

**REAL PROPERTY PURCHASE AGREEMENT AND ASSIGNMENT OF SALE PROCEEDS  
BETWEEN THE CITY OF DETROIT,  
THE GREAT LAKES WATER AUTHORITY,  
AND THE DETROIT BROWNFIELD REDEVELOPMENT AUTHORITY**

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**THIS REAL PROPERTY PURCHASE AGREEMENT and ASSIGNMENT OF SALE PROCEEDS** (collectively "Agreement") is made by and between the **CITY OF DETROIT**, a Michigan public body corporate, operating through the Detroit Water and Sewerage Department, whose address is 735 Randolph, Suite 500, Detroit, Michigan 48226 (the "City"), the **GREAT LAKES WATER AUTHORITY**, a municipal authority and public body corporate organized pursuant to Public Act 233 of 1955, whose address is 735 Randolph, Suite 1900, Detroit, Michigan 48226 ("GLWA") and the **DETROIT BROWNFIELD REDEVELOPMENT AUTHORITY**, a municipal authority and public body corporate organized pursuant to Public Act 381 of 1996, whose address is 500 Griswold, Suite 2200, Detroit, Michigan 48226 (the "DBRA"). The City, GLWA and DBRA are collectively referred to as the "Parties," and each is a "Party." For purposes of this Agreement, the City is the seller of the Property and the assignor of the Property's sale proceeds to GLWA; GLWA is the assignee of the sale proceeds; and DBRA is the purchaser of the Property.

### **RECITALS**

- A. The City is the fee simple owner of real property located in the City of Detroit, Wayne County, Michigan ("Property"), as more particularly described in the attached Exhibit A;
- B. In accordance with the Regional Sewage Disposal System Lease between the City and GLWA (the "Lease"), GLWA has:
  - 1. operational jurisdiction over the Property for the term of the Lease;
  - 2. the right to sell the Property if the Property is no longer needed or useful in connection with GLWA's operations; and,
  - 3. the right to the sale proceeds from the Property by way of an assignment from the City to GLWA.
- C. The DBRA has offered and agrees to purchase the Property in accordance with the terms, covenants, and conditions of this Agreement.
- D. In accordance with its rights and responsibilities as reflected in the Lease, GLWA has provided notice to the City and GLWA has determined that the Property, which as defined by the Lease is a Leased Sewer Facility, may be sold since it is no longer needed or useful in connection with the operation of the Regional Sewer System or that such sale or disposition will not impair the operating efficiency of the Regional Sewer System or reduce its ability to satisfy the Rate Covenant provided in the Master Bond Ordinance.
- E. The City agrees to:
  - 1. waive GLWA's sixty (60) day notice requirement to dispose of the Property;
  - 2. cooperate with GLWA in arranging the execution and delivery of a deed to the DBRA;
  - 3. assign its rights to the sales proceeds to GLWA, which proceeds shall ultimately be deposited into the Receiving Fund; and,
  - 4. complete any other act necessary to accomplish the purposes of this Agreement.

In consideration of the foregoing recitals and the mutual obligations of the Parties hereto, each of them hereby covenants and agrees as follows:

## ARTICLE 1. DEFINITIONS

The following words and expressions shall, wherever they appear in this Agreement, be construed as follows:

1.1 **“Agreement”** shall mean this Agreement and the following Exhibits and Schedules attached hereto and expressly made a part hereof:

Exhibit A: Legal Description of Property

Exhibit B: Form of Quit Claim Deed

1.2 **“Closing”** shall mean a date agreed upon by the Parties hereto for the transfer of title to the Property within thirty (30) days following the expiration of the Investigation Period, subject to any extension for the satisfaction of the conditions to Closing as provided herein.

1.3 **“City Board of Water Commissioners Approval”** shall mean the approval of this Agreement and the waiver of GLWA’s sixty (60) day notice requirement to dispose of the Property by resolution of the City of Detroit Board of Water Commissioners.

1.4 **“DBRA Board Approval”** shall mean the approval of the purchase of the Property by resolution of the Detroit Brownfield Redevelopment Authority Board of Directors.

1.5 **“Deed”** shall mean the Quit Claim Deed conveying the Property to the DBRA from the City in substantially the form as attached hereto as **Exhibit B**.

1.6 **“Default”** shall have the meaning as set forth in Article 8 of this Agreement.

1.7 **“Deposit”** shall mean the earnest money paid as described in Section 2.2.

1.8 **“Effective Date”** shall mean the later of the date on which all Parties to this Agreement shall have fully executed this document and the date on which all parties have received the executed GLWA Board Approval the DBRA Board Approval, and the City Board of Water Commissioners Approval (each as defined herein). The parties acknowledge that the foregoing Board Approvals are a condition precedent to the effectiveness of this Agreement. If a required Board Approval is not obtained, this Agreement shall terminate and become null and void, and the DBRA shall be entitled to a refund of any deposits made hereunder.

