

## AGREEMENT OF SALE OF AIR RIGHTS

This Agreement of Sale (“Agreement”) is entered into as of the \_\_\_ day of \_\_\_\_\_, 2026 (the “Effective Date”), by and between the City of Ann Arbor, a Michigan municipal corporation (“Seller”), having an address at 310 E. Huron, P.O. Box 8647, Ann Arbor, Michigan 48107, and the Ann Arbor District Library established pursuant to Act 24 of 1989, whose address is 343 South 5th Ave., Ann Arbor, Michigan 48104 (“Purchaser”).

### RECITALS:

**WHEREAS**, Seller is the owner of a certain parcel of real property located in the City of Ann Arbor, Washtenaw County, Michigan, more particularly described on **Exhibit A** hereto (the “Library Lot Property”), upon which Seller has developed and constructed, and the City of Ann Arbor Downtown Development Authority (the “DDA”) operates on behalf of Seller, a 711 parking space underground and surface public parking garage with related improvements consisting of vehicular and pedestrian access lanes, elevators, sidewalks, stairs and other amenities (the “Parking Structure”).

**WHEREAS**, Purchaser is the owner of the Property described on the attached **Exhibit A-1** on which Purchaser operates the main branch of the Ann Arbor Public Library (the "AADL Parcel").

**WHEREAS**, The Parking Structure was designed and constructed so as to facilitate the possible construction and development of buildings at or above grade within specifically designed areas above the Parking Structure.

**WHEREAS**, On April 21, 2025, Seller’s City Council passed Resolution R-25-140 ( a copy of which is attached as **Exhibit B**) which authorized the City Administrator to pursue a potential sale of a portion of the air rights owned by the City above the Library Lot Property to Purchaser on condition that proposed amendments to the City Charter authorizing the sale of the air space above the Parking Structure (the “Charter Amendments”) were approved by the voters in the August 5, 2025 special election.

**WHEREAS**, On April 28, 2025, Purchaser’s Board of Trustees passed Resolution 25-086 (a copy of which is attached as **Exhibit C**) which authorized the Library Director to negotiate with Seller for the purchase of air rights above the Library Lot Property if the proposed Charter Amendments were approved by the voters in the August 5, 2025 special election.

**WHEREAS**, The voters approved the Charter Amendments in the August 5, 2025, special election.

**WHEREAS**, Resolutions R-25-140 and 25-086 authorized the City Administrator and the Library Director to take all appropriate actions to negotiate an agreement for the sale and subsequent development of the air rights above the Library Lot Property to Purchaser, including all appropriate documents and agreements required therefor.

**NOW THEREFORE**, for and in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, Seller and Purchaser agree as follows:

1. Recitals, Purchase and Sale.

A. Recitals. The Recitals referenced are acknowledged to be true and correct and are incorporated herein by reference.

B. Agreement to Sell and Purchase.

(i) On the terms and subject to the conditions set forth in this Agreement, Seller hereby agrees to sell, convey and transfer to Purchaser, and Purchaser agrees to purchase and acquire from Seller all of the Seller's right title and interest in and to the air rights space over the Library Lot Property described on **Exhibit D** attached hereto and incorporated by reference (the "Property"). The parties agree that the Property consists of the three dimensional air space over and above portions of the Library Lot Property (inclusive of those areas over which improvements may be developed based on the structural designs of the Parking Structure), such air space commencing at the surface grade elevation of the Parking Structure improvements and extending vertically up to a maximum height of 260 feet. The parties shall finalize the description of the Property in connection with the finalization of the EDCA (as defined below).

(ii) The Property shall be conveyed subject to the reserved easements, reversionary rights and restrictions described herein.

(iii) In addition, at Closing, Seller shall grant to Purchaser an exclusive easement for the construction, operation, maintenance, repair and replacement of a pedestrian breezeway (the "Breezeway") within which Purchaser may construct a pedestrian Breezeway connecting the improvements to be constructed by Purchaser on the Property with the improvements to be constructed by Purchaser on the AADL Parcel. The easement for the Breezeway (the "Breezeway Easement") will consist of an exclusive easement over a portion of Library Lane in a location described in the EDCA and determined by Purchaser and Seller. The Breezeway Easement shall be more fully described in the EDCA (as defined below).

(iv) Purchaser further agrees the development to be constructed by Purchaser (the "Project") within the Property and the AADL Parcel shall include, without limitation, a new public library owned and operated by Purchaser (with indoor meeting spaces available to the public and favorable lease options for a limited number of small business incubator spaces), approximately 10,000 square feet of outdoor public space, and a mixture of housing units such as affordable units, senior units, units aimed at the arts community and possibly market rate condos (the "Development Criteria"). The Development Criteria shall be more fully described in the EDCA (as defined below) which obligations shall run with the land, and to the extent agreed to by Purchaser, the AADL Parcel following Closing.

(v) At Closing, Seller shall convey to Purchaser (without representation and/or warranty by Seller) all assignable and transferrable development rights exclusively applicable to the Property under the then-existing applicable development and zoning regulations of the City of Ann Arbor applicable to the Property.

(vi) Except as expressly stated in the EDCA, or as may subsequently be agreed to by the Seller in writing, the Purchaser's development shall not cause and/or trigger, and the Seller shall have no obligation to effect, any change, modification, or alteration to the Parking Structure or any change, modification, or alteration to any improvements located on the Library Lot Property, any utility improvement within the Library Lot Property or any adjacent property owned or controlled by the Seller, including but not limited to, the Parking Structure.

(vii) References to the "City of Ann Arbor" or the "City" herein shall mean and refer to the City in its capacity as a regulatory authority and shall not include the "Seller" for purposes of this Agreement. Nothing contained in this Agreement nor any approval and/or authorization given by Seller hereunder shall be deemed to be an approval by the City as to any site plan, utility plan, zoning designation or other approval required to be obtained pursuant to any law, rule or ordinance of the City in connection with Purchaser's development or use of the Property. Purchaser shall be required, at Purchaser's cost, to follow the applicable rules, regulations and ordinances of the City for petitioning and obtaining all approvals required for the development of the Property in accordance with the then applicable City of Ann Arbor zoning and/or other ordinances. Any failure by the City to grant such approval or consent and/or the Sellers failure to reach agreement with Purchaser on the terms of the EDCA or any other agreement contemplated to be entered into between the parties after the date hereof shall not constitute a default by Seller hereunder and Seller nor the City shall have any liability to Purchaser hereunder.

2. PURCHASE PRICE.

A. The purchase price for the Property shall be One Dollar (\$1.00) (the "Purchase Price").

B. Purchaser shall pay the cost of the Title Commitment (defined in Section 3A), and the premium for a standard owner's policy without "standard exceptions". Purchaser shall also pay all recording costs for the Deed (defined in Section 9) and the cost of any additional endorsements requested by Purchaser. Seller and Purchaser shall be responsible for the fees of their respective attorneys and/or advisors. The obligations of the parties to pay the foregoing costs and expenses shall survive the termination of this Agreement.

