

Pursuant to Public Act 254 of 2020 the DDA Board will conduct its March 30, 2021 meeting remotely.

To access the remote meeting visit:

<https://us02web.zoom.us/j/86125266718?pwd=dEFleEFldHlxQi9ocVVTZmZzMkxHQT09>
and enter password 391121, or visit zoom.us (Meeting ID 861 2526 6718)

DELHI CHARTER TOWNSHIP DOWNTOWN DEVELOPMENT AUTHORITY MEETING

Tuesday, March 30, 2021

7:00 p.m.

AGENDA

Call to Order

Roll Call (Board Members please indicate your current location by city and state)

Protocol for Comments from the Public during Virtual Meetings

To ensure the integrity and productiveness of the DDA Board meeting while using virtual/web meetings, the following guidelines will be followed: 1. All participants except the Board will be kept on mute until such time that public comments are appropriate; 2. Comments shall be limited to 90 seconds; 3. To comment on an agenda item during that item, select the "raise hand" feature located on your Zoom screen. The moderator will announce you by name and then unmute you. You will have 90 seconds to speak only on that agenda item before being placed back on mute; 4. General Comments will be limited to the end of the meeting only. To make a general comment, select the "raise hand" feature located on your Zoom screen. The moderator will unmute you when it is your turn to comment. You will have 90 seconds to speak on any DDA related matter before being placed on mute again.

These guidelines are established to ensure virtual meetings run smoothly and without unnecessary interruption. Any participant found to be disruptive or using inappropriate language or material will be removed from the meeting immediately.

Set/Adjust Agenda

Approval of Minutes: Regular Meeting of January 26, 2021

Presentation: Scott Gillespie, The Gillespie Company
Esker Square

Business

1. Resolution No. 2021-002: Fourth Amendment to Transfer/Development Agreement – Esker Square
2. Resolution No. 2021-003: Sale of Real Property Located at 4063 Keller Road
3. Bid Award – Delhi Trails Asphalt Rehabilitation
4. Back to Business Program Update

Late Agenda Item

5.

Reports

6. Executive Director
7. Deputy Director
8. Marketing Committee
9. Planning Commission
10. Supervisor
11. Treasurer
12. Members

Limited Comments

Please see "Protocol for Comments from the Public during Virtual Meetings" at beginning of the Agenda for instructions on how to make a general comment.

Adjournment

**DELHI CHARTER TOWNSHIP
DOWNTOWN DEVELOPMENT AUTHORITY BOARD
MINUTES OF REGULAR MEETING HELD ON JANUARY 26, 2021**

The Downtown Development Authority, pursuant to Public Act 254 of 2020, conducted its regular Tuesday, January 26, 2021 meeting remotely. Chairperson Leighton called the meeting to order at 7:00 p.m.

MEMBERS PRESENT: Harry Ammon (Mesa, AZ), Rick Brown (Holt, MI), Rita Craig (Holt, MI), Tim Fauser (Holt, MI), John Hayhoe (Holt, MI), David Leighton (Mason, MI), Steven L. Marvin (Lansing, MI), Nanette Miller (Lansing, MI), Sally Rae (Holt, MI)

MEMBERS ABSENT: None

OTHERS PRESENT: C. Howard Haas, DDA Executive Director, Lori Underhill, DDA Deputy Director

Delhi Township IT Director, Tristan Knowlton, read the Protocol for Comments from the Public during Virtual Meetings to the audience.

SET/ADJUST AGENDA There were no adjustments to the agenda.

APPROVAL OF MINUTES

Fauser moved, Craig supported, to approve the regular meeting minutes of November 24, 2020.

A Roll Call Vote was recorded as follows:

Ayes: Ammon, Brown, Craig, Fauser, Hayhoe, Leighton, Marvin, Miller, Rae

Absent: None

MOTION CARRIED

Craig moved, Ammon supported, to approve the regular Brownfield meeting minutes of November 24, 2000.

A Roll Call Vote was recorded as follows:

Ayes: Ammon, Brown, Craig, Fauser, Hayhoe, Leighton, Marvin, Miller, Rae

Absent: None

MOTION CARRIED

BUSINESS

NOMINATION AND ELECTION OF 2021 DDA BOARD OFFICERS

Hayhoe moved, Ammon supported, to nominate the following as DDA officers for the calendar year 2021: Chairperson – David Leighton; Vice Chairperson – Tim Fauser; Secretary – Nanette Miller; Treasurer – Sally Rae

A Roll Call Vote was recorded as follows:

SUBJECT TO APPROVAL

**DELHI CHARTER TOWNSHIP
DOWNTOWN DEVELOPMENT AUTHORITY BOARD
MINUTES OF REGULAR MEETING HELD ON JANUARY 26, 2021**

Ayes: Ammon, Brown, Craig, Fauser, Hayhoe, Leighton, Marvin, Miller, Rae
Absent: None

MOTION CARRIED

2176 CEDAR STREET PARKING LOT – BID RECOMMENDATION AND AWARD

Ammon moved, Craig supported, to award the bid for the Municipal Parking Lot located at 2176 Cedar Street to Rieth-Riley Construction Co., Inc. in the amount of \$50,995.25 and authorize Executive Director Haas to execute the contract documents.

Todd Sneathen, Hubbell, Roth & Clark, Inc. reported that a virtual bid opening was held on January 14, 2021 and seven (7) bids were received for the project. Three of the bids were within \$390 of each other. Rieth-Riley Construction Co., Inc. was the low bidder and has worked on Township projects in the past. Work will likely begin in March. Storm sewer work represents a large portion of the project.

A Roll Call Vote was recorded as follows:

Ayes: Ammon, Brown, Craig, Fauser, Hayhoe, Leighton, Marvin, Miller, Rae
Absent: None

MOTION CARRIED

DELHI TRAILS ASPHALT REHABILITATION UPDATE

Todd Sneathen, Hubbell, Roth & Clark, Inc. informed the Board that a bid opening was attempted on January 14, 2021, but only one bid was received and it was received late. HRC will reach out to contractors to solicit additional bids and will break down the project into repair work and replacement work. If necessary, the bids will be brought before the Board at the regular meeting in March.

BACK TO BUSINESS PROGRAM UPDATE

Jeff Blohm, Blohm Creative Partners, reported that 66 businesses have completed their campaigns for Phase I of the program at a total cost of \$159,181. For Phase II, 36 businesses have enrolled, representing approximately \$90,000 in costs. 25 of them are repeats from Phase I. This cross section of 77 unique businesses represents approximately 23% of all Township businesses. Joel Beeker, Blohm Creative Partners, shared that business owners are extremely grateful to have this opportunity.

Chairperson Leighton asked what sort of follow up data is shared with the business upon completion of the program. Mr. Blohm responded that each business is supplied with detailed metrics for their campaign. Many businesses are learning a new skill in digital marketing that will benefit them in the future.

**DELHI CHARTER TOWNSHIP
DOWNTOWN DEVELOPMENT AUTHORITY BOARD
MINUTES OF REGULAR MEETING HELD ON JANUARY 26, 2021**

RESOLUTION NO. 2021-001: SALE OF REAL PROPERTY LOCATED AT 2064 CEDAR STREET

Fauser moved, Craig supported, to adopt Resolution No. 2021-001, a resolution for the sale of real property located at 2064 Cedar Street within the Charter Township of Delhi, Ingham County, Michigan to Fast Properties, LLC, Amanda Goodman, Joshua T. Goodman, Kristin Johnson and David Duane Johnson (collectively, the “Purchasers”) and direct Executive Director Haas and/or Deputy Director Underhill to execute the closing documents.

DDA Attorney Gordon Van Wieren, Thrun Law Firm, P.C. reviewed the resolution and attached purchase agreement documents including the Transfer of Liability as this is a contaminated property. The terms of the Land Contract sale: \$90,000 purchase price with \$5,000 down due at closing, monthly payments of \$6,300 per month for 18 months at 4% interest until the Land Contract is paid in full.

A Roll Call Vote was recorded as follows:

Ayes: Ammon, Brown, Craig, Fauser, Hayhoe, Leighton, Marvin, Miller, Rae

Absent: None

MOTION CARRIED

REPORTS

Executive Director

Mr. Haas spoke with a potential small industrial user interested in purchasing DDA owned properties at 4063 Keller Road and 2150 Depot Street. There are multiple potential users for the former tattoo parlor at 2176 Cedar Street. The contractor is having difficulty finding subcontractors to complete the necessary work for the building rehabilitation. Attorneys representing the owner and former user of property on Holloway Drive adjacent to the now contaminated drainage pond are finally moving forward to conduct their own environmental investigation. Mr. Haas will hold weekly conference calls with the developer of Esker Square to ensure that vertical construction begins in a timely manner.

Deputy Director

Ms. Underhill reported that Township buildings reopened to the public as of January 19, 2021. The Farmers Market has seen a large reduction in token sales due to the largest vendor, Otto's Chicken, procuring their own credit card processing. The Market continues to be open every Saturday from 9:00 – 2:00. All of the electric vehicle charging stations will now be placed on Township property behind the Community Services Center building. Public Act 254 of 2020 allows for remote board meetings to be held through the end of March, 2021.

Advertising & Marketing Committee

Mr. Leighton reported that the Committee discussed using the Spring 2021 issue of Our Town as an electronic directory of all businesses in the Township, the Back to Business Program continuation, and the various assets of the DDA Value Project at its meeting this afternoon.

SUBJECT TO APPROVAL

**DELHI CHARTER TOWNSHIP
DOWNTOWN DEVELOPMENT AUTHORITY BOARD
MINUTES OF REGULAR MEETING HELD ON JANUARY 26, 2021**

Planning Commission

Ms. Craig reported that the Planning Commission discussed a reduction in units in the 2nd phase of the Wooded Valley development on Willoughby Road, allowing for more open space.

Supervisor

Township Supervisor Hayhoe reported that the Holt Alliance conducted a grand opening ribbon cutting event at Dog Play & Stay Resort. Several businesses closed during 2020, but many new businesses opened. \$20,000 grants from Lansing Economic Area Partnership were awarded to a gym and a daycare facility in Delhi Township. A grand opening event for the new Redwood Development on Cedar Street is forthcoming. There will not be a Holt Education Foundation dinner event this year. The Rotary event normally held at Texas Roadhouse will not take place this year.

Treasurer

Ms. Rae reported the total cash and investments as of November 30, 2020 was \$5,102,384. Budget amendments for 2020 for the DDA and Brownfield funds were included in the packet.

Members

None.

Limited Comments

None.

ADJOURNMENT

Ammon moved, Marvin supported to adjourn the meeting.

A Roll Call Vote was recorded as follows:

Ayes: Ammon, Brown, Craig, Fauser, Hayhoe, Leighton, Marvin, Miller, Rae

Absent: None

MOTION CARRIED

The meeting was adjourned at 7:46 p.m.

Nanette Miller, Secretary

/lau

SUBJECT TO APPROVAL



**DELHI CHARTER TOWNSHIP
DOWNTOWN DEVELOPMENT AUTHORITY**

4410 HOLT ROAD, HOLT, MI 48842

TELEPHONE (517) 699-3866

FACSIMILE (517) 699-3878

www.delhidda.com

March 25, 2021

To: DDA Board Members

From: C. Howard Haas, Executive Director

Re: Fourth Amendment to Transfer/Development Agreement – Esker Square

On August 30, 2017, the DDA entered into a Transfer/Development Agreement with 2000 Cedar, LLC for the property known as Esker Square. This Agreement was subsequently amended on February 21, 2018 (sanitary sewer construction), May 28, 2019 (extension of the dates for commencement of Phase I and II of the project), and September 24, 2020 (COVID-19 pandemic and resulting statewide shut-down). Regular discussions with the developer have yielded the need to further amend our agreement. Counsel for the DDA the developer has prepared this resolution and fourth amendment which includes a financing commitment and construction contract. I have attached the original Agreement and all subsequent amendments to this memorandum for your review.

I have also included an article from MLive.com from January of this year that discusses Grand Rapids and their approval of ground-floor residential units in commercial buildings in the city. A photo rendering of the potential floor layout and building elevation for Esker Square is enclosed.

I therefore offer the following motion:

RECOMMENDED MOTION:

I move to adopt Resolution No. 2021-002, a resolution for Fourth Amendment to Transfer/Development Agreement between Delhi Township Downtown Development Authority and 2000 Cedar, LLC.

**DELHI CHARTER TOWNSHIP
DOWNTOWN DEVELOPMENT AUTHORITY**

RESOLUTION NO. 2021-002

**A RESOLUTION FOR FOURTH AMENDMENT TO TRANSFER/DEVELOPMENT
AGREEMENT BETWEEN DELHI TOWNSHIP DOWNTOWN
DEVELOPMENT AUTHORITY AND 2000 CEDAR, LLC**

At a regular meeting of the Delhi Charter Township Downtown Development Authority Board of Trustees (the "Board") was held electronically through Zoom with identification number 861 2526 6718, on the 30th day of March, 2021 at 7:00 p.m.

PRESENT:

ABSENT:

The following Preamble and Resolution were offered by _____ and supported by _____.

WHEREAS, the Delhi Charter Township Downtown Development Authority (the "Delhi DDA") entered into a Transfer/Development Agreement with 2000 Cedar, LLC (the "Developer") on August 30, 2017 (the "Agreement"); and

WHEREAS, the DDA and the Developer entered into a First Amendment to the Transfer/Development Agreement on February 21, 2018 (the "First Amendment"), a Second Amendment to the Transfer/Development Agreement on May 28, 2019 (the "Second Amendment") and a Third Amendment to the Transfer/Development Agreement dated September 24, 2020 (the "Third Amendment"); and

WHEREAS, the DDA and the Developer desire to amend the Agreement, First Amendment, Second Amendment and Third Amendment upon the terms and conditions contained in a Fourth Amendment to Transfer/Development Agreement (the "Fourth

Amendment”), a copy of which is attached hereto and made a part hereof as Exhibit “A”;
and

WHEREAS, the Board has determined that it would be in the best interests of the Delhi DDA to enter into the Fourth Amendment with the Developer; and

WHEREAS, the Board desires to authorize and direct C. Howard Haas, the Executive Director of the Delhi DDA, or his designee, to execute the Fourth Amendment substantially in the form as Exhibit “A” and to make any revisions to the Fourth Amendment not inconsistent with this resolution, subject to review and approval by the Delhi DDA’s legal counsel.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Board authorizes and directs C. Howard Haas, the Executive Director of the Delhi DDA, or his designee, to execute the Fourth Amendment substantially in the form as Exhibit “A” and to make any revisions to the Fourth Amendment not inconsistent with this resolution, subject to review and approval by the Delhi DDA’s legal counsel.

2. All resolutions and parts of resolutions insofar as the conflict with the provisions of this resolution be and the same are hereby rescinded.

AYES:

NAYS:

ABSENT:

This Resolution is declared adopted this _____ day of _____, 2021.

Nanette Miller, Secretary

Exhibit “A”

FOURTH AMENDMENT TO TRANSFER/DEVELOPMENT AGREEMENT

This Fourth Amendment to Transfer/Development Agreement (hereinafter referred to as the “Fourth Amendment”) is made this ____ day of March, 2021 (the “Effective Date”), by and between Delhi Township Downtown Development Authority, a Michigan downtown development authority organized and operating under the Downtown Development Authority Act, MCL 125.1651, *et seq.*, as amended, whose address is 4410 Holt Road, Holt, Michigan 48842 (the “DDA”) and 2000 Cedar, LLC, a Michigan limited liability company, whose address is 329 South Washington Square, Suite 1, Lansing, Michigan 48933 (the “Developer”). With their respective signatures, the parties to this Fourth Amendment voluntarily bind themselves to the covenants contained herein, which covenants establish the mutual consideration for this Fourth Amendment.

WHEREAS, the DDA and the Developer entered into a Transfer/Development Agreement (hereinafter referred to as the “Agreement”) dated August 30, 2017; and

WHEREAS, the DDA and the Developer entered into a First Amendment to Transfer/Development Agreement dated February 21, 2018 (the “First Amendment”); and

WHEREAS, the DDA and the Developer entered into a Second Amendment to Transfer/Development Agreement dated May 28, 2019 (the “Second Amendment”); and

WHEREAS, the DDA and the Developer entered into a Third Amendment to Transfer/Development Agreement dated September 24, 2020 (the “Third Amendment”); and

WHEREAS, the DDA and the Developer desire to amend the Agreement, First Amendment, Second Amendment and Third Amendment upon the terms and conditions contained in this Fourth Amendment; and

WHEREAS, the consideration contained in the Agreement, First Amendment, Second Amendment and Third Amendment forms the basis for this Fourth Amendment; and

WHEREAS, except as amended by this Fourth Amendment, the remaining terms and conditions of the Agreement, First Amendment, Second Amendment and Third Amendment shall remain in full force and effect:

1. **Purpose.** The purposes of this Fourth Amendment are (a) to extend the dates for commencement of construction of Phases I and II of the Project; (b) to confirm the Developer has (i) obtained financing; and (ii) an agreement with a general contractor to commence Phase I; and (c) for the Developer and the DDA to exercise its “best efforts” to timely comply with any requests for the extension of the brownfield plan, including the brownfield grant, and to obtain planning commission and other approvals for Phase I, as modified. Also, the parties desire to specifically define what is required for commencement of vertical construction and to establish safety protocols and procedures for performance.

