

MEMORANDUM

TO: Mayor, Ann Arbor City Council

FROM: Milton Dohoney Jr., City Administrator

RE: Summary of Proposed Public-Private Development Agreement between Eisenhower State Land Development Company, LLC and the City of Ann Arbor for the Arbor South Development

DATE: December 15, 2025

INTRODUCTION

The Arbor South Project (“Project”) is a proposed mixed-use development to be constructed in five Phases at the corner of South State Street and East Eisenhower Parkway. It includes affordable and market-rate residential housing, commercial and retail space, and three public Parking Structures. The developer, Eisenhower State Land Development Company, LLC (“Developer”), has requested that the City participate in the construction and operation of the Parking Structures in order to make the Project viable. The Developer and City Administration have, at the direction of City Council, negotiated a proposed Public-Private Development Agreement (“PPA”) setting out the terms of the City’s participation in the Project. As requested by City Council Resolution R-25-428, this memo summarizes the key negotiated deal points of the PPA. Please refer to the PPA itself for the full terms, including specific details of the deal points discussed in this memo.¹

DEAL POINTS SUMMARY

The major deal points of the proposed PPA are summarized here. There is further discussion of some of these points later in this memo.

1. Affordable Housing

The Developer will provide at least \$10,500,000 in financial and in-kind support for a 209-unit Affordable Housing Building to be owned and operated by the Ann Arbor Housing Commission (“AAHC”). The Developer will also assist the AAHC in arranging financing for the building, likely

¹ Some terms are capitalized, as they are defined terms in the PPA. However, an effort has been made to explain those terms in context for purposes of this memo.

through the Michigan State Housing Development Authority Low Income Housing Tax Credit program. The Developer and AAHC will enter a separate agreement detailing this process. If the Affordable Housing Building is not able to be constructed for any reason, the Developer will pay to the City a total of \$18,900,000, prorated per each of the Project's three market-rate residential Phases (Phases 2, 3, and 5).

2. Transportation Improvements

The Developer will provide transportation and Vision Zero-related improvements as detailed in Exhibit 2.2(i), attached to this memo. In addition, the Developer will pay \$100,000 toward the cost of a traffic study for potential improvements in the adjacent Eisenhower/S. State corridor.

3. Sustainability Improvements

The Developer will provide sustainability-related improvements as detailed in Exhibit 2.2(i), attached to this memo. In addition, in the future the Developer will convey easements to the City for underground geothermal installations for the City's Sustainable Energy Utility ("SEU") if and when the SEU chooses to install geothermal on the property. The Developer has also agreed that it will subscribe to the SEU as its energy provider when it becomes available, provided that the SEU is cost-neutral – which it is expected to be.

4. Public Parking Structures

The Project includes three public Parking Structures, which will be constructed as part of three separate development Phases. Prior to each development Phase, the City will evaluate its continued participation in the Project based on financial information and due diligence with respect to that Phase. If the City chooses to move forward, the City and Developer will negotiate and execute a Commitment Agreement for that Phase, setting out the terms under which the Parking Structure in that Phase will be constructed, paid for, and owned by the City. In each case, the maximum Parking Structure Purchase Price will be equal to or less than the maximum prices stated in the PPA, which are:

1st Parking Structure (Phase 2):	\$59,977,430.00
2nd Parking Structure (Phase 3):	\$51,776,700.00
3rd Parking Structure (Phase 5):	\$54,635,870.00

For each Parking Structure, the City will issue general obligation bonds to fund the purchase. Those bonds will be paid off by property taxes paid by the Project over a period of 30 years. Property taxes are expected to be received as reimbursements from the County Brownfield Authority through Brownfield Tax Increment Financing (“TIF”). Brownfield TIF revenue is generated based on the increase in assessed taxable value due to development of the property. Those revenues are then used to pay back eligible expenses incurred in constructing that development. Eligible expenses include environmental remediation, public infrastructure, and other development costs which are specified in the table attached to the Arbor South Brownfield Plan (current version dated 11/11/25 and included with this memo on the City’s Legistar site). However, if for some reason the TIF revenue is insufficient, the Developer has agreed that the City will also impose a Special Assessment District (“SAD”) on the Project, which will provide a minimum level of tax on the Project to pay off the bonds. The SAD is intended as a backstop to ensure the City receives sufficient tax income to pay off the bonds regardless of the amount of TIF revenue.

5. Sanitary Sewer Trunkline

Under the proposed Brownfield Plan, the City is eligible for reimbursement of certain expenses incurred in enlarging the sanitary sewer trunkline that services the Project. The proposed Arbor South Brownfield Plan lists \$25,000,000 available for reimbursement to the City of those expenses. The trunkline project has not been programmed yet and the actual amount available for reimbursement may vary depending on the total taxes captured through the Brownfield TIF and the timing of any City request for reimbursement.

