

### **Conditional Zoning Statement of Conditions**

This Conditional Zoning Statement of Conditions (“Statement of Conditions”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by and between the City of Ann Arbor (“City”), a Michigan municipal corporation, with offices located at 100 N. Fifth Avenue, Ann Arbor, Michigan 48107, and A2 Hospitality Property, LLC (“Developer”), a Michigan limited liability company, with principal address at 251 East Merrill Street, Suite 205, Birmingham, Michigan 48009.

#### **Recitals**

- A. The Michigan Zoning Enabling Act (P.A. 110 of 2006, as amended) allows for conditional zoning of land when the City is amending its zoning map, or a conditional zoning when the city is zoning property in MCL 125.3405.
- B. The City of Ann Arbor recognizes that there are certain instances where it would be in the best interest of the City, as well as advantageous to the Developer, that certain conditions could be proposed as part of a request for rezoning or a request for an amendment to the zoning map.
- C. On April 16, 2019, Developer applied for an amendment to the zoning map for certain land in the City of Ann Arbor site planned as MMG Plymouth Mixed Use as more fully described on the attached **Exhibit A** (the “Property”).
- D. Included with the rezoning petition, the Developer voluntarily offered in writing conditions regarding the use and development of the land to be incorporated into the zoning of the Property.
- E. On May 5, 2020, the Planning Commission, after public hearing, recommended approval of zoning of the Property to C3 (Fringe Commercial). The Developer

also submitted a Site Plan showing the specific proposed use and site design of the property.

- F. On \_\_\_\_\_, the City approved the conditional rezoning subject to this Statement of Conditions.
- G. Based on the specific facts and circumstances regarding this property, the City has decided to accept the Developer's offer of conditional zoning.
- H. By executing this Statement of Conditions, the City and the Developer desire to set forth and confirm the conditions under which the City granted conditional zoning of this Property.

NOW, THEREFORE, Developer and City agree:

1. Conditions Running with the Property. This Statement of Conditions covers the Property described in the attached Exhibit A. The Statement of Conditions is incorporated into the zoning of the Property and shall be binding upon and inure to the benefit of the Developer and the City, and their heirs, successors and assigns, and shall run with the Property.
2. List of Conditions. The conditional zoning was granted to the Developer based on conditions that were voluntarily offered by the Developer. The City and Developer agree that restrictions on the use and development of the land are necessary for consistency and conformance to the Master Plan – Future Land Use Element with regard to new development. The conditions which form the basis of the City's grant of the conditional zoning are as follows:
  - i. The following uses shall be prohibited on the Property:
    - a. Fueling Station
    - b. Vehicle Wash
    - c. Marijuana Secure Transporter
    - d. Marijuana Microbusiness
    - e. Marijuana-Infused Product Processor
    - f. Warehousing and Storage
  - ii. In lieu of providing affordable housing on-site, Developer shall contribute \$75,000.00 to the City of Ann Arbor Affordable Housing Fund.
4. Developer Acknowledgment. Developer acknowledges that it voluntarily offered and consented to the provisions contained in this Statement of Conditions. Developer agrees that the conditions contained herein are fair, reasonable and equitable requirements and conditions; agrees that the Statement of Conditions does not constitute a taking of property for any

