



TO: The Honorable Mayor and City Council

FROM: Ty Livingston, Director of Planning & Community Development

DATE: January 12, 2023

SUBJECT: Riverfront Apartment Development Agreement Update

BACKGROUND: In August of 2020, the City signed a development agreement with the Teekona Group for a 142-unit development on the City's riverfront on the parcel between the former Granite City restaurant and the Bob Michel Bridge. No surprise to anyone, the pandemic put an unanticipated "time-out" on many development projects, including this one. However, throughout that time progress has continued to be made on this project.

In the months since our last update this past summer, the development team has gotten everything lined-up to close on the property here in the first quarter and commence construction this spring. This agreement reflects that status and addresses anticipated parking needs since the City owns property nearby. Also, in refining the building's position on the property, it was identified that it would better align with the river and the trail if it were shifted slightly closer to the trail. In total, the additional property needed is less than 0.2 acres and doesn't impact the functionality of the trail.

RECOMMENDATION: Approval, as presented.

RESOLUTION NO. 2223-128

East Peoria, Illinois

_____, 2023

RESOLUTION BY COMMISSIONER _____

**RESOLUTION TO APPROVE SECOND AMENDMENT TO
DEVELOPMENT AGREEMENT WITH TEEKONA GROUP
FOR RIVERFRONT MIDRISE APARTMENT DEVELOPMENT**

WHEREAS, the City of the East Peoria (“City”) has established the Camp Street Redevelopment Project Area (the “Camp St. TIF District”) under authority of the Illinois TIF Act (65 ILCS 5/11-74.4-1, *et seq.*); and

WHEREAS, in August 2020, the City entered into a Development Agreement with Teekona Group, Inc. (the “Developer”) for the development of an upscale midrise residential apartment complex on City-owned property in the Camp Street TIF District (the “Development Agreement”), which was subsequently amended pursuant to the First Amendment to the Development Agreement entered into on September 20, 2022 (the “First Amendment”); and

WHEREAS, under the terms of the Development Agreement and First Amendment, the Developer will construct this midrise residential apartment on the City Property that will be transferred to the Developer, and the midrise residential apartment complex will consist of a multi-story residential complex of approximately one hundred forty-two (142) upscale apartments that will also include associated parking, fitness center, and other amenities commonly found in such a complex (the “Project”); and

WHEREAS, the Developer has now secured financing necessary to undertake the Project, which has resulted in a short delay in bringing this Project to closing on the transfer of the property comprising the Project site to the Developer; and

WHEREAS, the Developer has now also finalized the building footprint for the Project, which will require the addition of a small amount of land to the Project site, while the parties also seek to define issues related to parking for the Project; and

WHEREAS, the City and the Developer have now negotiated an additional amendment to the Development Agreement to address these matters and extending the date of the closing on the transfer of the Project site to the Developer, as provided in the Second Amendment to the Development Agreement, attached hereto as “Exhibit A” and incorporate by reference (the “Second Amendment”); and

WHEREAS, the City Council hereby finds that the Second Amendment to Development Agreement for the Project is in the best interests of the City and its citizens and is a significant component of the City's ongoing development efforts in this area of the City;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF EAST PEORIA, TAZEWELL COUNTY, ILLINOIS, THAT:

Section 1. The above recitations are found to be true and correct, and the Second Amendment is hereby approved.

Section 2. The Mayor and City Clerk are hereby authorized and directed to execute the Second Amendment to Development Agreement (attached hereto as Exhibit A) for undertaking the Project in the Camp Street TIF District, under such terms and conditions as the Mayor in his discretion deems appropriate; provided that the City shall have no obligation under the terms of the First Amendment until a fully executed original has been provided to both the City and the Developer.

APPROVED:

Mayor

ATTEST:

City Clerk

EXHIBIT A

**Second Amendment to Development Agreement
with Teekona Group**

**SECOND AMENDMENT TO
RIVERFRONT MIDRISE APARTMENT DEVELOPMENT AGREEMENT**

THIS SECOND AMENDMENT TO RIVERFRONT MIDRISE APARTMENT DEVELOPMENT AGREEMENT (the "Amendment") is made and entered into this _____ day of _____, 2023 by and between the **CITY OF EAST PEORIA, ILLINOIS**, an Illinois municipal corporation (the "City") and **TEEKONA GROUP INC.** ("Developer") (collectively the "Parties").

