



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

*Economic Development Division*

**m e m o r a n d u m**

**TO:** Mayor Diane Wolfe Marlin and Members of the Urbana City Council

**FROM:** Carol J. Mitten, City Administrator  
Lorrie Pearson, AICP, Community Development Director  
Brandon S. Boys, AICP, Economic Development Manager  
Stephany McMahon, Economic Development Coordinator

**DATE:** April 28, 2020

**SUBJECT:** **AN ORDINANCE APPROVING AN AMENDMENT TO A REDEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF URBANA, CHAMPAIGN COUNTY, ILLINOIS AND GREEN STREET REALTY CO., OF ILL.**

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## Introduction

On January 22, 2019 the Urbana City Council approved a redevelopment agreement with Chris Saunders of Green Street Realty Co., of Ill. regarding a proposed 42-unit townhome project at 200 South Vine Street.

While construction for the 200 Vine Street Project is underway, the project will not be completed by the December 31, 2020 date specified in the agreement due to the COVID-19 pandemic, which has delayed progress. As such, for the project to go forward, it is necessary to extend the completion date by amendment to provide the developer with the necessary time to see the project through to completion no later than May 1, 2021.

The attached draft ordinance (**Attachment A: Draft Redevelopment Agreement Amendment Ordinance**) would provide the Mayor with the authority to execute an extension of the existing redevelopment agreement (**Attachment B: Executed 2019 Redevelopment Agreement**) by four months from December 31, 2020 to May 1, 2021. The developer has provided a written request to the City for this extension (**Attachment C: Statement from Green Street Realty**) as well as some simple visualizations of how MAC siding will be utilized on the project in place of EIFS siding (**Attachment D: Visualizations of MAC siding for 200 Vine Project**).

The 200 Vine project is the first new, residential development in Downtown Urbana in over 15 years. Staff recommends that the Council authorize an extension of the redevelopment agreement until May 1, 2021 to

ensure adequate time for project completion.

## Discussion

The proposed amending ordinance would allow the Mayor and the developer to execute a pen and ink amendment of the existing 200 Vine redevelopment agreement, changing the completion date from December 31, 2020 to May 1, 2021. The developer has provided the following updated timeline for the project as a whole. As noted, construction of two of the 3-story buildings on the western portion of the site is already underway.

### 200 Vine Revised Construction Schedule

Building	Start	Finish
Green - West (3 story)	Fri 4/17/20	Wed 10/14/20
Elm - West (3 story)	Wed 4/29/20	Mon 10/19/20
Elm - East (2 story)	Tue 5/12/20	Mon 10/26/20
Urbana (2 story)	Mon 5/25/20	Wed 2/3/21
Green - East (2 story)	Fri 6/12/20	Mon 2/8/21
Vine - South (3 story)	Mon 8/10/20	Wed 3/10/21
Vine - North (3 story)	Tue 8/25/20	Fri 3/26/21
Exterior	Mon 8/3/20	Fri 4/23/21

Provided by Green Street Realty

While the redevelopment calls for a minimum \$6MM project budget, Green Street Realty now anticipates spending \$8.05MM on the 200 Vine townhomes. Green Street has also reported more specifics in the materials it expects to use on the exterior of the townhomes. In an effort to control expenses while maintaining curb appeal, the developer will replace all EIFS siding contemplated in the original design with MAC siding. MAC siding is a pre-painted steel siding product Green Street Realty recently began using on their projects, including 103 East Healey Street in Champaign. MAC siding is more durable than EIFS siding and is covered by a 40-year warranty. As such, the 200 Vine project as proposed would remain substantially in accordance with the Preliminary Project Design approved in the 2019 redevelopment agreement (see **Attachment B** of this memo and turn to Exhibit A of the redevelopment agreement to review the Preliminary Project Design). The attached visualizations (**Attachment D**) show the developer's intent to use MAC siding with woodgrain patterns in natural colors and vertical and horizontal paneling. The visualization also specifically indicates where on the project the MAC siding would be substituted vertically and horizontally in different colors. All brick exteriors will be constructed as shown in the Preliminary Project Design and are not impacted by the siding substitution.

## Anticipated Fiscal Impacts

Incentives provided to the developer under this redevelopment agreement would remain unchanged. As required by the 2019 redevelopment agreement, the City has already deeded the property, valued at \$1MM, in as-is condition to the developer. The City has also vacated the remaining alleyways on the site to the

developer.

As required by the redevelopment agreement, the City will provide future reimbursements to Green Street Realty for eligible redevelopment project costs after project completion. Upon paying taxes on the completed project, the developer will receive reimbursement from the Central Tax Increment Finance (TIF) District of a percentage of the new, incremental taxes paid. In the first year, 100% of these incremental taxes will be rebated, followed by 80% in the second year, 60% in the third year, 40% in the fourth year and 20% in the fifth and final year. This rebate schedule was intended to mirror the Think Urbana property tax rebate schedule, which is available to certain residential developments in the Urbana Enterprise Zone (outside of any TIF Districts). The 200 Vine project is expected to continue to generate incremental property taxes through the end of the life of the Central TIF District, presently 2040.

Separate from the redevelopment agreement, the 200 Vine townhome project qualifies for sales tax exemption on the purchase of all building materials in the State of Illinois through the Urbana Enterprise Zone.

## **Options**

1. Approve the draft redevelopment agreement amendment ordinance as presented.
2. Approve the draft redevelopment agreement amendment ordinance with changes. It should be noted that any changes would need to be agreed to by the developer.
3. Deny the draft redevelopment agreement amendment ordinance.

## **Recommendation**

The extension of this redevelopment agreement would allow for Downtown Urbana's first new residential construction in over 15 years to proceed to completion. The project will bring new residential density to the downtown area, enhancing economic activity in the downtown for restaurants, retail and services including Lincoln Square Mall and Urbana's Market At the Square.

Staff recommends that the City Council approve the attached draft redevelopment agreement amendment ordinance.

## **Attachments:**

- A: Draft Redevelopment Agreement Amendment Ordinance
- B: Executed 2019 Redevelopment Agreement
- C: Statement from Green Street Realty
- D: Visualizations of MAC siding for 200 Vine Project

# ATTACHMENT A

## ORDINANCE NO. 2020-05-025

### AN ORDINANCE APPROVING AN AMENDMENT TO A REDEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF URBANA, CHAMPAIGN COUNTY, ILLINOIS AND GREEN STREET REALTY CO., OF ILL.

**(First Amendment - 200 Block of South Vine Street / 300 Block of East Green Street)**

**WHEREAS**, the City of Urbana (“City”) is a home rule unit of local government pursuant to Article VII, Section 6, of the Illinois Constitution of 1970, and may exercise any function pertaining to its government and affairs, including the power to regulate for the protection of the public health, safety and welfare; and

**WHEREAS**, the City of Urbana, Champaign County, Illinois (the “Municipality”) and Green Street Realty Co., of Ill. (the “Developer”) have entered into a certain Redevelopment Agreement dated as of January 1, 2019 (with respect to which undefined words and terms as used herein shall have the meanings as respectively ascribed to them therein, the “Redevelopment Agreement”); and

**WHEREAS**, the Developer and its lender have requested a four month extension beyond the Project Completion Date of December 31, 2020 as presently specified in the Redevelopment Agreement; and

**WHEREAS**, the City Council of the Municipality is willing to extend the Project Completion Date under the Redevelopment Agreement to May 1, 2021.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS**, as follows:

**Section 1. Authorization.** The Redevelopment Agreement shall be and is hereby authorized to be amended to extend the Project Completion Date until May 1, 2021, and the Mayor is hereby authorized to amend the Redevelopment Agreement on its face for and on behalf of the Municipality by crossing out the date of “December 31, 2020” in the definition of Project Completion Date in Section 1.1, by inserting the date of “May 1, 2021” in lieu thereof and by initialing such change. Such change shall be an effective amendment to the Redevelopment Agreement when also so initialed by the Developer.

**Section 2. Effective Date.** This ordinance shall be in full force and effect immediately upon its passage and approval in the manner provided by law.

