

AGREEMENT TO PURCHASE UPON COMPLETION
(Lot C Parking Ramp)
(November 9, 2015 version)

THIS AGREEMENT TO PURCHASE UPON COMPLETION (“Agreement”) is entered into by and between [Third and Pine, LLC] a Wisconsin limited liability company, (“Seller”) and the **City of La Crosse**, a municipal entity (“Purchaser”) and is effective this _____day of December, 2015.

RECITALS:

WHEREAS, Seller owns certain land located in the City of La Crosse, La Crosse County, Wisconsin which is legally described on **Exhibit A**, and easements and other rights appurtenant to said land including, but not limited to, title and interest in and to any streets, roadways, alleys, and sidewalks, whether public or private, adjacent to the land (said land and rights will collectively be referred to in this Agreement as the “Property”), and

WHEREAS, Seller shall construct on the Property a multi-level parking ramp which is more fully defined below as the Parking Ramp, with parking spaces for motor vehicles, and

WHEREAS, upon completion of the construction of said parking ramp, Purchaser shall buy from Seller and Seller shall convey to Purchaser the aforementioned Property, all on the terms and conditions more specifically set forth in this Agreement.

NOW, THEREFORE, in consideration of the aforesaid Recitals, and in consideration of the covenants and agreements set forth hereinafter, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by Seller and Purchaser,

IT IS HEREBY AGREED as follows:

ARTICLE I
PROPERTY TO BE CONVEYED

1.1 Subject to the terms, provisions and conditions hereinafter set forth, Purchaser hereby agrees to buy and Seller hereby agrees to sell the Property. The Property includes the land and the Parking Ramp (as defined below) to be constructed on said Property as well as all right, title and interest of Seller in and to all contracts and other intangible rights, including, but not limited to, any warranty relating to equipment or materials installed or constructed in or on or forming a part of the Parking Ramp, all licenses, permits, approvals and certificates relating to the development, construction, ownership or operation of the Property and the “AS BUILT” plans and specifications for the parking ramp.

1.2 The Property shall be conveyed by Seller to Purchaser in fee simple ownership free and clear of all encumbrances or defects of any nature whatsoever, except the Permitted Encumbrances as hereinafter defined on **Exhibit B**.

1.3 The purchase price to be paid by Purchaser to Seller for the Property including the Parking Ramp shall be all of Seller’s costs and expenses for the Parking Ramp, as detailed on **Exhibit C**, (the “Purchase Price”) which shall be paid by Purchaser to Seller, in cash or by

wire transfer, at the Closing, which shall be held within sixty (60) days of substantial completion and issuance of a certificate of occupancy of the Parking Ramp. Notwithstanding any other provision of this Agreement, the Purchase Price shall not exceed ____ dollars (\$____.00).

ARTICLE II REPRESENTATIONS, WARRANTIES AND COVENANTS OF SELLER

2.1 Seller does hereby warrant and represent to Purchaser, as of the date of signing and delivering this Agreement, as follows:

(a) Seller has good, marketable, insurable title to the Property of record, free and clear of all encumbrances, except for such matters as set forth on the list to be attached hereto and signed by Purchaser and Seller as **Exhibit B**, the ("Permitted Encumbrances").

(b) There is no litigation pending nor, to the best of Seller's knowledge, investigation, condemnation or proceeding of any kind threatened against the Seller which may have a material adverse effect upon the Property.

(c) Seller is not a "foreign person"(as defined in Section 1445(f)(3) of the Internal Revenue Code and regulations issued thereunder).

(d) Seller is a duly formed limited liability company and in good standing under the laws of the State of Wisconsin and has the requisite power and authority to enter into and perform this Agreement, including all Closing documents. Such documents have been (or will have been) duly authorized by all necessary company action on the part of the Seller and have been (or will have been) duly executed and delivered. Such execution, delivery and performance by Seller of such documents does not (and will not) conflict with or result in a violation of Seller's Articles of Organization, Operating Agreement, or any judgment, order or decree of any court. Such documents are (and will be) valid and binding obligations of Seller and are enforceable in accordance with their terms.

