CREDIT ENHANCEMENT AGREEMENT

Between

THE CITY OF GARDINER, MAINE

and

P&M REALTY, LLC

DATED: _____, 2024

TABLE OF CONTENTS

THIS CREDIT ENHANCEMENT AGREEMENT dated as of _____, 2024 between the City of Gardiner, Maine (the "City"), a municipal corporation and political subdivision of the State of Maine, and P & M Realty, LLC (the "Company"), a Maine limited liability company.

WITNESSETH THAT

WHEREAS, the City designated the Commonwealth Omnibus Municipal Development and Tax Increment Financing District (the "District") pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, by action of the City Council at a meeting of the City Council held on March 6, 2024 (the "Vote") and pursuant to the same Vote adopted a development program for the District (the "Development Program"); and

WHEREAS, the City received the approval of the District and the Development Program from the Maine Department of Economic and Community Development ("DECD") on April 22, 2024; and

WHEREAS, the District is a so-called "omnibus" district which means that the City Council is permitted to enter into credit enhancement agreements with individual property owners in the District as it sees fit for up to the full term of the District for up to 100% of the captured assessed value so long as the City Council holds a public hearing prior to the approval of any such credit enhancement agreement; and

WHEREAS, this credit enhancement agreement is intended to provide reimbursement to the Company for a portion of property taxes paid on the increased assessed value of the Company's project for fifteen years; and

WHEREAS, at a meeting of the City Council held on _____, 2024, the City Council held a public hearing and then voted to authorize this credit enhancement agreement with the Company in the name of and on behalf of the City; and

NOW, THEREFORE, in consideration of the foregoing and in consideration of the mutual promises and covenants set forth herein, the parties hereby agree as follows:

ARTICLE I
DEFINITIONS

Section 1.1. Definitions.

The terms defined in this Article I shall, for all purposes of this Agreement, have the meanings herein specified, unless the context clearly requires otherwise:

"Act" means chapter 206 of Title 30-A of the Maine Revised Statutes and regulations adopted thereunder, as amended from time to time.

"Agreement" or "Credit Enhancement Agreement" shall mean this Credit Enhancement Agreement between the City and the Company dated as of the date set forth above, as such may be amended from time to time in accordance with Section 8.8.

"City" shall have the meaning given such term in the first paragraph hereto.

"Commissioner" shall mean the Commissioner of the Maine Department of Economic and Community Development.

"Captured Assessed Value" means the amount of the Increased Assessed Value of the Company's Property that is retained in the District in each Tax Year during the term of the District.

"Captured Assessed Value - Museum CEA Portion" means the amount of Increased Assessed Value of the Company's Property - Museum CEA portion that is retained in the District in each Tax Year during the term of the Agreement, as specified in Section 2.3 hereof.

"Company's Project Cost Subaccount" means the subaccount within the Project Cost Account of the Development Program Fund set aside for payments to be made to the Company under this Agreement.

"Company's Property" means the property owned by the Company and located in the District, more specifically identified as Map 28 Lot 64. The Company Property expressly does not include any taxable real property now or later located within the District, not taxable to the Company.

"Company's Property - Museum CEA Portion" means the Company's property identified as a portion of Map 28 Lot 64 which is subject to this Agreement, defined herein as the "Project."

"Current Assessed Value" means the then-current assessed value of the Company's Property located in the District as determined by the City Tax Assessor as of April 1 of each Tax Year during the term of this Agreement.

"Current Assessed Value - Museum CEA Portion" means the then-current assessed value of the Company's Property - Museum CEA Portion, as determined by the City Tax Assessor as of April 1 of each Tax Year during the term of this Agreement.

"DECD" shall mean the Maine Department of Economic and Community Development.

"Development Program" shall have the meaning given such term in the recitals hereto.

"Development Program Fund" means the Development Program Fund described in the Financial Plan section of the Development Program and established and maintained pursuant to Article II hereof and 30-A M.R.S. § 5227(3)(A). The Development Program Fund shall consist of a Project Cost Account with subaccounts, which shall include the Company's Project Cost Subaccount.