3. TITLE AND SURVEY.

A. As evidence of title, as soon as reasonably practicable after the Effective Date, Purchaser shall order, at its expense, a title insurance commitment dated subsequent to the

Effective Date, from Liberty Title Agency (the "Title Company") (the "Title Commitment") covering the Library Lot Property and the Property, and Purchaser will cause the Title Company to issue to Purchaser at Closing an ALTA Owner's Title Policy, covering the Property in such amounts and in such form as Purchaser may negotiate with the Title Company, naming Purchaser as the insured. The Title Commitment shall be accompanied by legible copies of any instruments of record or other instruments concerning title reflected in the Title Commitment (the "Title Documents"). Purchaser shall have thirty (30) days after the delivery of the Title Commitment and Title Documents (but in no event later than thirty (30) days following the Effective Date) in which to (a) examine title to the Property and (b) to notify Seller in writing of Purchaser's objection to any matter shown thereon. Upon Seller's receipt of notice from Purchaser of its foregoing objection to any matter shown on the Title Commitment, Seller shall have a period of ten (10) business days within which to give notice to Purchaser of which, if any, of the matters to which Purchaser has objected that Seller will cure, eliminate, elect not to cure, or obtain title insurance from the Title Company insuring against. With respect to any such encumbrances or exceptions which Seller elects not to cure, Purchaser may, at Purchaser's option, and within ten (10) days after its receipt of Seller's notice (a) irrevocably waive its objections to and accept title subject to such encumbrances or exceptions; or (b) terminate this Agreement, and this Agreement shall thereafter be of no further force or effect. Seller shall have no obligation to cure any objection to title raised by Purchaser. Failure of Seller to respond to Purchaser's objections timely shall be deemed an election by Seller to not cure any title objection made by Purchaser. Failure by Purchaser to timely object to any matter shown in the Title Commitment, or give notice of its waiver of objections or termination of this Agreement as permitted in the foregoing sentence, shall be deemed to be an irrevocable waiver of all such matters to which Purchaser might have objected, or had objected, as the case may be, and an election by Purchaser to proceed to Closing. As to those encumbrances or exceptions which Seller elects in writing to cure, Seller shall cause the same to be cured or insured over prior to or at Closing. Purchaser acknowledges that a cure of certain encumbrances or exceptions may require action of the City Council of the City of Ann Arbor and that Seller's election to cure such encumbrances or exceptions constitutes only a commitment to bring the matter before the City Council. If the City Council fails to authorize the actions necessary to effect the cure which requires City Council Approval, Purchaser may, at Purchaser's option, and within ten (10) days after such failure of the City Council to authorize the actions necessary to effect the cure (a) irrevocably waive its objections to and accept title subject to such encumbrances or exceptions; or (b) terminate this Agreement, and this Agreement shall thereafter be of no further force or effect. Encumbrances or exceptions to title shown on the Title Commitment or which would be disclosed by an accurate survey of the Property to which Purchaser does not timely object or which are waived and accepted by Purchaser, expressly or by implication hereunder, or which are insured over by Seller, are herein referred to as the "Permitted Exceptions". Permitted Exceptions shall also include the Reverter (as defined below) and the EDCA (as defined below), and all other easements reserved by Seller on, over and/or across the Property, it being agreed that Seller shall reserve in the EDCA or otherwise all easements on over and across the Property for vehicular and pedestrian access, utilities and such other rights as Seller may require for the orderly and safe operation, repair and maintenance of the Parking Structure and the other portions of the Library Lot Property being retained by Seller (the "Retained Lands"). The cost of the title insurance policy, including without limitation any endorsements Purchaser wishes to obtain, shall be borne by Purchaser.

B. Purchaser shall obtain and provide to Seller for its review and approval an ALTA survey of the Property, at its own cost and expense no later than the expiration of the Due Diligence Period which shall be certified to Seller, Purchaser and the Title Company. Seller shall have no further obligation with respect to the state and/or quality of title the Property or any matters disclosed by a survey not set forth in this Section 3.

4. PURCHASER'S DUE DILIGENCE.

A. Purchaser shall have the period of sixty (60) days after the Effective Date (the "Due Diligence Period") within which to conduct and complete any document review, feasibility and physical investigation of the Property as Purchaser may in its discretion undertake. If the results of Purchaser's review and investigation are not acceptable to Purchaser, in Purchaser's sole discretion and for any or no reason, then Purchaser may, at its option, cancel this Agreement by written notice to Seller prior to the expiration of the Due Diligence Period in full termination of this Agreement and neither party shall have any further obligations under this Agreement to the other party except for the obligations of Purchaser contained in this Agreement which expressly survive the Closing or termination of this Agreement. If Purchaser's due diligence has not been completed within the Due Diligence Period or Purchaser and Seller have not reached agreement on the form of the EDCA, Purchaser shall have the right to extend the Due Diligence Period for two (2) periods of not more than thirty (30) days each, provided that Purchaser shall deliver to Seller written notice of its election to exercise such extension(s) prior to the end of the Due Diligence Period, as the same may be extended. Additional extensions of the Due Diligence Period may be provided upon the mutual written agreement of the parties. Upon expiration of the Due Diligence Period (including any extensions thereof) without this Agreement being terminated, Purchaser shall be deemed to have been satisfied or waived any and all conditions to its obligation to close the transaction except as otherwise set forth herein. References to the "Due Diligence Period" herein shall include any extensions thereof. Notwithstanding the foregoing, if Purchaser and Seller have not reached an agreement on the final form of the EDCA and the description of the Property prior to the end of the Due Diligence Period, as same may be extended, Seller may, at any time after the expiration of the Due Diligence Period and before Closing, elect to terminate this Agreement upon written notice to Purchaser in which event each of Purchaser and Seller shall be released of all obligations hereunder except for those obligations that expressly survive termination.

B. Due Diligence Materials. Within thirty (30) days of the Effective Date, Seller will exert commercially reasonable efforts to locate and make available to Purchaser (and formally request the DDA to attempt to locate and make available to Purchaser) all documents and information in the possession of the Seller relating to the physical aspects of the Library Lot Property and the design and construction of the Parking Structure and shall request all such information in the DDA's possession, including without limitation architectural and engineering drawings, specifications and related documents, construction documents, soils reports, engineering studies, testing data, and environmental reports (the "Due Diligence Materials"). Specifically excluded from the Due Diligence Materials shall be all information related to the revenue and operational costs summaries associated with the operation of the Parking Structure. Purchaser, its employees, attorneys and consultants, shall be provided access to the Due Diligence Materials during Seller's normal business hours or in a data room established by Sellers to which Purchaser

is provided access. Purchaser, its employees, attorneys and consultants shall be entitled to view all Due Diligence Materials onsite, but shall not take or remove any Due Diligence Materials, provided, however, that Purchaser may upon request and at its sole cost and expense, make photocopies or other reproductions thereof subject to exceptions for security and safety purposes as determined by Seller. Seller shall reasonably cooperate with Purchaser and will provide electronic copies of any Due Diligence Materials that are in Seller's possession in the ordinary course, subject to exceptions for security and safety purposes as determined by Seller. Seller shall not be liable to Purchaser hereunder if it and/or the DDA unintentionally fail to locate and deliver to Purchaser all Due Diligence Materials in Seller's possession so long as Seller has exerted commercially reasonable and good faith efforts to locate and deliver such information. Purchaser acknowledges that that DDA was involved in the initial design and construction of the Library Lot Property and Parking Structure and so long as Seller requests copies of all relevant materials from the DDA, Seller shall have complied with its obligations hereunder and shall have no liability for any omissions by the DDA. Neither Seller (nor the DDA) makes any warranty or representation whatsoever with respect to the accuracy or completeness of any or all of the Due Diligence Materials provided, and the existence or review of the Due Diligence Materials shall not relieve Purchaser of its obligation to make all necessary and appropriate independent investigations and conclusions with respect to the structural portions of the Parking Structure, Property, and its condition and adequacy thereof for Purchaser's intended use.

