



CITY OF WASHINGTON, ILLINOIS City Council Agenda Communication

Meeting Date: October 7, 2024

Prepared By: Jon Oliphant, AICP, Planning & Development Director

Agenda Item: Second Reading Ordinance – Washington Historical Society TIF Redevelopment Agreement, 128 Washington Square

Explanation: Demolition of the former LeBakery building at 140 Washington Square was completed last summer prior to the start of the foundation construction in August 2023 for the brewpub project. Work on the remainder of the building began early this year and continues to be in progress with a tentative completion in November.

Washington Historical Society, owner of the Danforth Building at 128 Washington Square, previously submitted a request for financial assistance for work it has completed in preparation for the vertical brewpub construction. Most recently, work was completed for the removal of windows and installation of wood framing. The actual costs total \$27,721.99, including \$1,298.85 in construction management. Staff has received copies of some of the paid invoices for those expenses at the current time. WHS attests that these are items that needed to be completed as a result of the brewpub building being two stories in height, which will closely match the neighboring buildings and most around the Square.

Fiscal Impact: Discussion at the August Committee of the Whole meeting indicated a willingness by the Council for the City to reimburse all of the cost for the WHS work. Consensus at the September 16 Council meeting was to reimburse for the actual cost of the window repairs. The agreement would require the City to reimburse WHS up to \$27,721.99. Staff and the City Attorney were directed to draft a redevelopment agreement to bring to the Council for approval.

Action Requested: Approval of the attached TIF redevelopment agreement to reimburse WHS for its expenditures to accommodate the neighboring brewpub construction. The City would reimburse WHS up to \$27,721.99 upon the submittal of copies of the paid invoices for the project components. A second reading ordinance will be scheduled for the October 7 meeting. **This version of the agreement has been updated since the first reading ordinance to reflect the slightly increased not-to-exceed reimbursement total.**

**REDEVELOPMENT AGREEMENT BETWEEN THE CITY OF WASHINGTON,
TAZEWELL COUNTY, ILLINOIS, AND THE WASHINGTON HISTORICAL
SOCIETY, AN ILLINOIS NOT-FOR-PROFIT CORPORATION**

Dated: _____

**CITY OF WASHINGTON
REDEVELOPMENT AGREEMENT**

This AGREEMENT (this “**Agreement**”) made and entered into this ____ day of _____, 2024, (the “**Effective Date**”) by and between the CITY OF WASHINGTON, an Illinois home-rule municipal corporation (the “**City**”), exercising its governmental powers pursuant to the 1970 Constitution of the State of Illinois, and THE WASHINGTON HISTORICAL SOCIETY, an Illinois not-for-profit corporation (the “**Developer**”).

R E C I T A L S

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

WHEREAS, pursuant to the Act, the City has adopted a Redevelopment Plan (hereinafter referred to as the “**Plan**”) pertaining to the redevelopment of the Redevelopment Project Area, a copy of said Plan is on file with the City Clerk of the City; and

WHEREAS, the Developer owns real property known as 128 Washington Square, Washington, Illinois 61571, such property is legally described on **Schedule 1** attached hereto and incorporated herein (the “**Premises**”), which is located within the TIF District; and

WHEREAS, due to the current redevelopment of real property directly adjacent to the Premises (the “**Redevelopment**”) by CL Real Estate Group LLC, a Delaware limited liability company and Grist Mill Ventures, LLC, an Illinois limited liability company (collectively, the “**Adjacent Developer**”), the Developer has undertaken renovations to the building on the Premises (the “**Building**”), which is consistent with the objectives of the Plan; and

WHEREAS, in conjunction with the Redevelopment, the Developer undertook the following renovations to the Building: (i) relocate utilities to the Building; (ii) address masonry openings on the Building; (iii) relocate air ductwork located outside of the Building; (iv) relocate gutters and a downspout for the Building; and (v) remove windows and install wood framing (collectively, the “**Completed Work**”); and

WHEREAS, the Developer also incurred construction management fees related to the Completed Work (the “**Management Fee**”); and