1.9 **“Encumbrance”** shall mean any covenant, license, right of way, easement, limitation, condition, reservation, restriction, right or option, mortgage, pledge, lien, construction lien, mechanic's lien, charge, conditional sale or other title retention agreement or arrangement, encumbrance, lease, sublease, security interest, or trust interest.

1.10 **“GLWA Board Approval”** shall mean the approval of the sale of the Property by resolution of the Great Lakes Water Authority Board of Directors.

1.11 **“Investigation Period”** shall mean the time allotted in this Agreement for the inspection of the Property, review of title, and the results of the tests, investigations, and surveys.

1.12 **“Property”** shall mean that parcel(s) described in Recital A of this Agreement, as more particularly described in Exhibit A attached hereto.

## **ARTICLE 2. PURCHASE PRICE, DEPOSIT AND ASSIGNMENT**

2.1 Purchase Price. Subject to the terms, covenants, and conditions of this Agreement, the DBRA agrees to purchase, and the City agrees to convey the Property for the price of One Million and 00/100 Dollars (\$1,000,000.00) ("Purchase Price"). The DBRA shall pay cash and is not financing this transaction.

2.2 Deposit. Within three (3) business days of the Effective Date, the DBRA shall deposit into escrow with Amrock, Inc. ("Escrow Holder"), an earnest money deposit of One Thousand and 00/100 Dollars (\$1,000.00), which sum shall be held by Escrow Holder, in escrow, however, subject to disbursement in accordance with the terms and provisions of this Agreement. The Deposit shall be credited to GLWA and applied toward the Purchase Price at Closing.

2.3 Assignment of Sale Proceeds. Pursuant to the Lease, the sale proceeds from Leased Sewer Facilities are assigned from the City to GLWA. The Parties agree that the Property is one of the Leased Sewer Facilities. As such, the DBRA shall make all payments, including the Deposit and final payment made at Closing ("Funds"), payable to GLWA and shall pay such Funds via wire transfer, certified funds, cashier's check or other method required by the Escrow Holder or as directed by GLWA.

## **ARTICLE 3. TITLE INSURANCE AND DEED**

### **3.1 Title Insurance/Survey.**

(a). Commitment. Within five (5) days following the Effective Date, the DBRA shall, at its own expense, order a commitment for an owner's title insurance policy, together with copies of all instruments described in Schedule B thereof (the "Title Commitment"). Thereafter, as soon as reasonably possible, the DBRA shall obtain the Title Commitment for the Property showing all matters affecting record title to the Property, subject to the terms, covenants, and conditions of this Agreement. The Title Commitment will be in the amount of the Purchase Price and will be issued by the Escrow Holder without the standard exceptions. Upon receipt, the DBRA shall provide GLWA and the City a copy of the Title Commitment and underlying documents.

(b). Survey. Within five (5) business days following the Effective Date, the DBRA shall, at its own expense, order a current survey of the Property and the parent parcel of which the Property is a part (the "Survey") from a registered land surveyor (the "Surveyor"). Thereafter, as soon as reasonably possible, the DBRA shall have obtained and shall provide a true and certified copy of the Survey to GLWA and the City. The legal description of the Property set forth in the Title Commitment shall conform exactly to the legal descriptions in the Survey and the Survey shall contain such detail from the ALTA/ASCM Schedule A Table as the DBRA deems necessary.

(c). Title Objections. The DBRA shall have the right, until the expiration of the Investigation Period (as defined below), to identify in writing those matters and/or title Encumbrances identified in the Title Commitment that are unacceptable to it ("DBRA's Objections"), in which event the City and the GLWA shall have twenty (20) days from the date it receives the DBRA's Objections (the "Cure Period") to cure or remove such matters (if

any) and to satisfy any other requirements set forth therein. The City and the GLWA shall each use its best efforts to satisfy the requirements of the preceding sentence. If the City and the GLWA are unable to furnish satisfactory title within the time specified, the DBRA shall have the option of either (1) providing the City and the GLWA with additional time as the DBRA determines appropriate to enable the City and the GLWA to remedy the title and survey defects, or (2) to terminate this Agreement in writing and receive a full refund of the entire Deposit. The DBRA may, at its own expense, pay such amounts to discharge any liens or encumbrances having liquidated amounts at Closing, however, the DBRA shall not receive a credit therefor against sums due City and GLWA at Closing. The items contained in the Title Commitment to which the DBRA does not object during the Investigation Period shall be deemed permitted exceptions (the "Permitted Exceptions").

(d). Policy. GLWA and/or the City **WILL NOT** order or pay the premium for an owner's policy of title insurance. Any title insurance policy insuring DBRA's title to the Property, whether an owner's or mortgagee policy, without standard exceptions, will be at the DBRA's expense. Notwithstanding anything herein to the contrary, GLWA and the City shall execute such affidavits as may be required for such title policy to be issued without standard exceptions.

### 3.2 Title/Deed.

(a). Conveyance. At the Closing, the City will deliver the Deed to the Property to the DBRA.