(e) Seller has not entered into any other contracts for the sale of the Property, nor are there any rights of first refusal or options to purchase the Property or any other rights of others that might prevent the consummation of this Agreement, other than the Permitted Encumbrances.

(f) Seller has no actual knowledge of any adverse environmental matters which affect the Property except for any matters identified in its environmental reports Seller will provide to the Purchaser prior to execution of this Agreement, which are listed on **Exhibit D**.

(g) Seller shall indemnify Purchaser, its successors and assigns, against, and shall hold Purchaser, its successors and assigns, harmless from any costs, expenses or damages of any kind or nature, including reasonable attorneys' fees which Purchaser may incur because of any breach of any of the representations and warranties herein contained, whether prior to or after the date of Closing. All warranties, representations and indemnifications contained in this Agreement shall survive Closing for the benefit of the Purchaser.

2.2 Seller does hereby covenants and agrees with Purchaser, as of the date of signing and delivering this Agreement, as follows:

(a) Seller is proposing to enter into a Construction Management contract with C.D. Smith Construction, Inc., ("CD Smith"), a Wisconsin corporation, for the management of the construction of the Parking Ramp, pursuant to the terms of which CD Smith shall be the construction manager on the Parking Ramp Project and may competitively bid on all portions of the Project. CD Smith may also competitively bid to be general contractor on the Project or provide other services, subject to compliance with the Public Bidding and other applicable laws.

(b) The construction contract for the Parking Ramp will contain terms to require the construction manager and general contractor on the Project to ensure that payment and performance bonds are obtained, and to ensure that the payment of prevailing wages as required by law are followed so that the Parking Ramp Project meets Wisconsin public construction requirements, and to allow Purchaser to review such contractor's records to confirm this compliance. All bids shall be publicly bid in accordance with § 62.15, Wis. Stat., and opened in public at City Hall. After publicly opening the bids, Seller and Purchaser shall jointly review the bids and jointly decide to either award the bids, refer the bids for thirty days, or reject all bids and publicly bid the project again in accordance with § 62.15, Wis. Stat. Purchaser shall have full access, upon ten (10) day notice, to all internal cost accounting records and all supporting project records, with respect to this parking ramp project. Any savings during construction shall be identified immediately after bidding and monthly through cost accounting thereafter. Savings shall first inure to the benefit of the Seller, and will be completely passed on to the Purchaser, thereby reducing the purchase price by the amount of any such savings.

(c) The Parking Ramp is defined to be a slab on grade ramp containing ___ stories, for the parking of at least 650 motor vehicles, including ___ handicapped vehicle spaces, and ___ bicycles, (the "Parking Ramp") substantially similar to the ramp identified on **Exhibit E**, which were the plans developed for the Riverside Parking Structure on Jay and Second Street ("Sample Ramp"). Seller has made arrangements or will make arrangements for the preparation of plans and a project manual for the Parking Ramp, to be submitted to all agencies required for complete permitting so complete permitting can be attained by _____, 2016. The plans and project manual must include sufficient detail for public bidding and so change orders are kept to an absolute minimum. The parking ramp shall be constructed in such a way to allow additional floors of parking, commercial and/or residential use, based on future City needs, to be placed on the top level of the original structure. Furthermore, the first floor of said parking ramp shall have an extended ceiling height to allow clearance for vehicles that may be using the La Crosse Convention Center and/or future conversion to commercial use based on future City needs. Seller and its design professional shall meet with Purchaser to propose a final set of permit plans and a project manual at least two weeks before submitting for permits. Purchaser shall have 15 days after delivery of the full plans and specs for the Parking Ramp, to approve those plans and specs, and to initial them, which shall be Purchaser's agreement that those are the final plans and specs, and the definition of "Parking Ramp" shall then include the plans and specs so approved, which shall be the basis for the construction. In addition, Seller shall make arrangements with its design professional to provide plans and specifications for review by Purchaser at thirty percent (30%), sixty percent (60%) and ninety percent (90%) of design completion. Purchaser's review, comments and requests shall not be unreasonably withheld or delayed. Seller's design professional shall conduct design review meetings with the Purchaser at the design professional's offices that coincide with the above-referenced design milestones. Purchaser shall designate a Purchaser's representative who shall be included on the design team in its meetings, discussions and decisions with the Seller's design professional. Purchaser's representative shall also be allowed on-site during construction.

