LAND DISPOSITION & DEVELOPMENT AGREEMENT

By and Between

THE CITY OF NORWALK, CONNECTICUT,
THE REDEVELOPMENT AGENCY OF THE CITY OF NORWALK

AND

POKO-IWSR DEVELOPERS, LLC, Redeveloper

WALL STREET AREA – DEVELOPMENT PARCEL 2a

NORWALK, CONNECTICUT

DATED: _____, 2007

Approved by Norwalk Common Council on _____, 2007

Approved by Norwalk Redevelopment Agency on _____, 2007

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LIST OF EXHIBITS

AGREEMENT, consisting of this Part I and Part II annexed hereto and made a part hereof, entered into as of this _____ day of _____ 2007, by and among the **CITY OF NORWALK**, **CONNECTICUT,** a municipal corporation having an office at 125 East Avenue, P.O. Box 5125, Norwalk, Connecticut 06856-5125 (hereinafter referred to as the **"City"),** the **REDEVELOPMENT AGENCY OF THE CITY OF NORWALK,** a redevelopment agency created by the Common Council of the City pursuant to Chapter 130 of the General Statutes of the State of Connecticut**,** having an office at 125 East Avenue, PO Box 5125, Norwalk, Connecticut 06856-5125 (hereinafter referred to as the **"Agency"), and POKO IWSR DEVELOPERS, LLC,** a Connecticut limited liability company organized and existing under the laws of the State of Connecticut and having an office c/o POKO Partners, LLC, 225 Westchester Avenue, Port Chester, New York 10573 (hereinafter referred to as the **"Redeveloper").**

WITNESSETH:

WHEREAS, the Agency caused to be prepared a certain redevelopment plan entitled, "Wall Street Redevelopment Plan" in accordance with the provisions of Chapter 130 of the Statutes, which Redevelopment Plan as approved as hereinafter described, and as same hereafter may be modified in accordance with the Statutes, is herein sometimes referred to as the **"Redevelopment Plan"** or **"Plan",** and

WHEREAS, the Redevelopment Plan affects a land area of approximately 67 acres located in Norwalk and denominated in the Redevelopment Plan as the Wall Street Redevelopment Plan Project Area (the **"Project Area"** or the **"Wall Street Project Area"),** which is divided into five Redevelopment Parcels, (referred to sometimes, collectively, as the **"Development Parcels"** or **"Parcels"**), including two **"Tier I Redevelopment Parcels"** (Parcel 2a and Parcel 3) and three **"Tier II Redevelopment Parcels"** (Parcel 1, Parcel 2b and Parcel 4), and

WHEREAS, within the Tier I Redevelopment Parcels, the Redevelopment Plan provides for the acquisition of real property, the relocation of businesses and persons, the demolition of buildings, the closing and laying out of streets and the disposition of land for commercial and residential uses all as more specifically set forth in the Redevelopment Plan, a copy of which is recorded in the City's land records ("**Norwalk Land Records"**) in Volume 5490, at Page 170 and is incorporated herein by reference; and

WHEREAS, on May 19, 2004, the Housing Authority of the City of Norwalk reviewed the Redevelopment Plan and approved it in accordance with Section 8-127 of the Statutes, and

WHEREAS, on June 2, 2004, the Norwalk Planning Commission, at the request of the Agency, reviewed the Redevelopment Plan and found the Redevelopment Plan to be in accordance with the *Norwalk Plan of Conservation and Development for the City of Norwalk* (as amended to incorporate the "Norwalk Wall Street Area Planning Update"), and

WHEREAS, the Agency conducted three public hearings on the Wall Street Redevelopment Plan on February 18, 2004, March 15, 2004, and March 29, 2004, and

WHEREAS, having held public hearings thereon, the Agency approved the Wall Street Redevelopment Plan on June 24, 2004, as a redevelopment plan pursuant to Chapter 130 of the Statutes, and

WHEREAS, the Planning Committee of the Common Council conducted a public hearing on the Wall Street Redevelopment Plan on July 1, 2004, and

WHEREAS, on July 13, 2004, the Common Council approved the Redevelopment Plan, and

WHEREAS, on February 14, 2007, the Agency amended the Redevelopment Plan which removed the Agency's power to acquire property within the Project Area through the exercise of the power of eminent domain; and

WHEREAS, on March 13, 2007, the Common Council amended the Redevelopment Plan and removed the Agency's power to acquire property within the Project Area through the exercise of the power of eminent domain, and

WHEREAS, pursuant to authorization of the Common Council, a Request for Proposals was issued for the redevelopment of Development Parcel 2a in accordance with the provisions of the Redevelopment Plan for said parcel, and

WHEREAS, after review of responses to the Request for Proposals, POKO Partners, LLC, was approved by the Common Council on September 13, 2005, as the developer with which the City and Agency would enter into exclusive negotiations for the redevelopment of Parcel 2a **("Development Parcel 2a")**, and

WHEREAS, the Redeveloper is an Affiliate of POKO Partners, LLC, and

WHEREAS, the Redeveloper has proposed to the Agency and the City a plan for redevelopment of a portion of the Wall Street Project Area consisting of property in Development Parcel 2a **("Project Site")** together with related infrastructure and off-site improvements, which plan includes residential, mixed use, retail uses and parking, including replacement of the existing public parking spaces on the Issacs Street Municipal Parking Lot and the Leonard Street Municipal Parking Lot and other improvements, within the Project Site in accordance with the Redevelopment Plan, and

WHEREAS, the Agency and the Common Council of the City have determined that the redevelopment of the Project Site pursuant to the Redevelopment Plan and this Agreement is in keeping with the purposes for which the Redevelopment Plan was adopted; will materially improve substandard, deteriorated and/or blighted conditions within the Project Site; and thus is in the vital and best interests of the public and in accord with the public purposes and provisions of applicable laws; and

WHEREAS, this Agreement sets forth the obligations and responsibilities of each of the parties hereto with respect to the implementation of the Redevelopment Plan and the construction and development contemplated within the Project Site.

NOW THEREFORE, the Parties hereto do hereby covenant and agree as follows:

ARTICLE I
DEFINITIONS

Section 1.1 "Acquisition Expenses"

"Acquisition Expenses" shall mean all direct expenses reasonably incurred by the City and/or the Agency in connection with the acquisition of Acquisition Property, whether by deed or by the exercise of the power of eminent domain, which Acquisition Expenses shall be incurred in compliance with Article VI hereof. Acquisition Expenses shall include, without limitation, the following: costs and fees for environmental assessments, studies, reports and tests; costs and fees for appraisals and review appraisals; costs and fees for surveys and title insurance commitments, searches and policies; costs and fees for Agency design review consultant; fees for architectural and engineering services; costs of judicial awards, court costs, sheriff's fees and legal fees of outside counsel (but not legal fees for in-house counsel) made or incurred in connection with any eminent domain proceedings, including appeals; payments for or on account of Acquisition Property acquired by purchase or exercise of power of eminent domain in accordance with Section 7.3 and 7.4 hereof; Relocation Expenses incurred pursuant to Section 7.6 hereof, including the special consultant(s), if any; costs and fees for relocation, readjustment or removal of certain utility services pursuant to Section 7.7 hereof; costs incurred pursuant to Section 7.8 for management of Acquisition Property once acquired; remediation expenses, if any incurred by the City and/or the Agency in accordance with the provisions of this Agreement which are not stated herein to be the responsibility of the City or the Agency; and costs incurred by the Agency of prosecuting and/or defending, as the case may be, appeals from actions of the Zoning Commission or others in connection with the applications for all approvals as may be required by any and all Governmental Authorities, if any, or appeals from other applications made by the Agency and/or the City in the performance of their obligations hereunder, but only if requested by Redeveloper to take action in connection with such appeals. Acquisition Expenses shall not include, and Redeveloper shall have no obligation for, and the Agency and/or the City will be solely obligated for: the costs and expenses of the time of employees and staff of the Agency and the City; the legal fees

and expenses incurred by the Agency and the City in connection with any Legal Challenges to the Redevelopment Plan and/or this Agreement; and costs and expenses related to any property not identified in this Agreement as Acquisition Property unless specifically denominated as an Acquisition Expense herein.

Section 1.2 "Acquisition Price"

Acquisition Price shall mean the sum total of money actually paid or required to be paid or the exchange of real property interests by Redeveloper or the Agency or City for the acquisition of Acquisition Property which is denominated as representing the purchase price of such Acquisition Property (if acquired by contract in a private transaction (as opposed to via an eminent domain proceeding)) or the amount paid or awarded as the value of, or damages for taking of, such Acquisition Property (if acquired via eminent domain proceeding, whether by settlement thereof or judicial award therein).

Section 1.3 "Acquisition Property"

Acquisition Property shall mean the real property and improvements thereon within the Project Site, which the Redeveloper does not own and hereafter determines necessary to develop the Project as contemplated by the Conceptual Master Site Plan. Upon the written request of the Redeveloper, the parties hereto agree that **Exhibit A** annexed hereto and made a part hereof shall be amended to incorporate the parcels of property within the Project Site that constitute Acquisition Property. The Redeveloper acknowledges that the Agency does not presently have the authority to acquire property within the Project Area through the exercise of the power of eminent domain and that the Agency will be required to obtain approval from the Common Council for any such acquisition(s) on a case by case basis, and further, the Agency can not assure the Redeveloper that the Common Council will approve any such acquisitions

Section 1.4 "Affiliate" or "Affiliate of Redeveloper"

Affiliate or Affiliate of Redeveloper shall mean any Person who controls, is controlled by, or is under common control with Redeveloper. In this context (a) a Person "controls" Redeveloper if said Person (i) is a general partner, managing member, officer, director or trustee of either the Redeveloper or of a Person which controls Redeveloper, (ii) directly or indirectly or acting in concert with one or more other Persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than twenty percent (20%) of the voting interest in the Redeveloper or of a Person which controls the Redeveloper, (iii) controls in any manner the election of a majority of the directors of either Redeveloper or of the Person(s) which control Redeveloper, or (iv) has contributed more than twenty percent (20%) of the equity capital of Redeveloper; and (b) a Person "is controlled by Redeveloper" if the Redeveloper (i) is a general partner, managing member, officer, director or trustee of either such Person or of a Person which controls such Person, (ii) directly or indirectly or in concert with one or more other Persons, or through one or more subsidiaries, owns, controls, holds with the power to vote, or holds proxies representing, more than twenty percent (20%) of the

voting interest in such Person, (iii) controls in any manner the election of a majority of the directors of either such Person or of a Person which controls such Person or (iv) has contributed more than twenty percent (20%) of the equity capital of such Person. Sometimes in this Agreement, the term Affiliate shall mean, without reference necessarily to Redeveloper, any Person who controls, is controlled by, or is under common control with, another Person, such "control" being determined as set forth in this Section.

Section 1.5 "Agency Appraisals" or "Agency Review Appraisals"

Agency Appraisals or Agency Review Appraisals shall mean, respectively, Appraisals or Review Appraisals prepared by Appraisers retained by the Agency.

Section 1.6 "Agreement"

Agreement shall mean this document, including Part II attached hereto and all exhibits hereto, as same hereafter from time to time may be amended, modified or supplemented.

Section 1.7 "Appraisal"

Appraisal shall mean an appraisal of the Fair Market Value of the interest(s) to be acquired in one or more parcels of real estate constituting all or a portion of the Acquisition Property, performed and prepared by an Appraiser in accordance with generally accepted appraisal methods and setting forth all factors considered in arriving at said Fair Market Value.

Section 1.8 "Appraiser"

Appraiser shall mean a real estate appraiser retained to prepare an Appraisal of the Fair Market Value of one or more parcels of real estate constituting all or a portion of the Acquisition Property. Any and all Appraisers retained by the Redeveloper and/or by the City and the Agency to prepare such Appraisals shall have obtained the M.A.I. designation by the American Institute of Appraisers, shall enjoy a reputation for probity and acuity in the community, and shall have at least ten (10) years' experience appraising real estate in Fairfield County, Connecticut.

Section 1.9 "Architect"

Architect shall mean the firm of Crosskey Architects LLC, presently retained by the Redeveloper as Architect of record to provide architectural services with respect to the Improvements to be erected on the Project Site, or such other firm as may be retained by the Redeveloper as Architect of record for the Project with the prior written consent of the Agency, which approval will not be unreasonably withheld, delayed or conditioned by the Agency.

Section 1.10 "Bonds"

Bonds shall mean the tax-exempt General Obligation Bonds of the City which may be issued by the City to finance City Infrastructure Improvements and all utility work for which the City is responsible hereunder.

Section 1.11 "Business Day"

Business Day shall mean any day upon which the City is open for the conduct of the business of the City, and shall exclude Saturdays, Sundays and state and federal holidays upon which the City shall be closed for business.

Section 1.12 "Certificate of Taking"

Certificate of Taking shall mean with respect to any parcel of Acquisition Property the certificate of taking described in Section 8-129 of the Statutes, to be issued by the Clerk of the Court and to be recorded in the office of the Town Clerk in accordance with said Section 8-129 of the Statutes.

Section 1.13 "City Infrastructure Improvements"

The term City Infrastructure Improvements is defined in Section 4.1(A) hereof.

Section 1.14 "Clerk of the Court"

Clerk of the Court shall mean the clerk of the Superior Court of the State of Connecticut for the judicial district in which is located any Acquisition Property to be acquired by the Agency by the exercise of the powers of eminent domain.

Section 1.15 "Common Council"

Common Council shall mean the Common Council of the City.

Section 1.16 "Conceptual Master Site Plan"

Conceptual Master Site Plan shall mean the site plan described as such in this Agreement, a copy of which is annexed hereto as **Exhibit B** and made a part hereof.

Section 1.17 "Construction Plans"

The term Construction Plans is defined in Section 301 of Part II hereof.

Section 1.18 "Debt Service Payments"

Debt Service Payments shall mean the payments, calculated as provided in this Agreement, which may become due and payable by Redeveloper in connection with any Municipal Finance Instrument to which the Redeveloper's Guarantee applies.

Section 1.19 "DEP" and "DEP Commissioner"

DEP and DEP Commissioner shall mean, respectively, the Department of Environmental Protection of the State of Connecticut and the Commissioner of DEP.

Section 1.20 "Deposit"

Deposit shall have the meaning ascribed to it in Section 5.1 hereof.

Section 1.21 "Development Parcel" or "Development Parcels"

Development Parcel or Development Parcels shall mean one or more of the five (5) Development Parcels designated as such in the Redevelopment Plan.

Section 1.22 "Environmental Condition"

Environmental Condition shall mean the condition of a parcel of Project Property caused by or attributable to the existence or presence at, on, in, under, above or near the parcel of Project Property, or any building thereon, of any Hazardous Materials, or by reason of the actual or threatened release or discharge of any Hazardous Materials at, on, in, under, above, near or from the parcel of Project Property.

Section 1.23 "Environmental Laws"

Environmental Laws shall mean any present or future federal, state or local law, statute, regulation or ordinance, and any judicial or administrative order or judgment thereunder, pertaining to health, Hazardous Materials or the environment, including, without limitation, each of the laws, statutes, regulations and ordinances identified in the definition of Hazardous Materials hereinafter set forth, as enacted as of the date hereof and as hereafter amended or supplemented, and any permit, authorization or order thereunder.

Section 1.24 "Event of Default"

Event of Default shall have the meaning ascribed to said term in Article XIX hereof.

Section 1.25 "Execution Date"

Execution Date shall mean the date this Agreement has been duly signed by all the parties hereto, an original thereof recorded on the Norwalk Land Records, and an original thereof delivered to the Redeveloper.

Section 1.26 "Fair Market Value"

Fair Market Value shall mean the fair market value of the interest(s) owned or to be acquired in one or more parcels of real property and the improvements thereon, as determined by an Appraisal performed by an Appraiser taking into account all conditions affecting such value, including without limitation all matters which constitute or contribute to the existence of constraints to the development of such parcel, such as geotechnical conditions, matters affecting title, survey conditions, Zoning Regulations and/or any Environmental Condition of the subject parcel.

Section 1.27 "Governmental Authorities"

Governmental Authorities shall mean any and all federal, state, county, municipal and/or other local agencies, commissions, departments, boards, bureaus, officials and other governmental and quasi-governmental authorities having jurisdiction over the Redevelopment Plan, the Project, this Agreement and/or any of the parties hereto.

Section 1.28 "Hazardous Materials"

Hazardous Materials shall mean (i) those elements, wastes, materials, substances or compounds identified or regulated as hazardous or toxic pursuant to any and all Environmental Laws, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. § 9601 et. seq. and 40 CFR §302.1 et. seq.) ("CERCLA"), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6901 et. seq.), the Federal Water Pollution Control Act (33 U.S.C. § 1251 et. seq. and 40 CFR § 116.1 et. seq.), the Hazardous Materials Transportation Act (49 U.S.C. §1801 et. seq.), the Clean Air Act (42 U.S.C. §7401 et. seq.), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. § 136 et. seq.), the Emergency Planning and Community Right-to-Know Act (42 U.S.C. § 1101 et. seq.), the Occupational Safety and Health Act (29 U.S.C. § 651 et. seq.), the Residential Lead-Based Paint Hazard Reduction Act (42 U.S.C. § 4851 et. seq.), any analogous state laws, including Title 22a of the Statutes, any amendments to said laws, and the regulations promulgated pursuant to said laws, all as amended from time to time, relating to or affecting the Project Property, (ii) any hazardous, toxic or harmful substances, wastes, materials, pollutants or contaminants (including, without limitation, asbestos, polychlorinated biphenyls, petroleum products, flammable explosives, radioactive materials, infectious substances, materials containing lead-based paint or raw materials which include hazardous constituents) or any other substances or materials which are identified by or regulated by Environmental Laws, on, in, under or affecting all or any

portion of the Project Property or any surrounding areas, and (iii) any substances now or hereafter defined as or included in the definitions of "hazardous substances," "hazardous wastes," "hazardous materials," "pollutants" or "toxic substances" under any applicable Environmental Laws.

Section 1.29 "Improvements"

Improvements shall mean those items which are to be constructed by the Redeveloper pursuant to the terms of this Agreement, including buildings and other structures, site work and landscaping.

Section 1.30 "Infrastructure Improvements"

Infrastructure Improvements shall mean those public roadway and pedestrian improvements to be designed and to be newly constructed and/or to be rehabilitated, renovated, relocated and/or upgraded within and adjacent to the Project Site in order to facilitate the development of the Project. It is understood and agreed by the parties hereto that unless otherwise specifically identified as being the responsibility of the City, all street or road Infrastructure Improvements for which the City shall be responsible shall be limited to those located within the yellow (or light gray) area shown on **Exhibit C-2** attached hereto and made a part hereof and shall include the curb, and those located within the green (or dark gray) area on **Exhibit C-2** shall be the responsibility of the Redeveloper. Those Infrastructure Improvements which have been identified as of the date hereof are specified on **Exhibit C-1** annexed hereto and made a part hereof by reference. Additional Infrastructure Improvements may hereafter be identified by mutual agreement of the City, the Agency and the Redeveloper. Upon identification of and an agreement upon any such additional Infrastructure Improvements from time to time, said **Exhibit C-1** will be amended upon agreement of the parties hereto to reflect same.

Section 1.31 "Institutional Investor" and/or "Institutional Lender"

Institutional Investor shall mean any entity proposing to make or making an equity investment in all or a portion of the Project, and Institutional Lender shall mean any entity proposing to make or making a mortgage loan to Redeveloper secured by all or a portion of the Project Property and which, in either case, is any one of: a state-chartered bank, savings bank, private banker, trust company, savings and loan association or other state regulated banking organization; a national bank or trust company, a federally-chartered or federally-regulated savings bank or savings and loan association, or any other federally-regulated banking institution; an insurance company duly organized or licensed to do business in the State; and/or an investment banking firm, brokerage house or other similar, generally recognized financial services firm; which, in the case of each of the foregoing, has a net worth in excess of twenty-five million (U.S. $25,000,000.00) dollars; and/or any Affiliate, parent or subsidiary of any of the foregoing.

Section 1.32 "Isaacs Street Municipal Parking Lot"

Isaacs Street Municipal Parking Lot shall mean that certain parcel of Project Property known and designated on the City's tax assessment map as District 1, Block 29, Lot 18.

Section 1.33 "Legal Challenge"

Legal Challenge shall mean any action which is or may be taken by any Person (including without limitation the commencement of any action or proceeding at law or in equity) to challenge the validity, legality or effectiveness of any thing, matter or process arising out of or relating to the Redevelopment Plan and/or to this Agreement and/or to the adoption or approval of either of same by any Governmental Authorities and/or to the implementation of any of same.

Section 1.34 "Legal Requirements"

Legal Requirements shall mean any and all present or future federal, state, city or other local laws, statutes, rules, regulations, codes or ordinances, and any judicial or administrative orders, judgments or decrees thereunder.

Section 1.35 "Leonard Street Municipal Parking Lot"

Leonard Street Municipal Parking Lot shall mean that certain parcel of Project Property known and designated on the City's tax assessment map as District 1, Block 29, Lot 25.

Section 1.36 "LEP Firm"

LEP Firm shall mean an environmental consulting firm employing one or more LEP's.

Section 1.37 "LEP" or "Licensed Environmental Professional"

LEP or Licensed Environmental Professional shall mean any person licensed by the State Board of Examiners of Environmental Professionals pursuant to 22a-133v of the Statutes, as same may be amended from time to time.

Section 1.38 "Meaningful Participation"

Meaningful Participation, when used to describe the type and/or nature of the input and participation which the Redeveloper will have in and to certain decision-making processes to be engaged in by the Agency and/or the City, shall mean that the City and the Agency shall afford the Redeveloper a full and fair opportunity to participate in all aspects of the decision-making process, to make its views, suggestions and opinions

known, and to object to proposed action by the City and/or the Agency; that the City and the Agency will give due and fair consideration to the views and positions of the Redeveloper in making such decisions, considering the Redeveloper's expertise, focus, diligence and its costs expended on the Project, and that, if they do not follow the Redeveloper's suggestions, the City and/or the Agency will advise the Redeveloper of the reasons why such was the case. Where, in this Agreement, it is stated that Redeveloper will have Meaningful Participation with respect to certain matters, same shall not be construed to require that the consent or approval of the Redeveloper be required in order for action taken by the Agency and/or the City in connection with such matter to be valid or effective. Redeveloper acknowledges that the City, as a body politic and corporate, has duties and obligations which are imposed by the Constitution and the Statutes of the State of Connecticut and by its own Charter and ordinances. Nothing contained within the concept of "Meaningful Participation", as used herein, shall be construed to require the City to violate these duties and obligations or shall be interpreted or applied in such a way as to cause or result in a violation of any duty, obligation or standard of care applicable to the City. If, in discharging these duties and obligations in good faith, the City takes action which is not in agreement with the views expressed and/or positions taken by the Redeveloper, this shall not give rise to any claim by Redeveloper against the City for failure to permit Redeveloper to have Meaningful Participation. Nothing contained herein is to be construed as granting to Redeveloper rights greater than may by law be granted to any citizen.

Section 1.39 "Municipal Finance Instrument"

Municipal Finance Instrument shall mean any form of financing mechanism which the City may elect to utilize in order to fund City Infrastructure Improvements, including, without limitation, Notes, Bonds and/or other forms of debt instruments.

Section 1.40 "Municipal Parking Lot"

Municipal Parking Lot shall mean the Isaacs Street Municipal Parking Lot and the Leonard Street Municipal Parking Lot.

Section 1.41 "Notice of Condemnation" or "Notice of Eminent Domain"

Notice of Condemnation or Notice of Eminent Domain shall mean either of the notices referred to in Section 22a-133dd(3) and/or 48-13 of the Statutes.

Section 1.42 "Person"

Person shall mean any individual, firm, partnership, association, syndicate, company, trust, corporation, limited liability company, or other legal entity of any kind.

Section 1.43 "Phase"

Phase shall mean each Phase or, if more than one, the Phase of development of portions of the Project, so delineated or described as a Phase of development in this Agreement.

Section 1.44 "Plan Requirements"

Plan Requirements shall mean the provisions, guidelines and requirements set forth in the Redevelopment Plan with respect to development of properties subject to the Redevelopment Plan, including without limitation the requirements relating to Goals, Objectives and Strategies, Project Boundaries, Land Use, Design Standards, Streets and Utilities, Displacement and Relocation and Zoning.

Section 1.45 "Project"

Project shall mean all the activities described in this Agreement and the Redevelopment Plan to be undertaken by the Redeveloper and/or the City and the Agency within the Project Site.

Section 1.46 "Project Costs"

Project Costs shall mean any and all costs, expenses and obligations of whatsoever kind or nature arising out of or incurred by the Redeveloper in connection with the development of the Project and this Agreement, whether denominated as "hard" or "soft" costs, whether direct or indirect, and whether absolute or contingent and/or liquidated or unliquidated, including without limitation, Acquisition Expenses, land costs, fees of attorneys, appraisers, accountants, architects, engineers, LEPs and the fees of all other consultants and/or professionals; filing fees, recording fees, and permit fees; title search costs and title insurance, liability insurance and fire insurance premiums; financing fees; environmental, engineering, geotechnical, surveying and other costs of tests, measurements and surveys; construction costs, construction management and supervision fees; interest on construction loans; such Project development fees and Project management fees as may be permitted by the Institutional Lender providing financing for the Project and such other costs as the Agency, in its sole discretion, deems appropriate.

Section 1.47 "Project Operating Deposit"

Project Operating Deposit shall mean that portion of the Deposit which is deposited into the Project Operating Account.

Section 1.48 "Project Site" or "Project Property" or "Property"

Project Site or Project Property or Property shall mean the entire land area more particularly described in **Exhibit D** attached hereto and made a part hereof (as the same may be expanded in accordance with this Agreement).

Section 1.49 "Redeveloper Appraisals" or "Redeveloper Review Appraisals"

Redeveloper Appraisals or Redeveloper Review Appraisals shall mean, respectively, Appraisals or Review Appraisals which have been prepared by Appraisers retained by the Redeveloper.

Section 1.50 "Redeveloper Infrastructure Improvements"

The term Redeveloper Infrastructure Improvements is defined in Section 4.1(A) hereof.

Section 1.51 "Redeveloper Property"

Redeveloper Property shall mean all of the real property in the Project Site owned by the Redeveloper, or by Affiliates of Redeveloper, on the date of this Agreement, as shown on **Exhibit E** annexed hereto and made a part hereof.

Section 1.52 "Relocation Act"

Relocation Act shall mean the *Uniform Relocation Assistance Act*, Chapter 135 of the Statutes, Section 8-266, *et. seq.*

Section 1.53 "Relocation Expenses"

Relocation Expenses shall mean those costs and expenses incurred by the Agency to make payments required, pursuant to the Relocation Act and Section 7.6 of this Agreement, to be made to displaced persons and businesses relocated from Acquisition Property acquired by the Agency by eminent domain.

Section 1.54 "Remedial Action Plan"

Remedial Action Plan shall mean the plan, if any, described in and prepared in accordance with Section 8.1 hereof for the performance of the Remedial Work, if any, required to remediate any Environmental Condition with respect to the Project Property as a whole.

Section 1.55 "Remedial Cost Estimate"

Remedial Cost Estimate shall mean, with respect to each parcel of Acquisition Property, the estimate (which estimate is to be prepared by the LEP Firm retained by the Agency or the Redeveloper, as applicable, pursuant to Section 7.3(A) hereof) of the costs

which, in the opinion of the LEP, would necessarily be incurred to remediate such parcel of Acquisition Property such that an LEP could verify, pursuant to Sections 22a-133x, 22a-133y or 22a-134a of the Statutes, that the parcel has been remediated in accordance with the applicable provisions of the Remediation Standard Regulations. In preparing the Remedial Cost Estimate, the LEP will provide for the remediation of such parcel to the direct exposure criteria and volatilization criteria applicable to the use to which the parcel is being put at the time of preparation of such estimate, and will only include the cost of asbestos abatement if the highest and best life of the Acquisition Property involves the renovation or demolition of any building located therein.

Section 1.56 "Remedial Work"

Remedial Work shall mean the work, if any, required to be performed to remediate the Environmental Condition of the Project Property, as set forth in the Remedial Action Plan, which Remedial Work is to be performed in accordance with all applicable Legal Requirements.

Section 1.57 "Remediation Standard Regulations" or "RSR"

Remediation Standard Regulations or RSR shall mean and refer to the "Remediation Standard Regulations," R.C.S.A. §§22a-133k-1 *et.sq.*, adopted by DEP pursuant to Section 22a-133k of the Statutes.

Section 1.58 "Review Appraisal" and "Review Appraiser"

Review Appraisal and Review Appraiser shall mean, respectively, an Appraisal which is performed and prepared by an Appraiser to confirm the work product, opinions and conclusions of another Appraiser, and the Appraiser performing such Review Appraisal.

Section 1.59 "Security Deposit"

Security Deposit shall mean that portion of the Deposit which is deposited into the Security Account to serve as security for the performance by Redeveloper of its obligations under this Agreement.

Section 1.60 "Site Preparation Activities"

Site Preparation Activities shall mean and include (a) the acquisition by the Redeveloper of title to all parcels of Acquisition Property, (b) the relocation by the Agency of all occupants of Acquisition Property required for construction of the Improvements, (c) the demolition by the Redeveloper of all existing structures on Acquisition Property required for construction of the Improvements, and (d) the performance by the Redeveloper of all Remedial Work, if any, with respect to Acquisition Property required for construction of the Improvements.

Section 1.61 "Statement of Compensation"

Statement of Compensation shall mean the statement of compensation with respect to the acquisition of Acquisition Property by eminent domain, as described in Section 8-129 of the Statutes, setting forth a description of the Acquisition Property to be taken, the names of all parties having a record interest therein and the amount of compensation to be paid to the persons entitled thereto for such Acquisition Property, which is to be prepared by the Agency, filed with the Clerk of the Court and recorded in the office of the Town Clerk of the City.

Section 1.62 "Statutes"

"Statutes" shall mean the Connecticut General Statutes, as amended from time to time.

Section 1.63 "Workforce Housing Unit"

"Workforce Housing Unit" shall have the same meaning ascribed to it in Section 118-1050 of the Zoning Regulations.

Section 1.64 "Zoning Regulations"

Zoning Regulations shall mean the Building Zone Regulations of the City of Norwalk, Connecticut, effective October 16, 1929, as amended to the date hereof, and as same hereafter may be further amended from time to time.

ARTICLE II
IMPROVEMENTS

Section 2.1 Phase I Improvements.

A. The Redeveloper shall construct on the Project Site within the time limits sets forth in this Agreement, the Improvements ("**Phase I Improvements**") more particularly described in Section 2.1(B) below; together with surface and/or structured parking and circulation space, and appropriate landscaping and pedestrian and vehicular circulation areas, which shall be developed and constructed in accordance with the Conceptual Master Site Plan, the Redevelopment Plan and the Plan Requirements.

