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TO: Detroit City Council

FROM: David Whitaker, Director 
Legislative Policy Division

DATE: November 4, 2019

RE: Proposed sale of Joe Louis Arena site and Garage to First & Congress, LLC

The Legislative Policy Division (LPD) has reviewed the proposed Agreement of Purchase and Sale (The Agreement) between the City of Detroit (City) and First & Congress, LLC (an affiliate of the Sterling Group, LLC) to acquire the site of the former Joe Louis Arena and the adjacent Joe Louis Garage site. LPD provides the following report.

Background Information Regarding the Site

The Arena and Garage site is currently subject to a development agreement between the City of Detroit and the Financial Guaranty Insurance Company (FGIC) as part of the bankruptcy-related settlement of approximately \$1 billion of secured debt. Under the bankruptcy settlement, FGIC would receive from the City the Joe Louis Arena site after the Arena demolition (at the City's cost of approximately \$12 million); soil remediation (at the cost of the City of approximately \$4 million); and the Arena Garage after capital improvements were completed (at the City's cost of approximately \$2.8 million). FGIC was also to be provided the opportunity to obtain a Brownfield TIF incentive of approximately \$18 million to assist in the development. After failing to provide a development plan and a tumultuous relationship including legal maneuvering and extension of deadlines, FGIC seeks to release its interest in the subject properties to local developer, the Sterling Group by and through its affiliate First & Congress, LLC.

Summary of Proposed Sale

The two properties under the proposed sale is the former Joe Louis Arena and the Joe Louis Parking Garage. Both parcels have been appraised by an independent appraiser (Integra Realty Sources). The Arena site has been appraised at \$14,700,000. The Garage Property has been appraised at \$17,300,000. The total appraised value for the two sites is \$32 million.¹

First & Congress (F&C) has entered into an agreement with FGIC in which F&C will acquire the rights and interest FGIC has to the sites. Attachment I represents the terms of the transaction. Attachment II represents a power point presentation on the Joe Louis Arena Deal. According to the Administration, the F&C agreement with the City has to be approved by November 7, 2019.² The summarized financial terms of the Agreement between the City and F&C are as follows:

- F&C will pay \$2 million in cash to the City.
- F&C will provide \$12.1 million in future payments to the City over 20 years sufficient to pay the annual debt service and retire the loan from the State of Michigan to complete demolition of the Arena (present value calculated at \$6.7 million³).
- Upon closing for the transfer of the Garage Property, the City will no longer have to pay the anticipated \$2.8 million in capital improvements required on the Garage.
- Upon closing for the transfer of the Arena Property, the City will no longer be required to incur the cost of remediation anticipated to be approximately \$4 million.
- If a Brownfield TIF is approved on the Arena Property, the City will be in first position to receive \$7 million of the TIF capture (present value calculated at \$4 million⁴). The remainder will go to F&C.

The total value to F&C to acquire title to the properties from the City in today's dollars is approximately \$19.5 million which is deemed fair value for the transaction.⁵ On or prior to the date of the first closing of the parcels, FGIC's rights and interest under the development agreement with the City will be terminated.⁶ LPD notes that approval of the sale to F&C must also be obtained from the State due to the fact that the State's loan to the City for the demolition

¹ The appraisal by Integra Realty Sources was conducted on February 7, 2019.

² LPD was informed that if the Agreement of Purchase and Sale is not approved by November 7, 2019, the deal between F&C and FGIC will be voided resulting in the City retaining the Development Agreement with FGIC and the City's financial obligations for the \$12 million loan for demolition; \$4 million site remediation; \$2.8 million Garage Property capital improvements.

³ LPD notes the Office of the Chief Operating Officer provided the information regarding the present value (today's dollars) for the \$12.1 million (over time) payment and the \$7 million (over time) TIF payment.

⁴ LPD used OCFO information to make present value calculation.

⁵ It is important to reiterate that the City negotiated a sale of the Joe Louis Arena to a private purchaser (F&C). Consideration for the arena property includes, among other things, F&C's payment of \$12.1 million to the City over approximately 19 years. LPD notes that questions regarding the City's prohibition of lending of credit regarding this payment structure were addressed by both the Law Department and the City's outside counsel (Miller, Canfield). Both the Law Department and outside counsel indicate that because fair value has been provided to acquire the properties there is no violation of the State Constitution's prohibition of lending of credit.

⁶ LPD notes that according to the Administration, although FGIC's interest in the Joe Louis Arena and Garage under the Development Agreement may be terminated, they remain a "Class 14 Claimant" in the Bankruptcy Plan of Adjustment and may receive a distribution of certain bonds that were issued to satisfy certain claims. FGIC also holds approximately \$19 million in "Settlement Credits" that were awarded in the Bankruptcy Plan of Adjustment that may be applied to the acquisition cost of eligible City assets unrelated to the Arena Development Agreement.

provides the State an interest in the outcome of the parcel. LPD further notes that F&C is not taking over the City's demolition loan with the State.⁷

LPD notes that the sale of the proposed properties does not include any right of reverter if F&C does not complete a project on the site although they are required to obtain site plan approvals, construction permits and begin construction and apply for TIF Incentives within 5 years on the Arena Property. The sole remedy for the City for F&C's failure to consummate the sales transaction is the Ernest Money deposit as liquidated damages.⁸

Other Benefits from the Proposed Sale

Other benefits to the City regarding the proposed sale of the Joe Louis Arena site and garage to the F&C include:

- The City avoids potential additional costs associated with the capital improvements required on the Joe Louis Arena Garage. A representative of the Detroit Building Authority (DBA) has indicated that the capital improvements needed on the garage could exceed the initial estimate of \$2.8 million per the DBA and City Contract of Lease (see Attachment IV for the Contract of Lease) and go up to \$4 million, based on the condition of the garage since the 2014 bankruptcy.
- The City avoids potential additional costs associated with the cost of remediation on the Joe Louis Arena site post demolition. Although currently the estimated cost to remediate the arena site after demolition is \$4 million, this cost go up higher if a residential development is also contemplated on the site.
- If Council approves the proposed sale, the Joe Louis Arena site and Garage site would go on the tax rolls as private property. The property taxes F&C would pay on the Joe Louis Arena site and Garage site would be based on the assessed value of the property as private property (as indicated earlier, the current appraised value of the sites is \$32 million). Currently, the sites are deemed tax exempt property. The hefty property tax payments that would be paid by F&C would help the City receive its first rights to \$7 million in tax increment revenues under a Council approved Brownfield TIF plan quicker.
- It is very conceivable that the future project F&C would develop on the Joe Louis Arena site could sizable enough to warrant a community benefits process.

Risks Associated with the Proposed Sale

The potential risks associated with the proposed sale of the Joe Louis Arena site and garage to the F&C include:

⁷ It is LPD's understanding that the state would not consider F&C taking over the loan as this could constitute a lending of credit from the State to a private entity, which is prohibited by the State Constitution. F&C will instead make separate payments to the City during the up to 19 year period of the loan (the \$12.1 million payment, with the right to prepay in full or in part)

⁸ LPD further notes that the difference between this transaction and the agreement with FGIC is that this is only a transaction for the sale of the proposed property to F&C where the FGIC agreement was an agreement regarding the proposed development of the property.

- The City remains obligated to repay the \$12 million State loan even if F&C decides not to develop the arena and garage sites and the City does not receive all of the \$12.1 million in payments from F&C under the terms of the sale agreement, which payment terms equal to the City's payment terms with the State. This risk is mitigated somewhat however by the \$3 million personal guarantee a principal of F&C has agreed to place as security on F&C's \$12.1 million repayment terms.
- The U.S. economy goes into a recession which could delay the redevelopment of the sites. This is mitigated somewhat by F&C agreeing to pay the City an additional \$1 million if a development is not started within five years of the sale.

The City and F&C Sale Agreement

The basic terms of the City and F&C Agreement was summarized above. Attachment III represents the Agreement of Purchase and Sale. The pertinent terms and conditions of the Agreement are highlighted below:

Section 1, *Property*, provides that the term is deemed to include the entire right, title and interest of the City in and to: The Land together with (i) the Garage and all other buildings the improvements located on the Garage Property, and (ii) the use and operation of the improvements on the Easement Parcel⁹ together with all easements, air, mineral and oil rights and gas rights, and all tenements, heridiments, privldges and appurtenances thereunto belonging or in any way appertaining thereto. In essence, F&C shall have fee simple title to the properties and all rights thereto.

Section 2, *Garage property consideration*: F&C will pay in cash by wire transfer to the City \$2 million at the first closing (if the closing is bifurcated).

Section 3, *Arena Property: Consideration: Demolition, Remediation and Repair*, provide in pertinent part:

- (a) Upon closing of the Arena Property begin the first of installment payments to the City that shall total \$12,100,000.08 dollar as set forth in "Schedule 1 Payments" over a period of twenty years. F&C shall have the right to prepay, in full or in part the obligations under Section 1, as set forth under the Agreement.¹⁰
- (b) The City shall perform the Arena demolition as specified in Exhibit B. After Closing the City shall have no obligation or liability to F&C to undertake any cleanup or other remedial action.

⁹ The "Easement Parcel" is identified as certain easements and certain licenses for vehicular and pedestrian traffic to access, use, operate (a) the above-ground pedestrian walkways and associated towers to acces the Detroit Regional Convention Facility, and (b) the Detroit People Mover Station from the Arena property, and (c) the Garage Property from the Lodge Freeway (with exceptions as stated therein) as more particularly described in Exhibit A-3.

¹⁰ LPD notes that the payment of the \$12 million in installments are intended by the Parties to cover the cost incurred by the City for the demolition of the Arena which is approximately \$12 million.

- (c) F&C agrees to be responsible for any environmental remediation required for the redevelopment of the Arena Property at its sole cost and expense and the City shall not be responsible for the same.¹¹
- (d) The City shall diligently pursue the “Work” (demolition of the Arena) to assure completion by March 31, 2020 (with possible 90 day extension).
- (g) The City shall not be responsible for any repair, maintenance, upkeep or other cost related to the Garage or Garage Property either prior to or after closing.

Section 4, the City has agreed to, at no out of pocket cost to the City, to use its best good faith efforts to assist F&C with procuring any additional or necessary easements, street vacations, development rights, certificates of occupancy, permits, authorizations or licences, etc. including but not limited to:

- (a) The City shall grant and declare of public record, such rights to any exclusive easements and irrevocable licenses over the Easement Parcel to access use and operate the above ground pedestrian walkways and associated towers to access the Detroit Regional Convention Facility and the Detroit People Mover Station from the Arena Property and Garage Property.
- (b) Approval of changes in zoning, special use permits required for F&C’s intended use of the property. Prior to Closing the City shall rezone the Arena Property to a B-5 or B-6 zoning designation as requested by F&C.¹²
- (C) City will assist F&C with (i) obtaining Brownfield TIF Incentives, (ii) establishing Commercial Redevelopment Zone or Commercial Rehabilitation Zone, and if a residential use is contemplated, Neighborhood Enterprise Zone, or other incentives as are available to F&C for the redevelopment of the Property.
- (d) F&C shall within 5 years of the Closing Date of the Arena Property (i) use best efforts to obtain site approvals, construction permits and begin construction activity on the Arena Property; (ii) apply for TIF Incentives pertaining to the Arena Property
- (e) If F&C fails to take the two actions in Subsection 4(d) within the 5 year period, F&C shall pay to the City the cash amount of \$1 million, Guaranteed by Guarantor.
- (f) F&C shall use best efforts to obtain TIF Incentives and the City shall be entitled to the first \$7 million of the TIF Incentives to be paid directly to the City. The TIF Incentive documentation shall affirmatively confirm this arrangement.

¹¹ LPD notes that the City under the FGIC agreement is responsible for the remediation of the site which the minimum anticipated to cost is approximately \$4 million dollars.

¹² LPD notes that the approval of zoning changes are subject to City Council approval and cannot be pre-determined by contract.

- (g) The City shall vacate any and all streets lying in, under or through the Arena Property without any reservation of rights (except for such reservation of easements for utilities that currently physically exist and the City need to maintain in place).
- (h) The City shall be entitled to reserve up to 200 parking spaces, at market rate for such parking for its own use on a year to year basis for the first five years after F&C opens the Garage for business.

Section 5, Personal Guaranty and Escrow, At the closing of the Arena Property, F&C shall cause its CEO Elie Torgow (Guarantor) to execute a Guaranty and substance as set forth in Section 4 (e) to be held in escrow by the Title Company as set forth in Exhibit E¹³ in the amount of \$3 million.

Section 6, Escrow, provides that F&C shall deliver to the Title Company an Earnest Money deposit in the sum of \$100,000 to be held until the completion of the transaction pertaining to the Garage Property and Easement Parcel. If the transaction is consummated in accordance with the terms set forth the Earnest Money shall be delivered to the City as part of the consideration amount of the Garage Parcel, Garage and Easement Parcel due on Closing (the \$2 million cash due). If the transaction is not consummated the Earnest Money shall be provided as set forth under Section 13 Default.

Section 8, Conditions Precedent to closing for the benefit of Purchaser, provides in pertinent part that F&C shall have no obligation to consummate the transactions unless the conditions set forth in this section have been met.

- (a) City has completed the “Work” (demolition) set forth in Section 3.
- (b) Any and all rights of reverter that encumber the property and all development agreements affecting the Property have been terminate, released or discharged.¹⁴
- (c) All representations of the City are true and correct on the Closing Date.
- (d) As of Closing Date there is no pending or threatened litigation, administrative action or examination, claim or demand relating to the property.
- (e) The City shall have obtained all approvals and authorizations to enter the Agreement and to consummate the transactions.

Section 9, Conditions Precedent to closing for the benefit of Seller, provides in pertinent part that the City shall have no obligation to consummate the transactions unless the conditions set forth in this section have been met.

¹³ LPD notes Exhibit E was not part of the draft agreement provided.

¹⁴ This sub-section refers primarily to the Development Agreement with FGIC which provided a reverter of the property back to the City if FGIC did not meet its obligations. F&C will not be subject to any reverter terms if it fails to complete any development on the Property.

- (a) All representations of the F&C are true and correct on the Closing Date.
- (b) F&C shall have obtained all approvals and authorizations to enter the Agreement and to consummate the transactions.
- (c) F&C shall have performed all of its other obligations under the Agreement.
- (d) The Development Agreement dated December 10, 2014 between the City and FGIC shall be assigned to F&C by FGIC on or prior to the Closing Date or the First Closing and terminated by the parties on or before the First Closing.
- (e) F&C shall not be in default under this Agreement or any other Agreement with the City.

Both the City's Conditions Precedent and F&C's Conditions Precedent must be satisfied by the Closing Dates which are January 31, 2020 for the Garage, Garage Property and Easement Parcel and thirty (30) days after the Work Notice Date¹⁵ as to the Arena Property.

Section 13, Default, provides:

- (a) "In the event of default by Purchaser, the Seller may elect to receive, Purchaser's Earnest Money deposit as liquidated damages as its sole remedy."
- (b) "If the Seller breaches its obligations under the Agreement, after reasonable notice and opportunity to cure, Purchaser will have the right to seek injunctive relief, specific performance or other equitable remedies. In no event and under no circumstances will Purchaser seek or be entitled to monetary, direct, indirect, consequential, punitive, compensatory or other damages."

Section 18, Purchaser Indemnifications; No Assumption of Liabilities; "AS-IS" Condition, provides in pertinent part:

- (a) F&C shall indemnify and save harmless the City from any and all liabilities, obligations, damage, penalties, claims, cost, charges, losses and expenses which may be imposed by or asserted against the City or related parties after the Property Closing.
- (b) In the event of any action or proceeding brought against the City by reason of any claim covered under sub-section (a), F&C upon notice from the City will at its sole cost and expense, resist, and defend the same using legal counsel reasonably acceptable to the City.

¹⁵ The Work Notice Date is the date in which the City has provided to F&C notifying when the "Work" has been completed which must be within 10 days of completing the Work.

- (c) From and after the date of Closing, the City shall not be responsible or liable to F&C and F&C releases the City from any liability, for any loss or damage that may be occasioned by or through the acts or omissions of persons occupying any part of the property. From or after the date of Closing or the date F&C takes possession of the Property whichever is earlier, F&C shall be solely responsible for all injuries to persona and property resulting from any accident, explosion, leak, or other cause arising in or about the use of the Property and its appurtenances after the date of Closing.
- (d) Except to any representation made within this Agreement, the City makes no implied or express representations or warranties of any kind as to any condition of the Property that may adversely affect the development, or fitness for absolutely any purpose whatsoever. F&C is deemed to have knowledge that it is satisfied with the condition of the Property and shall be deemed to have waived any right to object to the condition of the Property. Upon Closing, F&C takes the property as it finds it, "AS IS".

Section 19, *Miscellaneous*, provides under subsection (g) Time is of the essence to this Agreement. LPD notes that information was provided that approval of the agreement needed to be completed on or before November 7, 2019.

If we can be of further assistance please call upon us.

