Document Number	SAMPLE – 5/2008 PURCHASE AND SALE AGREEMENT	

Name and Return Address:
City of Milwaukee
Real Estate Section
Attn: DCD Staff Member
809 North Broadway, 2nd Floor
Milwaukee, WI 53202-3617

Tax Key No.: ___ - ____ - ___ - _

Recording Area

AGREEMENT, By and between the **CITY OF MILWAUKEE** ("City"), a municipal corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin, located at Milwaukee, Wisconsin, and **_____,** a Wisconsin corporation/limited liability company, ("Buyer") located at _____, Milwaukee, WI, WITNESSETH:

WHEREAS, Pursuant to Resolution No. _____ adopted by the Common Council of the City of Milwaukee on _____ _____, the City has offered to sell and the Buyer is willing to purchase said real property at_____ ("Property") and more particularly described in **Exhibit A** annexed hereto and made a part hereof, and to improve the Property for and in accordance with the uses specified in the provisions of this Agreement:

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

SEC. 1. PROJECT DESCRIPTION

City and Buyer agree to develop the Property as follows, which is collectively defined as the "Project":

Rehabilitate the existing building or Construct a_____-story, (residential/commercial/industrial/mixed use) building containing approximately _____ square feet for use as _____, associated parking and landscaping according to plans approved by the City Department of City Development ("DCD") pursuant to Section 2.

SEC. 2. BUYER ACTIONS

(a) In connection with the Project, the Buyer shall:

1. Submit final construction plans, including a site plan, detailed fencing, paving and landscaping plan, and building elevations ("Final Plans") to the DCD for approval prior to closing for the Property. Final Plans must conform to DCD approved preliminary plans submitted by Buyer on _____ in response to the Request for Proposal (or with initial development proposal) as revised in response to DCD comments (and if applicable: and according to the Design Criteria attached as **Exhibit B** hereto). Final Plans shall be submitted to the City through DCD's Development Center as part of Buyer's application for building permits. Buyer shall revise Final Plans as recommended by DCD's Design Review Team.

2. Submit a final construction budget ("Final Budget") and evidence of financing and/or equity for the Project in a form satisfactory to the DCD prior to conveyance of the Property.

3. Be responsible for all Project expenses including, but not limited to, Final Plan preparation, survey costs including the cost for a Certified Survey Map, extension of water and sewer laterals to the Property, relocation of any utilities on the Property,

provision of utilities to the Property and provision and/or replacement of public sidewalks, curbs, curb cuts and/or driveway approaches.

4. Commence construction of the Project within thirty (30) days following Closing for the Property pursuant to Section 4 and complete construction including landscaping, within twelve (12) months following Closing, subject to force majeure delays, and other delays not within the control of the Buyer.

(b) Covenants and agrees that no additional buildings, structures, or other similar improvements shall be constructed on the Property without the prior written approval of DCD, including without limitation because of enumeration, any addition to or expansion of any principal building currently located on or presently proposed for construction on the Property or any accessory building to such principal building.

(c) Comply with the City's Emerging Business Enterprise (EBE) policy. Buyer agrees to EBE participation that is at least 18% of the total Project budget and shall obtain a list of City certified EBE's from and execute an EBE agreement for the Project with the City EBE Program Office prior to Closing. After completion of the Project, Buyer shall report on its use of EBE's to DCD in terms of the total number of EBE contractors used and the dollar volume of such contracts. Such information shall be provided in writing prior to or with Buyer's request for a Certificate of Completion pursuant to Section 7 of this Agreement.

SEC. 3. PURCHASE PRICE & EARNEST MONEY

(a) Purchase Price. The "Purchase Price" for the Property shall be _____and No/100ths Dollars ($_____.00). Buyer shall pay the Net Purchase Price to City at Closing in the form of a check subject to the usual and customary prorations. If applicable: Buyer shall reimburse City at Closing for Buyer's share of environmental costs pursuant to Section 6(b). Buyer may be asked to allocate the Net Purchase Price to City expenses, fees and reimbursements.

(b) Earnest Money**.** Buyer shall tender to the City earnest money ("Earnest Money") in the amount of $_____ (see fee schedule) in good funds on or before a date that is not later than fifteen (15) days following the date of approval of this Agreement by the City Common Council. The Earnest Money is non-refundable except for default by the City. Earnest Money shall be held by the City in a City account. If this transaction fails to close as required hereunder, other than as a result of a default by City in which event the Earnest Money shall be returned to Buyer immediately, City shall keep the Earnest Money. If this transaction closes within the "Base Period" (as defined below) and as required hereunder, the Earnest Money shall be credited toward the Purchase Price at Closing. No credit of Earnest Money shall be granted if the Agreement is extended pursuant to Section 4(b). If the Earnest Money is not timely paid, City may declare this Agreement terminated.