C. Limited Right of Entry. Subject to the terms hereof, Seller grants to Purchaser and its employees, attorneys, engineers and consultants (collectively, "Consultants"), during the Due Diligence Period, a nonexclusive license and permission to enter, from time to time, upon the Library Lot Property and the Parking Structure for the purpose of conducting a physical inspection and if Purchaser deems necessary, a Phase 1 environmental investigation. Purchaser shall not undertake any invasive testing on the Library Lot Property or perform a Phase II Environmental Site Assessment on same without the prior written consent of Seller in each instance. Any entry, inspection and investigation by Purchaser and its Consultants on onto the Library Lot Property and the Parking Structure shall be subject to the following:

- (i) Purchaser shall notify Seller by email at least two (2) business days in advance, in writing, of the time, date and purpose of any proposed entry and Seller shall be permitted, if it elects, to have its consultants or employees present at all times during such entry to observe the activities of Purchaser and its Consultants. Such notice shall be emailed to Atleen Kaur at [akaur@a2gov.org](mailto:akaur@a2gov.org). All such access shall occur during regular business hours and a representative of Seller and/or the DDA may be present. All such access and investigations shall not interfere with the operation of the Parking Structure. Seller shall permit entry to the Library Lot Property as soon as reasonably practicable after receipt of Purchaser's notice, but in no event later than three (3) business days thereafter. Purchaser may, alternatively, provide to Seller a proposed schedule for such inspections by designating blocks of days or times during which it proposes to undertake such activities. Seller will not unreasonably withhold or delay its approval of such schedule(s), provided same occurs during regular business hours and that the same do not unreasonably interfere with the regular operation of the Parking Structure. The failure of Seller, or its consultants or employees, to appear at the date and time of any entry, inspections by Purchaser in accordance with the

requirements set forth above shall not prevent Purchaser, or its Consultants, from undertaking such work. Purchaser shall promptly restore all damage to the Library Lot Property and the Parking Structure caused by Purchaser's and/or its Consultants investigations, which obligations shall survive the termination of this Agreement. Upon request, Purchaser shall provide to Seller copies of all third party reports issues to and/or obtained by Purchaser resulting from its investigations hereunder. Any request by Purchaser to undertake invasive testing or to perform a Phase II ESA shall be made in writing at least ten (10) days advance of the proposed testing and such request shall describe with specificity the testing to be performed. In connection with any such request, Purchaser shall provide to Seller such additional information as Seller may request.

- (ii) Purchaser's exercise of the right of entry herein granted shall be at Purchaser's sole cost and risk. In no event shall Purchaser cause any liens to be recorded against the Library Lot Property. Purchaser hereby agrees to indemnify, defend and hold harmless Seller, the DDA, their respective City Council and board members, officers, directors, agents, employees, consultants, and contractors ( the "Seller Parties") from any liability, liens, costs and/or expenses incurred by the Seller Parties resulting from Purchaser's exercise of the right of entry herein granted to Purchaser and its Consultants. The obligations of Purchaser under this Section 4.C shall survive the Closing or earlier termination of this Agreement.
- (iii) The limited license and permit granted to Purchaser and its Consultants to enter the Library Lot Property and the Parking Structure under this Section 4.C shall terminate upon expiration of the Due Diligence Period or termination of this Agreement; provided, however, that Purchaser and its Consultants shall have access to the Library Lot Property on the terms of this Section 4.C after the expiration of the Due Diligence Period during the term hereof for non-due diligence related purposes (e.g., surveying and engineering necessary to the design of its Project), at reasonable times and upon such terms and conditions thereto as may be reasonably imposed by the Seller and/or DDA as operator of the Parking Structure.
- (iv) Prior to any entry upon the Library Lot Property to perform such inspections and inspection related activities, Purchaser or its Consultants shall deliver to Seller and the DDA evidence that Purchaser and such Consultants have obtained and shall maintain general liability insurance in an amount not less than one million dollars (\$1,000,000.00) per occurrence and, in an amount not less than two million dollars (\$2,000,000.00) in the aggregate by an insurer with a minimum AM Best Rating of A-, VII, licensed to do business in Michigan, naming Seller and the DDA as additional insureds and shall maintain such insurance coverage at all times during the performance of such inspections and inspection related activities.
- (v) Tax Division. Prior to, and as a condition of Seller's obligation to close and convey title of the Property to Purchaser, Purchaser shall, at its sole cost and expense, apply for and obtain a separate tax parcel identification number for the Property such that the Property shall have a separate and distinct identification number from the Retained

Lands.

5. THE PROJECT AND PARKING STRUCTURE.

A. Purchaser anticipates that the Project will consist of the development within the Property of improvements which will consist of one or more condominium units to be established on the Property which may include improvements on the AADL Parcel. Seller may request that the Parking Structure and/or other components of the Retained Lands be designated a separate unit (owned by Seller) in the condominium and Purchaser agrees that the EDCA shall obligate Purchaser to reasonably accommodate this request in the course of developing the Project.

B. Prior to expiration of the Due Diligence Period, Seller and Purchaser shall exert good faith efforts to negotiate a form of an Easement, Development and Construction Agreement (“EDCA”) setting forth the initial rights and obligations of the Seller as the owner of the Parking Structure and Retained Lands and the Purchaser as the owner of the Property. Seller shall provide a draft of the EDCA to Purchaser within (30) days after the Effective Date. The EDCA shall govern the relationship between the Parking Structure and the Library Lot Property on the one hand and the Project developed by Purchaser on the Property and on the AADL Parcel on the other and specifically describe the terms and conditions on which Seller will permit the Purchaser and/or the Project to use the structural components/support elements of the Parking Structure, and any elevators, stairways, utilities, and other features on and/or within the Parking Structure. It is contemplated that the EDCA will be further amended following Closing once Purchaser has finalized its plans for the Project (and the Breezeway) and the EDCA shall specifically establish protocols and procedures for the potential amendment of same, including finalizing the location and configuration of the Breezeway Easement and all other easements contemplated herein. The EDCA shall be in a form reasonably acceptable to Seller and Purchaser and shall be recorded against the Property, the Parking Structure, the Retained Land and to the extent agreed to by Purchaser, the AADL Parcel at Closing. If the form of the EDCA is not approved by Purchaser and Seller prior to the expiration of the Due Diligence Period as same may be extended, then either Purchaser and/or Seller shall have the right to terminate this Agreement by providing written notice to the other at any time prior to the earlier of the finalization and mutual approval of the EDCA or Closing. Upon any such termination, this Agreement shall terminate, and each Party released from all obligations hereunder except those that expressly survive the termination hereof. The EDCA shall contain the following terms:

(i) Require and ensure that except as may be specifically agreed to by the Seller in the EDCA or in writing in the exercise of its reasonable discretion, Seller and the DDA shall continuously and without interruption or impairment be able to operate the Parking Structure for its intended use throughout construction of the Project, and that Seller, the DDA, other users and the public shall be afforded continuous and uninterrupted vehicular and pedestrian ingress to and egress from and use of the Parking Structure during construction of the Project. The parties acknowledge that construction of the Project may require the temporary and incidental interruption of operations on the Parking Structure and the EDCA shall prescribe procedures for determining when, and if, such temporary and incidental interruptions may be approved by Seller.

(ii) Until the Commencement of Construction (as defined below), Purchaser shall not:

(a) construct any improvements on or make any alterations within the Property or affect any alterations or modifications to the Library Lot Property and/or the Parking Structure without the prior written consent of Seller in each instance.

(b) Transfer, convey, hypothecate, pledge or encumber the Property with any encumbrance of any kind without prior written consent of Seller in each instance.

(c) Lease or grant to any other party any right to occupy, use or develop the Property without the prior written consent of Seller in each instance.

(d) Cause or permit any liens to attach to the Property.

(e) Subdivide or subject the Property to any master deed or other development restrictions covenant or division without the prior written consent of Seller.

(f) Nothing in this Section 5.B.(ii) is intended to limit or prevent Purchaser from entering into agreements with developers, contractors, financial institutions, or consultants related to the Project prior to the Commencement of Construction, including agreements relating to the proposed structure of one or more condominiums intended to encumber some or all of the Property, provided, however, nothing shall permit Purchaser or its successors and/or assigns to record, prior to the Commencement of Construction, any encumbrance, mortgage, lien or development agreement against the Property, or which will bind Seller or the Property following the exercise of the Reverter Rights hereunder unless expressly approved by the Seller.