"District" shall have the meaning given such term in the first recital hereto, which is more specifically comprised of approximately 54.90 acres of real property as identified in the Development Program.

"Effective Date of the Development Program" means the date of final approval of the Development Program by the Commissioner pursuant to the Act.

"Financial Plan" means the financial plan described in the "Financial Plan" Section of the Development Program.

"Fiscal Year" means July 1 of a given calendar year through June 30 of the succeeding calendar year or such other fiscal year as the City may from time to time establish.

"Increased Assessed Value" means, for each Fiscal Year during the term of this Agreement, the amount by which the Current Assessed Value for such Fiscal Year exceeds the Original Assessed Value. If the Current Assessed Value is less than or equal to the Original Assessed Value in any given Tax Year, there is no Increased Assessed Value in that year.

"Increased Assessed Value -Museum CEA Portion" means, for each Fiscal Year during the term of this Agreement, the amount by which the Property's Current Assessed Value - Museum CEA Portion for such Fiscal Year exceeds the Original Assessed Value - Museum CEA Portion. If the Current Assessed Value - Museum CEA Portion is less than or equal to the Original Assessed Value - Museum CEA Portion in any given Tax Year, there is no Increased Assessed Value-Museum CEA Portion in that year.

"Original Assessed Value-Company Property" means six hundred fifty-eight thousand five hundred dollars ($658,500), the taxable assessed value of the Company's Property as of March 31, 2023 (April 1, 2022).

"Original Assessed Value-Museum CEA Portion" means four thousand one hundred dollars ($4,100), the taxable assessed value of the Company's Property - Museum CEA Portion as of March 31, 2023 (April 1, 2022).

"Project" means the Company's car museum building project and underlying 1.80 acres of land, more specifically described in the Company's application approved by the City of Gardiner Planning Board on May 8, 2023, and amended approval on October 10, 2023;a map of the Project area is attached as Exhibit A.

"Project Cost Account" means the project cost account described in the Financial Plan Section of the Development Program and established and maintained pursuant to Title 30-A M.R.S. § 5227(3)(A)(1) and Article II hereof.

"Property Taxes" means any and all *ad valorem* real property taxes levied, charged or assessed against the Company's Property located in the District by the City, or on its behalf.

"State" means the State of Maine.

"Tax Increment Revenues- Company Property" means that portion of all Property Taxes assessed and paid on the Company's Property to the City in any Tax Year, in excess of any state, or special district tax, upon the Captured Assessed Value.

"Tax Increment Revenues- Museum CEA Portion" means that portion of all Property Taxes assessed and paid on the Company's Property - Museum CEA Portion to the City in any Tax Year, in excess of any state, or special district tax, upon the Captured Assessed Value - Museum CEA Portion.

"Tax Payment Date" means the later of the date(s) on which property taxes levied by the City are due and payable from owners of property located within the City or are actually paid to the City with respect to taxable property located within the District.

"Tax Year" shall have the meaning given such term in 30-A M.R.S. § 5222(18), as amended, to wit: April 1 to the succeeding March 31.

Section 1.2. Interpretation and Construction.

In this Agreement, unless the context otherwise requires:

(a) The terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar terms, as used in this Agreement, refer to this Agreement, and the term "hereafter" means after, and the term "heretofore" means before, the date of delivery of this Agreement.

(b) Words importing a particular gender mean and include correlative words of every other gender and words importing the singular number mean and include the plural number and vice versa.

(c) Words importing persons mean and include firms, associations, partnerships (including limited partnerships), trusts, corporations, and other legal entities, including public or governmental bodies, as well as any natural persons.

(d) Any headings preceding the texts of the several Articles and Sections of this Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction, or effect.

(e) All approvals, consents and acceptances required to be given or made by any signatory hereto shall not be withheld unreasonably.