SEC. 4. CONVEYANCE OF PROPERTY

(a) Closing. Closing on this transaction and conveyance of the Property from City to Buyer ("Closing") shall be at the City Real Estate Office at a date and time mutually agreed to by the parties, which date shall be on or before _____ ("Base Period"), provided:

1) such date is not more than four months following the date of approval of this Agreement by the City Common Council;
2) Buyer has satisfied the City Closing Contingencies in Section 4(c); and
3) is not in violation of City policies pursuant to Section 4(j).

(b) Extension. If Buyer is unable to close on or before expiration of the Base Period, Buyer may submit a written request for one (1) six (6)-month extension of this Agreement ("Extended Period") from the DCD Commissioner, a $500 renewal fee and a progress report of Buyer's efforts to obtain final construction plans and firm financing. The DCD Commissioner shall grant the Extended Period if DCD is satisfied that Buyer is making progress to obtain Final Plans and financing. The renewal fee shall not be credited toward the Purchase Price.

(c) City Closing Contingencies. Notwithstanding anything to the contrary contained herein, the City's duty to Close and convey the Property on or before the expiration of the Base Period or Extended Period is contingent upon:

1. Financing and/or Equity. Buyer submitting to DCD evidence of financing without contingencies and/or equity in an amount equal to the Final Budget and satisfactory to DCD;
2. Final Plans. DCD Design Review Team approving Buyer's Final Plans.
3. EBE. Buyer submitting an EBE Agreement executed by Buyer and acceptable to the EBE Program Office.

(d) Form of Deed. City shall, at Closing and upon submission of the Purchase Price, convey the Property to Buyer by Quit Claim Deed ("Deed") in an "as is, where is" condition with all faults and defects, known or unknown, physical or otherwise, including but not limited to environmental or geotechnical defects, whether disclosed or not disclosed, known or not known, and without representation or warranty, express or implied. Such provisions shall bar all tort, warranty, and misrepresentation claims, including any action based on non-disclosure. The conveyance and title shall, in addition to the provisions of Section 15 of this Agreement and all other conditions, covenants and restrictions set forth or referred to elsewhere in this Agreement, be subject to:

1. Applicable statutes, orders, rules and regulations of the Federal Government and State of Wisconsin, and laws and ordinances of the City of Milwaukee, including zoning, building and land subdivision laws and regulations;

2. All easements of record;

3. A restriction that the Property must be taxable for property-tax purposes. The restriction shall require that no owner or occupant of the Property shall apply for, or seek, or accept, property-tax exemption (whether under Wis. Stat. § 70.11 or otherwise) for the Property, or any part thereof. This restriction shall be a permanent covenant that runs with the land, and may only be released by resolution passed by the City's Common Council.

4. Any recorded or unrecorded rights or interests of any person, entity or utility in any vacated alley, street, or public right-of-way at the Property including rights and interest of persons under Wis. Stat. § 66.1005(2).

5. Matters that would be revealed by an ALTA survey including, but not limited to, encroachments from the Property to a public right of way or adjacent property or encroachments on the Property from adjacent properties.

6. If applicable: A restriction joining the individual lots of the Property (if Property is composed of multiple lots) so as to create a single parcel for assessment purposes and that cannot be divided without the prior approval of the Common Council. Buyer may be required to obtain a Certified Survey Map to join lots as a condition of a building permit.

7. If applicable: Possible registry of the Property on a Geographic Information System ("GIS") Registry of the Wisconsin Department of Natural Resources ("WDNR") pursuant to Section 6(b).

(e) Proration of Taxes. There shall be no proration of real estate taxes as the Property is tax exempt.

(f) Recordation of Deed. City shall promptly file the Deed for recording with the Milwaukee County Register of Deeds or as permitted by the Municipal Code of Ordinances. The Buyer shall pay all costs for so recording the Deed. No real estate transfer fee is due and no real estate transfer return is required pursuant to Wis. Stat. Section 7.25(s) and Section 77.23 (2), respectively, unless City is a lender in the transaction.

(g) Other Closing Documents. Buyer may be responsible for executing Closing documents required by the City Department of Neighborhood Services Property Recording Program and/or the Wisconsin Department of Commerce Weatherization Program. Buyer shall be solely responsible for all fees, including recording fees, for such documents.