STRUCTURE OF THE PPA

The Project contains five Phases. Phase 1 is the Affordable Housing Building, which is a stand-alone building containing 209 affordable housing units with supportive services to be owned and administered by the Ann Arbor Housing Commission. Phases 2, 3, and 5 include 830 market-rate housing units with commercial and retail spaces. Phase 4 is a 205-key hotel. Phases 2, 3, and 5 include public Parking Structures that will serve all Phases, including the Affordable Housing Building and the hotel.

The PPA generally describes the undertakings and commitments of the City and the Developer in connection with the development of the Project and the possible purchase by the City of the three Parking Structures. The PPA is a roadmap for the parties, but does not itself contractually obligate the Developer to build or the City to purchase, any of the three contemplated Parking Structures. Rather, the PPA sets forth the time periods and respective responsibilities for the Developer and the City to finalize the actual terms of purchase.

The PPA envisions several layers of approvals. These are discussed in more detail later in this memo:

1. Project Approvals.

The Project Approvals are threshold items which apply to the entire Project and must be resolved for the Project to proceed. The Project Approvals include typical governmental and administrative approvals for property development, such as site plan approval, as well as some Project-specific requirements.

2. Phase Approvals.

Phase Approvals include typical governmental and administrative approvals required for development and construction of the particular Phase. The Phase Approvals are necessary pre-conditions to the City entering a Commitment Agreement with the Developer to purchase the Parking Structure within that Phase.

3. Commitment Agreement.

The Commitment Agreement is the negotiated agreement between the City and Developer committing the Developer to develop a particular Phase and the City to purchase the Parking Structure in that Phase. The Commitment Agreement will contain the terms of the City and Developer's participation in the Phase, including the Parking Structure Purchase Price; the design, construction, and financing; the ownership and maintenance responsibilities; and other terms that the parties may agree. Until a Commitment Agreement is executed, neither the City nor the Developer will be obligated contractually to construct, purchase, sell, or finance the Parking Structure.

This staggered construct is necessary because the particulars associated with the design, pricing, and configuration of each Parking Structure and the other improvements within each Phase will be finalized during the negotiations for each Commitment Agreement, which is when the construction documents, bids, and pricing are completed, and because the second and third Parking Structures depend on future conditions. The PPA establishes maximum (not-to-exceed) prices for each of the three Parking Structures, but leaves negotiation of the details of each Parking Structure open until such time as all of the necessary information, designs, and pricing can be obtained. However, it is important to note that the design of the Parking Structures (and of the Project overall) must comport with the approved Project site plan. Once all the details of a particular Parking Structure are finalized, they will be incorporated into a Commitment Agreement along with other negotiated terms specific to that Phase.

The PPA provides termination rights to both the City and the Developer if the parties are unable to reach definitive agreement with respect to the Project. The PPA does not commit the City to purchase any Parking Structure until the City chooses to enter a Commitment Agreement for the particular Phase. If the City or Developer choose not to enter a Commitment Agreement for a particular Phase, then the PPA may be terminated without liability or cost to the other party going forward. However, while such a termination of the PPA will relieve the parties of any obligation going forward, it will not terminate any previously executed Commitment Agreement.

PROJECT APPROVALS

Article 2 of the PPA describes the Project Approvals, which are contingencies which must be satisfied for the Project as a whole to proceed. The Project Approval contingencies include, but are not limited to:

- (i) the Developer obtaining all necessary approvals for the Project as a whole, including approval of the site plan and the plans for the infrastructure for the entire Project,
- (ii) the Developer's contribution of \$100,000 to the City toward a traffic study for the adjacent Eisenhower/S. State corridor,

(iii) the City's approval of a proposed form of condominium master deed for the Project as a whole,

(iv) the Developer obtaining all necessary easements, vacations, vacations of right-of-way, and other off-site improvements,

(v) the finalization of a Brownfield Plan and Brownfield Reimbursement Agreement and the approval by the Michigan Strategic Fund of the capture of school taxes in an amount stated in the Brownfield Plan,

(vi) a signed Affordable Housing Development Agreement between the Developer and the Ann Arbor Housing Commission for the development of the Affordable Housing Building, and

(vii) adoption by the City Council of a bond inducement resolution, which starts the process of authorizing the City to issue bonds for the Parking Structures (it is important to note that, in addition to the bond inducement resolution, a separate Council approval for each bond issuance must occur for each Phase of the Project that includes a Parking Structure).

