September 1, 2020

Steve Willobee, Vice President for Government Affairs and Public Relations
Harbor Bay Real Estate Advisors, LLC
3412 Commercial Ave.
Northbrook, IL 60062

Dear Mr. Willobee:

We are writing to respond to your letter of Aug. 27, 2020 (copy attached).

By way of background, East Lansing Info (ELi) was founded as a 501(c)3 nonprofit in 2014 to address the significant and problematic news gap in our city. The people who work for ELi do so out of the belief that bringing news is a public service. They all live in and around East Lansing, and the organization runs on about $150,000 per year thanks to volunteer and underpaid broad participation. ELi exists entirely on local support (from about 700 donors), except for funding obtained through NewsMatch, which this year came to $22,000.

We have made it six years as a local news operation while others are closing nationwide because, as a community service project, we bring high quality factual news that this community trusts. A big part of why we have that trust is the investigative journalism we provide on large redevelopment projects.

The Center City District project, a $125-million redevelopment in which the City of East Lansing contracted with Harbor Bay, is the largest public-private deal ever in East Lansing. The deal has involved leasing out East Lansing’s most lucrative piece of land for 49 years using a method that circumvented getting the voters’ permission. It also involves a Tax Increment Financing (TIF) plan that captures 100% of eligible new taxes for 30 years.

Mr. Willobee, you know all this, because while the project was undergoing approval, you were employed by the Lansing Economic Area Partnership and argued that this deal was in the public’s best interest while employed there. Shortly after, you became a vice president at Harbor Bay.

(continued)
In the case of this deal, as with many topics ELi covers, aside from the decision-makers and the people seeking some action for themselves, the only person who has had the time to track and understand all the parts of this story – which in this case involves a ground lease, commercial condo agreement, a bond with a complex trust indenture, the TIF plan, interlocal agreements, etc. – is one member of ELi’s reporting team. In this case specifically, that’s Dr. Alice Dreger.

Right now, although the Center City District deal is fully executed, your team is trying to undo two parts of it and are undertaking unusual actions in the attempt; besides the letter you sent to us on Aug. 27, you also sent a letter to the City of East Lansing threatening a major lawsuit if your demands are not met. (We attach a copy of your letter to Mayor Aaron Stephens, shared with ELi by a Council member.)

One part of the deal you now want to change is that you want to get out of the age restriction on Newman Lofts – the part of the deal in which you agreed, under the requirements of Ordinance 1384, to restrict that housing to people age 55+. (We attach the letter you sent to the tenants of that building on Aug. 27, supplied to us by a tenant.)

In addition, you are seeking to convince East Lansing’s Brownfield Redevelopment Authority (BRA) that your team is owed a total of about $56 million in tax reimbursement, while documentation pointed to by both Dr. Dreger and former Mayor Mark Meadows indicates that the BRA only has to turn over about $50 million in taxes.

We know that Dr. Dreger’s reporting on this project has been relentless. (We would say it is award-worthy.) We also know that she has brought her findings up at public comment.

For example, during the review process, Dr. Dreger informed the Planning Commission that lead developer Mark Bell of Harbor Bay was misrepresenting several endorsements for the project, something she also reported at ELi.

Dr. Dreger also informed City Council about her ELi reporting on problems in the Master Development Agreement – problems that would have cost the City significant sums – and she did so in time for the City to have its attorney correct the contracts.

She also informed the BRA that the “independent investor” brought in to buy the privately-marketed $25-million public bond was not, as it appeared, “independent,” but was in fact a company owned by Mark Bell’s father, Peter Paul Bell.

(continued)
In all of these cases, the scenario was atypical in terms of the developer’s actions. Because the information uncovered appeared salient to the decision-making process, Dr. Dreger made the decision to inform the East Lansing citizens tasked with making major decisions on this $125M deal. Notably, many of the people making the decisions were volunteer commissioners with no expert knowledge, and they certainly did not have the time to be doing investigative work Dr. Dreger was able to carry out at ELi.

We acknowledge that doing news – especially investigative news – in a small city like ours, using citizen journalists who are passionate about the public good, is complicated. Our Board of Directors’ records show that we engaged the question of “activism” by our reporters in 2015 at a meeting just months after our founding, concluding then, “We all agreed that ELi raises interesting questions about these issues that are complex in practice.”

ELi’s Board acknowledged then and acknowledges now that our reporters might have opinions they want to share outside the pages of ELi. Our reporters are allowed to support political candidates, they publish opinion pieces in other publications, and are able to speak during public comment periods as citizens.

In our reporting at eastlansinginfo.news, our goal is always to bring the facts. We would note that while you say there has been “misinformation” promulgated by Dr. Dreger, you point to no instance in which ELi reported something in error. If you do know of something we should consider correcting, please let us know. (We offer a free ELi t-shirt to anyone who points out necessary corrections, because we are proud of our approach and record.)

Finally, it seems worth putting on the record here that in her reporting on big redevelopment deals in East Lansing, Dr. Dreger has irritated every big developer in town by investigating and/or reporting one thing or another that they’d rather she hadn’t.

So far, only Harbor Bay has launched a website trying to harm us. In addition, only Harbor Bay has invited other local news organizations to a press conference said to be about one thing – support for East Lansing businesses – then used to attack ELi – an East Lansing small business. And only Harbor Bay has written to our trade groups complaining about our work.

We understand that investigative and rigorous reporting may threaten your income. It is our goal to provide the East Lansing community with impactful and informative news. With that, we persist, and we do so with the support of our community.

(continued)
We will continue to operate under the conviction that extraordinary actors in our city require extraordinary scrutiny. Especially when they are seeking the taxpayers’ money.

Sincerely,

Samuel J Hosey Jr
Samuel J Hosey, Jr., President

Jiquanda Johnson
Jiquanda Johnson, Vice President

Raymond D. Vlasin
Raymond D. Vlasin, Treasurer

Maysa Sitar
Maysa Sitar, Secretary

Ann Graham Nichols
Ann Graham Nichols, Public Editor

Signatures have been produced and/or submitted electronically

Attachments:
- Steve Willobee of Harbor Bay to East Lansing Info Pres. Sam Hosey, Aug. 27, 2020
- Foley & Lardner, LLP, to Mayor Aaron Stephens, Aug. 27, 2020
- Harbor Bay to tenants of Newman Lofts, Aug. 27, 2020
- Alice Dreger to East Lansing Brownfield Redevelopment Authority, July 14, 2020
August 27, 2020

Via Email to jodi@eastlansinginfo.news

Sam Hosey, Jr.
President, Board of Directors
East Lansing Info
621 Sunset Lane
East Lansing, MI 48823

Ethics Complaint Against Alice Dreger, Executive Director and Publisher, and the Board of Directors of East Lansing Info (www.eastlansinginfo.org) in East Lansing, Michigan.

Dear Mr. Hosey,

We are sending this letter as a formal ethics complaint against Alice Dreger, Executive Director and Publisher of East Lansing Info, and East Lansing Info’s Board of Directors (“Board”). We regret the need to formalize our grievances, but the circumstances leave us no choice.

As a real estate development and property management firm, we understand that every action we take is subject to scrutiny by the media and other stakeholders. We welcome this aspect of the real estate and governmental approval process and communicate openly with all journalists. In most cases, we seek to engage journalists to share the work and development successes that bring our entire team tremendous pride. In other instances, we address questions from journalists about concerns raised by citizens. Regardless of the circumstances, we openly communicate with journalists on all inquiries to foster fair and truthful coverage of issues surrounding urban renewal and development. This continues to be our practice throughout most of the United States, now with one exception: East Lansing, Michigan. Based on the dangerous comingling of journalism and activism by its Executive Director and Publisher, Alice Dreger, we will no longer entertain or address any inquiries from East Lansing Info.