**PASSED BY THE CITY COUNCIL** this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

AYES:

NAYS:

ABSTENTIONS:

\_\_\_\_\_  
**Charles A. Smyth, City Clerk**

**APPROVED BY THE MAYOR** this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
**Diane Wolfe Marlin, Mayor**

## ATTACHMENT B

### ORDINANCE NO. 2019-01-005

#### AN ORDINANCE APPROVING A REDEVELOPMENT AGREEMENT WITH GREEN STREET REALTY CO., OF ILL. AND AUTHORIZING THE SALE OF CERTAIN REAL ESTATE

(200 Block of South Vine Street / 300 Block of East Green Street)

**WHEREAS**, the City of Urbana, an Illinois municipal corporation, (hereinafter, the “City”), is a home rule unit of local government pursuant to Article 7, § 6 of the Illinois Constitution of 1970 and 65 ILCS 5/1-1-10; and

**WHEREAS**, the City owns certain real estate consisting of the parcels and alleys within the block surrounded by East Elm Street on the north, South Vine Street on the west, East Green Street on the south, and Urbana Avenue on the east, commonly known as the 200 Block of South Vine Street / 300 Block of East Green Street (hereinafter, “Block 200/300”); and

**WHEREAS**, Green Street Realty Co., of Ill. (“Developer”), an Illinois domestic corporation, has expressed an interest in developing the Block 200/300 and is willing to undertake such development in accordance with the terms and conditions contained in the draft redevelopment agreement (hereinafter the “Agreement”) appended to this Ordinance as an exhibit; and

**WHEREAS**, the City and Developer desire to enter into the Agreement in substantially the form of the exhibit appended hereto and made a part hereof;

**WHEREAS**, Urbana City Code Section 2-118(a) provides that any real estate owned by the City of Urbana may be sold in any manner prescribed by the City Council in an ordinance authorizing such sale; and

**WHEREAS**, the City desires to sell Block 200/300 to the Developer as part of the Agreement; and

**WHEREAS**, the City Council expressly finds and declares that Block 200/300 is no longer needed for governmental purposes or proprietary activity of the City; and

**WHEREAS**, the City Council held a public hearing on the question of the sale of Block 200/300 at 7:00 p.m. on the 22<sup>nd</sup> day of January, 2019, after due and proper notice of such public hearing having been given by publication in *The News-Gazette*, a newspaper having a general circulation within the City, on a date at least 15 days prior to the time of the public hearing; and

**WHEREAS**, the City Council, after due consideration, finds that approval of the Agreement and of the sale of Block 200/300, as herein provided, are in the best interests of the residents of the City and is desirable for the welfare of the City's government and affairs.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Urbana, Illinois, as follows:

**Section 1.**

The Agreement shall be and hereby is approved in substantially the form appended to and incorporated into this Ordinance.

**Section 2.**

The sale of the real estate commonly known as 200 Block of South Vine Street / 300 Block of East Green Street in Urbana, Illinois, and described below with parcel Permanent Index Numbers (PINs), subject to and substantially on the terms and conditions contained in the Agreement attached hereto and incorporated herein, is hereby authorized and approved:

The Permanent Index Numbers of said real estate (and common addresses) are as follows:

- 92-21-17-233-001 (202 S Vine St)
- 92-21-17-233-002 (305 E Elm St)
- 92-21-17-233-003 (307 E Elm St, 203 Urbana Ave)
- 92-21-17-233-004 (205 Urbana Ave)
- 92-21-17-233-005 (304 E Green St)
- 92-21-17-233-006 (306 E Green St)
- 92-21-17-233-007 (308 E Green St, 207 Urbana Ave)

**Section 3.**

The Mayor of the City of Urbana, Illinois, shall be and is hereby authorized to execute the Agreement, in substantially the form of the exhibit attached hereto and hereby incorporated by reference, and all other documents required in connection with the sale of Block 200/300 to Developer, and the City

Clerk of the City of Urbana, Illinois, be and the same is hereby authorized to attest to the execution of all such documents, as so authorized and approved for and on behalf of the City of Urbana, Illinois all such documents being delivered as required.

**Section 4.**

The Mayor of the City of Urbana, Illinois, or her designee, be and hereby is authorized to perform all acts necessary on behalf of the City of Urbana to effectuate the sale of Block 200/300 to Developer in accordance with the terms of the Agreement.

**Section 5.**

This Ordinance shall not be construed to affect any suit or proceeding pending in any court, or any rights acquired, or a liability incurred, or any cause or causes of action acquired or existing prior to the effective date of this Ordinance; nor shall any right or remedy of any character be lost, impaired, or affected by this Ordinance.

**Section 6.**

This Ordinance shall be in full force and effect from and after its passage.

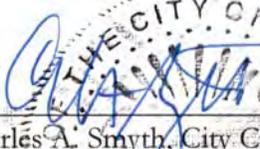
This Ordinance is hereby passed by the affirmative vote, the “ayes” and “nays” being called and counted, of three-fourths of all the alderpersons then holding office and the Mayor (6 of 8 votes) of the City of Urbana, Illinois, at a meeting of the City Council.

**PASSED BY THE CITY COUNCIL** this 22<sup>nd</sup> day of January, 2019.

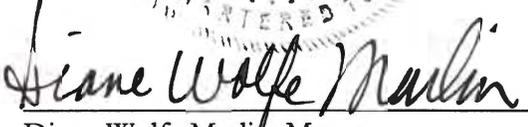
AYES: Brown, Hazen, Hursey, Jakobsson, Miller, Wu, Marlin

NAYS:

ABSTENTIONS:

  
\_\_\_\_\_  
Charles A. Smyth, City Clerk

**APPROVED BY THE MAYOR** this 23<sup>rd</sup> day of January, 2019.

  
  
\_\_\_\_\_  
Diane Wolfe Marlin, Mayor

As Authorized by City of Urbana Ordinance No. 2019-01-005

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**REDEVELOPMENT AGREEMENT**

**by and between the**

**CITY OF URBANA, CHAMPAIGN COUNTY, ILLINOIS**

**and**

**GREEN STREET REALTY CO., OF ILL.**

Dated as of January 1, 2019

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EXHIBIT B	Legal Description of Property

## REDEVELOPMENT AGREEMENT

**THIS REDEVELOPMENT AGREEMENT** (including any exhibits and attachments hereto, collectively, this “**Agreement**”) is dated for reference purposes only as of January 1, 2019, but actually executed by each of the parties on the dates set forth beneath their respective signatures below, by and between the **City of Urbana, Champaign County, Illinois**, an Illinois municipal corporation (the “**City**”), and **Green Street Realty Co., of Ill.**, an Illinois corporation (the “**Developer**”). This Agreement shall become effective upon the date of the last of the City and the Developer to execute and date this Agreement and deliver it to the other (the “**Effective Date**”).

### RECITALS

**WHEREAS**, in accordance with and pursuant to the Tax Increment Allocation Redevelopment Act (65 ILCS 5/11-74.4-1 *et seq.*), as supplemented and amended (the “**TIF Act**”), including by the power and authority of the City as a home rule unit under Section 6 of Article VII of the Constitution of Illinois, the City Council of the City (the “**Corporate Authorities**”) adopted a series of ordinances (Ordinance Nos. 2016-09-084, 2016-09-085 and 2016-09-086 on October 17, 2016) including as supplemented and amended (collectively, the “**TIF Ordinances**”); and

**WHEREAS**, under and pursuant to the TIF Act and the TIF Ordinances, the City designated the Central Tax Increment Redevelopment Project Area (the “**Redevelopment Project Area**”) and approved the related redevelopment plan, as supplemented and amended (the “**Redevelopment Plan**”), including the redevelopment projects described in the Redevelopment Plan (collectively, the “**Redevelopment Projects**”); and

**WHEREAS**, as contemplated by the Redevelopment Plan and the Redevelopment Projects, the Developer proposes to undertake (or cause to be undertaken) the Project (including related and appurtenant facilities as more fully defined below); and

**WHEREAS**, the Property (as defined below) is within the Redevelopment Project Area; and

**WHEREAS**, the Developer is unwilling to undertake the Project (as defined below) without certain tax increment finance incentives from the City, which the City is willing to provide; and

**WHEREAS**, the City has determined that it is desirable and in the City’s best interests to assist the Developer in the manner set forth herein in this Agreement.

**NOW, THEREFORE**, for and in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Developer hereby agree as follows:

### ARTICLE I DEFINITIONS

**Section 1.1. Definitions.** For purposes of this Agreement and unless the context clearly requires otherwise, the capitalized words, terms and phrases used in this Agreement shall have the meaning provided in the above Recitals and from place to place herein, including as follows:

**“Annual Reimbursement Amounts”** means, collectively, amounts to be reimbursed or paid to or as directed by the Developer from the Fund by the City under and pursuant to Section 4.2 of this Agreement.

