

**EBR REDEVELOPMENT AUTHORITY - [PURCHASING ENTITY]
MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding ("**Memorandum**") dated as of _____ ("**Effective Date**"), sets forth the understanding in principle and evidences the good faith intentions to negotiate and enter into the Definitive Agreements, by and between:

THE EAST BATON ROUGE REDEVELOPMENT AUTHORITY (herein simply referred to as the "**Authority**"), whose permanent mailing address is declared to be 801 North Boulevard, Suite 200, Baton Rouge, Louisiana, 70802, represented by its Interim President and CEO, Gwendolyn P. Hamilton, by virtue of the Certificate of General Empowering Resolution of its Board of Commissioners, a copy of which is attached for reference; and

and

[PURCHASING ENTITY]
 ("**Purchaser**")

(collectively, "**Parties**"). Capitalized terms shall have the meanings given them in Article 1.

**ARTICLE 1
DEFINITIONS**

As used in this Memorandum, the following words shall, when capitalized, have the meanings ascribed to them herein:

(a) "**Adjudicated Property**" shall mean any property acquired by the Parish pursuant to an adjudication or expropriation proceeding.

(b) "**Applicable Laws**" shall mean all laws, ordinances, statutes, rules, or regulations set forth by any governing entity with authority over the property or the party to which it is applied.

(c) "**Appraisal**" shall mean a third party appraisal prepared by a professional, licensed appraiser in East Baton Rouge Parish acceptable to the Authority, which sets forth the fair market value of the Identified Property, which costs shall be borne solely by Purchaser.

(d) "**Authority**" shall mean the East Baton Rouge Redevelopment Authority, its successors and assigns.

(e) "**Binding Provisions**" means the provisions set forth in Article 4 of this Memorandum, which shall constitute the legally binding and enforceable agreements between the Parties.

(f) "**CEA**" shall mean the Cooperative Endeavor Agreement by and between the Authority and the Purchaser wherein the Parties agree to certain terms and conditions related to the conveyance of the Property.

(g) **“CPP Compliance Requirements”** shall mean the minimum criteria required to be met for Transferred Property to be included in the Community Partnership Program, as more fully described in Section 2.14(d).

(h) **“Closing Conditions”** shall mean the conditions precedent to closing the transfer of the Identified Properties, as more fully set forth in Section 3.10

(i) **“Closing Date”** shall mean the date set for closing, which shall be within sixty (60) days from the date the judgment quieting title to the Identified Property is recorded in the 19th Judicial Court for the Parish, but in no event later than six (6) months from the Purchase Agreement Effective Date.

(j) **“Community Partners”** shall mean qualified individuals or entities selected by the Authority to participate in the Community Partnership Program.

(k) **“Community Partnership Program”** or **“CPP”** shall mean the program created by the Authority to allow qualified individuals and entities to acquire Transferred Properties from the Authority for redevelopment in accordance with the RDA Mission.

(l) **“Deed”** shall mean the document recorded in the official conveyance records for the Parish of East Baton Rouge transferring the Property from the Authority to the Purchaser, in the form of a Special Warranty Deed.

(m) **“Definitive Agreements”** shall mean the agreements produced as a result of the agreements contained herein, including but not limited to the Purchase Agreement, CEA, Final Redevelopment Plan, Transfer Document, Option Agreement, and such other documents as are necessary to consummate the Transaction.

(n) **“Designated Property”** shall mean any Adjudicated Property designated by the Authority for transfer from the Parish to the Authority.

(o) **“Diligence Period”** shall mean the period commencing on the Purchase Agreement Effective Date and ending on the date which is sixty (60) days from such date.

(p) **“Effective Date”** shall mean _____.

(q) **“Final Redevelopment Plans”** shall mean the drawings, plans and other documents to be prepared by Purchaser, at its expense, which includes the Final Site Plan; Plans and Specifications; proposed final elevations for the Project together with preliminary recommendations for general exterior materials; final Project timeline; final construction cost estimate; final schedule of proposed uses and densities for the Project; and all other information reasonably required by the Authority.

(r) **“Final Site Plan”** shall mean the final site plan for the Project, which is reflective of the professionally drafted set of plans and specifications prepared by a licensed, certified architect or engineer and which adheres to the Parish’s site plan approval process.

(s) **“Identified Property”** shall mean the Transferred Property identified by Purchaser as fitting Purchaser’s Initial Redevelopment Plan.

(t) **“Initial Redevelopment Plan”** shall mean the Initial Site Plan and preliminary plans developed by Purchaser to show the intended final use of the Project, which shall be subject to the Authority’s approval.

(u) **“Initial Site Plan”** shall mean the initial site plan showing the layout of improvements on the property constituting the Project.

(v) **“Memorandum”** shall mean this Memorandum of Understanding and any attachments, amendments or modifications hereto.

(w) **“Nonbinding Provisions”** means all provisions of this Memorandum other than the Binding Provisions.

(x) **“Parish”** shall mean East Baton Rouge Parish.

(y) **“Parties”** shall mean the parties to this Memorandum, which shall be the Authority and the Purchaser.

(z) **“Permitted Use”** shall mean the permitted use of the Identified Property upon completion of the Project, as more fully described in Section 3.3 below, which Permitted Use restriction shall be incorporated into the Transfer Document and shall be a restriction on the land.

(aa) **“Plans and Specifications”** shall mean all plans and specifications for the construction of the each component of the Project together with the landscaping plan and Final Site Plan as to the exterior elevations, landscaping, signage and Final Site Plan.

(bb) **“Price Approval Notice”** shall mean the written notice delivered by Purchaser to the Authority notifying the Authority that Purchaser intends to enter into the Purchase Agreement for the Identified Property based on the determination of the estimated Purchase Price.

(cc) **“Project”** shall mean the [brief description of the Project – residential, retail, commercial, square footage, intended use, units]

(dd) **“Purchase Agreement”** shall mean the real estate purchase and sale agreement wherein the Authority agrees to convey the Property to the Purchaser pursuant to the terms and conditions contained therein.

(ee) **“Purchase Agreement Effective Date”** shall mean the date on which the Purchase Agreement is made effective.

(ff) **“Purchase Price”** shall mean the estimated purchase price for the Identified Property, which shall be the greater of the fair market value established in the Appraisal or the Transaction Cost.

(gg) **“Purchaser”** shall mean _____, and its permitted successors and assigns.

(hh) **“Quiet Title Process”** shall mean the process set forth in the RDA Statute for the quieting of title to property.

(ii) **“RDA Statute”** shall mean Louisiana Revised Statute Title 33, Chapter 13-I, as amended from time to time.

(jj) **“RDA Mission”** shall mean the mission of the Authority, as more fully set forth in Section 2.3 below.

(kk) **“Sheriff”** shall mean the sheriff of East Baton Rouge Parish, or his designee.

(ll) **“Surviving Obligations”** shall mean the responsibilities and obligations of each Party identified in the Definitive Agreements which are stated to survive termination of such agreement, including, but not limited to, Purchaser’s obligation to pay Transaction Costs.

(mm) **“Termination Date”** shall mean the earlier of _____, or the date this Memorandum is terminated according to its terms.

(nn) **“Title Agent”** shall mean Baronne Title Company as agent for First American Title Insurance Co.

(oo) **“Transaction”** shall mean the transaction contemplated in this Memorandum, which shall include negotiation and execution of the Definitive Agreements, transfer of the Identified Properties, and completion of the Project.

(pp) **“Transaction Costs”** shall mean the costs of the Transaction, incurred by either Party, including attorneys’ fees, appraisal fees, fees and costs related to the Quiet Title Process, architects fees, recording fees, lawn maintenance, insurance and other fees reasonably related to the Transaction.

(qq) **“Transaction Cost Advance”** shall mean the non-refundable advance required to be paid to the Authority on the Effective Date.

(rr) **“Transfer Document”** shall mean the Act of Sale, Special Warranty Deed, Act of Donation, Act of Exchange, or other document recorded in the official conveyance records of the Parish and transferring the Identified Property to the Purchaser.

(ss) **“Transferred Property”** shall mean Adjudicated Properties that have been transferred by the Parish to the Authority.

ARTICLE 2

GENERAL RECITALS

Section 2.1 RDA Statute. The Authority was created pursuant to Chapter 13-I of Title 33 of the Louisiana Revised Statutes of 1950 (East Baton Rouge Redevelopment Authority) (**“RDA Statute”**), for the purpose, among others, of providing a public body with the authority to redevelop, renew, salvage and reconstruct blighted and distressed areas within the Parish of East Baton Rouge (**“Parish”**).

Section 2.2 Public Purpose. Under the RDA Statute, the Authority is granted powers for public uses, purposes, welfare, and utility for which public money may be expended

as necessary and in the public's interest, as determined by the Louisiana State Legislature, and the RDA Statute authorizes the Authority to enter into intergovernmental agreements in order to achieve its purposes.

Section 2.3 RDA Mission. The Authority was created to address slums, blighted, and distressed areas within the Parish. Slum, blighted, and distressed properties are economic and social liabilities that consume a disproportionate amount of Parish revenues because of the extra services required for police, fire, accident, and other forms of public protection, services, and facilities. The prevention and elimination of such areas by improving the conditions of the deteriorated physical development, slowed economic growth, and eroded financial health of the public and private sectors created by such areas is a matter of public policy and concern. The Authority has been tasked with formulating workable programs that utilize appropriate private and public resources to eliminate and prevent the development or spread of slums and blight, to encourage and provide for needed rehabilitation or redevelopment of such areas, and to undertake other feasible parochial activities as may be suitably employed to achieve the objectives of such programs ("**RDA Mission**").

Section 2.4 Adjudicated Properties. The City-Parish has acquired rights in certain full and/or partial immovable property within the Parish pursuant to adjudication and/or expropriation proceedings (individually "**Adjudicated Property**" and collectively, "**Adjudicated Properties**").

Section 2.1 Transferred Property. Pursuant to an Amended and Restated Cooperative Endeavor Agreement between the Parish and the Authority, the City-Parish has transferred and shall continue to transfer Adjudicated Properties (individually, "**Transferred Property**" and collectively, "**Transferred Properties**") to the Authority in order to promote the creation of residential, commercial, or retail development on the Transferred Property, the result of which will support the RDA Mission.

Section 2.2 Designated Properties. Additionally, in order to prioritize projects that will create an immediate impact in distressed areas of the Parish, the Authority shall have the right to designate from time to time one or more Adjudicated Properties as "**Designated Properties**" due to such Adjudicated Properties' location, use, or potential for redevelopment prior to such property being transferred to the Authority as described in Section 2.1.

- (a) Except as required by law, including, without limitation, the rights of persons to redeem any Designated Property,
 - (i) The City-Parish will not convey a Designated Property to any person other than the Authority; and
 - (ii) The Sheriff will not accept any redemption of a Designated Property which is not required by law.

Section 2.3 Quiet Title Process. The Authority may elect to "quiet title" to any of the Transferred Property pursuant to the RDA Statue ("**Quiet Title Process**"). The judgment resulting from the Quiet Title Process shall vest clear title in such property in the Authority, subject only to a party's right to claim absolute nullity based on Constitutional due process claims.

Section 2.4 Community Partnership Program. It is the goal of the Authority to support and implement the RDA Mission, among numerous other strategies, policies, practices, procedures, programs, grants and plans, by transferring one or more of the Transferred Properties to third party purchasers who support one or more components of the RDA Mission and propose to redevelop Transferred Properties in furtherance of the RDA Mission and in full compliance with all applicable laws, ordinances, requirements, rules and regulations (individually and collectively "**Applicable Laws**"). The Authority has created the Community Partnership Program ("**CPP**") to implement the RDA Mission.

(a) Eligible Participants. As part of the CPP, the Authority works with qualified persons ("**Community Partners**") to bring adjudicated properties within the community back into productive use.

(i) "**Community Partners**" may be defined as individuals, not-for-profit organizations, for-profit organizations, and partnerships containing any of these three that are aligned in mission with the community and possess the necessary capacity to return property to productive use.

(ii) Community Partners that help facilitate the RDA Mission and comply with the CPP standards and requirements may enter into agreements as purchasers with the Authority to transfer acquired parcel(s) for neighborhood and community development.

(iii) The Community Partner must possess the necessary capacity to return the property to productive use and be aligned in mission with the Authority and the community.

(iv) The Community Partner must represent that the redevelopment of the property will meet the RDA Mission as set forth in the application to the CPP.

(b) Eligible Property. Parcels of property eligible for inclusion in the CPP shall meet the following minimum criteria ("**CPP Compliance Requirements**"):

(i) The property shall not have been selected through the Authority's Adjacent Lot Program.

(ii) The property shall not have been selected for the Authority's Major Projects Program.

(iii) The property shall consist of individual non-buildable lots, individual buildable lots, or clusters of lots with appropriate proximity to each other to achieve impact in the selected tracts.

(iv) The purchaser must not own any real property (including all other property in East Baton Rouge Parish) that is subject to any un-remediated citation of violation of the state and local codes and ordinances.

(v) The purchaser must not own any real property (including all other property in East Baton Rouge Parish) that is tax delinquent.

(vi) Upon transfer through the CPP, the purchaser shall be required to maintain the property in compliance with current housing, health, and safety codes.

Section 2.5 Purchaser Business. Purchaser is a [Note: this section is to be submitted by the Purchaser for review.]. The Authority has agreed to consider Purchaser a Community Partner for the purpose of accepting Purchaser's application to acquire certain Identified Property (as more specifically described below) pursuant to the CPP.

Section 2.6 Acquisition of Identified Property. Purchaser has identified one or more Transferred Properties which is more fully described on **Exhibit 1** (collectively, "Identified Property".)

(a) Purchaser has proposed to acquire the Identified Property and redevelop the Identified Property as the Project pursuant to the CPP, in accordance with Purchaser's Final Redevelopment Plan and all required governmental approvals.

(b) Each of the Parties hereto has determined that the acquisition and redevelopment of the Identified Property into the Project and used for the Permitted Use by the Purchaser meets the RDA Mission in that it will serve a public purpose and will create a public benefit and social value to the neighborhood and the community at large.

Section 2.7 Definitive Agreements. The execution and return of this Memorandum will evidence that the Parties are both continuing to bargain in good faith consistent with the terms of this Memorandum with a view towards signing the Definitive Agreements as soon as possible, each understanding that the other is incurring expenses during negotiations. The Definitive Agreements must be approved by the Authority's Board of Commissioners. To fully set forth the terms and conditions of the acquisition and development of the Identified Properties, the Parties shall negotiate in good faith to enter into the Definitive Agreements, including but not limited to:

(a) a Purchase Agreement, more fully setting forth the terms and conditions for the acquisition and sale of the Identified Properties;

(b) a Cooperative Endeavor Agreement, entered into pursuant to Article VII, Section 14(C) of the Louisiana Constitution of 1974, as amended, ("**Constitution**") providing that for a public purpose, political subdivisions such as the Authority may engage in cooperative endeavors, such as the Transaction, with other political subdivisions, private associations, corporations or individuals, such as the Purchaser;

(c) a Transfer Document in which the Authority will convey the Identified Property to the Purchaser, which shall contain language restricting the use of the Project to the Permitted Use;

(d) an Option Agreement permitting the Authority to acquire the Identified Property in the event of a default of the Definitive Agreements; and

(e) any such other documents as may be necessary to consummate the Transaction.

Section 2.8 Transaction Costs. Purchaser acknowledges that the Authority will incur costs and expenses related to the Transaction, including without limitation, attorneys' fees, appraisal fees, fees and costs related to the Quiet Title Process, architects fees, recording

fees, lawn maintenance, insurance and other fees reasonably related to the Transaction (individually and collectively "**Transaction Costs**").

(a) Purchaser agrees to pay any and all of the Authority's Transaction Costs, whether or not the Transaction proceeds to closing, which are presently estimated to be \$8,500.00 per Identified Property.

(b) Upon execution of this Memorandum, Purchaser shall pay a non-refundable advance of \$1,500.00 per Identified Property to the Authority to pay for the initial Transaction Costs of the Transaction ("**Transaction Costs Advance**").

(i) The Transaction Costs Advance will be used to, among other costs, purchase the Appraisal and property abstract for each Identified Property.

Section 2.9 Non-Binding Provisions. Except for the provisions of Article 4 of this Memorandum, each Party acknowledges that this Memorandum is not intended to create or constitute a legally binding obligation on either Party, and neither Party shall have any liability to the other with respect to the provisions hereof ("**Non-Binding Provisions**") unless and until the Definitive Agreements are prepared, negotiated, authorized, executed and delivered by the Parties.

Section 2.10 Termination. If the Definitive Agreements are not prepared, negotiated, authorized, executed and delivered by the Parties prior to the Termination Date (as defined in Section 2.7 below), except for the provisions of the Binding Provisions section, this Memorandum shall terminate, be null, void and of no effect, and neither Party shall have any liability to the other under this Memorandum.

ARTICLE 3

NON-BINDING PROVISIONS

The following provisions shall be non-binding until memorialized in Definitive Agreements executed by the Parties:

Section 3.1 Identified Property. Subject to satisfaction of the Closing Conditions, the Authority shall transfer the Identified Property for the redevelopment of the Identified Property pursuant to the Initial Redevelopment Plan and utilizing the Initial Site Plan.

Section 3.2 Purchase Price.

(a) The purchase price for the Property shall be the greater of (1) the fair market value of the Identified Property as determined by the Appraisal; or (2) the Transaction Cost.

(i) The Appraisal shall be ordered by the Authority and delivered to Purchaser within thirty (30) days of the Effective Date.

(ii) Purchaser shall, within fifteen (15) days from the delivery of the Appraisal, deliver to the Authority written notice of its decision whether to continue with or cancel the Transaction based on the determined Purchase Price ("**Price Approval Notice**"). If

written notice is not received by the Authority by the close of business on the 15th day, Purchaser shall be deemed to have rejected the Purchase Price and this Memorandum shall be automatically terminated without further action by the Parties.

(iii) The cost of the Appraisal shall be deemed a Transaction Cost.

Section 3.3 Permitted Use.

(a) The use of the Identified Property and the Project developed thereon shall be restricted to the Permitted Use, which shall in all instances be limited to uses which satisfy the RDA Mission.

(b) The Permitted Use restriction shall be incorporated in the Purchase Agreement and the Transfer Document.

Section 3.4 Prohibited Use. Notwithstanding the Permitted Use, the Identified Property shall not be used in a manner that:

- (a) constitutes a nuisance (whether public or private) or trespass;
- (b) fails to comply with all Applicable Laws;
- (c) creates or permits any noise or sound that emits from the Identified Property that is objectionable due to intermittence, beat, frequency, shrillness or loudness;
- (d) produces or emits any obnoxious odor;
- (e) produces or emits any noxious, toxic, caustic or corrosive fuel or gas;
- (f) produces or permits any fire, explosion or other damaging or dangerous hazard (including the storage, display or sale of explosives or fireworks); provided, however, that this prohibition shall not prohibit the lawful and customary use of cleaning and other products that are intended for the maintenance of the Project;
- (g) operates as a second hand store, flea market, fire sale, bankruptcy sale (unless pursuant to a court order), auction house operation, laundry, cemetery, mortuary or crematorium or other funeral establishment;
- (h) distributes, sells, permits viewing or use of pornographic material;
- (i) manufactures, uses, stores or releases any hazardous substances;
- (j) allows or permits any emission of any substance, gas, particulate matter, audio, radio, or infrared electromagnetic wave frequency or other form of radiation that materially interferes with a neighboring property;
- (k) operates a bingo parlor, off-track betting facility, casino or other gambling facility or operation, including off-track betting and sports betting parlors, permits the play of table games such as black-jack and poker, slot machines, video gambling machines and similar gambling devices (but this subparagraph shall not prohibit government-sponsored gambling activities or charitable gambling activities if such activities are incidental to the Permitted Use);

(l) operates as a tavern, bar, night club, dance hall, discotheque or any establishment selling alcoholic beverages for on-premises consumption, other than incidental to the Permitted Use (but this paragraph shall not prohibit any restaurant or other establishment merely because the word “tavern” is contained in the name of such restaurant or other establishment);

(m) operates as a pool or billiard parlor or hall (billiard tables as part of the operation of a restaurant or retail store are not prohibited), game room, game arcade or amusement center;

(n) operates a massage parlor, topless club or tattoo parlor (but this subparagraph shall not prohibit massages in connection within beauty salons, athletic facilities, health clubs or fitness centers);

(o) permits or allows any automobile, truck, trailer or R.V. sales, leasing, display or repair; and/or

(p) permits any assembling, manufacturing, distilling, refining, smelting, agricultural or mining operation.

Section 3.5 Security Deposit: In addition to the Transaction Cost Advance, Purchaser will tender on the Purchase Agreement Effective Date any additional deposit necessary to equal to eight and one have percent (8.5%) of the Purchase Price (as determined by Section 3.2(a) assuming Transaction Costs of \$8,500) less the Transaction Cost Advance as a security deposit, which shall not be earnest money, to be held by the Title Agent subject to an escrow agreement to be incorporated in the Definitive Agreements.

Section 3.6 Survey.

(a) The Authority shall not be required to provide the Purchaser with a current survey of the Identified Property.

(b) If Purchaser requests a survey be prepared, the cost associated for the survey will be considered a Transaction Cost.

Section 3.7 Due Diligence Period.

(a) The Purchase Agreement shall provide the Purchaser with a sixty (60) day due diligence period (“**Diligence Period**”) commencing on the Purchase Agreement Effective Date, as may extended by mutual written agreement between the Parties.

(b) Purchaser, during the Diligence Period, shall conduct any investigations, reports, surveys, soil analyses, test piles, engineering studies, and such other due diligence investigations and analyses in, on and to the Identified Property necessary to ascertain the suitability of the Identified Property for the Project. Such investigations may include but shall not be limited to: title, environmental site assessments, and/or ALTA/ACSM surveys.

(c) If Purchaser determines on or before the expiration of Diligence Period that the Identified Property is not suitable for the Project and the Permitted Use, the Purchase Agreement will provide that Purchaser will have the right to terminate the Definitive Agreements

but the Purchaser shall remain responsible for the actual Transaction Costs incurred by the Authority up to the date of such termination.

(d) During the Diligence Period, the Authority will afford Purchaser's employees, auditors, legal counsel, and other authorized representatives all reasonable opportunity and access during normal business hours to inspect and investigate the Identified Property. Purchaser will conduct this inspection and investigation in a reasonable manner during regular business hours and shall be responsible for all repairs necessary to place the Identified Property in the same condition in which it may be found on the Purchase Agreement Effective Date.

Section 3.8 Quiet Title Process.

(a) Upon receipt of the Price Approval Notice, the Authority shall commence the Quiet Title Process and proceed to clear the title to the Identified Property in good faith until completion.

(b) It is estimated that the Quiet Title Process will take up to One Hundred and Fifty (150) days to complete.

(c) If the Quiet Title Process has not been completed within 150 days of the date the petition to quiet title is filed with the Clerk of Court for the Parish, either Party may terminate the Definitive Agreements and, except for the responsibilities and obligations of each Party identified in the Definitive Agreements which survive the termination ("**Surviving Obligations**"), including Purchaser's obligation to pay Transaction Costs accrued by the Authority up to the date of termination, the Parties will have no further obligations under the Definitive Agreements.

Section 3.9 "As Is" Condition. The Identified Property will be transferred by the Authority to the Purchaser in its "as is" condition without any warranties whatsoever. The Transfer Document shall contain language limiting the Authority's liability for the condition of the Identified Property, it being understood that the Authority has not been an active owner or user of the Identified Property, and is acting merely as a conduit to quiet the title of the Identified Property and put such property back into productive use in furtherance of the RDA Mission.

Section 3.10 Closing Conditions The Closing Date shall be scheduled pursuant to the Purchase Agreement, within sixty (60) days after receipt of a final signed judgment in the Quiet Title Process filed in the 19th Judicial District Court quieting title to the Identified Property, but in no event more than six (6) months after the Purchase Agreement Effective Date. Prior to the Closing Date, the following Closing Conditions must have been satisfied or waived by the Parties:

(a) Final Development Plan. The Authority must have given its approval of the Final Redevelopment Plan which shall include the following components:

- (i) the complete ownership structure for the Project;
- (ii) if the Project consists of property other than the Identified Property, evidence that the Purchaser has ownership and/or binding and enforceable agreements to purchase all of the property required for the Project ("**Project Property**");

- (iii) evidence that there are no impediments to the acquisition of the Project Property which is to be acquired by Purchaser, including without limitation, title, survey, appraisal, environmental, soil and financing;
- (iv) the Final Site Plan;
- (v) conceptual building elevations and exterior building materials and design standards;
- (vi) construction budget including hard and soft costs;
- (vii) construction phasing and timeline;
- (viii) prospective tenants, if applicable; and
- (ix) design elements which implement sustainability and/or smart growth principals.

(b) Zoning. The Authority must receive evidence that the Identified Property has been properly zoned for the Project and the Permitted Use.

(c) Site Plan. The Authority must receive evidence from the Parish Planning Commission approving the Final Site Plan.

(d) Financing. The Purchaser has delivered to the Authority binding commitments for the cost of the Identified Property and the Project which are acceptable to the Authority.

(e) Plans and Specifications. The Authority has approved the Purchaser's Plans and Specifications.

(f) Construction Agreement. The Purchaser must have delivered to the Authority a fully executed construction agreement from a general contractor for the development of the Project.

(g) Building Permit. Purchaser must have delivered to the Authority a building permit issued for the construction of the Project.

(h) Purchaser's Due Diligence. The Purchaser must be satisfied with the condition of the Identified Property and must have not terminated the Purchase Agreement during the Diligence Period.

Section 3.11 Purchaser Post Closing Obligations: To satisfy the RDA Mission, the Project must be complete, and the Identified Property used for the Permitted Use within a reasonable time from the Closing Date. Therefore, the Authority shall impose redevelopment time limits on the construction and operation of the Project. These requirements shall be subject to the specific terms of the Definitive Agreements, which may extend, shorten, eliminate or more greatly define such terms, in which case the Definitive Agreements shall supersede this Section 3.11. To further the RDA Mission, subject to the Definitive Agreements, the Authority

sets forth herein the following requirements to be satisfied by Purchaser following the Closing Date:

(a) **Construction Commencement Obligation:**

- (i) Purchaser and/or its assigns shall commence construction within sixty (60) days of the Closing Date and shall continue such construction diligently until the Project is completed.
- (ii) In the event of default of the obligation to timely commence construction, in addition to other remedies provided in the Definitive Agreements, the Authority shall have the right to charge the Purchaser a per diem default penalty of Two Hundred Fifty Dollars (\$250) per day. In the event that the default continues for ninety (90) days from the Closing Date, the Authority shall have the option to acquire the Identified Property free and clear of any encumbrance arising subsequent to the Closing Date. In the event the Identified Property is re-conveyed to the Authority, the per diem penalty shall terminate.

(b) **Project Opening:**

- (i) The Project shall be completed and operational within eighteen (18) months of commencement of construction, subject to delays occasioned by force majeure.
- (ii) In the event of default of the obligation to timely commence construction, in addition to other remedies provided in the Definitive Agreements, the Authority shall have the right to charge the Purchaser a per diem default penalty of Two Hundred Fifty Dollars (\$250) per day.

(c) **Operation Obligation:**

- (i) The Project must be continuously operated in accordance with the Permitted Use for a period of not less than five (5) years ("**Operation Obligation**") from the date the Project is opened.
- (ii) In the event of a default of the Operation Obligation, Purchaser shall have six (6) months to resume operations of the Project in accordance with the Permitted Use. Failure to resume operations within this time frame shall result in a default under the Definitive Agreements, allowing the Authority to seek all equitable and legal remedies thereunder which may include reconveyance of the Identified Property to the Authority.

ARTICLE 4 BINDING PROVISIONS

Upon execution of counterparts of this Memorandum by the Parties, the following provisions will constitute the legally binding and enforceable agreement of the Parties ("**Binding Provisions**"):

Section 4.1 CPP Compliance Requirements. Purchaser acknowledges and represents that the Purchaser and the Identified Property comply with the CPP Compliance Requirements.

Section 4.2 Transaction Costs. Purchaser acknowledges and agrees to be responsible for any and all actual Transaction Costs accrued by the Authority whether or not the Definitive Agreements are executed and/or the Purchase Agreement is terminated prior to the Closing Date.

Section 4.3 Confidentiality.

(a) Except as required by law, the Parties and their respective assigns shall keep matters pertaining to this Memorandum, any information provided by another Party, and the details of the Transaction confidential, provide however the Parties may disclose necessary information to their respective attorneys, tax specialists, affiliates, financing sources, insurance agents and third party contractors.

(b) Purchaser acknowledges that the Authority is a public body which is subject to Louisiana Public Records laws.

(c) Except as and to the extent required by law, without the prior written consent of the other Party, neither Party will, and each will direct its representatives and members not to make, directly or indirectly, any public comment, statement, or communication with respect to, or otherwise to disclose or to permit the disclosure of the existence of the discussions regarding, a possible transaction between the Parties of any of the terms, conditions, or other aspects of the transaction proposed in this Memorandum. If a Party is required by law to make any such disclosure, it must first provide to the other Party the content of the proposed disclosure, the reasons that such disclosure is required by law and the time and place that the disclosure will be made.

Section 4.4 Costs. Purchaser shall bear all costs of the Transaction, including the cost for its attorneys, accountants and other professional fees, or other costs incurred by Purchaser, as well as the costs of the Authority, all of which shall be included as "Transaction Costs".

Section 4.5 Governing Law. The substantive laws of the State of Louisiana shall govern the validity, construction, enforcement and interpretation of this Memorandum, without regard to its principles of conflicts of law.

Section 4.6 Indemnity. Purchaser shall indemnify and hold harmless the Authority, the Authority's officials, agents, servants, employees, insurers, successors, and assigns, and those deriving any right from or against the Authority from and against any and all liabilities, losses, claims, expenses, costs, damages (including without limitation, punitive and/or exemplary damages), demands, suits, actions, recoveries, and judgments of every nature and

description whatsoever, arising out of, incident or pertaining to (a) the performance or non-performance by the Purchaser and/or (b) the acts or failure to act of the Purchaser 's contractors, agents, servants, employees, or officials pertaining to this Memorandum.

Section 4.7 Assignment. Purchaser shall not have the right to assign this Memorandum without the written consent of the Authority.

Section 4.8 No Partnership.

(a) Nothing in this Memorandum shall be deemed or construed by the Parties hereto, or by any third party, as creating a relationship of employer and employee, principal and agent, or of partnership or joint venture between the parties hereto.

(b) Nothing herein shall be construed to authorize any Party to employ persons as employees of any other party, nor shall any party be required to employ any such person in connection with this Memorandum.

(c) All personnel supplied or used by a Party shall be employees or contractors of such party and shall not be employees or contractors of any other party.

(d) No benefits of employment of a party shall be available to any other Party's personnel. Each party shall be solely responsible for all matters relating to the payment of its employee(s), including compliance with social security, withholding, and all other regulations governing such matters and shall be solely responsible for such party's subordinates and employees.

Section 4.9 Brokerage Commissions. The Parties acknowledge that neither have contracted for the services of any brokers, consultants, or realtors in connection with the Transaction, and will indemnify and hold the other harmless from and against any and all liability, cost, expense, fees, or commission by any such person claiming by or through them for a brokerage, consultant's or realtors fee or commission, in connection with this Transaction.

Section 4.10 Notices. All notices or other communications required by or given under this Memorandum shall be in writing and shall be delivered by hand, sent by facsimile or sent postage prepaid by registered, certified or express mail or reputable overnight courier service. Notice shall be deemed given when so delivered by hand or facsimile; if mailed, three (3) days after mailing; or if by express mail or overnight courier service, on the next business day. Notices shall be given to the parties at the following addresses:

Authority: The East Baton Rouge Parish Redevelopment Authority
801 North Boulevard
Baton Rouge, Louisiana 70802
Attn: Gwendolyn P. Hamilton

with copy to:
Jones Walker
Suite 500
8555 United Plaza Boulevard
Baton Rouge, Louisiana 70809

Purchaser:

with copy to:

Section 4.11 Termination Date. The Parties will use good faith efforts to negotiate, prepare, authorize, approve and deliver to the other the Definitive Agreements on terms and conditions acceptable to the Parties on or before _____, 2012 ("**Termination Date**"). In the event the Definitive Agreements are not executed and delivered by both Parties prior to the Termination Date this Memorandum shall be null, void and of no effect.

Section 4.12 Counterparts. This Memorandum may be executed in multiple counterparts, each of which will be deemed an original, but all of which together will constitute only one agreement. The signatures of the Parties hereto need not appear on the same counterpart, and delivery of an executed counterpart signature page by facsimile or portable document format (.PDF) is as effective as executing and delivering this Memorandum in the presence of the other party hereto.

IN WITNESS WHEREOF, the Parties have executed this Memorandum on the dates set forth below.

Witnesses:

Print Name: _____

Print Name: _____

Authority:

**EAST BATON ROUGE PARISH
REDEVELOPMENT AUTHORITY**

By: Gwendolyn P. Hamilton, Interim President and CEO

Dated: _____, 2012

Witnesses:

Print Name: _____

Print Name: _____

Purchaser:

By: _____

Dated: _____, 2012

**EXHIBIT 1
IDENTIFIED PROPERTY**

DRAFT