WHEREAS, the Developer has requested financial assistance from the City related to the Completed Work and the Management Fee (collectively, the “**Project**”); and

WHEREAS, the City has deemed the Project eligible for private redevelopment assistance; and

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

WHEREAS, for the Project, the City is willing to provide the Developer with the incentives as set forth in this Agreement; and

WHEREAS, the Developer advanced certain funds of Developer's own related to the Project; and

WHEREAS, both the City and Developer expressly agree that any incentives provided in accordance with the Act shall be used only for eligible redevelopment project costs as defined in the Act; and

WHEREAS, it is expressly determined herein that the development of the Project is intended for a public purpose in compliance with the Act; and

NOW, THEREFORE, in consideration of the premises and the mutual obligations and covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby expressly acknowledged, the parties hereto covenant, consent, and agree as follows:

**ARTICLE 1
DESCRIPTION OF THE PROJECT**

1.1 **The Project.** The Project consisted of improvements on the Premises more fully described in Article 5 herein.

1.2 **The Cost of the Project.** The cost of the Project is set forth on Schedule 2 attached hereto and incorporated herein (the "**Project Cost**").

**ARTICLE 2
CONSTRUCTION OF THE PROJECT**

2.1 **Commencement and Completion of the Project Requirements.**

2.1.1 **Commencement of the Completed Work.** Intentionally omitted.

2.1.2 **Completion of the Completed Work.** The Developer has completed the Completed Work. The Completed Work must receive an approved final inspection by appropriate City representatives.

2.2 **Quality of Construction and Conformance to Federal, State and Local Requirements.** All work with respect to the Project (the "**Works**") conforms to the City's zoning code, building code and all applicable federal, state, and local laws, regulations and ordinances including, but not limited to, environmental codes, life safety codes, the Illinois Human Rights

Act, and the Illinois Public Works Employment Discrimination Act. The Developer caused the construction of the Works to be commenced and to be prosecuted with due diligence and in good faith and caused the Works to be constructed in a good and workmanlike manner.

2.3 **Utilities.** Intentionally Omitted.

2.4 **Limitation.** Intentionally Omitted.

ARTICLE 3 REPRESENTATIONS OF THE DEVELOPER

The Developer represents, warrants and agrees as the basis for the undertakings on Developer's part herein contained that:

3.1 **Organization.** The Developer is a not-for-profit corporation duly incorporated and organized, validly existing and in good standing under the laws of the State of Illinois. The Developer is not required to be qualified or licensed to transact business as a foreign corporation in any other jurisdiction where the failure to be so qualified could have a material adverse effect on the Developer, its financial condition or results of operations. The Developer has not received any written notice within the last three years from the Illinois Secretary of State or comparable official of any jurisdiction to the effect that the Developer is required to be qualified or otherwise authorized to do business therein, in which the Developer has not qualified or obtained such authorization.

3.2 **Authorization.** The Developer has the authority to conduct business in the State of Illinois. Furthermore, the Developer has the power to enter into and is duly authorized to execute, deliver, and perform this Agreement. The Developer will provide any documentation as the City may reasonably request related to the Developer's ability to conduct business in Illinois or authority to enter into this Agreement.

3.3 **Non-Conflict or Breach.** Neither the execution or delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement, conflict with or result in a breach of any of the terms, conditions or provisions of the Developer's organizational documents or of any restriction, agreement, or instrument to which the Developer is now a party or by which the Developer is bound.

3.4 **Pending Lawsuits.** There are no lawsuits either pending or, to the best of Developer's knowledge, threatened that would affect the Project.

3.5 **Location of Project.** The Project was located within the Premises.

3.6 **Financial Representation.** The Developer had sufficient financial means to complete the Project.

**ARTICLE 4
REPRESENTATIONS OF THE CITY**

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

4.1 **Organization and Authorization.** The City is a home-rule municipal corporation organized and existing under the laws of the State of Illinois, and has the power to enter and by proper action has been duly authorized to execute, deliver, and perform this Agreement.