(f) All notices to be given hereunder shall be given in writing and, unless a certain number of days is specified, within a reasonable time.

(g) If any clause, provision, or Section of this Agreement shall be ruled invalid by any court of competent jurisdiction, the invalidity of such clause, provision or Section shall not affect any of the remaining provisions hereof.

ARTICLE II
DEVELOPMENT PROGRAM FUND AND FUNDING REQUIREMENTS

Section 2.1. Creation of Development Program Fund.

Within sixty (60) days after the Effective Date of the Development Program, the City shall create and establish a segregated fund in the name of the City designated as the "Commonwealth Omnibus Municipal Development and Tax Increment Financing District Program Fund" (hereinafter the "Development Program Fund") pursuant to, and in accordance with the terms and conditions of, the Development Program and 30-A M.R.S. § 5227(3). The Development Program Fund shall consist of a Project Cost Account that is pledged to and charged with the payment of project costs as outlined in the Financial Plan of the Development Program and as provided in 30-A M.R.S. § 5227(3)(A)(1). The Project Cost Account shall also contain at least one subaccount designated as the "Company's Project Cost Subaccount," as well as a subaccount for the City designated as the "City Project Cost Subaccount." The Development Program Fund is pledged to and charged with the payment of costs in the manner and priority provided in 30-A M.R.S. § 5227(3)(B) and as set forth in this Agreement.

Section 2.2. Liens.

The City shall not create any liens, encumbrances or other interests of any nature whatsoever, nor shall it hypothecate the Company's Project Cost Subaccount described in Section 2.1 hereof or any funds therein, other than the interest in favor of the Company hereunder in and to the amounts on deposit; provided, however, that nothing herein shall prohibit the creation of property tax liens on property in the District in accordance with and entitled to priority pursuant to Maine law.

Section 2.3. Captured Assessed Value; Deposits into Development Program Fund.

(a) Each year during the term of this Agreement, commencing with the July 1, 2024 – June 30, 2025 Fiscal Year (April 1, 2024 Tax Assessment) and continuing for a period of fifteen (15) years expiring on June 30, 2039 (the "CEA Years"), the City shall retain in the District with respect to the Company's Property, 100% of the Increased Assessed Value – Museum CEA Portion as Captured Assessed Value – Museum CEA Portion as described below.

(b) For each of the CEA Years, the City shall deposit the resulting Tax Increment Revenues, - Museum CEA Portion into the Development Program Fund contemporaneously with each payment of Property Taxes during the Term of this Agreement in an amount equal to one hundred percent (100%) of that portion of the Property Tax payment constituting Tax Increment Revenues-Museum CEA Portion. The City shall allocate the Tax Increment Revenues - Museum CEA Portion deposited in the Development Program Fund between the Company's Project Cost Subaccount and the City Project Cost Subaccount as follows:

CEA Years (July 1 – June 30)	Percentage of Increased Assessed Value to Company	Percentage Retained by City
1-15	50%	50%

(c) The Company agrees that the City can decide to capture taxes paid on Increased Assessed Value in the District in an amount larger than the Captured Assessed Value identified in this Section 2.3 and utilize the taxes paid on such additional captured assessed value for the City's own economic development uses so long as the deposits into the Company's Project Cost Subaccount and payments to the Company hereunder are unaffected by such additional capture.

(d) Notwithstanding the above section 2.3 (b), the very first deposit(s) into the Company's Project Cost Subaccount will be reduced by the costs incurred by the City in entering into this Agreement, up to a maximum of $5,000. That amount shall be deposited instead into the City Project Cost Subaccount for approved municipal projects.

Section 2.4. Use of Monies in Development Program Fund.

All monies in the Development Program Fund that are allocable to and/or deposited in Company's Project Cost Subaccount shall in all cases be used and applied to fund fully the City's payment obligations to the Company as described in Articles II and III hereof.

Section 2.5. Monies Held in Segregated Account.