The reason for this is that we are not certain whom Ms. Dreger represents, and have observed myriad conflicts of interests and resulting misinformation arising from her actions. To be clear, in most email and inquiries, Ms. Dreger identifies herself as being a part of East Lansing Info. Yet Ms. Dreger’s constant transition between journalist and community activist during public meetings sows confusion and concern about what or whose interests she represents.

Despite the stated mission of East Lansing Info that it has a “duty to the community to provide accurate, nonpartisan, factual news,” it is common practice for Ms. Dreger to provide verbal and written public comments in support of or against matters up for consideration by the East Lansing City Council and related entities. This is to be expected from a community activist. But, in most cases, Ms. Dreger is the only journalist reporting on the legislative action up for comment – the very same legislative action that, moments before, she passionately and publicly supported or opposed. Furthermore, in most instances,

1 https://eastlansinginfo.org/about (What does it mean when we say Eli is independent? By Alice Dreger, Publisher and President).
Ms. Dreger is the sole citizen, or one of only a few, providing public comment on such topics. This results in decision-makers engaging in extensive discussion and debate to address just Ms. Dreger’s comments and questions. Then, Ms. Dreger is the lone journalist reporting on these issues. Ms. Dreger’s activism dangerously blurs the line between news gathering and news making, and thereby compromises her role as a source the public can expect to provide fair, accurate, and impartial coverage.

The actions taken by Ms. Dreger on behalf of East Lansing Info raise concerns about East Lansing Info’s commitment to independence. East Lansing Info purports to provide accurate, nonpartisan, factual news, as required for members of the Institute for Nonprofit News and publications of LION Publishers. We are concerned that Ms. Dreger’s actions have compromised these values, which are critical to uphold the public’s confidence in East Lansing Info. We request that you investigate this complaint and take appropriate action immediately.

In full disclosure, we have sent letters to Ms. Dreger, LION Publishers, and the Institute of Nonprofit News to request immediate corrective actions and an end to Ms. Dreger’s dangerous blurring of the line between activism and journalism. We hope that this issue will be resolved and we will not need to take any further action.

Thank you for your consideration of our ethics complaint. If you have any questions, please contact me at steve@harbor-bay.com or (517) 416-1855.

Sincerely,

Steve Willobee
Vice President, Government Affairs and Public Relations
Harbor Bay Real Estate Advisors
August 27, 2020

Mayor Aaron Stephens  
East Lansing City Council Members  
410 Abbot Road, Room 100  
East Lansing, MI 48823

Re: Requested Removal of Age-based Housing Restrictions for Newman Lofts

Dear Council Members,

Please be advised that HB BM East Lansing LLC (“HB BM”) has retained Foley & Lardner LLP with regard to the ongoing dispute with the City Council of East Lansing (“East Lansing” or the “City Council”) regarding the Active Adult restriction applied to HB BM’s Newman Lofts development (“Newman Lofts”).

HB BM participated in the East Lansing Center City District Master Development Agreement (“MDA”) – the largest single investment in East Lansing’s storied history – with every intent to honor the Active Adult restriction for Newman Lofts. Consistent with this intent, HB BM has undertaken and continues to take extensive advertising, outreach, and other efforts to market the Newman Lofts to members of the Active Adult (i.e., 55+) community. Prior to the unprecedented outbreak of the Coronavirus pandemic, Harbor Bay found success in leasing roughly twenty percent of its 91 Active Adult-restricted units.

The catastrophe at Harper’s Restaurant is indicative of City Council’s negligence in controlling the Coronavirus outbreak through its careless execution of “Open-Air Dining Areas.” See East Lansing City Council Approves New Measures to Support Economic Recovery Efforts for Restaurants, EAST LANSING, MI, June 10, 2020, https://www.cityofeastlansing.com/CivicAlerts.aspx?AID=1179. City Council did not adequately communicate this action to the businesses along Albert Avenue. Neither HB BM, nor its commercial tenants, received written or verbal notice as to the time, nature, and details of the Open-Air Dining Area along Albert Avenue. There were no signs or communications advising or requiring patrons in the Open-Air Dining Area to social distance, wear masks, or engage in other conduct known to reduce the spread of Coronavirus. Significant crowds formed within the Open-Air Dining Area, particularly at night, with no oversight, policing, or regulation by the City of East Lansing. Witnesses, photographs, and video footage depict patrons forming long lines at establishments without social distancing, patrons playing “beer pong” on tables, and passersby drinking out of partially consumed alcoholic beverages – all within City Council’s Open-Air Dining Area.

City Council’s poor execution of the “Open-Air Dining Area” left businesses along Albert Avenue, including but by no means limited to Newman Lofts, in a vulnerable state. City Council made Downtown East Lansing a public health risk. The aftermath of City Council’s negligence cannot be understated. Businesses along Albert Avenue, including many of HB BM’s commercial tenants, shuttered. Consumer activity in Downtown East Lansing is paralyzed. For example, HB BM’s commercial tenants suffered a ninety percent (90%) drop in revenue. As a result, HB BM has offered rent deferral and abatement to its commercial tenants in order to help them survive and continue to serve the East Lansing community – at substantial cost to HB BM.

To make matters worse, Michigan State University (“MSU”) will not hold in-person classes, sporting events, or other community activities for the Fall 2020 semester. These events are the main impetus for many, especially those in the Active Adult demographic, to move to Downtown East Lansing. And just last week, MSU’s President told students to stay home for the Fall semester and encouraged students and employees to stay away from East Lansing, as “[w]e’re seeing on our campus . . . that a few mistakes by some are having large impacts on many.” Samuel L. Stanley, Jr., Fall Semester Plans Change, August 18, 2020, https://president.msu.edu/communications/messages-statements/2020_community_letters/2020-08-18-plans-change.html. If MSU believes East Lansing is unsafe for young adults (a comparatively low-risk group), how can the City demand compliance with a rental restriction that endangers highly vulnerable populations? In light of East Lansing’s infamy as a Coronavirus hotspot, the City’s predominant institution warning people to stay away to avoid risks to vulnerable populations, and City Council’s unreasonable insistence on the Active Adult restriction shackling Newman Lofts, HB BM faces the untenable choice between economic survival and the health of its prospective tenants.

The Coronavirus pandemic has thus frustrated the purpose of the Active Adult restriction placed on Newman Lofts and rendered it commercial impracticable. Members of the Active Adult community are not relocating, let alone to East Lansing. To the extent people are moving during the pandemic, it is often to reduce their risk of contracting Coronavirus. Twenty-eight percent (28%) of
U.S. adults who moved due to Coronavirus did so to reduce their risk of exposure – the single most prevalent reason for relocating during the pandemic. The remaining seventy-two percent (72%) moved due to the closure of a college campus, to be closer to family, or for financial reasons. See D’Vera Cohn, *About a Fifth of U.S. Adults Moved Due to COVID-19 or Know Someone Who Did*, PEW RESEARCH CENTER, July 6, 2020, [https://www.pewresearch.org/fact-tank/2020/07/06/about-a-fifth-of-u-s-adults-moved-due-to-covid-19-or-know-someone-who-did/](https://www.pewresearch.org/fact-tank/2020/07/06/about-a-fifth-of-u-s-adults-moved-due-to-covid-19-or-know-someone-who-did/). Given the scale of the pandemic in East Lansing and the national attention it has received, East Lansing is one of the last places to which Active Adults would move.

