

**MICHIGAN STRATEGIC FUND  
BOARD MEETING AGENDA  
November, 24, 2015  
10:00 am**

*Public Comment – Please limit public comment to three (3) minutes  
Communications*

**A. Consent Agenda**

Midland DTH, LLC – MCRP Amendment – Mary Kramer  
Strand Theater Manager, LLP – MCRP Amendment – Julius Edwards  
Grand Rapids Urban Market Holdings, LLC – MCRP Amendment – Julius Edwards  
2016 MSF Board Meeting Dates – Mark Morante  
MSF/MDOT – FY16 MOU Renewal – Mark Morante

**B. Business Growth**

**1. Business Investment –**

Fiat Chrysler Automobiles – MEGA Amendment – Christin Armstrong  
Michigan Manufacturing Technology Center – FY16 Contract Renewal - Jake Schroeder  
Packaging Specialties, Inc. – Act 381 Work Plan – Marcia Gebarowski  
Rivian Automotive, LLC – MBDP Performance Based Grant – Trevor Friedeberg

**2. Access to Capital -**

Cathedral of St. Augustine's – Bond Inducement – Chris Cook

**C. Community Vitality -**

City of Alpena – CDBG Façade Improvement – Dan Leonard  
NoMi Developers, LLC – MCRP & Act 381 Work Plan – Rosalyn Jones  
Lansing Properties I, LLC – Act 381 Work Plan – Marilyn Crowley  
Whitney Partners, LLC – MCRP Amendment – Mark Morante

**D. State Branding**

Travel Michigan – Request to Issue Revised Website RFP – Dave Lorenz

**MICHIGAN STRATEGIC FUND**

**RESOLUTION 2015-**

**APPROVAL OF NOVEMBER 2015 CONSENT AGENDA  
FOR THE MICHIGAN STRATEGIC FUND BOARD**

**WHEREAS**, the Michigan Strategic Fund (“MSF”), at its February 2014 board meeting, approved the use of consent agendas at future board meetings pursuant to defined guidelines.

**WHEREAS**, the MSF, at its February, 2014 board meeting, approved Guidelines for Preparation and Approval of Consent Agendas for the MSF (“Guidelines”).

**WHEREAS**, pursuant to the recommendation of MSF and MEDC staff, the MSF Board desires to approve the below Consent Agenda items;

**NOW, THEREFORE, BE IT RESOLVED**, the MSF approves the Consent Agenda items listed below and identified in the final Consent Agenda for this board meeting, for each of which supporting documentation is attached to this Resolution.

Consent Agenda Items:

Proposed Meeting Minutes – October 27, 2015  
Midland DTH, LLC – MCRP Amendment  
Strand Theater Manager, LLP – MCRP Amendment  
Grand Rapids Urban Market Holdings, LLC – MCRP Amendment  
2016 MSF Board Meeting Dates  
MSF/MDOT – FY16 MOU Renewal

Ayes:

Nays:

Recused:

Lansing, Michigan  
November 24, 2015

**MICHIGAN STRATEGIC FUND  
PROPOSED MEETING MINUTES  
October 27, 2015**

**Members Present**

Paul Anderson  
Steve Arwood  
Dan Boge  
Larry Koops  
Andrew Lockwood (on behalf of Treasurer Khouri)  
Terri Jo Umlor  
Jody DePree Vanderwel  
Shaun Wilson  
Mike Zimmer

**Members Absent**

Wayne Wood

Mr. Arwood called the meeting to order at 10:00 am.

**Public Comment:** Mr. Arwood asked if any members of the audience wished to address the Board. State Representative Bruce Rendon, House District 103, addressed the Board in support of the ARAUCO Forest Processing Zone designation. Patrick Tiedt, Chief of Staff to Senator Darwin Booher, Senate District 35, addressed the Board in support of the Grayling Township ARAUCO project. State Representative & House Democratic Leader Tim Greimel, House District 29, addressed the Board in support of the Strand Theater Project in Pontiac.

Chairman Arwood also acknowledged State Representative Rick Outman, who attended in support of the Village of Sheridan Blight Elimination Grant, and attendance on behalf of Senator Emmons' office, also in support of the Sheridan project.

**Communications:** Andrea Robach, MSF Administrator, advised the Board members that they received updated documents at the table for the ARAUCO and First Customer Program Award agenda items.

**A. CONSENT AGENDA**

**Resolution 2015-149 Approval of Consent Agenda Items**

Mr. Arwood asked if there were any questions from the Board regarding the items under the Consent Agenda. There being none, Larry Koops motioned for approval of the following:

Proposed Meeting Minutes – **September 22, 2015**

Lutheran Homes of Michigan, Inc. – Supplemental Bond Authorizing **2015-150**

250 West Larned, LLC – MCRP Amendment **2015-151**

Dan Boge seconded the motion. **The motion carried: 9 ayes; 0 nays; 0 recused.**

## **B. BUSINESS INVESTMENT**

### **1. Entrepreneurship**

#### **Resolution 2015-152 First Customer Program – RFP Award Recommendations**

*Denise Graves, University & Services Manager, provided the Board with information regarding this action item.* Following brief discussion, Mike Zimmer motioned for the approval of Resolution 2015-152. Larry Koops seconded the motion. **The motion carried: 9 ayes; 0 nays; 0 recused.**

#### **Resolution 2015-153 SBDC Emerging Technologies Fund – Grant Amendment**

*Margaret McCammon, Portfolio Manager, provided the Board with information regarding this action item.* Following brief discussion, Larry Koops motioned for the approval of Resolution 2015-153. Dan Boge seconded the motion. **The motion carried: 9 ayes; 0 nays; 0 recused.**

#### **Resolution 2015-154 SBDC ETF – Technology Counseling Services- Grant Amendment**

*Margaret McCammon, Portfolio Manager, provided the Board with information regarding this action item.* Following brief discussion, Shaun Wilson motioned for the approval of Resolution 2015-154. Andrew Lockwood seconded the motion. **The motion carried: 9 ayes; 0 nays; 0 recused.**

### **2. Business Growth**

#### **Resolution 2015-155 ARAUCO - Forest Product Renaissance Zone Designation**

*Ken Murdoch, Development Finance Manager, provided the Board with information regarding this action item.* Following brief discussion, Dan Boge motioned for the approval of resolution 2015-155. Paul Anderson seconded the motion. **The motion carried: 9 ayes; 0 nays; 0 recused.**

#### **Resolution 2015-156 Johnson Controls Advanced Power Solutions – Battery Credit Amendment**

*Josh Hundt, Development Finance Director, provided the Board with information regarding this action item.* Following brief discussion, Mike Zimmer motioned for the approval of Resolution 2015-156. Larry Koops seconded the motion. **The motion carried: 9 ayes; 0 nays; 0 recused.**

### **3. Access to Capital**

#### **Resolution 2015-157 Arctaris Michigan – SSBCI Small Business Mezzanine Program Amendment**

*Chris Cook, Capital Access Director, provided the Board with information regarding this action item.* Following brief discussion, Larry Koops motioned for the approval of Resolution 2015-157. Dan Boge seconded the motion. **The motion carried: 9 ayes; 0 nays; 0 recused.**

*Ms. Vanderwel, experiencing technical difficulties, was unable to participate in the following two votes.*

#### **Resolution 2015-158 Packaging Specialties, Inc./K-TAB II, LLC – Bond Authorizing**

*Chris Cook, Capital Access Director, provided the Board with information regarding this action item.* Following brief discussion, Dan Boge motioned for the approval of Resolution 2015-158. Shaun Wilson seconded the motion. **The motion carried via roll call vote: 8 ayes; 0 nays; 0 recused.**

#### **Resolution 2015-159 Young Men’s Christian Association of Niles Michigan – Bond Authorizing**

*Chris Cook, Capital Access Director, provided the Board with information regarding this action item.* Following brief discussion, Dan Boge motioned for the approval of Resolution 2015-159. Terri Jo Umlor seconded the motion. **The motion carried via roll call vote: 8 ayes; 0 nays; 0 recused.**

*Ms. Vanderwel was reconnected to the meeting.*

## **C. COMMUNITY VITALITY**

### **Resolution 2015-160 Village of Sheridan – CDBG Blight Elimination**

*Ryan Kilpatrick, Community Assistance Team, provided the Board with information regarding this action item.* Following brief discussion, Larry Koops motioned for the approval of Resolution 2015-160. Mike Zimmer seconded the motion. **The motion carried: 9 ayes; 0 nays; 0 recused.**

### **Resolutions 2015-161 & 2015-162 New Holland Brewing Company – MCRP & Act 381 Work Plan**

*Ryan Kilpatrick, Community Assistance Team, provided the Board with information regarding this action item.* Following brief discussion, Larry Koops motioned for the approval of Resolutions 2015-161 & 2015-162. Terri Jo Umlor seconded the motion. **The motion carried: 9 ayes; 0 nays; 0 recused.**

### **Resolution 2015-163 Strand Theatre Management, LLC – MCRP**

*Stacy Esbrook, Community Assistance Team, provided the Board with information regarding this action item.* Following brief discussion, Mike Zimmer motioned for the approval of Resolution 2015-163. Larry Koops seconded the motion. **The motion carried: 9 ayes; 0 nays; 0 recused.**

### **Resolutions 2015-164 & 2015-165 Plaza Midtown, LLC/City of Detroit – MCRP & MBT**

**Amendment** *Stacy Esbrook, Community Assistance Team, provided the Board with information regarding this action item.* Following brief discussion, Larry Koops motioned for the approval of Resolutions 2015-164 & 2015-165. Dan Boge seconded the motion. **The motion carried: 9 ayes; 0 nays; 0 recused.**

Mr. Arwood adjourned the meeting at 11:17 am.



## MEMORANDUM

**Date:** November 24, 2015  
**To:** Michigan Strategic Fund Board  
**From:** Mary Kramer, MCRP and Brownfield Program Specialist  
**Subject:** Midland DTH LLC  
Michigan Community Revitalization Program  
Request for Approval of a Loan Agreement Amendment

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### Request

Midland DTH LLC (“Company”) is requesting approval of an amendment to the Michigan Community Revitalization Program Loan Agreement (“Agreement”) and related ancillary agreements. The amendment request dated September 10, 2015 includes a request to extend the due date for Milestone One: Completion of Construction Milestone due date from February 18, 2016 to February 16, 2017, which will also result in an extension of Milestone Two to August 16, 2017.

### Background

The Michigan Strategic Fund Board approved a \$4,780,000 Performance-Based Loan on February 25, 2014 to the Company for construction of a five-story, mixed-use building and underground parking in downtown Midland. The new development will include retail, office, and residential space.

Project construction is underway but was delayed due to the removal of high voltage overhead power lines and the installation of power lines below grade by Consumers Energy. Because the power lines ran directly alongside the new proposed building, minimal work could be done on the site prior to the overhead lines being removed. The power line project took significantly longer than was initially anticipated resulting in a delay in project completion and then winter weather of 2014/15 increased the delay timeframe.

The company is current with reporting requirements.

### Recommendation

The MEDC staff recommends approval of an amendment to the MCRP Loan Agreement and ancillary agreements per the Company’s request dated September 10, 2015 to extend the due date for Milestone One to February 16, 2017, which will also result in an extension of Milestone Two to August 16, 2017.

## ORIGINAL APPROVAL



### MEMORANDUM

**Date:** February 25, 2014

**To:** Michigan Strategic Fund

**From:** Joseph Martin, Manager, Community Revitalization and Brownfield Programs  
Julius Edwards, Community Development Incentives  
Nate Scramlin, Community Assistance Team

**Subject:** Midland DTH LLC  
Request for approvals of an Act 381 Work Plan and Michigan Community Revitalization Program Performance-Based Loan

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#### Request

Midland DTH LLC is requesting to use both the Brownfield Act 381 Program and the Michigan Community Revitalization Program (MCRP) for the project located at 102-128 East Main Street and 108 Ashman Street in the City of Midland. The City of Midland Brownfield Redevelopment Financing Authority has submitted an Act 381 Work Plan (Work Plan) request for the approval of local and school tax capture for eligible activities in the amount of \$8,329,487. Additionally, Midland DTH LLC (Applicant) is requesting a Performance-Based Loan Incentive in the amount of \$4,780,000. The Applicant anticipates the project could result in approximately \$20,372,749 in eligible investment and \$22,966,749 in capital investment in the City of Midland.

#### Background

Midland DTH LLC is a single-purpose entity organized by SSP Associates, Inc. (SSP) to complete the Project. SSP has successfully developed numerous Brownfield projects—and is in the process of developing others—over the last five years including:

- The Riverfront Medical Arts Development (including the Michigan Cardiovascular Institute Building, St. Mary's of Michigan Riverfront Campus, Tri City Urology Group, State of Michigan Offices, Garber Management Group and Citizens Bank) located at 1015 Washington Avenue, Downtown Saginaw (180,000 square feet in three buildings).
- Uptown at Rivers Edge (ongoing) – 43-acre development in Bay City, Michigan. Corporate anchors for this development include Dow Corning Corporation, McLaren Bay Region, and Chemical Bank.
- Midwestern Surgical, located at 912 South Washington Avenue, Saginaw, Michigan (20,000 square foot building).

- Michigan Works, located at 312 Genesee Street, Saginaw, Michigan. (17,500 square foot building).

Several of these projects had utilized the previous brownfield tax credit program authorized by the Michigan Economic Growth Authority as well as the Brownfield Tax Increment Financing Program. This Applicant has not previously received any incentives from the MSF.

The Applicant is proposing a mixed-use, five-story redevelopment in the heart of downtown Midland. The new building will have a 13,000 square foot footprint (65,000 square feet total) and an underground parking garage. A restaurant, the Northwood Gallery, and the Midland County Visitors' Bureau are planned for the first floor. Condominium extended stay hotel suites operated by the adjacent H Hotel and/or office space are planned for the second floor. The third through fifth floors will be occupied by approximately fifteen two and three-bedroom apartments. The new development will occur on approximately 0.52 acres of property located at 102-128 East Main Street and 108 Ashman Street in the City of Midland. The property in question is either currently owned by Midland DTH LLC or under executed purchase agreement.

The project is located within the boundaries of the City of Midland, which is a Qualified Local Governmental Unit, and has been deemed a facility as verified by the Michigan Department of Environmental Quality (MDEQ). The property is the subject of a Brownfield Plan, duly approved by the City of Midland Brownfield Redevelopment Financing Authority on November 18, 2013 and concurred with by the City of Midland on December 16, 2013.

The project's statutory requirements are addressed in Appendix A and a project map is provided in Appendix B.

**Deal Structure**

Midland DTH, LLC will be developing the approximately 65,000 square foot condominium project. It is anticipated the financing sources for the project will consist of a Senior Debt Facility from a bank, Owner Equity Contribution equal to an amount of not less 7% of the total development cost, and a MCRP Loan from the MSF of up \$4,780,000. The MCRP Loan and the sale of the condominium spaces will be used exclusively to pay down a majority of the Senior Lending Facility with remaining portion (anticipated to be under \$2,000,000) to be paid down through 50% of the anticipated TIF Reimbursement Income Stream until complete repayment. Following repayment of the Senior Facility 50% of the TIF Reimbursements will go to the developer. During the duration of the MSF Loan Incentive 50% of the TIF Reimbursement will be used to repay the MSF with a lump sum payment required at expiration.

A summary of the anticipated permanent financing sources to the project can be found here:

**TOTAL DEVELOPMENT SOURCES**

Senior Debt Facility	\$16,579,077
Owner Equity Contribution	\$ 1,607,672
MCRP Loan	\$ 4,780,000
<b>Total Development Sources</b>	<b>\$22,966,749</b>



## **MSF LOAN FACILITY**

<b>Applicant/Borrower:</b>	Midland DTH, LLC
<b>MCRP Incentive Type:</b>	Performance Based Loan
<b>Interest Rate:</b>	0%
<b>MCRP Loan Amount</b>	Not to exceed the lesser of \$4,780,000 or 25% of eligible investment
<b>Fees:</b>	One-Time Fee of equal to 1% of the Commitment Amount and an Annual Fee equal to \$37,800.
<b>Term of Incentive:</b>	Note to exceed 15 years following disbursement.
<b>Repayment:</b>	Up to \$1,000,000 to be forgiven at construction completion. Semi-annual payments equal to 50% of applicable TIF Reimbursement Revenue Stream. Remaining balance due at expiration of the loan.
<b>Collateral:</b>	The loan will be secured by an assignment of the future TIF Reimbursement Revenue Stream. <b>Subordination:</b> MSF assignment will only be subordinated to the approximately \$1,533,562 Loan from Chemical Bank to the Borrower. The amount may fluctuate based on the final selling price of the condominiums. In no instance will the assignment of TIF be subordinated greater than \$2,000,000.
<b>Guarantee(s):</b>	Unlimited corporate guarantee of SSP Associates, Inc. and personal guarantees of Dr. Samuel Shaheen, Peter Shaheen and Sabrina Shaheen-Cronin and any 100% controlled Living Trusts.

### **The Applicant's financial need for a community revitalization incentive:**

The applicant has secured permanent senior financing in the amount of \$21,900,000 (prior to MCRP investment) or approximately 95% of the total project cost. Additionally, the owners are expected to contribute a minimum approximately \$1,607,672 in equity to the project. MEDC staff is recommending a \$4,780,000 "Performance Based" loan which will be used to pay down a portion of the Senior debt financing and allow the project to provide the owner with a minimal rate of return.

**Whether the project is financially and economically sound:**

The project is a high-risk proposition for the applicant that is anticipated to generate a minimal return on investment. The risk profile is created by the large portion of the project that is dedicated to speculative premium priced residential condominiums. The MEDC looked to mitigate its risk in the project by taking an assignment of the future TIF Reimbursement Income Stream and requiring guarantees from financially able personal and corporate guarantors.

**Recommendation**

The MEDC staff recommends approval of an MCRP performance-based loan in the amount of \$4,780,000 for Midland DTH LLC. The commitment will remain valid until August 25, 2014 (180 days after approval) with approval for the MSF Fund Manager to extend the commitment an additional 180 days. Staff also recommends approval of school tax capture for the Act 381 eligible activities totaling \$8,329,487 described above.

## APPENDIX A

### MCRP PROGRAM AND ITS GUIDELINES

On December 21, 2011, the MSF Board approved the Michigan Community Revitalization Program (MCRP) and its guidelines. The primary intended objective of the MCRP is to provide incentives to persons that make eligible investments on eligible property in Michigan.

### SOURCE OF INFORMATION

It is the role of the Project Management staff (MEDC Staff) to review for eligibility, completeness, and adherence to MCRP guidelines, the information provided by the applicant and to manage the MSF's investment. Explanatory and background information is supplied in summary form to provide context for the request and is drawn exclusively from materials submitted by the applicant, and, as applicable, from other relevant third party sources utilized by staff.

As required under the program, the following statutory criteria shall be considered by the MSF, as MEDC Staff believes each is reasonably applicable to proposed project:

**A. The importance of the project to the community in which it is located:**

The creation of increased residential living options and the reactivation of commercial spaces in downtown Midland are helping to fuel new business growth in the downtown and offering new housing choices for a mix of incomes and ages. This dynamic is helping to fuel the renaissance of the downtown area.

**B. If the project will act as a catalyst for additional revitalization of the community in which it is located:**

The construction of this development in downtown Midland will help create a demand for additional downtown businesses and services by promoting downtown living and walkability.

**C. The amount of local community and financial support for the project:**

The City of Midland has offered financial support in the form of an approved Brownfield Plan estimated at \$4,651,186 in eligible activities to be reimbursed by local tax capture.

**D. The extent of reuse of vacant buildings, reuse of historical buildings, and redevelopment of blighted property:**

All of the existing buildings on the eligible property will be demolished, and none are designated as historic.

**E. Creation of jobs and areas of high unemployment:**

This project is expected to create approximately 46 new, full-time jobs in the City of Midland, with average hourly wage being estimated at \$17.50. The City of Midland's unadjusted unemployment rate was 5.5% in August 2013.

**F. The level of private sector and other contributions, including, but not limited to, federal funds and federal tax credits:**

A minimum equity contribution in the amount \$1,607,672 and a bank loan in the amount of \$17,134,562 (following MCRP investment take-out) is anticipated to be contributed to the project.

**G. Whether the project increases the density of the area:**

This project will increase the density of the area by creating new residential living options in downtown Midland while adding increased commercial spaces as well.

**H. Whether the project promotes mixed-use development and walkable communities:**

This project promotes mixed-use development by providing residential units and reactivating the commercial/retail components on the first floor. The project is located in downtown Midland and promotes walkability by offering residents' service, retail, and entertainment options within a five minute walk of their doorstep.

**I. Whether the project converts abandoned public buildings to private use:**

This project does not involve any abandoned public buildings.

**J. Whether the project promotes sustainable development:**

This project promotes sustainable development by utilizing a Brownfield site in downtown Midland. The reuse of Brownfield sites generally utilizes already existing public infrastructure, decreasing the need for the development of new infrastructure often at the cost of public entities.

**K. Whether the project involves the rehabilitation of a historic resource:**

This project does not involve the rehabilitation of a historic resource.

**L. Whether the project addresses area-wide redevelopment:**

The creation of market-rate residential space and increased commercial spaces in downtown Midland will act as a catalyst for other projects in the area by increasing the density of people living in and visiting downtown.

**M. Whether the project addresses underserved markets of commerce:**

This project does not address underserved markets of commerce.

**N. The level and extent of environmental contamination:**

Contamination is evident on the subject properties as they are classified as a facility by the MDEQ. The Property will be prepared to make it suitable for development, and appropriate due care and additional response activities will be performed to prevent exposure to materials hazardous to human health, safety, and the environment.

**O. If the rehabilitation of the historic resource will meet the federal Secretary of the Interior's standards for rehabilitation and guidelines for rehabilitating historic buildings (36 CFR 67):**

This project does not involve the rehabilitation of a historic resource.

**P. Whether the project will compete with or affect existing Michigan businesses within the same industry:**

This project is not expected to negatively affect any existing businesses within the industry.

**Q. Any other additional criteria approved by the board that are specific to each individual project and are consistent with the findings and intent of this chapter:**

There are no additional criteria approved by the board specific to this project.

**ADDITIONAL STATUTORY CRITERIA UNDER ACT 381:**

**a) Reuse of functionally obsolete buildings and/or redevelopment of blighted property:**

This Project consists of redevelopment of economically obsolete property. The buildings on the Property underperform economically due to age, structural condition, and the inability to upgrade and modify the structures to serve the commercial markets at generally accepted market rates. Therefore, the existing buildings will be demolished.

**b) Cost gap that exists between the property and a similar greenfield property:**

The Brownfield tax increment financing is needed to alleviate Brownfield conditions to make the property suitable for redevelopment. The utilization of the Act 381 program will assist in activities such as BEA Activities (Phase I ESA, Phase II ESAs, and BEA), due care activities, additional response activities, preparation of Brownfield and Act 381 work plans, lead and asbestos survey and abatement, building demolition, site preparation, and infrastructure improvements. No alternative Greenfield site was considered for the project.

**c) Whether project will create a new brownfield property in the State:**

No new Brownfields will be created by this project.

**d) Other Factors Considered**

No additional factors need to be considered for this project.

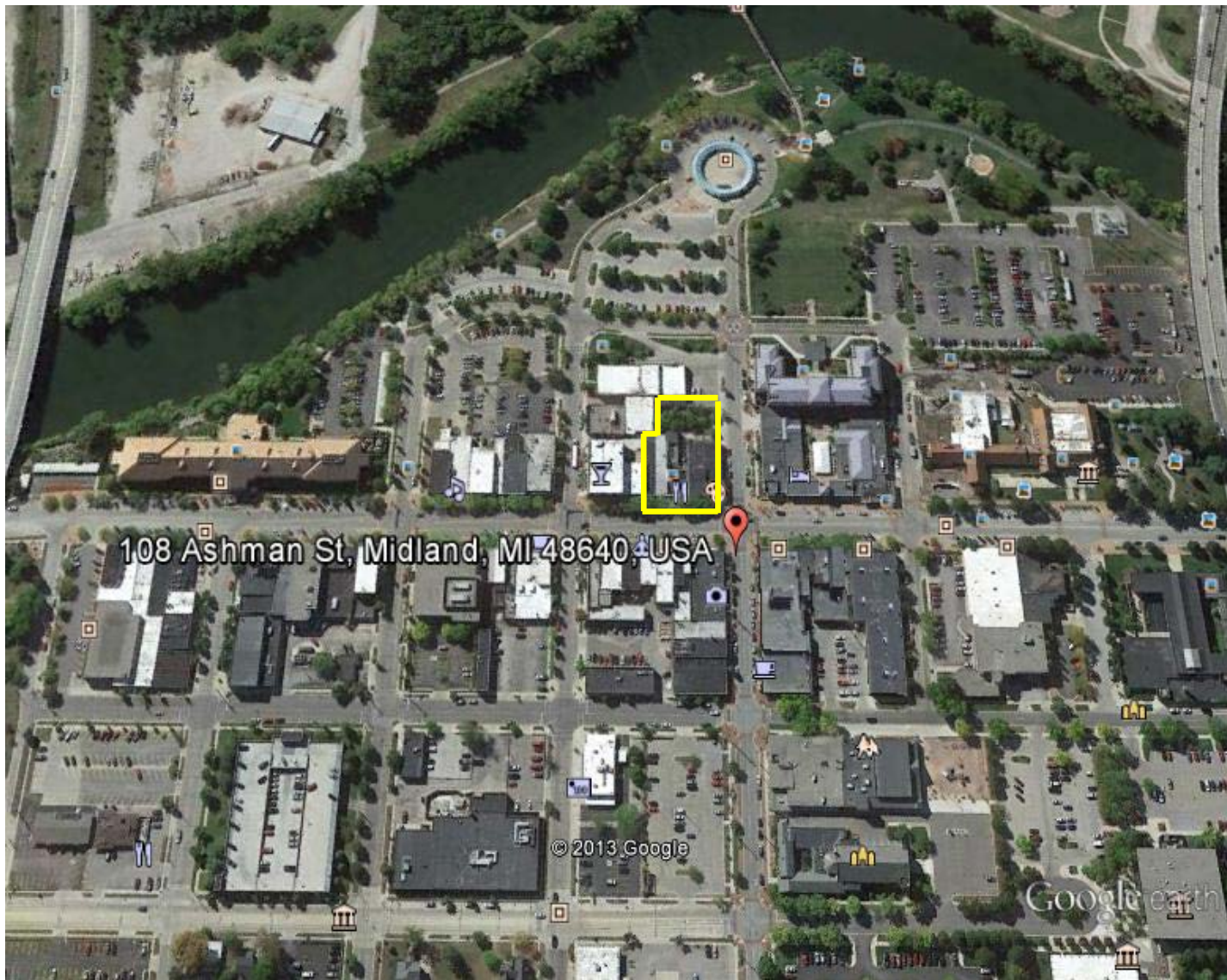
**INCENTIVE OPPORTUNITY**

**Act 381 TIF:** There are 54.3524 non-homestead mills available for capture, with school millage equaling 24 mills (44.16%) and local millage equaling 30.3524 mills (55.84%). The requested tax capture for eligible activities breaks down as follows:

School tax capture (44.16%)	\$3,678,301
Local tax capture (55.84%)	<u>\$4,651,186</u>
<b>TOTAL</b>	<b>\$8,329,487</b>

**COST OF ELIGIBLE ACTIVITIES**

Demolition	\$ 350,000
Lead or Asbestos Abatement	100,000
Infrastructure Improvements	1,420,000
Site Preparation	<u>+3,137,500</u>
Sub-Total	\$5,007,500
Contingency (15%)	<u>+ 751,125</u>
Sub-Total	\$5,758,625
Interest (5%)	<u>+2,563,362</u>
Sub-Total	\$8,321,987
Brownfield/Work Plan Preparation	<u>+ 7,500</u>
<b>TOTAL</b>	<b>\$8,329,487</b>



108 Ashman St, Midland, MI 48640, USA

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**MICHIGAN STRATEGIC FUND  
RESOLUTION 2015-**

**APPROVAL OF AN AMENDMENT TO A MICHIGAN COMMUNITY REVITALIZATION  
PROGRAM LOAN AWARD FOR  
MIDLAND DTH LLC**

**WHEREAS**, the Michigan legislature amended the Michigan Strategic Fund Act, MCL 125.2011 et. seq., to add Chapter 8C (being MCL 125.2090a – MCL 125.2090d) to enable the Michigan Strategic Fund (“MSF”) to create and operate the Michigan Community Revitalization Program (“MCRP”) to provide incentives in the form of grants, loans and other economic assistance for redevelopment of communities in Michigan;

**WHEREAS**, the Michigan Economic Development Corporation (“MEDC”) provides administrative services to the MSF for the MCRP;

**WHEREAS**, on December 21, 2011, by Resolution 2011-185, the MSF (i) created the MCRP, (ii) adopted the guidelines for the MCRP, as later amended (“Guidelines”);

**WHEREAS**, pursuant to SFCR 2090-1(3), the MSF approved the MSF Fund Manager or the MSF President to negotiate the terms and conditions and execute all final documents necessary to effectuate awards and decisions approved under the MCRP (“Transaction Documents”);

**WHEREAS**, the Guidelines require that MCRP awards over \$1 million must be approved by the MSF Board;

**WHEREAS**, by Resolution 2014-014 on February 25, 2014 the MSF Board awarded a CRP Loan to Midland DTH LLC, or other entities formed or to be formed, in furtherance of the Project (“Applicant” or “Co-Applicants”) of up to \$4,780,000 (“Award”);

**WHEREAS**, the MEDC is recommending that the MSF approve the amendment recommendation to extend the Milestone One and Two due dates, with all other requirements remaining in place from the original approval.

**NOW THEREFORE, BE IT RESOLVED**, the MSF Board approves the MCRP Amendment Recommendation.

**ADOPTED**

Ayes:

Nays:

Recused:

Lansing, Michigan  
November 24, 2015





## MEMORANDUM

**Date:** November 24, 2015  
**To:** Michigan Strategic Fund (MSF) Board  
**From:** Julius L. Edwards, Capital Access Specialist  
**Subject:** Strand Theater Manager, LLC – Request for Amendment of Approval of a Michigan Community Revitalization Program \$4,500,000 Performance-Based Direct Loan

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### Request

Staff is requesting to amend the original October 27, 2015 approval to give the MSF Fund Manager additional authority to negotiate the repayment terms on the MSF's \$4,500,000 Performance-Based Loan.

The project is currently going through the approval process for its \$1,500,000 senior loan from the Illinois Facilities Fund (IFF) and it has been brought to MEDC staff's attention that the IFF may require a 50/50 split of the proceeds received by the MSF related to payment of the developer fee. Staff is comfortable with this request and believes it will have a minimal impact on the risk associated with MSF's loan due to the fact that the monies would be used to pay down the higher cost IFF loan faster, which would improve the overall financial health of the project and provide the MSF with greater control of the project in the latter years of its loan.

