
**RIVER TRAIL
REDEVELOPMENT AGREEMENT**

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THIS RIVER TRAIL REDEVELOPMENT AGREEMENT ("Agreement") is entered into as of the _____ day of _____, 2015, by and between the City of Peoria, Illinois, a municipal corporation (hereinafter referred to as the "City") and River Trail Drive, LP, an Illinois limited partnership (hereinafter referred to as the "Redeveloper"). City and Redeveloper are sometimes collectively referred to herein as the "Parties" or individually as a "Party".

RECITALS

WHEREAS, the City is considering a program for the reconstruction of an area in the City known as Riverfront Park pursuant to 65 ILCS 5/11-74.4-1 et seq., the "Tax Increment Allocation Redevelopment Act" (hereinafter referred to as the "Act"); and

WHEREAS, in connection therewith, the City represents that it has duly adopted a redevelopment plan (the "Redevelopment Plan"), has designated a redevelopment project area, as such term is defined in the Act (the "Redevelopment Project Area" or "Project Area") and has duly adopted ordinances on November 12, 2013 creating tax increment financing for the Redevelopment Project Area ("the TIF"), all pursuant to the Act; and

WHEREAS, the City, to achieve the objectives of the Redevelopment Plan and, in accordance with the uses set forth therein, intends to assist the Redeveloper in its development of a multi-family residential project to be known as River Trail (hereinafter referred to as the "Project") on a parcel of land owned by the City within the Redevelopment Project Area, which land is shown as Lot 1 on the proposed preliminary plat of subdivision (the "Plat") attached hereto and made a part hereof as Exhibit 1 (hereinafter referred to as the "Project Site"); and

WHEREAS, the Project consists of the development of four (4) buildings (each a "Building") together containing a total of approximately 144 residential units ("Private Improvements") within the Project Site, certain extra work required within the Project Site due to the condition of the Project Site to allow for the building of Private Improvements within the Project Site, and the creation of a public roadway ("Public Improvements") within City property adjacent to the Project Site ("Public Improvement Area") for access to and from the Project Site and for the benefit of the public, at a total estimated cost for the Project of approximately \$ 20,000,000; and

WHEREAS, the City represents that the Project Site and the Public Improvement Area are both within the Project Area;

WHEREAS, the City believes it is necessary to redevelop the Project Site in order to arrest the economic and physical decline of the Redevelopment Project Area, and to promote a policy of stabilization not only in the Redevelopment Project Area, but also in the surrounding area of the City; and

WHEREAS, without the assistance of the City as set forth in this Agreement, the Redeveloper would not undertake the Project; and

WHEREAS, the City believes that the redevelopment of the Project Site pursuant to the Redevelopment Plan is in the vital and best interests of the City and the health, safety, morals and welfare of its residents, and in accordance with the public purposes and provisions of the applicable federal, state and local laws; and

NOW THEREFORE, in consideration of the premises and mutual obligations of the parties hereto, each of them does hereby covenant and agree as follows:

ARTICLE I: CONVEYANCE OF THE PROJECT SITE

1.1 Sale Agreement. The City hereby agrees to sell to the Redeveloper, and the Redeveloper hereby agrees to purchase from the City, subject to all of the terms and conditions of this Agreement, the Project Site, upon or adjacent to which the Redeveloper shall construct the

Project. The City shall convey merchantable title to the Project Site to the Redeveloper by special warranty deed, subject to all easements, covenants, restrictions, dedications of right of way and other matters of record, including without limitation rights appearing of record with respect to the existing bike path, monument and well located within the Project Site. At the Closing, the City shall also convey to the Redeveloper a recordable temporary easement over the Public Improvement Area allowing the Redeveloper and its successors and assigns ingress and egress to and from the Project Site, including ingress and egress over the Public Improvement Area, in a form acceptable to the Redeveloper and the City, which temporary easement shall remain in place until the City dedicates a public roadway acceptable to the Redeveloper in the Public Improvement Area allowing the Redeveloper and its successors and assigns free ingress and egress to and from the Project Site.

1.2 Purchase Price. The purchase price of the Project Site ("Purchase Price") shall be \$445,474.75, based upon \$1.75 per square feet of the Project Site, to be paid by the Redeveloper to the City at Closing, plus or minus credits and prorations provided for herein, in cash or a certified check made payable to the City.

1.3 Conditions Precedent to Conveyance.

(a) Redeveloper. The obligation of the Redeveloper to purchase the Project Site from the City is subject to the satisfaction of the following conditions precedent:

(i) all representations and warranties made by the City in this Agreement and all schedules, documents, certificates or exhibits delivered by the City pursuant to this Agreement are true and correct in all material respects;

(ii) all of the covenants and obligations to be performed on the part of the City under this Agreement as of the Closing Date have been timely and properly performed or waived by a writing signed by the Redeveloper;

(iii) the Redeveloper has obtained equity and/or debt financing for the purchase of the Project Site and the development of the Project on terms and conditions acceptable to the Redeveloper;

(iv) the Redeveloper is satisfied with the results of all physical inspections of the Project Site and the review of any disclosures made by the City pursuant to Sections 1.6 or 1.7 of this Agreement;

(v) the City shall have approved the Preliminary Plans for the Project pursuant to Article II of this Agreement;

(vi) the City shall have rezoned the Project Site to the R-8 District or to such other district that is acceptable to the Redeveloper and acceptable for the construction and contemplated use of the Project; and

(vii) the City shall have adopted and tendered to the Redeveloper a resolution providing for the issuance of one or more bonds solely for the purpose of financing the City's obligations under this Agreement ("the Bonds") and the City shall tender to the Redeveloper the repayment schedule for the repayment of the Bonds ("Repayment Schedule") and proof of its readiness to immediately begin selling the Bonds ("Readiness Proof"), all of the foregoing in a form and substance acceptable to the Redeveloper, and all of the foregoing to be so tendered;

(viii) the City has delivered to the Redeveloper and/or Escrow Agent (as hereinafter defined in this Agreement) all of the items set forth in Section 1.5.2 hereof

(b) City. The obligation of the City to convey the Project Site to the Redeveloper is subject to the satisfaction of the following conditions precedent:

(i) all representations and warranties made by the Redeveloper in this Agreement and all schedules, documents, certificates or exhibits given to the City pursuant to this Agreement are true and correct in all material respects;

(ii) all of the covenants and obligations to be performed on the part of the Redeveloper under this Agreement as of the Closing Date have been timely and properly performed;

(iii) the City and the Redeveloper shall have approved the Plat;

(iv) the Redeveloper has delivered to the City and/or the Escrow Agent (as hereinafter defined in this Agreement) all of the items set forth in Section 1.5.3 hereof; and

(v) the City has received the Third-Party Approvals described in Section 1.3(e) below, unless it fails to use reasonable commercial efforts to obtain such Third-Party Approvals, as required by Section 1.3(e) below.

(c) Escrow. Notwithstanding anything in this Agreement to the contrary, (i) the Redeveloper shall have no obligations under this Agreement unless documentation evidencing the satisfaction or waiver of the conditions set forth in Section 1.3(a) above is delivered to Chicago Title Insurance Company, as escrow agent (“Escrow Agent”) on or before the date six (6) months after the date of this Agreement (the “Due Diligence Expiration Date”), and (ii) the City shall have no obligations under this Agreement unless documentation evidencing the satisfaction or waiver of the conditions set forth in Section 1.3(b) above is delivered to Escrow Agent on or before the Due Diligence Expiration Date.

In the event that documentation evidencing the satisfaction or waiver of the conditions set forth in Section 1.3(a) above is not delivered to Escrow Agent on or before the Due Diligence Expiration Date, the Redeveloper shall have the right to terminate this Agreement by written notice to the City on or before the date ten (10) days after the Due Diligence Expiration Date (the “Due Diligence Termination Date”). In the event that documentation evidencing the satisfaction or waiver of the conditions set forth in Section 1.3(b) above is not delivered to Escrow Agent on or before the Due Diligence Expiration Date, the City shall have the right to terminate this Agreement by written notice to the Redeveloper on or before the Due Diligence Termination Date. In the event that either party delivers such a notice terminating the Agreement as provided under this paragraph or under Paragraph 1.3(e) below, the parties shall have no further rights or obligations under this Agreement.

(d) Sale of Bonds. If neither party timely delivers to the other a notice of termination pursuant to Section 1.3(c) above or Paragraph 1.3(e) below, the City shall as soon as reasonably possible thereafter sell the Bonds (the “Bond Sale”). The City shall use its best efforts to complete the Bond Sale and provide proof of same to the Escrow Agent in a form acceptable to the Redeveloper no later than 30 days after the Due Diligence Termination Date (“Bond Sale Date”). If the Bond Sale is completed and proof of the Bond Sale is provided to the Escrow Agent by the Bond Sale Date, the Closing shall take place as set forth in Section 1.5.1 of this Agreement. If the

Bond Sale does not take place by the Bond Sale Date or the proof of the Bond Sale in a form satisfactory to the Redeveloper is not provided to the Escrow Agent by the Bond Sale Date, this Agreement may terminate at the option of the Redeveloper, exercisable at any time prior to the Closing. In addition, if despite the best efforts of the City, the Bonds cannot be sold at all, the City may terminate this Agreement at any time prior to the Closing. In the event of a termination under either of the preceding two sentences, each of the deliverables provided to the Escrow Agent shall be immediately returned to the respective Party or Parties who tendered the deliverable to the Escrow Agent, the Parties shall immediately execute any documents necessary for such return of any such deliverables tendered to the Escrow Agent and the Parties shall have no further rights under this Agreement after the return of such deliverables to the appropriate Party.

(e) Approval of Sale. The City has represented that the written approval of the sale described in this Agreement by the Illinois Department of Natural Resources (“IDNR”) is required prior to the Closing hereunder due to grants the City obtained as part of its acquisition and/or development of the Project Site. To the extent that the approval of the IDNR, the National Park Service, or any other person or entity is required to allow the City to close the transaction described in this Agreement or to avoid a claim against one or more of the Parties herein based upon the failure to obtain one or more third-party approvals needed for the transaction described in this Agreement (hereinafter “Third-Party Approvals” or “Third-Party Approval”), the City’s obtaining of all Third-Party Approvals is a condition precedent to the Parties’ sale and purchase of the Project Site. The City shall use commercially reasonable efforts to obtain in writing and at its sole cost all such Third-Party Approvals within 60 days after the date this Agreement is executed or as soon thereafter as possible. Based upon the City’s representation in this paragraph, the Redeveloper shall have the right to terminate this Agreement, exercisable at any time prior to receiving notice of the City’s receipt in writing of all Third-Party Approvals, by giving notice in the manner called for in Paragraph 1.3(c) herein. If the City, despite its reasonable commercial efforts, is unable to obtain one or more Third-Party Approvals by the Due Diligence Expiration Date, it will have the right to terminate this Agreement on or before the Due Diligence Termination Date in the manner set forth in Paragraph 1.3(c) herein.

1.4 Title Commitment and Policy. The City at the City's sole cost and expense, shall have seven (7) days from the date this Agreement is executed to provide the Redeveloper with a title commitment ("Title Commitment") for an ALTA 2006 Owner's Title Insurance Policy ("Title Policy"), issued by Chicago Title Insurance Company ("Title Insurer"), covering the Project Site in the amount of the Purchase Price showing merchantable record title to the Project Site to be in the City. At Closing, the City shall cause the Title Insurer to issue the Title Policy (or evidence that the Title Insurer will issue the Title Policy) to the Redeveloper with extended coverage effective as of the Closing Date but otherwise in accordance with the Title Commitment provided for in this Section 1.4. To the extent that an ALTA Survey is needed to obtain the extended coverage required under the preceding sentence, such ALTA Survey shall be obtained by the Redeveloper at its sole cost.

1.4.1 Objections to Title of Record. Within one hundred twenty (120) days after the later of (i) the date of the Redeveloper's receipt of the aforesaid Title Commitment, or (ii) the date of this Agreement, the Redeveloper shall furnish to the City written notification of any objections to or defects in title of record set forth in the Title Commitment. If the Redeveloper fails to give said notice within said ten (10) day period, the Redeveloper shall be deemed to have accepted all matters then affecting title to the Project Site set forth in the Title Commitment. If the Redeveloper does give said notice, the Redeveloper shall be deemed to have accepted all matters set forth in the Title Commitment not set forth in the notice. 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 Redeveloper of such election within ten (10) days. If the City 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.