(b). Title conveyed. Such conveyance and title shall be in fee simple, and shall, in addition to the conditions and covenants hereinafter provided for, be subject to Encumbrance and the Permitted Exceptions.

## **ARTICLE 4. TAXES AND ASSESSMENTS**

4.1 Property Tax Prorations. All taxes and assessments which have become a lien upon the Property at the date of Closing shall be paid by GLWA, provided that current City and County taxes shall be prorated as if paid in advance and adjusted to the date of Closing on a due date basis.

## **ARTICLE 5. REPRESENTATION AND WARRANTIES**

5.1 Inducement of the GLWA and the City. In order to induce GLWA and the City to enter into this Agreement, the DBRA represents and warrants to GLWA and the City that:

(a). Subject to receipt of the DBRA Board Approval, the DBRA has the power to make, deliver and perform this Agreement and has taken all necessary action to authorize the foregoing and to authorize the execution, delivery and performance of this Agreement.

(b). To the best of the DBRA's knowledge and subject to receipt of the DBRA Board Approval, the execution, delivery and performance of this Agreement will not violate any provision of any existing law, regulation, order or decree of any court or governmental entity, the violation of which would or could materially affect its ability to fulfill its obligations

under this Agreement, or any provision of the DBRA's organizational documents (*e.g.*, charter, articles of incorporation, articles of organization, partnership agreement, bylaws or operating agreement) and will not violate any provision of, or constitute a default under, any agreement or contract to which it is a party, the violation of which would or could materially affect its ability to fulfill its obligations under this Agreement.

(c). The DBRA has not engaged any broker, finder or agent with respect to the transactions contemplated by this Agreement.

5.2 Inducement of the DBRA. In order to induce the DBRA to enter into this Agreement, the City and GLWA, as the case may be, represent and warrant to the DBRA that:

(a). Neither the City nor the GLWA has received any notice of any existing violations of any laws, zoning ordinances, regulations, orders or requirement with respect to the Property, nor has the City or the GLWA received any notice of any existing or threatened condemnation or other legal action of any kind involving the Property.

(b). There is no pending or threatened litigation, administrative action or examination, claim, or demand whatsoever relating to the Property.

(c). The City is the fee title owner of the Property in the condition required for performance hereunder and, except for the easement agreement contemplated by this Agreement, will not cause any modification thereof through, to, and including the date of Closing.

(d). The City and the GLWA have not engaged any broker, finder or agent with respect to the transactions contemplated by this Agreement.

5.3 Access Easement. Prior to Closing, the Parties agree to enter into an agreement providing for:

(a). A permanent, non-exclusive easement over and across an agreed upon portion of the parent parcel of which the Property is currently a part for utilities, drainage (if necessary), water, and sewer, and ingress and egress.

(b). A permanent, non-exclusive easement over and across an agreed upon portion of the Property that is sufficient to perform maintenance and repairs required to operate the Conner Creek CSO Facility and related appurtenances that may lie underneath or adjacent to the Property; provided that, for purposes of such easement, GLWA shall identify all infrastructure within or in material proximity to the Property within sixty (60) days of the Effective Date and, if no such infrastructure is identified, then no such easement shall be required or provided; and provided further that, in the alternative to granting such an easement, if required, GLWA shall have the option to reconfigure the boundaries of the Property prior to Closing to exclude any area(s) under which any infrastructure is located.

Such easements shall run with the land and be in a location and form reasonably acceptable to the Parties.

The Parties shall negotiate the location of such easement areas and form of such easement agreement in good faith during the Initial Investigation Period and any extensions thereto

and shall for the purposes of this Agreement confirm in writing the location of such easement areas and the form of such easement agreement that will be executed at Closing.

5.4 Road Vacation. As additional inducement of the DBRA to enter into this Agreement, prior to Closing, the City shall vacate that portion of Canal Street located on the Property without reserving an easement for utilities unless otherwise approved by the DBRA.

5.5 Survival. All of the representations and warranties contained in this Article 5 or pursuant hereto shall survive the delivery of the Deed and shall remain in full force and effect for a period of six (6) months.

## **ARTICLE 6. CONDITION OF PROPERTY**

### **6.1 Condition of Property; Investigation Period**

(a). The DBRA takes the Property as it finds it, “**AS IS**”, and GLWA and the City make no implied or express representations or warranties as to its fitness for absolutely any purpose whatsoever, or regarding the presence or absence of Hazardous Materials at, on, in, under, about or from the Property and compliance of the Property with Environmental Laws, or otherwise. The DBRA acknowledges that GLWA, the City or any agent of GLWA and/or the City have NOT made any warranty, representation or agreement, either express or implied, and that the DBRA has not relied on any representation, warranty or agreement of any kind made by GLWA, the City or any agent or employee of GLWA and/or the City concerning (i) the physical or environmental condition of the Property; or (ii) the presence or absence of any condition, substance or material, including but not limited to any waste material, equipment or device at, in, on, about, under, or from the Property. The DBRA agrees that the disclosures of GLWA and/or the City concerning the Property and its condition, if any, are intended to satisfy any duties GLWA and/or the City may have under the law, including but not limited to statutes, Environmental Laws and common law. The DBRA shall rely solely on its own investigation, as defined in Section 6.2, with respect to such inquiries, investigations and assessments.