2. **Development.** Paragraph IX of the Agreement is hereby deleted in its entirety and the following is inserted:

IX. Development. DDA and Developer agree that the Property was transferred to Developer subject to Developer's construction of the Project. The Project is defined as the redevelopment of the 2.14 acre parcel of real property located within the Charter Township of Delhi, Ingham County, Michigan, and legally described in Exhibit A, attached to the Agreement. The Project shall consist of the two-phase construction of two (2) three (3) story buildings with residential and at Developer's option office/commercial use on the first floor and with up to Forty-five (45) residential units each as ultimately approved by the Township. It is understood and agreed that Developer shall commence vertical construction of Phase I no later than September 1, 2021 and end approximately twelve (12) months thereafter. The Project time frame for Phase II shall be subject to market conditions, but it is estimated that Developer will commence construction on or about August 1, 2022 and end approximately twelve (12) months thereafter. Subsequent to conveyance of the Property to Developer and until construction of the Project has been completed, Developer shall make the reports in such detail and at such times as may reasonably be requested by the DDA as to the actual progress of Developer with respect to the construction of the Project. The Developer has provided to the DDA a commitment from a lender approved by the DDA which provides for the total amount of funds that is necessary to complete Phase I and a fully executed and binding agreement with a general contractor to commence Phase I on or before September 1, 2021, copies of which are attached hereto and made part hereof as Attachments "1" and "2". In addition, the Developer and the DDA shall exercise their "best efforts" to timely comply with any requirements necessary for the extension of the brownfield plan, including the brownfield grant, and to obtain planning commission and other approvals for Phase I, as modified. Notwithstanding the above, it is agreed that in the event Developer does not commence vertical construction of the first three (3) story building, on or before September 1, 2021 or is given written notice by the DDA that the Developer is in breach of any requirements of this Paragraph IX (through no fault of the DDA, Charter Township of Delhi or Ingham County or in the event of force majeure), then within three (3) days the Developer shall provide a Warranty Deed to the East Lansing, Michigan, office of Transnation Title Insurance Company, which Warranty Deed transfers the Property to the DDA free from any mortgages or other encumbrances. Transnation shall hold the Warranty Deed in escrow for a period of thirty (30) days. During this thirty (30) day period if Developer commences vertical construction of Phase I and cures all breach(es) of this Paragraph IX, the parties shall provide written notice to Transnation Title Insurance Company that the Warranty Deed shall be destroyed. If Developer does not commence vertical construction of Phase I or fails to cure all breach(es) of this Paragraph IX within this thirty (30) day period or at the end of the thirty (30) day period, the Warranty Deed

shall be released to the DDA. During this thirty (30) day period, the DDA, at its expense, may perform Phase I and Phase II Assessments, a Baseline Environmental Assessment, or other due diligence as it decides is prudent. If the Warranty Deed is released to the DDA, this Agreement shall be of no further effect and neither party shall have any further obligation or liability to the other (except for such provisions that otherwise survive under this Agreement and for such other cooperation necessary for the Charter Township of Delhi's Brownfield Redevelopment Authority to properly administer, amend or terminate an existing brownfield plan, brownfield reimbursement agreement and the MDEQ brownfield grant contract). As used in this Paragraph IX, the phrase "commence vertical construction" shall mean that the first floor walls shall be in the process of being physically attached to the foundation.

3. Force Majeure. Developer shall not be deemed to be in breach, default or otherwise responsible for delays or failures in performance resulting from acts of God, acts of war or civil disturbance, governmental action or inaction, earthquakes, unavailability of labor, materials, power or communication, delays caused by the discovery of any unknown environmental condition, or other causes beyond Developer's control.

4. Safety Measures. During the Project, the Developer shall comply with generally accepted safety protocols for this type of construction work.

5. Miscellaneous.

(a) Except as specifically modified by this Fourth Amendment, the Agreement, First Amendment, Second Amendment and Third Amendment shall continue in full force and effect and is hereby ratified and confirmed by this Fourth Amendment.

(b) This Fourth Amendment shall be construed, interpreted, and enforced under the laws of the State of Michigan.

(c) This Fourth Amendment shall be binding upon and shall inure to the benefit of the parties and their respective permitted successors and assigns.

(d) All capitalized terms not defined in this Fourth Amendment shall have the same meaning as in the Agreement, First Amendment, Second Amendment and Third Amendment.

(e) In the event of any conflict between the terms of this Fourth Amendment and the terms of the Agreement, First Amendment, Second Amendment and Third Amendment, the terms of this Fourth Amendment shall govern and control.

(f) This Fourth Amendment may be executed in separate counterparts, including electronic and facsimile copies, each of which shall be deemed an original, all of which counterparts shall constitute one in the same Fourth Amendment.

WITNESSES TO DDA:

DDA:

**Delhi Township Downtown Development
Authority, a Michigan downtown
development authority**

By: _____

Lori Underhill

Its: Deputy Director

Date: _____, 2021

WITNESSES TO DEVELOPER:

DEVELOPER:

**2000 Cedar, LLC, a Michigan limited
liability company**

By: The Gillespie Company, LLC,
a Michigan limited liability company

Its: Manager

By: Scott P. Gillespie Trust u/a/d 9/09/04

Its: Member

By: _____

Scott P. Gillespie

Its: Trustee

Date: _____, 2021

Attachment “1”



Conditional Commitment Letter

March 18, 2021

2000 Cedar LLC c/o
The Gillespie Company
329 S Washington Sq, suite 1
Lansing, MI 48933

Dear Scott Gillespie,

2000 Cedar LLC, the (“borrower”) has requested a credit facility (the “Facility”) in the aggregate principal amount of up to \$[REDACTED] (the “Conditional Commitment”). Michigan State University Federal Credit Union (Lender) is pleased to commit to make a loan to the Borrower in the amount of the Aggregate Commitment on the terms and subject to the conditions set forth herein for a loan pursuant to the following terms and conditions:

BORROWERS	2000 Cedar LLC
GUARANTOR(S)	Scott Gillespie. Additional guarantors may be required for this loan request
AMOUNT	Not to exceed \$[REDACTED]
USE OF PROCEEDS	Commercial Real Estate Construction loan to provide funds for the construction of the multi-family apartment complex located at 2030 Cedar St, Holt MI 48842 and any additional project parcel(s) as required.
INTEREST RATE	<u>Construction Phase:</u> Variable at Wall Street Journal Prime plus 1.00% (currently 4.25 %, as of today’s date). <u>Term Out Phase</u> Five (5) year term, Twenty Five (25) year amortization; Fixed rate set at the 5 Year Treasury + 3.41 (Current rate 4.25%) or Seven (7) year term, Twenty Five (25) year amortization; Fixed rate set at the 7 Year Treasury + 3.22 (Current rate 4.50%)

3777 West Road | PO Box 1208 | East Lansing, MI | 48826-1208 | 517-333-2424 | 800-678-4968 | msufcu.org

Mission: To provide superior service while assisting members and employees to achieve financial security, their goals, and ultimately, their dreams.



- The rate will be fixed 5 business days prior to the end of the interest only period.

TERM AND REPAYMENT

Construction Phase:

24-month Construction period. Monthly payments of all accrued interest due as of each payment date with all subsequent interest payments to be due on the same day of each month after that.

Term Out Phase:

60 month or 84 months depending on loan term selected from the date of the promissory note.

COLLATERAL

1st Commercial Real Estate Mortgage on the building located at 2030 Cedar St, Holt MI 48842 and additional parcels to be determined

LOAN TO VALUE

Loan amount shall not exceed 80% the lesser of cost or appraised value of the collateral

LOAN FEE

Borrowers shall pay a non-refundable construction loan servicing fee of \$15,000 which shall be due with the signed acceptance of this commitment letter.

COSTS

Borrowers shall pay all direct costs incurred by Lender related to the loan, including but not limited to the title insurance premium, recording fees, flood determination, etc.

LOAN AGREEMENT CONDITIONS

2000 Cedar LLC shall provide to Lender annually a federal tax return and an annual company prepared financial statement, in accordance with GAAP, upon request.

Unlimited, unsecured personal guarantee of Scott Gillespie and additional guarantors to be named.

Scott Gillespie and any additional guarantors to be named shall provide to Lender annually a personal financial statement and a professionally prepared federal tax return, upon request.

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Attachment "2"

CONSTRUCTION CONTRACT

THIS CONSTRUCTION CONTRACT made this 23 day of February, 2021, by and between Gordon Construction Services, Inc., a Michigan corporation (the "Contractor"), whose address is 2929 Covington Court, Lansing, Michigan, 48912 and 2000 Cedar, LLC (the "Owner"), whose address is 329 S Washington, Ste 1, Lansing, Michigan 48933.

ARTICLE 1 - PROJECT

Section 1.1 Identification of Project. The Owner desires the Contractor to manage the construction of a 3 story apartment/commercial-space building, named Esker Square to be located on certain real property owned by the Owner and more particularly described on Exhibit A to this Contract, with a common street address of: Cedar Street, Holt, MI 48842(the "Project"). The Owner warrants to the Contractor that it has lawful title to the real property on which the Project is or is to be located, and has provided or will promptly provide the Contractor with a survey of the property on which the Project is to be located, current title work, and copies of any easements or rights-of-way and building and use restrictions affecting the construction of the Project.

Section 1.2 Enumeration of Contract Documents. The Contract Documents will consist of this Contract and the drawings identified in Exhibit B to this Contract (the "Drawings") and the specifications identified in Exhibit C to this Contract (the "Specifications"), both of which were prepared by ASL (the "Architect") Project Number NA , titled Esker Square, dated TBD, and any Addenda issued by the Architect and other Modifications issued after execution of this Contract. Owner fully understands that Contractor is not a licensed architect, engineer or design professional and therefore, Contractor cannot be liable for any work including but not limited to drawings and specifications performed or created by the architect, engineer or design professional. A Modification to this Contract is (1) a written amendment to this Contract signed by both parties, (2) a Change Order signed by both parties, (3) any minor change deemed necessary by the Contractor during construction, so long as the change does not substantially alter the cost or design of the Project, or (4) a written order for a minor change in the Work (as defined in Section 1.3) issued by the Architect. Other documents forming a part of the Contract Documents are: Exhibit D - GCS inclusions/exclusions summary, Exhibit E – GCS Hourly Rates breakdown, and Exhibit F – Budget Summary.

Section 1.3 The Work and Its Scope. The Contractor agrees to provide the materials as specified in the specifications and to perform all the work shown on the plans and to do everything required by the Contract Documents, whether completed or partially completed (the "Work"). The Work may constitute the whole or a part of the Project. Included in and as part of the Work, the Contractor will provide all labor, materials, tools, equipment and professional and non-professional services, and will perform all other acts and supply other things necessary to complete the Project.

ARTICLE 2 - TIME

Section 2.1 Date of Commencement. The Contractor will begin Work within Thirty (30) days after the latest of (1) the Owner closes on construction financing adequate to complete the Project, (2) the construction lender's mortgage and a notice of commencement have been recorded and posted as on the Project site, (3) all necessary building, demolition and other permits necessary to the

(2) Not more than once a month, the Contractor will submit an Application For Payment based on the percentage of the Work that has been completed, including the estimated value of the labor and materials incorporated into the Work, any materials suitably stored on site, and a percentage of the Contractor's overhead, general requirements and profit; and

(3) The balance of the Contract Sum, less any amounts agreed to be withheld for items that cannot be completed due to weather or other conditions, will be paid upon Substantial Completion or upon the issuance of a temporary certificate occupancy, whichever occurs first. Any amounts agreed to be withheld shall be paid to the Contractor within fifteen (15) days of notice from the Contractor that the incomplete Work has been completed.

For purposes of payment under this Section, when applicable, the percentage of completion shall be agreed upon by the Owner and Contractor or any other inspector agreed to by the parties.

Section 4.2 Applications for Payment. Payments will be made within thirty (30) days after receipt by the Owner of the Contractor's signed Application for Payment, but not more than once per month unless permitted by the Owner's construction lender, using a form of Application satisfactory to the Contractor and the Owner. Along with such Application the Contractor will supply a sworn statement that complies with Michigan law, and such lien waivers as may be required by the Owner, the construction lender or the title company. Any amounts due and owing for more than thirty (30) days after receipt by the Owner of the Application for Payment will bear interest from the date payment is due until paid at the rate of 6% per annum, computed on a daily basis.

Section 4.3 Substantial Completion. Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended purpose, whether or not any punch-list items are outstanding. Warranties required by the Contract Documents will commence on the date of Substantial Completion of the Work or designated portion thereof, and all utilities, site security and insurance will become the responsibility of the Owner.

Section 4.4 Final Payment; Waiver. Upon Substantial Completion of the Work, including any incomplete items for which payment has been withheld under Section 4.1(3) above, the Contractor will submit a final Application for Payment, along with a final sworn statement and any final lien waivers not already provided. The Owner's final payment to the Contractor will be made no later than ten (10) days after submission of the Contractor's final Application for Payment. The making of the final payment to the Contractor will constitute a waiver of all claims by the Owner except those arising from unsettled liens or faulty or defective Work discovered after final completion.

Section 4.5 Title to the Work. The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. Risk of loss will remain with the Contractor until the date of payment, except to the extent covered by the Owner's property or builder's risk insurance.

Section 4.6 Representation of Progress. The submission of an Application for Payment will constitute a representation by the Contractor that the Work has progressed to the point indicated and that, to the knowledge, information and belief of the Contractor, that the quality of the Work is substantially in accordance with the Contract Documents.

ARTICLE 5 - CONTRACTOR

Section 5.1 Contractor's Obligations.

5.1.1 Before starting each segment of the Work, the Contractor will carefully study the Contract Documents and any information provided by the Owner or its subcontractors, and shall observe any conditions at the site that may affect the Work. This obligation is for the purpose of facilitating construction by the Contractor and is not for the purpose of discovering errors, omissions or inconsistencies in the Contract Documents; however, the Contractor will promptly report any errors, omissions or inconsistencies that it discovers to the Owner and the Architect (if any). The Contractor's review of the foregoing is made in the Contractor's capacity as a contractor and not as a licensed design professional.

5.1.2 The Contractor will supervise and direct the Work, using the Contractor's best skill and attention. The Contractor will be solely responsible for and have control over construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under the Contract, unless the Contract Documents give specific instructions concerning any portion of the Work. The Contractor will be responsible for jobsite safety for the Owner and its own employees and subcontractors, but cannot be responsible for the safety of any other parties that may visit the jobsite without the knowledge and consent of the Contractor.

5.1.3 The Contractor will deliver, handle, store and install materials in accordance with the manufacturers' instructions. Copies of all product warranties will be provided to the Owner. The Contractor may make substitution of materials only by written change order signed by the Owner and/or the Architect.

5.1.4 The Contractor will be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.

5.1.5 The Contractor will keep the Project and surrounding area reasonably free from accumulation of waste materials or rubbish caused by the Work. At completion of the Work, the Contractor will remove from and about the Project all waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials.

5.1.6 The Contractor will comply with and give notices required by all applicable laws, ordinances, and building codes. The Contractor will promptly notify the Owner or the Architect (if any) if the Drawings and Specifications are observed by the Contractor to be not in compliance with applicable laws, ordinances or building codes to the best of Contractor's ability as the Contractor is not a licensed design professional and shall not be liable or responsible for the same.

Section 5.2 Contractor's Warranties.

5.2.1 The Contractor is a Michigan corporation in good standing.

5.2.2 The Contractor warrants that all materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's obligation to correct defective Work excludes any damage or defect due to abuse, modifications not executed by the Contractor, flaws, defects or omissions in the Contract Documents prepared by the Architect or the design improper or insufficient maintenance, improper operation or normal wear and tear and normal usage.

5.2.3 The Contractor acknowledges that it has visited the Project site, become generally familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

ARTICLE 6 - OWNER

Section 6.1 Owner's Obligations.

6.1.1 The Owner will provide the Contractor with a detailed survey of the Project site and current title work showing existing easements, utilities and rights-of-way, and such other information and reports as are needed to properly carry out or complete the Work. Information or services under the Owner's control will be furnished by the Owner to the Contractor with reasonable promptness to avoid delay in the orderly progress of the Work. The Contractor will be entitled to rely on the accuracy of information and reports provided by the Owner.

6.1.2 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, the Owner will secure and pay for all zoning and planning approvals, plan review fees, easements, assessments and charges required for the construction, use or occupancy of the Project.

6.1.3 The Owner will not interfere in the Contractor's supervision of Work on the site by giving any instructions to the Contractor's subcontractors or suppliers, nor will the Owner negotiate for additions to the Work with the Contractor's subcontractors or suppliers or engage other subcontractors without the Contractor's consent. All of the Owner's communications pertaining to the Work will be made only through the Contractor's designated representative(s): Scott Gillespie.

6.1.4 If the Owner contracts with any other party for the performance of any construction or the supplying of any materials at the Project, the Owner will promptly notify the Contractor of this and will identify the contractors and/or suppliers who will be providing work or materials to the Project. The Owner will be responsible to the Contractor for any costs incurred by the Contractor because of delays, improperly timed activities, damage to the Work, or defective construction or materials provided by a separate contractor or supplier. If the Owner or the separate subcontractor or supplier does not repair any damage caused or correct any defective construction or materials, then the Contractor may effect such repair or correction and the Owner will reimburse the Contractor for the expense.

ARTICLE 7 - CHANGES IN THE WORK

Section 7.1 Changes in the Work; Change Orders. During the course of the actual construction of the Project, the Owner or the Architect may order extra work or changes in the Drawings and Specifications. All requests for change must be made to the Contractor a MINIMUM OF TWO (2) WEEKS prior to any scheduled performance by that trade. Adjustments in the Contract Sum or Contract Time from changes in the Work will be determined by the mutual agreement of the parties. Except for minor changes in the Work pursuant to field order issued by the Contractor or the Architect, no extra work shall be done unless first authorized in writing by the Owner and the Contractor on the Contractor's Change Order form specifying the change to the Drawings and Specifications and any increase or decrease, if necessary, in the Contract Sum or Contract Time. Absolutely no changes will be made until the Change Order is signed and payment of any increase in the Contract Sum is received or an acceptable arrangement for payment is made (including use of Contingency Fund).

Section 7.2 Modifications Required By Governing Bodies. Any modifications to the Drawings and Specifications or other additions required by local governing bodies or subdivisions in connection with their approval of the construction of the Project or any part of the Work will be addressed by written Change Order, the cost of which will be borne by the Owner and reflected in an adjustment to the Contract Sum and, if necessary, the Contract Time.

ARTICLE 8 - UNFORESEEN CONDITIONS

Section 8.1 Force Majeure. It is agreed that the completion of the work covered in this Contract is contingent upon weather conditions, strikes, lockouts, delay of common carriers, laws of government regulations or any other circumstances or conditions beyond the control of the Contractor. If the Contractor is delayed in the commencement or progress of the Work by Changes ordered in the Work, by labor disputes, fire, vandalism, unusual delay in deliveries, abnormal weather conditions not reasonably anticipated, acts of terrorism, unavoidable casualties, any acts or omissions of the Owner, or any other cause beyond the Contractor's control that cannot be avoided by the exercise of reasonable diligence, then the Contract Time will be extended by Change Order for such time as the Contractor reasonably determines necessary, subject to the provision of Article 10 (Claims and Disputes).

Section 8.2 Abnormal Building Site: Undiscovered Subsurface Conditions. If unsuitable foundation-bearing soils or subsurface conditions are encountered, the Owner agrees to be responsible for the additional cost or expense of remedying the conditions to the extent necessary to continue progress with the Work.