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

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

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

**ARTICLE 5
DEVELOPER'S COVENANTS**

5.1 **Redevelopment Project.** The Developer has completed the Completed Work on the Premises .

5.2 **Redevelopment Work.** As set forth above, the Developer has redeveloped the Premises and completed the Project in accordance with this Agreement.

The Project Cost of the Project is specifically set forth in **Schedule 2** attached hereto. Developer complied with any and all nationally accepted standards for the Project. Furthermore, Developer shall abide by all representations and warranties set forth herein. All material and equipment furnished in connection with this Agreement, was new and otherwise of good quality.

5.3 **Payment of Real Estate Taxes.** The Developer, its successors and assigns, covenants as follows:

(1) Developer will promptly and timely pay all applicable taxes when due, as applicable.

(2) In the event that all applicable taxes are not paid by Developer within thirty (30) days from the date said taxes are due and owing, the City may, but is not obligated, make payment of the taxes due and owing on the Premises. The amount so advanced by the City shall be

immediately due and owing from the Developer to the City and shall bear interest from the date of payment at the rate of twelve percent (12%) per annum compounded quarterly until paid in full. The City shall have a lien against all of the Developer's property for all amounts paid together with interest and all expenses incurred in the recovery of said amounts, including, but not limited to, attorney's fees (as defined in Section 11.8 herein) incurred in collecting said amounts. The City may bring such actions as may be deemed appropriate to enforce payment and/or enforce the lien hereinabove granted against the property. If the City opts not to make the tax payment described in this Section, the City may terminate this Agreement and the Developer shall immediately repay any amounts previously paid by the City hereunder. Notwithstanding anything herein to the contrary, this provision shall have no effect if the Developer becomes fully exempt from the payment of real estate taxes. The Developer shall provide City with evidence of such exemption.

5.4 **Exemption from Tax.** Intentionally omitted.

5.5 **Indemnification of the City.** So long as the Developer, its successor and assigns maintain a direct ownership interest in the Premises or any part thereof (excluding, for example, a direct interest therein solely as a creditor or mortgagee), the Developer, its successors and assigns agree to indemnify and save the City and its officers, council members, agents, representatives, attorneys, and employees harmless against all claims by or on behalf of any person or persons, business, governmental agency, firm, partnership, limited liability company or corporation arising from the Developer's, its successors and assigns ownership, operation or management of the Project/Premises, or from any work of or thing done by the Developer, its successors or assigns on the Premises, or any work or activity of the Developer, its successors and assigns connected to the Project. The Developer, its successors, and assigns agree to indemnify and save the City harmless from and against all costs and expenses incurred in or in connection with any such claim arising as aforesaid or in connection with any action or proceeding brought thereon. In case any such claim shall be made or action brought based upon any such claim in respect of which indemnity may be sought against the Developer, its successors and assigns upon receipt of notice in writing from the City setting forth the particulars of such claim or action, the Developer, its successors and assigns shall assume the defense thereof including the employment of counsel and the payment of all costs and expenses. The City shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such separate counsel shall be at the sole expense of the City. It is agreed and understood that the aforesaid indemnities in this Section shall be binding on the Developer, its successors and assigns only for such period as the Developer, its successors and assigns maintain a direct ownership interest in the Project, or Premises or part thereof (excluding, for example, a direct interest therein solely as a creditor or mortgagee), and only with respect to such direct ownership interest in the Project or Premises or part thereof. The requirement of this Section terminates two years after the Effective Date.

5.5.1 **Insurance.** Intentionally omitted.

5.6 **Equal Opportunity.**

5.6.1 **Non-Discrimination.** The Developer will not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, or national origin

or any other protected characteristic under state, local, or federal law. The Developer will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or natural origin or any other protected characteristic under state, local, or federal law. Such action shall include but not be limited to the following: employment, promotion, demotion, transfer, recruitment, recruitment advertising, layoff, termination, rate of pay or other forms of compensation, and selection for training, including apprenticeship. The Developer agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause, and any other postings or notices required by applicable law related to employment matters.

5.6.2 Advertising. The Developer will, in all solicitations or advertisements for employees placed by or on behalf of the Developer, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin or any other protected characteristic under state, local, or federal law.

