford the Non-Defaulting Party a grace period of: (i) ten (10) business days to cure monetary failure; and (ii) thirty (30) days to cure any non-monetary default.

8.1.3 DEFAULT. If any failure to perform shall not have been cured by the expiration of the applicable grace period, then a “Default” shall be deemed to have occurred and the Non-Defaulting Party shall have the rights and remedies set forth in the remainder of this Article 8, and any other applicable portions of this Agreement.

8.2 DEVELOPER TERMINATION PRIOR TO CLOSING. Except as otherwise provided in this Agreement, in the event the Developer is fully compliant with all of its duties and obligations under the Agreement and the City does not Close pursuant to the terms of this Agreement, and the City does not cure pursuant to the terms of Section 8.1, then this agreement shall, at the option of the Developer, be terminated or the Developer may compel specific performance of the City’s obligation under this Agreement. All deadlines for performance by Developer shall be extended by one (1) day for every day the City shall be in default of its obligations hereunder.

8.2.1 To be effective, termination shall be by written notice from the Developer to the City.

8.2.2 In the event Developer elects to terminate the agreement prior to closing or seek specific performance, the Developer shall remain financially responsible for all work performed by or on behalf of the Developer with respect to the Project or Purchase Property.

8.3 CITY TERMINATION PRIOR TO CLOSING. Except as otherwise provided in this Agreement, the City may terminate this Agreement prior to Closing, after expiration of the applicable cure period(s) provided in Section 8.1, upon the happening of any of the following: (i) the Developer assigns the Agreement, or any rights herein or in the Purchase Property except as expressly permitted herein; (ii) any transfer or attempt to transfer all or part of the Purchase Property except as expressly permitted under the terms of this Agreement; (iii) any change in more than forty percent (40%) of the membership interests of the Developer, individually or in combination with any other transfer following the date hereof, and which has not been approved by the City; or (iv) the Developer is in default of a duty, obligation or undertaking required to be performed by Developer in this Agreement.

8.3.1 To be effective, termination shall be by written notice from the City to the Developer.

8.3.2 In the event the City terminates this Agreement, the Developer shall be financially responsible for all work performed by or on behalf of the Developer with respect to the Project or the Purchase Property prior to termination.

8.4 POST-CLOSING REMEDIES. If either Party hereto is in default of its obligations under this Agreement after expiration of the applicable cure period(s) provided in Section 8.1, then the Non-Defaulting Party may seek all rights and remedies available at law, in equity, or in this Agreement to enforce all Parties' rights and obligations under this Agreement. To the extent permitted by law, the parties agree that the jurisdiction and venue for any action brought to enforce rights or obligations under this Agreement shall be solely in the State Courts in Ingham County, Michigan, and that the applicable laws, should any choice of law arise, shall be those of the State of Michigan.

8.5 BANKRUPTCY BY DEVELOPER. If at any time prior to Completion of Construction, Developer becomes insolvent, or shall make a transfer in fraud of creditors, or shall make an assignment for the benefit of creditors, shall file a petition in bankruptcy, shall voluntarily be adjudicated insolvent or bankrupt or shall admit in writing the inability to pay debts as they mature, shall petition or apply to any tribunal for or shall consent to or shall not contest the appointment of a receiver, trustee, custodian or similar officer for Developer or for a substantial part of the assets of Developer, or shall commence any case, proceeding or other action under any bankruptcy, reorganization, arrangement, readjustment or debt, dissolution or liquidation law or statute of any jurisdiction, whether now or hereafter in effect, such an event shall be deemed an Event of Default as to the Developer only. Such event shall not be subject to the grace period provisions of Section 8.1.

8.6 DISSOLUTION OF DEVELOPER. Any dissolution, termination, or partial or complete liquidation of Developer prior to Completion of Construction shall be deemed an Event of Default as to the Developer only. Such event shall not be subject to the grace period provisions of Section 8.1.

8.7 FAILURE TO COMPLY WITH CONSTRUCTION SCHEDULE. The Developer agrees to complete such portions of the Project in a manner, consistent with the Project Schedule, that such portions will be placed upon the property tax rolls by the City's Assessor and generate

payment of property taxes for payment of the LBRA Bonds in accordance with the Approved Brownfield Plan. In the event there is a delay in completion of such portions of the Project that result in a deficiency for payment of property taxes for repayment of the LBRA Bonds, then the Developer will upon demand from the City immediately pay such deficiency and continue to pay such deficiency until such portions of the Project have been completed and generate property taxes sufficient to pay the LBRA Bonds.