**“Eligible Redevelopment Project Costs”** means those costs paid and incurred in connection with the Project which are authorized to be reimbursed or paid from the Fund as provided in Section 5/11-74.4-3(q) of the TIF Act, including: (a) costs of studies, surveys, development of plans and specifications including but not limited to professional service costs for architectural, engineering, legal, financial, planning or other services; (b) property assembly costs, including the acquisition of the Property, site preparation, and the clearing and grading of land; (c) costs of the construction of public works or improvements; and (d) up to 30% per year of interest costs incurred by the Developer related to the construction of the Project subject to the total cost limitations of such interest payments as set forth in subparagraph (D) of such Section, 5/11-74.4-3(q)(11).

**“Finance Director”** means the Finance Director of the City, or his or her designee.

**“Fund”** means, collectively, the “Special Tax Allocation Fund” for the Redevelopment Project Area established under Section 5/11-74.4-8 of the TIF Act and the TIF Ordinances.

**“Incremental Property Taxes”** means, net of all amounts required by operation of the TIF Act to be paid to other taxing districts, including as surplus, in each calendar year during the term of this Agreement, the portion of the ad valorem real estate taxes arising from levies upon the Property by taxing districts that is attributable to the increase in the equalized assessed value of each taxable lot, block, tract or parcel of real estate within the Property over the equalized assessed value of each taxable lot, block, tract or parcel of real estate within the Property as assigned by the Champaign County Clerk which, pursuant to the TIF Ordinances and Section 5/11-74.4-8(b) of the TIF Act, will be allocated to and when collected shall be paid to the Finance Director for deposit by the Finance Director into the Fund established to pay Eligible Redevelopment Project Costs and other redevelopment project costs as authorized under Section 5/11-74.4-3(q) of the TIF Act.

**“Prevailing Wage Act”** means the Prevailing Wage Act (820 ILCS 130/0.01 et seq.) of the State of Illinois, the material terms of which require all contractors and subcontractors to pay all laborers, workers and mechanics performing work on any “public works” (as therein defined) no less than the current “prevailing rate of wages” (hourly cash wages plus fringe benefits) applicable to the county where performed and to comply with all notice, recordkeeping and filing duties.

**“Project”** means the acquisition of the Property and the construction and installation upon the Property of a new multi-family residential structure substantially in accordance with the Preliminary Project Design, a copy of which is attached hereto and made a part hereof as Exhibit A.

**“Project Commencement Dates”** means, as applicable, April 1, 2019, the date on or before which construction of the Project is to commence.

**“Project Completion Date”** means, subject to “unavoidable delays” as described in Section 9.5 of this Agreement, the date on which the Project is completed as evidenced by the issuance by the City of a certificate of occupancy for the Project upon the Property, which such date shall not be later than December 31, 2020.

**“Property”** means, the real estate in the City consisting of the parcel or parcels and alleys within the block surrounded by East Elm Street on the north, South Vine Street on the west, East Green Street on the south and Urbana Avenue on the east as depicted on Exhibit B hereto, upon or within which the Project is to be undertaken and completed.

**“Requisition”** means a request by the Developer for a payment or reimbursement of Eligible Redevelopment Project Costs pursuant to the procedures set forth in Article VI of this Agreement.

**“TIF Financing”** means financing arrangements to or for the benefit of a developer arising out of the TIF Act which pay or reimburse redevelopment project costs in whole or in part.

**Section 1.2. Construction.** This Agreement, except where the context by clear implication shall otherwise require, shall be construed and applied as follows:

- (a) definitions include both singular and plural.
- (b) pronouns include both singular and plural and cover all genders; and
- (c) headings of sections herein are solely for convenience of reference and do not constitute a part hereof and shall not affect the meaning, construction or effect hereof.
- (d) all exhibits attached to this Agreement shall be and are operative provisions of this Agreement and shall be and are incorporated by reference in the context of use where mentioned and referenced in this Agreement.

**ARTICLE II**  
**REPRESENTATIONS AND WARRANTIES**

**Section 2.1. Representations and Warranties of the City.** In order to induce the Developer to enter into this Agreement, the City hereby makes certain representations and warranties to the Developer, as follows:

(a) **Organization and Standing.** The City is a home rule municipality duly organized, validly existing and in good standing under the Constitution and laws of the State of Illinois.

(b) **Power and Authority.** The City has full power and authority to execute and deliver this Agreement and to perform all of its agreements, obligations and undertakings hereunder.

(c) **Authorization and Enforceability.** The execution, delivery and performance of this Agreement have been duly and validly authorized by all necessary action on the part of the City’s Corporate Authorities. This Agreement is a legal, valid and binding obligation of the City, enforceable against the City in accordance with its terms, except to the extent that any and all financial obligations of the City under this Agreement shall be limited to the availability of such Incremental Property Taxes therefor as may be specified in this Agreement and that such enforceability may be further limited by laws, rulings and decisions affecting remedies, and by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforceability of debtors’ or creditors’ rights, and by equitable principles.

(d) **No Violation.** Neither the execution nor the delivery of this Agreement or the performance of the City's agreements, obligations and undertakings hereunder will conflict with, violate or result in a breach of any of the terms, conditions, or provisions of any agreement, rule, regulation, statute, ordinance, judgment, decree, or other law by which the City may be bound.

(e) **Governmental Consents and Approvals.** No consent or approval by any other governmental authority is required in connection with the execution and delivery by the City of this Agreement or the performance by the City of its obligations hereunder.

**Section 2.2. Representations and Warranties of the Developer.** In order to induce the City to enter into this Agreement, the Developer makes the following representations and warranties to the City:

(a) **Organization.** The Developer is a corporation, duly organized, validly existing and in good standing under the laws of the State of Illinois.

(b) **Power and Authority.** The Developer has full power and authority to execute and deliver this Agreement and to perform all of its agreements, obligations and undertakings hereunder.

(c) **Authorization and Enforceability.** The execution, delivery and performance of this Agreement have been duly and validly authorized by all necessary action on the part of the Developer's board of directors. This Agreement is a legal, valid and binding agreement, obligation and undertaking of the Developer, enforceable against the Developer in accordance with its terms, except to the extent that such enforceability may be limited by laws, rulings and decisions affecting remedies, and by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforceability of debtors' or creditors' rights, and by equitable principles.

(d) **No Violation.** Neither the execution nor the delivery or performance of this Agreement will conflict with, violate or result in a breach of any of the terms, conditions, or provisions of, or constitute a default under, or (with or without the giving of notice or the passage of time or both) entitle any party to terminate or declare a default under any contract, agreement, lease, license or instrument or any rule, regulation, statute, ordinance, judicial decision, judgment, decree or other law to which the Developer is a party or by which the Developer or any of its assets may be bound.

(e) **Consents and Approvals.** No consent or approval by any governmental authority or by any other person or entity is required in connection with the execution and delivery by the Developer of this Agreement or the performance by the Developer of its obligations hereunder.

(f) **No Proceedings or Judgments.** There is no claim, action or proceeding now pending, or to the best of its knowledge, threatened, before any court, administrative or regulatory body, or governmental agency (1) to which the Developer is a party and (2) which will, or could, prevent the Developer's performance of its obligations under this Agreement.

(g) **Maintenance of Existence.** During the term of this Agreement, the Developer shall do or cause to be done all things necessary to preserve and keep in full force and effect its existence as an Illinois corporation.

**Section 2.3. Disclaimer of Warranties.** The City and the Developer acknowledge that neither has made any warranties to the other except as set forth in this Agreement. The City hereby disclaims any and all warranties with respect to the Property and the Project, express or implied, including, without limitation, any implied warranty of fitness for a particular purpose or merchantability or sufficiency of the Incremental Property Taxes for the purposes of this Agreement. Nothing has come to the attention of the Developer to question the assumptions or conclusions or other terms and provisions of any projections of Incremental Property Taxes, and the Developer assumes all risks in connection with the practical realization of any such projections of Incremental Property Taxes.