(d) Simultaneously with or prior to the construction of the Parking Ramp, Seller, or Third Fourth, LLC (“Lot C Developer”) shall also be constructing the multi-use project on Lot C, to the southeast of the Property. The construction of these two projects shall be managed in such a way so as to minimize the closure of city streets located in the area of these construction projects and other adverse impacts and externalities to downtown. The construction contract shall provide that the construction manager will also be responsible for overall safety and clean around the Parking Ramp construction site.

(e) The Parking Ramp shall be constructed and equipped to be available 24 hours each and every day for utilization by the general public on a first come, first serve basis, except for the rights shown on **Exhibit B** as Permitted Encumbrances, and except for other monthly parking “leases” or arrangements made between Purchaser and such parties which may include Seller or its related parties.

(f) Prior to the commencement of construction of the Parking Ramp through Closing of the sale hereunder, Seller shall procure and maintain builder’s risk and other appropriate construction insurance as per Article XIII. Seller’s insurance shall be primary to any insurance or self-insurance of Purchaser prior to Closing on the Property and shall name the City of La Crosse, its officers, employees and agents as additional insureds.

(g) Seller shall provide final “AS BUILT” plans and specifications for the Parking Ramp to the Purchaser at Closing. “AS BUILT” plans and specifications shall include: (i) complete digital media in addition to two complete sets of hard copy plans and specifications; and (ii) two complete sets of operations and maintenance manuals which shall include manufacturer’s original equipment manuals. Seller shall provide the Purchaser’s designated representatives and maintenance personnel with on-site equipment operations training to be given by the equipment manufacturer’s representatives.

ARTICLE III OBLIGATIONS OF SELLER PRIOR TO CLOSING

3.1 Seller will provide, at Seller’s cost and expense, the following (collectively “Title Evidence”):

(a) A commitment (“Title Commitment”) for an ALTA Owner’s Policy of Title Insurance insuring title to the Property, including the full value of the Parking Ramp, including affirmative insurance regarding appurtenant easements and such other matters as may be identified by Purchaser, in the amount of the Purchase Price and issued by a Title Company authorized to transact business in the State of Wisconsin. The Title Commitment will commit the Title Company to insure title to the Property subject only to the Permitted Encumbrances.

(b) Purchaser shall make any objections to any encumbrance affecting marketable title (except Permitted Encumbrances) in writing within 20 days after receipt of said Title Commitment or shall be deemed to be waived. If any objections are so made, Seller shall have 30 days to make title marketable and Seller shall exercise its best efforts to correct such objections. In the event Seller is unable to eliminate such objections within said period or insure over said objections, Purchaser shall have the option to either acquire the Property subject to said objections, liens, encumbrance or other title defect at Purchaser’s discretion or rescind this

Agreement provided, however, if the Seller is able to insure over any such objection with a policy of insurance acceptable to Purchaser (such acceptance not to be unreasonably withheld), Purchaser shall be required to close this transaction.

**ARTICLE IV
CONDITIONS PRECEDENT TO PURCHASER'S
OBLIGATIONS TO CLOSE**

4.1 Purchaser's obligation to consummate the purchase of the Property at the time of Closing pursuant to the terms of this Agreement is subject to the following conditions precedent:

(a) The construction by the Seller of the Parking Ramp, which shall be substantially completed on or before _____, 2017.