ARTICLE 9 - CORRECTION OF WORK

9.1 Obligation to Correct. The Contractor warrants that the Project will be free from defects and deficiencies in the Work (not including any and all work done by the engineer(s), architect(s) or other professional whom is licensed to perform such Work which the Contractor is not licensed to do) and any materials incorporated into the Work for one (1) year (or such longer period as may be provided under the terms of any special warranty required by the Contract Documents) from the date of Substantial Completion. The Contractor will, within a reasonable time after receiving notice from the Owner that Work or any materials incorporated into the Work are defective, deficient, or failing to conform to the Contract Documents, correct such defects, deficiencies or unconformities. These obligations will survive termination of this Contract. The Owner will give any such notice promptly after discovery of the condition.

9.2 Damage to Owner's Other Work. If, in fulfilling its obligation to correct the Work, the Contractor is required to disturb or damage any improvements installed by a separate contractor hired by the Owner, the Contractor will not be responsible for restoring the separately installed improvements to their original condition after completion of the corrective Work. The Contractor agrees that it will exercise all proper care in performing any corrective Work so as to minimize any disturbance or damage.

9.3 Warranties. The Contractor does not warrant any appliances or other completed products installed in the Project such as furnaces, stoves, hot water heaters, etc., or any work done or materials supplied by a separate contractor or supplier hired by the Owner. The Contractor will provide the Owner with copies of all manufacturers' warranties provided for any materials incorporated into or products installed in the Project. The Contractor does not warrant any work performed by any licensed professional which was hired to perform work at or for the Project which includes but is not limited to drawings/specifications of the architect or engineer.

ARTICLE 10 - CLAIMS AND DISPUTES

Section 10.1 Claims and Disputes. Claims, disputes and other matters in question arising out of or relating to this Contract or the performance of the Work will be referred initially to the Architect for decision. If there is no Architect or the Architect's decision is not accepted by both parties, then the parties will endeavor to resolve the dispute by requesting mediation to be conducted in accordance with the Construction Industry Mediation Rules of the American Arbitration Association ("AAA") currently in effect. Either party may initiate a request for mediation by filing its request with the AAA and the other party to this Contract. Participation in mediation will be a condition precedent to arbitration or the institution of legal proceedings by either party.

Section 10.2 Costs; Enforcement. The cost of any mediation or arbitration proceeding shall be borne equally by the parties. Any mutually agreed upon decision reached in mediation or any decision rendered in arbitration will be binding on the parties hereto and may be enforced in any court of competent jurisdiction.

ARTICLE 11 - INDEMNIFICATION

Section 11.1 Contractor. The Contractor will indemnify and hold the Owner, its agents and employees harmless from and against claims, damages, losses and expenses arising out of or resulting from the Contractor's performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury of tangible property (other than the Work itself), but only to the extent caused by the intentional or negligent acts or omissions of the Contractor or its subcontractors or anyone employed by them.

Section 11.2 Owner. The Owner will indemnify and hold the Contractor, its agents and employees harmless from and against claims, damages, losses and expenses arising out of or resulting from performance of the Work in an area of the Project site containing a hazardous material or substance if in fact the hazardous material or substance presents the risk of bodily injury or death and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury of tangible property (other than the Work itself) resulting from the hazardous material or substance, and provided that such damage, loss or expense is not due to the sole negligence of a party seeking indemnity. If, without negligence on the part of the Contractor, the Contractor is held liable for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner will indemnify the Contractor for all cost and expense thereby incurred.

ARTICLE 12 - INSURANCE

Section 12.1 Insurance. ~~The Contractor will furnish Builder's Risk insurance at the full insurable value (in any case, not less than the Contract Sum) of the Project, with the Contractor named on the policy as its interests may appear. The Contractor will also furnish liability insurance in an amount of not less than One Million Dollars (\$1,000,000), and will name the Owner as an additional insured. The Contractor will also provide worker's compensation insurance in the amount required by law. The Owner will provide its own liability insurance in an amount of not less than One Million Dollars (\$1,000,000) to cover claims against the Owner, its agents and its employees, and will name the Contractor as an additional insured. Each party required to provide insurance will furnish the other with a certificate or~~

~~certificates of insurance indicating that the respective policy will not be canceled or allowed to expire without providing at least 30 days' written notice to the primary insured and any additional insured. TBD WHETHER BY OWNER OR GCS~~

Section 12.2 Waiver of Subrogation. The Owner and the Contractor waive all rights against each other and any of their subcontractors, agents and employees for any loss to the extent such loss is covered by the insurance obtained under Section 12.1 of this Contract

ARTICLE 13 - TERMINATION

Section 13.1 Termination By the Owner. The Owner may, upon five (5) days' additional written notice to the Contractor, terminate the Contract if the Contractor stops work for thirty (30) consecutive days or is otherwise guilty of a substantial breach of a provision of the Contract. The Owner will be responsible for the payment of all amounts due to the Contractor for Work performed and materials provided through the date of termination. The Owner may take possession of the site and finish the Work by whatever method the Owner finds expedient.

Section 13.2 Termination By the Contractor. The Contractor may terminate the Contract if the Owner fails, upon five (5) days' additional written notice, to make payment for a period of thirty (30) days and recover from the Owner payment for Work performed and materials provided through the date of termination, as well as proven loss with respect to materials, equipment, tools, and construction equipment and machinery, including reasonable overhead, profit and damages.

ARTICLE 14 - LICENSING

Section 14.1 Statutory Notice. The Owner and the Contractor acknowledge that the Project is not considered a residential project under Michigan law.

ARTICLE 15 - MISCELLANEOUS

Section 15.1 Notices. Any notices to be delivered under the Contract Documents must be in writing, and will be deemed delivered on the date of personal delivery (which includes verified sending by facsimile) or if sent by certified mail, on the third day following deposit into the U.S. Mail of a postage prepaid letter, or if by overnight delivery service, on the day following deposit of a prepaid package with such service. Each party's address for delivery will be the address stated at the beginning of this Contract or any subsequent address provided for a party.

Section 15.2 Entire Agreement. This writing contains the entire agreement between the parties, and no agent, representative, salesman, or officer of Contractor has authority to make or has made any statement, agreement, or representations, either oral, or written, in connection herewith, modifying, adding, or changing the terms and conditions herein set forth. No modifications of this contract shall be binding unless such modifications shall be in writing and signed by the parties and attached hereto.

Section 15.3 Choice of Law. The Contract Documents will be construed and interpreted according to the laws of the state of Michigan.

Section 15.4 Assignment. This Contract may not be assigned by either party without the other party's prior written consent.

Section 15.5 Effective Date. The Effective Date of this Contract will be the date stated at the beginning.

IN WITNESS WHEREOF, the parties have executed this Construction Contract.

_____.

By: Terry Gordon A.A.A

Its: President

OWNER

[Signature]
By: Scott P. Gillespie

EXHIBIT A

Legal Description of Real Property

FURNISHED LEGAL DESCRIPTION:

PER FIRST AMERICAN TITLE INSURANCE COMPANY COMMITMENT NO. 171751

TAX ID #33-25-05-14-377-019, #33-25-05-14-377-004, #33-25-05-14-377-005, #33-25-05-14-377-006, #33-25-05-14-377-007, #33-25-05-14-377-008, #33-25-05-14-377-023, #33-25-05-14-377-020

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF INGHAM, STATE OF MICHIGAN, AND DESCRIBED AS FOLLOWS:

LOT 14, 15, 16, 17, 18, 19, AND 20 OF SUPERVISOR'S PLAT NO. 6, TOWNSHIP OF DELHI CHARTER, INGHAM COUNTY, MICHIGAN, ACCORDING TO THE RECORDED PLAT THEREOF, AS RECORDED IN LIBER 11, PAGE(S) 34, INGHAM COUNTY RECORDS,

ALSO

LOT 66, OF ARLINGTON PARK AND A PARCEL OF LAND LYING EASTERLY OF AND ADJACENT TO THE SOUTH 120 FEET OF THE EASTERLY LINE OF LOT 20, OF SUPERVISOR'S PLAT NO. 6, BEING A SUBDIVISION OF THE SOUTHWEST 1/4 OF SECTION 14 AND THE NORTHWEST 1/4 OF SECTION 23, T3N, R2W, ACCORDING TO THE RECORDED PLAT THEREOF, AS RECORDED IN LIBER 11, PAGE(S) 34, INGHAM COUNTY RECORDS, SAID PARCEL OF LAND BEING 50 FEET AS MEASURED IN THE NORTHEASTERLY AND SOUTHWESTERLY DIRECTION AND 120 FEET AS MEASURED IN THE NORTHWESTERLY AND SOUTHEASTERLY DIRECTION AND BEING A PART OF THE FORMER LANSING AND JACKSON RAILWAY COMPANY RIGHT OF WAY, TOWNSHIP OF DELHI CHARTER, INGHAM COUNTY, MICHIGAN, ACCORDING TO THE RECORDED PLAT THEREOF, AS RECORDED LIBER 7, PAGE(S)32, INGHAM COUNTY RECORD,

ALSO

THE EASTERLY 66 FEET OF LOT 20, SUPERVISOR'S PLAT NO. 6, DELHI TOWNSHIP, INGHAM COUNTY, MICHIGAN, ACCORDING TO THE RECORDED PLAT THEREOF, AS RECORDED IN LIBER 11 OF PLATS, PAGE 34, INGHAM COUNTY RECORDS, ALSO THE PARCEL LYING NORTHEASTERLY OF THE PARCEL WITH AND ADJACENT TO THE NORTHERLY 50 FEET (RECORDED AS 45 FEET) OF THE EASTERLY LINE OF LOT 20, THE PARCEL BEING 50 FEET NORTHEASTERLY AND SOUTHWESTERLY BY 50 FEET (RECORDED AS 45 FEET) NORTHWESTERLY AND SOUTHEASTERLY, SECTION 14, T3N, R2W, DELHI TOWNSHIP, INGHAM COUNTY, MICHIGAN

[Type text]

EXHIBIT B

Enumeration of Drawings (TO BE COMPLETED AT LATER DATE CURRENT SET = 12.21.18)

Page Number(s)	Title	Date
IX	Sheet Index	
BF	Barrier Free Reference	
D-1	Demolition	
A-1 through A-11	Architectural Plans & Specifications w/ Details, Elevations, Door & Finish Schedules	
S-1 and S-2	Framing & Structural Plans	
P-1 and P-2	Sanitary Plumbing & Water Piping	
M-1	Mechanical Plans & Specifications	
E-1 through E-3	Electrical Plans & Specifications	
Addendum 1	Drawing Changes & Clarifications for Bid	
Addendum 2	Drawing Changes & Clarifications for Bid	

[Type text]

EXHIBIT C

Index to Specifications

All specifications are included on the plans enumerated in Exhibit B above.

None issued as of the time of this contract's creation. To be provided by TBD.

[Type text]

EXHIBIT D

Inclusions/Exclusions

INCLUSIONS:

- Preconstruction services including bid package development, bid list creation, preconstruction schedule development; bidding; post-bid contractor evaluations and contract buyout
- Subcontractor management and continuous coordination with office and field personnel
- Site Management – oversight of all subcontractors involved with project
- Jobsite safety management
- Governing authority interface/coordination
- Ongoing owner communication
- Cost Management – including reporting to the owner's rep. as requested
- Submittal management/material procurement
- Schedule management
- Project Closeout
- GCS will be allowed to have a minimum of (1) 4x8 sign onsite, for the duration of the project.

EXCLUSIONS:

- Design - the owner is solely responsible for soliciting and hiring a licensed, competent, responsive design team, for all architectural and engineering services, including Construction Administration (Rfi's, submittals, etc.). GCS's timelines and therefore management costs are a direct correlation of design teams responsiveness.
- General condition related costs including but not necessarily limited to dumpsters, trailers, temporary heat, trailer supplies, printers, snow removal, print reproduction.
- Geotechnical testing services by owner.
- FF&E – GCS will be advising only on procurement and will coordinate the installation of FF&E. All other actions required to design, select, coordinate placement of, and color selection is by owner. The owner will hire a 3rd party to handle all procurement of FF&E items, outside of GCS, or complete with their own forces.
- Any laborers or carpenters necessary in addition to the site supervision and construction administration included in base monthly staffing rates.
- Other miscellaneous reimbursable costs.
- Any additional costs of CM related to any stand-alone buildings on the Project premises as approved by Owner.
- Utility installation/municipality installations.
- Mitigation efforts related to existing jobsite.
- Any non-standard hour shifts by GCS employees (Monday through Friday 7-5).
- Retainage on GCS related costs/fees.

[Type text]

EXHIBIT E

Construction Manager Hourly Time and Material Basis Construction Fee Schedule (FOR HOURS EXPENDED ABOVE AND BEYOND BASE CONTRACT)

Senior Project Manager = \$85/hr.

Superintendent = \$75/hr.

Project Manager = \$65/hr.

Accounting = \$30/hr.

Laborer = \$25/hr (no laborer hours in base contract)

Others = TBD on a case by case basis.

[Type text]

EXHIBIT F

Budget Summary

-To be incorporated at a later date -

[Type text]



March 22, 2021

Mr. Howard Haas
Delhi Charter Township
Downtown Development Authority
4410 Holt Road
Holt, MI. 48842

RE: Esker Square

Dear Howard,

It is with pleasure that I write to you regarding the Esker Square Development. We have all worked diligently over the past few years to bring this project to a reality, although we have had many hurdles put in front of us, I feel that we have found a way forward for the project.

The Covid-19 pandemic that we have all faced over the past year has and continues to have a dramatic impact on us personally and all sectors of our economy. Given the impact that the pandemic has had on the commercial real estate market, effectively eliminating the market for new commercial space, we feel it is prudent to look at ways to pivot the project to serve the existing and future market.

We propose to replace the commercial space on the first floor of the buildings with Live/Work style apartments. This will serve those who work from home or operate a small business. This would allow one to have a small business with a storefront without the expense of a large commercial space and allow those who work from home to have a suitable environment that is dedicated to their work. In making this transition we are looking to add flexibility to the overall project. The design and structure of the building will not change, allowing us the flexibility to convert a portion or all of the first floor back to commercial use if and when the commercial real estate market improves.

329 South Washington Square, #1
Lansing, Michigan 48933
Phone: 517.327.8887
Fax: 517.886.3550

The alterations to the development are requiring new designs from our architect, new pricing from our contractors, updated appraisal for our financing as well as other time-consuming items. Given the additional time, I am requesting an extension to the Development Agreement to September 1, 2021. We will continue all efforts to begin construction at an earlier date and will provide updates as to the status on a regular basis.

Enclosed you will find the following documents:

1. Revised Floor Plan for the First Floor of the building(s)
2. Revised Elevation of the building's storefront
3. Commitment Letter for Construction Financing
4. Construction Management Agreement with Gordon Construction Services.

I appreciate your consideration of the alteration to our development plan and look forward to beginning the construction and providing an asset to the Holt community that all can be proud of.

Respectfully,

A handwritten signature in blue ink, appearing to read "Scott P. Gillespie", is written over the printed name.

Scott P. Gillespie

TRANSFER / DEVELOPMENT AGREEMENT

This Transfer Agreement (with Development Restrictions) (this "Agreement") is entered into this 30 day of August, 2017 ("Effective Date"), by and between Delhi Township Downtown Development Authority, a Michigan downtown development authority, organized and operating under the Downtown Development Authority Act, M.C.L. § 125.1651, *et seq.*, as amended, whose address is 2045 Cedar Street, Holt, Michigan 48842 (the "DDA") and 2000 Cedar, LLC, a Michigan limited liability company, whose address is 329 South Washington Square, Suite 1, Lansing, Michigan 48933 ("Developer") (individually, a "Party," and collectively, the "Parties"), for the transfer by the DDA to Developer of a 2.14 acre parcel of real property located with the Charter Township of Delhi, Ingham County, Michigan, and legally described in Exhibit "A" attached (the "Property").

I. Property Transferred. Developer shall purchase and receive and the DDA shall sell the Property and, if any, all easements and all other interests and rights of the DDA which are appurtenant to the real estate, including, but not limited to, all right, title, and interest, if any, of the DDA in and to any land lying in street, road, or avenue in front of, within or adjacent to, or adjoining such land.

II. Purchase Price. The Property shall be purchased for the sum of One and 00/100 Dollar (\$1.00) (the "Purchase Price"). As additional consideration, Developer agrees to the Development provisions as contained in Paragraph IX below.

III. No Deposit. The DDA and Developer acknowledge and agree that no deposit is required.

IV. Closing and Possession. The closing of the sale described herein shall take place at the Lansing, Michigan office of Diversified National Title Agency, 500 E. Michigan Avenue, Suite 203, Lansing, Michigan 48912 (the "Title Agency"), which closing shall occur within sixty (60) days from the date that the contingencies contained herein are satisfied or waived. However, the Closing shall occur on or before January 30, 2018 (the "Closing"). At the Closing, the DDA shall transfer possession of the Property to Developer.

V. Property Taxes. The Property will be exempt from taxation (including special assessments) at the time of Closing. The Developer understands that the Property shall be placed on the appropriate tax rolls as is customary after the date of closing. The DDA shall pay all real property taxes, if any, on the Property prior to the date of the Closing. Developer shall be responsible for all real property taxes on the Property which become due on or after the date of the Closing.

VI. Acknowledgment and Disclaimer of Warranties. THE DDA DISCLOSES AND DEVELOPER ACKNOWLEDGES THAT THERE ARE RECOGNIZED ENVIRONMENTAL CONDITIONS ON THE PROPERTY AND THAT ANY AVAILABLE BASELINE ENVIRONMENTAL ASSESSMENTS HAVE BEEN PROVIDED TO THE DEVELOPER. THIS DISCLOSURE SATISFACTORILY DISCHARGES ANY DISCLOSURE NECESSARY BY DDA UNDER MCL 324.20116, MCL 324.20126(1)(c) OR OTHER APPLICABLE LAW.

VII. Environmental Matters.

(a) Definitions. For the purpose of this Agreement, "Environmental Law" shall mean any Federal, State, or local statutory or common laws relating to pollution or protection of the environment, including without limitation any common law of nuisance or trespass, and any law or regulation relating to emissions, discharges, releases or threatened release of pollutants, contaminants, chemicals, or industrial, toxic or hazardous substances or wastes into the environment (including without limitation, ambient air, surface water, groundwater, land surface or subsurface soil strata) or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants, chemicals, or industrial, toxic or hazardous substances or wastes.