6.2 The DBRA shall have a period of time, commencing on the Effective Date, and expiring at 5:00 p.m., Eastern Daylight Time (EDT), one hundred eighty (180) days thereafter, to inspect the Property (the “Initial Investigation Period”). Prior to the end of the Initial Investigation Period and in the event the DBRA needs additional time to complete its investigation, it shall provide GLWA with a written request to do the same. GLWA may extend the Initial Investigation Period for an additional thirty (30) day period (the “Extended Inspection Period”).

During the Investigation Period, the City and the GLWA shall permit the DBRA and the DBRA’s agents and representatives access to the Property for the purpose of conducting such physical and environmental inspections of the (collectively, the “Inspections”) Property as the DBRA shall deem necessary to determine the feasibility of the Property for the DBRA’s intended use. Before the DBRA enters the Property to perform Inspections, the DBRA shall give GLWA reasonable advance written notice and, at GLWA’s option, a representative of GLWA may accompany the DBRA and/or the DBRA’s representatives during the Inspections.

The DBRA agrees to be solely responsible for the conduct of the DBRA's agents and representatives on and adjacent to the Property.

In addition, upon the request of the DBRA, the City and GLWA shall permit any potential end-user of the Property and its representatives and agents to access the Property and conduct physical and environmental inspections of the Property pursuant to a separate access agreement entered into by such end-user and GLWA. Such end-user shall be solely responsible for the conduct of its agents and representatives on and adjacent to the Property, and the DBRA shall have no liability therefor.

During the Investigation Period, the DBRA will not conduct, any physically invasive testing of, on or under the Property without first obtaining GLWA's written consent and providing a scope of work for such testing to GLWA for GLWA's reasonable approval. The DBRA agrees to return the Property to substantially the same condition and cleanliness existing before entry and/or occupation by the DBRA's agents and representatives. The DBRA shall promptly pay when due the costs of all tests, investigations, and examinations performed by or for the DBRA with regard to the Property and not permit any liens to attach to the Property by reason of the exercise of the DBRA's rights hereunder. Upon request, DBRA shall provide to GLWA and the City copies of any reports generated during the Investigation Period. If the DBRA provides a notice to the City and the GLWA during the Investigation Period that it wishes to terminate the Agreement for any reason or no reason (a "Termination Notice"), this Agreement shall terminate and become null and void, and the DBRA shall be relieved of any and all liability hereunder. If this Agreement is so terminated, the DBRA shall thereupon receive a refund of the entire Deposit. In the event that Purchaser does not give a Termination Notice, the Parties shall proceed to Closing in accordance with the terms hereof, subject to the contingencies described herein.

6.3 Section 16 of NREPA. Check the box below if the Property is a "facility" under Part 201 of NREPA and provide the required information, if any.

☐ Pursuant to the requirements of Section 16 of Part 201 of NREPA, MCL 324.20116, the DBRA agrees that GLWA and the City have notified the DBRA that the Property is a "facility" as that term is defined in Part 201 of NREPA. The general nature and extent of any land or resource restrictions or any release at or from the facility that is known to the City is more fully described in certain reports, copies of which have been provided to the DBRA. By its execution of this Agreement, the DBRA acknowledges receipt of the following reports:

*[Identify such environmental reports, if any, including Phase I and Phase II Environmental Site Assessments, with specificity. If none, so state.]:*

\_\_\_N/A\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*[If the Property is not a "facility" as defined in NREPA, insert "NA" for "Not Applicable": \_\_\_].*



## ARTICLE 7. CLOSING

7.1 Time and Place of Closing. The Closing shall occur within thirty (30) days after satisfaction of the conditions to Closing as specified in Section 7.2 of this Agreement on a date and time acceptable to the Parties. The Closing shall take place at the office of GLWA, or such other location in downtown Detroit designated by the City.

7.2 Conditions to Closing.

(a). GLWA and the City's Obligations to Close. The obligation of GLWA and the City to effect a Closing hereunder shall be subject to GLWA Board Approval and the City Board of Water Commissioners Approval and satisfaction of all conditions contained therein, and fulfillment by the DBRA of each of the following conditions precedent:

(i). Accuracy of Representations and Warranties. All representations and warranties of the DBRA set forth in Section 5.1 of this Agreement shall be true and correct as of the date of Closing, as if made on that date.

(ii). DBRA Board Approval. The DBRA shall furnish to GLWA and the City a certified copy of the DBRA Board Approval.

(iii). Payment of Purchase Price and Closing Costs. The DBRA shall have tendered payment of the Purchase Price and the closing costs payable to GLWA, as reflected in Article 2.

