Real Estate Ventures I: Negotiating Development-Phase Agreements

11.351

Fall 2017

3-0-9

Instructor: W. Tod McGrath, Lecturer, wtod@mit.edu

Teaching Assistants: Giuliana DiMambro, Sloan/DUSP '13, giuliana.dimambro@gmail.com
Jennifer Conway, CRE / MITIMCo, jconway@mitimco.mit.edu
Shaurya Batra, CRE '17, shaurya@mit.edu

Time and Location: Thursday evenings **6:00 to 9:00 PM** (unless otherwise noted),
MIT Center for Real Estate, Building 9-354

Course Description:

This course prepares students to negotiate the most important business issues within six of the principal business agreements a real estate developer executes in connection with the site control, entitlement, capitalization, and construction phases of a real estate development venture. More specifically, (i) the site control phase involves negotiating Right-of-Entry and Purchase & Sale agreements with a landowner, (ii) the entitlement phase involves negotiating a Development Agreement with a municipality, (iii) the capitalization phase involves negotiating Equity Joint-Venture and Construction Loan Agreements with capital providers, and (iv) the construction phase involves negotiating a Guaranteed Maximum Price Contract and General Conditions with a general contractor.

Students typically spend 3 to 4 hours of class time discussing the most important business issues in each agreement and the case law relating thereto, working closely with prominent real estate attorneys who specialize in the construction of such agreements. The journey through each agreement ends with a 1 to 2-hour moderated negotiation of the key issues in the agreement, which is judged by a panel of prominent industry practitioners. Students generally alternate between negotiating the role of the developer and the role of the counter-party to the agreement. Due to this specific format of instruction, course enrollment is limited and "Listeners" cannot be accommodated.

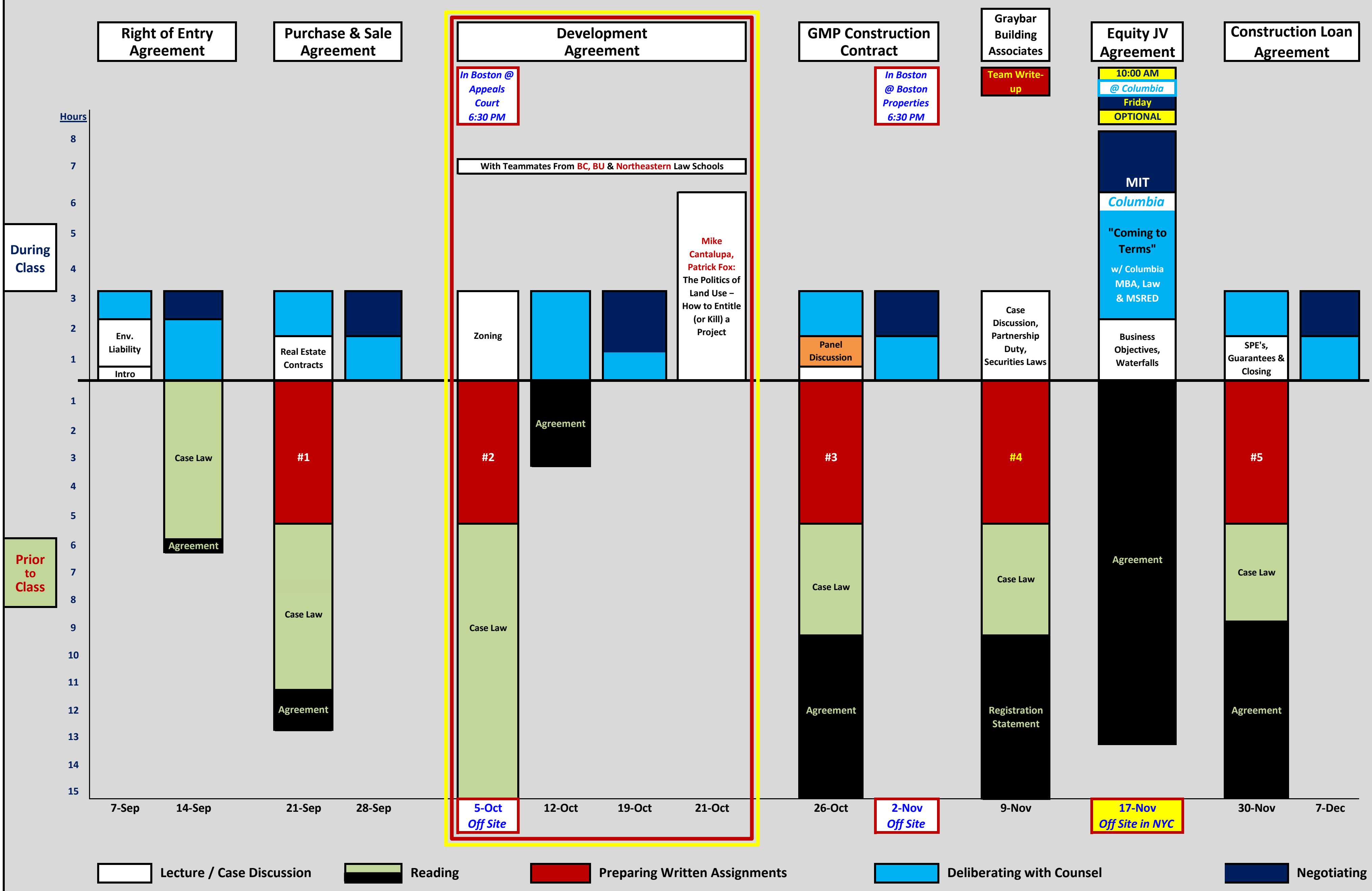
This course involves a ***significant*** amount of reading which is required to be completed ***prior to*** discussing the business agreements and case law in class. At the beginning of the first class session devoted to each agreement, students are required to hand in ***individual*** written responses (not more than 3 single-spaced pages in length) to questions relating to the agreement, judicial opinions, and other background readings that are the subject of class discussion and negotiation. There is no mid-term or final exam, or prerequisite for the course.