1.4.2 Failure to Cure Objections. In the event the City fails to cure the Redeveloper's objections to or defects in title within twenty (20) days of receiving notice of such objections to or defects in title, or if the City shall determine that its efforts to cure will not be successful, the Redeveloper may either (i) waive such title objections to or defects in title and proceed with closing hereunder or (ii) terminate this Agreement. In the event of termination, the parties shall have no further rights or liabilities under this Agreement.

1.5 Closing. The purchase of the Project Site shall be consummated as follows:

1.5.1 Closing Date. The closing (the "Closing"), shall be on a date agreed upon by the parties which is on or before the Bond Sale Date (the "Closing Date").

1.5.2 The City's Deliveries. Pursuant to Section 1.3(a) above, prior to the Due Diligence Expiration Date, the City shall deliver to the Escrow Agent in form and substance acceptable to the Redeveloper the following, each of which items the Parties agree are material:

(a) Deed. An executed special warranty deed to the Project Site, as set forth in Section 1.1 hereof.

(b) Title Policy. The Title Policy (or evidence of the Title Insurer's commitment to issue the Title Policy) as provided for in Section 1.4 hereof.

(c) Easement. The easement described in Paragraph 1.1 herein.

(d) Bond Documents. Certified copies of the resolution for the issuance of the Bonds and the Repayment Schedule and the Readiness Proof described in Section 1.3(a) (vii) above.

(e) Closing Date Certificate. A certificate executed by the City to the effect that on and as of the Closing Date:

(1) All representations and warranties made by the City in this Agreement and all schedules, documents, certificates or exhibits delivered by the City pursuant to this Agreement are true correct in all material respects as of the date of the Closing; and

(2) All of the covenants and obligations to be performed on the part of the City under this Agreement as of the Closing Date have been timely and properly performed or waived by the Redeveloper.

(f) Certificate of Payment by the City. The City's Certificate that it has received all the documents required under Sections 4.2 and 4.3 herein for the Redeveloper's first request for the payment of redevelopment costs under Section 1.5.3 herein, that all such documents are in order and that the City shall pay such costs in full to the Redeveloper, contractor, subcontractor, and/or vendor to whom such amounts are due in accord with the Redeveloper's request within 30 days following the Closing.

(g) Zoning Certificate. One or more documents certifying that the Project Site has been re-zoned to the R-8 Zoning District or to such other district that is acceptable to the Redeveloper and acceptable for the construction and contemplated use of the Project.

(h) Other Documents. Such other documents, resolutions and other items reasonably required by the Redeveloper and/or its legal counsel.

(i) Changes Between Tender to Escrow Agent and Closing. The City shall be obligated to insure that all of the deliverables that the City is obligated to deliver and/or sign, whether individually or jointly, under this Paragraph 1.5 and all of its subparts remain true, correct, complete and accurate in all material respects until the Closing. To the extent that any such deliverables become inaccurate or defective in any material way or need to be altered in any way prior to the Closing, the City shall promptly advise the Redeveloper of any such inaccuracy or defect or needed alteration, promptly obtain the Redeveloper's approval of the City's proposed cure for any inaccuracy or defect or the Redeveloper's approval of City's proposed alteration, to the extent applicable, and promptly tender to the Escrow Agent prior to Closing any necessary documents or items needed to cure any such inaccuracy or defect or to carry out any necessary alteration, all of which must be acceptable to the Redeveloper.

1.5.3 The Redeveloper's Deliveries. Pursuant to Section 1.3(b) above, prior to the Due Diligence Expiration Date, the Redeveloper shall have delivered to the Escrow Agent the following, in form and substance acceptable to the City, each of which items the Parties agree are material:

(a) Purchase Price. The Purchase Price as set forth in Section 1.2 hereof, plus or minus prorations provided for herein.

(b) Insurance. Proof that policies of insurance of the types and coverages specified in Section 2.7 hereof have been obtained and are in force.

(c) Project Cost Analysis. An analysis of the estimated projected cost of construction of the Project and the Public Improvements.

(d) Plans. Preliminary Plans, for the Project and the Public Improvements previously approved by the City in accordance with Section 2.1 hereof.

(e) General Contractor/Construction Manager Contract(s). An executed contract or contracts with one or more general contractors or construction managers (which contractors or managers shall be reasonably acceptable to the City) for the construction of the Project, including the construction of the Public and Private Improvements.

(f) Evidence of Authority. Evidence that the Redeveloper has been properly organized and has proper authority so as to allow it to execute and deliver this Agreement and complete the transactions contemplated hereby.

(g) Financial Statements. Current financial statements of the Redeveloper demonstrating (in the City's reasonable judgment) that the Redeveloper has in place equity or debt financing sufficient to complete construction of the Project.

(h) Financing. Evidence of a loan and/or equity financing satisfactory to the City demonstrating that sufficient funds are available for construction and completion of the Project.

(i) Closing Date Certificate. A certificate executed by the Redeveloper to the effect that on and as of the Closing Date:

(1) All representations and warranties made by the Redeveloper in this Agreement and all schedules, documents, certificates or exhibits given to the City pursuant to this Agreement are true correct in all material respects; and

(2) All of the covenants and obligations to be performed on the part of the Redeveloper under this Agreement as of the Closing Date have been timely and properly performed or waived by the City.

(j) Declaration. A declaration of covenants and restrictions, as described in Section 11.7 of this Agreement.

(k) Support for First City Redevelopment Cost Payment. The documents required under Sections 4.2 and 4.3 herein for the payment by the City in the amount requested by the Redeveloper of the City Redevelopment Costs incurred for the Project as of the Date of Closing.

(l) Other Documents. Such other documents, resolutions and other items reasonably required by the City and/or its legal counsel.

(m) Changes Between Tender to Escrow Agent and Closing. The Redeveloper shall be obligated to insure that all of the deliverables that the Redeveloper is obligated to deliver and/or sign, whether individually or jointly, under this Paragraph 1.5 and all of its subparts remain true, correct, complete and accurate in all material respects until the Closing. To the extent that any such deliverables become inaccurate or defective in any material way or need to be altered in any way prior to the Closing, the Redevelopershall promptly advise the City of any such inaccuracy or defect or needed alteration, promptly obtain the City's approval of the Redeveloper's proposed cure for any inaccuracy or defect or the City's approval of Redeveloper's proposed alteration, to the extent applicable, and promptly tender to the Escrow Agent prior to Closing any necessary documents or items needed to cure any such inaccuracy or defect or to carry out any necessary alteration, all of which must be acceptable to the City.

(n) JBN Title. Redeveloper's payment of the title search charges incurred by the City through JBN Title for the deal that is the subject of this Agreement before the parties switched to Chicago Title.

1.5.4 Joint Deliveries. Within 30 days after the Due Diligence Expiration Date, the City and the Redeveloper shall jointly deliver to each other the following:

(a) Closing Statement. An agreed upon closing statement.

(b) Transfer Tax Filings. Executed documents complying with the provisions of all federal, state, county and local law applicable to the determination of transfer taxes.

(c) Memorandum of Agreement. A memorandum of agreement, as described in Section 13.7 of this Agreement.

1.5.5 Possession. Sole and exclusive possession of the Project Site shall be delivered to the Redeveloper on the Closing Date.

1.5.6 Property Taxes. All real property taxes with respect to the Project Site for the period up to and including the Closing Date shall be the responsibility of the City. All real property taxes with respect to the Project Site for the period commencing on the Closing Date shall be the responsibility of the Redeveloper.

1.5.7 Closing Costs. The City shall pay the following costs: the City's attorneys' fees, the insurance premium for the title policy, any transfer taxes or sales taxes, the cost of documentary stamps and the cost for recording the Deed. The Redeveloper shall pay the following costs: the Redeveloper's attorneys' fees.

1.5.8 Brokerage Commissions. The City represents to the Redeveloper that no real estate broker has been engaged by the City with regard to this transaction. The Redeveloper represents to the City that no real estate broker has been engaged by the Redeveloper with regard to this transaction. Each party (the "Indemnifying Party") agrees to indemnify and hold the other harmless against any brokerage commissions due to any real estate broker claiming to have been engaged by the Indemnifying Party with regard to this transaction.

1.6 Inspections, Etc. Prior to Closing Date. From and after the date hereof, but before the Closing Date, the Redeveloper or its agents and employees may enter upon the Project Site and the Public Improvement Area for the purpose of making inspections, surveys and tests of the Project Site; provided, however, that (1) if during the course of such inspections, surveys and tests, the condition of the Project Site is changed or disturbed in any manner, the Redeveloper shall return the Project Site to the condition that existed prior to such inspections, surveys and tests; and (2) the Redeveloper shall indemnify and hold the City harmless against all expenses, damages or costs (including reasonable attorneys fees and costs) incurred by the City by reason of any claims by or on behalf of any person, firm or corporation arising from the Redeveloper's activities on the Project Site before the Closing including, without limitation, such inspections, surveys or tests.

1.7 City Representations. The City represents and warrants that (i) it has delivered to the Redeveloper all ordinances creating the TIF along with the plan and studies supporting the TIF and (ii) that it has made no pledge of or commitment of any kind other than this Agreement with respect to real estate tax revenues that may be received by the City from the Project or Project Site and (iii) all real estate tax revenues received by the City from the Project and Project Site will be available for performance of the City's obligations under this Agreement.

1.8 Limited Responsibility Regarding the Condition of the Project Site. With respect to the environmental conditions at, on and under of the Project Site, the City has engaged the City's Environmental Consultant to identify the environmental conditions, including hazardous materials, located at, on and under the Project Site, the Redeveloper has relied on the work of the City's Environmental Consultant that has been shared with it, and the Parties have allocated their respective responsibilities for the environmental conditions at, on and under the Project Site as provided in this Agreement, including Paragraphs 2.11 and 8.2 herein. With respect to all other aspects of the Project Site, the Parties agree that this Agreement gives Redeveloper a sufficient amount of time to complete a complete and thorough investigation of the Project Site to determine the condition thereof and to identify any defects, whether known or unknown or hidden, including defects related to the suitability of the soil condition for the construction of the Project. With respect to all other aspects of the Project Site other than the environmental conditions at, under or on the Project Site, the Redeveloper expressly agrees that the purchase the Project Site will be AS IS, subject to all the terms and conditions of this Agreement, irrespective of whether any such other defects, whether known or unknown or hidden, including defects related to the suitability of the soil condition for the construction of the Project, exist and the City has made no representations of any kind with respect to such other aspects of the Project Site.

1.9 Written Escrow Agreement. The Redeveloper and the City shall enter into a written escrow agreement with the Escrow Agent prior to the delivery to the Escrow Agent of any deliverables, which escrow agreement will be consistent with the purpose and intent of this Agreement, especially this Article I.

ARTICLE II: CONSTRUCTION OF THE PROJECT

2.1 Submission and Approval of Plans. All work with respect to construction of the Project by the Redeveloper shall be in conformity with the Redevelopment Plan and this Agreement and in substantial compliance with the site plan, floor plans and elevations attached hereto and made a part hereof as Exhibit 6, with any substantial changes thereto be handled in accordance with Paragraph 2.1.5 herein.

2.1.1 Preliminary Plans. The Redeveloper shall submit to the City preliminary plans and specifications for the Project, including but not limited to a preliminary site plan (all the foregoing preliminary plans and specifications shall be referred to as "Preliminary Plans" herein) within 30 days after the date of this Agreement. The City shall review the Preliminary Plans for the purpose of determining compliance with the Redevelopment Plan, this Agreement, and all applicable laws, statutes, ordinances, rules and regulations. It is understood that in the event that the Preliminary Plans do not so comply, the Redeveloper shall amend the Preliminary Plans, prior to proceeding further with the Project, all in accordance with the provisions of Section 2.1.3 hereof.

2.1.2 Final Site Plan and Other Materials. No later than 12 weeks after the Closing, the Redeveloper shall submit to the City a Final Site Plan for the Project. The City shall review these materials the purpose of determining compliance with the Preliminary Plans, the Redevelopment Plan, this Agreement and all applicable laws, statutes, ordinances, rules and regulations including, but not limited to, the zoning regulations and the parking requirements contained therein.