(b). The DBRA's Obligations to Close. The obligation of the DBRA to effect a Closing hereunder shall be subject to DBRA Board Approval and the fulfillment of each of the following conditions precedent:

(i). Title. Title to the Property shall be in the form required by this Agreement, subject to Section 3.1(c).

(ii). GLWA Board Approval and City Board of Water Commissioners Approval. GLWA shall furnish to the DBRA a certified copy of the GLWA Board Approval, and the City shall furnish to the DBRA a certified copy of the City Board of Water Commissioners Approval.

(iii). Acceptable Condition of Property. The physical and environmental condition of the Property and the results of the DBRA's other investigations shall be acceptable to the DBRA, pursuant to Article 6.

(iv). Accuracy of Representations and Warranties. All representations and warranties of the City and the GLWA set forth in Section 5.2 of this Agreement shall be true and correct as of the date of Closing, as if made on that date.

(v). Tax Parcel Split. The City shall have completed the tax parcel split pursuant to Section 14.13 of this Agreement so that the Property is assessed pursuant to its own tax parcel number separate and distinct from the parent parcel of which the Property is a part as of the date of this Agreement.

(vi). Access Easement. The Parties shall have agreed to an easement agreement as set forth in Section 5.3 of this Agreement.

(vii). Road Vacation. The City shall have vacated that portion of Canal Street located on the Property without a reservation of easement for utilities, unless otherwise approved by the DBRA.

7.3 Delivery of Deed, Easement Agreement, and Possession. The City will deliver the Deed to the Property and GLWA will deliver possession to the Property to the DBRA free and clear of the rights of any tenants or other parties, including GLWA, at the Closing, provided that the DBRA has complied with all conditions precedent as specified herein. The Parties deliver executed counterparts of the easement agreement as agreed upon pursuant to Section 5.3. The DBRA shall be responsible for recording the Deed and easement agreement and paying all recording costs (including the cost of the documentary stamp tax on the Deed and easement agreement, if any).

7.4 Payment of Expenses. The DBRA shall pay all costs, fees, and out of pocket expenses of whatsoever kind or nature related to the procurement of services of its associates and contractors, etc. which have been incurred by the DBRA pursuant to the making of this Agreement.

7.5 City's Failure to Convey. In the event the City does not tender the Deed of the Property in the manner provided in this Agreement, and any such failure shall not be cured within ten (10) days after written demand by the DBRA, then, provided the DBRA is not in Default under this Agreement, at the option of the DBRA, this Agreement may be terminated, whereupon the DBRA will be entitled to the return of the Deposit and neither Party shall thereafter have further liability or obligation hereunder, or, the DBRA shall be entitled to seek specific performance of this Agreement.

## **ARTICLE 8. DEFAULTS AND EVENTS OF DEFAULT**

8.1 Default by the DBRA. The DBRA shall not be in default unless the DBRA fails to perform obligations required of the DBRA within a reasonable time, but in no event later than thirty (30) days, after written notice by the City or GLWA to the DBRA, specifying wherein the DBRA has failed to perform such obligation, provided, however, that if the nature of the DBRA's obligation is such that more than thirty (30) days are reasonably required for performance then the DBRA shall not be in default if the DBRA commences performance within such thirty (30) day period and thereafter diligently pursues such performance to completion.

8.2 Default by the City. The City shall not be in default unless the City fails to perform obligations required of the City within a reasonable time, but in no event later than thirty (30) days, after written notice by the DBRA to the City, specifying wherein the City has failed to perform such obligation, provided, however, that if the nature of the City's obligation is such that more than thirty (30) days are reasonably required for performance then the City shall not be in default if the City commences performance within such thirty (30) day period and thereafter diligently pursues such performance to completion.

8.3 Default by GLWA. GLWA shall not be in default unless GLWA fails to perform obligations required of GLWA within a reasonable time, but in no event later than thirty (30) days, after written notice by the DBRA to GLWA, specifying wherein GLWA has failed to perform such obligation, provided, however, that if the nature of GLWA's obligation is such that more than thirty (30) days are reasonably required for performance then GLWA shall

not be in default if GLWA commences performance within such thirty (30) day period and thereafter diligently pursues such performance to completion.

8.4 Waiver of Default. The non-defaulting Party may waive any Default by the defaulting Party, provided that non-defaulting Party has notified the defaulting Party of such waiver in writing.

## **ARTICLE 9. REMEDIES**

9.1 GLWA and the City's Remedies. Upon the DBRA's Default, GLWA or the City may terminate this Agreement, whereupon the Deposit shall be forfeited to GLWA and the DBRA shall have no further rights or liabilities hereunder.

9.2 DBRA's Remedies. If GLWA or the City breaches any of its obligations under this Agreement, then, the DBRA shall have as its exclusive remedy the right solely to seek injunctive relief, specific performance or other equitable remedies for GLWA's or the City's breach of this Agreement or the right to terminate this Agreement and receive a refund of its entire Deposit, and in no event shall the DBRA be entitled to monetary damages as a result of GLWA or the City's breach of this Agreement.