There are no indications that this grim outlook will change. Since the pandemic struck Michigan in March 2020, resulting in the on-campus closure of MSU, HB BM has only been able to lease four (4) units despite its earnest efforts. Currently, a majority of Newman Lofts remains empty, with an occupancy rate of 27.5% or sixty-six (66) vacant units. The sole cause of this devastation to Newman Lofts is the Coronavirus pandemic and the unique threat it poses to the Active Adult community.

The Coronavirus pandemic was completely unforeseeable – an event the non-occurrence of which was a basic assumption of the MDA and its Active Adult restriction. It was not within the control of HB BM, the City Council, or any third party. The pandemic did not merely disrupt existing market conditions or HB BM’s financial situation – it completely undermined the ability for an Active Adult-restricted development to safely operate. HB BM’s ability to maintain Newman Lofts as an Active Adult community has been rendered impracticable due to the extreme and unreasonable difficulty, expense, injury, and loss it would cause to HB BM. It is a difference not of degree, but kind.

Moreover, and more importantly, even if HB BM could somehow lease to the 55+ demographic and operate Newman Lofts as an Active Adult community, this would pose heightened risks to this community. Taken together, persons aged 55 years or older face the highest incidence of death from COVID-19:
Within Michigan, persons 50 years of age or older account for 48% of COVID-19 cases, but 94% of COVID-related deaths:


Active Adult communities around the country are grappling with the acute dangers the Coronavirus presents to the safety, wellbeing, and lives of their members. See, e.g., Rebecca Woolington and Bethany Barnes, In the Villages, America’s biggest retirement oasis, the dangers of coronavirus stack up, TAMPA BAY TIMES, April 4, 2020, https://www.tampabay.com/special-reports/2020/04/04/in-the-villages-americas-biggest-retirement-oasis-the-dangers-of-coronavirus-stack-up/; Tim Mullaney, Senior Living Providers Fear Hardest Weeks of COVID-19 Lie Ahead, SENIOR HOUSING NEWS, May 18, 2020, https://seniorhousingnews.com/2020/05/18/senior-living-providers-fear-hardest-weeks-of-covid-19-lie-ahead/. If the City Council insists on applying the Active Adult restriction, and HB BM could somehow find Active Adults willing to live in the Newman Lofts, this would create an immense danger to the very demographic the City Council seeks to accommodate. HB BM is not willing to act as an accessory to the willful endangerment of the Active Adult community.

Despite mounting health and financial challenges due to Coronavirus, HB BM continues its efforts to help the East Lansing community. HB BM has extended financial relief in the form of rent deferral and abatement to its suffering commercial tenants, such as Foster Coffee, Barrio, and Jolly Pumpkin. Most recently, HB BM commissioned an inspirational mural by award-winning muralist Lauren Asta. See Traveling Muralist Lauren Asta to Begin Center City Mural this Week, CITY OF EAST LANSING, July 6, 2020, https://www.cityofeastlansing.com/CivicAlerts.aspx?AID=1202. HB BM is fighting for the survival of East Lansing’s downtown business community, but the financial losses caused by the Active Adult restriction will hamstring its efforts if City Council fails to act.

Moreover, COVID-19 making Newman Lofts unfeasible has broader serious financial implications. Vacant residential units in the downtown have a dramatic negative effect on downtown businesses for a number of reasons. First, there will be less consumer activity. Second, vacant residential units in the downtown area will result in a direct loss of revenue to the City of East Lansing, by means of reduced income and sales tax. Third, if relief is not given to HB BM, it will have no choice but to pursue its legal rights in protesting the real estate taxes assigned to Newman Lofts (Newman Lofts is currently fully assessed as if it were 95% occupied), thus resulting in a significant revenue shortfall to the City of East Lansing.

HB BM has brought its worsening plight and the dangers created by the Active Adult restriction to the City Council’s attention on numerous occasions. On April 1, 2020 and April 16, 2020, letters were sent to former Mayor Beier to begin developing a feasible solution. Yet East Lansing continues to insist that HB BM do the infeasible – lease only to the Active Adult community – and thereby place members of a vulnerable demographic in harm’s way. As previously discussed, converting Newman Lofts to affordable housing or condominiums will not provide sufficient property tax revenue to support the public infrastructure improvements accompanying the project. If the City Council will not engage in good faith efforts to resolve this impasse by removing the age-based housing restriction by September 30, 2020, HB BM will resort to appropriate legal action.
The foregoing demand is made without waiving or limiting any right or remedy, and HB BM expressly reserves the right to exercise any and all such rights and remedies. I look forward to your prompt response through you or your counsel to these urgent matters.

Sincerely,

Vanessa L. Miller

cc:  Thomas Yeadon (via electronic mail)
     Jessy Gregg, Mayor Pro Tem (via electronic mail)
     George Lahanas (via electronic mail)
     Thomas Fehrenbach (via electronic mail)
     Mark Bell (via electronic mail)
     Steve Willobee (via electronic mail)
Good Afternoon, Newman Lofts Residents,

As we sit here at the end of August, I don’t think anyone could have imagined the devasting impact that COVID-19 has had in 2020. Many of you may have noticed in the last week an increased traffic in East Lansing with students moving back for Fall semester. While normally this period of the year would be met with welcome arms from the community, this year comes with a cautious atmosphere, as no in-person classes will occur for the semester. Nearly four (4) months since Governor Whitmer executed her Stay in Place Order (which has been partially lifted with restrictions), it is quite evident to see the drastic impact this virus has had on businesses and local economies across the state. Many businesses, restaurants, and even arts institutions, have lost revenues that they will never recoup, and they’ve had to make hard decisions like cancelling their remaining 2020 calendar events as evidenced at The Wharton Center. We, at Harbor Bay (Developer and Management company of Newman Lofts), has equally faced financial hardships through this pandemic and had to make difficult decisions as to what is the best course of action to ensure Newman Lofts remains viable, and a thriving community in downtown East Lansing.

After months of searching for creative viable options, I wanted to personally inform you that this morning, we formerly submitted a request for COVID-19 Financial & Health Relief from the City of East Lansing (City) for Newman Lofts. We are requesting a permanent removal of the City’s age-based housing restriction for Newman Lofts. The letter that was provided to the City and the press event video from the event is available at https://eliexposed.com/harbor-bay-efforts/

As you may recall, in April 2020, we sent correspondence to the City requesting that we begin a conversation focusing on developing a viable financial and health solution for Newman Lofts, should this become a prolonged health crisis. Unfortunately, those inquiries weren’t given any serious consideration, and we were publicly criticized by Councilmembers, through Eli (East Lansing Info). The letters that were submitted by Harbor Bay to the City are available at the links provided below.


As was stated in the April 16th letter, “The next 4.5 months, and most likely beyond, will be the toughest stretch most East Lansing businesses will ever encounter. Not even in the darkest days of the Great Recession in 2008, do I believe that any business owner ever envisioned a scenario where MSU would be forced to close their campus. And, there is no guarantee that the catastrophic conditions will end in 4.5 months.” Unfortunately, this unwanted prediction came true and was validated with Michigan State University’s recent announcements concerning fall classes and Big 10 football. We can no longer proceed forward “as is”. In these uncertain times, our intent has never been to create greater uncertainty for you or your loved ones. For financial and health reasons, solely beyond our control, we must proceed forward with our request to the City. The unprecedented nature of the pandemic is the only reason Harbor Bay and its partners are looking for cooperation from the City on this matter.