2.1.3 Approval by City. The City's approval or disapproval of the Preliminary Plans and Final Site Plan and other materials submitted pursuant to Paragraphs 2.1.1 and 2.1.2 herein must be made in writing and, if disapproved, shall set forth the reasons for such disapproval. If the City does not approve or disapprove said documents within thirty (30) days after receipt, they shall be deemed approved. If disapproved, the Redeveloper shall, within thirty (30) days from the date of disapproval, resubmit revised plans which the City shall review within twenty-one (21) days. This process shall repeat until the plans are approved by the City. The City will not unreasonably withhold its approval. In reviewing said plans, the City will take into account the normal and customary costs of developing and constructing projects of this type. Any request for a change from the Preliminary Plans by the City shall not cause an unreasonable increase in the costs of the Project.

2.1.4 Construction Plans. No later than thirty (30) days after approval of the Final Site Plan and other materials submitted pursuant to Paragraph 2.1.2 hereof, the Redeveloper shall submit to the City construction plans for the Project ("Construction Plans"). The City shall within twenty (20) days from receipt approve or disapprove the Construction Plans, after reviewing said plans for compliance with all applicable laws, statutes or ordinances, rules and regulations including but not limited to the life, safety and zoning regulations and conformance with the Preliminary Plans and Final Site Plan, if any. If the City disapproves the Construction Plans, the Redeveloper shall submit revised plans within ten (10) days from the date of rejection. Upon resubmission, the City shall review and approve or disapprove such revised plans within ten (10) days of submittal. The City will not unreasonably withhold its approval of the Construction Plans. In reviewing said plans, the City will take into account the normal and customary costs of developing and constructing projects of this type. Any rejection of the Construction Plans by the City shall not cause an unreasonable increase in the costs of the Project.

2.1.5 Changes in Construction Plans. Prior to completion of the Project as certified by the City, if the Redeveloper desires to make any substantial change in the Construction Plans which significantly affects the appearance, function, or structural integrity of the Project, the Redeveloper shall submit the proposed change to the City for its approval. If the Construction Plans, as modified by the proposed change, conform to the requirements of the

Redevelopment Plan and this Agreement, meet all applicable legal requirements and do not create a fundamental change in the nature, size or aesthetics of the Project, the City shall approve the proposed change and notify the Redeveloper in writing of its approval. If such change is not so approved or rejected within ten (10) working days of receipt of the submission to the City by the Redeveloper, such change will be deemed approved.

2.2 Commencement and Completion Requirements.

2.2.1 Commencement. The Redeveloper shall commence construction of the Project within thirty (30) days after the approval of the Final Site Plan and the other materials submitted pursuant to Paragraph 2.1.2 herein or the approval of the Construction Plans, whichever is later.

2.2.2 Completion. The Redeveloper shall complete construction of the Project within three years after the approval of the Final Site Plan and the other materials submitted to the City pursuant to Paragraph 2.1.2 herein or the approval of the Construction Plans, whichever is later. For the purpose of this Section 2.2, "completion of construction of the Project" means the substantial completion of the Project, except for minor and ancillary alterations or additional work, so as to make the entire Project eligible for a certificate of occupancy.

2.3 Certificate of Completion. Promptly after the substantial completion of construction of the Project, as defined in Section 2.2.2, and upon request of the Redeveloper, the City will execute and deliver to the Redeveloper a certificate of completion. Said instrument of certification by the City shall be (and it shall be so provided in the certification itself) a conclusive determination of satisfaction with respect to the obligations of the Redeveloper and its successors and assigns that the construction of the Project has been completed in accordance with the provisions of this Agreement.

2.4 Form of Certification. The certification provided for in Section 2.3 shall be in such form as will enable it to be recorded in the Office of the Recorder of Deeds, Peoria County, Illinois. If the City refuses or fails to provide any certification in accordance with the provisions of this Agreement, the City shall, within fifteen (15) days after written request by the Redeveloper, provide the Redeveloper with a written statement indicating in adequate detail in which respects the Redeveloper has failed to complete construction of the Project in accordance with the provisions of this Agreement, or is otherwise in default and what measures or steps will be necessary, in the opinion of the City, for the Redeveloper to take or perform in order to obtain such certification.

2.5 Conformance to Federal, State and Local Requirements. All work with respect to the Project shall conform to the City's zoning code, building code and all applicable federal, state and local laws, regulations and ordinances including, but not limited to, environmental codes and life safety codes, this Agreement and the Redevelopment Plan.

2.6 Utilities. All arrangements for utilities must be made by the Redeveloper with the applicable utility company. The City makes no representations whatsoever with respect to the adequacy or availability of utilities with respect to the Project or Project Site.

2.7 Insurance.

2.7.1 Liability Insurance Prior to Completion. Prior to commencement of construction of the Project, the Redeveloper or the Redeveloper's contractor shall procure and deliver to the City, at the Redeveloper's or such contractor's cost and expense, and shall maintain in full force and effect until each and every obligation of Redeveloper contained herein has been fully paid, or performed, a policy or policies of comprehensive liability insurance and during any period of construction, contractor's liability insurance, and workmen's compensation insurance, with liability coverage under the comprehensive liability insurance to be not less than One Million Dollars (\$1,000,000) each occurrence and Five Million Dollars (\$5,000,000) total, all such policies to be in such form and issued by such

companies as shall be acceptable by City to protect City and Redeveloper against any liability incidental to the use of or resulting from any accident occurring in or about the Project or the improvements or the construction and improvement thereof. Each such policy shall name the City and the Redeveloper and/or its contractor as coinsureds and shall contain an affirmative statement by the issuer that it will give written notice to the City and the Redeveloper and/or its contractor at least thirty (30) days prior to any cancellation or amendment of its policy.

2.7.2 Builder's Risk Prior to Completion. Prior to completion of the construction of the Project as certified by the City, the Redeveloper shall keep in force at all times builder's completed value risk insurance against all risks of physical loss, including collapse, covering the total value of work performed and equipment, supplies and materials furnished for the Project. Such insurance policies shall be issued by companies satisfactory to the City and shall name the City as a coinsured. All such policies shall contain a provision that the same will not be cancelled or modified without prior 30-day written notice to the City.

2.8 Lien Waivers. All contracts, for construction of the Project shall provide that all contractors and subcontractors shall furnish contractor's affidavits in the form provided by state statute and that full or partial waiver of liens be contemporaneously required for all payments made.

2.9 Rights of Inspection: Agency. During construction of the Project, the City or its designee shall have the right at any time and from time to time to enter upon the Project for the purposes of inspection. For safety reasons, the City will give reasonable advance notice to the Redeveloper or its designee of any such inspection and will follow reasonable safety rules at the Project Site or in the area of the Public Improvements in carrying out such inspections. Inspection by the City of the Project shall not be construed as a representation by the City that there has been compliance with the Construction Plans or that the Project will be or is free of faulty materials or workmanship, or a waiver of any right, the City or any other party may have against the Redeveloper or any other party for noncompliance with the Construction Plans, Preliminary Plans or the terms of this Agreement.

2.10 Certificates of Occupancy. The City represents and agrees that the Redeveloper may obtain and, if sought, the City will issue a Certificate of Occupancy within 15 days of the receipt a written request for a Certificate of Occupancy for any Building if that Building is substantially completed and eligible for a Certificate of Occupancy under the Peoria City Code. The City further represents that: a) the fact that any or all of the other Buildings or the Public Improvements are not substantially completed will not prevent a Certificate of Occupancy from issuing for any Building that is substantially completed and otherwise eligible for a Certificate of Occupancy under the Peoria City Code; b) the Redeveloper shall not be required to complete any landscaping for the Project or any landscaping within the Public Improvements until a reasonable time after the issuance of Certificates of Occupancy for all Buildings; c) the Redeveloper shall not be required to apply the final surface on the roadway within the Public Improvements until a reasonable period of time after the issuance of Certificates of Occupancy for all Buildings within the Project.

2.11 Environmental Condition of the Project Site. The Parties acknowledge and agree that:

(i) Certain recognized environmental conditions exist on the Project Site ("Existing Environmental Conditions").

(ii) The Parties had contemplated that a broad no further remediation letter in a form acceptable to the Parties fully protecting the City and the Redeveloper from any responsibility for further remediation of the Project Site would be obtained by the City prior to the Closing, but the Parties have been advised by an environmental consultant engaged by the City, ELM, ("City's Environmental Consultant") that securing any no further remediation letter prior to the Closing is not possible.

(iii) The City's Environmental Consultant submitted to the Illinois Environmental Protection Agency ("IEPA") on behalf of the City a Focused Site Investigation/Remediation Objectives Report/Remedial Action Plan ("RAP") on January 28, 2014, which RAP the City provided to Redeveloper.

(iv) The IEPA approved the RAP, subject to the terms and conditions of its letter dated February 19, 2014, which Approval Letter the City provided to the Redeveloper (the "Approval Letter").

(v) The Approval Letter included a draft no further remediation letter (the "Draft NFR Letter"). The parties expect that, upon completion of the work described in the RAP, IEPA will issue a no further remediation letter substantially in the form of the Draft NFR Letter, with the following revisions (the "Final NFR Letter"):

- I) The entire first paragraph of the Draft NFR Letter explaining that remedial actions may not be complete and the NFR letter does not release any person, among other things, may not be contained in the Final NFR Letter and any letter containing substantially such language shall not constitute a Final NFR Letter hereunder;
- II) The Final NFR will correctly identify and clearly approve the final completion report that ELM actually prepares once the required remedial action work is done;
- III) The as-built site configuration will be used for the final base map that forms a part of and is approved in the Final NFR Letter;
- IV) The legal description and PINS in the Final NFR will need to match the legal description and PINS for the entire Project Site being purchased herein; and
- V) To the extent that the Redeveloper requests so prior to the Final NFR Letter being issued by the IEPA, the parties will ask the IEPA to expressly identify by name in the Final NFR Letter as a party protected by the Final NFR Letter, the Redeveloper, any assignee of the Redeveloper, any lender or any investor or any other party involved in the Project. The Parties agree that any refusal of the IEPA to comply with the request in the preceding sentence shall not be a default under this Agreement.

(vi) The City has engaged and will continue to engage the City's Environmental Consultant, at its sole cost, to obtain the Final NFR Letter as promptly as possible and the City will also use its best efforts to obtain the Final NFR Letter as promptly as possible at its sole cost. The Redeveloper acknowledges that up to \$50,000 of the proceeds of the Bonds will be used by the City to pay the costs described in this Subsection 2.11(vi) with respect to any such costs incurred by the City with respect to the City's Environmental Consultant or otherwise with respect to the City's efforts to obtain the Final NFR Letter after the date of this Agreement. Any such costs in excess of \$50,000 will not be paid out of the Bonds or otherwise subject to reimbursement by Redeveloper. The Parties further agree that the City shall be solely responsible for any costs attributable to work that the City's Environmental Consultant performed or will perform in respect to the Project Site prior to the date of this Agreement (which costs will not be paid out of the Bonds or otherwise be subject to reimbursement by Redeveloper), except to the extent that the City's Environmental Consultant was expressly engaged to perform different work by the Redeveloper.

(vii) Redeveloper agrees to construct the Project in compliance with the terms and provisions of the RAP, including but not limited to the construction of the engineered barriers referenced in the RAP.

(viii) The Parties agree to cooperate with each other for the purpose of securing the Final NFR Letter as promptly as possible.

(ix) Once the NFR issues, the Parties agree that neither of them will take any action to void the Final NFR Letter. Further, to the extent that the City receives any request for a variance or alteration to an ordinance that relates to an institutional control required under the Final NFR Letter, it will give the Redeveloper and any assignee known to the City prompt written notice of any such request for a variance or alteration to an ordinance and will also give the Redeveloper and any such assignee an opportunity to respond to any such request before any action is taken by the City in respect to that request.

ARTICLE III: CONSTRUCTION OF PUBLIC IMPROVEMENTS

3.1 Construction of Public Improvements by Redeveloper. Because the public roadway running east from the current terminus of Water Street at Irving Street, adjacent to the Project Site and then connecting to Morton Street, shown on Exhibit 2 attached hereto and made a part hereof (together with related public improvements to be constructed in connection therewith, the “Public Improvements”), will be essential to the Project and will be for the benefit of the public, the Redeveloper shall construct the Public Improvements on behalf of the City as provided in this Article III.