## **ARTICLE 10. ASSIGNMENT**

10.1 Assignment. From and after the GLWA Board Approval and the City Board of Water Commissioners Approval, the DBRA may not assign this Agreement or any rights or interests under this Agreement without the prior written approval of GLWA, which approval shall not be unreasonably withheld, delayed, or conditioned.

## **ARTICLE 11. RESPONSIBILITY FOR DAMAGES AND CLAIMS**

11.1 Each Party is responsible for any and all damages and claims, including administrative sanctions, penalties, and/or claims for damages to person or property associated with any action or inactions related to the Party's respective responsibilities under this Agreement. If it appears that both Parties may be responsible, the Parties shall endeavor to allocate responsibility between the Parties and, present a common defense.

11.2 Hazardous Materials.

a. Definitions.

(i). **"Relevant Environmental Laws,"** as referred to herein, shall mean all applicable federal, state, and local laws, rules, regulations, orders, judicial determinations, and decisions or determinations by any judicial, legislative or executive body of any governmental or quasi-governmental entity, whether in the past, the present or the future, with respect to:

(a). the installation, existence, or removal of, or exposure to, Asbestos on the Property.

(b). the existence on, discharge from, or removal from the Property of Hazardous Materials.

(c). the effects on the environment of the Property or of any activity conducted on the Property.

Relevant Environmental Laws shall include, but are not limited to, the following: (i) the Comprehensive Environmental Response, Compensation, and Liability Act, 42 USC Sections 9601, *et seq.*; the Superfund Amendments and Reauthorization Act, Public Law 99-499, 100 Stat. 1613; the Resource Conservation and Recovery Act, 42 USC Sections 6901, *et seq.*; the National Environmental Policy Act, 42 USC Section 4321; the Safe Drinking Water Act, 42 USC Sections 300F, *et seq.*; the Toxic Substances Control Act, 15 USC Section 2601; the Hazardous Materials Transportation Act, 49 USC Section 1801; the Federal Water Pollution Control Act, 33 USC Sections 1251, *et seq.*; the Clean Air Act, 42 USC Sections 7401, *et seq.*; and the regulations promulgated in connection therewith; (ii) Environmental Protection Agency regulations pertaining to Asbestos (including 40 CFR Part 61, Subpart M); Occupational Safety and Health Administration Regulations pertaining to Asbestos (including 29 CFR Sections 1910.1001 and 1926.58) as each may now or hereafter be amended; and (iii) any state and local laws and regulations pertaining to Hazardous Materials and/or Asbestos.

(ii). **“Asbestos,”** as referred to herein, shall have the meanings provided under the Relevant Environmental Laws and shall include, but not be limited to, asbestos fibers and friable asbestos as such terms are defined under the Relevant Environmental Laws.

(iii). **“Hazardous Materials,”** as referred to herein, shall mean any of the following as defined by the Relevant Environmental Laws: Asbestos; hazardous wastes; solid wastes; toxic or hazardous substances, wastes, or contaminants (including, but not limited to, polychlorinated biphenyls (PCB's), paint containing lead, and urea formaldehyde foam insulation).

**11.3 Non-Liability of GLWA and the City.** GLWA and the City shall not be responsible or liable to the DBRA, and the DBRA hereby releases GLWA and the City from liability, for any loss or damage, including losses or damages resulting from exacerbating existing environmental conditions or for any violation or alleged violation of the Relevant Environmental Laws by the DBRA, that may be occasioned by or through the acts or omissions of persons occupying any part of the Property during the Investigation Period and after the Closing, unless caused by the City's or GLWA's actions or the failure to act.

## **ARTICLE 12. AMENDMENTS**

**12.1 Form.** Any change, addition, deletion, extension or modification of this Agreement (including assignments) that is mutually agreed upon by and between the Parties shall be incorporated in a written amendment to this Agreement. Such amendment shall not invalidate this Agreement nor relieve or release the DBRA of any of its obligations under this Agreement unless expressly stated therein.

12.2 Binding Effect. No amendment to this Agreement shall be effective and binding upon the Parties unless it expressly makes reference to this Agreement, is in writing, is signed and acknowledged by duly authorized representatives of the Parties.

### ARTICLE 13. NOTICES

13.1 Addresses. Except as otherwise specified herein, all notices, consents, approvals, requests and other communications (herein collectively called “**Notices**”) required or permitted under this Agreement shall be given in writing and personally delivered with receipt obtained, or mailed by registered or certified first-class mail, return receipt requested, addressed as follows:

| <b>If to GLWA:</b>   | <b>If to the City:</b>   | <b>If to the DBRA:</b>  |
|--|--|---|
| Sue McCormick<br>CEO, GLWA<br>735 Randolph, Suite 1900<br>Detroit, Michigan 48226                              | Gary Brown<br>Director, Detroit Water and<br>Sewerage Department<br>(DWSD)<br>735 Randolph, Suite 500<br>Detroit, Michigan 48226 | Attn: Rebecca Navin<br>Detroit Brownfield<br>Redevelopment Authority<br>500 Griswold, Suite 2200<br>Detroit, Michigan 48226                     |
| with a copy to:<br>Randal Brown<br>GLWA General Counsel<br>735 Randolph, Suite 1900<br>Detroit, Michigan 48226 | with a copy to:<br>Debra Pospiech<br>DWSD General Counsel<br>735 Randolph, Suite 900<br>Detroit, Michigan 48226                  | with a copy to:<br>Luke Polcyn<br>Miller, Canfield, Paddock<br>and Stone, PLC<br>150 W. Jefferson Ave, Suite<br>2500<br>Detroit, Michigan 48226 |