(b) Purchaser prior to Closing, at its sole cost and expense, may make whatever inspections it deems appropriate in order to satisfy itself that the subject Parking Ramp has been completed in accordance with the plans and specifications and meets the standards of all state and federal laws and local ordinances and regulations contained in those plans and specifications and applicable permits. However, Seller at all times remains wholly responsible for the time of completion, compliance with laws, ordinances and regulations, workmanship and design.

(c) All of the representations and warranties by Seller contained in Section 2.1 shall be true and correct as of the date of Closing.

(d) As of the date of Closing, Seller shall have fully complied with and performed the covenants, undertakings, conditions and agreements on its part required in Section 2.2 of this Agreement.

(e) Seller shall have obtained all required licenses and permits for the construction of the Parking Ramp, and shall have complied with all requirements as may be applicable or imposed by all governmental authorities and agents, federal, state and local for those permits.

(f) [PLACEHOLDER --] Associated Bank, N.A. shall sign a separate lease or rental agreement for parking in lieu of the Parking Lease between Associated Bank, N.A. and Weber Holdings, LLC.

**ARTICLE V
REPRESENTATIONS AND WARRANTIES OF PURCHASER**

5.1 Purchaser does hereby covenant, warrant and represent to Seller as follows:

(a) INTENTIONALLY OMITTED.

(b) Purchaser represents that it is a municipal entity organized and existing under and pursuant to the laws of the State of Wisconsin, has full right, power and authority to enter into this Agreement and perform its obligations hereunder. The execution and delivery of this document and all documents to be executed by Purchaser under and pursuant to the terms of this Agreement have been duly authorized and that there are no further authorizations,

consents or approvals required on the part of Purchaser to perform its obligations hereunder, except those of the Division of Fire Protection & Building Safety in connection with issuing permits for the construction of the Parking Ramp, design review determinations, change order determinations, or anything else contemplated in this Agreement.

(c) Purchaser's acquisition of the Property will not violate any agreement to which the Purchaser is a party.

(d) [PLACEHOLDER --]At Closing, and subject to Section 4.1(f) of this Agreement, Purchaser shall assume all obligations of Seller under the Parking Lease Agreement with Associated Bank, ("Associated Agreement") which document has been provided to Purchaser prior to execution hereof. At Closing Purchaser shall assume all obligations of Seller under the Long Term Parking Agreement with La Crosse County, ("County Parking Agreement") which has been provided to Purchaser prior to the execution hereof. Purchaser agrees to keep the Parking Ramp open as a public parking ramp, and agrees that the parking rates charged in the Parking Ramp shall be determined by the City of La Crosse Parking Utility.

(e) All representations and warranties contained herein or made in writing by Purchaser in connection with the transaction contemplated by this Agreement shall be true and correct on the date hereof and on the Closing Date, and liability for misrepresentation or breach of warranty or covenant contained in this Agreement shall survive the execution and delivery of this Agreement and Closing.

(f) After Closing, the Purchaser shall maintain, equip and repair the Parking Ramp in good operating condition.

ARTICLE VI TAXES AND PRORATIONS

6.1 On the date of Closing the following proration shall be made:

(a) On or before the date of Closing, Seller shall pay all real estate taxes due and payable in all years prior to the year of Closing.

(b) All real estate taxes due and payable in the year of Closing shall be prorated as of the date before the date of Closing.

(c) Seller shall pay all charges for improvements or services already made to or which benefit the Property and all assessments whether levied or pending, as of the date of Closing including the installments of special assessments due and payable in prior years, the year of Closing or any future year, subject to Seller's ability to include them in the Purchase Price as detailed on **Exhibit C**. For purposes of this Agreement, a "pending" special assessment means any work or project which, as of the date of Closing, has been directed or authorized by any governmental authority, the cost of which has been certified to and included in the real property taxes payable with respect to the Property.