**ARTICLE III**  
**CONDITIONS PRECEDENT TO THE UNDERTAKINGS**  
**ON THE PART OF THE DEVELOPER AND THE CITY**

**Section 3.1. Conditions Precedent.** The undertakings on the part of the City as set forth in this Agreement are expressly contingent upon each of the following:

- (a) **Project Budget.** The Developer shall have delivered to the City an itemized list of any and all estimated costs to complete the Project (the “**Project Budget**”) in accordance with such final development plans as may be approved by the City, including a minimum total cost to complete the Project of not less than five million dollars (\$5,000,000);
- (b) **Ability to Pay.** The Developer shall have provided evidence, in a commercially reasonable form satisfactory to the City, of its ability to pay for the costs of the Project, as itemized in the Project Budget, including a minimum equity contribution of not less than twenty percent (20%);
- (c) **Construction Schedule.** The Developer shall have delivered to the City a detailed construction schedule for the commencement and completion of the Project which shall include a Project Commencement Date and a Project Completion Date; and
- (d) **City Approvals.** The Developer shall have obtained approval of the Project in accordance with all applicable laws, codes, rules, regulations and ordinances of the City, including without limitation all applicable subdivision, zoning, environmental, building code or any other land use regulations (collectively, the “**City Codes**”), including the issuance of all required permits, it being understood that the City in its capacity as a municipal corporation has discretion to approve the issuance of any such permits.

**Section 3.2. Reasonable Efforts and Notice of Termination.** The Developer shall use due diligence to timely satisfy the conditions set forth in Section 3.1 above on or before the Project Commencement Date, but if such conditions are not so satisfied or waived by the City, then the City may terminate this Agreement by giving written notice thereof to the Developer. In the event of such termination, this Agreement shall be deemed null and void and of no force or effect and neither the City nor the Developer shall have any obligation or liability with respect thereto.

**ARTICLE IV**  
**CITY'S COVENANTS AND AGREEMENTS**

**Section 4.1. The Property.** For and in consideration of \$1.00 in hand paid, the City agrees to convey the parcels within the Property to the Developer and to vacate the alleys within the Property for the sole purpose of constructing and installing the Project, subject to such encumbrances or exceptions to title as described in that certain Commitment for Title Insurance of Chicago Title Company, dated as of December 18, 2018 (Commitment Number 5253-1803554), provided, however, the City will cause Exception 10 with respect to Tract 5 to be removed prior to closing. In connection with such conveyance, the Developer shall pay all transaction costs.

The City or the City Attorney shall prepare and the City shall execute a recordable Special Warranty Deed sufficient to convey the parcels within the Property to the Developer in fee simple absolute, subject only to the encumbrances and exceptions to title set forth herein. The City shall deliver such Special Warranty Deed and possession of the Property to the Developer at the time of closing of this conveyance (the “Closing”) which shall occur within thirty (30) days of the Effective Date of this Agreement at the office of the City. The vacation of the alleys shall occur within thirty (30) days after the Closing.

**Section 4.2. City's TIF Funded Financial Obligations.** The City shall have the obligations set forth in this Section 4.2 relative to financing Eligible Redevelopment Project Costs in connection with the Project. Upon the submission to the City by the Developer of a Requisition for Eligible Redevelopment Project Costs incurred and paid by or on behalf of the Developer and the approval thereof by the City in accordance with Article VI of this Agreement, the City, subject to the terms, conditions and limitation set forth in this Section 4.2 immediately below, agrees to reimburse the Developer, or to pay as directed by the Developer, from the Fund such annual amounts (the “Annual Reimbursement Amounts”) related to Project upon the Property as follows:

(a) **Annual Reimbursement Amounts.** Such Annual Reimbursement Amounts in connection with the Project in any one calendar year shall be equal to such percentage of the Incremental Property Taxes attributable to the Property which are actually received by the City in each such calendar year as follows:

<u>Year</u>	<u>Incremental Property Taxes</u>
1	100%
2	80%
3	60%
4	40%
5	20%

(b) **Calculation.** For the purpose of calculating the total amount of Incremental Property Taxes attributable to the Property for any such calendar year, the total equalized assessed value (the “EAV”) of the Property shall be reduced by the Base Value EAV of the Property in the amount of zero dollars (\$0.00) and the result shall be multiplied by the total tax rate of all taxing districts having taxable property within the Redevelopment Project Area for any such applicable calendar year.

(c) **Period of Annual Reimbursements.** The obligations of the City to reimburse the Developer for any Annual Reimbursement Amounts under this Section 4.2 shall commence with the

calendar year immediately following the calendar year in which the Completion Date occurs, and shall terminate upon reimbursement by the City in accordance with Article VI of this Agreement not later than December 31 of the fifth (5<sup>th</sup>) calendar year in which any such Annual Reimbursement Amounts in connection with the Project become due and payable pursuant to this Section 4.2 and Article VI hereof.

**Section 4.3. Defense of Redevelopment Project Area.** In the event that any court or governmental agency having jurisdiction over enforcement of the TIF Act and the subject matter contemplated by this Agreement shall determine that this Agreement, including the payment of the Loan Advances to be paid or reimbursed by the City is contrary to law, or in the event that the legitimacy of the Redevelopment Project Area is otherwise challenged before a court or governmental agency having jurisdiction thereof, the City will defend the integrity of the Redevelopment Project Area and this Agreement.

## **ARTICLE V DEVELOPER'S COVENANTS**

**Section 5.1. Commitment to Undertake and Complete the Project.** The Developer covenants and agrees to commence the Project on or before the Project Commencement Date and to have the Project completed on or before the Project Completion Date. This obligation of the Developer shall be personally guaranteed by Chris Saunders, the principal owner of the Developer, as provided in the form of the Personal Guaranty attached hereto as Exhibit C. The Developer recognizes and agrees that the City has sole discretion with regard to all approvals and permits relating to the Project, including but not limited to approval of any required permits and any failure on the part of the City to grant or issue any such required permit shall not give rise to any claim against or liability of the City pursuant to this Agreement. The City agrees, however, that any permit application shall be processed in its usual and customary manner and that any such approval shall be made in conformance with the applicable City Codes and shall not be unreasonably denied, withheld, conditioned or delayed.

**Section 5.2. Compliance with Agreement and Laws During Construction** The Developer agrees to accept title to the Property in accordance with the City's conveyance as provided in Section 4.1 of this Agreement and shall at all times undertake the construction and installation of the Project as the sole developer thereof. The Developer agrees to undertake such development activities in conformance with this Agreement and all applicable federal and state laws, rules and regulations and all City Codes.

**Section 5.3. Prevailing Wages.** The Developer acknowledges that the Illinois Department of Labor currently takes the position as a matter of its enforcement policy that the TIF financing of the Project under this Agreement does not subject the Project to the Prevailing Wage Act unless the Project also receives funding from another public source. The City makes no representation as to any such application of the Prevailing Wage Act to the Project, and any failure by the Developer to comply with the Prevailing Wage Act, if and to the extent subsequently found to be applicable by any legal authority having jurisdiction, shall not be deemed a "Default" under this Agreement. Notwithstanding the foregoing sentence, the Developer agrees to assume all responsibility for any such compliance (or noncompliance) with the Prevailing Wage Act in connection with the Project under this Agreement in the event of any action by any party to enforce its provisions.

**Section 5.4. Management; Compliance with Laws.** The Developer agrees to serve as management agent for the Project for a minimum period of five (5) years from and after the Completion Date and to comply with all applicable federal and state laws, rules, regulations and all applicable City Codes and other ordinances in the continued use, occupation, operation and maintenance of the Property.

**Section 5.5. Tax and Related Payment Obligations.** The Developer agrees to pay and discharge, promptly and when the same shall become due, all general ad valorem real estate taxes and assessments, all applicable interest and penalties thereon, and all other charges and impositions of every kind and nature which may be levied, assessed, charged or imposed upon the Property or any part thereof that at any time shall become due and payable upon or with respect to, or which shall become liens upon, any part of the Property. The Developer, including any others claiming by or through it, also hereby covenants and agrees not to file any application for property tax exemption for any part of the Property or the Project or any part thereof under any applicable provisions of the Property Tax Code of the State of Illinois (35 ILCS 200/1-1 et seq.), as supplemented and amended, unless the City and the Developer shall otherwise have first entered into a mutually acceptable agreement under and by which the Developer shall have agreed to make a payment in lieu of taxes to the City, it being mutually acknowledged and understood by both the City and the Developer that any such payment of taxes (or payment in lieu thereof) by the Developer is a material part of the consideration under and by which the City has entered into this Agreement. This covenant of the Developer shall be a covenant that runs with the land being the Property upon which the Project is undertaken and shall be and remain in full force and effect during the term of this Agreement and following its expiration or termination, as the case may be, until December 31, 2042, upon which date this covenant shall terminate and be of no further force or effect (and shall cease as a covenant binding upon or running with the land) immediately, and without the necessity of any further action by City or Developer or any other party; provided, however, upon request of any party in title to the Property, the City shall execute and deliver to such party an instrument, in recordable form, confirming for the record that this covenant has terminated and is no longer in effect. Nothing contained within this Section 5.5 shall be construed, however, to prohibit the Developer from initiating and prosecuting at its own cost and expense any proceedings permitted by law for the purpose of contesting the validity or amount of taxes, assessments, charges or other impositions levied or imposed upon the Property or any part thereof, provided that the Developer shall first have given to the City written notice of its intent to do so at least forty-five (45) days prior to initiating any such proceedings.