(iii) Require that any development on the Property (or within the Breezeway Easement) which relies upon structural or lateral support of all or any portion of the Parking Structure or any portions of the Library Lot Property must first be reviewed and approved in writing by the City Administrator acting on behalf of the Seller and such consultants as may be engaged by the Seller in connection with such development activities.

(iv) Authorize the Seller acting through the City Administrator to amend the EDCA and to agree to reconfigure the description of the Property and/or the Breezeway Easement as may be reasonably necessary to effectuate the development of the Project and the Breezeway as may be described in the final Site Plan for the Project as approved by the City but subject to the terms of subsections (x) and (xi).

(v) Provide that upon a casualty of all or any portion of the Parking Structure prior to Commencement of Construction, the cost to repair or restore of which would exceed \$100,000.00, Seller shall have the right to terminate the EDCA and reacquire title to the

Property pursuant to the Reverter provision stated in the deed, it being understood and agreed that Seller shall have no obligation to effect any restoration of the Parking Structure and/or the Library Lot Parcel until Commencement of Construction. From and after the Commencement of Construction, the parties rights and obligations upon a casualty of any improvements on the Retained Lands and/or on the Property shall be described and governed by the EDCA. Prior to such termination of the EDCA by Seller and reacquisition of title to the Property as provided herein, Seller shall provide written notice to Purchaser of its intent to terminate the EDCA and reacquire title to the Property due to such casualty. Purchaser shall have 60 days from receipt of the written notice from Seller to notify Seller in writing that Purchaser intends to pay the repair or restoration costs and proceed with the development of the Project. Purchaser's failure to provide Seller written notice of Purchaser's intention to pay for the repairs within 60 days shall be deemed an election by Purchaser to not pay such costs and Seller may proceed to terminate the EDCA and reacquire title to the Property time being of the essence. Any agreement between the Purchaser and Seller concerning the Purchaser's commitment to pay the restoration cost of the Parking Structure shall be contained in a written agreement in form and content acceptable to Purchaser and Seller within thirty (30) days of Purchaser's notice, failing which this Agreement shall be terminated as provided above.

(vi) Reserve and/or grant to Seller all easements for pedestrian or vehicular ingress, egress (including Emergency Vehicles) and all utilities as may be determined necessary or required by Seller for the full and functional use, maintenance and repair of the Parking Structure and the Library Lot Property. Confirm the agreement of the Seller to grant to Purchaser such easements as are reasonably necessary for development of the Project, but do not adversely affect or infringe on the structural aspects of the Parking Structure or the operations on the Library Lot Property including without limitation, permanent easements through the subsurface of the Parking Structure for the construction of caissons, pilings, footings and other foundational structures for the Project, and nonexclusive easements for the use and maintenance of Library Lane.

(vii) Allocate in such manner as the parties may agree the costs of maintenance, repair and replacement of all shared improvements, and of those components of the Parking Structure on which the Project shall rely for lateral support, ingress and egress, or utilities, and establish mutually acceptable maintenance, repair and restoration obligations as it relates to each of the Parking Structure, the Library Lot Property and the Project and the AADL Parcel, including but not limited to, the obligations to maintain casualty and liability insurance.

(viii) Describe the rights and responsibilities of Purchaser and Seller in the event of the condemnation and/or a casualty of each of the components of the Project and/or the Parking Structure following the Commencement of Construction.

(ix) Require the Purchaser to commit to occupy and operate within the Project a full-service public library operated by Purchaser meeting certain minimum criteria to be described in the EDCA, to satisfy the Development Criteria and restrict the Purchaser's ability to discontinue such uses and/or convey the public library component to any third

party without the prior written consent or approval of the Seller. The parties recognize that a portion of the new public library will be located on the AADL Parcel.

(x) Prior to finalizing any plans for the Project and initiating any construction on the Property, obligate Purchaser to (A) complete a comprehensive review and analysis of all plans, specifications, construction documents and reports for the Parking Structure and to make adequate and complete inquiry to Seller and the DDA as may be necessary or appropriate to fully understand the design and structural tolerances of the Parking Structure and (B) propose the requirements and best practices for the staging of development and construction of the Project in the Property, all of which shall be subject to the reasonable approval of the Seller and the DDA.

(xi) In connection with the structural analysis required to be undertaken by Purchaser as it relates to the Parking Structure and the structural design of the Project, Purchaser shall be obligated to provide to Seller prior to commencing any construction activities within the Property a certification from Purchaser and a structural engineer acceptable to Seller in its sole and absolute discretion that the Project and its planned structural elements (which may include proposed reinforcements and/or other modifications to the Parking Structure, all of which shall be subject to the prior written approval of Seller), proposed to be constructed by Purchaser pursuant to the plans therefor shall not exceed the load and other capacities of the structural support system of the Parking Structure which certification shall be in form and content acceptable to Seller and the DDA and affirmatively confirm the Parking Structure and structural elements of same are adequate to support the Project and its planned structural elements without adversely impacting the useful life of the Parking Structure, it being agreed that in no event shall Seller be deemed to authorize or consent to construction of a Project which exceeds the structural capacity of the Parking Structure.

(xii) Obligate Purchaser to provide Seller as-built plans and specifications for the Project upon completion of the Project confirming that the Project has been constructed in accordance with the plans and specifications approved by the Seller.

(xiii) Confirm Purchaser's obligation to proceed with construction of the Project once commenced without interruption and to construct the Project substantially in accordance with such plans and specifications within certain time periods.

(xiv) Confirm the agreement of Purchaser to prosecute construction of the Project in accordance with prudent construction practices reasonably approved by Seller and the establishment of general construction milestones, subject to occurrence of events of force majeure.

(xv) Describe the rights and obligations of the parties in the event of a casualty that destroys or otherwise damages any portion of the Project and/or the Parking Structure.

(xvi) Confirm the existence at all times during Purchaser's construction of the Project of emergency access to and from the Parking Structure in compliance with

applicable laws and regulations.

(xvii) Confirm Purchaser's obligation to obtain and maintain customary construction and builder's risk insurance in form and content and with coverages acceptable to Seller during construction of the Project and confirm Purchaser and Seller's obligation following completion of construction of the Project to obtain and maintain property and general liability insurance coverages for the Parking Structure, Library Lot Property Breezeway and the AADL Parcel and the form and content thereof.

(xviii) Obligate Purchaser and its successor and assigns to maintain the Project to be constructed in the Property in good condition and repair, subject to normal wear, tear and use, and otherwise requiring the then owner of the Property to take such actions, all at said owner's cost, so that the improvements within the Property shall not at any time encroach on the Retained Property or impede access or use of the Retained Property or the Parking Structure thereon unless expressly approved by the Seller in writing, along with self-help rights of Seller to correct violations.

(xxiv) Obligate Purchaser to reimburse Seller for all reasonable third party costs of engineers and consultants engaged by Seller to analyze the structural and operational aspects of the Project on the Parking Structure not to exceed \$20,000.00 for each de novo plan review.

(xxv) Such other undertakings and commitments as Seller and Purchaser may require.

## 6. SELLER'S REPRESENTATIONS AND WARRANTIES.

A. Seller hereby represents and warrants to Purchaser the truth and accuracy of each of the following, as of the Effective Date, and to be restated as of the Closing Date:

- (i) Seller is a governmental unit of the State of Michigan and has the full power and authority to enter into this Agreement and carry out the transactions contemplated hereby, and the persons executing this Agreement on behalf of Seller are or shall be duly authorized to execute this Agreement and any deeds, bills of sale, assignments or other instruments or documents reasonably necessary to carry out the transactions contemplated by this Agreement.
- (ii) Seller is not a "foreign person" as that term is defined in Section 1445 of the United States Internal Revenue Code of 1986, as amended (the "Code").
- (iii) Except as previously (or prior to Closing, as the case may be) disclosed by Seller to Purchaser, to Seller's Knowledge Seller has not been served with and has not received written notice of, any pending litigation or proceedings, threatened or anticipated, relating to the Library Lot Property.