B. The Phase I Improvements to be constructed by the Redeveloper on the Project Site are the following:

1. Phase I Parking Garage. The Redeveloper shall construct a parking garage (**"Phase I Parking Garage"**) containing not fewer than two hundred fifty six (256) parking spaces serving the Phase I Improvements. The Phase I Parking Garage shall be designed and constructed as an integral part of the mixed use development of the Phase I Improvements and the two hundred fifty six (256) parking spaces shall include a

minimum of one hundred (100) Public Parking Spaces. The design, engineering and Construction Plans for the Phase I Parking Garage shall be subject to the provisions of Section 3.6 hereof. All parking shall be constructed in a manner to comply with the Zoning Regulations (as the same may be amended or as such relief may be granted by the Norwalk Zoning Commission or Zoning Board of Appeals), as to the number of required spaces and dimension of the spaces, including but not limited to such matters as the number of handicapped spaces, parking requirements by land use type and shared parking reductions permitted by the Zoning Regulations.

2. Phase I Residential Units. The Redeveloper shall construct one hundred two (102) residential units (**"Phase I Residential Units"**). The Phase I Residential Units will be constructed in a manner that allows the Phase I Parking Garage to be integrated within, and to the greatest extent possible screened by, the residential structure on all street facing elevations. The Redeveloper shall construct the Phase I Residential Units in compliance with all Legal Requirements. The Phase I Residential Units shall consist of for sale units (**"Phase I Residential For Sale Units"**), and rental units (**"Phase I Residential Rental Units"**).

In addition, the greater of twenty (20%) percent of the Phase I Residential Units or the number of Phase I Residential Units which are required to satisfy the Zoning Regulations, shall be deed restricted so as to require such units to comply, in perpetuity, with the requirements of both Section 118-1050 of the Zoning Regulations, as the same may be amended from time to time, and Section 8-30g-8 of the Regulations of Connecticut State Agencies, as the same may be amended from time to time, so as to qualify each such unit as a "Workforce Housing Unit" and an "affordable unit", respectively. To the extent that the terms and conditions of the Zoning Regulations and the State Regulations differ, then the more restrictive regulation shall apply. In the event the Zoning Regulations and the State Regulations contain any terms or conditions which conflict to the extent that both regulations cannot be satisfied, then the terms and conditions of Section 118-1050 of the Zoning Regulations shall control. The balance of the affordable units in the Project that are constructed with State or federal capital shall comply with applicable State or federal requirements. It is understood and agreed by the parties, that all such affordable units shall be located on the Project Site.

3. Phase I Retail Space. The Redeveloper shall construct not less than twenty thousand five hundred ninety-eight (20,598) ± square feet of retail space and Cultural/Performance Space (the **"Phase I Retail Space"**) on the ground floor of the Phase I Improvements. For purposes of this Section 2.1(B)(3), 67-69 Wall Street shall not be considered Phase I Retail Space, however, the Globe Theater (as hereinafter defined) shall be included within the calculation of Phase I Retail Space. The Phase I Retail Space shall have its principal public façade oriented to the street, and provide for pedestrian access from the street sidewalk. All storefronts shall have a minimum of seventy-five (75%) percent glazing in the street facing elevation.

4. Phase I Recreational Space. The Redeveloper shall construct such recreational space in the form of occupant-accessible rooftop gardens as indicated on the Conceptual Master Site Plan as shall be required by the Zoning Regulations.

5. Phase I Live/Work Space. The Redeveloper shall construct not more than ten thousand eight hundred twenty-eight (10,828)± square feet of live/work space (the **"Phase I Live/Work Space"**) on the ground floor of the Phase I Improvements. The parties acknowledge that the present Zoning Regulations do not permit Phase I Live/Work Space on the ground floor. The Agency agrees to support the Redeveloper's request to amend the Zoning Regulations to permit Phase I Live/Work Space on the ground floor of the Phase I Improvements. The uses for which the Phase I Live/Work Space may be utilized shall be those uses as may be permitted by the Zoning Regulations as the same may be amended. In the event that the Zoning Regulations do not ultimately permit the use of the area depicted in Phase I on the Conceptual Master Site Plan as Phase I Live/Work Space, then the Redeveloper shall have the right to convert such area to any use or uses as may be permitted by the Zoning Regulations. The Redeveloper agrees to amend the Conceptual Master Site Plan to reflect such change in accordance with the provisions of Section 3.1 hereof; provided, however, that in the event the proposed change in use is to either residential or commercial use, then such change shall not be deemed a "substantial change" for purposes of ARTICLE III hereof and shall only require the written consent of the Agency, which consent shall not be unreasonably withheld, delayed or conditioned.

6. Globe Theater. Provided the Redeveloper acquires such property, the Redeveloper agrees to renovate and preserve the building located at 71 Wall Street, Norwalk, Connecticut (the **"Globe Theater"**) and to restrict the future use thereof to predominantly cultural uses such as, but not limited to, theatrical performances and/or performance education, or similar uses such as ballet, dance, symphonic orchestra performances and concerts (**"Cultural/Performance Space"**). The foregoing use restriction on the Globe Theater shall remain in effect from the date Redeveloper acquires title to the Globe Theater until the later of (i) that date which is thirty (30) years after the Redeveloper acquires title to the Globe Theater, or (ii) the date of expiration of the Covenant on Use set forth in Article XIV hereof. The Redeveloper agrees that in the event the Redeveloper or an Affiliate of the Redeveloper acquires title to the Globe Theater, and at any time thereafter desires to sell the Globe Theater and shall have received a bona fide written offer from a third party for the purchase thereof which it wishes to accept, it shall by written notice to the City, enclosing a copy of such written bona fide offer, offer to the City the right to enter into a contract for the purchase of the Globe Theater, and the City shall have sixty (60) days after receipt of such written notice and offer in which to accept in writing such offer upon such terms and conditions specified therein, and upon such acceptance of such offer by the City, the Redeveloper or an Affiliate of the Redeveloper, as the case may be, and the City shall enter into a contract for the purchase of the Globe Theater upon the terms and conditions specified in the written notice and offer to the City. In the event that the City shall fail to accept in writing the terms and conditions of sale during such sixty (60) day period, this option

shall be null and void and of no further force and effect, and the Redeveloper or the Affiliate of the Redeveloper, as the case may be, shall thereafter be free to sell the Globe Theater substantially upon the terms and conditions specified in the bona fide written offer made by such third party.

Section 2.2 Phase II Improvements.

A. The Redeveloper shall construct on the Project Site within the time limits set forth in this Agreement, the Improvements ("**Phase II Improvements**") more particularly described in Section 2.2(B) below; together with surface and/or structured parking and circulation space, and appropriate landscaping and pedestrian and vehicular circulation areas, which shall be developed and constructed in accordance with the Conceptual Master Site Plan, the Redevelopment Plan and the Plan Requirements.

B. The Phase II Improvements to be constructed by the Redeveloper on the Project Site are the following:

1. Phase II Parking Garage. The Redeveloper shall construct a parking garage (**"Phase II Parking Garage"**) containing not fewer than two hundred seventy six (276) parking spaces serving the Phase II Improvements. The Phase II Parking Garage shall be designed and constructed as an integral part of the mixed use development of the Phase II Improvements and the two hundred seventy six (276) parking spaces shall include a minimum of eighty-eight (88) Public Parking Spaces. The design, engineering and Construction Plans for the Phase II Parking Garage shall be subject to the provisions of Section 3.6 hereof. All parking shall be constructed in a manner to comply with the Zoning Regulations (as the same may be amended or as such relief may be granted by the Norwalk Zoning Commission or Zoning Board of Appeals), as to the number of required spaces and dimension of the spaces, including but not limited to such matters as the number of handicapped spaces, parking requirements by land use type and shared parking reductions permitted by the Zoning Regulations.

2. Phase II Residential Units. The Redeveloper shall construct ninety-six (96) residential units (**"Phase II Residential Units"**). The Phase II Residential Units will be constructed in a manner that allows the Phase II Parking Garage to be integrated within, and to the greatest extent possible screened by, the residential structure on all street facing elevations. The Redeveloper shall construct the Phase II Residential Units in compliance with all Legal Requirements. The Phase II Residential Units shall consist of for sale units (**"Phase II Residential For Sale Units"**), and rental units (**"Phase II Residential Rental Units"**).

In addition, the greater of twenty (20%) percent of the Phase II Residential Units or the number of Phase II Residential Units which are required to satisfy the Zoning Regulations, shall be deed restricted so as to require such units to comply, in perpetuity, with the requirements of both Section 118-1050 of the Zoning Regulations, as the same may be amended from time to time, and Section 8-30g-8 of the Regulations of Connecticut State Agencies, as the same may be amended from time to

time, so as to qualify each such unit as a "Workforce Housing Unit" and an "affordable unit", respectively. To the extent that the terms and conditions of the Zoning Regulations and the State Regulations differ, then the more restrictive regulation shall apply. In the event the Zoning Regulations and the State Regulations contain any terms or conditions which conflict to the extent that both regulations cannot be satisfied, then the terms and conditions of Section 118-1050 of the Zoning Regulations shall control. The balance of the affordable units in the Project that are constructed with State or federal capital shall comply with applicable State or federal requirements. It is understood and agreed by the parties, that all such affordable units shall be located on the Project Site.

3. Phase II Retail Space. The Redeveloper shall construct not less than seven thousand two hundred seventy-six (7,276)± square feet of retail space (the **"Phase II Retail Space"**) on the ground floor of the Phase II Improvements. The Phase II Retail Space shall have its principal public façade oriented to the street, and provide for pedestrian access from the street sidewalk. All storefronts shall have a minimum of seventy-five (75%) percent glazing in the street facing elevation.

4. Phase II Live/Work Space. The Redeveloper shall construct not more than nine thousand four hundred forty-five (9,445)± square feet of live/work space (the **"Phase II Live/Work Space"**) on the ground floor of the Phase II Improvements. The parties acknowledge that the present Zoning Regulations do not permit Phase II Live/Work Space on the ground floor. The Agency agrees to support the Redeveloper's request to amend the Zoning Regulations to permit Phase II Live/Work Space on the ground floor of the Phase II Improvements. The uses for which the Phase II Live/Work Space may be utilized shall be those uses as may be permitted by the Zoning Regulations as the same may be amended. In the event that the Zoning Regulations do not ultimately permit the use of the area depicted in Phase II on the Conceptual Master Site Plan as Phase II Live/Work Space, then the Redeveloper shall have the right to convert such area to any use or uses as may be permitted by the Zoning Regulations. The Redeveloper agrees to amend the Conceptual Master Site Plan to reflect such change in accordance with the provisions of Section 3.1 hereof; provided, however, that in the event the proposed change in use is to either residential or commercial use, then such change shall not be deemed a "substantial change" for purposes of ARTICLE III hereof and shall only require the written consent of the Agency, which consent shall not be unreasonably withheld, delayed or conditioned.

5. Phase II Recreational Space. The Redeveloper shall construct such recreational space in the form of occupant-accessible rooftop gardens as indicated on the Conceptual Master Site Plan as shall be required by the Zoning Regulations.

Section 2.3 Phase III Improvements

A. The Redeveloper shall construct on the Project Site within the time limits sets forth in this Agreement, the Improvements ("**Phase III Improvements**") more particularly described in Section 2.3(B) below; together with surface and/or structured

parking and circulation space, and appropriate landscaping and pedestrian and vehicular circulation areas, which shall be developed and constructed in accordance with the Conceptual Master Site Plan, the Redevelopment Plan and the Plan Requirements.

B. The Phase III Improvements to be constructed by the Redeveloper on the Project Site are the following:

1. Phase III Parking Garage. The Redeveloper shall construct a parking garage (**"Phase III Parking Garage"**) containing not fewer than three hundred thirty seven (337) parking spaces serving the Phase III Improvements. The Phase III Parking Garage shall be designed and constructed as an integral part of the mixed use development of the Phase III Improvements and shall contain the number of Public Parking Spaces required to satisfy the Redeveloper's obligation to provide two hundred forty eight (248) Public Parking Spaces on the Project Site, subject to adjustment, if any, in accordance with the last paragraph of Section 2.5(B). The design, engineering and Construction Plans for the Phase III Parking Garage shall be subject to the provisions of Section 3.6 hereof. All parking shall be constructed in a manner to comply with the Zoning Regulations (as the same may be amended or as such relief may be granted by the Norwalk Zoning Commission or Zoning Board of Appeals), as to the number of required spaces and dimension of the spaces, including but not limited to such matters as the number of handicapped spaces, parking requirements by land use type and shared parking reductions permitted by the Zoning Regulations.

2. Phase III Residential Units. The Redeveloper shall construct one hundred seventy three (173) residential units (**"Phase III Residential Units"**). The Phase III Residential Units will be constructed in a manner that allows the Phase III Parking Garage to be integrated within, and to the greatest extent possible screened by, the residential structure on all street facing elevations. The Redeveloper shall construct the Phase III Residential Units in compliance with all Legal Requirements. The Phase III Residential Units shall consist of for sale units (**"Phase IIII Residential For Sale Units"**), and rental units (**"Phase III Residential Rental Units"**).

In addition, the greater of twenty (20%) percent of the Phase III Residential Units or the number of Phase III Residential Units which are required to satisfy the Zoning Regulations, shall be deed restricted so as to require such units to comply, in perpetuity, with the requirements of both Section 118-1050 of the Zoning Regulations, as the same may be amended from time to time, and Section 8-30g-8 of the Regulations of Connecticut State Agencies, as the same may be amended from time to time, so as to qualify each such unit as a "Workforce Housing Unit" and an "affordable unit", respectively. To the extent that the terms and conditions of the Zoning Regulations and the State Regulations differ, then the more restrictive regulation shall apply. In the event the Zoning Regulations and the State Regulations contain any terms or conditions which conflict to the extent that both regulations cannot be satisfied, then the terms and conditions of Section 118-1050 of the Zoning Regulations shall control. The balance of the affordable units in the Project that are constructed with State or federal capital shall

comply with applicable State or federal requirements. It is understood and agreed by the parties, that all such affordable units shall be located on the Project Site.

3. Phase III Retail Space. The Redeveloper shall construct not less than fourteen thousand six hundred seven (14,607) ± square feet of retail space (the **"Phase III Retail Space"**) on the ground floor of the Phase III Improvements. The Phase III Retail Space shall have its principal public façade oriented to the street, and provide for pedestrian access from the street sidewalk. All storefronts shall have a minimum of seventy-five (75%) percent glazing in the street facing elevation.

4. Phase III Live/Work Space. The Redeveloper shall construct not more than twelve thousand nine hundred fifty-seven (12,957)± square feet of live/work space (the **"Phase III Live/Work Space"**) on the ground floor of the Phase III Improvements. The parties acknowledge that the present Zoning Regulations do not permit Phase III Live/Work Space on the ground floor. The Agency agrees to support the Redeveloper's request to amend the Zoning Regulations to permit Phase III Live/Work Space on the ground floor of the Phase III Improvements. The uses for which the Phase III Live/Work Space may be utilized shall be those uses as may be permitted by the Zoning Regulations as the same may be amended. In the event that the Zoning Regulations do not ultimately permit the use of the area depicted in Phase III on the Conceptual Master Site Plan as Phase III Live/Work Space, then the Redeveloper shall have the right to convert such area to any use or uses as may be permitted by the Zoning Regulations. The Redeveloper agrees to amend the Conceptual Master Site Plan to reflect such change in accordance with the provisions of Section 3.1 hereof; provided, however, that in the event the proposed change in use is to either residential or commercial use, then such change shall not be deemed a "substantial change" for purposes of ARTICLE III hereof and shall only require the written consent of the Agency, which consent shall not be unreasonably withheld, delayed or conditioned.

5. Phase III Recreational Space. The Redeveloper shall construct such recreational space in the form of occupant-accessible rooftop gardens as indicated on the Conceptual Master Site Plan as shall be required by the Zoning Regulations.

Section 2.4 Independent Parcels.

The land upon which the Phase I Improvements and the Phase II Improvements are to be completed must be assembled as an independent parcel and the land upon which the Phase III Improvements are to be completed shall also be assembled as an independent parcel. Each of the above-mentioned independent parcels must satisfy all governmental requirements, and in addition, each Phase must insure sufficient parking (including the Public Parking Spaces) is preserved for the other Phases by way of a parking easement and/or parking plan.

Section 2.5 Public Parking.

A. Temporary Public Parking.

The City, the Agency and the Redeveloper hereby acknowledge that there are presently two hundred forty-eight (248) spaces of public parking on the Project Site. Such parking spaces exist now to serve retail uses and long term parking needs in the Project Site and surrounding areas and the new parking spaces will be used to serve area retail uses and long term parking needs. Due to Project Site conditions, the parties acknowledge that the Redeveloper will be unable to provide two-hundred forty-eight (248) temporary public parking spaces for use by the general public during construction of the Improvements. During construction of the Phase I Improvements and Phase II Improvements, the Redeveloper shall make available for use by the general public a minimum of one hundred (100) parking spaces. These temporary public parking spaces shall be located on the Project Site, except that with the prior written approval of the Agency, which approval shall not be unreasonably withheld, delayed or conditioned, up to twenty (20%) percent of said temporary public parking spaces may be located off-site provided they are within four hundred (400) feet of the Project Site. During construction of the Phase III Improvements, there shall be available for use by the general public a minimum of one hundred eighty-eight (188) parking spaces within the Phase I Improvements and Phase II Improvements. Prior to the conveyance of the Municipal Parking Lot to the Redeveloper, the Norwalk Parking Authority shall continue to maintain and operate the public parking spaces on such parcels or parcel in the usual course of business and consistent with past practices. Upon conveyance of fee simple title of the Municipal Parking Lot to the Redeveloper, the parking spaces designated by the parties hereto as temporary public parking spaces shall be maintained and operated by the Redeveloper in accordance with the Redeveloper's temporary public parking plan as approved by the Norwalk Parking Authority and/or the City, which temporary public parking plan must be approved prior to the conveyance to the Redeveloper of the Municipal Parking Lot. The City and the Agency agree to modify the Agency's obligation under their Option Agreement granting the Agency the option to purchase the Municipal Parking Lot by modifying the number of temporary public parking spaces that the Agency is required to provide during construction to the number of temporary public parking spaces set forth above. All permanent Public Parking Spaces constructed by the Redeveloper as part of the Improvements on the Project Site for which a Certificate of Completion has been issued shall be maintained and operated by Redeveloper in accordance with the terms of this Agreement.

B. Permanent Public Parking.

The Redeveloper shall construct as an integral part of its mixed use development of the Project Site, a minimum of two hundred forty-eight (248) public parking spaces (**"Public Parking Spaces")** in addition to any on-street parking within the Project Site, which may be conventional or automated, and which shall be available to the general public to serve as replacement parking for the two hundred forty-eight (248) surface parking spaces presently provided on the Municipal Parking Lot. The Public

Parking Spaces shall be operated and maintained by the Redeveloper in the following manner:

(i) The Public Parking Spaces shall be available to the general public at all times and in perpetuity without restriction or limitation except as may be permitted by this Agreement.

(ii) The Redeveloper shall have the right to establish the parking rates for all parking spaces within the Project Site, including the Public Parking Spaces; provided, however, the Redeveloper agrees that the rate structure established for the Public Parking Spaces shall be reasonable so as not to inhibit the general public from utilizing said Public Parking Spaces. The Redeveloper shall keep the Public Parking Spaces in good operating condition and in a manner consistent with other comparable public parking in the City.

(iii) The Agency, the City and the Redeveloper acknowledge that the Redeveloper will incur substantial costs and expenses in the construction, maintenance and operation of the proposed Public Parking Spaces on the Project Site. The parties further acknowledge that in the event the City establishes parking rates for public parking throughout the City which do not allow the Norwalk Parking Authority to operate on or near a break-even basis and the City is required to provide a Parking Authority Subsidy (as hereinafter defined) to cover such deficiency it would place the Redeveloper at a competitive disadvantage due to the Redeveloper's need to establish parking rates for the Public Parking Spaces that enable it to recoup the costs and expenses of the construction, maintenance and operation of such Public Parking Spaces. Therefore, the City hereby agrees to use reasonable efforts to cause the Norwalk Parking Authority to set rates for off-street public parking spaces in the City at a level that will not require the City to provide a Parking Authority Subsidy to cover any deficiency for off-street parking in the City. For purposes of this section, **"Parking Authority Subsidy"** shall mean a subsidy exceeding seven (7%) percent of the Operating and Management Budget for all off-street parking in the City for a fiscal year of the City. For purposes of this section, **"Operating and Management Budget"** shall mean the Norwalk Parking Authority Budget excluding the following: (a) any City financial participation to pay for capital improvements to the City parking system that could impact public safety and liability; (b) any City financial participation to pay for infrastructure improvements related to the City parking system which include but is not limited to drainage/sewer, road, sidewalk, traffic improvements; and (c) any City financial participation to pay for anything over and above what is considered normal parking operations beyond the control of the Norwalk Parking Authority. In the event that the City is required to provide a Parking Authority Subsidy to cover a deficiency in the City's Operating and Management Budget for off-street parking during a fiscal year of the City, then the City agrees to pay to the operator of the Public Parking Spaces on the Project Site, to assist the operator in covering its cost of maintaining and operating the Public Parking Spaces on the Project Site, an amount determined by using the following formula: the amount of the Parking Authority Subsidy for a fiscal year of the City shall be divided by the total number of off-street public parking spaces maintained by the City during such fiscal year, and the resultant number shall be multiplied by the number of

Public Parking Spaces that the Redeveloper is required to provide on the Project Site pursuant to this Agreement for such fiscal year. For example, if the City's fiscal year Operating and Management Budget for all off-street parking in the City is $4,000,000.00, the amount of the Parking Authority Subsidy for such fiscal year is $400,000.00, the total number of off-street public parking spaces maintained by the City for such fiscal year is 4,000 and the number of Public Parking Spaces that the Redeveloper is required to provide on the Project Site is 248, then the amount that the City would be required to pay to the operator of the Public Parking Spaces on the Project Site under this subsection for such fiscal year would be $24,800.00 ($400,000.00 ÷ 4,000.00 = $100.00 X 248). The City's obligation to make the foregoing payments to said operator shall continue for a period of ten (10) years, commencing with the first full fiscal year of the City after completion of the Phase I Improvements, as evidenced by the issuance of a Certificate of Completion by the Agency. At the end of said ten (10) year period, the parties shall review the implications of this subsection (iii) and assess whether there continues to be reasons for an extension of such ten (10) year period for an additional five (5) years. The parties acknowledge that the Norwalk Parking Authority is responsible for managing and operating all public parking in the City and that the Norwalk Parking Authority owns and operates substantially all of the public parking in the City, and further, that due to the present parking economics in the City and due to the fact that the Public Parking Spaces within the Project Site may be integrated with the necessary parking for the Improvements, the City is permitting the Redeveloper to initially own and operate the Public Parking Spaces. Notwithstanding the foregoing, the Redeveloper, for itself and its successors and assigns, hereby agrees that should the parking economics in the City change in such a way that the Norwalk Parking Authority and the Redeveloper determine it to be in the best interest of both parties for the Norwalk Parking Authority to own and/or operate the Public Parking Spaces, said Redeveloper and related lenders will negotiate in good faith with the Norwalk Parking Authority in an attempt to reach an agreement that is reasonably acceptable to both the Redeveloper and the Norwalk Parking Authority to permit the Norwalk Parking Authority to own and/or operate the Public Parking Spaces.

(iv) The Redeveloper shall pay all costs and expenses associated with the Public Parking Spaces and shall be entitled to retain all parking fees received with respect to said Public Parking Spaces.

(v) The Redeveloper may implement such reasonable rules and regulations as it deems necessary, provided they do not differentiate between the general public and the customers of the retailers within the Project.

(vi) The Agency and/or the City shall have the right at any time to retain a consultant to audit the operation of the parking garages within the Project to insure that the Public Parking Spaces are available to the general public as contemplated by this Agreement. The Redeveloper agrees to fully cooperate with any such audit and to provide the consultant with such financial and operational information as it deems necessary to effectively conduct such audit. In the event the consultant determines that the two hundred forty-eight (248) Public Parking Spaces are not available

to the general public at all times and in the manner required by this Agreement, then the Redeveloper shall amend its rules and regulations and operating procedures to the extent necessary so that said Public Parking Spaces are available to the general public at all times and in the manner required by this Agreement. In addition, the City and/or the Norwalk Parking Authority may impose a fine upon the Redeveloper in an amount not to exceed ten (10) times the daily value of the Public Parking Spaces for the time in which any such space was not available to the general public in the manner contemplated by this Agreement. The Redeveloper shall have the right to retain its own consultant if it wishes to dispute the findings of the Agency's and/or the City's consultant. The Redeveloper shall have thirty (30) days after receipt of written notice from the Agency or the City that a violation has occurred under this subsection to obtain a consultant and to object in writing to such finding. The two consultants retained by the parties shall have ten (10) days after the filing of the Redeveloper's written objection to select a third consultant, and the third consultant shall make the decision as to whether a violation has, in fact, occurred, which decision shall be binding upon the parties hereto and which findings shall be made by the third consultant within thirty (30) days after being selected. Each party shall pay the cost of its own consultant and the non-prevailing party shall pay the cost of the third consultant. If the Redeveloper does not retain a consultant and object within the aforementioned thirty (30) day period, then the fine imposed by the City shall be due and payable within thirty (30) days after the Redeveloper's receipt of written notice that a violation has occurred, or if the Redeveloper timely objects and it is subsequently determined by the third consultant that a violation has occurred, then such fine shall be due and payable within ten (10) days after the consultant's findings have been delivered to the Redeveloper.

(vii) The terms and conditions of this Section 2.5(B) shall be enforceable by the City, the Agency, and the Norwalk Parking Authority, or its successor authority.

Notwithstanding the foregoing, in the event that the City and/or the Agency for any reason (other than by reason of a material default by the Redeveloper hereunder) fails or refuses to acquire any parcel or parcels of Acquisition Property that may hereafter be listed on **Exhibit A** attached hereto and convey same to the Redeveloper in accordance with the terms of this Agreement (excepting any such parcels which are owned by the Redeveloper), then the number of Public Parking Spaces that the Redeveloper shall be required to construct in accordance with this Section 2.5(B) shall be reduced from two hundred forty eight (248) Public Parking Spaces to the number of Public Parking Spaces determined by using the following formula: 248 multiplied by a fraction, the numerator of which shall be 237,869 minus the total square footage of land area contained in the aforementioned parcel(s) of Acquisition Property not conveyed to or acquired by the Redeveloper, and the denominator of which fraction shall be 237,869, equals the number of Public Parking Spaces that the Redeveloper shall be required to construct in accordance with this Section 2.5(B). In the event the number of Public Parking Spaces is reduced in accordance with the foregoing provisions of this paragraph, then the City and the Agency agree to modify the Agency's obligation under their Option Agreement granting the Agency the option to purchase the Municipal Parking Lot by

reducing the number of Public Parking Spaces that the Agency is required to provide on the Project Site to the number of Public Parking Spaces required to be provided by the Redeveloper under this Agreement.

Section 2.6 Redeveloper's Right to Reduce the Gross Square Footage for Any Phase of the Project.

Notwithstanding anything contained in this Agreement to the contrary, the Redeveloper shall have the right to reduce the gross square footage of any Phase of the Project up to fifteen (15%) percent of the gross square footage as contemplated for such Phase by the initial Conceptual Master Site Plan attached hereto without such change constituting a "substantial change" for purposes of ARTICLE III hereof. In addition, any changes in the number of parking spaces (excluding any reduction in Public Parking Spaces), square footage of retail space, square footage of live/work space, if any, square footage of recreational space and number of residential units necessitated by any such reduction in gross square footage shall not constitute a "substantial change" for purposes of ARTICLE III hereof but shall require the approval of the Agency. The Agency agrees to act in good faith and exercise its discretion in a reasonable manner in considering whether to approve any such changes. In the event the Redeveloper desires to reduce the gross square footage of any Phase of the Project in accordance with the foregoing, the Redeveloper shall submit to the Agency a proposed modification to the Conceptual Master Site Plan for approval by the Agency in accordance with Section 3.1 hereof.

ARTICLE III
CONSTRUCTION PROCESS

Section 3.1 Conceptual Master Site Plan.

Annexed hereto as **Exhibit B** and incorporated herein by reference is the Conceptual Master Site Plan. The Conceptual Master Site Plan represents the Redeveloper's present conception of the proposed layout of the Project Site and design of the Improvements. It is understood and agreed by the parties hereto that the approval of said Conceptual Master Site Plan is an approval of location of land use, height, bulk, massing and scale only and is intended to provide the Redeveloper with a framework within which to develop the Project.

The Redeveloper shall submit any proposed modifications to the Conceptual Master Site Plan for approval by the Agency. The Agency agrees to act in good faith and exercise its discretion in a reasonable manner in considering whether to approve any such modifications. To the extent that any such modifications would be deemed to "substantially change" the Conceptual Master Site Plan, such modifications shall also be subject to the approval of the Common Council. For purposes of the immediately preceding sentence, as it relates to the term "substantial change," the parties agree that a "**substantial change**" shall be limited to the following: (i) any material changes in the uses proposed for the Project Site or portion thereof depicted in the modified Conceptual Master Site Plan which differs from the uses shown on the prior approved Conceptual

Master Site Plan, (ii) any dimensional changes which (either individually, or cumulatively) would increase by more than ten (10%) percent either the highest maximum building height or greatest maximum floor area ratio presently permitted in the Project Site pursuant to the Redevelopment Plan and the Zoning Regulations, (iii) any material change in the location of a structure, (iv) any reduction in the number of Public Parking Spaces, or a ten (10%) percent or more reduction in the total number of parking spaces previously depicted on the Conceptual Master Site Plan, (v) a ten (10%) percent or more reduction in the number of affordable housing units, or (vi) a ten (10%) percent or more change, in the aggregate, in the residential unit count or bedroom count for the Project. With respect to any requests by the Redeveloper for Agency (or, where required, Common Council) approval of any modifications to the Conceptual Master Site Plan, the Agency (and, where required, the Common Council) shall each have ten (10) days after its next regularly scheduled meeting (or if said modifications are not submitted at least ten (10) days prior to the next regularly scheduled meeting, then ten (10) days after the next succeeding regularly scheduled meeting) to provide written approval or disapproval of the proposed modifications to the Conceptual Master Site Plan, or a written request for further information, or further time for review, if necessary. If the Common Council and/or the Agency disapprove in whole or in part the proposed modifications to the Conceptual Master Site Plan, the Common Council and/or the Agency shall state in writing the reasons for such disapproval, and the Redeveloper shall submit new or revised modifications to the Conceptual Master Site Plan for approval by the Common Council and the Agency within ninety (90) days after receipt of notice of disapproval of the proposed modifications by the Common Council and/or the Agency. The foregoing submission and response proceeding will be followed until such time as the Redeveloper's proposed modifications to the Conceptual Master Site Plan are approved by the Agency and the Common Council, or until any dispute is submitted by Redeveloper for resolution by mediation and/or arbitration in accordance with this Agreement; provided, however, that the Redeveloper agrees to use reasonable efforts to revise any proposed modifications that have been rejected by either the Agency or the Common Council, in a manner that will satisfy the Agency's and/or the Common Council's, as the case may be, stated reasons for rejecting the proposed modifications before submitting the matter for resolution by mediation and/or arbitration.