(d) Seller shall pay all Wisconsin real estate transfer taxes, if any, as well as any other transfer taxes. Purchaser shall pay recording fees arising out of the conveyance

except for the cost of recording such documents as are necessary to convey good and marketable title to the Property.

(e) Any closing fee imposed by the Title Company shall be paid equally by Seller and Purchaser.

(f) The cost of any ALTA survey, regarding the Property and/or any contiguous alley, or update to any existing ALTA survey, shall be shared equally between the Seller and Purchaser.

ARTICLE VII CLOSING

The Closing of this transaction shall occur on or before the date that is 60 days after Seller's notice to Purchaser of the substantial completion of the Parking Ramp, but no later than _____, 2017, at such place as mutually agreed to by Purchaser and Seller.

ARTICLE VIII OBLIGATIONS OF SELLER AT CLOSING

8.1 At Closing, Seller shall execute and deliver to Purchaser, the following:

(a) The Warranty Deed from Seller in recordable form, conveying as of Closing to Purchaser insurable title to the Property, subject only to the Permitted Encumbrances.

(b) A FIRPTA Affidavit with respect to Seller.

(c) Possession of the Property shall be transferred to Purchaser at Closing but subject to any parking rights in the Permitted Exceptions.

(d) Proof of insurance.

(e) Executed Assignment and Assumption of the Associated Agreement and County Agreement.

Seller shall also have the ability to bond over or escrow money with the Title Company out of the Purchase Price, to cause the Title Company to insure over any outstanding construction lien rights, especially for any punch list items.

ARTICLE IX OBLIGATIONS OF PURCHASER AT CLOSING

9.1 At Closing, Purchaser shall do the following:

(a) Pay to Seller the Purchase Price as defined in Section 1.3 less adjustments by the prorations identified herein.

(b) [PLACEHOLDER --]Subject to Section 4.1(f), execute the Assumption of the Parking Obligations which are more fully defined in the Permitted Exceptions.

ARTICLE X DEFAULT

Seller and Purchaser each have the legal duty to use good faith and due diligence in completing the terms and conditions of this Agreement. A material failure to perform any obligation under this Agreement is a default which may subject the defaulting party to liability for damages or other legal remedies.

If Purchaser defaults, Seller may sue for specific performance or terminate the Agreement and sue for actual damages it has sustained.

If Seller defaults, Purchaser may sue for specific performance or terminate the Agreement and sue for actual damages it has sustained.

The parties understand that the availability of any judicial remedy would depend upon the circumstances of the situation and the discretion of the courts. If either Seller or Purchaser defaults, the parties may seek non-judicial dispute resolution through non-binding mediation. If a default occurs, either party may give written notice to the defaulting party that it wishes to seek mediation of the dispute, which would be a condition precedent to initiating any litigation and upon said written notice, the parties shall attempt to agree on a mediator. If the parties are unable to agree to a mediator, they shall jointly petition a circuit court branch for La Crosse County requesting that the court appoint a mediator and which appointment shall be binding upon the Seller and the Purchaser.

ARTICLE XI TIME IS OF THE ESSENCE

Time is of the essence as it relates to occupancy, date of Closing, and all other dates and deadlines set forth in this Agreement. If "time is of the essence" applies to a date or deadline, failure to perform by the exact date or deadline is a default under the terms of this Agreement.