Real Estate Ventures I: Negotiating Development-Phase Agreements

11.351

3-0-9 Fall 2017

Estimated Time Allocations: Prior to and During Class Sessions



Course Grading: (for more detailed information, please refer to the attached grading matrix)

Five (5) written responses (15% each)	75%
Class Participation	13%
Class Attendance	12%
	100%

Course Schedule:

Thurs. Sept. 7th: Course introduction; overview of environmental liability; deliberation with counsel re: Right of Entry Agreement.

Attorneys: Ned Abelson, Goulston & Storrs
Hamilton Hackney, Dain Torpy

Thurs. Sept. 14th: Discussion of environmental liability case law; continued deliberation with counsel; negotiation of Right of Entry Agreement.

Attorneys: Ned Abelson, Goulston & Storrs
Hamilton Hackney, Dain Torpy

Thurs. Sept. 21st: **First written assignment due** (beginning of class); discussion of the elements of an enforceable contract and case law relating thereto; deliberation with counsel re: Purchase & Sale Agreement.

Attorneys: Rick DeAngelis, Boston Properties
Susan Murphy, Dain Torpy
Katie Thomason, K&L Gates
Mike Zabowsky, Nutter

Guests: Steve Goodman, CRE '94, GFI Partners
(to be confirmed) Tyler Chapman, Esq., Todd & Weld LLP

Thurs. Sept. 28th: Continued deliberation with counsel; negotiation of Purchase & Sale Agreement.

Attorneys: Rick DeAngelis, Boston Properties
Susan Murphy, Dain Torpy
Katie Thomason, K&L Gates
Mike Zabowsky, Nutter

Celebrity Judges: (to be confirmed)
Jeff Johnston, CRE '94, Cathartes Private Investments
Jay Valenta, CRE '03, Roseview Capital
Tom Andrews, CRE '87, Alexandria Real Estate Equities, Inc.
Dan Coughlin, High Street Equity Advisors, LLC
Michael Roberts, AvalonBay Communities, Inc.
Jeff Lowenberg, General Investment & Development
Lars Unhjem, Mill Creek Residential

Thurs. Oct. 5th: **Second written assignment due** (beginning of class); discussion of zoning, regulatory takings and case law related thereto. ***Note: Class will be held at 6:30 PM at the John Adams Courthouse, One Pemberton Square, Boston.***

Judge Celebrity: **The Honorable Mark V. Green, Justice, Massachusetts Appeals Court**

Attorneys: Matt Kiefer, Goulston & Storrs
Susan Murphy, Dain Torpy

Thurs. Oct. 12th: Deliberation with counsel re: Development Agreement.

Attorneys: Dan Bailey, Pierce Atwood
Darren Baird, Goulston & Storrs
Brian Blaesser, Robinson & Cole
Rick DeAngelis, Boston Properties
Jason Dunn, Goulston & Storrs
Susan Murphy, Dain Torpy
Ryan Pace, Anderson & Kreiger
Tim Twardowski, Robinson & Cole

Thurs. Oct. 19th: Continued deliberation with counsel; negotiation of Development Agreement.

Attorneys:
Dan Bailey, Pierce Atwood
Darren Baird, Goulston & Storrs
Brian Blaesser, Robinson & Cole
Rick DeAngelis, Boston Properties
Jason Dunn, Goulston & Storrs
Susan Murphy, Dain Torpy
Ryan Pace, Anderson & Kreiger
Tim Twardowski, Robinson & Cole

Celebrity Judges: (to be confirmed)
Pat Campbell, CRE ’87, Commonwealth Development Consulting
Abe Menzin, CRE ’06, Samuels & Associates
Kevin Sheehan, CRE ’06, Boston Properties
Janelle Chan, MCP ’07, MBTA
Sonal Gandhi, Boston Redevelopment Authority
Don Briggs, Federal Realty Investment Trust
Mike Jaillet, Town of Westwood, MA
Douglass Karp, New England Development
Tom O’Brien, HYM Investment Group
Tom Cox, Greystone & Co.
Ed Marsteiner, National Development
Bill Musto, Baupost Group
Andy Dankwerth, Pembroke Real Estate
Kairos Shen, MIT, Boston Redevelopment Authority (formerly)
Michael Roberts, AvalonBay Communities, Inc.
Lars Unhjem, Mill Creek Residential

Saturday Oct. 21st: **Optional class session:** The politics of land use – how to entitle (or kill) a project.