For the purpose of this Agreement, "Hazardous Substance" means any waste (including "hazardous waste" as defined in the Comprehensive Environmental Response, Compensation & Liability Act of 1980, as amended, and "solid waste" as defined in the Resource Conservation & Recovery Act of 1976, as amended, and state counterpart laws thereto), substance, pollutant, contaminant, oil petroleum product, commercial product or other substance (a) which is listed, regulated or designated as toxic or hazardous (or words of similar meaning and regulatory effect), or with respect to which remedial obligations may be imposed, under any Environmental Law or (b) exposure to which may pose a health or safety hazard.

(b) Liability. It is hereby acknowledged that Developer does not assume any responsibility or liability that DDA may have as a result of the environmental condition of the Property that may be imposed upon DDA by any state, federal or local law, rule, regulation or ordinance (including, but without limitation, any requirement to report, assess, investigate, abate and/or remediate the Property), resulting from a release of a Hazardous Substance upon the Property during DDA's ownership or operation of the Property before closing. This provision is without prejudice to the DDA's position that it has had no responsibility or liability for environmental conditions, except for due care or continuing obligations as set forth in Environmental Law.

It is hereby acknowledged that the DDA does not assume any responsibility or liability that Developer may have as a result of the environmental condition of the Property that may be imposed upon Developer by any state, federal or local law, rule, regulation or ordinance (including, but without limitation, any requirement to report, assess, investigate, abate and/or remediate the Property), resulting from a release of a Hazardous Substance upon the Property during Developer's ownership or operation of the Property after closing. This provision is without prejudice to the Developer's position that it will have no responsibility or liability for environmental conditions, except for due care or continuing obligations as set forth in Environmental Law.

(c) Environmental Remediation. The DDA, through the Delhi Charter Township Brownfield Redevelopment Authority, has used multiple Environmental Consultants to conduct investigations and prepare initial Phase I and Phase II and other assessment reports regarding the environmental condition of the Site. As a result of these investigations, the Site has been deemed a "facility" as defined by Public Act 451 of 1994, MCL 324.20101. A Baseline Environmental Assessment pursuant to Part 201 shall be provided to Developer for review and submission by the

Developer to MDEQ. DDA also agrees to pay for an updated Phase I and Phase II Environmental Report covering the entire Site necessary to satisfy financing requirements.

Developer's obligation to close this transaction is expressly conditioned upon Developer's receipt of the MDEQ's acknowledgment of its receipt of the Baseline Environmental Assessment to be submitted to the MDEQ, pertaining to the Property. Any stated closing date for this transaction shall be extended to accommodate the receipt of said acknowledgment from the MDEQ. Developer shall have one hundred twenty (120) days from the date of the execution of this Agreement by both parties or sixty (60) days from receipt of the updated Phase I and Phase II Environmental Reports by Triterra Environmental Consultants (whichever is later), to conduct at Developer's sole expense, such additional environmental studies of the Property, and other studies to further evaluate conditions, broadly defined by federal, state and local law, and to determine whether the Property is suitable for the Development relative to soil quality, wetlands and unexcavated materials that may exist on the Property. To the extent such study is or has been performed, Developer will provide a copy of all reports or studies prepared pursuant to this subsection VII. (c) to DDA within fifteen (15) days of receipt and will advise the DDA if it is satisfied with the environmental condition of the Property or, to the extent Developer elects not to conduct such study, Developer shall have waived the right to do so. If, within one hundred twenty (120) days from execution or sixty (60) days from the receipt of the aforementioned Environmental Reports (whichever is later), the Developer determines that it is not satisfied with the condition of the Property, Developer may cancel this Agreement in writing, with no further liability or obligation by either party with regard to this Agreement. DDA and Developer agree to use their best efforts to facilitate, apply for and obtain all reasonably available Federal, State and other grants, funds, and assistance that may be available to the Site or the Project. Regardless of whether Developer does or does not conduct such a study, if no notice of cancellation is sent by Developer to DDA within one hundred twenty (120) days following execution of this Agreement or sixty (60) days from the receipt of the aforementioned Environmental Reports (whichever is later), the Developer agrees that it (subject to the remaining provisions of this section) has accepted the Property in its present condition "AS IS."

Following closing, the Developer shall take such remedial action as necessary to prepare the Site in an environmental condition that will allow the development as provided in this Agreement and shall respond and take such remedial action as may be mandated by the MDEQ to remove at or from the Site any Hazardous Substances discovered at the Site as a result of this investigation, subject to the DDA's assistance in securing funds to pay for or reimburse the Developer through the Brownfield Redevelopment Authority ("BRA") and the Michigan Economic Development Corporation ("MEDC"). If the Developer does not cancel this Agreement and closes on the Property, the Developer shall have unconditionally released the DDA from and against any and all liability, if any, the DDA may have to the Developer, both known and unknown, present and future, for "environmental damage," degradation, response, remediation and cleanup costs to the Property arising out of Environmental Laws or the presence of Hazardous Substances on, under, or about the Property at the date of Closing.

(d) Utility Improvements. The DDA, at no cost to itself, will request that the County/Township abandon existing sanitary and storm sewers that are not now being used or that the County/Township elects, at its sole discretion not to use in the future. The Developer shall be

responsible without any cost or expense to the Township/DDA for construction location and installation and any utilities for the Project, including connections or improvements to existing utility systems, within the boundaries of the site. Utilities include, but are not limited to, water, sanitary, sewer, storm drains, mains, electric, gas, telephone, cable, communications, fiber optic or other public utility lines owned by any public utility company, that may be necessary to construct, improve and support the Project on the Property. The Developer shall be responsible for obtaining any permits required for any such installation.

VIII. Inspections; Tests; the DDA's Provision of Documents. Developer or its agents, representatives and/or independent contractors, shall have the right and license to enter upon the Property upon reasonable advance notice to the DDA, for the purposes of making any and all survey, appraisals, explorations, soil test, inspections, environmental reports, wetlands and flood plain evaluations, water and perk tests, and the like, all of which inspections and approvals shall be completed within one hundred twenty (120) days from the Effective Date. Developer shall then have five (5) days after the expiration of the one hundred twenty (120) day inspection period to determine whether it is satisfied with the condition of the Property. In the event that Developer is not satisfied with the condition of the Property and so notifies the DDA as set forth herein, the Agreement shall terminate and except for any damage that Developer has caused to the Property as a result of its inspections, neither Party shall have any further liability or responsibility thereunder. Developer shall be responsible for and indemnify and hold harmless the DDA, including the DDA's attorneys' fees, from and against any property damage and/or personal injury as a result of any inspections. The DDA agrees to provide to Developer, within ten (10) days of the Effective Date, such reports and other documents in its possession, that the DDA is able to locate in its records and files after making a reasonable search, regarding the maintenance and condition of the Property.

IX. Development. DDA and the Developer agree that the transfer of the Property to Developer is subject to Developer's construction of the Project. The Project is defined as the redevelopment of the 2.14 acre parcel of real property located within the Charter Township of Delhi, Ingham County, Michigan and legally described in Exhibit A, attached hereto. The Project shall consist of the two-phase construction of two (2) three (3) story buildings with between 10,000 and 14,000 square feet of office/retail use on the first floor and between 20 to 30 residential units each as ultimately approved by the Township. It is understood that the Project time frame for Phase I shall start no later than July 1, 2018 and end approximately twelve (12) months thereafter. The Project time frame for Phase II shall be subject to market conditions but is estimated to commence on or about September 1, 2019 and end on or about August 31, 2020. Subsequent to conveyance of the Property to the Developer and until construction of the Project has been completed, the Developer shall make the reports in such detail and as such times as may reasonably be requested by the DDA as to the actual progress of the Developer with respect to the construction of the Project. Notwithstanding the above, it is agreed that in the event Developer does not break ground for the construction of the first three (3) story building, on or before July 1, 2018 (through no fault of the DDA, Charter Township of Delhi or Ingham County), then DDA shall have the right to terminate this Agreement upon providing the Developer with notice of its intent to terminate. Termination is subject to the DDA, at its expense, first performing Phase I, Phase II Assessments and Baseline Environmental Assessment or other due diligence as it decides is prudent and the Developer's, at its expense and upon DDA's subsequent notice of being satisfied with due

diligence, execution of a Warranty Deed transferring the Property to the DDA. At the Developer's cost, the Property shall be free from any mortgages or other encumbrances at the time that it is transferred to the DDA. In such event, this Agreement shall be of no further effect and neither Party shall have any further obligation or liability to the other (except for such provisions that otherwise survive under this Agreement).

X. Economic Development / DDA's Obligations. Developer and DDA each agree to use commercially reasonable efforts to pursue reasonably available support for the Project including, but not limited to, PA Act 381, Brownfield Tax Increment Financing ("T.I.F."), Michigan Economic Development Corporation – Community Revitalization Program ("CRP"); Michigan Department of Environmental Quality ("MDEQ") Brownfield Redevelopment Grant and Loans. If any of the above approvals are not given or met prior to Closing (i) the Parties may waive that condition and proceed to Closing; (ii) the Parties may, without amending this Agreement, but in writing extend the date for Closing until such approvals can be obtained and/or steps completed; or (iii) Developer may terminate this Agreement in writing, with no further liability or obligation by either Party with regard to this Agreement.

DDA also agrees that it will:

(a) Assist, at no third party cost, in obtaining a commercial anchor tenant for Developer's Project.

(b) Prepare or arrange preparation of a Brownfield Plan that Developer can submit the Brownfield Plan to the governing board in accordance with Public Act 381 of 1996, M.C.L. § 125.2651, *et seq.*, as amended.

(c) Assist, at no third party cost, Developer in obtaining Delhi Charter Township approvals required for Developer's project.

(d) Subject to approval from the Michigan Economic Development Corporation ("MEDC"), assist Developer with all other reasonably available incentives relating to the Property.

(e) Participate in the cost of branding and marketing the Project, the total amount of which shall not exceed \$1,900.00.

XI. Attorney's Opinion. Developer acknowledges that the DDA has recommended that Developer retain an attorney to pass on the marketability of the title to the Property and to review the details of the sale before the Closing.

XII. Special Assessments. Special assessments which are or become a lien on the Property before the Closing shall be paid by the DDA. Special assessments which become a lien on the Property on or after the Closing shall be paid by Developer.

XIII. Title Insurance and Survey. Within ten (10) days of the Effective Date of this Agreement, the DDA shall obtain from the Title Agency, at the DDA's expense, a commitment for a policy of title insurance, without standard exceptions, in the amount of the Purchase Price (the

"Title Commitment"). Developer, in its reasonable discretion, shall determine whether all matters of title are satisfactory within thirty (30) days of Developer's receipt of the Title Commitment (the "Inspection Period"). If Developer reasonably objects to any matters of title and Developer so notifies the DDA in writing of such objection (the "Objection Notice") before the expiration of the Inspection Period, then the DDA shall have ten (10) days from the date the DDA receives the Objection Notice to either: (1) remedy the title defects described in the Objection Notice and obtain and deliver to Developer the revised Title Commitment which reflects that all such defects have been remedied; or (2) notify Developer and the Title Agency that the DDA is unable or unwilling to remedy the defects, in which event Developer shall, at its option, within ten (10) days after receipt of such notice from the DDA, either terminate this Agreement (subject to those obligations which by their terms survive termination) or waive Developer's title objections, and proceed to the Closing, subject to satisfaction or waiver of Developer's other pre-Closing contingencies. The DDA shall use its best efforts to cure any Objections. If Developer proceeds to the Closing, all exceptions set forth in the Title Commitment shall be deemed "Permitted Exceptions." The Title Commitment shall be accompanied by copies of all recorded exceptions to title referred to therein. At the Closing, the Title Agency shall deliver to Developer a satisfactorily "marked up" Title Commitment. The Title Insurance Policy to be issued pursuant to the marked up Title Commitment shall contain such endorsements as Developer may reasonably require.

The DDA has provided, at its expense, a current ALTA survey of the Property, prepared by a licensed Michigan land surveyor or civil engineer (the Survey), containing an accurate metes and bounds description and certification of the acreage of the Property, and identifying the location of all structures, easements, rights-of-way, improvements and encroachments thereon. The Survey shall be certified to Developer, DDA and the Title Company. The Survey shall otherwise be in a form that enables the Title Company to insure over standard survey exceptions. Developer shall have said sixty (60) days to review the same and provide notice to the DDA of any objections ("Survey Defects"). The DDA shall elect within ten (10) days after receipt of the notice of Survey Defects to notify Developer in writing whether the DDA elects to cure the Survey Defects (the "Survey Cure Notice"). The DDA shall use its best efforts to cure any Survey Defects. If the DDA gives Developer such written notice that the DDA elects to cure, the DDA shall have Thirty (30) days from the date of receipt by the DDA of the written notice from Developer of Survey Defects to cure such Survey Defects (the "Survey Cure Period"). If the DDA gives Developer notice that it declines to cure or does not give Developer timely written notice that the DDA elects to cure the Survey Defects, then the DDA shall be deemed and construed to have elected not to cure any of the Survey Defects. If the DDA elects not to cure any Survey Defect, Developer may either (a) elect to close on the Property subject to any Survey Defects not then cured (in which event such defects shall be deemed waived and accepted by the Developer) or in the alternative (b) Developer may terminate this Agreement by giving notice to the DDA within ten (10) days after the later of (i) receipt of written notice from DDA that it elects not to cure the Survey Defects; or (ii) expiration of the Survey Cure Period. If no notice of termination by the Developer is given to the DDA in writing within the time provided in the preceding sentence, then Developer agrees that it has accepted the Property with all Survey Defects.

XIV. Warranty Deed. At the Closing, the DDA shall deliver to Developer a warranty deed for the Property. The Property shall be delivered to the Developer on the Closing date free from all liens, encumbrances, claims of others, special assessments, taxes or otherwise. However,

the warranty deed shall be subject to the Permitted Exceptions. The warranty deed shall clearly state on the face thereof that the recording of said deed is exempt from State transfer tax by reason of 1966 PA 134 as amended; M.C.L. 207.505(h)(i) and 1932 PA 330 as amended M.C.L. 207.526(h)(i).

XV. Conditions Precedent. In addition to any other conditions stated in this Agreement, the obligations of the Developer to close are further conditioned on all of the following separate conditions precedent being met or extinguished, unless waived in writing: (i) DDA submission of an Owner's Policy of Title Insurance as required herein; (ii) Developers receipt of MDEQ approval as provided herein; (iii) The Developer's completion of its due diligence review of the site, Project, Survey, Title Work, easements, restrictions, environmental, approvals and all other matters that impact the Developer's intended development and use of the Property, which shall be satisfactory to Developer in its sole and absolute discretion within one hundred twenty (120) days of the Effective Date or sixty (60) days from receipt of the Environmental Reports (whichever is later); (iv) Developer's receipt of the required public support as provided herein; and (v) Developer's receipt of all required governmental approvals as provided herein.

XVI. Development of Project. Except for the development requirements provided in Paragraph IX, above, the Parties acknowledge that as costs, product demands and market conditions change, development and use of the Project may be modified to meet current conditions, costs, constraints and demands. Any substantive changes to the Project must be reviewed and approved, in writing, by the DDA and the Township Community Development Department. If Phase II of the Project is delayed, Developer shall maintain the Property in good condition pending its subsequent development.

XVII. Time of Essence. Time is of the essence with respect to all dates and times set forth in this Agreement.

XVIII. Closing Costs. At the Closing, the DDA shall pay the costs of preparation of the warranty deed, title policy, transfer tax (if any), updated Phase I and Phase II Environmental Reports and updated ALTA Survey acceptable to Developer's Lender and any attorneys' fees incurred by the DDA. At the Closing, Developer shall pay the costs of recording the warranty deed, attorneys' fees incurred on behalf of Developer, and inspection costs initiated by Developer. The DDA and Developer shall each pay one-half (1/2) of the Closing fee charged by the Title Company to close this transaction.

XIX. Notices. All notices required or given under this Agreement shall be in writing and either delivered personally or mailed by regular mail addressed to the Parties at their addresses specified above. Mailed notices shall be effective upon mailing.

XX. Entire Agreement. This Agreement constitutes the entire agreement between the Parties and shall be deemed to supersede and cancel any other agreement between the Parties relating to the transactions herein contemplated. Each Party acknowledges that no representation, inducement or condition not set forth herein has been made or relied upon by either Party.

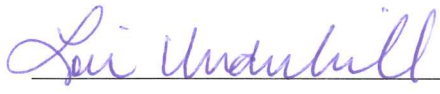
XXI. Amendments. This Agreement may be amended or modified only by a document in writing executed by each of the Parties.

XXII. Successors and Assigns. This Agreement shall bind and benefit the Parties and their respective successors and assigns.

XXIII. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Michigan.

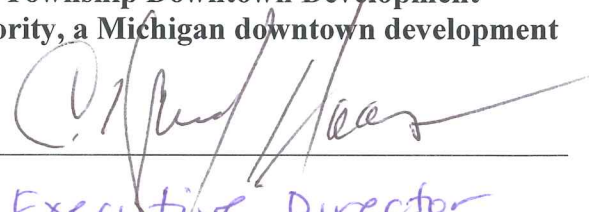
XXIV. Counterpart Signatures. This Agreement may be executed in one or more counterparts, including facsimile copies, each of which shall be deemed an original, but all of which shall together constitute one and the same instrument.

WITNESSES:



Lori Underhill

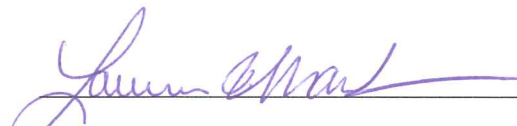
**Delhi Township Downtown Development
Authority, a Michigan downtown development**

By: 

Its: Executive Director

Dated: August 31, 2017

WITNESSES:



LAUREN A. MARTIN

**2000 Cedar, LLC,
a Michigan limited liability company**

By: The Gillespie Company, L.L.C.
Its: Manager
By: Scott P. Gillespie Trust u/a/d 9/9/04
Its: Member

By: 

Scott P. Gillespie, Trustee

Dated: August 30, 2017

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

Real property located within the Charter Township of Delhi, Ingham County, Michigan, legally described as follows:

Lot 14, 15, 16, 17, 18, 19 and 20, of Supervisor's Plat No. 6, Township of Delhi Charter, Ingham County, Michigan, according to the recorded Plat thereof, as recorded in Liber 11, Page(s) 34, Ingham County Records.

