

REDEVELOPMENT AGREEMENT

This REDEVELOPMENT AGREEMENT (“Agreement”) between THE CITY OF PEORIA (“City”), a municipal corporation, and WD COMMUNITY INVESTMENT, LLC , (“Redeveloper), an Illinois Limited Liability Company, is entered into this _____ day of _____, 2015.

RECITALS

WHEREAS, the City has adopted a redevelopment project area known as the Warehouse District Redevelopment Project Area (the "Redevelopment Project Area") also referred to herein as “The TIF District” in the City, pursuant to 65 ILCS 5/11-74.4-1, et seq. of the Illinois Compiled Statutes, the "Tax Increment Allocation Redevelopment Act" (hereinafter referred to as the "Act"); and

WHEREAS, pursuant to the provisions of the Act, the City has adopted the Warehouse District Tax Increment Redevelopment Plan (hereinafter referred to as the "Redevelopment Plan") pertaining to the redevelopment of the Redevelopment Project Area, a copy of which is available for inspection in the office of the City Clerk of the City; and

WHEREAS, the Redeveloper, consistent with the objectives of the Redevelopment Plan, intends to undertake a project as described on **Schedule 1** attached hereto and incorporated herein (the "Project") on a parcel of real estate within the TIF District which parcel is described on **Schedule 2** attached hereto and incorporated herein ("Project Site"); and

WHEREAS, the City, after due and careful consideration, has concluded that the redevelopment of the Project Site will help to arrest the economic and physical decline of the Redevelopment Project Area, and to promote a policy of stabilization and revitalization not only in the Redevelopment Project Area, but also in the surrounding area of the City; and

WHEREAS, to support the Redeveloper’s construction and operation of the Project, the City is willing to provide the Redeveloper the incentives set forth in this Agreement; and

WHEREAS, the City has found that without the assistance of the City as set forth in this Agreement, the Redeveloper would not proceed with the Project; 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: DESCRIPTION OF THE PROJECT

1.1 The Project. The Project shall be developed as described on **Schedule 1**.

1.2 The Estimated Cost of Project. The Estimated Cost of the Project is set forth on **Schedule 1** attached hereto and incorporated herein ("Estimated Project Cost").

ARTICLE II: CONSTRUCTION OF THE PROJECT

2.1 Submission and Approval of Plans. The Redeveloper shall submit to the City plans and specifications for the Project, including but not limited to a site plan (all the foregoing plans and specifications shall be referred to as "Plans" herein) within six (6) months after the date of this Agreement. The City shall review the 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 Plans do not so comply, the Redeveloper shall amend the Plans, prior to proceeding further with the Project, all in accordance with the provisions of this Section 2.1.

The City's approval or disapproval of the Plans 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 the 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 Plans by the City shall not cause an unreasonable increase in the costs of the Project.

2.2 Commencement and Completion Requirements.

2.2.1 Commencement. The Redeveloper shall commence construction of the Project not later than three (3) months after all the following are completed: the approval of the Plans as set forth in Section 2.1 above and financing approval.

2.2.2 Completion of the Project. The Redeveloper shall complete construction of Project not later than twelve (12) months after commencement as set forth in Section 2.2.1 above. For the purpose of this Section 2.2, "completion of construction" means the complete construction of the Project, except for minor and ancillary alterations or additional work, so as to make of the Project eligible for a certificate of occupancy.

2.3 Quality of Construction and Conformance to Federal, State and Local Requirements. All work with respect to the Project and any other structures of buildings on the Project Site (the "Works") shall conform to this Agreement, 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. Failure to conform to these codes and laws, including failure to obtain proper permits, will nullify the City's obligation under this Agreement. The Redeveloper shall cause the construction of the Works to be commenced and to be prosecuted with due diligence and in good faith in accordance with the terms of this Agreement, and shall cause the Works to be constructed in a good and workmanlike manner in accordance with Schedule 1.

2.4 Coordination with the City. Prior to the beginning of construction, the Redeveloper shall meet with the City's Site Plan Review Board (SPRB) to review the project and gain an understanding of any applicable regulations. The Redeveloper will coordinate with appropriate City staff throughout the project to ensure all zoning, building, and fire codes are met. The Redeveloper agrees to obtain building permits for any work that requires them.

