

<b>RIGHT OF FIRST REFUSAL EAST PARKING PARCEL</b>	
Document Number	Document Title
Recording Area	
Drafted by, Name and Return Address: Nancy Leary Haggerty Michael, Best & Friedrich, LLP 100 E. Wisconsin Ave. #3300 Milwaukee, WI 53202	
PIN: See Exhibit A	

This Agreement is made and entered into on this \_\_\_\_ day of \_\_\_\_, 20\_\_, by and between, **Weber Holdings, LLC** and **333 Front Street, LLC**, as **tenants in common (together, “Grantor”)** and **The City of La Crosse, Wisconsin**, (“Grantee”).

In consideration of the payment of One Dollar (\$1.00) and other good and valuable consideration from Grantee to Grantor, the receipt of which is hereby acknowledged, including the execution by Grantee and others, of the Termination of Redevelopment Agreement for Centurytel Project (“**Termination**”), the parties agree as follows:

1. Right of first refusal. Grantor grants to Grantee a right of first refusal, on the terms contained herein, for the purchase of the real property located in the City of La Crosse, County of La Crosse, State of Wisconsin, more particularly described as the East Parking Parcel in **Exhibit A**, attached hereto and incorporated herein by this reference (the “**East Parking Parcel**”). Grantor and Grantee agree that if Grantor receives a bona fide written offer from an unrelated third party (an “**Offer**”), for the purchase of all or any part of the East Parking Parcel, which Offer Grantor is willing to accept, Grantor will deliver to Grantee a written notice thereof, (a “**Sale Notice**”), and will send Grantee a copy of the proposed contract of sale to such third party (or summary of the material financial terms thereof). Grantee shall have the right for a period of 30 days after the receipt of such Sale Notice (the “**Response Period**”), to enter into a contract for the sale of the East Parking Parcel at the same price and on the same terms as contained in the proposed contract of sale to the third party (a “**Purchase Election**”), which right of Grantee shall be paramount to the rights of the third party. If Grantee fails to exercise any such preemptive right within the Response Period or fails to close upon the purchase of the East Parking Parcel pursuant to the terms of the Purchase Election, then Grantor shall be able to enter into a contract for the sale of the East Parking Parcel with the third party on the material terms identified in the Sale Notice, and this Right of First Refusal shall terminate. As used herein, the term “third party” shall mean a person or entity which is not related to, affiliated with, or under control by or common control with, Grantor, or any parent or subsidiary thereof.

2. Term of right of first refusal. This right of first refusal shall continue in effect until the earlier of (i) the conveyance of the East Parking Parcel in fee simple to either Grantee or to a third party pursuant to the right of first refusal described above, or (ii) January 20, 2029 (the “**Termination Date**”). If the East Parking Parcel is not conveyed in fee simple to Grantee or to a third party pursuant to the right of first refusal described above, this right of first refusal shall expire after the Termination Date. Upon the termination of this right of first refusal, either by a

conveyance of the East Parking Parcel or by expiration of time, Grantee shall deliver to Grantor a signed and acknowledged document stating this right of first refusal has terminated and that Grantee expressly relinquishes all rights created under this right of first refusal.

3. Other conveyances. Notwithstanding anything to the contrary contained herein, an “Offer” subject to this right of first refusal shall not include the following, which shall be expressly permitted without any obligation to notify the Grantee, or grant any right to purchase:

(a) Any transfer by whatever means between the two parties who comprise the Grantor;

(b) Any transfer of any interest for estate planning or probate purposes;

(c) Any transfer of the East Parking Parcel in connection with the sale to the same parties of all or any part of the “West Building Parcel” which is also defined on **Exhibit A**;

(d) Any sale of the East Parking Parcel in connection with a lease of the East Parking Parcel to the owner of the West Building Parcel, for a term of at least 10 years, to provide parking or other services to the West Building Parcel;

(e) Any sale or transfer by whatever means, of any part of the East Parking Parcel to the Grantee, to the Redevelopment Authority, the County of La Crosse, including in connection with any road widening or road or utility work, or easement relocation, or as an exchange of land with any of them for other easement or road rights;

(f) Any sale or other transfer of all or part of Outlot 1, (which is part of the East Parking Parcel), to the Grantee or the Redevelopment Authority or other governmental entity;

(g) Any conversion of the East Parking Parcel to the condominium form of ownership, if done in connection with the West Building Parcel;

(h) Any transfer of the ownership of the East Parking Parcel by foreclosure or condemnation; or

(i) Any sale, transfer, issuance or other disposition of the outstanding equity of Grantor, or either of them, in one or a series of transactions, as long as Donald J. Weber, a Permitted Transferee or an entity that they control, holds twenty-five percent (25%) or more of the aggregate outstanding equity of Grantor (calculated on a combined basis). **“Permitted Transferee”** shall mean: (1) Donald J. Weber’s spouse; (2) Donald J. Weber’s natural or adopted issue; or (3) any trust, limited liability company or partnership with respect to which one or more persons described in clause (1) or (2) and/or Permitted Transferee(s), are the sole beneficiaries, members or partners.

It is emphasized that in the case of any transaction that is not an Offer as defined herein, the Grantee shall have no right of first refusal, or rights of notice, and Grantee agrees to provide, within 5 business days of request, a confirmation that there is no right of first refusal on such transaction. Further, Grantee hereby irrevocably appoints Grantor as attorney-in-fact for Grantee with full power and authority to execute and deliver in the name of Grantee any such instrument

if Grantee fails to execute and deliver the same within the time period as aforesaid.