As we progress forward on this matter, we will periodically update you on where matters stand. In the event that this COVID-19 financial and health relief is provided to Newman Lofts, we are fully committed to hearing your concerns and working to a solution that works for both parties should you
no longer seek tenancy at Newman Lofts.

If you have questions, Harbor Bay’s COO, Brian Bell will be in town on Tuesday (11th) and be holding a 30-minute “Meet & Greet” to address any questions that you may have. The “Meet & Greet” will occur outside on the private rooftop park, weather permitting. This event will be held at 2PM on Tuesday, September 1st. If you are unable to attend, but would like to send us your questions, please email Meghann Bakken, assistantmgr@newmanlofts.com, and she will make sure your concerns are given to Brian during his visit.

Brian E. Bell, CPM ®
Chief Operating Officer
Harbor Bay Real Estate
3412 Commercial Ave. | Northbrook, IL 60062

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Our mailing address is:

Newman Lofts
200 Albert Ave
East Lansing, MI 48823
Dear Members of the East Lansing Brownfield Redevelopment Authority and Downtown Development Authority:

As you are aware, at its meeting of July 9, 2020, the East Lansing Brownfield Redevelopment Authority (BRA) passed a Resolution Authorizing the Issuance and Delivery of Limited Obligation Tax Increment Revenue Refunding Bonds and Providing for Related Matters.

It appears that the BRA in so doing is making dangerously incorrect assumptions about limitations on the Center City District Tax Increment Financing (TIF) Plan, East Lansing Brownfield Plan #24, and that it is poised to create over $2 million in worthless paper.

It appears that the original bond for Center City included $875,482 in issuance fees (for Miller Canfield; Dykema; Baird; Scottsdale Capital; etc.) for which there is no provision for repayment from the TIF. There seems to have been (including by me) a critical misunderstanding of what Council wrote into the TIF authorizing resolution.

The BRA is poised now to repay those issuance fees, new issuance fees, and cost overruns out of a new bond, none of which can be paid back with TIF.

This is what that authorizing resolution, passed at Council’s June 20, 2017, meeting, says:

“NOW THEREFORE BE IT RESOLVED, that the Council for the City of East Lansing accepts the recommendation of the Authority, and approves the adoption of the Brownfield Plan #24 with the following condition. Only the expenses that are detailed in an approved Master Development Agreement Exhibit N ‘City Approved Eligible Activities’ shall be financed with Brownfield Revenue Bonds payable solely from the pledged tax increments revenues from the Eligible Property and payment of those bonds will be the only eligible expenses to be reimbursed for Brownfield Plan #24[.]”

I attach a copy of the passed resolution as shown in the minutes of the June 20, 2017, meeting. (This is marked “draft,” but these minutes were approved by Council at the July 27, 2017 meeting.)

There are two critical elements of this Council Brownfield authorizing resolution:

1. Only the construction expenses that are detailed in the Exhibit N Column 2 shall be financed with the bond. No other construction expenses can be funded from the bonds. This was put in by Council (particularly Ruth Beier, according to Mark Meadows) as a way to avoid having unpredictable costs for the public infrastructure.

2. Very significantly, “payment of those bonds will be the only eligible expenses to be reimbursed for Brownfield Plan #24” (emphasis added).

Exhibit N appears on page 239 of the final MDA. I attach a copy.

You can see what that list allows for, including environmental cleanup and construction costs totaling $24,389,518 and interest of $25,828,307 for a total payout from the TIF limited to $50,217,825. (The MDA on p. 10 specifies that Column 2 is the operative column in the agreement.)
To be clear, these figures – roughly $24.4M for costs, $25.8M for interest, and $50.2M total – are not just the limit of what can be paid to the bond debt from TIF. Because of how the Council resolution was worded, these are the limits of what can be paid out of the TIF, regardless of the TIF plan showing higher amounts.

The developers (and our staff and Bond Counsel?) have been wrongly assuming the limit is the $56M stated in the TIF. It’s $50M.

Now, if you look at the closing statement from Baird on the original bond, you will see this:

<table>
<thead>
<tr>
<th>Account Number</th>
<th>Account Type</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3581043023</td>
<td>BRA Project Fund</td>
<td>$24,389,518.00</td>
</tr>
<tr>
<td>3581043014</td>
<td>Reserve Fund</td>
<td>0.00</td>
</tr>
<tr>
<td>3581043032</td>
<td>Cost of Issuance</td>
<td>$875,482.00</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$25,265,000.00</td>
</tr>
</tbody>
</table>

The Trust Indenture refers to the same figures. The “BRA Project Fund” matches exactly to Exhibit N, Column 2. That is the total of the specific scheduled items allowed to be paid back with TIF.

That $875K in cost of issuance is not allowed to be paid back with TIF. Council limited the use of TIF to stop it from being used for anything other than the costs of environmental cleanup and construction of public infrastructure.

There are “soft costs” written into the Exhibit N, Column 2. But if the cost of issuance was coming out of those soft costs, they would come out of the BRA Project Fund, not a separate line item “Cost of Issuance.”

Therefore there is no provision to pay the $875K costs of issuance from the TIF.

As Councilmember Mark Meadows wrote in an explanatory email to me on July 10, 2020, “Notably, the costs of issuance can be bonded, they just can’t be paid for with TIF.”

The same will be true with the refunding bond. TIF cannot be used to pay for the cost of issuance on the existing bond or the refunding bond. TIF cannot be used to pay for cost overruns on the construction. Not now, not later, not ever. Not without an action by Council changing the authorizing resolution on the TIF. (That is about as likely as snow in July.)

So, while I thought what was going on is that our tax dollars were being used to pay the Bells’ attorney (Dykema) and financial advisor (Baird), in fact, when the issuance of the bond happened, because the Bells bought the bond, they were paying for our attorney (Miller Canfield)!

This would amuse me were it not for the fact that it means our BRA issued a bond with $875,482 of virtually worthless paper. There is no provision for paying that back, except perhaps with interest earned.
But there would be even less interest earned in the fund than there should be, because, as we learned in conjunction with the July 9 BRA meeting, City staff accidentally paid $335,000 in interest income to the Bells as developers for cost overages on the public infrastructure. It appears that the developers convinced City staff the BRA owed them that money because expenses for the public infrastructure exceeded the Council-imposed limit on costs.

At the July 9 meeting, Mark Bell demanded an additional $822,000 for cost overruns. Tom Yeadon, representing the City and BRA, pointed to the cost limiting provision in the MDA. Jarrod Smith of Dykema responded that the MDA had terminated with completion of the project.

Mr. Yeadon should have then responded that that termination of the MDA doesn’t matter. The Council resolution authorizing use of the TIF limited the payout via the bond from TIF to $24,389,518 plus interest on that money, with a total cap on the TIF payout of $50,217,825.

The Council resolution has not terminated.

I learned from Mr. Meadows on Friday that, before the Thursday meeting, he provided Mr. Yeadon, Mr. Lahanas, and Mr. Stephens the attached letter (which he shared with me on July 10) to warn them about exactly this. It is in hindsight unfortunate that he did not share it more widely, although I’m not sure how many people would have understood this as well as he does.