The approval of the Conceptual Master Site Plan or any modification to the Conceptual Master Site Plan by the Agency and the Common Council is not intended in any way to imply that same complies in all respects with the Zoning Regulations, the Plan Requirements or other Legal Requirements applicable to the Project Site. The foregoing is not intended to bind the Zoning Commission, nor shall it be interpreted or construed in a manner so as to limit the Agency's design review jurisdiction under the Redevelopment Plan with respect to the Conceptual Master Site Plan. The Redeveloper shall be obligated to obtain all approvals required from Governmental Authorities having jurisdiction for the Project.

Section 3.2 Phase I Construction Plans.

Within sixty (60) days after the Execution Date, the Redeveloper shall submit Construction Plans (as defined in Section 301 of Part II hereof) for the Phase I Improvements to be constructed on the Project Site in accordance with Section 2.1 hereof, and a timetable for the construction of the Phase I Improvements, for approval by the Agency. The parking garage component of the Phase I Improvements shall be of high quality and constructed in such manner as to meet the needs of the general public and other authorized users of the parking garage. In addition, the parking garage component of the Construction Plans shall be subject to the provisions of Section 3.6 hereof. The Phase I Construction Plans shall be prepared in substantial conformance in all material respects with the approved Conceptual Master Site Plan and shall be submitted to the Agency together with a statement jointly from, and jointly certified by, the Redeveloper and Architect that such Phase I Construction Plans substantially conform in all material respects to the approved Conceptual Master Site Plan or a statement specifying the deviations between the Phase I Construction Plans and the Conceptual Master Site Plan. To the extent that the Phase I Construction Plans would be deemed to "substantially change" the Conceptual Master Site Plan, the Phase I Construction Plans shall also be subject to the approval of the Common Council. For purposes of the immediately preceding sentence, as it relates to the term "substantial change," the parties agree that a "**substantial change**" shall be limited to the following: (i) any material changes in the uses proposed for the Project Site or portion thereof depicted in the Phase I Construction Plans which differs from the uses shown on the Conceptual Master Site Plan, (ii) any dimensional changes which (either individually, or cumulatively) would increase by more than ten (10%) percent either the highest maximum building height or greatest maximum floor area ratio presently permitted in the Project Site pursuant to the Redevelopment Plan and the Zoning Regulations, (iii) any material change in location of a structure, (iv) any reduction in the number of Public Parking Spaces, or a ten (10%) percent or more reduction in the total number of parking spaces previously depicted on the Conceptual Master Site Plan, (v) a ten (10%) percent or more reduction in the number of affordable housing units, or (vi) a ten (10%) percent or more change, in the aggregate, in the residential unit count or bedroom count for the Project. The Agency (and, where required, the Common Council) shall each have thirty (30) days after its next regularly scheduled meeting (or if said Phase I Construction Plans are not submitted at least thirty (30) days prior to the next regularly scheduled meeting, then thirty (30) days after the next succeeding regularly scheduled meeting) to provide written approval or disapproval of the proposed Phase I Construction Plans, or a written request for further information, or further time for review, if necessary. If the Common Council and/or the Agency disapprove in whole or in part the proposed Phase I Construction Plans, the Common Council and/or the Agency shall state in writing the reasons for such disapproval, and the Redeveloper shall submit new or revised Phase I Construction Plans for approval by the Common Council and the Agency within ninety (90) days after receipt of notice of disapproval of the proposed Phase I Construction Plans by the Common Council and/or the Agency. The foregoing submission and response proceeding will be followed until such time as the Redeveloper's proposed Phase I Construction Plans are approved by the Agency and the Common Council, or until any

dispute is submitted by Redeveloper for resolution by mediation and/or arbitration in accordance with this Agreement; provided, however, that the Redeveloper agrees to use reasonable efforts to revise any proposed Phase I Construction Plans that have been rejected by either the Agency or the Common Council, in a manner that will satisfy the Agency's and/or the Common Council's, as the case may be, stated reasons for rejecting the proposed Phase I Construction Plans before submitting the matter for resolution by mediation and/or arbitration. The approval of such Phase I Construction Plans by the Agency and the Common Council is an approval of the design concept only and is not intended in any way to imply that same complies in all respects with the Zoning Regulations, the Plan Requirements or other Legal Requirements applicable to the Project Site. The foregoing is not intended to bind the Zoning Commission, nor shall it be interpreted or construed in a manner so as to limit the Agency's design review jurisdiction under the Redevelopment Plan with respect to the Phase I Construction Plans. The Redeveloper shall be obligated to obtain all approvals required from Governmental Authorities having jurisdiction for Phase I of the Project.

Section 3.3 Phase II Construction Plans. Within thirty (30) days after completion of the Phase I Improvements as evidenced by issuance of Certificate of Occupancy by the City, the Redeveloper shall submit Construction Plans (as defined in Section 301 of Part II hereof) for the Phase II Improvements to be constructed on the Project Site in accordance with Section 2.2 hereof, and a timetable for the construction of the Phase II Improvements, for approval by the Agency. The parking garage component of the Phase II Improvements shall be of high quality and constructed in such manner as to meet the needs of the general public and other authorized users of the parking garage In addition, the parking garage component of the Construction Plans shall be subject to the provisions of Section 3.6 hereof. The Phase II Construction Plans shall be prepared in substantial conformance in all material respects with the approved Conceptual Master Site Plan and shall be submitted to the Agency together with a statement jointly from, and jointly certified by, the Redeveloper and Architect that such Phase II Construction Plans substantially conform in all material respects to the approved Conceptual Master Site Plan or a statement specifying the deviations between the Phase II Construction Plans and the Conceptual Master Site Plan. To the extent that the Phase II Construction Plans would be deemed to "substantially change" the Conceptual Master Site Plan, the Phase II Construction Plans shall also be subject to the approval of the Common Council. For purposes of the immediately preceding sentence, as it relates to the term "substantial change," the parties agree that a "**substantial change**" shall be limited to the following: (i) any material changes in the uses proposed for the Project Site or portion thereof depicted in the Phase II Construction Plans which differs from the uses shown on the Conceptual Master Site Plan, (ii) any dimensional changes which (either individually, or cumulatively) would increase by more than ten (10%) percent either the highest maximum building height or greatest maximum floor area ratio presently permitted in the Project Site pursuant to the Redevelopment Plan and the Zoning Regulations, (iii) any material change in location of a structure, (iv) any reduction in the number of Public Parking Spaces, or a ten (10%) percent or more reduction in the total number of parking spaces previously depicted on the Conceptual Master Site Plan, (v) a ten (10%) percent or more reduction in the number of affordable housing units, or (vi) a ten (10%) percent

or more change, in the aggregate, in the residential unit count or bedroom count for the Project. The Agency (and, where required, the Common Council) shall each have thirty (30) days after its next regularly scheduled meeting (or if said Phase II Construction Plans are not submitted at least thirty (30) days prior to the next regularly scheduled meeting, then thirty (30) days after the next succeeding regularly scheduled meeting) to provide written approval or disapproval of the proposed Phase II Construction Plans, or a written request for further information, or further time for review, if necessary. If the Common Council and/or the Agency disapprove in whole or in part the proposed Phase II Construction Plans, the Common Council and/or the Agency shall state in writing the reasons for such disapproval, and the Redeveloper shall submit new or revised Phase II Construction Plans for approval by the Common Council and the Agency within ninety (90) days after receipt of notice of disapproval of the proposed Phase II Construction Plans by the Common Council and/or the Agency. The foregoing submission and response proceeding will be followed until such time as the Redeveloper's proposed Phase II Construction Plans are approved by the Agency and the Common Council, or until any dispute is submitted by Redeveloper for resolution by mediation and/or arbitration in accordance with this Agreement; provided, however, that the Redeveloper agrees to use reasonable efforts to revise any proposed Phase II Construction Plans that have been rejected by either the Agency or the Common Council, in a manner that will satisfy the Agency's and/or the Common Council's, as the case may be, stated reasons for rejecting the proposed Phase II Construction Plans before submitting the matter for resolution by mediation and/or arbitration. The approval of such Phase II Construction Plans by the Agency and the Common Council is an approval of the design concept only and is not intended in any way to imply that same complies in all respects with the Zoning Regulations, the Plan Requirements or other Legal Requirements applicable to the Project Site. The foregoing is not intended to bind the Zoning Commission, nor shall it be interpreted or construed in a manner so as to limit the Agency's design review jurisdiction under the Redevelopment Plan with respect to the Phase II Construction Plans. The Redeveloper shall be obligated to obtain all approvals required from Governmental Authorities having jurisdiction for Phase II of the Project.

Section 3.4 Phase III Construction Plans. Within thirty (30) days after completion of the Phase II Improvements as evidenced by issuance of Certificate of Occupancy by the City, the Redeveloper shall submit Construction Plans (as defined in Section 301 of Part II hereof) for the Phase III Improvements to be constructed on the Project Site in accordance with Section 2.3 hereof, and a timetable for the construction of the Phase III Improvements, for approval by the Agency. The parking garage component of the Phase III Improvements shall be of high quality and constructed in such manner as to meet the needs of the general public and other authorized users of the parking garage. In addition, the parking garage component of the Construction Plans shall be subject to the provisions of Section 3.6 hereof. The Phase III Construction Plans shall be prepared in substantial conformance in all material respects with the approved Conceptual Master Site Plan and shall be submitted to the Agency together with a statement jointly from, and jointly certified by, the Redeveloper and Architect that such Phase III Construction Plans substantially conform in all material respects to the approved Conceptual Master Site Plan or a statement specifying the deviations between the Phase III Construction Plans

and the Conceptual Master Site Plan. To the extent that the Phase III Construction Plans would be deemed to "substantially change" the Conceptual Master Site Plan, the Phase III Construction Plans shall also be subject to the approval of the Common Council. For purposes of the immediately preceding sentence, as it relates to the term "substantial change," the parties agree that a "**substantial change**" shall be limited to the following: (i) any material changes in the uses proposed for the Project Site or portion thereof depicted in the Phase III Construction Plans which differs from the uses shown on the Conceptual Master Site Plan, (ii) any dimensional changes which (either individually, or cumulatively) would increase by more than ten (10%) percent either the highest maximum building height or greatest maximum floor area ratio presently permitted in the Project Site pursuant to the Redevelopment Plan and the Zoning Regulations, (iii) any material change in location of a structure, (iv) any reduction in the number of Public Parking Spaces, or a ten (10%) percent or more reduction in the total number of parking spaces previously depicted on the Conceptual Master Site Plan, (v) a ten (10%) percent or more reduction in the number of affordable housing units, or (vi) a ten (10%) percent or more change, in the aggregate, in the residential unit count or bedroom count for the Project. The Agency (and, where required, the Common Council) shall each have thirty (30) days after its next regularly scheduled meeting (or if said Phase III Construction Plans are not submitted at least thirty (30) days prior to the next regularly scheduled meeting, then thirty (30) days after the next succeeding regularly scheduled meeting) to provide written approval or disapproval of the proposed Phase III Construction Plans, or a written request for further information, or further time for review, if necessary. If the Common Council and/or the Agency disapprove in whole or in part the proposed Phase III Construction Plans, the Common Council and/or the Agency shall state in writing the reasons for such disapproval, and the Redeveloper shall submit new or revised Phase III Construction Plans for approval by the Common Council and the Agency within ninety (90) days after receipt of notice of disapproval of the proposed Phase III Construction Plans by the Common Council and/or the Agency. The foregoing submission and response proceeding will be followed until such time as the Redeveloper's proposed Phase III Construction Plans are approved by the Agency and the Common Council, or until any dispute is submitted by Redeveloper for resolution by mediation and/or arbitration in accordance with this Agreement; provided, however, that the Redeveloper agrees to use reasonable efforts to revise any proposed Phase III Construction Plans that have been rejected by either the Agency or the Common Council, in a manner that will satisfy the Agency's and/or the Common Council's, as the case may be, stated reasons for rejecting the proposed Phase III Construction Plans before submitting the matter for resolution by mediation and/or arbitration. The approval of such Phase III Construction Plans by the Agency and the Common Council is an approval of the design concept only and is not intended in any way to imply that same complies in all respects with the Zoning Regulations, the Plan Requirements or other Legal Requirements applicable to the Project Site. The foregoing is not intended to bind the Zoning Commission, nor shall it be interpreted or construed in a manner so as to limit the Agency's design review jurisdiction under the Redevelopment Plan with respect to the Phase III Construction Plans. The Redeveloper shall be obligated to obtain all approvals required from Governmental Authorities having jurisdiction for Phase III of the Project.

Section 3.5 Modification of Construction Plans. The Redeveloper shall submit any proposed modifications to the Construction Plans for approval by the Agency. The Agency agrees to act in good faith and exercise its discretion in a reasonable manner in considering whether to approve any such modifications. To the extent that any such modifications would be deemed to "substantially change" the Construction Plans, such modifications shall also be subject to the approval of the Common Council. For purposes of the immediately preceding sentence, as it relates to the term "substantial change," the parties agree that a "**substantial change**" shall be limited to the following: (i) any material changes in the uses proposed for the Project Site or portion thereof depicted in the Construction Plans which differs from the uses shown on the prior Construction Plans, (ii) any dimensional changes which (either individually, or cumulatively) would increase by more than ten (10%) percent either the highest maximum building height or greatest maximum floor area ratio presently permitted in the Project Site pursuant to the Redevelopment Plan and the Zoning Regulations, (iii) any material change in appearance or location of a structure or change in material utilized, (iv) any reduction in the number of Public Parking Spaces, or a ten (10%) percent or more reduction in the total number of parking spaces previously depicted on the Construction Plans, (v) a ten (10%) percent or more reduction in the number of affordable housing units, or (vi) a ten (10%) percent or more change, in the aggregate, in the residential unit count or bedroom count for the Project. With respect to any requests by the Redeveloper for Agency (or, where required, Common Council) approval of any modifications to the Construction Plans, the Agency (and, where required, the Common Council) shall each have ten (10) days after its next regularly scheduled meeting (or if said modifications are not submitted at least ten (10) days prior to the next regularly scheduled meeting, then ten (10) days after the next succeeding regularly scheduled meeting) to provide written approval or disapproval of the proposed modifications to the Construction Plans, or a written request for further information, or further time for review, if necessary. If the Common Council and/or the Agency disapprove in whole or in part the proposed modifications to the Construction Plans, the Common Council and/or the Agency shall state in writing the reasons for such disapproval, and the Redeveloper shall submit new or revised modifications to the Construction Plans for approval by the Common Council and the Agency within ninety (90) days after receipt of notice of disapproval of the proposed modifications by the Common Council and/or the Agency. The foregoing submission and response proceeding will be followed until such time as the Redeveloper's proposed modifications to the Construction Plans are approved by the Agency and the Common Council, or until any dispute is submitted by Redeveloper for resolution by mediation and/or arbitration in accordance with this Agreement; provided, however, that the Redeveloper agrees to use reasonable efforts to revise any proposed modifications that have been rejected by either the Agency or the Common Council, in a manner that will satisfy the Agency's and/or the Common Council's, as the case may be, stated reasons for rejecting the proposed modifications before submitting the matter for resolution by mediation and/or arbitration. The approval of such modification to the Construction Plans by the Agency and the Common Council is an approval of the design concept only and is not intended in any way to imply that same complies in all respects with the Zoning Regulations, the Plan Requirements or other Legal Requirements applicable to the Project Site. The foregoing is not intended to bind the Zoning Commission, nor shall it be interpreted or construed in

a manner so as to limit the Agency's design review jurisdiction under the Redevelopment Plan with respect to the Construction Plans. The Redeveloper shall be obligated to obtain all approvals required from Governmental Authorities having jurisdiction for the Project.

Section 3.6 Parking Garage Design and Approvals. In addition to satisfying all Zoning Regulations, the parking garage component of the Improvements (whether conventional or automated) must also be constructed in such manner that the Public Parking Spaces within the parking facility adequately meet the needs associated with public parking. If the Agency deems it appropriate, the Agency may retain a third party consultant to determine whether such parking facility does in fact adequately meet the needs associated with public parking and the expense of such consultant shall be an Acquisition Expense. The provisions of this Section 3.6 are in addition to and not in lieu of the provisions of Sections 3.2, 3.3 and 3.4 hereof, as the case may be. The City and the Agency acknowledge that the Redeveloper intends to use a form of automated parking to satisfy the parking requirements within the Project.

Section 3.7 Governmental Approvals for Each Phase.

Immediately after obtaining the approvals set forth in Sections 3.2, 3.3 and 3.4 hereof, as the case may be, the Redeveloper shall proceed diligently to obtain all governmental permits required for construction of each Phase of the Improvements to be constructed on the Project Site and to undertake such environmental remediation or other actions as may be required as a prerequisite to commencement of construction of the Improvements on the Project Site. All such work performed in connection with the Improvements shall be done at the Redeveloper's sole cost and expense, except as may otherwise be herein specifically provided.

The Agency shall deliver to the Norwalk Building Department copies of all notices required by Sections 3.2, 3.3, 3.4 and 3.5. The Norwalk Building Department shall not issue a building permit for any Phase of Improvements until the Agency has approved such Phase's Construction Plans, or the matter is resolved in the Redeveloper's favor through mediation and/or arbitration, and the Redeveloper has otherwise met all applicable requirements for issuance of such a building permit. The dates for commencement and/or completion of such Phase's Improvements shall be extended by reason of delays in the start of construction resulting from good faith disputes between the Redeveloper and the Agency or City regarding a submission or approval of such Phase's Construction Plans. The period of delay, unless otherwise agreed in writing, shall be measured from the date by which the Agency was required to respond originally until the date upon which the Agency's decision is actually rendered or a settlement is reached.

Section 3.8 Working Drawings.

The Redeveloper shall develop working drawings ("**Working Drawings**") in conformance with the Construction Plans and submit them for approval by the Agency with the assistance of the Department of Public Works and the Norwalk Zoning

Department, within two hundred forty (240) days after the later of: (i) approval of the Construction Plans for the Improvements on such Phase, and (ii) Zoning approval for the Improvements on such Phase. The Working Drawings shall be prepared in substantial conformance in all material respects with the approved Construction Plans and shall be submitted to the Agency together with a statement from the Redeveloper and the Architect, and jointly certified by them, that such Working Drawings substantially conform in all material respects to the approved Construction Plans or a statement specifying the deviations between the Working Drawings and the Construction Plans and a request that the Agency and the Common Council approve such deviations. The Agency staff and its architectural consultants, if any, shall review the Working Drawings and shall, within thirty (30) days after their receipt by the Agency, notify the Redeveloper in writing whether or not the submission is complete and whether or not the Agency has determined that the Working Drawings substantially conform in all material respects to the approved Construction Plans (or whether they require additional time to make such determination, and they shall have such additional, reasonable period of time, not exceeding thirty (30) additional days, to so notify Redeveloper of such determination). If the Agency staff determines that the Working Drawings do not substantially conform in all material respects to the approved Construction Plans, then all material deviations between the Construction Plans and the Working Drawings shall be submitted to the Agency and the Common Council for approval or rejection. The Agency shall act in good faith and exercise its discretion in a reasonable manner in considering whether the Working Drawings substantially conform in all material respects to the approved Construction Plans. The Agency and the Common Council shall each have ten (10) days after its next regularly scheduled meeting (or if said Working Drawings are not submitted at least ten (10) days prior to the next regularly scheduled meeting, then ten (10) days after the next succeeding regularly scheduled meeting) to provide written approval or disapproval of all such material deviations between the Working Drawings and the approved Construction Plans, or a written request for further information, or further time for review, if necessary. If the Common Council and/or the Agency disapprove in whole or in part any material deviations between the Working Drawings and the approved Construction Plans, the Common Council and/or the Agency shall state in writing the reasons for such disapproval, and the Redeveloper shall submit new or revised Working Drawings for approval by the Common Council and the Agency within thirty (30) days after receipt of notice of disapproval of the Working Drawings by the Common Council and/or the Agency. The foregoing submission and response proceeding will be followed until such time as the Redeveloper's Working Drawings are approved by the Agency and the Common Council, or until any dispute is submitted by Redeveloper for resolution by mediation and/or arbitration in accordance with this Agreement. For purposes of this Section 3.8, the parties intend that the word **"material"**, when used with respect to the degree of conformity or deviation between Construction Plans and Working Drawings, shall refer to a difference of quality, appearance or function in design or materials of such Phase's Improvements that significantly affect (i) the appearance of any building exteriors, (ii) the use of ground floor space accessible from public streets, (iii) pedestrian or vehicular traffic flows, or (iv) the Conceptual Master Site Plan. For purposes of this Agreement, the term **"Working Drawings"** shall mean the plans and specifications

which are to be utilized for the actual construction of the Improvements on the Project Site.

Section 3.9 Evidence of Equity Capital and Mortgage Financing.

Redeveloper heretofore has submitted to the Agency's financial consultant and the City's financial consultant for review such financial information of the Redeveloper and its Affiliates as the Agency has requested. Based upon such review, the Agency and the City have determined that as of the date of execution of this Agreement, the Redeveloper has the financial wherewithal necessary to proceed with and carry out the development of the Project and to comply with all of its obligations contained herein with respect thereto, including without limitation the funding of the Acquisition Expenses of all of the Acquisition Property. Upon an Event of Default by the Redeveloper hereunder, the Agency and/or the City shall have the right to require the Redeveloper to immediately resubmit to the Agency's consultant and the City's consultant, such financial information as the Agency and/or the City may reasonably request in order to enable the Agency and the City to determine whether the Redeveloper still has the financial wherewithal necessary to proceed with and carry out the development of the Project and to comply with all of its obligations contained herein with respect thereto.

The Redeveloper shall submit to the Agency and the City, for their approval, evidence of equity capital and mortgage financing in connection with the construction of each Phase of the Improvements to be constructed on the Project Site which will require the taking of property by the City or the Agency using the power of eminent domain, at such time as the Redeveloper submits its written request to the City and the Agency to amend **Exhibit A** by adding a parcel or parcels thereto which are to be acquired by the Agency or the City using the power of eminent domain.

Redeveloper's failure to provide the Agency and the City with evidence of equity capital and mortgage financing as required above shall constitute an Event of Default hereunder.

Section 3.10 Failure to Construct in Accordance with Approved Working Drawings

No work shall be done on the construction of the Improvements unless such work conforms with Working Drawings approved in accordance with Section 3.8 hereof. The Agency may request the removal or revision of any construction work in any Phase that is done in a manner which does not substantially conform in any material respect with approved Working Drawings for such Phase not later than the later of (i) ten (10) days after the next meeting of the Agency Commission after the Agency becomes aware that such work is not in substantial conformity, or (ii) five (5) days after termination of negotiations between the Redeveloper and Agency with respect to the revision or correction of such non-conforming work, unless a mediation or arbitration proceeding is commenced to resolve any disagreement between the Agency and the Redeveloper with respect to such work, in which event removal or revision will not be required until thirty

(30) days following a decision by the mediator and/or arbitrator against the Redeveloper by which the parties agree to be bound. Immediately upon receipt of such notice, or within thirty (30) days after such decision by the mediator or arbitrator, the Redeveloper shall direct and cause the removal or revision of such construction work so that it substantially conforms in all material respects with the approved Working Drawings. The removal or revision of such work shall be implemented within the time frames specified in this Agreement for completion of construction of the Project or the relevant Phase or portion thereof, or as otherwise required by applicable Legal Requirements or lawful directive of the Governmental Authorities having jurisdiction. During the pendency of any dispute regarding the conformity of any such work to the approved Working Drawings, any additional work performed by Redeveloper with respect to the matter in dispute shall be performed at Redeveloper's sole risk, and Redeveloper shall have no claim against the City or Agency for any damages arising by reason of the performance of such work.

Section 3.11 Attempts to Memorialize Delays, Extensions, Etc.

In any case where, pursuant to applicable provisions of this Agreement, the time for the performance by any party of any obligation is to be tolled, extended or otherwise modified, the Redeveloper and the Agency and the City shall use their reasonable efforts, as promptly as practicable after the occurrence of the event causing delay or otherwise triggering the need for extension, to agree upon the length of the period of delay, extension or tolling and to memorialize same in a written agreement.

Section 3.12 Commencement and Completion of Construction of Each Phase**.**

A. Phase I Improvements.

Construction of the Phase I Improvements on the Project Site shall be commenced by the Redeveloper within ninety (90) days after all of the above approvals set forth in this Article III have been obtained for the Phase I Improvements and shall be completed (as evidenced by Certificate(s) of Completion issued by the Agency) within thirty six (36) months after all such approvals have been obtained.

B. Phase II Improvements.

Construction of the Phase II Improvements on the Project Site shall be commenced by the Redeveloper within one hundred eighty (180) days after all of the above approvals set forth in this Article III have been obtained for the Phase II Improvements (but not sooner than the date that the Public Parking Spaces within the Phase I Improvements are available to the general public as evidenced by a Certificate of Completion) and shall be completed (as evidenced by Certificate(s) of Completion issued by the Agency) within forty eight (48) months after all such approvals have been obtained.

C. Phase III Improvements.

Construction of the Phase III Improvements on the Project Site shall be commenced by the Redeveloper within one hundred eighty (180) days after all of the above approvals set forth in this Article III have been obtained for the Phase III Improvements (but not sooner than completion of the Phase I Improvements and the Phase II Improvements as evidenced by the issuance of a Certificate of Completion) and shall be completed (as evidenced by Certificate(s) of Completion issued by the Agency) within forty eight (48) months after all such approvals have been obtained.

D. Redeveloper's Covenants Concerning Commencement and Completion of Construction of the Project.

The Redeveloper agrees for itself, its successors and assigns, and every successor in interest to the Project Property, or any part thereof, that subject to all the terms of the Agreement, the Redeveloper, and such successors and assigns shall diligently prosecute to completion the redevelopment of the Project Property through the commencement and construction of the Improvements thereon prior to the dates herein provided therefore. Additionally, the Redeveloper agrees to complete the redevelopment of the entire Project within ten (10) years from the Execution Date.

E. Progress Reports.

The Redeveloper shall make monthly reports to the Agency in substantially the form attached hereto as **Exhibit F** and made a part hereof, describing the actual progress of the Project and its construction during the period of construction of the Improvements for any Phase, or any part thereof, until the issuance of a Certificate of Completion for the Improvements on such Phase. The Progress Reports shall contain among other things, the percentage of completion, estimated date of completion of construction of any Phase then under construction and an updated critical path for construction of Improvements.

Section 3.13 Certificates of Completion.

A. Certificates of Completion.

Promptly after completion of construction of the Improvements in any Phase of the Project in accordance with this Agreement and the approved Construction Plans for such Phase, and within thirty (30) days after written request of Redeveloper, the Agency shall furnish the Redeveloper with a Certificate of Completion with respect to such Phase duly executed in the form of **Exhibit G,** or in such other form as shall be mutually acceptable to the Agency and the Redeveloper (or in such modified form as may reasonably be requested by any Institutional Lender holding a mortgage on, or Institutional Investor owning an equity interest in, any portion of the Project). For purposes of this Section, "completion" shall mean that the Improvements, or the relevant portion thereof, have been sufficiently completed such that only minor details of

construction finish and "punch list" type items, or exterior items of a decorative nature (e.g., landscaping, including, without limitation, planting, paving, site lighting, accessory structures, public art and other decorative elements), remain to be completed. If Redeveloper requests a Certificate of Completion, while such items remain unfinished, the Agency may require as a condition of issuance thereof that the Redeveloper deliver its undertaking to complete same as soon as reasonably practicable, weather permitting, with such security to assure performance as the Agency reasonably may determine to be appropriate under the circumstances. Such certification by the Agency (i) shall be (and it shall be so provided in the certificate) a conclusive determination of satisfaction and termination of the agreements and covenants in this Agreement with respect to the obligations of the Redeveloper, and its successors and assigns, to construct the Improvements on such Phase and the dates for the beginning and, except as noted below, completion thereof; and (ii) with respect to the lease or conveyance of any such completed Improvements and the portion of the Project Property upon which same are erected, shall mean and provide (1) that any party purchasing or leasing such completed Improvements and/or such individual part or parcel of the Project Property shall not (because of such purchase or lease) incur any obligation with respect to the construction of the Improvements relating to such part or parcel or to any other part or parcel of the Project Property; and (2) that neither the Agency nor any other party shall thereafter have or be entitled to exercise with respect to any such completed Improvements or such individuals part or parcel so sold (or, in the case of lease, with respect to the leasehold interest) any rights or remedies or controls that it may otherwise have or be entitled to exercise with respect to the Project Property as a result of a default in or breach of any provisions of this Agreement by the Redeveloper or any successor in interest or assign.

Each Certificate of Completion provided for in this Section 3.13 shall be in such form as will enable it to be recorded in the proper office for the recordation of deeds and other instruments pertaining to the Project Property.

B. Partial Certificates of Completion.

From time to time and within thirty (30) days after written request of Redeveloper, the Agency shall furnish the Redeveloper with a partial Certificate of Completion for portions of the Improvements which have been completed in accordance with this Agreement and the approved Working Drawings which otherwise satisfy the requirements for a Certificate of Occupancy or temporary Certificate of Occupancy. No such partial Certificate of Completion shall be issued with respect to any building unless the shell and core of such building have been substantially completed in accordance with the approved Working Drawings. In the event the Redeveloper requests a partial Certificate of Completion prior to completion of tenant improvements and finish work, or prior to completion of all landscaping work (including, without limitation, planting, paving, site lighting, accessory structures, public art and other decorative elements) described in the approved Working Drawings, the Agency shall furnish such partial Certificate of Completion upon the delivery to the Agency of the Redeveloper's written undertaking to complete such portion of the work as soon as reasonably practicable

thereafter, weather permitting, with such security as the Agency reasonably may determine to be appropriate under the circumstances, to assure performance.

C. Agency's Refusal to Issue Certificate of Completion or Partial Certificate of Completion.

If the Agency shall refuse or fail to provide such a Certificate of Completion or partial Certificate of Completion in accordance with the provisions of this Section, the Agency shall, within said thirty (30) day period, provide the Redeveloper with a written statement, describing in detail the respects in which the Redeveloper has failed to complete the Improvements for which such certification is requested in accordance with the provisions of this Agreement, or is otherwise in default, and what measures or acts it will be necessary, in the opinion of the Agency, for the Redeveloper to take or perform in order to obtain such certification. If the Agency fails to provide such statement within such thirty (30) day period, the Redeveloper may institute the dispute resolution proceedings provided in this Agreement for such default by the Agency. Any such dispute will be submitted to mediation and arbitration in accordance with this Agreement.