3.2 Submission and Approval of Plans. All work with respect to construction of the Public Improvements by the Redeveloper shall be in conformity with City specifications and this Agreement. The Redeveloper shall submit preliminary, final and construction plans for the Public Improvements for the City’s approval concurrently with, and in the same manner as, the plans for construction of the Project as set forth in Section 2.1 above.

3.3 Commencement and Completion Requirements.

3.3.1 Commencement. The Redeveloper shall commence construction of the Public Improvements within thirty (30) days after the approval of the Final Site Plan or the approval of the Construction Plans, whichever is later.

3.3.2 Completion. The Redeveloper shall complete construction of the Public Improvements within three years after the approval of the Final Site Plan or the approval of the Construction Plans, whichever is later. For the purpose of this Section 3.3, “completion of construction of the Public Improvements” means the substantial completion of the Public Improvements, except for minor and ancillary alterations or additional work, so as to be eligible for the safe use as a roadway with its final surface having been applied.

3.4 Certificate of Completion. Promptly after completion of construction of the Public Improvements, as defined in Section 3.3.2, and upon request of the Redeveloper, the City will execute and deliver to the Redeveloper a certificate of completion. Said instrument of certification by the City shall be (and it shall be so provided in the certification itself) a conclusive determination of satisfaction with respect to the obligations of the Redeveloper and its successors and assigns that the construction of the Public Improvements has been completed in accordance with the provisions of this Agreement.

3.5 Conformance to Federal, State and Local Requirements. All work with respect to the Public Improvements shall conform to the City’s zoning code, building code and all applicable federal, state and local laws, regulations and ordinances including, but not limited to, environmental codes, life safety codes and prevailing wage laws.

3.6 Insurance.

3.6.1 Liability Insurance Prior to Completion. Prior to commencement of construction of the Public Improvements, the Redeveloper shall procure and deliver to the City, at the Redeveloper's or such contractor's cost and expense, and shall maintain in full force and effect until each and every obligation of Redeveloper contained herein has been fully paid, or performed, a policy or policies of comprehensive liability insurance and during any period of construction, contractor's liability insurance, and workmen's compensation insurance, with liability coverage under the comprehensive liability insurance to be not less than One Million Dollars (\$1,000,000) each occurrence and Five Million Dollars (\$5,000,000) total, all such policies to be in such form and issued by such companies as shall be acceptable by City to protect City and Redeveloper against any liability incidental to the use of or resulting from any accident occurring in or about the Public Improvements or the improvements or the construction and improvement thereof. Each such policy shall name the City as a coinsured and shall contain an affirmative statement by the issuer that it will give written notice to the City at least thirty (30) days prior to any cancellation or amendment of its policy.

3.6.2 Builder's Risk Prior to Completion. Prior to completion of the construction of the Public Improvements as certified by the City, the Redeveloper shall keep in force at all times builder's completed value risk insurance, against all risks of physical loss, including collapse, covering the total value of work performed and equipment, supplies and materials furnished for the Public Improvements. Such insurance policies shall be issued by companies satisfactory to the City and shall name the City as a coinsured. All such policies shall contain a provision that the same will not be cancelled or modified without prior 30-day written notice to the City.

3.7 Lien Waivers. All contracts, for construction of the Public Improvements shall provide that all contractors and subcontractors shall furnish contractor's affidavits in the form provided by state statute and that partial or full waiver of liens be contemporaneously required for all payments made.

3.8 Rights of Inspection: Agency. During construction of the Public Improvements, the City or its designee shall have the right at any time and from time to time to enter upon the Public Improvements for the purposes of inspection. For safety reasons, the City will give reasonable advance notice to the Redeveloper or its designee of any such inspection and will follow reasonable safety rules at the Project Site or in the area of the Public Improvements in carrying out such inspections. Such inspection by the City of the Public Improvements shall not be construed as a representation by the City that there has been compliance with the construction plans or that the Public Improvements will be or are free of faulty materials or workmanship, or a waiver of any right, the City or any other party may have against the Redeveloper or any other party for noncompliance with the construction plans or the terms of this Agreement.

3.9 Prevailing Wage. To the extent that the Public Improvements constitute "public works" under the Illinois Prevailing Wage Act (820 ILCS 130/1 et seq.) (the "Prevailing Wage Act"), the Redeveloper agrees to pay all employees employed with respect to the Improvements the "prevailing wage" as determined by the City under the Prevailing Wage Act and comply with all other provisions of the Prevailing Wage Act. The Redeveloper agrees to make available to the City, upon request, all documentation necessary to evidence compliance with the Prevailing Wage Act.

3.10 Dedication of Public Improvements. Upon completion of the Public Improvements (as certified by the City in accordance with Section 3.4 of this Agreement above), the City shall dedicate the Public Improvements as a public roadway by an instrument of dedication acceptable to the Redeveloper, which among other things will provide free ingress and egress to the Project Site, subject only to easements, covenants, restrictions and other matters affecting title to the Public Improvements existing on the date of this Agreement so long as such matters do not affect free

ingress and egress to the Project Site. Once the City's obligations to pay the Redeveloper for the City Redevelopment Costs related to the Public Improvements and the City's other obligations related to the Public Improvements under this Agreement are fully satisfied, the Redeveloper shall release the City from any claims related to any right, title or interest of the Redeveloper in the Public Improvements only.

ARTICLE IV: REDEVELOPMENT COSTS TO BE PAID BY THE CITY

4.1 Amount. In furtherance of the Redevelopment Plan and as a material part of the consideration inducing the Redeveloper to proceed with the Project, the City agrees to pay as they are incurred and strictly in accord with the terms and conditions hereof \$ 4,496,371 in redevelopment project costs (as defined in 65 ILCS 5/11-74.4-3(q)) incurred by Redeveloper for the acquisition of the Project Site and the development and construction of the Project, including the Public and Private Improvements, which estimated redevelopment costs are listed on the Budget attached hereto and made a part hereof as Exhibit 3 (the "City Redevelopment Costs"). The City agrees that City Redevelopment Costs shall be paid to the Redeveloper or, at the direction of the Redeveloper, on behalf of the Redeveloper directly to the Redeveloper's general contractor or construction manager. The Redeveloper shall submit to the City requests for the payment of City Redevelopment Costs not more frequently than monthly. Each request for the payment of City Redevelopment Costs shall include a description of the work performed, the line item of Exhibit 3 where the cost is shown, the identification of the Redeveloper, contractor, subcontractor or vendor to be paid for such work, copies of invoices, bills or other requests for payment from such Redeveloper, contractors, subcontractors or vendors. Within 30 days from the receipt of any request for the payment of City Redevelopment Costs which is made in accord with this Agreement, the City shall make such payment to the Redeveloper, contractor, subcontractor or vendor due such payment. To the extent that any request by the Redeveloper for the payment of City Redevelopment Costs is made to the City, but is deficient in some way, whether because of a lack of documentation or otherwise, the City shall identify to Redeveloper in writing the specific way(s) in which such request is deficient within 7 business days following the receipt of such request in sufficient detail to allow the Redeveloper to promptly cure any such deficiency. To the extent that work set forth on a particular line item within Exhibit 3 exceeds the estimated cost for that line item shown on Exhibit 3 by not more than 20%, the City shall not reject a request for payment hereunder solely on the basis that the requested payment for the work on that line item exceeds the estimated cost for that work shown on Exhibit 3 so long as the total costs for all the work for which the City is obligated to pay under this paragraph does not exceed \$4,496,371.

4.2 Redeveloper's Obligations Prior to First Disbursement. Redeveloper agrees that it will perform the following, prior to the first disbursement of City Redevelopment Costs:

(a) deliver to the City: (i) a certification issued by the Illinois Secretary of State certifying the articles of organization or existence or incorporation of the Redeveloper, as applicable, (ii) a copy of the limited partnership agreement, by-laws or other operating agreement of the Redeveloper, certified by an authorized partner, owner or member of the Redeveloper, as applicable and (iii) a certificate of good standing for Redeveloper from the Illinois Secretary of State;

(b) deliver to the City of certificates of insurance evidencing the coverage required by this Agreement;

(c) deliver to the City of all sworn statements and partial lien waivers for labor, material and services performed or provided to date with respect to the Project which would typically be provided for title insurance coverage over mechanic's lien claims and showing the cost of all work estimated to be performed and materials estimated to be used in connection with the construction of the Project; and

(d) deliver to the City of such other documents and instruments as may be reasonably required by the City and are not otherwise described in this Agreement.

4.3 Redeveloper's Obligations with Respect to Each Disbursement. In addition to each and every covenant, condition, agreement and requirement on the part of Redeveloper to be performed hereunder, as a condition to the City's obligation to make disbursements hereunder, the City shall be furnished with each of the following documents and instruments (herein sometimes collectively referred to as a "Request for Advance"), each such document and instrument to be in form and substance satisfactory to the City:

- (a) a reimbursement request as described in Section 4.1 above;
- (b) a contractor's affidavit or sworn statement executed by Redeveloper's general contractor;
- (c) copies of the form of full or partial waivers and releases of lien or any bond that may be required by the City for the Public Improvements from each material dealer, laborer, prime contractor, subcontractor and sub-subcontractor and any other party which may have a claim for a mechanics' or materialmen's lien against the Project or any part of the Project or which has done work or furnished materials for construction of the Project to date, the executed versions of which waivers are to be provided contemporaneously with the receipt of payment;
- (d) a date-down endorsement to any title policy protecting any lender issuing a construction loan for the Project through Redeveloper, its agent or assignee or contractor, showing no matters objectionable to any such lender, and increasing the amount contained in the pending disbursement endorsement of any such lender's title policy to the total amount outstanding under any such loan plus the amount then requested to be paid and providing full and complete insurance against any and all mechanics and materialmen's liens;
- (e) approval by the City of the construction work in place for the Public Improvements, which approval shall not be unreasonably withheld and, if such approval is requested but not given, the City shall expressly set forth the basis for such disapproval and the specific steps required to obtain approval within 14 days of any such request for approval.

4.4 Termination. The City's obligation to pay the reimbursement provided for in this Section 3.3 shall terminate upon the earlier of (i) the date that a total of \$_4,496,371_ has been paid, or (ii) the occurrence of any act on the part of Redeveloper or on the part of any person acting on behalf of Redeveloper, constituting a default under this Agreement, which default by the Redeveloper is not cured within the ten (10) days after notice from the City to the Redeveloper thereof or, if such default is not capable of being cured within the (10) days, if the Redeveloper has not commenced efforts to cure within ten (10) days of such notice and diligently pursues efforts to cure, or (iii) November 12, 2036.

ARTICLE V: REPAYMENT TO CITY FOR CITY REDEVELOPMENT COSTS

The City intends to issue bonds to finance the payment of the City Redevelopment Costs the City has agreed to pay described in Article IV above (the "Bonds"). The Parties acknowledge that the City's intended source of repayment of the Bonds is the real estate tax revenue generated from the Project Site (the "Project Tax Revenue"). The Redeveloper acknowledges that the Bonds will be repaid out of the real estate tax revenue paid by the Project owner, which revenue is not projected to be significant enough to make such payments until the Project is constructed and leased. The parties also expect that the Project will likely not generate enough overall revenue to make payments on the Bonds for the first three full years after the Closing.

For the benefit of both of the parties, the City agrees to finance its obligation to pay City Redevelopment Costs under Article IV herein by means of Bonds that do not require any payments by the City for at least three full years after Closing and which Bonds otherwise have repayment terms described in the documents delivered to the Redeveloper by the City pursuant to Section 1.3(a)(vii) above which are acceptable to the Redeveloper. The parties agree that, beginning in the fourth full calendar year after the Closing and continuing until the twenty-third full calendar year after closing, for the benefit of the City, Redeveloper or its assignee will make a payment to the City by December 1 of each year equal to the amount, if any, by which the property taxes paid on the Project Site for such year are less than the scheduled bond payment shown on the Repayment Schedule for any such year (“Annual Payment to City”). So long as the Redeveloper honors its obligation to make payments to the City under this paragraph, the City agrees to keep timely paying its obligations on the Bonds, when due. In calculating any payment due from the Redeveloper or its assignee, the Redeveloper or its assignee will not only receive credit for any property taxes paid on the Project Site during the year in which any payment due hereunder is calculated, but shall also receive credit for any property taxes paid on the Project Site in any previous calendar year plus any payments made to the City under this paragraph in such year in excess of the scheduled bond payment for such year. Notwithstanding any of the foregoing, the Parties agree that any particular property tax dollar paid on the Project Site and any particular dollar paid as part of an Annual Payment to the City can only be credited once during the term of this Agreement in determining any amounts which the Redeveloper or its assignee is obligated to pay the City under this Paragraph.