(10:00 AM – 4:00 PM)

Guests:
Patrick Fox, Saint Consulting Group
Matt Kiefer, Goulston & Storrs
Mike Cantalupa, Boston Properties
Melissa Schrock, Boston Properties

Thurs. Oct. 26th: **Third written assignment due** (beginning of class); overview of construction contract types, potential areas of conflict, and case law related thereto; deliberation with counsel re: Guaranteed Maximum Price Construction Contract and General Conditions.

Attorneys:	Sean Boulger, Wilmer Hale
	Rick DeAngelis, Boston Properties
	Terry McNeil, Pembroke Real Estate
	Deborah Griffin, Holland & Knight
Guests:	Mark Denman, Boston Properties
(to be confirmed)	Gary Armstrong, Turner Construction

Thurs. Nov. 2nd: Continued deliberation with counsel; negotiation of Guaranteed Maximum Price Construction Contract and General Conditions. ***Note:* *Class will be held at 6:30 PM in the Boardroom of Boston Properties, Prudential Tower, Boston.***

Attorneys:	Sean Boulger, Wilmer Hale
	Rick DeAngelis, Boston Properties
	Terry McNeil, Pembroke Real Estate
	Deborah Griffin, Holland & Knight
Celebrity Judges:	Bill Gause, CRE '93, Leggat McCall Properties
(to be confirmed)	Kathy MacNeil, CRE '88, Millennium Partners – Boston
	Chris Gordon, MIT CRE & Harvard Business School
	Frank Hayes, Bond Brothers
	Pete Hamill, Turner Construction
	Rob Eckert, Project Management Resources, LLC

Thurs. Nov. 9th: **Fourth written assignment due – TEAM write-up** (beginning of class); discussion of investment in Graybar Building Associates, securities laws, partnership duty, and case law related thereto.

Thurs. Nov. 16th: **No class session** (to facilitate travel to New York City for those attending "Coming to Terms", the negotiation joint venture with Columbia University the following day).

Friday Nov. 17th: **Optional class session:** discussion of financial, governance and exit issues in joint-ventures; deliberation with counsel and negotiation of Equity Joint-Venture (LLC) Agreement. ***Note:* "Coming to Terms" with Columbia University will be held from 10:00 AM to 7:00 PM at the Columbia Business School; we will initially meet in Room 301 of Uris Hall (approximately 118th Street between Broadway and Amsterdam, directly behind Low Library on the north side of campus).**

Attorneys:

Jim Broderick, Goodwin Procter
Paul Schwartz, Goodwin Procter
Rick Leland, Akerman LLP
Lee Parks, Fried Frank Harris Shriver & Jacobson LLP
John Sullivan, DLA Piper
Barbara Trachtenberg, DLA Piper
Rich D'Alessandri, AIG Global Real Estate Investment Corp.
John Mallinson, AIG Global Real Estate Investment Corp.
Frank Burt, Boston Properties
Jason Dunn, Goulston & Storrs
Jennifer Morgan, King & Spaulding
Dave Powell, King & Spaulding

Celebrity Judges:
(to be confirmed)

Matt Lustig, Lazard Freres
Jeff Barclay, Goldman Sachs & Co.
Mike Cantalupa, Boston Properties
Oliver Carr, III, CRE '92, Carr Properties
Mark Darley, Grosvenor Americas
Larry Ellman, CRE '92, Berkshire Realty Ventures
Erik Horvat, Fosun Property Holdings
John Jacobsson, Related Companies
Meredith Kane, Paul, Weiss, Rifkind, Wharton & Garrison LLP
Glenn Lowenstein, Lionstone Investments
Tom O'Connor, Boston Properties
Gary Phillips, Allianz
Jonathan Richter, CRE '95, Rosewood Investment Corp.
Peter Sibilia, JPMorgan Investment Management
Chris Taube, Medley Capital Corporation

John Vickers, Tishman Hotel and Realty
Philippe Visser, Related Companies
Mark Van Zandt, Green Oak

Thurs. Nov. 30th: **Fifth (final) written assignment due** (beginning of class); overview of special purpose entities, required guarantees, and case law related thereto; deliberation with counsel re: Construction Loan Agreement.

Attorneys:
Stuart Offner, Mintz Levin Cohn Ferris Glovsky & Popeo
Andrew Pearlstein, Seyfarth Shaw
Jeff Ganguly, Lerner & Holmes
Alison Driscoll, Seyfarth Shaw

Thursday Dec. 7th: Continued deliberation with counsel; negotiation of Construction Loan Agreement and guarantees.

