

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT (this "Agreement"), is made and entered into as of the date of the last of Purchaser's and Seller's signature on this Agreement (the "Effective Date"), by and between Kodiak Landarc, LLC, a Michigan limited liability company, or an entity to be later formed, ("Purchaser"), and the City of East Lansing (the "Seller").

RECITALS:

A. Seller is the owner of certain real property located at Merritt Rd (Former DPW) East Lansing, MI 48823 consisting of 6.421 acres of land (the "Real Estate"). A legal description of the Real Estate shall be attached hereto by Seller as Exhibit A and made a part hereof.

B. Seller desires to sell and Purchaser desires to purchase the Real Estate and all improvements located thereon, all in accordance with and subject to the terms and conditions hereinafter set forth.

CONSIDERATION AND AGREEMENT:

IN CONSIDERATION of the mutual covenants and agreements herein contained and of the benefits to be derived here from, the sufficiency of which is hereby acknowledged, Seller and Purchaser hereby agree as follows:

1. Offer. Purchaser hereby offers and agrees to purchase the Real Estate together with all improvements, tenements, hereditaments, privileges and appurtenances thereto belonging or in any way appertaining thereto, and including all right, title and interest of Seller in any street, road or avenue, open or proposed, in front of or adjoining the Real Estate, or any part thereof, to the centerline thereof, all right, title and interest of the Seller to the use of any easements, reciprocal parking agreements and all water, air, riparian and mineral rights, and the use of appurtenant easements, whether or not of record, strips and rights of way abutting, adjacent, contiguous or adjoining the Real Estate, subject only to those easements and restrictions of record which are approved by Purchaser. All of the foregoing is sometimes hereinafter referred to as the "Subject Premises." "Subject Premises" does not include any interest of Seller in the abutting streets or roads that exist due to Seller being a governmental entity as opposed to a property owner.

2. Acceptance. Seller hereby accepts the said Offer of the Purchaser. Such Offer and Acceptance are subject to and in accordance with the terms and conditions hereinafter set forth.

3. Purchase Price. The purchase price for the Subject Premises is One million and Nine Hundred (\$1,000,900.00) Dollars. The Purchase Price shall be paid as follows:

A. Deposit. Within five (5) business days after Purchaser's receipt of both a fully signed purchase agreement and escrow agreement between the parties, Purchaser shall deposit

in escrow with a mutually agreeable escrow agent ("Escrow Agent"), an earnest money deposit in the amount of Fifteen Thousand 00/100 (\$15,000.00), which sum shall be applied upon the Purchase Price at Closing if the transaction is consummated or delivered to Purchaser or Seller, as the circumstances warrant and as provided under the terms of this Agreement (the "Deposit").

B. Balance. The balance of the Purchase Price shall be paid, plus or minus closing adjustments, as the case may be, in certified, cashiers or wire transferred funds to Seller at closing in exchange for a warranty deed, prepared by Purchaser and approved by Seller, conveying fee simple, clean, and marketable title to Purchaser, free and clear of any and all liens or encumbrances subject only to those easements and restrictions of record as are agreeable to Purchaser in its sole discretion ("Warranty Deed"). Any existing land contracts and mortgages shall be discharged at closing, with Seller being responsible for any prepayment penalties thereon.

4. Submission of Site Plan and Special Use Permit application. Within Forty-Five (45) business days after payment of the Deposit required by this Agreement, Purchaser shall submit to the Seller a full and complete request for a site plan and special use permit approval meeting the requirements of the East Lansing City Code both with respect to document content and compliance with regard to the permitted use or uses requested ("Site Plan and Special Use Permit application"). Purchaser shall have (10) business days to correct any deficiencies in these documents upon receipt of notice of the same from Seller. Failure of Purchaser to meet the deadlines established herein, without obtaining a written extension from the Seller, which shall not be unreasonably withheld for unforeseen circumstances, shall constitute a breach of this Agreement entitling Seller to terminate this Agreement and retain the Deposit as liquidated damages in accordance with Section 13.