The bottom line is this:

If you, our BRA, bond to pay off the original issuance costs (about $875,000), and you bond to pay off new issuance costs (including $75,000 to Dykema for representing the developers, $90,000 to Baird for his representation of the developers, $50,000 for an unexplained “developer’s fee,” as voted at the meeting), and you bond to pay Mr. Bell another $822,000 for expenses, you will be creating at least $1,912,000 in bond principal for which there is no provision to be paid so far as I can see.

You also indicated plans to pay Mr. Danhof and a yet-to-be-located financial advisor from the new bond. This will bring that sum over $2 million.

In other words, you will have created over $2 million in worthless paper in the new bond(s).

I am not sure how this happened, but based on watching recordings of meetings, checking documents, checking minutes, and creating a timeline, I believe Mr. Danhof missed the Council authorizing resolution’s limitation on use of TIF. I believe Mr. Lefler also missed it.

You should not create (any more) worthless paper. And Mr. Danhof should definitely comp the refi bond work.

Sincerely,

Alice Dreger

cc: East Lansing City Council

Attachments:

- Minutes of the June 20, 2017, East Lansing City Council meeting showing the Brownfield authorizing resolution with the limitations on use of TIF.
• Exhibit N from the Center City District Master Development Agreement (agreement was executed October 31, 2017)
• Closing letter from Baird for the original bond
• Mark Meadows’ communication prior to the July 9, 2020 meeting. About this, he wrote to me on July 10, “I shared [it] with Aaron [Stephens], Tom [eadon] and George [Lahanas] prior to the meeting. I don’t know if it was discussed. I intended to send it to all members of the [BRA] but in the end decided only to share it with the above persons.”
Present: Altmann, Draheim, Woods, Beier, Meadows
Absent: 0

The meeting was called to order at 6:05 p.m. by Mayor Meadows. The meeting was held in Council Chambers of the 54-B District Court, 101 Linden Street, East Lansing.

Item 1  Approval of the Agenda

Moved by Draheim, seconded by Woods to approve the agenda.

ALL YEAS
MOTION CARRIED

Item 2  Approval of the Minutes

Moved by Altmann, seconded by Woods to approve the minutes for the June 06, 2017 regular meeting.

ALL YEAS
MOTION CARRIED

Item 3  Written Communication

Document of written communication received by Council as of today’s date is in agenda packet and available to the public on Granicus system on City website www.cityofeastlansing.com.

Mayor Meadows reported a total of 82 communications relating to the Center City project. He cited 8 emails were in opposition and 74 were in support of the project.

Mayor Meadows, also, reported 20 communications regarding the Farmer’s Market issue. He stated 18 were in opposition and only 2 were in support.

Item 4  Communications from Audience

- Tyler McCastle, 2310 West Washtenaw, spoke in support of the Harbor Bay – Center City Project.
- Mike Crawford, 1026 N. Washington Ave, Lansing, spoke in support of the Center City Project.
- Betty Nocera, 1000 Coleman Rd, spoke in support of the Center City Project.
- John Kaumeyer, 2112 Holiday Lane, Lansing, spoke in support of the Center City project.
- Amanda Tickner, 630 Sunset Lane, spoke in opposition to the Harbor Bay – Center City Project.
**Item 5**

Communication from Mayor and Council Members

Councilmember Altmann:
- No report.

Councilmember Woods:
- No report.

Councilmember Draheim:
- No report.

Mayor Pro Tem Beier:
- No report.

Mayor Meadows:
- No report.

**Item 6**

City Manager’s Report

City Manager George Lahanas:
- No report.

**Item 7**

City Attorney’s Report

City Attorney Tom Yeadon
- No report

**Item 8**

Public Hearing – Site Plan and S.U.P

Consideration of a Site Plan and Special Use Permit application from Harbor-Bay Real Estate Advisors for the properties at 125, 135, and 201 East Grand River Avenue and 200 Albert Avenue to demolish existing structures to construct a 12-story (140 feet in height) mixed-use building with the following uses:

- 22,225 square feet of retail on Grand River
- 23,917 square feet of retail on Albert Avenue
- 273 market rate apartments
- 92 apartments reserved for 55 years and older
- Parking structure with 715 parking spaces

The properties are located in the B3, City Center Commercial District.

Resource Tim Dempsey, Director of Planning, Building & Development

Meadows opened the item for public comment:

- Ralph Monsma, 1350 Red Leaf Lane, spoke in opposition to the Center City Project.
- Jay Brant, 1300 Blanchette Drive, spoke in opposition to the Center City Project.
David Krause, 117 Center, spoke regarding the Center City Project.
Alice Dreger, 621 Sunset, expressed concern regarding the Center City Project.
Jill Rhode, 220 MAC, spoke in support of the Center City Project.
Kate Powers, 6077 Horizon Drive, spoke in support of the Center City Project.
Tom Eastwood, 1523 Picadilly Drive, Haslett, spoke regarding the Center City Project.
Jj Kidder, 630 Sunset Lane, spoke in opposition to the Center City Project.
Linda Dufelmeier, 211 MAC Avenue, spoke in opposition to the Harbor Bay Project.
Dave Sell, Tin Can, spoke in support of the Center City Project.

No further comment, the public comment period was closed.

Dempsey updated Council and answered questions about the site plan.

Moved by Draheim, seconded by Altmann to approve a Site Plan and Special Use Permit application from Harbor-Bay Real Estate Advisors to demolish all existing structures on the properties at 125, 135 and 201 East Grand River Avenue and 200 Albert Avenue, and construct a 12-story (132 feet in height) mixed-use development with the following uses:

- 22,225 square feet of retail on Grand River
- 23,917 square feet of retail on Albert Avenue
- 273 market rate apartments
- 92 apartments reserved for 55 years and older
- Parking structure with 715 parking spaces

Subject to the following conditions:

1. Water and sanitary sewer extensions and connections shall be approved by the City Engineer in accordance with all applicable State and local regulations.

2. Final grading, soil erosion control, paving and utility plans for the site shall be approved by the City Engineer in accordance with all applicable local requirements.

3. The required permit(s) shall be obtained from the City of East Lansing and the Michigan Department of Environmental Quality if any filling or excavation is to be done within regulated wetland/flood plain areas.

4. Prior to the completion of the project, the City's Engineering Department will evaluate the existing sidewalks along the property being developed or re-developed to determine if any of the existing sidewalk is considered hazardous based on the Policy Resolution 2016-5 and the City's Sidewalk Repair Criteria.

5. Final landscaping and screening details shall be designed in accordance with section 50840 of the City Code. A final landscape plan shall be approved by the Planning and Zoning Administrator and signed-off on prior to installation.

6. Bike racks shall be installed sufficient to accommodate at least 288 bicycles.
7. Site lighting shall be installed in accordance with the requirements of section 50-155 of the City Code.

8. The trash containers shall be constructed and screened in accordance with the requirements of section 50-147 of the City Code.

9. Recycling containers shall be provided in accordance with section 36-86 of the City Code.

10. The required permit(s) shall be obtained from the Department of Planning, Building, and Development for all exterior signs, in accordance with Chapter 32 – Signs of the City Code.

11. The project shall be designed and developed in accordance with all applicable State and local statutes, codes and regulations.

12. A Memorandum of Special Use Permit shall be filed with the County Register of Deeds per section 50-96 of the City Code.

13. The project shall meet the design requirements established in the “East Lansing Design Guidelines” developed in 2014.

14. The applicant shall meet the requirements for Public Art established in the City Code.

15. The developer shall secure approvals from Michigan Department of Transportation for all work within the Grand River Avenue right-of-way.