RECITALS

WHEREAS, the City and Developer have entered into that certain Riverfront Midrise Apartment Development Agreement dated as of August 18, 2020, as amended by a First Amendment to Riverfront Midrise Apartment Development Agreement dated as of September 20, 2022 (the "Agreement"); and

WHEREAS, the City and Developer have agreed to modify the terms of the Agreement as provided in this Amendment, which includes extending the closing through the first quarter of 2023 in order to finalize financing for the Project; and

WHEREAS, the parties now desire to enter into this Amendment to the Agreement;

SECOND AMENDMENT

NOW THEREFORE, in consideration of the foregoing recitals and in consideration of the mutual covenants and agreement hereinafter set forth, the City and Developer agree as follows:

1. Project Site. The legal description of the Project Site as set forth in Exhibit A of the Agreement is hereby deleted and replaced, in its entirety, as follows:

Lot 2 of East Peoria Riverfront Subdivision, being a subdivision of Part of Section 29, Township 26 North, Range 4 West of the Third Principal Meridian, Tazewell County, Illinois.

Also, a part of Lot 1 of said East Peoria Riverfront Subdivision being more particularly described as follows: Commencing at the Northeasterly corner of said Lot 2 and the Point of Beginning of the Tract to be described; Thence North 65° 10'38" West, along the Northerly line of said Lot 2, a distance of 48.92 feet; thence in a Westerly direction along the Northerly line of said Lot 2, on a curve to the left having a radius of 117.99 feet, for an arc distance of 85.29 feet; thence South 73° 24' 31" West, along the North line of said Lot 2, a distance of 37.26 feet; thence North 39°43'46" East, a distance of 141.97 feet to the Westerly Corner of Lot 5 of said East Peoria Riverfront Subdivision; Thence South 29°36'04" East, along the

Southwesterly line of said Lot 5, a distance of 41.22 feet; thence South 51°32'03" East along the Southwesterly line of said Lot 5, a distance of 94.07 feet to the most Southerly corner of said Lot 5; thence in a Southwesterly direction along the Westerly R.O.W. line of Conference Center Drive, on a curve to the left having a radius of 300.00 feet, for an arc distance of 37.47 feet to the point of beginning, situate, lying and being in the County of Tazewell and State of Illinois, as shown on survey recorded November 21, 2008 in Plat Book "GGG" at page 57.

PIN 01-01-29-300-015

Property Address: Conference Center Drive, East Peoria, IL 61611

All references to Lot #2 and the Project Site in the Agreement shall incorporate the legal description set forth above.

2. Project. Section A.1 of the Agreement is hereby amended and restated, in its entirety, as follows:

1. **Project.** Teekona shall cause to be built upon Lot #2 an upscale midrise apartment project substantially conforming to the submission it has made to the City and consisting of approximately 142 fair market residential apartment units in a self-contained urban design inclusive of a fitness center and other amenities commonly found in such a complex (hereinafter "Project").

The Project Site as defined in Exhibit A includes Lot #2 of the East Peoria Riverfront Subdivision and part of Lot #1 of the East Peoria Riverfront Subdivision ("Expanded Lot 2"). In addition to Expanded Lot 2, Teekona anticipates seeking an additional portion of the original Lot 1 to the East Peoria Riverfront Subdivision for the Project Site, which would include the portion of Lot 1 between the riverwalk and the northwest boundary of Expanded Lot 2 (the "Additional Property"). Subject to final approval from the City on the precise dimensions of the Additional Property, the parties are in agreement that Teekona can expand the Project Site to include the Additional Property to allow Teekona to better align and orient the Project in relation to the Illinois River and the riverfront shoreline and adjacent riverwalk pathway. No later than three weeks prior to Closing, Teekona shall pay for and obtain a professional survey and legal description of the Additional Property and then submit the proposed professional survey and legal description of the Additional Property to the City for final approval and preparation for Closing. The parties mutually agree to cooperate in Teekona's efforts to define and finalize the Additional Property. At Closing, the further parties agree that the Project Site and the legal description of the Project Site set forth in Exhibit A shall be amended to include the Additional Property.

