

RIDER TO COMMERCIAL PURCHASE AGREEMENT

BETWEEN THE CITY OF ANN ARBOR (Seller) AND DENISS A. DAHLMANN (Purchaser)

This Rider to the Commercial Purchase Agreement that is dated November 19, 2013 between Dennis A. Dahlmann, for a limited liability company to be formed, as Purchaser and the City of Ann Arbor, a Michigan municipal corporation, as Seller, amends the said Commercial Purchase Agreement as follows:

1. Improvements. Purchaser, on behalf of himself and any corporate entity he might create to develop the Property, agrees the Property shall be developed and improved to include/comply with the following (collectively “Dahlmann’s Promised Use”)
 - (i) a building with a minimum of 400% Maximum Usable Floor Area in Percentage of Lot Area (FAR), as defined by Ann Arbor City Code.
 - (ii) a building that includes, without limitation, destination retail/restaurant space on the first floor, large plate office space on the second floor, and residential apartments on the remaining upper floors. (with no residential apartment to exceed 3 bedrooms).
 - (iii) a substantial landscaped open space, as defined by Ann Arbor City Code that has a minimum area of ten percent (10%) of the total square footage of the Property, including a grand fountain of equivalent dimensions and size to the existing fountain located in front of the Campus Inn located at E. Huron and State St.
 - (iv) a building constructed and site plan that will adopt and be bound by the recommendations of the City’s Design Review Board;
 - (v) parking provided on-site, in accordance with City ordinance requirements, with access to such parking effected via an existing unobstructed City below-grade interconnection with the City’s Library Lane Parking Structure.
 - (vi) a building and site plan that will be based on the best available standards for energy efficiency as defined by Ann Arbor City Code.

2. Completion of Improvements. The Warranty Deed delivered by Seller to Purchaser shall include reversion of title in favor of the Seller if Purchaser fails to (i) obtain a final certificate of occupancy for a building consistent with Purchaser’s Promised Use prior to January 1, 2018. The Property and any and all appurtenant fixtures and improvements thereon, as of the date of the reversion, shall revert to the City, free of any lien or other encumbrance, upon (a) payment by the Seller to Purchaser of lesser of \$4,200,000 (the “Asking Price”) or the appraised value of the Property on January 1, 2018.

3. Sale of the Property. The warranty deed delivered by Seller to Purchaser shall include the reservation of a right of first refusal by the Seller to purchase, assign, or otherwise receive the Property at the lesser of the sale, assignment or transfer price d offered and agreed upon by any third party.

4. Discussion with AAATA. Purchaser agrees to discuss with the Ann Arbor Area Transportation Authority (the "AAATA"). in good faith whether the Purchaser can help facilitate AAATA's goal of limiting on-street bus transit and/or storage on Fifth and Williams within the immediate area of Blake Transit Center. This covenant shall survive Closing.
5. Antenna. Seller may, and Purchaser agrees, that Seller may, at any time before or after Closing, request the use of the Property to mount an antenna for the purposes of wireless voice and data access (i.e. transmission and reception) which will not interfere with the building's operations or with any commitments to other antenna or other vendor agreements in place at the time of Seller's request;. which covenant shall survive Closing;
6. LLC Formation. It is acknowledged that Purchaser shall have the right to form a corporate entity which is under common control with Purchaser to act as Developer of the Property and at the time of such formation, Purchaser retains the right to assign, transfer, sell, or pledge its rights and obligations under this Agreement (the "Assignment") at Closing to the Developer corporate entity, subject to approval of said Assignment by Seller, which approval shall not be unreasonably withheld Purchaser shall be required to own a membership interest in the corporate entity formed until final certificate of occupancy is issued for Dahlmann's Promised Use or the termination of the Agreement. Said Assignment shall not extinguish any obligations or release any liability Purchaser has under this Agreement.
7. Public Utilities Easement, Reservation. Seller retains the right to identify any existing public utility lines servicing the site which will be reserved as easement areas in the Warranty Deed by Seller to Purchaser.
8. DDA/City Parking Agreement. It is acknowledged that the Seller and the Ann Arbor Downtown Development Authority (the "DDA") have entered into a Parking Agreement, dated July 1, 2011, under the terms of which the surface lot known as "Fifth and William" located at 350 S. Fifth is subject to the Operational Control of the DDA. Seller agrees to provide the DDA with written notice in accordance with the terms of the Parking Agreement that Seller is deleting the Fifth and William lot as a Facility under the Agreement contemporary with the Effective Date of this Purchase and Sales Agreement. It is understood and acknowledged by Purchase that no further action is required for the deletion of a facility unless within thirty (30) days of such notice the DDA objects in writing; which objection shall require the Seller and the DDA to work together to determine the status of the Fifth and William lot. Purchaser agrees to extend the Closing Date to allow for Seller/DDA Facility closure discussions on notice that an objection has been delivered to Seller and be bound by any conditions resulting from those closure discussion to allow for the orderly transition of control of the Real Property from the DDA to Purchaser. It is further understood and acknowledged by Purchaser that on the closure of the Fifth and William lot and its removal from the Municipal Parking System, the DDA retains the right to sell or otherwise dispose of the trade fixtures thereon. This covenant shall survive Closing.

9. Miscellaneous. This Rider shall be binding upon and inure to the benefit of Seller and Purchaser, and their respective successors and assigns. Except as hereinabove provided, all other terms and conditions of the Commercial Purchase Agreement shall remain unchanged and in full force and effect.

SELLER:
CITY OF ANN ARBOR

PURCHASER:

By: _____
John Hieftje
Mayor

Dennis A. Dahlmann

and

By: _____
Jacqueline Beaudry
City Clerk

Dated: _____

Approved as to form:

Stephen K. Postema
City Attorney

Approved as to substance:

Steven D. Powers
City Administrator

Dated: _____