(h) Title Insurance. If the Purchase Price is $5,000 or more, the City shall procure and deliver to the Buyer for examination a preliminary commitment for title insurance prepared by a title insurance company under contract with the City in the amount of the full Purchase Price, naming the Buyer as the insured. This commitment shall guarantee the City's title to be in the condition called for by this Agreement. City shall pay the base cost of title insurance. The cost of title updates, gap endorsements and special assessment letters shall be paid by Buyer. No title insurance shall be provided if the Purchase Price is less than $5,000.

(i) Special Assessments. City will be responsible for all special assessments levied as of the date this Agreement was accepted by the City Common Council. Buyer is responsible for all special assessments levied after that date. The City shall provide details of any known or contemplated special assessments at Closing. If outstanding special assessments for which the City is responsible exist at Closing, City shall grant a credit in the amount of such assessments against the Purchase Price. Buyer shall pay the assessment when billed. If the estimated assessment is greater than the Purchase Price, DCD shall notify the Department of Public Work to bill DCD City for the special assessment. If the special assessment for which the City is responsible is billed to Buyer or inadvertently certified to the tax roll, Buyer shall provide the bill to DCD and DCD shall arrange for payment.

(j) City Policies. Buyer certifies that it as individual or member of a corporation or partnership is not now and will not be at Closing in violation of the following City Policies:

i. Delinquent real estate or personal property taxes due the City.
ii. Building or health code violations that are not being actively abated.
iii. Convicted of violating an order of the Department of Neighborhood Services or Health Department within 12 months preceding Closing.
iv. Convicted of a felony crime that affects property or neighborhood stability or safety.
v. Outstanding judgment to the City
vi. In Rem foreclosure by the City within five years preceding Closing.

If Buyer is found to violate any of these City Policies, the City shall give Buyer notice to correct this condition by the expiration of the Base Period or Extended Period or other such period as determined by the Commissioner of DCD. If the violation is not corrected within the specified period, this Agreement for Sale may be canceled at the option of the City and the Earnest Money and renewal fees, if any, shall be retained by the City as liquidated damages.

(k) Agreement to be Recorded Against Title**.** At Closing, and before recording the Deed, City shall record this Agreement against the Property in the Register of Deeds Office at Buyer's expense, and the Property's title will be encumbered by it until issuance of the Certificate defined below

SEC. 5. PERFORMANCE DEPOSIT

Buyer shall submit at Closing a Performance Deposit in the amount of _____ (10% of Purchase Price or a minimum of One Thousand and No/100ths ($_____.00) Dollars ("Deposit"). The Deposit shall serve as security for the performance of the obligations of the Buyer to construct as provided hereinafter. DCD shall authorized return of the Deposit concurrently with its formal approval of the Certificate of Completion pursuant to Section 7 or shall retain the Deposit as liquidated damages in accordance with the provisions of Sections 7 and 15. No interest shall be paid on the deposit. All or part of the Deposit may be retained by the City if Buyer fails to complete the Project according to the time schedule provided in Section 2.

SEC. 6. PROPERTY CONDITION, SITE PREPARATION AND CERTAIN OTHER ACTION BY CITY

(a) Property Condition. City discloses that the Property may contain old building foundations, rubble and debris from prior buildings that may have been demolished. The City shall not conduct any geotechnical investigation at the Property. Buyer agrees to accept the Property "as is, where is" and is solely responsible for conducting its own geotechnical investigation to determine the soil bearing capacity and for all site excavation, debris removal, fill and development expenses.

(b) Environmental Work To Be Performed By City. The City shall, without expense to Buyer except as noted, prepare the Property for redevelopment by the Buyer in the following manner:

1. Reports. City has provided to Buyer and Buyer acknowledges receipt of the following environmental reports and letters:
   a. Phase I Environmental Site Assessment ("Phase I") prepared by _____ ("_____") dated _____. Provision of this report does not affect or impact the "as is, no representation or warranty" nature of this transaction, and the City does not warrant the contents, conclusion or accuracy of the reports.
   b. If testing conducted prior to Agreement: A Limited Phase II investigation report prepared by _____ ("_____") dated _____. Buyer shall reimburse City for one half of the Phase II report at Closing.
2. Phase II (If no environmental concerns). The City shall not conduct any additional environmental investigations including, but not limited to, an investigation as to the presence of asbestos containing materials for improved properties or environmental remediation (unless specified in a Request for Proposal or as negotiated with DCD). City shall convey the Property in an "as is, where is" condition with all faults and defects, known or unknown, physical or otherwise, and without representation or warranty, express or implied. Such provisions shall bar all tort, warranty, and misrepresentation claims – including any action based on non-disclosure. Buyer shall rely on Buyer's own due diligence and independent investigation and inspection, and Buyer shall not rely upon any oral or written statement or representation of City or any employee or agent or contractor of City.

