

FIRST AMENDMENT TO PLYMOUTH GREEN CROSSINGS PUD DEVELOPMENT
AGREEMENT

The City of Ann Arbor, a Michigan municipal corporation, with offices at 100 N. Fifth Avenue, Ann Arbor, Michigan 48107 ("City") and Gateway Ann Arbor, LLC, a Michigan limited liability company, having its offices at 157 East Hoover Street, Ann Arbor, Michigan 48104 ("Proprietor") agree to amend the Plymouth Green Crossings PUD Development Agreement executed by the parties, dated January 23, 2006, superseded by the Development Agreement dated February 4, 2008, recorded in Liber 4677, Page 652, Washtenaw County Records, regarding the land now known as Plymouth Green Crossings Condominium, as described in the attached Exhibit A, as follows:

1. Paragraph (P-27) is amended to read as follows:

THE PROPRIETOR(S) HEREBY AGREE(S)

(P-27):

- a) To pay to the CITY an affordable housing contribution of \$315,000 (based on 35 total residential units) to be deposited in the City of Ann Arbor Affordable Housing Trust Fund in the following manner:
 - 1) Pay a minimum of \$15,000 to the CITY on or before June 15, 2010;
 - 2) Pay a minimum of an additional \$15,000 to the CITY on or before June 15, 2011;
 - 3) Pay the balance of the total affordable housing contribution owed to the CITY by December 31, 2012. (The City hereby acknowledges prior receipt of \$60,000, bringing the total affordable housing contribution currently owed to the CITY to \$255,000.)
- b) That any amount unpaid to the CITY by the date due may be assessed against each residential condominium unit of a portion of the Property described below in a pro rata share consistent with the percentage of value of each residential unit provided in the master deed for the condominium. (If any of the residential units are not constructed at the time of assessment then the pro rata share of each residential unit shall be proportionally increased to account for 100% of the total amount due.)
- c) That the assessment shall be made and collected by the CITY in accordance with the City's ordinance regarding single lot assessment, currently codified in Chapter 13, Section 1:292 of Ann Arbor City Code, as if the amount due is an assessable expense under the ordinance.
- d) That for the purpose of section P-27, the Property subject to assessment is the Lofts at Plymouth Green Crossings, a condominium, according to the Amended Master Deed thereof, as recorded in Liber 4659, Page 731, Washtenaw County Records, designated as Washtenaw County Condominium Subdivision Plan No. 565, together with the rights in

- e) That if the Lofts at Plymouth Green Crossings Condominium is terminated, then the entire amount shall be assessable against Unit 2 of Plymouth Green Crossings Condominium. Proprietor also agrees that if Plymouth Green Crossings Condominium and Lofts at Plymouth Green Crossings Condominium are terminated, then the entire amount shall be assessable against the land described in Exhibit A.
- f) To provide a copy of this Amendment to any potential purchaser of a residential condominium unit on the Property at least five days prior to the date of sale. PROPRIETOR further agrees to pay to the CITY at the time of sale and from the proceeds of sale the pro rata share of the affordable housing contribution for any residential condominium unit sold.
- g) And acknowledges that failure to meet any of the terms of section P-27 shall be a violation of the underlying PUD zoning and may be enforced by the City of Ann Arbor as such a violation.
- h) PROPRIETOR warrants and represents that it is duly organized, validly existing, and in good standing under the laws of the State of Michigan, and that it has all the requisite power and authority to bind the PROPRIETOR, as well as any condominium developer and condominium association identified under the condominium master deeds or bylaws of Plymouth Green Crossings Condominium or Lofts at Plymouth Green Crossings Condominium. PROPRIETOR further warrants and represents that it will execute any and all documents and take any and all such further actions that may be required to establish or implement this Amendment.