2.5 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.

2.6 Insurance.

2.6.1 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 Three Million Dollars (\$3,000,000) total, all such policies to be in such form and issued by nationally recognized companies 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 as additional insured 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.

2.6.2 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, in non-reporting form, 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 nationally recognized companies and shall name City as additional insured. 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.

2.7 Rights of Inspection: Agency. During construction of the Project, the City or its designee shall have the right during normal business hours and from time to time to enter upon the Project for the purposes of inspection. Inspection by the City of the Project shall not be construed as a representation by the City that there has been compliance with the 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 Plans or the terms of this Agreement.

ARTICLE III: REPRESENTATIONS OF THE REDEVELOPER

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

3.1 Organization. The Redeveloper is a limited liability company organized, existing and in good standing under the laws of the State of Illinois. The Redeveloper shall, as a condition precedent to the implementation of this Agreement, provide the City with the names and addresses of all officers, directors, shareholders, managers, and members of the Redeveloper.

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

3.3 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 the Redeveloper's organizational documents or any restriction, agreement or instrument to which the Redeveloper is now a party or by which the Redeveloper is bound.

3.4 Pending Lawsuits. There are no lawsuits either pending or threatened that would affect the ability of the Redeveloper to proceed with the construction and Redevelopment of the Project on the Project Site as of the date of this Agreement.

3.5 Location of Project. The Project will be located within the Project Site.

3.6 Conformance with Requirements. The Redeveloper represents and warrants that the construction of the Project in accordance with Schedule 1 will in all respects conform to and comply with all covenants, conditions, restrictions, zoning ordinances, environmental regulations and land use regulations affecting the Project Site, and that any business conducted on the Project Site will conform and comply with said land use regulations, including but not limited to zoning ordinances.

ARTICLE IV: REPRESENTATIONS OF THE CITY

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

4.1 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.

4.2 Redevelopment Plan. The Redevelopment Plan (including the Redevelopment Project Area set forth therein) has been properly formed, adopted and approved by the City in accordance with Illinois law and is in full force and effect.

4.3 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.

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

ARTICLE V: REDEVELOPMENT PROJECT LOAN AND COST REIMBURSEMENT

5.1 Loan. The City shall loan funds to the Redeveloper in the form of reimbursement for the cost of addressing life safety issues within the Project Site, including but not limited to fire sprinklers and fire rated stairwells. Such reimbursement shall not exceed \$250,000.

5.2 Conditions Precedent to Loan. The City's obligation to make the Loan set forth in this Article V hereof is subject to the following:

5.2.1 The Redeveloper shall have delivered to the City, in form and substance acceptable to the City, each of the following items:

(a) Project Cost Analysis. An analysis of the estimated projected cost of construction of the Project. The total project cost may not be lower than \$4,000,000 or the Agreement shall be terminated.

(b) Loan Proceed Budget. A final budget of life safety items to be reimbursed from the Loan Proceeds.

(c) General Contractor/Construction Manager Contract(s). An executed contract or contracts with one or more general contractors or construction managers for the construction of the Project.

(d) 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.

(e) 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.

(f) 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. Such evidence shall be furnished to the City within three (3) months of the date of this Agreement or the Agreement shall be terminated.

5.2.2 The Redeveloper's compliance with the terms and conditions of this Agreement.

5.3 Loan Proceeds Transferred to Redeveloper. One half of the Loan Proceeds, in an amount not to exceed \$125,000, will be paid to Redeveloper within fourteen (14) days of submission to the City of a Requisition for Reimbursement for Project Costs substantially in the form of **Schedule 3** attached hereto and incorporated hereunder (a "Requisition Form") evidencing redevelopment project costs, as defined in the Act ("Redevelopment Project Costs") with respect to the project of at least \$125,000. The remainder of the Loan Proceeds, in an amount not to exceed \$125,000, will be paid to the Redeveloper upon the Redeveloper submitting to the City an executed Certificate of Occupancy for the residential portion of the Project and a Requisition Form evidencing an additional \$125,000 or more in Redevelopment Project Costs with respect to the Project. The Redeveloper agrees that loan proceeds may be used only for expenses shown on the budget submitted by the Redeveloper to the City pursuant to Section 5.2.2. above.