Attachments

cc: Matt Walters, Deputy Group Executive, Jobs and Economy Team, Mayor's Office
David Massaron, CFO
John Naglick, Jr., Chief Deputy CFO/Finance Director
Katherine Hammer, Chief Deputy CFO, Policy & Administration Director
Tanya Stoudemire, Deputy CFO/Director-Office of Budget
Stephanie Washington, Mayor's Office

Attachment I

Terms of the Sale of Joe Louis Arena Property and JLA Garage Transaction

**Terms of Transaction:
Sale of Joe Louis Arena Property and JLA Garage**

Purchaser	Affiliate of Sterling Group (Elie Torgow, principal)
JLA Garage	<ul style="list-style-type: none"> • \$2 million payable in cash at Closing • \$4 million in savings to City for budgeted repairs (City not required to perform any further Garage repairs)
Arena Property	<ul style="list-style-type: none"> • \$12.1 million in future payments from Purchaser to City (payable per Schedule 1 below); [Secured by partial Guaranty from Elie Torgow]; Funds will be sufficient to pay annual debt service and retire demolition bonds issued to the State; City to complete demolition (per Exhibit B-1 below) • \$7 million first position on Brownfield TIF on Arena Property • \$4 million savings on budgeted environmental remediation; environmental obligation shifted to Purchaser; City to undertake no further environmental remediation
Bifurcated Closing	JLA Garage sale closes first (prior to Jan 31, 2020); Arena Property closes second within 30 days after completion of demolition, at option of Purchaser (expected to be March 31, 2020)
Environmental	Developer releases City from all environmental obligations (except for historical claims for personal injury); to be documented with restrictive covenant if required by the State
Zoning	City agrees to assist Purchaser with rezoning to B-5
Incentives	City agrees to assist Purchaser to obtain: <ul style="list-style-type: none"> • Brownfield TIF • Commercial Redevelopment Zone or Commercial Rehabilitation Zone • NEZ (if future plans include residential)
Development Requirement	Purchaser must break ground on new development within 5 years or pay additional \$1 million to City
Street Vacation	City agrees to vacate streets located within the Arena Property
FGIC Agreement	FGIC Development Agreement to be terminated prior to Closing

Schedule 1

Payment Date	Amount
02/1/2020	100,000.00
12/1/2020	100,000.00
12/1/2021	755,555.56
12/1/2022	744,444.45
12/1/2023	733,333.34
12/1/2024	722,222.23
12/1/2025	711,111.12
12/1/2026	700,000.00
12/1/2027	688,888.89
12/1/2028	677,777.78
12/1/2029	666,666.67

Payment Date	Amount
12/1/2030	655,555.56
12/1/2031	644,444.45
12/1/2032	633,333.34
12/1/2033	622,222.23
12/1/2034	611,111.12
12/1/2035	600,000.00
12/1/2036	588,888.89
12/1/2037	577,777.78
12/1/2038	566,666.67
	12,100,000.08

Exhibit B-1

Demolition Scope

As depicted in the drawing attached hereto as Exhibit B-1:

- Demolition of above-ground improvements and removal of concrete slab, foundations, and pile caps to a depth of 6- to 8-feet below grade;

With

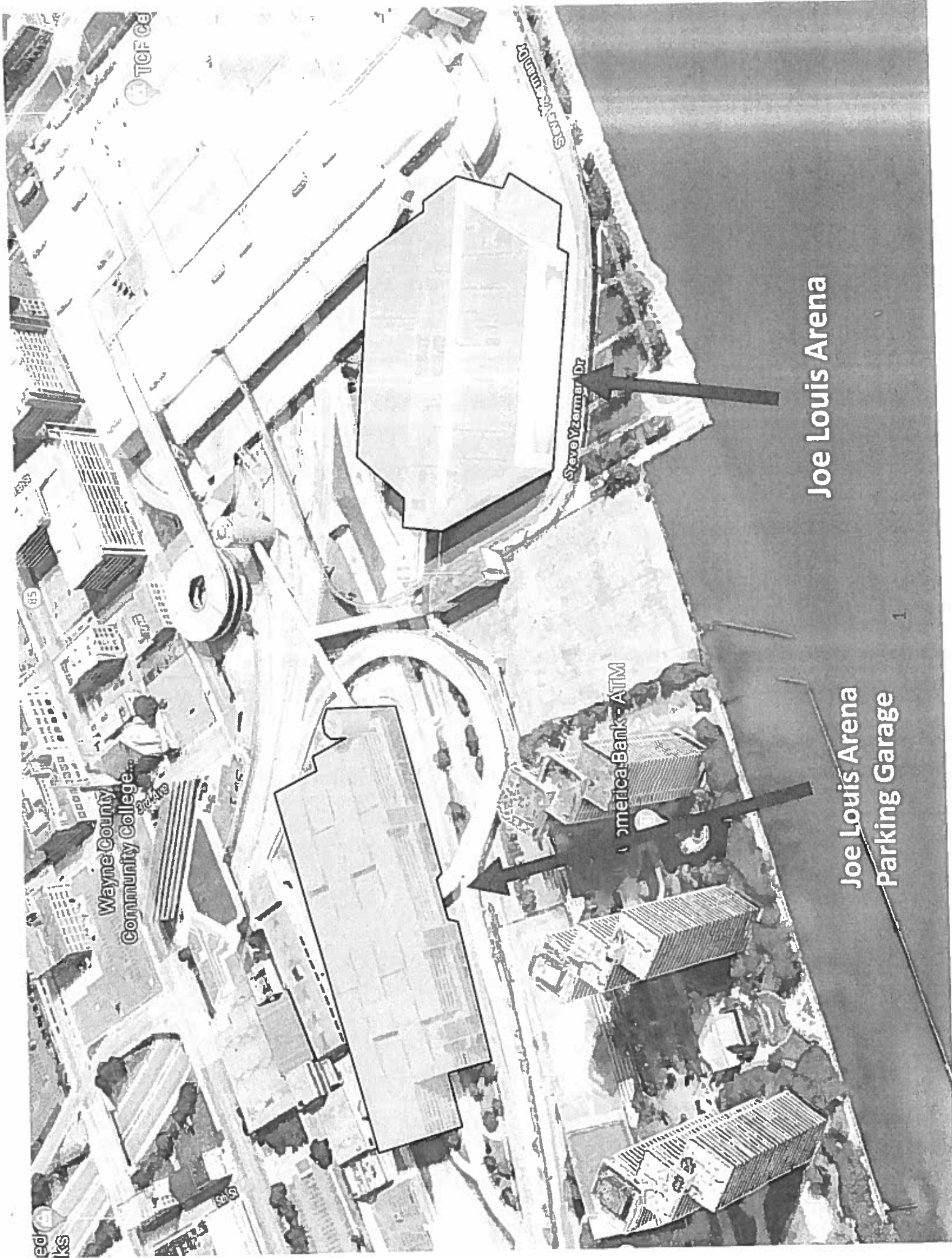
- Subsurface pylons to remain in place; and
- Site graded after demolition with a minimum 10 inches of engineered fill (MDOT Class III) and with 4 inches of topsoil

Attachment II

Power Point Presentation on the Joe Louis Arena Deal

Joe Louis Arena Deal

October 24th, 2019



Joe Louis Arena

Joe Louis Arena
Parking Garage

Wayne County
Community College

America Bank - ATM

Steve Yzerman Dr

Joe Louis Arena Deal

- **Development Agreement and City Obligations with FGIC**
- What Has Taken Place Since 2014
- Proposed Deal with Sterling Group

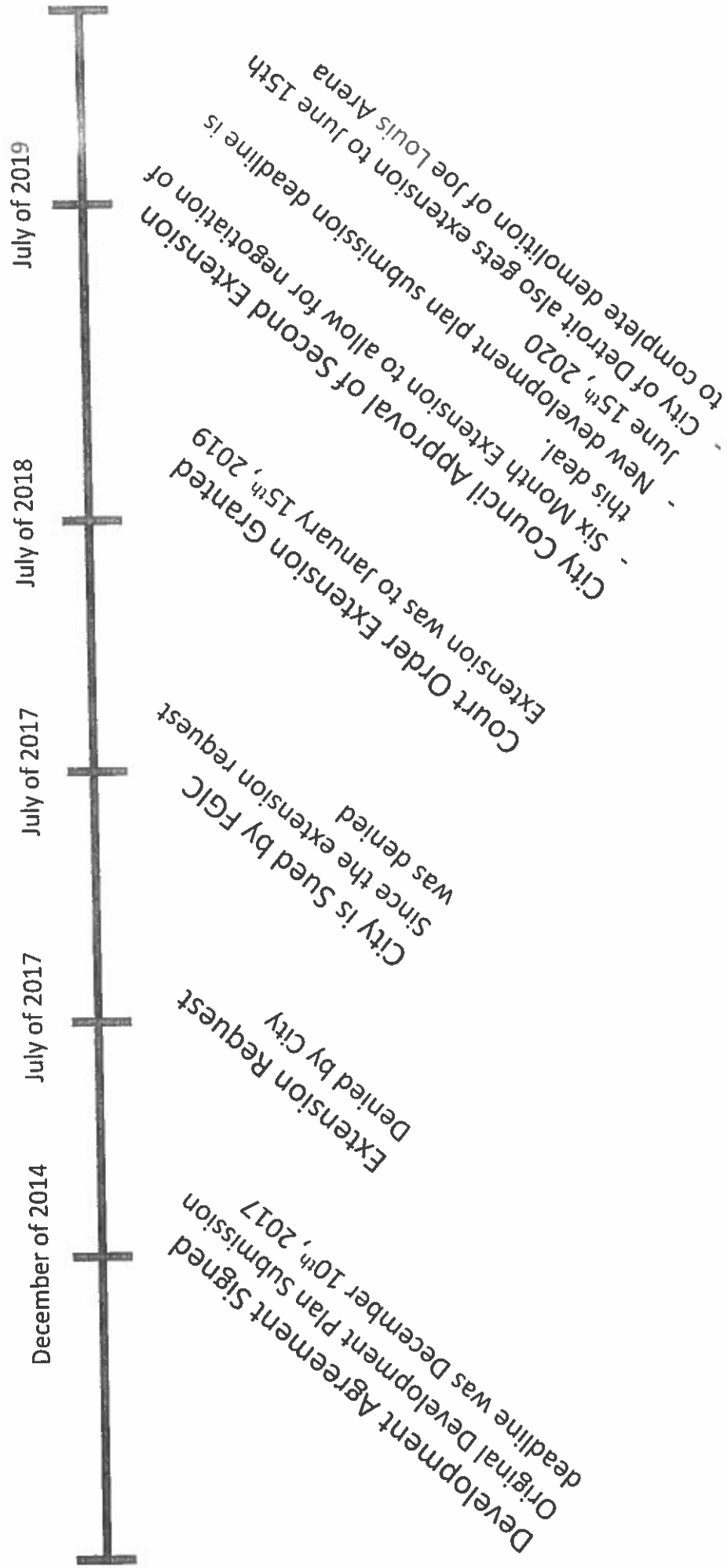
Joe Louis Arena Deal

- Development Agreement and City Obligations with FGIC

- **What Has Taken Place Since 2014**

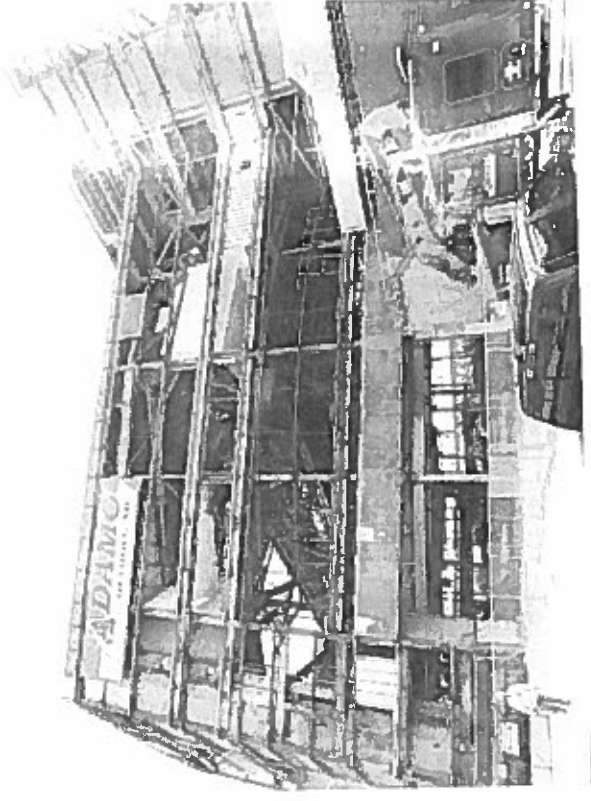
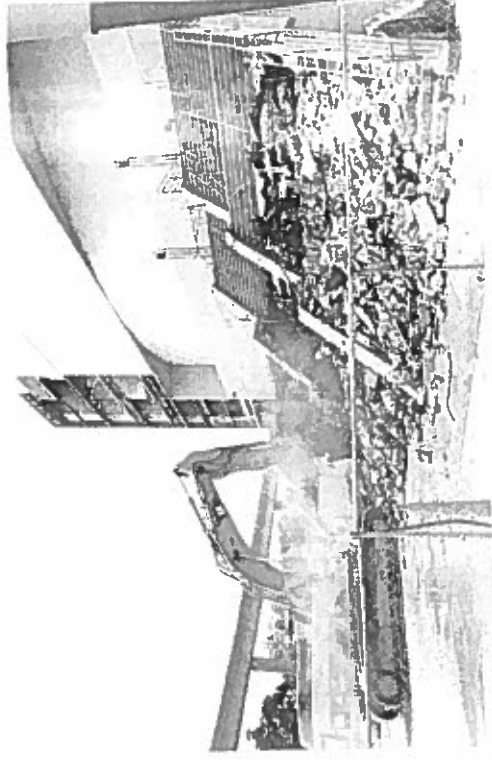
- Proposed Deal with Sterling Group

Timeline of the City of Detroit and FGIC Relationship



Joe Louis Arena Demolition

- 1) Detroit City Council and Michigan Strategic Fund approval of the Joe Louis Arena demolition loan and the Brownfield TIF in fall of 2018. This loan has a 20 year term, at a 1% to 2% interest rate.
- 2) The City of Detroit's plan was to pay the loan back from the general fund over the next 20 years, with support from the Brownfield TIF revenue once a project commenced.
- 3) Commencement of the Joe Louis Arena demolition was on May 28th, 2019
- 4) The Detroit Building Authority is managing the Joe Louis Arena demolition and is targeting March 31st, 2020 as a completion date.



Joe Louis Arena Deal

- Development Agreement and City Obligations with FGIC
- What Has Taken Place Since 2014
- **Proposed Deal with Sterling Group**

City of Detroit / Sterling Group Deal

Property	Cash	Savings to City	TIF Payment
JLA Garage			
At Closing	\$2 Million		
Rehabilitation Work		\$2.7 Million	
Arena Property			
Environmental Remediation		\$4 Million at a minimum	
Demolition	\$10 Million (or \$12.1 Million over life of the MSF loan)		City of Detroit receives first \$7 Million of future Brownfield TIF
Future Brownfield TIF			
Development Requirement	Purchaser must break ground and apply for Brownfield TIF on new JLA development within 5 years of closing or pay an additional \$1 Million to City		
Incentives	In the future, City agrees to assist Purchaser to obtain a Brownfield TIF, PA 255 or PA 210, and NEZ (if future plans include residential)		
Environmental	Purchaser releases City of Detroit from all environmental obligations		
Zoning	City Agrees to assist purchaser with rezoning property to B5		
Street Vacation	City Agrees to vacate streets located within the Arena Property (There are not physical streets on the arena site, only "legal" Right of Way)		

Attachment III
Agreement of Purchase and Sale

AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT OF PURCHASE AND SALE is made effective this 24th day of October, 2019 ("Effective Date"), by and between THE CITY OF DETROIT, a Michigan public body corporate, acting through its Department of Planning and Development, whose address is Coleman A. Young Municipal Center, 2 Woodward Avenue, Suite 808, Detroit, MI 48226 (hereinafter called "Seller") and FIRST & CONGRESS MANAGEMENT, LLC, a Michigan limited liability company, whose address is 333 West Fort Street, Suite 1350, Detroit, MI 48226 (hereinafter called "Purchaser").

Recitals:

A. Purchaser desires to buy and Seller is willing to sell Seller's rights, title, and interest in (1) certain parcels of real estate located in the City of Detroit, Wayne County, Michigan commonly known as: (a) the Joe Louis Arena, more particularly described on Exhibit A-1, attached (the "Arena Property") and (b) the Joe Louis Arena Garage (the "Garage"), more particularly described on Exhibit A-2 (the "Garage Property"); and

(2) certain easements and certain licenses for vehicular and pedestrian traffic to access, use and operate (a) the above-ground pedestrian walkways and associated towers to access the Detroit Regional Convention Facility (formerly known as Cobo Hall and now known as the TCF Center), and (b) the Detroit People Mover Station from the Arena Property, and (c) the Garage Property from the Lodge Freeway (with exceptions set forth below), as more particularly described on Exhibit A-3 (collectively, the "Easement Parcel"). (The Arena Property, the Garage Property and the Easement Parcel are collectively referred to as the "Land").

B. Seller has agreed to sell all of its right, title and interest, and Purchaser has agreed to purchase all of Seller's right, title and interest, in the Property (as defined below) in accordance with the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties hereinafter set forth, it is mutually agreed as follows:

1. **Property.** Except if otherwise provided herein, the term "Property" shall be deemed to include the entire right, title and interest of Seller, if any, in and to:
 - (a) The Land together with: (i) the Garage and all other buildings the improvements located on the Garage Property, and (ii) the use and operation of the improvements on the Easement Parcel together with all easements, air, mineral and oil and gas rights, and all tenements, hereditaments, privileges and appurtenances thereunto belonging or in any way appertaining thereto;
 - (b) All fixtures, equipment and personal property owned by Seller and located in, on or about the Garage Property, the Garage and the Easement Parcel or used in conjunction therewith;
 - (c) The billboard/display sign(s) located on the Property;
 - (d) Licenses to all utility services (including storm drains, sanitary sewer, electricity, gas and water) servicing the Property;
 - (e) All goodwill associated with the Property;
 - (f) Any land lying in the bed of any street, road, alley, right-of-way, or avenue, adjoining the

Land, only to the extent such title is not otherwise lawfully or properly reserved for the general benefit of the public;

- (g) The use of appurtenant easements, whether or not of record, adjacent, contiguous or adjoining the Land;
- (h) All assignable licenses, permits and franchises issued by any federal, state or local municipal authorities relating to the use, maintenance or operation of the Property, including all development rights derived therefrom; and
- (i) All plans and specifications in the possession of Seller relating to the construction of the Garage on the Land and all unexpired warranties received by Seller in connection with the construction, improvement or equipment located at the Property.

Subject to the terms and conditions herein contained, Seller agrees to sell the Property to Purchaser, and Purchaser agrees to purchase the Property from Seller.

2. **Garage Property: Consideration.** The parties agree that the consideration to be paid by Purchaser to Seller for the Garage, Garage Property and applicable Easement Parcel shall be Two Million (\$2,000,000.00) Dollars payable in cash by wire transfer to Seller at the Closing (which shall be paid at the first Closing if the transaction Closing is bifurcated). After Closing, the Seller shall have no obligation or liability to Purchaser whatsoever to comply with any federal, state or local requirement to attend to the physical condition of the Garage Property.

3. **Arena Property: Consideration; Demolition, Remediation and Repair.**

(a) The parties agree that the consideration to be paid by Purchaser to Seller for the Arena Property and applicable Easement Parcel shall be the obligation to pay Seller the amounts set forth on the attached **Schedule 1**, attached hereto and made a part hereof, which payment schedule shall commence on the date of the Arena Property Closing, in the face amount of Twelve Million One Hundred Thousand and 08/100 (\$12,100,000.08) Dollars ("Schedule 1 Payments"). The parties specifically agree that the obligation of Purchaser to pay the Schedule 1 Payments shall commence at Closing of the Arena Property and such obligations shall survive Closing. Purchaser shall have the right to prepay, in full or in part, the obligations set forth in the Schedule 1. Upon prepayment, Purchaser shall receive a discount equal to one (1%) percent with regard to the first two Schedule 1 Payments and a discount of two (2%) percent on all remaining Schedule 1 Payments. The parties agree that the applicable prepayment discount shall be calculated based on the principal and interest schedule related to the Community Revitalization loan that the Seller obtained from the State of Michigan. If by the date of the Closing of the Arena Property 1) the Michigan Strategic Fund ("MSF") (or relevant party) has not approved the sale of the Arena Property or 2) the Loan Manager has not approved Milestone Four (as those terms are defined in a certain Loan Agreement, executed June 10, 2019, between Seller and the MSF, as the same may have been amended from time to time), then the consideration for the sale of the Arena Property shall increase by the amount of Five Hundred Thousand (\$500,000) Dollars to be paid to Seller in cash at the Closing of the Arena Property. For the avoidance of doubt and in the interest of clarity, neither the approval of the sale of the Arena Property by the MSF or approval of Milestone Four by the Loan Manager, are conditions of sale for the Arena Property and they are not required to close the sale of the Arena Property.