ALSO

Lot 66, of Arlington Park and a parcel of land lying Easterly of and adjacent to the South 120 feet of the Easterly line of Lot 20, of Supervisor's Plat No. 6, being a subdivision of the Southwest ¼ of Section 14 and the Northwest ¼ of Section 23, T3N, R2W, according to the recorded Plat thereof, as recorded in Liber 11, Page(s) 34, Ingham County Records, said parcel of land being 50 feet as measured in the Northeasterly and Southwesterly direction and 120 feet as measured in the Northwesterly and Southeasterly direction and being a part of the former Lansing and Jackson Railway Company right of way, Township of Delhi Charter, Ingham County, Michigan, according to the recorded Plat thereof, as recorded in Liber 7, Page(s) 32, Ingham County Records.

Parcel Identification Nos. _____ (the "Property")

15322:00021:3115024-1

ADDENDUM TO TRANSFER/DEVELOPMENT AGREEMENT

This Addendum to Transfer/Development Agreement is entered into this 29th day of January, 2018 by and between Delhi Township Downtown Development Authority ("DDA") and 2000 Cedar Street, LLC ("Developer").

WHEREAS, the parties entered into a Transfer/Development Agreement dated August 30, 2017; and

WHEREAS, Article IV requires the closing to occur on or before January 30, 2018; and

WHEREAS, the parties desire to extend the date of closing.

NOW, therefore, in consideration of mutual covenants contained herein, the parties do hereby agree as follows:

1. Article IV entitled "Closing and Possession." is hereby amended to provide that Closing shall occur on or before February 9, 2018.

2. All of the remaining provisions of Article IV and the remainder of the Transfer/Development Agreement shall remain in full force and effect.

DDA

By: 

C. Howard Haas

Its: Executive Director

Dated: January 29, 2018

2000 Cedar, LLC

By: The Gillespie Company, L.L.C.

Its: Manager

By: Scott P. Gillespie Trust u/a/d 9/9/04

Its: Member

By: 

Scott P. Gillespie, Trustee

Dated: January 29, 2018

FIRST AMENDMENT TO TRANSFER/DEVELOPMENT AGREEMENT

This First Amendment to Transfer/Development Agreement (hereinafter referred to as the "First Amendment") is made this 21 day of February, 2018, by and between Delhi Township Downtown Development Authority, a Michigan downtown development authority organized and operating under the Downtown Development Authority Act, MCL 125.1651, *et seq.*, as amended, whose address is 2045 Cedar Street, Holt, Michigan 48842 (the "DDA") and 2000 Cedar, LLC, a Michigan limited liability company, whose address is 329 South Washington Square, Suite 1, Lansing, Michigan 48933 (the "Developer"). With their respective signatures, the parties to this First Amendment voluntarily bind themselves to the covenants contained herein, which covenants establish the mutual consideration for this First Amendment.

WHEREAS, the DDA and the Developer entered into a Transfer/Development Agreement (hereinafter referred to as the "Agreement") dated August 30, 2017; and

WHEREAS, the DDA and the Developer desire to amend the Agreement upon the terms and conditions contained in this First Amendment; and

WHEREAS, the consideration contained in the Agreement forms the basis for this First Amendment; and

WHEREAS, except as amended by this First Amendment, the remaining terms and conditions of the Agreement shall remain in full force and effect:

1. Purpose. The purpose of this First Amendment is to provide design and construction services to replace the existing ten (10) inch sanitary sewer located on the Northeast side of Cedar Street, within the easement along the rear lots of the Developer's Esker Square Project (the "Sanitary Sewer Replacement" or "SSR"). The parties agree that the scope of work for the SSR will be limited to the connection to the new sanitary sewer manhole on Veterans Drive and heading Northwest approximately six hundred (600) feet to the new sanitary sewer structure on Bond Avenue. The new sanitary sewer main will replace the existing sanitary sewer main in that location.

2. Services. The services to be provided by the Developer will include the design and construction of all related sanitary sewer piping, fittings, required connections to the new and existing sanitary sewer, new manhole structures, and any lead material necessary to provide sanitary sewer service to the lots adjacent to the new sanitary sewer main. The SSR shall be designed and constructed in full compliance with all Delhi Charter Township standards and requirements.

3. Costs. The Developer shall pay the initial cost of the SSR and not permit liens of any kind to be placed upon the SSR. The Developer will provide the "as bid" costs of the SSR to the DDA's engineer, Hubbell, Roth & Clark, Inc. ("HRC"). Upon receipt of the proposed costs of the SSR, HRC will review these costs with the DDA. Upon recommendation and approval of these costs, the DDA will provide notice, in writing, to the Developer to proceed with construction.

4. Reimbursement. The DDA agrees to reimburse the Developer for the cost of the SSR, plus an additional fee of fifteen percent (15%) to reimburse the costs of engineering design and general conditions associated with the SSR. The parties agree that the costs of any leads shall be prorated so that the DDA pays the costs of the leads located within the easement area and the Developer pays for the costs of the leads located on the Developer's property.

5. Reimbursement Payment. Upon commencement of construction of the SSR, the Developer may submit reimbursement requests, on a monthly basis, for work that has been completed. All invoices must be submitted timely and in accordance with the DDA's schedule. Upon review and verification that the work has been completed and receipt of sworn statements and waivers of lien, the DDA shall reimburse the Developer for the work performed, including the additional fifteen percent (15%) fee described above.

6. Completion and Final Inspections. Upon completion of the SSR and all required inspections and testing, the DDA shall make final payment to the Developer for the work. At the time of final payment, the Developer shall provide a deed of grant and any other documents necessary to transfer ownership of the sanitary sewer line and other personal property related to the SSR to Delhi Charter Township. The sanitary sewer will then be placed into operation and be owned and operated by Delhi Charter Township.

7. Miscellaneous.

(a) Except as specifically modified by this First Amendment, the Agreement shall continue in full force and effect and is hereby ratified and confirmed by this First Amendment.

(b) This First Amendment shall be construed, interpreted, and enforced under the laws of the State of Michigan.

(c) This First Amendment shall be binding upon and shall inure to the benefit of the parties and their respective permitted successors and assigns.

(d) All capitalized terms not defined in this First Amendment shall have the same meaning as in the Agreement.

(e) In the event of any conflict between the terms of this First Amendment and the terms of the Agreement, the terms of this First Amendment shall govern and control.

(f) This First Amendment may be executed in separate counterparts, including electronic and facsimile copies, each of which shall be deemed an original, all of which counterparts shall constitute one in the same First Amendment.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

WITNESSES TO DDA

Hugh Jensen
Levi Underhill

WITNESSES TO DEVELOPER

Samuel Maat
Levi Underhill

DDA:

**Delhi Township Downtown Development
Authority, a Michigan downtown
development authority**

By: C. Howard Haas
Its: Executive Director

DEVELOPER:

**2000 Cedar, LLC, a Michigan limited
liability company**

By: The Gillespie Company, LLC,
a Michigan limited liability company
Its: Manager

By: Scott P. Gillespie Trust u/a/d 9/09/04
Its: Member

By: Scott P. Gillespie
Its: Trustee

SECOND AMENDMENT TO TRANSFER/DEVELOPMENT AGREEMENT

This Second Amendment to Transfer/Development Agreement (hereinafter referred to as the "Second Amendment") is made this 28th day of May, 2019, by and between Delhi Township Downtown Development Authority, a Michigan downtown development authority organized and operating under the Downtown Development Authority Act, MCL 125.1651, *et seq.*, as amended, whose address is 4410 Holt Road, Holt, Michigan 48842 (the "DDA") and 2000 Cedar, LLC, a Michigan limited liability company, whose address is 329 South Washington Square, Suite 1, Lansing, Michigan 48933 (the "Developer"). With their respective signatures, the parties to this Second Amendment voluntarily bind themselves to the covenants contained herein, which covenants establish the mutual consideration for this Second Amendment.

WHEREAS, the DDA and the Developer entered into a Transfer/Development Agreement (hereinafter referred to as the "Agreement") dated August 30, 2017; and

WHEREAS, the DDA and the Developer entered into a First Amendment to Transfer/Development Agreement (the "First Amendment") dated February 21, 2018; and

WHEREAS, the DDA and the Developer desire to amend the Agreement and First Amendment upon the terms and conditions contained in this Second Amendment; and

WHEREAS, the consideration contained in the Agreement and First Amendment forms the basis for this Second Amendment; and

WHEREAS, except as amended by this Second Amendment, the remaining terms and conditions of the Agreement and First Amendment shall remain in full force and effect:

1. Purpose. The purpose of this Second Amendment is to extend the dates for commencement of construction of Phases I and II of the Project. Also, the parties desire to specifically define what is required for commencement of construction and to establish a procedure for performance.

2. Development. Paragraph IX of the Agreement is hereby deleted in its entirety and the following is inserted:

IX. Development. DDA and Developer agree that the Property was transferred to Developer subject to Developer's construction of the Project. The Project is defined as the redevelopment of the 2.14 acre parcel of real property located within the Charter Township of Delhi, Ingham County, Michigan, and legally described in Exhibit A, attached hereto. The Project shall consist of the two-phase construction of two (2) three (3) story buildings with approximately 14,000 square feet of office/retail use on the first floor and approximately thirty (30) residential units or at Developer's option two (2) three (3) story buildings with approximately 10,000 to 10,500 square feet of office/retail use on the first floor and approximately thirty-six (36) residential units each as ultimately approved by the Township. It is understood and agreed that Developer shall commence

construction of Phase I no later than October 31, 2019 and end approximately twelve (12) months thereafter. The Project time frame for Phase II shall be subject to market conditions, but it is estimated that Developer will commence construction on or about March 1, 2021 and end approximately twelve (12) months thereafter. Subsequent to conveyance of the Property to Developer and until construction of the Project has been completed, Developer shall make the reports in such detail and at such times as may reasonably be requested by the DDA as to the actual progress of Developer with respect to the construction of the Project. Notwithstanding the above, it is agreed that in the event Developer does not commence construction of the first three (3) story building, on or before October 31, 2019 (through no fault of the DDA, Charter Township of Delhi or Ingham County or an event of Force Majeure), then Developer shall provide a Warranty Deed to the East Lansing, Michigan, office of Transnation Title Insurance Company, which Warranty Deed transfers the Property to the DDA free from any mortgages or other encumbrances. Transnation shall hold the Warranty Deed in escrow for a period of thirty (30) days. During this thirty (30) day period if Developer commences construction of Phase I, the parties shall provide written notice to Transnation Title Insurance Company that the Warranty Deed shall be destroyed. If Developer does not commence construction of Phase I within this thirty (30) days period, at the end of the thirty (30) day period, the Warranty Deed shall be released to the DDA. During this thirty (30) day period, the DDA, at its expense, may perform Phase I and Phase II Assessments, a Baseline Environmental Assessment, or other due diligence as it decides is prudent. If the Warranty Deed is released to the DDA, this Agreement shall be of no further effect and neither party shall have any further obligation or liability to the other (except for such provisions that otherwise survive under this Agreement and for such other cooperation necessary for the Charter Township of Delhi's Brownfield Redevelopment Authority to properly administer, amend or terminate an existing brownfield plan, brownfield reimbursement agreement and the MDEQ brownfield grant contract). As used in this Paragraph IX, the phrase "commence construction" shall mean that all land balancing and removal of certain contaminated soils has been completed and the pouring of concrete for the Phase I foundation has commenced.

3. Force Majeure. Developer shall not be deemed to be in breach, default or otherwise responsible for delays or failures in performance resulting from acts of God, acts of war or civil disturbance, governmental action or inaction, earthquakes, unavailability of labor, materials, power or communication, delays caused by the discovery of any unknown environmental condition, or other causes beyond Developer's reasonable control.

4. Miscellaneous.

(a) Except as specifically modified by this Second Amendment, the Agreement and First Amendment shall continue in full force and effect and is hereby ratified and confirmed by this Second Amendment.

(b) This Second Amendment shall be construed, interpreted, and enforced under the laws of the State of Michigan.

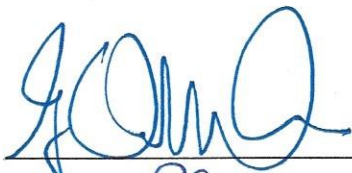
(c) This Second Amendment shall be binding upon and shall inure to the benefit of the parties and their respective permitted successors and assigns.

(d) All capitalized terms not defined in this Second Amendment shall have the same meaning as in the Agreement and First Amendment.

(e) In the event of any conflict between the terms of this Second Amendment and the terms of the Agreement and First Amendment, the terms of this Second Amendment shall govern and control.

(f) This Second Amendment may be executed in separate counterparts, including electronic and facsimile copies, each of which shall be deemed an original, all of which counterparts shall constitute one in the same Second Amendment.

WITNESSES TO DDA:



L E PDL

DDA:

**Delhi Township Downtown Development
Authority, a Michigan downtown
development authority**

By: 

C. Howard Haas
Its: Executive Director

WITNESSES TO DEVELOPER:

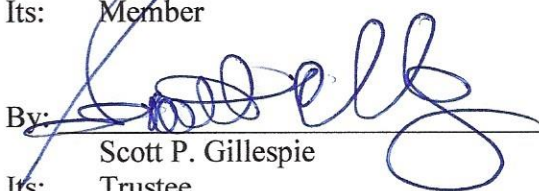


DEVELOPER:

2000 Cedar, LLC, a Michigan limited liability company

By: The Gillespie Company, LLC,
a Michigan limited liability company
Its: Manager

By: Scott P. Gillespie Trust u/a/d 9/09/04
Its: Member

By: 

Scott P. Gillespie
Its: Trustee

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THIRD AMENDMENT TO TRANSFER/DEVELOPMENT AGREEMENT

This Third Amendment to Transfer/Development Agreement (hereinafter referred to as the "Third Amendment") is made this 24 day of September, 2020 (the "Effective Date"), by and between Delhi Township Downtown Development Authority, a Michigan downtown development authority organized and operating under the Downtown Development Authority Act, MCL 125.1651, *et seq.*, as amended, whose address is 4410 Holt Road, Holt, Michigan 48842 (the "DDA") and 2000 Cedar, L.L.C., a Michigan limited liability company, whose address is 329 South Washington Square, Suite 1, Lansing, Michigan 48933 (the "Developer"). With their respective signatures, the parties to this Third Amendment voluntarily bind themselves to the covenants contained herein, which covenants establish the mutual consideration for this Third Amendment.

WHEREAS, the DDA and the Developer entered into a Transfer/Development Agreement (hereinafter referred to as the "Agreement") dated August 30, 2017; and

WHEREAS, the DDA and the Developer entered into a First Amendment to Transfer/Development Agreement dated February 21, 2018 (the "First Amendment"); and

WHEREAS, the DDA and the Developer entered into a Second Amendment to Transfer/Development Agreement dated May 28, 2019 (the "Second Amendment")

WHEREAS, the DDA and the Developer desire to amend the Agreement, First Amendment and Second Amendment upon the terms and conditions contained in this Third Amendment; and

WHEREAS, the consideration contained in the Agreement, First Amendment and Second Amendment forms the basis for this Third Amendment; and

WHEREAS, except as amended by this Third Amendment, the remaining terms and conditions of the Agreement, First Amendment and Second Amendment shall remain in full force and effect:

1. Purpose. The purpose of this Third Amendment is to extend the dates for commencement of construction of Phases I and II of the Project. Also, the parties desire to specifically define what is required for commencement of vertical construction and to establish safety protocols and procedures for performance.

2. Development. Paragraph IX of the Agreement is hereby deleted in its entirety and the following is inserted:

IX. Development. DDA and Developer agree that the Property was transferred to Developer subject to Developer's construction of the Project. The Project is defined as the redevelopment of the 2.14 acre parcel of real property located within the Charter Township of Delhi, Ingham County, Michigan, and legally described in Exhibit A, attached hereto. The Project shall consist of the two-phase construction of two (2) three (3) story buildings with approximately 14,000 square feet of office/retail use on the first floor and approximately thirty (30) residential units or at Developer's

option two (2) three (3) story buildings with approximately 10,000 to 10,500 square feet of office/retail use on the first floor and approximately thirty-six (36) residential units each as ultimately approved by the Township. It is understood and agreed that Developer shall commence vertical construction of Phase I no later than April 15, 2021 and end approximately twelve (12) months thereafter. The Project time frame for Phase II shall be subject to market conditions, but it is estimated that Developer will commence construction on or about August 1, 2022 and end approximately twelve (12) months thereafter. Subsequent to conveyance of the Property to Developer and until construction of the Project has been completed, Developer shall make the reports in such detail and at such times as may reasonably be requested by the DDA as to the actual progress of Developer with respect to the construction of the Project. Notwithstanding the above, it is agreed that in the event Developer does not commence vertical construction of the first three (3) story building, on or before April 15, 2021 (through no fault of the DDA, Charter Township of Delhi or Ingham County or in the event of force majeure), then Developer shall provide a Warranty Deed to the East Lansing, Michigan, office of Transnation Title Insurance Company, which Warranty Deed transfers the Property to the DDA free from any mortgages or other encumbrances. Transnation shall hold the Warranty Deed in escrow for a period of thirty (30) days. During this thirty (30) day period if Developer commences vertical construction of Phase I, the parties shall provide written notice to Transnation Title Insurance Company that the Warranty Deed shall be destroyed. If Developer does not commence vertical construction of Phase I within this thirty (30) days period, at the end of the thirty (30) day period, the Warranty Deed shall be released to the DDA. During this thirty (30) day period, the DDA, at its expense, may perform Phase I and Phase II Assessments, a Baseline Environmental Assessment, or other due diligence as it decides is prudent. If the Warranty Deed is released to the DDA, this Agreement shall be of no further effect and neither party shall have any further obligation or liability to the other (except for such provisions that otherwise survive under this Agreement and for such other cooperation necessary for the Charter Township of Delhi's Brownfield Redevelopment Authority to properly administer, amend or terminate an existing brownfield plan, brownfield reimbursement agreement and the MDEQ brownfield grant contract). As used in this Paragraph IX, the phrase "commence vertical construction" shall mean that the first floor walls shall be physically attached to the foundation.

3. Force Majeure. Developer shall not be deemed to be in breach, default or otherwise responsible for delays or failures in performance resulting from acts of God, acts of war or civil disturbance, governmental action or inaction, earthquakes, unavailability of labor, materials,

power or communication, delays caused by the discovery of any unknown environmental condition, or other causes beyond Developer's control.

4. Safety Measures. Within thirty (30) days from the Effective Date of this Third Amendment, the Developer shall install a chain-link fence or other fencing that is approved in writing by the DDA in the work areas of the Property. During this time period, the Developer will also install signs on the fence at locations agreed to in writing by the DDA which indicate "Danger: Keep Out - Construction Site" or other agreed to warning language. During the Project, the Developer shall comply with generally accepted safety protocols for this type of construction work.