or 2. Phase II (If potential concerns revealed by Phase I): City and Buyer agree to conduct a Phase II environmental investigation if recommended by the Phase I, specified in the Request for Proposal or as recommended by the Commissioner of DCD. Phase II

testing may only be conducted by a contractor under a master contract with the City. City and Buyer shall cooperate on the scope of work for such investigation and such scope shall be based on Buyer's proposed foundation excavation and site grading plan. The cost of the Phase II investigation shall be shared equally between City and Buyer, provided the City share does not exceed the Purchase Price, in which case Buyer may be solely responsible for Phase II costs. The cost of a Remedial Action Plan ("RAP") based on Buyer's proposed Project shall be Buyer's sole responsibility.

3. Remediation by City. Subject to availability of funds, the City may conduct remediation of impacted soils and groundwater and/or an approved RAP in the most cost effective manner and subject to a limit on total City expenditures. Such remediation may involve on-site natural attenuation of impacted soils and/or encapsulation of impacted soils by Buyer's Project that may require listing the Property on WDNR's GIS Registry. Buyer agrees to list the Property on the WDNR GIS Registry if required by WDNR as a condition of case closure. If City is to conduct remediation prior to Closing, but Buyer elects a remediation strategy with higher costs, Buyer shall be responsible for the additional costs.

or 3. Remediation by Buyer. Buyer may elect to purchase the Property prior to required remediation in its "as is" environmental condition and perform the remediation and/or implementation of an approved RAP and City may grant a credit toward the Purchase Price in consideration of Buyer conducting the remediation. City and Buyer shall negotiate the amount of the credit, which amount cannot exceed the Purchase Price less sale expenses, outstanding special assessments and other City costs. At Closing, Buyer agrees to accept assignment from the City of a WDNR Responsible Party letter

4. Buyer Reports. Should Buyer desire its own Phase I, Phase II testing or remediation not recommended by a City Phase I or Phase II report, all such investigation, testing and reports shall be at Buyer's sole expense and responsibility. Buyer must use an environmental consultant under a master contract with the City for a Phase I or Phase II report if the City is to rely on such information. Phase II testing by Buyer can occur only after City approval of a scope of work, granting of a right of entry to Buyer and to Buyer's environmental consultant and provision of certificate of insurance including environmental insurance to the City if Buyer uses a consultant that is not under a master contract with the City. If Buyer requests any credit to the Purchase Price for environmental conditions determined by Buyer's consultant, Buyer shall provide City with all environmental data and reports generated by Buyer's consultant for review by City staff and City consultant.

5. Termination for Feasibility. If the cost for Phase II testing or any required remediation renders a project economically infeasible, this Agreement may be canceled at the option of either party and the Earnest Money and Renewal Fee shall be returned by City.

6. City Expenditure Limit. City's combined cost for Phase II testing and remediation, if any, cannot exceed the Purchase Price (less sale expenses, outstanding special assessments and other City costs) without City specifically identifying a funding source for environmental activities.

(c) Right of Entry for Utility Service. The City reserves for itself, the City, and any public utility company as may be appropriate, the unqualified right to enter upon the Property at all reasonable times for the purpose of reconstructing, maintaining, repairing or servicing the public utilities located within the Property boundary lines and provided for in the easements described or referred to in Paragraph (a), Section 2 hereof. This right-of-entry shall not interfere with Buyer's use of the Property.

(d) Buyer Not to Construct Over Utility Easements. The Buyer shall not construct any building or other structure or improvement on, over, or within the boundary lines of any easement for public utilities described or referred to in Paragraph (a), Section 2 hereof, unless such construction is provided for in such easement or has been approved by the City. If approval for such construction is requested by the Buyer, the City shall use its best efforts to assure that such approval shall not be withheld unreasonably.

(e) Access to Property. Prior to the conveyance of the Property to Buyer and Buyer, the City shall permit representatives of the Buyer to have access to any part of the Property as to which the City holds title, at all reasonable times for the purpose of obtaining data and making various tests that necessary to carry out the Agreement upon receipt by the City of a written request for such entry and submittal of evidence of insurance according to the City's minimum guidelines. Such request and evidence of insurance must be satisfactory to the City in form and substance prior to the City granting such access. After the conveyance of the Property to the Buyer, the Buyer shall permit the representatives of the City, or the City upon five (5) days prior written notice access to the property at all reasonable times which any of them deems necessary for the purposes of the Agreement, including, but not limited to, inspection of all work being performed in connection with the construction as hereinafter defined. No compensation shall be payable nor shall any charge be made in any form by any party for the access provided for in this Section.