(b) The Seller shall, at its sole cost and expense, perform the Arena Property demolition as specified in Exhibit B-1, attached hereto and made a part hereof. The Seller's work described in this subparagraph 3(a) is collectively referred to as the "Work". After Closing, the Seller shall have no obligation or liability to Purchaser whatsoever to undertake any cleanup or other remedial action that

may be required in connection with the Property prior to Closing. After Closing, the Seller shall have no obligation or liability to Purchaser whatsoever to comply with any federal, state or local requirement to attend to the physical condition of the Arena Property.

(c) Purchaser agrees to be responsible for any environmental remediation required for its redevelopment of the Arena Property at its sole cost and expense and Seller shall not be responsible for the same. Purchaser, for itself and any of its affiliates, successors or assigns, agrees to release and indemnify Seller and its officials, employees and agents from any Environmental Remediation Claims related to the Property, and this shall provision shall expressly survive the Closing. Seller shall not be responsible for obtaining site closure from the State of Michigan with regard to any environmental conditions on the Property, and Seller shall not be obligated to record a restrictive covenant against the Property. If prior to Closing any third-party shall require a restrictive covenant to be recorded against the Property, Seller shall notify Purchaser and Purchaser shall have the exclusive right to contest and negotiate and such requirement. As used herein, the term "Environmental Remediation Claims" shall mean the cost of actual remediation which Seller incurs or is legally obligated to undertake with regard to the Property resulting from any suits, proceedings or actions, known or unknown, including but not limited to investigations, actions and notices by any governmental authority or any third party, brought under common law and/or under any environmental laws which relate to the Property. For the avoidance of doubt and in the interest of clarity, Environmental Remediation Claims means only and specifically the actual remediation costs (incurred or obligated to incur) and not any costs to defend any suits, proceedings, actions, investigations or similar activities which may result in the obligation of Seller to remediate the Property. Environmental Remediation Claims do not include any personal injury claims relating to or arising in any manner from the period of time prior to the Arena Property Closing.

(d) The Seller has commenced the Work and shall diligently pursue such Work to assure completion by March 31, 2020; provided that Seller shall be permitted to extend the time for completion of the Work if necessary for up to Ninety (90) days with notice to Purchaser.

(e) Seller shall notify the Purchaser in writing when it has completed the Work within ten (10) days of completing the Work. The date on which such notice is delivered shall be the "Work Notice Date."

(f) If the Seller suspends the Work for any reason or does not diligently pursue such Work, except for reasons beyond its control, Purchaser, upon ten (10) days prior written notice to the Seller, may enforce Seller's obligation to complete such Work by specific performance. Seller shall provide written notice to Purchaser within five (5) days if it suspends the Work.

(g) Notwithstanding anything herein to the contrary, Seller shall not be responsible for any repair, maintenance, upkeep or other cost related to the Garage or Garage Property either prior to or after Closing.

4. **On-Going Development Support Obligations and Related Terms.** The Seller shall use its best good faith efforts to assist, at no additional out-of-pocket cost to Seller, the Purchaser with procuring any additional necessary easements, street vacations, development rights, certificates of occupancy, permits, authorizations or licenses that Purchaser determines are reasonably necessary or useful to allow Purchaser to operate or redevelop the Property for its intended use. This obligation of the Seller shall survive the Closing and delivery of the Deed(s). Such on-going assistance shall include, but is not limited to, the following:

(a) At or prior to Closing, the Seller shall grant and declare of public record, such rights, if any, that Seller has to the exclusive easements and irrevocable licenses in the form of Exhibit B, attached

herein over the Easement Parcel is provided by the Seller to access, use and operate the above-ground pedestrian walkways and associated towers to access the Detroit Regional Convention Facility and the Detroit People Mover Station from the Arena Property and Garage Property, and to access the Garage Property from the Lodge Freeway. With regard to the access to the Garage Property from the Lodge Freeway, Seller has disclosed to Purchaser that Seller may in fact not hold title or have any interest in the land to the Garage Property from the Lodge Freeway and such land may be subject to the rights of third parties that could in the future limit access to the Garage Property. Purchaser agrees that it is accepting the Property and in such condition. With regard to any land lying in the bed of any street, road, alley, right-of-way, or avenue, adjoining the Property, Seller and Purchaser agree that Seller is not conveying any such land to Purchaser to the extent such street, road, alley, right-of-way or avenue is presently open for the general benefit of the public.

- (b) Seller shall use its best good faith efforts to assist Purchaser in its efforts to obtain approval of such changes in zoning, variances in zoning, special use permits or other orders appropriate under applicable zoning laws and regulations as are required for Purchaser's intended use of the Property. Prior to Closing Seller shall rezone the Arena Property to a B-5 or B-6 zoning designation as requested by Purchaser.
- (c) Seller shall use its best good faith efforts to: (i) assist Purchaser with obtaining brownfield TIF Incentives ("TIF Incentives"); (ii) establish either a Commercial Redevelopment Zone or a Commercial Rehabilitation Zone, as requested by the Purchaser; and (iii) to the extent Purchaser's intended use includes residential uses, cooperate and assist the Purchaser in designating the Property or portion thereof as a Neighborhood Enterprise Zone. Without limiting the foregoing, at the request of Purchaser, the Seller shall use its best good faith efforts to assist the Purchaser with obtaining such other incentives as are available to Purchaser for redevelopment of the Property for Purchaser's intended use. Purchaser acknowledges and agrees that the brownfield TIF Incentives and other economic incentives are subject to application, eligibility, requirements and approvals that are not within Seller's control or require legislative action, and thus may not be available to Purchaser.
- (d) In the event the Parties close on the Arena Parcel then, Purchaser agrees that it shall, within five (5) years from the Closing Date of the Arena Property:
 - 1. Use its best good faith efforts to obtain required site plan approvals, construction permits and to begin construction activity on the Arena Property; and
 - 2. Apply for TIF Incentives pertaining to the Arena Property.
- (e) In the event the Purchaser fails to take the two actions described above within the prescribed five (5) year period, Purchaser shall make a One Million Dollar (\$1,000,000.00) cash payment to Seller (the "Five Year Payment"), which payment shall be guaranteed by Guarantor (as defined herein). The Five Year Payment shall be the sole consequence of Purchaser's failure to timely take the two actions herein described above. No liens or other encumbrances shall be placed by Seller on the Arena Property with regard to the Five Year Payment.
- (f) The Seller and Purchaser agree that Purchaser shall be obligated to use its best good faith efforts to obtain the TIF Incentives. Seller shall be entitled to the first Seven Million Dollars (\$7,000,000.00) of the TIF Incentives and the Purchaser shall be entitled to the balance of the TIF Incentives. The parties further agree that the first \$7,000,000.00 of the TIF Incentives shall be paid directly to Seller or its designee (without being paid to Purchaser in the first instance). The TIF Incentive documentation shall affirmatively confirm the foregoing arrangements.

(g) Prior to Closing, Seller shall vacate any and all streets lying in, under or through the Arena Property without any reservation of rights, including reservations for utilities (except for such reservation of easements for utilities that currently physically exist in place and which Seller needs to maintain in place).

(h) In the event the Parties close on the Garage Property, Garage and Easement Parcel, Purchaser and Seller agree that for the first five (5) years beginning on the Closing Date, the Seller, upon Purchaser opening the Garage for business (to wit: paying parking), shall be entitled to reserve up to two hundred (200) parking spaces, at market rates for such parking (and subject to the rules and regulations established for the Garage) for its own use, on a year to year basis. In the event, due to capacity constraints, such parking spaces will become unavailable, the Purchaser shall provide the Seller with a one-time right of first refusal as to such parking spaces for the balance of the unexpired five year period.

5. **Personal Guaranty and Escrow.** At the Closing of the Arena Property, Purchaser shall cause its CEO, Elie Torgow ("Guarantor"), to execute a Guaranty in form and substance as set forth on Exhibit E, agreeing to guaranty the obligations of Purchaser ("Guaranty") with regard to the Schedule I Payments and the Five Year Payment (as defined above). The Purchaser shall provide an escrow to be held by the Title Company as provided on Exhibit E.

6. **Earnest Money.**

(a) Within five (5) days of the Effective Date (hereinafter defined), Purchaser shall deliver to the Title Company (hereinafter defined), as escrow agent (the "Escrow Agent"), an initial earnest money deposit in the sum of One Hundred Thousand and 00/100 (\$100,000.00) Dollars (the "Earnest Money"). The Earnest Money is to be held in escrow by Escrow Agent until the completion of the transaction described herein or as otherwise set forth herein.

(b) In the event that the transaction pertaining to Garage Property, Garage and Easement Parcel contemplated hereby is consummated in accordance with the terms and conditions hereof, Escrow Agent shall deliver the Earnest Money to Seller for application against the consideration amount of the Garage Parcel, Garage and Easement Parcel due on Closing thereof. In the event that the transaction contemplated hereby is not so consummated, Escrow Agent shall apply the money as otherwise set forth herein.

7. **Title and Survey.**

(a) Purchaser has obtained a commitment from a First American Title Insurance Company (the "Title Company"), Commitment No. 681218A (the "Commitment") to issue to Purchaser, at Purchaser's expense, at Closing, its ALTA Form B owner's title insurance policy, without standard exceptions, in the form of the marked-up Commitment attached hereto as Exhibit C and containing such endorsements as Purchaser may require including, but not limited to, a zoning (Form 3.1) endorsement and an ALTA Form 9 endorsement, in the amount of the consideration amount, insuring fee simple title to the Property to be in good and marketable condition, free and clear of any liens and encumbrances, except the Permitted Exceptions (as defined in Section 7(c) below).

(b) Purchaser has obtained from Giffels Webster Engineers an ALTA Survey of the Property, Project No. 18808.00D (the "Survey"), attached hereto as Exhibit D. Prior to Closing the Purchaser may have the Survey updated at Purchaser's expense to conform the legal description of the Property set forth in the Commitment exactly to the legal description set forth in the Survey required under this

Section 7(b). The Survey shall be the Seller's expense and all other parts be shared by Purchaser and Seller.

(c) The term "Permitted Exceptions" as used herein shall mean the exceptions in the title insurance Commitment or Survey that are either (i) not objected to by Purchaser, and still remain as an exception in the Title Commitment, or (ii) are objected to by Purchaser, but then waived by Purchaser; and (iii) property taxes not yet due and payable.

(d) Purchaser covenants and agrees to permit the Seller or its designee to maintain on the Property as they presently exist in place those certain public transportation assets of the Seller commonly referred to as the "people mover" and existing ancillary assets related thereto free of charge (the "People Mover"). Purchaser further covenants and agrees to grant to the Seller or its designee an easement (and air rights agreement, as applicable) upon terms and conditions determined by the Seller and Purchaser in their reasonable discretion, for the purpose of maintaining, renewing and replacing, as necessary, the People Mover in the location on the Property in which the People Mover is situated as of the date of this Agreement. It is intended that the parties shall enter into and record prior to or at Closing any such easements and air rights agreements needed to effectuate the intent of this paragraph, and any such easements or air rights agreements shall be prior in right to any Purchaser financing. As such, Seller shall not be required to subordinate such easements or air rights to any current or future lender or financing for the Property. In the event the easement or air rights contemplated in this paragraph are not placed of record prior to Closing, the Purchaser (including any successors or assigns thereof) shall permit such easement to be placed of record following Closing free of charge. Notwithstanding any provision hereof to the contrary, each such easement and air rights agreement described in this paragraph, whether or not recorded prior to Closing, shall be deemed a Permitted Exception, and the Seller shall not be requested or required for any reason to cure, remove or bond over such encumbrance. The provisions of this paragraph shall survive the Closing of this transaction.

8. Conditions Precedent to Closing for the benefit of Purchaser. Anything contained in this Agreement to the contrary notwithstanding, Purchaser shall have no obligation to consummate this transaction unless the conditions set forth in this Section 8 shall have either been satisfied or waived by Purchaser in writing. Such conditions are as follows:

- (a) Seller shall have completed and paid for the Work required by Section 3 of this Agreement;
- (b) Any and all rights of reverter encumbering the Property and all development agreements affecting the Property, including without limitation, the Development Agreement, shall have and terminated, released, or discharged;
- (c) All representations and covenants of Seller hereunder shall be true and correct on the Closing Date;
- (d) As of the Closing Date there is no pending or threatened litigation, administrative action or examination, claim or demand whatsoever relating to the Property;
- (e) Seller shall have obtained such approvals and authorizations to enter into this Agreement and to consummate the transactions contemplated hereby as necessary, and such approvals and authorizations shall remain unrevoked and in full force and effect;
- (f) At Closing, the Title Company shall be prepared to issue an owner's title insurance policy conforming to the requirements of Section 7(a) hereof;

- (g) Between the date of this Agreement and the Closing Date, there shall have been no intervening destruction, damage to or proposed or actual condemnation of the Property, or any portion thereof, except for the Demolition required under Section 3 above;
- (h) Seller shall have performed all of its other obligations under this Agreement;
- (i) Purchaser shall not be in default under this Agreement or any other Agreement with the Seller.
- (j) The Development Agreement dated December 10, 2014 between Seller and Financial Guaranty Insurance Company ("FGIC") shall be assigned to Purchaser by FGIC on or prior to the Closing date of the first Closing hereunder and terminated by the parties on or before the first Closing hereunder.

In the event any of the foregoing conditions (which do not set forth a time period within which such conditions must be satisfied) are not satisfied by the Closing Date(s) (to wit: January 31, 2020 as to the Garage, Garage Property and Easement Parcel and thirty (30) days after the Work Notice Date as to the Arena Property) and Purchaser fails to waive any such unsatisfied condition, then this Agreement, at the option of Purchaser, shall be null and void, all obligations of the parties hereunder shall terminate and Purchaser shall be entitled to receive back all deposit monies being held in escrow (except in the event of a default by Purchaser) or Purchaser shall be entitled to enforce the foregoing conditions by specific performance, injunctive relief or other equitable remedies.

9. **Conditions Precedent to Closing for the benefit of Seller.** Anything contained in this Agreement to the contrary notwithstanding, Seller shall have no obligation to consummate this transaction unless the conditions set forth in this Section 9 shall have either been satisfied or waived by Seller in writing. Such conditions are as follows:

- (a) All representations and covenants of Purchaser hereunder shall be true and correct on the Closing Date.
- (b) Purchaser shall have obtained such approvals and authorizations to enter into this Agreement and to consummate the transactions contemplated hereby as necessary, and such approvals and authorizations shall remain unrevoked and in full force and effect.
- (c) Purchaser shall have performed all of its other obligations under this Agreement.
- (d) The Development Agreement dated December 10, 2014 between Seller and Financial Guaranty Insurance Company ("FGIC") shall be assigned to Purchaser by FGIC on or prior to the Closing date of the first Closing hereunder and terminated by the parties on or before the first Closing hereunder.
- (e) Purchaser shall not be in default under this Agreement or any other Agreement with the Seller.

In the event any of the foregoing conditions (which do not set forth a time period within which such conditions must be satisfied) are not satisfied by the Closing Date(s) (to wit: January 31, 2020 as to the Garage, Garage Property and Easement Parcel and thirty (30) days after the Work Notice Date as to the Arena Property) and Seller fails to waive any such unsatisfied condition, then this Agreement, at the option of Seller, shall be null and void, all obligations of the parties hereunder shall terminate and Purchaser shall be entitled to receive back all deposit monies being held in escrow (except in the event of a default by Purchaser). Notwithstanding the foregoing, Purchaser shall be provided a period of Ninety

1990) does not satisfy any such condition, then the Seller shall, at its expense, take all such actions as may be necessary to cause the extent of the said conditions are capable of being satisfied by Purchaser) from the date it is notified in writing by Seller that any such conditions are not satisfied.

10. **Conduct of Seller's Business.** Seller agrees that from the date of this Agreement to the Closing Date, Seller shall conduct its business involving the Garage in the ordinary course, consistent with the prior operations of the Garage, and during said period will:

- (a) Refrain from transferring any of the Property or creating on the Property any easements, liens, mortgages, encumbrances or other interest which would materially adversely affect the Property or Seller's ability to comply with the terms of this Agreement;
- (b) Refrain from entering into any contracts or other commitments regarding the Property, other than in the ordinary and usual course of business; or as required to complete the Work, without the prior written consent of Purchaser. Seller shall pay for all costs related to the Work and shall hold the Purchaser harmless from any costs related to the Work. These obligations shall survive the Closing and delivery of the deed(s);
- (c) Refrain from entering into any leases of the Property which are not terminable in 30 days or less;
- (d) Within three (3) business days of obtaining knowledge of any pending or threatened litigation or administrative proceeding affecting the Property or operation of the Garage, provide the Purchaser with notice thereof, copies of all notices, summonses or pleadings, if any, and a description of the nature of the pending or threatened claim;
- (e) Within three (3) business days after receipt thereof, furnish Purchaser with a copy of all notices of violations of laws regulations, orders or requirements of governmental authorities having jurisdiction against or affecting the Property or the use or operation thereof; and
- (f) Keep in effect Seller's existing policies of public liability and hazard and extended coverage insurance insuring the Property, if any.

11. **Closing/Bifurcation of Transaction.**

- (a) Purchaser and Seller agree to close on the sale and acquisition of the Arena Property and the Garage Property, Garage and Easement Parcel in separate transactions. The Closing of the Arena Property shall take place within thirty (30) days of the Work Notice Date on a mutually agreed upon date. The Closing of the Garage Property, Garage and Easement Parcel shall be on January 31, 2020. In both cases, Closing shall be subject to the satisfaction of all of the other conditions set forth herein.
- (b) The date on which the Closing occurs is referred to as the "Closing Date"; provided, however, that if the Closing Date is a Saturday, Sunday or legal holiday, the Closing shall occur on the next immediately following business day. The Closing shall be held at 10:00 a.m., local time or at such other time as may be mutually agreeable to the parties, at a mutually agreeable location. At the time and place of Closing, all of the closing items described in Section 13, including all applicable closing proceeds, shall be tendered to the Title Company provided, however, since Purchaser and Seller have elected to proceed to close on the Arena Property and Garage Property, Garage and Easement Parcel in separate transactions, the Purchaser shall only be required to tender (or in the case of non-cash obligations, undertake the same) the applicable property's allocated consideration amount described in Section 2, above. The Title Company shall be authorized to consummate the

Closing of the transaction contemplated hereunder at which time all applicable documents have been delivered to the Title Company and it is prepared to issue the owner's policy of title insurance in accordance with the provisions of Section 7(a) above.

12. **Seller's Representation.** Seller represents and covenants with Purchaser the following as of the date hereof, which representations and covenants shall survive the consummation of the within contemplated transactions, and upon each of which Purchaser does and shall continue to rely:

(a) As of the Closing Date, Seller will have the right, power and authority to convey the Property in the condition and in the manner provided for in this Agreement.

(b) Seller has not within the last 90 days contracted for repairs, alterations, remodeling or new construction to the Property and will not do so prior to Closing except with respect to the Demolition Work. With respect to the Demolition Work, the Seller will have, prior to the Closing, paid for all Demolition Work in full and on the Closing Date there will be no unpaid bills or claims for labor, services or materials in connection with the Demolition Work.