- purpose or a violation of any constitutional right; and agrees to be bound by each and every provision of this Statement of Conditions. Furthermore, it is agreed and acknowledged that any improvements and undertakings described herein are necessary and roughly proportional to the burden imposed by the conditional zoning, and are necessary to insure capability with adjacent and surrounding uses of land; to promote use of the Property in a socially and economically manner; and to achieve other legitimate objectives of the City authorized by law.
5. Authority to Execute. This Statement of Conditions has been authorized by all necessary action of Developer, and Developer acknowledges that it is the owner of the Property or has been authorized by the owner to conditionally zone this Property. Furthermore, the signatory for Developer acknowledges that he is authorized to enter and execute this Statement of Conditions on behalf of Developer, and bind the Developer to its terms.
  6. City Approval. The Statement of Conditions and the City's approval of these conditions are based on the particular facts and circumstances presented, as well as the surrounding land uses and other characteristics regarding this property, and approval of these conditions for this Property may not be relied on as precedent by any other property owner seeking a conditional zoning.
  7. Obligation to Obtain Other Approvals. Developer acknowledges that any use or development approved by this conditional zoning that may require a special land use permit, a variance, or site plan approval under the terms of the Ann Arbor City Code, may only be commenced if such special land use permit, variance, and/or site plan approval is ultimately granted in accordance with the terms of the Ann Arbor City Code.
  8. Amendment. This Statement of Conditions may only be amended in the same manner as prescribed for a rezoning of property under the terms of Ann Arbor City Code.
  9. Compliance with Statement of Conditions. Developer shall continuously operate and maintain the development and/or use of the Property in full compliance with all of the conditions set forth in this Statement of Conditions. Any failure to comply fully with the conditions contained with the Statement of Conditions shall constitute a violation of the Unified Development Code of Ann Arbor City Code, and shall be punished accordingly. Any such violation shall be deemed a nuisance per se and subject to judicial abatement, or any other remedy as provided by law.
  10. Rezoning. Developer acknowledges that nothing in this Statement of Conditions shall prohibit the City from exercising its right to rezone the property at any time as allowed by law. The City acknowledges that nothing in this Statement of Conditions shall prohibit the Developer to request a rezoning of

the Property at any time, or to continue an existing nonconforming use as allowed by law if the Property is rezoned by the City.

IN WITNESS WHEREOF, the parties have caused this Conditional Zoning Statement of Conditions to be executed on the day and year recited above.

WITNESSES:

CITY OF ANN ARBOR  
a Michigan municipal corporation

\_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

WITNESSES:

DEVELOPER

\_\_\_\_\_

By: \_\_\_\_\_

**ACKNOWLEDGMENT**

STATE OF MICHIGAN        )  
                                          ) ss  
COUNTY OF WASHTENAW )

The foregoing Agreement was acknowledged before me by Christopher Taylor and Jacqueline Beaudry, the Mayor and City Clerk respectively of the City of Ann Arbor on the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_

\_\_\_\_\_, Notary Public

My Commission Expires: \_\_\_\_\_

**ACKNOWLEDGMENT**

STATE OF MICHIGAN        )  
                                          ) ss  
COUNTY OF WASHTENAW )

The foregoing Agreement was acknowledged before me by \_\_\_\_\_, of  
\_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_

\_\_\_\_\_, Notary Public

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_

**Exhibit A**

A parcel of land being a part of the Southeast 1/4 of Section 14, T.2N., R.6E., City of Ann Arbor, Washtenaw County, State of Michigan, being more particularly described as follows:

COMMENCING at the South 1/4 corner of Section 14, T.2N., R.6E., City of Ann Arbor, Washtenaw County, State of Michigan: thence N00°05'50"E, 810.08 feet along the north and south quarter line of said Section 14 to the centerline of Plymouth Road (width varies); thence N70°54'30"E, 349.47 feet along said centerline; thence N00°05'30"E, 347.77 feet to the POINT-OF-BEGINNING; thence N00°05'30"E, 299.23 feet; thence N70°54'30"E, 641.13 feet to the west line of US-23; thence the following three (3) courses and distances along said west line of US-23: 1) S41°20'20"W, 258.60 feet; 2) S19°06'20"E, 295.01 feet; and 3) S25°53'40"W, 266.44 feet to the centerline of said Plymouth Road; thence S70°54'30"W, 30.12 feet along said centerline; thence N19°05'30"W, 243.00 feet; thence 160.12 feet along a non-tangential curve to the left, having a radius of 108.00 feet, a central angle of 84°56'44", and chord bearing N61°31'58"W, 145.85 feet; thence 200.28 feet along a non-tangential curve to the left, having a radius of 500.00 feet, a central angle of 22°57'00", and chord bearing S64°30'30"W, 198.94 feet to the POINT-OF-BEGINNING. Containing 4.514 acres of land, more or less.