5. Evidence of Title.

A. Title Commitment. As evidence of Title, within seven (7) business days after the Effective Date, Seller shall request a Title commitment for an ALTA fee owner's policy of title insurance to be issued at closing (or as soon as possible thereafter), together with legible copies of all items of record, in the amount of the total Purchase Price (the "Title Commitment"), which Title Commitment shall be issued by a mutually agreeable title company ("Title Company"), the same to bear a date later than the date hereof, wherein the Title Company shall agree to insure the title in the condition required hereunder as clean and marketable title. Seller shall deliver to Purchaser the Title commitment within five (5) business days after receipt of the same. Purchaser shall, at the time of closing, receive a Policy of Title Insurance from the Title Company pursuant to said Title Commitment. The cost of the Title Insurance Policy, together with any endorsements, shall be paid for by Seller. In addition, Seller shall pay, if any, all state and county transfer taxes and revenue stamps due upon Closing or required to be paid upon recording of the Warranty Deed, as well as other costs of closing for the Title Company. If the transaction contemplated by this Agreement does not close for any reason, the Purchaser shall be responsible for all cost and fees that become due and owing to the Title Company for their work and or title searches in furtherance of this Agreement.

B. Survey. Seller shall provide any survey documents it has for the Subject Premises. If a survey (ALTA or otherwise) must be completed or updated to satisfy the due diligence of the Purchaser or to remove the survey exceptions from the Title Commitment, Purchaser shall have the right to obtain such a survey of the Subject Premises (the "Survey"), and the cost of the Survey shall be paid by Purchaser.

C. Environmental. Seller shall provide any environmental report it has for the Real Estate. If any additional Environmental Reports are required by Purchaser, Purchaser shall have the right to obtain such reports ("Environmental Reports") and the cost of the Environmental Reports shall be paid by Purchaser.

D. Objections. If objection to the condition of title or survey is made by Purchaser within fifteen (15) business days following Purchaser's receipt of (i) the Title Commitment together with legible copies of all items of record and (ii) the Survey, the Seller shall have thirty (30) days from the date notified in writing of the particular defects claimed, either (1) to remedy the title, or (2) to obtain title insurance as required above, or (3) to notify Purchaser that Seller is unable to remedy the title or obtain the desired title insurance; provided, that Purchaser may elect to waive such defects and proceed with this transaction subject thereto and, provided further, that in the event that any such defect results from liens or encumbrances having liquidated amounts, Purchaser may, at its option, pay such amounts and receive credit against sums due Seller at closing. If the Seller remedies the title or shall obtain such title policy within the time specified, the Purchaser agrees to complete the sale within fifteen (15) business days of written notification thereof but no sooner than the Closing Date hereinafter specified. If the Seller is unable to remedy the title to the satisfaction of Purchaser, or obtain the desired title insurance within the time specified, then, Purchaser shall have the right upon sending written notice to Seller to waive such defects and proceed to Closing or to terminate this Agreement and in the event Purchaser elects to terminate this Agreement, the Deposit shall be immediately refunded upon Purchaser's written request in full termination of this Agreement and the parties shall have no further liability hereunder, except with respect to those provisions which expressly survive the termination of this Agreement.

6. Possession. Immediate and exclusive possession shall be delivered to Purchaser at the time of Closing. Seller shall remove all personal property from the Real Estate, and shall deliver the Real Estate in a vacant as is condition. To identify the Real Estate to clients of Purchaser, during the terms of this Agreement, Purchaser may, and Seller consents to, Purchaser removing the for-sale sign, if any, and if desired by Purchaser, Purchaser putting up its proposed development and marketing sign.

7. Representations, Warranties and Covenants. Seller represents and warrants unto Purchaser, as of the date hereof, and through the date of Closing, as follows:

A. To the best of Seller's actual knowledge, the legal description set forth in Exhibit "A" attached hereto is an accurate description of the Real Estate and except as disclosed as an exhibit to this Agreement, neither Seller nor any partners, shareholders or affiliates own any interest in real property which is adjacent or contiguous to the Real Estate.

B. The party executing this Agreement on behalf of Seller has the full power and authority to enter into and perform this Agreement on behalf of Seller and the person executing this Agreement has been duly authorized to do so on behalf of Seller.

C. To the best of Seller's knowledge, except as disclosed as an exhibit to this Agreement, there are no lawsuits, condemnation proceedings or environmental investigations, pending or threatened, affecting the Subject Premises or Seller's ability to convey same. (See attached Exhibit B.)

D. There are no outstanding blight violations, inspection fees, tickets or any other costs or fees due to the city or state that governs the location of the Real Estate.