ARTICLE 9

INDEMNIFICATION

Developer agrees to indemnify and hold harmless the City, LEDC, LBRA, and Lansing Economic Area Partnership and their agents and employees (collectively, the “Indemnified Parties”, each an “Indemnified Party”) from any liabilities, obligations, losses, damages, penalties, claims, charges or expenses, including attorney's fees, that arise from any negligence or misrepresentation on the part of Developer or its agents, and on account of the Indemnified Party's reliance thereon, and any personal injury, death or property damage that are caused by the intentional acts or omissions or negligence of Developer or its duly authorized agents. In the event any action or proceeding shall be brought against an Indemnified Party by reason of any claim covered hereunder, the Indemnified Party shall have the right to resist and defend the same with counsel of its choosing, and Developer shall pay the costs of such defense. The provisions of this Section shall survive the Closing or termination of this Agreement and remain in full force and effect until the ~~City's Go-Bond proceeds~~ TE Bond obligations are retired or otherwise paid in full.

ARTICLE 10

RESTRICTIONS ON ASSIGNMENT AND TRANSFER

The Developer may pledge, mortgage or grant a security interest in the Purchase Property for purpose of gaining financing necessary to enable the Developer or approved successor in interest to the Purchase Property to perform its obligations with respect to making improvements under this Agreement. The Developer may also transfer a portion of the Purchase Property to an entity controlled by related parties to the Developer or a member of the Developer, and the Developer may transfer a portion of the Purchase Property for the operation of a Hotel, Assisted Living Facility, Non-Student Housing, Student Housing, or other uses authorized by this Agreement so long as the recipient of such a transfer agrees, in its written purchase agreement with Developer, to construct and own buildings on the Purchase Property consistent with the terms of this Agreement. The Plans and Specifications for all buildings and construction on the Purchase Property shall remain subject to the terms of this Agreement. In the event of any action or transfer under this paragraph, the Developer will promptly notify the City in writing, and will continue to be responsible for keeping the transferred portion of the Purchase Property in compliance with the terms of this Agreement.

ARTICLE 11

IDENTITY OF MEMBERS

11.1 MEMBERSHIP INFORMATION. Within ten (10) days of the Effective Date, Developer will deliver to the City an organizational chart illustrating the corporate relationships among Developer and its members (each a “Member”) and identifying each Member’s percentage of ownership in Developer (the “Member Information Report”). After delivery of such Member Information Report until Completion of Construction, Developer shall, at least fifteen (15) days in advance of executing any instrument effecting any proposed change in the identity of the Members, provide the City with notice of any and all proposed changes whatsoever in the identity of the Members. Any transfer, individually or in combination with any other transfer following the date of the first Member Information Report, of more than Forty percent (40%) of the membership interests of the Developer shall be ineffective without the City’s advance written consent. Within fifteen (15) days after the consummation of effective change in the identity of the Members, Developer shall provide the City with an updated Member Information Report.

11.2 TERM OF OBLIGATION. The obligations and prohibitions of this Section shall cease and terminate upon Completion of Construction.

ARTICLE 12

MISCELLANEOUS

12.1 AGREEMENT CONDITION PRECEDENT. No Party to this Agreement shall be obligated to undertake any duties under this Agreement unless and until: (i) the Mayor executes and delivers this Agreement pursuant to the City Council approval of this Agreement, and (ii) the Developer duly authorizes and executes, and delivers this Agreement.

12.2 EFFECT OF AGREEMENT. The City shall be obligated to perform only those undertakings expressly set forth in this Agreement. Execution of this Agreement in no way constitutes City approval of the Project or obligates the City to support or approve the Project except as expressly set forth herein.

12.3 CITY AUTHORITY. Unless expressly stated otherwise in this Agreement, where consent, authority or agreement of the City is required or requested under this Agreement or any other agreements referenced herein, such consent, authority or agreement may be negotiated and provided by the Mayor or the Mayor’s designee following approval of this Agreement by the Lansing City ~~Council~~Council.

12.4 RELEASE. This Agreement amends and restates the November 2014 Agreement and the LEDC, LBRA, Ferguson, and Kass are no longer parties to this Agreement and are hereby released of their obligations pursuant to the November 2014 Agreement.

12.5 LEGAL FEES. Except for the City’s legal fees associated with issuance of the LBRA Bond (which shall be capitalized in the LBRA Bond), following receipt thereof, the Developer shall promptly pay all invoices for the City’s legal fees for services rendered on or

before the date of Closing in connection with this Agreement, including legal fees incurred prior to the execution of this Agreement, and the transactions contemplated hereby ("Legal Fees"). Such invoices will be sent to the Developer and will detail the services and the hours billed. The City Attorney shall have sole discretion on the determination of whether the contents of such invoices are appropriate.