Section 3.14 Design Review. The parties acknowledge that all Improvements to be constructed on the Project Site must satisfy the Design Standards established by the Redevelopment Plan, and the Conceptual Master Site Plan as well as all Construction Plans and Working Drawings submitted by the Redeveloper shall be subject to Design Review by the Agency and its consultants to insure compliance with such Design Standards. All costs incurred by the Agency in retaining outside consultants to perform such Design Review shall be an Acquisition Expense and shall be paid by the Redeveloper.

ARTICLE IV
INFRASTRUCTURE IMPROVEMENTS

Section 4.1 Infrastructure Improvements and Funding.

A. The parties agree that for the Project Site to be developed as envisioned in the Wall Street Redevelopment Plan there are substantial Infrastructure Improvements that are required. A portion of the Infrastructure Improvements shall be constructed at the sole cost and expense of the City ("**City Infrastructure Improvements**", each a "**City Infrastructure Improvement**"), and the remaining Infrastructure Improvements shall be constructed at the sole cost and expense of the Redeveloper ("**Redeveloper Infrastructure Improvements"**, each a "**Redeveloper Infrastructure Improvement**"**)**. These Infrastructure Improvements are identified on **Exhibit C-1** attached hereto and made a part hereof. The City and/or the Agency agree to expend, either through public financing or by City appropriation up to the sum of Four Million Four Hundred Thousand ($4,400,000.00) Dollars (**"City Funds")**, to pay for the costs of construction of the City Infrastructure Improvements and all utility work for which the City is responsible

hereunder, identified on **Exhibits C-1, C-2, C-3** and **C-4** attached hereto. The City Funds required to complete the necessary City Infrastructure Improvement for a Phase shall be available and appropriated within one hundred twenty (120) days after the Redeveloper has obtained all necessary construction financing for such Phase and all necessary approvals required hereunder for such Phase.

B. Based on current estimates, the City Funds are sufficient to pay for the cost of construction of the City Infrastructure Improvements and all utility work for which the City is responsible hereunder. If the actual costs of construction of the City Infrastructure Improvements and all utility work for which the City is responsible hereunder exceed the City Funds, the City and the Agency agree to make reasonable efforts in good faith to secure such additional funding as may be required to pay such costs, including without limitation requesting from the Common Council, appropriation of or authorization to expend additional City monies for such purposes or such alternate funding mechanism as the City and the Agency may elect. The Redeveloper agrees not to unreasonably withhold its consent to any such proposed alternative funding. If, after making reasonable efforts in good faith, the City is unable to obtain or provide sufficient funding to pay for the costs of construction of the City Infrastructure Improvements, the City will not be in default under this Agreement, and in such event, the Redeveloper shall provide to the City, within a reasonable time after receipt of the City's written request for such funds, all or so much of the funds required to pay such costs.

C. If the Redeveloper does not provide to the City all of the funds required to enable the City to pay any of the costs of the City Infrastructure Improvements over the available funds, then the City, the Agency and the Redeveloper agree to negotiate in good faith to modify the City Infrastructure Improvements in order to permit completion of the Project with the City Funds available. The dates for commencement and completion of construction of the Improvements as set forth in Section 3.12 hereof shall be extended for the period of time that construction of the Improvements is delayed due to the City's failure to complete the City Infrastructure Improvements and utility work in accordance with the requirements of this Agreement.

D. The parties hereby agree that the timing of the development of the Infrastructure Improvements and of the development of the Project are interdependent and that same shall proceed together in a coordinated fashion such that the City and the Agency shall be required to construct the Infrastructure Improvements only if and to the extent that development of Project is proceeding in the manner provided for in this Agreement, and the Redeveloper shall be required to proceed with the development of the Project only if and to the extent that the City's financing and construction of the City Infrastructure Improvements and utility work are proceeding in the manner provided for in this Agreement. The required timing for completion of the Infrastructure Improvements is as set forth on attached **Exhibit C-1**.

E. Except to the extent provided in attached **Exhibits C-1, C-2,C-3** and **C-4**, the Redeveloper agrees that it will fund and undertake any and all offsite improvements

that are determined to be conditions of approval in the normal course of obtaining site plan approval for a development from the Norwalk Zoning Commission.

F. All design and engineering costs as well as all other soft costs associated with all of the Infrastructure Improvements shall be an Acquisition Expense payable by the Redeveloper. The design and construction plans for all Infrastructure Improvements shall be completed by the Redeveloper and will be in accordance with all standards and specifications of the City, and the standards and specifications of the respective utility companies, as amended from time to time and shall be subject to the approval of the Agency in the same manner as Construction Plans are approved pursuant to Article III hereof, and shall also be subject to the approval of all other necessary Governmental Authorities.

G. Provided it will not violate any Legal Requirements and provided further it will not violate any requirements of the funding source for such City Infrastructure Improvement(s), Redeveloper may, in its sole discretion, undertake the commencement or completion of all or any portion of the City Infrastructure Improvements. In either case, if Redeveloper elects to undertake any portion of the City Infrastructure Improvements, Redeveloper shall deliver a notice ("Infrastructure Notice"), which shall describe the scope, schedule and estimated budget to undertake such City Infrastructure Improvements, all of which shall be subject to the approval of the Agency and the City. Such budget shall include all hard costs (but not soft costs except for any financing costs if Redeveloper is required to fund any City Infrastructure Improvement). Within sixty (60) days after approval of any Infrastructure Notice by the Agency and the City, Redeveloper shall provide the Agency and the City with working drawings depicting the applicable City Infrastructure Improvements and a revised budget for the same for approval by the Agency and the City. Any modifications to the foregoing shall be subject to the approval of the Agency and the City. Upon substantial completion of each such City Infrastructure Improvement, the Agency shall issue a Certificate of Completion according to the requirements set forth in Section 3.13 of this Agreement and, the City shall simultaneously pay (each an "Infrastructure Payment") the Redeveloper for the cost of such City Infrastructure Improvement as reflected in the final approved budget (not to exceed, in the aggregate, the amount of City Funds). Considering the anticipated completion time, the Agency or City shall accordingly budget for each Infrastructure Payment in order to deliver each Infrastructure Payment with a Certificate of Completion. The City and Agency shall make reasonable efforts in good faith to appropriate or otherwise secure City Funds to pay for such budgeted City Infrastructure Improvements upon substantial completion, including without limitation requesting from the Common Council, appropriation of and authorization to expend City monies for such purposes. In the event the Redeveloper does not elect to construct all or any portion of the City Infrastructure Improvements, then the City shall construct such City Infrastructure Improvement.

H. The Agency, the City and the Redeveloper may agree to amend **Exhibits C-1, C-2, C-3** and **C-4** by modifying or adding additional Infrastructure Improvements or utility work thereto, provided that the parties agree upon both the additional

Infrastructure Improvements to be made and the allocation between the parties of the cost of constructing same.

Section 4.2 Academy Street Extension

The Agency retained Tighe & Bond to prepare a report indicating what infrastructure improvements will be required to support the proposed developments contemplated by the Wall Street Redevelopment Plan and the West Avenue Corridor Redevelopment Plan. Said report indicates that the Academy Street Extension is essential to link the Development Parcel 2a Project and the project contemplated for the West Avenue Corridor Redevelopment Plan area and recommends that Academy Street be extended so that it connects appropriately with the Project as determined by the Agency's engineering consultants and City engineers with input from the Redeveloper, and the City agrees to use its best efforts to complete such Academy Street Extension as recommended by the aforementioned Tighe & Bond report. The completion of the Academy Street Extension is conditioned upon authorization by the City to acquire the real property necessary to complete the Academy Street Extension. It is understood and agreed by the parties that approval of this Agreement by the Common Council shall not be deemed an approval by the Common Council to permit the City or the Agency to acquire said parcels of real property, which action shall require a separate vote of the Common Council.

Section 4.3 Use of Redeveloper Property.

The Redeveloper agrees to permit the City and the Agency, and their respective agents, consultants and contractors, to enter upon and use such portions of the Project Property owned by the Redeveloper, and/or to grant to the City and/or the Agency such temporary construction easements with respect to such portions of such Project Property, as may be necessary and appropriate to permit and/or facilitate the design and/or construction of the Infrastructure Improvements to be constructed by the City and the Agency pursuant to this Agreement and/or the Redevelopment Plan. In connection with the use of such portions of the Project Property by the City and the Agency, and their respective agents, consultants and contractors, the City and the Agency agree to (and they will cause their consultants and contractors to agree to) indemnify, defend and hold harmless the Redeveloper against and from any and all claims, suits, costs, expenses, losses, liabilities, and damages, including reasonable attorneys' fees, asserted against and/or incurred by the Redeveloper arising out of such use of any portions of the Project Property of the Redeveloper for the purposes herein described. This indemnity will survive the termination of this Agreement, will not be limited by insurance and will be separate and independent of any other provision of this Agreement. The City and the Agency will (and will cause any and all contractors and consultants retained bv the Agency and City to) maintain comprehensive general liability insurance coverage of their operations on any portions of the Project Property, in amounts reasonably satisfactory to the Redeveloper, and shall name the Redeveloper, and such other persons or entities having an insurable interest as the Redeveloper shall designate (provided no additional premium is charged, unless paid by Redeveloper), as additional named insureds on such

policies of liability insurance maintained by the City and/or the Agency and/or their consultants and contractors in connection with performance of such work. Such policies shall provide coverage of the contractual indemnity obligations set forth herein and shall contain provisions that they may not be cancelled, terminated or materially modified unless the Redeveloper, and any other named additional insured, has been given not less than thirty (30) days prior written notice.

Section 4.4 Redeveloper's Guarantee.

A. Redeveloper's agreement to complete the Improvements for each Phase within the time periods set forth in Section 3.12 hereof is intended to ensure that the City will realize the value of increased tax revenues anticipated to be generated by the Improvements and be able to utilize such increased tax revenues to service the Debt Service Payments, if any, required to be paid on any Municipal Finance Instrument issued by the City if the City must borrow money to pay the costs of construction of the City Infrastructure Improvements. As such, Redeveloper has agreed with the City that if (i) all or a portion of the costs of the City Infrastructure Improvements are paid with City Funds; and (ii) the funds utilized to pay all or a portion of the costs of the City Infrastructure Improvements are borrowed by the City via the issuance of a Municipal Finance Instrument; and (iii) the Redeveloper has not completed construction of the Improvements for a Phase within the time periods for completion of such Phase set forth in Section 3.12 hereof (as said date may be tolled or extended in accordance with the provisions of this Agreement); then, Redeveloper, upon the terms hereinafter stated, will guarantee for the benefit of the City the payment of the Debt Service Payments on the Municipal Finance Instrument(s) issued by the City to evidence such borrowed funds. The Redeveloper's Guarantee shall apply and be effective only during the period (the "**Guarantee Period**") commencing on the date the Improvements for a Phase are required to be completed as set forth in Section 3.12 hereof (as said date may be tolled or extended in accordance with the provision of this Agreement) and ending on the earlier to occur of (a) the date of substantial completion of all the Improvements, as evidenced by the issuance of a certificate of occupancy or a Certificate of Completion (as provided in Section 3.13 hereof) and (b) the date upon which (1) fifty (50%) percent of the annualized difference between (x) the aggregate amount of taxes levied upon (or payments in lieu of taxes, if applicable, with respect to) real or personal property, or both, on all parcels of Project Property in the Project Site (collectively, **"Project Taxes"**) payable at the time of calculation of the amount to be guaranteed (**"Current Project Taxes")** and (y) the aggregate amount of such Project Taxes which were payable on the Execution Date (**"Base Project Taxes"**) exceeds (2) the annualized amount of the Debt Service Payments to be guaranteed. In any event, Redeveloper will receive a credit against the guaranteed Debt Service Payments equal to fifty (50%) percent of the actual annualized difference between Current Project Taxes and Base Project Taxes. Any amounts due and payable by the Redeveloper to the City under this Section 4.4 shall be payable on an annual basis, in arrears, based on the City's fiscal year, and shall be due and payable within thirty (30) days after receipt by the Redeveloper of written notice from the City of the amount due (accompanied by the calculations utilized by the City to determine such amount).

B. Redeveloper further guarantees for the benefit of the City that, in the aggregate, fifty (50%) percent of the actual annualized difference between Current Project Taxes and Base Project Taxes during the term of the Debt Service Payments shall be equal to or exceed the amount of the total Debt Service Payments. The Redeveloper shall receive a credit against the guaranteed amount for any payments made by the Redeveloper to the City pursuant to subsection A of this Section 4.4. The Redeveloper agrees to pay to the City any deficiency plus the cost of funds for any such deficiency within thirty (30) days after expiration of the term of the Debt Service Payments and receipt by the Redeveloper from the City of the amount due under this subsection B accompanied by the calculations utilized to determine said amount. Notwithstanding anything contained in this Agreement to the contrary, the Redeveloper agrees for itself and its successor and assigns, that, prior to expiration of the term of the Debt Service Payments and payment to the City by the Redeveloper of any amounts due under this Section 4.4B it will not make or create, or suffer to be made or created, any total or partial sale, assignment, conveyance, or lease or sublease, or any trust or power, or total or partial transfer in any other mode or form of any Project Property being utilized for the Public Parking Spaces, Residential Rental Units or as Phase I Retail Space, Phase II Retail Space, or Phase III Retail Space without the prior written consent of the Agency, which consent may be withheld if the Agency in its reasonable discretion determines that the remaining property on the Project Site owned by the Redeveloper does not have sufficient equity to reasonably assure the City and the Agency that any amounts that may be due under this subsection B shall be paid.

C. With respect to Redeveloper's Guarantee of Debt Service Payments on any Municipal Finance Instrument utilized by the City to finance the City Infrastructure Improvements, the following provisions will apply:

(i) In no event will the maximum principal amount of all Municipal Finance Instruments which are the subject of Redeveloper's Guarantee of Debt Service Payments exceed the lesser of (i) $4,400,000.00 and (ii) the actual amount of borrowed funds expended by the City on the costs of construction of the City Infrastructure Improvements;

(ii) If the City expends borrowed funds on the costs of construction of certain components of City Infrastructure Improvements prior to receiving from the State or other funding sources funds which are specifically allocated for payment of all or a portion of the costs of construction of said components of City Infrastructure Improvements, and such allocated funds thereafter are received by the City, the Redeveloper will receive credit against the amount subject to its guarantee for the amount of such allocated funds;

(iii) Regardless of the actual form of Municipal Finance Instrument, the Debt Service Payments payable by Redeveloper with respect to such borrowed funds shall be calculated on the assumption that such funds were raised via the issuance of the City's Bonds which fully amortize over a term of twenty (20) years. If the Municipal

Finance Instrument is the City's twenty (20) year Bonds, the interest rate will be the actual rate on said Bonds. If the Municipal Finance Instrument is not the City's Bonds, or if it is Bonds with a different term than twenty (20) years, then the interest rate will be that rate which the municipal bond underwriting firm which has underwritten the City's most recent Bond issuance certifies, in a written instrument addressed to the City and the Redeveloper, would have been payable to the City on twenty (20) year Bonds of the City had such Bonds been issued on the date when the first payment of costs of construction of the City Infrastructure Improvements was made utilizing such borrowed funds. If, after the date when the costs of the City Infrastructure Improvements are paid by the City using borrowed funds, but before the date when Redeveloper's Guarantee has terminated in accordance with this Agreement, the City refinances the debt evidenced by any Municipal Finance Instrument with any other Municipal Finance Instrument having an interest rate lower than the rate calculated as aforesaid, the interest rate utilized to calculate Debt Service Payments under Redeveloper's Guarantee, from and after the date of such refinancing, shall be the lower rate payable with respect to such refinancing Municipal Finance Instrument.

Section 4.5 Acquisition of Real Property for City Streets and Sidewalks.

The Redeveloper, at Redeveloper's sole cost and expense, shall acquire all parcels of property on the Project Site which are not owned by the Redeveloper or the City and which shall be necessary to construct all City streets and sidewalks on the Project Site as depicted on the Conceptual Master Site Plan. The Redeveloper shall transfer to the City for one ($1.00) dollar, free and clear of all liens and encumbrances, fee simple title to that portion of such parcels as will be necessary for the construction of the City streets within the Project Site and shall grant to the City an easement over that portion of such parcels which shall constitute City sidewalks within the Project Site, in such form as the City may reasonably require.

ARTICLE V
DEPOSIT

Section 5.1 Amount of Deposit; Time of Payment.

The Redeveloper heretofore has delivered to the Agency a bank or certified check in the sum of ONE HUNDRED FIFTY THOUSAND and 00/100 ($150,000.00) DOLLARS, reduced by the amount of any money held by the Agency at the time of execution of this Agreement in an account entitled "Norwalk Redevelopment Agency – Project Operating Account f/b/o POKO IWSR DEVELOPERS, LLC," pursuant to a Letter Agreement by and between the Agency and POKO IWSR DEVELOPERS, LLC, dated December 15, 2005 (said aggregate amount plus interest earned and paid thereon hereinafter being referred to as the "Deposit"), as earnest money in connection with this Agreement. Upon execution of this Agreement, the Project Operating Account established pursuant to the aforementioned Letter Agreement shall become the Project Operating Account under this Agreement.

Section 5.2 Project Operating Account and Security Account.

Within three (3) Business Days after the Execution Date occurs, the Deposit check shall be deposited by the Agency into two (2) separate, interest-bearing escrow accounts established and maintained by the Agency. ONE HUNDRED THOUSAND and 00/100 ($100,000.00) Dollars (the Security Deposit) shall be deposited into an account entitled "Norwalk Redevelopment Agency - Security Account f/b/o POKO IWSR DEVELOPERS, LLC" (the "Security Account"), and the balance of the Deposit shall be deposited into an account entitled "Norwalk Redevelopment Agency - Project Operating Account f/b/o POKO IWSR DEVELOPERS, LLC" (the "Project Operating Account"). The Agency, in consultation with and with Meaningful Participation from the Redeveloper, shall determine at which financial institution(s) and in what investment vehicle(s) to maintain said Project Operating Account and said Security Account, and all interest earned on the Project Operating Deposit and/or the Security Deposit shall become part of the Project Operating Deposit and/or the Security Deposit, as appropriate, and shall be paid with other funds constituting the Project Operating Deposit and/or the Security Deposit for the purposes herein set forth. The Project Operating Account shall be maintained by the Agency, and disbursements therefrom shall be made only, in accordance with the provisions of this Agreement. The Security Account shall be maintained by the Agency, and disbursements therefrom shall be made only, in accordance with the provisions of this Agreement. The Agency, at the request of the Redeveloper made not more often than annually, will pay over to the Redeveloper or will transfer to the Project Operating Account any interest accrued on the Security Deposit.

Section 5.3 Use of Project Operating Deposit for Purposes of this Agreement.

The Agency, from time to time, as it incurs Acquisition Expenses which are required to be paid by the Redeveloper hereunder, may, in accordance with the provisions of this Agreement, including without limitation those of Article VI apply portions of the Project Operating Deposit to the payment of such Acquisition Expenses as and when due.

Section 5.4 Return of Security Deposit Upon Completion of Improvements.

Upon completion of the Improvements, as evidenced by the issuance of Certificate(s) of Completion therefor, provided that no Event of Default by Redeveloper hereunder has occurred and is then continuing, the amount of the Security Deposit then on deposit in the Security Account shall be returned to the Redeveloper, and, thereafter, the Project Operating Account shall be the only account required to be maintained under this Agreement and the Redeveloper thereafter shall fund the Project Operating Account as and when necessary in accordance with the terms and provisions of this Agreement.

Section 5.5. Return of Project Funds to Redeveloper.

Upon termination of this Agreement by the Redeveloper pursuant to any provision of this Agreement permitting such termination by Redeveloper, then all amounts on deposit in the Security Account and the Project Operating Account shall be returned promptly to the Redeveloper by the Agency as provided in this Agreement, provided that no Event of Default by Redeveloper shall have occurred and then be continuing under this Agreement, and further provided that the Agency and the City have been reimbursed by the Redeveloper for all Acquisition Expenses expended or contractually obligated by them in accordance with this Agreement up until the date of such termination. In the event that the City and the Agency have not then been reimbursed for all such Acquisition Expenses, the Agency may hold back an amount sufficient to cover such unreimbursed Acquisition Expenses and shall refund the balance of all such monies to Redeveloper.

Section 5.6. General Escrow Provisions.

In its holding of the Deposit and/or the Security Deposit, and its maintenance of the Project Operating Account and the Security Account, the Agency shall have and exercise the obligations of a fiduciary to the Redeveloper and shall hold in trust any and all monies deposited with it, to be used only in the manner and for the purposes set forth in this Agreement. If any party at any time makes a written demand upon the Agency for release and payment of the Deposit and/or any monies on deposit in the Project Operating Account and/or the Security Account, other than requests for disbursements from the Project Operating Account in the ordinary course of the operation of the Project in accordance with Article VI, or if at any time the Agency proposes to expend or disburse any such monies in any manner which is not in accordance with the terms of this Agreement, the Agency shall give written notice to the other parties of such demand or such proposal. If the Agency does not receive a written objection to the proposed payment from any of the other parties within ten (10) Business Days after the giving by the Agency of such notice, the Agency is hereby authorized to make such payment. If the Agency receives a written objection within the aforesaid period of ten (10) Business Days, or if, for any other reason, the Agency in good faith shall elect not to make such payment, the Agency shall continue to hold the monies so entrusted to it until otherwise directed by written instructions from the parties to this Agreement or a final judgment of a court. However, the Agency shall have the right at any time to deposit all of the monies held by it, or such portion thereof as may be in dispute, and interest thereon, if any, with the Clerk of the Court. The agency shall give written notice of such deposit to all other parties to this Agreement. Upon such deposit with the Clerk of the Court, the Agency shall be relieved and discharged of all further escrow obligations and responsibilities hereunder with respect to the monies so deposited with the Clerk of the Court.

ARTICLE VI
BUDGET AND ACCOUNTS

Section 6.1. Redeveloper to Reimburse Agency and City.

The Redeveloper shall reimburse the City and Agency as provided in this Article for all Acquisition Expenses incurred by them. In no event shall Redeveloper be responsible for, or be obligated to indemnify or reimburse the City and/or the Agency for, costs related to any real property (or improvements thereon) which is not identified in this Agreement as Acquisition Property, except as may otherwise be specifically provided herein.

Section 6.2. Budget Creation and Amendment.

A. The parties acknowledge that on or prior to the date hereof, the Redeveloper has advanced to the Agency funds that have been deposited by the Agency in the interest-bearing Project Operating Account. Such funds will be disbursed in accordance with this Agreement against payment of expenses described in Section 6.1, based upon invoices for work actually performed and approved pursuant to this Section 6.2.

B. For purposes of this Section, fiscal "quarters" and/or fiscal "years" of the Project shall be calendar quarters and/or years. Within thirty (30) days after the Execution Date of this Agreement, the Agency will prepare, and will submit to the Redeveloper for its review and approval, a proposed initial budget setting forth the Agency's estimate of those expenses projected to be incurred by the Agency in the performance of its obligations under this Agreement during the quarter (or balance thereof) immediately succeeding the Execution Date hereof. Such initial quarterly budget shall show the balance on deposit in the Project Operating Account and the Security Account, the projected expenditures for the coming quarter in reasonable detail by separate line items, and the projected amount, if any, of additional funding which will be required to permit the Agency to pay such expenditures. Thereafter, within thirty (30) days after the end of each subsequent quarter, the Agency shall submit to the Redeveloper and to the City (to the Finance Director) a statement showing in detail the actual expenditures made by the Agency in the performance of its obligations under this Agreement in the previous quarter, and the cash balances in the Project Operating Account and the Security Account as of the end of such quarter, together with a projected budget for the quarter then commencing showing the projected expenditures to be incurred by the Agency in the performance of its obligations under this Agreement in such quarter and the projected amount, if any, of additional funding required, which quarterly budgets will be subject to the Redeveloper's written approval. In addition, within thirty (30) days after the end of each year of the Project, the Agency shall provide to the Redeveloper a statement for the preceding year, showing the actual, aggregate expenses for such year, and a proposed budget for the coming year. The Redeveloper shall not unreasonably withhold, delay or condition its approval for any such quarterly or

annual budget which is consistent with the provisions of this Agreement and prior budgets.

C. If at any time a party hereto becomes aware that the amounts of any items of projected expense set forth in any approved budget are insufficient to cover budgeted costs and are likely to be exceeded substantially by the amounts which will be required to be expended for such items, it shall promptly notify the other parties and the relevant budget shall be amended to reflect same. Any party hereto may propose amendments to any budget(s) from time to time to reflect updated estimates of expenditures, new items of expense, and actual costs incurred, subject to the approval of the other parties, which approval will not be unreasonably withheld, delayed or conditioned. In no event shall such approval be withheld with respect to a proposed amendment to any budget to enable the Agency or the City to comply with a final judgment of a court of competent jurisdiction in connection with any legal proceeding arising out of the performance by the Agency or the City of its or their obligations under Article VII, including but not limited to awards following condemnation or relocation appeals.

D. Prior to incurring any Acquisition Expenses, the Agency shall submit to the Redeveloper in writing a reasonably detailed description of the nature and purpose of such expense or contract, the reasons therefor, and the identity (and background, if requested) of the obligor or provider of service and materials. The Agency shall also provide to the Redeveloper a proposed written service contract providing for a fixed-price fee or other reasonable fee arrangement if a fixed-price fee is not feasible. Such information shall be submitted for approval to the person designated by the Redeveloper from time to time. The Redeveloper shall review each submission and shall give its comments to the submitting party as soon as possible. The Redeveloper shall not unreasonably withhold, delay or condition its approval of any such proposal which is consistent with this Agreement and with the current budget(s). The Agency from time to time, in the ordinary course of business, may pay invoices and bills for services rendered by vendors in connection with the Project (i) for expenses which are the subject of an approved, written contract and are properly set forth in an approved budget, and (ii) expenses which, although not the subject of a written contract, are properly set forth in an approved budget and not to exceed Two Thousand Five Hundred ($2,500.00) Dollars for a single item of expense or an aggregated series of related expenses.

Section 6.3. Funding and Accounts.

From time to time within thirty (30) days after a written request from the Agency, the Redeveloper shall advance to the Agency funds required pursuant to the approved budget to enable the Agency to pay Acquisition Expenses described in Section 6.1 as they become due. In particular, but without limitation, the Redeveloper shall advance to or pay on behalf of the Agency in a timely manner all the amounts necessary to acquire the Acquisition Property in accordance with this Agreement. The Redeveloper shall deposit into the Project Operating Account from time to time, and in any event prior to the time that the Agency files a Statement of Compensation with respect to each such

parcel, the compensation amounts for parcels of Acquisition Property established by the Agency pursuant to Section 7.3(D) hereof. The Agency shall not request that Redeveloper fund any compensation amounts for acquisition of Acquisition Property unless and until the Agency, in compliance with the terms of this Agreement, is able to file a Statement of Compensation within thirty (30) days after receipt of said funds from Redeveloper. All amounts advanced pursuant to the approved budget(s) shall be deposited in the interest-bearing Project Operating Account, the interest on which shall be retained for the purposes of the Project Operating Account and allocated to the City and Agency for federal and state income tax purposes. The Agency shall draw upon the Project Operating Account to pay the expenses of the Agency and the City budgeted and approved in accordance with this Article. The Agency shall maintain good and sufficient records of its payments from the account which may be inspected by the Redeveloper at any time during the normal business hours of the Agency. When all items of expenditure to be paid from the Project Operating Account have been paid, the Agency shall deliver the balance in the account, if any, to the Redeveloper. The Agency shall use reasonable efforts to cause the institutions at which the Project Operating Account and/or the Security Account are maintained to provide duplicate Statements of Account to the Redeveloper at such times as such statements are provided to the Agency.

ARTICLE VII
PROPERTY ACQUISITION

Section 7.1. Redeveloper Property; Redeveloper Permitted to Acquire Acquisition Property.

The Redeveloper and/or its Affiliates presently own all of the parcels of Redeveloper Property listed on **Exhibit E** annexed hereto and made a part hereof. The Redeveloper hereafter may acquire Acquisition Property within the Project Site independently of any efforts to acquire such Acquisition Property by the Agency and City pursuant to this Agreement. All costs associated with such acquisition by Redeveloper shall be borne by the Redeveloper. The Redeveloper agrees that any Acquisition Property so acquired by it shall be subject to all of the applicable terms of the Redevelopment Plan and this Agreement.

Section 7.2. Redeveloper's Covenant to Attempt to Acquire Acquisition Property.

The Redeveloper agrees with the Agency and the City that, commencing on the date this Agreement is amended by adding parcels comprising the Acquisition Property to **Exhibit A** and continuing for a period of three (3) months thereafter, the Redeveloper will make reasonable efforts to acquire privately all or as many as may be reasonably practicable of the individual parcels comprising the Acquisition Property as hereafter may be identified on **Exhibit A**, upon terms commercially acceptable to the Redeveloper. The Redeveloper shall document its efforts to acquire privately all such parcels and provide such documentation to the Agency. In addition, the Agency shall have the right to attend in all such discussions if it deems such attendance advisable. The Agency and the City agree that, during said period, they will take no action to acquire any

Acquisition Property except as requested in writing by Redeveloper. The Redeveloper shall inform the Agency in a timely manner of the status of its efforts to acquire any Acquisition Property, including particularly the terms of any offers and counteroffers made by the Redeveloper or by any property owner and the terms of any agreements that may be made with respect thereto. The Redeveloper may advise the Agency and the City in writing at any time during said period that, in Redeveloper's opinion, the Redeveloper's efforts at private acquisition are not likely to result in the acquisition of all of or any particular parcels constituting the Acquisition Property and that Redeveloper is terminating its efforts with respect to said parcels, specifying those parcels with respect to which Redeveloper is terminating its acquisition efforts. Upon receipt of such a notice of termination, the Agency and the City shall prepare to acquire, in the manner hereinafter in Section 7.3 hereof described, all or any of such parcels of Acquisition Property as to which Redeveloper has terminated its acquisition efforts.

Section 7.3. Acquisition of Property by the Agency and City.