**Section 5.6. Businesses Owned by Minorities and Females.** It is the policy of the Corporate Authorities of the City to promote and encourage the use by the Developer of businesses owned by “minorities” and “females” (as such terms are defined in the Business Enterprise for Minorities, Females and Persons with Disabilities Act) in connection with the Project. Toward this end, the Developer shall establish goals for contracting with businesses owned by minorities and females, including a plan by which the Developer intends to meet these goals, and shall submit such plan to the City for review and approval.

## **ARTICLE VI**

### **PAYMENT PROCEDURES FOR ELIGIBLE REDEVELOPMENT PROJECT COSTS**

**Section 6.1. Payment Procedures.** The City and the Developer agree that the Eligible Redevelopment Project Costs constituting the Eligible Redevelopment Project Costs shall be paid solely, and to the extent available, from Incremental Property Taxes that are deposited in the Fund

and not otherwise. The City and the Developer intend and agree that the Eligible Redevelopment Project Costs shall be disbursed by the Finance Director for payment to the Developer in accordance with the procedures set forth in this Section 6.1 of this Agreement.

The City hereby designates the Finance Director as its representative to coordinate the authorization of disbursement of Annual Reimbursement Amounts for the Eligible Redevelopment Project Costs. Payments to the Developer of the Annual Reimbursement Amounts for Eligible Redevelopment Project Costs shall be made upon request therefor, in form reasonably acceptable to the City (each being a “**Requisition**”) submitted by the Developer upon completion of the Eligible Redevelopment Project Costs which have been incurred and paid. Each such Requisition shall be accompanied by appropriately supporting documentation, including, as applicable, receipts for paid bills or statements of suppliers, contractors or professionals, together with required contractors’ and materialmen’s partial and final affidavits or lien waivers, as the case may be.

**Section 6.2. Approval and Resubmission of Requisitions.** The Finance Director shall give the Developer written notice disapproving any of the Requisitions within ten (10) days after receipt thereof. No such approval shall be denied except on the basis that (i) all or some part of the Requisition does not constitute Eligible Redevelopment Project Costs or has not otherwise been sufficiently documented as specified in Section 6.1 of this Agreement; (ii) a “Default” under Section 7.1 of this Agreement by the Developer has occurred and is continuing.. If a Requisition is disapproved by such Finance Director, the reasons for disallowance will be set forth in writing and the Developer may resubmit any such Requisition with such additional documentation or verification as may be required, if that is the basis for denial. The same procedures set forth herein applicable to disapproval shall apply to such resubmittals.

**Section 6.3. Time of Payment.** Provided that performance of this Agreement has not been suspended or terminated by the City under Article VII hereof, the City shall pay any Annual Reimbursement Amount attributable to the Project which is approved by any one or more Requisitions under this Article to the Developer within thirty (30) calendar days after (i) the date of the approval of any such Requisitions, (ii) the receipt by the City of evidence from the Developer of the payment in full of the total property taxes attributable to the Property in any such applicable calendar year or (iii) the receipt by the City of the last installment of Incremental Property Taxes in any such calendar year, whichever in (i), (ii) or (iii) is later.

## **ARTICLE VII DEFAULTS AND REMEDIES**

**Section 7.1. Events of Default.** The occurrence of any one or more of the events specified in this Section 7.1 shall constitute a “**Default**” under this Agreement.

**By the Developer:**

- (1) The furnishing or making by or on behalf of the Developer of any statement or representation in connection with or under this Agreement that is false or misleading in any material respect;
- (2) The failure by the Developer to timely perform any term, obligation, covenant or condition contained in this Agreement;

**By the City:**

(1) The failure by the City to pay any of the Annual Reimbursement Amounts which become due and payable in accordance with the provisions of this Agreement; and

(2) The failure by the City to timely perform any other term, obligation, covenant or condition contained in this Agreement.

**Section 7.2. Rights to Cure.** The party claiming a Default under Section 7.1 of this Agreement (the “**Non-Defaulting Party**”) shall give written notice of the alleged Default to the other party (the “**Defaulting Party**”) describing the nature of the Default complained of and the term or provision of this Agreement which the Non-Defaulting Party believes is in default. Except as required to protect against immediate, irreparable harm, the Non-Defaulting Party may not institute proceedings or otherwise exercise any right or remedy against the Defaulting Party until thirty (30) days after having given such notice. In the event a Default is of such nature that it will take more than thirty (30) days to cure or remedy, such Defaulting Party may give the Non-Defaulting Party written notice that (i) the Default will take more than thirty (30) days to cure or remedy; (ii) the Defaulting Party has promptly commenced and is diligently pursuing such cure or remedy; and (iii) the date on or before which the Defaulting Party will have completed such cure or remedy. Provided that the Defaulting Party promptly commences and diligently pursues such cure or remedy, such Defaulting Party shall have an additional period of time reasonably necessary to cure or remedy such Default. During any such period following the giving of notice of the alleged Default, the Non-Defaulting party may suspend performance under this Agreement until the Non-Defaulting Party receives written assurances from the Defaulting Party, deemed reasonably adequate by the Non-Defaulting Party, that the Defaulting Party will cure or remedy or has cured or remedied the Default and remain in compliance with its obligations under this Agreement. A Default not cured or remedied or otherwise commenced and diligently pursued as provided above shall constitute a “**Breach**” under this Agreement. Except as otherwise expressly provided in this Agreement, any failure or delay by either party in asserting any of its rights or remedies as to any Default or any Breach shall not operate as a waiver of any such Default, Breach or of any other rights or remedies it may have as a result of such Default or Breach.

**Section 7.3. Remedies.** Upon the occurrence of a Breach under this Agreement by the Developer, the City shall have the right to terminate this Agreement by giving written notice to the Developer of such termination and the date such termination is effective. Except for such right of termination by the City, the only other remedy available to either party upon the occurrence of a Breach under this Agreement by the Defaulting Party shall be to institute such proceedings as may be necessary or desirable in its opinion to cure or remedy such Breach, including but not limited to proceedings to compel any legal action for specific performance, or other appropriate equitable relief. Notwithstanding anything herein to the contrary, the sole remedy of the Developer upon the occurrence of an Breach by the City under any of the terms and provisions of this Agreement shall be to institute legal action against the City for specific performance or other appropriate equitable relief and under **no** circumstances shall the City be liable to the Developer for any indirect, special, consequential or punitive damages, including without limitation, loss of profits or revenues, loss of business opportunity or production, cost of capital, claims by customers, fines or penalties, whether liability is based upon contract, warranty, negligence, strict liability or otherwise, under any of the provisions, terms and conditions of this Agreement. In the event that any failure of the City to pay any Annual Reimbursement Amounts which become due and payable in accordance with the provisions hereof is due to insufficient Incremental Property Taxes being available to the City, any

such failure shall not be deemed to be a Default or a Breach on the part of the City.

**Section 7.4. Costs, Expenses and Fees.** Upon the occurrence of a Default or Breach which requires either party to undertake any action to enforce any provision of this Agreement, the Defaulting Party shall pay upon demand all of the Non-Defaulting Party's charges, costs and expenses, including the reasonable fees of attorneys, agents and others, as may be paid or incurred by such Non-Defaulting Party in enforcing any of the Defaulting Party's obligations under this Agreement or in any litigation, negotiation or transaction in connection with this Agreement in which the Defaulting Party causes the Non-Defaulting Party, without the Non-Defaulting Party's fault, to become involved or concerned.