ARTICLE XII DAMAGE

If, prior to the date of Closing, all or any part of the Property is substantially damaged by fire, flood, casualty, the elements or any other cause, Seller shall immediately give written notice to the Purchaser of such fact. Seller shall promptly commence to repair such damage or destruction and return the Property to its condition prior to such damage. If such damage shall be completely repaired prior to the date of Closing then there shall be no reduction in the purchase price and Seller shall retain the proceeds of any insurance related to such damage. If such damage shall not be completely repaired prior to the date of Closing, but Seller is diligently proceeding to repair said damage, then Seller shall complete the repair as soon as possible after the date of Closing and shall be entitled to receive the proceeds of all insurance related to such damage after the repair is completed, provided, however, Purchaser shall have the right to delay the Closing Date until the repair is completed. If Seller shall fail to diligently proceed to repair such damage then Purchaser shall have the right to require a Closing to occur and the purchase price (specifically the cash portion payable at the date of Closing) shall be reduced by the cost of such repair or, at Purchaser's option, the Seller shall assign to Purchaser all right to receive the proceeds of all insurance related to such damage and the purchase price shall

remain the same. For purposes of this Article, the words “substantially damaged” mean damage that would equate to five percent (5%) or greater of the purchase price.

ARTICLE XIII INSURANCE

Seller represents and warrants that since the acquisition of the subject real estate, and to the Closing Date, Seller has maintained, does maintain and will maintain the following insurance:

Public Liability Insurance. During the term of this contract, Seller shall maintain public liability insurance with a minimum limit of liability of one million dollars (\$1,000,000.00) per occurrence for bodily injury and property damage and a two million dollars (\$2,000,000.00) aggregate limit covering the premises. This policy will include an endorsement adding the Purchaser as an Additional Insured and will contain a provision that states that coverage will not be cancelled without 30 days written notice to Purchaser.

Builder’s Risk Insurance. During the term of this contract, Seller shall maintain Builder’s Risk Insurance insuring against all risks of direct physical loss in an amount equal to the full replacement value of the building with deductibles and endorsement as selected by Seller (understanding that the insurance will be adjusted as the Parking Ramp is built). Purchaser shall be listed as a Loss Payee, to the extent of its interest under this Agreement and the insurance policy will contain a provision that states that coverage will not be cancelled without 30 days written notice to Purchaser.

All coverages will be placed with carriers not rated less than A-, VII by A.M. Best Co.

ARTICLE XIV MISCELLANEOUS

14.1 Any notice required or permitted hereunder shall be in writing with copies as provided below. Notice shall be deemed effective upon receipt of the party to be notified or upon deposit in the United States Mail, postage prepaid, registered or certified mail, return receipt requested, by Federal Express or other overnight air courier, addressed to the party to be notified at the address hereinafter specified, or by facsimile transmission provided confirmation of transmission is obtained. Either party may change its address upon at least three (3) days prior written notice to the other party.

To Seller: Third and Pine, LLC
c/o Donald J. Weber
328 Front Street South
La Crosse, WI 54601

Copy to: Attorney Nancy Leary Haggerty
Michael, Best & Friedrich, LLP
100 E. Wisconsin Ave. Suite 3300
Milwaukee, WI 53202

To Purchaser: Attn: City Clerk
City of La Crosse

400 La Crosse Street
La Crosse, WI 54601

Copy to: Attn: City Attorney
City Attorney's Office
400 La Crosse Street
La Crosse, WI 54601

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

14.3 This Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin.

14.4 The parties agree that the jurisdiction and venue for any action arising under this Agreement shall be in the jurisdiction where the Property is located.

14.5 It is specifically agreed that this Agreement may be executed in one or more counterparts, all of which shall be taken together to constitute but one and the same instrument and shall be binding upon each party who may sign a counterpart of this Agreement.

14.6 The title captions beside the Article are for reference only and shall not modify or affect this Agreement in any manner whatsoever.

14.7 Whenever required by the context, the singular shall include the plural, and the plural shall include the singular.

14.8 The waiver by any party hereto of any right or condition granted to or in favor of it hereunder shall not be deemed to be a waiver of any other right granted herein nor shall the same be deemed to be a waiver of a subsequent right obtained by reason of the continuation of any matter previously waived. A condition precedent to any obligation of a party to perform hereunder can only be waived by execution of a writing by such party expressly waiving such condition precedent.

14.9 This Agreement shall be null and void unless by not later than December 18, 2015, counterparts hereof are executed by Seller and Purchaser.