The Redeveloper agrees to grant to the City a mortgage securing the Redeveloper’s obligations under this Article V. The City agrees that such mortgage shall be subordinate to liens securing the Redeveloper’s financing for the Project.

ARTICLE VI: REPRESENTATIONS OF THE REDEVELOPER

The Redeveloper represents, warrants and agrees as the basis for the undertakings on its part herein contained that:

6.1 Organization. The Redeveloper has been duly organized and exists under the laws of the State of Illinois and has been duly qualified to transact business in Illinois.

6.2 Authorization. The Redeveloper has power to enter into, and by proper action has been duly authorized to execute, deliver and perform, this Agreement.

6.3 Non-Conflict or Breach. Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement, conflicts with or results in a breach of any of the terms, conditions or provisions of any restriction, agreement or instrument to which the Redeveloper is now a party or by which the Redeveloper is bound.

6.4 Pending Lawsuits. There are no lawsuits either pending or threatened that would affect the ability of the Redeveloper to proceed with the construction and development of the Project on the Project Site.

ARTICLE VII: REPRESENTATIONS OF THE CITY

The City represents, warrants and agrees as a basis for the undertakings on its part contained herein that:

7.1 Organization and Authorization. The City is a municipal corporation organized and existing under the laws of the state of Illinois, and has the power to enter into and by proper action has been duly authorized to execute, deliver and perform this Agreement.

7.2 Redevelopment Plan. The Redevelopment Plan has been properly adopted, the Redevelopment Project Area has been properly designated and tax increment financing has been properly adopted therein.

7.3 Non-Conflict or Breach. Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement, conflicts with or results in a breach of any of the terms, conditions or provisions of any restriction, agreement or instrument to which the City is now a party or by which the City is bound.

7.4 Pending Lawsuits. There are no lawsuits either pending or threatened that would affect the ability of the City to perform this Agreement.

7.5 Enterprise Zone. The City represents that the Project Site is located within the City of Peoria Enterprise Zone. After submission by the Redeveloper of a complete and properly filed application, the City agrees to employ reasonable and good faith efforts to cooperate with the Redeveloper and to process and timely consider and respond to all applications to provide Redeveloper a Certificate of Exemption to qualify Redeveloper for sales tax exemption on the purchase of building materials within the Project Site and any and all other benefits and incentives available to the Project through its inclusion in the City of Peoria Enterprise Zone. Redeveloper acknowledges that it does not qualify for any real estate tax abatement through its inclusion in the City of Peoria Enterprise Zone.

7.6 City Debts and Obligations Related to the Site. The City represents that the City has paid and, as of the date of the Closing, shall have paid all debts and obligations incurred by the City, whether recorded or not, which relate to the ownership, maintenance or operation of the Project Site.

ARTICLE VIII: INDEMNIFICATIONS

8.1 Redeveloper Indemnification. The Redeveloper agrees to indemnify and hold the City and its officers and employees harmless against all claims by or on behalf of any person, firm or corporation and to protect the City against any losses or damages suffered by the City arising from: (i) any violation by the Redeveloper of any easements, conditions, restrictions, building regulations, zoning ordinances, or land use regulations affecting the Project Site or the Project; or (ii) any violation by the Redeveloper of state or federal securities law in connection with the offer and sale of interests in any part of the Project; or (iii) the Redeveloper's operation or management of the Project, any work or thing done within the Project Site by Redeveloper or any work or activity done by the Redeveloper in connection with the construction of the Project; or iv) any breach or default of any obligation of the Redeveloper under this Agreement or v) any act of negligence of the Redeveloper or any of its agents, contractors, servants or employees in connection with the Project. In case any such claim shall be made or action brought based upon any such claim in respect of which indemnity may be sought against the Redeveloper or if any loss or damage for which indemnity is due from the Redeveloper is threatened, the City shall give prompt written notice to the Redeveloper of any such claim or threatened loss or damage, setting forth the particulars of such claim or threatened loss or damage and the Redeveloper shall immediately assume the defense of any claim, including the employment of counsel and the payment of all costs and expenses, and immediately act to protect, indemnify and hold harmless the City against any threatened or actual loss or damage which is subject to being indemnified under this paragraph. The City shall have the right to employ separate counsel in any such situation and to participate in the defense of any claim related thereto, but the fees and expenses of such counsel shall be at the expense of the City.

8.2 City Indemnification. The City agrees to indemnify and hold the Redeveloper and its general contractors or construction managers, agents and assigns harmless against all claims by or on behalf of any person, firm or corporation and to protect the Redeveloper against any losses, costs or damages suffered by the Redeveloper arising from: (i) any act or omission by the City's Environmental Consultant with respect to any work for which it was engaged by the City that in any way relates to the Project Site or the Project; or (ii) any inability on the part of the City's

Environmental Consultant to secure the Final NFR Letter within 8 months following the Redeveloper's satisfactory completion of the site work identified in the RAP, provided the construction of the Project is carried out with reasonable diligence and the Redeveloper and its general contractors, construction managers and agents follow the provisions of this Agreement, or (iii) any claim, loss or damage related to an environmental condition at, on or under the Project Site not found in the RAP, so long as such an environmental condition existed prior to the Closing hereunder and was not caused by Redeveloper; or (iv) any obligation to perform any task not expressly identified in the RAP that relates to or results from an environmental condition at, on or under the Project Site, so long as such an environmental condition existed prior to the Closing hereunder and was not caused by Redeveloper. In case any such claim shall be made or action brought based upon any such claim in respect of which indemnity may be sought against the City or if any loss or damage for which indemnity is due from the City is threatened, the Redeveloper shall give prompt written notice to the City of any such claim or threatened loss or damage, setting forth the particulars of such claim or threatened loss or damage and the City shall immediately assume the defense of any claim, including the employment of counsel and the payment of all costs and expenses, and immediately act to protect, indemnify and hold harmless the Redeveloper against any threatened or actual loss or damage which is subject to being indemnified under this paragraph. The Redeveloper shall have the right to employ separate counsel in any such situation and to participate in the defense of any claim related thereto, but the fees and expenses of such counsel shall be at the expense of the Redeveloper.

ARTICLE IX: DEFAULT AND REMEDIES

9.1 Events of Default. The following shall be events of default ("Events of Default") with respect to this Agreement:

- (a) If any material representation made by the Redeveloper or City in this Agreement, or in any certificate, notice, demand or request made by the Redeveloper or City, in writing and delivered to the other party pursuant to or in connection with any of said documents shall prove to be untrue or incorrect in any material respect as of the date made; or
- (b) Breach by the Redeveloper or City of any material covenant, warranty or obligation set forth in this Agreement.

9.2 Remedies of Default. In the case of an Event of Default by either party hereto or any successors to such party, such party or successor shall, upon written notice from the other party, take immediate action to cure or remedy such Event of Default within sixty (60) days after receipt of such notice. If, in such case action is not taken, or not diligently pursued, or the Event of Default shall not be cured or remedied within such period, the aggrieved party shall have available to it all equitable, legal or other remedies provided under the law or under this Agreement for such default and may institute such proceedings as may be necessary or desirable in its opinion to cure or remedy such default, including but not limited to, proceedings to compel specific performance by the party in default of its obligations. The prevailing party in any such proceedings shall be entitled to recover, in addition to any other relief to which it is otherwise entitled, the reasonable attorneys' fees and costs incurred in enforcing its rights.

In case the City or Redeveloper shall have proceeded to enforce its rights under this Agreement and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the party initiating such proceedings, then and in every such case the Redeveloper and the City shall be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the Redeveloper and the City shall continue as though no such proceedings had been taken.

9.3 Other Rights and Remedies of City and Redeveloper: Delay in Performance Waiver.

9.3.1 No Waiver by Delay. Any delay by the City or the Redeveloper in instituting or prosecuting any actions or proceedings or otherwise asserting their rights under this Agreement shall not operate to act as a waiver of such rights or to deprive them of or limit such rights in any way (it being the intent of this provision that the City or Redeveloper should not be constrained so as to avoid the risk of being deprived of or limited in the exercise of the remedies provided in this Agreement because of concepts of waiver, laches or otherwise); nor shall any waiver in fact made by the City or Redeveloper with respect to any specific Event of Default by the Redeveloper or City under this Agreement be considered or treated as a waiver of the rights of the City or Redeveloper under this Section or with respect to any Event of Default under any section in this Agreement or with respect to the particular Event of Default, except to the extent specifically waived in writing by the City or Redeveloper.

9.3.2 Rights and Remedies Cumulative. The rights and remedies of the parties to this Agreement (or their successors in interest) whether provided by law or by this Agreement, shall be cumulative, and the exercise by either party of any one or more of such remedies shall not preclude the exercise by it, at the time or different times, of any other such remedies for the same Event of Default by the other party. No waiver made by either such party with respect to the performance, nor the manner of time thereof, or any obligation of the other party or any condition to its own obligation under the Agreement shall be considered a waiver of any rights of the party making the waiver with respect to the particular obligation of the other party or condition to its own obligation beyond those expressly waived in writing and to the extent thereof, or a waiver in any respect in regard to any other rights of the party making the waiver or any other obligations of the other party. No provision in this Agreement is intended to limit the remedies available under law to a party to this Agreement, except to the extent that any such limitation is expressly provided herein.

9.3.3 Delay in Performance. For the purposes of any of the provisions of this Agreement, neither the City, nor the Redeveloper, as the case may be, nor any successor in interest, shall be considered in breach of, or in default of, its obligations with respect to the acquisition or preparation of the Project Site for redevelopment, or the beginning and completion of construction of the Project, or progress in respect thereto, in the event of enforced delay in the performance of such obligation due to unforeseeable causes beyond its control and without its fault or negligence, including, but not restricted to acts of God, acts of the public enemy, acts of federal, state or local government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, embargoes, acts of nature, unusually severe weather or delays of subcontractors due to such causes; it being the purposes and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times for performance of the obligations of the City or Redeveloper with respect to the acquisition or construction of the Project shall be extended for the period of the enforced delay. Provided, that the party seeking the benefit of the provisions of this Section, shall within thirty (30) days after the beginning of any such enforced delay, have first notified the other party thereof in writing, of the cause or causes thereof, and requested an extension of the period of enforced delay. Such extensions of schedule shall be agreed to in writing by the parties hereto.

ARTICLE X: EQUAL EMPLOYMENT OPPORTUNITY

The Redeveloper, for itself and its successors and assigns, agrees that in connection with the construction of the Project provided for in this Agreement that the following will apply:

The Redeveloper will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual harassment, ancestry, national origin, place of birth, age or a physical or mental handicap which would not interfere with the efficient performance of the job in question. The Redeveloper will take affirmative action to comply with the provisions of division

4 of article III or Chapter 17 of the Code of the City of Peoria by requiring all contractors and subcontractors with which it contracts for the performance of all or any part of the Project to abide by the terms of the document attached hereto as Exhibit 7, which document shall be attached to or incorporated by reference into all contracts between the Redeveloper and any contractor or subcontractor working on the Project. The Redeveloper will also distribute copies of Exhibit 7 to all persons who participate in recruitment, screening, referral or selection of job applicants, prospective job applicants or prospective subcontractors. The provisions of division 4 of article III of chapter 17 of the Code of the City of Peoria is hereby incorporated herein verbatim.

ARTICLE XI: REDEVELOPER COVENANTS AND RESTRICTIONS

11.1 Project Subject to Redevelopment Plan and Agreement. The Redeveloper agrees to comply with the terms and conditions of this Agreement and to use its best efforts to construct the Project subject to the terms, covenants, building and use restrictions, and other conditions in the Redevelopment Plan and this Agreement.