E. The Real Estate is serviced by municipal sewer and water, with all electrical and other mechanical and utility systems serving the Subject Premises are, to the best of Seller's knowledge, in good operating condition.

F. There are no leases or service contracts or other agreements of any kind or nature whatsoever, written or oral, express or implied, with respect to the Real Estate.

G. No bankruptcy, insolvency, rearrangement or similar action or proceeding involving the Subject Premises or Seller is pending, threatened against or being contemplated by Seller.

H. Seller is not a "foreign person" as defined in §1445(f)(3) of the Internal Revenue Code; Seller shall so certify at closing.

I. Without Purchaser's prior written consent, until the date of Closing, Seller shall refrain from transferring any of the Subject Premises or creating on the Subject Premises any easements, leases, liens, mortgages, encumbrances, easements or rights of way, or enter into any other agreement that affects the Real Estate.

J. Seller shall execute, acknowledge, and deliver to the Purchaser all further documents or instruments as may be requested by the Purchaser, in its sole discretion, to effectuate the purpose and/or intent of this Agreement and/or to assist Purchaser in obtaining the necessary permits and licenses relevant to its desired use for the Real Estate.

If at any time prior to Closing, it is determined that any of the representations and warranties set forth above are incorrect or untrue or in the event that that Seller fails to perform any of the covenants contained in this Agreement, then, in such event, and notwithstanding anything contained herein to the contrary, it shall be considered a default by Seller in accordance with Section 13 hereto.

Seller acknowledges that Purchaser intends to purchase the Subject Premises in the condition existing as of the Effective Date and Seller shall be required to reasonably maintain the Subject Premises in such condition subject to reasonable wear and tear based on Purchaser's intended use.

8. Conditions Precedent. The obligation of Purchaser to proceed on this Offer, if accepted, shall be conditioned upon each of the following conditions precedent:

A. Title and Survey. Satisfaction of the title and survey conditions of Section 5 hereof.

B. Due Diligence. Purchaser and its agents shall have sixty (60) days commencing on the date of Purchaser's receipt from Seller of 1) the executed Purchase Agreement, 2) the Survey, and 3) the Title Commitment and all other books and records for the Real Estate, including the Environmental Reports ("Inspection Period"), to inspect or cause to be inspected all aspects of the physical condition of the Subject Premises. Access to the Subject Premises which shall be freely granted to Purchaser and/or Purchaser's agents and representatives, at all reasonable times for any reason whatsoever. Seller shall provide Purchaser with all plans, specifications and engineering data regarding the Real Estate that are in the possession of Seller. Seller shall also cooperate to authorize any architects or engineers to provide Purchaser with copies of same that are in their possession. If Purchaser is not satisfied in its reasonable discretion with the results of such inspections for any reason whatsoever Purchaser may rescind this transaction by providing written notice to Seller within the expiration of the Inspection Period.

C. Land Use Approvals. If Purchaser is denied, by Seller, its requested Site Plan and Special Use Permit application, then Purchaser shall thereupon receive a refund of the Deposit and Purchaser and Seller shall be relieved of any and all obligations and liability hereunder.

D. Representations and Warranties. All of Seller's representations, warranties and agreements contained herein shall be true and correct as of the date hereof and on the date of Closing, which Seller shall certify to at Closing, and Seller shall not have, on the date of Closing, failed to meet, comply with, or perform, any condition or agreement on its part to be performed under the terms and conditions contained herein.

9. Closing. Purchaser and Seller shall close this transaction ("Closing") thirty (30) business days following the Seller's approval of Purchaser's Site Plan and Special Use Permit application; provided, however, in no event shall the Closing occur prior to the satisfaction (or written waiver by Purchaser) of all conditions precedent to Closing set forth in Section 8 above. If all conditions precedents set forth in Section 8 above have not been satisfied on or before the date of Closing, then Purchaser may (i) waive such condition(s) and proceed with this transaction, (ii) delay the Closing until the satisfaction of such conditions precedent, or (iii) declare this transaction null and void, in which event Purchaser shall receive a refund of the Deposit and Purchaser and Seller shall be relieved of any and all liability hereunder. The Closing shall take place via escrow or at the office of the Title Company or such other place as the parties may mutually agree. At Closing, such documents as may be necessary to complete this transaction shall be executed and/or delivered by Purchaser and Seller. Notwithstanding the foregoing, Purchaser may elect to an earlier Closing date if it determines, in its sole discretion that it is in its best interest to consummate a Closing prior to the time framed stated within this Section 9. Notwithstanding anything

to the contrary herein, the Inspection Period shall be automatically extended fifteen days after the municipality has granted full and final approval of the Purchaser's desired applications, and the municipality's full and final approval of the Purchaser's proposed use of the Real Estate shall be a condition precedent to Closing and the Deposit being non-refundable.