12.6 ASSIGNMENT OF THIS AGREEMENT. Except as provided for in this Agreement, no party to this Agreement may transfer, assign or delegate to any other person or entity all or any part of its rights or obligations arising under this Agreement without the prior written consent of the other party hereto.

12.7 NOTICES. Except as otherwise provided in this Agreement, all notices, certificates or communications required by this Agreement to be given shall be sufficiently given and shall be deemed delivered when personally served or when mailed by express courier or registered or certified mail, postage prepaid, return receipt requested, addressed to the respective parties at the addresses listed below

If to the Developer, to:	Continental/Ferguson Lansing, LLC Attention Franklin E. Kass 150 E. Broad Street, Suite 200 Columbus, Ohio 43215
With a copy to:	Continental/Ferguson Lansing, LLC Attention Joel I. Ferguson 1223 Turner Street, Suite 300 Lansing, Michigan 48906
And a copy to:	REID AND REID Attention Patrick T. Reid 110 W. Michigan Avenue, Suite 750 Lansing, Michigan 48933
If to the City:	City Attorney James Smiertka 5 th Floor, City Hall Lansing, MI 48933
With a copy to:	Lansing Economic Area Partnership Attention Robert L. Trezise, Jr. 1000 S. Washington Avenue, Suite 201 Lansing, Michigan 48910
And a copy to:	Miller, Canfield, Paddock and Stone, PLC Attn: G. Alan Wallace, Esq One Michigan Avenue, Suite 900 Lansing, Michigan 48933

12.8 AMENDMENT. No amendment or modification to or of this Agreement shall be binding upon any Party hereto until such amendment or modification is reduced to writing and executed by all Parties hereto. The City's approval of any substantive amendments to this Agreement requires approval by Lansing City Council, pursuant to its Charter and Ordinances. The determination of a substantive amendment will be made by the Lansing City Attorney. Non-substantive amendments can be made by the Mayor.

12.9 TERM. Unless earlier terminated in accordance with the terms hereof, this Agreement shall be in force through the retirement of the LBRA Bonds. Upon satisfaction of the LBRA Bonds and prior to any document being recorded evidencing the termination of this Agreement, the parties will reach a separate agreement as to continuing maintenance and any other ongoing matters related to the Project.

12.10 BINDING EFFECT. This Agreement shall be binding upon the Parties hereto and upon their respective successors and assigns.

12.11 RECORDATION. Prior to Closing, the Parties shall record a memorandum reasonably acceptable to the Parties, and shall be recorded in the Office of the Register of Deeds for Ingham County, Michigan.

12.12 SURVIVAL. The terms, conditions and provisions of this Agreement, including all representations, warranties, and covenants, shall survive its termination or delivery of the Quit Claim Deed. None of the provisions of this Agreement are intended to or shall be merged by reason of any deed transferring title to property from the City to the Developer or any successor in interest, and any such deed shall not be deemed to affect or impair the provisions and covenants of this Agreement.

12.13 SEVERABILITY. If any clause, provision or section of this Agreement shall be ruled invalid or unenforceable by any court of competent jurisdiction, the invalidity or unenforceability of such clause, provision or section shall not affect the validity of any of the remaining clauses, provisions or sections of this Agreement.

12.14 TIME OF THE ESSENCE. Time shall be of the essence of this Agreement.

12.15 EXECUTION IN COUNTERPARTS. This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument.

12.16 CAPTIONS. The captions and headings in this Agreement are for convenience only and in no way limit, define or describe the scope or intent of any provision of this Agreement.

12.17 APPLICABLE LAW. This Agreement shall be governed in all respects, whether as to validity, construction, performance and otherwise, by the laws of the State of Michigan.

12.18 BROKERS. The City warrants to the Developer that the City has not taken any action in connection with this transaction which would result in any real estate broker's fee, finder's fee, or other fee being due or payable to any party. The Developer warrants to the City that the

Developer has not taken any action in connection with this transaction which would result in any real estate broker's fee, finder's fee, or other fee being due or payable to any party.