(d) To the knowledge of Seller's Corporation Counsel, there is no pending litigation, administrative action or examination, claim or demand whatsoever relating to the Property, nor does Seller's Corporation Counsel have knowledge as to any threatened litigation or administrative action relating to the Property.

(e) In the event any claim is made by any party for the payment of any amount due for the furnishing of labor and/or materials to the Property prior to Closing, or in the event any lien is filed against the Property subsequent to Closing as a result of the furnishing of such materials and/or labor prior to Closing, Seller shall immediately bond over such claim or pay said claim and discharge said lien.

(f) To the knowledge of Seller's Corporation Counsel, there are no unrecorded or undisclosed legal or equitable interests in the Property owned or claimed by any party other than Seller.

13. **Defaults**

(a) In the event of a default by Purchaser hereunder, Seller may elect to receive, Purchaser's Earnest Money deposit as liquidated damages as its sole remedy.

(b) If Seller breaches its obligations under this Agreement, after reasonable notice and opportunity to cure, Purchaser will have the right to seek injunctive relief, specific performance or other equitable remedies. In no event and under no circumstances will Purchaser seek or be entitled to monetary, direct, indirect, consequential, punitive, compensatory or other damages.

14. **Closing; Closing Documents.** At the Closing, Seller shall execute and deliver to Purchaser (as required), and Purchaser shall execute and deliver to Seller (as required), the following:

(a) Seller shall deliver to Purchaser Quit Claim Deed(s) conveying Seller's title to the Property to Purchaser, expressly subject to the Permitted Exceptions, in form acceptable to Purchaser. Purchaser shall pay at Closing all closing costs, including any title policy charges, title endorsement fees, recording fees and escrow closing charges.

(b) Seller shall execute and deliver to Purchaser an assignment, in form acceptable to Seller and Purchaser, of all warranties, if any, which Seller has with regard to the Property or related

- equipment
- (c) Seller shall execute and deliver to Purchaser a Bill of Sale, in form acceptable to Purchaser, quit claiming all furniture, furnishings, fixtures, equipment and other personal property, if any, included in the definition of the Property.
 - (d) Seller shall execute, provide and assign to Purchaser all other agreements or easements, if any, included in the definition of the Property and the parties shall execute and record any easements and air rights agreements contemplated hereunder.
 - (e) Any title insurance policy insuring Purchaser's title to the Property, whether an owner's or mortgage policy, with or without standard exceptions, will be at Purchaser's expense. Seller WILL NOT order or pay the premium for an owner's policy of title insurance. Seller will provide a title company estoppel or seller's certificate to the title insurance company, provided that it is accurate in all respects and is reasonably acceptable to Seller.
 - (f) Seller and Purchaser shall execute and deliver to each other a Closing Statement showing the amounts by which the cash portion of the consideration amount shall have been adjusted as of the Closing Date in the following manner.
 - (g) All real estate taxes and assessments which are a lien against the Property as of the date of Closing, if any, shall be paid in full by Seller. Current real estate taxes, if any, billed in the July and December preceding the closing shall be prorated based upon the due date method of pro rating taxes and on the number of days the Property is owned by Seller and Purchaser, respectively. Seller agrees to cooperate with Purchaser to consolidate tax parcels prior to Closing so that the Property that is being purchased by Purchaser is covered by tax identification numbers that do not cover any other property that is not owned by Purchaser.
 - (h) the Earnest Money deposit held by Escrow Agent shall be credited against the consideration amount due on the Closing Date;
 - (i) Purchaser shall receive a credit for any delinquent taxes, assessments or other charges against the Property of any nature whatsoever owed to the federal government and any other public authority for which a lien has been or could be asserted against Seller or the Property and which will not be fully paid and discharged or released upon or prior to Closing.
 - (j) Seller shall pay all water, sewer, utility charges, common area maintenance charges and other operating expenditures through the Closing Date either immediately prior to Closing or promptly upon receipt of bills therefor.
 - (k) Purchaser shall have tendered payment of the applicable consideration amount and the closing costs payable by Purchaser.
 - (l) Purchaser shall furnish to the Seller a certified copy of a resolution in form and substance reasonably acceptable to the Seller, duly authorizing the Purchaser's execution, delivery and performance of this Agreement and all other documents and actions contemplated hereunder.
 - (m) Seller shall execute and deliver to Purchaser at the Closing for the Garage Property, Garage and Easement Parcel, the Easement Agreement attached to Exhibit B.
 - (n) Seller shall deliver to Purchaser evidence of Seller's authority to enter into and consummate this transaction and the authority of Seller's signatory to execute and deliver all documents

relating to this transaction. All evidence shall be satisfactory to Purchaser and its counsel.

- (o) Seller shall furnish Purchaser with an affidavit stating that Seller is not a "foreign person" within the meaning of IRC Section 1445(f)(3).
 - (p) Seller shall furnish Purchaser with satisfactory evidence demonstrating that any security interests or liens on any portion of the Property, including the Garage or personal property located on the Property have been discharged.
 - (q) Seller shall furnish the Purchaser and the Title Company with satisfactory evidence demonstrating payment of all costs related to the Work, including without limitation, sworn statements and waivers of lien if required by the Title Company.
 - (r) Any and all other documentation reasonably required by Purchaser, Seller, their attorneys and/or the Title Company to consummate the transaction described herein and to cause the owner's title insurance policy described in Section 7(a) hereof to be issued and delivered to Purchaser.
 - (s) At Closing, Seller shall deliver the Property to Purchaser, free and clear of any tenancy or right of occupancy, except as may be set forth in the Permitted Encumbrances.
 - (t) The Development Agreement dated December 10, 2014 between Seller and Financial Guaranty Insurance Company ("FGIC") and assigned to Purchaser by FGIC on or prior to the first Closing hereunder, shall be terminated by Seller and Purchaser.
 - (u) Purchaser agrees to execute a document in favor of Seller or its designee evidencing any payments that are due to Seller after the Closing date in a form and of a substance reasonably acceptable to Purchaser.
15. **Fire Damage.** In the event that the Garage shall be damaged or destroyed by fire, storm or other casualty on or before the Closing Date and the cost to repair such casualty loss shall exceed One Hundred Thousand (\$100,000.00) Dollars, Purchaser shall have the right to terminate its obligations under this Agreement within fifteen (15) days after receiving notice of such casualty and to receive a return of all sums deposited with Escrow Agent pursuant to Section 6 hereof. In the event Purchaser shall not be entitled to, or shall not elect to, terminate its obligations under this Agreement, Purchaser shall be entitled to receive an absolute assignment from Seller of any interest Seller may have otherwise had in the proceeds of any insurance on the Property (including any rent or business loss insurance allocable to the period from and after the Closing Date), and Seller shall pay to Purchaser, at Closing, the amount of any deductible.
16. **Condemnation.** Seller has no present intent to initiate a condemnation affecting the Property. In the event that notice of any action, suit or proceeding shall be given prior to the Closing Date by any other condemning authority for the purpose of condemning any part of the Property, then Purchaser shall have the right to terminate its obligations hereunder within fifteen (15) days after receiving notice of such condemnation proceeding, and upon such termination, 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 to and belong to Purchaser.
17. **Brokers.** Each party represents and warrants to the other that it has not dealt with any real estate broker or salesperson in connection with the purchase and sale contemplated hereby. Each party

agrees to indemnify and hold the other party harmless from all claims, damages and expenses (including attorneys' fees) that the other party may suffer as a result of any claim brought by any broker, salesperson or finder with whom such party may have dealt in connection with this transaction.

18. Purchaser Indemnifications; No Assumption of Liabilities; "AS-IS" Condition.

- (a) Purchaser agrees to and shall indemnify and save harmless the Seller, its agents and its employees against and from any and all liabilities, obligations, damages, penalties, claims, costs, charges, losses and expenses (including without limitation, reasonable litigation costs and attorneys' fees) which may be imposed upon, incurred by or asserted against the Seller or related parties after the applicable Property Closing related to or by reason of (i) any negligent or tortious act or omission of Purchaser or its employees, contractors or agents' agents; or (ii) any claims resulting in personal injury, bodily injury, sickness, disease or death (and specifically excluding herefrom any claim for personal injury, bodily injury, sickness, disease or death which claim(s) relates or arose in any matter from the period prior to the applicable Property Closing), or injury to or destruction of tangible property including the loss of use therefrom relating to or arising from the period after the applicable Property Closing.
- (b) **Defense of Claims.** In the event any action or proceeding shall be brought against the Seller by reason of any claim covered under sub-section (a) above, Purchaser, upon notice from the Seller, will at its sole cost and expense, resist and defend the same, using legal counsel reasonably acceptable to the Seller.
- (c) **Non-Liability of the Seller.** From and after the date of Closing, the Seller shall not be responsible or liable to Purchaser, and Purchaser hereby releases the Seller from liability, for any loss or damage that may be occasioned by or through the acts or omissions of persons occupying any part of the Property. From or after the date of Closing or the date Purchaser takes possession of the Property, whichever is earlier, Purchaser shall be solely responsible for all injuries to persons and property resulting from any accident, explosion, leak or other cause arising in or about the use of the Property and its appurtenances after the date of Closing. The Seller shall not be responsible for any loss or damage resulting to Purchaser or its property or to any other person or persons on their property which may be caused by the bursting, stopping, or leaking of water, gas, sewer or steam pipes or from overflow or backing up of any sewer or water main, unless caused by the Seller's gross negligence or willful misconduct.
- (d) Except and subject to the matters set forth in any other provisions of this Agreement, including but not limited to the foregoing subsections (a), (b), and (c) of this Section, the parties acknowledge that this transaction contemplates only the sale and purchase of the Property and that Seller is not selling a business nor do the parties intend that Purchaser be deemed a successor of Seller with respect to any liabilities of Seller to any third parties in connection with Seller's business operation. Accordingly, Purchaser shall neither assume nor be liable for any of the debts, liabilities, taxes or obligations of, or claims against, Seller or of any other person or entity, of any kind or nature, whether existing now, on the Closing Date or at any time thereafter related to Seller's business operation, except for the Environmental Claims and any title or survey related claims or liabilities. The debts, liabilities, taxes, obligations and claims, if any, for which Seller alone is liable shall include, without limitation, (a) all payments and benefits to past and/or present employees of Seller in connection with the business operation being conducted on or from the Property which may have accrued through the Closing Date (including, but not limited to, salaries, wages,

commission, bonus, vacation pay, health and dental benefits, pension and profit sharing contributions, severance or termination pay or any other form of compensation or fringe benefit), and (b) all obligations of Seller under any contracts related to Seller's business operation, other than the contracts which have been assigned to, and accepted by, Purchaser pursuant to the terms hereof, if any; and (c) claims against Seller or liabilities of Seller that accrued prior to the date of each applicable Closing, whether or not any such claim is brought after the applicable Closing, except for the Environmental Remediation Claims and any title or survey related claims or liabilities. Seller shall be fully responsible for, and shall defend and hold Purchaser harmless with respect to, Seller's business operation of the Property prior to the Closing Date, all suits, actions, damages and claims which may be asserted or threatened against Purchaser from and after the Closing Date, but which shall have arisen out of Seller's business operation at the Property prior to the Closing Date, except for the Environmental Remediation Claims and any title or survey related claims or liabilities.

- (e) Except as to any representations specifically set forth in this Agreement, the Seller makes no implied or express representations or warranties of any kind as to any condition of the Property that may adversely affect the development, or its fitness for absolutely any purpose whatsoever. Upon each Closing, Purchaser will be deemed to have acknowledged that it is satisfied with the condition of the Property or portion thereof conveyed, and shall be deemed to have waived any right to object to the condition of the Property. Upon the Closing, Purchaser takes such Property as it finds it, "AS IS", and the Seller makes no express or implied representations or warranties as to its fitness for absolutely any purpose whatsoever, including but not limited to any warranty that the Property is fit for the Purchaser's purpose or regarding the presence or absence of hazardous materials at, on, in, under, at, or from the Property and compliance with the Property with environmental laws.
- (f) Purchaser acknowledges that neither the Seller nor any agent or employee of the Seller has made any representation, warranty or agreement, either express or implied regarding the condition of the Property, and Purchaser has not relied on any representation, warranty or agreement of any kind made by the Seller or any agent or employee of the Seller as to the condition of the Property. Purchaser expressly acknowledges that, except as specifically set forth in this Agreement, neither the Seller nor any agent or employee of the Seller has made any representation, warranty or agreement, either express or implied, concerning (a) the physical or environmental condition of the Property, or (b) the presence or absence of any condition, substance or material, including but not limited to any waste material, equipment or device at, on, in, under, about, or from the Property. Purchaser agrees that the disclosures of the Seller concerning the Property and its condition are intended to satisfy any duties the Seller may have under the law, including but not limited to the statutes, environmental laws, and common law. By executing this Agreement Purchaser acknowledges that it is entitled to conduct its due diligence, including but not limited to inspection of the Property, and the results of the tests, investigations and surveys permitted under this Agreement. If, prior to Closing, Purchaser fails to undertake such investigations and/or obtain such test results and surveys, and Purchaser thereafter elects to proceed to Closing, Purchaser shall thereupon be deemed to have waived any right to object to the condition of the Property and shall be deemed to have declared its full satisfaction therewith.
- (g) Except as otherwise provided in this Agreement, upon each Closing, Purchaser shall release the Seller and its related parties, officials, employees, and agents (but not any third party) from any and all claims or causes of action the Purchaser may have against the Seller for any liability, injury or loss as a result of any physical defects in or physical conditions of the

Property, including but not limited to any surface, subsurface, fixtures, and other interests, whether naturally occurring or by action of any party.

19. Miscellaneous.

- (a) This Agreement embodies the entire agreement between the parties in connection with this transaction, and there are no oral or parole agreements existing between the parties relating to this transaction which are not expressly set forth herein and covered hereby. This Agreement may not be modified, except in writing signed by all parties.
- (b) Failure of either party to complain of any act or omission on the part of the other party, no matter how long the same may continue, shall not be deemed to be a waiver by such party of any of its or its rights hereunder. No waiver by any party at any time, express or implied, of any breach of any provision of this Agreement shall be deemed a waiver or a breach of any other provision of this Agreement or a consent to any subsequent breach of the same or any other provision. If any action by any party shall require the consent or approval of another party, such consent or approval of such action on any one occasion shall not be deemed a consent to or approval of said action on any subsequent occasion or a consent to or approval of any action on the same or any subsequent occasion.
- (c) The captions and section numbers appearing in this Agreement are inserted only as a matter of convenience, and do not define, limit, construe or describe the scope or intent of such sections of this Agreement or in any way affect this Agreement.
- (d) No party other than Seller and Purchaser, and their respective heirs, personal representatives, successors and assigns, shall have any rights to enforce or rely upon this Agreement, which is binding upon and made solely for the benefit of Seller and Purchaser, and their respective heirs, personal representatives, successors and assigns, and not for the benefit of any other party.
- (e) Notice shall be deemed as given hereunder upon personal delivery to the addresses set forth below, or, if properly addressed, two (2) days following depositing such notice, certified mail, return receipt requested, with postage prepaid, in a United States mailbox, or one (1) day following depositing such notice in the custody of a nationally-recognized overnight delivery service for next day delivery. Notice shall be deemed properly addressed if sent to the following addresses:

If to Seller: Director
City of Detroit Planning and Development Department
Coleman A. Young Municipal Center
2 Woodward Avenue, Suite 808
Detroit, Michigan 48226

With a copy to: Corporation Counsel
City of Detroit Law Department
2 Woodward Avenue, Suite 500
Detroit, Michigan 48226

With a copy to: Lucas J. Polcyn, Esq.
Miller Canfield
150 West Jefferson, Suite 2500
Detroit, Michigan 48226

To: Purchaser

Fin & Capital Management, LP
333 West Fort Street, Suite 1350
Detroit, Michigan 48226
Attn: Eli Halpern

With a copy to:

James S. Fontichiaro, Esq.
Barris, Sott, Denn & Driker, P.L.L.C.
333 West Fort Street, Suite 1200
Detroit, Michigan 48226

- (f) This Agreement and/or the membership interests of Purchaser may not be assigned, sold or transferred by Purchaser without the express prior written consent of Seller, which may be withheld in the sole discretion of Seller, except as follows: Purchaser has executed this Agreement as "Purchaser", without personal liability, subject to the right to assign its right, title and interest in this Agreement to purchase the Garage Property, Garage and Easement Parcel or the Arena Property, or both, to one or more existing related affiliated entities or affiliated entities to be formed, without personal liability. Seller consents to the assignment of Purchaser's rights hereunder to any such person or entity on or prior to the Closing Date and Seller agrees to cooperate with any such permitted assignee.
- (g) Time is of the essence to this Agreement.
- (h) Both parties to this Agreement have participated fully and equally in the negotiation and preparation hereof. Therefore, this Agreement shall not be more strictly construed or any ambiguities within this Agreement resolved against either party hereto.
- (i) This Agreement shall be governed by the laws of the State of Michigan.
- (j) The execution and delivery of this Agreement by Purchaser shall constitute Purchaser's offer to Seller to acquire the Property upon the terms and conditions herein set forth, and execution hereof by Seller shall be deemed its acceptance of such offer and agreement to sell the Property upon such terms and conditions. This Agreement may be executed in separate counterparts, each of which shall be deemed to be an original document but together shall constitute one instrument. This Agreement shall not be effective unless Purchaser and Seller have executed this Agreement. The date on which Seller executes this Agreement is referred to as the "Effective Date". Each party shall insert the date upon which it executes this Agreement under its signature.
- (k) Seller's Authority. Notwithstanding anything in this Agreement, in law or in equity, or otherwise, to the contrary, the Seller shall not be authorized or obligated to sell the Property to Purchaser, and this Agreement shall be of no force or effect and may not in any way be enforced against the Seller, unless and until the date that this Agreement has been fully executed by the duly authorized representative of the Seller pursuant to the resolution of the Detroit City Council, as approved by the Mayor of the City of Detroit, and approved by the City of Detroit Law Department. Any amendments or modifications must likewise be duly authorized by resolution of the City Council, as approved by the Mayor, and be approved by the Law Department.

(Balance of Page Intentionally Blank)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement of Purchase and Sale as of the day and year first above written.

Signed:

CITY OF DETROIT, a Michigan municipal corporation,

By: Katherine J. Johnson

Its: Deputy Director, Planning & Development

Dated: October 25, 2019

"Seller"

<p>Pursuant to § 18-5-4 of the Detroit City Code, I hereby certify that proper and fair consideration has been received by the City pursuant to this instrument:</p> <p><u>[Signature]</u> Finance Director</p>	<p>Approved by City Council on:</p> <p>_____</p> <p>Approved by the Mayor on:</p> <p>_____</p>
<p>Approved by Corporation Counsel pursuant to § 7.5-206 of the 2012 Detroit City Charter:</p> <p>_____</p> <p>Corporation Counsel</p>	

(Signatures continued on next page)

IN WITNESS WHEREOF, the parties have executed this Agreement of Purchase and Sale as of the day and year first above written.