At Closing, the following documents, in such form and content as are reasonably satisfactory to Purchaser, shall be executed by Seller and/or delivered to Purchaser:

- A. Warranty Deed.
- B. Seller's Affidavit on the Title Company's standard form.
- C. Seller's Certificate of Accuracy, as prepared by Purchaser, confirming the Representations and Warranties under Section 6 hereof as of the Closing Date.
- D. Closing Statement.
- E. Non-Foreign Person Affidavit.
- F. Such other documents as are reasonably necessary to complete this transaction.

10. Closing Adjustments. The following shall be apportioned against the Purchase Price at closing:

- A. All real property taxes and installments of special assessments (general or special), if any, which have become due or owing or are delinquent on the Subject Premises (regardless of the lien date) shall be paid by Seller at or before Closing. Current real property taxes shall be prorated as though paid in advance on a due date basis of the taxing authority on the basis of a three hundred sixty-five (365) day year; Seller being responsible for taxes up to the day of Closing and Purchaser being responsible for taxes thereafter.
- B. Seller shall pay for all state and county transfer taxes and revenue stamps due upon closing or required to be paid upon recording of the Warranty Deed, if any.
- C. Seller shall pay all outstanding bills of utility companies and service providers with respect to the Subject Premises prorated through the date of Closing.

11. Casualty/Condemnation. Until Closing, all risk of loss with respect to the Subject Premises shall be borne by Seller. In the event of destruction or damage to the Subject Premises prior to the date of Closing, Purchaser shall have the right to declare the transaction to be void and of no further full force and effect and Purchaser shall thereupon receive a refund of the Deposit and the parties shall be relieved of any and all liability hereunder. In the event that notice of any action, suit or proceeding shall be given prior to the closing date for the purpose of condemning any part of the Subject Premises, then Purchaser shall have the right to terminate its obligations hereunder within fifteen (15) business days after receiving notice of such condemnation proceeding, and upon such termination, the Deposit shall be refunded to Purchaser in full termination of this Agreement and the parties shall be relieved of any and all

liability hereunder, and the proceeds resulting from such condemnation shall be paid to Seller. In the event Purchaser shall not elect to terminate its obligations hereunder, the proceeds of such condemnation shall be assigned and belong to Purchaser at Closing.

12. Broker. Seller and Purchaser do hereby certify, represent and warrant, each to the other, that, they have not engaged, enlisted, employed or otherwise made use of any other real estate broker or sales person in connection with this sale. Seller and Purchaser shall each indemnify, defend and hold the other harmless with respect to any claim by any real estate broker or sales person in connection with this transaction claiming by, through or under the acts or agreements of the indemnifying party.

13. Default; Governing Law; Limitation of Remedy. In the event of a default by Seller hereunder, Purchaser may terminate this Agreement and shall be entitled to a return of the Deposit or shall have the right to maintain an action for specific performance as its sole and exclusive remedy. In either event Purchaser shall not be entitled to any damages allowable under the law or equity for Seller's breach of this agreement. In the event of a default by Purchaser, Seller shall retain the deposit as liquidated damages, it being the agreement of the parties that Seller's damages would otherwise exceed the deposit amount and that Seller's damages shall be limited to the amount of the deposit. In the event of an alleged default by either Party hereunder, the Party must provide written notice to the other Party of the alleged default(s), in accordance with Section 14 below, and allow other Party fifteen (15) business days to cure any alleged default from the date of the notice. This Agreement shall be governed by laws of the State of Michigan, and any action brought with respect to this Agreement shall be brought in a court of competent jurisdiction in Ingham County, Michigan, and all parties, including its officers and directors, as the case may be, specifically consent to the above jurisdiction and venue. If either party brings any action with respect to this agreement, the prevailing party shall be entitled to recover actual attorney's fees and costs from the other party.