Attorneys:
Stuart Offner, Mintz Levin Cohn Ferris Glovsky & Popeo
Andrew Pearlstein, Seyfarth Shaw
Jeff Ganguly, Lerner & Holmes
Alison Driscoll, Seyfarth Shaw

Celebrity Judges:
(to be confirmed)
Peg Mulcahy, Bank of America / Merrill Lynch
Jamie Gerrity, CRE ‘09, Boston Global Investors
Dave Heller, US Bank
Claudia Piper, Webster Bank
Sharmil Modi, Baupost Group
Dean Stratouly, Congress Group
Peter Goedecke, Goedecke & Co.

11.351 Real Estate Ventures I

Course Grading Matrix

Fall 2017

Student Last Name , Student First Name

		15 Point Maximum Per Document					13 Point Maximum Per Class Session	2 Extra Points One Time Only	3 Extra Points One Time Only
				If <= 3 Days Late: 1st = 3 points off that assignment 2nd = 6 points off that assignment 3rd = 9 points off that assignment 4th+ = 12 points off that assignment *If >3 Days Late:* Additional 30% off that assignment		*If Absent:* 1st = 0 points off course grade 2nd = 2 points off course grade 3rd = 5 points off course grade 4th = 8 points off course grade 5th+ = 12 points off course grade	Insightful Responses = 13 Insightful Response = 10 Response(s) = 8 * * * No Response(s) = 0 Trivial Response(s) = 0 Absent = 0	can't do both for same document	
		(a)	(b)	(c)					
Date	**Document**	**Written Assignment**	**Team Members' % Adjustment**	**Late Submission** [1 = Yes; 0 = No]	**Adjusted Score** [a * b - c]	**Class Attendance** [1 = Yes; 0 = No]	**Class Participation** Omit Lowest 2 Scores N/A = Omitted from calc.	**Volunteer Scribe** [1 = Yes; 0 = No]	**Volunteer Negotiator** [1 = Yes; 0 = No]
9/7/2017	Right of Entry Agreement								
9/14/2017	Right of Entry Agreement					1	13.0		
9/21/2017	Purchase & Sale Agreement	15.0			15.0	1	13.0	1	
9/28/2017	Purchase & Sale Agreement					1	N/A		
10/5/2017	Development Agreement	15.0			15.0	1	13.0	Average of 1st 5 scores	
10/12/2017	Development Agreement					1	13.0		
10/19/2017	Development Agreement					1	13.0		1
							13.0	Mid-term avg.	
10/26/2017	Construction Contract	15.0			15.0	1	13.0		
11/2/2017	Construction Contract					1	13.0		
11/9/2017	Graybar Building Associates	15.0	100%		15.0	1	13.0		
11/17/2017	Equity Joint Venture Agreement					1	13.0	Average of all preceding scores	
11/30/2017	Construction Loan Agreement	15.0			15.0	1	N/A		
12/7/2017	Construction Loan Agreement					1	13.0		
	Totals				75	12	156.0	1	1
	Contribution to Course Grade				75.0	12.0	13.0	2	3

Total Course Grade Points 105.0

Riverfront Redevelopment (A)

You've run TECHniche Development LLC for a decade and waited almost as long for that phone call. After a dozen inquiries and a handful of expensive lunches, the owner of a prime riverfront site wants to meet for dinner to discuss the potential sale of his property. No broker, no bull&#*!

Background

Tony Taylor, who has run Taylor Transport for five decades, is finally admitting he needs to retire. His children have no interest in running the business, so he wants to sell his real estate. It's no secret that profits at independent trucking companies like Taylor Transport have been squeezed significantly over the past few years, and it's clear to Tony that the most valuable component of his ailing trucking business is now the riverfront site where his fleet of trucks and (rather decrepit) metal warehouses are housed.

The site comprises about 8½ acres with more than 700 feet of frontage on the river; it was zoned for industrial use before Tony acquired it three decades ago. Existing zoning regulations only permit development of about 75,000 square feet of gross building area (0.2 FAR). Residential, professional office, and retail uses are not permitted, which is particularly unfortunate because, based on current market conditions, that's precisely what you'd want to develop on the site. And a lot of it.

Tony called you for a reason. If the upcoming dinner is anything like your prior meals together, the conversation menu will read as follows:

> *Appetizer:* He likes the look and feel of the office and condominium developments you've recently completed and wants to talk about their profitability.
>
> *Entrée:* He thinks you're the kind of developer who can figure out what's best to do with his property.
>
> *Dessert:* He thinks you can offer him the highest price and wants you to tell him what his land is worth.
>
> *Aperitif:* He'll want you to make him an offer as soon as possible.

Development Concept

Aside from its zoning, the municipality really *has* changed quite a bit over the last three decades; it has become more affluent and its residents (and even the permitting boards) have become comfortable with the idea of new mixed-use development. Equally important, housing prices and market rental rates for office and retail space support the cost of new construction.