Once all of the Project Approval contingencies have been satisfied by the Developer and/or the City, the parties may then proceed with the negotiations for the Commitment Agreement for Phase 2 (the first Phase with a Parking Structure).

PHASE DEVELOPMENT GENERALLY

Article 3.1 of the PPA describes how each Phase will proceed, including necessary Phase Approvals. If the Phase Approvals are not satisfied prior to an outside date, either party has the right to terminate the PPA. Prior to executing a Commitment Agreement for a Phase, the Developer and the City must also negotiate the final terms for purchase of the Parking Structure in that Phase, which include the following:

- (i) establishing a proper legal description for the condominium unit containing the Parking Structure,
- (ii) confirming the City's satisfaction with the real property due diligence,

- (iii) approval by both parties of the Parking Structure construction budget and plans,
- (iv) confirmation by the Developer that it has obtained the necessary financing for the Parking Structure and privately-owned components in the Phase,
- (v) a completion guarantee from the Developer for both the public and private components of the Phase,
- (vi) finalizing the Parking Structure Purchase Price and amount of City bonds to be issued,
- (vii) a financial analysis of the expected Brownfield TIF revenues, and
- (viii) the creation of a Special Assessment District (“SAD”).

As stated above, the purpose of the SAD is to establish a minimum level of tax on the Project to pay off the bonds used to purchase the Parking Structures. The SAD is intended to protect the City’s general fund from risk associated with the bond debt. The SAD levy will be paid by the Developer or the subsequent property owner but will not apply to the Affordable Housing Building. Both the SAD and the issuance of bonds will be approved by City Council prior to entering any Commitment Agreement.

COMMITMENT AGREEMENT

As described above, after the Project Approval and Phase Approval prerequisites have been met, the City and Developer will negotiate and execute a Commitment Agreement for each Phase. The Commitment Agreement will set forth the terms under which the Developer will construct and the City will purchase the Parking Structure in that Phase. The Commitment Agreement will include the details of the Parking Structure, including construction plans and specifications, the time period for construction, and the purchase price. The purchase prices for the individual Parking Structures will be at or below the maximum purchase prices set forth in the PPA (see Deal Points Summary above). The Commitment Agreement will also obligate the Developer to proceed with construction of the private elements of the Phase, including residential and commercial units, roads, utilities, and other infrastructure required to support the Project.

It is contemplated that the Parking Structure in Phase 2 (the first Phase with a Parking Structure) will be constructed by the Developer and purchased by the City upon completion. This is to ensure that the City is not the “first-in” with funds and to allow the City to evaluate the plans and progress of the Project and observe Developer’s compliance with the terms of the Commitment Agreement before transferring funds to complete the purchase. However, if the Project is progressing satisfactorily, the PPA allows the City to fund construction of the subsequent Parking Structures in Phase 3 and/or in Phase 5 rather than purchase the Parking Structures upon completion. This election by the City will have a material impact on the structure and terms of the Commitment Agreement for that Phase and may reduce the City’s cost, but ultimately the same contingencies will need to be satisfied, including adherence to the maximum prices set in the PPA.

OTHER PROVISIONS IN THE PPA

1. Construction.

Article 5 of the PPA describes the construction parameters for each of the three Phases that include a Parking Structure. As each Phase is unique, the parameters stated in Article 5 are generically described and will be more specifically described in each Commitment Agreement. Generally, they include the following:

- (i) the Developer will enter a guaranteed maximum price (GMP) construction contract for the Parking Structure with a general contractor that is approved by the City; the Developer will use a scorecard that includes elements of the City's Best Value Purchasing (BVP) rubric in selecting the contractor,
- (ii) the City must approve the final plans and specifications for the Parking Structure,
- (iii) the Developer must show that it has sufficient financing for the construction of the Parking Structure, the Developer Improvements and all necessary Infrastructure Improvements within that Phase, and
- (iv) the City will be allowed to monitor and inspect construction progress.

2. Affordable Housing.

Article 6 addresses the Developer's obligations with respect to the Affordable Housing Building to be constructed in Phase 1. The City's Brownfield Policy requires that if a development benefited by a Brownfield Plan contains residential units, the Developer must commit to designate 15% of the residential units as affordable, income-restricted units. In lieu of restricting residential units in the Project, the Developer has agreed to assist the Ann Arbor Housing Commission ("AAHC") in developing the Affordable Housing Building through contribution of money and in-kind benefits.