16. The developer shall submit final design and construction documents for all public infrastructure improvements to be approved by the City Engineer.

17. The master deed and bylaws for condominiums shall be approved by the City Attorney in accordance with local requirements.

18. The developer shall develop the project in accordance with the approved construction containment plan. Deviations from the approved construction containment plan shall be approved by the City Engineer.

19. The developer, Downtown Development Authority, Brownfield Authority, and City Council must enter into a Development Agreement which shall stipulate what entity will be responsible maintenance and security of the 200 Albert Avenue building pedestrian walkway.

20. A variance for one foot of setback of Grand River Avenue.
21. The developer shall provide for directional business signage clearly visible from pedestrian walkways on M.A.C. Avenue, Grand River Avenue and Abbot Road.

22. All sidewalk and driveway intersections shall be paved concrete and brick patterns to alert pedestrians of vehicle driveways.

23. The developer shall provide a lighting plan for the pedestrian walkway and alley for administrative approval.

24. Deliveries to the site shall be approved for the hours between 6:00 a.m. and 10:00 p.m.

25. The parking ramp shall be designed such that temporary access can be made available via the alley during special circumstances/events.

Discussion:

Altmann stated he is in support of the site plan.

Beier spoke in support of the site plan and noted how she worked to improve the project.

Draheim explained why she is in favor of the site plan.

Woods expressed her support for the site plan.

Meadows revealed his connection with the Ballein family. He, also, highlighted why he is supportive of the site plan.

MAIN MOTION:
ALL YEAS
MOTION CARRIED

Item 9                                                                      Public Hearing – Brownfield Plan #24
Consideration of Brownfield Plan #24 for the Center City District to be located at 125 and 133, 135, 201-209 East Grand River Avenue and 200 Albert Avenue

Resource: Lori Mullins, Community and Economic Development Administrator

Meadows opened the item for public comment:

- Jay Brant, 1300 Blanchette Drive, spoke in opposition to the Center City Project.
- Alice Dreger, 621 Sunset, expressed concern regarding the Center City Project.
- Ralph Monsma, 1350 Red Leaf Lane, spoke in opposition to the Center City Project.

No further comment, the public comment period was closed.

Mullins gave a brief overview of the Brownfield Plan #24 and answered Council’s questions.
William J. Danhof (Miller-Canfield) answered questions regarding bond default.

Moved by Beier, seconded by Draheim to approve a resolution to adopt Brownfield Plan #24 for the City of East Lansing, approving tax increment financing for the redevelopment of the Center City District located at 125, 133, 135, and 201-209 East Grand River Avenue and 200 Albert Avenue East Lansing, Michigan in compliance with the provisions of Act 381, Public Acts of 1996 as amended.

Discussion:

Altmann provided insight into his support for the 100% tax capture rate.

Beier addressed a public comment concerning the un-redacted market survey.

Draheim addressed the development density issue.

Meadows noted building the City upward is environmentally better than building outward.

MAIN MOTION:
ALL YEAS
MOTION CARRIED

CITY OF EAST LANSING
EAST LANSING CITY COUNCIL

A RESOLUTION TO ADOPT BROWNFIELD PLAN #24
FOR THE CITY OF EAST LANSING, APPROVING TAX INCREMENT FINANCING FOR THE REDEVELOPMENT OF THE CENTER CITY DISTRICT LOCATED AT 125, 133, 135, AND 201-209 EAST GRAND RIVER AVENUE AND 200 ALBERT AVENUE EAST LANSING, MICHIGAN IN COMPLIANCE WITH THE PROVISIONS OF ACT 381, PUBLIC ACTS OF 1996 AS AMENDED.

WHEREAS, on August 15, 2000, the City of East Lansing Council, pursuant to and in accordance with the provisions of the Brownfield Redevelopment Financing Act, being Act 381 of the Public Acts of the State of Michigan of 1996, as amended (the “Act”), established the City of East Lansing Brownfield Redevelopment Authority (the “Authority”) to facilitate the implementation of plans relating to the identification and treatment of eligible properties in East Lansing; and

WHEREAS, on August 15, 2000, the City of East Lansing Council adopted the original Brownfield Plan for the City of East Lansing; and

WHEREAS, the property located at 201-209 East Grand River Avenue and 200 Albert in the City of East Lansing have been determined to be a “Facility” as defined by Act 381 of Public Acts of 1996; and
WHEREAS, the property located at 125, 133, 135, and 201-209 East Grand River Avenue and 200 Albert Avenue City of East Lansing (the “Property”) have all been determined to be a “Facility” or “Adjacent and Contiguous” as defined by Act 381 of Public Acts of 1996; and

WHEREAS, a brownfield redevelopment plan has been prepared as Brownfield Plan #24 for the City of East Lansing (the “Plan”), to restore the environmental and economic viability of the property; and

WHEREAS, pursuant to and in accordance with Section 13 of the Act, the Brownfield Authority, on May 22, 2017 approved Brownfield Plan #24; and

WHEREAS, East Lansing City Council has reviewed the Plan, and has provided a reasonable opportunity to interested persons to express their views and recommendations regarding it in accordance with Section 13(12) of the Act; and

WHEREAS, all taxing jurisdictions that levy taxes under the Act were notified by mail of both public hearings regarding Brownfield Plan #24, informed of the fiscal and economic implications of Brownfield Plan #24, and provided an opportunity to be heard in accordance with Section 13(13) of the Act; and

WHEREAS, a second public hearing was scheduled for June 13, 2017 and that meeting was rescheduled to June 20, 2017 with written notice of the rescheduled meeting being sent to all taxing jurisdictions that levy taxes under the Act.

WHEREAS, the City of East Lansing Council held a public hearing on May 9, 2017 and June 20, 2017 to receive comment on the proposed Brownfield Plan #24 in accordance with Sections 13(10) and 13(12) of the Act; and

WHEREAS, on June 20, 2017, East Lansing City Council deemed that Brownfield Plan #24 meets all requirements of a Brownfield Plan under the Act, the plan constitutes a public purpose, the proposed method of financing the costs of eligible activities is feasible, the costs of eligible activities are reasonable and necessary to carry out purposes of the Act, and the amount of captured taxable value estimated to result from adoption of Plan is reasonable.

NOW THEREFORE BE IT RESOLVED, that the Council for the City of East Lansing accepts the recommendation of the Authority, and approves the adoption of the Brownfield Plan #24 with the following condition. Only the expenses that are detailed in an approved Master Development Agreement Exhibit N “City Approved Eligible Activities” shall be financed with Brownfield Revenue Bonds payable solely from the pledged tax increments revenues from the Eligible Property and payment of those bonds will be the only eligible expenses to be reimbursed for Brownfield Plan #24

Item 10
Consideration of a development agreement between the City of East Lansing, East Lansing Brownfield Redevelopment Authority, East Lansing Downtown Development Authority, and HB BM East Lansing, LLC, for the Center City District redevelopment project

Resource: Tim Dempsey, Director of Planning, Building & Development

Meadows opened the item for public comment:
Jay Brant, 1300 Blanchette Drive, spoke in opposition to the Center City Project.
Alice Dreger, 621 Sunset, spoke regarding the Center City Project.
Joseph Kulminski, 102 Albert Ave, spoke in opposition to the Center City Project.
Jj Kidder, 630 Sunset Lane, spoke in opposition to the Center City Project.

No further comment, the public comment period was closed.

Dempsey briefed Council and answered questions regarding the development agreement.

Yeadon answered questions relating to the development agreement.

