

MAINTENANCE AGREEMENT

This agreement (this "Agreement") is made and entered into this 9th day of February, 2016, by and between the City of Detroit, a body public, through its Department of Public Works (the "City"), and 660 Woodward Associates LLC, a Michigan limited liability company ("Owner").

NOW THEREFORE, for valuable consideration, including the covenants and undertaking herein contained, it is mutually agreed as follows:

- 1. Purpose of Agreement:** Owner holds title to a certain building described in Exhibit A attached hereto (the "Building"). City owns certain property adjacent to the Building. Inasmuch as persons entering or exiting from the Building may use the City-owned property, and/or to the extent that certain services benefiting the Building (for example, water and sewer) are located in the City-owned property, Owner has agreed to improve and maintain a portion of City-owned property in the location (the "Maintenance Area") and manner detailed in the plan attached as Exhibit B for the Term, as defined herein.
- 2. Financial Responsibility:** It is understood that during the Term, all physical improvements and repairs to the Maintenance Area, as set forth herein, shall be at the sole cost and expense of Owner, subject to any express limitations set forth in this Agreement.
- 3. Indemnification and Hold Harmless:** Owner hereby agrees to indemnify, defend and hold the City harmless from all loss, costs, expense, actions, claims of action, damages and liability (including attorneys' fees and costs) for injury to or death of any person or persons and for the damage to or destruction of property caused by Owner's actions or omissions in the course of or resulting from the maintenance activities contemplated by this Agreement.
- 4. Insurance:** Owner covenants and agrees, at its sole cost and expense, to maintain or cause to be maintained for the mutual benefit of it and the City comprehensive general liability insurance on an occurrence form against claims for bodily injuries (including, but not limited to, death) or property damage (including, but not limited to, destruction) at any time occurring in the course of or resulting from work carried out by Owner upon, in or about the Maintenance Area, at combined single limits of not less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the aggregate. Such insurance coverage shall name the City of Detroit as an additional insured and shall provide that the same may not be cancelled or materially modified without prior written notice by certified mail to the City to the attention of City of Detroit, Finance Department, Coleman A Young Municipal Center, Detroit, MI 48226, Attention: Risk Management Division. Said coverage may be evidenced by a certificate of insurance issued upon so-called "blanket" coverage, or by either a certificate or the original of an insurance policy effecting such coverage. The insurance shall be primary and any such insurance or self-insurance maintained by the City shall be secondary and non-contributory and excess. Owner shall be responsible for payment of all deductibles

relating to such insurance. The provisions requiring Owner to carry or cause to be carried such insurance shall not be constructed as waiving or restricting the liability of Owner under this Agreement.

5. **Term:** The term of this Agreement (the "Term") shall commence on the date of this Agreement and continue for five (5) years thereafter unless terminated or extended pursuant to the following:
 - a. The City may terminate this Agreement prior to the end of the Term in the event the City has designed and has committed to implement a uniform scheme for the improvement of an area of City-owned property that encompasses the Maintenance Area and other adjacent City-owned property. The aforesaid may include widening of streets or sidewalks and relocation of water or sewer facilities.
 - b. Owner may terminate this Agreement prior to the end of the Term if it sells or ground leases the Building or grants a mortgage lien or security interest in the Building or portion thereof.
 - c. In the event a party elects to terminate this Agreement pursuant to Sections 5.a. or 5.b. above, such party shall deliver to the other party written notice of such election at least thirty (30) days prior to the date on which termination shall be effective.
 - d. Following the five-year expiration (but not the early termination) of this Agreement, this Agreement shall automatically continue on month to month basis subject to final termination by either party upon delivery of at least thirty (30) days' written notice to the other party.
6. **Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan.
7. **Entire Agreement:** This Agreement constitutes the entire agreement between the parties. Any prior agreements, negotiations or representations not expressly set forth in this Agreement are of no force or effect. Any amendment to or modification of this Agreement shall be of no force or effect unless it is in writing and signed by an authorized signatory for each of the parties.
8. **Successors and Assigns:** This Agreement is for the exclusive benefit of the parties stated herein and shall not be deemed to give any legal or equitable right, remedy or claim whatsoever to any other person. Notwithstanding the aforesaid, Owner shall have the right, without requiring the City's consent, to assign this Agreement to any purchaser of the Building or any affiliate of Owner; provided that if Owner assigns this Agreement to any unaffiliated third party purchaser of the Building, Owner shall notify the City in writing no later than 30 days after such assignment, and the City may, by written notice to Owner within 45 days after receiving such notice from Owner (subject to reasonable

extension due to City Council recess), terminate this Agreement. Unless terminated as provided above, this Agreement shall be binding upon the parties' successors and assigns.

9. **Improvement Changes:** Any changes to the Maintenance Area, except as contemplated by this Agreement, are subject to the prior approval of the City. Owner shall not install or construct in the Maintenance Area any structure, fixture, furniture, or equipment (including but not limited to signs, lighting, fixtures, shades, canopies, or awnings) as may obstruct or in any way encroach upon the Maintenance Area except as set forth in Exhibit B or otherwise properly permitted by the City.
10. **Rights of City:** The parties understand that this Agreement in no way limits the property rights of the City with regard to the Maintenance Area.
11. **Certain Maintenance Obligations of Owner:** During the Term, Owner shall be responsible for the improvement and maintenance activities set forth on Exhibit B.