2. Paragraph (C-5) is amended to read as follows:

THE CITY HEREBY AGREES:

- i) That if the City approves phasing of the Plymouth Green Crossings PUD development, to reduce the affordable housing contribution to the amount required for the constructed phases of the development in the Plymouth Green Crossings PUD Zoning District, as approved by City Council on January 23, 2006. (If the City approves phasing of the Plymouth Green Crossings PUD, the PROPRIETOR agrees to make partial payment of the total affordable housing contribution for any future phase in a prorated amount for each residential unit prior to PROPRIETOR requesting or being issued a Certificate of Occupancy for each residential unit in the phase.)

3. Exhibit A is incorporated herein by reference.

All terms, conditions, and provisions of the original agreement between the parties executed February 4, 2008, unless specifically amended above, are to apply to this amendment and are made a part of this amendment as though expressly rewritten, incorporated, and included herein.

This amendment to the agreement between the parties shall be binding on the heirs, successors

and assigns of the parties.

Dated this _____, 2010.

For City of Ann Arbor

By _____
John Heiftje, Mayor

By _____
Jacqueline Beaudry, City Clerk

Approved as to form and content

Stephen K. Postema, City Attorney

Approved as to substance

Roger W. Fraser, City Administrator

Service Area Administrator Name

**For Proprietor
Gateway Ann Arbor, LLC**

By _____
David Kwan, Managing Member

DRAFTED BY AND AFTER RECORDING RETURN TO:
Kevin S. McDonald (P-61761)
City of Ann Arbor, Office of the City Attorney
100 N. Fifth Avenue
PO Box 8647
Ann Arbor, MI 48107

Exhibit A

Land Description:

Commencing at the center of Section 14, Town 2 S, Range 6 E, City of Ann Arbor, Washtenaw County, Michigan; thence S 00°05'25 W 667.92 feet along the N and S 1/4 line of said Section 14; thence N 89°54'35 W 40.00 feet to a point on the Westerly right-of-way line of Green Road; thence along the said right-of-way line in the following courses: Southerly 46.90 feet along the arc of a 490.00 foot radius circular curve to the left through a central angle of 05°29'00 having a chord which bears S 02°39'05 E 46.88 feet S 05°23'35" E 353.86 feet Southerly 271.22 feet along the arc of a 630.00 foot radius circular curve to the right through a central angle of 24°40'00 having a chord which bears S 06°56'25" W 269.13 feet and S 19°16'25 W 71.37 feet for a POINT OF BEGINNING; thence continuing S 19°16'25" W 115.58 feet; thence Southerly 328.12 feet along the arc of a 490.00 foot radius circular curve to the left through a central angle of 38°20'02 having a chord which bears S 00°05'24 W 322.02 feet; thence S 19°05'35" E 40.00 feet; thence S 70°54'25 W 621.71 feet along the centerline of Plymouth Road to a point of the East line of Plymouth Professional Park, a subdivision of part of the W 1/2 of Section 14, Town 2 S, Range 6 E, City of Ann Arbor, Washtenaw County, Michigan, as recorded in Liber 23 of Plats, Pages 30 through 32 inclusive, Washtenaw County Records; thence N 00°05'25 E 879.37 feet along the east line of said subdivision; thence N 90°00'00 E 104.51 feet; thence N 70°52'36" E 66.95 feet; thence S 43°18'07 E 128.36 feet; thence S 16°10'32" E 53.27 feet; thence Southeasterly 174.32 feet along the arc of a 100.00 foot radius circular curve to the right, through a central angle of 99°52'47 having a chord which bears S 56°31'20" E 153.07 feet; thence S 90°00'00 E 213.38 feet to the POINT OF BEGINNING being a part of the E 1/2 of the SW 1/4 of Section 14, Town 2 S, Range 6 E, City of Ann Arbor, Washtenaw County, Michigan. Containing 8.90 acres of land, more or less. Subject to easements and restrictions of record, if any.

Now known as:

Plymouth Green Crossings, a condominium, according to the Amended Master Deed thereof, as recorded in Liber 4657, Page 858, Washtenaw County Records, designated as Washtenaw County Condominium Subdivision Plan No. 524, together with the rights in general and common elements and limited common elements, as set forth in the Amended Master Deed and as described in Act 59 of the Public Acts of 1978, as amended.

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09-09-14-305-014
09-09-14-305-015
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