5. Miscellaneous.

(a) Except as specifically modified by this Third Amendment, the Agreement, First Amendment and Second Amendment shall continue in full force and effect and is hereby ratified and confirmed by this Third Amendment.

(b) This Third Amendment shall be construed, interpreted, and enforced under the laws of the State of Michigan.

(c) This Third Amendment shall be binding upon and shall inure to the benefit of the parties and their respective permitted successors and assigns.

(d) All capitalized terms not defined in this Third Amendment shall have the same meaning as in the Agreement, First Amendment and Second Amendment.

(e) In the event of any conflict between the terms of this Third Amendment and the terms of the Agreement, First Amendment and Second Amendment, the terms of this Third Amendment shall govern and control.

(f) This Third Amendment may be executed in separate counterparts, including electronic and facsimile copies, each of which shall be deemed an original, all of which counterparts shall constitute one in the same Third Amendment.

(Signatures appear on the following page)

WITNESSES TO DDA:

Lori Underhill

Lori Underhill

WITNESSES TO DEVELOPER:

DDA:

**Delhi Township Downtown Development
Authority, a Michigan downtown
development authority**

By: C. Howard Haas

Its: Executive Director

Date: 10-1-20 2020

DEVELOPER:

**2000 Cedar, LLC, a Michigan limited
liability company**

By: The Gillespie Company, LLC,
a Michigan limited liability company
Its: Manager

By: Scott P. Gillespie Trust u/a/d 9/09/04
Its: Member

By: Scott P. Gillespie
Its: Trustee

Date: 09/24 2020

Grand Rapids leaders allow ground-floor apartments in nearly half of city's commercial spaces

Updated Jan 27, 2021; Posted Jan 27, 2021



Pictured is Bridge Street NW in Grand Rapids on in this 2020 file photo. Grand Rapids leaders Tuesday, Jan. 26, approved allowing first-floor residential units in business districts like Bridge Street. (MLive file photo)Cory Morse | MLive.com

By [Michael Kransz](mailto:mkransz@mlive.com) | mkransz@mlive.com

UPDATE: This story has been changed to reflect that the zoning change approved Tuesday does impact some areas of downtown.

GRAND RAPIDS, MI -- In an effort to increase the city's housing stock, Grand Rapids elected leaders are [allowing ground-floor residential units in business districts around the city, including downtown](#). The zoning ordinance change goes into effect March 1 and will allow first-floor residential units like apartments in nearly half of the city's 6,000 commercially-zoned properties, according to Grand Rapids planning officials.

The move, officially approved this week, is expected to create not only more opportunities to address the city's housing shortage but also different avenues for property owners struggling to find commercial and office renters to fill their first-floor spaces.

"The impact of the public health crisis has exacerbated an already challenged commercial market," said Grand Rapids Planning Director Kristin Turkelson, "and, although the demand for commercial space has lessened, the amount of available space has not changed. Additionally, the need for housing units, generally, and affordable units, specifically, is well documented.

“These changes were necessary and critical to the continued vitality of our neighborhood business areas.”

The zoning change was a recommendation by Housing Next, which was commissioned by the city to conduct a housing assessment. In its report released summer 2020, Housing Next found [the city needs an additional 5,340 rental units and 3,548 for-sale units by 2025 to meet demand and ensure low-income residents aren't displaced](#). The change applies to sections of the city zoned traditional business area and commercial, including portions of downtown.

Areas that fall within those classifications include stretches of Leonard, Bridge and Fulton streets on the city's West Side, as well as most of 28th Street and portions of Division Avenue, Wealthy Street, Plainfield Avenue, Michigan Street east of Medical Mile and more.

In downtown, stretches of Pearl Street, Monroe Center, Ionia Avenue, South Division Avenue and Bridge Street are included in the change.

Many of the major intersections throughout the city are included in these two zoning districts, as well. A full map of the districts [can be found here](#).

“Vibrant business districts are critical in creating a livable city and strong local economy,” Mayor Rosalynn Bliss said. “Great neighborhoods and vital business districts go hand-in-hand. Permitting first floor residential will support reinvestment in our traditional business corridors while creating much needed additional housing in our city.”

Turkelson said allowing first-floor residential units in these areas will increase the amount of floor space available for housing in the city by 50%.

She previously said about 46%, or 2,770, of the city's 6,000 commercially zoned parcels are located within these two districts.

Commissioners received letters of support for the zoning change from some in the business community.

“The proposed changes will have a swift, positive impact in supporting shared community goals of increasing housing supply, supporting commercial corridors and existing retailers, and returning vacant spaces to active use,” Joshua Lunger, senior director of government affairs at the Grand Rapids Area Chamber of Commerce, wrote.

“The change to allow these uses provides an opportunity to add in-demand units throughout the city without necessarily needing to construct new housing that comes with historically high construction, materials and land costs.”

In addition to allowing residential units on the ground floor in these districts, the approved zoning change will allow the construction of four-story buildings in traditional business districts without previous stipulations requiring urban open space or affordable or mixed-income housing as part of the development.

Turkelson previously said very few developers were able to meet the former requirements for a four-story building because including those conditions into a development was “practically infeasible.”

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FIRST FLOOR PLAN
Scale: 1/8" = 1'-0"

architecture | design



720 E. MICHIGAN AVE - SUITE 210
LANSING, MI 48912
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WWW.ASL-ARCHITECTS.COM
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ESKER SQUARE
CEDAR ST.
HOLT, MI 48842
ADDRESS LINE 3

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REVIEW SET	10.03.17
FOR PERMIT	05.18.18
BID SET	06.26.18
BULLETIN 1	10.21.19
BULLETIN 2	12.09.19
BULLETIN 3	01.xx.20

REF

PLAN AND EAST ELEVATION

File: \\N:\ASL\NAS\ASL_CAD\Storage\Acad Draw\$ thru 2\The Gillespie Company\Esker Square V3, CAD\2020xxx\TGC-EskerSq_Bulletin 3.dwg Saved: J:\pdpic 3/22/2021 1:46 AM Plotted: 3/22/2021 1:46 AM



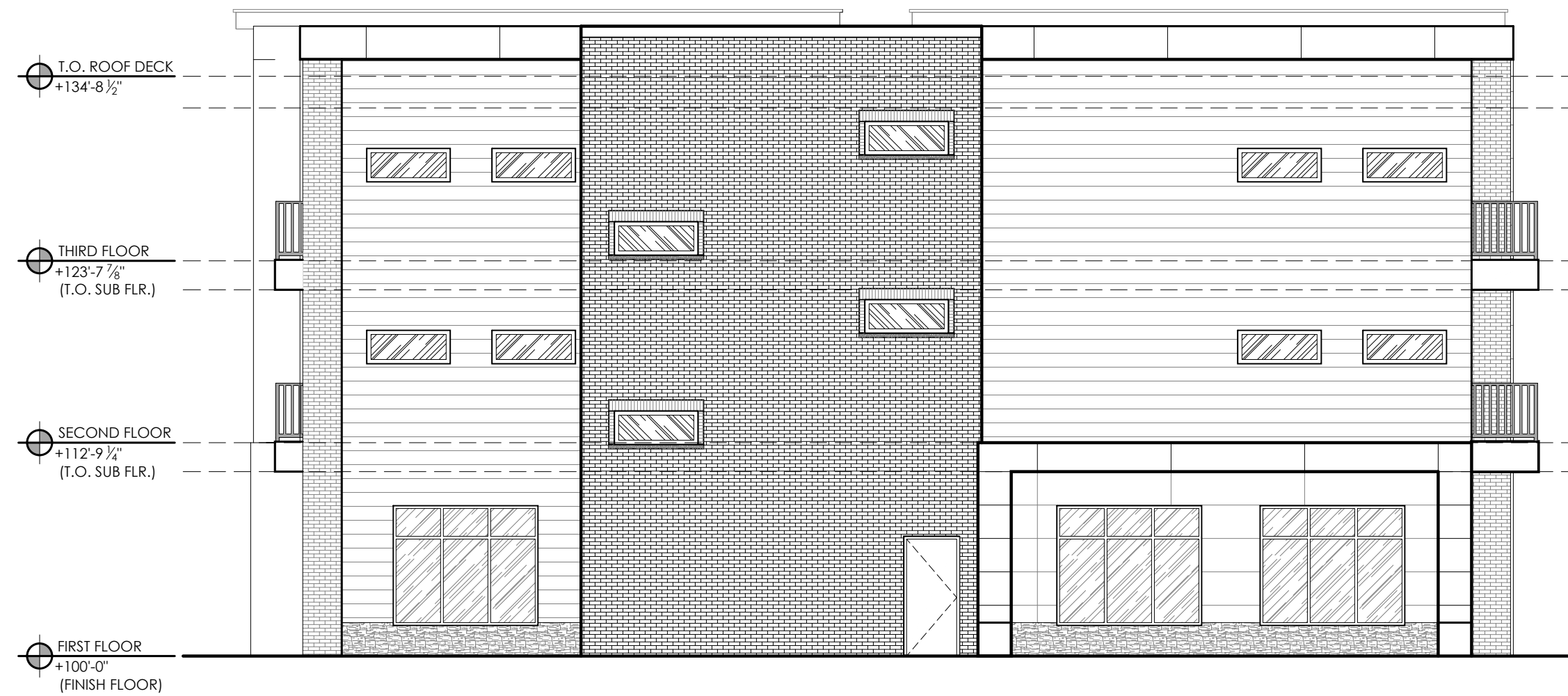
PLAN WEST ELEVATION 1
Scale: 1/8" = 1'-0"



PLAN EAST ELEVATION 2
Scale: 1/8" = 1'-0"



PLAN SOUTH ELEVATION 4
Scale: 1/8" = 1'-0"



PLAN NORTH ELEVATION 3
Scale: 1/8" = 1'-0"

architecture | design



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The Gillespie
COMPANY, LLC

360[®]

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REVIEW SET	10.03.17
FOR PERMIT	05.18.18
BID SET	06.26.18
BULLETIN 1	10.21.19
BULLETIN 2	12.09.19
BULLETIN 3	01.xx.20

REF

REF SHEET



**DELHI CHARTER TOWNSHIP
DOWNTOWN DEVELOPMENT AUTHORITY**

4410 HOLT ROAD, HOLT, MI 48842

TELEPHONE (517) 699-3866

FACSIMILE (517) 699-3878

www.delhidda.com

March 25, 2021

To: DDA Board Members

From: C. Howard Haas, Executive Director

Re: Sale of Property Located at 4063 Keller Road

In May 2006, the DDA purchased a fire damaged home at 4063 Keller Road. The area around the property is zoned Industrial and before the fire, the home was a legal, non-conforming use. Reconstruction would have required an uncertain rezoning process for the owners. The DDA offered to purchase the home and demolished it with the intent of returning the property to its Industrial use per the Township's Master Plan. The property has been vacant since the demolition in 2006. Earlier this year, I was approached by Dean Bontrager with an offer to purchase the property for future Industrial use. After discussions with the potential buyer and counsel, I directed Township Attorney Gordon VanWieren to prepare the attached resolution. The Purchase Agreement and Addendum addressing environmental issues are included as Attachment 1 to the resolution.

I therefore offer the following motion:

RECOMMENDED MOTION:

I move to adopt Resolution No. 2021-003, a resolution for the sale of real property located at 4063 Keller Road within the Charter Township of Delhi, Ingham County, Michigan to NMK Properties, LLC and direct Executive Director Haas and/or Deputy Director Underhill to execute the closing documents.

**DELHI CHARTER TOWNSHIP
DOWNTOWN DEVELOPMENT AUTHORITY**

RESOLUTION NO. 2021-003

**A RESOLUTION FOR THE SALE OF REAL PROPERTY
LOCATED AT 4063 KELLER ROAD WITHIN THE CHARTER
TOWNSHIP OF DELHI, INGHAM COUNTY, MICHIGAN
TO NMK PROPERTIES, LLC**

A regular meeting of the Delhi Charter Township Downtown Development Authority Board of Directors (the "Board") was held electronically through Zoom with identification number 861 2526 6718, on the 30th day of March, 2021, at 7:00 p.m.

PRESENT:

ABSENT:

The following Preamble and Resolution were offered by _____ and supported by _____.

WHEREAS, the Delhi Charter Township Downtown Development Authority (the "Delhi DDA") owns real property located at 4063 Keller Road within the Charter Township of Delhi, Ingham County, Michigan (the "Keller Road Property"); and

WHEREAS, the Delhi DDA received an offer from NMK Properties, LLC (the "Purchaser"), to purchase the Keller Road Property; and

WHEREAS, the Board has determined the Keller Road Property is no longer necessary for Delhi DDA purposes; and

WHEREAS, the Board has determined that it would be in the best interests of the Delhi DDA to sell the Keller Road Property to the Purchaser and to enter into a Buy and Sell Agreement for Office, Commercial, Industrial and Multi-Family Property and a First Addendum to Buy and Sell Agreement for Office, Commercial, Industrial and Multi-Family,

copies of which are attached hereto and made a part hereof as Attachments “1” and “2” (collectively, the “Buy and Sell Agreement”); and

WHEREAS, the Board desires to authorize and direct C. Howard Haas, the Executive Director of the Delhi DDA, or his designee, to execute the Buy and Sell Agreement and to take any other action necessary to sell the Keller Road Property to the Purchaser, subject to review and approval by the Delhi DDA’s legal counsel.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Board authorizes and directs C. Howard Haas, the Executive Director of the Delhi DDA, or his designee, to execute the Buy and Sell Agreement and to take any other action necessary to sell the Keller Road Property to the Purchaser, subject to review and approval by the Delhi DDA’s legal counsel.

2. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same are hereby rescinded.

AYES:

NAYS:

ABSENT:

This Resolution is declared adopted this 30th day of March, 2021.

Nanette Miller, Secretary

Attachment "1"



BUY AND SELL AGREEMENT
FOR OFFICE, COMMERCIAL, INDUSTRIAL AND MULTI-FAMILY PROPERTY



Office of CENTURY 21 Cedarwood (Principal Associate Broker Roger D Weymouth), REALTOR®
Holt _____ (city), Michigan Phone: 5174770633 Fax: 5176947899
Email: roger@694sold.com Date: 3-18-2021 pm (time)

1. The undersigned Buyer and Seller each acknowledge the REALTOR® name above is acting as (choose one):
☐ Subagent of the Seller ☒ Agent of the Buyer ☐ Dual Agent (with written, informed consent of both Buyer and Seller)
☐ Other (specify): _____
2. **Buyer's Offer.** The undersigned Buyer offers and agrees to purchase the property located in the _____ township of _____ County, Michigan, commonly known as _____
Delhi Charter _____ Ingham _____
4063 Keller Rd Holt, MI 48842
 Permanent Parcel Number 33-25-05-14-427-022 (of legal record) A.B. and legally described as follows:
See Attached (of legal record)

(the "Land"), together with all buildings, fixtures and improvements situated on the Land (the "Improvements"), and all equipment and other personal property listed on Exhibit D (the "Personal Property"), all of which is collectively referred to herein as the "Premises", except the following:

3. **Purchase Price.** The purchase price for the Premises is: 15,000 Dollars A.B. D.D.P. #1500
Five Thousand Fifteen Hundred
- Any allocation of the purchase price between the Land with Improvements and the Personal Property shall be set forth on an attached Exhibit.
4. **Terms of Payment** shall be as indicated by "X" below (other unmarked terms of purchase do not apply).
☒ **Cash.** Buyer shall pay the full purchase price to the Seller upon execution and delivery of a warranty deed and performance by Seller of the closing obligations specified herein.
☐ **New Mortgage.** Buyer shall pay the full purchase price to the Seller upon execution and delivery of a warranty deed and performance by Seller of the closing obligations specified herein, contingent upon Buyer's ability to obtain a _____ type _____ year mortgage loan in the amount of \$ _____ bearing interest at a rate no greater than _____ % per annum. Buyer shall apply for the mortgage loan immediately and accept it promptly if tendered. If Buyer does not deliver to Seller on or before _____ (date), proof that Buyer has accepted a mortgage loan commitment, Seller may thereafter at any time treat this contingency as not having been satisfied and terminate this Agreement by written notice to Buyer, unless Buyer has previously either satisfied or waived this contingency in writing.
☐ **Land Contract** ☐ **Purchase Money Mortgage.** The Buyer shall pay the full purchase price to the Seller pursuant to the terms and conditions stated in a _____ Land Contract form or a Purchase Money Mortgage form upon performance by Seller of the closing obligations specified herein. The Land Contract or Purchase Money Mortgage shall provide for a down payment of \$ _____ and payment of the balance in monthly installments of \$ _____ or more, at Buyer's option, including interest at the rate of _____ % per annum computed monthly, interest to start on date of closing, and first payment to become due _____ calendar days after date of closing. The entire unpaid balance will become due and payable _____ months after closing. Seller understands that consummation of the sale or transfer of the Premises shall not relieve the Seller of any liability that Seller may have under the mortgage(s) to which the Premises are subject, unless otherwise agreed to by the lender.
Additional Provisions:

5. **Survey.** A ☐ new ☐ recertified ☐ existing ☐ boundary survey with iron corner stakes and with all easements of record, improvements, and encroachments (if any); and/or ☐ ALTA survey showing all easements of record, improvements, and encroachments, if any, shall be provided by ☐ Buyer ☐ Seller within _____ calendar days after the later to occur of (i) the title insurance commitment referenced in Section 6 below is delivered to the party responsible for the survey; and (ii) Buyer's right to terminate under Section 7 below is waived or deemed to have been waived. If the survey reveals a matter that materially and adversely affects the value of the Premises or Buyer's intended use of the Premises, Buyer shall have the right to terminate this Agreement by giving Seller written notice within _____ (_____) calendar days after copies of both the survey and title commitment referenced in Section 6 below are delivered to Buyer, otherwise Buyer's right to terminate this Agreement pursuant to this Section shall be deemed to have been waived. Other:

Seller to provide copy of most recent survey if available

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A.B. Buyer's Initials ☐ ☐ Seller's Initials

6. **Title Insurance.** At Seller's expense, Seller shall provide Buyer with a standard owner's policy of title insurance in the amount of the purchase price, effective as of the date of closing. A commitment to issue such policy insuring marketable title (as defined in Section 11 below) vested in Buyer, including a tax status report, shall be ordered within seven (7) calendar days after the Effective Date of this Agreement, and shall be delivered as soon as feasible thereafter. If any matter disclosed by the title commitment adversely and materially affects the value of the Premises or Buyer's intended use of the Premises, Buyer shall have the right to terminate this Agreement by giving Seller written notice within Fifteen (15) calendar days after copies of both the title commitment and survey referenced in Section 5 above are delivered to Buyer, otherwise Buyer's right to terminate this Agreement pursuant to this Section shall be deemed to have been waived. A matter disclosed on the title commitment that is in the form of a lien that is liquidated in amount and that can be readily discharged (such as a mortgage) shall not be grounds for termination of this Agreement by Buyer under this Section so long as Seller discharges such lien(s) at the closing. Other:

7. **Inspections.** By signing this Agreement, Buyer is representing that the Buyer is aware that inspection services of buildings and building components and systems are commercially available. Buyer has the right to inspect the buildings and building components and systems or have the buildings and building components and systems inspected by experts selected by the Buyer. Buyer has elected to arrange and pay for the following inspections:

☐ No Inspections ☐ Plumbing ☐ Heating, Ventilating & Air Conditioning ☐ Electrical
☐ Structural, including roof ☐ Termites and other wood destroying insects ☐ Other (specify):

After the Effective Date of this Agreement, Buyer shall have the right to enter upon the Premises during reasonable business hours for purposes of conducting the above-noted inspections; provided, however, that such inspections shall not interfere with the rights of tenants in possession. Buyer shall indemnify and hold Seller harmless from and against any damage to persons or property caused by Buyer or Buyer's agents in conducting such inspections. Buyer shall have the right to terminate this Agreement if the inspection reports are not acceptable to the Buyer by giving Seller written notice within _____ calendar days after the Effective Date of this Agreement, otherwise the right to terminate shall be deemed to have been waived. Buyer agrees that Buyer is not relying on any representation or statement made by Seller or any real estate salesperson regarding any aspect of the Premises or this sale transaction, except as may be expressly set forth in this Agreement, a written amendment to this Agreement, or a disclosure statement separately signed by the Seller. Accordingly, Buyer agrees to accept the Premises "as is" and "with all faults" except as otherwise expressly provided in the documents specified in the preceding sentence. Other:


8. **Closing Adjustments.** The following adjustments shall be made between the parties as of the close of business on the closing date, with the Buyer receiving a credit or assuming responsibility, as the case may be, for amounts attributable to time periods following the closing date:

- Prepaid rent;
- Interest on any existing indebtedness assumed by Buyer;
- Charges for any transferable service contracts assigned to Buyer described in Exhibit C;
- Utility deposits;
- Security deposits;
- Additional Rent (as defined below).