12.19 **FORCE MAJEURE.** No Party hereto shall be liable for the failure to perform its obligations hereunder if such failure is due to unforeseeable events beyond the Party's reasonable control and without such party's fault or negligence, including, but not limited to acts of God, acts of the public enemy, acts of the other party, fires, flood, epidemics, quarantine restriction, strikes and embargoes, or shortages of materials and delays of contractors due to such causes, but excluding any acts of the state or federal governments or their respective agencies or departments. Said failure to perform shall be excused only for the period during which the event giving rise to said failure to perform exists; provided, however, that the Party seeking relief from its obligations under this Section ~~44~~12.19 shall notify the other party in writing, setting forth the event giving rise to such failure to perform, within thirty (30) days following the occurrence of such event.

12.20 **JOINT DRAFTING.** This Agreement shall be construed as being jointly drafted by all Parties hereto.

12.21 **ENTIRE AGREEMENT.** The Agreement, including all exhibits attached hereto and made a part hereof, contains all agreements between the Parties as of the Effective Date. There are no other representations, warranties, promises, agreements or understandings, oral, written or implied, among the Parties, except to the extent reference is made thereto in this Agreement. This Agreement does not change, alter, or amend, the Montgomery Drain Assessment Indemnification Agreement, dated October 7, 2013, and any other indemnification agreement made for the benefit of the City prior to the date of this Agreement.

12.22 **STATEMENT OF LACK OF NECESSITY.** Pursuant to Lansing City 8-403 and the real property disposition ordinances promulgated thereunder, the real property to be disposed of in this Agreement or any other agreements referenced or required herein is not necessary for public purposes, as set forth in this Agreement.

12.23 **ADEQUATE CONSIDERATION.** The City, through its legislative and administrative branches, acknowledges that the Purchase Price is good and sufficient consideration for the Purchase Property based on the terms of this Agreement and the totality of the transaction, including, but not limited to (i) reduced public financial assistance to the Project; (ii) the need for significant infrastructure and expense to address Preexisting Conditions on the Property, (iii) significant Project investment by Developer, (iv) increase in tax revenue the City and the community receive from the redevelopment of the Purchase Property, and (v) the nature of the project as a catalyst place-making project connecting the communities of Lansing and East Lansing.

[Signature Pages Follow]

By: Andy Schor
Its: Mayor

The foregoing instrument was acknowledged before me this ____ day of _____, 2018 by Andy Schor, as Mayor of the City of Lansing, by him to be his free act and voluntary deed.

I hereby certify that funds are not required for this transaction:

Approved as to form only:

S-1

IN WITNESS WHEREOF, the parties hereto have executed this Amended and Restated Real Estate Purchase and Development Agreement on the date first written above.

CONTINENTAL/FERGUSON LANSING, LLC:

By: Continental Red Cedar, LLC

Its: Member

By: Franklin E. Kass

Its: Member

STATE OF MICHIGAN)
)ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2018 by Franklin E. Kass, as Member of Continental Red Cedar, LLC as Member of Continental/Ferguson Lansing, LLC, by him to be his free act and voluntary deed.

_____, Notary Public
_____, County, _____
My commission expires: _____

CONTINENTAL/FERGUSON LANSING, LLC:

By: Red Cedar Investor, LLC

Its: Member

By: Joel I. Ferguson

Its: Member

STATE OF MICHIGAN)
)ss
COUNTY OF INGHAM)

The foregoing instrument was acknowledged before me this ____ day of _____, 2018 by Joel I. Ferguson, as Member of Red Cedar Investor, LLC as Member of Continental/Ferguson Lansing, LLC, by him to be his free act and voluntary deed.

_____, Notary Public
_____, County, _____
My commission expires: _____

EXHIBIT A-1

PURCHASE PROPERTY LEGAL DESCRIPTION

Legal Description: Red Cedar Development Property – North of Floodway

Situated in the City of Lansing, County of Ingham and State of Michigan:

Part of Lots 6, 15, 17, and Outlot "A", also vacated portion of Church Street, part of vacated Cooper Street, part of vacated Olin Avenue and vacated portion of Reniger Court (platted as Fredrick Street), Supervisor's Plat No. 1 as recorded in Liber 12 of Plats, Page 27, Ingham County Records; also part of the plat of Riverside as recorded in Liber 3 of Plats, Page 25, Ingham County Records; also part of the "Plat of the Subdivision of all that part of the Southeast quarter of Section 14 and all of that part of Section 23 lying North of the Cedar River" according to the True Copy of the Original recorded June 13th, 1856; also part of the Southwest 1/4 of Section 13 and part of the Southeast 1/4 of Section 14, T4N, R2W, City of Lansing, Ingham County, Michigan, all being more particularly described as follows; Commencing at the West 1/4 corner of Section 13 also being the East 1/4 corner of Section 14, T4N, R2W; thence S00°33'40"W, 119.50 feet along the West line of Section 13 and the East line of Section 14 to the South line of Michigan Avenue and the North line of Lot 19 of Supervisor's Plat No. 1; thence S89°49'55"W, 1.85 feet along the South line of Michigan Avenue to the Northwest corner of Supervisor's Plat No. 1 and the Point of Beginning of following described parcel; thence S00°44'26"W (platted as South), 540.51 feet along the West line of Supervisor's Plat No. 1 to the Southwest corner of Lot 23; thence S89°58'26"E (platted as N89°15'E), 182.60 feet along the South line of Lot 23 and its Easterly extension; thence N00°22'22"W, 100.00 feet along the West line of the East 1/2 of vacated Olin Avenue; thence S89°58'26"E, 998.91 feet along the North line of the South 100 feet of the East 1/2 of vacated Olin Avenue, the North line of the South 100 feet of Lot 17, the North line of the South 100 feet of vacated Cooper Street, the North line of the South 100 feet of Lot 15, the North line of the South 100 feet of vacated portion of Reniger Court (platted as Fredrick Street) and the North line of the South 100 feet of Lot 6 to the East line of Lot 6; thence S00°15'20"E, 50.00 feet along the East line of Lot 6; thence N89°49'17"E, 330.21 feet to the East line of Supervisor's Plat No. 1; thence S00°16'54"E (platted as S01°09'E), 690.78 feet to the Northerly floodway limit of the Red Cedar River; thence along said floodway limit, the following thirty (30) courses:

- 1) N46°10'15"W, 15.48 feet;
- 2) N56°47'13"W, 30.48 feet;
- 3) N55°43'09"W, 66.24 feet;
- 4) N65°03'09"W, 93.92 feet;
- 5) N64°01'30"W, 216.39 feet;
- 6) N70°25'57"W, 74.47 feet;
- 7) N61°25'31"W, 56.19 feet;
- 8) N60°47'42"W, 67.03 feet;
- 9) N57°32'05"W, 71.96 feet;

10)N65°20'26"W, 16.79 feet;
11)N57°44'47"W, 53.83 feet;
12)N73°17'40"W, 35.93 feet;
13)N86°48'53"W, 39.97 feet;
14)S86°37'02"W, 46.11 feet;
15)S84°50'08"W, 84.32 feet;
16)S82°06'51"W, 75.07 feet;
17)S86°19'27"W, 52.44 feet;
18)S88°21'50"W, 138.94 feet;
19)N77°32'06"W, 66.35 feet;
20)N78°22'00"W, 73.45 feet;
21)N83°02'49"W, 104.05 feet;
22)N80°18'41"W, 104.78 feet;
23)N81°25'50"W, 29.98 feet to the West line of Section 13;
24)continuing N81°25'50"W, 63.00 feet;
25)N84°40'04"W, 94.88 feet;
26)N84°12'26"W, 174.71 feet;
27)N86°42'58"W, 153.92 feet;
28)N87°08'16"W, 100.89 feet;
29)West, 119.66 feet;
30)S82°46'50"W, 89.82 feet;

thence N53°29'47"W, 224.96 feet; thence S89°26'11"W, 305.00 feet to a point which as 24.75 feet East of the West line of the East 1/2 of the Southeast 1/4 of Section 14, according to the plat of Urbandale as recorded in Liber 4 of Plats, Page 49, Ingham County Records; thence N00°30'13"E, 608.40 feet parallel with said West line to the South right-of-way line of Michigan Avenue; thence S89°51'10"E, 1279.97 feet along the South right-of-way line of Michigan Avenue to the Point of Beginning. Contains 35.57 acres, more or less.