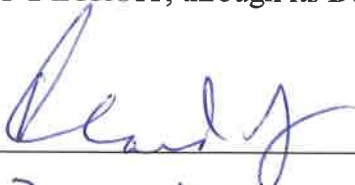
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SIGNATURE PAGE OF MAINTENANCE AGREEMENT BETWEEN THE
CITY OF DETROIT AND 660 WOODWARD ASSOCIATES LLC

BEDROCK MANAGEMENT SERVICES LLC,
as agent for 660 WOODWARD ASSOCIATES LLC, a Michigan limited liability company

By: 
John Olszewski
Its: Vice President of Construction

CITY OF DETROIT, through its Department of Public Works – City Engineering Division

By: 
Name: Richard Scherby
Its: City Engineer

APPROVED AS TO
FORM & EXECUTION


Assistant Corporation Counsel
2/17/2016

Exhibit A

Building Description

660 Woodward Avenue, Detroit, MI 48226
AKA First National Building

LEGAL DESCRIPTION

Land situated in the City of Detroit, in the County of Wayne, State of Michigan, is described as follows:

Lots 50, 51, 52, 53, 92, 93 and 94, in Section 1 Governor and Judges Plan, according to the plat thereof as recorded in Liber 34, Page(s) 550 of Deeds, Wayne County Records, together with that part of the vacated alley described as: Beginning at the intersection of the South line of Cadillac Square (200 feet wide) with the West line of Bates Street (60 feet wide), said point being the Northeastly corner of Lot 48 and said Section 1 of Governor and Judges Plan; thence South 89 degrees 51 minutes West, along the South line of Cadillac Square, 120 feet to a point, said point being the Northeastly corner of Lot 50, thence South 0 degrees 17 minutes East, along the East line of said Lot 50, 100.00 feet to a point on the North line of public alley (20.00 feet wide), said point being the Northeastly corner and the point of beginning of parcel herein described; thence South 0 degrees 17 minutes East 20.00 feet a point on the South line of said public alley; thence South 89 degrees 51 minutes West along the South line of said public alley, 53.72 feet to a point of angle; thence South 29 degrees 25 minutes 50 seconds West along the Southeasterly line of angle; thence South 29 degrees 25 minutes 50 seconds West along the Southeasterly line of said public alley, 30.20 feet to a point; thence North 0 degrees 17 minutes West 46.25 feet to a point on the Northerly line of said public alley; thence North 89 degrees 51 minutes East, along the Northerly line of said public alley, 68.72 feet to the place of beginning, being all that portion of the public alley situated between the rear of Lots 50 and 51, and the rear of Lots 92, 93, and 94 and the vacated alley between the three last mentioned lots, all in Section 1 of the Governor and Judges Plat of the City of Detroit and being that portion of the existing alley now bridged by the National Bank Building under permit authorized by this Common Council on, to-wit May 31, 1927 as set forth in Resolution recorded in Liber 10519, Page 39, and together with the Easement for light, air and view through, over and across all that part of the Southerly eight inches of Lot 54 and the Northerly 10 feet 4 inches of Lot 55, Section 1, Governor and Judges Plat of the City of Detroit, that is in excess of 58 feet above ground as reserved in Deed recorded in Liber 9250, Page 314, 315, 316 and 317. Wayne County Records.

Tax ID Number: Ward 1 Item 4105

Common Address: 660 Woodward Ave., Detroit, MI 48226

Exhibit B

Maintenance Area and Plan for Improvements; Any Related Maintenance Responsibilities.

Owner agrees to maintain the paving improvements as depicted on this Exhibit B and as currently existing in good condition and repair. Prior to: (i) issuing a permit to a private party for work to be carried out in or near the Maintenance Area, or (ii) if a City agency or contractor proposes to carry out such work, the City shall notify Owner of the permit request or the City's plans, as applicable, so that Owner can comment on the possible impact of the proposed work on the paving improvements and Owner's maintenance activities hereunder. It is expressly agreed by the parties that Owner's maintenance and repair responsibilities under this Agreement, and Owner's responsibility for any associated costs, shall not cover or extend to (i) work in or affecting the Maintenance Area carried out by a City-Authorized Party, or (ii) repair, maintenance, repaving or replacement of paving improvements required as a result of any damage brought about by, or other circumstances arising from, activities in or about the Maintenance Area ("Maintenance Area Damage") by the City or its contractors or other designees of or parties authorized by the City or any agency thereof or by any utility company (inclusive of water, sewer, steam, electricity, gas, telephone, internet and other electronic communications facilities or similar service providers) performing work on facilities located in, under or adjacent to the Maintenance Area (collectively, "City-Authorized Parties"). The Owner may restore, at the City's cost, the Maintenance Area to the Maintenance Area details on the attached Plans.