14.10 In the event of any litigation between the parties hereto, each party shall pay its own legal fees.

14.11 For 30 days prior to any anticipated Closing Date, Purchaser shall have the right to inspect, and Seller shall make available to Purchaser, the Property, the approved plans and specifications for construction of the parking ramp, books, records, agreements and documents in possession or control of the Seller relating thereto at any and all times, upon reasonable notice and during normal business hours, on a confidential basis subject to the Wisconsin Public Records Law, for the sole purpose of confirming the Purchase Price and confirming compliance with this Agreement.

14.12 This Agreement shall not be construed more strictly against one party than against the other, merely by virtue of the fact that it may have been drafted or prepared by

counsel for one of the parties, it being recognized that both Seller and Purchaser have contributed substantially and materially to the preparation of this Agreement.

14.13 The parties agree to execute mutually and deliver to each other at Closing, such other and further documents as may be reasonably required by counsel for the parties or the Title Company to carry into effect the purposes and intents of this Agreement.

14.14 Any amendments or alterations to this Agreement shall be made in writing and appended hereto. No statement, promise, representation or inducement relating hereto that is not a part hereof shall be binding on the parties.

14.15 All the terms of this Agreement will survive and be enforceable after Closing, irrespective of the execution and delivery of the Closing documents.

14.16 THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL ON ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING FROM OR OTHERWISE RELATED TO THIS AGREEMENT. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY THE PARTIES AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. EACH PARTY IS HEREBY AUTHORIZED TO FILE A COPY OF THIS SECTION IN ANY PROCEEDINGS AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY THE OTHER PARTY.

14.17 Any period of time described in this Agreement by reference to a number of days includes Saturdays, Sundays and any state or national holidays. Any period of time described in this Agreement by reference to a number of business days does not include Saturdays, Sundays or any state or national holiday. If the date or last date to perform any act or to give any notices is a Saturday, Sunday or state or national holiday, that act or notice may be timely performed or given on the next succeeding day which is not a Saturday, Sunday or state or national holiday.

14.18 Seller shall avoid all conflicts of interest or the appearance of a conflict of interest in the performance of this Agreement. Seller is familiar with the City's prohibition against the acceptance of any gift by a City officer or designated employee, which prohibition is found in §§ 2-126 through 2-133 of the City of La Crosse Municipal Code. Seller agrees not to offer any City officer or designated employee any gift prohibited by said Code. The offer or giving of any prohibited gift shall constitute a material breach of this Agreement by Seller. In addition to any other remedies the City may have in law or equity, the City may immediately terminate this Agreement for such breach. No member, officer or employee of the City shall have any personal financial interest, direct or indirect, in this Agreement, nor shall any such member, officer or employee participate in any decision relating to this Agreement.

ARTICLE XV CHANGE ORDERS

15.1 All change orders to the Parking Ramp construction project must receive prior written approval of the Purchaser through its Board of Public Works. Unless otherwise agreed by the parties, change orders requested by Purchaser shall be paid for by the Purchaser and change orders requested by the Seller shall be paid for by the Seller. All requests for change orders must be submitted to the Purchaser's designated representative, who shall be, unless

otherwise designated, the Director of Public Works. The Purchaser's representative, within ten business days of receipt of the change order request, shall submit the request to the Board of Public Works for its consideration. Prior to granting any change order request, the Board of Public Works shall determine, among other things, the necessity of the request, the cost of the request, the party responsible for payment of the request, the cost share, if any, on the request, and the level of documentation required to process the request.

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

Third and Pine, LLC

City of La Crosse

By: _____
Donald Weber
Its Managing Member

By: _____
Timothy Kabat, Mayor

Attest: _____
Teri Lehrke, City Clerk

EXHIBIT A
LEGAL DESCRIPTION

The Legal Description of the Property is the following:

Lots 6,7,8,9 and 10 in Block 17 of the Original Plat of the Town of La Crosse, now City of La Crosse, La Crosse, County, Wisconsin.