All monies required to be deposited with or paid into Company's Project Cost Subaccount under the provisions hereof and the provisions of the Development Program, and any investment earnings thereon, shall be held by the City for the sole benefit of the Company.

ARTICLE III
PAYMENT OBLIGATIONS

Section 3.1. Payments to the Company.

(a) The City agrees to pay the Company, within thirty (30) days following the Tax Payment Date, all amounts then on deposit in the Company's Project Cost Subaccount.

(b) Notwithstanding anything to the contrary contained herein, if, with respect to any Tax Payment Date, any portion of the Property Taxes remains unpaid, the Property Taxes actually paid with respect to such Tax Payment Date shall, first, be applied to taxes due on account of the Original Assessed Value - Company Property; and second, shall constitute payment of Property Taxes with respect to the Increased Assessed Value of the Company's Property, to be applied first to payment in full of the City's share of the Tax Increment Revenues – Company Property, second applied to the Tax Increment Revenues – Museum CEA Portion for the year concerned in accordance with the table in Section 2.3(a) and third, to payment of the Company's share of the Tax Increment Revenues– Museum CEA Portion for the year concerned as set forth in the table in

Section 2.3(b), to be deposited into the Company's Project Cost Subaccount. In any case where a portion of the Property Taxes assessed against the Company's Property remains unpaid for any reason other than a bona fide valuation dispute, no payment of the Company's share of the Tax Increment Revenues for the year concerned will be deposited into the Company's Project Cost Subaccount until such Property Taxes assessed against that Company's Property are paid in full.

Section 3.2. Failure to Make Payment.

(a) In the event the City should fail to, or be unable to, make any of the payments at the time and in the amount required under the foregoing provisions of this Article III including in the event that the amount deposited into a Company's Project Cost Subaccount is insufficient to reimburse the Company for the full amount due to the Company under this Agreement, the amount or installment so unpaid shall continue as a limited obligation of the City, under the terms and conditions hereinafter set forth, until the amount unpaid shall have been fully paid. The Company shall have the right to initiate and maintain an action to specifically enforce the City's obligations hereunder, including without limitation, the City's obligation to deposit Tax Increment Revenues to the Company's Project Cost Subaccount and its obligation to make payment out of the Company's Project Cost Subaccount to the Company.

Section 3.3. Manner of Payments.

The payments provided for in this Article III shall be paid directly to the Company at the addresses specified in Section 8.7 hereof in the manner provided hereinabove for the Company's own respective use and benefit by check drawn on the City.

Section 3.4. Obligations Unconditional.

Subject to compliance with the terms and conditions of this Agreement, the obligations of the City to make the payments described in this Agreement in accordance with the terms hereof shall be absolute and unconditional, and the City shall not suspend or discontinue any payment hereunder or terminate this Agreement for any cause, other than by court order or by reason of a final judgment by a court of competent jurisdiction that the District is invalid or otherwise illegal.

Section 3.5. Limited Obligation.

The City's obligations of payment hereunder shall be limited obligations of the City payable solely from Tax Increment Revenues pledged therefor under this Agreement. The City's obligations hereunder shall not constitute a general debt or a general obligation or charge against or pledge of the faith and credit or taxing power of the City, the State of Maine, or of any municipality or political subdivision thereof, but shall be payable solely from that portion of Tax Increment Revenues payable to the Company hereunder, whether or not actually deposited into the respective Company's Project Cost Subaccount in the Development Program Fund. This Agreement shall not directly, indirectly, or contingently obligate the City, the State of Maine, or any other City or political subdivision to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment, excepting the pledge of the Tax Increment Revenues established under this Agreement.

ARTICLE IV
PLEDGE AND SECURITY INTEREST

Section 4.1. Pledge of and Grant of Security Interest in Company's Project Cost Subaccount.