4. Grantor's right to encumber and lease. Notwithstanding anything to the contrary contained in this agreement, Grantor shall have the right during the term of this right of first refusal to mortgage or otherwise encumber the East Parking Parcel and to grant leases for and easements on, all or parts of the East Parking Parcel.

5. No assignment by Grantee. Unless Grantor gives written consent, Grantee shall not assign its rights under this right of first refusal agreement. Any direct or indirect assignment of Grantee's rights under this agreement shall automatically terminate this right of first refusal and all of Grantee's rights hereunder.

6. Recording. This agreement shall be executed in recordable form, and if Grantee elects, may be recorded at Grantee's expense with the La Crosse County Register of Deeds.

7. Binding effect. This right of first refusal shall be binding upon and inure to the benefit of the parties and their respective representatives, successors and assigns, except as otherwise provided herein.

8. Headings. The headings in this agreement are for convenience only and shall not be used to interpret or construe its provisions.

9. Governing law. This agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin.

10. Counterparts. This agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

11. Entire agreement. This agreement supersedes all prior agreements between the parties with regard to the subject matter hereof, and there are no other understandings or agreements between them. This agreement can only be modified by a written instrument signed by both Grantor and Grantee.

12. Notices and correspondence. All notices and correspondence shall be sent by certified mail, return receipt, to the parties hereto and the following addresses:

If to Grantor, to: Donald J. Weber, Manager  
Weber Holdings, LLC  
232 N. Front Street, Suite 202  
La Crosse, WI 54601

With a copy to:  
Jason T. Thompson  
Michael Best & Friedrich LLP  
100 E. Wisconsin Ave. #3300  
Milwaukee, WI 53202

If to Grantee, to:      City Attorney  
                                 City of La Crosse  
                                 400 La Crosse Street  
                                 La Crosse, WI 54601

Either party may change the above address by sending a certified letter, return receipt requested, to the other party setting forth such changed address.

The parties hereto have executed and delivered this agreement the day and year first above written.

Grantor:  
**WEBER HOLDINGS, LLC**

By: \_\_\_\_\_  
Donald J. Weber, Manager

**333 FRONT STREET, LLC**

By: \_\_\_\_\_  
Donald J. Weber, Manager

STATE OF WISCONSIN    )  
                                  ) SS.  
COUNTY OF LA CROSSE )

Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the above-named Donald J. Weber, as Manager of both Weber Holdings, LLC and 333 Front Street, LLC, and to me known to be the person who executed the foregoing instrument as such Manager, and acknowledged the same.

\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission:\_\_\_\_\_

**THE CITY OF LA CROSSE**

By: \_\_\_\_\_  
Timothy Kabat, Mayor

By: \_\_\_\_\_  
Teri Lehrke, City Clerk

STATE OF WISCONSIN     )  
  ) SS.  
COUNTY OF LA CROSSE    )

Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the above-named Timothy Kabat, as Mayor, and Teri Leherke, as City Clerk, of the City of La Crosse, to me known to be the persons who executed the foregoing instrument and acknowledged same.

\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission:\_\_\_\_\_

**EXHIBIT A**  
**Legal Description of East Parking Parcel and West Building Parcel**

The “East Parking Parcel” shall be defined as follows:

Lot 7 and Out Lot 1, Certified Survey Map filed January 19, 1999 in Volume 8, Page 124, Document No. 1218452, being a part of Blocks 3 & 4 of River Addition and part of Government Lot 2, and part of Government Lot 3, Section thirty-one (31), Township sixteen (16) North, Range seven (7) West, City and County of La Crosse, State of Wisconsin; and

Lot 8, Certified Survey Map filed January 19, 1999 in Volume 8, Page 123, Document No. 1218451, being a part of Government Lot 3, Section thirty-one (31), Township sixteen (16) North, Range seven (7) West, City and County of La Crosse, State of Wisconsin.

The “West Building Parcel” shall be defined as follows:

Lot 5, Certified Survey Map filed January 19, 1999 in Volume 8 Page 124, Document No. 1218452, being a part of Blocks 3 & 4 of River Addition and part of Government Lot 2, and part of Government Lot 3, Section thirty-one (31), Township sixteen (16) North, Range seven (7) West EXCEPT that portion of said Lot 5 conveyed to the City of La Crosse, Wisconsin, a Wisconsin municipal corporation in quit claim deed recorded April 6, 2016 at Document No. 1672286, said EXCEPTED PORTION being more particularly described as follows:

Beginning at the southwest corner of said Lot 5, thence the next 2 calls along the west line of said Lot 5: (1) n 05° 25' 01" e 105.68 feet; (2) n 09° 17' 32" w 33.79 feet; thence s 33° 46' 50" e 66.62 feet to the beginning of a 224.00 foot radius curve, concave to the west; thence 128.99 feet along the arc of said curve, the chord of which bears s 17° 17' 03" e 127.21 feet to the south line of said Lot 5; thence along said south line n 64° 15' 05" w 88.10 feet to the Point of Beginning, City and County of La Crosse, State of Wisconsin.

Tax Key No.: 17-20280-070 and 17-20280-90.