Below is the amended request. The requested change has been made with strikethroughs and capitalized bold font:

### LOAN FACILITY

**MSF Facility** MCRP Performance-Based Direct Loan

**Borrower:** Strand Theater Manager, LLC or Other Related Entities

**MSF Loan:** Up to the lesser of 50% of "Eligible Investment" or \$4,500,000. Up to the lesser of \$1,500,000 or 34% of the loan amount to be forgiven following construction completion. It is anticipated that the \$1,500,000 forgivable piece will be disbursed to a separate but related entity.

**Term:** 240 months

**Interest Rate:** 1.00% per annum

**Repayment Terms:** 60% of available distributable cash flow, and **UP TO** 60% of "Developer Fees" paid to the development team following payment of taxes associated with the fee

**(IT IS ANTICIPATED THAT 50% OF THE PROCEED FROM THE DEVELOPER FEE MAY USED TO PAY DOWN DEBT TO THE IFF).**

- Collateral:** A security interest in the real estate and all other tangible assets of the borrower, and assignment of leases and rents. The MSF's security interest will be subordinated to that of the senior lender and the bridge financing.
- Guarantee:** The corporate guarantee of Encore Performing Arts Center and the limited personal guarantees of the owners of the Borrower.
- MSF Fees:** The MSF shall be paid a one-time fee equal to one percent of the MSF's award.
- Funding:** The MSF will fund up to \$4,500,000, to be disbursed following execution of all necessary financing documentation for the project as determined by the MSF's Fund Manager and of completion other performance criteria.
- Other Conditions:** The MSF's investment will be contingent upon the following:
- A minimum owner equity contribution of \$598,000 to the project.
  - Evidence of \$500,000 cash on the cash on the balance sheet of Encore at closing.
  - Establishment of an "Operating Reserve" at a minimum equal to 6 mos. of principal and interest payments due to IFF.
  - Receipt and review of the lease with Encore Performing Arts Center, must be acceptable to MEDC staff.
  - 100% of lease payments received from Slows BBQ must flow through to the Borrower (excludes revenues related to concessions).
  - 100% of funds generated from the "Naming Rights Agreement" must flow through to the Borrower.

**Recommendation**

Staff recommends approval of the amendment as presented.

# ORIGINAL APPROVAL



## MEMORANDUM

**Date:** October 27, 2015

**To:** Michigan Strategic Fund Board

**From:** Stacy Esbrook, Senior Community Assistance Team Specialist  
Julius L. Edwards, Capital Access Specialist  
Mary Kramer, Brownfield and MCRP Program Specialist

**Subject:** Strand Theater Manager, LLC – Request for Approval of a Michigan Community Revitalization Program Performance-Based Direct Loan

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### Request

The proposed project consists of the a historic renovation of the Strand Theater and will activate the long-vacant (since early 1990's) space into a theater and performing arts center, a restaurant and food service facility and an educational and community venue. The proposed project will be undertaken by Strand Theater Manager, LLC (Strand) and Encore Performing Arts Center (Encore). The project will redevelop four parcels of property located at 8, 10, 12, and 16 North Saginaw in the City of Pontiac. Strand Theater Manager, LLC will act as the developer and project owner for the project and Encore will act as the theater operator. The project is located in a downtown and qualifies for a Michigan Community Revitalization Program (MCRP) award because it is functionally obsolete and a historic resource.

Strand Theater Manager, LLC ("Applicant") is requesting approval of a MCRP incentive in the amount of \$4,500,000 in the form of a Performance-Based Direct Loan. The request is for 50% of eligible investment costs, as this project is a historic preservation project. MCRP legislation allows that annually the MSF may consider support up to three single projects that shall not exceed 50% of the eligible investment up to \$10,000,000 for the specific purpose of historic preservation. This project is the first project being considered for up to 50% of eligible investment.

The Applicant anticipates that the project will result in eligible investment of \$9,172,270 and total new capital investment of 12,014,060, excluding previous investment made by the City. It is anticipated there will be the creation of approximately 90 permanent full-time equivalent jobs with an average hourly wage of \$18.

The Strand Theater is located in the heart of Downtown Pontiac. It is anticipated that its renovation will provide a significant economic boost to the area due to the attention generated from the acts performing at the theater and the patrons frequenting the establishment. Renovation of the Strand property has been in the works for a number of years, with the City of Pontiac investing over \$7.6 million from 2002 to 2005 in the property in an effort to renovate the building. Despite the City's efforts, they were unable to complete the renovation. The current owner of the building took ownership of the property in 2013 and

has worked diligently to put together a concrete development plan and secure adequate financing to complete the renovation. The development team is in the process of securing \$1.5M in senior financing from the Illinois Facilities Fund (IFF). It is also anticipated that Enhanced Capital will be providing approximately \$3.3M in historic tax credit equity to the property and the owners will be contributing nearly \$600,000 of equity to the project. Additionally, the development team has been able to secure a Naming Rights Contract that should, at a minimum, generate \$720,000 over the term of the agreement. The remaining gap is being filled by a \$4.5 million MCRP Performance-Based Direct Loan award. The senior debt on the project has been intentionally kept low due to the inherent risks associated with operating a performing arts theatre. The MCRP award will be structured as a “Cash Flow” loan which will minimize risk and allow for financial flexibility. It is anticipated that if the Strand performs as anticipated, the MCRP loan will be paid back within 15 years. A detailed structure for the MCRP award is provided in **Appendix A**.

### **Background**

The project consists of the historic renovation of the Strand Theater in downtown Pontiac into a performance arts and community center and destination restaurant. The theater building will include an 867-seat performance arts theater that will be equipped with modern sound, light and projection for a high-end theater experience. There will be dedicated space for dressing rooms to accommodate booked artists/acts. The exterior will be fully restored to the renaissance-style design, including a full STRAND marquee. The theater building will also include a martini-style bar and a community movie theater and education room on the second floor. The adjacent and attached building will be built out for a third location for Slows BBQ Restaurant with the third floor of the restaurant building dedicated to office and administration space for the theater.

The developer for this project is West Construction, led by Kyle Westberg. West Construction has not directly received MSF incentives in the past, but has been awarded Brownfield Tax Credits and Tax Increment Financing by the MEGA Board for the redevelopment of the Lafayette Place Lofts. Lafayette Place Lofts is a successful historic redevelopment on the north-end of downtown Pontiac. West Construction converted a former Sears’ department store into mixed-use development including a downtown market/cafe, one- and two-bedroom apartment lofts and an Anytime Fitness.

**Appendix B** addresses the programmatic requirements and **Appendix C** includes a project map and renderings.

### **Recommendation**

MEDC staff recommends approval of the following:

- a) A MCRP performance-based loan in the amount of \$4,500,000 for Strand Theater Manager, LLC;
- b) Upon completion of the project, \$1,500,000 of the loan shall be forgiven.

## APPENDIX A

### FINANCING OPPORTUNITY – MCRP PERFORMANCE-BASED DIRECT LOAN

The project is seeking a \$4,500,000 Michigan Strategic Fund (MSF) investment in the Strand Theater in the form of a MCRP Performance-Based Loan. The loan will not be structured as a straight amortizing traditional loan, but as a loan with a repayment structure based on the cash flow generated by the project. It is anticipated that the loan will be partially subordinated in terms of payment to the senior loan, which will be provided by IFF. The loan will be in a complete subordinated position in terms of security. Additionally, it is anticipated that Develop Michigan, Inc. (DMI) will be providing financing to bridge the historic tax credit equity. The MCRP's security position will be subordinated to the loan from DMI as well. The financing structure for the MCRP loan is detailed below along with a summary of other permanent financing sources:

#### **SUMMARY OF DEVELOPMENT SOURCES:**

IFF Loan	\$	1,500,000	7.6%
Historic Tax Credit Equity	\$	3,323,931	16.9%
MCRP Direct Loan	\$	4,500,000	22.9%
Previous Investment – City of Pontiac	\$	7,673,123	39.0%
Deferred Developer Fees	\$	2,091,431	10.6%
Developer Equity	\$	598,698	3.0%
<b>TOTAL</b>	<b>\$</b>	<b>19,687,183</b>	<b>100.0%</b>

As mentioned above, the City of Pontiac investment approximately \$7.7M in the Strand between 2002 and 2005. This previous investment will not be counted towards the MCRP "Eligible Investment", but can be counted towards the Historic Tax Credit calculation. Below is a summary of the sources for the anticipated costs to be incurred to complete the project:

IFF Loan	\$	1,500,000	12.5%
Historic Tax Credit Equity	\$	3,323,931	27.7%
MCRP Direct Loan	\$	4,500,000	37.4%
Deferred Developer Fees	\$	2,091,431	17.4%
Developer Equity	\$	598,698	5.0%
<b>TOTAL</b>	<b>\$</b>	<b>12,014,060</b>	<b>100.0%</b>

#### LOAN FACILITY

**MSF Facility** MCRP Performance-Based Direct Loan

**Borrower:** Strand Theater Manager, LLC or Other Related Entities

**MSF Loan:** Up to the lesser of 50% of "Eligible Investment" or \$4,500,000. Up to the lesser of \$1,500,000 or 34% of the loan amount to be forgiven following construction completion. It is anticipated that the \$1,500,000 forgivable piece will be disbursed to a separate but related entity.

**Term:** 240 months

**Interest Rate:** 1.00% per annum

- Repayment Terms:** 60% of available distributable cash flow, and 60% of “Developer Fees” paid to the development team following payment of taxes associated with the fee.
- Collateral:** A security interest in the real estate and all other tangible assets of the borrower, and assignment of leases and rents. The MSF’s security interest will be subordinated to that of the senior lender and the bridge financing.
- Guarantee:** The corporate guarantee of Encore Performing Arts Center and the limited personal guarantees of the owners of the Borrower.
- MSF Fees:** The MSF shall be paid a one-time fee equal to one percent of the MSF’s award.
- Funding:** The MSF will fund up to \$4,500,000, to be disbursed following execution of all necessary financing documentation for the project as determined by the MSF’s Fund Manager and of completion other performance criteria.
- Other Conditions:** The MSF’s investment will be contingent upon the following:
- A minimum owner equity contribution of \$598,000 to the project.
  - Evidence of \$500,000 cash on the cash on the balance sheet of Encore at closing.
  - Establishment of an “Operating Reserve” at a minimum equal to 6 mos. of principal and interest payments due to IFF.
  - Receipt and review of the lease with Encore Performing Arts Center, must be acceptable to MEDC staff.
  - 100% of lease payments received from Slows BBQ must flow through to the Borrower (excludes revenues related to concessions).
  - 100% of funds generated from the “Naming Rights Agreement” must flow through to the Borrower.

**MICHIGAN STRATEGIC FUND  
RESOLUTION 2015-**

**APPROVAL OF AN AMENDMENT TO A MICHIGAN COMMUNITY  
REVITALIZATION PROGRAM PERFORMANCE-BASED DIRECT LOAN  
AWARD TO  
STRAND THEATER MANAGER, LLC OR OTHER RELATE ENTITIES  
(THE STRAND PROJECT)**

**WHEREAS**, the Michigan legislature amended the Michigan Strategic Fund Act, MCL 125.2011 et. seq., to add Chapter 8C (being MCL 125.2090a – MCL 125.2090d) to enable the Michigan Strategic Fund (“MSF”) to create and operate the Michigan Community Revitalization Program (“MCRP”) to provide incentives in the form of grants, loans and other economic assistance for redevelopment of communities in Michigan;

**WHEREAS**, the Michigan Economic Development Corporation (“MEDC”) provides administrative services to the MSF for the MCRP;

**WHEREAS**, on December 21, 2011, by Resolution 2011-185, the MSF (i) created the MCRP, (ii) adopted the guidelines for the MCRP, as later amended (“Guidelines”);

**WHEREAS**, pursuant to SFCR 2090-1(3), the MSF approved the MSF Fund Manager or the MSF President to negotiate the terms and conditions and execute all final documents necessary to effectuate awards and decisions approved under the MCRP (“Transaction Documents”);

**WHEREAS**, the Guidelines require that MCRP awards over \$1 million must be approved by the MSF Board;

**WHEREAS**, by Resolution 2015-163 on October 27, 2015 the MSF Board awarded a MCRP Performance-Based Direct Loan to Strand Theater Manager, LLC or such entities formed or to be formed in the furtherance of the Strand Project (“Applicant” or “Borrower”) of up to \$4,500,000 (“Award”);

**WHEREAS**, the MEDC has recommended that the MSF approve the amendment recommendation in accordance with Exhibit A (“Amended Term Sheet”), with all other requirements remaining in place from the original approval (the foregoing, collectively, the “MCRP Award Recommendation”);

**NOW THEREFORE, BE IT RESOLVED**, the MSF Board approves the MCRP Award Recommendation.

**ADOPTED**

Ayes:

Nays:

Recused:

Lansing, Michigan  
November 24, 2015

## Exhibit A –AMENDED TERM SHEET

### LOAN FACILITY

<b>MSF Facility</b>	MCRP Performance-Based Direct Loan
<b>Borrower:</b>	Strand Theater Manager, LLC or Other Related Entities
<b>MSF Loan:</b>	Up to the lesser of 50% of “Eligible Investment” or \$4,500,000. Up to the lesser of \$1,500,000 or 34% of the loan amount to be forgiven following construction completion. It is anticipated that the \$1,500,000 forgivable piece will be disbursed to a separate but related entity.
<b>Term:</b>	240 months
<b>Interest Rate:</b>	1.00% per annum
<b>Repayment Terms:</b>	60% of available distributable cash flow, and <b>UP TO</b> 60% of “Developer Fees” paid to the development team following payment of taxes associated with the fee <b>(IT IS ANTICIPATED THAT 50% OF THE PROCEED FROM THE DEVELOPER FEE MAY USED TO PAY DOWN DEBT TO THE IFF)</b> .
<b>Collateral:</b>	A security interest in the real estate and all other tangible assets of the borrower, and assignment of leases and rents. The MSF’s security interest will be subordinated to that of the senior lender and the bridge financing.
<b>Guarantee:</b>	The corporate guarantee of Encore Performing Arts Center and the limited personal guarantees of the owners of the Borrower.
<b>MSF Fees:</b>	The MSF shall be paid a one-time fee equal to one percent of the MSF’s award.
<b>Funding:</b>	The MSF will fund up to \$4,500,000, to be disbursed following execution of all necessary financing documentation for the project as determined by the MSF’s Fund Manager and of completion other performance criteria.
<b>Other Conditions:</b>	The MSF’s investment will be contingent upon the following: <ul style="list-style-type: none"><li>- A minimum owner equity contribution of \$598,000 to the project.</li><li>- Evidence of \$500,000 cash on the cash on the balance sheet of Encore at closing.</li><li>- Establishment of an “Operating Reserve” at a minimum equal to 6 mos. of principal and interest payments due to IFF.</li><li>- Receipt and review of the lease with Encore Performing Arts Center, must be acceptable to MEDC staff.</li><li>- 100% of lease payments received from Slows BBQ must flow through to the Borrower (excludes revenues related to concessions).</li><li>- 100% of funds generated from the “Naming Rights Agreement” must flow through to the Borrower.</li></ul>





## MEMORANDUM

**Date:** November 24, 2015

**To:** Michigan Strategic Fund (MSF) Board

**From:** Julius L. Edwards, Capital Access

**Subject:** Grand Rapids Downtown Market Holdings, LLC – Request for Amendment of a Michigan Community Revitalization Program \$3,000,000 Other Economic Assistance – Performance-Based Loan Participation

---

### **Request:**

Grand Rapids Downtown Market Holdings (“Borrower”) is seeking a Line of Credit (LOC) from Old National Bank (Lender) in the amount of \$1,000,000. The LOC will be used to meet short-term working capital needs, financing future tenant build-outs, fund tenant allowances to attract other tenants, and finance additional non-income producing build-outs within the existing space such as restrooms, etc. The Borrower and Fifth Third Bank (“Participating Lender”) is requesting that the MSF consent to subordinating its collateral position to the proposed \$1,000,000 LOC from Old National Bank allowing the Lender to have a first security in position in the assets of the project. Currently, the MSF’s collateral position is only behind Fifth Third Bank’s \$1,000,000 share of the \$4,000,000 participated loan facility with the MSF. In addition to the MSF subordinating its security position in the property Fifth Third will be subordinating its position as well, as part of the agreement.

### **Background:**

The Borrower was approved for a \$3,000,000 MSF participation in a total \$4,000,000 loan facility provided by Fifth Third Bank. The loan facility was used to facilitate the approximate \$30,000,000 construction multi-vendor space for fresh food markets, with both a year-round, indoor component and space for an outdoor seasonal farmer’s market, as well as restaurants and other food services, educational facilities, food processing and production facilities (such as a kitchen incubator), a rooftop greenhouse and other mixed-use components such as crafts, retail shops, residential units, offices and spaces. To date the project has been an asset to the community with a full functioning market and approximately 78% of the leasable space occupied. The proposed new financing from Old National Bank will be used to white box unfinished space and fund tenant allowances that will make the space more attractive for prospective tenants.

Attached on Exhibit “A” is a draft of the Subordination Agreement.

### **Recommendation**

Staff recommends approval of the amendment as presented for the MSF consent to subordinating its collateral position to the proposed \$1,000,000 LOC from Old National Bank allowing the Lender to have a first security in position in the assets of the project.

## EXHIBIT A

### SUBORDINATION AGREEMENT

This Subordination Agreement, made and entered into by and between OLD NATIONAL BANK a national banking association and the successor by merger to United Bank & Trust, whose address is 5200 Cascade Road SE, Grand Rapids, Michigan 49546 ("Old National") and FIFTH THIRD BANK, AN OHIO BANKING CORPORATION, whose address is 111 Lyon Street NW, Grand Rapids, Michigan 49503 ("Prior Lender") and GRAND RAPIDS DOWNTOWN MARKET HOLDINGS, LLC. a Michigan limited liability company, whose address is 11 Jefferson SE, Grand Rapids, MI 49503 (the "Mortgagor").

THAT WHEREAS, Prior Lender is the holder of a leasehold mortgage ("Prior Mortgage") dated June 17, 2013 from the Mortgagor, recorded July 2, 2013, as Instrument No. 20130702-0069473, in the office of the Recorder of Kent County, Michigan, an assignment of rents ("Prior Rent Assignment") dated June 17, 2013 from the Mortgagor, recorded July 2, 2013, as Instrument No. 20130702-0069474, in the office of the Recorder of Kent County, Michigan, and an assignment of rights under lease ("Prior Rights Assignment") dated March 29, 2013 and recorded March 29, 2013 as Instrument No. 20130329-0035938, in the office of the Recorder of Kent County, Michigan covering the real property ("Real Estate") described upon Exhibit "A", attached hereto; and

WHEREAS, Grand Rapids Downtown Market, Inc., an affiliate of the Mortgagor, has requested a loan ("Loan") from Old National, in the amount of \$1,000,000 which, in turn, has expressed its willingness to make the Loan on condition that it be secured by a first mortgage lien against the Real Estate ("Old National Mortgage"); and

WHEREAS, the Prior Lender has agreed to subordinate the lien of the Prior Mortgage, Prior Rights Assignment, and Prior Rent Assignment to the lien of the Old National Mortgage, subject to the limitations set forth herein;

NOW, THEREFORE, for good and valuable consideration, and for the purpose of inducing the Old National to make the Loan, the Prior Lender does hereby subordinate the lien of the Prior Mortgage, Prior Rent Assignment, and Prior Rights Assignment to the lien of the Old National Mortgage, and does hereby stipulate and agree that the Old National Mortgage dated \_\_\_\_\_, 20\_\_\_\_, and recorded on \_\_\_\_\_ in the office of the Register of Deeds of Kent County, Michigan, is and shall be a first mortgage lien against the Real Estate superior to the lien of the Prior Mortgage, Prior Rent Assignment, and Prior Rights Assignment in all respects as though the Old National Mortgage had been made, executed and recorded prior in time to the making, executing and recording of the Prior Mortgage. Notwithstanding the foregoing the aggregate amount of indebtedness secured by the Old National Mortgage shall not in any event exceed \$1,000,000.

This Agreement shall be binding upon Old National, Prior Lender and Mortgagor, and their respective successors and assigns.

IN WITNESS WHEREOF, Old National, Prior Lender and Mortgagor have duly executed this Agreement this \_\_\_\_\_ day of September, 2015.

“Old National”

OLD NATIONAL BANK, a National Banking Association

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

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

“Mortgagor”

GRAND RAPIDS DOWNTOWN MARKET HOLDINGS, LLC, a Michigan limited liability company

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

Mimi Fritz, its President/CEO

“Prior Lender”

FIFTH THIRD BANK, an Ohio banking corporation

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

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

**MICHIGAN STRATEGIC FUND  
RESOLUTION 2015-**

**APPROVAL TO AMEND A MICHIGAN COMMUNITY REVITALIZATION  
PROGRAM OTHER ECONOMIC ASSISTANCE PERFORMANCE-BASED  
LOAN PARTICIPATION AWARD TO  
GRAND RAPIDS DOWNTOWN MARKET HOLDINGS, LLC**

**WHEREAS**, the Michigan legislature amended the Michigan Strategic Fund Act, MCL 125.2011 et. seq., to add Chapter 8C (being MCL 125.2090a – MCL 125.2090d) to enable the Michigan Strategic Fund (“MSF”) to create and operate the Michigan Community Revitalization Program (“MCRP”) to provide incentives in the form of grants, loans and other economic assistance for redevelopment of communities in Michigan;

**WHEREAS**, the Michigan Economic Development Corporation (“MEDC”) provides administrative services to the MSF for the MCRP;

**WHEREAS**, on December 21, 2011, by Resolution 2011-185, the MSF (i) created the MCRP, (ii) adopted the guidelines for the MCRP, as later amended (“Guidelines”);

**WHEREAS**, pursuant to SFCR 2090-1(3), the MSF approved the MSF Fund Manager or the MSF President to negotiate the terms and conditions and execute all final documents necessary to effectuate awards and decisions approved under the MCRP (“Transaction Documents”);

**WHEREAS**, the Guidelines require that MCRP awards over \$1 million must be approved by the MSF Board;

**WHEREAS**, by Resolution 2013-029 on February 27, 2015 the MSF Board awarded a MCRP Other Economic Assistance – Performance-Based Loan Participation to Grand Rapids Downtown Market Holdings (“Borrower”) of up to \$3,000,000 (“Award”) in a \$ 4,000,000 loan facility from Fifth Third Bank (“Participating Lender”);

**WHEREAS**, the MSF entered into the Participation Agreement on June 17, 2013 and the Borrower has made regular payments since that time. The project was acknowledged as completed by the MSF on September 8, 2014 and is currently operating as contemplated;

**WHEREAS**, the Borrower and Participating Lender are requesting that the MSF consent to subordinate its collateral position to a proposed \$1,000,000 Line of Credit from Old National Bank (“Lender”);

**WHEREAS**, the MEDC has recommended that the MSF delegate to the MSF Fund Manager authority to enter into an agreement with the Participating Lender (“Consent Agreement”) that will provide consent from the MSF to subordinate its collateral position to the Lender;

**NOW THEREFORE, BE IT RESOLVED**, the MSF Board approves the MCRP Award Recommendation.

**ADOPTED**

Ayes:

Nays:

Recused:

Lansing, Michigan

November 24, 2015

# **MICHIGAN STRATEGIC FUND**

## **2016 Proposed Meeting Dates**

**Michigan Economic Development Corporation  
300 N. Washington Square  
Lake Michigan Conference Room  
Lansing, Michigan Economic Development Corporation**

Tuesday, January 26, 2016  
10:00 am

Tuesday, February 23, 2016  
10:00 am

Tuesday, March 22, 2016  
10:00 am

Tuesday, April, 26, 2016  
10:00 am

Tuesday, May 24, 2016  
10:00 am

Tuesday, June 28, 2016  
10:00 am

Tuesday, July 26, 2016  
10:00 am

Tuesday, August 23, 2016  
10:00 am

Tuesday, September 27, 2016  
10:00 am

Tuesday, October 25, 2016  
10:00 am

Tuesday, November 22, 2016  
10:00 am

Tuesday, December 20, 2016  
10:00 am

**MEMORANDUM OF UNDERSTANDING**  
**BETWEEN**  
**MICHIGAN DEPARTMENT OF TRANSPORTATION**  
**AND**  
**MICHIGAN STRATEGIC FUND**

**I. PURPOSE**

This Memorandum of Understanding is made and entered into this date of \_\_\_\_\_ by and between the Michigan Department of Transportation (MDOT) and the Michigan Strategic Fund (MSF) establishes the responsibilities and procedures for MDOT to reimburse MSF for costs associated with providing a liaison to coordinate efforts between all stakeholders for the Gordie Howe International Bridge (PROJECT), City of Detroit, Wayne County.

**II. AGREEMENT**

Upon award and acceptance of this Memorandum of Understanding, MDOT and MSF agree to the following:

A. MDOT Agrees to:

1. Review and approve eligible billings,
2. Reimburse MSF at a rate of 80% of MSF's cost incurred upon approval of billings and receipt of progress reports up to amount of Two Hundred Forty-Nine Thousand Dollars (\$249,000). MDOT has sufficient funding to support this MOU.

MDOT funds in this Contract made available through legislative appropriations are based on projected revenue estimates. MDOT may reduce the amount of this Contract if the revenue actually received is insufficient to support the appropriation under which this Contract is made.

B. MSF Agrees to:

1. Provide staff to serve as an advisor working in conjunction with the assigned MDOT personnel providing technical expertise on the PROJECT project. This staff will:
  - a. Serve as the advisor to the Governor, President of the MSF, and the MSF, and provide services to MDOT in matters relating to the implementation of Michigan's responsibilities related to the PROJECT. Serve as liaison for Michigan in working with the all stakeholders for the PROJECT including but not limited to the State of Michigan, Canadian Government, US Federal Department of Transportation officials, the Governor's office, MDOT, MSF and City of Detroit officials.
  - b. Establish a working relationship with MDOT to ensure billing, financial, procedural and technical issues are resolved in a timely and judicious manner.
  - c. Work with the Federal Highway Administration (FHWA), MDOT, MSF and other federal and state agencies for guidance to obtain appropriate permits and licenses and ensure that other federal and state regulations are followed.

C. Costs

Salary:	\$131,800
Fringes:	\$ 92,200
Office Expenses:	\$ 5,000
Travel	\$ 20,000
Total Funds	<u>\$249,000</u>

D. Method of Payment and Financial Reporting

MSF shall submit on a quarterly basis an expenditure report to MDOT. This expenditure report shall indicate actual expenditures. Payment will be made through the interagency billing process. This report shall be submitted to MDOT within thirty days from the end of the billing period. For the month of September, billings shall be submitted as reasonably directed by the grant manager to meet fiscal year end closing deadlines (October 7) as due date for final expenditure report.

The following account structure should be used:

**MDOT:**

Project No. 80233



AY: 13  
Index: 64915  
PCA: 62400  
Phase: CC

**MSF:**

Index: 11000  
PCA: 25018

E. With regard to audits and record-keeping:

1. MSF will establish and maintain accurate records, in accordance with generally accepted accounting principles, of all expenses incurred for which payment is sought or made under this Memorandum of Understanding (RECORDS). Separate coding will be established and maintained for all costs incurred under this Memorandum of Understanding.
2. MSF will maintain the RECORDS for at least three (3) years from the date of final payment made by MDOT under this Memorandum of Understanding. In the event of a dispute with regard to the allowable expenses or any other issue under this Memorandum of Understanding, MSF will thereafter continue to maintain the RECORDS at least until that dispute has been finally decided and the time for all available challenges or appeals of that decision has expired.
3. MDOT or its representative may inspect, copy, scan or audit the RECORDS at any reasonable time after giving reasonable notice.
4. IF any part of the work is subcontracted, MSF will assure compliance with subsections (1), (2), and (3) above for all subcontracted work.

F. In the event that an audit performed by or on behalf of MDOT indicates an adjustment to the costs reported under this Memorandum of Understanding or questions the allowability of an item of expense, MDOT will promptly submit to MSF a Notice of Audit Results and a copy of the audit report, which may supplement or modify any tentative findings verbally communicated to MSF at the completion of an audit.

Within sixty (60) days after the date of the Notice of Audit Results, MSF will (a) respond in writing to the responsible Bureau or Office of MDOT indicating whether or not it concurs with the audit report, (b) clearly explain the nature and basis for any disagreement as to a disallowed item of expense, and (c) submit to MDOT a written explanation as to any questioned or no opinion expressed item of expense (RESPONSE). The RESPONSE will be clearly stated and will provide

any supporting documentation necessary to resolve any disagreement or questioned or no opinion expressed item of expense. Where the documentation is voluminous, MSF may supply appropriate excerpts and make alternate arrangements to conveniently and reasonably make that documentation available for review by MDOT. The RESPONSE will refer to and apply the language of the Memorandum of Understanding. MSF agrees that failure to submit a RESPONSE within the sixty (60) day period constitutes agreement with any disallowance of an item of expense and authorizes MDOT to finally disallow any items of questioned or no opinion expressed cost.

MDOT will make its decision with regard to any Notice of Audit Results and RESPONSE within one hundred twenty (120) days after the date of the Notice of Audit Results. If MDOT determines that an overpayment has been made to MSF, MSF will repay that amount to MDOT or reach agreement with MDOT on a repayment schedule within thirty (30) days after the date of an invoice from MDOT. If MSF fails to repay the overpayment or reach agreement with MDOT on a repayment schedule within the thirty (30) day period, MSF agrees that MDOT will deduct all or a portion of the overpayment from any funds then or thereafter payable by MDOT to MSF under this Memorandum of Understanding or any other agreement or payable to MSF under the terms of 1951 PA 51, as applicable. Interest will be assessed on any partial payments or repayment schedules based on the unpaid balance at the end of each month until the balance is paid in full. The assessment of interest will begin thirty (30) days from the date of the invoice. The rate of interest will be based on the Michigan Department of Treasury common cash funds interest earnings. The rate of interest will be reviewed annually by MDOT and adjusted as necessary based on the Michigan Department of Treasury common cash funds interest earnings. MSF expressly consents to this withholding or offsetting of funds under those circumstances.

### **III. TERMINATION**

Either party to this MOU may terminate this MOU without cause upon thirty (30) days prior written notice to the other party. MSF will be reimbursed for all costs incurred up to the termination date set forth in the notice of termination.

### **IV. MODIFICATION**

This MOU may be modified in writing upon the mutual agreement of the parties and upon the award of a prior amendment to this MOU by the parties.

### **V. TERM**

This Memorandum of Understanding will be in effect from October 1, 2015, through one year.

**VI. SIGNATURES**

This Memorandum of Understanding will become binding on the parties upon signing by the duly authorized representatives of MSF and MDOT.