The PPA requires the Developer to negotiate in good faith an Affordable Housing Development Agreement with AAHC. The Affordable Housing Development Agreement will obligate the Developer to contribute or donate money, infrastructure, or services that equal at least \$10,500,000 in value toward the securing of financing and construction of the Affordable Housing Building. The terms and conditions of the Affordable Housing Development Agreement are subject to the reasonable review and approval of the City, which must be executed prior to the City entering the Commitment Agreement for Phase 2.

It is contemplated that the principal source of financing used for the Affordable Housing Building will be Low-Income Housing Tax Credits ("LIHTC") through the Michigan State Housing Development Authority ("MSHDA") The PPA further provides that if the Affordable Housing Building cannot be constructed for any reason, the Developer must pay to the City a sum of \$18,900,000 (the "Affordable Housing Payment in Lieu"). The Affordable Housing Payment in Lieu will be computed and prorated on a Phase-by-Phase basis for each market-rate residential Phase, which will be specifically stated in the Commitment Agreement applicable to each of Phase 2, Phase 3, and Phase 5.

Following the execution of a Commitment Agreement for a given Phase, the Developer must place the portion of the Affordable Housing Payment in Lieu computed for that Phase in escrow with a mutually acceptable third party or provide the City a guarantee of payment in a form acceptable to the City. Upon the completion of the Affordable Housing Building, all escrowed or guaranteed monies will be released back to the Developer. However, if the Affordable Housing Building is not built, the escrowed or guaranteed monies will be paid to the

City. The Affordable Housing Payment In Lieu will be paid pro rata only for those Phases that are built.

The PPA provides until December 31, 2027 to arrange financing for the Affordable Housing Building before it will be deemed “not built” and the Affordable Housing Payment In Lieu becomes due. This deadline is designed to allow the Developer and AAHC the opportunity to submit two annual applications for MSHDA LIHTC financing. However, the City, AAHC, and the Developer may agree to extend this deadline if all parties agree.

CITY COUNCIL APPROVAL

The City Council resolution approving the PPA will authorize purchase of all three Parking Structures at the not-to-exceed prices listed in the PPA. Going forward, the decision whether to enter each Commitment Agreement to actually complete the purchase will be administrative and undertaken by the City Administrator upon their determination that all the contingencies stated in the PPA have been met, the Parking Structure Purchase Price does not exceed the maximum price approved by Council, and the terms of the Commitment Agreement are satisfactory. However, Council approval will still be required to issue bonds for each Parking Structure prior to entering a Commitment Agreement for that Phase.

EXHIBIT 2.2(i)

SITE FEATURES IN SUPPORT OF ANN ARBOR MOVING

TOGETHER TOWARDS VISION ZERO AND ADDITIONAL DEVELOPER COMMITMENTS

The Arbor South project will incorporate the following features. Unless otherwise specified herein, the location of the following items shall be as depicted in the Site Plan approved by the Planning Commission on June 17, 2025.

- **Bicycle Infrastructure:**
 - **Boardwalk Bike Lanes:** Installation of new bike lanes on both sides of Boardwalk, from Oakbrook to Eisenhower, as part of Phase I of the Project.
 - **On-Site East/West Connectivity:** Creation of new dedicated bike lanes along the northern drive of the Project to provide continuous east/west connectivity between South State Street and Boardwalk.
 - **Bicycle Parking:** Bicycle parking in excess of the amount required by ordinance shall be installed throughout the Project for use by the general public.
- **Pedestrian Improvements:**
 - **South State Street Intersection:** If warranted by traffic analysis and City approval, installation of a new signalized intersection along South State Street.
 - **Boardwalk Crosswalks:** Provide new crosswalks on Boardwalk Street featuring pedestrian-activated, high-visibility beacon systems.
 - **Other Crosswalks:** Install enhanced pedestrian crossings at South State Street and Eisenhower Parkway.
 - **Parking Structure Access:** Include an ingress/egress point on the north side of the Phase V parking structure in order to reduce vehicle traffic through the central pedestrian corridor and enhance pedestrian safety.
- **Public Restrooms:** Incorporate public restrooms within the parking structures, if directed by the City.
- **Parking for Affordable Housing:** Developer shall, at its sole cost and expense, provide parking for residents of the Affordable Housing Component in a location situated south of the Affordable Housing Component. Such parking shall be available from the date the Affordable Housing Component opens for occupancy until commencement of construction of Phase V of the Project.
- **Public Transit Enhancements:**
 - **AAATA Bus Shelters:** Developer shall construct and install enhanced bus shelters and stops as part of the Project incorporating best practices for mobility, ADA accessibility, and rider safety, which shall include reasonably direct ADA access between the aforementioned bus shelters and the Project.
 - **Future Bus Rapid Transit (BRT) Station:** Developer shall, in coordination with the City and TheRide, reserve space in an identified location along South State Street to accommodate a future Bus Rapid Transit (BRT) stop consistent with TheRide's 2045 Long Range Plan.
 - **Bus Pass Program:** Developer shall provide **100 annual bus passes** for affordable housing residents for the first **five (5) years** of operation of the affordable housing component.
 - **Improvements within this category shall not be reimbursable with tax increment.**

Exhibit 2.2(i) (cont.)