Property Address: 222 Pine Street, 311 3rd Street N., and 325 N. 3rd Street, La Crosse, WI

Tax Key No: 17-2000-050

EXHIBIT B

PERMITTED ENCUMBRANCES

Municipal and Zoning ordinances

Recorded easements for utilities serving the Property

Encumbrances created by or through Purchaser

General taxes for the year of closing

Redevelopment Plat Riverside Redevelopment Project, as amended

Recorded Covenants for reverter of zoning in Document 1265784, unless Purchaser agrees to rezone the Property

Municipal parking assessment, if any

Parking Lease Agreement with Associated Bank, N.A. for 40 parking spaces in Parking Ramp, at the then-established City of La Crosse parking utility rates for the type of parking provided, as adjusted no more often than annually.

Long Term Parking Agreement with La Crosse County, for 85 spaces for permanent, public use, at the then-going market lease rate for comparable parking spaces, as determined by the City of La Crosse parking utility and as adjusted no more than annually.

Liens for construction of the Parking Ramp to the extent they are insured over or bonded over

(Note the title commitment provided prior to Closing will have more exceptions, but these are the Permitted Encumbrances for the Deed to Purchaser)

EXHIBIT C

CALCULATION OF PURCHASE PRICE OF PARKING RAMP

The Purchase Price for the Parking Ramp shall be \$10.00 plus the following:

1. All costs and expenses incurred by Seller or Weber Holdings, LLC to purchase the Property, including the cost of the land, costs of due diligence, attorney's fees, closing costs, and costs to clear title, rezone, and prepare the Property for development of the Parking Ramp, including all costs of demolition, utility termination, disposal of buildings and debris, investigating, remediating, and securing consent for capping or otherwise dealing with, environmental conditions on the Property (together "Land Costs").
2. All costs and expenses incurred by Seller or Weber Holdings, LLC in the planning, construction, equipping, permitting, fixturing, and securing permits and approvals for, the construction of the Parking Ramp on the Property, including specifically architectural and engineering fees, costs of public bidding, costs of securing and connecting to utilities, costs of installing utilities and connections to utilities on and adjacent to the Property, costs of purchasing and installing signs and parking management equipment and _____, (together, "Construction Costs").
3. All costs and expenses incurred by Seller or Weber Holdings, LLC in holding the ownership of the Property and Parking Ramp until Closing, including costs of real estate and personal property taxes, utilities, insurance, security, maintenance, and supervision, and (together, "Holding Costs"); and
4. All costs and expenses incurred by Seller or Weber Holdings, LLC in developing the Property and Parking Ramp, including overhead and development fees of ___ percent of the Land Costs, Construction Costs and Holding Costs and _____.

Seller shall furnish Purchaser full access, at least 30 days before Closing, on a confidential basis, to all internal cost accounting records and all supporting project records, with respect to this Parking Ramp Project, in order to verify this Purchase Price. If a Guaranteed Maximum Price contract is signed with a contractor, the parties may agree to amend this Agreement to establish the Land Costs and the Construction Cost portions of the Purchase Price. In the event of any inconsistency between this **Exhibit C** and the Agreement to Purchase Upon Completion, then the Agreement to Purchase Upon Completion shall control. Notwithstanding any other provision of this Agreement, the Purchase Price shall not exceed _____ dollars (\$____.00).

EXHIBIT D

LIST OF ENVIRONMENTAL CONDITIONS KNOWN TO SELLER

AT TIME OF AGREEMENT

[list after Phase I done]

EXHIBIT E

LISTING OF SAMPLE PLANS AND SPECS FOR PARKING RAMP

The Parking Ramp is expected to be substantially similar to that described in the

Riverside Parking Structure Plans

City of La Crosse

Jay & Second Street

La Crosse, WI

HSR # L10027

Dated August 2010, BID Package #2

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