Signed:

FIRST & CONGRESS MANAGEMENT, LLC, a
Michigan limited liability company

By:  _____

Its: AUTHORIZED REPRESENTATIVE

Dated: Nov 24, 2019

"Purchaser"

Receipt of Escrow Agent

First American Title Insurance Company hereby acknowledges receipt of the sum of One Hundred Thousand and 00/100 (\$100,000.00) Dollars which it agrees to hold in escrow in accordance with the terms of the foregoing Agreement.

First American Title Insurance Company

By: _____

Its: _____

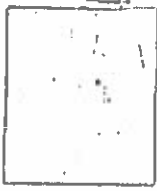
Dated: _____, 2019

"Escrow Agent"

Exhibit A-1

Description of Arena Property

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Olaf & Lisa Webster

Address: 1414 S. 1st St.
Tulsa, OK 74119

Phone: (918) 438-1234

Fax: (918) 438-1234

City: Tulsa, OK

State: Oklahoma

Zip: 74119

Country: USA

Postal Code: 74119

County: Tulsa

City: Tulsa

State: Oklahoma

Zip: 74119

Country: USA

Postal Code: 74119

County: Tulsa

City: Tulsa

Lot	Area (sq. ft.)	Description
1	10,000	Front Lot
2	20,000	Left Side Lot
3	30,000	Right Side Lot
4	40,000	Back Lot
5	50,000	Corner Lot

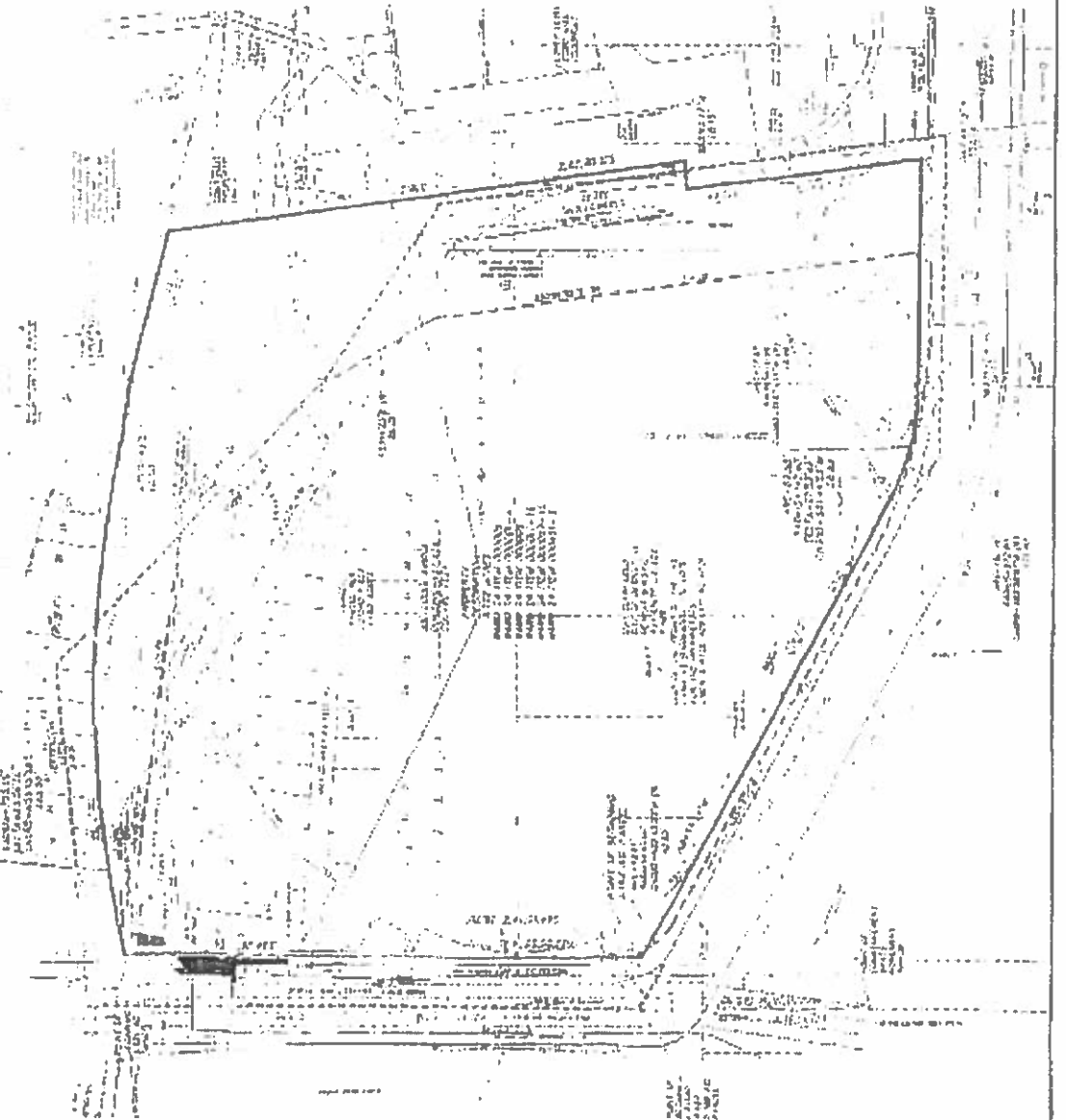


Exhibit A-2

Description of Garage Property

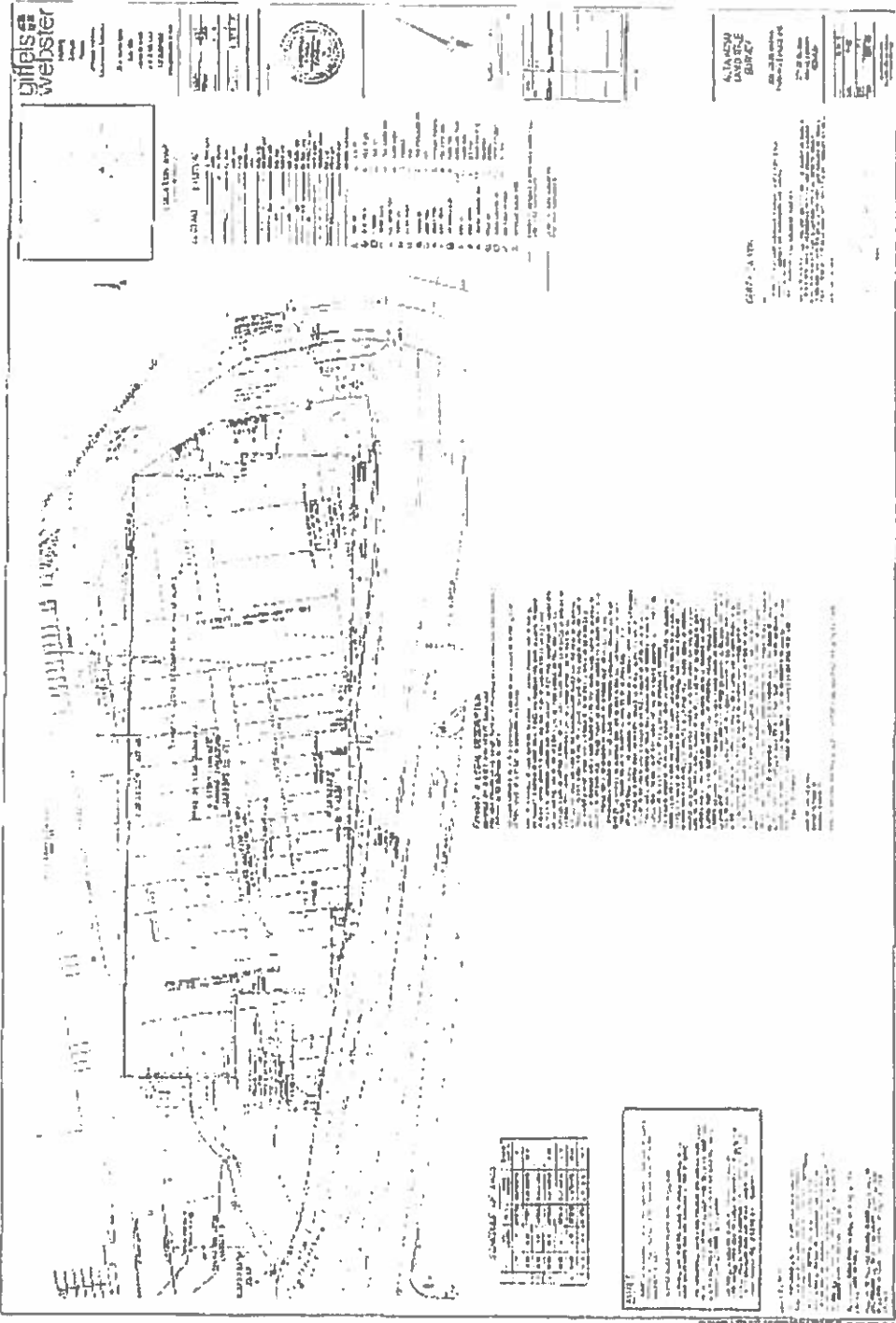
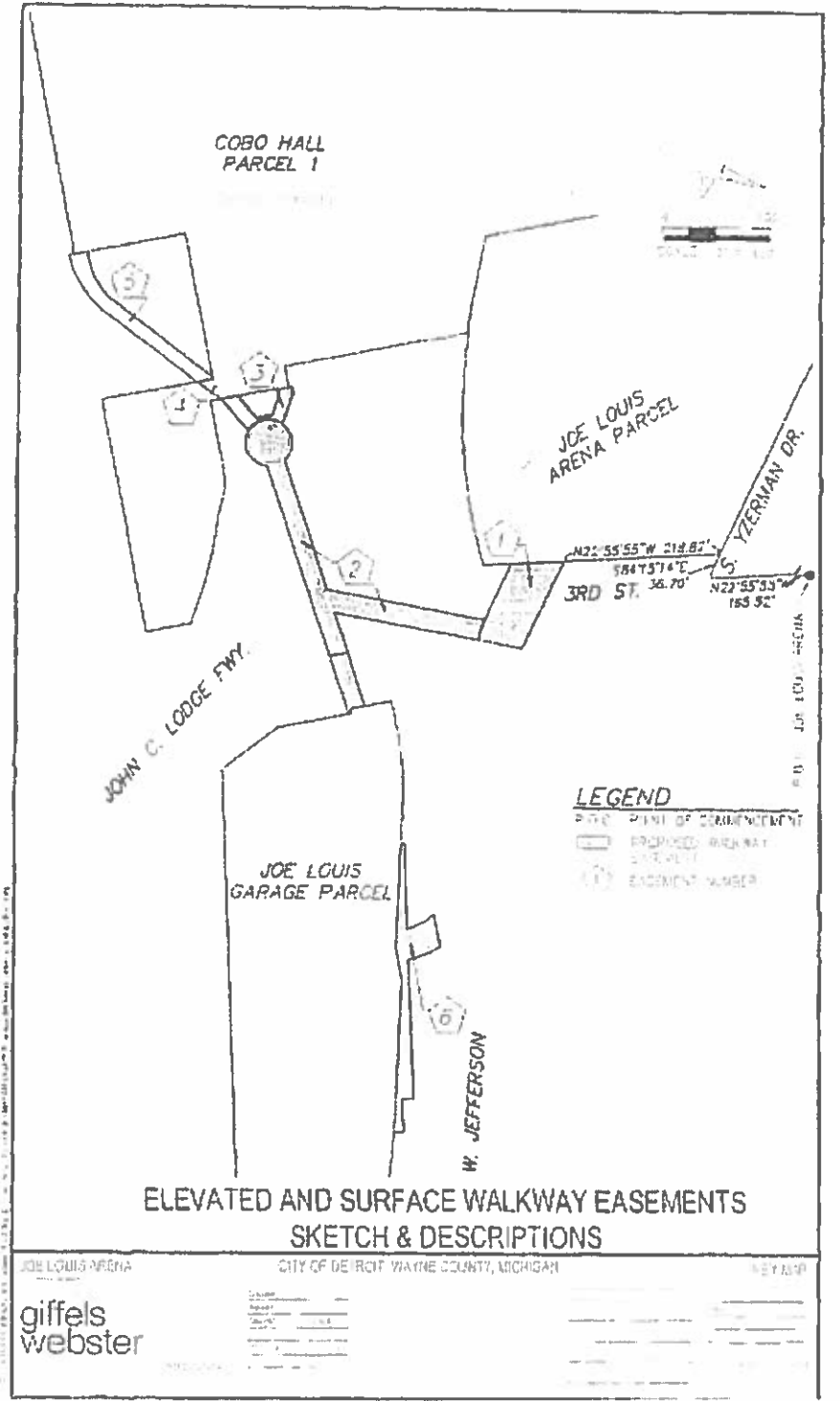


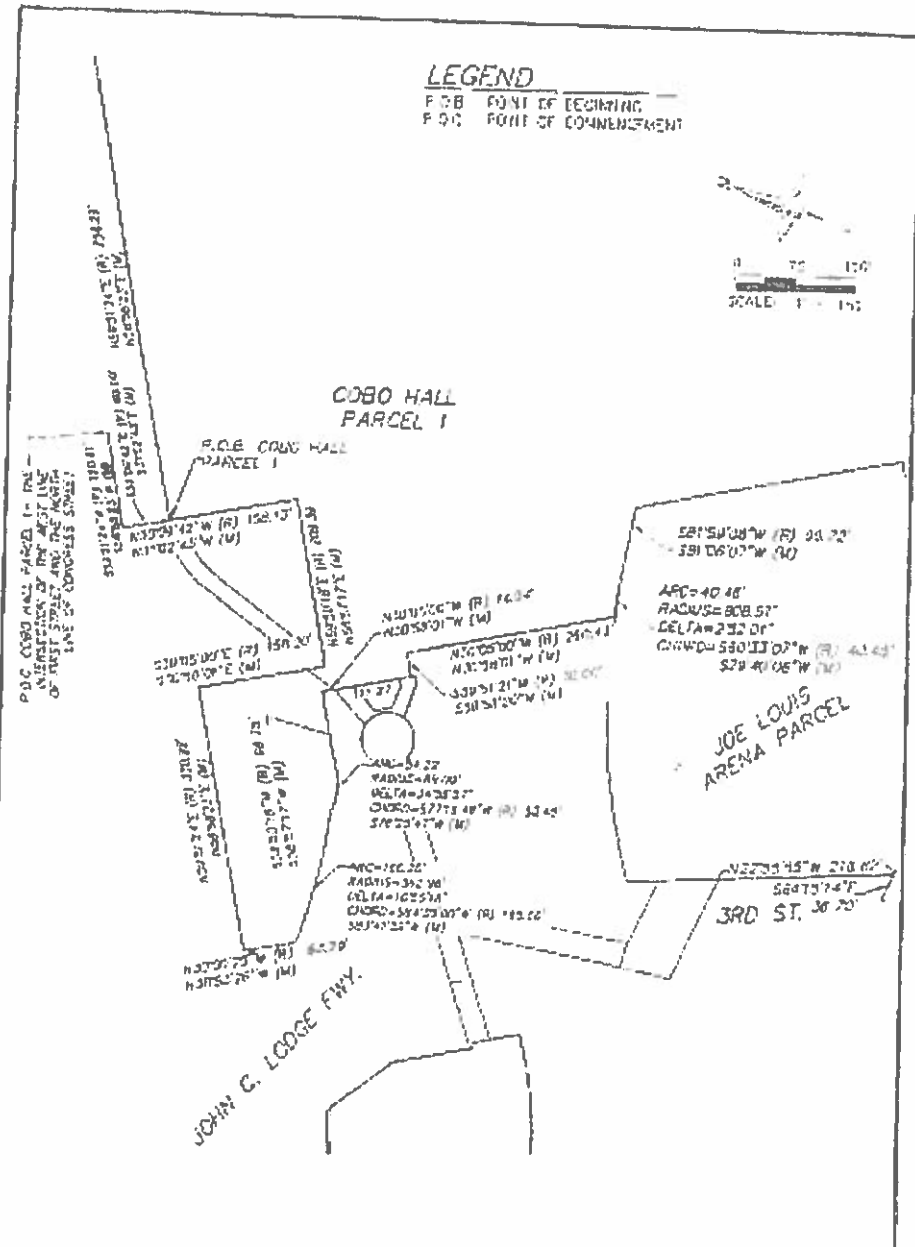
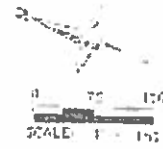
Exhibit A-3

Description of Easement Parcel



LEGEND

P.O.B. POINT OF BEGINNING
 P.O.C. POINT OF COMMENCEMENT



(M) BEARINGS RELATED TO JOE LOUIS ARENA PARCEL AND JOE LOUIS GARAGE PARCEL
 (R) BEARINGS RELATED TO COBO HALL PARCEL DESCRIPTION

**ELEVATED AND SURFACE WALKWAY EASEMENTS
 SKETCH & DESCRIPTIONS**

JOE LOUIS ARENA		CITY OF DETROIT, WAYNE COUNTY, MICHIGAN		COBO PARCEL DETAIL	
giffels webster Surveyors 78775 Mack Road Suite 100 Detroit, MI 48226 (313) 963-4447 www.giffelswebster.com	Date: 11/11/11 Title: ELEVATED AND SURFACE WALKWAY EASEMENTS Client: CITY OF DETROIT Project: JOE LOUIS ARENA	Date: 11/11/11 Title: ELEVATED AND SURFACE WALKWAY EASEMENTS Client: CITY OF DETROIT Project: JOE LOUIS ARENA	Date: 11/11/11 Title: ELEVATED AND SURFACE WALKWAY EASEMENTS Client: CITY OF DETROIT Project: JOE LOUIS ARENA	Date: 11/11/11 Title: ELEVATED AND SURFACE WALKWAY EASEMENTS Client: CITY OF DETROIT Project: JOE LOUIS ARENA	Date: 11/11/11 Title: ELEVATED AND SURFACE WALKWAY EASEMENTS Client: CITY OF DETROIT Project: JOE LOUIS ARENA

JOE LOUIS ARENA LEGAL DESCRIPTION:

(PER TITLE COMMITMENT NO. 881216 REVISION 6, PREPARED BY FIRST AMERICAN TITLE INSURANCE COMPANY, DATED MARCH 17, 2016)
 THE LAND REFERRED TO IN THIS COMMITMENT, SITUATED IN THE COUNTY OF WAYNE, CITY OF DETROIT, STATE OF MICHIGAN, IS DESCRIBED AS FOLLOWS:
 LAND IN THE CITY OF DETROIT, WAYNE COUNTY, MICHIGAN, BEING ALL OF LOTS 11 THROUGH 21, 30 THROUGH 32 AND PART OF LOTS 20, 11, AND 21 OF BLOCK D; PART ALL OF LOTS 11 THROUGH 30, BOTH INCLUSIVE, OF BLOCK E, ALSO PART OF LOTS 3 AND 4 OF BLOCK C; ALSO PART OF LOTS 1 THROUGH 4, BOTH INCLUSIVE, OF BLOCK F, ALSO PART OF LOTS 22 THROUGH 30 BOTH INCLUSIVE, OF BLOCK 4 ALL OF THE MAP OF THE FRONT OF THE CASS FARM AS SUBDIVIDED INTO LOTS FOR THE PROPRIETORS, ACCORDING TO THE PLAN HEREIN AS REFERRED TO, NEVILLAN W. 1830, IN LIBER 3 OF CITY RECORDS, PAGE 400 INCLUDING ALL OF THE VACATED STREETS AND ALLEYS ADJACENT TO THE ABOVE DESCRIBED LOTS WITHIN THE BOUNDS OF THE FOLLOWING MORE PARTICULARLY DESCRIBED PARCEL, COMMENCING AT HARBOUR REFERENCE MONUMENT NO. 39 SAID MONUMENT BEING 2.20 FEET WEST OF THE CENTERLINE OF THIRD STREET (60' WIDE) EXTENDED; THENCE NORTH 22 DEGREES 55 MINUTES 59 SECONDS WEST, 163.52 FEET ALONG A LINE PARALLEL TO AND 2.20 FEET WEST OF THE CENTERLINE OF THIRD STREET TO A POINT ON THE NORTH LINE OF STEVE YERMAN DRIVE (DEDICATED AS ONE CENTER DRIVE) EXTENDED; THENCE SOUTH 84 DEGREES 13 MINUTES 14 SECONDS EAST, 36.70 FEET TO THE POINT OF BEGINNING AT THE INTERSECTION OF THE EAST LINE OF THIRD STREET AND THE NORTH LINE OF STEVE YERMAN DRIVE; THENCE NORTH 22 DEGREES 55 MINUTES 59 SECONDS WEST, 334.24 FEET ALONG SAID EAST LINE OF THIRD STREET TO A POINT ON THE SOUTH LINE OF RELOCATED JEFFERSON AVENUE (VARIABLE WIDTH); THENCE THE FOLLOWING 3 COURSES ALONG THE SOUTH LINE OF JEFFERSON AVENUE AND JOHN C. LODGE FREEWAY: 1) ALONG A NON-TANGENT CURVE TO THE RIGHT 129.17 FEET, SAID CURVE HAVING A RADIUS OF 736.00 FEET, A CENTRAL ANGLE OF 24 DEGREES 36 MINUTES 30 SECONDS, AND LONG CHORD BEARING NORTH 88 DEGREES 15 MINUTES 59 SECONDS EAST, 326.56 FEET, AND 2) NORTH 75 DEGREES 01 MINUTES 43 SECONDS EAST, 40.50 FEET, AND 3) NORTH 81 DEGREES 08 MINUTES 07 SECONDS EAST, 99.72 FEET; THENCE SOUTH 31 DEGREES 06 MINUTES 22 SECONDS EAST, 338.27 FEET; THENCE SOUTH 83 DEGREES 43 MINUTES 17 SECONDS WEST, 18.10 FEET, THENCE SOUTH 30 DEGREES 25 MINUTES 42 SECONDS EAST, 135.04 FEET TO A POINT ON THE NORTH LINE OF STEVE YERMAN DRIVE, THENCE THE FOLLOWING 3 COURSES ALONG SAID NORTH LINE: 1) SOUTH 87 DEGREES 44 MINUTES 50 SECONDS WEST, 152.14 FEET, AND 2) ALONG A TANGENT CURVE TO THE RIGHT 69.38 FEET SAID CURVE HAVING A RADIUS OF 142.40 FEET, A CENTRAL ANGLE OF 27 DEGREES 54 MINUTES 49 SECONDS, AND A LONG CHORD BEARING SOUTH 81 DEGREES 44 MINUTES 53 SECONDS WEST, 88.89 FEET AND 3) NORTH 84 DEGREES 15 MINUTES 14 SECONDS WEST, 326.12 FEET TO THE POINT OF BEGINNING.

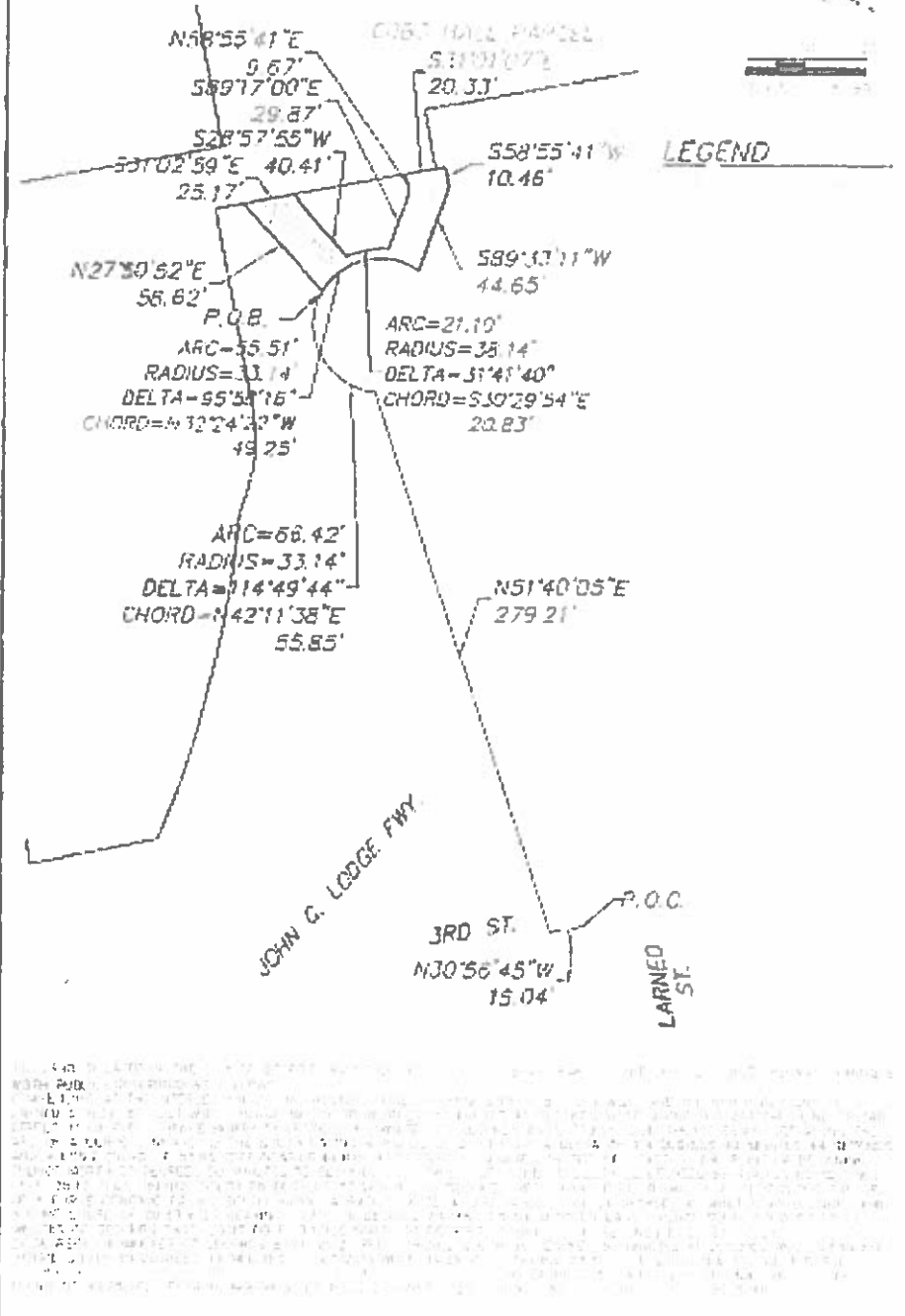
JOE LOUIS PARKING STRUCTURE LEGAL DESCRIPTION:

(PER TITLE COMMITMENT NO. 881222 REVISION A PREPARED BY FIRST AMERICAN TITLE INSURANCE COMPANY, DATED DECEMBER 10, 2014)
 THE LAND REFERRED TO IN THIS COMMITMENT, SITUATED IN THE COUNTY OF WAYNE, CITY OF DETROIT, STATE OF MICHIGAN, IS DESCRIBED AS FOLLOWS:
 PART OF A PARCEL OF LAND DENOTED AS EXHIBIT "A", "PARKING FACILITY PARCEL", IN INSTRUMENT RECORDED IN LIBER 20414, PAGES 170 THROUGH 490, BOTH INCLUSIVE, REGISTER #20201401, WAYNE COUNTY RECORDS, AND THAT PART OF LARNED STREET, 60 FEET WIDE, BETWEEN W. JEFFERSON AVENUE AND THIRD AVENUE, 60 FEET WIDE, DESCRIBED AS: COMMENCING AT THE INTERSECTION OF THE WESTERLY LINE OF THIRD STREET 80 FEET WEST, AND THE NORTHERLY LINE OF LARNED STREET, 60 FEET WIDE; THENCE SOUTH 59 DEGREES 58 MINUTES 52 SECONDS WEST, ALONG THE NORTHERLY LINE OF LARNED STREET, 81.54 FEET TO THE INTERSECTION WITH THE FACE OF THE STAIR/ELEVATOR TOWER AND THE POINT OF BEGINNING; THENCE 1.29 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTH, BEING THE FACE OF THE STAIR/ELEVATOR TOWER WITH A RADIUS OF 25.98 FEET, A DELTA OF 02 DEGREES 51 MINUTES 15 SECONDS AND A LONG CHORD OF 1.25 FEET WHICH BEARS NORTH 57 DEGREES 53 MINUTES 25 SECONDS WEST; THENCE NORTH 30 DEGREES 10 MINUTES 10 SECONDS WEST, 101.00 FEET; THENCE NORTH 06 DEGREES 27 MINUTES 16 SECONDS WEST, 93.44 FEET TO THE NORTHWESTLY CORNER OF THE JOE LOUIS ARENA PARKING STRUCTURE; THENCE SOUTH 08 DEGREES 35 MINUTES 30 SECONDS WEST, 821.86 FEET ALONG THE NORTHERLY SIDE OF SAID STRUCTURE; THENCE SOUTH 31 DEGREES 24 MINUTES 30 SECONDS EAST, 70.14 FEET; THENCE WESTERLY ALONG FIVE COURSES 10 FEET NORTH OF A SERVICE DRIVE SOUTH 08 DEGREES 35 MINUTES 30 SECONDS WEST, 30.32 FEET; THENCE 67.07 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTH WITH A RADIUS OF 75 FEET, A DELTA OF 47 DEGREES 25 MINUTES 11 SECONDS AND A LONG CHORD OF 60.32 FEET, BEARING SOUTH 38 DEGREES 25 MINUTES 28 SECONDS WEST; THENCE 15.77 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE NORTH WITH A RADIUS OF 20 FEET, A DELTA OF 43 DEGREES 09 MINUTES 54 SECONDS AND A LONG CHORD OF 15.36 FEET BEARING SOUTH 35 DEGREES 47 MINUTES 43 SECONDS WEST; THENCE 72.18 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTH WITH A RADIUS OF 197 FEET, A DELTA OF 20 DEGREES 58 MINUTES 40 SECONDS AND A LONG CHORD OF 71.78 FEET BEARING SOUTH 47 DEGREES 52 MINUTES 55 SECONDS WEST; THENCE SOUTH 17 MINUTES 23 MINUTES 10 SECONDS WEST, 21.12 FEET; THENCE 32.75 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE NORTH WITH A RADIUS OF 40 FEET, A DELTA OF 20 DEGREES 31 MINUTES 13 SECONDS AND A LONG CHORD OF 32.58 FEET BEARING SOUTH 47 DEGREES 48 MINUTES 41 SECONDS WEST TO THE PROPOSED NORTH LINE OF JEFFERSON AVENUE; THENCE NORTH 57 DEGREES 23 MINUTES 05 SECONDS EAST, 23.15 FEET; THENCE SOUTH 29 DEGREES 11 MINUTES 31 SECONDS EAST, 67.04 FEET; THENCE NORTH 77 DEGREES 23 MINUTES 05 SECONDS EAST, 221.14 FEET; THENCE 80.19 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE NORTH WITH A RADIUS OF 972 FEET, A DELTA OF 3 DEGREES 32 MINUTES 50 SECONDS AND A LONG CHORD OF 80.17 FEET BEARING NORTH 75 DEGREES 28 MINUTES 40 SECONDS EAST; THENCE NORTH 23 DEGREES 50 MINUTES 15 SECONDS EAST, 104.45 FEET; THENCE NORTH 52 DEGREES 50 MINUTES 52 SECONDS EAST, ALONG THE NORTH END OF LARNED STREET, 60 FEET WIDE, 11.50 FEET; THENCE NORTH 73 DEGREES 50 MINUTES 15 SECONDS EAST, 168.12 FEET TO A POINT OF TANGENCY; THENCE 100.52 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE NORTH HAVING A RADIUS OF 400 FEET, A DELTA OF 8 DEGREES 17 MINUTES 24 SECONDS AND A LONG CHORD OF 102.47 FEET BEARING NORTH 70 DEGREES 41 MINUTES 31 SECONDS EAST; THENCE NORTH 50 DEGREES 08 MINUTES 05 SECONDS EAST, 75.27 FEET; THENCE NORTH 30 DEGREES 10 MINUTES 10 SECONDS WEST, 101.00 FEET TO THE POINT OF BEGINNING.

PART OF TAX ID# WCC 300007-5/WARD 06 & QUORUM-5/WARD 04

JOE LOUIS ARENA		CITY OF DETROIT, WAYNE COUNTY, MICHIGAN		LEGAL DESCRIPTIONS	
	2 Parceling Method	Parcel	1.00	Lot	1
		Area	1.00	Acres	0.00
		Volume	1.00	Page	1
		Year	1.00	Page	1

EASEMENT EXHIBIT NO. 3
(SURFACE WALKWAY)



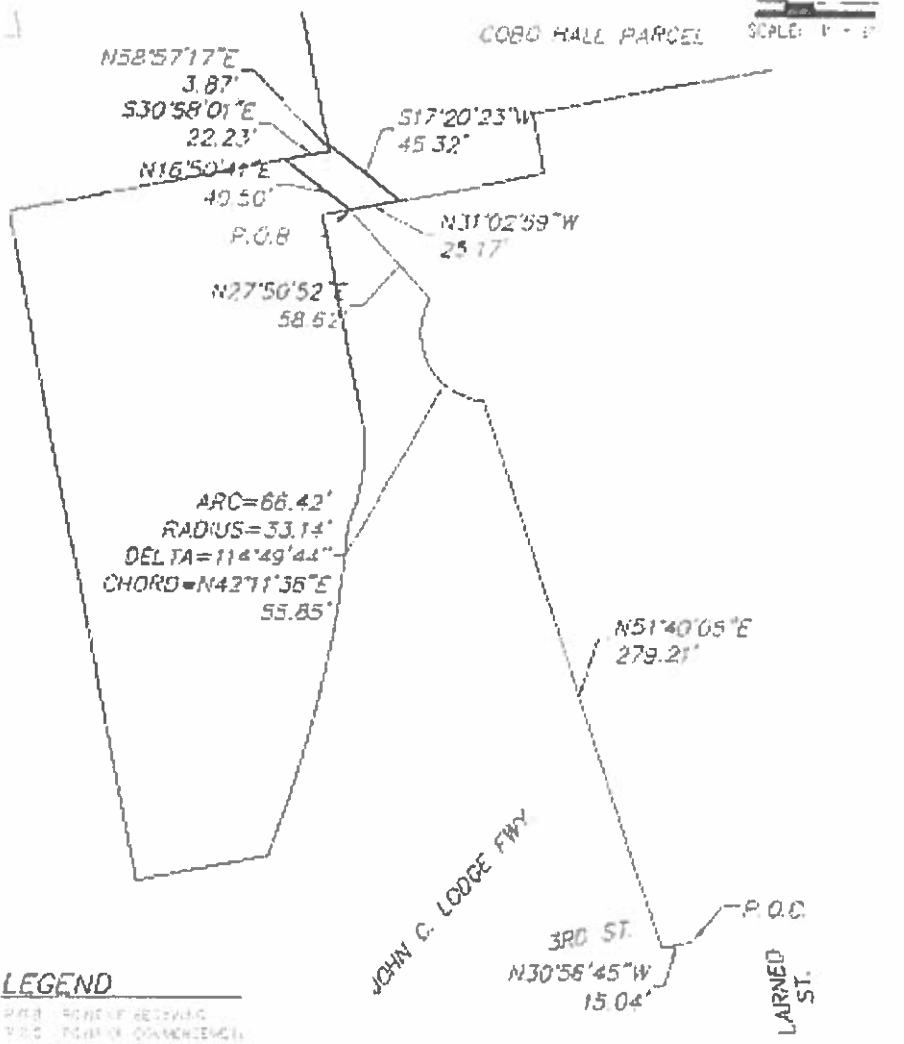
Survey data table with columns for Station, Bearing, Distance, and Curve Data.

Station	Bearing	Distance	Curve Data
1	N18°55'41"E	9.67'	
2	S89°17'00"E	29.87'	
3	S28°57'55"W	40.41'	
4	S31°02'59"E	25.17'	
5	S58°55'41"W	10.46'	
6	S89°17'11"W	44.65'	
7	N27°59'52"E	56.62'	
8	N51°40'05"E	279.21'	
9	N30°56'45"W	15.04'	
10	N 12°24'32"W	49.25'	ARC=55°51', RADIUS=33.14', DELTA=95°53'16"
11	S 50°29'54"E	20.83'	ARC=21.10', RADIUS=38.14', DELTA=51°41'40"
12	N 42°11'38"E	55.85'	ARC=68.42', RADIUS=33.14', DELTA=114°49'44"

EASEMENT EXHIBIT NO. 4
(SURFACE WALKWAY)

COBO HALL PARCEL

SCALE: 1" = 40'



LEGEND

P.O.B. POINT OF BEGINNING
P.O.C. POINT OF CONNECTION

THE LINES SHOWN ARE THE RESULT OF A SURVEY MADE BY JOHN C. LODGE, JR., AND JOHN C. LODGE, SR., ON FEBRUARY 14, 1984, AND ARE SUBJECT TO THE RECORDS OF THE PUBLIC RECORDS OF THE COUNTY OF ALABAMA.

THE WALKWAY IS A SURFACE WALKWAY AS DEFINED IN SECTION 10, ARTICLE 10, CHAPTER 10, TITLE 35, ALABAMA CODE, 1975, AS AMENDED. THE WALKWAY IS 10 FEET WIDE AND IS TO BE USED FOR THE PURPOSES OF THE BUSINESS OF THE COBO HALL PARCEL. THE WALKWAY IS TO BE CONSIDERED AS A PART OF THE COBO HALL PARCEL AND IS TO BE MAINTAINED BY THE COBO HALL PARCEL. THE WALKWAY IS TO BE CONSIDERED AS A PART OF THE COBO HALL PARCEL AND IS TO BE MAINTAINED BY THE COBO HALL PARCEL.