You believe the site's riverfront location argues strongly for a luxury residential component. In addition, you think the site would be an attractive location for office tenants, particularly if a high-end restaurant/bar or other desirable office-related amenities were included in the development program. Since the first time you had lunch with Tony and expressed your interest in the site, you've generally had the following development program in mind (see **Exhibit A**):

- 50 or so condominium units, ranging from about 1,200 square feet to 2,500 square feet, averaging about 2,000 square feet;
- about 150,000 rentable square feet of office space; and
- about 30,000 rentable square feet of retail space.

But at more than 300,000 square feet of gross building area, that's more than four times the density permitted as of right − even if the residential, office, and retail uses were allowed under the existing zoning (which they're not). From a permitting standpoint, it could be a heavy lift to secure the necessary entitlements to develop such a program; but that's what would ultimately get Tony the highest value for his land. And that's precisely what you plan on telling him.

Based on the existing zoning, you think the site is only worth about $2 million[1], assuming 75,000 square feet of modern distribution space were developed. That said, you're not interested in pursuing industrial development. You're interested in pursuing a much larger mixed-use development and, if a rezoning of the site could be accomplished to permit that, you think the land could be worth about three times its current industrially-zoned value (see **Exhibits B, C & D**). And you're prepared to tell Tony that, too, and to put it in writing (see **Exhibit E**).

Due Diligence

Because it's a former industrial site, you're concerned about environmental contamination from the industrial activities, so you commissioned your consultant to prepare a "Phase I Environmental Site Assessment." The consultant visited Tony's property, reviewed historical records regarding

---

[1] You're aware that local industrial developers are acquiring sites for prices equal to about $20 - $25 psf of gross building area.

the current and past ownership and uses of Tony's property and adjacent properties, and interviewed Tony about his knowledge of his property. The Phase I identified:

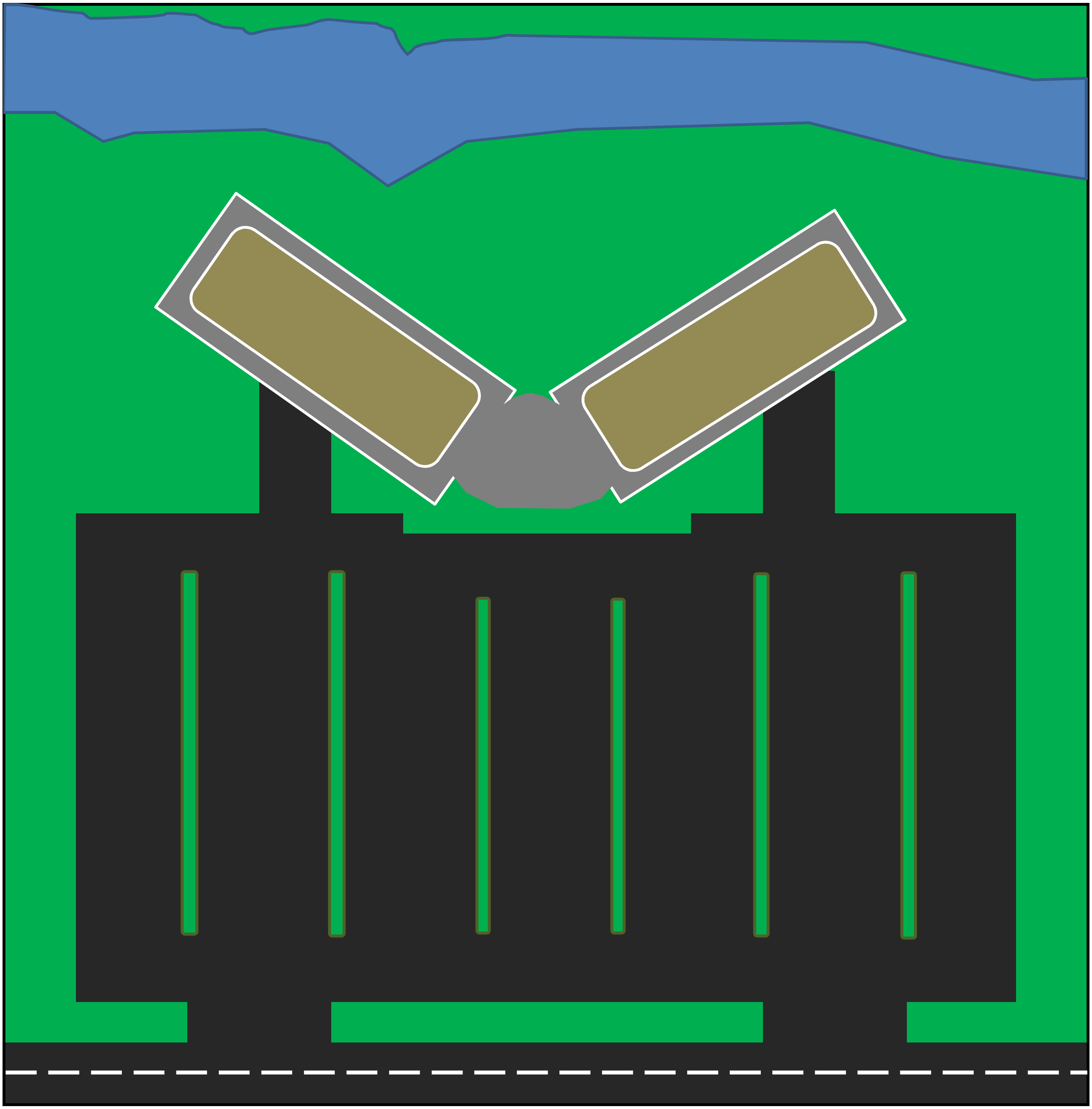
(i) an actively used diesel underground storage tank (UST),