William J. Danhof (Miller-Canfield) answered questions regarding bonds.

Moved by Beier, seconded by Altmann to approve the East Lansing Center City District Development Agreement, dated 6/20/2017.

Discussion:

Moved by Meadows, seconded by Draheim to amend Article V Section 5.1 on page 11 of the Ground Lease to read as follows: “Rental payments shall begin on the first day of the first month following the date on which a Certificate of Occupancy is issued for the Parking Structure Unit (the “Rental Unit Rent Date”) and shall be due at a total annual rental of [$80,000.00], to be paid in equal monthly installments of [$6,667.00]; and to also amend page 12 of Article V Section 5.3 to read as follows: “Rental payments shall begin on the first day of the first month following the date on which a Certificate of Occupancy is issued for the Parking Structure unit (the “Active Adult Housing Unit Rent Date”) and shall be due at a total annual rental of [$120,000.00], to be paid in equal monthly installments of [$10,000.00]; and”

ALL YEAS
MOTION CARRIED

Moved by Meadows, seconded by Draheim to amend Section VI subparagraph D to read as follows: “If the results of the report are not satisfactory then the City must provide a Notice of Termination within two business days.”

ALL YEAS
MOTION CARRIED

Moved by Meadows, seconded by Beier to amend page 3 of the Parking Agreement by striking the bracketed portion and to amend page 4 subparagraph (b) to read as follows: “There has been the passage of thirty (30) days written notice and opportunity to cure by Developer, if such cure has not been effected within the said thirty (30) day period after the written notice.”

ALL YEAS
MOTION CARRIED
Moved by Meadows, seconded by Beier to amend the Parking Agreement to conform with the
Development Agreement on the number of parking spaces [116].

ALL YEAS
MOTION CARRIED

Discussion:

Beier gave her thoughts on the new revenue generated from the project.

Altmann stated he is in favor of the revenues and he offered to talk with anyone who is concerned
about the project.

Meadows explained why he is in support of the project and noted this is not a final agreement.

MAIN MOTION, AS AMENDED
ALL YEAS
MOTION CARRIED

Item 11 Adjournment

Without objection, the meeting was adjourned at 10:08 p.m.

______________________________                     ___________________________________
Mark S. Meadows                 Jodie Seaver
Mayor                                                       Administrative Secretary
EAST LANSING CENTER CITY DISTRICT
MASTER DEVELOPMENT AGREEMENT

EXHIBIT N

Exhibit N consists of the list of City Approved Eligible Activities as defined in the Agreement, a copy of which is attached.
# Environmental Eligible Activities

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scenario A</td>
<td>Proposed Brownfield Plan #24</td>
</tr>
<tr>
<td>A. Entire Site - TIF Eligible Expense Estimate</td>
<td></td>
</tr>
<tr>
<td>Scope Description</td>
<td>Estimated Cost</td>
</tr>
<tr>
<td>Site Analysis and Environmental Baseline Study</td>
<td>34,000</td>
</tr>
<tr>
<td>Due Care Activities</td>
<td>77,250</td>
</tr>
<tr>
<td>Additional Response Activities</td>
<td>6,000</td>
</tr>
<tr>
<td>Contingency</td>
<td>14,000</td>
</tr>
<tr>
<td>Indirect Costs (CM/Permits/Bonding) - Not included in Contingency</td>
<td>1,592,000</td>
</tr>
<tr>
<td>A. Subtotals</td>
<td>$249,498</td>
</tr>
<tr>
<td>B. Non-Environmental Eligible Activities</td>
<td></td>
</tr>
<tr>
<td>Albert Ave Building (Parking Structure with Parking Office and Leased Retail Space) - TIF Eligible Expense Estimate</td>
<td></td>
</tr>
<tr>
<td>Scope Description</td>
<td>Estimated Cost</td>
</tr>
<tr>
<td>Site Analysis and Environmental Baseline Study</td>
<td>34,000</td>
</tr>
<tr>
<td>Due Care Activities</td>
<td>77,250</td>
</tr>
<tr>
<td>Additional Response Activities</td>
<td>6,000</td>
</tr>
<tr>
<td>Contingency</td>
<td>14,000</td>
</tr>
<tr>
<td>Indirect Costs (CM/Permits/Bonding) - Not included in Contingency</td>
<td>1,592,000</td>
</tr>
<tr>
<td>B. Subtotals</td>
<td>$219,170</td>
</tr>
<tr>
<td>C. Grand River - TIF Eligible Expense Estimate</td>
<td></td>
</tr>
<tr>
<td>Scope Description</td>
<td>Estimated Cost</td>
</tr>
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<td>Site Analysis and Environmental Baseline Study</td>
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<td>Additional Response Activities</td>
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</tr>
<tr>
<td>Contingency</td>
<td>14,000</td>
</tr>
<tr>
<td>Indirect Costs (CM/Permits/Bonding) - Not included in Contingency</td>
<td>1,592,000</td>
</tr>
<tr>
<td>C. Subtotals</td>
<td>$2,479,220</td>
</tr>
<tr>
<td>D. Stewkow &amp; Demolition</td>
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<tr>
<td>Scope Description</td>
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<tr>
<td>Contingency</td>
<td>14,000</td>
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<tr>
<td>Indirect Costs (CM/Permits/Bonding) - Not included in Contingency</td>
<td>1,592,000</td>
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<tr>
<td>D. Subtotals</td>
<td>$2,482,588</td>
</tr>
</tbody>
</table>
December 13, 2017

To Those Persons on the Attached Distribution List,

Re: Brownfield Redevelopment Authority of the City of East Lansing (the “Authority”) $25,265,000 Limited Obligation Tax Increment Revenue Bonds, Series 2017 (Taxable) (the "Bonds")

This letter sets forth the details for the closing of the above referenced Bonds which will be held on Wednesday, December 13, 2017 at 11:00 AM ET at the offices of Miller, Canfield, Paddock and Stone, P.L.C. One Michigan Ave, Suite 900, Lansing, Michigan 48933.

Closing of the Bonds

At the opening of business on Tuesday, December 13, 2017, Scottsdale Capital, LLC (the "Purchaser") shall cause a wire transfer (see instructions below) in the amount of $25,265,000 to The Huntington National Bank (the "Trustee"). The “Purchase Price” for the Bonds is the par amount of the Bonds.

Wire Instructions to Huntington National Bank, N.A., as Trustee:

The Huntington National Bank
7 Easton Oval, Columbus, OH
ABA: 044000024
Account # 01891662889
Account Name: Trust Wire
FFC/Notes: 3581043023 East Lansing BRA Prj Fd
Attn: Patrick O’Donnell, ph. 616-771-6210

Patrick O’Donnell of the Trustee will notify the Working Group of the receipt and allocation of the wired funds, as set forth in the table below.