3. Date of Completion. Section A.7 of the Agreement is hereby amended and restated, in its entirety, as follows:

7. **Date of Completion.** Subject to a Delays as hereinafter defined and the City's performance of its obligations hereunder, the Developer shall cause the Date of Completion to be no later than December 31, 2024. "Delay" means "acts of God" (i.e. fire, earthquake, unforeseen flood), inclement weather to the extent the same is extraordinary and clearly beyond the weather conditions typically experienced in the area of the Project Site) strikes, lockouts, labor troubles, inability to procure permits or materials, failure of power, governmental restrictions, acts, omissions or delays of the City, or reasons of a like nature not Developer's fault. If Developer is delayed or prevented from performing any of its obligation under this Section A.7. because of Delays, then, except as otherwise specifically provided herein, the period of such Delays shall be deemed added to the time herein provided for the performance of such obligation and Developer shall not be liable for losses or damages caused or resulting from such Delays.

4. Purchase and Sale Agreement. New Section A.16 is added to the Agreement as follows.

1.16 **Execution of Purchase and Sale Agreement.** Developer shall execute the Purchase and Sale Agreement set forth in Exhibit C, attached hereto and incorporated by reference, simultaneously to the execution of this Second Amendment to the Agreement.

5. Conveyance. Section B.2 of the Agreement is hereby amended and restated, in its entirety, as follows:

2. **Conveyance.** The City shall at Closing convey to Developer clear title to the Project Site at no cost to Developer pursuant to the terms and conditions set forth in the Purchase and Sale Agreement as attached hereto as Exhibit C. The City shall execute the Purchase and Sale Agreement simultaneously to the execution of the Second Amendment to the Agreement.

6. Parking Rights. Section B.3 of the Agreement is hereby amended and restated, in its entirety, as follows:

3. **Parking Rights.** The City shall assure Teekona and its tenants and invitees non-exclusive parking rights to City-owned parking lot on Conference Center Drive, which parking lot facilities may be changed from time to time or may be altered or diminished by development of such areas by the City.

7. Closing. Section B.6 of the Agreement is hereby amended and restated, in its entirety, as follows:

6. Closing. At the Closing, the City shall convey the Project Site to the Developer by a recordable warranty deed subject to easements, restrictions and reservations of record approved by the Developer. The City shall convey the Project Site to the Developer in conjunction with the Developer securing the financing necessary to enable Developer to construct the Project. At the Closing, the City shall deliver an owner's or seller's affidavit, non-foreign affidavit, and such other affidavits and instruments as may be requested by the Developer or the Title Insurer, including, without limitation, evidence of the City's authority to execute and deliver this Agreement and such Closing documents. All documents to be delivered by the parties at Closing shall be in form and substance reasonably satisfactory to the City and the Developer. The City shall pay all closing costs that are customarily the responsibility of the Seller of commercial property in Illinois. The parties shall use commercially reasonable efforts to cause the Closing to occur no later than March 31, 2023.

8. Title Insurance. Section B.7 of the Agreement is hereby amended and restated, in its entirety, as follows:

7. Title Insurance. Within thirty (30) days after the date Developer gives the City notice that it has fulfilled the financing contingency set forth in C.1. below, the City shall procure at the City's expense a commitment to issue an owner's policy of title insurance in the amount of One Million Dollars (\$1,000,000) issued by the Title Insurer showing a commitment to insure a fee simple absolute title to the Project Site to be vested in the Developer. Prior to the Closing, with the exception of the Permitted Exception for the Parking Field as set forth in the Purchase and Sale Agreement, the Developer shall deliver notice to the City of any matters in such commitment that are not acceptable to the Developer. After receipt of said notice, the City shall have the right, at its election, to endeavor to cure such objections to or defects in title set forth therein and shall notify the Developer of such election prior to the Closing. If the City does elect to endeavor to cure such objections to or defects in title, it shall cure such objections prior to or at the Closing. If the City elects not to cure, or fails to respond to, any objections or defects, then the Developer may either (i) waive such title objections to or defects in title and proceed with Closing or (ii) terminate this Agreement. In the event of termination pursuant to this Section B.6, the parties shall have no further rights or liabilities under this Agreement.