(ii) records referencing a waste oil UST that had been installed in the 1960s, but no records confirming its removal, and

(iii) a foundry that operated in the late 1800s on the abutting property to the west, just across the property line. Artificial filling and grading is evident on the western portion of Tony's property.

The Phase I report concluded that these three issues are "Recognized Environmental Conditions" and that soil and groundwater sampling (a "Phase II" study) is recommended as the next step in the due diligence process. And, somehow, the consultant missed the truck maintenance area, lifts and all, that you observed when you did your own walk-through. The consultant provided you with a scope of work for that Phase II study, which you modified to include the truck maintenance area. You have told Tony that, as much as you want to do a deal with him, you're not willing to move forward with the transaction without conducting that Phase II study. Tony has told you that you'll need to sign a Right of Entry Agreement. Your nephew, who is in his fifth year of law school, provided a form for you to use (**Exhibit F)**.

Exhibit A



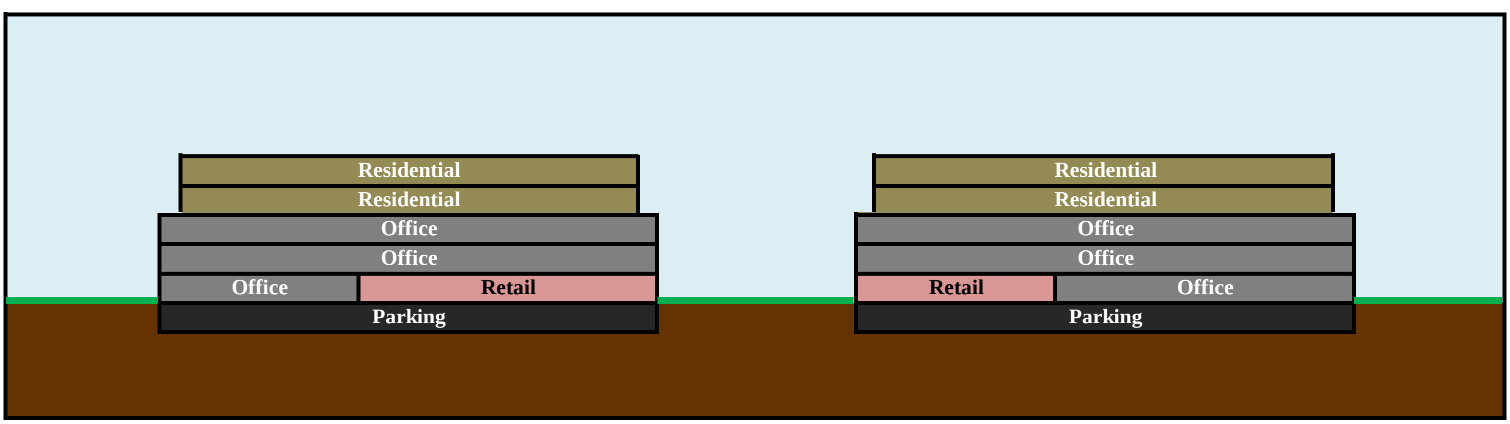

Residential
Residential
Office
Office
Office
Retail
Parking
Residential
Residential
Office
Office
Retail
Office
Parking

Exhibit B

Development Program:	**Gross SF**	**Net SF**
Residential	*115,000*	*100,000*
Office	*172,500*	*150,000*
Retail	*34,500*	*30,000*
Total	***322,000***	***280,000***