SEC. 7. CERTIFICATE OF COMPLETION

Promptly after completion of the construction, including landscaping, in accordance with this Agreement, Buyer shall request that the Commissioner of DCD issue a Certificate of Completion ("Certificate") and return the Performance Deposit ("Deposit"). This Certificate shall be a conclusive determination of satisfaction and termination of the covenants in the Agreement and the Deed with respect to the obligations of the Buyer and its successors and assigns to construct and the dates for the beginning and completion thereof.

Representatives of the City shall inspect the Property within thirty (30) days following receipt of Buyer's request to determine if the work has been completed according to City-approved plans and this Agreement. If the property is determined to be in conformance, the Commissioner shall execute the Certificate within thirty (30) days of the inspection and shall present the Certificate to Buyer. If the Commissioner refuses to authorize this Certificate, the City shall within thirty (30) days of the Property inspection provide Buyer with a written statement indicating in adequate detail how the Buyer has failed to complete the development of the Property in conformity with approved plans or this Agreement, or is otherwise in default, and what measures or acts are necessary, in the opinion of the Commissioner, for the Buyer to take or perform in order to obtain the Certificate. Concurrent with DCD's consideration of the request for the Certificate, the City shall consider return of the Deposit. All or part of the Deposit may be retained by the City if the project is not completed according to the schedule specified in Section 2. A check for the amount of Deposit authorized for return by the City shall be provided within ten (10) days of issuance of the Certificate by the City.

SEC. 8. RESTRICTIONS ON USE

The Buyer agrees for itself, and its successors and assigns, and every successor in interest to the Property, or any part thereof, to:

(a) Not discriminate upon the basis of sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation, gender identity or expression, past or present membership in the military service, familial status, or based upon affiliation with, or perceived affiliation with any of these protected categories in the sale, lease or rental, or in the use or occupancy of the Property or any improvements located or to be erected thereon, or any part thereof.

(b) Comply with all requirements of the Americans with Disabilities Act of 1990, U.S.C. #12101, et. seq.

SEC. 9. COVENANTS BINDING UPON SUCCESSORS IN INTEREST: PERIOD OF DURATION

It is intended and agreed that the covenants provided in Sections 8 and 19 shall be covenants running with the land binding to the fullest extent permitted by law and equity for the benefit and in favor of, and enforceable by, the City, its successors and assigns, the City, and any successor in interest to the Property, or any part thereof, and the United States (in the case of the covenant provided in subsection (b) of Section 8), against the Buyer, its successors and assigns, and every successor in interest to the Property or any part thereof or any interest therein, and any party in possession or occupancy of the Property or any part thereof. It is further intended and agreed that the covenant provided in subsection (a) of Section 8 shall remain in effect without limitation as to time.

SEC. 10. TRANSFER OF PROPERTY

The Buyer has not made or created, and will not, prior to the completion of the redevelopment as certified by DCD, not make or suffer to be made any other sale, assignment, conveyance, lease or transfer in any other form of or with respect to this Agreement or the Property, or any part thereof or any interest therein, or contract or agree to do any of the same, without the prior written approval of the Commissioner, provided that Buyer may assign or transfer to an entity which has the substantially similar ownership as Buyer.

SEC. 11. LIMITATION UPON ENCUMBRANCE OF PROPERTY

Prior to issuance of the Certificate, neither the Buyer nor any successor in interest to the Property shall engage in any financing or any other transaction creating any mortgage or other encumbrances or lien upon the Property, whether by express agreement or operation of law, or suffer any encumbrance or lien to be made on or attach to the Property except for the purposes only of obtaining (a) funds only to the extent necessary for the construction provided in Section 5 and (b) such additional funds, if any, in an amount not to exceed the Purchase Price paid by the Buyer to the City. Until issuance of the Certificate, the Buyer (or successor in interest) shall notify the City in advance of any financing secured by mortgage or other similar lien instrument it proposes to enter into with respect to the Property and of any encumbrance or lien that has been created on or attached to the Property whether by voluntary act of the Buyer or otherwise.

SEC. 12. MORTGAGEES NOT OBLIGATED TO CONSTRUCT

Notwithstanding any of the provisions of this Agreement, including but not limited to those which are intended to be covenants running with the land, the holder of any mortgage authorized by this Agreement (including any holder who obtains title to the Property or any part thereof as a result of foreclosure proceedings, or action in lieu thereof, but not including (a) any other party who thereafter obtains title to the Property or such part from or through such holder or (b) any other purchaser at foreclosure sale other than the holder of the mortgage itself) shall not be obligated by the provisions of this Agreement to complete the construction or to guarantee such construction; nor shall any covenant or any other provision in the Deed be construed to so obligate such holder.