JOHN C. LODGE, JR. & JOHN C. LODGE, SR. SURVEYORS

1000 W. BIRCH ST. MOBILE, AL 36682

PHONE: 335-833-1111

FAX: 335-833-1112

www.jclodgesurveyors.com

DATE: 10/12/2011

TIME: 10:00 AM

PROJECT: EASEMENT EXHIBIT NO. 4

SCALE: 1" = 40'

DATE: 10/12/2011

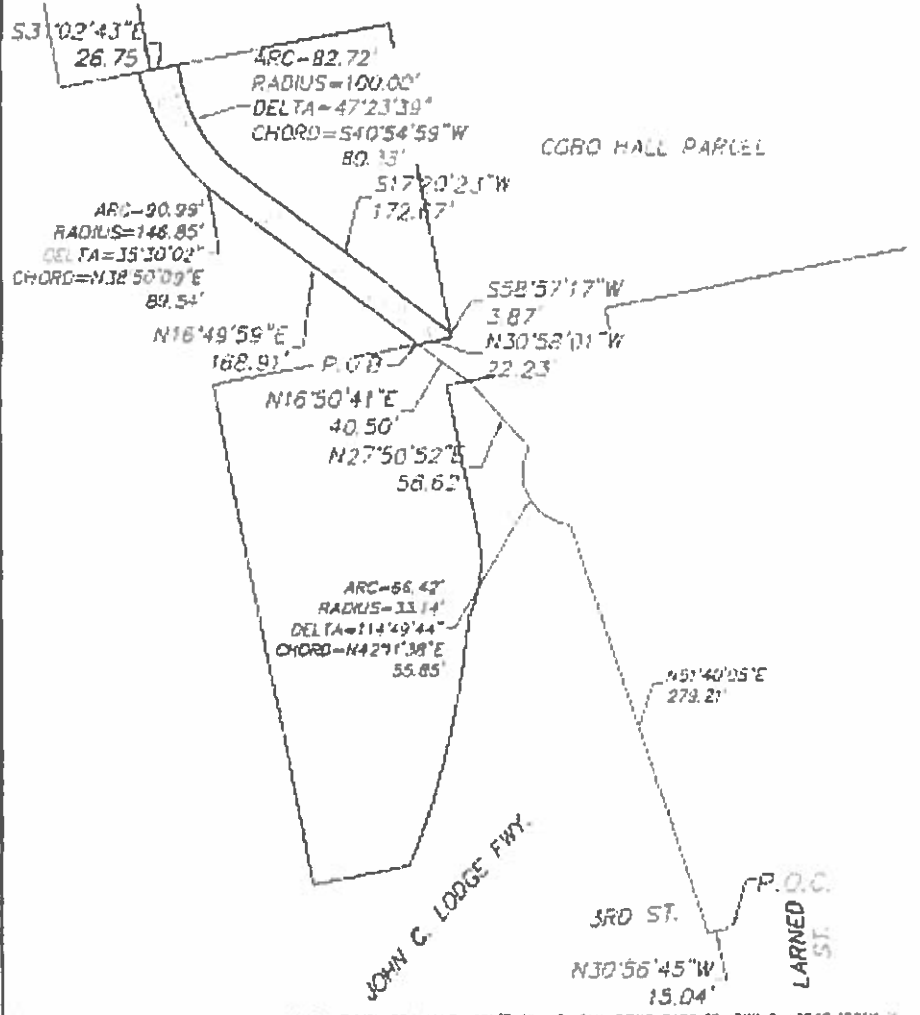
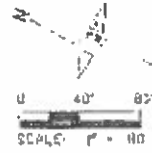
TIME: 10:00 AM

PROJECT: EASEMENT EXHIBIT NO. 4

EASEMENT EXHIBIT NO. 5
(SURFACE WALKWAY)

LEGEND

P.O.B. POINT OF BEGINNING
P.O.C. POINT OF COMMENCEMENT



THE LAND SITUATED IN THE CITY OF DETROIT, COUNTY OF WAYNE, STATE OF MICHIGAN, BEING PART OF JOHN C. LODGE FREEMAN (HEREINAFTER REFERRED TO AS "LOT 1") AND PART OF W. CLEVELAND STREET (60 FEET WIDE, PARTS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE WESTERLY CORNER OF THIRD STREET, 30 FEET WIDE, AND THE NORTHERLY LINE OF LARNED STREET, 60 FEET WIDE, THENCE NORTH 30 DEGREES 50 MINUTES 50 SECONDS WEST, ALONG THE WESTERLY LINE OF THIRD STREET, 132.84 FEET; THENCE NORTH 51 DEGREES 40 MINUTES 02 SECONDS EAST, 379.21 FEET; THENCE BY 42 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE NORTH HAVING A RADIUS OF 33.14 FEET, A DELTA OF 114 DEGREES 40 MINUTES 41 SECONDS AND A LONG CHORD OF 89.54 FEET BEARING NORTH 42 DEGREES 02 MINUTES 50 SECONDS EAST, THENCE NORTH 27 DEGREES 50 MINUTES 52 SECONDS EAST, 58.52 FEET; THENCE NORTH 14 DEGREES 19 MINUTES 50 SECONDS EAST, 40.50 FEET TO THE POINT OF BEGINNING. THENCE NORTH 16 DEGREES 49 MINUTES 50 SECONDS EAST, 168.91 FEET; THENCE BY 28 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE NORTH HAVING A RADIUS OF 148.85 FEET, A DELTA OF 35 DEGREES 30 MINUTES 02 SECONDS AND A LONG CHORD OF 89.54 FEET BEARING NORTH 38 DEGREES 50 MINUTES 50 SECONDS EAST; THENCE SOUTH 31 DEGREES 02 MINUTES 43 SECONDS EAST, 76.75 FEET; THENCE NORTH 72 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTH HAVING A RADIUS OF 100.00 FEET, A DELTA OF 47 DEGREES 23 MINUTES 39 SECONDS AND A LONG CHORD OF 80.33 FEET BEARING NORTH 51 DEGREES 54 MINUTES 59 SECONDS WEST, 172.67 FEET; THENCE SOUTH 17 DEGREES 50 MINUTES 52 SECONDS WEST, 58.62 FEET; THENCE SOUTH 54 DEGREES 51 MINUTES 17 SECONDS WEST, 387 FEET; THENCE NORTH 58 DEGREES 17 SECONDS WEST, 22.23 FEET; THENCE SOUTH 58 DEGREES 51 MINUTES 17 SECONDS WEST, 273.21 FEET; THENCE SOUTH 56 DEGREES 45 MINUTES WEST, 15.04 FEET TO THE POINT OF COMMENCEMENT.

JOE LOUIS ARENA CITY OF DETROIT, WAYNE COUNTY, MICHIGAN EXHIBIT 5

giffels + webster
 Engineers Surveyors Architects
 1014 W. W. KAM
 LANSING, MICHIGAN 48206
 TEL: (313) 487-1100
 FAX: (313) 487-1101
 WWW.GIFFELSWEBSTER.COM

Number	240
Volume	240
Page	240
Date of Issue	11/14/14
Drawn	11/14/14

DATE	11/14/14
BY	JWH
CHECKED	JWH
DATE	11/14/14

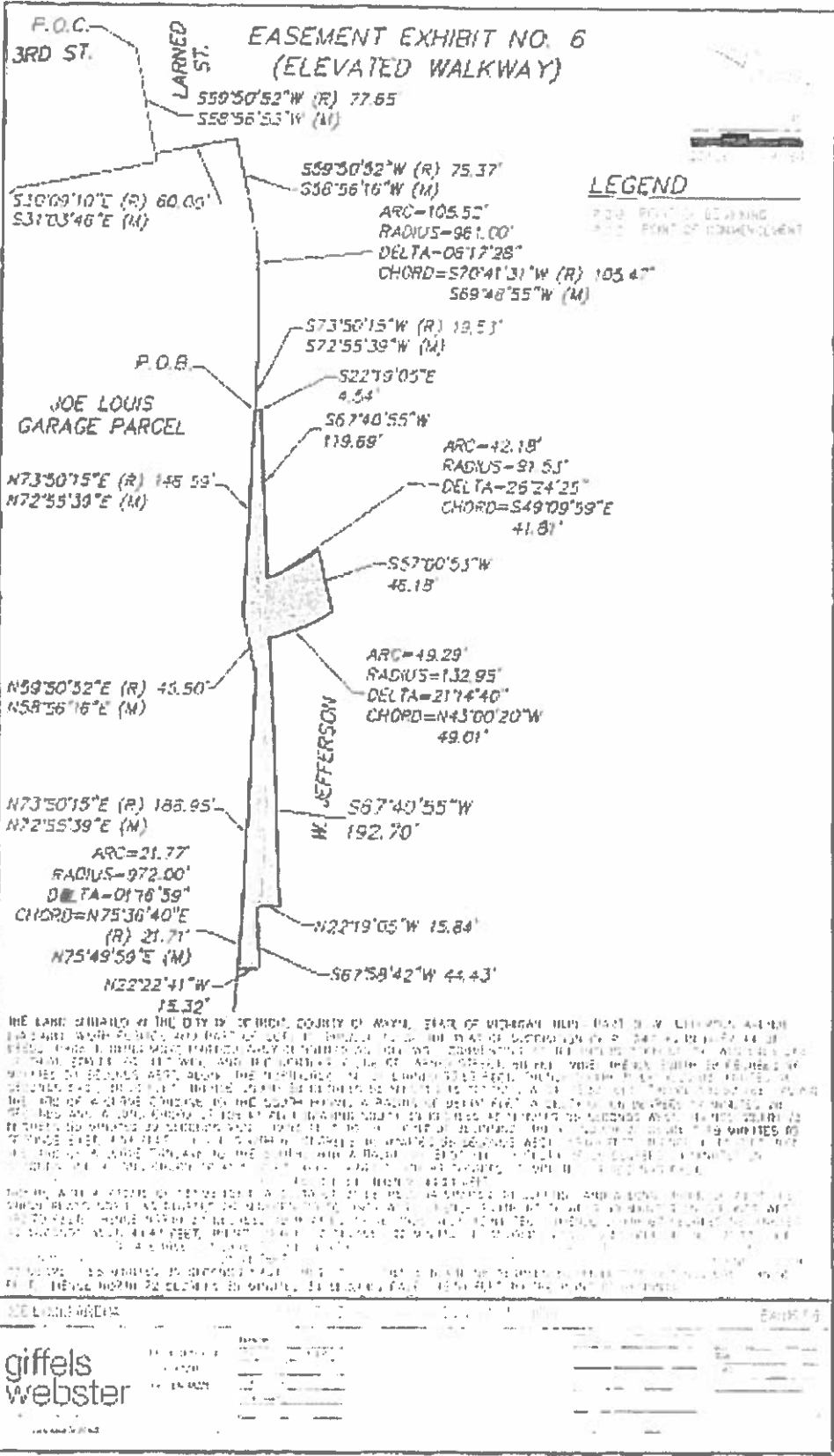


Exhibit B

EASEMENT AGREEMENT

This Easement Agreement is made, declared and granted this ____ day of _____, 2019, by THE CITY OF DETROIT, a Michigan public body politic and corporate, acting through its Department of Planning and Development, whose address is c/o Jobs and Economy Team, Mayor's Office, Coleman A. Young Municipal Center, 2 Woodward Avenue, Suite 1126, Detroit, MI 48226 (hereinafter, called "Grantor") to and for the benefit of FIRST & CONGRESS MANAGEMENT, LLC, a Michigan limited liability company, and its successors and assigns, whose address is 333 West Fort Street, Suite 1350, Detroit, MI 48226 (hereinafter called "Grantee").

Recitals:

Simultaneously with the execution hereof, the Grantor has sold, granted, bargained and conveyed to the Grantee certain parcels of real estate located in the City of Detroit, Wayne County, Michigan commonly known as: (i) the Joe Louis Arena, more particularly described on Exhibit A-1, attached (the "Arena Property") and (ii) the Joe Louis Arena Garage, more particularly described on Exhibit A-2 (the "Garage Property"). The Arena Property and the Garage Property are collectively referred to as the "Developer Parcel."

As a condition of, and in consideration of the sale of the Developer Parcel, Grantor desires to grant and declare for the benefit of Grantee and its successors, assigns, mortgagees, lessees, employees, agents, customers, licensees, and invitees, and for the benefit of the Developer Parcel six (6) exclusive easements and irrevocable licenses for vehicular and/or pedestrian traffic to access, use and operate (x) the above-ground pedestrian walkways and associated towers to access the Detroit Regional Convention Facility (formerly known as Cobo Hall) and the Detroit People Mover Station from the Developer Property, and (y) to access the Garage from the Lodge Freeway, and (z) to maintain certain encroachments of the Garage (hereafter defined) in the Easement Parcel (hereafter defined), all more particularly described on Exhibit A-3 in accordance with the terms and conditions hereinafter set forth.

Now, therefore, in consideration of the mutual covenants and agreements herein set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Recitals. The foregoing recitals of fact are true and accurate and are incorporated into this Easement Agreement.

2. Definitions.
 - (a) "Garage" means the ___ space parking garage located on the Garage Parcel, and any future replacement or reconstruction of the Garage on the Garage Parcel.

 - (b) "Improvements" means to the extent of Grantor's interest therein, if any (i) the walkways and associated towers; and (ii) any roadways, streets sidewalks, and parking areas; and (iii) sanitary sewers, storm drains, retention basins, water, electric and gas lines, telephone lines, vaults, conduits and transformers and other utility lines and facilities, located within the Easement Parcel.

3. Grant of Easement. Grantor hereby declares, grants and conveys to the Grantee and its successors, assigns, mortgagees, lessees, sub-lessees, employees, agents, customers, licensees and invitees, and for the benefit of the Developer Parcel, permanent and exclusive easements and rights to use the easement areas described on Exhibit B including the air space above the easement area, attached hereto (the "Easement

Parcel) to the extent of Grantor's title thereto and be kept in good repair for the purposes for which they are provided and intended, including, but not limited to: (i) ingress, egress, access, and vehicular or pedestrian traffic, to and from the Developer Parcel; and (ii) to install, maintain and repair the Garage Improvements, including any footings and underground supports which extend beyond the boundaries of Garage Parcel into the Easement Parcel; and (iii) installation, operation and maintenance of sanitary sewers, storm drains, retention basins, water, electric and gas lines, telephone lines, vaults, conduits and transformers and other utility lines and related facilities located within the Easement Area.

4. **Maintenance and Repair.** Grantee shall, while this Agreement is in effect, operate, maintain, repair and replace or cause to be operated, maintained, repaired and replaced, all the Improvements within the Easement Parcel and shall keep the same, or cause the same to be continuously kept, in good condition and repair, in a safe and sound condition, and clean and free of rubbish and debris. Such maintenance, operation and repair shall include, but not be limited to, the following:
 - (a) Maintenance, repair and replacement of concrete and asphalt paving and other surface materials used on drives, parking areas and walkways as well as the structural components of the Improvements; and
 - (b) Maintenance, repair and replacement of all electrical and other utility equipment and facilities so that the same are at all times in good operating condition, including lighting in the Improvements.
5. **Right to Terminate.** At any time after the date of this Easement Agreement, the Grantee may, in its sole discretion, by written notice given to the Grantor and thereafter duly recorded in the office of the Wayne County Register of Deeds, terminate in whole or in part, for itself, its successors and assigns, its rights and obligations under this Agreement as to all or any portion of the Easement Parcel. The right of termination herein provided shall be exercised only by thirty (30) days written notice by Grantee to Grantor and thereafter duly recorded in the office of the Wayne County Register of Deeds. If the Grantee terminates this Easement Agreement as to only a portion of the Easement Parcel, then this Easement Agreement shall remain in full force and effect as to the remainder of the Easement Parcel as to which the Grantee has not exercised its termination rights. There is no limitation on the number of times the Grantee may partially terminate this Easement Agreement as to a portion of the Easement Parcel.
6. **Mortgage Subordinate.** Any mortgage or lien on the fee interest in the Easement Parcel affecting any portion of the Easement Parcel shall at all times be subject and subordinate to the terms of this Easement Agreement and any mortgagee foreclosing any such mortgage or acquiring title by reason of a deed in lieu of foreclosure shall acquire title to the premises affected thereby subject to all of the terms of this Easement Agreement.
7. **Eminent Domain.** In the event any part of the Easement Parcel shall be taken by eminent domain or any other similar exercise of governmental authority, the entire award for value of the land and improvements so taken shall belong to the Grantee or to any Mortgagee of Grantee, as their respective interests may appear, and Grantor shall not claim any portion of such award by virtue of any interest created by this Agreement.
8. **Obligations of Agreement.** Each and every covenant, undertaking, condition, easement, license, right, and privilege, made or granted in this Easement Agreement is for the personal benefit of the Developer and for the benefit of the Developer Parcel and shall be an equitable servitude on the Easement Parcel, and shall run with the land, and shall be binding upon the parties hereto, and such party's successors, assigns, mortgagees, tenants, customers and invitees and shall inure to the benefit of the Developer Parcel and the owner(s) of the Developer Parcel and their successors, assigns, mortgagees, tenants, customers and invitees. Any transferee of any part of the Developer Parcel

shall automatically be deemed, by acceptance of title to such parcel, to have assumed all the maintenance obligations set forth in Section 4 of this Agreement, but only to the extent such obligations accrue after the effective date of such transfer of title. Any transferor shall upon the consummation of such transfer be relieved of all further liability under this Agreement except such liability as may have arisen during its period of Ownership.

9. **No Waiver.** No delay or omission in the exercise of any right accruing upon any default shall impair any such right or be construed to be a waiver thereof, and every such right may be exercised at any time during the continuance of such default.
10. **No Termination For Breach.** It is expressly agreed that no breach, whether or not material, of the provisions of this Agreement shall entitle the Grantor to cancel, rescind or otherwise terminate this Agreement, but such limitation shall not affect, in any manner, any other rights or remedies which Grantor may have hereunder by reason of any breach of the provisions of this Agreement.
11. **No Dedication to Public.** Nothing contained in this Agreement shall be deemed to be a gift or dedication of any portion of the Easement Parcel or the Developer Parcel to the general public or for any public use or purpose whatsoever, it being the intention of the parties hereto that this Agreement is for the exclusive benefit of the Grantee and its successors, assigns, mortgagees, tenants, customers and invitees, and that nothing in this Agreement, express or implied, shall confer upon any other person any rights under or by reason of this Agreement. The Grantee shall have the right from time to time to close all or any portion of the Easement Parcel to such extent as may be necessary to prevent a dedication thereof to the public or the accrual of any rights in any person, not expressly granted rights hereunder.
12. **Amendment, Modification or Termination.** This Agreement may be amended or modified at any time by a declaration in writing mutually agreed to, executed and acknowledged by the Grantor and Grantee and thereafter duly recorded in the Office of the Wayne County Register of Deeds. This Agreement shall not be terminated, amended, altered or modified in any way without the prior written consent of each first Mortgagee then encumbering the Developer Parcel or any portion thereof.
13. **Integration; Severability.** This Agreement embodies the entire agreement and understanding between Grantor and Grantee with regard to the subject matter hereof and supersedes all prior agreements and understandings with respect thereto. In case any one or more of the obligations of the parties under this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining obligations of the parties shall not in any way be affected or impaired thereby.
14. **Governing Law.** This Agreement shall be construed in accordance with the laws of the State of Michigan.
15. **Headings.** The section headings in this Agreement are for convenience only, shall in no way define or limit the scope or content of this Agreement and shall not be considered in any construction or interpretation of this Agreement or any part thereof.
16. **No Partnership.** Nothing in this Agreement shall be construed to make the Grantor and Grantee partners or joint venturers or render any of either of such parties liable for the debts or obligations of the other.
17. **Force Majeure.** Grantee shall be excused from performing any obligation or undertaking provided in this Agreement in the event, but only so long as, the performance of such obligation is prevented or delayed by strikes, lockouts, inability to procure materials or permits, power failure, acts of God,

governmental restrictions, civil commotion, fire, unavoidable casualty or other causes beyond the control of Grantee.