Sustainability Commitments

Sustainability Features in Support of the A²ZERO Carbon Neutrality Plan

The Arbor South project will incorporate the following sustainability measures:

PHASE I

- **Energy Efficiency**
 - Designed to meet or exceed the 2021 Energy Code through advanced construction methods.
 - Full energy modeling to be provided upon design completion.
- **Electrification**
 - All 1,000+ market-rate and affordable residential units are fully electric.
 - Natural gas service limited to 30 for-sale condominium units but electric options will be offered in this market segment (meaning these could also be all-electric).
- **On-Site Renewable Energy:**
 - A closed-loop geothermal system and solar energy components will be included in the Affordable Housing Component.
 - Solar will be installed on the roofs
 - Solar will be installed on all parking structures
 - An easement will be granted for geothermal installation through the City's Sustainable Energy Utility should the Utility find the site a strong contender for geothermal
- **Electric Vehicle (EV) Charging**
 - 989 EV-C spaces in structured parking.
 - 248 EV-I spaces in structured parking (evenly distributed by structure and level).
 - 114 EV-C spaces in surface/on-street parking.
 - 21 EV-I spaces in surface/on-street parking (evenly distributed).
- **Lighting**
 - All exterior lighting will use LED DarkSky-compliant luminaires.
 - Interior lighting will be LED with occupancy sensors in multifamily corridors.
- **Multi-Modal Transit and Reduced Vehicle Use**
 - Low parking ratios, mixed-use design and shared parking in order to reduce vehicle dependency and avoid parking spaces dedicated to a single user group.
 - Access to transit via collaboration with AAATA to enhance bus stops along State and Eisenhower, including installation of updated shelters.
 - Improved walkability and bikeability through dedicated infrastructure within and proximate to the site, including enhanced safety measures at intersections.
- **Stormwater Management**
 - Designed to meet 100-year storm event standards per WCWRC requirements.
 - Utilizes underground detention with subsurface infiltration.
 - Includes one rain garden and multiple bioretention cells.
 - Additional bioretention opportunities to be considered as design progresses.

- **Water Conservation**
 - Use of EPA WaterSense plumbing fixtures and Energy Star appliances.
 - Native, drought-tolerant landscaping to reduce irrigation needs.
- **Tree Planting:** Planting of approximately 215 trees, each with a minimum 3-inch caliper.
- **Construction Materials:** Primary structural framing to use wood for reduced embodied carbon.
- **Demolition Waste Management Plan:**
 - **Key Objectives:**
 - Divert a significant portion of demolition waste from landfills through recycling and reuse.
 - Promote on-site waste separation to improve recycling efficiency.
 - Maximize reuse of salvageable materials where feasible.
 - **Planned Waste Management Strategies:**
 - **Pre-Demolition Assessment:** Identify recyclable and reusable materials such as wood, concrete, brick, metals, and fixtures prior to demolition.
 - **On-Site Sorting:** Materials will be separated into designated containers for easier recycling and disposal.
 - **Reuse and Donation:** Salvageable items will be reused on-site when possible or donated to local reuse organizations.
 - **Recycling:** Non-reusable materials will be transported to appropriate recycling facilities. The team will aim to meet or exceed industry-standard diversion rates.
 - **Execution and Oversight:**
 - The demolition contractor will prepare a detailed plan tailored to site conditions and construction sequencing.
 - Waste hauling will be performed by licensed carriers, with all materials delivered to approved recycling and disposal facilities.
 - The contractor will maintain documentation of materials diverted and recycled, including receipts and logs, for review as needed.

FUTURE PHASES

Sustainability features incorporated into Future Phase of the project will be governed by Phase-Specific PPAs, but shall include the following measures, at a minimum:

- **Geothermal Energy:**
 - Geothermal systems will be incorporated into future phases provided the following conditions are met:
 - City's Sustainable Energy Utility deems the site a strong contender for geothermal and is interested in supporting the geothermal installation
 - Development team is open to further City coordination and funding partnerships, including SEU buyout of geothermal systems.
- **Other components:** Sustainability features incorporated into Future Phases will, on a proportional level, be at least as robust as those for Phase I for all of the categories described above.