5.7 Payment of Prevailing Wages. The Developer acknowledges that the Illinois Department of Labor currently takes the following position as a matter of its enforcement policy related to the Illinois Prevailing Wage Act (820 ILCS 130/0.01 *et seq.*):

Funds received from Tax Increment Financing do not qualify as “public funds”. A private project that is funded by means of TIF financing, whether via credits, reimbursement of eligible expenses through a TIF, or direct payments from the TIF, is not covered by the Prevailing Wage Act unless it also receives funding from another source which does qualify as public funds. However, if a project is undertaken by a public body, whether it is a governmental body or an institution supported in whole or in part with public funds, it will be subject to the Act. (Website for Illinois Department of Labor; August 27, 2023).

Neither the Developer nor the City intend for the Prevailing Wage Act to apply to the Project. The City makes no representation as to any such application of the Prevailing Wage Act to the Project. Any failure by 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 an “Event of Default” under this Agreement. Notwithstanding the foregoing sentence, 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, and pursuant to Section 5.5, shall provide indemnification to the City for any claims against it that arise under the Prevailing Wage Act.

5.8 Project Subject to Plan and Agreement. Developer agrees to comply with the terms and conditions of this Agreement and it used its best efforts to construct the Project subject to the terms, covenants, building and use restrictions, and other conditions in the Plan and this Agreement.

5.9 **Liens.** Developer shall promptly pay when due the entire cost of any work on the Premises undertaken by Developer so that the Premises shall at all times be free of liens for labor and materials.

5.10 **Inspection Rights.** Developer shall liberally allow the City to inspect the Project, the Premises, and the Developer's records within seven (7) business days of the City's request to conduct such an inspection.

5.11 **Substance Abuse Prevention on Public Works Projects Act.** To the extent required by applicable law, the Developer and its contractors/subcontractors shall abide by the Substance Abuse Prevention on Public Works Projects Act (820 ILCS 265/1 *et. seq.*) and furnish a copy of its respective substance abuse prevention program to the City.

5.12 **Future Financial Assistance.** Notwithstanding anything herein to the contrary, aside from the reimbursement obligations set forth herein, the City shall have no further responsibility or payment obligation to provide future financial assistance to the Developer related to future renovations that the Developer commences on the Premises due to the Redevelopment by the Adjacent Developer.

5.13 **Release.** In exchange for the consideration set forth herein and other sufficient and valuable consideration, the receipt of which is hereby acknowledged, Developer, on behalf of itself and its fiduciaries, representatives, successors, assigns, insurers, and attorneys, hereby releases and forever discharges the City, and each and all of its predecessors, successors, assigns, subsidiaries, committees, commissions, affiliates, divisions, departments, agencies, officers, elected and/or appointed officials, mayor, alderpersons, city clerk, city treasurer, directors, employees, attorneys, fiduciaries, agents, partners, and representatives (collectively, the "City Released Parties"), from any and all past, present or future claims, causes of action, suits, debts, accounts, contracts, demands, agreements, controversies, judgments, obligations, damages, and liabilities of any nature whatsoever, whether or not now known, suspected, or claimed, which the Developer had, now has, or hereafter may have or claim to have, against the City Released Parties arising out of, relating to, or based upon, in whole or in part, the Building, Premises, the Completed Work, the Redevelopment, Project, and/or Work; provided, however, the scope of this release shall not extend to the parties' respective obligations, representations, covenants, or warranties under this Agreement.

5.14 **Covenant Not To Sue.** To the fullest extent permitted by law, Developer will refrain from ever initiating a future lawsuit (including, but not limited to, administrative claims) against the City Released Parties, with respect to any claims, cause of action or interests released in this Agreement; provided however, this covenant shall not extend to the parties' respective obligations under this Agreement.