- (iv) Except as previously (or prior to Closing, as the case may be) disclosed by Seller to Purchaser or provided to Purchaser pursuant to Section 4(b), to Seller's Knowledge there are no contracts, agreements, commitments, equipment leases, written or oral, affecting the Property which would be binding on the Purchaser or which would encumber the Property following Closing.
- (v) Except as may be reflected in the Title Commitment or the Due Diligence Materials, to Seller's Knowledge no person or entity has an option, right of first refusal, right of first offer, lease or similar interest or right with regard to the Property.
- (vi) For purposes hereof, "Knowledge" shall mean and refer to the actual knowledge of Milton Dohoney, the City Administrator, without a duty inquiry in no event shall such knowledge person have any personal liability under this Agreement.

B. The foregoing representations and warranties shall survive the conveyance of the Property by Seller to Purchaser for a period of ninety (90) days.

## 7. PURCHASER'S REPRESENTATIONS AND WARRANTIES.

A. Purchaser hereby represents and warrants to Seller the truth and accuracy of each of the following, as of the Effective Date, and to be restated as of the Closing Date:

- (i) Purchaser is a district library organized under Act 24 of 1989, known as the District Library Establishment Act, MCL 397.171 et seq.
- (ii) All necessary action has been taken to duly authorize the execution and delivery of this Agreement and all documents and instruments contemplated by this Agreement, and the performance by Purchaser of the covenants and obligations to be performed by it hereunder. The person or persons executing this Agreement have been duly authorized to bind Purchaser.
- (iii) The execution, delivery and performance of this Agreement and the consummation of the transaction contemplated hereby by Purchaser will not conflict with, violate or result in the breach of any provision of its organizational documents or conflict with or violate any statute, law, rule, regulation, ordinance, order, writ, injunction, judgment or decree of any court or any local, state or federal governmental or regulatory authority applicable to Purchaser.
- (iv) Purchaser has received no written notice that any litigation materially affecting the ability of Purchaser to acquire the Property, to construct the Project or to carry out its obligations to Seller is pending or to its knowledge currently threatened.
- (v) Purchaser is solvent and able to pay its debts and obligations as they mature and there are no actions in law, in equity or similar proceedings which pending or to its knowledge threatened against Purchaser which might result in a material and adverse to Purchaser financial condition or materially affect Purchaser's assets as of the date of

this Agreement which would prevent it from being able to pay its debts or undertaking the development of the Property and its obligations under this Agreement.

- (vi) Purchaser has not entered into and will not enter into any transaction not in the ordinary course of its business which would prevent it from being able to pay its debts as they may then exist or financially prevent it from performing its obligations under this Agreement or any other agreements entered into by the parties in connection with the development of the Property.

B. The foregoing representations and warranties of Purchaser shall survive the Closing and conveyance of the Property by Seller to Purchaser for a period of ninety (90) days.

#### 8. CLOSING DATE.

The delivery of the Transfer Documents (as defined below) and the other actions contemplated to occur in connection therewith under this Agreement (the “Closing”) shall take place at a mutually agreed upon location at 10:00 am local time on the Closing Date. The “Closing Date” shall be a date that is agreed to by the parties but shall be no later than thirty (30) days following the expiration of the Due Diligence Period, as same may be extended, absent written agreement of Seller and Purchaser, time being of the essence. Closing may be effected on an escrowed basis through the title insurance company.

#### 9. DOCUMENTS TO BE DELIVERED AT CLOSING.

A. On the Closing Date, Seller shall convey the Property to Purchaser by delivery of the following documents (collectively, the “Transfer Documents”), each to be in form and substance satisfactory to Seller and reasonably satisfactory to Purchaser:

- (i) A good and sufficient Covenant Deed to the Property, in the form attached hereto as **Exhibit E** subject to the Reverter contemplated by Section 10 of this Agreement, and the Permitted Exceptions;
- (ii) An owner’s affidavit in the form attached hereto as **Exhibit F**.
- (iii) A “non-foreign affidavit” executed by Seller, stating that the Seller is not a foreign person as defined in Section 1445 of the Code;
- (iv) A closing statement duly executed by Seller providing for the prorations and adjustments, if any, required under this Agreement;
- (v) The EDCA.

B. Also on the Closing Date, Purchaser shall deliver the following to Seller:

- (i) The Purchase Price, subject to such other adjustments and prorations, if any, contemplated by this Agreement;

- (ii) A closing statement duly executed by Purchaser providing for the payments prorations and adjustments, if any, required under this Agreement;
- (iii) A counterpart signed copy of the EDCA duly executed by Purchaser; and
- (iv) Evidence that Purchaser will cause a tax split to occur which provides the Property a separate tax parcel number.
- (v) Such other documents and instruments, if any, as may be required by the Title Company in connection with the Closing, the conveyance of the Property, closing and recording charges, and the issuance of the Title Policy and any endorsements thereto.

C. Prorations. Discuss need for prorations.

## 10. RIGHT OF REVERTER.

A. The deed by which the Property is conveyed to Purchaser at Closing shall include a reversionary right, which shall provide that title to the Property shall automatically revert (the "Reverter") in the condition conveyed to Seller if Purchaser fails to achieve Commencement of Construction (as defined below) of the Project on the Property pursuant to the terms of the EDCA within seven (7) years from the recording of the Deed (the "Reverter Period"), provided however, the seven (7) year Reverter Period shall be extended for one period of up to three (3) years upon a written request of Purchaser delivered to Seller at least ninety (90) days prior to the expiration of the Reverter Period provided Purchaser has provided Seller reasonable evidence that (i) prior to such notice Purchaser has submitted to the City of Ann Arbor Planning Commission an initial site plan application for the entire Project in full compliance with the then applicable rules, regulations, and procedures, (ii) Purchaser has entered into an agreement with a joint venture partner for the development of the Project, and (iii) Purchaser is not otherwise in default of the EDCA following notice of the expiration of any applicable cure period. The Reverter Period may be further extended at any time upon the agreement of the parties and the recording of an affidavit of same executed by the City Administrator.

B. Seller may, at any time, release the Reverter in its sole discretion. Upon Purchaser's Commencement of Construction of the Project pursuant to this Section 10, Seller shall promptly execute and record a release of the Reverter. For purposes hereof and the EDCA, "Commencement of Construction" shall be deemed to occur upon the satisfaction of all of the following: (i) issuance by the City of building permits for the construction of the Project, (ii) Seller's written approval of the Project plans pursuant to the terms of the EDCA and Purchaser's compliance with the terms of the EDCA, (iii) execution of amendments to the EDCA on terms acceptable to Purchaser and Seller conforming the easements and the other terms of the EDCA to comport with the plans for the Project, (iv) Purchaser has provided Seller with a financial sources and uses schedule required by the EDCA and (v) Purchaser has provided evidence to Seller that Purchaser has executed a construction contract between it and its construction contractor for the construction of the Project and the structural alterations to the Parking Structure pursuant to Project plans approved by Seller. Seller agrees that in connection with the amendments to the EDCA as

provided in subsection B.(iii) above, it shall not require any amendment which would conflict with the plan for the Project as approved by the City except as may be required to maintain the structural integrity of the Parking Structure.

11. BROKERS.

The parties represent to each other that no broker, salesperson, finder or other comparable person or entity has in any way been involved with this transaction and that no party has a right to claim any finder's fee, commission or other compensation by reason of this transaction.

Seller and Purchaser each agree to indemnify, save and hold harmless the other from and against any and all claims, losses, costs, damages and expenses (including reasonable attorney's fees) for brokerage commissions or finder's or other fees related to a breach of its foregoing warranty and representation. The provisions of this Section shall survive the Closing.