SEC. 13. ENFORCED DELAY IN PERFORMANCE

Neither the City nor the Buyer, nor any successor in interest, shall be considered in breach or default of its obligations with respect to the preparation of the Property for development or commencement and completion of construction, in the event of enforced delay in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence. The time for the performance of the obligations shall be extended for the period of the enforced delay, as determined by the City, if the party seeking the extension shall request it in writing of the other party within ten (10) days after the beginning of the enforced delay.

SEC 14. NO DAMAGES FOR DELAY

The Buyer shall not be entitled to recover any damages from the City arising from or attributable to any delays in construction upon or development of the Property, unless the City caused the delay in question.

SEC. 15. REMEDIES

(a) General. In the event of breach of this Agreement, the parties have their respective rights hereunder, and those available at law and in equity. City expressly retains all rights under Wis. Stat. Section 893.80

(b) Prior to Conveyance. If, prior to City's conveyance of the Property, Buyer assigns or attempts to assign this Agreement or any rights hereunder or fails to pay the Purchase Price and take title to the Property upon City's offer of conveyance, the City may, at its option, terminate this Agreement and retain any fees submitted by Buyer as liquidated damages.

(c) Notice of Breach and Right to Cure. Except as otherwise provided herein, in the event of default or breach ("Default") by either party hereto, the defaulting party shall, upon written notice from the other, cure or remedy such Default within 30 days after receipt of notice and demand to cure providing, however, that if the Default is one that cannot reasonably be cured with said 30 days, the defaulting party must diligently and faithfully pursue cure, and if the Default is not then remedied or cured with a reasonable time, or if the defaulting party fails to faithfully and diligently pursue cure, then (in any of the events described above) the aggrieved party may institute such proceedings and/or take such action to secure any rights as the aggrieved party may have available to it hereunder or at law or in equity, including, but not limited to, an action to compel specific performance and/or seeking damages.

(d) Waiver. No delay, waiver, omission or forbearance on the part of any party to exercise any right or power arising out of any other party's Default shall be deemed a waiver by that party of such right or power against the other party for any subsequent Default.

(e) City's Retained Reversionary Interest.

1. City's Right to Reverter and Deposit. Notwithstanding anything to the contrary contained herein, or in the Deed, if subsequent to conveyance of the Property to Buyer and prior to issuance of the Certificate:

   i. Buyer or any successor defaults on or violates it obligations with respect to the Project, including the nature of, and the dates for beginning and completion there, or abandons or substantially suspends construction, and any such default, violation, abandonment or suspension shall not be cured, ended to remedied with 90 days after City written demand so to do; or
   ii. Buyer or any successor fails to pay real estate taxes, special assessment or special changes on the Property or any part thereof when due, or shall place thereon any encumbrance or lien unauthorized by this Agreement, or shall suffer any levy, lien, or attachment to be made, or any materialman, mechanic , or construction lien, or any other unauthorized encumbrance or lien to attach, and such taxes or assessment shall not have been paid, or the encumbrance or lien removed or discharged or provision satisfactory to City made for such payment, removal or discharge, within 90 days after City written demand so to do; or
   iii. there is any transfer of the Property or any part thereof in violation of this Agreement, and such violation shall not be cured within 90 days after City written demand;

then the City shall have the right to reenter and take possession of the Property and to record against the Property in the Milwaukee County Register of Deeds Office a "Notice of Reverter." Buyer agrees that the recording of such Notice of Reverter shall have the effect of delivering and recording a deed from Buyer to City, and shall automatically terminate all of the Buyer's rights, title and interest in and to the Property (and any interest of any successor that has taken title from or through Buyer, except Permitted Successors) and revest in City, subject to rights of Permitted Successors, the full estate conveyed by the Deed. The intent of this provision, together with other provisions of this Agreement, is that the conveyance of the Property to Buyer pursuant and subject to this Agreement shall be made upon a condition subsequent to the conveyance that in the event of any default, failure, violation, breach or other action or inaction by Buyer specified in subsections (a), (b) or (c) above, and the failure on the part of Buyer to remedy, end, abrogate or otherwise cure such default, failure, violation, breach or other action or inaction, within the period and in the manner stated in such subdivisions, City at its option may effect a termination of the estate conveyed to Buyer in favor of City in which case all rights and interests of Buyer (and of any successor or assign to Buyer or the Property, except Permitted Successors), shall revert to, and thereafter be solely and fully vested in, City. And such revesting of title in City shall be subject to, limited by, and shall not defeat, render invalid or limit (a) the lien of any mortgage authorized by this Agreement, (b) any right or interest provided in the Agreement for the protection of the holder of such mortgage and (c) any right of any Permitted Successor, including any lessee or buyer authorized by this Agreement.