18. **Notices.** Any notice or other communication made pursuant to this Agreement shall be in writing and shall be given or made or communicated by personal delivery; by United States registered or certified mail, return receipt requested; or by prepaid Federal Express or other nationally recognized overnight delivery service addressed, in the case of Grantor, to:

The City Of Detroit
Department of Planning and Development
c/o Jobs and Economy Team
Mayor's Office, Coleman A. Young Municipal Center
2 Woodward Avenue, Suite 1126
Detroit, MI 48226

And in the case of Grantee, to:

First & Congress Management, LLC
333 West Fort Street, Suite 1350
Detroit, MI 48226

Any notice, demand, request, consent, approval, designation or other communication so sent shall be deemed to have been given, made or communicated, as the case may be, on the date the same was personally delivered or delivered by the United States mail as registered or certified matter, with postage thereon fully prepaid, or delivered by Federal Express or other nationally recognized overnight delivery service.

SIGNATURES AND NOTARIES ON FOLLOWING PAGES

IN WITNESS WHEREOF, the parties hereto have hereunto set their respective authorized signatures as of the day and year first above written.

Signed:

CITY OF DETROIT MICHIGAN, a Michigan municipal corporation

By: _____

Its: _____

“Grantor”

Pursuant to § 18-5-4 of the Detroit City Code. I hereby certify that proper and fair consideration has been received by the City pursuant to this instrument: _____ Finance Director	Approved by City Council on: _____ Approved by the Mayor on: _____
Approved by Corporation Counsel pursuant to § 7.5-206 of the 2012 Detroit City Charter: _____ Corporation Counsel	

STATE OF MICHIGAN)
) ss.
COUNTY OF WAYNE)

The foregoing instrument was acknowledged before me this ____ day of _____ 2019, by _____, the _____ of the City of Detroit Michigan, a Michigan municipal corporation, on behalf of the corporation.

Printed name:
Notary Public, Wayne County, Michigan
My Commission Expires:
Acting in the County of Wayne

FIRST & CONGRESS MANAGEMENT, LLC, a Michigan limited liability company

By: _____

Its: _____

"Grantee"

STATE OF MICHIGAN)
) ss.
COUNTY OF WAYNE)

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by _____, the _____ of First & Congress Management, LLC, a Michigan limited liability company, on behalf of the limited liability company.

Printed name:
Notary Public, Wayne County, Michigan
My Commission Expires:
Acting in the County of Wayne

DRAFTED BY AND WHEN
RECORDED RETURN TO:

C. David Bargamian, Esq.
Barris, Sott, Denn, & Driker, PLLC
333 W. Fort Street, Suite 1200
Detroit, Michigan 48226
313-965-9725

Attachment IV

DBA and City of Detroit Contract of Lease for Repairs to the Joe Louis Arena
Garage

CONTRACT OF LEASE

This Contract of Lease (the "Contract") made and executed this 15th day of February, 2019, by and between the **CITY OF DETROIT BUILDING AUTHORITY**, a public authority and body corporate of the State of Michigan, organized and existing under the authority of Act 31, Public Acts of Michigan, 1948 (First Extra Session), as amended (hereinafter the "Authority"), and the **CITY OF DETROIT**, a Michigan municipal corporation organized and existing under the laws of the State of Michigan acting by and through its **MUNICIPAL PARKING DEPARTMENT** (hereinafter the "City").

WITNESSETH:

WHEREAS, the Authority has been incorporated in accordance with the provisions of Act 31, Public Acts of Michigan, 1948 (First Extra Session), as amended (the "Act"), for the purpose of acquiring, furnishing, equipping, owning, improving, enlarging, operating and maintaining buildings, automobile parking lots or structures, recreational facilities, stadiums and the necessary site or sites therefor, together with appurtenant properties and facilities necessary or convenient for the effective use thereof, for the use of any legitimate public purpose of the City; and

WHEREAS, pursuant to the Act, the Authority and the City may enter into a contract or contracts under which the Authority will acquire property contemplated by the terms of the Act and lease the same to the City for a period not to exceed three (3) years; and

WHEREAS, pursuant to the Act, the leasing of property by the City to the Authority for the improvement of any building or buildings, automobile parking lots or structures, recreational facilities, stadiums and the necessary site or sites therefor, together with appurtenant properties and facilities, constitutes a benefit to and a legitimate public purpose of the Authority and the City; and

WHEREAS, the City desires to engage the assistance of the Authority to manage the capital improvements to re-open the Joe Louis Arena Parking Garage located at 900 West Jefferson, Detroit, Michigan ("Project"); and

WHEREAS, the total cost of the Project is estimated to be Two Million Seven Hundred Sixty-Seven Thousand and 00/100 (\$2,767,000); and

WHEREAS, such funds are currently available for this Project; and

WHEREAS, the City has advised the Commissioners of the Authority that the Project is necessary and advisable to meet the needs of the citizens of the City and others; and

WHEREAS, the Authority desires to assume management responsibility for the Project.

IT IS THEREFORE, AGREED BY AND BETWEEN THE PARTIES HERETO, for and in consideration of the mutual covenants hereinafter contained as follows:

ARTICLE I
Duties of the City

1.01. The City Finance Director shall pay the Authority for all vouchers received from the Authority for work performed and to be performed on the Project, within the time period required for payment under the terms and conditions of any and all contracts assigned by the City to the Authority or entered into by the Authority for the benefit of the City with respect to the Project.

1.02. The City shall execute such other contracts and provide such other information, plans and specifications as the Authority may reasonably require for completing the Project.

ARTICLE II
Duties of the Authority

2.01. The Authority may require and secure from any contractor undertaking work on the Project necessary and proper bonds to guarantee the performance of said contract, labor and material bonds and shall require Workers' Compensation, Comprehensive General Liability and Automobile Liability Insurance in such amounts, with such features and in such form as is mutually agreed upon by the parties, or as may be required by law. To the extent permitted by law and commercially available, the City and the Authority shall be named as additional insureds on all such insurance.

ARTICLE III
Lease and Leaseback

3.01. In consideration for the management of the Project as herein specified, the City does hereby let and lease the site upon which the Project is to be constructed, as more particularly described in Exhibit A to the Contract (the "Project Site"), to the Authority, to have and to hold for a term commencing on the date of this Contract and ending three years from such date, subject to the provisions of Article VIII and Article IX hereof.

3.02. In consideration of the rentals to be paid by the City for the improvements to be made as specified herein, the Authority does hereby let and leaseback the Project Site upon which the Project is to be completed to the City; *provided*, however, that the Authority shall retain such leasehold interest in the Project and the Project Site as shall be necessary to complete the Project in accordance herewith during the term described in Section 3.01 hereof.

ARTICLE IV
Compliance with Law

4.01. The City and the Authority covenant and agree that they will not permit the use of the Project in any manner inconsistent with local, state or federal laws, rules or regulations now or hereafter in force and applicable hereto. The City further covenants and agrees that it will promptly, and at its own expense, make and pay for any and all changes and alterations to the Project which, during the term of this Contract, may be required at any time by reason of local, state or federal laws, and to save the Authority harmless and free from all cost or damage in respect thereto.

ARTICLE V
Assignment of Residual Leasehold Interest

5.01. On the date the Project is completed, as determined by the Authority, the Authority shall be deemed to have assigned to the City its residual leasehold interest in the Project and the Project Site, or if requested by the City, shall execute a separate assignment of said residual interest in such form and manner as may be approved by the Corporation Counsel of the City, whereupon the terms of this Contract will terminate pursuant to Article VIII hereof, unless otherwise agreed by the Authority and the City.

ARTICLE VI
Insurance

6.01. The City shall provide and maintain insurance of the type and in the amount customarily provided for other projects of the type here being constructed.

6.02. The City shall have the right, in its sole discretion, to self-insure the Project against any portion or all of the risks which are customarily insured against in projects of the type here being constructed.

6.03. Any funds received by the Authority or the City from any insurance policies, or from self-insurance funds, or otherwise, because of casualty or damage to the Project, shall be used promptly to restore the Project to a condition satisfactory to the Authority and the City. If such funds are not sufficient to so restore the Project, the City shall provide sufficient additional funds therefor in such amounts as the City and the Authority may agree.

ARTICLE VII
Assignment and Subleasing

7.01. Except for the Authority's assignment of its residual interest as provided for in Section 5.01, the leasehold rights, duties and obligations of the City and the Authority, as specified in this Contract, shall not be assigned, in whole or in part, during the term of this Contract.

7.02. The City may sublease the Project Site in question, or any part of the Project Site or may contract for the use of the Project Site or any part of the Project Site, where the sublease benefits and serves a legitimate public purpose of the City.

7.03. In no event shall any unauthorized assignment or any subleasing release the City from its obligations to pay rent, insurance and the cost of indemnification as provided herein.

ARTICLE VIII
Term of Contract

8.01. This Contract shall terminate three (3) years from the date of this Contract, unless otherwise agreed by the Authority and the City.

ARTICLE IX
Default

9.01. In the event that a party hereto defaults or materially breaches the terms and conditions of this Contract, the non-defaulting party may terminate this Contract upon thirty (30) days prior written notice. The party claiming the right to terminate hereunder shall specify in its written notice the reason(s) underlying the alleged default.

9.02. This Contract may be terminated at any time prior to completion of the Project by the mutual written consent of the parties hereto.

ARTICLE X
Rent

10.01. Upon execution of the Contract, the City agrees to authorize vouchers to pay all invoices and requests for payment submitted to it by the Authority for all work performed and to be performed pursuant to the Contract and such additional expenses, including the reasonable administrative costs of the Authority, as the Authority in its best judgment deems necessary, in an amount not to exceed Two Million Seven Hundred Sixty-Seven Thousand Dollars and 00/100 (\$2,767,000).

ARTICLE XI
Indemnification

11.01. To the extent permitted by law, the City agrees to defend, indemnify and hold harmless the Authority, its Commissioners and employees from any and all liabilities, obligations, damages, penalties, claims, costs, charges and expenses, including, without limitation, fees and expenses of attorneys, expert witnesses and consultants which may be imposed upon, incurred by or asserted against the Authority, arising from any accident, loss, casualty or damage resulting to any person or property through any use, misuse, or nonuse of said Project, or by reason of any act or thing done or not done on, in or about said Project or in relation thereto.

ARTICLE XII
Access to the Project

12.01. The Authority, its employees, agents or representatives may enter the Project for the purpose of completing the construction of the Project and pending final completion of construction of the Project, the City shall operate and use the facilities thereof in such manner as not to interfere with the construction of the Project by the Authority, its employees, agents or representatives.

ARTICLE XIII
Condemnation or Destruction

13.01. In the event of condemnation, destruction or damage to any part or all of the Project during the term of the Contract, the City shall have the option to terminate this Contract upon compliance with all reasonable terms and conditions of the Authority.

ARTICLE XIV
Fair Employment Practices

14.01 Compliance with State and Federal Laws. In accordance with the United States Constitution and all federal legislation and regulations governing fair employment practices and equal opportunity, including but not limited to, Titles VI and VII of the Civil Rights Act of 1964 (P.L. 88-352, 78 STAT. 252), and United States Department of Justice Regulations issued pursuant to those Titles (28 C.F.R. Part 42), and in accordance with the Michigan Constitution and all state laws and regulations governing fair employment practices and equal employment opportunity, including, but not limited to, the Michigan Civil Rights Act (P.A. 1976 NO. 453) and the Michigan Handicappers Civil Rights Act (P.A. 1976 NO. 220), the Authority agrees that it will not discriminate against any person, employee, consultant, or applicant for employment with respect to his (or her) hire, tenure, terms, conditions or privileges of employment or hire because of his (or her) religion, race, color, national origin, age, sex, height, weight, marital status, or handicap that is unrelated to the individual's ability to perform the duties of a particular job or position. The Authority recognizes the right of the United States and the State of Michigan to seek judicial enforcement of the foregoing covenants against discrimination

against itself or its contractors.

14.02. Compliance with City Laws. The Authority agrees to comply with all rules and procedures adopted by the Human Rights Department and shall not discriminate against any employee or applicant for employment, training, education, or apprenticeship connected directly or indirectly with the performance of the Contract with respect to his (or her) hire, promotion, job assignment, tenure, terms, conditions or privileges of employment because of race, color, creed, national origin, age, marital status, handicap, public benefit status, sex, or sexual orientation. The Authority shall promptly furnish any information required by the City Human Rights Department pursuant to this Section 14.02.

14.03. Compliance of Contractors. The Authority agrees that it shall notify any of its contractors of its obligations relative to nondiscrimination under this Contract of Lease when soliciting same and shall include the provisions of this Article in any contract, as well as provide the City with a copy of any such contract. With respect to any contract for the procurement of goods and services for the Project, the Authority further agrees to take such action as the City may lawfully direct as a means of enforcing such provisions.

14.04 Anti-Kickback Laws. The Authority shall require that each of its contractors comply with all anti-kickback laws, including the Copeland Anti-Kickback Act (18 USC §874), and shall prohibit such contractors from inducing, by any means, any person employed in connection with the Project to give up any part of the compensation to which he/she is otherwise entitled. Contractors of the Authority shall be required to insert in their subcontracts substantially similar language to the language in this Section to ensure compliance by subcontractors with the terms of this Section.

14.05 Anti-Bribery. Contractors of the Authority and each of their subcontractors are prohibited from paying or accepting any bribe in connection with securing a contract entered into pursuant to this Contract or in connection with performing under the terms of such a contract. Contractors of the Authority shall insert in their subcontracts substantially similar language to the language in this Section to ensure compliance by subcontractors with the terms of this Section.

14.06. Material Breach. Breach of the covenants in this Article XIV shall be deemed to be a material breach of this Contract.

ARTICLE XV Notices

15.01. All notices, consents, approvals, requests, and other communications ("Notices") required or permitted under this Contract shall be given in writing and mailed by registered or certified first class mail, postage prepaid, and addressed as follows:

If to the City: Detroit Municipal Parking Department
1600 W Lafayette Blvd
Detroit, Michigan 48216
Attn: Director Keith Hutchings

If to the Authority: City of Detroit Building Authority
1301 Third Street, Suite 328
Detroit, Michigan 48226
Attention: Tyrone Clifton, Director

With a copy to: The Allen Law Group, PC
3011 W. Grand Blvd., Suite 2500
Detroit, Michigan 48202
Attention: Floyd E. Allen, Esquire

ARTICLE XVI
Amendments

16.01. The City and the Authority may, from time to time, consider it in their best interest to change, modify or extend a term, condition or covenant of this Contract of Lease or require changes in the scope of the Project which result in an increase of the City's obligation hereunder. Any such change, addition, deletion, extension or modification, including any increase in the amount of the Authority's compensation, which is mutually agreed upon by and between the City and the Authority shall be incorporated in written amendments to this Contract of Lease ("Amendments"). Such Amendments shall not invalidate this Contract of Lease nor relieve or release the Authority or the City from any of its obligations under this Contract of Lease unless so stated therein.

16.02. No Amendment to this Contract of Lease which increases the financial obligation of the City as stated in Article X hereof shall be effective and binding upon the parties unless it expressly makes reference to this Contract of Lease, is in writing, is signed and acknowledged by duly authorized representatives of both parties, and is approved by the City of Detroit City Council.

ARTICLE XVII
Additional Provisions

17.01. The Authority covenants that the City, subject to the residual leasehold interest retained by the Authority, shall and may peacefully and quietly have, hold and enjoy the Project for the term herein provided.

17.02 Nothing contained herein shall be construed to or be permitted to operate as any restriction upon the power granted to the City Council of the City of Detroit by the City Charter to audit and allow all accounts chargeable against the City.

17.03. This Contract shall inure to the benefit of and be binding upon the respective parties hereto and their successors and assigns.

17.04. This Contract contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any prior agreements, promises, negotiations or representations relating to the subject matter of this Contract which are not expressly set forth herein, are void.

17.05. If any provision or part of this Contract contravenes or is invalid under the laws of the State of Michigan and/or federal law, such contravention and invalidity shall not invalidate the whole of the Contract, and this Contract shall be construed as if it does not contain such provision or provisions, and the rights and obligations of the parties shall be construed and enforced accordingly.

17.06. The headings of the sections in this Contract are for convenience only and shall not be used to construe or interpret the scope or intent of the Contract or in any way affect the same.

17.07. This Contract shall be governed by the laws of the State of Michigan, and the rights and remedies set forth herein are not exclusive and are in addition to any of the rights and remedies provided at law or in equity.

17.08 The relationship of the Authority to the City is and shall continue to be that of an independent contractor. It is not intended for this Contract to create any relationship of principal and agent or establish any partnership, joint venture, association or other entity.

IN WITNESS WHEREOF, the CITY and the AUTHORITY by and through their duly authorized officers and representatives have executed this instrument on the day and year first above written.

CITY OF DETROIT BUILDING AUTHORITY, a public authority and body corporate

By: 
Bryan Barnhill, II

Its: Chairman

By: 
Christopher T. Jackson

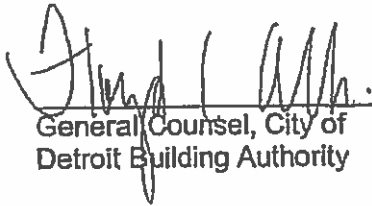
Its: Treasurer

CITY OF DETROIT

By: 

Its: DIRECTOR

APPROVED AS TO FORM:


General Counsel, City of
Detroit Building Authority

APPROVED AS TO FORM:

6/21/19
Corporation Counsel for
the City of Detroit

This Contract of Lease was
approved by City Council:

On: 6/4/19
Date

Finance Department

No. _____ Date _____

I hereby certify that an
appropriation has been
made to cover the
expense to be incurred
under this Contract.

Chief Accounting Officer

PURCHASING DEPARTMENT OF
THE CITY OF DETROIT

DocuSigned by:
Boysie Jackson 6/24/2019
Purchasing Director

EXHIBIT A

Project and Project Site

Funds encumbered by this Contract shall be used for capital improvements needed for the re-opening of the Joe Louis Arena Parking Garage located 900 W. Jefferson, Detroit, Michigan for the following services:

- Architectural/Engineering Services
- Construction Services
- Fixtures and Equipment Purchase and Installation