Should Developer request extended coverage for the title insurance policy issued by Title Insurer, Developer shall pay the additional cost for the extended coverage.

9. Notices. Section E.11 of the Agreement is hereby amended and restated, in its entirety, as follows:

11. Notices. All notices delivered pursuant to this Agreement shall be in writing and shall be deemed to be effective as of the date of actual delivery with personal delivery, the next business day if sent by overnight delivery, or as of the third day from and including the day of posting if mailed by certified or registered mail return receipt requested with postage prepaid:

to the City: City of East Peoria
401 W. Washington Street
East Peoria, IL 61611
Attention: Mayor

with a copy to: Miller, Hall & Triggs, LLC
416 Main Street, Suite 1125
Peoria, IL 61602
Attention: Scott A. Brunton

to the Developer: Teekona Group, Inc.

Attention: Darrell Dunbar

with a copy to: _____

Attention: _____

10. EXHIBIT B – Preliminary Site Plan. Exhibit B is hereby deleted and replaced, in its entirety, as attached hereto.

11. Miscellaneous. All capitalized terms used in this Second Amendment and not defined herein shall have the meanings ascribed to such words in the Agreement. In the event of any conflict between the Agreement and this Second Amendment, the terms and conditions of this Second Amendment shall control. Except as expressly provided in this Amendment, all the terms and conditions of the Agreement shall remain in full force and effect, and the City and Developer reaffirm the validity and binding effect of the Agreement, as amended by this Second Amendment.

IN WITNESS WHEREOF, the City and Developer have executed this Amendment as of the date first set forth above.

CITY OF EAST PEORIA

TEEKONA GROUP, INC.

By _____
John P. Kahl
Its Mayor

By _____
Darrell Dunbar
Its Vice President

Date: _____

Date: _____

ATTEST:

Its City Clerk

EXHIBIT B
Preliminary Site Plan

EXHIBIT C

Purchase and Sale Agreement

AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY

THIS AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY (“Agreement”) is entered into as of this _____ day of _____, 2023, by and between the **City of East Peoria**, an Illinois municipal corporation, (“Seller”) and **Teekona Group Inc.**, an Illinois corporation (“Purchaser”).

WITNESSETH:

WHEREAS, Seller owns, Purchaser desires to purchase, and Seller desires to sell certain undeveloped real property more particularly described on **Exhibit A** and depicted in **Exhibit B**, both exhibits attached hereto and incorporated by reference (referred to as the “Property”), and in connection therewith Seller and Purchaser desire to enter into this Agreement to set forth the terms and conditions of such purchase and sale; and

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Sale Agreement. Seller hereby agrees to sell to Purchaser and Purchaser hereby agrees to purchase from Seller, subject to all of the terms and conditions of this Agreement, the Property together with all privileges, rights, easements, hereditaments and appurtenances thereunto and improvements thereon. Seller shall convey merchantable title to the Property to Purchaser by warranty deed, subject to all easements, covenants, restrictions, dedications or rights of way, or other matters affecting title to the Property or use of the Property, and other matters approved in writing by Purchaser. The Property as defined herein and as described in Exhibit A shall be amended at Closing to include the Additional Property as provided in the parties’ Development Agreement.

2. Purchase Price. In consideration of the mutual promises and covenants made between the Seller and Purchaser (collectively referred to as the “Parties”) under that certain Riverfront Midrise Apartment Development Agreement dated August 18, 2020, as amended by a First Amendment to Riverfront Midrise Apartment Development Agreement dated as of September 20, 2022, and the Second Amendment to Riverfront Midrise Apartment Development Agreement entered into between the Parties on the same day of the execution of this Agreement, Seller agrees to transfer title of the Property to Purchaser (the “Development Agreement”).

3. Title Commitment and Policy. As provided in Section B.7 of the Development Agreement, Seller shall deliver to Purchaser a title commitment showing Seller’s merchantable title in the Property, a Commitment for Title Insurance issued by a title insurance company regularly doing business in the county where the Property is located, and committing the company to issue an ALTA policy insuring title to the Property in Buyer for the amount established under Section B.7 of the Development Agreement.