In consideration of this Agreement and other valuable consideration and for the purpose of securing payment of the amounts provided for hereunder to the Company by the City, according to the terms and conditions contained herein, and in order to secure the performance and observance of all of the City's covenants and agreements contained herein, the City does hereby grant a security interest in and pledge to the Company of the Company's Project Cost Subaccount described in Section 2.1 hereof, together with all sums of money and other securities and investments therein and all sums of money and other securities required to be transferred thereto under Section 3.1.

Section 4.2. Perfection of Interest.

(a) To the extent deemed necessary or desirable by the Company, the City will at such time and from time to time as reasonably requested by the Company establish the Company's Project Cost Subaccount described in Section 2.1 hereof as a segregated fund under the control of an escrow agent, trustee or other fiduciary selected by the Company so as to perfect the Company's interest therein. The cost of establishing and monitoring such funds (including the cost of counsel to the City with respect thereto) shall be borne exclusively by the Company. In the event such a fund is established under the control of a trustee or fiduciary, the City shall cooperate with Company in causing appropriate financing statements and continuation statements naming Company as pledgee of all such amounts from time to time on deposit in the fund to be duly filed and recorded in the appropriate state offices as required by and permitted under the provisions of the Maine Uniform Commercial Code or other similar law as adopted in the State of Maine and any other applicable jurisdiction, as from time to time amended, together with any customary deposit account control agreements requested by the Company, in order to perfect and maintain the security interests created hereunder.

(b) In the event the Company requires the establishment of a segregated fund in accordance with this Section 4.2, the City's responsibility shall be expressly limited to delivering the amounts required by this Agreement to the escrow agent, trustee or other fiduciary designated by the Company. The City shall have no liability for payment over of the funds concerned to the Company by any such escrow agent, trustee, or other fiduciary, or for any misappropriation, investment losses or other losses in the hands of such escrow agent, trustee, or other fiduciary. Notwithstanding any change in the identity of the Company's designated escrow agent, trustee or other fiduciary, the City shall have no liability for misdelivery of funds if delivered in accordance with the Company's most recent written designation or instructions actually received by the City.

Section 4.3. Further Instruments.

The City shall, upon the reasonable request of the Company, from time to time execute and deliver such further instruments and take such further action as may be reasonable and as may be required to carry out the provisions of this Agreement; provided, however, that no such

instruments or actions shall pledge the credit of the City; and provided further that the cost of executing and delivering such further instruments (including the reasonable and related costs of counsel to the City with respect thereto) shall be borne exclusively by the Company.

Section 4.4. No Disposition of the Company's Project Cost Subaccount.

Except as permitted hereunder, the City shall not sell, lease, pledge, assign or otherwise dispose, encumber or hypothecate any interest in the Company's Project Cost Subaccount and will promptly pay or cause to be discharged or make adequate provision to discharge any lien, charge or encumbrance on any part thereof not permitted hereby.

Section 4.5. Access to Books and Records.

All books, records and documents in the possession of either of the parties to this Agreement relating to the District, the Development Program, this Agreement and the monies, revenues and receipts on deposit or required to be deposited into Company's Project Cost Subaccount shall at all reasonable times and upon reasonable notice be open to inspection by both parties to this Agreement, and the agents and employees of the parties to this Agreement.

ARTICLE V
DEFAULTS AND REMEDIES

Section 5.1. Events of Default.

Each of the following events shall constitute and be referred to in this Agreement as an "Event of Default":

(a) Any failure by the City to pay any amounts due the Company when the same shall become due and payable;

(b) Any failure by the City to make deposits into Company's Project Cost Subaccount as and when due;

(c) Other than as provided in the other subsections of this Section 5.1, any failure by the City or the Company to observe and perform in all material respects any covenant, condition, agreement, or provision contained herein on the part of the City or the Company to be observed or performed, which failure is not cured within thirty (30) days following written notice thereof;

(d) If a decree or order of a court or agency or supervisory authority having jurisdiction in the premises of the appointment of a conservator or receiver or liquidator of, any insolvency, readjustment of debt, marshaling of assets and liabilities or similar proceedings, or for the winding up or liquidation of the Company's affairs shall have been entered against the Company, which cannot be cured within 90 consecutive days following such action, or the Company shall have consented to the appointment of a conservator or receiver or liquidator in any such proceedings of or relating to the Company or of or relating to all or substantially all of its property, including without limitation the filing of a voluntary petition in bankruptcy by the Company or the failure by the Company to have an involuntary petition in bankruptcy dismissed within a period of ninety

(90) consecutive days following its filing or in the event an order for release has been entered under the Bankruptcy Code with respect to the Company.

(e) If any written representation or warranty given to the City by Company is knowingly incorrect or incomplete in any material respect, other than statements made about or in agreements with the City that were later changed by mutual consent;

Section 5.2. Remedies on Default.

Subject to the provisions contained in Section 8.13, whenever any Event of Default described in Section 5.1 hereof shall have occurred and be continuing, the nondefaulting party, following the expiration of any applicable cure period, shall have all rights and remedies available to it at law or in equity, including the rights and remedies available to a secured party under the laws of the State of Maine, and may take whatever action as may be necessary or desirable to collect the amount then due and thereafter to become due, to specifically enforce the performance or observance of any obligations, agreements or covenants of the nondefaulting party under this Agreement and any documents, instruments and agreements contemplated hereby or to enforce any rights or remedies available hereunder.

Section 5.3. Remedies Cumulative.

Subject to the provisions of Section 8.13 below concerning dispute resolution, no remedy herein conferred upon or reserved to any party is intended to be exclusive of any other available remedy or remedies but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law, in equity or by statute. Delay or omission to exercise any right or power accruing upon any Events of Default to insist upon the strict performance of any of the covenants and agreements herein set forth or to exercise any rights or remedies upon the occurrence of an Event of Default shall not impair any such right or power or be considered or taken as a waiver or relinquishment for the future of the right to insist upon and to enforce, from time to time and as often as may be deemed expedient, by injunction or other appropriate legal or equitable remedy, strict compliance by the parties hereto with all of the covenants and conditions hereof, or of the rights to exercise any such rights or remedies, if such Events of Default be continued or repeated.

ARTICLE VI
EFFECTIVE DATE, TERM AND TERMINATION

Section 6.1. Effective Date and Term.

This Agreement shall remain in full force from the Effective Date of the Development Program and shall expire upon the termination of the District term unless sooner terminated pursuant to the express provisions of this Agreement. The City's payment obligations to the Company under this Agreement incurred prior to expiration or termination of this Agreement shall survive the expiration or earlier termination of this Agreement.

Section 6.2. Cancellation and Expiration of Term.

At the acceleration, termination, or other expiration of this Agreement in accordance with the provisions of this Agreement, the City and the Company shall each execute and deliver such documents and take or cause to be taken such actions as may be necessary to evidence the termination of this Agreement.

ARTICLE VII
ASSIGNMENT AND PLEDGE OF COMPANY'S INTERESTS

Section 7.1. Consent to Pledge and/or Assignment or Grant of a Security Interest.

The City hereby acknowledges that the Company may from time to time pledge and assign its right, title and interest in, to and under this Agreement as collateral for any financing of the Project in the District secured by a mortgage of the Company's Property within the District, although no obligation is hereby imposed on the Company to make such assignment or pledge. Recognizing this possibility, the City does hereby consent and agree to the pledge and assignment of and the grant of a security interest in the Company's right, title and interest in, to and under this Agreement and in and to the payments to be made to the Company hereunder, to third parties as collateral or security for financing such development, on one or more occasions during the term hereof. The City agrees to execute and deliver any assignments, pledge agreements, consents or other confirmations required by such prospective pledgee or assignee, including without limitation recognition of the pledgee or assignee or secured party as the holder of all right, title, and interest herein and as the payee of amounts due and payable hereunder. The City agrees to execute and deliver any other documentation as shall confirm to such pledgee or assignee or secured party the position of such assignee or pledgee or secured party and the irrevocable and binding nature of this Agreement and provide to such pledgee or assignee such rights and/or remedies as the Company or such pledgee or assignee may reasonably deem necessary for the establishment, perfection and protection of its interest herein. The Company shall be responsible for the City's necessary and reasonable costs of counsel with respect to any such pledge or assignment.

Section 7.2. Pledge, Assignment or Security Interest.

Except as provided in Section 7.1 hereof, neither this Agreement, nor any portion of the Company's rights in, to and under this Agreement, is assignable by the Company, in each case without the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned, or delayed, and any attempted assignment in contravention of this sentence is void. This Agreement does not run with the Company's Property, and any subsequent purchaser of the Company's Property or the Project will not succeed to the Company's interest in this Agreement absent the written consent of the City in accordance with this Section 7.2.

ARTICLE VIII
MISCELLANEOUS

Section 8.1. Successors.

In the event of the dissolution, merger or consolidation of the City or the Company, the covenants, stipulations, promises and agreements set forth herein, by or on behalf of or for the benefit of such party shall bind or inure to the benefit of the successors and assigns thereof from time to time. This Agreement shall be enforceable by and inure to the benefit of the successors to the Company of the Project, including, to the extent provided in Section 7.2, any subsequent purchaser of the Company's Property or the Project.

Section 8.2. Parties-in-Interest.

Except as herein otherwise specifically provided, nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person, firm or corporation other than the City and the Company any right, remedy or claim under or by reason of this Agreement, it being intended that this Agreement shall be for the sole and exclusive benefit of the City and the Company.

Section 8.3. Severability.

In case any one or more of the provisions of this Agreement shall, for any reason, be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement and this Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

Section 8.4. No Personal Liability of Officials.

(a) No covenant, stipulation, obligation or agreement of the City contained herein shall be deemed to be a covenant, stipulation or obligation of any present or future elected or appointed official, officer, agent, servant or employee of the City in his or her individual capacity, and neither the City Council nor any official, officer, employee or agent of the City shall be liable personally with respect to this Agreement or be subject to any personal liability or accountability by reason hereof.

(b) No covenant, stipulation, obligation or agreement of the Company contained herein shall be deemed to be a covenant, stipulation or obligation of any present or future officer, agent, servant or employee of the Company in his or her individual capacity, and no official, officer, employee or agent of the Company shall be liable personally with respect to this Agreement or be subject to any personal liability or accountability by reason hereof.

Section 8.5. Counterparts.

This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same Agreement.

Section 8.6. Governing Law.

The laws of the State of Maine shall govern the construction and enforcement of this Agreement.

Section 8.7. Notices.

All notices, certificates, requests, requisitions or other communications by the City or the Company pursuant to this Agreement shall be in writing and shall be sufficiently given and shall be deemed given when mailed by first class mail, postage prepaid, addressed as follows:

If to the City:
City of Gardiner
6 Church Street
Gardiner, Maine 04345
Attention: City Manager

With a copy to:
Philip Saucier, Esq.
Bernstein Shur
100 Middle Street
P.O. Box 9729
Portland, ME 04104-5029

If to P & M Realty, LLC
c/o Peter Prescott
203 Whitten Road
Hallowell, ME 04347

With a copy to:
Christopher Dargie, Esq.
Bernstein Shur
100 Middle Street
P.O. Box 9729
Portland, ME 04104-5029

Either of the parties may, by notice given to the other in accordance with this section, designate any further or different addresses to which subsequent notices, certificates, requests, or other communications shall be sent hereunder.

Section 8.8. Amendments.

This Agreement may be amended only with the concurring written consent of the parties hereto. Section 2.3 may be amended by the City upon approval from the Commissioner without consent from the Company as long as any change in the percentage of the Increased Assessed Value retained as Captured Assessed Value in the District pursuant to Section 2.3(a) does not affect the amount of Tax Increment Revenues transferred to the Company's Project Cost Subaccount of the Project Cost Account pursuant to Section 2.3(a). In the unlikely event that DECD or the State of Maine prevents the City from capturing Increased Assessed Value and/or spending Tax Increment Revenues in a manner consistent with the provisions of this Agreement or the

Development Program, to the extent possible the percentages of Property Taxes paid on Increased Assessed Values listed in Section 2.3(a) hereof, and the payment obligations related thereto, shall be reduced pro rata for the applicable Tax Year. In such circumstances, the parties agree to enter into discussions in good faith about whether an amendment hereto is warranted in response to the prevention by the State from capturing value.

Section 8.9. Reserved.

Section 8.10. Benefit of Assignees or Pledgees.

The City agrees that this Agreement is executed in part to induce assignees or pledgees to provide financing for improvements by or on behalf of Company within the District and accordingly all covenants and agreements on the part of the City as to the amounts payable hereunder as hereby declared to be for the benefit of any such assignee or pledgee from time to time of Company's right, title and interest herein.

Section 8.11. Integration.

This Agreement completely and fully supersedes all other prior or contemporaneous understandings or agreements, both written and oral, between the City and the Company relating to the specific subject matter of this Agreement and the transactions contemplated hereby.

Section 8.12. Reserved.

Section 8.13. Dispute Resolution.

In the event of a dispute regarding this Agreement or the transactions contemplated by it, the parties hereto will use all reasonable efforts to resolve the dispute on an amicable basis. If the dispute is not resolved on that basis within sixty (60) days after one party first brings the dispute to the attention of the other party, then either party may refer the dispute for resolution by one arbitrator mutually agreed to by the parties, and judgment on the award rendered by the arbitrator may be entered in any Maine state court having jurisdiction. Any such arbitration will take place in Augusta, Maine or such other location as mutually agreed by the parties. The parties acknowledge that arbitration shall be the sole mechanism for dispute resolution under this Agreement. In the event the parties are unable to agree, within a reasonable period, on the selection of an arbitrator, each party shall appoint a neutral and the selected neutrals shall be charged with selecting an arbitrator. Provided however, that in the event the selection of an arbitrator by the parties and through neutrals fails, either party may file suit to resolve the dispute in any court having jurisdiction within the State of Maine. This arbitration clause shall not bar the City's assessment or collection of property taxes in accord with law, including by judicial proceedings, including tax lien thereof.

Section 8.14. Tax Laws and Valuation Agreement.

The parties acknowledge that all laws of the State now in effect or hereafter enacted with respect to taxation of property shall be applicable and that the City, by entering into this Agreement, is not excusing any non-payment of taxes by the Company. Without limiting the foregoing, the City and the Company shall always be entitled to exercise all rights and remedies

regarding assessment, collection and payment of taxes assessed on the Company's property. In addition, the Development Program makes certain assumptions and estimates regarding valuation, depreciation of assets, tax rates and estimated costs. The City and the Company hereby covenant and agree that the assumptions, estimates, analysis and results set forth in the Development Program shall in no way (a) prejudice the rights of any party or be used, in any way, by any party in either presenting evidence or making argument in any dispute which may arise in connection with valuation of or abatement proceedings relating to the Company's property for purposes of ad valorem property taxation or (b) vary the terms of this Agreement even if the actual results differ substantially from the estimates, assumptions or analysis.

(Signature Pages Follow)

IN WITNESS WHEREOF, the City and the Company have caused this Agreement to be executed under seal in their respective corporate or other entity names and attested by the duly authorized officers, all as of the date first above written.

WITNESS:

_____

CITY OF GARDINER

By:_____
Name: Denise Brown
Its Interim City Manager, Duly Authorized by the City Council at its meeting on _____, 2024

WITNESS:

BY: P & M REALTY, LLC

_____

By:_____
Printed Name: _____
Its: _____