12. CONDITIONS TO OBLIGATION TO CLOSE.

A. Seller's and Purchaser's obligation to close on the transaction contemplated herein is subject to and conditioned upon the following being true as of the Closing Date:

- (i) No litigation or administrative proceeding shall have been commenced or threatened, and no legislative action shall have been taken or enacted, that could, in the reasonable judgment of Seller or Purchaser, have the effect of preventing or impairing Purchaser's or Seller's ability to carry out the terms of this Agreement or the construction and completion of Purchaser's Project as contemplated hereby.

B. Seller's obligation to close on the transaction contemplated herein is subject to and conditioned upon the following being true as of the Closing Date: Purchaser shall not be in default under any provision of this Agreement, nor shall any event or condition exist that, with the passage of time, would constitute an event of default hereunder.

C. Purchaser's obligation to close on the transaction contemplated herein is subject to and conditioned upon the following being true as of the Closing Date: Seller shall not be in default under any provision of this Agreement, nor shall any event or condition exist that, with the passage of time, would constitute an event of default hereunder;

D. A party shall exercise a foregoing condition to Closing by providing written notice to the other party and providing the other party 14 days to cure the unsatisfied condition. In the event that a cure, or other mutually acceptable resolution of the unsatisfied condition, is not achieved within such period, then this Agreement may be terminated at the option of either party and all of the rights and obligations among the parties shall terminate with the exception of those rights and obligations that are expressly intended to survive Closing or termination of this Agreement.

13. AS-IS TRANSACTION.

A. Without limiting the express covenants, terms and conditions set forth in this Section 13, Purchaser acknowledges and agrees that it is acquiring, and at Closing will accept, the Property “AS IS, WHERE-IS, and WITH ALL FAULTS”, and that the sale by Seller to Purchaser of the Property is made without any representations or warranties of any nature whatsoever, express or implied; it being the intention of Seller and Purchaser to expressly revoke, release, negate and exclude all representations and warranties, including, without limitation, any representations or warranties concerning the nature, quality, construction, condition, state of repair or lack of repair, of the Property, the Library Lot Property, the Parking Structure or any part thereof; the Environmental Condition (as defined in Subsection 13.B, below) of the Property, or any part thereof; the suitability of the Property, the Library Lot Property, the Parking Structure or any part thereof, for any specific purpose or use; the merchantability of the Property, or any part thereof, or the economic feasibility or the income to be derived from the Property, or any part thereof; the compliance of the Property, the Library Lot Property, the Parking Structure or any part thereof, with any statute, regulation, rule or ordinance affecting the same, including without limitation, Environmental Law (as defined in Subsection 13.B, below); any and all express or implied representations and warranties created by any affirmation of fact or promise or by any description of the Property, the Library Lot Property, the Parking Structure any and all express or implied representations and warranties pertaining to any environmental, geological, structural or other condition or hazard or the absence thereof heretofore, now or hereafter affecting in any manner the Property, the Library Lot Property, the Parking Structure and any and all other express or implied representations and warranties by Seller, the DDA, or their respective councils and board members, officers, partners, managers, employees and/or agents whatsoever. Purchaser further acknowledges and agrees that, in purchasing and closing on the purchase of the Property, Purchaser is and shall be relying solely on its own investigation and evaluations of the Property and the Library Lot Property, and that Purchaser has not relied and is not (and shall not be) relying on any information provided or to be provided by Seller or the DDA, whether within the Due Diligence Materials, or otherwise.

Purchaser, for itself and Purchaser’s successors and assigns, hereby releases the Seller and Seller parties, and their successors and assigns from, and waives all claims and liability, including environmental liability, against the Seller and Seller parties, and their successors and assigns for or attributable to any structural, physical or environmental condition at the Property, including, claims or liabilities relating to the presence discovery or removal of any hazardous materials in, at, about or under the Property, or for, connected with or arising out of any and all claims or causes of action based upon environmental law except for the Seller’s warranties.

B. As used herein:

- (i) “Environmental Condition” means the presence of any Hazardous Substance in any amount in, on, under, migrating onto, or emanating from any portion of the Property, including without limitation, any improvements on the Property, whether known or unknown at the time of the Closing.
- (ii) “Environmental Law” means any applicable federal, state, or local law, including the common law, relating to the protection of the environment (including air, water vapor, surface water, groundwater, drinking water supply, surface or subsurface land), human

health, or occupational health and safety, the exposure to, presence of, or the use, storage, recycling, treatment, generation, transportation, processing, disposal, handling, labeling or release of Hazardous Substances, and including without limitation any statutes, rules and regulations regarding soil or groundwater contamination, or the disposal or existence, in or on the Property, buildings, improvements or any part thereof, of any Hazardous Substance.

- (iii) “Hazardous Substance” means any material, substance, toxic, chemical, contaminant, pollutant, or waste as defined by any Environmental Law or listed in any regulations as required by Environmental Laws, and includes but is not limited to any petroleum, petroleum products, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous waste, toxic substances, toxic chemicals, chemicals, pesticides, radioactive materials, polychlorinated biphenyls, metals, and any other element, compound, mixture, solution, substance, material, waste or the like that may pose a present or potential danger to human health, safety, and the environment.

C. Notwithstanding the foregoing, the parties agree that Purchaser shall have no liability or responsibility for Environmental Conditions existing on the Library Lot Property and/or the Parking Lot Structure as of the Closing Date to the extent the Environmental Condition is not caused or contributed to by intentional or negligent act or omission to act of Purchaser and/or its Consultants. Purchaser shall assume at Closing exclusively all responsibility for all Environmental Conditions existing on or within the Property.

D. The parties agree that the rights and obligations under this Section 13 shall be binding on Seller, Purchaser, and their respective successors and assigns.

#### 14. DEFAULT.

A. If Seller breaches this Agreement and has not cured such breach within thirty (30) days of written notice from Purchaser, then Purchaser may, at its election, (i) terminate this Agreement by written notice to Seller, whereupon neither party shall have any further liability or obligation to the other except as expressly set forth herein, or (ii) seek specific performance provided however any election by Purchaser to pursue specific performance must be served on Seller within thirty (30) days of Seller's failure to timely close. Seller shall have no liability to Purchaser for any act and/or omission by the DDA.

B. If Purchaser defaults hereunder (other than its indemnification obligations pursuant to and as assumed herein) and fails to cure such default within thirty (30) days of written notice from Seller, then Seller may, by written notice to Purchaser terminate this Agreement, whereupon neither party shall have any further liability or obligation to the other except as expressly set forth herein. Notwithstanding the foregoing, if Purchaser defaults with respect to its indemnification obligations in connection with damages caused as a result of inspections contemplated by Section 4.C then, in addition to terminating the Agreement as set forth above, Seller may also bring an action for damages arising therefrom.

C. In no event shall either party seek or be entitled to damages (other than as expressly

described in Section 14.A and 14. B. above), whether actual, consequential or punitive.

15. DAMAGE OR DESTRUCTION.

If and in the event the Parking Structure and/or other improvements on the Library Lot Property are damaged or destroyed for any reason or by any cause prior to the Closing, then Seller shall have the sole discretion to determine whether to repair. Seller shall notify Purchaser in writing within 60 days after Seller has knowledge of the damage or destruction whether Seller intends to repair. If Seller elects to repair, the Closing shall be delayed until such time as such repair has been completed. If Seller elects not to repair, this Agreement shall terminate unless Purchaser within 60 days from receipt of the written notice from Seller that Seller will not repair such damage notifies Seller in writing that Purchaser is prepared to pay the repair or restoration costs and proceed with the development of the Project in which event the parties shall have thirty (30) days from the date of Purchaser's notice to finalize and execute an agreement (the "Reconstruction Agreement") containing the terms and conditions under which Purchaser shall fund such repairs. In the event Purchaser fails to provide timely written notice of its election to pay the cost to repair, or after having given such notice, Purchaser and Seller have not executed the Reconstruction Agreement, then in either case, this Agreement shall terminate. Purchaser's failure to respond within 60 days of Seller's notice of its election not to repair shall be deemed an election by Purchaser to not pay such costs and not repair. If neither Purchaser or Seller elects to repair, this Agreement shall terminate whereupon Purchaser and Seller shall be released of all obligations hereunder, except those that expressly survive the termination of this Agreement.