5.4 Terms. The City agrees that the loan shall be repaid out of and to the extent of fifty-percent (50%) of the Project Tax Increment (defined below) for each calendar year commencing with the calendar year 2016 up to and including the termination of the TIF District, which is scheduled to terminate in 2030, including any possible extension. The outstanding principal balance of the loan shall bear interest at the rate of four percent (4%) per annum. An interest rate of four percent (4%) shall be applied to the unpaid balance each year. If the loan is not repaid as set forth above prior to the termination of the TIF District, the principal and interest remaining unpaid shall be due and payable to the City on demand.

“Project Tax Increment” means, for each calendar year, all ad valorem real estate taxes attributable to the Project Site for such calendar year which are received by the City and deposited in the City’s special tax allocation fund.

Upon every payment, the City shall provide a statement to Redeveloper showing payments made, dates of payments, balance of amount owed and any other relevant information necessary to determine history of Repayment.

For the purposes of illustration only, the table below outlines how the Loan repayment might be repaid:

Year	Principal	Interest	Total Owed	Project Tax Increment	Applied to Loan (50%)	Balance
1	\$250,000.00	\$0.00	\$250,000.00	\$60,000.00	\$30,000.00	\$220,000.00
2	\$220,000.00	\$8,800.00	\$228,800.00	\$61,200.00	\$30,600.00	\$198,200.00
3	\$198,200.00	\$7,928.00	\$206,128.00	\$62,424.00	\$31,212.00	\$174,916.00
4	\$174,916.00	\$6,996.64	\$181,912.64	\$63,672.48	\$31,836.24	\$150,076.40
5	\$150,076.40	\$6,003.06	\$156,079.46	\$64,945.93	\$32,472.97	\$123,606.49
6	\$123,606.49	\$4,944.26	\$128,550.75	\$66,244.85	\$33,122.42	\$95,428.33
7	\$95,428.33	\$3,817.13	\$99,245.46	\$67,569.75	\$33,784.87	\$65,460.59
8	\$65,460.59	\$2,618.42	\$68,079.01	\$68,921.14	\$34,460.57	\$33,618.44
9	\$33,618.44	\$1,344.74	\$34,963.18	\$70,299.56	\$35,149.78	(\$186.60)

5.5 Project Tax Increment Rebates. Upon complete repayment of the Loan as outlined in 5.4 above, the City will reimburse additional Redevelopment Project Costs (as evidenced by Requisition Forms other than the Requisition Forms described in Section 5.3 above). The City will annually reimburse the Redeveloper or its successors for Redevelopment Project Costs incurred with respect to the Project in an amount equal to fifty-percent (50%) of the Project Tax Increment for each calendar year.

The annual reimbursement is to take place during the entire life of the TIF District and any extensions of the TIF District. Such reimbursement payments shall be made by the City to the Redeveloper or its successors on December 1st of each year.

The reimbursements described in this Section 5.5 shall not exceed the amount of Redevelopment Project Costs incurred by the Redeveloper with respect to the Project (as evidenced by Requisition Forms submitted by the Redeveloper to the City) in excess of the amount of the loan described in section 5.3 above.

ARTICLE VI: REDEVELOPER COVENANTS AND RESTRICTIONS

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

6.2 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.

6.3 Property Taxes. The Redeveloper covenants that it will pay all real estate taxes with respect to the Project and Project Site when due; and that it shall not apply for, seek, or authorize any exemption from the imposition of general real estate taxes on the Project or Project Site, or any portion thereof, without first obtaining prior written approval of the City. Nothing herein shall be construed so as to prevent the Redeveloper from otherwise contesting the assessment or collection of any taxes under statutory procedures set forth in the Illinois Revised Statutes, except as noted in 6.4 below and provided that the Redeveloper gives the City fifteen (15) days prior written notice of its intent to contest the assessment or collection of taxes. In the event that said real estate taxes are not paid within thirty (30) days of the date said taxes are due, 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 for all amounts paid together with interest and all expenses incurred in the recovery of said amounts.