**MICHIGAN STRATEGIC FUND**

BY: \_\_\_\_\_  
Title:

**MICHIGAN DEPARTMENT OF TRANSPORTATION**

BY: \_\_\_\_\_  
Title: MDOT Director



**MICHIGAN STRATEGIC FUND**

**RESOLUTION  
2015-**

**Michigan Department of Transportation MOU**

**WHEREAS**, Public Act 489 of 2000, MCL 12.251 to 12.260, created the Michigan Trust Fund Act, of which the 21<sup>st</sup> Century Jobs Trust Fund (“Trust Fund”) is established;

**WHEREAS**, Public Act 270 of 1984, MCL 125.2007(i), provided authority to engage personnel and consultants for professional management, technical assistance and advice;

**WHEREAS**, the Michigan Strategic Fund (the “MSF”) Board desires to enter into an agreement with the Michigan Department of Transportation (“MDOT”) to establish the responsibilities and procedures for MDOT to reimburse MSF for costs associated with providing a liaison to coordinate efforts between all stakeholders for the New International Trade Crossing project (the “MOU”);

**NOW, THEREFORE, BE IT RESOLVED**, the MSF Board authorizes entering into the MOU with MDOT for Fiscal Year 2016, with terms acceptable to the MSF Fund Manager in consultation with the Attorney General’s office, and authorizes the MSF Fund Manager to sign the MOU.

Ayes:

Nays:

Recused:

Lansing, Michigan  
November 24, 2015

# MEMORANDUM

**Date:** November 24, 2015  
**To:** MSF Board  
**From:** Christin Armstrong, Senior Corporate Counsel & Director, Compliance  
**Subject:** FCA US LLC – Amendment to Global MEGA Agreement

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## **Background**

On October 26, 2010, the MEGA Board authorized a Retention Tax Credit for Chrysler Group, LLC, now known as FCA US LLC, (“FCA” or “Company”) of up to 100 percent for twenty consecutive years for a maximum of 20,000 Retained Jobs at its facilities in the City of Sterling Heights, Macomb County and other locations throughout the State of Michigan (the “Global MEGA Tax Credit”). On August 25, 2011, the Global MEGA Tax Credit was amended to modify the administrative fee.

Through December 31, 2014, FCA has retained in excess of 20,000 MEGA-eligible full-time jobs and made qualifying investments totaling \$3.3 billion dollars in the State of Michigan.

## **Request**

MEDC Staff requests and recommends that the Michigan Strategic Fund (“MSF”) Board amend the Global MEGA Tax Credit, consistent with the MEDC’s objectives of achieving budget transparency and certainty for MEGA Tax Credits and in accordance with the following (collectively, the “Amendment Request”):

- (1) Limit the obligations of the State of Michigan under the Global MEGA Tax Credit with an overall cap of \$1,710,070,000 exclusive of tax credits issued through tax year 2014 on the total amount of the tax credit (the “Tax Credit Limit”) that may be claimed over the life of the Global MEGA Tax Credit;
- (2) Require FCA to provide periodic forecasts of its estimated tax credits earned under the Global MEGA Tax Credit to assist the MSF and the State of Michigan with budgeting and cash flow-planning (the “Tax Credit Forecast”);
- (3) Reduce the term of the Global MEGA Tax Credit by two years and allow FCA to earn the net present value of the tax credits that it would have otherwise been eligible to earn in tax years 2030 and 2031;

- (4) Increase the maximum number of Retained Jobs that the Company may count toward its Global MEGA Tax Credit in accordance with the following table:

<b>Company's Tax Year Ending December 31</b>	<b>Maximum Number of Retained Jobs</b>
2015	21,000
2016	21,000
2017	21,000
2018	21,000
2019	25,000
2020	25,200
2021	25,400
2022	25,600
2023	25,800
2024	26,000
2025	26,200
2026	26,400
2027	26,600
2028	26,800
2029	27,000

- (5) Impose a cap of \$250,000 per employee on the salaries and wages for those employees in excess of 20,000;
- (6) Set annual limits on the tax credit value that may be claimed in a given year (the "Maximum Annual Amount") and allow FCA to bank up to \$25 million in excess tax credits, beginning with tax year 2015, that may be claimed in subsequent tax years, subject to the Maximum Annual Amount in any given tax year and subject to the overall Tax Credit Limit;
- (7) Require FCA to make new capital investment of \$1 billion over the remaining term of the Global MEGA Tax Credit (the "New Project Investment");
- (8) Provide stability and predictability for the timing of payments for annual Global MEGA tax credits throughout the life of the tax credit.

**Request Rationale**

FCA has agreed to significantly increase its capital investment in the State of Michigan over the remaining term of the Global MEGA Tax Credit. This is a strong indication of FCA's commitment to growing and maintaining its operations in Michigan for the long term.

In addition, this amendment does not increase the State's liability under the MEGA. In fact, the amendment would serve to limit and even reduce the State's costs and provide more certainty with its long term obligations to FCA under the Global MEGA Tax Credit. The amendment will also provide greater predictability in the amount and timing of claimed tax credits.

**Recommendation**

MEDC Staff recommends approval of the Amendment Request and further recommends that the MSF President or MSF Fund Manager, with only one required to act, be authorized to negotiate

the final terms and conditions of and execute all documents necessary to effectuate the Amendment Request.

**MICHIGAN STRATEGIC FUND**

**RESOLUTION 2015-**

**FCA US LLC  
GLOBAL MEGA TAX CREDIT AMENDMENT**

**WHEREAS**, the Michigan Legislature created the Michigan Economic Growth Authority (“MEGA”) under the Michigan Economic Growth Authority Act, 1995 PA 24, a amended, with the authority to grant an authorized business a credit against the tax imposed by the Michigan Business Tax Act, 2007 PA 36, as amended (a “Tax Credit”);

**WHEREAS**, by Resolution 2010-173 on October 26, 2010, the MEGA Board authorized a Retention Tax Credit for Chrysler Group, LLC, now known as FCA US LLC, (“FCA” or “Company”) of up to 100 percent for twenty consecutive years for a maximum of 20,000 Retained Jobs at its facilities in the City of Sterling Heights, Macomb County and other locations throughout the State of Michigan (the “Global MEGA Tax Credit”);

**WHEREAS**, on August 25, 2011, the Global MEGA Tax Credit was amended to modify the administrative fee;

**WHEREAS**, in exchange for the Global MEGA Tax Credit, as amended, FCA agreed to maintain a minimum of 7,200 full-time jobs in Michigan, at least 4,275 of which were to be located at the Company’s headquarters, and agreed to invest in its facilities throughout the State of Michigan;

**WHEREAS**, by Executive Order 2012-9, the all the authority, powers, duties and functions of the MEGA Board were transferred to the Michigan Strategic Fund (“MSF”);

**WHEREAS**, the Michigan Economic Development Corporation (“MEDC”) provides administrative services to the MSF;

**WHEREAS**, the Company and the MSF wish to amend the Global MEGA Tax Credit in accordance with the following (collectively, the “Amendment Request”):

- (1) Limit the obligations of the State of Michigan under the Global MEGA Tax Credit with an overall cap of \$1,710,070,000 exclusive of tax credits issued through tax year 2014 on the total amount of the tax credit (the “Tax Credit Limit”) that may be claimed over the life of the Global MEGA Tax Credit;
- (2) Require FCA to provide periodic forecasts of its estimated tax credits earned under the Global MEGA Tax Credit to assist the MSF and the State of Michigan with budgeting and cash flow-planning (the “Tax Credit Forecast”);



- (3) Reduce the term of the Global MEGA Tax Credit by two years and allow FCA to earn the net present value of the tax credits that it would have otherwise been eligible to earn in tax years 2030 and 2031;
- (4) Increase the maximum number of Retained Jobs that the Company may count toward its Global MEGA Tax Credit in accordance with the following table:

<b>Company's Tax Year Ending December 31</b>	<b>Maximum Number of Retained Jobs</b>
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2024	26,000
2025	26,200
2026	26,400
2027	26,600
2028	26,800
2029	27,000

- (5) Impose a cap of \$250,000 per employee on the salaries and wages for those employees in excess of 20,000;
- (6) Set annual limits on the tax credit value that may be claimed in a given year (the "Maximum Annual Amount") and allow FCA to bank up to \$25 million in excess tax credits, beginning with tax year 2015, that may be claimed in subsequent tax years, subject to the Maximum Annual Amount in any given tax year and subject to the overall Tax Credit Limit;
- (7) Require FCA to make new capital investment of \$1 billion over the remaining term of the Global MEGA Tax Credit (the "New Project Investment");
- (8) Provide stability and predictability for the timing of payments for annual Global MEGA tax credits throughout the life of the tax credit.

**NOW, THEREFORE, BE IT RESOLVED**, the MSF Board approves the Amendment Request;

**BE IT FURTHER RESOLVED**, except as to those provisions that must be revised in order to effectuate the Amendment Request, the terms and conditions of the Global MEGA Tax Credit shall remain in full force and effect.

**BE IT FURTHER RESOLVED**, the MSF Board authorizes the MSF President or the MSF Fund Manager, with only one required to act, to negotiate the final terms and conditions of the Amendment Request and to execute all documents necessary to effectuate the Amendment Request.

Ayes:

Nays:

Recused:

Lansing, Michigan  
November 24, 2015

DRAFT



## MEMORANDUM

**Date:** October 12, 2015

**To:** Michigan Strategic Fund Board

**From:** Jacob Schroeder, Director, Pure Michigan Business Connect Services

**Subject:** *Manufacturing Support Services Contract Extension*

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### Action

The MEDC requests that the MSF Board extend the contract and relationship with the Michigan Manufacturing Technology Center (MMTC) to an end date of September 30, 2016 and increase funding in the amount of \$2,125,000 to maintain Manufacturing Support Services for the corresponding timeframe.

### Background

The MMTC was selected by the MSF at the March 25, 2014 to provide Manufacturing Support Services to the Michigan manufacturing (and related) industry with the goal of increasing sales, profitability, the Michigan tax base, as well as creating and retaining jobs. At that time, the MMTC was evaluated by a Joint Evaluation Committee ("JEC"), and was selected to receive a grant (with the option to extend up to three years) to provide the following services:

- Matchmaking assistance in support of Pure Michigan Business Connect ("PMBC") initiatives.
- Consulting and training related to process improvement and efficiency.
- Provide business outreach and services in support of the MEDC PMBC and Business Development efforts.
- Research and consultation as it relates to second stage growth.

In December of 2014, the MSF approved a one year extension (with corresponding funding) of the original contract making the following changes:

- Metric #6 will be increased to 150 from 75 with the metric verbiage as follows: "PMBC sourced and/or approved partner match requests."
- Add Metric #9: MMTC will build supplier connections by cultivating buying relationships with new and existing buyers to increase demand for said Michigan supply base.

MMTC is the sole program of the 501c3 Industrial Technology Institute, Inc. (ITI), a not-for-profit Michigan corporation. Founded in 1981, in 1991 ITI proposed and was awarded the charter to operate the Michigan portion of the National Institute of Standards and Technology (NIST) Hollings Manufacturing Extension Partnership (MEP) program. MMTC has operated that center since April 1991, in recent years at a federal funding level of approximately \$2.3 million annually.

The MMTC currently provides and seeks to continue to provide services in the areas requested by the MSF as well as in support of other MEDC business development efforts.

### Michigan Economic Development Corporation

**Recommendation**

MEDC Staff recommends that the MSF Board award the allocated \$2,125,000 for the program to MMTC and extend the contract to September 30, 2016. In addition the following changes should be made to the metrics.

- Metric #8 shall be revised downward to: 10 MI Economic Gardening Projects Completed. This adjustment needs to be made as a result in the cut in funding for the Economic Gardening program.
- Metric #9 shall be replaced with: Number of MI Companies Articulating Purchasing Needs, with a targeted goal of 40 companies by 9/30/2016.

**MICHIGAN STRATEGIC FUND  
RESOLUTION  
2015-**

**MICHIGAN MANUFACTURING TECHNOLOGY CENTER  
GRANT AMENDMENT #2**

**WHEREAS**, Public Acts 215 and 225 of 2005 (“Act”) established the 21st Century Jobs Trust Fund initiative;

**WHEREAS**, MCL 125.2088k created the Strategic Economic Investment and Commercialization Board (“SEIC Board”) for the purposes of awarding grants and loans for basic research, applied research, university technology transfer, and commercialization of products, processes and services to encourage the development of competitive edge technologies to create jobs within the State of Michigan;

**WHEREAS**, pursuant to Executive Order 2010-8, the Governor ordered the SEIC Board abolished and all powers, duties, and functions of the SEIC Board transferred to the Michigan Strategic Fund (“MSF”), including those powers, duties, and functions provided under MCL 125.2088k;

**WHEREAS**, the Michigan Economic Development Corporation (“MEDC”) provides administrative services to the MSF;

**WHEREAS**, MCL 125.2088k requires that the MSF Board establish a competitive process to award grants and make loans for competitive edge technologies;

**WHEREAS**, at its February 25, 2014 meeting, the MSF issued a request for proposals in accordance with seeking a Michigan non-profit organization to provide services to companies in the Michigan manufacturing and other related industries (the “Manufacturing Services RFP”);

**WHEREAS**, on March 25, 2014, the MSF Board awarded \$1.38 million to the Michigan Manufacturing Technology Center (“MMTC”) under the Manufacturing Services RFP (the “MMTC Grant”), with the option to extend the term of the MMTC Grant for up to an additional three years and to add additional funding at the sole discretion of the MSF;

**WHEREAS**, at its December 16, 2014 meeting, the MSF exercised the option for the first additional one year term and to allocate \$2.125 million in additional funding for the MMTC Grant (“MMTC Grant Amendment #1”);

**WHEREAS**, the MEDC recommends that the MSF exercise its option to extend for an additional one year term and allocate \$2.125 million in additional funding for the MMTC Grant (“MMTC Grant Amendment #2”); and

**WHEREAS**, the MSF wishes to approve MMTC Grant Amendment #2.

**NOW, THEREFORE, BE IT RESOLVED**, the MSF Board approves the MMTC Grant Amendment #2; and

**BE IT FURTHER RESOLVED**, that MSF Fund Manager is authorized to negotiate final terms and conditions of the MMTC Grant Amendment and to execute all documents necessary to effectuate the MMTC Grant Amendment.

Ayes:

Nays:

Recused:

Lansing, Michigan  
November 24, 2015



## MEMORANDUM

**Date:** November 24, 2015

**To:** Michigan Strategic Fund Board

**From:** Marcia Gebarowski, Senior Development Finance Manager  
Rob Garza, Brownfield, MCRP, and SmartZone Program Specialist

**Subject:** City of Romulus Brownfield Redevelopment Authority  
Request for Approval of an Act 381 Work Plan

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### Request

The project proposes to rehabilitate and reuse an existing building for packaging, manufacturing, and assembly operations. The proposed project will be undertaken by Packaging Specialties, Inc. (PackSpec). The project will redevelop 10.85 acres of property located at 8111 Middlebelt Road in the City of Romulus. The project qualifies for an Act 381 work plan because it is a facility.

In order to alleviate Brownfield conditions and prepare the proposed project site for redevelopment, the City of Romulus Brownfield Redevelopment Authority is seeking approval of local and school tax capture for MSF eligible activities in the amount of \$1,283,181. However, the reimbursement agreement between the City of Romulus BRA and the developer states the value of the Industrial Facilities Tax (IFT) abatement will be subtracted from the eligible activity cost available for reimbursement, so the actual cumulative local and school tax capture will be capped at \$700,000.

PackSpec is at-capacity at both of their facilities in Michigan and additional space is required for rapid growth in operations. The Applicant evaluated opportunities to add new space and jobs near their customers in Ohio and chose to consolidate in Michigan. The proposed project not only addresses their need for more space, it also affords the opportunity to consolidate most of their operations under one roof for greater efficiency. The project will renovate a building that has been vacant for the past eight years. The building will require additional investment to remove lead and asbestos, substantial interior and exterior demolition costs, as well as upgrades to heating, electrical and plumbing to make the building functional once again. Without Brownfield tax increment reimbursement, the cost burden related to these Brownfield conditions would make the project financially unfeasible.

The Applicant anticipates that the project will result in eligible investment of \$1,283,181. Total capital investment identified in the original Work Plan dated October 9, 2015 was estimated to be \$4.5 million. As of today, the current anticipated capital investment amount is approximately \$5.6 million. Approximately 50 permanent full-time equivalent jobs will be created within two years and an additional 20 full-time equivalent jobs within 10 years, all with an average hourly wage of \$15.00.

### **Background**

PackSpec is a second-generation family owned company that has been in business for over 50 years. They are a manufacturer of corrugated and fiberboard packaging. PackSpec intends to purchase the former Federal Mogul building, rehabilitate the 175,000 square foot facility, and consolidate all of their Ecorse operations as well as a portion of their Warren operation into a single location, and have the additional space to grow their manufacturing operations. The Ecorse site has a future tenant already identified. This expansion opportunity will also enable PackSpec to almost double their headcount in Michigan.

Lead and asbestos abatement will be necessary prior to demolition activities in order to protect human health. Interior demolition activities will be necessary for the removal of walls, floors, and obsolete mechanical systems. Site demolition will be necessary to remove concrete and asphalt as well as an existing fence line.

On October 27, 2015, the MSF Board approved a \$4.1 million private activity bond related to this project. This bond is the main source of financing for the project with the company investing at least \$1.2 million directly into the project as well. PackSpec will be using tax increment revenues to help offset the added costs of the project beyond the value of the bond financing. This work plan did not include interest as a requested eligible activity for reimbursement because the bond savings addresses this savings to the project.

**Appendix A** addresses the programmatic requirements and **Appendix B** includes a project map.

### **Recommendation**

MEDC staff recommends approval of the following:

- a) Local and school tax capture for the Act 381 eligible activities totaling \$1,283,181. However, the reimbursement agreement between the City of Romulus BRA and the developer states the value of the Industrial Facilities Tax (IFT) abatement will be subtracted from the eligible activity cost available for reimbursement, so total local and school tax capture will be capped at \$700,000. Utilizing the current state to local capture ratio, the amount of school tax capture for this project is estimated at \$330,680.



## APPENDIX A – Programmatic Requirements & Screening Guidelines

### **Property Eligibility**

The project is located within the boundaries of the City of Romulus, which is not a Qualified Local Governmental Unit, and has been determined to be a facility as verified by Michigan Department of Environmental Quality (DEQ) on October 6, 2015.

The property is the subject of a Brownfield Plan, duly approved by the City of Romulus on October 5, 2015.

In addition, the project is requesting \$86,175 in TIF from the DEQ to assist with environmental eligible activities.

### **Key Statutory Criteria**

Act 381 requires the following information to understand and explain the benefits of the project.

**a) Overall Benefit to the Public:**

The public will benefit through the reactivation of a vacant site with the presence of a new manufacturing facility that will provide new jobs to the city and significantly increase the property taxes generated from the project.

**b) Jobs Created (Excluding Construction and other Indirect Jobs):**

This project is expected to create approximately 70 new, full-time jobs in manufacturing and retain approximately 75 employees.

**c) Area of High Unemployment:**

The City of Romulus unadjusted jobless rate was 6.1% in September 2015. This compares to the statewide seasonally adjusted average of 5.0% in September 2015.

**d) Level and Extent of Contamination Alleviated:**

Subsurface assessment results at the property identified various constituents in soils and groundwater above MDEQ Part 201 Generic Residential Cleanup Criteria and Screening Levels. Contamination is due to the historical use of the property for various industrial purposes. Contamination found includes aluminum, arsenic, selenium, lead, mercury, nickel and various polynuclear aromatic compounds (PNAs).

**e) Reuse of Functionally Obsolete Buildings and/or Redevelopment of Blighted Property:**

The project is not qualifying as functionally obsolete or blighted.

**f) Cost Gap that Exists between the Property and a Similar Greenfield Property:**

The Brownfield TIF is needed to offset the costs of Brownfield eligible activities involved in the reactivation of a vacant industrial building. This site was chosen over build-to-suit options in

Michigan and Ohio in part because the Brownfield eligible activity cost is reimbursable under Act 381.

**g) Whether Project will Create a New Brownfield Property in the State:**

No new Brownfields will be created by this project.

**h) Whether the Project is Financially and Economically Sound:**

From the materials received, the MEDC infers that the project is financially and economically sound.

**i) Other Factors Considered:**

No additional factors need to be considered for this project.

**Tax Capture Breakdown**

There are 50.8064 non-homestead mills available for capture, with school millage equaling 24 mills (47.24%) and local millage equaling 26.8064 mills (52.76%). Tax increment capture will begin in 2016 and is estimated to continue for 17 years. The reimbursement agreement between the City of Romulus BRA and the developer states the value of the Industrial Facilities Tax (IFT) abatement will be subtracted from the eligible activity cost available for reimbursement, so total local and school tax capture will be capped at \$700,000. The requested tax capture for MSF eligible activities breaks down as follows:

School tax capture	(47.24%)	\$	330,680
Local tax capture	(52.76%)	\$	<u>369,320</u>
<b>TOTAL</b>		<b>\$</b>	<b>700,000</b>

**Cost of MSF Eligible Activities**

Demolition		\$	1,021,440
Lead or Asbestos Abatement		+	<u>79,075</u>
Sub-Total		\$	1,100,515
Contingency (15%)		+	<u>162,666</u>
Sub-Total		\$	1,263,181
Brownfield/Work Plan Preparation		+	<u>20,000</u>
<b>TOTAL</b>		<b>\$</b>	<b>1,283,181</b>

## APPENDIX C – Project Map



**MICHIGAN STRATEGIC FUND**

**RESOLUTION 2015-**

**APPROVAL OF A BROWNFIELD WORK PLAN  
CITY OF ROMULUS BROWNFIELD REDEVELOPMENT AUTHORITY  
PACKAGING SPECIALTIES INC. REDEVELOPMENT PROJECT**

**WHEREAS**, Michigan Economic Growth Authority (“MEGA”) has been established by 1995 PA 24, as amended (the “Act”);

**WHEREAS**, 2002 PA 727 amended 1996 PA 381, MCL 125.2651 et seq, to empower local brownfield redevelopment authorities to request the MEGA Board to approve a brownfield project work plan and, thereby, capture taxes levied for school operating purposes for the project;

**WHEREAS**, Executive Order 2012-9 transferred all the authority, powers, duties, functions, responsibilities, records, personnel, property, unexpended balances of appropriations, allocations or other funds of the MEGA to the MSF;

**WHEREAS**, captured school operating tax revenues may be used under 1996 PA 381 as amended, for infrastructure improvements that directly benefit eligible property, for lead or asbestos abatement, and for structure demolition and site preparation that are not response activities under the Natural Resources and Environmental Protection Act, 1994 PA 451;

**WHEREAS**, the City of Romulus Brownfield Redevelopment Authority (the “Authority”) has submitted a work plan for property located at 8111 Middlebelt Road within the City of Romulus, known as the Packaging Specialties Inc. Redevelopment Project (the “Project”);

**WHEREAS**, that the City of Romulus is not a “qualified local governmental unit,” but is eligible to provide demolition and lead and asbestos removal as provided under 2007 PA 204;

**WHEREAS**, the Authority is requesting MSF approval to capture additional taxes levied for school operating purposes to provide for the reimbursement of the cost of eligible activities on an eligible property; and

**WHEREAS**, the Michigan Economic Development Corporation (“MEDC”) provides administrative services to the MSF, and has reviewed the application and recommends approval of the Brownfield Work Plan by the MSF Board.

**NOW, THEREFORE, BE IT RESOLVED**, that the MSF Board authorizes the Authority to capture taxes levied for school operating purposes in substantially the same proportion as the 47.24% to 52.76% ratio currently existing between school and local taxes for non-homestead properties to reimburse the cost of demolition and lead and asbestos abatement as presented in the revised Work Plan dated October 9, 2015. Any change in millage that increases the capture percentage of school operating taxes by more than 5 percentage points must be approved by the MSF Board. The authorization is based on the Authority capturing all available local operating mills for the term of the capture period. The authorization for the capture of taxes levied for school operating purposes is based on a maximum of \$1,263,181 for the principal activity costs of non-environmental activities and a contingency and a maximum of \$20,000 for Brownfield/Work Plan preparation, and with the capture of taxes levied for school operating purposes being limited to a

maximum of \$330,680. Provided however, that the total tax capture for all purposes will be capped at \$700,000.

**BE IT FURTHER RESOLVED**, that the MSF Board authorizes the MSF Fund Manager, to provide written notification to the Authority, in the form of a letter which incorporates the terms set forth in this Resolution and consistent with the limitations of the Act, and that this approval is further conditioned upon the Authority, or the City as appropriate, maintaining adequate records regarding: a) all taxes captured for the project; and b) receipts or other appropriate documentation of the cost of eligible activities. The records shall be made available for review upon request by MSF or MEDC staff. Eligible activities authorized by this resolution must be completed within three (3) years.

**BE IT FURTHER RESOLVED**, that no taxes levied for school operating purposes shall be used to reimburse interest costs related to the eligible activities for the Project.

Ayes:

Nays:

Recused:

Lansing, Michigan  
November 24, 2015



## MEMORANDUM

**Date:** November 24, 2015

**To:** Michigan Strategic Fund (“MSF”) Board Members

**From:** Trevor Friedeberg, Development Finance Manager

**Subject:** Rivian Automotive, LLC (“Company” or “Applicant”)  
Michigan Business Development Program Performance-based Grant Request

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### Summary

This is a request from the Applicant for a \$1,770,000 performance-based grant. This project involves the creation of 174 Qualified New Jobs and a capital investment of up to \$29,486,000 in the City of Dearborn, Wayne County.

The Applicant has demonstrated a need for the funding. The Company is evaluating both Florida and California as potential locations for this project. California has research and development credits available which are very attractive to the company as that is their primary focus right now. The “Space Coast” in Florida and Silicon Valley in California are very attractive to the Company due to their readily available skilled IT talent, which is crucial to the success of this company’s business. With incentive assistance the project can close the gap between competing locations and will choose to move forward in Michigan with the establishment of a research and development facility opposed to alternative sites in Florida and California, where competing incentive offers and access to the technology experts are more readily available.

### Background

The Company was formed in 2009 as an automotive design company with a product vision unique from conventional automotive standards. In early years, the Company focused on the successful design and build of a new vehicle concept, and after obtaining two US patents the Company sought to seek additional financing to expand into a full design, engineering, manufacturing and distribution operation. The product features a flexible vehicle design and enhanced customer interface that is unique and in high demand in the current market.

The Applicant plans to expand operations and establish a research and development center in the City of Dearborn, make investments and create jobs related to Engineering Services.

The Applicant has not received any incentives from the MSF in the past.

The MEDC legal unit has completed a civil and criminal background check for the entity and individuals related to this project.

### Considerations

- a) The Applicant is a “Qualified Business”, as defined in MCL 125.2088r(9)(b), that is located and operates in Michigan.

- b) The project will be located in the City of Dearborn. The City of Dearborn has offered a “staff, financial, or economic commitment to the project” in the form a tax abatement on real and/or personal property.
- c) The Applicant has demonstrated a need for the funding. Both Florida and California have incentives to attract this company. The “Space Coast” in Florida and Silicon Valley in California are very attractive to the Company due to their readily available skilled IT talent, which is crucial to the success of this company’s business
- d) The Applicant plans to create 174 Qualified New Jobs above a statewide base employment level of 17.
- e) Pursuant to the program guidelines, the following was taken into consideration for the proposed project: project is not a retail project; project is not a retention project; involves out-of-state competition; prospect of near-term job creation; wage level for new jobs; projected employer benefits; and the project has strong links to Michigan suppliers.

**Recommendation**

MEDC Staff recommends the following (collectively, “Recommendation”):

- a) Approval of the MBDP Proposal as outlined in the attached term sheet (collectively, “MBDP Proposal”);
- b) Closing the MBDP Proposal, subject to available funding under the MBDP at the time of closing (“Available Funding”), satisfactory completion of due diligence (collectively, “Due Diligence”), finalization of all MBDP transaction documents; and
- c) Commitment will remain valid for 120 days with approval for MSF Fund Manager to extend the commitment an additional 60 days.



## MICHIGAN BUSINESS DEVELOPMENT PROGRAM Performance Based Grant - Term Sheet

The following is a summary of the highlights of the project and basic terms for which the Company desires grant support from the Michigan Strategic Fund ("MSF") under the Michigan Business Development Program ("MBDP"). While the MBDP is operated and funded through the MSF, recommendation for approval of a MBDP incentive award is presented by the Michigan Economic Development Corporation ("MEDC") to the MSF.

**Date:** 11/11/2015

- 1. Company Name:** Rivian Automotive, LLC ("Company" or "Applicant")
- 2. Company Address:** 35803 Veronica Street  
Livonia, Michigan 48150
- 3. Project Address ("Project"):** 15120 Commerce Drive North  
Dearborn, MI 48120
- 4. MBDP Incentive Type:** Performance Based Grant
- 5. Maximum Amount of MBDP Incentive:** Up to \$1,770,000 ("MBDP Incentive Award")
- 6. Base Employment Level** 17 The number of jobs currently maintained in Michigan by the Company based on data submitted by the Company to the MEDC reflecting the Company's statewide employment level in Michigan prior to the proposed project. The Base Employment Level, including identification of the Company data used to establish this level, shall be included in the final MBDP Incentive Award agreement ("Agreement") between the MSF and the Company.
- 7. Total Qualified New Job Creation:** 174 The minimum number of total Qualified New Jobs the Company shall be required to create in Michigan (above the Base Employment Level), in addition to satisfying other milestones if applicable, to be minimally eligible to receive the full amount of the MBDP Incentive Award. Each Qualified New Job must be performed for consideration by a Michigan resident (whose Michigan income taxes are withheld as required), and each Qualified New Job must be in excess of  
*(above Base Employment Level)*



the Base Employment Level. The final terms and conditions of the requirements for the minimum number of Qualified New Jobs that must be created, including provisions addressing disbursements of portions of the MBDP Incentive Award, shall be included in the final Agreement.

a. **Start Date for Measurement of Creation of Qualified New Jobs:** Date of Accepted Offer (August 1<sup>st</sup>, 2015)

8. **Company Investment:** \$29,486,000 in building renovations, annual lease costs, furniture and fixtures, computers, machinery and equipment, and other personal property or any combination thereof, for the Project.

9. **Municipality supporting the Project:** City of Dearborn

a. **Municipality Support.** One of the conditions of execution of the final Agreement is the requirement that the municipality shall have committed to provide: A property tax abatement on real and/or personal property. The final terms and conditions demonstrating this support shall be included in the final Agreement.