If City exercises its reversionary right as set forth above, City may also retain the Deposit.

City's reversionary right is a material provision of this Agreement, without which, City would not have entered into this transaction.

SEC. 16. RESALE OF REACQUIRED PROPERTY: DISPOSITION OF PROCEEDS

Upon the revesting in the City of title to the Property or any part thereof as provided in Section 15, City shall use best efforts to resell the Property or part thereof (subject to rights of Permitted Successors) as soon and in such manner as the City shall find feasible and consistent with the objectives of applicable law and of the Redevelopment Plan to a qualified and responsible party or parties (as determined by the City) who will either (a) assume the obligation of making or completing the Project as shall be satisfactory to the City or (b) agree to undertake such other project at the Property as shall meet City's approval (or, alternatively, the Project with such modifications to which City may agree.

Upon City resale of the Property (or part thereof) the proceeds thereof shall be applied:

(a) First, to reimburse the City, on its own behalf or on behalf of the City, for all costs and expenses incurred by the City, including, but not limited to, salaries of personnel in connection with the reversion in title, management and resale of the Property or part thereof (but less any income derived by the City 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 or such charges during the period of ownership thereof by the City, an amount, if paid, equal to such taxes, assessments or charges (as determined by the City assessing official) that 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 City or to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults or acts of Buyer, its successors or transferees; any expenditures made or obligations incurred with respect to the making or completion of the Project (or such modified or alternate project as City may establish or to maintain the Property), and any amounts otherwise owing the City by the Buyer and its successors or transferee; and

(b) Second, to reimburse Buyer, its successor or transferee, up to the amount equal to the sum of the net Purchase Price paid by it for the Property (or allocable to the part thereof) and the cash, labor and material actually invested by it in performing any construction on or rehabilitation of the Property or part thereof, less 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 City as its property.

SEC. 17. CONFLICT OF INTEREST:
CITY'S REPRESENTATIVES NOT INDIVIDUALLY LIABLE

No City member, official or employee shall have any personal interest, direct or indirect, in this Agreement, nor shall any such person participate in any decision relating to this Agreement which affects his personal interests or the interests of any corporation, partnership or association in which he is, directly or indirectly, interested. No City member, official or employee shall be personally liable to the Buyer or any successor in the event of any City default or breach or for any amount which may become due to the Buyer or successor or on any obligations under the terms of this Agreement.

SEC. 18. INDEMNIFICATION

Buyer agrees to defend, indemnify and hold harmless City and the City and their respective officers, agents and employees, from and against all claims, demands, damages, liability, suits, judgments and decrees, attorney's fees, losses, costs and expenses of any kind or nature whatsoever that may come or be asserted against City or the City on account of: (a) Buyer's (or anyone acting for or at the direction of, or anyone claiming by, through, or under Buyer) preaquisition entry onto or investigations at the Property; and (b) if Buyer closes on this transaction and becomes owner of the Property, the condition of the Property, including environmental and geotechnical. The provisions in this Section shall survive completion of the Project, recording of the Certification and any termination of this Agreement.

SEC. 19. PROVISIONS NOT MERGED WITH DEED

No provision of this Agreement is intended to or shall be merged by reason of any deed transferring title to the Property from the City to

the Buyer or any successor in interest, and any such deed shall not be deemed to affect or impair the provisions and covenants of this Agreement.

SEC. 20 GOVERNING LAW

This Agreement shall be construed according to Wisconsin Law.

SEC. 21 PUBLIC RECORDS

This Agreement and certain documents relating hereto are, or may be, subject to Wisconsin's Open Records Law (Wis. Stat. Chapter 19, Subchapter II and Wis. State. Section 19.36(3) that includes records produced or collected hereunder. Buyer agrees to cooperate with City if City receives a request under Wisconsin's Open Records Law for any such record.

SEC. 22 SUCCESSORS AND ASSIGNS.

This Agreement is binding upon the parties hereto and their successors and assigns, including successors in interest to the Property. Notwithstanding the foregoing, until issuance of the Certificate, Buyer may not assign this Agreement or its rights hereunder without City's prior written consent.