11.2 Non-Discrimination. The Redeveloper shall not discriminate in violation of any applicable federal, state or local laws or regulations upon basis of race, color, religion, sex, age, or national origin or other applicable factors in the sale, lease or rental, or in the use or occupancy of the Project or any part thereof.

11.3 Property Taxes. The Redeveloper covenants that it will pay all real estate taxes duly imposed with respect to the Project Site when due, but may apply for, seek, or authorize any exemption from the imposition of general real estate taxes on the Project Site. The parties further agree that Redeveloper may contest the assessment or collection of any taxes under statutory procedures set forth in the Illinois Compiled Statutes. In the event that any real estate taxes due on the Project Site are not paid within thirty (30) days of the date said taxes are due in violation of Illinois laws, the City may, at its option, pay said taxes. Any amounts paid by the City shall immediately become due from the Redeveloper, together with interest at the rate of 12% per annum. As of the date of such payment, the City shall have a lien against the Project Site for all amounts paid together with interest and all expenses incurred in the recovery of said amounts.

11.4 Duration of Covenants. It is intended and agreed that the covenants provided in Sections 11.1 and 11.3 of this Agreement shall remain in effect until the termination of the Redevelopment Plan, and that the covenants provided in Section 11.2 hereof shall remain effective without any time limitation; provided, that all such covenants shall be binding on the Redeveloper only for such period as the Redeveloper maintains a direct ownership interest in the Project Site (excluding, for example, a direct interest therein solely as a creditor or mortgagee), and only with respect to such direct ownership interest in the Project Site.

11.5 Covenants Running with the Land. Subject to Section 11.4, it is intended and agreed that the covenants set forth in Sections 11.1 through 11.3 above shall be covenants running with the land and that they shall in any event be binding to the fullest extent permitted by law and equity, for the benefit and in favor of and enforceable by the City, and with regard to Section 11.2 hereof, the City, the State of Illinois and the United States of America.

11.6 Covenants Binding for the Benefit of City. Subject to Section 11.4, it is also intended and agreed that the foregoing covenants set forth in Sections 11.1 through 11.3 above shall in any event, and without regard to technical classification or designation as legal or otherwise, be, to the fullest extent permitted by law and equity, binding for the benefit of the City and enforceable by the City, the State of Illinois and the United States of America as provided in Section 11.5.

11.7 Forms of Covenants and Restrictions. Certain of the covenants, uses and restrictions referred to in this Section 5 shall substantially be in the form of the Declaration of Covenants, Uses and Restrictions attached hereto and made a part hereof as Exhibit 5, which shall be executed and

recorded with the Peoria County, Illinois Recorder of Deeds on or before the date that the Redeveloper commences construction of the Project.

ARTICLE XII: PROVISIONS REGARDING ASSIGNMENT AND TRANSFER

12.1 Restrictions on the Transfer of Project and/or Project Site Prior to Completion of Construction. The Redeveloper represents and agrees that prior to the Substantial Completion of construction of the Project as certified by the City (in accordance with Sections 2.3 and 3.4 hereof) the following restrictions shall apply to the transfer of the Project or Project Site:

12.1.1 Restrictions. The Redeveloper agrees not to voluntarily transfer the Project Site or its rights under this Agreement prior to the substantial completion of the Project without the prior written approval of the City, except for the granting of mortgages to secure financing to enable the Redeveloper to purchase the Project Site or construct the Project or as provided in Paragraphs 12.5 and 12.6 herein.

12.1.2 Conditions for Approval. The City shall be entitled to reasonably require, except as otherwise provided in this Agreement, as conditions to any such approval by the City required pursuant to this Section 12.1, that:

(a) Any proposed transferee shall have the qualifications and financial responsibility and capacity, as reasonably determined by the City in its discretion, necessary and adequate to fulfill the obligations undertaken in this Agreement by the Redeveloper (or, in the event the transfer is of or related to part of the Project, such obligations to the extent that they relate to such part).

(b) Any proposed transferee, by instrument in writing reasonably satisfactory to the City and in a form recordable among the land records, shall expressly assume all of the obligations of the Redeveloper under this Agreement and agree to be subject to all the conditions and restrictions to which the Redeveloper is subject (or, in the event that the transfer is of or relates to part of the Project, such obligations, conditions and restrictions to the extent that they relate to such part). Provided, that the fact that any transferee of, or any other successor in interest whatsoever to, the Project, or any part thereof, shall not have assumed such obligations or so agreed, shall not (unless and only to the extent otherwise specifically provided in the Agreement or agreed to in writing by the City) relieve or except such transferee or successor of or from such obligations, agreements, conditions, or restriction, or deprive or limit the City of or with respect to any rights or remedies or controls with respect to the Project or the construction thereof; it being the intent of this provision, together with other provisions of this Agreement that (to the fullest extent permitted by law and equity and excepting only in the manner and to the extent specifically provided otherwise in this Agreement) no transfer of the Project or Project Site or any part thereof, or any interest therein, however consummated or occurring, and whether voluntary or involuntary, shall operate legally or practically, to deprive or limit the City, of any rights or remedies or controls regarding the Project and the construction hereof that the City would have had, had there been no such transfer.

(c) There shall be submitted to the City for advance review all instruments and other legal documents involved in effecting transfer.

12.2 Transfer of Project and Project Site After Substantial Completion of the Project. After opening to the public of the Project, the Redeveloper (and any subsequent owner of the Project or Project Site or any part thereof) may transfer the Project or Project Site (or any portion thereof) without the consent of the City; provided that any proposed transferee, by instrument in writing reasonably satisfactory to the City and in a form recordable among the land records, shall expressly assume all of the obligations of the Redeveloper under this Agreement and agree to be subject to all

the conditions and restrictions to which the Redeveloper is subject (or, in the event that the transfer is of or relates to part of the Project, such obligations, conditions and restrictions to the extent that they relate to so such part). Provided, that the fact that any transferee of, or any other successor in interest whatsoever to, the Project, or any part thereof, shall not have assumed such obligations or so agreed, shall not (unless and only to the extent otherwise specifically provided in the Agreement or agreed to in writing by the City) relieve or except such transferee or successor of or from such obligations, agreements, conditions, or restrictions, or deprive or limit the City of or with respect to any rights or remedies or controls with respect to the Project or the construction thereof; it being the intent of this, together with other provisions of this Agreement, that (to the fullest extent permitted by law and equity and excepting only in the manner and to the extent specifically provided otherwise in this Agreement) no transfer of the Project or Project Site or any part thereof, or any interest therein, however consummated or occurring, and whether voluntary or involuntary, shall operate legally or practically, to deprive or limit the City, of any rights or remedies or controls regarding the Project and the construction thereof that the City would have had, had there been no such transfer.

12.3 Status of Assignee. Any assignee of the Redeveloper under the provisions hereof shall be considered the "Redeveloper" for all purposes of this Agreement.

12.4 No Release of Redeveloper. Any consent by the City to any total or partial transfer of the Project or the Project Site shall not be deemed a release of the Redeveloper from any of its obligations hereunder, or from any conditions or restrictions to which the Redeveloper is subject, unless the Redeveloper is expressly released in writing by the City.

12.5 Assignment to Affiliated Entity. Nothing herein shall be construed to prevent the Redeveloper at any time from transferring or assigning its interest in this Agreement or the Project Site to an affiliated entity in which Desmond Curran or Glen Barton, their estates or any trusts established by either of them, have a controlling interest without the consent of the City, whether for tax purposes or for any other purposes, in whole or in part, provided that: (i) the Redeveloper provides fourteen-day prior written notice of such transfer or assignment to the City along all instruments and other legal documents involved in effecting any such transfer or assignment; (ii) such transferee or assignee has the qualifications and financial capacity, as reasonably determined by the City in its discretion, to perform all obligations of the Redeveloper pursuant to this Agreement, to the extent of the transfer or assignment; (iii) such transferee or assignee in writing assumes all of the obligations of the Redeveloper under this Agreement, to the extent of the transfer or assignment.

12.6 Assignment to Acquire Financing or Equity. Nothing herein shall be construed to prevent the Redeveloper at any time from transferring or assigning its interest in this Agreement or the Project Site to the extent necessary to secure financing or equity to enable the Project Site to be purchased and/or the Project to be constructed without the consent of the City, provided that: (i) the Redeveloper provides fourteen-day prior written notice of such transfer or assignment to the City along with all instruments and other legal documents involved in effecting any such transfer; (ii) such transferee or assignee has the qualifications and financial capacity, as determined by the City in its sole discretion, to perform all obligations of the Redeveloper pursuant to this Agreement, to the extent such assignment involves the transfer or assignment of any such obligations; and (iii) such transferee or assignee in writing assumes all of the obligations of the Redeveloper under this Agreement, to the extent that such transfer or assignment involves the transfer or assignment of any such obligations.

12.7 Leases and Easements. Nothing in this Agreement is intended to restrict or in any way affect Redeveloper's right to lease all or any part of the Project Site or to create or receive easements relating to the Project, the Project Site, any nearby property or the use or operation of the Project or Project Site at any time, without the consent of the City.

ARTICLE XIII: MISCELLANEOUS

13.1 Authorized Representatives.

13.1.1 Redeveloper. By complying with the notice provisions hereof, the Redeveloper shall designate an authorized representative from time to time, who, unless applicable law requires action by the general partners of the Redeveloper, shall have the power and authority to make or grant or do all things, requests, demands, approvals, consents and other actions required or described in this Agreement for and on behalf of the Redeveloper.

13.1.2 City. By complying with the notice provisions hereof, the City shall designate an authorized representative from time to time, who shall communicate with the Redeveloper on behalf of the City.

13.2 Entire Agreement. The terms and conditions set forth in this Agreement and exhibits attached hereto supersede all prior oral and written understandings and constitute the entire agreement between the City and the Redeveloper.

13.3 Binding Upon Successors in Interest. This Agreement shall be binding upon all the parties hereto and their respective heirs, successors, administrators, assigns or other successors in interest.

13.4 Titles of Paragraphs. Titles of the several parts, paragraphs, sections or articles of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any provision hereof.

13.5 Notices. Notices of demands hereunder shall be in writing and shall be served (a) by personal delivery; or (b) by certified mail, return receipt requested to the City Clerk, City Hall, 419 Fulton Street, Peoria, Illinois 61602 (with copies to Patrick Urich and Christopher Setti, City of Peoria, 419 Fulton, Suite 207, Peoria, IL 61602 and Michael R. Seghetti, Elias, Meginnis & Seghetti, P.C., 416 Main Street, Suite 1400, Peoria, IL 61602), or to the Redeveloper, c/o Desmond P. Curran, 120 East Ogden Avenue, Suite 101, Hinsdale, IL 60521, with a copy to Desmond Patrick Curran, Sullivan Hincks & Conway, 120 W. 22nd Street, Suite 100, Oak Brook, IL 60523, or to the last known address of either party and their attorneys or to the address provided by any assignee if such address has been given in writing. In the event said notice is mailed, the date of service of such notice shall be deemed to be two (2) business days after the date of delivery of said notice to the United States Post Office.

13.6 Severability. If any provision of this Agreement is held to be invalid, the remainder of this Agreement shall not be affected thereby.

13.7 Memorandum of Agreement. At the option of the Redeveloper, the parties shall execute and record the Memorandum of Agreement in the attached hereto and made a part hereof as Exhibit 6.

13.8 Further Assistance and Corrective Instruments. The City and the Redeveloper agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required by the parties hereto, for carrying out the intention of or facilitating the performance of this Agreement.

13.9 Survival of Redevelopment Agreement Terms. The terms of this Agreement shall not merge with the Deed upon Closing but shall survive and remain in effect following Closing until all duties and obligations contained herein have been fully performed and all rights herein have been fully satisfied.

13.10 Incorporation of Recitals. The terms of the recitals set forth at the beginning of this Agreement are hereby incorporated in this Agreement as if specifically set forth herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement and caused their respective seals to be affixed and attested thereto as of the date first above written. The Parties agree that this Agreement shall be effective when each of the following has taken place: a) the member of the general partner of the Redeveloper has executed this document; b) the City Manager, Assistant City Manager and City Clerk and acting Corporation Counsel have each signed this document; and c) the City Council has issued an ordinance approving this Agreement. The preceding signatures may be executed in counterparts and the counterpart signatures shall have the same force and effect if all parties so signing had signed the same document. The ordinance referenced in this paragraph shall be incorporated herein, when issued, and shall be treated as if it was a part of this document as well. The City shall promptly forward the form of the ordinance to the Redeveloper and the Redeveloper shall have seven days after the receipt of the form of the ordinance to approve or disapprove such form. A faxed or electronic copy of any signature hereunder or of the ordinance referenced in this paragraph shall have the same effect as an original.