6.4 Restriction on Property Valuation Challenges. The Redeveloper agrees that it will not appeal the property tax assessment of the Project Site so long as the loan outlined in Article V remains outstanding; provided, however, that the Redeveloper may appeal such property tax assessment for any tax year so long as the equalized assessed valuation of the Project Site requested by the Redeveloper for such tax year is not less than \$200,000.

6.5 Form of Covenants and Restrictions. The covenants, uses and restrictions referred to in this Article 6, in the form of the Declaration of Covenants, Uses and Restrictions attached hereto as Schedule 4, shall be executed and recorded with the Peoria County Recorder of Deeds on or before the date that the Redeveloper commences construction of the Project.

ARTICLE VII: REDEVELOPER INDEMNIFICATION OF CITY

So long as the Redeveloper or its successors or assignees maintain a direct ownership interest in the Project or Project Site or any part thereof (excluding, for example, a direct interest therein solely as a creditor or mortgagee), the Redeveloper and its successors and assignees agree to indemnify and save the City and its officers and employees harmless against all claims by or on behalf of any person or persons, business, firm, partnership, limited liability company or corporation arising from (i) the Redeveloper's or its successors or assignees operation or management of the Project, or from any work of or thing done by the Redeveloper or its successors or assignees on the Project Site, or any work or activity of the Redeveloper or its successors or assignees connected to the construction of the Project; (ii) any breach or default on the part of the Redeveloper or its successors or assignees in the performance of any of its obligations under or in respect of this Agreement; (iii) any act of negligence of the Redeveloper or its successors, assignees or any of its agents, contractors, servants or employees; (iv) any violation by the Redeveloper or its successors or assignees of any easements, conditions, restrictions, building regulations, zoning ordinances, environmental regulations or land use regulations affecting the Project Site or the Project; or (v) any violation by the Redeveloper or its successors or assignees of state or federal securities law in connection with the offer and sale of interests in the Redeveloper his successors, assignees, its affiliates or any part of the Project. The Redeveloper and its successors and assignees agree to indemnify and save the City harmless from and against all costs and expenses incurred in or in connection with any

such claim arising as aforesaid or in connection with any action or proceeding brought thereon. 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 its successors or assignees upon receipt of notice in writing from the City setting forth the particulars of such claim or action, the Redeveloper and its successors and assignees shall assume the defense thereof including the employment of counsel and the payment of all costs and expenses. The City shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of the City. It is agreed and understood that the aforesaid indemnities in this Article VII shall be binding on the Redeveloper and its successors and assignees only for such period as the Redeveloper and its successors and assignees maintain a direct ownership interest in the Project or Project Site or part thereof (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 or Project Site or part thereof.

ARTICLE VIII: PROHIBITIONS AGAINST ASSIGNMENT AND TRANSFER

8.1 Prohibition Against Transfer Prior to Completion. The Redeveloper shall not transfer the Project Site prior to completion of construction of the Project. The City acknowledges this project qualifies for Historic Tax Credits and agrees to a transfer of the interest in Redeveloper or Project Site in accordance with the Historic Tax Credit structure.

8.2 Transfer of Project and Project Site After Opening of the Project. After completion of construction of the Project and 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). 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.

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

8.4 Successor to Redeveloper. Provided that Redeveloper has complied with the requirements of Section 8.2 above, and successor Redeveloper thereby becomes subject to all the obligations of Redeveloper, as well as all conditions and restrictions applicable to Redeveloper, hereunder, then

transferor Redeveloper shall no longer be subject to said obligations, conditions or restrictions following the effective date of the transfer.

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:

9.1.1 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

9.1.2 Breach by the Redeveloper or City of any material covenant, warranty or obligation set forth in this Agreement.

9.2 Remedies of Default or Bankruptcy or Dissolution. In the case of an Event of Default or bankruptcy or dissolution 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 or bankruptcy or dissolution within thirty (30) days after receipt of such notice. If, in such case action is not taken, or not diligently pursued, or the Event of Default or bankruptcy or dissolution shall not be cured or remedied within a reasonable time, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure or remedy such default or bankruptcy or dissolution, including but not limited to, proceedings to compel specific performance by the party in default of its obligations, and may pursue any and all other remedies available under the laws of the State of Illinois.