			Line Item Cost	**Cost Per Gross SF**	**Cost Per Net SF**	**% Total Cost**
"Hard" Construction Costs						
Building Shell & Core			$56,350,000	$175.00	$201.25	59.3%
Interior Improvements			15,750,000	48.91	56.25	16.6%
		Residential	*7,500,000*	*65.22*	*75.00*	
	Breakout:	*Office*	*7,500,000*	*43.48*	*50.00*	
		Retail	*750,000*	*21.74*	*25.00*	
Site Work, Utilities, Paving			1,233,000	3.83	4.40	1.3%
Contingency @	5%	(of Hard Costs)	3,667,000	11.39	13.10	3.9%
Total Hard Costs			**77,000,000**	**239.13**	**275.00**	**81.1%**
"Soft" Development Costs						
Architecture & Engineering @	7%	(of Hard Costs)	5,390,000	16.74	19.25	5.7%
Building Permit @	1%	(of Hard Costs)	770,000	2.39	2.75	0.8%
Legal	*(Acquisition, Entitlements, Equity JV, Constr., Financings, Leases)*		1,000,000	3.11	3.57	1.1%
Survey			25,000	0.08	0.09	0.0%
Permitting Consultants			125,000	0.39	0.45	0.1%
Utility Connection Fees			325,000	1.01	1.16	0.3%
Property Taxes During Construction			200,000	0.62	0.71	0.2%
Builder's Risk Insurance			250,000	0.78	0.89	0.3%
Appraisal / Feasibility Study			40,000	0.12	0.14	0.0%
Accounting / Cost Certifications			60,000	0.19	0.21	0.1%
Inspections			100,000	0.31	0.36	0.1%
Project Management / Administration			950,000	2.95	3.39	1.0%
Marketing / Advertising			300,000	0.93	1.07	0.3%
Construction Loan Fees @	1%		595,000	1.85	2.13	0.6%
Construction Period Interest			1,733,000	5.38	6.19	1.8%
75% Hard Costs financed; ∑ loan draws =		*$57,750,000*				
12 month construction period						
6% interest rate						
50% average outstanding loan balance						
Comm. Leasing Commissions @	$10	(per net rentable sf)	1,800,000	5.59	6.43	1.9%
Miscellaneous Costs			182,000	0.57	0.65	0.2%
Contingency @	10%	(all preceding Soft Costs)	1,385,000	4.30	4.95	1.5%
Development Fee @	3%	(all other costs)	2,770,000	8.60	9.89	2.9%
Total Soft Costs			**18,000,000**	**55.90**	**64.29**	**18.9%**
Total Hard & Soft Costs			**$95,000,000**	**$295.03**	**$339.29**	**100.0%**

Exhibit C

Residential Units:			**Construction Completion**	**Year 1**	**Year 2**	**Year 3**	**Year 4**	**Year 5**
Unit Sales % Per Year			20%	40%	40%			
Unit Pre-Sales @	$450	PSF	$9,000,000	$0	$0	$0	$0	$0
Unit Sales @	$500	PSF	0	20,000,000	20,000,000	0	0	0
Commissions / Closing Costs @	5%		(450,000)	(1,000,000)	(1,000,000)	0	0	0
Property Taxes on Unsold Units @	$750	/unit/mo	0	(270,000)	(90,000)	0	0	0
Operating Expenses on Unsold Units	$1,000	/unit/mo	0	(360,000)	(120,000)	0	0	0
Net Residential Revenues			**$8,550,000**	**$18,370,000**	**$18,790,000**	**$0**	**$0**	**$0**

Commercial Space:			**Construction Completion**	**Year 1**	**Year 2**	**Year 3**	**Year 4**	**Year 5**
Initial Lease-up			20%	40%	40%			
Office Rents @	$37.50	PSF NNN	$0	$2,250,000	$4,500,000	$5,625,000	$5,625,000	$5,625,000
Retail Rents @	$45.00	PSF NNN	0	540,000	1,080,000	1,350,000	1,350,000	1,350,000
Unreimbursed Op. Exp. & Taxes @	$10.00	PSF	0	(1,080,000)	(360,000)	0	0	0
Net Operating Income				1,710,000	5,220,000	6,975,000	6,975,000	6,975,000
Sale Proceeds @	7%	cap rate	0	0	0	0	0	99,600,000
Sale Expenses @	1%		0	0	0	0	0	(996,000)
Net Commercial Revenues			**$0**	**$1,710,000**	**$5,220,000**	**$6,975,000**	**$6,975,000**	**$105,579,000**

Exhibit D

Projection of Unlevered Investment Returns

		Construction Loan Closing	Construction Completion					
Investment Period		**0**	**1**	**2**	**3**	**4**	**5**	**6**
Operating Year		**N/A**	**N/A**	**1**	**2**	**3**	**4**	**5**
Equity Required to Close Construction Loan		($37,250,000)	$0	$0	$0	$0	$0	$0
Equity Reserved to Pay Off Construction Loan		(57,750,000)	0	0	0	0	0	0
Interest Earnings on Reserved Equity	**1.00%**	0	578,000	0	0	0	0	0
Net Residential Revenues		0	8,550,000	18,370,000	18,790,000	0	0	0
Net Commercial Revenues		0	0	1,710,000	5,220,000	6,975,000	6,975,000	105,579,000
Net Investment Flows		**($95,000,000)**	**$9,128,000**	**$20,080,000**	**$24,010,000**	**$6,975,000**	**$6,975,000**	**$105,579,000**

Net Present Value @	**12.5%**	**$6,150,000**

Exhibit E

September 7, 2017

Mr. Anthony Taylor
Taylor Transport, Inc.
100 River Road

Re: 100 River Road

Dear Tony:

Based on our discussions, we understand that Taylor Transport, Inc. ("Seller") is the record owner of the property located at 100 River Road (the "Property"). This letter sets forth the terms under which TECHniche Development LLC ("Buyer") would purchase the Property.

1. The Property is comprised of approximately 8.5 acres of land and buildings located at 100 River Road.

2. Buyer will pay a total purchase price of $6 million.

3. The Closing will occur no earlier than thirty (30) days after the end of Buyer's due diligence period, subject to satisfaction of any other contingencies mutually agreed upon in the Purchase and Sale Agreement.

4. Seller agrees to provide Buyer with copies of all documents Seller has or has access to relating to the condition of the Property.

5. Buyer will have sixty (60) days to complete any and all due diligence inspections Buyer wishes to undertake, including document review and physical inspection of the Property.

6. Buyer and Seller and their representatives shall keep this proposed transaction, and any documents or information given to each other in connection with due diligence or negotiations, confidential whether or not the transaction is completed.

7. Buyer and Seller represent to each other that there are no brokers or other person entitled to a brokerage or finder's fee.

This transaction is contingent on Seller and Buyer executing a mutually acceptable Purchase and Sale Agreement within twenty-one (21) days.

If you agree with the above terms, please sign below and return this letter of intent to me no later than 5:00 PM (EST) on September 14, 2017.

We look forward to working with you on this proposed transaction.

Sincerely,

TECHniche Development LLC

By:____________________________
Name:
Title:

AGREED:

Taylor Transport, Inc.

By:_________________________
Name: __________________

Date: _______________

Exhibit F

RIGHT OF ENTRY AGREEMENT

THIS RIGHT OF ENTRY AND HOLD HARMLESS AGREEMENT (the "Agreement") is made and entered into as of September ___, 2017 by and between Taylor Transport, Inc. ("Owner"), and TECHniche Development LLC ("Prospective Buyer").

WHEREAS, Prospective Buyer and Owner are negotiating a Purchase and Sale Agreement concerning certain land owned by Owner located at 100 River Road ("Premises"); and

WHEREAS, Prospective Buyer has requested a right of entry to the Premises, as described more fully herein below, and Owner has agreed to grant the entry and rights described below to Prospective Buyer subject to the terms, conditions and stipulations set forth herein;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Prospective Buyer shall have the right at its sole cost and expense to enter upon the Premises to conduct such tests and examinations described in Exhibit 1 attached hereto. Prospective Buyer shall not conduct any subsurface tests or examinations other than those described in Exhibit 1 without Owner's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

2. Owner shall deliver to Prospective Buyer copies of all materials and information in the possession of Owner with respect to the physical and environmental condition of the Premises.

3. Prospective Buyer and its agents shall be permitted access and entry to the Premises during normal business hours.

4. Prospective Buyer shall comply with all applicable laws, ordinances, rules and regulations which govern the Premises. Prospective Buyer and its agents shall not disrupt or inconvenience Owner or any other party in connection with the use or any ongoing operation of the Premises.

5. Prospective Buyer shall promptly restore the Premises following any activities of Prospective Buyer and its agents under this Agreement.

6. Prospective Buyer shall not suffer, permit or cause any mechanic's, materialman's or other similar lien or claim of lien to be filed against Owner or any portion of the Premises on account of any such work, labor or service.

7. Prospective Buyer agrees that all materials provided by Owner and the results of Prospective Buyer's tests and examinations shall be held in strict confidence and shall not be disclosed to any third party.

8. This Agreement shall be binding upon and inure to the benefit of each of the parties hereto and their respective successor and assigns.

9. Buyer shall properly characterize any waste that may be generated as part of or in connection with the performance of its work pursuant to this Agreement and shall properly dispose of any such waste off-site at Buyer's sole cost and expense.

10. This Agreement shall not be construed as creating an easement, lease, or any other interest in land except the right of entry set forth herein, or as affecting any prior agreement between the parties hereto or any rights regarding each other the parties hereto may otherwise have.

11. If any provision or section of this Agreement is held to be invalid, the remainder of this Agreement shall remain in full force and effect.

12. This Agreement may not be released, discharged, abandoned, changed, amended or modified except by an instrument in writing executed by the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement under seal as of the date and year first above written.

OWNER

By: ______________________________

Name: Tony Taylor
Title: President
Taylor Transport, Inc.

PROSPECTIVE BUYER

By: ______________________________

Name:
Title: Managing Member
TECHniche Development LLC

Exhibit 1

Existing Conditions and Boundary Survey

- Survey the entire property and lot boundaries.

Building Structure and Systems Inspection

- Inspect the condition of the building and building systems.

Phase II Environmental Site Assessment (as detailed in the proposal from XYZ Environmental Engineering Firm, Inc./LSPs-R-US)

- Geophysical survey (non-invasive search for underground materials).
- Asbestos Survey (collecting small samples of building components - floor tiles, joint compound, insulation).
- Lead Based Paint Survey (collection of paint chips).
- Install 20 groundwater monitoring wells.
- Take soil and groundwater samples in connection with the installation of those groundwater monitoring wells, analyzing for petroleum, RCRA heavy metals, chlorinated solvents, PCBs, and PFASs/PFOAs.
- Sample indoor air in truck terminal.