<table>
<thead>
<tr>
<th>Account Number</th>
<th>Account Type</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3581043023</td>
<td>BRA Project Fund</td>
<td>$24,389,518.00</td>
</tr>
<tr>
<td>3581043014</td>
<td>Reserve Fund</td>
<td>0.00</td>
</tr>
<tr>
<td>3581043032</td>
<td>Cost of Issuance</td>
<td>$875,482.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$25,265,000.00</strong></td>
</tr>
</tbody>
</table>

When the Working Group for this transaction has confirmed that the Trustee has received the Bonds in the aggregate principal amount, registered and authenticated in denominations and form requested pursuant to the Bond Purchase Agreement, the Trustee has confirmed the receipt of payment in full by the Purchaser of the agreed Purchase Price, Bond Counsel, Developer’s Counsel, and Purchaser's Counsel have indicated that all the requirements for closing have been met, then the Working Group for this transaction will call the Trustee to release the Bonds to the Purchaser.
Costs of Issuance Related to the Bonds

By the signatures of their authorized representatives on page three of this letter of instructions, the Authority and the Purchaser approve the payment of the Costs of Issuance set forth on Exhibit A and the Trustee is hereby directed to pay such Costs of Issuance from the Costs of Issuance as invoices (including wire transfer instructions) are presented to the Trustee in amounts not in excess of the respective amounts set forth on Exhibit A under the column “Fee.” Notwithstanding the foregoing, no invoice shall be required for the line item “State of Michigan - Security Report Filing Fee,” and the Trustee shall issue a check made payable to the State of Michigan and deliver such check to Bond Counsel for such amount. Any costs of issuance funds remaining after payment of the costs of issuance related to the Bonds shall be transferred pursuant to the Trust Indenture dated December 1, 2017.

Should you have any questions or comments regarding the foregoing or the attached, please call me at (517) 371-2607. Thank you for making this a successful financing.

Sincerely,

[Signature]

Brian J. Lerler
Managing Director
Robert W. Baird & Co.
City of East Lansing Brownfield Redevelopment Authority
Limited Obligation Tax Increment Revenue Bonds, Series 2017
Page 3 of 4

Accepted By:  

[Signature]  
Authorized Authority Representative  
Brownfield Redevelopment Authority of the City of East Lansing  

Dated:  
12/31/17

Acknowledged By:  

[Signature]  
Authorized Representative  
Scottsdale Capital, LLC  

Dated:  
12/11/17

Acknowledgment of Receipt By:  

[Signature]  
Authorized Representative  
The Huntington National Bank, as Trustee  

Dated:  
12/13/17

[SIGNATURE PAGE TO EL BRA LIMITED OBLIGATION TAX INCREMENT REVENUE BONDS SERIES 2017– CLOSING LETTER]
BROWNFIELD REDEVELOPMENT AUTHORITY OF THE CITY OF EAST LANSING
$25,265,000 Limited Obligation Tax Increment Revenue Bonds, Series 2017 (Taxable)
Center City District Project | December 13, 2017 | Closing

BROWNFIELD REDEVELOPMENT AUTHORITY

c/o City of East Lansing
410 Abbot Road
East Lansing, MI 48823

Peter Dewan
Chair

douglas jester
Vice Chair

James Croom
Treasurer

CITY OF EAST LANSING

City of East Lansing
410 Abbot Road
East Lansing, MI 48823

George Lahanas
City Manager
E: glahana@cityofeastlansing.com
O: (517) 319-6920

Tim Dempsey
Director, Planning, Building & Development
E: tdempsey@cityofeastlansing.com
O: (517) 319-6930

CITY ATTORNEY

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P: (517) 351-0280

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O: (313) 496-7665

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Chief Executive Officer
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Greg Ballein
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Alyson N. Schafer
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From: Mark Meadows

To: all concerned

Re: refinancing of the non-recourse bonds for construction of the Center City Project

I now have had an opportunity to review the staff report and supporting documentation which will serve as the basis for the refinancing request to be discussed at the July 9 BRA meeting. There are a few matters that I want to be sure the BRA members are aware of at the time a decision is made regarding the refinancing request.

1. The Brownfield TIF plan for the Center City Project was approved on June 20, 2017 by the City Council.

2. The Resolution which was approved by the Council contained language requested by now Mayor Beier, which limited TIF to those “expenses detailed in an approved Master Development Agreement Exhibit N ‘City Approved Eligible Activities’” The Resolution was approved by unanimous vote.

3. The Development Agreement limits approved activities to “the cost of the eligible activities which are set forth in Column 2, Scenario A of Exhibit N. The net proceeds from the BRA bonds shall not exceed $24,389,518.” Exhibit N further identifies the eligible activities as “no Grand River eligible activities”, identifies “Albert Avenue Building” eligible expenses, and expenses relating to the sidewalks and alley adjacent to the Grand River site.

4. The approved Brownfield TIF plan specifically provides: “NOW THEREFORE BE IT RESOLVED, that the Council for the City of East Lansing accepts the recommendation of the Authority and approves the adoption of the Brownfield Plan #24 with the following condition. Only the expenses that are detailed in an Approved Master Development Agreement Exhibit N ‘City Approved Eligible Activities’ shall be financed with Brownfield Revenue Bonds payable solely from the pledged tax increments revenue from the Eligible Property and payment of
those bonds will be the only eligible expenses to be reimbursed for Brownfield Plan #24.”

5. Exhibit N Column 2, Scenario A provides that the “Total TIF eligible expense” is $24,389,518 and the “TIF eligible Expense and Interest” is $50,217,825.

6. The original bond was in the amount of $25,265,000 and the proceeds were divided into two funds: the BRA Project Fund and the Cost of Issuance Fund. Exhibit A to the Bond Counsel letter detailed the components of the Cost of Issuance Fund: Origination Fee, Bond Counsel, Developers Counsel, Developers Financial Advisor, Trustee Acceptance, Trustee-First Year Construction and Security Report Filing Fee.

7. Per the Development Agreement and the adopted Brownfield TIF plan, no tax increment is available to pay any of the expenses detailed in the Bond Issuance Fund. The TIF plan is limited to paying for the BRA Project Fund plus interest.

8. The Development Agreement does contain the following language: “Notwithstanding any provision to the contrary in this agreement or in Brownfield Plan #24, the maximum amount of tax increment revenue that may be captured is $55,952,038.” Whether this actually changed the document that restricted the amount (the resolution adopting Brownfield Plan #24) or not is unlikely.

9. In addition, while the Development Agreement was also adopted at the meeting of June 20, 2017, it was later amended by a first addendum Section 2 of which then confirmed that the project was to be conducted in conformance with Exhibit N and the maximums contained in approved Brownfield Plan #24

So, what does all this mean in terms of the documents you all have been provided?
1. The proposal here (per bond counsel letter) is to issue a bond in the amount of $25,265,000 plus accrued interest of $335,000, plus the cost of issuance for the refunding. Other than the cost of issuance, this is in conformance with the Trust indenture executed by the BRA.

2. The next to last paragraph of the staff report makes reference to the “approved Brownfield Plan”. The paragraph concludes that the approved plan provided for “…a total approved tax increment revenue capture of $55,987,038.”

3. The figure identified in the staff report is the figure contained in Brownfield Plan #24 but is not the approved amount. That amount is $50,217,825.

The Brownfield TIF Plan, the Master Development Agreement, the Ground Lease and the Parking Agreement were all approved by the City Council. All other documents related to the Center City Project were executed and approved by the BRA and/or the DDA. While the City approved documents may incorporate by reference some terms and conditions of the other documents, none of those documents can amend or replace the provisions of any of the other documents. Each stands alone. Even the language quoted above which purports to amend just passed limitations on the use of TIF has questionable validity since the Development Agreement was passed with the stated understanding that it would be conformed to the Brownfield Plan and the site plan passed earlier in the evening.

I am bringing all of this to your attention because many of you were not involved in the Center City approvals and have been appointed to the BRA after the Center City matters were effectively concluded in the fall of 2017. You can bond for whatever amount you choose to, but TIF is available to pay for $50,217,825 and only that amount. This may not be a problem since the Development Agreement provides that the Developer is responsible for any shortfall but I wanted you to be aware of it.