3.1. Objections to Title of Record. Within ten (10) days after Purchaser’s receipt of the aforesaid Title Commitment, Purchaser shall furnish to Seller written notification of any objections to or defects in title of record set forth in the Title Commitment. After receipt of said notice, Seller shall have the right, at its election, to endeavor to cure such objections to or defects in title set forth therein and shall notify Purchaser of such election within five (5) days. If Seller does elect to endeavor to cure such objections to or defects in title, it shall promptly commence and diligently pursue efforts to cure such objections.

3.2. Failure to Cure Objections. In the event Seller fails to cure Purchaser’s

objections to or defects in title within thirty (30) days of receiving notice of such objections to or defects in title, or if Seller shall determine that its efforts to cure will not be successful, Purchaser may either (i) waive such title objections to or defects in title and proceed with closing hereunder or (ii) take action to terminate this Agreement in compliance with the provisions of the Development Agreement. In the event of termination of this Agreement, the parties shall have no further rights or obligations under this Agreement.

3.3. Permitted Exceptions. The Parking Field as defined in Section 4 of this Agreement is acknowledged by the parties to be a Permitted Exception. Further, any title encumbrances or exceptions which are set forth in the Title Commitment as to which Purchaser does not object within the title review period set forth above shall be deemed to be an additional Permitted Exception to the status of title to the Property to be transferred by Seller to Purchaser, and Seller shall not be required to cure such additional Permitted Exceptions.

4. Property and Improvements Sold "AS IS". Except as otherwise provided in the Agreement or the Development Agreement, the Property is sold "AS IS", with no warranties or implied conditions. Furthermore, the Parties hereby acknowledge that (i) both Parties are aware of the parking field improvement on the southwest side of the property and related reciprocal access and parking easement for this parking field area (the "Parking Field"), (ii) Purchaser is taking the Property subject to this Parking Field being located on the Property, and (iii) the Seller has no obligation to remove the Parking Field prior to transfer title of the Property to Purchaser.

5. Conditions Precedent / Due Diligence. Purchaser's obligations under this Agreement shall be subject to the following conditions precedent being satisfied to the satisfaction of the Purchaser (or waived by Purchaser in writing):

5.1. Appraisal. Purchaser shall obtain at Purchaser's expense an appraisal showing the fair market value of the Property. The appraisal shall be reasonably satisfactory to Purchaser's lender for purposes of obtaining financing.

5.2. Utilities. Seller shall provide Purchaser with engineering document regarding utilities for the Property demonstrating that adequate water, storm sewer, sanitary sewer, telephone, gas, and electrical services are available to the Property and are stubbed at the boundary of the Property through existing easements at the appropriate elevation.

5.3. Environmental Considerations. The City, to the extent such are within the City's possession or control, will provide the Purchaser with all environmental, survey, geotechnical, and similar reports that would be of interest to a Purchaser concerning the Property. Purchaser may also obtain its own third-party reports concerning such matters. The Purchaser's obligations under this Agreement shall be contingent on Purchaser's acceptance or waiver of all matters shown on such reports. If any of the foregoing matters are not acceptable to the Purchaser, the Purchaser may terminate this Agreement within thirty (30) days from the effective date of this Agreement by delivering notice of termination to the Seller and time to cure as provided in the Development Agreement. If the Purchaser fails to deliver notice of termination to the Seller within thirty (30) days from the effective date of this Agreement, all of the conditions in this Paragraph shall be deemed waived by the Purchaser.

5.4. Financing. Purchaser shall have obtained a financing commitment for a loan from a reputable lending institution to be secured by a first mortgage on the Property in an amount and upon such terms as Purchaser otherwise chooses to accept.