Upon expiration of the three-month period referred to in Section 7.2 above, and provided the Agency reasonably determines that the Redeveloper has in fact made good faith efforts to acquire all such parcels, the Agency shall request that the Common Council approve the acquisition of such parcels of Acquisition Property as the Redeveloper was unable to acquire by private negotiations, on a case by case basis, through the exercise of the power of eminent domain and upon approval by the Common Council of the taking of a particular parcel the Agency and City shall prepare to acquire, within a time period which is reasonably established by the Redeveloper giving due consideration to the proposed scheduling of construction of Infrastructure Improvements and Improvements, and which is consistent with the provisions of the Statutes, the Redevelopment Plan and this Agreement, and the time frames established by the Common Council, all parcels of Acquisition Property within the Project Site which have not been acquired by the Redeveloper or with respect to which Redeveloper then has not advised the City in writing that it has entered into an unconditional contract or option for the acquisition of same and which have been approved by the Common Council by separate resolution for acquisition through the exercise of the power of eminent domain. The Acquisition Property shall be acquired by the Agency and the City at such times as may be established by the Redeveloper in accord with the Redevelopment Plan and the provisions of this Agreement and within the time periods established in accordance with the provisions of the Statutes and pursuant to the authority granted by the Common Council for the acquisition of parcels of Acquisition Property within the Project Site (as said time periods may be extended in accordance with the relevant provisions of the Statutes). If for any reason the Common Council does not approve the taking of any Acquisition Property by the Agency through the exercise of the power of eminent domain or the Agency is for any reason unable to acquire any parcel of the Acquisition Property, it shall not be an Event of Default hereunder, and the Redeveloper shall submit a revised Conceptual Master Site Plan, as same relates to the affected Improvements only, for approval by the Agency and the Common Council. The Agency and the Common Council agree to act expeditiously and in a reasonable manner (including taking into consideration the number of parcels in the affected area and their configuration that are

available to the Redeveloper either by way of acquisition by the Redeveloper or via eminent domain proceedings approved by the Common Council for development of the affected Improvements) in approving or disapproving the revised Conceptual Master Site Plan. If the Common Council and/or the Agency disapprove in whole or in part the revised Conceptual Master Site Plan submitted by the Redeveloper, the Common Council and/or the Agency shall state in writing the reasons for such disapproval, and the Redeveloper shall submit a new or revised Conceptual Master Site Plan for approval by the Common Council and the Agency. This procedure shall continue until a revised Conceptual Master Site Plan is approved by the Common Council and the Agency; provided, however, that if the affected Improvements consist of Phase III Improvements and no Acquisition Property in Phase III has been acquired via the eminent domain Statutes, then the submission by the Redeveloper of a revised Conceptual Master Site Plan as same relates to the Phase III Improvements shall be discretionary on the part of the Redeveloper.

Notwithstanding anything contained in this Agreement to the contrary, the Agency shall not be required to advance to the Common Council a request by the Redeveloper that the City acquire the Globe Theater through the exercise of the power of eminent domain unless within one (1) year after the Execution Date the following conditions have been satisfied by the Redeveloper: (i) renovation plans for the Globe Theater are submitted to the Agency; (ii) submission of evidence by the Redeveloper that it has the equity capital and mortgage financing necessary to complete the renovations contemplated for the Globe Theater, as determined by a third party consultant retained by the Agency; and (iii) submission to the Agency of a viable economic business plan showing the intended cultural uses for the Globe Theater after the renovations have been completed, as determined by a third party consultant retained by the Agency. The cost of all third party consultants retained by the Agency shall be an Acquisition Expense, payable by the Redeveloper. In the event the Redeveloper is unable to satisfy all such conditions within the aforementioned one (1) year period, then for a period of one (1) year after expiration of the aforementioned one (1) year period, the Agency shall have the right to advance to the Common Council a request that the City approve the acquisition of the Globe Theater through the exercise of the power of eminent domain, in order to preserve its use for predominantly cultural purposes.

A. Entry Upon Acquisition Property Prior to Taking for Inspection and Testing.

Immediately upon the execution of this Agreement, the Agency and the City will exercise all rights available to them under applicable law, including without limitation Sections 48-13 and/or 8-129 and/or 22a-133dd of the Statutes, to enter upon all parcels of the Acquisition Property at the earliest possible dates (but not prior to the Common Council authorizing the Agency to acquire such parcel through the exercise of the power of eminent domain), in order to perform sufficient testing and inspections to ascertain the physical condition of the Acquisition Property, and any buildings located thereon, including the preparation of surveys and determination of whether any Environmental Condition exists and, if there is any Environmental Condition, to cause

the preparation of a Remedial Cost Estimate with respect thereto, all at Redeveloper's expense (which will be part of Acquisition Expenses), if not previously obtained by Redeveloper. The Agency and the City will make reasonable efforts, including without limitation, the making of applications to the Superior Court (including without limitation, Section 48-13 of the Statutes), to obtain access to each parcel of Acquisition Property for the making of all such inspections, and to have a Remedial Cost Estimate prepared, prior to the filing of a Statement of Compensation with respect to such parcel by the Agency. Without the prior written consent of the Redeveloper, the Agency will not file a Statement of Compensation or record a Certificate of Taking for any parcel of Acquisition Property unless a Remedial Cost Estimate has been prepared by an LEP Firm with respect to any Environmental Condition of such parcel. In the event the right to make such entries and to perform such inspection and testing, in the opinion of the City's Corporation Counsel, is not delegable by the Agency and the City to the Redeveloper, the Agency and the City will retain one or more LEP Firms satisfactory to the Redeveloper (GZA GeoEnvironmental, Inc. is an LEP Firm satisfactory to Redeveloper) and will cause such LEP Firm(s) to perform all such testing and inspection, and to issue a report with respect to each parcel, addressed to the City, the Agency and the Redeveloper, setting forth the Remedial Cost Estimate with respect to such parcel. The costs and expenses of such LEP Firms will be Acquisition Expenses. If the right to make such entries and to perform such inspection and testing, in the opinion of the City's Corporation Counsel, is delegable to the Redeveloper, the City, by a separate license agreement in form and substance reasonably satisfactory to the City and Redeveloper (and consistent with this Agreement), will grant to the Redeveloper, and Redeveloper's agents, a license (the "License") to enter upon all portions of the Acquisition Property, subject to the rights of occupants thereof, which License shall terminate upon the expiration or termination of Redeveloper's rights under this Agreement, for the purpose of performing all appropriate tests and inspections, including environmental evaluation and feasibility studies sufficient to prepare the Remedial Cost Estimate, if any. In such event, the Redeveloper, at its cost and expense, will retain one or more LEP Firms reasonably satisfactory to the City and the Agency (GZA GeoEnvironmental, Inc. is an LEP Firm acceptable to the City and the Agency) and will cause such LEP Firm to perform all such testing and inspection, and to issue a report with respect to each parcel, addressed to the City and the Agency and the Redeveloper, setting forth the Remedial Cost Estimate with respect to such parcel. The License with respect to any particular portion of the Acquisition Property shall terminate at the time title to such portion of the Acquisition Property is conveyed to the Redeveloper or a permitted successor or assign pursuant to this Agreement. Prior to entering upon any portion of the Acquisition Property pursuant to the License granted hereby, the Redeveloper shall provide the City and the Agency (and, if requested by the City and the Agency or required by law, the owner of such Acquisition Property) with evidence of insurance in form and amounts and coverages (which shall include provisions which name the City and the Agency as additional insureds) and from insurers reasonably acceptable to the City (acting by its Director of Finance) and the Agency and shall provide a written indemnification agreement to the City and the Agency (and, if applicable, to such Acquisition Property owner) in form and substance reasonably acceptable to them to indemnify and hold them harmless from and against any and all cost, losses, damages, liabilities and obligations

arising out of or relating to the use of the License by the Redeveloper and any of its agents or contractors.

B. Appraisers & Appraisals.

The Agency, at such time as is requested by the Redeveloper consistent with this Agreement, will retain one or more Appraisers to prepare an Agency Appraisal of the Fair Market Value of each of those parcels of the Acquisition Property which have not been acquired privately by the Redeveloper. Upon completion of the Appraisals the Agency will, if required by law, or if deemed necessary by the Agency, or if requested by the Redeveloper, retain a Review Appraiser to review and confirm the work product, opinions and conclusions of the Appraiser or Appraisers. The Appraisals shall be updated to the date of the filing of a Statement of Compensation with respect to any of the parcels of Acquisition Property. All Appraisals shall take into account, to the extent not prohibited by statute or case law and consistent with generally accepted appraisal standards, any and all conditions of the subject parcel of Acquisition Property bearing on its Fair Market Value, including, without limitation, any Environmental Conditions of the subject parcel of Acquisition Property. If, as of the date of the preparation of any Appraisal, or any update or any Review Appraisal thereof, with respect to any parcel(s) of Acquisition Property affected by any Environmental Condition, generally accepted appraisal methods and statutory or case law in the State of Connecticut provide for and/or permit the deduction, from the value which said parcel(s) of Acquisition Property would have if it were not affected by any Environmental Conditions, of the Remedial Cost Estimate with respect to such parcel of Acquisition Property in order to determine the Fair Market Value thereof, then the Agency will instruct the Appraiser that the Appraisal shall reflect, as a deduction to arrive at the stated Fair Market Value, the Remedial Cost Estimate with respect to said parcel of Acquisition Property, if any. The identities of the Appraiser(s) or Review Appraiser(s) retained by the Agency shall be subject to the approval of the Redeveloper, which approval shall not be unreasonable withheld, delayed or conditioned. The Agency agrees, to the extent not prohibited by law, that it will submit to the Appraiser(s) engaged by it such information and materials relating to the condition of the Acquisition Property as Redeveloper from time to time may request and/or may provide to the Agency.

C. Remedial Cost Estimate; Testimony of Environmental Consultant.

The Redeveloper or the Agency, as applicable and as provided herein, will arrange through its contract(s) with the LEP Firm(s) preparing the Remedial Cost Estimates for LEP(s) associated with such LEP Firm(s) to be available to present evidence and testimony in support of the Remedial Cost Estimates at meetings and/or hearings of the Agency and/or at any trials, hearings or other proceedings held pursuant to Section 8-132 of the Statutes to determine compensation for the taking of Acquisition Property.

D. Establishment By Agency of Price for Acquisition Property.

Upon completion of the Agency Appraisals and, if required, the Agency Review Appraisals, the Agency shall establish the amount of compensation to be paid to the persons entitled thereto for each parcel of Acquisition Property, and shall notify the Redeveloper of such amounts. Such amounts of compensation shall be based upon the Fair Market Values determined in the Agency Appraisals, taking into account any additional factors affecting Fair Market Value as may be within the knowledge and experience of the Agency, provided that the Agency shall not establish an amount of compensation with respect to any parcel which is less than the amount required by any applicable Statutes, and provided further, that the Agency shall not establish an amount of compensation with respect to any parcel which is greater than the Fair Market Value as determined by the Agency Appraisal of such parcel or the amount required by any applicable Statutes, whichever is greater, without the written consent of the Redeveloper.

E. Agency Acquisition of Acquisition Property; Title Insurance.

The Agency shall attempt to acquire by negotiated purchase at the compensation amounts so established all parcels of Acquisition Property not previously acquired by the Redeveloper (but not prior to the Common Council authorizing the Agency to acquire such parcel through the exercise of the power of eminent domain). The Agency shall not offer to pay an amount in excess of the compensation amounts established by the Agency pursuant to Section 7.3(D) hereof for any parcel of Acquisition Property without the written consent of the Redeveloper. The Redeveloper shall deposit into the Project Operating Account from time to time, upon request of the Agency, such sums as may be required to permit the Agency to acquire any such parcels of Acquisition Property by private purchase. Each contract which the Agency proposes to enter into for private purchase of any Acquisition Property shall be subject to the reasonable approval of Redeveloper and, upon the request of Redeveloper, and to the extent not prohibited by law, the Agency shall assign to Redeveloper, or to an Affiliate designated by the Redeveloper, the rights of the Agency under any such contract. In the event that, after the Agency attempts for a reasonable period of time to acquire privately any parcel of Acquisition Property, the owner of a parcel of Acquisition Property is unwilling to sell the parcel for the purchase price so established, the Agency shall proceed to acquire such parcel through the exercise of the power of eminent domain in the manner provided in Chapter 130 (and/or, if applicable, Chapter 835) of the Statutes. The Agency will cooperate with the Redeveloper in obtaining from title insurance underwriters acceptable to the Redeveloper policies of title insurance, at Redeveloper's cost, insuring the City, the Agency and the Redeveloper, as their interests may appear, in each parcel of Acquisition Property effective upon the acquisition of title to each parcel of Acquisition Property.

Section 7.4 Schedule of Acquisitions by Agency.

The acquisition by the Agency of all Acquisition Property not privately acquired by the Redeveloper and which has been duly authorized by the Common

Council shall be done, to the extent practicable, at the earliest possible date when same may be acquired by the Agency consistent with the provisions and the intent of this Agreement, but in any event within the time periods, and subject to the terms and conditions, set forth in any and all resolutions of the Common Council authorizing acquisition by eminent domain, and any Statutes, including without limitation, Section 8-128.

A. Authorization and Agreement for Use of Power of Eminent Domain.

Under the Plan, as amended, the Agency does not have the authority to acquire any parcel of property within the Wall Street Project Area through the exercise of the power of eminent domain. Upon the request of the Redeveloper, the Agency shall request that the Common Council grant the Agency the authority to acquire a parcel of Acquisition Property through the exercise of the power of eminent domain. The Common Council may approve or deny any such request. The Agency agrees, as and when requested by the Redeveloper or as provided in this Agreement, to use the powers of eminent domain granted to it by the Statutes and as may be granted to it by separate authorization of the Common Council to acquire a parcel of Acquisition Property which has not been acquired by negotiated purchase, and shall use best efforts to complete all such proceedings expeditiously after same are commenced and within the time frames established by the Common Council and any Statutes, including without limitation, Section 8-128. The Agency shall acquire the Acquisition Property in the name of the City solely, as provided in Section 8-138 of the Statutes.

B. Redeveloper to Deposit Funds for Acquisition.

Redeveloper will deposit into the Project Operating Account from time to time within thirty (30) days after the request of the Agency such funds as are required to enable the Agency to make the deposit required by Section 8-130 of the Statutes to be made upon the filing by the Agency of a Statement of Compensation with respect to any party of Acquisition Property to be acquired by eminent domain in accordance with this Agreement. The Agency will not request that Redeveloper deposit any such funds with respect to any parcel unless the Agency intends to file a Statement of Compensation with respect to such parcel and to deposit such funds with the Clerk of the Court within thirty (30) days after its receipt of such funds. If the Agency has not filed such Statement of Compensation and deposited such funds with the Clerk of the Court within sixty (60) days after the Redeveloper deposits such funds with the Agency, the Agency shall return such funds to the Redeveloper upon written request.

C. Common Council Action.

In the event that the Common Council adopts any law, rule or regulation which increases the amount of compensation that is required to be paid to a property owner in acquiring a parcel of property within Development Parcel 2a by eminent domain, over the amount of compensation that is required to be paid to such

property owner pursuant to the Statutes, then the City agrees to pay any such excess over the amount of compensation required to be paid by the Statutes.

Section 7.5 Discontinuance of City Street.

A. The City shall undertake and pursue to conclusion, pursuant to Sections 95-33 through and including 95-36 of the City Code and/or relevant sections of the Statutes, the processes necessary to discontinue or abandon and demap those portions of the rights of way of such public streets as are designated in the Redevelopment Plan (and/or as may be provided for in this Agreement and as may hereafter be approved and implemented by amendment to the Redevelopment Plan) to be discontinued or abandoned. The abandonment of Isaacs Street shall be subject to the provisions set forth in Section 9.6 hereof. It is intended by the parties hereto that title to any such abandoned public street will devolve, pursuant to common law, at no cost, to the owners of said abutting properties on either side, to the center line of the right of way. It is also agreed by the parties that if Isaacs Street is discontinued or abandoned in accordance with Section 9.6 hereof, then Isaacs Street as depicted on the Conceptual Master Site Plan shall be rededicated as a City street following completion of the Project and the Redeveloper shall cooperate with the City to complete the process to accept Isaacs Street as a public street, or if the City deems it appropriate, to convey such easements to the City as are necessary to maintain Isaacs Street as a public right of way. In addition, the City shall retain an easement over that portion of any such street which shall constitute City sidewalks, in such form as the City may reasonably require. The effectuation of any such street abandonment, however, and the terms of any devolution or conveyance of title shall be subject to the requisite approvals of any and all Governmental Authorities having jurisdiction over such processes. The Agency and the City will prepare, submit and pursue applications for such approvals. The cost of filing fees associated with any such applications will constitute Acquisition Expenses. Upon the granting of such approvals, the City will quitclaim or release, as appropriate, its interest in said portion of Isaacs Street to the owners of the abutting properties. The Agency, at the request of the Redeveloper, shall exercise its authority and power under Section 8-133a of the Statutes to effectuate the temporary and/or permanent readjustment, relocation or removal of "public service facilities" from the rights of way of such discontinued public street.

B. The costs and expenses of (i) removing, demolishing and disposing of the debris related to the pavement, curbing and other portions of discontinued public streets, and (ii) that portion of the costs and expenses of readjustment, relocation or removal of any "public service facility" necessitated by the discontinuance of such streets as would, pursuant to said Section 8-133a of the Statutes, constitute the "equitable share" of such costs to be borne by the Agency, shall constitute Acquisition Expenses and be the obligation of Redeveloper.

Section 7.6 Relocation of Occupants.

The Agency shall provide a relocation assistance advisory program for all displaced persons, pursuant to and in accordance with the requirements of Section 8-271

of the Statutes and pursuant to 42 USC Section 4625, and to the extent required by law shall use reasonable efforts to expeditiously relocate all occupants of each parcel of the Acquisition Property prior to or as soon as is reasonably practicable after the acquisition of each such parcel and prior to conveyance of title by the Agency to Redeveloper. Redeveloper shall not take title to a parcel of Acquisition Property prior to completion of the relocation of the occupants on such parcel by the Agency. The Agency shall use its reasonable efforts to assist Redeveloper in relocating occupants of Redeveloper Property and Acquisition Property privately acquired by Redeveloper. The Agency, the City and the Redeveloper agree that all occupants being relocated from the Project Site in accordance with this Article VII shall be entitled to receive relocation payments and assistance as set forth in the Relocation Act, as well as any additional relocation payments and assistance as set forth in the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act, 42 USC, Section 4601, et. seq., which are not provided for in the Relocation Act. The Agency and the City shall render reasonable assistance to the Redeveloper and shall support the Redeveloper in the Redeveloper's efforts to obtain the maximum amount of grants, grants-in-aid, loans and other subsidies of any type available from all public sources pursuant to Relocation Act or otherwise to offset the costs of Relocation Expenses due to occupants of the Project Property who are required to be relocated [but the Agency and the City shall not be required to allocate to Relocation Expenses monies which the Agency and/or the City receive from other funding sources for the funding of other components (i.e., Infrastructure Improvements) of the Redevelopment Plan]. Those Relocation Expenses, which are not paid from available public funding sources shall constitute Acquisition Expenses and shall be incurred by the Agency in accordance with Article VI hereof. In no event will the Agency or the City be entitled to reimbursement as Relocation Expenses for the salaries or fees payable to staff, employees or consultants of the Agency or the City involved in the provision of relocation assistance, it being agreed that such cost will be borne by the Agency and/or the City, as applicable. Notwithstanding the immediately preceding sentence, the reasonable fees of consultants to the Agency and the City for the performance of specialized relocation services outside the scope of the experience of the Agency's relocation staff employees shall be chargeable by the Agency to the Project as an Acquisition Expense, provided that the engagement of such consultant(s) and the fees to be charged by and paid to them are approved by the Redeveloper, such approval not to be unreasonably withheld, delayed or conditioned.

Section 7.7 Utility Relocation; Modification of Layout of Existing and Proposed Utilities in Project Site.

A. In accordance with Section 8-133a (and, if at any time applicable, Sections 8-194 and 32-224(f)) of the Statutes, the Agency will arrange in accordance with a plan prepared by the Redeveloper and approved by the Agency (and subject to the approval of all Governmental Authorities having jurisdiction, including without limitation the Norwalk Department of Public Works) and the respective utility companies for the relocation in a timely manner of all utility services to be removed from or terminated within the Project Site as set forth on **Exhibit C-1** and shown on **Exhibit C-4** attached hereto and made a part hereof, as same may be amended, or as provided for in this Agreement including telephone, cable, water, gas, electricity, storm water drainage

and sewers. In addition, the Agency, subject to review and approval by all Governmental Authorities having jurisdiction, including without limitation the Norwalk Department of Public Works, and the respective utility companies will approve such modifications, if any, to the layout as shown on **Exhibits C-1, C-2, C-3** and **C-4** for both existing utilities remaining in the Project Site and/or the Wall Street Project Area, and those proposed to be newly installed therein so as to coordinate same with the layout of the Improvements as may be depicted on Redeveloper's Conceptual Master Site Plan, and/or Construction Plans, as approved by the Agency and/or the City (if required). The Agency and the City will make reasonable efforts to obtain from such sources as are in possession thereof and/or are available to them, and will deliver to the Redeveloper as and when obtained, as-built plans of all utility service lines within the Project Site to facilitate the identification of the location of same and the determination of which of same require relocation to facilitate Redevelopers development in accordance with the approved Conceptual Master Site Plan.

B. With respect to the provision of utility services to the Project Site and the Project, the Agency, the City and the Redeveloper agree as follows:

1. City Obligation

The City, at its sole cost and expense, shall provide or cause the respective utility companies to provide the utility services as set forth on **Exhibit C-1** and shown on **Exhibit C-3** which shall be required to facilitate any increased capacity needs due to the development of the Project Site as envisioned by the Redevelopment Plan. Such utility services shall be provided as depicted on **Exhibit C-3** attached hereto. The City shall provide the Redeveloper with a plan showing the utility services to be provided by the City and their location.

2. Redeveloper Obligation

Except as specifically set forth in this Agreement to be the City's obligation, the Redeveloper, at its sole cost and expense, will be obligated to make provision for any and all utility services required for the Project and to perform any and all work required to provide hook-ups between the Improvements constructed as part of the Project and the public utility facilities depicted on **Exhibit C-3** attached hereto, or within the Project Site, including without limitation, the installation of such conduits, lines and other facilities within the boundaries of Development Parcel 2a, as may be required to effectuate such hookups. Nothing in this Agreement shall be deemed to relieve the Redeveloper of any obligation it may have to pay for the cost of its direct hook-ups to any public utilities.

3. Section 8-133a of the Statutes

The Agency will proceed pursuant to §8-133a of the Statutes to issue appropriate orders for temporary and/or permanent readjustment, relocation, termination or removal of any "public service facility" (as defined in said §8-

133a) required by reason of the closing of any public streets and/or construction of the Improvements and carrying out of the Plan. To the extent that any such readjustment, relocation, termination or removal is located within the green (or dark gray) area as depicted on **Exhibit C**-2 attached hereto, the equitable share of the costs of such readjustment, relocation, termination or removal of such public service facilities which is required by said §8-133a to be borne by the Agency shall constitute an Acquisition Expense under this Agreement and be paid by the Redeveloper. To the extent that any such readjustment, relocation, termination or removal is located within the yellow (or light gray) area depicted on **Exhibit C-2** attached hereto, such equitable share shall not be an Acquisition Expense and shall be paid by the City. The Redeveloper will grant such rights of way as reasonably may be required for the relocation of such facilities removed from public streets or public rights of way, subject to Redeveloper's reasonable approval of the location of such rights of way so as not to interfere unreasonably with Redeveloper's intended construction of the Improvements, as depicted on the Conceptual Master Site Plan, or Construction Plans, as approved by the Agency. In the performance of such work, the parties shall only be required to perform such work as may be required by law or by the respective utility companies.

C. The City and the Agency agree to coordinate the design and construction of utility infrastructure with the relevant utility service providers.

Section 7.8 Management of Acquisition Property.

During the period, if any, between the date of acquisition by the City of each parcel of the Acquisition Property and the delivery of the Deed for such parcel to Redeveloper pursuant to Section 9.3 hereof, the Agency shall retain POKO Management Corp. to provide for proper operation and management of all occupied properties within the Project Site owned by the City, including the making of necessary repairs to keep the buildings thereon habitable until their occupants are relocated and to serve as the managing agent on reasonable terms to be agreed upon between the Agency and POKO Management Corp. In the event the Agency and POKO Management Corp. cannot agree upon the terms upon which POKO Management Corp. will operate and manage the aforementioned occupied properties, then the Agency may engage a third party manager to manage the Acquisition Property on its behalf, with the approval of the Redeveloper, which approval shall not be unreasonably withheld, delayed or conditioned. The expenses of such operation and management of such Acquisition Property shall be incurred in accordance with the budgets approved by the Agency and the Redeveloper pursuant to Article VI, such approvals not to be unreasonably withheld, delayed or conditioned. The Redeveloper will indemnify, defend and hold harmless the City and the Agency against and from any and all claims, suits, costs, expenses, losses, liabilities, and damages, including reasonable attorneys' fees, asserted against and/or incurred by either of them arising out of the management of the Acquisition Property by POKO Management Corp. during such period, except to the extent arising out of negligent acts or omissions of the City or the Agency. This indemnity will not be limited by insurance coverage and shall survive termination of this Agreement, and shall be separate and independent of any other provision of this Agreement.

ARTICLE VIII
ENVIRONMENTAL ASSESSMENT AND REMEDIATION

Section 8.1 Environmental Assessment.

A. Immediately upon the Execution Date, the Redeveloper or the Agency, whichever is retaining the LEP(s) to perform the testing described in Section 7.3 hereof, will retain one or more LEP Firms to prepare comprehensive Phase I and/or Phase II and/or Phase III environmental site assessments, as appropriate, and a feasibility study that identifies remedial alternatives, including recommendations for the preferred alternative(s) and estimates of the cost of remediation with respect to each property within the Project Site. Notwithstanding the foregoing, the parties hereto acknowledge that such testing on the Municipal Parking Lot has been completed prior to the Execution Date. The preferred remedial alternative which is satisfactory to the Redeveloper and DEP, and insofar as it affects the Municipal Parking Lot, the City and the Agency, will constitute the Remedial Action Plan for the Project Site. The Remedial Action Plan may include a monitoring program. Notwithstanding anything to the contrary above, the Redeveloper, at its expense (which will be part of Acquisition Expenses), shall retain one or more LEP Firms to prepare comprehensive Phase I and/or Phase II and/or Phase III environmental site assessments, as appropriate, and a feasibility study that identifies remedial alternatives, including recommendations for the preferred alternative(s) and estimates of the cost of remediation with respect to the Municipal Parking Lot. A copy of all reports generated by the LEP Firm and the remediation cost estimate, if any, for the Municipal Parking Lot shall be delivered by the Redeveloper to the Agency and the City within six (6) months after the Execution Date. The preferred remedial alternative for the Municipal Parking Lot, if any, shall be determined jointly by the Redeveloper and the City/Agency. The preferred remedial alternative for the Municipal Parking Lot, if any, shall be made part of the Remedial Action Plan.

The parties acknowledge and agree that the Remedial Action Plan, or portion thereof, may require DEP approval to applicable Environmental Law. In such case, the Remedial Action Plan, or portion thereof, shall be submitted by the Redeveloper to DEP for approval. If the Remedial Action Plan, or portion thereof, so submitted is not approved by DEP, the Redeveloper shall direct its consultants to modify the Remedial Action Plan, or portion thereof, so that it will be approved by DEP. The Redeveloper shall keep the Agency informed of the status of the evaluation and draft plan to be submitted to DEP and shall provide the Agency copies of the plan as submitted and as approved by DEP along with copies of all correspondence between the Redeveloper and DEP in connection therewith. The Agency shall be informed of and afforded an opportunity to attend all meetings between the Redeveloper and/or the consultant and DEP. After the Remedial Action Plan, or portion thereof, has been approved by DEP, it shall be implemented expeditiously in accordance with and subject to the limitations of this Article VIII.

B. In the event that a unilateral order is issued by DEP with respect to any parcel of the Project Property prior to title thereto vesting in the Redeveloper pursuant to Section 9.1, 9.2 or 9.3 hereof, the City and Agency shall afford the Redeveloper the opportunity to participate in all meetings with DEP concerning such order and shall provide the Redeveloper with copies of all correspondence pertaining thereto. At the option of the Redeveloper, the City and Agency shall commence and diligently prosecute an appeal from any such order, at Redevelopers expense, and shall not file any pleadings or make any settlement agreements in connection therewith, other than pleadings the City or Agency believe necessary to protect their interests, without the concurrence of all the parties hereto. The Redeveloper shall have no obligation with respect to any such order unless and until the Redeveloper elects to take title to a parcel which is subject to such an order, in which event the Redeveloper shall be bound by the terms of the order and shall indemnify and hold harmless the City and Agency from any claim against them which may arise from the failure of the Redeveloper to properly perform its assumed obligations pursuant to the terms of such order.

Section 8.2 Remediation by the Redeveloper.

The Redeveloper has agreed to clean up all discharges of oil, petroleum and hazardous or other regulated waste in the Project Site, and accordingly shall be responsible for and shall undertake or cause to be undertaken by others the performance of all work necessary to implement the Remedial Action Plan as approved by the LEP and, if required by Environmental Law, DEP, including any monitoring required by the Remedial Action Plan. All such work to be performed by the Redeveloper shall be undertaken in strict accordance with all applicable laws and regulations.

Section 8.3 No Remediation by the City.

The City shall not be responsible for the performance of any work necessary to implement the Remedial Action Plan.

ARTICLE IX
CONVEYANCE OF PROPERTY

Section 9.1 Conveyance of Isaacs Street Municipal Parking Lot to Redeveloper.

A. Purchase Price. Subject to the terms and conditions of this Agreement, the Isaacs Street Municipal Parking Lot shall be conveyed by the Agency to the Redeveloper upon the terms and conditions set forth below, for a purchase price of Fifty Thousand and 00/100 ($50,000.00) Dollars, payable by the Redeveloper executing and delivering to the Agency at closing a Promissory Note in said amount, providing for ten (10) equal annual installments of Five Thousand and 00/100 ($5,000.00) Dollars each, commencing with the first installment one (1) year from the date the Phase I Parking Garage is opened to the public, and on that same day of each year for the next

successive nine (9) years and upon such other normal and customary terms and conditions as the Agency may require. In the event the Agency has purchased the Municipal Parking Lot and executed a Promissory Note in the amount of One Hundred Thousand and 00/100 ($100,000.00) Dollars in favor of the Norwalk Parking Authority as consideration for the purchase of the Municipal Parking Lot, then in lieu of the above Promissory Note to the Agency, the Redeveloper may be required to assume one-half (½) the obligations of the Agency under the aforementioned $100,000.00 Promissory Note to the Norwalk Parking Authority.

B. Deposit. No deposit shall be required for the purchase of the Isaacs Street Municipal Parking Lot

C. Time and Place for the Delivery of Deed**.** The closing shall take place at City Hall, 125 East Avenue, Norwalk, CT within thirty (30) days after the Redeveloper notifies the City and the Agency that the Redeveloper is ready to acquire title, but not later than the date construction of the Phase I Improvements is to commence and not prior to approval by the Agency (and where required, the Common Council) of the Redeveloper's Phase I Construction Plans as required by Section 3.2, and approval by the Agency of Redeveloper's Evidence of Equity Capital and Mortgage Financing for the Phase I Improvements on the Project Site as required by Section 3.9 hereof.