16. CONDEMNATION OF PROPERTY OR LIBRARY LOT PROPERTY PENDING CLOSING.

If condemnation proceedings against all, or a portion of, the Property (or the Library Lot Property) are commenced by a governmental entity, or if Seller upon threat of condemnation in good faith engages in negotiations relative to granting a deed or easement in lieu of condemnation prior to the Closing Date, either Purchaser or Seller shall have the right to terminate this Agreement without further liability on the part of either party, by so notifying the other party within thirty (30) days of Seller's notification to Purchaser in writing as to said condemnation or initiation of negotiations in lieu thereof.

17. CARE AND MAINTENANCE OF LIBRARY LOT PROPERTY.

From the date of this Agreement until the Closing Date, Seller and/or the DDA as applicable) shall exert commercially reasonable efforts to maintain the Library Lot Property in accordance with its/their current standards and practices therefor, but neither Seller nor the DDA shall have any obligation to make capital repairs and/or alterations whatsoever with respect to the Library Lot Property.

18. NOTICES.

All notices permitted or required to be given hereunder shall be in writing and sent by a nationally recognized overnight courier service (such as Federal Express), certified mail, postage prepaid,

return receipt requested, hand delivered, or by electronic mail (provided that a hard copy of such electronic mail is also delivered by an overnight carrier) addressed as follows:

If to SELLER:

City of Ann Arbor  
Guy Larcom City Hall  
301 East Huron Street  
Ann Arbor, Michigan 48107-8647  
Attention: Milton Dohoney, City Administrator  
Email: [mdohoney@a2gov.org](mailto:mdohoney@a2gov.org)

With copy to:

Atleen Kaur, Esq.  
City Attorney  
Guy Larcom City Hall  
301 East Huron Street  
Ann Arbor, Michigan 48107-8647  
Email: [akaur@a2gov.org](mailto:akaur@a2gov.org)

And to:

Joseph M. Fazio, Esq.  
Miller Canfield PLC  
101 N. Main #700  
Ann Arbor, MI 48104  
Email: [fazio@millercanfield.com](mailto:fazio@millercanfield.com)

If to PURCHASER:

Eli Neiburger  
Director, Ann Arbor District Library  
343 S. 5<sup>th</sup> Ave.  
Ann Arbor, MI 48104  
Email: [neiburgere@aadl.org](mailto:neiburgere@aadl.org)

With copy to:

William J. Stapleton, Esq.  
Hooper Hathaway P.C.  
126 S. Main St.  
Ann Arbor, MI 48104  
Email: [wstapleton@hooperhathaway.com](mailto:wstapleton@hooperhathaway.com)

or to such other address or addresses as the parties may designate from time to time by notice given

in accordance with this Section. Any such notice shall be deemed given on the date of delivery to such Overnight Courier, or hand delivery, as the case may be. All notices given in accordance with the terms hereof shall be deemed received on the date of delivery (or, in the case of electronic mail, the date of transmission) if delivered (or, in the case of electronic mail, transmitted) before 5:00 p.m. local time on a business day in the place of the recipient, and if otherwise delivered, on the next business day following the date of such delivery or when delivered personally. Attorneys for Purchaser and Seller may deliver notices on behalf of their respective clients.

19. NO ASSIGNMENT BY PURCHASER.

This Agreement and the rights and obligations of Purchaser may not be assigned, hypothecated or otherwise transferred by Purchaser (whether as a gift or for consideration, outright or as security, by operation of law, or otherwise) except with the prior written consent of Seller, which consent may be withheld in Seller's sole discretion. The parties agree that the terms of this Section 19 are only intended to apply to the assignment of this Agreement and, as such, shall terminate and be of no further effect as of Closing.

20. MISCELLANEOUS.

A. This Agreement, which may be executed in multiple counterparts, or by electronic signature and/or delivery (with the same effect as if original execution copies) is to be governed by and construed under the laws of the State of Michigan that are applied to contracts made and to be performed in that state concerning real property located therein, is to take effect as a sealed instrument, sets forth the entire contract between the parties, merges all prior and contemporaneous agreements, understandings, warranties or representations, and may be cancelled, modified or amended only as set forth herein or by a written instrument executed by both Seller and Purchaser. The captions are used only as a matter of convenience and are not to be considered a part of this Agreement.

B. No waiver of any provision or condition of this Agreement by any party shall be valid unless in writing, signed by such party. No such waiver shall be taken as a waiver of any other or similar provision or of any future event, act, or default. If any action by any party shall require the consent or approval of another party, the consent or approval of the action on any one occasion shall not be deemed a consent to or approval of that action on any subsequent occasion or a consent to or approval of any other action on the same or any subsequent occasion.

C. This Agreement may be executed in counterparts which together shall be deemed to constitute a single, integrated document.

D. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns.

E. Neither party is the agent, partner or joint venture partner of the other; neither party has any obligation to the other except as specified in this Agreement.

F. No party other than Seller and Purchaser and their successors and assigns, shall

have any right to enforce or rely upon this Agreement, which is binding upon and made solely for the benefit of Seller and Purchaser, and their respective successors or assigns, and not for the benefit of any other party.

G. Time is of the essence for all actions set forth in this Agreement.

H. Whenever this Agreement requires that something be done within a specified period of days, that period shall (i) not include the day from which the period commences, (ii) include the day upon which the period expires, (iii) expire at 5:00 p.m. local time on the day upon which the period expires, and (iv) unless otherwise specified in this Agreement, be construed to mean calendar days; provided, that if the final day of the period falls on a Saturday, Sunday or legal holiday, the period shall extend to the first business day thereafter.

I. If one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, that invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if the invalid, illegal or unenforceable provision had never been contained within the body of this Agreement.

J. Notwithstanding the conveyance of the Property to Purchaser or anything contained herein to the contrary, Purchaser hereby agrees and acknowledges that Seller shall retain ownership of the Retained Property and Seller shall have the right to convey and/or grant at any time to any party title to same and/or any easements, licenses, encumbrances, or enter into any agreements related to the Retained Property so long as the rights of Purchaser under the EDCA are not adversely affected.

K. Prior to and as a condition of Closing, Purchaser shall be responsible for causing the Property to be separately assessed for tax purposes, as its own tax parcel, Seller agrees to reasonably cooperate, at no cost to the Seller, with Purchaser as may be necessary to obtain such separate assessed parcel.

L. This Agreement shall not be construed more strictly against one party than against the other, merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that both Purchaser and Seller have contributed substantially and materially to the preparation of this Agreement.

M. No official (whether elected or appointed), officer, employee, volunteer board member, council member (including, without limitation, any member of the City Council), attorney, agent, representative, advisor, or consultant of Seller or the City shall have any personal liability under this Agreement or otherwise in any matter arising out of or in connection with this Agreement.

N. To the extent permitted by law, any extension of time period hereunder, any modifications of nonmaterial terms herein, the approval by Seller of the final form of the EDCA and/or any other approval required from Seller hereunder may be made, given, and/or confirmed by the City Administrator or its designee(s) without the necessity of seeking the approval of City

Council and once so approved shall be deemed binding upon the Seller.