13.2 Date of Notice. All notices shall be deemed given when hand-delivered or delivered by nationally recognized overnight courier, or, if mailed, three (3) days after the day of mailing. The Parties to this Agreement may change its address for the receipt of Notices at any time by giving notice thereof to the other Parties as provided in Section 13.1. Any Notice given by a Party hereunder must be signed by an authorized representative or attorney of such Party.

### ARTICLE 14. MISCELLANEOUS

14.1 Severability. If any one or more provisions of this Agreement or in any instrument or other document delivered pursuant to this Agreement or the application thereof to any person or circumstance shall to any extent be declared or determined to be invalid or unenforceable, the validity, legality and enforceability of the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which

it is invalid or unenforceable, shall not be affected or impaired thereby, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

14.2 Entire Agreement. This instrument, including the exhibits listed in Section 1.1 which are attached hereto and which are made a part of this Agreement, contains the entire agreement between the Parties and all prior negotiations and agreements are merged herein. The DBRA acknowledges that GLWA, the City or their agents have not made any representations except those expressly set forth herein, and no rights or remedies are or shall be acquired by the DBRA by implication or otherwise unless expressly set forth herein.

14.3 Terminology. Unless the context otherwise expressly requires, the words “herein”, “hereof”, and “hereunder”, and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section, or other subdivision.

14.4 Covenants and Conditions. All the terms and provisions of this Agreement shall be deemed and construed to be “covenants” and “conditions” as though the words specifically expressing or imparting covenants and conditions were used in each separate term and provision.

14.5 Captions. The headings of the Articles, Sections and other subdivisions in this Agreement are for convenience only and shall not be used to construe or interpret the scope or intent of this Agreement or in any way affect the same.

14.6 Jurisdiction; Venue. All actions arising under this Agreement shall be governed by, subject to, and construed according to the laws of the State of Michigan. The DBRA agrees, consents and submits to the personal jurisdiction of any competent court in Wayne County, Michigan for any action brought against it arising out of this Agreement. The DBRA agrees that service of process at the address and in the manner specified in Article 13 will be sufficient to put the DBRA on notice. The DBRA also agrees that it will not commence any action against GLWA or the City because of any matter whatsoever arising out of or relating to the validity, construction interpretation and enforcement of this Agreement, in any courts other than those in the County of Wayne, State of Michigan.

14.7 Force Majeure. In the event of enforced delay in the performance by the Parties of obligations under this Agreement due to unforeseeable causes beyond its control and without its fault or negligence, the time for performance of such obligations shall be extended for the period of the enforced delays; provided that the Party seeking the benefit of the provisions of this Section must, within thirty (30) days after the beginning of such enforced delay, have first notified the other party in writing of the causes thereof and requested an extension for the period of the enforced delay.

14.8 Provisions Not Merged With Deed. No provision of this Agreement is intended to or shall be merged by reason of any Deed transferring title to the Property from the City to the DBRA or any successor in interest, and any such Deed shall not be deemed to affect or impair the provisions and covenants of this Agreement.

14.9 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original document but together shall constitute one instrument.

14.10 Singular and Plural, etc. As used herein, the singular includes the plural, the plural includes the singular, and the use of any gender shall be applicable to all genders.

14.11 Computing Time. When computing time under this Agreement, exclude the day of the event that triggers the period; count every day, including intermediate Saturdays, Sundays and legal holidays; and include the last day of the period, but if the last day is a Saturday, Sunday or Legal Holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday or Legal Holiday. "Legal Holidays" are New Year's Day, Martin Luther King Jr. Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, the day after Thanksgiving, Christmas Eve, Christmas Day, New Year's Eve, and any other day declared by the United States of America or the State of Michigan.

14.12 The Parties acknowledge that this Property is GLWA's preferred site for a future Regional Sewer Facility. If any portion of the Property intended for use by FCA US, LLC is not so used for the Mack Assembly Plant Project and reverts to the DBRA, then the DBRA shall give written notice to GLWA of the Property's reversion and shall not make such Property available for purchase by another other party for a minimum of ninety (90) days thereafter. The Parties shall work in good faith to review any proposal from GLWA to purchase all or some portion of the Property for fair market value and develop for a future Regional Sewer Facility.