In the event that any of the above conditions are not fulfilled to Purchaser's reasonable discretion and satisfaction within sixty (60) days from the date of this Agreement, then, unless

Purchaser shall have waived the conditions in writing which have not been so fulfilled or satisfied, this Agreement shall terminate upon written Notice of Purchaser to Seller identifying the conditions remaining unsatisfied and time to cure as provided in the Development Agreement. Upon any effective termination pursuant to any provisions hereinabove, neither party shall have any further obligation or liability to the other. Purchaser shall have the right to enter upon the Property at reasonable times during the term of this Agreement for the purpose of making such studies, inspections, environmental assessments soil tests, etc. as Purchaser deems reasonably necessary for satisfaction of the conditions set forth in this Section 5; provided, however, that Purchaser shall indemnify and hold harmless Seller from and against all loss, costs, injury, damage or expense, including reasonable attorneys' fees, caused by such entry or tests and shall return the Property as nearly as possible to its original condition after any such studies, assessments, inspections and tests.

6. Closing and Possession. The purchase of the Property shall be consummated as follows:

6.1. **Closing Date.** The closing (the "Closing") shall be held on a date mutually agreed upon between the Parties, but no later than March 31, 2023. The Closing shall be held at the offices of Miller, Hall & Triggs, LLC. Possession shall occur at Closing.

6.2. **Seller's Deliveries.** At Closing, Seller shall deliver to Purchaser the following:

6.2.1. **Deed.** An executed warranty deed to the Property prepared by Seller at Seller's sole cost and expense.

6.2.2. **ALTA Statement.** An executed ALTA Statement in the form required by the Title Insurer

6.2.3. **Affidavit of Title.** An Affidavit of Title substantially in the form attached as Exhibit B.

6.2.4. **Other Documents.** Such other documents, instruments, certifications and confirmations as may be reasonably required by Purchaser to fully effect and consummate the transactions contemplated hereby.

6.3. **Purchaser's Deliveries.** At Closing, Purchaser shall deliver to Seller the following:

6.3.1. **ALTA Statement.** An executed ALTA Statement in the form required by the Title Insurer.

6.3.2. **Other Documents.** Such other documents, instruments, certifications and confirmations as may reasonably be required by Seller to fully effect and consummate the transactions contemplated hereby.

6.4. **Joint Deliveries.** At Closing, Seller and Purchaser shall jointly deliver to each other the following:

6.4.1. **Closing Statement.** An agreed upon closing statement.

6.4.2. **Transfer Tax Filings.** Executed documents complying with the provisions of all federal, state, county and local law applicable to the determination of transfer taxes showing the transfer as tax exempt.

6.5. **Property Taxes.** The Purchaser shall pay all installments of real property taxes on the property accruing after the date of Closing.

6.6. **Closing Costs.** Seller shall pay the following costs: Seller's attorneys' fees and half of the closing costs, including the cost of the Title Insurance Policy. Purchaser shall pay the following costs: Purchaser's attorneys' fees, half of the closing costs, transfer taxes, and recording fees for recording the deed.

7. Seller's Representations, Warranties and Covenants. In addition to all other representations, covenants and warranties by Seller herein, Seller hereby represents, covenants and warrants, as of the date hereof and as of the Closing Date, as follows:

7.1. **Ownership.** Seller is the sole owner of and has good and merchantable fee simple title to the Property, subject to covenants, restrictions and easements of record.

7.2. **Notice of Litigation or Violation.** Seller has received no notice, nor has Seller any knowledge, of any actions or claims filed or threatened by anyone against the Property or Seller in connection with any injury or damage sustained incidental to the use or occupancy of the Property. Seller shall promptly notify Purchaser of any such notice received between the date hereof and the Closing Date. Seller knows of no violation of any federal, state, county or municipal law, ordinance, order, rule or regulation affecting the Property, and Seller has received no notice of any such violation issued by any governmental authority.

7.3. **Rights in Property.** There are no options, purchase contracts, or other agreements of any kind or nature, written or oral, whereunder or whereby any party could claim or assert any right, title or interest in the Property, excepting the Development Agreement between the Parties.

7.4. **Mechanics Liens.** Seller has fully paid all bills, claims and obligations for labor performed and materials furnished in and about the improvement of the Property, and no such bills, claims or obligations are outstanding or unpaid.

7.5. **Leases.** No persons are in possession of the Property under any oral or written lease.