[SIGNATURES ON FOLLOWING PAGE]

DRAFT

SELLER: CITY OF ANN ARBOR, a Michigan municipal corporation

By: \_\_\_\_\_  
Name: Christopher Taylor  
Title: Mayor  
Dated: \_\_\_\_\_, 2026

By: \_\_\_\_\_  
Name: Jacqueline Beaudry  
Title: Clerk  
Dated: \_\_\_\_\_, 2026

Approved as to Substance:

By: \_\_\_\_\_  
Name: Milton Dohoney  
Title: City Administrator  
Dated: \_\_\_\_\_, 2026

Approved as to Form:

By: \_\_\_\_\_  
Name: Atleen Kaur  
Title: City Attorney  
Dated: \_\_\_\_\_, 2026

PURCHASER: ANN ARBOR DISTRICT LIBRARY

By: \_\_\_\_\_  
Name: Eli Neiburger  
Title: Library Director  
Dated: \_\_\_\_\_, 2026

EXHIBITS

- A. Library Lot Property
- A-1. AADL Parcel
- B. City Resolution R.25.140
- C. AADL Resolution 25.086
- D. Description of Property
- E. Form of Covenant Deed
- F. Form of Owner's Affidavit

DRAFT

EXHIBIT A

Library Lot Property

Lot 2, the North 1/2 of Lot 3, and the North 1/2 of Lot 6, Block 3 South of Huron Street, Range 6 East, Original Plat of the Village of Ann Arbor according to the plat thereof as recorded in the Book of Transcripts, pages 152 and 153, Washtenaw County records. The above parcel is more particularly described as: BEGINNING at the Northeast Corner of said Lot 6; thence along the East line of said Lot 6 and the West line of South Division Street, South  $01^{\circ}44'14''$  West 66.19 feet; thence along the South line of the North 1/2 of Lots 3 and 6, North  $88^{\circ}07'57''$  West 495.65 feet; thence along the West line of Lots 2 and 3 and the East line of South Fifth Avenue, North  $01^{\circ}45'56''$  East 198.78 feet to the Northwest corner of said Lot 2; thence along the North line of said Lot 2, South  $88^{\circ}06'24''$  East 264.28 feet to the Northeast corner of said Lot 2; thence along the East line of said Lot 2, South  $01^{\circ}45'05''$  West 132.44 feet to the corner common with Lots 2, 3, and 6; thence along the North line of said Lot 6, South  $88^{\circ}07'26''$  East 231.31 feet to the POINT OF BEGINNING.

DRAFT

EXHIBIT A-1

AADL Parcel

343 S. 5th Ave. (a/k/a 343 E. William St.):

S 1/2 OF LOT 3 & W 198 FT OF LOT 4 B3S R6E ORIGINAL PLAT OF ANN ARBOR

APN: 09-09-29-403-023

319 E. William St.:

W 31.5 FT OF E 66 FT LOT 4 B3S R6E ORIGINAL PLAT OF ANN ARBOR

APN: 09-09-29-403-015

323 E. William St.:

E 34.5 FT LOT 4 B3S R6E ORIGINAL PLAT OF ANN ARBOR

APN: 09-09-29-403-016

DRAFT

EXHIBIT B

City Resolution R.25.140

DRAFT

EXHIBIT C

AADL Resolution 25.086

DRAFT

EXHIBIT D

Description of Property

AIR SPACE SUBSEQUENT TO SURVEY:

All that certain Air Space lying below an elevation of 1,125 feet Above Mean Sea Level (AMSL) according to the North American Vertical Datum of 1988, said elevation being 260 feet above the high point of the existing ground surface of Library Lane over the following described parcel: Lot 2, Block 3 South of Huron Street, Range 6 East, Original Plat of the Village of Ann Arbor according to the plat thereof as recorded in the Book of Transcripts, pages 152 and 153, Washtenaw County records. The above parcel is more particularly described as: BEGINNING at the Northwest corner of said Lot 2; thence along the North line of said Lot 2, South  $88^{\circ}06'24''$  East 264.28 feet to the Northeast corner of said Lot 2; thence along the East line of said Lot 2, South  $01^{\circ}45'05''$  West 132.44 feet to the corner common with Lots 2, 3, and 6; thence along the South line of said Lot 2, North  $88^{\circ}07'26''$  West 264.31 feet to the Southwest corner of said Lot 2; thence along the West line of said Lot 2, North  $01^{\circ}45'56''$  East 132.52 feet to the POINT OF BEGINNING.

DRAFT

EXHIBIT E

Form of Covenant Deed

**COVENANT DEED**

The Grantor(s): City of Ann Arbor, a Michigan municipal corporation

whose address is: 301 E Huron Street, Ann Arbor, MI 48104

Grants and Conveys to:

whose address is:

the following described premises situated in the City of Ann Arbor, County of Washtenaw, State of Michigan, to wit:

**SEE ATTACHED EXHIBIT A/LEGAL DESCRIPTION RIDER**

for full consideration of:

Subject to the Permitted Exceptions set forth on the attached Exhibit "B" and the reversionary rights reserved by Grantor and the restrictions set forth on the attached Exhibit "C".

The Grantor covenants and agrees that, except as disclosed on Exhibit "B", the Grantor has not previously done or committed or willingly suffered to be done or committed any act, matter, or thing that would cause the premises or any part of them to be charged or encumbered in title, estate, or otherwise.

This conveyance is exempt from County Transfer Tax Pursuant to MCL 207.505(h) (i)

This conveyance is exempt from State Transfer Tax Pursuant to MCL 207.526 (h)(i)

Dated: \_\_\_\_\_, 2026

**COVENANT DEED**  
**(continued)**

(Attached to and becoming part of the Covenant Deed between City of Ann Arbor, a Michigan municipal corporation, as Grantor(s) \_\_\_\_\_, as Grantee(s)  
Signed By:

City of Ann Arbor, a Michigan municipal corporation

\_\_\_\_\_  
By: Christopher Taylor, Mayor

\_\_\_\_\_  
By: Jacqueline Beaudry, City Clerk

City of Ann Arbor Internal Approvals:

\_\_\_\_\_  
Milton Dohoney, Jr., City Administrator

\_\_\_\_\_  
By: Atleen Kaur, City Attorney

STATE OF MICHIGAN )  
 )SS.  
COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2026 by Christopher Taylor, Mayor, of City of Ann Arbor, a Michigan municipal corporation.

\_\_\_\_\_  
Notary Public  
County

My Commission Expires: \_\_\_\_\_  
Acting in the County of: \_\_\_\_\_

STATE OF MICHIGAN )  
 )SS.  
COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2026 by Jacqueline Beaudry, City Clerk, of City of Ann Arbor, a Michigan municipal corporation.

\_\_\_\_\_  
Notary Public  
County

My Commission Expires: \_\_\_\_\_  
Acting in the County of: \_\_\_\_\_

<p>Drafted by: Joseph M. Fazio, Esq. Miller, Canfield, Paddock &amp; Stone, PLC 101 N. Main St., 7<sup>th</sup> Floor Ann Arbor, MI 48104</p>	<p>When recorded return to: _____ _____ _____</p>
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**COVENANT DEED  
(continued)**

(Attached to and becoming part of the Covenant Deed between City of Ann Arbor, a Michigan municipal corporation, as Grantor(s) and \_\_\_\_\_, as Grantee(s))

**EXHIBIT A/LEGAL DESCRIPTION RIDER**

[TO BE PROVIDED]

DRAFT

**COVENANT DEED  
(continued)**

(Attached to and becoming part of the Covenant Deed between City of Ann Arbor, a Michigan municipal corporation, as Grantor(s) \_\_\_\_\_, as Grantee(s))

**EXHIBIT B - Permitted Exceptions**

[TO BE INSERTED]

DRAFT

**COVENANT DEED  
(continued)**

(Attached to and becoming part of the Covenant Deed between City of Ann Arbor, a Michigan municipal corporation, as Grantor(s) \_\_\_\_\_, as Grantee(s))

**EXHIBIT C**

Grantor reserves the following rights and privileges and declares the below restrictions in connection with the conveyance of the Premises described herein:

[TO BE INSERTED]

DRAFT

EXHIBIT F

Form of Owners Affidavit

DRAFT