CITY OF PEORIA

RIVER TRAIL DRIVE, LP

By: _____
Its: City Manager

By: _____

Type or Print Name: _____

ATTEST: _____
Its: City Clerk

Its: General Partner

By: _____
Type or Print Name: _____

Its: _____

APPROVED AS TO FORM:

By: _____
Its: Acting Corporation Counsel

APPROVED AS TO CONTENT:

By: _____
Its: _____

- EXHIBIT 1 – PLAT
- EXHIBIT 2 – PUBLIC IMPROVEMENTS
- EXHIBIT 3 – REIMBURSABLE COST BUDGET
- EXHIBIT 4 – DECLARATION OF COVENANTS
- EXHIBIT 5 – MEMORANDUM OF AGREEMENT
- EXHIBIT 6 - INITIAL SITE PLAN AND ELEVATION
- EXHIBIT 7 – EQUAL EMPLOYMENT OPPORTUNITY CLAUSE

312-923.d6

EXHIBIT 1

PLAT

EXHIBIT 2

PUBLIC IMPROVEMENTS

The construction of a public roadway in the approximate location of the future right of way on the Plat attached to the Agreement.

EXHIBIT 3

CITY REDEVELOPMENT COST BUDGET

Engineer's Opinion of Probable Construction Cost

 PEORIA RIVER TRAIL DEVELOPMENT - TIF BUDGET EVALUATION *FINAL*

3/16/2015

(Residential Improvements - 4 Buildings)

Item Description	Unit	Quantity	Unit Cost (\$)	Total Cost (\$)
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Landscape & Erosion Control				
Landscape & Erosion Control - Excluded				

Demolition & Earthwork				
Building Removal	CF	60,000	\$0.77	\$46,200
Pavement / Walking Path / Sidewalk / Signage / Gurb & Gutter Removal	SF	44,000	\$3.18	\$139,920
Utility Removal / Relocate	LS	1	\$10,000.00	\$10,000
Pedestal & Parking Lot Light Removal	EA	8	\$750.00	\$6,000
Topsoil Strip	CY	4,500	\$4.00	\$18,000
Clay Cut	CY	5,500	\$7.10	\$39,050
Clay Fill	CY	11,400	\$5.50	\$62,700
Miscellaneous Fill	CY	5,600	\$6.30	\$35,280
Cap & Plug Existing Well	LS	1	\$3,000.00	\$3,000
Dynamic Compaction (4 Buildings)	SF	52,000	\$2.00	\$104,000
Total Demolition & Earthwork				\$464,150

Paving & Sidewalks				
Paving & Sidewalks (Environmental Engineered Barrier)	LS	1	\$339,850.00	\$339,850
Total Paving & Sidewalks				\$339,850

Utilities				
Utilities - Excluded				

Lighting				
Lighting - Excluded				

Miscellaneous				
Land Acquisition	LS	1	\$445,475.00	\$445,475
Total Miscellaneous				\$445,475

Pre-Construction Services				
Preliminary & Final Architect	LS	1	\$260,000.00	\$260,000
Preliminary & Final Landscape	LS	1	\$16,500.00	\$16,500
Preliminary & Final Engineering	LS	1	\$105,000.00	\$105,000
Preliminary & Final Survey / Platting	LS	1	\$25,000.00	\$25,000
Legal, Permitting, & Other Misc. Fees	LS	1	\$170,500.00	\$170,500
Total Pre-Construction Services				\$577,000

SUBTOTAL				\$1,826,475
Administrative Fee (10%)				\$182,648
TOTAL RESIDENTIAL IMPROVEMENTS				\$2,009,123

Engineer's Opinion of Probable Construction Cost

 PEORIA RIVER TRAIL DEVELOPMENT - TIF BUDGET EVALUATION *FINAL*

1/28/2015

(Road Improvements)

Item Description	Unit	Quantity	Unit Cost (\$)	Total Cost (\$)
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Landscape & Erosion Control				
Tree Protection Fencing	LF	1,500	\$5.00	\$7,500
Silt Fence	LF	3,000	\$3.20	\$9,600
Construction Entrance	EA	2	\$4,500.00	\$9,000
Erosion Control Blanket (incl. seed)	SY	4,800	\$2.75	\$13,200
Inlet Protection	EA	16	\$250.00	\$4,000
Concrete Washout	EA	2	\$2,500.00	\$5,000
Parkway / ROW Trees & Landscaping	LS	1	\$40,000.00	\$40,000
Constitution Gardens Memorial Removal and Relocation	LS	1	\$45,000.00	\$45,000
Total Landscape & Erosion Control				\$133,300

Demolition & Earthwork				
Tree Removal	LS	1	\$10,000.00	\$10,000
Pavement / Walking Path / Sidewalk / Signage / Gurb & Gutter Removal	SF	29,000	\$3.18	\$92,220
Utility Removal / Relocate	LS	1	\$20,000.00	\$20,000
Pedestal & Parking Lot Light Removal	EA	5	\$750.00	\$3,750
Topsoil Strip	CY	2,500	\$5.00	\$12,500
Clay Cut	CY	3,000	\$7.10	\$21,300
Clay Fill	CY	6,100	\$5.50	\$33,550
Miscellaneous Fill	CY	3,000	\$6.30	\$18,900
Total Demolition & Earthwork				\$212,220

Utilities				
Water Main				
Pressure Connection	EA	2	\$7,000.00	\$14,000
10" Valve & 60" Vault	EA	2	\$6,000.00	\$12,000
Fire Hydrant & Assembly	EA	7	\$3,800.00	\$26,600
10" DIP WM	LF	2,150	\$60.00	\$129,000
Drill Well & Associated Piping	LS	1	\$15,000.00	\$15,000
Trench Backfill (CA-6)	CY	1,200	\$40.00	\$48,000
Storm Sewer				
Adjust Existing Inlet	EA	2	\$1,000.00	\$2,000
MH Constructed Over Existing Sewer	EA	3	\$6,000.00	\$18,000
24" Dia. Inlet	EA	8	\$2,000.00	\$16,000
48" Dia. Inlet	EA	8	\$3,500.00	\$28,000
12" RCP	LF	1,400	\$45.00	\$63,000
15" RCP	LF	600	\$50.00	\$30,000
Trench Backfill (CA-6)	CY	750	\$40.00	\$30,000
Total Utilities				\$431,600

Item Description	Unit	Quantity	Unit Cost (\$)	Total Cost (\$)
Paving				
10' Asphalt Bike Path (2" Asphalt on 6" Stone)	SY	1,000	\$17.00	\$17,000
Concrete Sidewalk and Base	SF	11,500	\$5.00	\$57,500
1.5" Bit. Surface Course	SY	7,480	\$11.25	\$84,150
2.5" Polymerized Binder Course	SY	7,480	\$17.50	\$130,900
5.25" Bit. Binder Course	SY	7,480	\$36.00	\$269,280
Bit. Prime Coat - MC 30	GAL	2,220	\$2.50	\$5,550
Lime Stabilized Subgrade	SY	7,480	\$3.75	\$28,050
B6.12 Curb & Gutter	LF	4,600	\$16.00	\$73,600
Backfill Curb & Gutter	LF	4,600	\$2.00	\$9,200
Pavement Markings and Signs	LS	1	\$8,000.00	\$8,000
Reconstruct Road @ Railroad Crossing	LS	1	\$50,000.00	\$50,000
Total Paving				\$733,230
Lighting				
Light Pole & Fixture	EA	27	\$5,800.00	\$156,600
Total Lighting				\$156,600
Miscellaneous				
Construction Mobilization & Staging	LS	1	\$5,000.00	\$5,000
Construction Administration	LS	1	\$25,000.00	\$25,000
Survey Layout	LS	1	\$25,000.00	\$25,000
Inspections & Testing & Certification	%	4%	\$1,666,950.00	\$66,678
Total Miscellaneous				\$121,678
Pre-Construction Services				
Preliminary & Final Landscape	LS	1	\$4,000.00	\$4,000
Preliminary & Final Engineering	LS	1	\$95,000.00	\$95,000
Preliminary & Final Survey / Platting	LS	1	\$20,000.00	\$20,000
Permitting & Other Misc. Fees	LS	1	\$10,000.00	\$10,000
Total Pre-Construction Services				\$129,000
SUBTOTAL				\$1,917,628
TOTAL ROAD IMPROVEMENTS				\$1,917,628

Notes:

- Environmental Remediation excluded. See separate estimate.

Engineer's Opinion of Probable Construction Cost

PEORIA RIVER TRAIL DEVELOPMENT - ENVIRONMENTAL REMEDIATION

1/28/2015

FINAL

Item Description	Unit	Quantity	Unit Cost (\$)	Total Cost (\$)
Demolition / Earthwork / Environmental Remediation				
18" Topsoil Import (Containment Barrier)	CY	16,100	\$20.00	\$322,000
Containment Liner (US Fabrics - US 65HVO)	SY	26,710	\$2.00	\$53,420
Topsoil Respread & Fine Grade	CY	2,400	\$8.00	\$19,200
Retaining Wall	FF	1,000	\$30.00	\$30,000
Special Soil Preparation for Final Landscaping	LS	1	\$50,000.00	\$50,000
Total Demolition / Earthwork				\$474,620
Miscellaneous				
Construction Administration	LS	1	\$5,000.00	\$5,000
Environmental Testing & Inspections	LS	1	\$50,000.00	\$50,000
Environmental / State Permits	LS	1	\$10,000.00	\$10,000
Total Miscellaneous				\$65,000
Pre-Construction Services				
Preliminary & Final Environmental	LS	1	\$15,000.00	\$15,000
Preliminary & Final Engineering	LS	1	\$5,000.00	\$5,000
Admin, Legal, Permitting, & Other Misc. Fees	LS	1	\$10,000.00	\$10,000
Total Pre-Construction Services				\$30,000
SUBTOTAL				\$569,620
TOTAL				\$569,620

Engineer's Opinion of Probable Construction Cost

PEORIA RIVER TRAIL DEVELOPMENT - SUMMARY

1/28/2015

FINAL

Total Cost	
Residential Improvements - 4 Buildings	\$2,009,123
Road Improvements	\$1,917,628
Environmental Remediation	\$569,620
Total Cost	\$4,496,371

TOTAL TIF BUDGET	\$4,496,371
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EXHIBIT 4

Prepared by:

Michael R. Seghetti
Elias, Meginnes & Seghetti, P.C.
416 Main Street, Suite 1400
Peoria, Illinois 61602

After recording return to:

Michael R. Seghetti
Elias, Meginnes & Seghetti, P.C.
416 Main Street, Suite 1400
Peoria, Illinois 61602

DECLARATION OF COVENANTS, USES AND RESTRICTIONS

River Trail Drive, LP (the “Declarant”), is the owner of certain real property located in the City of Peoria, the County of Peoria, the State of Illinois, more fully described in Exhibit A attached hereto and made a part hereof (the “Project Site”).

The Declarant has entered into the River Trail Redevelopment Agreement (the “Agreement”) dated as of _____, 2015 with the City of Peoria (“City”). The Agreement provides that the Declarant shall develop a project as described in the Agreement (the "Project") on the Project Site (as defined in the Agreement), which Project will further the development of the River Trail Redevelopment Plan. For the purpose of enhancing and protecting the value, the attractiveness and the desirability of the Project as developed pursuant to the terms of the Agreement; for the purpose of protecting the rights of the City pursuant to the terms of the Agreement; and for the purpose of enhancing and protecting the purposes of the Plan as aforementioned, the Declarant hereby declares that all of the Project and Project Site and each part thereof shall be held, sold, and conveyed only subject to the following covenants, uses and restrictions, which shall constitute covenants running with the land and shall be binding on all parties having any rights, title or interest in said property or any part hereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof. Terms capitalized but not defined in this Declaration shall have the meaning set forth in the Agreement.

