

## AMENDMENT TO OPERATIONS AND MAINTENANCE AGREEMENT

This AMENDMENT TO OPERATIONS AND MAINTENANCE AGREEMENT (this “**Amendment**”) is entered into effective as of \_\_\_\_\_, 2020, by and between the City of Bay City, Michigan, a municipal corporation (the “**City**”), and UBP Bay City, LLC, a limited liability company organized and existing under the laws of the State of Delaware, doing business as Bay City Bridge Partners (“**BCBP**”).

### BACKGROUND

- A. The City and BCBP entered into an Operations and Maintenance Agreement dated as of June 1, 2020 (the “**O&M Agreement**”). Capitalized terms used but not defined herein shall have the meanings attributed to such term in the O&M Agreement.
- B. The City and UBP desire to amend the O&M Agreement as more fully set forth herein.

### AGREEMENT

1. Amendment to Section 11. Section 11 of the O&M Agreement is hereby amended to add the following language to the end of Section 11:

“For the avoidance of doubt, this Section 11 of the O&M Agreement is not intended to, and does not change the risks and responsibilities of the City as owner of the Bascule Bridges as set forth in the ADA, nor does BCBP have any obligation under the ADA to carry or obtain property insurance for the Bascule Bridges. The parties clarify that “risk of loss” in this Section 11 is related only to losses which arise out of or are related to operations and maintenance activities as set forth in this Agreement. Notwithstanding the language of this Section 11, any damage to the Bascule Bridges which would be the risk of the City under the ADA or which would be covered by property insurance carried by the City as owner continue until such time as the Bascule Bridges are conveyed to BCBP.”

2. Effect of Amendment. In all other respects, the O&M Agreement remains in full force and effect and, except as provided above, the O&M Agreement otherwise remains unchanged and unaltered and all of the terms, covenants and conditions of the O&M Agreement are hereby ratified and confirmed. In the event of any dispute between the terms of this Amendment and the O&M Agreement, the terms of this Amendment shall prevail.

3. Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Amendment delivered by facsimile, e-mail or other means of

electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Amendment.

[Signature Page Follows]

The undersigned parties have executed this Amendment to Operations and Maintenance Agreement as of the date first set forth above.

**UBP BAY CITY, LLC**

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By: Doug Witt  
Its: Chief Executive Officer

**BAY CITY MICHIGAN**

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By: Kathleen Newsham  
Mayor of Bay City

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By: Tema Lucero  
Clerk of Bay City

**ATTEST**

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Tema Lucero  
Clerk of Bay City

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