## **ARTICLE VIII**

### **RELEASE, DEFENSE AND INDEMNIFICATION OF CITY**

**Section 8.1. Declaration of Invalidity.** Notwithstanding anything herein to the contrary, the City, its Corporate Authorities, elected and appointed officials, agents, employees and independent contractors shall not be liable to the Developer for damages of any kind or nature whatsoever or otherwise in the event that all or any part of the TIF Act, or any of the TIF Ordinances or other ordinances of the City adopted in connection with either the TIF Act, this Agreement or the Redevelopment Plan, shall be declared invalid or unconstitutional in whole or in part by the final (as to which all rights of appeal have expired or have been exhausted) judgment of any court of competent jurisdiction, and by reason thereof either the City is prevented from performing any of the covenants and agreements herein or the Developer is prevented from enjoying the rights and privileges hereof; provided that nothing in this Section 8.1 shall limit otherwise permissible claims by the Developer against the Fund or actions by the Developer seeking specific performance of this Agreement or other relevant contracts, if any, in the event of a Breach of this Agreement by the City.

**Section 8.2. Damage, Injury or Death Resulting from Project.** The Developer releases from and covenants and agrees that the City and its Corporate Authorities, elected and appointed officials, agents, employees and independent contractors shall not be liable for, and agrees to indemnify, defend, and hold harmless the City, its Corporate Authorities, elected and appointed officials, agents, employees and independent contractors thereof against any loss or damage to property or any injury to or death of any person occurring at or about or resulting from the Project, except as such may be caused by the intentional conduct, gross negligence, negligence or other acts or omissions of the City, its Corporate Authorities, officials, agents, employees or independent contractors that are contrary to the provisions of this Agreement.

**Section 8.3. Damage or Injury to Developer and Others.** The City and its Corporate Authorities, elected and appointed officials, agents, employees and independent contractors shall not be liable for any damage or injury to the persons or property of the Developer or any of its officers, agents, independent contractors or employees or of any other person who may be about the Property or the Project due to any act of negligence of any person, except as such may be caused by the intentional misconduct, gross negligence, or acts or omissions of the City, its Corporate Authorities, officials, agents, employees, or independent contractors that are contrary to the provisions of this Agreement.

**Section 8.4. No Personal Liability.** All covenants, stipulations, promises, agreements and obligations of the City contained herein shall be deemed to be the covenants, stipulations, promises,

agreements and obligations of the City and not of any of its Corporate Authorities, officials, agents, employees or independent contractors in their individual capacities. No member of the Corporate Authorities, elected or appointed officials, agents, employees or independent contractors of the City shall be personally liable to the Developer (i) in the event of a Default or Breach by any party under this Agreement, or (ii) for the payment of any Loan Advances which may become due and payable under the terms of this Agreement.

**Section 8.5. City Not Liable for Developer Obligations.** Notwithstanding anything herein to the contrary, the City shall not be liable to the Developer for damages of any kind or nature whatsoever arising in any way from this Agreement, from any other obligation or agreement made in connection therewith or from any Default or Breach under this Agreement; provided that nothing in this Section 8.5 shall limit otherwise permissible claims by the Developer against the Fund or actions by the Developer seeking specific performance of this Agreement or other relevant contracts in the event of a Breach of this Agreement by the City.

**Section 8.6. Actions or Obligations of Developer.** The Developer agrees to indemnify, defend and hold harmless the City, its Corporate Authorities, elected and appointed officials, agents, employees and independent contractors, (except as such may be caused by the intentional conduct, gross negligence, negligence or breach of this Agreement by the City, its Corporate Authorities, officials, agents, employees or independent contractors) from and against any and all suits, claims and cost of attorneys' fees, resulting from, arising out of, or in any way connected with (i) any of the Developer's obligations under or in connection with this Agreement, (ii) the construction or installation of the Project, (iii) the Developer's compliance with the Prevailing Wage Act if, as, and when applicable to the Project or (iv) the negligence or willful misconduct of the Developer, its officials, agents, employees or independent contractors in connection with the Project.

**Section 8.7. Environmental Covenants.** To the extent permitted by law, the Developer agrees to indemnify, defend, and hold harmless the City, its Corporate Authorities, officials, agents, employees and independent contractors, from and against any and all claims, demands, costs, liabilities, damages or expenses, including attorneys' and consultants' fees, investigation and laboratory fees, court costs and litigation expenses, arising from: (i) any release or threat of a release, actual or alleged, of any hazardous substances, upon or about the Property or respecting any products or materials, now or thereafter located upon, delivered to or in transit to or from the Property regardless of whether such release occurs as a result of any act, omission, negligence or misconduct of any third party; (ii) (A) any hereafter arising violation (actual or alleged) of, or any other liability under or in connection with, any environmental laws relating to or affecting the Property, or (B) any hereafter arising violation, actual or alleged, or any other liability, under or in connection with, any environmental laws relating to any products or materials, now or hereafter located upon, delivered to or in transit to or from the Property, regardless of whether such violation or alleged violation or other liability occurs or arises, as the result of any act, omission, negligence or misconduct of any third party; (iii) any assertion by any third party of any claims or demands for any loss or injury arising out of, relating to or in connection with any hereafter arising hazardous substances on or about or allegedly on or about the Property; or (iv) any breach, falsity or failure of any of the representations, warranties, covenants and agreements of the like. For purposes of this paragraph, "hazardous materials" includes, without limit, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. §§ 9601 et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. §§ 5101

et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. §§ 6901 et seq.), and in the regulations adopted and publications promulgated pursuant thereto, or any other federal, state or local environmental law, ordinance, rule, or regulation.

**Section 8.8. Notification of Claims.** Not later than thirty (30) days after the Developer becomes aware, by written or other overt communication, of any pending or threatened litigation, claim or assessment, the Developer will, if a claim in respect thereof is to be made against the Developer which affects any of the Developer's rights or obligations under this Agreement, notify the City of such pending or threatened litigation, claim or assessment, but any omission so to notify the City will not relieve the Developer from any liability which it may have to the City under this Agreement.

## **ARTICLE IX** **MISCELLANEOUS PROVISIONS**

**Section 9.1. Entire Agreement and Amendments.** This Agreement (together with Exhibits A and B attached hereto) constitutes the entire agreement by and between the City and the Developer relating to the subject matter hereof. This Agreement supersedes all prior and contemporaneous negotiations, understandings and agreements, whether written or oral, and may not be modified or amended except by a written instrument executed by both of the parties.

**Section 9.2. Third Parties.** Nothing in this Agreement, whether expressed or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any other persons other than the City and the Developer and their respective successors and assigns, nor is anything in this Agreement intended to relieve or discharge any obligation or liability of any third persons to either the City or the Developer, nor shall any provision give any third parties any rights of subrogation or action over or against either the City or the Developer. This Agreement is not intended to and does not create any third party beneficiary rights whatsoever.

**Section 9.3. Counterparts.** Any number of counterparts of this Agreement may be executed and delivered and each shall be considered an original and together they shall constitute one agreement.

**Section 9.4. Special and Limited Obligation.** This Agreement shall constitute a special and limited obligation of the City according to the terms hereof. This Agreement shall never constitute a general obligation of the City to which its credit, resources or general taxing power are pledged. The City pledges to the payment of its obligations under Section 4.1 hereof only such amount of the Incremental Property Taxes as is set forth in Section 4.1 hereof, if, as and when received, and not otherwise.

**Section 9.5. Time and Force Majeure.** Time is of the essence of this Agreement; provided, however, neither the Developer nor the City shall be deemed in Default with respect to any performance obligations under this Agreement on their respective parts to be performed if any such failure to timely perform is due in whole or in part to the following (which also constitute "unavoidable delays"): any strike, lock-out or other labor disturbance (whether legal or illegal, with respect to which the Developer, the City and others shall have no obligations hereunder to settle other than in their sole discretion and business judgment), civil disorder, inability to procure materials, weather conditions, wet soil conditions, failure or interruption of power, restrictive governmental laws and regulations, condemnation, riots, insurrections, acts of terrorism, war, fuel shortages,

accidents, casualties, acts of God or third parties, or any other cause beyond the reasonable control of the Developer or the City.

**Section 9.6. Waiver.** Any party to this Agreement may elect to waive any right or remedy it may enjoy hereunder, provided that no such waiver shall be deemed to exist unless such waiver is in writing and duly executed by the party giving such waiver. No such waiver shall obligate the waiver of any other right or remedy hereunder, or shall be deemed to constitute a waiver of other rights and remedies provided pursuant to this Agreement.