14.13 As soon as reasonably possible after the date hereof, the City shall have a new tax parcel assigned to the Property so that the Property is assessed pursuant to its own tax parcel number separate and distinct from the parent parcel of which the Property is a part as of the date of this Agreement. The DBRA shall be responsible for any necessary survey of the Property, at its own expense, to allow the City to have such new tax parcel assigned to the Property.

14.14 The Parties do not waive their governmental immunity defenses and retain all other privileges, immunities and rights as provided by law.

14.15 Time of the Essence. Time is of the essence of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

**DETROIT BROWNFIELD REDEVELOPMENT AUTHORITY**  
**(Signature #1)**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 )ss.

COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 2019,  
by \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_.

\_\_\_\_\_  
Print:  
Notary Public, \_\_\_\_\_ County,

My commission expires: \_\_\_\_\_  
Acting in the County of \_\_\_\_\_



**DETROIT BROWNFIELD REDEVELOPMENT AUTHORITY**  
**(Signature #2)**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 )ss.

COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 2019,  
by \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_.

\_\_\_\_\_  
Print:

Notary Public, \_\_\_\_\_ County,

My commission expires: \_\_\_\_\_

Acting in the County of \_\_\_\_\_

**CITY OF DETROIT**

a Michigan public body corporate

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF MICHIGAN        )  
  )ss.

COUNTY OF WAYNE )

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 2019 by  
\_\_\_\_\_, the \_\_\_\_\_, a Michigan public body corporate, on  
behalf of the City.

\_\_\_\_\_  
Print:

Notary Public, Wayne County, Michigan

My commission expires: \_\_\_\_\_

Acting in the County of Wayne

**GREAT LAKES WATER AUTHORITY**

a Michigan municipal authority

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF MICHIGAN        )  
                                      )ss.

COUNTY OF WAYNE )

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 2019 by Sue McCormick, the Chief Executive Officer, a Michigan public body corporate, on behalf of the Great Lakes Water Authority.

\_\_\_\_\_  
Print:  
Notary Public, Wayne County, Michigan  
My commission expires: \_\_\_\_\_  
Acting in the County of Wayne

## LEGAL DESCRIPTION

The approximately 14.45 acre portion of Property Tax Parcel numbers: 21-000071 and 21-000070.002L as generally outlined below. DBRA shall have a survey and legal description prepared for the Property at the DBRA's expense, which legal description shall be subject to verification by the Parties prior to Closing.



EXHIBIT B

**QUIT CLAIM DEED**

**THIS QUIT CLAIM DEED**, made and executed as of the day of \_\_\_\_\_, 2019, by **City of Detroit, a Michigan public body corporate**, whose address is 2 Woodward Avenue, Detroit, Michigan 48226 (hereinafter referred to as the "**Grantor**") to the Detroit Brownfield Redevelopment Authority, a municipal authority and public body corporate, whose mailing address is 500 Griswold, Suite 2200, Detroit, Michigan 48226 (hereinafter referred to as the "**Grantee**");

**WITNESSETH:**

THAT the Grantor, the consideration for this instrument is set forth in a Real Estate Transfer Tax Valuation Affidavit filed pursuant to MCLA 207.511 and MCLA 207.533, by these presents does quit claim unto the Grantee that certain piece, parcel or tract of land located in the City of Detroit, Wayne County, Michigan, as described as

SEE ATTACHED EXHIBIT "A".

Tax Parcel Nos:

Commonly known as:

(hereinafter referred to as the "**Property**");

TOGETHER WITH all the tenements, hereditaments, easements and appurtenances, including riparian rights, if any, thereto belonging or in anywise appertaining;

TO HAVE AND TO HOLD the Property in fee simple forever.

The Grantor grants to the Grantee the right to make all lawful divisions under section 108 of the Land Division Act, Act No 288 of the Public Acts of 1967, as amended.

This Property may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and management practices that may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan Right to Farm Act.

IN WITNESS WHEREOF, the Grantor has caused these presents to be executed in manner and form sufficient to bind it as of the day and year first above written. This Quit Claim Deed is dated as of \_\_\_\_\_, 2019.

GRANTOR:  
CITY OF DETROIT,  
a Michigan public body corporate

By: \_\_\_\_\_  
Michael Duggan, Mayor  
City of Detroit

STATE OF MICHIGAN        )  
                                      ) ss.  
COUNTY OF WAYNE        )

The foregoing instrument was acknowledged before me on \_\_\_\_\_ 2019, by Michael Duggan, Mayor, on behalf of the City of Detroit, a Michigan public body corporate.

\_\_\_\_\_  
Print: \_\_\_\_\_  
Notary Public, Wayne County, Michigan  
Acting in Wayne County, Michigan  
My commission expires: \_\_\_\_\_

|  |  |
|--|--|
| <b>This instrument was drafted by:</b> | <b>When recorded, return to:</b>                                       |
| [To be added]                          | Grantee<br><b>500 Griswold, Suite 2200</b><br><b>Detroit, MI 48226</b> |

Exempt from transfer tax pursuant to MCL §207.505(h)(i) and MCL §207.526(h)(i)  
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