14. Notices. Any notices, demands or requests required or permitted to be given hereunder must be in writing and shall be deemed to be given (i) when hand delivered, or (ii) when delivered to FedEx or similar service for next business day delivery, or (iii) when sent by facsimile, telecopier or email transmission. In all cases notices shall be addressed to the parties at their respective addresses as provided by the applicable party. Any notices to the Purchaser must include a copy to the following legal counsel to be valid: Mike DiLaura, Esq., DiLaura@FYBLaw.com or 1615 S. Telegraph Rd. Bloomfield Hills, Michigan 48302.

15. Confidentiality. The parties hereby agree that the relationship among them, including the nature of and subject matter of this entire agreement, this agreement itself, and its terms, all matters between the parties, or regarding either party, shall not be confidential as Seller is subject to the Open Meetings Act and Freedom of Information Act.

16. Binding Effect; Assignment. This Agreement will be binding at the time of the signing of this Agreement by both Parties; Purchaser may, upon approval of Seller, which approval shall not be unreasonably withheld, assign this Agreement in whole or in part to any of other entity or person, and this Agreement shall also benefit the parties hereto and their respective successors and assigns.

17. Time for Performance. In the event the last date for performance of any obligation or for giving any notice hereunder falls on a Saturday, Sunday or legal holiday of the state wherein the Real Estate is located, then the time of such period shall be extended to the next day which is not a Saturday, Sunday or legal holiday in such state.

18. Counterparts. This Agreement may be executed in one or more counterpart copies, all of which together shall constitute and be deemed an original, but all of which together shall constitute one and the same instrument binding on all parties. This Agreement may be executed in telecopy (faxed) copies and electronic (e-mail) copies and facsimile and electronic signatures shall be binding upon the parties.

(SIGNATURES ON NEXT PAGE)

IN WITNESS WHEREOF, the parties have executed and made effective this Agreement on the later of the date signed below.

PURCHASER:

Kodiak Landarc, LLC, a Michigan limited liability company



By: Jeff Yatooma

Its: Authorized Member

Date signed by Purchaser: March 6, 2019

SELLER:

City of East Lansing


By: Mark Meadows

Its: Mayor

Date signed by Seller: March 12, 2019

Approved as to form:


By: Thomas M. Yeadon, City Attorney

EXHIBIT A
LEGAL DESCRIPTION

A parcel of land in the Northeast 1/4 of Section 8, T4N, R1W, City of East Lansing, Ingham County, Michigan, the surveyed boundary of said parcel described as: Commencing at the East 1/4 corner of said Section 8; thence N89°48'37"W along the East-West 1/4 line 1368.92 feet to the centerline of Park Lake Road; thence N00°18'27"E along said centerline 70.00 feet to the point of beginning of this description; thence N89°48'37"W parallel with said East-West 1/4 line 213.00 feet; thence N27°49'54"W 296.21 feet; thence N46°07'46"W 229.15 feet to the proposed East bound lane of Old M-78; thence N43°52'14"E along said proposed East bound lane 672.83 feet; thence N80°43'27"E 55.84 feet to said centerline of Park Lake Road; thence S00°18'27"W along said centerline 915.52 feet to the point of beginning, EXCEPT: A parcel of land in the Northeast 1/4 of Section 8, T4N, R1W, City of East Lansing, Ingham County, Michigan; described as: Commencing at the East 1/4 corner of said Section 8; thence N89°48'37"W along the East-West 1/4 line 1368.92 feet to the centerline of Park Lake Road; thence N00°18'27"E 191.27 feet along said centerline; thence N89°41'33"W 53.50 feet to the point of beginning of this description; thence S00°18'27"W 51.00 feet; thence N89°41'33"W 60.00 feet; thence N00°18'27"E 51.00 feet; thence S89°41'33"E 60.00 feet to the place of beginning; said parcel containing 6.42 acres more or less; said parcel subject to all easements and restrictions if any.

Tax Parcel No.: 33-20-02-08-200-007

Commonly known as: Merritt Rd (Former DPW) East Lansing, MI 48823

EXHIBIT B

MDEQ Status – 2000 Merritt Road*

The Michigan Department of Environmental Quality has identified this address as a Part 201 site, Site ID#: 33000622.

There is also record of two existing Baseline Environmental Assessments (BEAs) on file with MDEQ at this address:

BEA#: 201101582LA

BEA#: 201101583LA

**2000 Merritt Road has been subdivided and MDEQ environmental records may pertain to portions of the site previously sold by the City of East Lansing.*