10. **Disbursement Milestones:** The final terms and conditions of each of the disbursements of any portion of the MBDP Incentive Award shall be included in the final Agreement, including that before any disbursement is made to the Company, the Company must have maintained: (i) the Base Employment Level (exclusive of the number of Qualified New Jobs then created) and (ii) any Qualified New Jobs created for which disbursements by the MSF have been made, and must otherwise be in compliance with all terms and conditions of the final Agreement, and further shall include:

a. **Disbursement Milestone 1:** Up to \$650,000 Upon demonstrated creation of 64 Qualified New Jobs above the Base Employment Level and verification of final approval of municipality support by no later than July 30, 2016.

b. **Disbursement Milestone 2:** Up to \$670,000 Upon completion of Disbursement Milestone 1, and upon demonstrated creation of 66 additional Qualified New Jobs (for a total of 130 Qualified New Jobs) above the Base Employment Level, by no later than July 31, 2017.

c. **Disbursement Milestone 3:** Up to \$450,000 Upon completion of Disbursement Milestone 1 and Disbursement Milestone 2, and upon demonstrated creation of 44 additional Qualified New Jobs (for a total of 174 Qualified New Jobs) above the Base Employment Level, by no later than July 31, 2018.

**11. Term of Agreement:**

Execution of Agreement to July 31, 2020

**12. Repayment Provisions:**

Repayment provisions are required by law. The Repayment terms and conditions will be effective through the Term of the Agreement and shall be defined in the final Agreement. The final repayment provisions may require repayment of some or all of the disbursements made by the MSF, including if the Company moves 25% or more of their employees out of Michigan, if the Company fails to maintain the Base Employment Level in Michigan, if the Company fails to maintain the Qualified New Jobs incented by this Award.

**13. Reporting Requirements:**

Periodic reporting will be required with this program. The detailed information needed from the Company will be included in the final Agreement, but will include Project reporting for such things as: amount of proposed incentive, amount of actual incentive received by Company; amount of proposed and actual investment made by Company for Project; the committed number of new jobs and the actual number of new jobs created as a result of the Project.

**14. Public Announcements:**

The Company shall not make, or cause, any announcement of the proposed MBDP Incentive Award parameters outlined in this letter before the date of approval by the MSF of the MBDP Incentive Award, unless prior authorized and coordinated with the MEDC. At the request and expense of the MSF or the MEDC, the Company will cooperate with the MSF or the MEDC to promote the Project through one or more of the placement of a sign, plaque, media coverage or other public presentation at the Project or other location acceptable to the Parties.

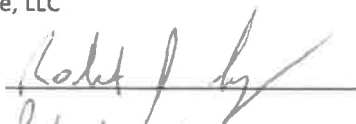
Any final MBDP Incentive Award is contingent upon several factors, including: (i) submission by the Company of a completed application and all other documentation required under the MBDP (ii) satisfactory municipality support (iii) available MSF funding (iv) completion of financial review, business integrity review, required background checks, and other business and legal review and due diligence as required, and the results of which must be satisfactory the MEDC, the MSF, and as applicable, the Chief Compliance Officer, (v) approval of an award by the MSF, and (vi) execution of a final Agreement containing the established milestones, repayment terms, reporting requirements, and all other detailed terms and conditions, required by the MSF.

If the Company is interested in the MEDC pursuing a recommendation to the MSF for a possible MBDP Incentive Award for the Company along the above parameters, please sign and date this Term Sheet. If the MEDC does not receive the signed Term Sheet from the Company by November 12, 2015, the MEDC may not be able to proceed with any recommendation to the MSF.

**Acknowledged as received by:**

Rivian Automotive, LLC

By:



Printed Name:

Robert I Scaringe

Michigan Economic Development Corporation

By:



Printed Name:

Travis Friedberg

Its:

CEO

Its:

Development Finance Manager

Dated:

11/12/2015

Dated:

11/12/2015

**MICHIGAN STRATEGIC FUND**

**RESOLUTION 2015-**

**APPROVAL OF A MICHIGAN BUSINESS DEVELOPMENT PROGRAM GRANT TO  
RIVIAN AUTOMOTIVE, LLC**

**WHEREAS**, the Michigan legislature passed legislation establishing the 21<sup>st</sup> Century Jobs Trust Fund initiative that was signed into law;

**WHEREAS**, the Michigan Economic Development Corporation (“MEDC”) provides administrative services to the Michigan Strategic Fund (“MSF”) for 21<sup>st</sup> Century Jobs Trust Fund programs;

**WHEREAS**, pursuant to MCL 125.2088r, the MSF shall create and operate the Michigan Business Development Program (“MBDP”) to provide grants, loans and other economic assistance to qualified businesses that make qualified investments or provide qualified new jobs in Michigan;

**WHEREAS**, on December 21, 2011, by Resolution 2011-184, the MSF (i) created the MBDP, and (ii) adopted the guidelines for the MBDP (“Guidelines”);

**WHEREAS**, pursuant to SFCR 125.2088r-1, the MSF approved the MSF Fund Manager or the MSF President to negotiate the terms and conditions and execute all final documents necessary to effectuate awards and decisions approved under the MBDP in accordance with the Guidelines (“Transaction Documents”);

**WHEREAS**, the Guidelines require that MBDP awards over \$1 million must be approved by the MSF Board;

**WHEREAS**, RIVIAN AUTOMOTIVE, LLC (“Company”) has requested a performance based MBDP grant of up to \$1,770,000 (“Grant Request”), along with other general terms and conditions which are outlined in the term sheet attached as Exhibit A (“Term Sheet”); and

**WHEREAS**, the MEDC recommends that the MSF approve the Company’s Grant Request in accordance with the Term Sheet, subject to: (i) available funding, (ii) final due diligence performed to the satisfaction of the MEDC; and (iii) execution of the Transaction Documents within 120 days of the date of this Resolution (“Time Period”), or this Resolution shall have no effect; provided however, at the sole discretion of the MSF Fund Manager, the Time Period may be extended for up to an additional 60 days (“MBDP Award Recommendation”).

**NOW, THEREFORE, BE IT RESOLVED**, the MSF Board approves the MBDP Award Recommendation.

Ayes:

Nays:

Recused:

Lansing, Michigan  
November 24, 2015



## MEMORANDUM

**Date:** November 24, 2015

**To:** Michigan Strategic Fund Board

**From:** Christopher Cook, Director of Capital Access

**Re:** *Private Activity Bond – Bond Inducement  
Cathedral of St. Augustine’s  
Nonprofit - \$26,500,000 – New*

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### **Request:**

Cathedral of St. Augustine’s (“Borrower”) is requesting private activity bond financing to invest in the acquisition of and renovations and improvements to 28 existing cemeteries in Michigan (“ Project”).

### **Background:**

Borrower is an existing Michigan ecclesiastical corporation. It was incorporated on September 12, 2002, and is a 501(c)(3) tax-exempt organization. Borrower is associated with St. Augustine’s National Foundation, which provides the educational ministries of Borrower.

### **Description of Project:**

Borrower intends to purchase all of the assets of 28 existing cemeteries. All of the assets are currently owned by one entity (“Seller”), which is a Michigan limited liability company that has only two members. Neither of those members nor the Seller are related, directly or indirectly, to Borrower. As a Michigan ecclesiastical corporation, Borrower is legally able to purchase, own and operate the cemeteries. The purchase of the cemeteries from the Seller will require approval by the Michigan Cemetery Commissioner and by a U.S. District Court in Georgia that has jurisdiction over the court-appointed receiver for the minority member of the Seller. Following the purchase of the cemeteries 180 jobs will be retained, 57 will be temporary, and at full operation Borrower will employ 240 individuals.

### **Plans of Finance:**

Borrower has retained Siebert Brandford Shank & Co., L.L.C. (“SBS”) to underwrite and provide placement agent services for the proposed \$26,500,000 tax-exempt revenue bond issue.

### **Recommendation:**

After reviewing the Private Activity Bond application for Borrower, staff finds this deal meets the requirements for an Inducement Resolution in the amount of \$26,500,000.

**CATHEDRAL OF ST. AUGUSTINE'S**

**MICHIGAN STRATEGIC FUND**

**INDUCEMENT RESOLUTION**

**2015 - \_\_\_\_\_**

**WHEREAS**, Cathedral of St. Augustine's (the "Borrower"), a Michigan ecclesiastical corporation is presently located at 17520 W. Twelve Mile Road, Suite 200, Southfield, MI 48076;

**WHEREAS**, the Borrower desires to acquire and renovate twenty-eight existing cemeteries in Michigan (the "Project");

**WHEREAS**, all of the assets are currently owned by one entity ("Seller"), which is a Michigan limited liability company that has only two members.

**WHEREAS**, neither of those members nor the Seller are related, directly or indirectly, to Borrower.

**WHEREAS**, as a Michigan ecclesiastical corporation, Borrower is legally able to purchase, own and operate the cemeteries.

**WHEREAS**, the purchase of the cemeteries from the Seller will require approval by the Michigan Cemetery Commissioner and by a U.S. District Court in Georgia that has jurisdiction over the court-appointed receiver for the minority member of the Seller.

**WHEREAS**, the Borrower has applied to the Michigan Strategic Fund (the "MSF") for a loan (the "Loan") to finance the Project;

**WHEREAS**, the Borrower has advised the MSF that the cost of the Project will not exceed Twenty-Six Million Five-Hundred Thousand Dollars (\$26,500,000);

**WHEREAS**, the Act authorizes the MSF to loan moneys to business enterprises for the purpose of financing projects and to obtain the money for such loans by the issuance of bonds pursuant to the Act; and

**WHEREAS**, this Resolution has the purpose of providing the necessary official intent of the MSF to meet the requirements of Sections 141 and 144 of the Internal Revenue Code of 1986, as amended (the "Code") and the regulations promulgated in connection therewith and, in particular, Section 1.150-2 of the Income Tax Regulations.

**NOW, THEREFORE, BE IT RESOLVED**, by the Michigan Strategic Fund that:

1. The MSF intends to provide the Loan to the Borrower subject to the conditions of this Resolution.
2. The Loan shall be designated for the Project in accordance with the Borrower's Second Amended Tax-Exempt Application Form dated October 2, 2015.
3. The maximum principal amount of the bonds (the "Bonds") expected to be issued to provide the Loan to finance the Project shall not exceed Twenty-Six Million Five-Hundred Thousand Dollars (\$26,500,000). The Borrower shall be obligated to make loan repayments in an amount sufficient

to assure full repayment of the Bonds, establish appropriate reserves and pay costs and expenses relating to the issuance of the Bonds and the making of the Loan.

4. The MSF's obligation to issue the Bonds and make the Loan shall be conditioned upon a) the ability of the Borrower to obtain the approval of the purchase of the 28 cemeteries by the Michigan Cemetery Commissioner and a U.S. District Court in Georgia, b) the ability of the MSF to issue, sell and deliver the bonds under applicable federal and state laws, and c) any prioritization, fee schedules or other requirements or limitations implemented by the MSF or the State Treasurer.
5. The MSF's obligation to make the Loan and issue the Bonds contemplated by this resolution shall expire two years after the date of this Resolution.
6. The Loan may be evidenced by a promissory note and secured by such instruments as are in form and substance satisfactory to the MSF, the Attorney General of the State of Michigan (the "Attorney General") and bond counsel to the MSF, including a loan agreement, indenture, first mortgage, security agreement and such additional security as may be required by the MSF or purchaser of the Bonds.
7. Subject to compliance with this Resolution, the MSF will authorize a bond resolution approving the issuance of the Bonds (the "Bond Resolution") for the purpose of making the Loan and funding the reserves and costs associated with the issuance and administration of the Bonds, and enter into a loan agreement and related documents with the Borrower and a bond purchase agreement with a bond purchaser, which documents shall be subject to the approval of the Attorney General and bond counsel to the MSF.
8. The Bonds shall not be general obligations of the MSF but shall be payable as to principal and interest solely from the proceeds of the payments to be made by the Borrower to the MSF (or to a trustee appointed by the MSF pursuant to the Bond Resolution), as provided in the Bond Resolution. The agreements relating to the Loan and the issuance of the Bonds shall contain such provisions as will be necessary to make absolutely certain that under no circumstances will the Bonds or this Resolution be a debt or obligation of the State of Michigan or a general obligation of the Michigan Strategic Fund, nor will the State of Michigan be liable on the Bonds.
9. All costs and expenses involved in the authorization, issuance, sale, and delivery of the Bonds and in the making of the Loan shall be paid from the Bond proceeds or, if they are insufficient, by the Borrower.
10. The staff of the MSF is authorized and directed to initiate the proceedings described in this Resolution and to enter into negotiations, subject to the approval of the MSF, with a bond purchaser for the sale of the Bonds.
11. Bond counsel to the MSF and the Attorney General are authorized and directed to prepare and submit to the appropriate parties all proceedings, agreements and other documents as shall be necessary or appropriate in connection with the issuance of the Bonds and to make applications on behalf of the MSF to the United States Internal Revenue Service and to other governmental agencies for such income tax and other rulings and approvals as may be necessary in relation to the issuance of the Bonds. Any authorized signatory is authorized to execute such powers of attorney and other documents as may be appropriate in connection with the foregoing. All costs and expenses pertaining to the above matter shall be paid from the bond proceeds or by the Borrower.

12. A preliminary official statement or other offering materials may be used in connection with the sale of the Bonds; provided, however, that no preliminary official statement or other offering materials shall be circulated unless any description of the MSF, the Bonds and documents to which the MSF is a party shall have been approved by bond counsel to the MSF and the Attorney General.
13. All resolutions and parts of resolutions insofar as they conflict with this Resolution are rescinded.

**ADOPTED**

Ayes:

Nays:



## MEMORANDUM

**Date:** November 24, 2015

**To:** Michigan Strategic Fund Board

**From:** Daniel Leonard, Community Assistance Specialist  
Lisa Green, Program Specialist, Community Development Block Grant  
Christine Whitz, Manager, Community Development Block Grant Program

**Subject:** *Community Development Block Grant Program  
Downtown Façade Improvement Project  
City of Alpena, County of Alpena*

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### Request

The City of Alpena is requesting \$891,591 in Community Development Block Grant (CDBG) funds for façade improvements needed for the downtown façade improvement project located in Alpena County, Michigan. The Michigan State Housing Development Authority (MSHDA) is funding \$400,000 in CDBG funds for this project's residential improvements. The MSHDA funding has previously been authorized and is not part of this approval. However, since the combined incentive amount for this community is \$1,291,591, we are requesting Michigan Strategic Fund (MSF) Board approval. The City expects that this project could result in private investment of \$1,043,560 and the complete interior/exterior restoration of two (2) buildings within the downtown.

### Background

Within this proposed downtown façade improvement project there are two (2) buildings and two (2) very different businesses utilizing the financial assistance of the MSF and the MSHDA. Alpena Furniture and Flooring is a long-standing retail operation within downtown Alpena and has been in business since 1995. Given the size of Alpena's market and physical large-scale size of the subject building, the retail operations related to the business currently occupy a significant amount of the roughly 28,000 square foot structure. For Alpena Furniture and Flooring the incentives are allowing the building to both be physically stabilized and historically enhanced, as well as, renovated to accommodate new residential rental units to a community which has limited downtown rental opportunities. Given the relatively low commercial value of the building, if the business owner were to request lending from a traditional financial institution there would not be adequate value in the building or the business holistically, to support the renovation efforts being implemented per the proposed grant application. If it were not for the financial assistance of these CDBG dollars, both the building owner and his primary lending institution would not be supportive of this project.

The Old Owl was and continues to be a stakeholder within Alpena's restaurant scene, but has been closed for the past year due to a loss in the original ownership of the building and operations. The structure of the Old Owl is one which has experienced several physical alterations through the years as the building was subject to a fire and previous construction projects which took away from the original building's historic character. Past construction efforts compartmentalized the interior of the building and severely limited the efficiency of the restaurant's operations. In working with both the Michigan Small Business Development

Center (SBDC) representatives and a local architect, the new building owner is proposing renovation efforts to better layout the business, as well as, generate a more inviting atmosphere through the introduction of new windows, lighting and access to the building in general.. The financial assistance offered will include the renovation of three (3) sides of the building on the north, east and south facades and include new brick work, windows, access entry points as well as new doors themselves. Again, without the assistance of the CDBG dollars in play both the building owner's primary lender, as well as, the owner would not be financially able to justify the significant increased costs of these renovation efforts.

Program specific requirements and screening guidelines are addressed in **Appendix A**.

Terms Sheets for Project provided in **Appendix B**.

Project area map, including renderings and before photos are provided in **Appendix C**.

#### **Recommendation**

The MEDC Staff recommends:

- CDBG Façade funding in the amount of \$891,591 be authorized for the City of Alpena. This funding will be part of a Façade/Housing grant agreement in the amount of \$1,291,591, comprised of \$891,591 from the MSF and \$400,000 from the MSHDA. The MSHDA funding has previously been authorized and is not part of this approval.

## APPENDIX A – Programmatic Requirements & Screening Guidelines

### Program Requirements

The project was evaluated utilizing the CDBG requirements. It has been determined that the project meets the following requirements to qualify as an eligible project under the CDBG program:

- **National Objective:**  
The façade portion of the project qualifies for CDBG funding as the project activities will benefit all residents of the project area and 70.9 percent of the residents of the City of Alpena are low and moderate income persons as determined by an income survey. The façade portion of the project meets a national objective by providing benefit to at least 51 percent low and moderate income persons.
- **Eligible Activity:**  
This project involves eligible activities identified in Section 105(a)(4) of Title I of the Housing and Community Development Act of 1974, as amended.

### Screening Guidelines

The project was evaluated utilizing the CDBG guidelines. It has been determined that the project meets the following standards to qualify as an eligible project under the CDBG program:

- **Economic Impact:** The economic impact of this project was evaluated. It was determined that the project's implementation within the City of Alpena will not only act as a catalyst toward additional private investment within the community, but will also add additional taxable value to the City. The City of Alpena has:
  - A local façade program
  - Local organizational capacity to successfully complete this project
  - A full-time downtown development professional or community staff member able to administer the project
  - Adopted a downtown development planThe project is/will:
  - Introduce new employment opportunities through the opening of a new business downtown.
  - Located in a highly visible location
  - Located in a DDA
  - Consist of two or more buildings that have the following characteristics:
    - Multi-story Building
    - Mixed-use components
    - Both façade and the introduction of new residential units
    - Eligible for Historic or Contributing Designation
    - Partially or completely vacant building being returned to active use
- **Minimum Local Participation:** The DDA will contribute \$10,000 to the project, which is less than one percent (1%) of the total project cost. In addition, the City of Alpena will act as the grantee on behalf of the “Old Owl” and “Alpena Furniture and Flooring”. The Community has provided

significant staff resources to complete the application process and will provide significant staff resources to administer this grant.

- **Minimum Leverage Ratio:** The private leverage contribution, \$813,580 to be provided by “Alpena Furniture and Flooring” and \$229,980 to be provided by the “Old Owl” equals \$1,043,560 which results in a leverage ratio of approximately .81:1 of the CDBG grant.
- **Financial Viability and Background Check:** The businesses receiving the benefit from this project have completed a background check with no concerns and have been determined to be financially viable.

The MEDC staff has concluded that the project meets the minimum program requirements and screening guidelines to be eligible under the CDBG program.

## APPENDIX B – Terms Sheet



### MICHIGAN COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM Performance Based Grant - Term Sheet

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The following is a summary of the highlights of the proposed project and basic terms for which the Company desires grant support from the Michigan Strategic Fund ("MSF") under the Michigan Community Development Block Grant Program ("CDBG"). While the CDBG is operated and funded through the MSF, recommendation for approval of a CDBG incentive award is presented by the Michigan Economic Development Corporation ("MEDC") to the MSF.

Date: 10/28/15

1. **Community Name ("Grantee"):** City of Alpena
2. **Company Name ("Company"):** Alpena Furniture and Flooring / Straley Enterprises, Inc.
3. **Company Address:** 325 N. Second Avenue  
Alpena, MI 49707
4. **Project Address:** 325 N. Second Avenue  
*If different than above* Alpena, MI 49707
5. **Project Description and Activities:** The subject building will undergo a SHPO approved historical renovation effort to address its current physical deterioration and several years of neglect from previous building owners. This exterior renovation will also be complemented by an interior renovation project which will physically accommodate ten (10) new residential rental units within the second floor of the building while maintaining the existing Alpena Furniture and Flooring retail operation. Exterior renovation activities include brick tuck-pointing, new window, doors, exterior canopy, and the elimination of deteriorated structural elements of the building. Interior activities will include the complete renovation of an existing open retail area, which currently accommodates the existing furniture sales, to create ten (10) new rental residential apartments within the building. These holistic exterior and interior stabilization and restoration efforts bring significant private investment into the community as well as restore the building's historical character to its original state.
6. **Total Estimated Project Costs:** \$ 1,874,706
7. **CDBG Grant Incentive Type:** Downtown Façade Improvement Grant
8. **CDBG Grant Amount:** \$1,061,126  

In no event shall the amount of the grant assistance exceed more than fifty-seven percent (57%) of the total actual Project Costs. If the actual cost is less than shown in the Total Estimated Project Costs, the amount of the Grant shall be reduced on a proportional basis. The Company and Grantee shall be responsible for any cost overruns. Funds will be made available to the community on a reimbursement basis for eligible costs.
9. **Minimum Company Investment:** \$813,580

10. **Type of Financing for Investment:**

- Loan  
 Cash Contribution by \_\_\_\_\_

11. **Project Milestones:** The final terms and conditions of each of the Project Milestones shall be included in the final Agreement. Before any disbursement is made to the Company through the Community, the Company must demonstrate compliance with Project Milestones, as required, and otherwise be in full compliance with all terms and conditions of the final Agreement, and further shall include:

- a) **Grant Agreement Executed:** 12/24/2015
- b) **Property Acquisition Completed:** N/A
- c) **Construction Commencement:** 4/24/2016
- d) **Construction Completed:** 11/24/2017
- e) **Job Creation Commencement:** N/A
- f) **Job Creation Completion:** N/A

12. **Term of Agreement:** The term of the Agreement is from execution of the Agreement for a period of two (2) years. This term includes completing all required project activities and minimum private investment.

13. **Community Support for Project:** A condition for execution of the final Agreement(s) is that the municipality has agreed to be the Grantee and committed to provide in kind services as their local contribution through the administration of the proposed CDBG grant. The final terms and conditions evidencing this support shall be included in the final Agreement(s).

14. **Repayment Provisions:** It is understood and acknowledged by all parties, including the Company, that the investment is an essential factor in persuading the Grantor that this project is economically viable, and further, in the absence of this commitment by the Company, this grant would not have been awarded and the Company has verified that the CDBG Funds are not substituted for non-federal funds.

The Company further acknowledges that should the private investment goals for this project not be met, the Grantee may require the repayment of the Grant up to the full amount from the Company. The MSF may require the Grantee and Company to execute a Development Agreement that will be acknowledged by the MSF outlining repayment provisions.

15. **Environmental Review:** The CDBG environmental review process must be completed and written authorization received from MEDC prior to incurring project costs and beginning any project activities. Project costs include costs to be paid for with CDBG funds and all other non-CDBG funds. Incurring costs is defined as making any commitments relevant to the project. This includes, but is not limited to, signing contracts; entering into lease/easement/purchase agreements; ordering equipment, materials, or supplies; or performing any other work. The environmental review process usually takes the community a minimum of 60 days to complete. Incurring project costs and/or

... other than construction work, without triggering Davis-Bacon requirements, even though CDBG funds are part of an overall project which may involve construction work. For this project, Davis Bacon requirements apply to the entire project, including both CDBG and non-CDBG funded activities.

17. **Reporting Requirements:** The Company will be required to provide regular information to the Grantee to assure reporting requirements compliance including, but not limited to:
- a) Progress Reports beginning April 15, 2016, and every six (6) months thereafter.
  - b) Final Progress Report 60 days after completion of the Term.
18. **Public Announcements:** The Company shall not make, or cause, any announcement of the proposed CDBG Incentive Award parameters outlined in this letter before the date of approval by the MSF of the CDBG Incentive Award, unless authorized and coordinated in advance with the MEDC.
19. **Conflicts of Interest:** Please indicate below whether or not the **COMPANY(IES)** associated with this proposed project have a contractual relationship with one of more of the following entities.

- Yes  No  Michigan Economic Development Corporation
- Yes  No  Michigan Association of Realtors
- Yes  No  Michigan Department of Licensing & Regulatory Affairs
- Yes  No  Michigan Department of Treasury
- Yes  No  Springfield Commercial Roofing
- Yes  No  Michigan Regional Council of Carpenters
- Yes  No  PNC Financial Services Group
- Yes  No  Grand Angels
- Yes  No  Greenstone Financial

If yes to any of the above, please describe the nature of the relationship.

20. **Required Attachments:**

- Completed Background Check Form
- Proof of Financing for Required Investment

This Term Sheet is an outline of the structure of the proposed CDBG Incentive Award and does not purport to summarize all of the conditions, terms, covenants, representations, warranties and other provisions which would be contained in definitive legal documentation for the CDBG Incentive Award contemplated hereby. It should not in any way be viewed as a commitment by or an obligation of the MEDC, the MSF or any other entity to extend financial accommodations to the Company and is subject to, among other things, the approval of the request under MEDC's internal approval process and by the MSF Board. Any final CDBG Incentive Award is contingent upon several factors, including: (i) submission by the Community of a completed application and all other documentation required under the CDBG; (ii) satisfactory municipality support; (iii) available MSF funding; (iv) completion of financial review, business integrity review, required background checks, and other business and legal review and due diligence, as required, the results of which must be satisfactory to the MEDC, the MSF, and as applicable, the Chief Compliance Officer; (v) approval of an award by the MSF; and (vi) execution of a final Agreement containing the established milestones, repayment terms, reporting requirements, and all other detailed terms and conditions, required by the MSF.

The Company cannot assign this Term Sheet without the prior written consent of the MEDC. If the Company is interested in the MEDC pursuing a recommendation to the MSF for a possible CDBG Incentive Award for the Company along the above parameters, please sign and date this Term Sheet. If the MEDC does not receive the signed Term Sheet from the Company by 11/28/2015, the MEDC may not be able to proceed with any recommendation to the MSF.

Michigan Economic Development Corporation

By: Daniel Leonard

Its: Community Assistance Specialist



Signature:

Dated: 10/28/2015

**Acknowledged as received by:**

Alpena Furniture and Flooring – Straley Enterprises, Inc.

By: Steve Straley

Its: Owner / Operator

DocuSigned by:  
Steve Straley  
5044A8204896400...

Signature:

Dated: 11/4/2015

**Acknowledged as received by:**

City of Alpena

By: Greg Sundin



Its: City Manager  
Signature:  DocuSigned by:  
Greg Surdin  
F83E071D292848D

Dated: 11/3/2015

Cc: Christine Whitz, Manager, CDBG Program  
Lisa Green, CDBG Specialist  
Sarah Rainero, CATeam Manager



MICHIGAN COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
Performance Based Grant - Term Sheet

The following is a summary of the highlights of the proposed project and basic terms for which the Company desires grant support from the Michigan Strategic Fund ("MSF") under the Michigan Community Development Block Grant Program ("CDBG").

Date: 10/28/15

- 1. Community Name ("Grantee"): City of Alpena
2. Company Name ("Company"): Owl Properties, LLC
3. Company Address: 121 w. Chisholm St Alpena, MI 49707
4. Project Address: 121 w. Chisholm St Alpena, MI 49707
5. Project Description and Activities: The subject building will undergo a complete exterior and interior renovation effort to allow for the re-opening of the Owl Restaurant.
6. Total Estimated Project Costs: \$ 460,445
7. CDBG Grant Incentive Type: Downtown Façade Improvement Grant
8. CDBG Grant Amount: \$230,465
9. Minimum Company Investment: \$229,980
10. Type of Financing for Investment: [X] Loan [ ] Cash Contribution by

11. **Project Milestones:** The final terms and conditions of each of the Project Milestones shall be included in the final Agreement. Before any disbursement is made to the Company through the Community, the Company must demonstrate compliance with Project Milestones, as required, and otherwise be in full compliance with all terms and conditions of the final Agreement, and further shall include:

- a) **Grant Agreement Executed:** 12/24/2015
- b) **Property Acquisition Completed:** N/A
- c) **Construction Commencement:** 4/24/2016
- d) **Construction Completed:** 11/24/2017
- e) **Job Creation Commencement:** N/A
- f) **Job Creation Completion:** N/A

12. **Term of Agreement:** The term of the Agreement is from execution of the Agreement for a period of two (2) years. This term includes completing all required project activities and minimum private investment.

13. **Community Support for Project:** A condition for execution of the final Agreement(s) is that the municipality has agreed to be the Grantee and committed to provide in kind services as their local contribution through the administration of the proposed CDBG grant. The final terms and conditions evidencing this support shall be included in the final Agreement(s).

14. **Repayment Provisions:** It is understood and acknowledged by all parties, including the Company, that the investment is an essential factor in persuading the Grantor that this project is economically viable, and further, in the absence of this commitment by the Company, this grant would not have been awarded and the Company has verified that the CDBG Funds are not substituted for non-federal funds.

The Company further acknowledges that should the private investment goals for this project not be met, the Grantee may require the repayment of the Grant up to the full amount from the Company. The MSF may require the Grantee and Company to execute a Development Agreement that will be acknowledged by the MSF outlining repayment provisions.

15. **Environmental Review:** The CDBG environmental review process must be completed and written authorization received from MEDC prior to incurring project costs and beginning any project activities. Project costs include costs to be paid for with CDBG funds and all other non-CDBG funds. Incurring costs is defined as making any commitments relevant to the project. This includes, but is not limited to, signing contracts; entering into lease/easement/purchase agreements; ordering equipment, materials, or supplies; or performing any other work. The environmental review process usually takes the community a minimum of 60 days to complete. Incurring project costs and/or starting project activities prior to written authorization will jeopardize or cause the withdrawal of your project for funding consideration.

... other than construction work, without triggering Davis-Bacon requirements, even though CDBG funds are part of an overall project which may involve construction work. For this project, Davis Bacon requirements apply to the entire project, including both CDBG and non-CDBG funded activities.