1. **Project Subject to Redevelopment Plan and Agreement.** The Declarant agrees to comply with the terms and conditions of the Agreement and to use its best efforts to construct the Project subject to the terms, covenants, building and use restrictions, and other conditions in the Redevelopment Plan and the Agreement.

2. **Non-Discrimination.** The Declarant shall not discriminate in violation of any applicable federal, state or local laws or regulations upon basis of race, color, religion, sex, age, or national origin or other applicable factors in the sale, lease or rental, or in the use or occupancy of the Project or any part thereof.

3. Property Taxes. The Redeveloper covenants that it will pay all real estate taxes duly imposed with respect to the Project Site when due, but may apply for, seek, or authorize any exemption from the imposition of general real estate taxes on the Project Site. The parties to the Agreement further agree that Redeveloper may contest the assessment or collection of any taxes under statutory procedures set forth in the Illinois Compiled Statutes. In the event that any real estate taxes due on the Project Site are not paid within thirty (30) days of the date said taxes are due in violation of Illinois laws, the City may, at its option, pay said taxes. Any amounts paid by the City shall immediately become due from the Redeveloper, together with interest at the rate of 12% per annum. As of the date of such payment, the City shall have a lien against the Project Site for all amounts paid together with interest and all expenses incurred in the recovery of said amounts.

4. Duration of Covenants. It is intended and agreed that the covenants provided in Sections 1 and 3 of this Declaration shall remain in effect until the termination of the Redevelopment Plan, and that the covenants provided in Section 2 of this Declaration shall remain effective without any time limitation; provided, that all such covenants shall be binding on the Declarant only for such period as the Declarant maintains a direct ownership interest in the Project Site (excluding, for example, a direct interest therein solely as a creditor or mortgagee), and only with respect to such direct ownership interest in the Project Site.

5. Covenants Running with the Land. Subject to Section 4 above, it is intended and agreed that the covenants set forth in Sections 1 through 3 above shall be covenants running with the land and that they shall in any event be binding to the fullest extent permitted by law and equity, for the benefit and in favor of and enforceable by the City, and with regard to Section 2 above, the City, the State of Illinois and the United States of America.

6. Covenants Binding for the Benefit of City. Subject to Section 4 above, it is also intended and agreed that the foregoing covenants set forth in Sections 1 through 3 above shall in any event, and without regard to technical classification or designation as legal or otherwise, be, to the fullest extent permitted by law and equity, binding for the benefit of the City and enforceable by the City, the State of Illinois and the United States of America as provided in Section 5 above.

7. Invalidation of any one of these covenants or restrictions by judgment or court order, shall in no way affect any other provisions, which shall remain in full force and effect.

8. This Declaration may be amended only by a written instrument signed by the City and the Declarant and recorded with the Peoria County, Illinois Recorder.

Executed at Peoria, Illinois, as of _____, 2015.

RIVER TRAIL DRIVE, LP

By: _____

Type or Print Name: _____

Its: General Partner

By: _____

Type or Print Name: _____

Its: _____

STATE OF ILLINOIS)
) ss.
COUNTY OF _____)

I, the undersigned, a Notary Public in and for said County and State aforesaid, DO
HEREBY CERTIFY that _____, personally known to me to be the
_____ of the General Partner of River Trail Drive, LP, an Illinois limited
partnership, and personally known to me to be the same person whose name is subscribed to the
foregoing instrument as such _____ of such General Partner, appeared before me this
day in person and severally acknowledged that he signed, sealed and delivered the said instrument as
his free and voluntary act on behalf of such General Partner, and as the free and voluntary act of said
limited partnership for the uses and purposes therein set forth; and on his oath stated that he was duly
authorized to execute said instrument.

GIVEN under my hand and notarial seal this ____ day of _____, 2015.

Notary Public

(SEAL)

Commission Expires:

EXHIBIT 5

Prepared by:

Michael R. Seghetti
Elias, Meghinnes & Seghetti, P.C.
416 Main Street, Suite 1400
Peoria, Illinois 61602

After recording return to:

Michael R. Seghetti
Elias, Meghinnes & Seghetti, P.C.
416 Main Street, Suite 1400
Peoria, Illinois 61602

MEMORANDUM OF AGREEMENT

River Trail Drive, LP (“Redeveloper”) and the City of Peoria have entered into a River Trail Redevelopment Agreement dated as of _____, 2015 (“Agreement”) with respect to certain real property located in the City of Peoria, the County of Peoria, the State of Illinois, more fully described in Exhibit A attached hereto and made a part hereof (the “Project Site”). The Agreement provides that the Redeveloper, subject to certain terms and conditions set forth in the Agreement, shall develop a project as described in the Agreement (the “Project”) on the Project Site.

Dated: _____, 2015.

CITY OF PEORIA, ILLINOIS

RIVER TRAIL DRIVE, LP

By: _____

By: _____

Its: _____

Type or Print Name: _____

Its: General Partner

Attest: _____

Its: _____

STATE OF ILLINOIS)
) ss.
COUNTY OF _____)

I, the undersigned, a Notary Public in and for said County and State aforesaid, DO HEREBY CERTIFY that _____, personally known to me to be the _____ of the General Partner of River Trail Drive, LP, an Illinois limited partnership, and personally known to me to be the same person whose name is subscribed to the foregoing instrument as such _____ of such General Partner, appeared before me this day in person and severally acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act on behalf of such General Partner, and as the free and voluntary act of said limited partnership for the uses and purposes therein set forth; and on his oath stated that he was duly authorized to execute said instrument.

GIVEN under my hand and notarial seal this ____ day of _____, 2015.

Notary Public

(SEAL)

Commission Expires:

STATE OF ILLINOIS)
) ss.
COUNTY OF _____)

I, the undersigned, a Notary Public in and for said County and State aforesaid, DO HEREBY CERTIFY that _____, and _____, personally known to me to be the _____, and _____, respectively, of the City of Peoria, an Illinois municipal corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such _____, and _____, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act as such _____, and _____, and as free and voluntary act of said municipal corporation for the uses and purposes therein set forth; and on their respective oaths stated that they were duly authorized to execute said instrument.

GIVEN under my hand and notarial seal this ____ day of _____, 2015.

Notary Public

(SEAL)

Commission Expires:

EXHIBIT 6

INITIAL SITE PLAN AND ELEVATION



1 Entry Elevation

SCALE: 1/8"=1'-0"



2 Right Elevation

SCALE: 1/8"=1'-0"



1 Rear Elevation

SCALE: 1/8"=1'-0"



2 Left Elevation

SCALE: 1/8"=1'-0"

EXHIBIT 7

EEO CONTRACT COMPLIANCE CLAUSE

It is hereby declared to be the public policy of the City of Peoria, that it will not execute a contract for goods and/or services with any individual, business enterprise, supplier/vendor; maintain a financial relationship with any financial institution; or use the services of any labor organization or member thereof found to be in violation of the provisions of the Municipal Code for the City of Peoria, Chapter 17, Article III, Division 4, Section 17-118. River Trail Drive, LP (“the Redeveloper”) has committed to require the provisions of this document to be included in all agreements with contractors or subcontractors working on the River Trail Project (“the Project”). Therefore, this contract must form a part of the contracts and subcontracts of any level involving anyone working on the Project or performing any task related to the Project. Further, this document must be distributed to and required of all persons who participate in recruitment, screening or referral or selection of job applicants, potential job applicants or prospective subcontractors for the Project.

This clause covers contractors, vendors, suppliers, borrowers and/or recipients of city resources, purchasers, and any other individuals or entities providing goods and/or services to the City of Peoria or to the Redeveloper or to the Project, and are hereinafter referred to as “Contractor.”

If any Contractor conducting business with the City of Peoria or Redeveloper fails to comply with the fair employment and affirmative action provisions of Chapter 17, Article III, Division 4 of the municipal code (hereinafter Chapter 17), the City or the Redeveloper, at their option, may do any or all of the following:

- (1) Cancel, terminate, or suspend the contract in whole or in part;
- (2) Declare the contractor ineligible for further contracts for one calendar year;
- (3) The Fair Employment and Housing Commission (hereinafter FEHC), in accordance with its rules and regulations, shall have the power to impose a penalty upon any Contractor failing to comply with Chapter 17 in an amount not less than \$50.00; nor more than as provided in Chapter 1, Section 1-5 of the municipal code, for each day that the Contractor fails to comply, upon a specific finding of such violation. The FEHC may order a Contractor found guilty of failure to comply with the provisions of Chapter 17 to pay all or a portion of the legal costs incurred by the city as a result of prosecution of such violations. Penalties assessed under the this clause may be recovered from the Contractor by setoff against unpaid portion of the contract price; and
- (4) Such other sanctions as may be imposed by the FEHC pursuant to the provisions of Chapter 17 and other applicable ordinance provisions of the municipal code.

During the performance of this contract, the Contractor agrees:

- (A) That it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual harassment, ancestry, national origin, place of birth, age, or a physical and/or mental disability which would not interfere with the efficient performance of the job in question. The contractor/vendor will take affirmative action to comply with the provisions of

EEO Contract Compliance Clause

Page 2

Peoria City Code, Chapter 17 and will require any subcontractor to submit to the City of Peoria a written commitment to comply with this division. The Contractor will distribute copies of this commitment to all persons who participate in recruitment, screening, referral, and selection of job applicants, prospective job applicants, members, or prospective contractors.

The Contractor agrees that the provisions of Chapter 17, of the Municipal Code of the City of Peoria is hereby incorporated by reference, as if set out verbatim

- (B) That it will examine each one of its workforce job classifications to determine if minorities and/or females are underutilized; and it will take appropriate affirmative action steps to rectify such identified underutilization.
- (C) That if it hires additional employees in order to perform this contract or any portion thereof, it will determine the availability of minority and females in the area(s) from which it may reasonably recruit; and every good faith effort will be made in its selection process to minimize or eliminate identified areas of minority and/or female underutilization for each job classification for which there are employment opportunities.
- (D) That during the performance of this contract, the Contractor will maintain its eligibility status to conduct business with the City of Peoria under the provisions of the EEO certification registration program.
- (E) That in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, sex, religion, national origin, age, or physical and/or mental disability.
- (F) That it will send to each labor organization or representative of workers with which it has or is bound by a collective bargaining agreement or understanding, a notice advising such labor organization or representative of the Contractor's obligations under Chapter 17. If any such labor organization or representative fails or refuses to cooperate with the Contractor in its efforts to comply with Chapter 17, the Contractor will promptly so notify the Equal Opportunity Office (hereinafter EOO) and/or the FEHC for the City of Peoria.
- (G) That it will submit reports as required and furnish all relevant information as may from time to time be requested the EOO and/or the FEHC.
- (H) That it will permit access to all relevant books, records, accounts and work sites by EOO staff members for purposes of investigation to ascertain compliance with Chapter 17.

EEO Contract Compliance Clause

Page 3

- (I) That it will include verbatim or by reference the provisions of Section 17-120 of Chapter 17 so that such provisions will be binding in the same manner as with other provisions of this contract. The Contractor will be liable for compliance with applicable provisions of this clause by all its subcontractors; and further, it will promptly notify the EEO and/or FEHC in the event any subcontractor fails or refuses to comply therewith. In addition, no Contractor will utilize any subcontractor declared by the EEO and/or FEHC to be non-responsive and therefore, ineligible for contracts or subcontracts with the City of Peoria.

- (J) That during the performance of this contract, the Contractor agrees: that it will have written sexual harassment policies that shall include, at a minimum, the following information: (i) the illegality of sexual harassment; (ii) the definition of sexual harassment under state law; (iii) a description of sexual harassment utilizing examples; (iv) the contractor's internal complaint process including penalties; (v) the legal recourse, investigative and complaint process available through the Illinois Department of Human Rights and the Human Rights Commission; (vi) directions on how to contact the Department of Human Rights and the Commission; and (vii) protection against retaliation as provided by Section 6-101 of this Act (Public Act 87-1257). A copy of the policies shall be provided to the Illinois Department of Human Rights or the City of Peoria upon request.

- (K) That during the performance of this contract, the Contractor agrees that they do not and will not maintain or provide for their employees, any segregated facilities at any of their establishments, or permit employees to perform their services at any location under their control where segregated facilities are maintained.

As used in this document, the term segregated facilities means any waiting rooms, work areas, rest rooms and wash rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, religion, color, national origin, because of habit, local custom, or otherwise.