If any tenant is late, delinquent or otherwise in default in the payment of rent on the closing date, Seller shall assign to Buyer the claim for and the right to collect the rent; Buyer shall forward any past due rent to Seller promptly upon receipt, but Buyer shall not be obligated to file suit to collect such rent and shall reassign the claim to Seller on demand. If any tenants are required to pay percentage rent, charges for real estate taxes, insurance, common area maintenance expenses, or other charges of a similar nature ('Additional Rent'). Such amounts shall be allocated between the parties pursuant to the terms of the applicable leases. If any Additional Rent is collected by Buyer after closing which is attributable in whole or in part to any period prior to closing, Buyer shall promptly pay to Seller Seller's proportionate share of the Additional Rent. Other:

9. **Property Taxes.** Real property taxes will be prorated as follows (choose one):

- ☐ No proration:
 Seller shall pay taxes billed prior to and including the _____ tax bill.
 Buyer shall pay taxes billed starting with the _____ tax bill.
- ☒ Real property taxes shall be deemed to cover the calendar year in which they are first billed. Tax bills issued for years prior to the year of closing shall be paid by Seller. Tax bills issued, or to be issued, in the year of closing shall be prorated so that Seller shall be charged from the first of the year to the closing date, and Buyer will be charged for the balance of the year, including the date of closing. If any bill for taxes proratable hereunder is not issued as of the closing date, the then current taxable value and tax rate and any administrative fee will be substituted and prorated.
- ☐ Taxes shall be prorated with Seller paying to but not including the day of closing assuming that taxes are paid on a due date basis:
- ☐ In advance ☐ In arrears
- ☐ Other:

 Buyer's Initials ☐ ☐ Seller's Initials

10. Special Assessments. (choose one)

- ☒ Seller shall pay all special assessments which have become a lien on the Premises prior to the date of closing, whether due in installments or otherwise.
- ☐ Seller shall pay all special assessments which have become a lien on the Premises prior to the date of closing, provided, however, that in the event a special assessment is payable in installments, Seller shall only be responsible for those installments covering the years prior to the year of closing, and Buyer shall be responsible for all installments covering all years after the year of closing. Installments of special assessments covering the year of closing shall be prorated using the same method set forth in Section 9 for the proration of real estate taxes.
- ☐ Other: _____

11. Conveyance. Upon performance by Buyer of the closing obligations specified herein, Seller shall convey marketable title to the Premises to Buyer by warranty deed or by land contract or assignment, as required by Section 4 above, including oil, gas, and other mineral rights, subject only to building and use restrictions, easements, and restrictions of record, if any. As used herein, "marketable title" means marketable title within the meaning of the Michigan 40-Year Marketable Title Act (MCL 565.101 et seq.)

The following Section applies only if the Premises include unplatted land:

Seller agrees to grant Buyer at closing the right to make (insert number) all division(s) under Section 108(2), (3), and (4) of the Michigan Land Division Act. (If no number is inserted, the right to make divisions under the sections referenced above stays with any remainder of the parent parcel retained by Seller. If a number is inserted, Seller retains all available divisions in excess of the number stated; however, Seller and/or REALTOR® do not warrant that the number of divisions stated is actually available.) If this sale will create a new division, Seller's obligations under this Agreement are contingent on Seller's receipt of municipal approval, on or before N/A (date), of the proposed division to create the Premises.

Other: _____

12. Warranties of Buyer. Except as otherwise provided or acknowledged in this Agreement, Buyer represents and warrants to Seller as follows:

- The performance of the obligations of Buyer under this Agreement will not violate any contract, indenture, statute, ordinance, judicial or administrative order or judgment applicable to Buyer.
- There is no litigation or proceeding pending, or to the Buyer's knowledge threatened, against or involving the Buyer, and the Buyer does not know or have reason to know of any ground for any such litigation or proceeding, which could have an adverse impact on Buyer's ability to perform under this Agreement.
- In entering into this Agreement, Buyer has not relied upon any written or verbal representations made by Seller or any representative of Seller, including any real estate salesperson, regarding the Premises or any aspect of this transaction, which are not expressly set forth in this Agreement.
- Other: _____
- _____
- _____
- _____

13. Warranties of Seller. Except as otherwise provided or acknowledged in this Agreement, Seller represents and warrants to, and agrees with Buyer as follows:

- Seller's interest in the Premises shall be transferred to Buyer on the closing date, free from liens, encumbrances other than as disclosed in the title commitment and not objected to by Buyer pursuant to Section 6 hereof.
- The performance of the obligations of Seller under this Agreement will not violate any contract, indenture, statute, ordinance, judicial or administrative order or judgment applicable to Seller or the Premises.
- There is no litigation or proceeding pending or to the Seller's knowledge threatened, against or involving the Seller or the Premises, and the Seller does not know or have reason to know of any ground for any such litigation or proceeding which could have an adverse impact on Seller's ability to perform under this Agreement or that could affect Buyer's title to or use of the Premises.
- Seller shall continue to operate the Premises in the ordinary course of business and maintain the Premises in good condition and repair during the interim between the signing of this Agreement and the closing date.
- If a statement(s) of income and expense with respect to the operation of the Premises is(are) described in Exhibit A, such statement(s) is(are) accurate for the period(s) designated in the statement(s).
- The information concerning written leases and any tenancies not arising out of written leases described in Exhibit B is accurate as of the Effective Date of this Agreement, and there are no leases or tenancies with respect to the Premises other than those described in Exhibit B (the "Leases").

Except as otherwise described in Exhibit B:

- All of the Leases are in full force and effect, no party thereto is in material default thereunder, and none of them have been modified, amended or extended;
 - No renewal or extension options have been granted to tenants;
 - No tenant has an option to purchase the Premises;
 - The rents set forth are being collected on a current basis and there are no arrearages or advance payments in excess of one month;
 - There are no security deposits, and
 - No real estate brokerage commission will become owing in the event of any tenant's exercise of any existing option to renew the term of any Lease or purchase of the Premises.
- ☐ If a schedule of service, maintenance, supply and management contracts ("Service Contracts") is described in Exhibit C, the Exhibit lists all the Service Contracts currently in effect with respect to the Premises.
- ☐ With respect to underlying land contracts or mortgages, the sale will not accelerate indebtedness, increase interest rates, or impose penalties and sanctions.

 Buyer's Initials ☐ ☐ Seller's Initials

- i. Seller is without personal knowledge as to the presence on the Premises of any toxic or hazardous substances or of any underground storage tanks.
- j. Other: _____

14. **Damage to Premises.** If between the Effective Date of this Agreement and the closing date, all or any part of the Premises is damaged by fire or natural elements or other causes beyond the Seller's control which cannot be repaired prior to the closing date, or any part of the Premises is taken pursuant to any power of eminent domain, Seller shall immediately notify Buyer of such occurrence, and either Seller or Buyer may terminate this Agreement by written notice to the other within fifteen (15) calendar days after the date of the damage or taking. If neither elects to terminate this Agreement, there shall be no reduction of the purchase price and at closing Seller shall assign to Buyer whatever rights Seller may have with respect to any insurance proceeds or eminent domain award.

15. **Closing.** The closing shall be held within 10 calendar days after all contingencies have been satisfied or waived. An additional period of thirty (30) calendar days shall be allowed for closing to accommodate the correction of title defects and/or survey problems which have been properly identified pursuant to Section 5 or 6 hereof and which are readily correctable.

16. **Possession.** Seller shall tender to Buyer possession of the Premises upon completion of the closing, subject to all existing leases and rights of tenants in possession. Other: N/A

17. **Seller's Closing Obligations.** At closing, Seller shall deliver the following to Buyer:

- The warranty deed, land contract or assignment of land contract required by Section 4 of this Agreement.
- A bill of sale for any Personal Property (described in Exhibit "D")
- A written assignment by Seller of Seller's interest in all leases and a transfer to Buyer of all security deposits, accompanied by the original or a true copy of each lease.
- An assignment of all Seller's rights under any Service Contracts described in Exhibit C which are assignable by their terms and which Buyer wishes to assume, together with an original or true copy of each Service Contract assigned.
- A notice to any tenants advising the tenants of the sale and directing that future payments be made to Buyer.
- Any other documents required by this Agreement to be delivered by Seller.
- An accounting of operating expenses including, but not limited to, CAM, taxes, insurance, and Additional Rent, collected in advance or arrears, spent or not yet spent by Seller, showing an accurate allocation between the parties pursuant to the leases.

18. **Buyer's Closing Obligations.** At closing, Buyer shall deliver to Seller the following:

- The cash portion of the purchase price specified in Section 4 above shall be paid by cashier's check or other immediately available funds, as adjusted by the apportionments and assignments in accordance with this Agreement.
- A written assumption by Buyer of the obligations of Seller under the Leases arising after closing, including an acknowledgment of the receipt of all security deposits.
- Any other documents required by this Agreement to be delivered by Buyer.

19. **1031 Tax Deferred Exchange.** Upon either party's request, the other party shall cooperate and reasonably assist the requesting party in structuring the purchase and sale contemplated by this Agreement as part of a tax deferred, like-kind exchange under Section 1031 of the Internal Revenue Code of 1986, as amended; provided, however, that in connection therewith, the nonrequesting party shall not be required to (a) incur any additional costs or expenses; (b) take legal title to additional real property (i.e., the requesting party's "replacement property" or "relinquished property"); or (c) agree to delay the closing.

20. **Notices.** Unless otherwise stated in this Agreement, a notice required or permitted by this Agreement shall be sufficient if in writing and either delivered personally or by certified mail or other form of documentable delivery addressed to the parties at their addresses specified in the proximity of their signatures below, and any notices given by mail shall be deemed to have been given as of the date of the postmark.

21. **Additional Acts.** Buyer and Seller agree to execute and deliver such additional documents and to perform such additional acts as may become necessary to effectuate the transfers contemplated by this Agreement.



22. **Authority of the Parties.** Each of the undersigned individuals who have signed this Agreement on behalf of Seller and Buyer entities represent and warrant that he/she is authorized to sign this Agreement on behalf of such party and to bind such party to the requirements of this Agreement.

23. **Entire Agreement.** This Agreement contains the entire agreement of the parties with respect to the sale of the Premises. All contemporaneous or prior negotiations have been merged into this Agreement. This Agreement may be modified or amended only by written instrument signed by the parties to this Agreement. This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan.

For purposes of this Agreement, the phrase "Effective Date of this Agreement" shall be the date upon which this Agreement is fully executed pursuant to Section 33 or 34 below, whichever may apply.

24. **Earnest Money.** Buyer gives N/A REALTOR®, N/A calendar days to obtain the written acceptance of this offer and agrees that this offer, when accepted by Seller, will constitute a binding agreement between Buyer and Seller. Buyer shall deposit \$0 with REALTOR® ☐ with this offer OR ☐ within N/A calendar days after acceptance of this offer, evidencing Buyer's good faith, to be held by the REALTOR® and to be applied to the purchase price or the down payment portion thereof where applicable. If this offer is not accepted or the title is not marketable or if the purchase is contingent upon conditions specified which cannot be met, this deposit shall be promptly refunded. If the Buyer defaults, all deposits made may be forfeited as liquidated damages at Seller's election or, alternatively, Seller may retain the deposit as part payment of the purchase price and pursue Seller's legal or equitable remedies against Buyer. If the sale is not closed according to its terms, the REALTOR® may notify Buyer and Seller of REALTOR®'S intended disposition of the earnest money deposit, and all parties shall be deemed to have agreed to the disposition of the earnest money deposit unless REALTOR® receives written objection within seven (7) calendar days.

25. **Disclosure of Price and Terms.** The purchase price and the terms of this sale may be disclosed to Associations of REALTORS®, multiple listing services and/or commercial property information exchanges. Deletion of this Section shall not be considered a counter offer which would require a counter acceptance.

  Buyer's Initials ☐ ☐ Seller's Initials ☐ ☐

26. **Credit Reports.** Buyer consents that, if not otherwise prohibited, the REALTOR may give Seller information about the Buyer contained in a credit report which may be furnished to the REALTOR by a reporting agency.
27. **Advice of Counsel.** Buyer acknowledges that the REALTOR has recommended that Buyer retain an attorney to pass upon the marketability of title, to ascertain that the terms of the sale are adhered to before the transaction is closed and to advise with respect to the Notice referenced in Section 28 hereof.
28. **Environmental.**

a. **Notice to sellers, buyers, landlords and tenants (environmental risks).**

Whenever property is acquired, the buyer incurs some degree of risk with regard to potential environmental contamination and/or protected natural resources on the property. Various federal, state and local laws may impose liability upon the buyer for the remediation of the contamination even though the buyer did not cause it, or may restrict the buyer's ability to fully develop or utilize the property. Such risk can be minimized through the performance of environmental due diligence.

No real estate broker/salespersons in this transaction possess the expertise necessary to assess the nature or extent of these environmental risks or to determine the presence of environmental contamination or protected natural resources. The real estate broker/salespersons involved in this transaction do not make independent investigations as to environmental contamination or protected natural resources with respect to any property, and they make no representations regarding the presence or absence, now or in the past, of environmental contamination. It is therefore prudent for each party to this transaction to seek legal and technical counsel from professionals experienced in environmental matters to provide an evaluation of the environmental risks associated with the transaction.

b. **Environmental reports and assessments.**

- (1) Seller shall provide copies of any existing Environmental Assessments or reports involving the Premises within 15 calendar days after the Effective Date of this Agreement.

- (2) At Buyer's option, Buyer shall be given access to the Premises during normal business hours to perform ☐ an ASTM E1528 Transaction Screen or ☐ an ASTM E1527 Phase I Site Assessment (individually or collectively the "Environmental Assessment"). Buyer shall pay 100 % and Seller shall pay 0 % of the cost of the Environmental Assessment. The Environmental Assessment shall be ordered by the ☒ Buyer ☐ Seller. The Environmental Assessment shall be completed within 60 calendar days after the Effective Date of this Agreement and shall be certified to NMK Properties LLC.

- (3) If an Environmental Assessment of the Premises reveals recognized environmental conditions as defined by ASTM, then Buyer shall have the right to:

- (a) terminate this Agreement within 15 calendar days after receipt of the Environmental Assessment report; or
 (b) provide Seller with the Environmental Addendum to Buy and Sell Agreement (Seller's refusal to execute the Environmental Addendum within 15 calendar days shall, at Buyer's option, terminate this Agreement); or
 (c) proceed with the purchase.
- (4) For residential housing units, Seller will attach either the Seller's acknowledgment Form Concerning Lead-Based Paint or a Lead-Based Paint Seller's Disclosure form, depending on whether the improvements were built prior to 1978 or 1978 or later.

c. **Nondisclosure.**

If Buyer exercises its right to terminate this Agreement pursuant to subsection b. above, Buyer shall not disclose its Environmental Assessment report(s) to any third-party. At Seller's request, Buyer shall provide copies of any Environmental Assessment report(s) to Seller.

d. **Other:**

Seller to provide copies of most recent phase one - Environmental Assessment to buyer with response to offer or within 15 days of acceptance of offer.

29. **Brokerage Fee.** Seller and/or Buyer agrees to pay the broker(s) involved in this transaction a brokerage fee as specified in any agency agreement or other written agreement between them. In the event no such agreement exists, ☒ Buyer ☐ Seller agrees to pay a brokerage fee of \$1250. This brokerage fee shall be paid in full promptly after it is earned, but not later than any applicable closing. Unless otherwise previously agreed, Buyer and/or Seller agrees that the brokerage fee may be shared by the recipient with any cooperating broker who participates in the sale, in such amount as the recipient decides, without further disclosure to or consent from Buyer and/or Seller. Other:

30. **Other Provisions.**

AB Buyer's Initials ☐ ☐ Seller's Initials

31. Index of Exhibits.

Not Applicable	Attached	Seller to Furnish	Exhibit	Subject	Attached	Seller to Furnish	Exhibit	Subject
X			A	Income and expense with respect to the operation of the Premises	X			
X			B	Written leases and any tenancies not arising out of written leases	X			
x			C	Service Contracts	x			
x			D	List of Personal Property	x			

As to any "Seller to furnish" item(s) listed above, Buyer shall have the right to terminate this Agreement if any such item is not acceptable to Buyer by giving Seller written notice within 15 calendar days after receipt of such item(s), otherwise the right to terminate this Agreement pursuant to this Section shall be deemed to have been waived.