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.

9.3.3 Delay in Performance. For the purposes of any of the provisions of this Agreement except with regard to payment of real estate taxes as provided herein, 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 during and with respect to the construction of the Project provided for in this Agreement that the following will apply:

10.1 Non-Discrimination. The Redeveloper will not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, or national origin. The Redeveloper will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or natural origin. Such action shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff, termination, rate of pay or other forms of compensation, and selection for training, including apprenticeship. The Redeveloper agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this non-discrimination clause.

10.2 Advertising. The Redeveloper will, in all solicitations or advertisements for employees placed by or on behalf of the Redeveloper, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

10.3 Terms and Conditions. The Redevelopers or Redevelopers conducting business with the City of Peoria shall comply with the fair employment and affirmative action provisions of Chapter 17, Article III, and Division 4 of the municipal code. Anyone involved with employment or contracting for

this Plan will be responsible for conformance with this policy and the compliance requirements of applicable state and federal regulations. The Redeveloper shall comply with the terms and conditions set forth on Schedule 5, Equal Employment Opportunity, attached hereto and made a part hereof. Where reference is made to "contractor" in Schedule 5, it shall mean the Redeveloper.

ARTICLE XI: MISCELLANEOUS

11.1 Authorized Representatives.

11.1.1 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 Manager(s) of the Redeveloper, shall have the power and authority to make or grant or do all things, requests, demands, approvals, consents, agreements and other actions required or described in this Agreement for and on behalf of the Redeveloper.

11.1.2 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. Such representative shall not have the authority to make agreements on behalf of the City.

11.2 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.

11.3 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.

11.4 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.

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

11.6 Memorandum of Agreement. At either party's request, the parties shall execute and record a Memorandum of Agreement with respect to the Project Site in the form attached as Schedule 6.

11.7 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.

11.8 Notices. Any written notice or demand hereunder from any party to another party shall be in writing and shall be served by (a) personal delivery, (b) Fax with confirmation by first-class mail or (c) certified mail, return receipt requested at the following addresses:

To the City at:

City Clerk
City of Peoria
419 Fulton Street, Room 401
Peoria, IL 61602

With copies to:

City Manager
City of Peoria
419 Fulton, Room 207
Peoria, IL 61602

Corporation Counsel
City of Peoria
419 Fulton, Room 207
Peoria, IL 61602

And, to the Redeveloper at:

WD Community Investment, LLC
PO Box 1955
Peoria, IL 61615-1955

With a copy to:

Jim Benckendorf
Benckendorf & Benckendorf
100 N. Main Street
Morton, IL 61550

Katie Kim
Kim Group Ltd
2426 W. Cornerstone
Peoria, IL 61614

or to the last known address of any party or to the address provided by an assignee if such address is given in writing. Any party may change its address by providing notice in accordance with this provision. In the event said notice is mailed, the date of service shall be deemed to be two (2) business days after the date of delivery of said notice to the United States Post Office.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

CITY OF PEORIA

WD COMMUNITY INVESTMENT, LLC

By: _____
Its City Manager

By: _____

Attest: _____
Its City Clerk

Its: Managing Member

ACCEPTED AS TO FORM:

Print Name:

Its City Attorney

SCHEDULES:

- SCHEDULE 1 -** Description of Project and Project Costs
- SCHEDULE 2 -** Project Site
- SCHEDULE 3-** Requisition for Reimbursement of Redevelopment Project Costs
- SCHEDULE 4 -** Declaration of Covenants, Uses and Restrictions
- SCHEDULE 5-** Equal Employment Opportunity
- SCHEDULE 6 -** Memorandum of Agreement

SCHEDULE 1

DESCRIPTION OF PROJECT AND PROJECT COSTS

Description

WD Community Investment LLC will purchase 214 Pecan and renovate the building in order to turn the location into a mixed use development with a retail/restaurant commercial space on the first floor and upscale residential loft apartments throughout the building.