17. **Reporting Requirements:** The Company will be required to provide regular information to the Grantee to assure reporting requirements compliance including, but not limited to:
- a) Progress Reports beginning April 15, 2016, and every six (6) months thereafter.
  - b) Final Progress Report 60 days after completion of the Term.
18. **Public Announcements:** The Company shall not make, or cause, any announcement of the proposed CDBG Incentive Award parameters outlined in this letter before the date of approval by the MSF of the CDBG Incentive Award, unless authorized and coordinated in advance with the MEDC.
19. **Conflicts of Interest:** Please indicate below whether or not the COMPANY(IES) associated with this proposed project have a contractual relationship with one or more of the following entities

- Yes  No  Michigan Economic Development Corporation
- Yes  No  Michigan Association of Realtors
- Yes  No  Michigan Department of Licensing & Regulatory Affairs
- Yes  No  Michigan Department of Treasury
- Yes  No  Springfield Commercial Roofing
- Yes  No  Michigan Regional Council of Carpenters
- Yes  No  PNC Financial Services Group
- Yes  No  Grand Angels
- Yes  No  Greenstone Financial

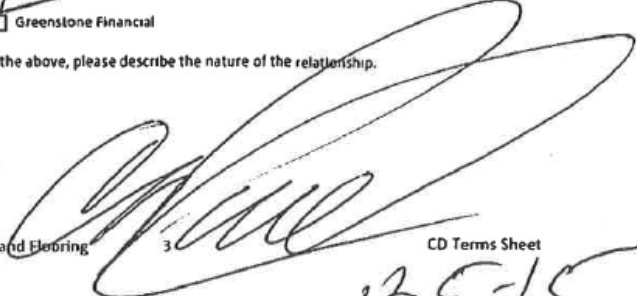
If yes to any of the above, please describe the nature of the relationship.

20. Required Attachments:

Alpena City/Alpena Furniture and Flooring

3

CD Terms Sheet

  
175-15

This Term Sheet is an outline of the structure of the proposed CDBG Incentive Award and does not purport to summarize all of the conditions, terms, covenants, representations, warranties and other provisions which would be contained in definitive legal documentation for the CDBG Incentive Award contemplated hereby. It should not in any way be viewed as a commitment by or an obligation of the MEDC, the MSF or any other entity to extend financial accommodations to the Company and is subject to, among other things, the approval of the request under MEDC's internal approval process and by the MSF Board. Any final CDBG Incentive Award is contingent upon several factors, including: (i) submission by the Community of a completed application and all other documentation required under the CDBG; (ii) satisfactory municipality support; (iii) available MSF funding; (iv) completion of financial review, business integrity review, required background checks, and other business and legal review and due diligence, as required, the results of which must be satisfactory to the MEDC, the MSF, and as applicable, the Chief Compliance Officer; (v) approval of an award by the MSF; and (vi) execution of a final Agreement containing the established milestones, repayment terms, reporting requirements, and all other detailed terms and conditions, required by the MSF.

The Company cannot assign this Term Sheet without the prior written consent of the MEDC. If the Company is interested in the MEDC pursuing a recommendation to the MSF for a possible CDBG Incentive Award for the Company along the above parameters, please sign and date this Term Sheet. If the MEDC does not receive the signed Term Sheet from the Company by 11/28/2015, the MEDC may not be able to proceed with any recommendation to the MSF.

Michigan Economic Development Corporation

By: Daniel Leonard  
Its: Community Assistance Specialist



Signature:

Dated: 10/28/2015

**Acknowledged as received by:**  
Owl Properties, LLC

By: Craig Pilichowski

Its: Owner / Operator

DocuSigned by:  
*Dr. Craig Pilichowski*  
0B45E84A790946D

Signature:

Dated: 11/3/2015

**Acknowledged as received by:**  
City of Alpena

By: Greg Sundin

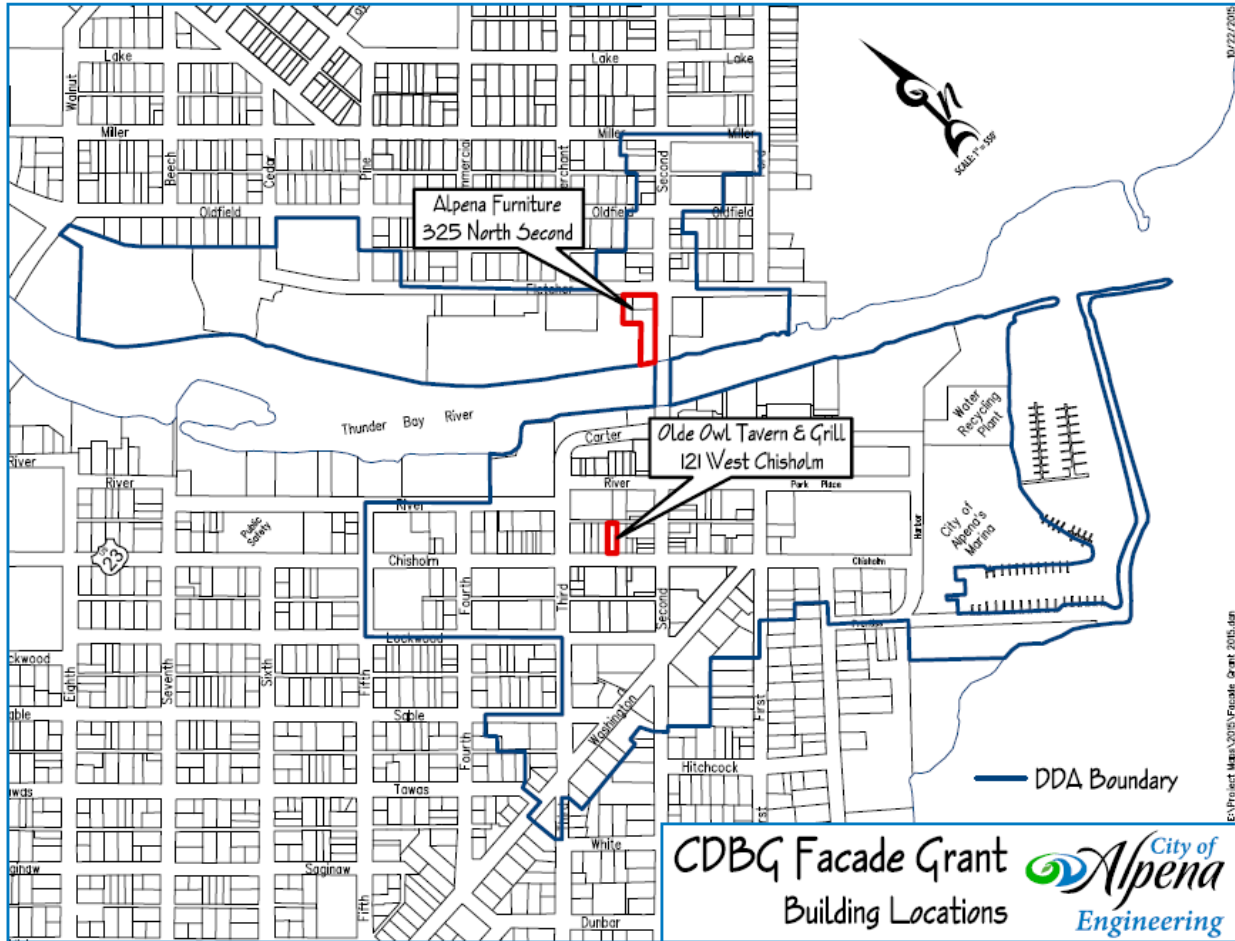
Its: City Manager

DocuSigned by:  
*Greg Sundin*  
E83E071D292846D

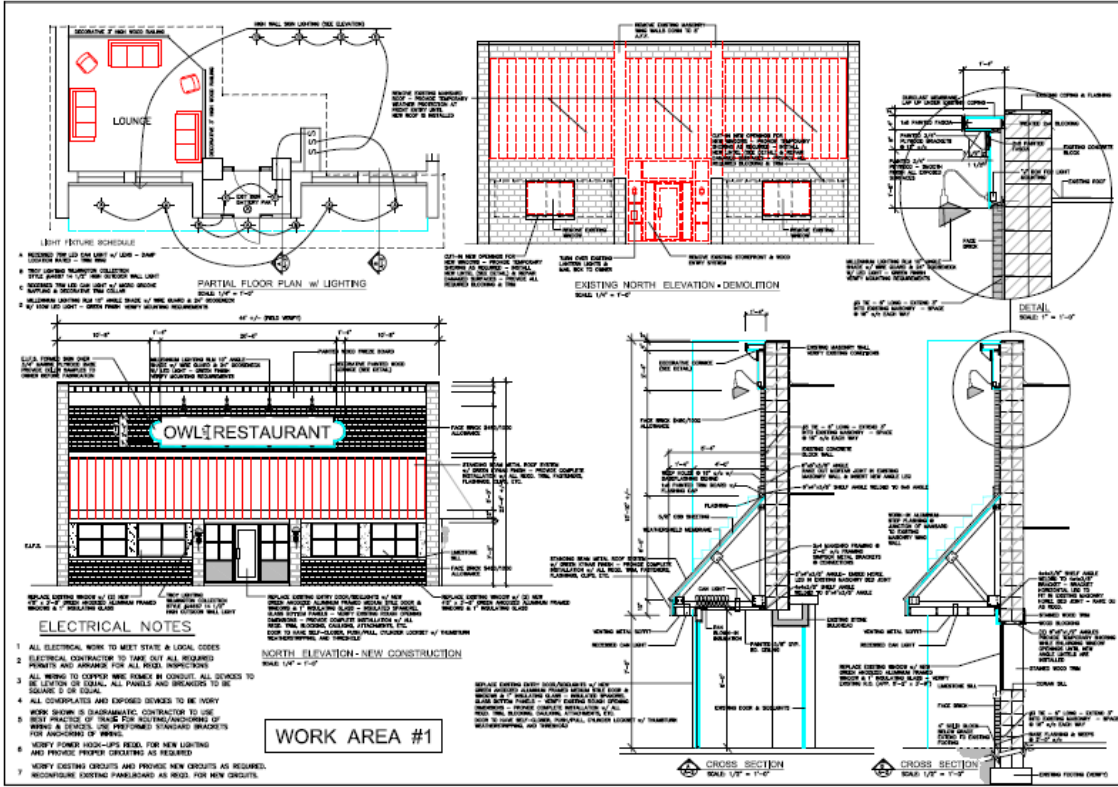
Signature:

Dated: 11/3/2015

# APPENDIX C – Map







MARKUS G. GONZALEZ  
OWLS RESTAURANT RENOVATIONS  
PROJECT NO. 201501  
ARCHITECTURE + PLANNING

OWLS RESTAURANT RENOVATIONS  
FOR:  
DR. CRAIG PILICHOWSKI  
121 WEST CHESTERFIELD AVENUE, ALPENA, MI 49707

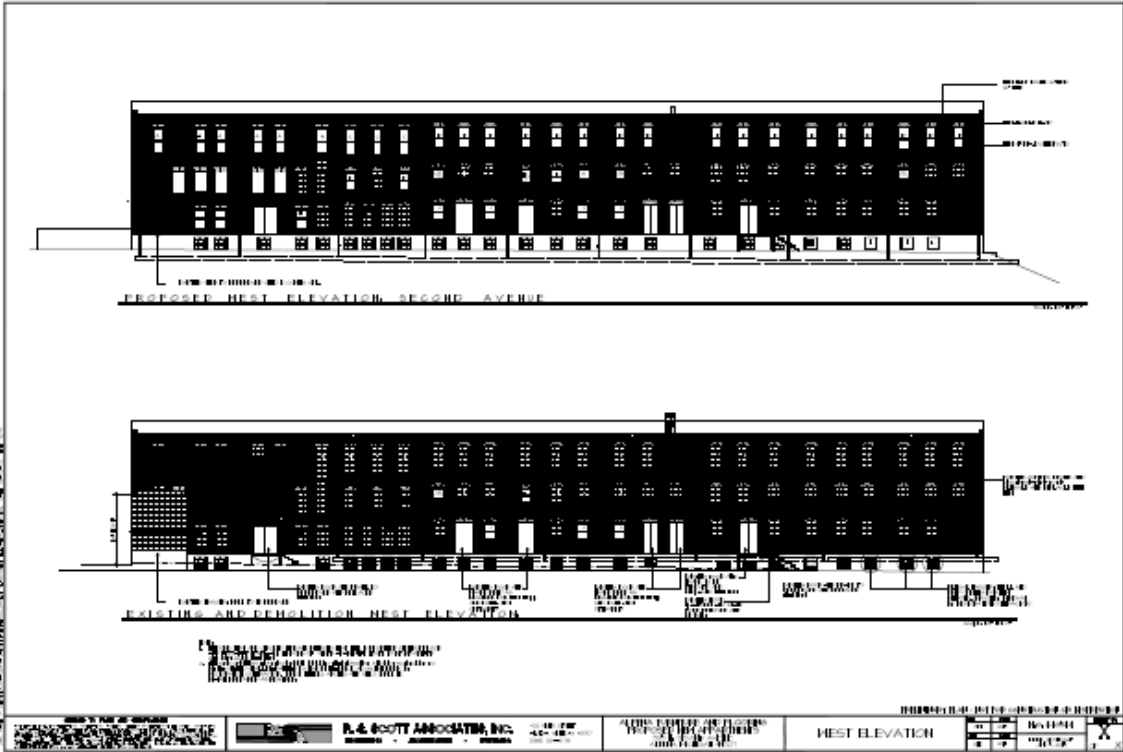
© COPYRIGHT 2015

DATE	REVISION
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## MICHIGAN STRATEGIC FUND

### RESOLUTION 2015- \_\_\_\_\_

#### APPROVAL OF THE CITY OF ALPENA'S AREA BENEFIT AND LOW INCOME HOUSING PROJECT

**WHEREAS**, Executive Order 1999-1, issued pursuant to Article V of the Michigan Constitution of 1963 and the laws of State of Michigan, consolidated the State's economic development functions and programs and their accompanying powers of the Michigan Strategic Fund ("MSF");

**WHEREAS**, Executive Order 1999-1 transferred from the Michigan Jobs Commission to the MSF all authority, powers, duties, functions, grants, and responsibilities, including the functions of budgeting, procurement, personnel, and management related functions, of the Community Development Block Grant ("CDBG") program;

**WHEREAS**, The CDBG program has policies, criteria, and parameters that are enumerated in the 2015 Program Guidelines, as amended (the "Criteria"). The MSF, by Resolution 2015-039, authorized and approved the Consolidated Plan and the Criteria and the MSF, by Resolution 2015-039, authorized and approved the 2015 Application Guide which includes guidelines for area benefit grants;

**WHEREAS**, pursuant to SFCR 10.1-1, the MSF approved the MSF Fund Manager or the MSF President to negotiate the terms and conditions and execute all final documents necessary to effectuate awards or decisions approved under the CDBG program;

**WHEREAS**, the City of Alpena (the "Community") has submitted a complete application for approval requesting funding to be used to fund façade and residential improvements to the Alpena Furniture Building and to fund façade improvements to the Owl Building located within the City's downtown (the "Project");

**WHEREAS**, the CDBG program staff reviewed the application and proposed Project in light of the Criteria, Guide and HUD regulations and concluded the Project is eligible for funding, is not speculative in nature, is economically sound, is ready to proceed, and at least 51 percent of the project beneficiaries are low and moderate income persons; and

**WHEREAS**, MSHDA has been authorized to award CDBG funding for housing project per Resolution 2015-039

**WHEREAS**, MSHDA has authorized \$400,000 for the City of Alpena on August 24, 2015 as part of this project.

**WHEREAS**, MSHDA has authorized MSF to enter into a grant agreement encompassing their funding to better serve the Community.

**WHEREAS**, staff recommends that a grant agreement be authorized and entered into with the Community for all funds from the CDBG program to allow for ease of the Community and for the reasons set forth in this Resolution.

**NOW, THEREFORE, BE IT RESOLVED**, that the MSF authorizes a grant agreement in the amount of \$1,291,591, comprised of \$891,591 from the MSF and \$400,000 from the MSHDA for the payment or reimbursement of costs associated with the Project, and allocates \$891,591 from the Michigan CDBG program for the purpose of funding the Community's proposed Project contingent upon the MSF's continued receipt of CDBG funds and availability of adequate funds; and

**BE IT FURTHER RESOLVED**, the MSF Fund Manager, in coordination with MEDC staff is directed to negotiate the terms of a grant agreement for the Project consistent with this Resolution; and

**BE IT FURTHER RESOLVED**, if the Community fails to execute and return the grant agreement to staff within 180 days of the date this Resolution is adopted, this Resolution shall be of no further force and effect and shall be void.

Ayes:

Nays:

Recused:

Lansing, Michigan  
November 24, 2015



## MEMORANDUM

**Date:** November 24, 2015

**To:** Michigan Strategic Fund Board

**From:** Rosalyn J. Jones, Community Assistance Team Specialist  
Mary Kramer, Brownfield and MCRP Program Specialist

**Subject:** City of Kalamazoo Brownfield Redevelopment Authority  
Request for Approval of an Act 381 Work Plan  
NOMI Developers LLC - Request for Approval Michigan Community  
Revitalization Program Grant

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### Request

The proposed project will be undertaken by NOMI Developers LLC. The project will fully rehabilitate and repurpose an underutilized industrial building along with adjacent parcels totaling approximately one acre located at 508 E. Frank Street, 505 E. North Street and 714 Walbridge Street in the City of Kalamazoo. An existing three-story industrial structure (approximately 33,500 square feet) will be repurposed into a mixed use development offering market-rate residential and commercial space. The project is located in a downtown and qualifies for a Michigan Community Revitalization Program (MCRP) award and Act 381 work plan because it is a facility.

In order to alleviate Brownfield conditions and prepare the proposed project site for redevelopment, the City of Kalamazoo Brownfield Redevelopment Authority is seeking approval of local and school tax capture for MSF eligible activities in the amount of \$605,000.

NOMI Developers LLC is requesting approval of a MCRP incentive in the amount of \$665,000 in the form of a performance-based grant.

The project will help respond to the demand for apartment units in downtown Kalamazoo. According to a December 2014 marketing study, approximately 500 loft apartments could be constructed or created through adaptive re-use of existing buildings and absorbed within the core downtown and surrounding neighborhoods, over the next five to six years. The development team has been able to secure total financing of approximately \$3.2 million, approximately 73 percent of project costs, and is contributing \$535,000 in equity, approximately 12 percent of project costs, leaving a gap of \$665,000. The MCRP grant will fill the gap and allow the project to remain feasible in order to bring new residents to an area of the city, at affordable price ranges, that the market does not currently address. The eligible activities will alleviate Brownfield conditions across the site and make it suitable for redevelopment, and protect human health and the environment. Without Brownfield tax increment reimbursement, the cost burden related to Brownfield conditions would make the project financially unfeasible. CRP detailed structure is provided in **Appendix A**.

The Applicant anticipates that the project will result in total capital investment in the amount of \$4,468,857, along with the creation of approximately five permanent full-time equivalent jobs with an average hourly wage of \$15.

### **Background**

The mixed use project will convert a former industrial building into approximately 30,900 square feet of market rate residential space (47 studio and 1 & 2 bedroom apartment units) along with a common kitchen area for the 16 “micro-units”, approximately 2,000 square feet of commercial space and 600 square feet of patio space. It is anticipated that a restaurant tenant will occupy the commercial space. The site consists of approximately one acre and is located in the River’s Edge district, an emerging area, strategically situated between the Kalamazoo River and the core Downtown.

Asbestos abatement is necessary prior to demolition activities. Asbestos abatement will include the initial asbestos survey and proper removal and disposal of all asbestos containing materials by a licensed contractor. Demolition activities will include selective removal of existing site concrete, walls, partitions, flooring, roofing, stairwells, mechanicals and openings, finishes, sidewalks, curbs, streetscape, foundation walls, areaways, sand blasting, etc. Infrastructure improvements will be made in the public right-of-way in connection with the project, including concrete curbs, gutters, sidewalks, landscaping, streetscape improvements (i.e. bike racks) and on-site (private) urban storm water management.

The development entity is a single purpose entity established for the proposed redevelopment. The entity is headed by Jon Durham, Herb Ayres and Mac Waldorf, who all have previous redevelopment and real estate experience. Past projects the MSF supported include:

- 518 E. North Street, Kalamazoo (\$192,547 MBT Credit and TIF of \$116,000 Local only)
- 510 E. North Street, Kalamazoo (\$411,000 CRP Grant and TIF of \$120,009 State and Local)

**Appendix B** addresses the programmatic requirements and **Appendix C** includes a project map and renderings.

### **Recommendation**

MEDC staff recommends approval of the following:

- a) Local and school tax capture for the Act 381 eligible activities totaling \$605,000. Utilizing the current state to local capture ratio, the amount of school tax capture for this project is estimated at \$235,043.
- b) A MCRP performance-based grant in the amount of \$665,000 for NOMI Developers LLC.

## APPENDIX A – CRP Summary of Terms

1. **Company Name:** NOMI Developers LLC
2. **Company Address:** 518 E. North Street  
Kalamazoo, Michigan 49007
3. **MCRP Incentive Type:** Performance Based Grant
4. **Maximum Amount of MCRP Incentive:** Lesser of 20% of the Eligible Investment, as defined by the Program Guidelines, or \$665,000 (“MCRP Incentive Award”)
5. **Project Description (“Project”):** The project includes the rehabilitation of an existing three-story industrial building to include approximately 2,000 square feet for retail/commercial space plus 600 square feet of patio space and approximately 30,900 square feet of residential space containing approximately 47 market rate residential units and a common kitchen area.
6. **Anticipated Minimum Eligible Investment:** \$2,835,615      The minimum is based on 80% of the total Eligible Investment amount requested on the CRP incentive application. The Eligible Investment on the Project is anticipated to include:
  - Building Alteration/Rehabilitation/Improvement
  - Addition of Machinery, Equipment or Fixtures to the Project
  - Professional Fees
7. **Start Date for Measurement of Eligible Investment:** December 1, 2014
8. **Project Qualifying As:** Facility
9. **Progress and Milestones & Disbursement:** The final terms and conditions of each of the Progress Milestones shall be included in the final Agreement, including that before any disbursement is made to the Applicant, the Applicant must demonstrate timely completion of all Progress Milestones, as required, and otherwise be in full compliance with all terms and conditions of the final Agreement. The MSF Fund Manager, in coordination with Michigan Economic Development Corporation (MEDC) Staff, is authorized to negotiate the final terms and conditions of the final Agreement to be used to memorialize MCRP awards on the MSF’s behalf in accordance with the Guidelines and are anticipated to include:

- a. Pre-improvement Progress Milestone: Written certification from Horizon Bank, or a copy of the executed loan agreement, note and mortgage, evidencing that the applicant has closed on financing in the minimum amount of \$3,018,857; Written certification from the City of Kalamazoo, or a copy of the executed loan agreement, note and security agreement, evidencing that the applicant has closed on financing in the minimum amount of \$250,000; documentation of final site plan approval by the City of Kalamazoo or its' designated planning body; and fully signed closing statements, sale documents and/or recorded deeds to document the transfer of ownership of 508 E. Frank Street, 505 E. North Street and 714 Walbridge Street to NOMI Developers LLC.
- b. Completion of the Project Progress Milestone: Issuance of a certificate of occupancy on terms and conditions satisfactory to the MSF Fund Manager.

**10. Municipality supporting the Project (“Municipal Support”):** The City of Kalamazoo is supporting the project with Brownfield Act 381 TIF with estimated local support of \$396,800; a \$250,000 loan from the Economic Initiative Fund and the transfer of ownership of 505 East North Street from the City of Kalamazoo Brownfield Redevelopment Authority to NOMI Developers LLC.

**11. Site Plan Approval:** A condition for execution of the final Agreement is that the local unit of government, or its' designated planning body, has approved the final Site Plan for the Project, and that the form and substance of the Site Plan are acceptable to the MSF.

**12. Term of Agreement:** From execution of the final Agreement until the date three (3) years after the completion of the final Progress Milestone.

**13. Repayment and Penalty Terms:** Some repayment and penalty provisions are required by law. The repayment and penalty terms and conditions will be effective through the Term of the Agreement and shall be defined in the final Agreement, and may include any or all of the following: a penalty, reduction of all or a portion of the MCRP Incentive Award, repayment of any portion of any disbursement of the MCRP Incentive Award, or ineligibility of the Applicant and its sponsors for any support or economic assistance from the MSF, as the case may be, if the Applicant fails to comply with the Agreement, any reporting requirements defined in the final Agreement, or otherwise violates the MSF Act.

**14. Final Terms and Conditions:** The MSF Fund Manager, in coordination with MEDC Staff, is authorized to negotiate the final terms and conditions of the final Agreement to be used to memorialize MCRP awards on the MSF's behalf in accordance with the Guidelines and is anticipated to include the terms described above.



## **APPENDIX B – Programmatic Requirements & Screening Guidelines**

### **Property Eligibility**

The project is located within the boundaries of the City of Kalamazoo, which is a Qualified Local Governmental Unit, and has been determined to be a facility as verified by Michigan Department of Environmental Quality (DEQ) on October 21, 2015.

The property is the subject of a Brownfield Plan, duly approved by the City of Kalamazoo on February 9, 2015.

In addition, the project is requesting from the DEQ \$15,000 in TIF to assist with environmental eligible activities.

### **MCRP Program and its Guidelines**

On December 21, 2011, the MSF Board approved the Michigan Community Revitalization Program (MCRP) and on September 22, 2015, the MSF Board approved its restated program guidelines. The primary intended objective of the MCRP is to provide incentives to persons that make eligible investments on eligible property in Michigan. The total eligible investment for this project is estimated to be \$3,544,517.

### **Source of Information**

It is the role of the Project Management staff (MEDC Staff) to review for eligibility, completeness, and adherence to MCRP guidelines, the information provided by the applicant and to manage the MSF's investment. Explanatory and background information is supplied in summary form to provide context for the request and is drawn exclusively from materials submitted by the applicant, and, as applicable, from other relevant third party sources utilized by staff.

As required under the MCRP, the following statutory criteria is being considered by the MSF:

#### **A. The importance of the project to the community in which it is located:**

One of the overarching principles in the City's Master Plan is to "transform distressed...industrial areas into new vibrant mixed uses." The City seeks to promote new residential development to attract individuals already working, but not living, in the city. According to the recently completed target market analysis (TMA), "new rental development is appropriate in the core Downtown, in the Northside/River's Edge area, and along the Portage Corridor."

#### **B. If the project will act as a catalyst for additional revitalization of the community in which it is located:**

The City of Kalamazoo has prioritized the area for redevelopment and has made considerable investments in River's Edge, which have already attracted a mix of housing, office, and retail uses, e.g. MacKenzie's Bakery, People's Food Co-op, etc. The City also plans to make additional infrastructure improvements in River's Edge.

**C. The amount of local community and financial support for the project:**

The City of Kalamazoo Brownfield Redevelopment Authority (BRA) is providing a \$250,000 loan from its Economic Initiative Fund (approximately 6% of the project financing) and approved a Brownfield Plan Amendment that would provide for tax increment financing for eligible activities of up to \$620,000. The City's BRA is also working with the developer to transfer the 505 East North Street property, which it owns that bisects the proposed site. This property was formerly used as a railroad right-of-way from the early 1900's through the 1990's.

**D. The applicant's financial need for a community revitalization incentive:**

The development team has been able to secure total financing of approximately \$3.2 million and is contributing \$535,000 in equity, approximately 12% of the project costs, leaving a gap of \$665,000. The MCRP grant will fill the gap and allow the project to remain feasible in order to bring new residents to an area of the city, at affordable price ranges, that the market does not currently address.

**E. The extent of reuse of vacant buildings, reuse of historical buildings, and redevelopment of blighted property:**

The project involves adaptive re-use of an underutilized industrial structure (approximately 33,500 square feet). Since the 1960's, 508 East Frank Street has been occupied by various businesses and also used as warehouse space. The 714 Walbridge Street property has been vacant land.

**F. Creation of jobs:**

The project is expected to create approximately five permanent full-time equivalent jobs with an average hourly wage of \$15.

**G. The level of private sector and other contributions, including, but not limited to, federal funds and federal tax credits:**

Approximately 80% of the project financing consists of a bank loan and private equity.

**H. Whether the project is financially and economically sound:**

The project is financially sound based on current market projections and has satisfactory cash flow to pay off the permanent loans plus provide a return to the developer.

**I. Whether the project increases the density of the area:**

The project increases the density of the area by rehabilitating a three story underutilized industrial building to create commercial/retail space and approximately 45 apartments.

**J. Whether the project promotes mixed-use development and walkable communities:**

The apartments and restaurant would attract new residents and restaurant patrons. The project will also include site improvements (i.e. landscaping, sidewalks and streetscape improvements) along the adjoining streets. According to the TMA, 7.4% of people who live within the study area walk to work. (This is significantly higher than the national average of less than 3.0%.) In addition, the

project site is located within walking distance of the core downtown and other attractions like the Arcadia Brewing Company project.

**K. Whether the project converts abandoned public buildings to private use:**

Public buildings are not included in the project.

**L. Whether the project promotes sustainable development:**

The project will include various sustainable elements, including high-efficiency mechanicals and building materials, and possibly a green roof and water retention system that would reuse storm water on site.

**M. Whether the project involves the rehabilitation of a historic resource:**

The building is not considered a historic structure nor is it located within a national register historic district.

**N. Whether the project addresses area-wide redevelopment:**

Given its close proximity to the Kalamazoo River, the project site is also part of a larger strategy to reactivate the Kalamazoo Riverfront Area. The project site is part of a larger Overall Riverfront Redevelopment Area.

**O. Whether the project addresses underserved markets of commerce:**

The December 2014 TMA determined that there is increased demand among younger (single- and two-person) households for mixed-use, mixed-income, walkable urban neighborhoods. Younger singles and couples represent nearly 79 percent of the market for new market-rate rental units in the study area. Given the development team's experience with two buildings just south of the project area, the team is well acquainted with the design elements and rent levels that would be attractive to its target market.

Within the target area, forty percent of the demand for rental units is soft lofts, which include micro lofts and studios, with the base rent ranging from \$550 to \$1,500. Micro-units (similar to efficiency units) will be included among the various floor plans. This is consistent with a trend taking place across the country. According to the TMA, millennial knowledge workers have responded positively to new micro loft projects.

**P. The level and extent of environmental contamination:**

The project site contains tetrachloroethene, benzo(a)pyrene, arsenic, cadmium, lead, mercury and zinc in soil at concentrations above Michigan's Generic Residential Cleanup Criteria. The developer will undertake due care and additional response activities as necessary to address the existing contamination during the construction process.

**Q. If the rehabilitation of the historic resource will meet the federal Secretary of the Interior's standards for rehabilitation and guidelines for rehabilitating historic buildings (36 CFR 67):**

The building is not considered a historic resource.

**R. Whether the project will compete with or affect existing Michigan businesses within the same industry:**

The project will not compete with or affect existing Michigan businesses within the same industry.

**S. Any other additional criteria approved by the board that are specific to each individual project and are consistent with the findings and intent of this chapter:**

There are no additional criteria specific to this project.

**Brownfield Act 381 Program Additional Project Information:**

**A. Reuse of functionally obsolete buildings and/or redevelopment of blighted property:**

The project is not qualifying as functionally obsolete or blighted.

**B. Cost gap that exists between the property and a similar greenfield property:**

A Greenfield site was not considered as the developer is focusing on revitalizing existing underutilized buildings in the River's Edge area, in an effort to retain, keep, and attract residents to the City. Therefore, the costs associated with demolition, site preparation and infrastructure improvements are considered necessary to redevelop and reuse this site.

**C. Whether project will create a new brownfield property in the State:**

No new Brownfields will be created by this project.

**Tax Capture Breakdown**

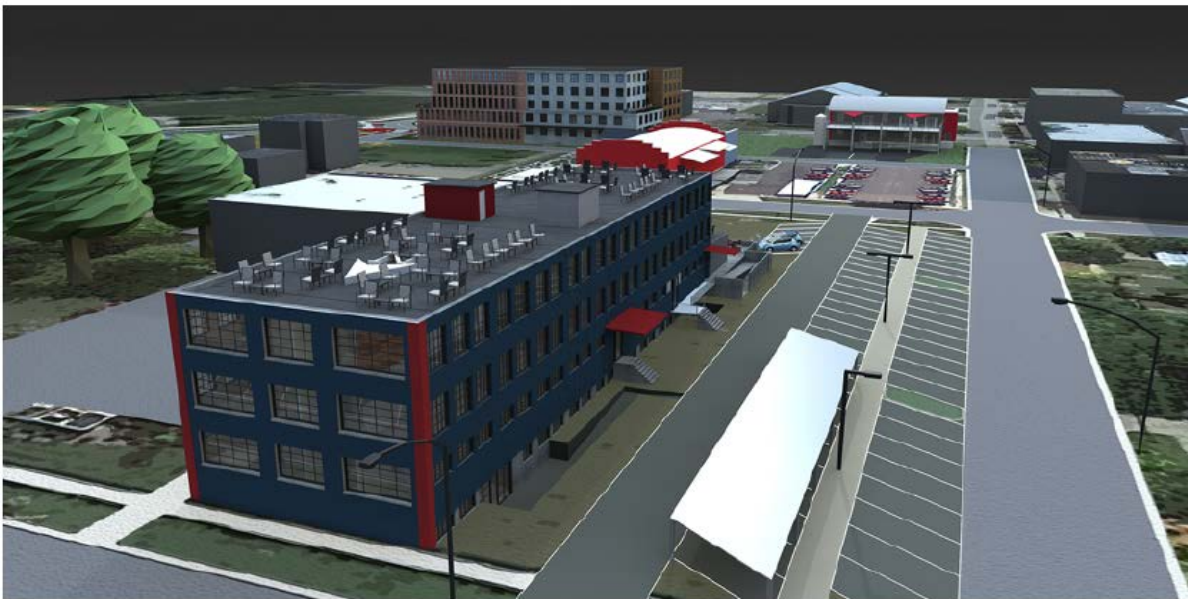
There are 61.7701 non-homestead mills available for capture, with school millage equaling 24 mills (38.85%) and local millage equaling 37.7701 mills (61.15%). Tax increment capture will begin in 2016 and is estimated to continue for 10 years. The requested tax capture for MSF eligible activities breaks down as follows:

School tax capture	(38.85%)	\$	235,043
Local tax capture	(61.15%)	\$	<u>369,957</u>
<b>TOTAL</b>		<b>\$</b>	<b>605,000</b>

**Cost of MSF Eligible Activities**

Demolition		\$	175,500
Lead or Asbestos Abatement			20,000
Infrastructure Improvements			158,840
Site Preparation		+	<u>160,000</u>
Sub-Total		\$	514,340
Contingency (13.7%)		+	<u>70,660</u>
Sub-Total		\$	585,000
Brownfield/Work Plan Preparation		+	<u>20,000</u>
<b>TOTAL</b>		<b>\$</b>	<b>605,000</b>

## APPENDIX C – Project Map and Renderings





**MICHIGAN STRATEGIC FUND**

**RESOLUTION 2015-**

**APPROVAL OF A MICHIGAN COMMUNITY REVITALIZATION PROGRAM  
PERFORMANCE-BASED GRANT AWARD TO NOMI DEVELOPERS LLC**

**WHEREAS**, the Michigan legislature amended the Michigan Strategic Fund Act, MCL 125.2011 et. seq., to add Chapter 8C (being MCL 125.2090a – MCL 125.2090d) to enable the Michigan Strategic Fund (“MSF”) to create and operate the Michigan Community Revitalization Program (“MCRP”) to provide incentives in the form of grants, loans and other economic assistance for redevelopment of communities in Michigan;

**WHEREAS**, the Michigan Economic Development Corporation (“MEDC”) provides administrative services to the MSF for the MCRP;

**WHEREAS**, on December 21, 2011, by Resolution 2011-185, the MSF (i) created the MCRP, (ii) adopted the guidelines for the MCRP, as later amended (“Guidelines”);

**WHEREAS**, pursuant to SFCR 125.2090-1, the MSF approved the MSF Fund Manager or the MSF President to negotiate the terms and conditions and execute all final documents necessary to effectuate awards and decisions approved under the MCRP, (“Transaction Documents”);

**WHEREAS**, the Guidelines require that MCRP awards over \$1 million must be approved by the MSF Board;

**WHEREAS**, NOMI Developers LLC (“Company”) has requested a performance-based grant of up to \$665,000 (“Award Request”), along with other general terms and conditions;

**WHEREAS**, the MEDC has recommended that the MSF approve the Company’s Award Request subject to: (i) available funding, (ii) final due diligence performed to the satisfaction of the MEDC; and (iii) execution of the Transaction Documents within 120 days of the date of this Resolution (“Time Period”), or this Resolution shall have no effect; provided however, at the sole discretion of the MSF Fund Manager, the Time Period may be extended for up to an additional 30 days (“MCRP Award Recommendation”); and

**NOW, THEREFORE, BE IT RESOLVED**, the MSF Board approves the MCRP Award Recommendation;

Ayes:

Nays:

Recused:

Lansing, Michigan  
November 24, 2015



**MICHIGAN STRATEGIC FUND**

**RESOLUTION 2015-**

**APPROVAL OF A BROWNFIELD WORK PLAN  
CITY OF KALAMAZOO BROWNFIELD REDEVELOPMENT AUTHORITY  
508 E. FRANK STREET PROJECT**

**WHEREAS**, Michigan Economic Growth Authority (“MEGA”) has been established by 1995 PA 24, as amended (the “Act”);

**WHEREAS**, 2002 PA 727 amended 1996 PA 381, MCL 125.2651 et seq, to empower local brownfield redevelopment authorities to request the MEGA Board to approve a brownfield project work plan and, thereby, capture taxes levied for school operating purposes for the project;

**WHEREAS**, Executive Order 2012-9 transferred all the authority, powers, duties, functions, responsibilities, records, personnel, property, unexpended balances of appropriations, allocations or other funds of the MEGA to the MSF;

**WHEREAS**, captured school operating tax revenues may be used under 1996 PA 381 as amended, for infrastructure improvements that directly benefit eligible property, for lead or asbestos abatement, and for structure demolition and site preparation that are not response activities under the Natural Resources and Environmental Protection Act, 1994 PA 451;

**WHEREAS**, the City of Kalamazoo Brownfield Redevelopment Authority (the “Authority”) has submitted a work plan for property located at 508 E. Frank Street, 505 E. North Street and 714 Walbridge Street within the City of Kalamazoo, known as the 508 E. Frank Street Project (the “Project”);

**WHEREAS**, the City of Kalamazoo is a “qualified local governmental unit” and is eligible to provide for a) demolition; b) lead and asbestos abatement; c) public infrastructure improvements; d) site preparation; e) brownfield work plan preparation and f) interest as provided under 2007 PA 204 and;

**WHEREAS**, the Authority is requesting MSF approval to capture additional taxes levied for school operating purposes to provide for the reimbursement of the cost of eligible activities on an eligible property; and

**WHEREAS**, the Michigan Economic Development Corporation (“MEDC”) provides administrative services to the MSF, and has reviewed the application and recommends approval of the Brownfield Work Plan by the MSF Board.

**NOW, THEREFORE, BE IT RESOLVED**, that the MSF Board authorizes the Authority to capture taxes levied for school operating purposes in substantially the same proportion as the 38.85% to 61.15% ratio currently existing between school and local taxes for non-homestead properties, to reimburse the cost of site preparation, demolition, lead and asbestos abatement and infrastructure improvements as presented in the Work Plan dated October 21, 2015. Any change in millage that increases the capture percentage of school operating taxes by more than 5 percentage points must be approved by the MSF Board. The authorization is based on the Authority capturing all available local operating mills for the term of the capture period. The authorization for the capture of taxes levied for school operating purposes



is based on a maximum of \$585,000 for the principal activity costs of non-environmental activities and a contingency, and a maximum of \$20,000 for Brownfield/Work Plan preparation, and with the capture of taxes levied for school operating purposes being limited to a maximum of \$235,043.

**BE IT FURTHER RESOLVED**, that the MSF Board authorizes the MSF Fund Manager, to provide written notification to the Authority, in the form of a letter which incorporates the terms set forth in this Resolution and consistent with the limitations of the Act, and that this approval is further conditioned upon the Authority, or the City, as appropriate, maintaining adequate records regarding: a) all taxes captured for the project; and b) receipts or other appropriate documentation of the cost of eligible activities. The records shall be made available for review upon request by MSF or MEDC staff. Eligible activities authorized by this resolution must be completed within three (3) years.

**BE IT FURTHER RESOLVED**, that no taxes levied for school operating purposes shall be used to reimburse interest costs related to the eligible activities for the Project.

Ayes:

Nays:

Recused:

Lansing, Michigan  
November 24, 2015



## MEMORANDUM

**Date:** November 24, 2015

**To:** Michigan Strategic Fund Board

**From:** Marilyn Crowley, Community Assistance Team Specialist  
Jennifer Schwanky, CRP and Brownfield Program Analyst

**Subject:** City of Lansing Brownfield Redevelopment Authority  
Request for Approval of an Act 381 Work Plan

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### Request

This project will redevelop a former auto dealership in Lansing on East Michigan Avenue. The new construction building will be nine stories with approximately 341 market rate apartments, commercial space, and an associated multi-level parking structure. The proposed project will be undertaken by Lansing Properties I, LLC, a single purpose entity made up of RISE Properties, LLC and Education Realty Trust, Inc. The project will redevelop 3.37 acres of property located at 3165 East Michigan Avenue in the city of Lansing. The project is located in a traditional commercial center and qualifies for an Act 381 work plan because it is a facility.

In order to alleviate Brownfield conditions and prepare the proposed project site for redevelopment, the City of Lansing Brownfield Redevelopment Authority is seeking approval of local and school tax capture for MSF eligible activities in the amount of \$25,195,280.

Despite the close proximity to Michigan State University and downtown Lansing, the property has remained vacant for seven years. The property generates little taxes, stunts growth of the local economy, and is an aesthetic blight in the community. Redevelopment of the property will be costly due to existing and significant brownfield conditions that include environmental cleanup, demolition of existing buildings, grading and land balancing, removal of abandoned utilities, the need for special foundations to support new construction, and the design and construction of new infrastructure improvements, including a multi-level parking structure. The eligible activities will alleviate Brownfield conditions across the site and make it suitable for redevelopment, and protect human health and the environment. The newly designed and constructed building and infrastructure improvements will add increased value to the property and surrounding neighborhood. Without Brownfield tax increment reimbursement, the cost burden related to Brownfield conditions would make the project financially unfeasible.

The Applicant anticipates that the project will result in total capital investment in the amount of \$80,000,000 along with the creation of approximately 9 permanent full-time equivalent jobs with an average hourly wage of \$15.

### **Background**

The new construction building will be nine stories with approximately 341 market rate apartments, 4,075 square feet of commercial space, and a vertical parking deck of 605 parking spaces. Lead and asbestos abatement will be necessary prior to demolition activities in order to protect human health. Demolition activities will be necessary to clear the site of existing vacant buildings. Site preparation activities include geotechnical investigation, cleaning and grubbing, cut and fill operations, dewatering, backfill and compaction, grading, land balancing, relocation of active utilities, special foundations and soil management. Infrastructure improvements including a multi-level parking structure, road improvements along East Michigan Avenue and Morgan Lane, utility upgrades and relocations in the public right-of-way and an urban storm water management system are necessary to support the new development. Interest costs will be reimbursed due to the interest costs on the loans that the developer will need to obtain in order to complete the eligible activities.

The proposed project will be undertaken by Lansing Properties I, LLC, a single purpose entity made up of RISE Properties, LLC and Education Realty Trust, Inc. RISE Properties, LLC is a highly experienced real estate financing, development and management company based in Georgia, and have successfully completed over 70 projects in 21 states. RISE Properties, LLC and all of its investors have never had incentives from the Michigan Strategic Fund.

**Appendix A** addresses the programmatic requirements and **Appendix B** includes a project map and renderings.

### **Recommendation**

MEDC staff recommends approval of the following:

- a) Local and school tax capture for the Act 381 eligible activities totaling \$25,195,280. Utilizing the current state to local capture ratio, the amount of school tax capture for this project is estimated at \$8,818,348. The interest shall be capped at the actual interest rate and not to exceed 5%.

## **APPENDIX A – Programmatic Requirements & Screening Guidelines**

### **Property Eligibility**

The project is located within the boundaries of the city of Lansing, which is a Qualified Local Governmental Unit, and has been determined to be a facility as verified by Michigan Department of Environmental Quality (DEQ) on October 29, 2015.

The property is the subject of a Brownfield Plan, duly approved by the city of Lansing on August 24, 2015.

In addition, the project is requesting from the DEQ \$718,153 in TIF to assist with environmental eligible activities.

### **Key Statutory Criteria**

Act 381 requires the following information to understand and explain the benefits of the project.

**a) Overall Benefit to the Public:**

This development will increase urban density and provide new commercial attractions for Lansing residents. In addition, it will boost usage of the City's public transportation system and promote other non-motorized transportation options. The development will also respond to the demand for high quality commercial space that the neighborhood currently lacks. An underutilized subject property will be transformed into a productive and viable, mixed-use development complex. The subject property has underperformed as a taxable interest in the City for a number of years, and this will assist with restoring its productivity. Completion of this Project will bring additional investment and stabilization to the neighborhood. It will also help further connect Lansing and East Lansing and promote walkability amongst the two. The Project will promote various transportation options focusing on walkability, biking, and the use of public transit (the subject property is located along several CATA bus routes that service both the Michigan State University campus and downtown Lansing); this will reduce traffic congestion and encourage physical activity. The positive visual and aesthetic impact of this iconic project to the public will be significant. New retail development will expand the local economy and create new jobs. The development as a whole will result in additional tax revenue for all taxing jurisdictions once eligible activities have been reimbursed.

**b) Jobs Created (Excluding Construction and other Indirect Jobs):**

This project is expected to create approximately 9 new, full-time jobs in the city of Lansing.

**c) Area of High Unemployment:**

The City of Lansing unadjusted jobless rate was 5.4% in September of 2015. This compares to the statewide seasonally adjusted average of 4.7% in September of 2015.

**d) Level and Extent of Contamination Alleviated:**

The subject property will be prepared to make it suitable for development, and appropriate due care and additional response activities will be performed to prevent exposure to materials hazardous to human health and safety, and the environment.

**e) Reuse of Functionally Obsolete Buildings and/or Redevelopment of Blighted Property:**

The project is not qualifying as functionally obsolete or blighted.

**f) Cost Gap that Exists between the Property and a Similar Greenfield Property:**

The Brownfield TIF is needed to bring the costs in line with what a similar Greenfield property would be. The total eligible environmental and non-environmental costs that are not present on Greenfield sites is approximately \$25,913,433.

**g) Whether Project will Create a New Brownfield Property in the State:**

No new Brownfields will be created by this project.

**h) Whether the Project is Financially and Economically Sound:**

From the materials received, the MEDC infers that the project is financially and economically sound.

**i) Other Factors Considered:**

This project is the highest priority project as identified by city of Lansing stakeholders.

**Tax Capture Breakdown**

There are 68.4986 non-homestead mills available for capture, with school millage equaling 24 mills (35.04%) and local millage equaling 44.4986 mills (64.96%). Tax increment capture will begin in 2016 and is estimated to continue for 24 years. The requested tax capture for MSF eligible activities breaks down as follows:

School tax capture	(35%)	\$	8,818,348
Local tax capture	(65%)	\$	16,376,932
<b>TOTAL</b>		<b>\$</b>	<b>25,195,280</b>

**Cost of MSF Eligible Activities**

Demolition	\$	250,000
Lead or Asbestos Abatement		100,001
Infrastructure Improvements		10,069,775
Site Preparation	+	4,099,512
Sub-Total	\$	14,519,287
Contingency (15%)	+	2,174,728
Sub-Total	\$	16,694,015
Interest (5%)	+	8,486,265

Sub-Total	\$	25,180,280
Brownfield/Work Plan Preparation	+	15,000
<b>TOTAL</b>	<b>\$</b>	<b>25,195,280</b>

## APPENDIX B – Project Map and Renderings



**MICHIGAN STRATEGIC FUND**

**RESOLUTION 2015-**

**APPROVAL OF A BROWNFIELD WORK PLAN  
CITY OF LANSING BROWNFIELD REDEVELOPMENT AUTHORITY  
SKYVUE ON MICHIGAN**

**WHEREAS**, Michigan Economic Growth Authority (“MEGA”) has been established by 1995 PA 24, as amended (the “Act”);

**WHEREAS**, 2002 PA 727 amended 1996 PA 381, MCL 125.2651 et seq, to empower local brownfield redevelopment authorities to request the MEGA Board to approve a brownfield project work plan and, thereby, capture taxes levied for school operating purposes for the project;

**WHEREAS**, Executive Order 2012-9 transferred all the authority, powers, duties, functions, responsibilities, records, personnel, property, unexpended balances of appropriations, allocations or other funds of the MEGA to the MSF;

**WHEREAS**, captured school operating tax revenues may be used under 1996 PA 381 as amended, for infrastructure improvements that directly benefit eligible property, for lead or asbestos abatement, and for structure demolition and site preparation that are not response activities under the Natural Resources and Environmental Protection Act, 1994 PA 451;

**WHEREAS**, the City of Lansing Brownfield Redevelopment Authority (the “Authority”) has submitted a work plan for property located at 3165 East Michigan Avenue within the City of Lansing, known as SkyVue on Michigan (the “Project”);

**WHEREAS**, the City of Lansing is a “qualified local governmental unit” and is eligible to provide for a) demolition; b) lead and asbestos abatement; c) public infrastructure improvements; d) site preparation; e) brownfield work plan preparation and f) interest as provided under 2007 PA 204 and;

**WHEREAS**, the Authority is requesting MSF approval to capture additional taxes levied for school operating purposes to provide for the reimbursement of the cost of eligible activities on an eligible property; and

**WHEREAS**, the Michigan Economic Development Corporation (“MEDC”) provides administrative services to the MSF, and has reviewed the application and recommends approval of the Brownfield Work Plan by the MSF Board.

**NOW, THEREFORE, BE IT RESOLVED**, that the MSF Board authorizes the Authority to capture taxes levied for school operating purposes in substantially the same proportion as the 35% to 65% ratio currently existing between school and local taxes for non-homestead properties, to reimburse the cost of site preparation, demolition, lead and asbestos abatement and infrastructure improvements as presented in the revised Work Plan dated October 28, 2015. Any change in millage that increases the capture percentage of school operating taxes by more than 5 percentage points must be approved by the MSF Board. The authorization is based on the Authority capturing all available local operating mills for the term of the capture period. The authorization for the capture of taxes levied for school operating purposes is based on a maximum of \$25,195,280 for the principal activity costs of non-environmental activities and a



contingency, a maximum of \$8,486,265 in interest, and a maximum of \$15,000 for Brownfield/Work Plan preparation, and with the capture of taxes levied for school operating purposes being limited to a maximum of \$8,818,348.

**BE IT FURTHER RESOLVED**, that the MSF Board authorizes the MSF Fund Manager, to provide written notification to the Authority, in the form of a letter which incorporates the terms set forth in this Resolution and consistent with the limitations of the Act, and that this approval is further conditioned upon the Authority, or the City as appropriate, maintaining adequate records regarding: a) all taxes captured for the project; and b) receipts or other appropriate documentation of the cost of eligible activities. The records shall be made available for review upon request by MSF or MEDC staff. Eligible activities authorized by this resolution must be completed within three (3) years.

**BE IT FURTHER RESOLVED**, that the MSF Board is authorizing that capture of taxes levied for school operating purposes for the payment of interest, up to a maximum of \$8,486,265 related to the eligible activities for the Project. The interest shall be capped at the actual interest rate and not to exceed 5%.

Ayes:

Nays:

Recused:

**November 24, 2015**  
Lansing, Michigan



## MEMORANDUM

**Date:** November 24, 2015

**To:** Michigan Strategic Fund (MSF) Board

**From:** Mark Morante, MSF Fund Manager  
Julius L. Edwards, Capital Access Specialist

**Subject:** Amendment to Approval of up to \$7,500,000 in a Michigan Community Revitalization Program Other Economic Assistance – for Performance-based awards to Whitney Partners, LLC

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### Request

The first request is to extend the deadline for submission of a Loan Disbursement Request in accordance with Loan Disbursement Milestone 2 for the MSF's \$7,500,000 Performance-Based Loan from October 31, 2015 to June 30, 2016. The development team is in a position to satisfy Milestone Two per the provisions of the Loan Agreement, the additional time to draw down on the Performance-Based Loan will allow the Borrower further time to concurrently complete a planned loan consolidation and refinancing transaction with Develop Michigan Inc. (DMI) relative to other debt on the Project, as described further below.

The second request is to remove a repayment event from the Repayable Grant Agreement, specifically Section 7.4 (c) that requires repayment of the grant award if a change of the senior lender providing financing for the Mixed-Used Building occurs.

The final request is to repurpose previously committed MCRP funds for the project in the amount of \$7,500,000 and allocate a reciprocal amount from the MSF's Investment Fund. MEDC staff views this project as a sound investment for the Investment due to the stable performance of the project and the future anticipated returns (7.5% interest rate). The base project, which includes the portion of work on the property for which MSF funds were committed, is complete, stable, and performing financially.

- The base project, which included the hotel, apartment and related amenities, was completed on schedule and opened to the public in December, 2014.
- The Aloft hotel is currently operating at an occupancy rates in the range of 70%, and at an average daily room rate of approximately \$170. At those industry metrics, the hotel is operating well ahead of pro-forma assumptions, has achieved stabilized operations 2 years ahead of original projections.
- The apartments are 100% occupied with a substantial wait list. The apartments are currently leasing at an average per square foot rental rate of \$2.10 per square foot, well above proforma, which is the highest rental rate in the CBD, and rental rates are projected to rise to an average of \$2.33 psf by the next leasing cycle.

- The separate on-site food and beverage developments, which are being funded through the bridge facility and permanent financing set forth below, are underway as well. The 2nd floor ballrooms were completed in May, 2015 and include approximately 7,000 square feet of flexible meeting space.
- Design development for the final portion of the food and beverage operations, Grand Cirque Brasserie, is complete and initial construction work has commenced. Grand Cirque will feature a French inspired menu developed by award-winning chef and restaurateur, Jacques Van Staden.
- The restaurant, to be located on the main floor of the property with views both to Woodward and into the Grand Rotunda, will seat up to 130 and offer breakfast, lunch and dinner 7 days a week.
- The owners are targeting an opening in the spring of 2016.

In order to repurpose previous MCRP funds approved for this project, staff recommends approval of money to be transferred for the specific purpose of this project through MCL 125.2088b(2) to the MCRP Program for the purpose of the program authorized under MCL 125.2088b(2) as long as the program provides for repayment for breach of the written agreement or the failure to meet measurable outcomes. The reallocation of funds will be provide the MCRP program available funds to address future projects that may have a perceived higher underwriting risk and potentially lower returns.

### **Background**

Whitney Partners, LLC was approved for \$8,500,000 in Performance Based Awards from the MSF on January 23, 2013, in the form of a \$7,500,000 Direct Loan and a \$1,000,000 Repayable Grant. The \$1,000,000 grant was disbursed at closing and the \$7,500,000 Loan will be disbursed following construction completion. The Awards will be used in conjunction with other financing to complete the renovation of the historic nineteen-story David Whitney building property located at 1553 Woodward Avenue in the City of Detroit. To date, the renovation has been a success with the residential and hotel components of the project being completed and available for use.

In addition, and unrelated to the funding being provided by MSF, in April 2015, Whitney Partners, LLC requested bridge financing from third parties to complete interior improvements and build-out of meeting space, ballroom, restaurant, and kitchens on the ground floor and basement areas of the property. Neither the improvements nor the income generated from the build-outs were contemplated under the original development proposal and financing structure, and as such were not the basis for MSF's Performance-Based Loan. The anticipated bridge financing required to complete those improvements total \$4,000,000 and will be completely subordinated to the current debt structure. The financing will be provided by three different sources: 1) \$1,500,000 from Chase Invest Detroit Fund, LLC; 2) \$1,500,000 Detroit Investment Fund L.P.; and 3) \$1,000,000 from Capital Impact Partners for \$1,000,000. Develop Michigan, Inc. (DMI) is proposing to provide permanent financing of up to \$8,300,000, of which \$4,300,000 would be used to provide take-out financing for existing debt from Bank of America, with the remaining balance of up to \$4,000,000 to be utilized as take-out financing for the proposed bridge financing for the build-out. As part of the DMI refinancing it is anticipated that MSF will gain an equal 1st priority lien position in the collateral with DMI. All other financing partners consented and MEDC staff reviewed the proposed requests and determined that the project should be able to generate adequate cash flow to support the additional debt.

## **Recommendations**

MEDC Staff recommends (the following, collectively, "Recommendation"):

1. Extension of the deadline for submission of a Loan Disbursement Request relating to Milestone 2 for the \$7,500,000 Performance Based Loan from October 31, 2015 to June 30, 2016.
2. Remove a repayment event from the Repayable Grant Agreement, specifically Section 7.4 (c).
3. Approval of money to be transferred for the specific purpose of this project through MCL 125.2088b(2) to the MCRP Program for the purpose of the program authorized under MCL125.2088b(2) as long as the program provides for repayment for breach of the written agreement or the failure to meet measurable outcomes.



## MEMORANDUM

**DATE:** January 23, 2013

**TO:** Michigan Strategic Fund (“MSF”) Board

**FROM:** Eric Hanna, MEDC – Director, Debt Capital Programs  
Joseph Martin, MEDC – Manager, Community Revitalization and Brownfield Programs  
Stacy Esbrook, MEDC – Community Assistance Team Specialist

**SUBJECT:** Approval of Michigan Community Revitalization Request for \$8,500,000 in Performance-based awards to:

Whitney Partners, LLC (“Applicant” or “Borrower”)  
535 Griswold, Suite 2650  
Detroit, Michigan 48226

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### MCRP PROGRAM AND ITS GUIDELINES

On December 21, 2011, the MSF Board approved the Michigan Community Revitalization Program (“MCRP”) and its guidelines. The primary intended objective of the MCRP is to provide incentives to persons that make eligible investments on eligible property in Michigan.

### SOURCE OF INFORMATION

It is the role of the Project Management staff (“MEDC Staff”) to review for eligibility, completeness, and adherence to MCRP guidelines, the information provided by the applicant and to manage the MSF’s investment. Explanatory and background information is supplied in summary form to provide context for the request and is drawn exclusively from materials submitted by the applicant, and, as applicable, from other relevant third party sources utilized by staff.

### HISTORY OF THE APPLICANT

Whitney Partners, LLC is a commercial real estate development company formed for the purpose of redeveloping the David Whitney Building in Detroit. The entity is comprised of the Roxbury Group, LLC and Trans Inns Management. Roxbury Group, LLC is a Detroit-based real estate entity that has previously developed the Auburn, a mixed-use residential development in Detroit’s Midtown neighborhood and is near closing on the Globe Building, an interactive center in conjunction with the Michigan Department of Natural Resources. Trans Inns Management currently owns and/or operates 23 hotel and hospitality properties in 13 states across the United States.

The following individuals are considered owners, officers, directors, and/or managerial employees of the Applicant:

David DaRita, Roxbury Group	James Vosotas, Trans Inns Management
Stacy Fox, Roxbury Group	Daniel Vosotas, Trans Inns Management
James VanDyke, Roxbury Group	

The Applicant previously was awarded Brownfield MBT Credits valued at \$9,795,000 and State Historic Tax Credits valued at \$12,360,000 for the project.

### Michigan Economic Development Corporation

## **PROJECT DESCRIPTION**

The Applicant plans to renovate the historic 19-story David Whitney building property located at 1553 Woodward Avenue in the City of Detroit. The building will be renovated into 108 residential apartments, 135 Aloft hotel rooms, 7,000 square feet of retail space on the first floor and will restore access to the Detroit People Mover.

- a) The project is “functionally obsolete” and is “a historic resource” as authorized under the program. The Applicant plans to make an investment of \$82,537,141 to the project for interior demolition, building renovations, machinery and equipment and furniture and fixtures, as authorized under the program. The project will be located in the City of Detroit. The City of Detroit has offered a “staff, financial, or economic commitment to the project” in the form of an Obsolete Property Tax Abatement. The property received approval for an Obsolete Property Rehabilitation Certificate for 12-years.
- b) The project is located in a downtown or traditional commercial center. Preference was given to this project based on the significance of the historic building to Detroit’s Central Business District (“CBD”). The project will complement recent developments and trends within the CBD and the greater downtown area to create an opportunity to establish a densely populated and attractive, residential neighborhood. The attractiveness of this project will be bolstered by the many entertainment facilities within walking distance and other retail and dining amenities. The recent influx of several thousand new employees from Quicken Loans and affiliates, Blue Cross and Blue Shield, and others have seen an increase demand for residential housing that will be filled by the David Whitney Building.

## **FINANCING OPPORTUNITY – MCRP REQUEST**

The Applicant is seeking two separate MCRP facilities from the MSF with a total value of up to \$8.5 million. The two MCRP facilities will coincide with the construction and permanent financing being undertaken by Bank of America. The first facility request is for an MSF Loan for up to \$7,500,000 and will be subordinate in payments and collateral to the senior note by Bank of America. Additionally, during the New Market and Federal Historic Tax Credit compliance periods it is anticipated that the MSF loan facility will be further subordinate to other lien holders and will require forbearance agreements. The MCRP loan is performance based and will not be funded until completion of the project, as defined in the written agreement. The senior note is proposed for \$4,300,000, with a five (5) year term at the conversion of Bank of America’s construction facility with an interest rate of 30 day LIBOR Daily Floating plus 400 basis points, subject to the bank’s final underwriting.

The second facility request is for a performance based MCRP grant of up to \$1,000,000 to Whitney Partners, LLC and is anticipated to come in at the time of closing of the construction loan. The grant will require full repayment upon any liquidation event as defined in the final agreement acceptable to the MSF Fund Manager and Senior Lender.

### **Whether the project is financially and economically sound:**

The Project comes on the momentum of past successful development with the re-opening of the Book Cadillac and Fort Shelby Hotels and the delivery of the Broderick Tower. The Broderick Tower is a residential apartment project directly across Woodward Avenue from the subject property, the David Whitney Building. The Broderick is 98% pre-leased with rents 30% above the underwritten rates. This demonstrates exceptional demand for this type of product.

The project has significant cash flow to meet the debt service requirements of both the Senior Loan and the MSF loan and projects upon stabilization a cumulative Debt Service Coverage Ratio of 2.70x between

the hotel and residential apartment units. The project has an appraised value of over \$32 million, as stabilized.

**The applicant's financial need for a community revitalization incentive:**

Bank of America's underwriting has indicated that it only has interest in permanent debt to the extent it can be supported by the residential component and have indicated they would not participate with the MSF but would allow the MSF to write a fully subordinated loan. The loan to value of the Senior Lender and MSF note combined is just over 36%. Typical underwriting has loans sized between 70 and 80% of the appraised value of the property. The MCRP awards are needed to close the permanent funding gap that is not accessible in the private market.

**MSF LOAN**

**Borrower:** Whitney Partners, LLC

**Senior Lender:** Bank of America

**MSF Loan Amount:** Up to \$7,500,000 not to exceed 25% of Eligible Investment when combined with the MCRP Performance Based Grant

**Interest Rate:** Currently at 7%

**Collateral:** Real Estate Mortgage on Subject Property, subordinate. The final term and conditions of all collateral to be acceptable to the MSF Fund Manager, the Borrower, and the Senior Lender.

**Guarantee:** Currently contemplated to match but is subordinate to Senior Lender. The final terms and conditions of the Guarantee to be acceptable to the MSF Fund Manager, the Borrower, and the Senior Lender.

**Term:** Not to exceed 84 months.

**Success Fee:** Currently contemplated at 5% of the \$7,500,000 at any sale or refinance. The final term and conditions of the Success Fee to be acceptable to the MSF Fund Manager, the Borrower, and the Senior Lender.

**Funding:** Certificate of Occupancy and other performance criteria to be contained in final loan documents.

**Repayment:** Currently anticipated to include monthly payments of principle and interest amortized over a minimum of 20 years. On the maturity date, the entire outstanding balance of the loan is due.

**MCRP PERFORMANCE BASED GRANT**

**Applicant:** Whitney Partners, LLC

**MSF Grant Amount:** Up to \$1,000,000 not to exceed 25% of Eligible Investment when combined with the MSF Loan.

- Funding:** Upon closing of the construction financing and/or other conditions acceptable to the MSF Fund Manager and the Senior Lender.
- Repayment:** Currently proposed at 100% of the MCRP grant amount disbursed to project, plus additional repayment fees acceptable to the MSF Fund Manager and the Senior Lender.
- Guarantee:** The Borrower to provide the MSF will acceptable guarantors to be drawn in an event of default. The final term and conditions of the guarantee to be acceptable to the MSF Fund Manager, the Borrower, and the Senior Lender.

**MICHIGAN STRATEGIC FUND CONSIDERATIONS**

As required under the program, the following criteria shall be considered by the MSF, as MEDC Staff believes each is reasonably applicable to proposed project:

**A. The importance of the project to the community in which it is located:**

Located on the northwest corner of Detroit’s central business district and overlooking Grand Circus Park, the David Whitney building represents a critical component of the West District Redevelopment Initiative. This initiative, which includes the acquisition and repositioning of key assets within the district (the Farwell, Capitol Park and the United Way buildings), is the final and necessary step to the reestablishment of a fully viable downtown. This strategy has already begun to take hold with coordinated investments by stakeholders including Michigan State Housing Development Authority (“MSHDA”), Detroit Economic Growth Corporation (“DEGC”) and Invest Detroit in three Capitol Park buildings in late 2009.

The redevelopment of the district is critical, and the impact will have a meaningful catalytic affect on the neighborhood. The David Whitney building is the anchor development within the Capitol Park redevelopment initiative. At 19 stories, with prominent frontage on three major thoroughfares (Woodward, Park and Washington), the property represents a key gateway to the downtown. Its designation as a linkage point between the planned M-1 Rail Line and the Detroit People Mover makes the re-activation of the building critically important to the ongoing re-birth of the district.

**B. If the project will act as a catalyst for additional revitalization of the community in which it is located:**

The public will benefit from the project by increasing the aesthetic and economic viability of a historic district within the City of Detroit. It is anticipated that the completion of this project will draw attention from new developers and the availability of conventional financing back to Detroit.

**C. The amount of local community and financial support for the project:**

The property received approval for an Obsolete Property Rehabilitation Certificate for a 12-year tax abatement.

**D. The extent of reuse of vacant buildings, reuse of historical buildings, and redevelopment of blighted property:**



The David Whitney building is listed on the State Register of Historic Sites and on the National Register of Historic Places. The building has been vacant for 13 years and the project will fully restore the building to functional use.

**E. Creation of jobs:**

The project is expected to create 50-75 permanent full time jobs related to the residential property management and the hotel portion of the project.

**F. The level of private sector and other contributions, including, but not limited to, federal funds and federal tax credits:**

The project will be financed through a number of state and federal tax credits, New Markets Tax Credit (“NMTC”) equity, developer equity and traditional permanent debt. The project has secured the state brownfield credit as well as the state and federal historic tax credits. Bank of America is prepared to provide a bridge loan against those credits as well as participate as the NMTC equity investor. The project has also secured the necessary NMTC allocation of permanent debt funds from Bank of America.

**G. Whether the project increases the density of the area:**

The David Whitney is currently a vacant 19-story building. This project will add 108 market-rate residential apartments, 135 Aloft hotel rooms, 7,000 square feet of neighborhood retail and a ground floor connector to the People Mover.

**H. Whether the project promotes mixed-use development and walkable communities:**

The David Whitney project will anchor the northern-end of the Central Business District and will feature first floor retail, a boutique hotel and market-rate residential apartment units, creating a walkable and dense live/work environment.

**I. Whether the project converts abandoned public buildings to private use:**

The vacant building that will be rehabilitated as a result of this project is not public.

**J. Whether the project promotes sustainable development:**

Restoration of a historic building is considered to be a sustainable practice. Improvements to the energy efficiency of the building envelope will be made including wall and ceiling insulation and window restoration.

**K. Whether the project involves the rehabilitation of a historic resource:**

The David Whitney Building is listed on the State Register of Historic Sites and on the National Register of Historic Places.

**L. Whether the project addresses area-wide redevelopment:**

The David Whitney is located on the northwest corner of Detroit’s central business district and overlooks Grand Circus Park. The building represents a critical component of the West District Redevelopment Initiative. This initiative, which includes the acquisition and repositioning of key assets within the district (the Farwell, Capitol Park and the United Way buildings), is the final and necessary step to the reestablishment of a fully viable downtown. This strategy has already begun to take hold with coordinated investments by stakeholders including MSHDA, DEGC and Invest Detroit in three Capitol Park buildings in late 2009.

**M. Whether the project addresses underserved markets of commerce:**

Rental housing is in high demand in downtown Detroit, but there is a low stock of quality, market rate housing. This project will add 108 rental units that will fit with the market demand in terms of size and function. Additionally, the hotel portion of the project will add 135 rooms, which will support the entertainment and business traveler markets in downtown.

**N. The level and extent of environmental contamination:**

Any lead and/or asbestos found within the building and will be properly abated.

**O. If the rehabilitation of the historic resource will meet the federal Secretary of the Interior's standards for rehabilitation and guidelines for rehabilitating historic buildings (36 CFR 67):**

The David Whitney Building will be rehabilitated in accordance with the federal Secretary of the Interior's Standards.

**P. Whether the project will compete with or affect existing Michigan businesses within the same industry:**

This project will not compete with or affect any existing Michigan businesses.

**Q. Any other additional criteria approved by the board that are specific to each individual project and are consistent with the findings and intent of this chapter:**

There are no additional criteria for consideration.

**INCENTIVE OPPORTUNITY**

This project involves \$64,984,631 in eligible investment and total capital investment of up to \$82,537,141 in the City of Detroit. The requested incentive amount from the MSF totals \$8,500,000 in the form of performance based grant of \$1,000,000 and a performance-based loan of \$7,500,000

Please see below for more information on the recommended action.

**RECOMMENDATIONS**

MEDC Staff recommends (the following, collectively, "Recommendation"):

- a) Approval of the MCRP Proposal as outlined above (collectively, "MCRP Proposal");
- b) Closing the MCRP Proposal, subject to available funding under the MCRP at the time of closing ("Available Funding"), completion of due diligence, the results of which are satisfactory to the MEDC (collectively, "Due Diligence"), finalization of all MCRP transaction documents, and further subject to the following terms and conditions:
  - a. Commitment will remain valid for 120 days with approval for MSF Fund Manager to extend the commitment an additional 30 days.

The MSF Incentive Subcommittee has indicated its support of the recommendation.

**MICHIGAN STRATEGIC FUND  
RESOLUTION 2015-**

**APPROVAL TO AMEND A MICHIGAN COMMUNITY REVITALIZATION  
PROGRAM OTHER ECONOMIC ASSISTANCE PERFORMANCE-BASED  
AWARDS TO  
WHITNEY PARTNERS, LLC**

**WHEREAS**, the Michigan legislature amended the Michigan Strategic Fund Act, MCL 125.2011 et. Seq., to add Chapter 8C (being MCL 125.2090a – MCL 125.2090d) to enable the Michigan Strategic Fund (“MSF”) to create and operate the Michigan Community Revitalization Program (“MCRP”) to provide incentives in the form a grants, loans and other economic assistance for redevelopment of communities in Michigan:

**WHEREAS**, the Michigan Economic Development Corporation (“MEDC”) provides administrative services to the MSF for the MCRP.

**WHEREAS**, December 21, 2011, by Resolution 2011-185, the MSF (i) created the MCRP, (ii) adopted the guidelines for the MCRP, as later amended (“Guidelines”);

**WHEREAS**, pursuant to the SFCR 2090-1(3), the MSF approved the MSF Fund Manager or the MSF President to negotiate the terms and conditions and execute all final documents necessary to effectuate awards and decisions approved under the MCRP (“Transaction Documents”);

**WHEREAS**, the Guidelines require that MCRP awards over \$1 million must be approved by the MSF Board;

**WHEREAS**, by Resolution 2013-007 and Resolution 2013-008 on January 23, 2015 the MSF Board awarded a MCRP Other Economic Assistance – Performance-Based Loan and a MCRP Grant Award to Whitney Partners, LLC (“Borrower”). The MCRP Other Economic Assistance Award was up to a \$7,500,000 loan (“Loan Award”) and a grant up to \$1,000,000 (“Grant Award”). The Loan Award was originally approved to be funded from the MCRP;

**WHEREAS**, the Loan Award has not yet funded, and the Borrower has requested an extension of Milestone Two to accomplish funding requirements of the \$7,500,000 Loan Award from October 31, 2015 to June 30, 2016 (“Amendment Request #1);

**WHEREAS**, the Borrower has requested to remove a repayment event from the Repayable Grant Agreement, specifically Section 7.4(c) that requires repayment of the grant award if a change of the senior lender providing financing of the Mixed-Used Building occurs (“Amendment Request #2);

**WHEREAS**, as part of the 21<sup>st</sup> Century Jobs Trust Fund initiative, and pursuant to MCL 125.2088h(1), the Jobs for Michigan Investment Fund was created as a permanent fund authorized by the state constitution (“Investment Fund”);

**WHEREAS**, pursuant to MCL 125.2088h(3)(e), the MSF Board shall direct the investment and reinvestment of the Investment Fund as authorized under Chapter 8A for incentives, including, but not limited to, for the purposes of creating incentives in this state for revitalizing Michigan communities;

**WHEREAS**, pursuant to MCL 125.2088(2)(c), the Investment Fund may allocate money for authorized programs to make expenditures or investments from the Investment Fund for programs or activities authorized pursuant to the 21<sup>st</sup> Century Jobs Trust Fund legislation as long as those programs or

activities provide for repayment for breach of the written agreement or the failure to meet measurable outcomes;

**WHEREAS**, pursuant the MSF Act, specifically, MCL 125.2007(c), the MSF has, among other things, the power to make loan and investments;

**WHEREAS**, MEDC staff recommends that the MSF the accept the Borrower Amendment Requests #1 and #2;

**WHEREAS**, MEDC staff recommends that the MSF transfer the funding source for the Loan Award from the MCRP to the Investment Fund (the “Funding Source Transfer”);

**NOW THEREFORE, BE IT RESOLVED**, the MSF Board approves Amendment Request #1;

**BE IT FURTHER RESOLVED**, the MSF Board approves Amendment Request #2

**BE IT FURTHER RESOLVED**, the MSF Board authorizes the Funding Source Transfer.

ADOPTED

Ayes:

Nays:

Recused:

Lansing, Michigan  
November 24, 2015

## MEMORANDUM

**Date:** November 18, 2015  
**To:** MSF Board Members  
**From:** David Lorenz, Vice President  
Travel Michigan  
**Subject:** Website Rebuild Request for Proposal

### Background

[Michigan.org](http://Michigan.org) is one of the nation's premiere Travel and Tourism websites and as part of our continuing efforts to enhance and evolve the travelers' experience at [Michigan.org](http://Michigan.org); MEDC/Travel Michigan is seeking to re-launch the RFP bid for the website that the board originally approved in March of 2015.

Considerable changes in the technical support team at the MEDC caused an evaluation and scope change of future technology supporting the web site. The MEDC will no longer maintain a hosting environment or supporting software. The RFP is seeking a fully hosted and supported solution for Michigan.org. A change in budget, vision and leadership at the Vice President of Travel is a secondary consideration in the launch of the RFP and caused a reduction in the features of the previous RFP. Reductions in scope include:

- Translation of the website into more than 10 languages
- New partner site
- All new content development
- No new 'micro' site development within Michigan.org

The team added the dollars from the reduction into the budget for multiple needs including match funding for growing domestic and international partners utilizing multiple channels; marketing and advertising campaigns.

### Recommendation

The MEDC recommends that the MSF Board approve the release of the RFP to complete a competitive review process for the re-launch of Michigan.org. One approved, we anticipate no change in scope or restarting of this project in the near future. RFP timeline below:

<u>Action</u>	<u>Date</u>
Release RFP	November 25 <sup>th</sup> , 2015
Questions returned to MEDC	December 2 <sup>nd</sup> , 2015
Q&A Posted to the site	December 7 <sup>th</sup> , 2015
RFP's returned to MEDC	December 28 <sup>th</sup> , 2015

**REQUEST FOR PROPOSALS**

**MICHIGAN STRATEGIC FUND**

**FY2016 MICHIGAN.ORG WEBSITE REDESIGN**

**RFP-CASE-157229**

DRAFT

## **REMINDER**

Please check your proposal to make sure you have included all of the specifications in the Request for Proposals. In addition, please submit an electronic version of each of the following:

- Technical Proposals (Section ii-A);
- Price Proposal (Section II-B);
- Signed Independent Price Determination Certificate (Attachment B); and
- Conflicts of Interest Disclosure (if applicable) (Section II-G).

**BIDDERS ARE RESPONSIBLE FOR ASSURING THAT THE FOLLOWING IDENTIFYING INFORMATION APPEARS IN THE SUBJECT LINE OF YOUR EMAIL:** “RFP-CASE-157229 Technical Proposal” and “RFP-CASE-157229 Price Proposal” with *Company Name*, and “message 1 of 3” as appropriate if the bid consists of multiple emails.

**The Michigan Strategic Fund (the “MSF”) will not respond to telephone inquiries, or visitation by Bidders or their representatives. Bidder’s sole point of contact concerning the RFP is below and any communication outside of this process may result in disqualification.**

Contracts and Procurement Services  
Michigan Strategic Fund  
300 North Washington Square, 3rd Floor  
Lansing, Michigan 48913  
[contractsandgrants@michigan.org](mailto:contractsandgrants@michigan.org)

## **IMPORTANT DUE DATES**

- **December 2, 2015, at 3:00 p.m.:** Questions from potential Bidders are due via email to [contractsandgrants@michigan.org](mailto:contractsandgrants@michigan.org). Please note: The MSF will not respond to questions that are not received by the above date and time. In addition, questions that are phoned, faxed or sent through regular mail will not be accepted.
- **December 7, 2015, by close of business:** Responses to all qualifying questions will be posted on the MSF’s website, [www.michiganbusiness.org/rfp-157229](http://www.michiganbusiness.org/rfp-157229).
- **December 28, 2015, at 3:00 p.m.:** Electronic versions sent separately of each of your Technical Proposal and Price Proposals due to the MSF via email to [contractsandgrants@michigan.org](mailto:contractsandgrants@michigan.org). **Proposals will not be accepted via U.S. Mail or any other delivery method.**

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**REQUEST FOR PROPOSAL**  
**FY2016 MICHIGAN.ORG WEBSITE REDESIGN**  
**RFP-CASE-157229**

This Request for Proposals (the “RFP”) is issued by the Michigan Strategic Fund (the “MSF”), Contracts and Procurement Services unit (the “C&P”). The Michigan Economic Development Corporation (the “MEDC”) provides administrative services associated with the programs and activities of the Michigan Strategic Fund Act on behalf of the MSF. C&P is the sole point of contact with regard to all bidding and contractual matters relating to the services described in this RFP. C&P is the only office authorized to change, modify, amend, alter, clarify, etc. the specifications, terms and conditions of this RFP and any contract(s) awarded as a result of this RFP (the “Contract”). C&P will remain the SOLE POINT OF CONTACT throughout the bidding process. ***The MSF will not respond to telephone inquiries, or visitation by Bidders or their representatives. Bidder’s sole point of contact concerning the RFP is below and any communication outside of this process may result in disqualification.***

Contracts and Procurement Services  
Michigan Strategic Fund  
300 North Washington Square  
Lansing, Michigan 48913  
[contractsandgrants@michigan.org](mailto:contractsandgrants@michigan.org)

## SECTION I STATEMENT OF WORK

### A) PURPOSE

[Michigan.org](http://Michigan.org) is one of the nation's premiere Travel and Tourism websites and as part of our continuing efforts to enhance and evolve the travelers' experience at [Michigan.org](http://Michigan.org); MEDC/Travel Michigan is seeking to rebuild the travel website. In the end, we want to be the top destination web site in the U.S. The purpose of this Request for Proposals is to locate a company with a proven record of creating custom web solutions for the travel industry. The qualified company selected will be required to assist the Michigan Economic Development Corporation ("MEDC") in creating a new web site for [Michigan.org](http://Michigan.org).

The website must provide relevant content based on a traveler's multi-season activity-based travel needs. The website will have all the information necessary for a potential traveler to be able to plan a trip to Michigan. Visitors should easily be able to find information based on interest, activity or location.

The MEDC measures metrics to reference to increase visitor engagement/time on site, organic search traffic, improve site customer satisfaction, and increase the number of visits to both [Michigan.org](http://Michigan.org) and our partner's sites. Research data is available to set baseline expectations.

### B) PROJECT OBJECTIVES

1. Develop a dynamic design tying directly with the Pure Michigan brand; visually appealing, simple navigation and developed with an intuitive organizational structure (Information Architecture).
2. Site needs to be functional on all commonly used mobile and desktop platforms
3. The site should assist out-of-state travelers whom have little knowledge of Michigan to locate information and opportunities based on activity and provide results in either list, geo-spatial, or storytelling format.
4. Content for all four seasons must be available at all times through the search function with the user being able to switch the content between all four seasons.
5. Provide related results during a search, including lodging, events, etc.
  - a. Example: Search for 'Snowmobiling' displays results for those items directly related to snowmobiling in addition to related content, integrated and highlighted, with the search results.
6. The site should provide custom, interactive mapping (state/regional view) to illustrate key points of interest by activity
7. Provide the ability to add content from third party sites / traveler / Pure Michigan information on a specific activity or attraction, etc.

- a. Pull in social content / Trip Advisor (or other platforms) regarding an activity like biking, hunting, etc.
8. Provide integration of user-generated content from Travel Michigan's social media channels and blog to increasing social media engagement and web traffic on [Michigan.org](http://Michigan.org)
9. Provide the ability for content feeds from travel partners, automatically updating their content, properties, events, etc., on [Michigan.org](http://Michigan.org)
10. Include a trip-planning tool that allows for planning/archiving multiple trips, sharing and collaboration between users of the site
11. Provide for ability to create Microsites within the site for beaches, beer trails and other areas of interest (to be determined).

### **MEDC Technical Requirements**

The MEDC is requesting a complete end-to-end solution to support the site; technical requirements for the solution are below:

1. Complete hosting solution
2. Database management and maintenance
3. Operating system management and maintenance
  - a. The goal of operating system management and maintenance is to keep active servers current with vendor updates and patch releases.
4. Server hardware management and maintenance
5. Firewall, load balancer and intrusion prevention services
  - a. The end-to-end solution including intrusion prevention systems to identify malicious activity, log information about this activity, attempt to block/stop it, and report it.
6. Systems backup and recovery
7. Network connectivity
8. Physical infrastructure
  - a. Minimum - Development, Testing, Beta, Production environments
9. CMS Interface with Role Based Permissions
10. Responsive Website Design
  - a. The website uses the same URL on all mobile phones, tablets and desktop systems. The website serves the same content to any device changing the view and order depending on the size of the device
11. Support WordPress integration for the business blog

## SECTION II PROPOSAL FORMAT

To be considered, each Bidder must submit a COMPLETE proposal in response to this RFP using the format specified. Bidder's proposal must be submitted in the format outlined below. There should be no attachments, enclosures, or exhibits other than those required in the RFP or considered by the Bidder to be essential to a complete understanding of the proposal. Each section of the proposal should be clearly identified with appropriate headings:

### A) TECHNICAL PROPOSAL

1. Business Organization and History – State the full name, address, and phone and facsimile number of your organization and, if applicable, the branch office or other subordinate element that will perform, or assist in performing, the work hereunder. Indicate whether it operates as an individual, partnership, or corporation; if as a corporation, include the state in which it is incorporated. If appropriate, the proposal must state whether the organization is licensed to operate in the State of Michigan.
2. Statement of the Problem – State in succinct terms your understanding of the problem(s) presented by this RFP.
3. Narrative – Include a narrative summary description of the proposed effort and of the services(s)/products(s) that will be delivered.
4. Technical Work Plans – Provide a detailed research outline and timelines for accomplishing the work.
5. Prior Experience – Describe the prior experience of your organization which you consider relevant to the successful accomplishment of the project defined in this RFP. Include sufficient detail to demonstrate the relevance of such experience. Proposals submitted should include, in this Section, descriptions of qualifying experience to include project descriptions, costs, and starting and completion dates of projects successfully completed; also include the name, address, and phone number of the responsible official of the client organization who may be contacted.

The MSF may evaluate the Bidder's prior performance with the MSF, and prior performance information may be a factor in the award decision.

6. Project Staffing – The Bidder must be able to staff a project team which possesses talent and expertise in the field of the requirements of this RFP. Identify a Project Manager and staff assigned by name and title. Include biographies, experience and any other appropriate information regarding the work team's qualification for this initiative. Indicate staff turnover rates. Show where the project team will be physically located during the time they are engaged in the work. Indicate which of these individuals you consider key to the successful completion of the work. Indicate the amount of dedicated management time for the Bidder's Project Manager and other key individuals. Do not include any financials for the contemplated work within the Technical Proposal. Resumes of qualifications should be supplied for proposed project personnel.

Please Note: The MSF further reserves the right to interview the key personnel assigned by the Contractor to this project and to recommend reassignment of personnel deemed unsatisfactory.

7. Subcontractors – List here all subcontractors that will be engaged to accomplish the project described in this RFP; include firm name and address, contact person and complete description of work to be subcontracted. Include descriptive information concerning subcontractor's organization and abilities. Also, the information provided in response to A-5, above, should include detailed information about each potential subcontractor.

8. Bidder's Authorized Expediter – Include the name and telephone number of person(s) in your organization authorized to expedite any proposed contract with the MSF.

9. Additional Information and Comments – Include any other information that is believed to be pertinent, but not specifically asked for elsewhere.

## **B) PRICE PROPOSAL**

Provide the cost/rate/price information for all firms/persons named in your Price Proposal to demonstrate the reasonableness of your Price Proposal. Attach a schedule of all expenses covering each of the services and activities identified in your proposal.

The MSF is exempt from federal excise tax, and state and local sales taxes. The Price Proposal should not include taxes.

**THE PRICE PROPOSAL MUST BE IDENTIFIED AND SENT SEPARATELY FROM THE TECHNICAL PORTION OF YOUR PROPOSAL ACCORDING TO THE INSTRUCTIONS OF THIS RFP. Separately sealed price proposals will remain sealed until the JEC has completed evaluation of the technical proposals.**

Bidders Please Note: Rates quoted in response to this RFP are firm for the duration of the Contract; no price increase will be permitted.

## **C) PROPOSAL SUBMITTAL**

Submit separately marked electronic versions of each of your Technical Proposal and Price Proposal to the MSF via email to [contractsandgrants@michigan.org](mailto:contractsandgrants@michigan.org) not later than **3:00 p.m. on December 28, 2015**. The MSF has no obligation to consider any proposal that is not timely received. **Proposals will not be accepted via U.S. Mail or any other delivery method.**

BIDDERS ARE RESPONSIBLE FOR ASSURING THAT THE FOLLOWING IDENTIFYING INFORMATION APPEARS IN THE SUBJECT LINE OF YOUR EMAIL: “RFP-CASE-157229 Technical Proposal” and “RFP-CASE-157229 Price Proposal” with *Company Name*, and “message 1 of 3” as appropriate if the bid consists of multiple emails.

**SECTION III  
RFP PROCESS AND TERMS AND CONDITIONS**

**A) PRE-BID MEETING/QUESTIONS**

A pre-bid meeting will not be held. Questions from Bidders concerning the specifications in this RFP must be received via e-mail no later than **3:00 pm on December 2, 2015**. Questions must be submitted to:

Contracts & Procurement Services  
[contractsandgrants@michigan.org](mailto:contractsandgrants@michigan.org)

**B) PROPOSALS**

To be considered, Bidders must submit a complete response to this RFP, using the format provided in Section II of this RFP, by **3:00 p.m. on December 28, 2015**. No other distribution of proposals is to be made by the Bidder.

The Technical Proposal must be **signed physically or electronically** by an official of the Bidder authorized to bind the Bidder to its provisions. The proposal must include a statement as to the period during which it remains valid; this period must be at least ninety (90) days from December 28, 2015. The rates quoted in the Price Proposal must remain firm for the period indicated in Section II.

**C) ECONOMY OF PREPARATION**

Each proposal should be prepared simply and economically, providing a straightforward, concise description of the Bidder's ability to meet the requirements of the RFP. Emphasis should be on completeness and clarity of content.

**D) SELECTION CRITERIA**

Responses to this RFP will be evaluated based upon a three-step selection process. The proposal must address the requirements described in Section II of this RFP.

The first step is an evaluation of which proposals satisfactorily meet the requirements of this RFP as stated in Section II.

1) Step I – Initial evaluation for compliance

a) *Proposal Content* – Contracts & Procurement Services will screen the proposals for technical compliance to include but not be limited to:

- Timely submission of the proposal.
- Technical Proposal and Price Proposal clearly identified and sent separately.
- Proposal signed physically or electronically by an official of the Bidder authorized to bind the Bidder to its provisions.
- Proposals satisfy the form and content requirements of this RFP.

2) Step II – Criteria for Satisfactory Technical Proposals

- a.) During the second step of the selection process, proposals will be considered by a Joint Evaluation Committee (the “JEC”) comprised of individuals selected by the MSF. Only those proposals that satisfy the requirements described in this RFP, as determined in the sole discretion of the JEC, will be considered for evaluation in Step II. The JEC reserves the right to request additional information from any Bidder.
- b.) *Competence, Experience and Staffing Capacity* – The proposal should indicate the ability of the Bidder to meet the requirements of this RFP, especially the time constraints, quality, and recent projects similar to that described in this RFP. The proposal should indicate the competence of the personnel whom the Bidder intends to assign to the project, including education and experience, with particular reference to experience on projects similar to that described in this RFP and qualifications of Bidder’s Project Manager and the Project Manager’s dedicated management time, as well as that of other key personnel working on this project.

		<b>Weight</b>
1.	Statement of Work	
2.	Bidder Information	
3.	Prior Experience	
4.	Staffing	
5.	Financial Stability	
<b>TOTAL</b>		<b>100</b>

- c.) During the JEC’s review, Bidders may be required to make oral presentations of their proposals to the JEC. These presentations provide an opportunity for the Bidders to clarify the proposals. The MSF will schedule these presentations, if required by the JEC.
- d.) Only those proposals receiving a score of **80 points or more** in the technical proposal evaluation will have their pricing evaluated to be considered for award.

3) Step III – Criteria for Satisfactory Price Proposal

- a.) Based on what is in the best interest of the MSF, the MSF will award the Contract considering value, quality, and the ability to meet the objectives of this RFP, of proposals that were approved as a result of this two-step evaluation process.
- b.) The MSF reserves the right to consider economic impact on the State of Michigan when evaluating proposal pricing. This includes, but is not limited to: job creation, job retention, tax revenue implications, and other economic considerations.
- c.) The award recommendation will be made to the responsive and responsible Bidder who offers the best value to the MSF and the State of Michigan. Best

value will be determined by the Bidder meeting the minimum point threshold and offering the *best proposal that meets the objectives of the RFP*.

- d.) The MSF reserves the right to award to another “best value” contractor in case the original Awardee does not accept the award.

**E) BIDDERS COSTS**

The MSF is not liable for any costs incurred by any Bidder prior to signing of the Contract by all parties.

**F) TAXES**

The MSF may refuse to award a contract to any Bidder who has failed to pay any applicable taxes or if the Bidder has an outstanding debt to the State of Michigan or the MSF.

Except as otherwise disclosed in an exhibit to the Proposal, Bidder certifies that all applicable taxes are paid as of the date the Bidder’s Proposal was submitted to the MSF and the Bidder owes no outstanding debt to the State of Michigan or the MSF.

**G) CONFLICT OF INTEREST**

The Bidder must disclose, in an exhibit to the proposal, any possible conflicts of interest that may result from the award of the Contract or the services provided under the Contract.

Except as otherwise disclosed in the proposal, the Bidder affirms that to the best of its knowledge there exists no actual or potential conflict between the Bidder, the Bidder’s project manager(s) or its family’s business or financial interests (“Interests”) and the services provided under the Contract. In the event of any change in either Interests or the services provided under the Contract, the Bidder will inform the MSF regarding possible conflicts of interest which may arise as a result of such change and agrees that all conflicts shall be resolved to the MSF’s satisfaction or the Bidder may be disqualified from consideration under this RFP. As used in this Section, “conflict of interest” shall include, but not be limited to, the following:

- 1) Giving or offering a gratuity, kickback, money, gift, or anything of value to a MSF official, officer, or employee with the intent of receiving a contract from the MSF or favorable treatment under a contract;
- 2) Having or acquiring at any point during the RFP process or during the term of the Contract, any contractual, financial, business or other interest, direct or indirect, that would conflict in any manner or degree with Bidder’s performance of its duties and responsibilities to the MSF under the Contract or otherwise create the appearance of impropriety with respect to the award or performance of the Contract; or
- 3) Currently in possession of or accepting during the RFP process or the term of the Contract anything of value based on an understanding that the actions of the Bidder or its affiliates or Interests on behalf of the MSF will be influenced.



**H) BREACH OF CONTRACT**

Except as otherwise disclosed in an exhibit to Bidder's proposal, Bidder is not in material default or breach of any contract or agreement that it may have with the State of Michigan or any of its departments, commissions, boards or agencies, or any other public body in the State of Michigan. Further, Bidder represents and warrants that it has not been a party to any contract with the State of Michigan or any public body that was terminated within the previous five (5) years because the Bidder failed to perform or otherwise breached an obligation of such contract.

**I) DISCLOSURE OF LITIGATION**

Except as otherwise disclosed in an exhibit to Bidder's proposal, there is no criminal litigation, investigations or proceedings involving the Bidder (and each subcontractor, if subcontractors will be used to provide the goods/services requested under this RFP) or any of the Bidder's officers or directors or any litigation or proceedings under the Sarbanes-Oxley Act. In addition, Bidders must disclose in the exhibit requested under this Section of the RFP any civil litigation, arbitration or proceeding to which the Bidder (or, to the extent Bidder is aware, any subcontractor) is a party and which involves: (1) disputes that might reasonably be expected to adversely affect the viability or financial stability of the Bidder (or subcontractor); or (2) a claim or written allegation of fraud or breach of contract against Bidder (or, to the extent Bidder is aware, subcontractor), by a governmental or public entity arising out of their business dealings with governmental or public entities. Details of any settlements which Bidder is prevented from disclosing under the terms of the settlement may be annotated as such. Bidders must also disclose any investigations by the Internal Revenue Service or any other federal or state taxing body or court.

**J) FALSE INFORMATION**

If the MSF determines that a Bidder purposefully or willfully submitted false information in response to this RFP, the Bidder will not be considered for an award and any resulting Contract that may have been executed may be terminated.

**K) ADDITIONAL DISCLOSURE**

All Bidders should be aware that proposals submitted to the MSF in response to this RFP may be subject to disclosure under the provisions of Public Act 442 of 1976, as amended, known as the Freedom of Information Act ("FOIA"). Accordingly, confidential information should be excluded from Bidders' proposals. Bidders, however, are encouraged to provide sufficient information to enable the MSF to determine the Bidder's qualifications and to understand or identify areas where confidential information exists and could be provided. The FOIA also provides for the complete disclosure of the Contract and any attachments or exhibits thereto.

**L) PRICES HELD FIRM**

LENGTH OF TIME PRICES ARE TO BE HELD FIRM: All rates quoted in Bidder's response to this RFP will be firm for the duration of the Contract. No price changes will be permitted. IN THE EVENT THAT PROPOSED CHANGES ARE NOT ACCEPTABLE TO THE MSF, THE CONTRACT SHALL BE TERMINATED AND THE MODIFIED CONTRACT SHALL BE SUBJECT TO COMPETITIVE BIDDING.

**M) BEST AND FINAL OFFER**

At any time during the evaluation process, the JEC may request a Best and Final Offer ("BAFO") from any Bidder. This will be the final opportunity for a Bidder to provide a revised proposal. The scope of the changes allowed in the BAFO will be published as part of the issuance of the BAFO request.

**Bidders are cautioned to propose the best possible offer at the outset of the process, as there is no guarantee that any Bidder will be allowed an opportunity to engage in Pricing Negotiations or requested to submit a Best and Final Offer.**

**N) CLARIFICATION/CHANGES IN THE RFP**

Changes made to the RFP as the result of responses made to qualifying questions or concerns will be posted on [www.michiganbusiness.org/rfp-157229](http://www.michiganbusiness.org/rfp-157229). Applicants are encouraged to regularly check this site for changes or other information related to the RFP.

**O) ELECTRONIC BID RECEIPT**

ELECTRONIC VERSIONS OF EACH OF YOUR TECHNICAL AND PRICE PROPOSALS SENT SEPARATELY MUST BE RECEIVED AND TIME-STAMPED BY THE MSF TO [contractsandgrants@michigan.org](mailto:contractsandgrants@michigan.org), ON OR BEFORE **3:00 p.m. on December 28, 2015**. Bidders are responsible for timely submission of their proposal. THE MSF HAS NO OBLIGATION TO CONSIDER ANY PROPOSAL THAT IS NOT RECEIVED BY THE APPOINTED TIME.

**P) RESERVATION OF MSF DISCRETION**

Notwithstanding any other statement in this RFP, the MSF reserves the right to:

- 1) reject any and all proposals;
- 2) waive any errors or irregularities in the bidding process or in any proposal;
- 3) rebid the project;
- 4) negotiate with any Bidder for a reduced price, or for an increased price to include any alternates that the Bidder may propose;
- 5) reduce the scope of the project, and rebid or negotiate with any Bidder regarding the revised project; or
- 6) defer or abandon the project.

The MSF's decision is final and not subject to appeal. Any attempt by an applicant, collaborating entity, or other party of interest to the project to influence the awards process, to appeal, and/or take any action, including, but not limited to, legal action, regarding the proposal or awards

process in general may result in the applicant's disqualification and elimination from the award process.

**Q) JURISDICTION**

Legal actions concerning this RFP shall be brought in the Michigan Court of Claims or, as appropriate, Ingham County Circuit Court in Ingham County Michigan. Nothing in this RFP shall be construed to limit the rights and remedies of the MSF that are otherwise available.

**R) ADDITIONAL CERTIFICATION**

Pursuant to Public Act 517 of 2012, an Iran linked business is not eligible to submit a bid on a request for proposal, with a public entity.

Bidders must include the following certification in the technical proposal:

“Bidder certifies that it is not an Iran-linked business as defined in MCL 129.312.”

Failure to submit this certification will result in disqualification from consideration.

DRAFT

**SECTION IV  
CONTRACTUAL TERMS AND CONDITIONS**

**A) CONTRACT TERMS AND CONDITIONS**

- 1) The Contract – The proposal selected will be subject to the terms and conditions of the MSF's Professional Services Contract (the "Contract") upon execution of the Contract by the MSF and Bidder. The standard terms and conditions of the Contract are attached to this RFP as Attachment A.
- 2) Term of Work – It is estimated that the activities in the proposed Contract will cover the period **MONTH XX, 20XX** through **MONTH XX, 20XX**.
- 3) Modification of Service – The MSF reserves the right to modify the requested services during the course of the Contract. Such modifications must be made in writing and may include the addition or deletion of tasks or any other modifications deemed necessary. Any changes in pricing proposed by the bidder resulting from the requested changes are subject to acceptance by the MSF. Changes may be increases or decreases.

In the event changes are not acceptable to the MSF, the Contract shall be subject to competitive bidding based upon the new specifications.

- 4) Subcontracting – The MSF reserves the right to approve any subcontractors for the Contract and to require the bidder, upon award of the Contract, to replace subcontractors that the MSF finds to be unacceptable.
- 5) Award of Contract – The MSF reserves the right to award all or any part of this RFP and, based on what is in the best interest of the MSF, the MSF will award the Contract considering price, value and quality of the bids.

**B) CONTRACTOR RESPONSIBILITIES**

The selected Bidder will be required to assume responsibility for all contractual activities offered in this RFP whether or not the Bidder performs them. Further, the MSF will consider the selected Bidder to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the Contract.

**C) ACCEPTANCE OF PROPOSAL CONTENT**

If awarded a Contract, the contents of this RFP will become contractual obligations. The following constitute the complete and exclusive statement of the agreement between the parties as it relates to this transaction:

- 1) This RFP (including subsequent written clarification provided in response to questions raised by email ) and any Addenda thereto; and
- 2) Final executed Contract.

In the event of any discrepancies between the above documents, the final executed Contract shall control. Failure of the successful Bidder to accept these obligations may result in cancellation of the award.

**D) PROJECT CONTROL AND REPORTS**

1) Project Control

- a) The MSF will appoint a Contract Manager for this project. Although there will be continuous liaison with the selected Bidder (the "Contractor"), the Contract Manager will meet with the Contractor's project manager for the purpose of reviewing progress and providing necessary guidance to the Contractor in solving problems which arise.
- b) The Contractor will submit brief written monthly summaries of progress which outline the work accomplished during the reporting period; work to be accomplished during the subsequent reporting period; problems, real or anticipated which should be brought to the attention of the Contract Manager and notification of any significant deviation from previously agreed upon work plans.
- c) Within five (5) working days of the execution of the Contract, the Contractor will submit a work plan to the Contract Manager for final approval. This work plan must be in agreement with Section III-A of this RFP as proposed by the Bidder and accepted by the MSF for contract, and must include the following:
  - (i) The Contractor's project organizational structure.
  - (ii) The Contractor's staffing table with names and titles of personnel assigned to the project. This must be in agreement with staffing of the accepted proposal. Necessary substitutions due to change of employment status and other unforeseen circumstances may only be made with prior approval of the MSF.
  - (iii) The project breakdown showing sub-projects, activities and tasks, and resources required and allocated to each.
  - (iv) The time-phased plan in the form of a graphic display, showing each event, task, and decision point in your work plan.

**ATTACHMENT A**

**PROFESSIONAL SERVICES CONTRACT**  
**TERMS AND CONDITIONS**

The Michigan Strategic Fund (the "MSF") enters into a binding agreement for professional services (the "Agreement") with CONTRACTOR (the "Contractor"). The MSF and Contractor shall sometimes be referred in this Agreement individually as a "Party" or collectively as "Parties".

**Contractor:**           Name  
                                  Address  
                                  Address

**I. NATURE OF SERVICES**

Contracts & Procurement Services to fill in a description of the Nature of Services based upon the information in the CASE.

**II. PERFORMANCE SCHEDULE**

Starting Date: MONTH XX, 20XX

Ending Date: MONTH XX, 20XX

The term of this Agreement (the "Term") shall begin on the Starting Date and end on the Ending Date, unless terminated earlier, as permitted under Section V(J) of this Agreement.

**III. COMPENSATION INFORMATION**

- A) The MSF agrees to pay Contractor an amount not to exceed \$XXX during the Term. An initial payment in the amount of \$XXX shall be made by the MEDC to the Contractor within thirty days of the execution of this Agreement by both Parties (the "Initial Payment"). This amount includes all embedded expenses.
- B) Subsequent payment(s) Payment under this Agreement shall be made by the MSF to Contractor upon receipt and approval by the Contract Manager of Contractor's billing statement(s) stating that the work for which payment is requested has been appropriately performed. Contractor shall provide Contractor's billing statement(s) to Contract Manager or at Contract Manager's direction on a monthly basis. Contract Manager shall provide Contractor with appropriate submission instructions of Contractor's billing statement(s).
- C) All billing statement(s) must reflect actual work done. The specific details of billing statement(s) and payments will be agreed upon between the Contract Manager and the Contractor after the Agreement has been signed and accepted by both the Contractor and the MSF.
- D) Public Act 533 of 2004 requires that payments under this Agreement be processed by electronic funds transfer (EFT). Contractor is required to register to receive payments by EFT at the Contract & Grant Payment Express website ([www.cpexpress.state.mi.us](http://www.cpexpress.state.mi.us)).

- E) Changes in the budget will be allowed only upon prior review and written approval by the Contract Manager.
- F) Contractor's billing statement(s) may be subject to a final audit prior to the release of final payment.

#### **IV. MSF CONTRACT MANAGER**

The Michigan Economic Development Corporation (the "MEDC") provides administrative services to the MSF. Contractor should communicate with the following MEDC representative or designee regarding this Agreement:

[Name] (the "Contract Manager")  
Michigan Economic Development Corporation  
300 North Washington Square  
Lansing, Michigan 48913  
[xxx@michigan.org](mailto:xxx@michigan.org)

#### **V. TERMS AND CONDITIONS**

##### **A) Contractor Duties**

Contractor agrees to undertake, perform, and complete the services described in Exhibit A, which is incorporated herein by reference. In the event of any inconsistency between the provisions of Exhibit A and this Agreement, the provisions of this Agreement shall control.

##### **B) Independent Contractor**

Contractor will act as an independent contractor under this Agreement, and neither Contractor nor any employee or agent or contract personnel of Contractor is, or shall be deemed to be, an employee of the MSF due to this Agreement and the relationship between Contractor and MSF. In its capacity as an independent contractor, Contractor agrees to and represents the following:

- 1) Contractor will provide the services under this Agreement free from the direction or control of the MSF or the MEDC as to means, manners, and methods of performance;
- 2) Contractor has the right and does fully intend to perform services for third parties during the Term;
- 3) Contractor acknowledges that any work product developed by Contractor in performance of this Agreement shall be the sole property of the MSF and the MSF shall have the right to copyright or otherwise protect its rights in and ownership of the work product;
- 4) The services required by this Agreement shall be performed by Contractor, or Contractor's employees or contract personnel, and the MSF or the MEDC shall not hire, supervise, or pay any assistants to help Contractor;
- 5) Neither Contractor nor Contractor's employees or contract personnel shall receive

any training from the MSF or the MEDC in the professional skills necessary to perform the services required by this Agreement;

- 6) Neither Contractor nor Contractor's employees or contract personnel shall be required by the MSF or the MEDC to devote full time to the performance of the services required by this Agreement; and
- 7) Contractor does not receive the majority of its annual compensation from the MSF or the MEDC.

The Parties acknowledge and agree that the MSF is entering into this Agreement with reliance on the representations made by Contractor relative to its independent contractor status.

C) **Permits and Licenses**

Contractor declares that Contractor has complied with all federal, state and local laws requiring any business permits, certificates or licenses required to carry out the services to be performed under this Agreement, and Contractor will maintain those permits, certificates and/or licenses throughout the Term.

D) **Materials**

Contractor will furnish all materials, equipment and supplies used to provide the services required by this Agreement.

E) **State and Federal Taxes**

The MSF and the MEDC will not:

- 1) Withhold FICA (Social Security and Medicare taxes) from Contractor's payments or make FICA payments on Contractor's behalf; or
- 2) Make state or federal unemployment compensation contributions on Contractor's behalf, or withhold state, federal or local income tax from Contractor's payments.

Contractor shall pay all taxes incurred while performing services under this Agreement, including, but not limited to all applicable income taxes. If requested by the MSF or the MEDC, Contractor shall provide proof that such payments have been made.

F) **Fringe Benefits**

Contractor understands that neither Contractor nor Contractor's employees or contract personnel are eligible to participate in any employee pension, health, vacation pay, sick pay, or other fringe benefit plan of the MSF or the MEDC.

G) **Workers' Compensation**

The MSF or the MEDC shall not obtain workers' compensation insurance on behalf of Contractor or Contractor's employees. If Contractor hires employees to perform any work under this Agreement, Contractor shall cover them with workers' compensation



insurance and shall maintain such insurance during the Term. The MSF or the MEDC may, in its discretion, require Contractor to provide evidence of such coverage.

#### H) **Unemployment Compensation**

The MSF or the MEDC shall make no state or federal unemployment compensation payments on behalf of Contractor or Contractor's employees or personnel. Contractor will not be entitled to these benefits in connection with work performed under this Agreement. If Contractor files a petition for and receives unemployment compensation, the total amount of unemployment compensation awarded to and received by Contractor shall be deducted from and be an offset against the amount of compensation due and payable to Contractor by the MSF under this Agreement.

#### I) **Access to Records**

During the Term, and for seven (7) years after the Ending Date, Contractor shall maintain reasonable records, including evidence that the requested services actually were performed and the identity of all individuals paid for such services, and shall allow access to those records by the MSF, the MEDC or their authorized representative at any time during this period.

#### J) **Termination**

Either Party may terminate its obligations under this Agreement by giving the other Party thirty (30) calendar days prior written notice of such termination.

The MSF may immediately terminate this Agreement upon written notice to Contractor if Contractor materially breaches its obligations under this Agreement or engages in any conduct which the MSF, in its sole discretion, determines has or could have an adverse impact on the State of Michigan's (the "State") or the MSF's reputation or interests. In addition, the MSF may immediately terminate this Agreement upon written notice to Contractor, without further liability to the MSF or the State, its departments, agencies, and employees, if Contractor, an officer of Contractor, or an owner of a 25% or greater share of Contractor is convicted of a criminal offense relating to a State, public, or private contract or subcontract; or convicted of a criminal offense including, but not limited to, any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, attempting to influence a public employee to breach the ethical conduct standards for State employees; convicted under state or federal antitrust statutes; or convicted of any other criminal offense which, in the sole discretion of the MSF, reflects on Contractor's business integrity.

Contractor acknowledges that MSF's performance of its payment obligation is dependent upon the continued approval of funding and/or the MSF's continued receipt of State funding. In the event that the State Legislature, the State Government or any State official, public body corporate, commission, authority, body or employees, including the MSF: (a) takes any action which fails to provide, terminates or reduces the funding that is related to the source of funding for this Agreement; or (b) takes any action that is unrelated to the source of funding for this Agreement, but affects the MSF's ability to perform obligations under this Agreement, the MSF may terminate this Agreement by providing thirty (30) calendar days notice prior to the effective date of cancellation. In the event, however, that the action of the State Legislature, the State of Michigan or MSF results in an immediate absence or

termination of funding, this Agreement may be terminated effective immediately upon delivery of notice to the Contractor. In the event of immediate termination of funding, the MSF will make payment through the effective date of termination for any undisputed services rendered and expenses incurred.

The MSF shall have no obligation to Contractor for any fees or other payments incurred in connection with this Agreement after the effective date of termination. Upon termination, all work product prepared or produced by Contractor pursuant to this Agreement shall be immediately delivered to the MSF. Payment for any undisputed services rendered and expenses incurred through the effective date of termination will then promptly be made by the MSF. Any Initial Payment made to the Contractor is subject to reimbursement in an amount determined by the Contract Manager in the event the Contractor terminates the Agreement prior to the Ending Date.

K) **MEDC and MSF Employees**

Contractor will not hire any employee of the MEDC or MSF to perform any services covered by this Agreement without prior written approval from the Chief Executive Officer of the MEDC or President of the MSF.

L) **Confidential Information**

Except as required by law, Contractor shall not use or disclose, either before, during or after the Term, any proprietary or confidential information, including, but not limited to, applications, business bids, business plans, economic development analyses, computer programs, databases and all materials furnished to Contractor by the MSF or the MEDC (collectively, "Confidential Information") without the prior written consent of the MSF or the MEDC, except to the extent necessary to perform services on the MSF or MEDC's behalf. Confidential Information does not include information obtained by Contractor from third party sources; that is already in the possession of, or is independently developed by, Contractor; that becomes publicly available other than through breach of this Paragraph; or, is released with the prior written consent of the governmental entity or entities that provided the Confidential Information to Contractor. Contractor acknowledges that all information provided by the MSF or the MEDC in connection with Contractor's duties under this Agreement shall be treated as Confidential Information unless otherwise stated in this subsection.

M) **Conflict of Interest**

Except as has been disclosed to the MSF or the MEDC, Contractor affirms that neither the Contractor, nor its Affiliates or their employees has, shall have, or shall acquire any contractual, financial business or other interest, direct or indirect, that would conflict in any manner with Contractor's performance of its obligations under this Agreement or otherwise create the appearance of impropriety with respect to this Agreement.

Contractor further affirms that neither Contractor nor any affiliates or their employees has accepted or shall accept anything of value based on an understanding that the actions of the Contractor or its affiliates or either's employees on behalf of the MSF or the MEDC would be influenced. Contractor shall not attempt to influence any MEDC or MSF employee by the direct or indirect offer of anything of value. Contractor also affirms that neither Contractor, nor its Affiliates or their employees has paid or agreed to pay any person, other than bona

fide employees and consultants working solely for Contractor or its Affiliate, any fee, commission, percentage, brokerage fee, gift or any other consideration contingent upon or resulting from the execution of this Agreement.

In the event of change in either the interests or services under this Agreement, Contractor will inform the MSF or the MEDC regarding possible conflicts of interest which may arise as a result of such change. Contractor agrees that conflicts of interest shall be resolved to the MSF's or the MEDC's satisfaction or the MSF may terminate this Agreement. As used in this Paragraph, "conflict of interest" shall include, but not be limited to, conflicts of interest that are defined under the laws of the State of Michigan.

**N) Representations of Contractor**

Contractor affirms to the best of its knowledge that it or its owners:

- 1) Do not have any criminal convictions.
- 2) Are not subjects of any pending criminal investigation.
- 3) Are not subjects of any past, present or pending investigations by the Internal Revenue Service or any other federal or state taxing body or court.
- 4) Are not subjects of any past, pending or present litigation regarding its conduct.
- 5) Are not in material default or breach of any contract or agreement that it may have with the State of Michigan, the MSF or any other public body. Contractor further represents and warrants that it has not been a party to any contract with the State, the MSF or other public body that was terminated within the previous five (5) years due to the Contractor's failure to perform or otherwise breached an obligation of such contract.

**O) State of Michigan Competitors**

Any information or knowledge Contractor gains during the course of this Agreement concerning the economic development efforts of the State of Michigan, the MSF, the MEDC or the business conditions or business community in Michigan shall not be disclosed to any public or private party, sovereign authority or foreign government, during the Term and for a period of two (2) years after the later of the Ending Date, the effective date of termination of this Agreement or so long as any information remains confidential pursuant to any contract, law, treaty, resolution or other enforceable promise.

**P) Irreparable Injury**

Contractor acknowledges that if it breaches any of its obligations under Paragraphs L and O above, it will cause damages of an irreparable and continuing nature to the MSF, for which money damages alone will not provide adequate relief. Therefore, in addition to all appropriate monetary damages, the MSF is entitled to obtain injunctive relief, including, but not limited to, a temporary restraining order to prohibit the Contractor's continuing breach. The MSF shall have the right to obtain such relief without having to post any bond or other surety.

**Q) Indemnification and Contractor Liability Insurance**

Contractor shall indemnify, defend, and hold harmless the MSF, its Board and its employees, and the MEDC, its Executive Committee, its Corporate Board of Directors, and its employees (the "Indemnified Parties") from any and all liability arising out of or in any way related to Contractor's performance under this Agreement, including any liability resulting from any acts of Contractor's employees or agents.

Contractor shall purchase and maintain such insurance to protect the Indemnified Parties from claims that might arise out of or as a result of Contractor's operations. Contractor will provide and maintain its own errors and omissions liability insurance for Contractor's indemnification obligation under this Agreement. The insurance shall be written for not less than One Million Dollars (\$1,000,000) of coverage, but Contractor's indemnification obligation is not limited to this amount.

R) **Total Agreement**

This Agreement, together with Exhibit A, contains the entire agreement between the Parties superseding any prior or concurrent agreements as to the services being provided, and no oral or written terms or conditions which are not contained in this Agreement shall be binding. This Agreement may not be changed except by written agreement signed by the Parties.

S) **Assignment/Transfer/Subcontracting**

Contractor shall not assign, transfer, convey, subcontract, or otherwise dispose of any duties or rights under this Agreement without the prior specific written consent of the MSF. Contractor agrees that any of Contractor's future successors or subcontractors will be bound by the provisions of this Agreement, unless the MSF otherwise agrees in a specific written consent. The MSF reserves the right to approve subcontractors for this Agreement and to require Contractor to replace subcontractors who are found to be unacceptable to the MSF or the MEDC.

T) **Non-Discrimination and Unfair Labor Practices**

In connection with this Agreement, Contractor shall comply with the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101 *et seq.*, the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101 *et seq.*, and all other federal, state and local fair employment practices and equal opportunity laws and covenants that it shall not discriminate against any employee or applicant for employment with respect to his or her hire, tenure, terms, conditions, privileges of employment, or any matter directly or indirectly related to employment because of his or her race, religion, color, national origin, age, gender, height, weight, marital status, or physical or mental disability unrelated to the individual's ability to perform the duties of a particular job or position. Contractor further agrees that every subcontract entered into in connection with this Agreement will contain a provision requiring nondiscrimination in employment, as required in this Agreement, binding upon each subcontractor.

Pursuant to 1980 PA 278 (the "Act"), MCL 423.321 *et seq.*, the State shall not award a contract or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled by the United States National Labor Relations Board. Contractor, in relation to this Agreement, shall not enter into a

contract with a subcontractor, manufacturer, or supplier whose name appears on this register. Pursuant to section 4 of the Act, the MSF may void this Agreement if, after the Starting Date, the name of the Contractor as an employer or the name of the subcontractor, manufacturer or supplier of Contractor appears on the register.

A breach of this Paragraph constitutes a material breach of this Agreement.

U) **Jurisdiction**

The laws of the State of Michigan shall govern this Agreement. The Parties shall make a good faith effort to resolve any controversies that arise regarding this Agreement. If a controversy cannot be resolved, the Parties agree that any legal actions concerning this Agreement shall be brought in the Michigan Court of Claims or, as appropriate, Ingham County Circuit Court in Ingham County, Michigan, USA. By signing this Agreement, Contractor acknowledges that it is subject to the jurisdiction of this court and agrees to service by first class or express delivery wherever Contractor resides, in or outside of the United States.

V) **Compliance with Laws**

Contractor shall comply with all applicable state, federal and local laws and ordinances in providing the services under this Agreement.

W) **No Partnership or Agency Relationship**

This Agreement does not create a partnership relationship. Further, neither Contractor nor Contractor's employees or other representatives shall hold themselves out to third parties as an agent or representative of the State of Michigan, the MSF or the MEDC, nor shall they have any authority to take any action or enter into any agreement on behalf of the State of Michigan, the MSF or the MEDC.

X) **No Third Party Beneficiaries**

There are no expressed or implied third party beneficiaries to this Agreement.

Y) **Counterparts**

This Agreement may be executed in one or more counterparts and by facsimile, each of which shall constitute an original, and all of which together shall constitute one and the same instrument.

Z) **Reimbursement**

If this Agreement is terminated as a result of the misuse of funds as reasonably determined by the MSF, MSF shall have no further obligation to make any payments to Contractor. Furthermore, Contractor shall reimburse MSF for payments which were expended for purposes other than those described in this Agreement, as well as any funds which were previously disbursed under this Agreement but not yet expended by Contractor.

AA) **Survival**

The terms and conditions of sections III, V(B), V(E), V(F), V(G), V(H), V(I), V(L), V(O), V(P), V(Q), V(S), V(U), V(W), V(X) and V(Z) shall survive termination of this Agreement.

**BB) Publicity**

At the request and expense of the MSF or the MEDC, the Contractor will cooperate with the MSF or the MEDC to promote the Scope of Work through one or more of the placement of a sign, plaque, media coverage or other public presentation at the project or other location acceptable to the Parties.

The signatories below warrant that they are empowered to enter into this Agreement.

**CONTRACTOR ACCEPTANCE:**

CONTRACTOR

Dated: \_\_\_\_\_

\_\_\_\_\_  
Authorized Signer  
Title

**MSF ACCEPTANCE:**

Michigan Strategic Fund

Dated: \_\_\_\_\_

\_\_\_\_\_  
Authorized Signer  
Title

**ATTACHMENT B**

**INDEPENDENT PRICE DETERMINATION AND  
PRICES HELD FIRM CERTIFICATION**

**INDEPENDENT PRICE DETERMINATION**

By submission of a proposal, the Bidder certifies, and in the case of a joint proposal, each party thereto certifies as to its own organization, that in connection with this proposal:

1. The prices in the proposal have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition as to any matter relating to such prices with any other Bidder or with any competitor;
2. Unless otherwise required by law, the prices which have been quoted in the proposal have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to award directly or indirectly to any other Bidder or to any competitor; and
3. No attempt has been made or will be made by the Bidder to induce any other person or firm to submit or not submit a proposal for the purpose of restricting competition.

Each person signing the proposal certifies that she/he:

- A) Is the person in the Bidder's organization responsible within that organization for the decision as to the prices being offered in the proposal and has not participated (and will not participate) in any action contrary to 1, 2, and 3 above; or
- B) Is not the person in the Bidder's organization responsible within that organization for the decision as to the prices being offered in the proposal but has been authorized, in writing, to act as agent for the persons responsible for such decision in certifying that such persons have not participated (and will not participate) in any action contrary to 1, 2, and 3 above.

A proposal will not be considered for award if this Attachment B has been altered so as to delete or modify 1 or 3, above. If 2, above, has been modified or deleted, the proposal will not be considered for award unless the Bidder provides, with this Attachment B, a signed statement which sets forth, in detail, the circumstances of the disclosure and the MEDC determines that such disclosure was not made for the purpose of restricting competition.

**PRICES HELD FIRM**

LENGTH OF TIME PRICES ARE TO BE HELD FIRM: All rates quoted in bidder's response to this RFP will be firm for the duration of the Contract. No price changes will be permitted.

Signed \_\_\_\_\_

Date \_\_\_\_\_

**MICHIGAN STRATEGIC FUND**

**RESOLUTION 2015-**

**MICHIGAN.ORG WEBSITE REBUILD REQUEST FOR PROPOSALS**

**WHEREAS**, Public Acts 215 and 225 of 2005 (“Act”) established the 21st Century Jobs Trust Fund initiative;

**WHEREAS**, the Michigan Economic Development Corporation (“MEDC”) provides administrative services to the Michigan Strategic Fund (“MSF”) for the 21<sup>st</sup> Century Jobs Fund initiative;

**WHEREAS**, under Section 88b(6) of the Act, the MSF may select all vendors for expenditures by issuing a request for proposals;

**WHEREAS**, the MSF wishes to solicit proposals to design and develop custom web site solutions for Michigan.org;

**WHEREAS**, the MEDC recommends that the MSF issue the attached RFP to invite proposals from vendors to design and develop custom web site solutions for the Michigan.org website (“Website Rebuild RFP”);

**WHEREAS**, the MSF Board reviewed the Website Rebuild RFP attached to this Resolution, which includes provisions required by the Act and establishes a standard process to evaluate proposals submitted as a result of the RFP; and

**WHEREAS**, the MSF Board desires to authorize issuance of the Website Rebuild RFP.

**NOW, THEREFORE, BE IT RESOLVED**, that the MSF Board authorizes the issuance of the Website Rebuild RFP; and

**BE IT FURTHER RESOLVED**, that the Board authorizes the MSF Fund Manager to modify the Website Rebuild RFP as may be necessary or appropriate, so long as the modifications are not materially adverse to the interests of the MSF.

Ayes:

Nays:

Recused:

Lansing, Michigan  
November 24, 2015