7.6. **Encroachments.** To the best of Seller's knowledge, no improvements upon the Property encroach upon adjoining real estate, nor do any improvements upon adjoining real estate encroach upon the Property except as herein noted. The Parties have acknowledged the Parking Field improvement on the southwest side of the property as provided in Section 4 of this Agreement and hereby further acknowledge the reciprocal access and parking easement for this Parking Field area.

7.7. **Special Assessments.** There are no special assessments against the Property and there are no proceedings for special assessments against the Property.

7.8. **Representations.** The representations, covenants and warranties made by Seller under Section 5 and this Section 7 shall be true and correct as of the Closing Date.

7.9. **Condemnation.** Seller has not, and does not intend in the future, to commence any condemnation or eminent domain proceedings with respect to any portion of the Property to be conveyed to Purchaser pursuant to this Agreement. Further, Seller is not aware of any pending or proposed condemnation or eminent domain proceedings related to any portion of the Property involving any other governmental body.

8. **Default.** If Seller wrongfully refuses to close the sale of the Property to Purchaser or is unable to close the sale of the Property under the terms of this Agreement or the Development Agreement, the same shall constitute a breach of this Agreement, and Purchaser shall be entitled to all remedies under Illinois law at law or equity at the time of the breach, including, without limitation, termination of this Agreement (in compliance with the provisions of the Development Agreement and opportunity to cure thereunder); specific performance, with the rights, but not the obligation, to perform Seller's covenants and agreements hereunder and to impose the cost and expense of such performance upon Seller as part of Sellers' additional closing costs; and the right to recover as an element of its damages, reasonable attorneys' fees, and court costs and all other damages that Purchaser will suffer as a result of Seller's breach or default hereunder.

If Purchaser wrongfully refuses to close the Purchase of the Property and pay the Purchase Price to Seller, then Seller shall be entitled to pursue any remedies available at law or in equity (including but not limited to seeking specific performance) and the right to recover as an element of its damages, reasonable attorneys' fees, and court costs and all other damages that Seller will suffer as a result of Purchaser's breach or default hereunder.

9. **Condemnation.** If, prior to the Closing, any portion or portions of the Property shall be taken by condemnation or any other proceeding in the nature of eminent domain from and after the date hereof, Purchaser, within fifteen (15) days after Purchaser receives notice of such taking, shall be entitled to declare this Agreement null and void to the extent the improvements contemplated under the Development Agreement are no longer commercially feasible due to the condemnation or eminent domain action. In the event of termination, the parties shall have no further rights or liabilities under this Agreement. If Purchaser has not notified Seller of its election to terminate within the aforesaid time period or otherwise in compliance with the provisions of the Development Agreement, this Agreement shall continue in full force and effect and there shall be no abatement of the Purchase Price. Seller shall be relieved, however, of the duty to convey title to the portion or portions of the Real Property so taken, but Seller shall, at Closing, assign to Purchaser all of Seller's rights and claims in and to any unpaid awards arising from such taking and credit to Purchaser on account of the Purchase Price all awards therefore awarded to Seller.

10. **Realtor's Commissions.** Seller represents to Purchaser that no real estate broker has been engaged by Seller with regard to this transaction. Purchaser represents to Seller that no real estate broker has been engaged by Purchaser with regard to this transaction. Each party (the "Indemnifying Party") agrees to indemnify and hold the other harmless against any other brokerage commissions due to any other real estate broker having been engaged by or claiming to have been engaged by the Non-Indemnifying Party with regard to this transaction.

11. **Miscellaneous.** It is further understood and agreed as follows:

11.1. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original, and such counterparts together shall constitute one and the same instrument.

11.2. **Survival.** The representations, warranties, covenants and agreements contained in this Agreement shall survive the Closing and the delivery of the deed without limitation.

11.3. **Severability.** If any provision of this Agreement shall be held to be void or unenforceable for any reason, the remaining terms and provisions hereof shall not be affected thereby.

11.4. **Time.** Time is of the essence of this Agreement.

11.5. **Binding Effect.** The provisions of this Agreement shall inure to the benefit of and bind the successors and assigns of the parties hereto.

11.6. **Amendment and Waiver.** This Agreement may be amended at any time in any respect only by an instrument in writing executed by Seller and Purchaser. Either party may waive any requirement to be performed by the other hereunder, provided that said waiver shall be in writing and executed by the party waiving the requirement.

11.7. **Integrated Agreement.** This Agreement constitutes the entire agreement between Purchaser and Seller relating to the purchase of the Property, and there are no agreements, understandings, restrictions, warranties or representations between Purchaser and Seller other than those set forth herein.

11.8. **Choice of Law.** It is the intention of Seller and Purchaser that the laws of Illinois shall govern the validity of this Agreement, the construction of its terms and interpretation of the rights and duties of Purchaser and Seller.

11.9. **Notices.** All notices, requests, consents and other communications required or permitted under this Agreement shall be in writing and shall be (as elected by the person giving such notice) hand delivered by messenger or courier service, telecommunicated, mailed (airmail if international) by registered or certified mail (postage prepaid), return receipt requested, emailed with delivery receipt and read receipt, or emailed and followed up by certified mail, addressed to:

IF TO SELLER: City of East Peoria
Attention: Mayor
401 W. Washington Street
East Peoria, IL 61611
JohnKahl@cityofeastpeoria.com

With a copy to: Miller, Hall & Triggs, LLC
Attn: Scott A. Brunton
416 Main Street, Suite 1125
Peoria, IL 61602
scott.brunton@mhtlaw.com

IF TO PURCHASER: Teekona Group Inc.
Attention: Darrell Dunbar

ddunbar@teekonagroup.com

With a copy to: _____

Attn: _____

Email: _____

or to such other address as any party may designate by notice complying with the terms of this paragraph. Each such notice shall be deemed delivered (a) on the date delivered if by personal delivery; (b) on the date of transmission with confirmed answer back if by telex, telefax or other telegraphic method; and (c) on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as not deliverable, as the case may be, if mailed.

11.10. **Assignment.** Neither Party shall assign its interest in this Agreement without the prior consent of the other entity, which will not be unreasonably withheld. Purchaser, without the prior written approval of the Seller, may assign this Agreement and/or any of the Purchaser's rights or obligations hereunder, to an entity controlling, controlled by, or under common control with, the Purchaser.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed, as of the day and year first above written.

PURCHASER:

Teekona Group Inc.,
an Illinois corporation

By: _____
Name: Darrell Dunbar
Its Vice President

Attest:

Name:
Its _____

SELLER:

City of East Peoria, Illinois, an Illinois
municipal corporation

By: _____
John Kahl, Mayor

Attest:

City Clerk

EXHIBIT A

DESCRIPTION OF PROPERTY

Lot 2 of East Peoria Riverfront Subdivision, being a subdivision of Part of Section 29, Township 26 North, Range 4 West of the Third Principal Meridian, Tazewell County, Illinois.

Also, a part of Lot 1 of said East Peoria Riverfront Subdivision being more particularly described as follows: Commencing at the Northeasterly corner of said Lot 2 and the Point of Beginning of the Tract to be described; Thence North $65^{\circ} 10'38''$ West, along the Northerly line of said Lot 2, a distance of 48.92 feet; thence in a Westerly direction along the Northerly line of said Lot 2, on a curve to the left having a radius of 117.99 feet, for an arc distance of 85.29 feet; thence South $73^{\circ} 24' 31''$ West, along the North line of said Lot 2, a distance of 37.26 feet; thence North $39^{\circ}43'46''$ East, a distance of 141.97 feet to the Westerly Corner of Lot 5 of said East Peoria Riverfront Subdivision; Thence South $29^{\circ}36'04''$ East, along the Southwesterly line of said Lot 5, a distance of 41.22 feet; thence South $51^{\circ}32'03''$ East along the Southwesterly line of said Lot 5, a distance of 94.07 feet to the most Southerly corner of said Lot 5; thence in a Southwesterly direction along the Westerly R.O.W. line of Conference Center Drive, on a curve to the left having a radius of 300.00 feet, for an arc distance of 37.47 feet to the point of beginning, situate, lying and being in the County of Tazewell and State of Illinois, as shown on survey recorded November 21, 2008 in Plat Book "GGG" at page 57.

PIN 01-01-29-300-015

Property Address: Conference Center Drive, East Peoria, IL 61611

EXHIBIT B
Map of the Property