Building Usage:

- 1st Floor
 - Commercial Space 2,447 SF
 - Residential Lofts 3,033 SF
 - Circulation / Elevator / Stairs / Mech / Lobby 3,510 SF

- 2nd Floor
 - Residential Lofts 7,970 SF
 - Circulation / Elevator / Stairs 1,020 SF

- 3rd Floor
 - Residential Lofts 8,040 SF
 - Circulation / Elevator / Stairs 950 SF

Project Budget

Land Costs:	\$ 375,000*
Renovation Costs:	\$ 3,438,957*
Arch / Engineer / Developer / Legal Fees:	\$ 282,000*
Contingency:	\$ 295,290*
Real Estate Commissions:	\$ 20,000
Bank Loan Fees:	\$ 27,743
Construction Financing:	\$ 78,753
 Total Project Cost (Soft & Hard Costs):	 \$ 4,517,743

* Indicates a cost that is eligible for reimbursement under Section 5.4.

SCHEDULE 2

PROJECT SITE (Legal Description)

PIN 18-09-355-003

BALLANCE ADDN SW 1/4 SEC 9-8-8E THE SELY 96' LOTS 5 & 6 BLOCK 60 (92-29817)

PIN 18-09-355-001

BALLANCE ADDN SW 1/4 SEC 9-8-8E (95-21570) NWLY 85' LOTS 5 & 6 BLOCK 60(EX
BEG NLY COR LOT 5:SWLY 36.25' SELY 61' NELY 36.25' NWLY 61' POB)

Commonly Known as 214 Pecan, Peoria, Illinois 61602

SCHEDULE 3

REQUISITION FOR REIMBURSEMENT OF REDEVELOPMENT PROJECT COSTS

WD COMMUNITY INVESTMENT, LLC, (the "Redeveloper") does hereby certify to the City of Peoria ("City") as follows:

1. That it has paid the following parties the following amounts for the items listed below, each of which constitutes "Redevelopment Project Costs" as defined in the Redevelopment Agreement dated _____, _____ between the City and the Redeveloper (the "Agreement").

<u>Party Paid</u>	<u>Redevelopment Project Cost</u>	<u>Amount</u>
_____	_____	_____

[Paid invoices or other evidence of payment are attached]

2. That it requests a payment in the total amount of \$_____ pursuant to the above referenced Agreement.

By: _____

Print Name: _____

Title: _____

Prepared By:

Prepared By:

*

*

*

*

Peoria, Illinois 61602

After recording return to:

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Peoria, Illinois 61602

SCHEDULE 4

DECLARATION OF COVENANTS, USES AND RESTRICTIONS

WD COMMUNITY INVESTMENT, LLC (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 **Schedule 2** attached hereto and made a part hereof (the "Project Site").

The Declarant has entered into a Redevelopment Agreement (the "Agreement") dated as of _____, _____, 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, which Project will further the Redevelopment of the Warehouse District Redevelopment Project Area pursuant to the Warehouse District Redevelopment Plan (the "Plan") adopted by the City on June 26, 2007. 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.

1. The Project Site and the Project shall be subject to the Agreement and the terms, covenants, building and use restrictions, and conditions in the Plan.

2. The Declarant agrees that the Declarant shall not discriminate in violation of all applicable federal, state or local laws or regulations upon basis of race, color, religion, sex, age, national

origin or other applicable factors in the sale, lease or rental or in the use or occupancy of the Project Site or Project or any part hereof.

3. The Declarant covenants that it will pay all real estate taxes with respect to the Project Site or Project when due; and shall not apply for, seek, or authorize any exemption from the imposition of general real estate taxes on said Project Site or Project without first obtaining the prior written approval of the City of Peoria. Nothing herein shall be construed so to prevent Declarant from contesting the assessment or collection of any taxes under statutory procedures set forth in the Illinois Compiled Statutes, except as outlined in #4 below and provided that the Declarant, its successors and assigns shall give the City of Peoria fifteen (15) days prior written notice of its intent to contest the assessment or collection of taxes.

4. The Declarant agrees that it will not appeal the property tax assessment of the Project Site so long as the loan outlined in Article V remains outstanding; provided, however, that the Declarant may appeal such property tax assessment for any tax year so long as the equalized assessed valuation of the Project Site requested by the Redeveloper for such tax year is not less than \$200,000.