SEC. 23. APPROVALS

In any instance in which City's approval or consent and/or the approval or consent of the Commissioner of DCD is required under this Agreement, such approval or consent shall not be unreasonably withheld or delayed.

SEC. 24. NOTICES

Notices required to be sent under this Agreement shall be in writing and given either by personal delivery, by certified mail postage prepaid, or by facsimile to the following individuals. Notices personally delivered shall be deemed delivered upon actual receipt or upon refusal to accept delivery. Notices sent by certified mail shall be deemed delivered two business days after mailing. Notices sent by facsimile shall be deemed delivered on the date of sending – providing, however, **(i)** any such notice is (and must be) sent between the hours of 9:00 A.M. and 4:00 P.M. on business days that the City's City Hall is open for business; and **(ii)** no error or similar message indicating inability to send is prompted by the sending of such notice by facsimile. Notice recipient and sending information may be changed from time to time by sending written notice of the same to all parties in accordance with this paragraph.

If to the City:
City Real Estate Officer, Department of City Development
809 North Broadway, Milwaukee, Wisconsin 53202-3617
Phone: 414-286-5830
Facsimile: 414-286-0395

If to Buyer:
Buyer Name _____
Attn: _____
Buyer Address _____
_____
Phone: ____/_____-_____
Facsimile: ____/_____-_____

SEC. 25. SPECIAL PROVISIONS

(a) The Buyer will not discriminate against any employee or applicant for employment because of sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation, gender identity or expression, past or present membership in the military service, familial status, or based upon affiliation with, or perceived affiliation with any of these protected categories. The Buyer will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation, gender identity or expression, past or present membership in the military service, familial status, or based upon affiliation with, or perceived affiliation with any of these protected categories. Such action shall include, but not be limited to, the following: employment, upgrading, promotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Buyer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City or the Wisconsin Department of Commerce setting forth the provisions of this nondiscrimination clause.

(b) The Buyer will include the provisions of Paragraph (a) in every construction contract for this property, and will require the inclusion of these provisions in every subcontract entered into by any of its contractors, so that such provisions will be binding upon each such contractor or subcontractor, as the case may be.

(c) Buyer may be required to meet housing or employment goals of the U.S. Department of Housing and Urban Development ("HUD") for low-to-moderate income households. If City expenditures using HUD funds for the Property exceed $25,000 and the Purchase Price is not market value as determined by the City ("HUD Threshold"), the Project must include housing for HUD defined low-to-moderate income households or create employment, other than construction of the Project, for individuals from HUD defined low-to-moderate income households. At Closing, City shall inform Buyer if the Property exceeds the HUD Threshold and shall provide the number of HUD required housing units and/or jobs that must be created by the Project. Buyer shall be required to complete HUD housing or employment reports for the City Community Development Block Grant Office. If Buyer fails to provide the required amount of housing or employment within two years following the date of Closing, Buyer shall reimburse the City $35,000 for each job or housing unit that was not created.

SEC. 26. COUNTERPARTS

The Agreement is executed in three (3) counterparts, each of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, The Buyer, _____ has hereunto set its hand this ____ day of _____, 2008.

_____ (Buyer)

By _____

Title: _____

By _____

Title: _____

STATE OF _____)
) ss.
COUNTY OF _____)

Personally came before me this _____ day of _____, 2008, _____, to me known to me known to be the person(s) who as Buyer executed the foregoing Agreement for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

SEAL

_____

Notary Public,

_____ County

My commission _____

Approved by the Common Council of the City of Milwaukee on _____, 2008, by adoption of Resolution No. _____.

IN WITNESS WHEREOF, Elaine M. Miller, Special Deputy Commissioner of the Department of City Development, on behalf of the City of Milwaukee has caused this Agreement to be duly executed in its name and on its behalf this _____ day of _____, 2008.

f

CITY OF MILWAUKEE (CITY)

By _____
Elaine M. Miller
Title: Special Deputy Commissioner
Department of City Development

State of Wisconsin)
) ss.
County of Milwaukee)

Personally came before me this _____ day of _____, 2008, Elaine M. Miller, to me known to be the Special Deputy Commissioner of the Department of City Development and being authorized so to do, executed the foregoing Agreement for the purposes therein contained for and on behalf of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

_____

SEAL

Notary Public
Milwaukee County
My commission _____

This document was drafted by the Department of City Development, City of Milwaukee.

EXHIBIT A

Description of Property

All that certain parcel or parcels of land located in the City of Milwaukee, County of Milwaukee, State of Wisconsin, more particularly described as follows:

_____

_____

in the City of Milwaukee, Milwaukee County, Wisconsin.
Address:
Tax Key Number: