

**BOARD OF REGENTS**  
EASTERN MICHIGAN UNIVERSITY

<b>SECTION: 24</b>
<b>DATE:</b>
June 10, 2021

**RECOMMENDATION**

**PURCHASE AGREEMENT EXTENSION – 300 W. MICHIGAN AVE.**

**ACTION REQUESTED**

It is recommended that the Board of Regents authorize an extension of the purchase agreement for the 300 W. Michigan Avenue property, commonly referred to as the Owen Building and its associated parking garage.

**STAFF SUMMARY**

On April 23, 2020, the Board of Regents approved a recommendation to sell the 300 W. Michigan property to River Caddis for \$2.7 million. Due to the impacts of the COVID-19 pandemic, River Caddis is seeking an extension of the due diligence period up to 6 (six) months, concluding on November 1, 2021. The extension has been agreed to by River Caddis and the University and would become effective once approved by the Board of Regents.

Once the due diligence period is completed, the formal Purchase and Sale Agreement between River Caddis and the University will be negotiated and finalized by the President or designee, in accordance with the original Board of Regent approval on April 23, 2020.

**FISCAL IMPLICATIONS**

None

**ADMINISTRATIVE RECOMMENDATION**

The proposed Board action has been reviewed and is recommended for Board approval.

  
\_\_\_\_\_  
University Executive Officer

*May 21, 2021*  
\_\_\_\_\_  
Date

## SECOND AMENDMENT TO PURCHASE AND SALE AGREEMENT

This SECOND AMENDMENT TO PURCHASE AND SALE AGREEMENT (this "Amendment") is executed to be effective as of April \_\_, 2021 ("Effective Date"), by and between EASTERN MICHIGAN UNIVERSITY, a public body corporate established under the laws and Constitution of the State of Michigan ("Seller"), and RIVER CADDIS DEVELOPMENT, LLC, a Michigan limited liability company ("Purchaser") (Seller and Purchaser shall sometimes be referred to herein collectively as, the "Parties").

### RECITALS:

WHEREAS, Purchaser and Seller are parties to that certain Purchase and Sale Agreement dated as of May 11, 2020, as amended by that certain First Amendment to Purchase and Sale Agreement dated as of September 3, 2020 (as amended, the "Agreement"), for the purchase and sale of certain real property located in Ypsilanti, Michigan, being more particularly described therein (the "Property");

WHEREAS, Purchaser previously exercised its four Extension Period options and the Inspection Period expires on May 3, 2021 (the "Current Expiration Date");

WHEREAS, Purchaser and Seller now desire to amend certain terms of the Agreement, according to the terms of this Amendment.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged and confessed, Purchaser and Seller agree and amend the Agreement as follows:

1. Recitals. The recitals are true and correct and are incorporated herein by reference.
2. Capitalized Terms. All capitalized terms used in this Amendment but not defined herein shall have the meaning assigned to such terms in the Agreement.
3. Extension of the Inspection Period. Subject to approval by the board of regents of the Seller (the "Board"), which approval may be withheld in the Board's sole and absolute discretion, the Inspection Period is hereby extended until November 1, 2021 (the "New Expiration Date"). Notwithstanding the foregoing, the Parties acknowledge that the Board is unable to meet to approve or disapprove the extension of the Inspection Period contained herein until after the Current Expiration Date. In the event that the Board does not approve the extension of the Inspection Period to the New Expiration Date, the Parties acknowledge and agree that the Agreement shall be deemed to have been validly terminated as of the Effective Date and Purchaser shall receive an immediate return of the Earnest Money, together with all interest earned thereon, and neither party shall have any further obligations or liability to the other under the Agreement, except as expressly set forth in the Agreement.
4. Ratification. The Parties acknowledge and agree that, except as amended herein, the Agreement is in full force and effect and is hereby ratified and confirmed.

5. **Severability.** In case any one or more of the provisions contained in this Amendment shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Amendment shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

6. **Multiple Counterparts.** To facilitate execution, this instrument may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature or acknowledgment of, or on behalf of, each party, or that the signature of all persons required to bind any party, or the acknowledgment of such party, appear on each counterpart. All counterparts shall collectively constitute a single instrument. Electronic and pdf. copies of signatures shall have the same force and effect as original signatures.

7. **Entire Agreement.** This Amendment contains the entire agreement between the Parties relating to the subject matter hereof, and shall constitute part of, and be included within, the defined term "Agreement" in any and all documents collectively constituting the "Agreement." Any or all modifications concerning this instrument shall be of no force and effect except for a subsequent modification in writing signed by the parties hereto.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have executed this Amendment to be effective as of the date first written above.

**SELLER:**

**EASTERN MICHIGAN UNIVERSITY,**  
a public body corporate established under the laws  
and Constitution of the State of Michigan

EMU Legal Affairs  
'Approved as to legal form'

By: [Redacted]  
Name: James M. Smith, Ph.D.  
Its: President

Dated: May 3, 2021

**PURCHASER:**

**RIVER CADDIS DEVELOPMENT, LLC,**  
a Michigan limited liability company

By: [Redacted]  
Name: Kevin T. McEwain  
Its: Manager

Dated: 5/3, 2021