5. It is intended and agreed that the covenants provided in Sections 1 and 4 of this Declaration shall remain in effect until the earlier of (i) termination of the Plan or (ii) the completion of the project and the covenants provided in Section 2 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 or Project or part thereof (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 or Project or part thereof. The termination of the covenants in Sections 1 and 3 shall be effective upon the happening of the events described in this Section 4 without any further action by either Declarant or the City and without the recording of any release or other document.

6. Subject to Section 5 above, it is intended and agreed that the covenants set forth in Sections 1 through 4 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.

7. Subject to Section 5 above, it is also intended and agreed that the foregoing covenants set forth in Sections 1 through 4 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 6.

8. Failure by the City or as the case may be, by the State of Illinois or the United States of America to enforce any covenant or restriction herein contained, shall in no event be deemed a waiver of the right to do so thereafter.

9. 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.

10. Covenants and restrictions of this declaration may be amended by the Declarant only by duly recording an instrument, executed and acknowledged by the City.

Executed at Peoria, Illinois, on the date first above written.

WD COMMUNITY INVESTMENT, LLC

By: _____

Print Name: _____

Title: Manager

STATE OF ILLINOIS)
) SS.
COUNTY OF PEORIA)

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 Manager of _____, an Illinois limited liability company, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act as such Manager and as the free and voluntary act of _____, for the uses and purposes therein set forth; and on his respective oath stated that he was duly authorized to execute said instrument.

GIVEN under my hand and notary seal this _____ day of _____, _____.

Notary Public

SCHEDULE 5

EQUAL EMPLOYMENT OPPORTUNITY

I. In the event of the Redeveloper's noncompliance with any provision of this Equal Employment Opportunity clause, the Illinois Human Rights Act or the Rules and Regulations of the Illinois Department of Human Rights, the Redeveloper may be declared nonresponsible and, therefore, ineligible for future contracts or subcontracts with the City of Peoria and such other sanctions or penalties may be imposed or remedies invoked as provided by ordinance.

During and with respect to the Redevelopment and construction of the Project, the Redeveloper agrees as follows:

It is hereby declared to be the public policy of the City of Peoria, that it will not execute a contract for good 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.

This clause covers contractors, vendors, suppliers, borrowers and/or recipients of city resources, purchasers and/or Redevelopers of city owned property, and any other individuals or entities providing goods and/or services to the City of Peoria; and are hereinafter referred to as "Contractor".

If any Contractor conducting business with the City of Peoria 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, at its 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 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 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 are 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) an/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.
- (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 EOO 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 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.

SCHEDULE 6

Prepared By:

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Peoria, Illinois 61602

After recording return to:

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Peoria, Illinois 61602

MEMORANDUM OF AGREEMENT

("Redeveloper") and the City of Peoria have entered into a Redevelopment Agreement dated as of _____, _____ ("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 **Schedule 2** 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: _____, _____

CITY OF PEORIA

WD COMMUNITY INVESTMENT, LLC

By: _____
Its City Manager

By: _____

Its: Managing Member

Attest: _____
Its City Clerk

Print Name:

ACCEPTED AS TO FORM:

Its City Attorney

STATE OF ILLINOIS)
) SS.
COUNTY OF PEORIA)

I, the undersigned, a Notary Public in and for said County and State aforesaid, DO HEREBY CERTIFY that F. Patrick Urich and Beth Ball, personally known to me to be the City Manager and City Clerk, 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 City Manager and City Clerk, respectively, appeared before me this day in person and severally acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act as such City Manager and City Clerk, respectively, and as the 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 notary seal this ____ day of _____, 2015

Notary Public

STATE OF ILLINOIS)
) SS.
COUNTY OF PEORIA)

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 _____, an Illinois _____, and personally known to me to be the same person whose name is subscribed to the foregoing instrument as such _____, appeared before me this day in person and acknowledged that he/she signed, sealed and delivered the said instrument as his/her free and voluntary act as such _____, and as the free and voluntary act of said _____ for the uses and purposes therein set forth; and on his/her oath stated he/she was duly authorized to execute said instrument.

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

Notary Public