

GRAND TRAVERSE COUNTY
BROWNFIELD REDEVELOPMENT AUTHORITY

LIMITED REMBURSEMENT AGREEMENT

This Limited Reimbursement Agreement ("Agreement") is made on December 22, 2017, by and among **BOARDMAN WEST, L.L.C.**, a Michigan limited liability company of 3330 Elmwood Beach, Middleville, Michigan 49333 ("Boardman"), **MJLB LAND L.L.C.**, a Michigan limited liability company of 3330 Elmwood Beach, Middleville, Michigan 49333 ("MJLB"), **BOARDMAN LAKE DEVELOPMENT, L.L.C.**, a Michigan limited liability company of 202 E. State Street, Suite 100, Traverse City, Michigan 49684 ("BLD"), (collectively the "Owners"), and the **GRAND TRAVERSE COUNTY BROWNFIELD REDEVELOPMENT AUTHORITY** (the "GTCBRA"), a Michigan public body corporate, (collectively, the "Parties").

RECITALS

A. The Authority was formed pursuant to Act 381, Public Acts of Michigan, 1996, MCL 125.2651 et. seq. ("Act 381"), to promote the revitalization of environmentally distressed areas. The Authority and the Grand Traverse County Board of Commissioners approved the CSXT/Boardman Lake Brownfield Plan on March 15, 2000, as amended (the "Plan", attached as **Exhibit A**). The Authority and the County Board of Commissioners have since approved three amendments to the Plan, on April 25, 2001, October 27, 2010, and December 23, 2014, and have also approved three corresponding amendments to the Act 381 Work Plan ("Work Plan"). The property being redeveloped by Owners and subject to this Agreement is part of the Plan, as amended, and is legally described in **Exhibit B** ("Lake Ridge North Property").

B. Owners have completed certain eligible environmental activities on the Property pursuant to the approved Plan and Work Plan and have requested reimbursement for those eligible activities.

C. The GTCBRA has reviewed the request for reimbursement and has approved reimbursement of certain eligible environmental activities in the amount of \$242,860.54 (the "Approved Activities") as attached hereto in **Exhibit C**, subject to the terms of this Agreement.

In consideration of the mutual covenants contained in this Agreement, Owners and the Authority hereby enter into this Agreement for the limited purpose of reimbursement of the Approved Activities and agree as follows:

1. Reimbursement. The Project has used the Owners' own funds and Owners will receive reimbursement from the GTCBRA for the Approved Activities listed in the attached Exhibit C.
2. Limitation of Reimbursement. GTCBRA shall only be obligated to reimburse the Approved Activities attached as Exhibit C. The Agreement does not obligate GTCBRA to reimburse the Owners or any other party for eligible environmental activities not included in the Approved Activities. Notwithstanding anything in this Agreement to the contrary, this constitutes full and final payment for all environmental TIF eligible expenses for the project.
3. Indemnification. The Owners shall defend, indemnify and hold the County, the GTCBRA, and their members, officers, agents and employees ("Indemnified Persons") harmless from any loss, expense (including reasonable counsel fees) or liability of any nature due to any and all suits, actions, legal or administrative proceedings, or claims arising or resulting from the Approved Activities, including claims by Owners' Environmental Consultants or other Contractors. If any suit, action or proceeding is brought against any Indemnified Person, the Indemnified Person promptly shall give notice to the Owners and the Owners shall defend such Indemnified Person with counsel selected by the Owners, which counsel shall be reasonably satisfactory to the Indemnified Person. In any such proceeding, the Indemnified Person shall cooperate with the Owners and the Owners shall have the right to settle, compromise, pay or defend against any such claim on behalf of such Indemnified Person, except that the Owners may not settle or compromise any claim if the effect of doing so would be to subject the Indemnified Person to criminal penalties, unless such Indemnified Person gives its consent. The Owners shall not be liable for payment or settlement of any such claim or proceeding made without its consent. The Owners also shall indemnify the Indemnified Persons for all reasonable costs and expenses, including reasonable counsel fees, incurred in successfully enforcing or pursuing any obligation of or claim against the Owners under this Agreement or any related agreement. The indemnity provisions shall survive the term of this Agreement.
4. Designation of Developer Receiving Reimbursement. As contemplated in the Property Development and Sales Agreement, dated April 30, 2014, Developers agree that MJLB will be the sole developer entity to receive Tax Increment Revenue reimbursement distributed by the Authority under this Agreement, and shall receive such reimbursement for the benefit of Developers. As evidenced by **Exhibit D**, BLD expressly assigns its right to receive reimbursement for incurring Eligible Costs in furtherance of the Project to MJLB.
5. Eligible Activities and Due Care Obligation. The Owners covenant that they contracted with a competent and qualified environmental consultant

("Consultant") and/or other competent and qualified contractors ("Contractors") to conduct and complete the Approved Activities, and to meet any due care obligation under Sec. 20107a, NREPA, MCL 324.20107a and 324.20129a, in accordance with any MDEQ requirements and approval. The Owners Consultant and Contractors obtained all related permits for the eligible activities, and ensured that the Approved Activities were performed in accordance with any applicable state, federal, ASTM or other industry standards. Owners shall be responsible for compliance with any ongoing documentation and reporting requirements.

6. Regulatory Liaison and Data and Reports. Owners shall cause its Consultant or Contractors, as necessary, to provide communication to, and attend meetings with, the MDEQ and other agencies. In addition, Owners shall cause its Consultant or Contractors to disclose on request of the GTCBRA all data, reports and test results generated by the Consultant in connection with the Approved Activities.

7. Contractors and Subcontractors. Owners warrant and agree that no Consultant or Contractor (or any person, firm or corporation) hired by Owners to perform the Approved Activities represented itself to be, or otherwise act as an agent or employee of the GTCBRA. No act or omission of any Consultant, Contractor or any other person, firm or corporation hired by Owners shall impose any duty, commitment or obligation upon the GTCBRA (other than the obligation to reimburse the Approved Activities.

8. Non-Discrimination Clause. Neither the Owners, nor any Consultant or Contractor discriminated against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, or marital status. A breach of this provision may be regarded as a material breach of this Agreement.

9. Compliance With Laws. The Owners caused their Consultant and any Contractor to impose work orders on its employees, agents and subcontractors which were designed to assure that, while on the Lake Ridge North Property, they complied with all applicable federal, state and local laws and regulations (including occupational safety and environmental protection statutes and regulations) in performing the Approved Activities, and complied with any directions of governmental agencies relating to site safety, security, traffic or other like matters.

10. Remedies Upon Default. Upon the occurrence of an Event of Default, the non-defaulting party may terminate this Agreement by giving written notice to the defaulting party, and the defaulting party shall have thirty (30) days to cure the default. If the default is not cured by midnight on the thirtieth (30th) day, then the non-defaulting party shall have the right to terminate this

Agreement or, at the election of such non-defaulting party, may obtain any form of relief permitted under this Agreement, and any applicable laws and court rules of the State of Michigan, including the right to seek and obtain a decree of specific performance of a court of competent jurisdiction. Any right or remedy provided by a specific provision of this Agreement shall be deemed cumulative to, and not conditioned on, any other remedies upon default.

11. Term. The term of this Agreement shall commence on the date first written above and shall expire upon payment in full of GTCBRA's obligations of the Approved Activities attached as Exhibit C.

12. Assignment. Neither this Agreement nor any of the rights or obligations contained within it may be assigned or otherwise transferred by Owners, nor shall the benefits of this Agreement inure to the benefit of any trustee in bankruptcy, receiver or creditor of Owners, whether by operation of law or otherwise, without the prior written consent of the GTCBRA which will not be unreasonably delayed or withheld. Any attempt to assign or transfer this Agreement or any of its rights without such written consent shall be null and void and of no force or effect, and a breach of this Agreement.

13. Notices. All notices, certificates or communications required by this Agreement to be given shall be in writing and shall be sufficiently given and shall be deemed delivered when personally served, or when received if mailed by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective parties as follows:

If to GTCBRA:

Jean Derenzy, Grand Traverse County
Municipal Assistant to Authority pursuant to MCL 125.2657(5)
Grand Traverse County Brownfield Redevelopment Authority
400 Boardman Avenue
Traverse City, Michigan 49684

If to Boardman West, L.L.C.:

Bill Bowling, SIOR
Sherwood Financial
3330 Elmwood Beach
Middleville, Michigan 49333

If to MJLB Land, L.L.C.:

Bill Bowling, SIOR
Sherwood Financial
3330 Elmwood Beach

Middleville, Michigan 49333

to Boardman Lake Development, L.L.C.:

Bill Bowling, SIOR
Sherwood Financial
3330 Elmwood Beach
Middleville, Michigan 49333

or to such other address as such party may specify by appropriate notice.

14. Amendment and Waiver. No amendment or modification to or of this Agreement shall be binding upon any party hereto until such amendment or modification is reduced to writing and executed by all parties hereto. No waiver of any term of this Agreement shall be binding upon any party until such waiver is reduced to writing, executed by the party to be charged with such waiver, and delivered to the other parties hereto.

15. Entire Agreement. This Agreement contains all agreements between the parties. There are no other representations, warranties, promises, agreements or understandings, oral, written or implied, among the parties, except to the extent reference is made thereto in this Agreement.

16. Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument. Executed counterparts delivered by facsimile or by electronic means shall for all purposes be as effective as delivery of an original, executed counterpart.

17. Captions. The captions and headings in this Agreement are for convenience only and in no way limit, define or describe the scope or intent of any provision of this Agreement.

18. Applicable Law. This Agreement shall be governed in all respects, whether as to validity, construction, performance and otherwise, by the laws of the State of Michigan.

19. Binding Effect. This Agreement shall be binding upon the parties hereto, and in the event of an approved assignment, upon their respective successors, transferees, and assigns. Owners shall provide written notice prior to transfer or assignment of any of Owners' interests to any subsequent purchaser and assign of the existence of this Agreement.

20. No Waiver. No waiver by either party of any default by the other party in the performance of any portion of this Agreement shall operate or be construed as a waiver of any future default, whether like or different in character.

21. Survival of Covenants. Except for the financial obligations, the covenants and provisions shall survive the term of this Agreement.

22. No Third Party Beneficiaries. This Agreement shall not be deemed or construed to create any rights to reimbursement or otherwise in the Environmental Consultant, Contractors, Subcontractors, or any third parties. This Agreement shall not be construed to create any third party beneficiary contract or claim, and the parties intend there to be no third party beneficiaries.

IN WITNESS WHEREOF, the GTCBRA and the Owners have caused this Agreement to be duly executed and delivered as of the date first written above.

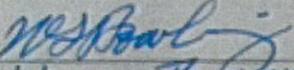
BOARDMAN WEST, L.L.C.


By: William Boardman
Its: Partner

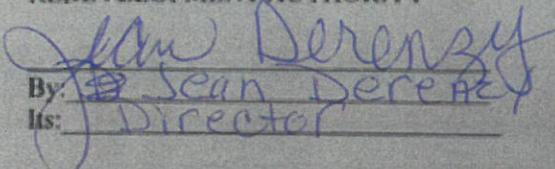
MJLB LAND, L.L.C.


By: William Boardman
Its: Partner

BOARDMAN LAKE DEVELOPMENT, L.L.C.


By: William Boardman
Its: Partner

GRAND TRAVERSE COUNTY BROWNFIELD
REDEVELOPMENT AUTHORITY


By: Sean Derecky
Its: Director