D. Form of Deed**.** The City shall convey or cause to be conveyed, marketable and insurable title to the Isaacs Street Municipal Parking Lot to the Redeveloper by quit claim deed (**"Isaacs Street Municipal Parking Lot Deed"**) upon payment of the purchase price by the Redeveloper as set forth herein. Such conveyance and title shall, in addition to the conditions subsequent provided for in Section 19.8 hereof, and to all other conditions, covenants, easements and restrictions set forth or referred to elsewhere in this Agreement, be subject to no other liens or encumbrances except the following: the Redevelopment Plan; all of the terms of this Agreement; regulatory requirements imposed by the federal state, county, municipal and/or other local agencies, commissions, boards, bureaus, officials and other governmental departments or quasi-governmental authorities having jurisdiction over the Redevelopment Plan, the Project Site, this Agreement and/or any of the parties hereto; installments of real property taxes of the City due and payable after the date of conveyance; such state of facts as an accurate survey or personal inspection would reveal, provided same do not render title unmarketable; zoning and planning rules and regulations of the City; an easement enabling the general public to have perpetual access to and use of the Public Parking Spaces on the Project Site; Reservation contained in a deed from The Fifty-Nine Street Corporation to The Norwalk Parking Authority dated July 23, 1954 and recorded in Volume 411 at page 135 of the Norwalk Land Records; Reservations and Agreements contained in a deed from Nordray Realty Corporation to Norwalk Parking Authority dated August 2, 1954 and recorded in Volume 464 at page 206 of the Norwalk Land Records; Right and right of access set forth in a deed from Norwalk Parking Authority to Nordray Realty Corporation dated August 15, 1954 and recorded August 20, 1954 in Volume 464 at page 106 of the Norwalk Land Records; an easement in favor of the general public recorded in Volume 177 at Page 190 of the

Norwalk Land Records; Grant from Norwalk Parking Authority to Fairfield County Savings Bank dated January 20, 1967 and recorded January 24, 1967 in Volume 675 at page 409 of the Norwalk Land Records; and Agreement between the City of Norwalk and Fairfield County Bank Corp. dated January 19, 2006, as amended by First Amendment to Agreement dated October 4, 2006. Subject to the foregoing, title shall be marketable and insurable. After the Execution Date, the City agrees not to enter into any future leases for the Isaacs Street Municipal Parking Lot unless such lease is subject to cancellation by the City upon thirty (30) days prior written notice.

E. Recordation of Deed. The Redeveloper shall promptly file the Isaacs Street Municipal Parking Lot Deed for recordation upon the Norwalk Land Records and the Redeveloper shall pay all costs of recording said deed.

F. Apportionment of Current Taxes**.** With respect to any tax period during which the City, the Agency or The Norwalk Parking Authority, on the one hand, and the Redeveloper on the other hand, both had title to and possession of the Isaacs Street Municipal Parking Lot or any portion thereof, taxes allocable to the Isaacs Street Municipal Parking Lot or such portion thereof, as the case may be, for such period shall be prorated between the City, The Norwalk Parking Authority and the Agency on the one hand and the Redeveloper on the other hand in proportion to the respective periods of ownership of title and possession. In the event that the Isaacs Street Municipal Parking Lot or any portion thereof, is exempt from taxation on the assessment date next preceding the sale and conveyance of title and possession by virtue of title being vested in the City, The Norwalk Parking Authority or Agency or any other tax exempt entity, the Redeveloper shall make a payment in lieu of taxes based upon the assessed value of Isaacs Street Municipal Parking Lot or portion thereof at the tax rate then prevailing in the City for that portion of the tax year during which the Redeveloper has title and possession. Any payment owed by the Redeveloper under this section shall be due and payable at the time of closing. The assessment in either situation above described upon which adjustment shall be made, shall be the assessment which the Tax Assessor of the City shall make of the Isaacs Street Municipal Parking Lot immediately prior to the transfer of title to the Redeveloper, which assessment shall be based on the physical condition of the Isaacs Street Municipal Parking Lot immediately prior to such conveyance.

G. Condition of Property. The Redeveloper agrees that it has fully inspected the Isaacs Street Municipal Parking Lot and is fully satisfied with the condition thereof. The Redeveloper acknowledges that it is accepting the Isaacs Street Municipal Parking Lot and the land upon which it is situated "as is" and that this Agreement contains all of the understandings and agreements between the parties hereto relating to said property. There are no representations or warranties, expressed or implied, whatsoever upon which the Redeveloper relies with respect to the condition, quality, use, value, quantity or related characteristics of the Isaacs Street Municipal Parking Lot, other than those herein expressly set forth. The provisions of this section shall survive the closing and the delivery of the Isaacs Street Municipal Parking Lot Deed to the Redeveloper.

H. Acquisition Expenses. For purposes of this Agreement, the following costs and expenses associated with the Isaacs Street Municipal Parking Lot shall be deemed to be Acquisition Expenses, payable by the Redeveloper in the same manner as other Acquisition Expenses hereunder: Costs and fees for environmental assessments, studies, reports and tests; costs and fees for appraisals and review appraisals; costs and fees for surveys and title insurance commitments, searches and policies; legal fees of Agency's counsel; and fees for architectural and engineering services.

Section 9.2 Conveyance of Leonard Street Municipal Parking Lot to Redeveloper.

A. Purchase Price. Subject to the terms and conditions of this Agreement, the Leonard Street Municipal Parking Lot shall be conveyed by the Agency to the Redeveloper upon the terms and conditions set forth below, for a purchase price of Fifty Thousand and 00/100 and 00/100 ($50,000.00) Dollars, payable by the Redeveloper executing and delivering to the Agency at closing a Promissory Note in said amount, providing for ten (10) equal annual installments of Five Thousand and 00/100 ($5,000.00) Dollars each, commencing with the first installment one (1) year from the date the Phase I Parking Garage is opened to the public, and on that same day of each year for the next successive nine (9) years and upon such other normal and customary terms and conditions as the Agency may require. In the event the Agency has purchased the Municipal Parking Lot and executed a Promissory Note in the amount of One Hundred Thousand and 00/100 ($100,000.00) Dollars in favor of the Norwalk Parking Authority as consideration for the purchase of the Municipal Parking Lot, then in lieu of the above Promissory Note to the Agency, the Redeveloper may be required to assume one-half (½) the obligations of the Agency under the aforementioned $100,000.00 Promissory Note to the Norwalk Parking Authority.

B. Deposit. No deposit shall be required for the purchase of the Leonard Street Municipal Parking Lot.

C. Time and Place for the Delivery of Deed**.** The closing shall take place at City Hall, 125 East Avenue, Norwalk, CT simultaneously with the closing of title for the Isaacs Street Municipal Parking Lot in accordance with the provisions of Section 9.1(C).

D. Form of Deed**.** The City shall convey or cause to be conveyed, marketable and insurable title to the Leonard Street Municipal Parking Lot to the Redeveloper by quit claim deed (**"Leonard Street Municipal Parking Lot Deed"**) upon payment of the purchase price by the Redeveloper as set forth herein. Such conveyance and title shall, in addition to the conditions subsequent provided for in Section 19.8 hereof, and to all other conditions, covenants, easements and restrictions set forth or referred to elsewhere in this Agreement, be subject to no other liens or encumbrances except the following: the Redevelopment Plan; all of the terms of this Agreement; regulatory requirements imposed by the federal state, county, municipal and/or other

local agencies, commissions, boards, bureaus, officials and other governmental departments or quasi-governmental authorities having jurisdiction over the Redevelopment Plan, the Project Site, this Agreement and/or any of the parties hereto; installments of real property taxes of the City due and payable after the date of conveyance; such state of facts as an accurate survey or personal inspection would reveal, provided same do not render title unmarketable; zoning and planning rules and regulations of the City; and an easement enabling the general public to have perpetual access to and use of the Public Parking Spaces on the Project Site.; and an easement in favor of the First Taxing District of the City of Norwalk dated September 13, 1962 and recorded in Volume 586 at Page 97 of the Norwalk Land Records. Subject to the foregoing, title shall be marketable and insurable. After the Execution Date, the City agrees not to enter into any future leases for the Leonard Street Municipal Parking Lot unless such lease is subject to cancellation by the City upon thirty (30) days prior written notice.

E. Recordation of Deed. The Redeveloper shall promptly file the Leonard Street Municipal Parking Lot Deed for recordation upon the Norwalk Land Records and the Redeveloper shall pay all costs of recording said deed.

F. Apportionment of Current Taxes**.** With respect to any tax period during which the City, the Agency or The Norwalk Parking Authority, on the one hand, and the Redeveloper on the other hand, both had title to and possession of the Leonard Street Municipal Parking Lot or any portion thereof, taxes allocable to the Leonard Street Municipal Parking Lot or such portion thereof, as the case may be, for such period shall be prorated between the City, The Norwalk Parking Authority and the Agency on the one hand and the Redeveloper on the other hand in proportion to the respective periods of ownership of title and possession. In the event that the Leonard Street Municipal Parking Lot or any portion thereof, is exempt from taxation on the assessment date next preceding the sale and conveyance of title and possession by virtue of title being vested in the City, The Norwalk Parking Authority or Agency or any other tax exempt entity, the Redeveloper shall make a payment in lieu of taxes based upon the assessed value of Leonard Street Municipal Parking Lot or portion thereof at the tax rate then prevailing in the City for that portion of the tax year during which the Redeveloper has title and possession. Any payment owed by the Redeveloper under this section shall be due and payable at the time of closing. The assessment in either situation above described upon which adjustment shall be made, shall be the assessment which the Tax Assessor of the City shall make of the Leonard Street Municipal Parking Lot immediately prior to the transfer of title to the Redeveloper, which assessment shall be based on the physical condition of the Leonard Street Municipal Parking Lot immediately prior to such conveyance.

G. Condition of Property. The Redeveloper agrees that it has fully inspected the Leonard Street Municipal Parking Lot and is fully satisfied with the condition thereof. The Redeveloper acknowledges that it is accepting the Leonard Street Municipal Parking Lot and the land upon which it is situated "as is" and that this Agreement contains all of the understandings and agreements between the parties hereto

relating to said property. There are no representations or warranties, expressed or implied, whatsoever upon which the Redeveloper relies with respect to the condition, quality, use, value, quantity or related characteristics of the Leonard Street Municipal Parking Lot, other than those herein expressly set forth. The provisions of this section shall survive the closing and the delivery of the Leonard Street Municipal Parking Lot Deed to the Redeveloper.

H. Acquisition Expenses. For purposes of this Agreement, the following costs and expenses associated with the Leonard Street Municipal Parking Lot shall be deemed to be Acquisition Expenses, payable by the Redeveloper in the same manner as other Acquisition Expenses hereunder: Costs and fees for environmental assessments, studies, reports and tests; costs and fees for appraisals and review appraisals; costs and fees for surveys and title insurance commitments, searches and policies; legal fees of Agency's counsel and fees for architectural and engineering services.

Section 9.3 Conveyance of Acquisition Property to Redeveloper.

A. Purchase Price. Subject to the terms and conditions of this Agreement, each parcel of Acquisition Property shall be conveyed by the City or the Agency to the Redeveloper or an Affiliate for the purpose of constructing the Improvements upon the terms and conditions set forth below for a purchase price of an amount equal to the Acquisition Expenses incurred in connection with the Acquisition Property conveyed, less the amount by which the City or Agency have been reimbursed for such Acquisition Expenses by the Redeveloper pursuant to Section 6.1 hereof prior to the date of conveyance, which shall be payable by the Redeveloper at closing.

B. Time and Place for the Delivery of Deed**.** The closing for each parcel of Acquisition Property shall take place at City Hall, 125 East Avenue, Norwalk, CT, on the date of the recording of the Certificate of Taking for each such parcel, or as soon thereafter as is reasonably possible. The City, the Agency and the Redeveloper agree to use best efforts to cause the closing for each such parcel of Acquisition Property to occur on said date. The Agency will give written notice to the Redeveloper upon its receipt of a Certificate of Taking for any parcel of Acquisition Property and advise Redeveloper that it intends to record such Certificate of Taking no later than ten (10) days after the date of such notice. The City, the Agency and the Redeveloper will cooperate in good faith to cause the closing with respect to such parcels to occur within said ten (10) day period and on the same day as, but just subsequent to, the recording of the subject Certificate of Taking.

C. Form of Deed**.** The City or the Agency shall convey marketable and insurable title to each parcel of Acquisition Property to the Redeveloper by quit claim deed (**"Acquisition Property Deeds," or singularly, "Acquisition Property Deed"**) upon payment of the purchase price by the Redeveloper as set forth herein. Such conveyance and title shall, in addition to the conditions subsequent provided for in Section 19.8 hereof, and to all other conditions, covenants, easements and restrictions set

forth or referred to elsewhere in this Agreement, be subject to no other liens or encumbrances except the following: the Redevelopment Plan, all of the terms of this Agreement; regulatory requirements imposed by the federal, state, county, municipal and/or other local agencies, commissions, departments, boards, bureaus, officials and other governmental or quasi-governmental authorities having jurisdiction over the Redevelopment Plan, the Project Site, this Agreement and/or any of the parties hereto; installments of real property taxes of the City due and payable after the date of conveyance; such state of facts as an accurate survey or personal inspection would reveal, provided same do not render title unmarketable; zoning and planning rules and regulations of the City; an easement enabling the general public to have perpetual access to and use of the Public Parking Spaces on the Project Site; and all easements and restrictions of record on the Norwalk Land Records as to any such parcel. Subject to the foregoing, title shall be marketable and insurable.

D. Recordation of Deed. The Redeveloper shall promptly file each Acquisition Property Deed for recordation upon the Norwalk Land Records and the Redeveloper shall pay all costs of recording said deed(s).

E. Apportionment of Current Taxes**.** With respect to any tax period during which the City or the Agency, on the one hand, and the Redeveloper on the other hand, both had title to and possession of a parcel of Acquisition Property or any portion thereof, taxes allocable to a parcel of Acquisition Property or such portion thereof, as the case may be, for such period shall be prorated between the City and the Agency on the one hand and the Redeveloper on the other hand in proportion to the respective periods of ownership of title and possession. In the event that a parcel of Acquisition Property or any portion thereof, is exempt from taxation on the assessment date next preceding the sale and conveyance of title and possession by virtue of title being vested in the City or Agency or any other tax exempt entity, the Redeveloper shall make a payment in lieu of taxes based upon the assessed value of such parcel of Acquisition Property or portion thereof at the tax rate then prevailing in the City for that portion of the tax year during which the Redeveloper has title and possession. Any payment owed by the Redeveloper under this section shall be due and payable at the time of closing. The assessment in either situation above described upon which adjustment shall be made, shall be the assessment which the Tax Assessor of the City shall make of a parcel of Acquisition Property immediately prior to the transfer of title from the City or the Agency to the Redeveloper, which assessment shall be based on the physical condition of the subject parcel of Acquisition Property immediately prior to such conveyance.

F. Condition of Property. The Redeveloper agrees that it has fully inspected the parcels of Acquisition Property and is fully satisfied with the condition thereof. The Redeveloper acknowledges that it is accepting the parcels of Acquisition Property "as is", and that this Agreement contains all of the understandings and agreements between the parties hereto relating to said property. There are no representations or warranties, expressed or implied, whatsoever upon which the Redeveloper relies with respect to the condition, quality, use, value, quantity or related characteristics of the parcels of Acquisition Property, other than those herein expressly set forth. The

provisions of this section shall survive the closing and the delivery of the Acquisition Property Deeds to the Redeveloper.

Section 9.4 Transfers of "Establishments".

To the extent that the transfer of any of the parcels of Acquisition Property or the Isaacs Street Municipal Parking Lot or the Leonard Street Municipal Parking Lot from the City or Agency to the Redeveloper constitutes a **"transfer of establishment"** within the meaning of the Connecticut Transfer Act, Sections 22a-134 et seq. of the Statutes (the "**Transfer Act**"), the City or Agency agrees to execute and deliver as transferor only, and only to the extent required by the Transfer Act to effectuate the conveyance, such forms as are required pursuant to the Transfer Act. In no event shall the Agency or the City be required to execute any Transfer Act forms to the extent that same would provide that the City or Agency is obligated to perform any Remedial Work with respect to such parcel(s). Redeveloper will execute and deliver any and all required Transfer Act forms as transferee, and as certifying party. All costs associated with such filing shall constitute Acquisition Expenses and shall be payable by the Redeveloper. Redeveloper, at its sole cost and expense, shall be responsible for the conduct and completion of any and all obligations that may be required of Redeveloper as the certifying party on any Transfer Act forms filed in accordance with the Transfer Act and this Section 9.4, which obligation shall survive the closing hereunder.

Section 9.5 Redeveloper Grant of Security for Excess Awards in Eminent Domain Proceedings

At the time that the City conveys to Redeveloper a parcel of Acquisition Property which has been acquired by it via the exercise of the power of eminent domain (such a parcel being called, for purposes of this Section, a "**Condemned Parcel**"), the eminent domain proceeding in which such Condemned Parcel was acquired still may be pending and the value of such Condemned Parcel established by the Agency in such proceeding (the "**Agency's Parcel Value**"), which Agency's Parcel Value will be equal in the amount to the sum of money deposited by the Agency with the Clerk of the Court together with the Statement of Compensation relating to such Condemned Parcel (the **"Deposited Funds"**), still may be subject to appeal, and an award in excess of the amount of the Agency's Parcel Value and the Deposited Funds (an **"Excess Award"**) may be made in such proceeding, or the Agency (with the approval of the Redeveloper) may agree to pay an amount in excess of such Deposited Funds (a **"Settlement Amount"**) to settle such proceeding (it being agreed that the Agency and City may not make any settlement of any eminent domain proceeding or appeal without the prior written consent of Redeveloper), which, in either case, may require the Agency to pay to the owner of such Condemned Parcel (the **"Parcel Owner"**) additional sums in excess of the Deposited Funds. Any such Excess Award or Settlement Amount shall constitute Acquisition Expenses under this Agreement and the Redeveloper will be required to pay the amount thereof to the Agency, in accordance with this Agreement, to enable the Agency to pay such Excess Award or Settlement Amount to the Clerk of the Court or the Parcel Owner. The amount of the Deposited Funds with respect to any Condemned

Parcel shall not be the limit of Redeveloper's obligation and liability with respect to Acquisition Expenses incurred by the City and/or the Agency with respect to such Condemned Parcel, and the Redeveloper hereby agrees to indemnify, defend and hold harmless the City and the Agency against and from any and all claims, suits, costs, expenses, losses, liabilities, and damages, including reasonable attorney's fees, asserted against and/or incurred by either of them arising out of an Excess Award or Settlement Amount. This indemnity shall survive termination of this Agreement and shall be separate and independent of any other provision of this Agreement, but shall apply only with respect to Condemned Parcels actually conveyed to the Redeveloper by the City and the Agency. In order to provide collateral security for the Redeveloper's indemnification obligation herein in this Section 9.5 contained, the Redeveloper shall provide to the City and the Agency, at the time the Redeveloper is required to advance to or pay on behalf of the Agency pursuant to Section 6.3 hereof, all amounts necessary to acquire a parcel of Acquisition Property, one (1) of the following forms of security: (i) cash in an amount equal to twenty-five (25%) percent of the Agency's Parcel Value for such parcel, (ii) a Letter of Credit in favor of the City and the Agency from an Institutional Lender reasonably acceptable to the City and the Agency in an amount equal to twenty-five (25%) percent of the Agency's Parcel Value for such parcel, or (iii) such other security as the Agency and the City reasonably deem acceptable. For each Condemned Parcel with respect to which the Parcel Owner accepts the Agency's Parcel Value stated in, and accepts the Deposited Funds deposited with, the Statement of Compensation, the security will be discharged and released by the City and the Agency after the Parcel Owner's acceptance of the Deposited Funds is filed with the Clerk of the Court. For each Condemned Parcel with respect to which the Parcel Owner does not file a timely proceeding or appeal, the security for that parcel will be discharged and released by the City and the Agency when the time for appeal expires. In either of such cases, the City and the Agency will release such security, promptly after Redeveloper makes a written request therefore. With respect to any Condemned Parcel where the Parcel Owner does not accept the Agency's Parcel Value and files a timely proceeding or appeal, the security will continue to be held until such time as either the Parcel Owner agrees to a settlement or the court makes a final award and, in either case, the Redeveloper pays the amount, if any, by which the Settlement Amount or the Excess Award exceeds the amount of the Deposited Funds deposited with the Statement of Compensation. If the value of a Condemned Parcel alleged by the Parcel Owner in the eminent domain proceeding (the "Parcel Owner's Value") is an amount which is less than one hundred and twenty-five (125%) percent of the amount of the Agency's Parcel Value for such Condemned Parcel, the amount of the security with respect to such Condemned Parcel will be reduced to the actual difference between the Agency's Parcel Value and Parcel Owner's Value

Section 9.6 Abandonment of Isaacs Street. The City and the Agency acknowledge that in order for the Redeveloper to complete the Phase III Improvements as contemplated by the Conceptual Master Site Plan, it will be necessary for the City to discontinue or abandon and demap that portion of Isaacs Street depicted on the survey attached hereto as **Exhibit H** and made a part hereof, in accordance with the provisions of Section 7.5 hereof. At such time as the Redeveloper has waived or relinquished, in writing, to the Agency and the City, all of its rights to terminate this Agreement, received

all necessary land use approvals to enable Redeveloper to construct the Phase I Improvements, and Redeveloper or its Affiliate owns eighty (80%) percent or more of the frontage on the cross-hatched portion of Isaacs Street depicted on attached **Exhibit H**, the Redeveloper may request that the City discontinue or abandon and demap that portion of Isaacs Street depicted on attached **Exhibit H.** The Agency agrees to support the Redeveloper's request that the City discontinue or abandon and demap the aforementioned portion of Isaacs Street. In addition, if the Redeveloper comes into possession and/or control of any portion of Isaacs Street prior to the Redeveloper or its Affiliate becoming the owner of all of the properties abutting the aforementioned cross-hatched area, then such other abutting property owners shall be entitled to such reasonable access to such properties as may be required by Legal Requirements. In the event the City approves the Redeveloper's request to discontinue or abandon and demap the aforementioned portion of Isaacs Street, then the City may retain or aquire such easements thereon as it deems reasonably necessary.

ARTICLE X
LICENSE AGREEMENTS FOR ACCESS TO ALL CITY OWNED PROPERTY AND OTHER PROPERTY IN THE PROJECT AREA

Section 10.1 Upon execution of this Agreement, the City and the Redeveloper shall enter into a license agreement according to the City's customary form, a copy of which is attached hereto as **Exhibit I** and made a part hereof, affording the Redeveloper reasonable access to all City owned property for all reasonable purposes relevant to this Agreement.

Section 10.2 To the extent permitted by law, the City and the Agency will grant to the Redeveloper and the Redeveloper's agents and consultants a license to enter upon other property in the Project Area that is not owned by the City for all reasonable purposes relevant to this Agreement commencing at such time as the City and/or the Agency are permitted by applicable law to enter upon any such parcel and terminating upon the earlier of completion of the work for which the license was granted or termination of the Redeveloper's rights under this Agreement.

ARTICLE XI
EASEMENTS

Section 11.1 In the deed or deeds conveying Property to the Redeveloper, the City and the Agency may reserve an easement in favor of the City and in favor of all public utility companies and any other provider of similar services to the public to which the City and the Agency may grant such easement, to install or construct and maintain, repair and replace pipes, wires, conduits or other underground transmission facilities and other public service utilities and equipment, and requisite appurtenances thereto, as needed in the Project Site, including the right at any reasonable time to go upon and excavate the Project Site on foot or in vehicles and with appropriate equipment for the purpose of exercising said easement, provided any Person exercising such easement upon completion of work shall restore the surface of the Project Site to the condition it was in

prior to the exercise of the easement. Such easements shall be in such locations as are approved by the Redeveloper, which approval will not be unreasonably withheld so long as the location thereof will not interfere with or impede the development of the Project in accordance with Redeveloper's Conceptual Master Site Plan and/or Construction Plans as approved by the Agency.

Section 11.2 In the event easements similar to that described in Section 11.1 are needed with respect to any portion of the Project Site which is Redeveloper Property, and subject to the approval of same by the Redeveloper as provided in said Section 11.1, the Redeveloper shall convey such similar easements in form approved by the Agency and to such persons as the City and Agency may direct.

ARTICLE XII
ADULT USES PROHIBITED

Section 12.1 The Redeveloper, its successors and assigns, shall not use the Property or any portion thereof for "Adult Uses" as that term is defined in the Adult-Use Ordinance of the City of Norwalk, as the same may be amended from time to time, nor shall the Redeveloper, its successors and assigns, permit any tenant or any other Person or entity occupying the Property to use the Property for any such "Adult Uses", subject, however, to the rights of tenants under leases existing on the Execution Date.

Section 12.2 The provisions of this Article XII shall be a covenant running with the land and shall be binding upon the Redeveloper, and Affiliates of the Redeveloper, tenants, and anyone holding any interest in or rights to any part of the Property and their successors and assigns. This prohibition shall be included in any lease, deed or other instrument transferring any interest in any Property on the Project Site or any portion thereof. This prohibition shall also be included in the Isaacs Street Municipal Parking Lot Deed, the Leonard Street Municipal Parking Lot Deed and in the Acquisition Property Deeds.

ARTICLE XIII
ASSIGNMENT AND TRANSFER

Section 13.1 Representations as to Redevelopment.

The Redeveloper represents to the Agency and the City and agrees that the Acquisition Property to be purchased by the Redeveloper and the Redeveloper's other undertakings pursuant to this Agreement are, and will be used, for the purpose of the redevelopment of the Property and not for speculation in land holding. The Redeveloper further recognizes that, in view of:

(i) the importance of the redevelopment of the Project Site to the general welfare of the Norwalk community; and

(ii) the substantial efforts being made by the City and Agency for the purposes of making such redevelopment possible, including the exercise of the power of eminent domain, the transfer of City-owned assets and the appropriation of certain public funds,

the qualifications and identity of the Redeveloper are of particular concern to the City and the Agency. The Redeveloper further recognizes that it is in reliance on such qualifications and identity that the City and Agency are entering into this Agreement with the Redeveloper and, in so doing, are further willing to accept and rely on the obligations of the Redeveloper for the faithful performance of all undertakings and covenants hereby by it to be performed. The Redeveloper has provided, to the Agency's consultant, UHY Advisors, such information, in such form, as the consultant reasonably requested, in order to enable the consultant to determine that the Redeveloper has the financial ability to complete the Project as contemplated by this Agreement, including without limitation, the names of members of the Redeveloper owning not less than seventy (70%) percent of the equity interest in the Redeveloper and its Affiliates. The Redeveloper agrees to update such information periodically and provide same exclusively to the Agency's consultant, if requested by the Agency. The consultant shall not disclose the identity of the members but shall have the right to disclose to the Agency if any or all of such members' equity interest in the Redeveloper or its Affiliates has been transferred. Any disclosure of investors or financial information shall be made pursuant to a reasonably acceptable confidentiality agreement.

Section 13.2 Transfer of Property and Assignment of Agreement.

A. For the reasons set forth in Section 13.1, the Redeveloper represents and agrees for itself, and its successors and assigns, that, prior to the completion of the Improvements, the Redeveloper (except as permitted pursuant to the terms of this Agreement) has not made or created, and that, without the prior written consent of the Agency (except as permitted by this Agreement) it will not, prior to the completion of the Improvements, make or create, or suffer to be made or created, any total or partial sale, assignment, conveyance, or lease or sublease, or any trust or power, or total or partial transfer in any other mode or form of or with respect to this Agreement or the Project Site, or any part thereof or any interest therein, or any contract or agreement to do any of the same.

B. Notwithstanding the foregoing provisions, it is specifically agreed by the Agency, the City and the Redeveloper that the following specified transfers, assignments, conveyances and/or encumbrances ("**Permitted Transfers**") shall be deemed not to be "transfers of real property by Redeveloper" requiring consent of the Agency (as set forth in Section 8-137(c) of the Statutes) and will be permitted without requiring the consent of the Agency (but the Agency shall receive notice of same) provided that they do not result in Kenneth Olson ceasing to have operational control of the management of the business affairs of Redeveloper and its Affiliates or Kenneth Olson and the members of the Redeveloper previously disclosed to the Agency's consultant, ceasing to own a seventy (70%) percent or greater equity interest in the Redeveloper and its Affiliates:

(i) transfers, by any Person who or which is a partner, member, shareholder or other beneficial owner of an interest either in Redeveloper or in any Person owning an interest in Redeveloper, of all or any portion of its ownership interest in Redeveloper or in such Person owning an interest in Redeveloper (a "**Transferor**") to any of (a) any other Person who or which is or may become a partner, member, shareholder or other beneficial owner of an interest in Redeveloper, or (b) any other Person who or which is a partner, member, shareholder or other beneficial owner of an interest in any Person, including the Transferor, owning an interest in Redeveloper, or (c) any family member of any such Person who or which is or may become a partner, member, shareholder or other beneficial owner described in the preceding clauses (a) or (b), any trust for the benefit of any such family member or any Person in which any such family member is a partner, member, shareholder or other beneficial owner, or (d) any Person who or which is a partner, member, shareholder or other beneficial owner of the Transferor and/or any family member of any such Person who or which is a partner, member, shareholder or other beneficial owner of the Transferor, or any trust for the benefit of any such family member or any Person in which any such family member is a partner, member, shareholder or other beneficial owner; or

(ii) transfers with respect to the Redeveloper's rights in this Agreement or of all or any portion of the Project Site (a) to any Affiliate of the Redeveloper, or (b) to any other Person in order to facilitate a lease, sale-leaseback, joint venture or similar transaction with a principal lessee, occupant or beneficial user of the Project Site, or (c) if Redeveloper or any Affiliate or permitted successor is a public company the stock of which is traded on a nationally recognized exchange, by virtue of any merger, recapitalization, reorganization, sale of assets or similar corporate transaction to which the Redeveloper or any of its Affiliates are a party, the purpose of which is to effectuate a *bona fide* business purpose, or (d) to a real estate syndicate, common interest ownership association or other form of ownership structure or regime for purposes, *inter alia*, of financing and/or development of various portions of the Project Site without necessity of subdividing the Project Property, or

(iii) transfers or encumbrances by way of security (subject to the applicable provisions of Article VI of Part II hereof) for (a) the purpose of obtaining financing or refinancing necessary and/or appropriate to enable the Redeveloper or any successor in interest to the Project Site, or any part thereof, to perform its obligations with respect to purchasing the Project Site and/or constructing and operating the Improvements under this Agreement, and (b) any other purposes authorized by this Agreement; or

(iv) ground leases or master leases of all or any portions of the Project, to facilitate financing and/or phasing of the development of the Project without need for subdivision of the Project Property; or

(v) mortgages, pledges or other security instruments encumbering the Project and/or Redeveloper's interest therein and/or interests in Redeveloper in order to

secure financing for the costs of acquisition, construction and development of the Project and for permanent financing thereof (subject to the applicable provisions of Article VI of Part II hereof).