REVISED: 11/1/2017

EXHIBIT A-1-A

RED CEDAR PROPERTY LEGAL DESCRIPTION

Part of Lots 6, 15, 17, and Outlot "A", also part of Church Street, part of vacated Cooper Street and part of vacated Olin Avenue, Supervisor's Plat No. 1 as recorded in Liber 12 of Plats, Page 27, Ingham County Records; also part of the plat of Riverside as recorded in Liber 3 of Plats, Page 25, Ingham County Records; also part of the "Plat of the Subdivision of all that part of the Southeast quarter of Section 14 and all of that part of Section 23 lying North of the Cedar River" according to the True Copy of the Original recorded June 13th, 1856; also part of the Southwest 1/4 of Section 13 and part of the Southeast 1/4 of Section 14, T4N, R2W, City of Lansing, Ingham County, Michigan, all being more particularly described as follows; Commencing at the West 1/4 corner of Section 13 also being the East 1/4 corner of Section 14, T4N, R2W; thence S00°33'40"W, 119.50 feet along the West line of Section 13 and the East line of Section 14 to the South line of Michigan Avenue and the North line of Lot 19 of Supervisor's Plat No. 1; thence S89°49'55"W, 1.85 feet along the South line of Michigan Avenue, to the Northwest corner of Supervisor's Plat No. 1 and the Point of Beginning of following described parcel; thence S00°44'26"W (platted as South) , 540.51 feet along the West line of Supervisor's Plat No. 1, to the Southwest corner of Lot 23; thence S89°58'26"E (platted as N89°15'E) , 182.60 feet along the South line of Supervisor's Plat No. 1; thence N00°22'22"W, 100.00 feet along the West line of the East 1/2 of vacated Olin Avenue; thence S89°58'26"E, 749.62 feet along the North line of the South 100 feet of Lot 17, the North line of the South 100 feet of vacated Cooper Street and the North line of the South 100 feet of Lot 15 to the West line of Reniger Court (platted as Fredrick Street) ; thence S00°18'28"E, 100.00 feet along the West line of Reniger Court to the Southeast corner of Lot 15; thence S89°58'26"E (platted as N89°15'E) , 50.00 feet along the South line of Supervisor's Plat No. 1 to the Southwest corner of Lot 6; thence N00°18'28"W, 100.00 feet along the East line of Reniger Court; thence S89°58'26"E, 199.29 feet to the East line of Lot 6; thence S00°15'20"E 50.00 feet along the East line of Lot 6; thence N89°49'17"E, 330.21 feet to the East line of Supervisor's Plat No. 1; thence S00°16'54"E (platted as S01°09'E) , 690.78 feet to the Northerly floodway limit of the Red Cedar River; thence along said floodway limit, the following thirty (30) courses: 1) N46°10'15"W, 15.48 feet; 2) N56°47'13"W, 30.48 feet; 3) N55°43'09"W, 66.24 feet; 4) N65°03'09"W, 93.92 feet; 5) N64°01'30"W, 216.39 feet; 6) N70°25'57"W, 74.47 feet; 7) N61°25'31"W, 56.19 feet; 8) N60°47'42"W, 67.03 feet; 9) N57°32'05"W, 71.96 feet; 10) N65°20'26"W, 16.79 feet; 11) N57°44'47"W, 53.83 feet; 12) N73°17'40"W, 35.93 feet; 13) N86°48'53"W, 39.97 feet; 14) S86°37'02"W, 46.11 feet; 15) S84°50'08"W, 84.32 feet; 16) S82°06'51"W, 75.07 feet; 17) S86°19'27"W, 52.44 feet; 18) S88°21'50"W, 138.94 feet; 19) N77°32'06"W, 66.35 feet; 20) N78°22'00"W, 73.45 feet; 21) N83°02'49"W, 104.05 feet; 22) N80°18'41"W, 104.78 feet; 23) N81°25'50"W, 29.98 feet to the West line of Section 13; 24) continuing N81°25'50"W, 63.00 feet; 25) N84°40'04"W, 94.88 feet; 26) N84°12'26"W, 174.71 feet; 27) N86°42'58"W, 153.92 feet; 28) N87°08'16"W, 100.89 feet; 29) West, 119.66 feet; 30) S82°46'50"W, 89.82 feet; thence N53°29'47"W, 224.96 feet; thence S89°26'11"W, 305.00 feet to a point which is 24.75 feet East of the West line of the East 1/2 of the Southeast 1/4 of Section 14, according to the plat of Urbandale as recorded in Liber 4 of Plats, Page 49, Ingham County Records; thence N00°30'13"E, 53.81 feet parallel with said West line; thence S89°51'10"E, 398.78 feet parallel with the South right-of-way line of Michigan Avenue; thence N00°08'50"E, 554.58 feet to the South right-of-way line of Michigan Avenue; thence S89°51'10"E, 884.64 feet along the South right-of-way line of Michigan Avenue to the Point of Beginning.

EXHIBIT A-1-C

CORNER PARCEL LEGAL DESCRIPTION

A parcel of land in the Southwest $\frac{1}{4}$ of Section 14, T4N, R2W, City of Lansing, Ingham County, Michigan, described as follows: Commencing at the East $\frac{1}{4}$ Corner of Section 14, thence South 660.00 feet; thence West 1,020.84 feet to the Point of Beginning; thence North 540.50 feet to the south right of way line of Michigan Avenue; thence West 264.00 feet to the east right of way line of Clippert Street; thence South 540.50 feet; thence East 264.00 feet to the Point of Beginning and containing approximately 3.28 acres.