32. By signing below, Buyer acknowledges having read and received a copy of this Agreement.

Witness: Rogers W. W.
 Buyer's Address: 3967 Otis Rd.

MAON, MI 48854

Entity: NMK Properties
Dean Bortner on behalf of NMK Properties LLC
 (Note: Please sign as you wish your name to appear on the final papers.)

Printed name of Signatory: Dean Bortner

Its: _____

Bus. Phone: _____ Fax: _____

E-Mail: _____

SELLER'S ACCEPTANCE

Date: _____ (time)

33. The above offer is hereby accepted:

By signing below, Seller acknowledges having read and received a copy of this Agreement. If this Agreement is signed by Seller without any modification, this becomes the Effective Date of this Agreement.

Seller gives REALTOR® above named until _____ (time) _____ (date), to obtain Buyer's written acceptance of counter offer, if any.

Witness: _____

Seller's Address: _____

Entity: _____

By: _____

(Note: Please sign as you wish your name to appear on the final papers.)

Printed name of Signatory: _____

Its: _____

Bus. Phone: _____ Fax: _____

E-Mail: _____

BUYER'S RECEIPT OF ACCEPTANCE

Date: _____ (time)

34. Buyer acknowledges receipt of Seller's acceptance of Buyer's offer. If the acceptance was subject to changes from Buyer's offer, the Buyer agrees to accept those changes, all other terms and conditions remaining unchanged. If this Agreement is signed by the Buyer without any modification, this becomes the Effective Date of this Agreement.

Witness: _____

Buyer: _____

SELLER'S RECEIPT OF ACCEPTANCE

Date: _____ (time)

35. Seller acknowledges receipt of a copy of the Buyer's acceptance of the counter-offer (if Seller made a counter-offer).

Witness: _____

Seller: _____

Disclaimer: This form is provided as a service of the Michigan Association of REALTORS®. Please review both the form and details of the particular transaction to ensure that each section is appropriate for the transaction. The Michigan Association of REALTORS® is not responsible for use or misuse of the form, for misrepresentation, or for warranties made in connection with the form.

☐ Buyer's Initials ☐ Seller's Initials

**FIRST ADDENDUM TO BUY AND SELL AGREEMENT
FOR OFFICE, COMMERCIAL, INDUSTRIAL AND MULTI-FAMILY**

This First Addendum to Buy and Sell Agreement for Office, Commercial, Industrial and Multi-Family (the "First Addendum" or this "First Addendum") is entered into this ____ day of March, 2021, by and between Delhi Township Downtown Development Authority, a Michigan downtown development authority organized and operating under the Downtown Development Authority Act, MCL 125.1651, *et seq.*, as amended, whose address is 4410 Holt Road, Holt, Michigan 48842, whose address is 4410 Holt Road, Holt, Michigan 48842 (the "Seller") and MK Properties, LLC, a Michigan limited liability company, whose address is 3967 Toles Road, Mason, Michigan 48854 (the "Purchaser") (individually, a "Party" and collectively, the "Parties").

WITNESSETH:

WHEREAS, the Seller and the Purchaser desire to enter into a Buy and Sell Agreement for Office, Commercial, Industrial Multi-Family (the "Purchase Agreement") for the purchase and sale of real property owned by the Seller located at 4063 Keller Road within the Delhi Charter Township, Ingham County, Michigan, such property bearing Tax Parcel No. 33-25-05-14-427-022 (the "Property"); and

WHEREAS, the Seller and the Purchaser desire to amend the Purchase Agreement upon the terms and conditions contained in this First Addendum; and

WHEREAS, except as amended by this First Addendum, the remaining terms and conditions contained in the Purchase Agreement shall remain in full force and effect.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants contained herein, and for good and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Disclosure of Environmental Contamination, Waiver of Claims and Disclaimer of Warranties. As set forth in Paragraph 2, below, the Seller discloses that there is extensive environmental contamination on and in the Property.

AT CLOSING, THE PURCHASER SHALL CONFIRM IN WRITING THEY HAVE CONDUCTED ALL INSPECTIONS WHICH, IN THEIR SOLE DISCRETION, THEY HAVE DETERMINED NECESSARY TO ESTABLISH THE CONDITION OF THE PROPERTY. THE PURCHASER WILL EXECUTE A PURCHASER'S STATEMENT (THE "PURCHASER'S STATEMENT"). THE PURCHASER'S STATEMENT CONFIRMS IN WRITING THAT THE PURCHASER HAS INSPECTED THE PROPERTY AND AGREES TO TAKE THE PROPERTY WITH THE EXTENSIVE ENVIRONMENTAL CONTAMINATION "AS IS" AND IN ITS PRESENT CONDITION AND WAIVES ANY AND ALL CLAIMS OF ANY TYPE OR NATURE KNOWN OR UNKNOWN AGAINST THE SELLER AND ITS OFFICERS, BOARD MEMBERS, DIRECTORS, EMPLOYEES, AGENTS, SUCCESSORS OR ASSIGNEES ("SELLER PARTIES") ARISING FROM ENVIRONMENTAL CONTAMINATION AT OR EMANATING FROM THE PROPERTY AND THAT THERE ARE NO OTHER OR ADDITIONAL WRITTEN OR ORAL UNDERSTANDINGS. THE PURCHASER'S STATEMENT ALSO PROVIDES THAT THE SELLER EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES OF ANY KIND WITH REGARD TO THE PROPERTY.

2. Environmental Matters. The Seller had a Phase I environmental audit, ACM Survey, Baseline Environmental Assessment and Due Care Plan prepared for the Property. The Purchaser acknowledges that it has received and extensively reviewed all of these documents and agrees that Seller has provided any necessary disclosure required under MCL 324.20116 and .20126(1)(c); MCL 324.21304d and .21323a(1)(b); and other applicable law and regulation. Accordingly, the Purchaser is fully aware that there is extensive environmental contamination on and in the Property and agrees to assume all liability for the environmental contamination if a closing occurs under this Agreement. As a material inducement to Purchaser assuming the foregoing liability and entering into this agreement, Seller represents and warrants to Purchaser as follows: (a) it became owner or operator of the subject property on or after May 24, 2006; (b) it obtained a Baseline Environmental Assessment (BEA) prior to or within 45 days after the earlier of the date of its purchase or occupancy of the subject property; (c) it properly submitted the BEA to the State of Michigan Department of Environment, Great Lakes, and Energy (or its predecessor) within 6 months after acquiring the subject property; (d) it has complied with its Due Care Plan in all material respects and, to the best of Seller's knowledge, information and belief, is not responsible for any activity causing a release or threat of release of any hazardous substance and has not disposed of any hazardous substance nor permitted the disposal of any hazardous substance on the subject property; and (e) it has not leased or otherwise permitted any other person or entity to occupy or operate the subject property since it was acquired by Seller. The foregoing representations and warranties of Seller shall survive closing.

It is the intention and agreement of the Seller and the Purchaser that following conveyance of the Property to the Purchaser, the Seller Parties shall have no liability or exposure with respect to any environmental remediation required on or in the Property or with respect to claims of third parties arising out of or based upon exposure, subsequent to such conveyance, to hazardous substances or other conditions known or unknown which may be in or about the Property, and as stated above, the Purchaser is accepting the Property in its "as is" condition with full liability therefor. The Seller and the Purchaser agree, if a conveyance of the Property occurs:

(a) The Purchaser shall, at its sole expense, be responsible for, pay the cost of, and indemnify the Seller Parties from, including payment of the Seller Parties actual attorneys' fees, any and all environmental assessments and remedial actions for any hazardous substances located on or in the Property, if any, required pursuant to the Comprehensive Environmental Response Compensation and Liability Act of 1980 (as amended), Act 451 of the Michigan Public Acts of 1994, as amended, or any and all other applicable federal, state or local statutes, laws, ordinances, codes, rules, regulations, and guidelines (including consent decrees and administrative orders) relating to public health and safety and the protection of the environment.

(b) The Purchaser shall, at its sole expense, be responsible for and pay the cost of investigation, repairs and modifications as are necessary to assure that the Property is safe and appropriate for its intended uses and that the Property complies with all applicable building codes or other applicable laws or regulations; and are not in violation of any federal, state or local laws, regulations or orders pertaining to the environment or use of the Property.

(c) The Purchaser further agrees that it shall, at its expense, defend against any claims asserted by third parties and indemnify the Seller Parties, including payment of the Seller Parties' actual attorneys' fees from any exposure in and about the Property after the date of closing to any hazardous waste as defined in Section 11103(3) of Act 1994 PA 451, as amended, or as defined in any other applicable federal or state law, regulation, ruling, order, or as a result of any other allegedly dangerous conditions known or unknown existing in and about the Property as of the date of conveyance to the Purchaser.

(d) The Purchaser shall not look to the Seller Parties, for any reimbursement, apportionment, or contribution with respect to the liability assumed, and expenditures incurred by the Purchaser pursuant to subparagraphs (a), (b) and (c) above, by reason of the existence of any hazardous waste (as above defined) or which may be assessed as response costs or investigative costs by any governmental agency, whether such right be pursuant to common law or by statute.

(e) The provisions of this Paragraph 2 shall, in the case any one or more of the same is deemed to be unenforceable, be severable, meaning that the unenforceability of any given provisions shall not affect the enforceability of the remaining provisions.

(f) This Paragraph 2 shall inure to the benefit and be binding upon the Purchaser, its successors and assigns, including any party to whom any of the Property is conveyed or leased in whole or in part, by the Purchaser.

(g) The provisions of subparagraphs (a) through (f), above, shall survive closing. At the Seller's option, at the closing, the provisions of subparagraphs (a) through (f) shall be placed in recordable form, signed and acknowledged by the Purchaser and the Seller Parties and then recorded by the Seller Parties, at their expense, with the Ingham County, Michigan, Register of Deeds.

3. Miscellaneous.

(a) Except as specifically modified hereby, the Purchase Agreement shall continue in full force and effect and is hereby ratified and confirmed by this First Addendum.

(b) This First Addendum shall be construed, interpreted and enforced under the laws of the State of Michigan.

(c) This First Addendum is binding upon and shall inure to the benefit of the parties and their respective permitted successors and assigns under the Purchase Agreement.

(d) All capitalized terms not defined in this First Addendum shall have the same meaning ascribed to those terms in the Purchase Agreement.

(e) In the event of any conflict between the terms of this First Addendum and the terms of the Purchase Agreement and/or any prior amendments thereto, the terms of this First Addendum shall govern and control.

(f) This First Addendum may be executed in several counterparts, each of which may be deemed as original, and all of such counterparts together shall constitute one and the same First Addendum. Facsimile signatures shall be binding.

IN WITNESS WHEREOF, the Seller and the Purchaser have signed and delivered this First Addendum to Buy and Sell Agreement for Office, Commercial, Industrial Multi-Family as of the date first set forth above.

SELLER:

**DELHI CHARTER TOWNSHIP
DOWNTOWN DEVELOPMENT
AUTHORITY, a Michigan downtown
development authority**

By: Lori Underhill
Its: Deputy Director
Dated: _____

PURCHASER:

**NMK PROPERTIES, LLC, a Michigan
limited liability company**

By: Dean Bontrager
Its: Member
Dated: _____

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Exhibit “A”

PURCHASER’S STATEMENT

NMK Properties, LLC, a Michigan limited liability company, whose address is 3967 Toles Road, Mason, Michigan 48854 (the “Purchasers”) is purchasing from Delhi Charter Township Downtown Development Authority, a Michigan downtown development authority organized and operating under provisions of Public Act 57 of 2018, MCL 125.4101, *et seq.*, as amended, whose address is 4410 Holt Road, Holt, Michigan 48842 (the “Seller”), real property located at 4063 Keller Road in the Charter Township of Delhi, County of Ingham, State of Michigan, legally described as follows:

[INSERT LEGAL]

Parcel Number: 33-25-05-14-427-022 (the “Property”)

The Purchasers confirm, acknowledge and agree that:

(1) The Purchasers confirm that they have inspected the Property and agree to take the Property “as is,” with all extensive environmental contamination and debris, and in its present condition.

(2) The Purchasers waive any and all claims of any type or nature, know or unknown, against the Seller and its officers, board members, directors, employees, agents, successors or assigns, past or present, arising in any way from environmental contamination at or emanating from the Property.

(3) The Purchasers acknowledge Sellers’ disclosure in accordance with MCL 324.20116 and .20126(1)(c); MCL 324.21304d and 324.21323a(1)(b); and other applicable law and regulations.

(4) The Purchasers confirm that there are no other or additional written or oral understandings and that the Sellers disclaim any and all warranties of any kind with regards to the Property.

PURCHASERS:

NMK PROPERTIES, LLC

a Michigan limited liability company

By: _____

Dean M. Bontrager

Its: Member

Dated: _____, 2021



**DELHI CHARTER TOWNSHIP
DOWNTOWN DEVELOPMENT AUTHORITY**

4410 HOLT ROAD, HOLT, MI 48842

TELEPHONE (517) 699-3866

FACSIMILE (517) 699-3878

www.delhidda.com

March 25, 2021

To: DDA Board Members

From: C. Howard Haas, Executive Director

Re: Bid Award – Delhi Trails Asphalt Rehabilitation

At our October meeting, we approved a recommendation from Hubbell, Roth & Clark, Inc. (HRC) to prepare bid documents for a section of the Non-Motorized Trail from Esker Landing to Dallas Avenue along Cedar Street for rehabilitation. HRC bid the project and did not receive any response. Upon recommendation from HRC, the project was split into two categories: crack/surface sealing and full-depth replacement. Four (4) bids were received. A breakdown of the 3 lowest bids is attached for your review. The low estimate for crack/surface sealing was Hayhoe Asphalt at \$2,700.00 and the low estimate for full-depth replacement was American Asphalt at \$11,015.00. Both companies have worked favorably with HRC in the past.

I therefore offer the following motion:

RECOMMENDED MOTION:

I move to award the bid for Delhi Trails Asphalt Rehabilitation Crack/Surface Sealing to Hayhoe Asphalt in the amount of \$2,700.00 and Full-Depth Replacement to American Asphalt, Inc. in the amount of \$11,015.00. and authorize Hubbell, Roth & Clark, Inc. to provide the contractors with notices to proceed.

March 23, 2021

Delhi Downtown Development Authority
4410 Holt Road
Holt, Michigan 48842

Attn: Mr. Howard Haas, Executive Director

Re: 2021 Trail Rehab
Escher Park to Dallas Ave
Recommendation of Award

HRC Job No. 20200143

Dear Mr. Haas,

Estimates for the subject project were requested from local contractors separated into two categories: crack/surface sealing and full-depth replacement. A total of four (4) estimates were received. The estimates have been reviewed and are in order. The low estimate for the crack/surface sealing was Hayhoe Asphalt from Holt, Michigan at \$2,700.00, and the low estimate for full-depth replacement was American Asphalt Inc. from Lansing, Michigan at \$11,015.00. HRC has worked favorably with both contractors on projects in the past.

In our capacity as Consulting Engineers for Delhi Charter Township, we recommend that a unit price contract for the 2021 Trail Rehab project be awarded to Hayhoe Asphalt for the crack/surface sealing in the amount of \$2,700.00, and American Asphalt Inc. for the full-depth replacement sections in the amount of \$11,015.00.

Upon approval we will provide the contractors with a notice to proceed.

Attached, please find a copy of the estimate tabulation. Should you have any questions or comments, please feel free to contact the undersigned.

Very truly yours,

HUBBELL, ROTH & CLARK, INC.



Todd J. Sneathen, P.E.
Vice President

Attachment

pc: Delhi Township; T. Miller
Delhi DDA; L. Underhill
HRC; K. Stickel, File

BID TABULATION
 2021 TRAIL REHAB ESKER PARK TO DALLAS AVE
 DELHI CHARTER TOWNSHIP
 INGHAM COUNTY

Estimates received on 3/22/2021
 HRC Job # 20200143

American Apshalt Inc
 302 Charles St
 Lansing, MI | (517) 484-0260

Hayhoe Apshalt
 4025 Holt Rd, Bldg B
 Holt, MI | (517) 694-9033

McKearney Asphalt
 PO Box 22083
 Lansing, MI (248) 484-3188

Item	Quantity	Unit	Unit Price	Total Cost	Unit Price	Total Cost	Unit Price	Total Cost
CRACK SEALING & SURFACE SEAL								
1a. Overband Crack Sealing	120	lb	\$0.00	\$0.00	\$0.00	\$0.00	\$4.17	\$500.00
1b. Overband Crack Sealing	400	lft	\$1.50	\$600.00	\$1.25	\$500.00	\$0.00	\$0.00
2. Surface Seal	2,200	syd	\$1.10	\$2,420.00	\$1.00	\$2,200.00	\$2.00	\$4,400.00
3. Minor Traf Devices	1	lsum	\$0.00	\$0.00	\$0.00	\$0.00	\$500.00	\$500.00
TOTAL BID AMOUNT				\$3,020.00		\$2,700.00		\$5,400.00
FULL-DEPTH REPLACEMENT								
1. Pavt, Rem, Modified	90	syd	\$6.50	\$585.00	\$44.00	\$3,960.00	\$11.11	\$999.90
2. HMA, 36A	15	ton	\$360.00	\$5,400.00	\$333.00	\$4,995.00	\$350.00	\$5,250.00
3. Aggregate Base, 6 inch, Modified	90	syd	\$17.00	\$1,530.00	\$35.00	\$3,150.00	\$11.11	\$999.90
4. Hand Patching	5	ton	\$500.00	\$2,500.00	\$300.00	\$1,500.00	\$400.00	\$2,000.00
5. Minor Traf Devices	1	lsum	\$0.00	\$0.00	\$0.00	\$0.00	\$2,000.00	\$2,000.00
6. Restoration	1	lsum	\$1,000.00	\$1,000.00	\$950.00	\$950.00	\$2,000.00	\$2,000.00
TOTAL BID AMOUNT				\$11,015.00		\$14,555.00		\$13,249.80

ENGINEER: Michael Bearman, P.E.
 Hubbell, Roth & Clark, Inc.
 2101 Aurelius Rd, St 2A
 Holt, MI 48842

TJM Services (4th bidder)
 Crack Sealing & Surface Seal: \$34,100.00
 Full-Depth Replacement: \$20,955.00