C. In addition to the Permitted Transfers described in Section 13.2(B), it is agreed by the Agency, the City and the Redeveloper that:

(i) transfers not hereinabove specifically permitted of ownership interests in the Redeveloper and/or its Affiliates (and/or in Persons owning interests either (i) in Redeveloper and/or its Affiliates, and/or (ii) in the Persons comprising Redeveloper), shall be permitted subject to the consent of Agency, which consent will not be unreasonably withheld, delayed or conditioned, provided that Kenneth Olson and the members of the Redeveloper previously disclosed to the Agency's consultant, continue to own a seventy (70%) percent or greater equity interest in the Redeveloper and its Affiliates and Kenneth Olson shall continue to have control of the day-to-day management of the affairs of Redeveloper and/or its Affiliates or such other Persons comprising Redeveloper, or

(ii) prior to the issuance by the Agency of the Certificate of Completion provided for in Section 3.13 hereof as to the Improvements, the Redeveloper may enter into any agreement to sell, lease or otherwise transfer the Project Site or any part thereof or interest therein, to take place after the issuance of such Certificate of Completion, which agreement shall provide for no payment in excess of the costs theretofore incurred by Redeveloper in connection with the acquisition and development of the Project and the construction of the Improvements to be made to the Redeveloper on account of the purchase price for the Project Site, or the portion thereof (or interest in Redeveloper proposed to be transferred) prior to the issuance of such Certificate of Completion for the Improvements.

D. The prior written consent of the Agency will be required with respect to any transfer which is not a Permitted Transfer pursuant to Section 13.2(B), or otherwise permitted under Section 13.2(C). The granting or withholding of such consent shall be within the Agency's sole discretion, except that the Agency may not act arbitrarily, capriciously, in a discriminatory manner, or otherwise in contravention of law. In any event, the Agency shall not consent to a proposed transferee unless such proposed transferee (or the Person(s) having control thereof): (i) has sufficient experience, qualifications, reputation and financial responsibility, in the reasonable opinion of the Agency (in consultation with Agency's third party consultant), to perform the obligations required to be performed hereunder with respect to the Project, or with respect to the portion or Phase of the Project being acquired or in which the proposed transferee is acquiring an interest; (ii) shall be of good character and reputation, shall not have been convicted of a felony, and shall not be disqualified from engaging in contractual relationships with the Agency and/or the City by reason of any applicable Legal Requirements; and (iii) such proposed transferee, by instrument in writing reasonably satisfactory to the Agency and in form recordable among the land records, shall, for itself and its successors and assigns, and expressly for the benefit of the Agency and City, have

expressly assumed all of the obligations of the Redeveloper under this Agreement and agreed to be subject to all the conditions and restrictions to which the Redeveloper is subject (or, in the even the transfer is of or relates to part of the Project Site, 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 Site, or any part thereof, shall, whatever the reason, not have assumed such obligations or so agreed, shall not (unless and only to the extent otherwise specifically provided in this Agreement or agreed to in writing by the Agency) relieve or except such transferee or successor of or from such obligations, conditions, or restrictions, or deprive or limit the Agency of or with respect to any rights or remedies or controls with respect to the Project Site or the construction of the Improvements; 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, or change with respect to, ownership in the Project Site or any part hereof, or any interest therein, however, consummated or occurring, and whether voluntary or involuntary, shall operate, legally or practically, to deprive or limit the Agency of or with respect to any rights or remedies or controls provided in or resulting from this Agreement with respect to the Project Site and the construction of the Improvements that the Agency and the City would have had, had there been no such transfer or change. In connection with any transfers hereunder, the Redeveloper shall submit to the Agency for review such information and documentation that the Agency reasonably determines to be necessary to enable the Agency to determine whether such transfer complies with this Section 13.2(D).

E. Notwithstanding the foregoing, the Redeveloper may lease all or portions of the Improvements for occupancy and may receive rent in the ordinary course of business.

F. After completion of the Improvements, as evidenced by the issuance of a Certificate of Completion therefor, the consent of or disclosure to the Agency will not be required with respect to any assignment or transfer of any part of the Project constituting the completed Improvements.

G. Notwithstanding anything to the contrary in this Agreement, the parties acknowledge that Redeveloper expects to finance the Project through the use of low income housing tax credits and any transfer of an interest in the Project Site or Redeveloper necessary to accomplish such financing shall be deemed a Permitted Transfer, provided the Redeveloper delivers reasonable prior notice to the City and Agency of such financing.

Section 13.3 Information as to Ownership and Control.

The Redeveloper agrees that during the period between execution of this Agreement and completion of the Improvements as certified by the Agency in the manner provided in Section 3.13, the Redeveloper will promptly notify the Agency of any and all changes whatsoever or of any other act or transaction involving or resulting in any change, in the ownership or control of the Project Site and/or Redeveloper

ARTICLE XIV
PERIOD OF DURATION OF COVENANT ON USE

The covenant pertaining to the uses of the Project Property, set forth in Section 40l of Part II hereof, shall remain in effect from the Execution Date until July 13, 2024, unless extended by the Common Council. This covenant shall be a covenant running with the land and shall be binding upon the Redeveloper and Affiliates of the Redeveloper, and their successors and assigns. This covenant shall be included in any deed, lease or other instrument transferring any interests in the Project Property.

ARTICLE XV
NOTICES AND DEMANDS

A notice, demand, or other communications under this Agreement by any party shall be sent in writing to all the other parties, as follows:

A. In the case of the Redeveloper, c/o POKO Partners, LLC, 225 Westchester Avenue, Port Chester, New York 10573, Attention: Kenneth Olson, with a copy to Robinson & Cole, LLP, 695 East Main Street, Stamford, Connecticut 06904-2305, Attention: Steven L. Elbaum; or at such other address or to such other attorney with respect to such party as that party may, from time to time, designate in writing and forward to the other parties as provided in this Section.

B. In the case of the City, addressed to the Mayor at l25 East Avenue, P.O. Box 5125, Norwalk, Connecticut, 06856-5125, Attention: Mayor Richard A. Moccia, with a copy to Corporation Counsel at 125 East Avenue, P.O. Box 798, Norwalk, Connecticut 06856-0798, or at such other address with respect to such party as that party may, from time to time, designate in writing and forward to the other parties as provided in this Section.

C. In the case of the Agency, it is addressed to such party at 125 East Avenue, P.O. Box 5125, Norwalk, Connecticut 06856-5125, Attention: Executive Director, with a copy to DePanfilis & Vallerie, 25 Belden Avenue, Norwalk, Connecticut 06850, Attention: David W. Stergas.

D. In the case of any successor, assignee, transferee, or mortgagee of the Redeveloper and to any other party designated by the Redeveloper, addressed to such party at the last known address furnished in writing to the Agency and the City.

Notices shall be hand delivered, sent by reputable guaranteed overnight courier service with computerized tracking capabilities, or by time stamped facsimile transmission, followed the next Business Day by delivery from a reputable guaranteed overnight courier service with computerized tracking capabilities. Notices shall be deemed received upon receipt in the case of hand delivery and facsimile transmission (but only if confirmed by delivery the next Business Day from a reputable guaranteed overnight courier service with computerized tracking capabilities), and the next Business Day if sent by a reputable guaranteed overnight courier.

ARTICLE XVI
CITY AND AGENCY STATEMENTS AND NOTICES

Upon the Redeveloper's request from time to time, the Agency and the City shall provide statements addressed to actual or prospective lenders, tenants and purchasers, (a) stating whether this Agreement is in full force and effect, specifying the date of this Agreement and specifying the dates of any amendments to this Agreement; (b) describing with reasonable particularity any uncured defaults in the Redeveloper's obligations hereunder; and (c) providing such other statements regarding the status of this Agreement and performance hereunder (including without limitation statements about the status of specified conditions or obligations) as the Redeveloper may reasonably request.

ARTICLE XVII
INSURANCE

Section 17.1 As used in this Article XVII, the term **"Redeveloper"** shall also include its respective agents, representatives, employees or subcontractors; and the term **"City"** shall include its officers, agents, officials, employees, volunteers, boards and commissions.

Section 17.2 Minimum Scope and Limits of Insurance:

Worker's Compensation Insurance: With respect to all operations the Redeveloper performs the Redeveloper shall carry worker's compensation insurance in accordance with the requirements of the laws of the State of Connecticut. The Redeveloper shall carry employers liability limits of $100,000 each accident and $100,000 each employee by disease and $500,000 policy limit disease.

Commercial General Liability: With respect to all operations the Redeveloper performs the Redeveloper shall carry Commercial General Liability insurance providing for a total limit of one million dollars ($1,000,000) per occurrence for each job site or location for all damages arising out of bodily injury, personal injury, property damage, products/completed operations, and contractual liability coverage for the indemnification provided under this contract. Each annual aggregate limit shall not be less than $2,000,000.

Automobile Liability: With respect to any owned, non-owned, or hired vehicles the Redeveloper shall carry Automobile Liability insurance providing one million dollars ($1,000,000) per accident for bodily injury and property damage.

Acceptability of Insurers: The Redeveloper's policies shall be written by insurance companies licensed to do business in the State of Connecticut, with an AM Best rating of A-VII, or otherwise acceptable by the City's Risk Manager.

Subcontractors: The Redeveloper shall require subcontractors to provide the same "minimum scope and limits of insurance" as required herein. All Certificates of Insurance shall be provided to Corporation Counsel's office as required herein.

Aggregate Limits: Any aggregate limits must be declared to and approved by the City. It is agreed that the Redeveloper shall notify the City when fifty percent (50%) of the aggregate limits are eroded during the contract term. If the aggregate limit is eroded for the full limit, the Redeveloper agrees to reinstate or purchase additional limits to meet the minimum limit requirements stated herein. The premium shall be paid by the Redeveloper.

Deductibles and Self-Insured Retentions: Any deductible or self-insured retentions must be declared to and approved by the City. All deductibles or self-insured retentions are the sole responsibility of the Redeveloper to pay and/or to indemnify.

Notice of Cancellation or Nonrenewal: Each insurance policy required shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in coverage or in limits except after 30 days prior written notice by certified mail, return receipt requested, has been given to the City.

Waiver of Governmental Immunity: Unless requested otherwise by the City, the Redeveloper and its insurer shall waive governmental immunity as a defense and shall not use the defense of governmental immunity in the adjustment of claims or in the defense of any suit brought against the City.

Additional Insured: The liability insurance coverage, except Workers Compensation, required for the performance of the Contract shall include the City as Additional Insured but only with respect to the Redeveloper's activities to be performed under this Agreement. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

Certificate of Insurance: As evidence of the insurance coverage required by this Agreement, the Redeveloper shall furnish certificate(s) of insurance to Corporation Counsel's Office prior to the award of the contract if required by the bid document, but in all events prior to Redeveloper's commencement of work under this Agreement. The Certificate(s) will specify all parties who are endorsed on the policy as Additional Insureds (or Loss Payees). The certificates and endorsements for each insurance policy are to be signed by a person authorized by the insurer to bind coverage on its behalf.

Renewals of expiring certificates shall be filed thirty (30) days prior to expiration. The City reserves the right to require complete, certified copies of all required policies at any time.

All insurance documents required should be mailed to The City of Norwalk, Corporation Counsel, 125 East Avenue, Norwalk, Connecticut 06851-5125.

Waiver of Requirements: The Corporation Counsel, may vary the requirements at Corporation Counsel's sole discretion; if Corporation Counsel determines that the City's interests will be adequately protected without meeting all stated requirements.

Section 17.3 In the event the Redeveloper at any time refuses, neglects, or fails to secure and maintain in full force and effect any or all of the insurance required pursuant to this Agreement, the City, at its option, after five (5) Business Days notice to the Redeveloper and if Redeveloper does not procure same or provide evidence of same within said period, may procure or renew such insurance; and all amounts of money paid therefor by the City shall be payable by the Redeveloper to the City within ten (10) Business Days after written notice, with interest thereon at the rate of ten percent (10%) per annum from the date the same were paid by the City to the date of payment thereof by the Redeveloper. The City shall notify the Redeveloper in writing of the date, purposes, and amounts of any such payments made by it.

ARTICLE XVIII
MEDIATION/ARBITRATION

Section 18.1 Mediation. The parties hereto shall reasonably attempt to resolve any dispute arising between the parties hereto concerning any matter of performance under, or interpretation or breach of, this Agreement, by mediation in Norwalk, Connecticut in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect or as otherwise agreed by the parties hereto. Request for mediation by a party shall be filed in writing with the other party and with the American Arbitration Association. The request may be made concurrently with the filing of a demand for arbitration, but in such event, the mediation shall proceed in advance of such arbitration, which shall be stayed pending mediation for a period of fourteen (14) days from the date of filing, unless otherwise agreed to by the parties or for such longer period provided by court order. The parties shall each pay one-half of the mediator's fee and filing fees. The mediator with respect to any construction or design matter shall have at least ten years' experience in the construction industry and at least six years' experience as a mediator in cases involving complex construction. Both parties shall each have a representative present at the mediation who has authority to bind it to a written settlement agreement subject to the requirements and limitations of the charter and ordinances of the City. Positions and statements made by any party during mediation may not be used against it in later proceedings if the parties fail to reach a settlement agreement during mediation. Agreements reached in any mediation proceeding shall be enforceable as settlement agreements in any court having jurisdiction thereof. In no event

shall any mediator be permitted to serve as an arbitrator for that or any other dispute that is not resolved pursuant to mediation, unless agreed to by both parties.

Section 18.2 Arbitration. In the event the parties do not agree to or cannot resolve such dispute through mediation as provided in Section 18.1, such dispute shall be settled by arbitration in Norwalk, Connecticut, which arbitration, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect (including the applicable procedures referenced below). Either party may serve upon the other party a written notice demanding that the dispute be resolved pursuant to this Article XVIII. Within ten (10) days after the giving of the above mentioned notice, each of the parties hereto shall nominate and appoint an arbitrator and shall notify the other party in writing of the name and address of the arbitrator so chosen. Upon the appointment of the two arbitrators as hereinabove provided, said two arbitrators shall forthwith, and within ten (10) days after the appointment of the second arbitrator, and before exchanging views as to the question at issue appoint in writing a third arbitrator and give written notice of such appointment to each of the parties hereto. In the event that the two arbitrators shall fail to appoint or agree upon such third arbitrator within said ten (10) day period, a third arbitrator shall be selected by the parties themselves if they so agree upon a third arbitrator within a further period of ten (10) days. If any arbitrator shall not be appointed or agreed upon within the time herein provided, then either party on behalf of both may request such appointment by the American Arbitration Association (or a successor or similar organization if the American Arbitration Association is no longer in existence). Said arbitrators shall be sworn faithfully and fairly to determine the question at issue. The three arbitrators shall each be duly qualified in the subject matter of the dispute under arbitration and shall afford to the parties the privilege of cross-examination, on the question at issue, and shall, with all possible speed (and, if no time period is specified in the applicable procedures referenced below, within 60 days after appointment of the third arbitrator unless otherwise agreed to by the parties) , make their determination in writing and shall give notice to the parties hereto of such determination. The concurring determination of any two of said three arbitrators shall be binding upon the parties hereto, or, in case no two of the arbitrators shall render a concurring determination, then the determination of the third arbitrator appointed shall be binding upon the parties hereto. Each party shall pay the fees of the arbitrator appointed by it, and the fees of the third arbitrator shall be divided equally between the parties. In the event that any arbitrator appointed as aforesaid shall thereafter die or become unable or unwilling to act, his or her successor shall be appointed in the same manner provided in this Article XVIII for the appointment of the arbitrator so dying or becoming unable or unwilling to act. Any Mortgagee may appear and participate in said arbitration proceedings. The foregoing agreement to arbitrate shall be specifically enforceable under applicable law in any court of competent jurisdiction. Each of the parties waive all objections to joinder of the other party as a party to any mediation, arbitration or litigation related to this Project in which the other party is joined or is otherwise positioned as a party and in which its conduct or its performance under this Agreement is in any way relevant to the subject of a dispute. Each party shall obtain a similar waiver from all their respective design professionals, contractors, construction managers and subcontractors that work on the Project. Notwithstanding anything to the contrary contained in the Construction Industry

Arbitration Rules of the American Arbitration Association, the (a) Fast Track procedures shall apply in any case in which no party's total disclosed claim or counterclaim exceeds $250,000, (b) the Regular Track procedures shall apply in any case in which any party's total disclosed claim or counterclaim exceeds $250,000, and (c) the Large, Complex Construction Case Track procedures shall apply in any case in which any party's total disclosed claim or counterclaim exceeds $1,000,000.

ARTICLE XIX
DEFAULTS AND REMEDIES; TERMINATION

Section 19.1 Event of Default.

For purposes of this Agreement, an **"Event of Default"** shall mean a "Redeveloper Default" or "City Default" (as those terms are hereinafter defined) as the context may require.

Section 19.2. City and Agency .

For purposes of this Article and Article XVIII hereof, (i) the City shall not be deemed to be aggrieved by any default of the Agency and may not exercise any remedies against the Agency by reason of a default by the Agency; and (ii) the Agency shall not be deemed to be aggrieved by any default of the City and may not exercise any remedies against the City by reason of a default by the City.

Section 19.3 Default by Redeveloper. The occurrence of any one or more of the following, beyond any applicable notice and cure period, shall constitute a "**Redeveloper Default**" as that term is used in this Agreement:

A. Any transfer by the Redeveloper in violation of Section 13.2;

B. If any warranty or representation of the Redeveloper contained in this Agreement is materially untrue as of the date made;

C. The Redeveloper shall cease doing business as a going concern, make an assignment for the benefit of its creditors, admit in writing its inability to pay its debts as they become due, file a petition commencing a voluntary case under any chapter of the Bankruptcy Code, 11 U.S.C. § 101 *et seq*. (the "Bankruptcy Code"), file a petition seeking for itself any reorganization, composition, readjustment, liquidation, dissolution or similar arrangement under the Bankruptcy Code or any other present or future law or regulation; or files an answer admitting the material allegations of a petition filed against it in any such proceeding, consents to the filing of such a petition or acquiesces in the appointment of a trustee, receiver, custodian or other similar official for the Redeveloper or of all or substantially all of the Developer's assets or properties, or institutes any proceeding for the dissolution or liquidation of the Developer; a case, proceeding or other action shall be instituted against the Developer, seeking the entry of an order for relief against the Developer, to adjudicate the Developer

as a bankrupt or insolvent, or seeking reorganization, arrangement, readjustment, liquidation, dissolution or similar relief against the Developer under the Bankruptcy Code or other present or future rule or regulation, which case, proceeding or other action either results in the entry or issuance of any other order or judgment having a similar effect or remains undismissed for sixty (60) days, or within sixty (60) days after the appointment, without the Developer's consent or acquiescence, of any trustee, receiver, custodian or other similar official for Developer or for all or any substantial part of the Developer's assets and properties, such appointment shall not be vacated; or

D. The failure, on or before the applicable deadline therefor set forth in this Agreement with respect thereto, to commence or complete (as evidenced by a Certificate of Completion) any Improvement required to be completed by the Redeveloper under the terms of this Agreement, and the failure to cure such default within thirty (30) Business Days after notice thereof by the City or Agency to the Redeveloper, and each Mortgagee (in accordance with Section 603 of Part II hereof), provided that if such default cannot reasonably be cured within such thirty (30) Business Day time period, then the Redeveloper shall have such additional time as may be reasonably necessary to cure such failure and no Redeveloper Default shall be deemed to exist hereunder so long as the Redeveloper commences such cure within the initial thirty (30) Business Day period and diligently and in good faith pursues such cure to completion within ninety (90) Business Days after expiration of such thirty (30) Business Day period.

E. The default by the Redeveloper of any other material provision of this Agreement and the failure by the Redeveloper to cure such default within thirty (30) Business Days after notice thereof by the City or Agency to the Redeveloper, provided that if such default cannot reasonably be cured within such thirty (30) Business Day time period, then the Redeveloper shall have an additional sixty (60) Business Day period to cure such failure and no Redeveloper Default shall be deemed to exist hereunder so long as the Redeveloper commences such cure within the initial thirty (30) Business Day period and diligently and in good faith pursues such cure to completion within sixty (60) Business Days after expiration of such thirty (30) Business Day period.

Section 19.4 Remedies for Redeveloper Default. Subject to the terms and conditions of Section 604 of Part II hereof, during the existence of any Redeveloper Default, the City and/or Agency may pursue any of the following remedies:

A. With respect to any Redeveloper Default described in Section 19.3(B), the City and/or the Agency shall be entitled to recover from the Redeveloper any and all actual damages, including reasonable attorney's fees incurred by the City and Agency, arising out of or resulting from such default.

B. With respect to a Redeveloper Default described in Section 19.3(A), (C), (D), and (E), the City and/or Agency may pursue any one or more of the following remedies, it being the intent hereof that none of such remedies shall be to the exclusion of any other; provided, however, that any such right shall not apply to individual parts or parcels of the Project Property or any other Project Property (or, in the

case of parts or Project Property leased, to the leasehold interests) for which a Certificate of Completion has been issued as provided in this Agreement:

(i) If the applicable Project Property was acquired from the City or Agency, terminate the estate held by the Redeveloper in the applicable Project Property by exercising the Agency's Right of Re-Entry in accordance with Section 19.10 hereof;

(ii) Pursue an action for specific performance of the Redeveloper's obligations under this Agreement;

(iii) Pursue an action for any and all actual damages incurred by or asserted against the City or Agency as a result of the Redeveloper Default; and

(iv) Terminate the City's and Agency's obligations under this Agreement.

In the event of the exercise of the Agency's Right of Re-Entry, the parties agree to cooperate with each other in good faith to release and/or modify any easement that is no longer applicable (in the context of the rights exercised by the Agency, the rights of any Mortgagee and the development and continued operation of the Project Property and any Improvements located or to be located thereon).

Section 19.5 Default by City. The occurrence of any one or more of the following, beyond any applicable notice and cure period, shall constitute a "**City Default**" as that term is used in this Agreement:

A. If any warranty or representation of the City contained in this Agreement is materially untrue as of the date made;

B. The default by the City of any other provision of this Agreement, and the failure by the City to cure such default within thirty (30) Business Days after notice thereof by the Redeveloper to the City, provided that if such default cannot reasonably be cured within such thirty (30) Business Day time period, then the City shall have an additional sixty (60) Business Day period to cure such failure and no City Default shall be deemed to exist hereunder so long as the City commences such cure within the initial thirty (30) Business Day period and diligently and in good faith pursues such cure to completion within such resulting ninety (90) Business Day period from the date of the Redeveloper's notice;

C. The City shall commence a voluntary case concerning the City under Title 11 of the United States Code entitled "Bankruptcy" as now or hereafter in effect, or any successor thereto or any other present or future bankruptcy or insolvency statute (the Bankruptcy Code); or the City commences any other proceedings under any reorganization, arrangement, readjustment of debt, relief of debtors, dissolution, insolvency or liquidation or similar law of any jurisdiction whether now or hereafter in effect relating to the City; or there is commenced against the City any such proceeding which remains undismissed or unstayed for a period of ninety (90) days; or the City fails

to controvert in a timely manner any such case any such proceeding, or any order approving any such proceeding is entered; or the City by any act or failure to act indicates its consent to, approval of, or acquiescence in any proceeding or the appointment of any custodian or the like of or for it for any substantial part of its property or suffers any such appointment to continue undischarged or unstayed for a period of ninety (90) days.

Section 19.6 Remedies for City Default. Upon the occurrence of any City Default, the Redeveloper may pursue the following remedies:

A. With respect to a City Default described in Section 19.5(A), the Redeveloper shall be entitled to recover from the City any and all actual damages, including reasonable attorneys' fees incurred by the Redeveloper, arising out of or resulting from the breach of such representation or warranty.

B. With respect to a City Default described in Section 19.5(B) or (C), the Redeveloper may pursue any one or more of the following remedies concurrently or successively, it being the intent hereof that none of such remedies shall be to the exclusion of any other:

(i) Pursue an action for specific performance of the City's obligations under this Agreement;

(ii) Pursue an action for any and all actual damages incurred by or asserted against the Developer as a result of the City Default; and

(iii) Exercise or pursue any other remedy or cause of action permitted under this Agreement or conferred upon the Redeveloper at law or in equity.

Section 19.7 Default by Agency. The occurrence of any one or more of the following, beyond any applicable notice and cure period, shall constitute a "**Agency Default**" as that term is used in this Agreement:

A. If any warranty or representation of the Agency contained in this Agreement is materially untrue as of the date made;

B. The default by the Agency of any other provision of this Agreement, and the failure by the Agency to cure such default within thirty (30) Business Days after notice thereof by the Redeveloper to the Agency, provided that if such default cannot reasonably be cured within such thirty (30) Business Day time period, then the Agency shall have an additional sixty (60) Business Day period to cure such failure and no Agency Default shall be deemed to exist hereunder so long as the Agency commences such cure within the initial thirty (30) Business Day period and diligently and in good faith pursues such cure to completion within such resulting ninety (90) Business Day period from the date of the Redeveloper's notice;

C. The Agency shall commence a voluntary case concerning the Agency under Title 11 of the United States Code entitled "Bankruptcy" as now or hereafter in effect, or any successor thereto or any other present or future bankruptcy or

insolvency statute (the Bankruptcy Code); or the Agency commences any other proceedings under any reorganization, arrangement, readjustment of debt, relief of debtors, dissolution, insolvency or liquidation or similar law of any jurisdiction whether now or hereafter in effect relating to the Agency; or there is commenced against the Agency any such proceeding which remains undismissed or unstayed for a period of ninety (90) days; or the Agency fails to controvert in a timely manner any such case any such proceeding, or any order approving any such proceeding is entered; or the Agency by any act or failure to act indicates its consent to, approval of, or acquiescence in any proceeding or the appointment of any custodian or the like of or for it for any substantial part of its property or suffers any such appointment to continue undischarged or unstayed for a period of ninety (90) days.

Section 19.8 Remedies for Agency Default. Upon the occurrence of any Agency Default, the Redeveloper may pursue the following remedies:

A. With respect to a Agency Default described in Section 19.7(A), the Redeveloper shall be entitled to recover from the Agency any and all actual damages, including reasonable attorneys' fees incurred by the Redeveloper, arising out of or resulting from the breach of such representation or warranty.

B. With respect to a Agency Default described in Section 19.7(B) or (C), the Redeveloper may pursue any one or more of the following remedies concurrently or successively, it being the intent hereof that none of such remedies shall be to the exclusion of any other:

(iv) Pursue an action for specific performance of the Agency's obligations under this Agreement;

(v) Pursue an action for any and all actual damages incurred by or asserted against the Developer as a result of the Agency Default; and

(vi) Exercise or pursue any other remedy or cause of action permitted under this Agreement or conferred upon the Redeveloper at law or in equity.

Section 19.9 Time is of the Essence.

The parties hereto recognize that time is of the essence with respect to the dates in this Agreement.

Section 19.10 Revesting Title in Agency Upon Happening of Event Subsequent to Conveyance to Redeveloper.

A. In the event that subsequent to conveyance of the Isaacs Street Municipal Parking Lot and/or the Leonard Street Municipal Parking Lot or any part thereof from the Agency to the Redeveloper and prior to completion of the Improvements on such parcel(s) as certified by the Agency, the Redeveloper (or successor in interest) shall cause or permit an Event of Default to occur, then the Agency shall have the right to re-enter and take possession of the Isaacs Street Municipal Parking Lot and/or the

Leonard Street Municipal Parking Lot and to terminate (and revest in the Agency) the estate conveyed to the Redeveloper, it being the intent of this provision, together with other provisions of the Agreement, that the conveyance of the Property to the Redeveloper shall be made upon, and that the Isaacs Street Municipal Parking Lot Deed and the Leonard Street Municipal Parking Lot Deed shall contain, a condition subsequent to the effect that upon an Event of Default by the Redeveloper under this Agreement, the Agency at its option may declare a termination in favor of the Agency of the title, and of all the rights and interests in and to the Property conveyed by the Isaacs Street Municipal Parking Lot Deed and the Leonard Street Municipal Parking Lot Deed to the Redeveloper, and that such title and all rights and interests of the Redeveloper, and any assigns or successors in interest to and in the Isaacs Street Municipal Parking Lot and Leonard Street Municipal Parking Lot, shall revert to the Agency: Provided, that such condition subsequent and any revesting of title as a result thereof in the Agency:

(i) Shall always be subject to and limited by, and shall not defeat, render invalid, or limit in any way, (i) the lien of any mortgage authorized by the Agreement, and (ii) any rights or interests provided in the Agreement for the protection of the holders of such mortgages; and

(ii) Shall not apply to individual parts or parcels of the Property (or, in the case of parts or parcels leased, the leasehold interest) on which the Improvements to be constructed thereon have been completed in accordance with the Agreement and for which a Certificate of Completion is issued therefore as provided in Section 3.13 hereof.

In addition to, and without in any way limiting the Agency's right to reentry as provided for in the preceding sentence, the Agency shall have the right to retain the Security Deposit without any deduction, offset or recoupment whatsoever, in the event of a default, violation or failure of the Redeveloper as specified in the preceding sentence.

B. Upon the revesting in the Agency of title to the Property or any part thereof as provided in Section 19.10(A) hereof, the Agency shall, pursuant to its responsibilities under State law, use its best efforts to resell the Property or part thereof (subject to such mortgage liens and leasehold interests as in Section 19.10(A) set forth and provided) as soon and in such manner as the Agency shall find feasible and consistent with the objectives of such law and of the Redevelopment Plan to a qualified and responsible party or parties (as determined by the Agency) who will assume the obligation of making or completing the Improvements or such other improvements in their stead as shall be satisfactory to the Agency and in accordance with the uses specified for such Property or part thereof in the Redevelopment Plan. Upon such resale of the Property, the proceeds thereof, after first satisfying any encumbrances on the Property which constitute permitted encumbrances in accordance with Section 601 of Part II hereof, shall be applied:

(i) First, to reimburse the Agency, on its own behalf or on behalf of the City, for all costs and expenses incurred by the Agency, including but not limited to salaries of personnel, in connection with the recapture, management, and resale of the

Property or part thereof (but less any income derived by the Agency from the Property or part thereof in connection with such management); all taxes, assessments, and water and sewer charges with respect to the Property or part thereof (or, in the event the Property is exempt from taxation or assessment on such charges during the period of ownership thereof by the Agency, an amount, if paid, equal to such taxes, assessments, or charges (as determined by the City assessing official) as would have been payable if the Property were not so exempt); any payments made or necessary to be made to discharge any encumbrances or liens existing on the Property or part thereof at the time of revesting of title thereto in the Agency or to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults, or acts of the Redeveloper, its successors or transferees; any expenditures made or obligations incurred with respect to the making or completion of the Improvements or any part thereof on the Property or part thereof; and any amounts otherwise owing the Agency by the Redeveloper and its successor or transferee; and

(ii) Second, to reimburse the Redeveloper, its successor or transferee, up to the amount equal to (1) the sum of the purchase price paid by it for the Property (or allocable, to the part thereof) and the cash actually invested by it in making any of the Improvements on the Property or part thereof, less (2) any gains or income withdrawn or made by it from the Agreement or the Property.

Any balance remaining after such reimbursements shall be retained by the Agency as its property.

C. The Agency shall have the right to institute such actions or proceedings as it may deem desirable for effectuating the purposes of this Section 19.10, including also the right to execute and record or file among the Norwalk public land records, a written declaration of the termination of all the right, title, and interest of the Redeveloper, and (except for such individual parts or parcels upon which construction of that part of the Improvements required to be constructed thereon has been completed, in accordance with the Agreement, and for which a Certificate of Completion as provided in Section 3.13 hereof is to be delivered, and subject to such mortgage liens and leasehold interests as provided in Section 19.10(A) hereof) its successors in interest and assigns, in the Property, and the revesting of title thereto in the Agency: Provided, That any delay by the Agency in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this Section 19.10 shall not operate as a waiver of such rights or to deprive it of or limit such rights in any way [it being the intent of this provision that the Agency should not be constrained (so as to avoid the risk of being deprived of or limited in the exercise of the remedy provided in this Section because of concepts of waiver, laches, or otherwise) to exercise such remedy at a time when it may still hope otherwise to resolve the problems created by the default involved]; nor shall any waiver in fact made by the Agency with respect to any specific default by the Redeveloper under this Section be considered or treated as a waiver of the rights of the Agency with respect to any other defaults by the Redeveloper under this Section or with respect to the particular default except to the extent specifically waived in writing.

Section 19.11. Force Majeure; Delay in Performance for Causes Beyond Control of Party.

For purposes of any of the provisions of this Agreement, neither the Agency nor the City nor the Redeveloper or any successor in interest, transferee, or assignee of the Redeveloper shall be considered in breach of, or default in, any of its obligations under this Agreement in the event and to the extent of (i) unforeseeable delay in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence and due to the consequential effects of such causes, including but not limited to, acts of God, acts of the public enemy, acts (including failures to act and delays) of any governmental employee, agency, or body (other than, as to the Agency or City, the Agency or the City), acts (including failure to act and delays) of the other party, fires, floods, epidemics, riot or civil disorder, quarantine restrictions, strikes, or other labor disputes, embargoes, reasonable delays in the performance of construction by contractors, and/or unusually severe weather which affects the required performance hereunder; or (ii) any unanticipated environmental conditions at the Project Site; it being the purpose and intent of this provision that in the event of the occurrence of any such delay, the time or times for performance of the obligations in this Agreement shall be extended for the period of such delay provided that the party seeking the benefit of the provisions of this paragraph shall, within ten (10) days after the beginning of such delay (or within ten (10) days after it becomes aware of such delay), notify the other party thereof in writing. With respect to any delay in completion or progress of construction of the Project, the Architect shall certify in said writing as to the (a) anticipated duration of the delay, (b) the reasons for the delay, and (c) the effect of the delay on the completion of the Improvements. In the event the Agency directs that the Improvements in any Phase be modified or reconstructed for failure by the Redeveloper to conform in all material respects to the approved Construction Documents for such Phase or approved modifications thereof, such directive shall not be a ground for the extension of time limits of construction of the Project.

Section 19.12 No Fault Termination In Certain Circumstances.

In the event of the termination of this Agreement by any party pursuant to any of the no-fault termination provisions of this Agreement (e.g., Section 23.1) and provided that no Event of Default by any party has occurred and is continuing and that no party hereto is then alleged to be in breach or default hereunder, then any such termination shall be deemed to be a termination without fault of any party and, in the case of any such termination, the following provisions shall apply:

A. The Redeveloper shall reimburse the City and Agency for all of their Acquisition Expenses incurred as of the date of termination, including all Acquisition Expenses incurred prior to such termination and all Acquisition Expenses that as of the date of such termination the City or Agency is obligated to pay in the future because of (a) contracts entered into or obligations incurred in accordance with this Agreement prior to the date of termination, (b) judicial awards or decisions rendered prior or subsequent to the date of termination in eminent domain proceedings commenced prior

to the date of termination in connection with the acquisition of Acquisition Property in accordance with Article VII, and

B. The Agency and City shall convey to the Redeveloper or its designee in accordance with Article IX all property acquired by the City and Agency pursuant to Article VII prior to or subsequent to the date of termination for which the Redeveloper theretofore has reimbursed or thereafter reimburses the Agency for all Acquisition Expenses.

C. The Redeveloper shall reconvey to the Agency and/or the City any portion of the Project Property owned by the City or Agency on the Execution Date which had been conveyed to the Redeveloper prior to the date of such termination, specifically including without limitation, the Municipal Parking Lot and the portion of Isaacs Street which was to be abandoned by the City in accordance with the terms of this Agreement. Such Project Property shall be conveyed to the City free and clear of all liens and encumbrances other than those to which such property was subject at the time it was conveyed or abandoned to the Redeveloper by the Agency and/or the City.

Anything herein to the contrary notwithstanding, any notice given pursuant to this Section 19.12 shall be effective only upon actual receipt by the party to whom such notice is to be given or such Person's authorized agent. Except for the obligations of the parties hereto set forth or referred to in this Section 19.12, which obligations shall survive termination of this Agreement, and except for other obligations set forth in this Agreement which by their terms survive such termination, upon a termination in accordance with this Section 19.12, this Agreement will no longer be of force or effect and the parties hereto shall have no other obligation to each other pursuant hereto.

ARTICLE XX
DISADVANTAGED BUSINESS ENTERPRISES

Section 20.1. General Purpose Statement.

The Redeveloper, Agency and City recognize that the Norwalk business community has a significant number of disadvantaged small businesses that, if permitted to participate in the construction of the Project contemplated by this Agreement, would benefit both the businesses themselves and the Norwalk community at large. Therefore, the Agency and City shall require and the Redeveloper has agreed to use good faith efforts to utilize disadvantaged small businesses, with an emphasis on those located in the Norwalk community, in the construction of the Project.

Section 20.2. Definitions.

A. "Disadvantaged Business Enterprise" **"DBE"** means a small business concern:

1. That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock of which is owned by one or more such individuals; and

2. Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

B. **"Good Faith Efforts"** means efforts to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement. Refer to Appendix A of 49 Code of Federal Regulation **("CFR")** Part 26 – "Guidance Concerning Good Faith Efforts," a copy of which is attached hereto as **Exhibit J** and made a part hereof, for guidance as to what constitutes good faith efforts.

C. **"Small Business Concern"** means, with respect to firms seeking to participate as DBE's in the Project, a small business concern as defined pursuant to Section 3 of the Small Business Act and Small Business Administration **("SBA")** regulations implementing it (13 CFR Part 121) that also does not exceed the cap on average annual gross receipts specified in 49 CFR Part 26, Section 26.65(b).

D. **"Socially and Economically Disadvantaged Individuals"** means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:

1. **"Black Americans,"** which includes persons having origins in any of the Black racial groups of Africa;

2. **"Hispanic Americans,"** which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

3. **"Native Americans,"** which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;

4. **"Asian-Pacific Americans,"** which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kirbati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;

5. **"Subcontinent Asian Americans,"** which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;

6. Women;

7. Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

Section 20.3 Requirements.

The Redeveloper agrees that certified DBE's will have an opportunity to compete for contract work in connection with construction of the Project, particularly by arranging solicitations and time for preparation of proposals for services to be provided so as to facilitate the participation of DBE's. The Redeveloper's goal hereunder shall be to have ten (10) percent of the total value of the cost of the Project performed by DBE's, and the Redeveloper agrees to use Good Faith Efforts to attain such goal. The Redeveloper shall cooperate with the Agency and City (acting through its Human Relations Commission) in implementing the requirements concerning DBE utilization under this Agreement, including without limitation, providing such information and/or data that the Agency and the Human Relations Commission may reasonably request in order to determine if the Redeveloper is using Good Faith Efforts to attain the stated goal of utilization of DBE's to perform ten (10) percent of the work, and failure of the Redeveloper to provide such information and/or data or to use Good Faith Efforts to attain such goal shall be a material breach of this Agreement.

ARTICLE XXI
REDEVELOPER'S AGREEMENT

The Redeveloper hereby consents to the implementation of, will not oppose, and will not be deemed to be "affected" by (within the meaning of Connecticut General Statutes Section 8-136), and will not unreasonably withhold, delay or condition its consent to, any amendments and/or modifications to the Redevelopment Plan and/or the Norwalk Zoning Regulations and/or any and all Legal Requirements as may be proposed by the "redevelopers" of other Development Parcels within the Project Area pursuant to any land disposition and/or development agreements by and among the City of Norwalk, Connecticut, the Norwalk Redevelopment Agency and such other redevelopers, with the support of the Agency, to facilitate the development of such other Development Parcels in accordance with the aforementioned Land Disposition and/or Development Agreements. Notwithstanding the foregoing paragraph, the Redeveloper shall not be required to consent to any of the aforementioned proposed amendments and/or modifications which will have a material adverse economic effect on Development Parcel 2a.

The Agency and the City agree that the same provision shall be added to all other Land Disposition Agreements and Development Agreements in the Project Area.

ARTICLE XXII
SPECIAL SERVICES DISTRICT

In recognition of the call for a Special Services District in the Redevelopment Plan, the Redeveloper recognizes the need for a Special Services District and supports in concept the implementation of a Special Services District in the Wall Street area, in Norwalk, Connecticut, and will not unreasonably withhold, delay or condition its approval to the creation of a Special Services District.

ARTICLE XXIII
REDEVELOPMENT PLAN

Section 23.1 Status of Redevelopment Plan and Agreement; Agency & City Covenants to Defend Redevelopment Plan and Agreement.

The Agency and the City represent to Redeveloper that to the best of their knowledge, the Redevelopment Plan and this Agreement have been duly and validly reviewed, approved and adopted by all requisite action on the part of the Agency and the Common Council and by any and all other Governmental Authorities having jurisdiction thereof. The only effect of a breach of this representation by either the Agency or the City shall be that the Agency and the City shall be required, at City's sole cost, to promptly take any and all actions necessary or appropriate to re-approve, re-adopt, re-authorize and/or re-execute the Redevelopment Plan and/or this Agreement, and to defend the Redevelopment Plan and/or this Agreement and the validity thereof, and the validity of any and all approvals thereof and of any and all actions taken in pursuit of the implementation of the Redevelopment Plan and/or this Agreement, against Legal Challenges of any nature by any and all Persons whatsoever, and, to the extent not prohibited by law, to allow the Redeveloper's legal counsel to have Meaningful Participation in the City's and Agency's defenses of such Legal Challenges (and the Redeveloper shall have no action for damages as a result of such a breach). The Redeveloper covenants and agrees, at its cost, to assist and to cooperate with the City and the Agency in the defense of any and all Legal Challenges to the Redevelopment Plan and/or this Agreement and/or the approvals thereof and/or the actions taken hereunder. In the event that any Legal Challenge to the Redevelopment Plan and/or this Agreement and the validity thereof, and/or the validity of any and all approvals thereof and of any and all actions taken in pursuit of the implementation of the Redevelopment Plan and/or this Agreement shall result in a final decision, by a court of competent jurisdiction, after all appeals, adversely to the interests of the City, the Agency and the Redeveloper and invalidating the Redevelopment Plan and/or this Agreement and/or any essential actions taken in pursuit of the implementation of either, and if there shall be no other legal, political or other action or proceeding available to re-approve, re-adopt, re-authorize and/or re-execute the Redevelopment Plan and/or this Agreement and/or such implementing action in a manner which will shield it from the adverse effect of such

final, judicial decision, then either the Redeveloper or the City and the Agency may terminate this Agreement on a no-fault basis, per Section 19.10 hereof, by written notice to the other parties. In the event of such a no-fault termination, no party shall have any claim or right of action against any other party solely by reason of such termination but may pursue any breach by a party of any other obligations under this Agreement. Provided that no Event of Default by Redeveloper has occurred and is then continuing, and further provided that the Agency and the City have been reimbursed by the Redeveloper for all Acquisition Expenses incurred by them in accordance with this Agreement, the Agency, within three (3) Business Days after its receipt or giving of such notice of termination, shall return to the Redeveloper all sums then on deposit in the Security Account and/or in the Project Operating Account, or in any other account held by the Agency for the benefit of the Redeveloper and/or the Project (and the City agrees to cause the Agency to return said sums), and, upon such refund, this Agreement shall be null, void and of no further force or effect, except that the Redeveloper shall remain obligated to pay Acquisition Expenses theretofore incurred and that any indemnities which are so stated to survive termination hereof shall so survive. In the event that the City and/or the Agency have not then been reimbursed for all Acquisition Expenses, the Agency may hold back an amount sufficient to cover such reimbursed Acquisition Expenses and shall refund the balance to Redeveloper.

23.2 Amendment of Redevelopment Plan.

The Agency and City will prepare and submit, and pursue approval and adoption of the proposed amendments to the Redevelopment Plan attached hereto as **Exhibit K** and made a part hereof.

23.3 Zoning.

The Agency agrees to support the Redeveloper in seeking such amendments to the Zoning Regulations as may be required to complete the Project as contemplated by the Conceptual Master Site Plan. The Agency's efforts under this paragraph will be undertaken in good faith, but the parties acknowledge that the required approvals are within the discretion of the Norwalk Zoning Commission, which is not bound by the Agency's covenants herein, and the failure to obtain such approval shall not constitute a default by the Agency hereunder.

23.4 Development in Accordance with Redevelopment Plan.

Subject to the provisions of this Agreement, Redeveloper agrees to develop and use the Project in substantial conformance with the Redevelopment Plan and the Plan Requirements, as same may be modified from time to time with the approval of the Agency (and, if required by law, the City) in accordance with this Agreement.

ARTICLE XXIV
FINANCIAL COVENANTS

Section 24.1 Redeveloper Covenants. Redeveloper agrees, for itself and its Affiliates, successors and/or assigns, that it is and will be and remain an entity having as its sole purpose the acquisition, ownership, development, operation and/or disposition of the Project and the Project Property. Redeveloper further agrees that, prior to completion of the Improvements, as evidenced by a Certificate of Completion, its assets (and those of its Affiliates owning any Project Property), will be utilized only for Project purposes and will not be transferred except for fair value received. Without limiting the generality of the foregoing, prior to the completion of the Improvements, as evidenced by a Certificate of Completion, the net proceeds of any mortgage financing transaction made by Redeveloper in accordance with the provisions of this Agreement shall be utilized only for Project purposes in connection with payment of and/or reimbursement for Project Costs incurred. No transfer by Redeveloper of the Project, or any portion thereof or any interest therein, prior to the completion of the Improvements, as evidenced by a Certificate of Completion, shall be deemed to release Redeveloper from, or diminish, its obligations and financial commitments under this Agreement, unless agreed to by the Agency and the City in writing (and no such transfer shall be made except as permitted by and/or in accordance with the terms of this Agreement, including particularly Article XIII).

Section 24.2 Redeveloper Guarantee. The Redeveloper hereby guarantees to the City and the Agency the completion of the Public Parking Spaces (as evidenced by the issuance of a Certificate of Completion for the Phase III Improvements) required to be constructed by the Redeveloper as part of the Phase III Improvements within the time period provided in this Agreement. In the event said Public Parking Spaces are not completed within the time period provided for in this Agreement, then upon written demand by the City, the Redeveloper shall pay to the City, within thirty (30) days after receipt of such notice, an amount equal to twenty-two thousand ($22,000.00) dollars multiplied by the number of Public Parking Spaces in the Phase III Improvements that the Redeveloper failed to complete within the time limits set forth in this Agreement as evidenced by the issuance of a Certificate of Completion for the Phase III Improvements. This guaranty shall terminate upon the issuance of a Certificate of Completion for the Phase III Improvements. In order to secure this guaranty, the Redeveloper shall at all times maintain a net worth of at least twenty million ($20,000,000.00) dollars and liquidity equal to or greater than three million ($3,000,000.00) dollars. The Redeveloper may assign its obligations under this Section 24.2 to an entity owned or controlled by the Redeveloper, provided (i) the assignee has an aggregate net worth of at least twenty million ($20,000,000.00) dollars and liquidity equal to or greater than three million ($3,000,000.00) dollars, as evidenced by review quality statements of the assignee, (ii) the assignee assumes in writing any and all obligations of the Redeveloper hereunder, (iii) such financial statements and written assumption instruments are delivered to and approved in all respects by the Agency, and (iv) the Agency consents to such assignment, which consent shall be in the sole and absolute discretion of the Agency. A

breach by Redeveloper of any of its obligations under this Section 24.2 shall be deemed a material default under this Agreement.

ARTICLE XXV
CITY REAL PROPERTY TAX PHASE-IN

Section 25.1 General Purpose Statement. It is acknowledged by the parties to this Agreement that the goals of the Wall Street Redevelopment Plan for the Project Site would be best served by the development program described herein. It is also acknowledged by the parties that the economic conditions present in the Project Area are adverse to new development, and that the transformation of those economic conditions by projects such as this one is a gradual and mutually undertaken endeavor. Further, it is agreed by the parties that such development program is intended to provide substantial public benefits in the form of affordable housing and public parking that would not be economically feasible without the provision of certain public sector commitments and support for the Project. The City, the Agency and the Redeveloper hereby agree that in lieu of the real property taxes applicable to the Project Site that would otherwise be assessed based on the standards and practices of the City's Tax Assessor, but specifically excluding the City's sewer charge which shall not be affected, from the date that the Certificate of Occupancy is issued by the Agency for a Phase of the Project, the real property taxes shall be phased in gradually, in accordance with this Article XXV, herein referred to as the **"Phase-In".**

Section 25.2 Commencement of Phase-In. The Phase-In shall commence, by Project Phase, on all parcels of Project Property associated with each such Phase and acquired by the Redeveloper upon the completion of said Phase as determined by the issuance of a Certificate of Occupancy, and continuing for the period set forth in the following provisions of this Article XXV.

Section 25.3 Phase-In for Residential For Sale Units. The real property taxes for Phase I Residential For Sale Units and Phase II Residential For Sale Units shall be fixed at $2.00 per square foot based on each unit's gross square footage and shall commence on the date determined in accordance with Section 25.2 hereof for such Phase and shall continue for such Phase for a period of five (5) years after the commencement date. Notwithstanding the foregoing provisions of this Section 25.3, the Phase-In referred to in this Section 25.3 shall only apply to owner occupied units and shall only be available to the initial purchaser of a unit from the Redeveloper or an Affiliate of the Redeveloper. At such time as the initial purchaser of a unit ceases to occupy such unit as their primary residence or transfers title to such unit, the Phase-In for such unit shall immediately terminate upon the happening of either of such events. Each owner of a Residential For Sale Unit who is receiving any benefits of the Phase-In referred to in this Section 25.3 shall be required to duly execute and return to the Agency an owner occupancy certificate in such form as the Agency may reasonably require, within thirty (30) days after receipt of such certificate. Any such unit owner failing to execute and return said owner occupancy certificate within said thirty (30) day period shall be deemed not to occupy such unit as their primary residence and the Phase-In for that unit shall immediately

terminate upon expiration of said thirty (30) day period. Such certificate shall be addressed to the owner of record of such unit as shown on the City Tax Collector's records, addressed to the unit and sent in the same manner as required for notices in ARTICLE XXV hereof.

Section 25.4 Phase-In for Residential Rental Units. The real property taxes for Phase I Residential Rental Units, Phase II Residential Rental Units and Phase III Residential Rental Units shall be fixed at seven and one-half (7 ½%) percent of the estimated gross revenue (**"EGR"**) for such units, as estimated and set forth on **Exhibit L** attached hereto and made a part hereof and shall commence on the date determined in accordance with Section 25.2 hereof for such Phase and shall continue for such Phase for a period of fifteen (15) years after the commencement date.

A. Upon the written request of the Agency, the Redeveloper shall submit, within thirty (30) days after receipt of such written request, financial statements reasonably acceptable to the Agency showing gross revenue for the Residential Rental Units in Phase I, Phase II and Phase III.

B. If the gross revenue shown on the audited financial statements is equal to or greater than one hundred ten (110%) percent of the EGR, then the Redeveloper shall pay to the City, within sixty (60) days after receipt by the Redeveloper of the Agency's initial written request, a sum equal to seven and one-half (7 ½%) percent of the amount by which the gross revenue shown on the audited financial statements exceeds the EGR.

C. In the event any of the Residential Rental Units are converted to Residential For Sale Units at any time during the Phase-In period for the Residential Rental Units, then upon such conversion, the real property tax Phase-In provided for such converted unit hereunder shall automatically terminate.

D. The foregoing represents the intended structure for the Phase-In for the Residential Rental Units. For administrative purposes the City Finance Director shall have the right, in consultation with the Redeveloper, to adjust the structure of the Residential Rental Phase-In provided such adjustment does not increase the amount of real property taxes for the Residential Rental Units during the Phase-In period in excess of the amount of such taxes that would be due and payable utilizing the foregoing structure.

Section 25.5 Phase-In for Other Improvements. The real property taxes for the Other Improvements in Phase I and Phase II (as described in ARTICLE III hereof) shall, at the commencement of the Phase-In for each Phase, be assessed on an income-based approach, and shall be subject to tax at forty (40%) percent of full taxes in year one, fifty (50%) percent of full taxes in year two, sixty (60%) percent of full taxes in year three, seventy (70%) percent of full taxes in year four, eighty (80%) percent of full taxes in year five, ninety (90%) percent of full taxes in year six, and one hundred (100%) of full taxes in year seven.

Section 25.6 Redeveloper Payment to City. In the event that during the term of any Phase-In as set forth in this ARTICLE XXV, the real property taxes payable to the City for all parcels of Project Property acquired by the Redeveloper do not, in the aggregate during any City tax period, equal or exceed the real property taxes payable on such parcels on the Execution Date, then the Redeveloper agrees to pay to the City the amount of any such deficiency, which shall be payable when such real property taxes are due and payable to the City.

Section 25.7 Covenant Against Transfer to Tax Exempt Entities. Redeveloper hereby agrees that during the term of any Phase-In as set forth in this ARTICLE XXV, that it shall not sell or transfer fee title to any of the Improvements then existing in the Project Site to any entity (other than the City or the Agency) if such transfer would make the transferred property exempt from taxation pursuant to §12-81 and §7-339m of the Statutes.

Section 25.8 Live/Work Space. In the event any of the Phase I Residential Units or Phase II Residential Units are converted into Live/Work Space in accordance with Section 2.6 hereof, then for purposes of this ARTICLE XXV, such Live/Work Space shall be deemed to be Phase I Residential For Sale Units or Phase II Residential For Sale Units, as the case may be.

Section 25.9 Authority.

A. The Phase-In for Residential Rental Units shall be carried out in accordance with §12-65 of the Statutes and the ordinance adopted by the City authorizing the Phase-In.

B. All other components of the Phase-In shall be carried out in accordance with §12-65b of the Statutes and the ordinance adopted by the City authorizing the Phase-In.

Section 25.10 Tax Freeze. Redeveloper hereby agrees that if any buildings on any parcels of Project Property acquired by the Redeveloper are removed, then the real property taxes payable to the City for any such parcel or parcels upon which any building or buildings have been removed shall at no time thereafter be less than the real property taxes payable to the City for any such parcel or parcels prior to such removal.

ARTICLE XXVI
SUSTAINABLE DESIGN

Section 26.1 General Purpose Statement.

The Redeveloper, Agency and City recognize that both the local and regional community stand to benefit from promoting development practices which foster responsible environmental stewardship and minimize impacts. Therefore, the Agency

and City shall require and the Redeveloper has agreed to use Good Faith Efforts to utilize Sustainable Design Practices in the construction of the Project.

Section 26.2 Definitions

A. "**Sustainable Design Practices"** means project design and engineering practices which – through construction systems applied, the selection of materials used, and the siting and design of the project – foster:

1. Responsible environmental stewardship; and,

2. The minimization of environmental impacts.

B. **"Good Faith Efforts"** means efforts that will permit the Redeveloper to satisfy the requirements of Section 26.3 hereof.

Section 26.3 Requirements.

The Redeveloper agrees that in Design Review of the Construction Plans and Working Drawings of each Project Phase (as described in Article III hereof), the Redeveloper shall achieve a minimum score of eighty (80%) percent on the Sustainable Design Practices checklist attached hereto and made a part hereof as **Exhibit M**, as scored by the Agency's Design Reviewer.

ARTICLE XXVII
MISCELLANEOUS

Section 27.1 This Agreement shall supersede any and all prior understandings between the parties with respect to the subject matter of this Agreement.

Section 27.2 The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

Section 27.3 This Agreement shall be construed under and governed by the laws of the State of Connecticut. The parties to this Agreement agree that the execution of this Agreement and related documents and the performance of their obligations hereunder and thereunder, shall be deemed to have a Connecticut situs and that they shall be subject to the personal jurisdiction of the courts of the State of Connecticut with respect to any action that any other party or its successors or assigns may commence hereunder or thereunder. Accordingly, the parties hereby specifically and irrevocably consent to the jurisdiction of the courts of the State of Connecticut judicial district Stamford/Norwalk with respect to all matters concerning this Agreement or such related documents or the enforcement thereof in any action initiated by any other party or which any other party voluntarily joins as a party.

Section 27.4 If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the requirements of applicable laws, regulations, statutes, municipal charters, codes and of the Redevelopment Plan.

Section 27.5 Any right or remedy which any party to this Agreement may have under this Agreement, or any of its provisions, may be waived in writing by such party without execution of a new or supplementary Agreement, but any such waiver shall not affect any other rights not specifically waived. If any party to this Agreement does not exercise, or delays in exercising, or exercises only in part any of its respective rights and/or remedies set forth in this Agreement for the curing or remedying of any default or breach of covenant or condition, or any other right or remedy, in no event shall such non-exercise, delay or partial exercise be construed as a waiver of full action by such party or a waiver of any subsequent default or breach of covenant or condition.

Section 27.6 This Agreement may be amended only by a written document, duly executed by the parties hereto, evidencing the mutual agreement of the parties hereto to such amendment.

Section 27.7 Whenever this Agreement provides for the granting or withholding by one party of approval or consent with respect to the action or inaction of the other party, the party authorized to grant or withhold such approval shall act in good faith and reasonably under the circumstances in determining whether to grant such consent or approval.

Section 27.8 The terms and conditions of the Agreement, including the exhibits hereto, shall constitute all of the terms and conditions that shall be required by the Parties of one another.

Section 27.9 The Redeveloper agrees to provide facilities for physically disabled individuals for ingress and egress to and from the Improvements to be constructed by it in the Project Site as required by applicable law.

Section 27.10 WAIVER OF TRIAL BY JURY. EACH OF THE PARTIES TO THIS AGREEMENT HEREBY (I) KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT THAT IT MAY HAVE TO A TRIAL BY JURY IN ANY LITIGATION ARISING IN ANY WAY IN CONNECTION WITH THIS AGREEMENT, AND (II) ACKNOWLEDGES THAT IT HAS BEEN REPRESENTED IN THE SIGNING OF THIS AGREEMENT AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL SELECTED OF ITS OWN FREE WILL, AND (III) ACKNOWLEDGES THAT IT HAS DISCUSSED THIS WAIVER WITH SUCH LEGAL COUNSEL. EACH OF THE PARTIES TO THIS AGREEMENT FURTHER ACKNOWLEDGES THAT (I) IT HAS READ AND UNDERSTANDS THE MEANING AND RAMIFICATIONS OF THIS WAIVER, AND (II) THIS WAIVER IS A MATERIAL INDUCEMENT FOR IT TO ENTER INTO THIS AGREEMENT.

Section 27.11 The Agreement is executed in six (6) counterparts, each of which shall constitute one and the same instrument.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the Agency, the City, and the Redeveloper, have caused this Agreement to be duly executed each in its own behalf by the Mayor of the City, the Chairman of the Agency, and the Redeveloper, respectively, and its respective seals to be hereunto duly affixed on or as of the date first above written and constitutes a valid and binding obligation enforceable in accordance with its terms, conditions, and provisions.

WITNESSES:

CITY OF NORWALK

_____

By:_____
Richard A. Moccia
Its Mayor

_____

REDEVELOPMENT AGENCY OF THE CITY OF NORWALK

_____

By: _____
Paul L. Jones
Its Chairman

_____

POKO-IWSR DEVELOPERS, LLC
By: POKO-IWSR MANAGERS, LLC
Its Managing Member

_____

By: _____
Kenneth Olson
Its Manager

_____

STATE OF CONNECTICUT)
) ss: Norwalk
COUNTY OF FAIRFIELD)

On this the ___ day of _____, 2007, before me, the undersigned officer, personally appeared RICHARD A. MOCCIA, who acknowledged himself to be the Mayor of the City of Norwalk, and that he as such Mayor, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the City by himself as Mayor.

In Witness Whereof, I hereunto set my hand and official seal.

_____

Notary Public
Commissioner of the Superior Court

STATE OF CONNECTICUT)
) ss: Norwalk
COUNTY OF FAIRFIELD)

On this the ___ day of _____, 2007, before me, the undersigned officer, personally appeared PAUL L. JONES, who acknowledged himself to be the Chairman of the Redevelopment Agency of the City of Norwalk, and that he as such Chairman, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the Redevelopment Agency by himself as Chairman.

In Witness Whereof, I hereunder set my hand and official seal.

_____

Notary Public
Commissioner of the Superior Court

STATE OF CONNECTICUT)
) ss: _____
COUNTY OF FAIRFIELD)

On this ___ day of _____, 2007, before me, the undersigned officer, personally appeared KENNETH OLSON, who acknowledged himself to be the Manager of POKO-IWSR Managers, LLC, a Limited Liability Company that is itself the Managing Member of POKO-IWSR Developers, LLC, and that he, as such Manager, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of POKO-IWSR Developers, LLC, by POKO-IWSR Managers, LLC, as Managing Member, by himself as Manager.

In witness whereof, I hereunto set my hand.

_____

Notary Public
Commissioner of the Superior Court

LIST OF EXHIBITS

Exhibit A – Acquisition Property

Exhibit B – Conceptual Master Site Plan

Exhibit C-1 – Infrastructure Improvements

Exhibit C-2 – Infrastructure Map

Exhibit C-3 – Utility Map

Exhibit C-4 – Utility Abandonment Map

Exhibit D – Project Site

Exhibit E – Redeveloper Property

Exhibit F – Form of Progress Reports

Exhibit G – Certificate of Completion

Exhibit H - Survey Showing Portion of Isaacs Street to be Abandoned

Exhibit I – City License Agreement

Exhibit J – Appendix A to 49CFR Part 26 – Guidance Concerning Good Faith Efforts

Exhibit K – Proposed Plan Amendments

Exhibit L – Real Estate Tax Phase-In Schedules

Exhibit M – Sustainable Design Practices Checklist

Exhibit A
(Acquisition Property)