A-1-C

EXHIBIT A-2

PARK PROPERTY LEGAL DESCRIPTION

PARK PROPERTY – SOUTH OF FLOODWAY

Situated in the City of Lansing, County of Ingham and State of Michigan:

Part of Outlot "A" and part of vacated portion of Church Street, Supervisor's Plat No. 1 as recorded in Liber 12 of Plats, Page 27, Ingham County Record; also part of the plat of Riverside as recorded in Liber 3 of Plats, Page 25, Ingham County Records; also part of the "Plat of the Subdivision all that part of the Southeast quarter of Section 14 and part of Section 23 lying North of the Cedar River" according to the True Copy of the Original recorded June 13th, 1856; also part of the Southwest 1/4 of Section 13 and part of the Southeast 1/4 of Section 14, T4N, R2W, City of Lansing, Ingham County, Michigan, all being more particularly described as follows; Commencing at the West 1/4 corner of Section 13 also being the East 1/4 corner of Section 14, T4N, R2W; thence S00°33'40"W, 119.50 feet along the West line of Section 13 and the East line of Section 14 to the South line of Michigan Avenue and the North line of Lot 19 of Supervisor's Plat No. 1; thence S89°49'55"W, 1.85 feet along the South line of Michigan Avenue, to the Northwest corner of Supervisor's Plat No. 1; thence N89°51'10"W, 1279.97 feet along the South right-of-way line of Michigan Avenue to a point which is 24.75 feet East of the West line of the East 1/2 of the Southeast 1/4 of Section 14, according to the plat of Urbandale as recorded in Liber 4 of Plats, Page 49, Ingham County Records; thence S00°30'13"W, 608.40 feet along the East right-of-way line of Clippert Street and parallel with said West line; thence N89°26'11"E, 305.00 feet; thence S53°29'47"E, 224.96 feet to the Northerly floodway limit of the Red Cedar River and the Point of Beginning of following described parcel; thence along said floodway limit, the following thirty (30) courses:

- 1) N82°46'50"E, 89.82 feet;
- 2) East, 119.66 feet;
- 3) S87°08'16"E, 100.89 feet;
- 4) S86°42'58"E, 153.92 feet;
- 5) S84°12'26"E, 174.71 feet;
- 6) S84°40'04"E, 94.88 feet;
- 7) S81°25'50"E, 63.00 feet to the East line of Section 14;
- 8) continuing S81°25'50"E, 29.98 feet;
- 9) S80°18'41"E, 104.78 feet;
- 10) S83°02'49"E, 104.05 feet;
- 11) S78°22'00"E, 73.45 feet;
- 12) S77°32'06"E, 66.35 feet;
- 13) N88°21'50"E, 138.94 feet;
- 14) N86°19'27"E, 52.44 feet;
- 15) N82°06'51"E, 75.07 feet;

- 16) N84°50'08"E, 84.32 feet;
- 17) N86°37'02"E, 46.11 feet;
- 18) S86°48'53"E, 39.97 feet;
- 19) S73°17'40"E, 35.93 feet;
- 20) S57°44'47"E, 53.83 feet;
- 21) S65°20'26"E, 16.79 feet;
- 22) S57°32'05"E, 71.96 feet;
- 23) S60°47'42"E, 67.03 feet;
- 24) S61°25'31"E, 56.19 feet;
- 25) S70°25'57"E, 74.47 feet;
- 26) S64°01'30"E, 216.39 feet;
- 27) S65°03'09"E, 93.92 feet;
- 28) S55°43'09"E, 66.24 feet;
- 29) S56°47'13"E, 30.48 feet;
- 30) S46°10'15"E, 15.48 feet;

to the East line of East line of Supervisor's Plat No. 1; thence S00°16'54"E (platted as S01°09"E), 9.22 feet along the East line of Supervisor's Plat No. 1 to Intermediate Traverse Point "A", said Point being N00°16'54"W, 21 feet, more or less, from the water's edge of the Red Cedar River; thence along an Intermediate Traverse line of the Red Cedar River, the following 11 courses:

- 1) N58°27'06"W, 171.48 feet;
- 2) S81°37'23"W, 249.48 feet;
- 3) S66°28'57"W, 275.37 feet;
- 4) S45°05'12"W, 407.42 feet;
- 5) N77°13'57"W, 468.14 feet;
- 6) N12°52'47"E, 254.73 feet;
- 7) N41°46'43"W, 111.64 feet;
- 8) S73°22'30"W, 113.60 feet to the West line of Section 13 and the East line of Section 14,
- 9) S73°22'30"W, 156.18 feet;
- 10) S51°08'46"W, 249.04 feet;
- 11) N40°34'49"W, 269.03 feet

to Intermediate Traverse Point "B", said point being N00°30'13"E, 43.5 feet, more or less, from the water's edge of the Red Cedar River thence N00°30'13"E, 190.00 feet; thence N53°29'47"W, 340.04 feet to the Point of Beginning. Containing 19.90 acres, more or less, within the traverse area. Also includes that area between the Intermediate Traverse line and the water's edge of the Red Cedar River.

RESOLUTION 2019-_____
BY THE COMMITTEE OF THE WHOLE
RESOLVED BY THE CITY COUNCIL OF THE CITY OF LANSING

WHEREAS, the City Council of the City Lansing previously approved the sale of the former Red Cedar Golf Course containing approximately 32.29 acres of land pursuant to the Amended and Restated Real Estate Real Estate Purchase Agreement (the "Agreement"), in Resolution 2018-204, passed on July 23, 2018; and

WHEREAS, the Agreement was amended substantively by a First Amendment, which was also approved by City Council on July 23, 2018; and

WHEREAS, the closing date in the Agreement has been extended by the Second through Sixth Amendments; and

WHEREAS, a certain Seventh Amendment to the Agreement has been proposed that contains substantive changes to the consideration, duties and obligations of both parties, including: an increase in the purchase price, a removal of the cap on tax exempt bonding to be done by the Developer, a revision to the scope and physical layout of the project; and requires the consideration and approval of the City Council of the City of Lansing; and

WHEREAS, the Seventh Amendment to the Amended and Restated Real Estate Purchase And Development Agreement was placed on file with the Lansing City Clerk pursuant to Section 208.08 of the Codified Ordinances on February 25, 2019; and

WHEREAS, pursuant to Section 208.08 of the Codified Ordinances a duly noticed public hearing for consideration of the Seventh Amendment to the Amended and Restated Real Estate Purchase and Development Agreement was held on April 8, 2019; and

NOW, THEREFORE BE IT RESOLVED, that the Lansing City Council hereby approves the Seventh Amendment to the Amended and Restated Real Estate Purchase and Development Agreement for the Red Cedar Property, placed on file with the City Clerk on February 25, 2019.

BE IT FURTHER RESOLVED, that the Lansing City Council reaffirms its determination, based on testimony taken at the public hearings on this matter and the vote of the people, that the Red Cedar Property is no longer needed for public purposes.

BE IT FURTHER RESOLVED, that the Lansing City Council hereby authorizes the sale of approximately 35.57 acres of the former Red Cedar Park property to Continental/Ferguson Lansing, LLC, more fully described in Resolution 2018-204, passed on July 23, 2018, for the increased sum of Two Million Two Hundred Twenty One Thousand Six Hundred Seventy and 00/100 Dollars (\$2,221,670.00), pursuant to

the changes in consideration, duties, terms, conditions, and obligations contained in the Seventh Amendment to the Amended and Restated Real Estate Purchase Agreement.

BE IT FURTHER RESOLVED, that any net proceeds from the sale of the Property described herein will be handled as set forth in Resolution 2018-204, passed on July 23, 2018.

BE IT FINALLY RESOLVED, that the Mayor, on behalf of the City, is hereby authorized to sign and execute all documents necessary to effectuate the aforementioned transactions, subject to their prior approval as to content and form by the City Attorney.

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BY THE COMMITTEE OF THE WHOLE
RESOLVED BY THE CITY COUNCIL OF THE CITY OF LANSING

WHEREAS, the City of Lansing and Teamsters Local 214 Supervisory and Non-Supervisory Units have negotiated a collective bargaining agreement (the "CBA") for the period covering January 1, 2019 through December 31, 2020, which is summarized in the Tentative Agreement Document approved by the parties ("Tentative Agreement") and which contains the changes to the prior CBA; and

WHEREAS, the Union membership ratified this agreement on March 1, 2019; and

WHEREAS, the Mayor recommends the CBA, as summarized in the Tentative Agreement, be approved;

NOW, THEREFORE BE IT RESOLVED, that the City Council hereby ratifies the Tentative Agreement of the parties for the CBA between the City of Lansing and the Union, Teamsters Local 214 for the period covering January 1, 2019 through December 31, 2020.

Approved for placement on the City Council
Agenda:

Jim Smiertka, City Attorney

Date