**Section 9.7. Cooperation and Further Assurances.** The City and the Developer covenant and agree that each will do, execute, acknowledge and deliver or cause to be done, executed and delivered, such agreements, instruments and documents supplemental hereto and such further acts, instruments, pledges and transfers as may be reasonably required for the better assuring, mortgaging, conveying, transferring, pledging, assigning and confirming unto the City or the Developer or other appropriate persons all and singular the rights, property and revenues covenanted, agreed, conveyed, assigned, transferred and pledged under or in respect of this Agreement.

**Section 9.8. Notices and Communications.** All notices, demands, requests or other communications under or in respect of this Agreement shall be in writing and shall be deemed to have been given when the same are (a) deposited in the United States mail in a properly addressed envelope and sent by registered or certified mail, postage prepaid, return receipt requested, (b) personally delivered, (c) sent by a nationally recognized overnight courier, delivery charge prepaid or (d) transmitted by telephone facsimile, telephonically confirmed as actually received, in each case, to the City and the Developer at their respective addresses (or at such other address as each may designate by notice to the other), as follows:

- (i) In the case of the Developer, to:  
Green Street Realty Co., of Ill.  
510 S. Neil Street  
Champaign, IL 61820  
Attn: Chris Saunders, President  
Tel: (217) 356-8750
- (ii) In the case of the City, to:  
City of Urbana, Illinois  
400 South Vine Street  
Urbana, IL 61801  
Attn: Community Development Director  
Tel: (217) 384-2439

Notice shall be deemed received (a) four (4) days after placement with the United States Postal Service in the manner provided above, (b) the day following personal delivery, or (c) the day following deliver by a national recognized overnight courier service. Whenever any party hereto is required to deliver notices, certificates, opinions, statements or other information hereunder, such party shall do so in such number of copies as shall be reasonably specified.

**Section 9.9. Assignment.** The Developer agrees that it shall not sell, assign or otherwise transfer any of its rights and obligations under this Agreement in whole or in part without the prior express written consent of the City, except that: (i) any assignment of the Annual Reimbursement Amounts under this Agreement as collateral; or (ii) any related sale, assignment or transfer of this Agreement in whole to a legal entity having common ownership with the Developer; may be made without the prior written consent of the City. Except as authorized in this Section above, any assignment in whole or in part shall be void and shall, at the option of the City, terminate this Agreement. No such sale, assignment or transfer as authorized in this Section, including any with or without the City's prior written consent, shall be effective or binding on the City, however, unless and until the Developer delivers to the City a duly authorized, executed and delivered instrument which contains any such sale, assignment or transfer and the assumption of all the applicable covenants, agreements, terms and provisions of this Agreement by the applicable parties thereto. Any assignment of this Agreement shall be subject to the limitations provided in Section 5.4 regarding Developer's obligation to manage the Property for the period stated in said Section 5.4 unless the City otherwise consents in writing to the assignment of Developer's property management obligation.

**Section 9.10. Successors in Interest.** Subject to Section 9.9 above, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respectively authorized successors, assigns and legal representatives (including successor Corporate Authorities).

**Section 9.11. No Joint Venture, Agency, or Partnership Created.** Nothing in this Agreement nor any actions of either of the City or the Developer shall be construed by either of the City, the Developer or any third party to create the relationship of a partnership, agency, or joint venture between or among the City and any party being the Developer.

**Section 9.12. Illinois Law; Venue.** This Agreement shall be construed and interpreted under the laws of the State of Illinois. If any action or proceeding is commenced by any party to enforce any of the provisions of this Agreement, the venue for any such action or proceeding shall be in Champaign County, Illinois, whether in the United States District Court for the Central District of Illinois or the Circuit Court for the Sixth Judicial Circuit, Champaign County, Illinois.

**Section 9.13. Term.** Unless earlier terminated pursuant to the terms hereof, this Agreement shall be and remain in full force and effect from and after the Effective Date and shall terminate upon the completion of all payments for Eligible Redevelopment Project Costs in accordance with Section 4.2 and Article VI of this Agreement or the termination of the Redevelopment Project Area, whichever occurs first, provided, however, that anything to the contrary notwithstanding, the Developer's obligations under Section 5.4 and Article VIII of this Agreement shall be and remain in full force and effect in accordance with the express provisions thereof.

**Section 9.14. Recordation of Agreement.** Either party may record this Agreement or a Memorandum of this Agreement in the office of the Champaign County Recorder at any time following its execution and delivery by both parties.

**Section 9.15. Construction of Agreement.** This Agreement has been jointly negotiated by the parties and shall not be construed against a party because that party may have primarily assumed responsibility for preparation of this Agreement.

IN WITNESS WHEREOF, the City and the Developer have caused this Agreement to be executed by their duly authorized officers or manager(s) as of the date set forth below.

CITY OF URBANA, CHAMPAIGN COUNTY,  
ILLINOIS

By: *Deane Wolfe Martin*  
Mayor

ATTEST:

By: *[Signature]*  
City Clerk

Date: 2/12/2019



GREEN STREET REALTY CO., OF ILL.

By: *[Signature]*  
Chris Saunders, President

Date: 12 February 2019

[Exhibits A, B and C follow this page and are an integral part of this Agreement in the context of use.]

## EXHIBIT A

### Preliminary Project Design

The Project shall result in:

1. a minimum 42 market-rate townhomes, and
2. a minimum of 20 3-story units and 20 2-story units, and
3. a minimum of 25 surface parking lot spaces, and
4. enclosed garage parking spaces on the ground floor of a minimum of 15 units, and
5. building exteriors comprised of brick, wood board, and Exterior Insulation Finishing System (EIFS), and
6. sufficient setbacks along adjacent streets to ensure pedestrian and resident safety, and
7. at least 20% of the units having the ability to be adapted for upper-story ADA accessibility as required by code, and
8. covered bicycle parking with an active solar array, and
9. except as noted above, a design that is substantially similar to the following images:



**SUB<sub>4</sub>**  
DEVELOPMENT CO.

*GreenStreet*  
REALTY

# 200 S VINE ST

DOWNTOWN URBANA TOWNHOUSE DEVELOPMENT



**SUB<sub>4</sub>**  
DEVELOPMENT CO

VINE ST BREEZEWAY

*GreenStreet*  
REALTY



**SUB<sub>4</sub>**  
DEVELOPMENT CO

SIDEWALK VIEW

*GreenStreet*  
REALTY



**SUB**<sub>4</sub>  
DEVELOPMENT CO

URBANA ST VIEW

*GreenStreet*  
REALTY



**SUB**<sub>4</sub>  
DEVELOPMENT CO

VINE ST FRONT VIEW

*GreenStreet*  
REALTY



**SUB<sub>4</sub>**  
DEVELOPMENT CO.

*GreenStreet*  
REALTY

CORNER VIEW



**SUB<sub>4</sub>**  
DEVELOPMENT CO.

*GreenStreet*  
REALTY

URBANA ST CORNER VIEW



**SUB<sub>4</sub>**  
DEVELOPMENT CO.

SIDE VIEW

*GreenStreet*  
REALTY



**SUB<sub>4</sub>**  
DEVELOPMENT CO.

3 STORY BACK VIEW

*GreenStreet*  
REALTY



**SUB<sub>4</sub>**  
DEVELOPMENT CO.

*GreenStreet*  
REALTY

COURTYARD VIEW



**SUB<sub>4</sub>**  
DEVELOPMENT CO.

*GreenStreet*  
REALTY

3 STORY BACK VIEW



**SUB<sub>4</sub>**  
DEVELOPMENT CO.

## 2 STORY BACK CORNER VIEW

*GreenStreet*  
REALTY





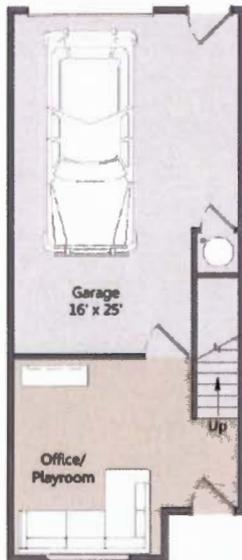
Ground Floor



2nd Floor

**2 STORY: NO BALCONY**  
200 S VINE ST DEVELOPMENT

*GreenStreet*  
REALTY



Ground Floor



2nd Floor



3rd Floor

**3 STORY: GARAGE WITH BALCONY**  
200 S VINE ST DEVELOPMENT

*GreenStreet*  
REALTY





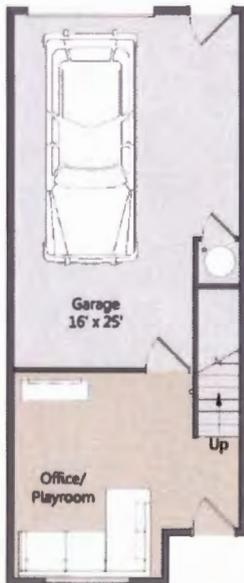
Ground Floor



2nd Floor

**2 STORY: WITH BALCONY**  
200 S VINE ST DEVELOPMENT

*GreenStreet*  
REALTY



Ground Floor



2nd Floor



3rd Floor

**3 STORY: GARAGE WITH NO BALCONY**  
200 S VINE ST DEVELOPMENT

*GreenStreet*  
REALTY





Ground Floor



2nd Floor



3rd Floor

**3 STORY: NO GARAGE WITH BALCONY**  
 200 S VINE ST. DEVELOPMENT

*GreenStreet*  
 REALTY



**EXHIBIT B**  
**Depiction of Property**

**200 Vine Block**



50 Feet

This map was prepared with geographic information system (GIS) data created by the Champaign County GIS Consortium (CCGISC), or other CCGISC member agency. These entities do not warrant or guarantee the accuracy or suitability of GIS data for any purpose. The GIS data within this map is intended to be used as a general index to spatial information and not intended for detailed, site-specific analysis or resolution of legal matters. Users assume all risk arising from the use or release of this map and information contained herein. The use of this map constitutes acknowledgement of this disclaimer.



Date: Monday, December 3, 2012

The PINS of the Property are as follows:

92-21-17-233-001 (202 S Vine St)  
92-21-17-233-002 (305 E Elm St)  
92-21-17-233-003 (307 E Elm St, 203 Urbana Ave)  
92-21-17-233-004 (205 Urbana Ave)  
92-21-17-233-005 (304 E Green St)  
92-21-17-233-006 (306 E Green St)  
92-21-17-233-007 (308 E Green St, 207 Urbana Ave)

The legal description of the alleys is as follows:

All of a north-south Public Alley and all of an east-west Public Alley, both being in the Northeast Quarter of the Northeast Quarter of Section 17, Township 19 North, Range 9 East of the Third Principal Meridian, Champaign County, Illinois, being more particularly described as follows:

All of a north-south Public Alley, being twelve feet (12') in width, and all of an east-west Public Alley, being twelve feet (12') in width, lying adjacent to Lots 9, 10, 11, 12, 13, 14, 15, and 16 of W. T. Webber's Subdivision in the City of Urbana, as shown on a plat recorded in Deed Record Book "A" at page 357 in the Office of the Recorder of Deeds, Champaign County, Illinois, and bounded on the north by Elm Street; on the east by Urbana Avenue; on the south by Green Street; and on the west by Vine Street.

Said alleys containing 6,480 S.F. (0.149 acre), more or less, all situated in the City of Urbana, Champaign County, Illinois.

## EXHIBIT C

### PERSONAL GUARANTY

The undersigned, Chris Saunders of Urbana, Illinois (the “**Guarantor**”), the sole shareholder, director, and president of Green Street Realty Co., of ILL, an Illinois corporation (the “**Developer**”), in consideration of the City of Urbana, Champaign County, Illinois (the “**City**”), conveying the Property and vacating the alleys (the “**Conveyance**”) under that certain Redevelopment Agreement dated as of January 1, 2019 (the “**Agreement**”) in connection with which all capitalized words and terms as used herein shall have the same meanings as ascribed to them in the Agreement) by and between the City and the Developer, and in order to induce the City to make the Conveyance, hereby agrees and covenants as follows:

1. The Guarantor hereby unconditionally, absolutely, and irrevocably guarantees to the City the performance of all conditions and obligations of the Developer under Section 5.1 of the Agreement.

2. The City may seek recourse against the Guarantor without looking to enforce any rights against the Developer under the Agreement.

3. The Guarantor agrees to pay any and all costs or fees incurred by the City, including, without limitation, reasonable attorneys’ fees for consultation, preparing demand letters, or bringing any action for enforcement of Section 5.1 of the Agreement.

4. This Guaranty shall be the primary obligation of the Guarantor. The Guarantor agrees that the City may proceed under the Agreement or this Guaranty separately or collectively without prejudicing or waiving any of its rights under the Agreement or this Guaranty.

5. THE GUARANTOR WAIVES ANY CLAIM OR OTHER RIGHT THAT THE GUARANTOR MAY NOW HAVE OR HEREAFTER ACQUIRE AGAINST THE DEVELOPER OR ANY OTHER PERSON THAT IS PRIMARILY OR CONTINGENTLY LIABLE THAT ARISES FROM THE EXISTENCE OF THE PERFORMANCE OF THE GUARANTOR’S OBLIGATIONS UNDER THIS GUARANTY, INCLUDING, WITHOUT LIMITATION, ANY RIGHT OF SUBROGATION, REIMBURSEMENT, EXONERATION, CONTRIBUTION, OR INDEMNIFICATION, OR ANY RIGHT TO PARTICIPATE IN ANY CLAIM OR REMEDY OF THE CITY AGAINST THE DEVELOPER THAT THE CITY NOW HAS OR HEREAFTER ACQUIRES, WHETHER SUCH CLAIM, REMEDY, OR RIGHT ARISES IN EQUITY OR UNDER CONTRACT, STATUTE, OR COMMON LAW.

6. This Guaranty is binding on the Guarantor and his personal representatives, successors, and assigns and shall inure to the benefit of the City and its successors and assigns. This is a continuing Guaranty, and notice of its acceptance is waived.

IN WITNESS WHEREOF, this Guaranty is executed as of the \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Chris Saunders, an individual



Full Service Real Estate Office • Residential Commercial • Property Management • Leasing • Sales

April 24, 2020

City of Urbana  
Attn: Brandon Boys  
400 S Vine St  
Urbana, IL 61801

## ATTACHMENT C

Dear Mr. Boys,

I am writing to request an extension of time to complete the development at 200 S Vine Street. The current Redevelopment Agreement required us to complete the project by December 31, 2020. We are requesting that Project Completion Date be extended to May 1, 2021. As we have discussed the current timeline will be a challenge for us due to a variety of unforeseen issues.

The development required a much more extensive and costly utility relocation that we had anticipated. Working with numerous utility companies and their schedules was one of the reasons that our project did not get started last Fall. We have also struggled with budget constraints. Our construction bids came in well over \$8,000,000, much higher than the original \$6,000,000 budget that we had anticipated for this project. We were able to make some changes to materials that allowed us some significant savings and bring the development budget to \$8,055,000. We did this by making just one change to the exteriors, replacing the EFIS siding section with MAC siding. The MAC siding is a new product that we have been using on other local projects that we feel is a superior product to EFIS and will look outstanding when complete. You can view some MAC siding at our project at 103 E Healey St, Champaign if you would like to see what it looks like in person. The other challenge with this project has been to find a lender that is willing to finance the development. We are pleased to report that Iroquois Federal Bank has giving us a loan commitment and is excited about being part of this exciting project. However, with the delays and the recent COVID 19 events they are requesting that we extend this Project Completion Date in the Redevelopment Agreement to match up with our revised construction completion schedule of May 1, 2021.

On a positive note, we have picked up the final building permit, relocated utilities and started construction on the site. While we are requesting a May 2021 date for full completion, you will see a great deal of progress during 2020. Despite these challenging times, we are fully committed to this development and believe this will be a valuable addition to Downtown Urbana. Please feel free to reach out if you have any questions or concerns.

Sincerely,

Chris Saunders



**Project exterior view, 3-story**

Updated rendering of MAC siding with vertical panels

*Image facing SE from the intersection of Vine Street and Elm Street.*



**Project exterior view, 2-story**

While this image has not been updated, the EIFS shown at the top of each building would be replaced with MAC siding.

*Image facing SW from the intersection of Elm Street and Urbana Avenue.*



**Project interior view, 3-story**

Updated rendering of MAC siding with vertical and horizontal panels.

*Image facing N from the interior of the site.*



**Project interior, 2-story**

Updated rendering of MAC siding with vertical and horizontal panels

*Image facing NE from the interior of the site.*

*Please note that an existing use of MAC siding by Green Street Realty can be viewed at 103 E Healey St, Champaign.*