5.15 **Acknowledgement.** The Developer hereby acknowledges that the City's financial incentives provided hereunder are not for any damages due to the Premises and Building and are solely for the reimbursement of renovation expenses incurred by the Developer. Furthermore, the Developer acknowledges that the City does not take any responsibility for the Completed Work. The Developer further acknowledges that by virtue of entering into this Agreement, the City is in

no way admitting any obligation or liability to the Developer related to the Project undertaken by the Developer due to the Redevelopment by the Adjacent Developer.

**ARTICLE 6
CITY’S OBLIGATIONS –REIMBURSEMENT INCENTIVE**

6.1 **Conditions Precedent to Reimbursement Incentive.** The City’s obligation to make the reimbursement in accordance with the Act as set forth in this Article is subject to the following:

6.1.1 The Developer’s compliance with the terms and conditions set forth in this Agreement and the schedules attached hereto; and

6.1.2 The reimbursement is limited to the direct reimbursement of costs related to the Project.

6.2 **Reimbursement for Project Costs.**

6.2.1 **Reimbursement for Completed Work.**

(a) Subject to all of the conditions set forth herein, the City shall reimburse the Developer for the expenses related to the Completed Work as set forth in the Project Cost, subject to the Reimbursement Cap. The City shall inspect the Premises for verification that the Completed Work has been satisfactorily completed prior to making a reimbursement hereunder. For the Completed Work, reimbursement will be made by the City within sixty (60) days after the submission of paid invoices.

6.2.2 **Reimbursement for Management Fee.**

(a) Subject to all of the conditions set forth herein, the City shall reimburse the Developer for the Management Fee as set forth in the Project Cost, subject to the Reimbursement Cap. For the Management Fee, reimbursement will be made by the City within sixty (60) days after the submission of paid invoices.

6.3 **Actual Cost v. Estimated Cost.** Intentionally omitted.

6.4 **Obligation for Project Reimbursement for the Project.** The City’s obligation to pay any of the above-stated costs shall not arise until and unless the following shall first occur:

(a) Sufficient funds are available and on deposit in the Special Tax Allocation Fund (Fund #208) for the Project Area (the “**TIF General Account**”) for the Project. If there are not sufficient funds in the TIF General Account for the Project Area to pay all the Project Costs any shortfall shall be an obligation that is carried over from year to year

until sufficient funds generated by the TIF District become available in the TIF General Account, if ever.

- (b) The Developer shall document Project costs to the reasonable satisfaction of the City by submitting paid invoices to the City Administrator (or his/her designee).
- (c) The Developer shall document Project Costs to the reasonable satisfaction of the City by submitting invoices and the certified forms to the City Administrator (or his/her designee) in substantially the form of Schedule 3, which is attached hereto and incorporated hereunder.

6.5 **Limitation on Reimbursement.** The total reimbursement made by the City hereunder for the Project shall not exceed Twenty-Seven Thousand Seven Hundred Twenty-One and 99/100 Dollars (\$27,721.99) (the “**Reimbursement Cap**”). Notwithstanding anything herein to the contrary, the reimbursement hereunder is limited to the reimbursement of eligible “**Redevelopment Project Costs**” as defined within the meaning of the Act (65 ILCS 5/11-74.4-3(q)).

**ARTICLE 7
CONTINUATION OF OPERATIONS**

Intentionally Omitted.

**ARTICLE 8
PROHIBITIONS AGAINST ASSIGNMENT AND TRANSFER**

8.1 **Transfer of Premises.** The Developer (and any subsequent owner of the Premises or any part thereof) may transfer the Premises (or any portion thereof) without the consent of the City; provided that any proposed successor, assign, or transferee, by instrument in writing reasonably satisfactory to the City and in a form recordable within the Tazewell County Recorder of Deeds office, shall expressly assume all of the obligations of the Developer under this Agreement and agree to be subject to all the conditions and restrictions to which the Developer is subject to. Provided, that the fact that any successor, assign, or transferee whatsoever to, the Premises, or any part thereof, shall not have assumed such obligations or so agreed, shall not (unless and only to the extent otherwise specifically provided in this Agreement or agreed to in writing by the City) relieve or except such successor, assign, or transferee of or from such obligations, agreements, conditions, or restrictions, or deprive or limit the City of or with respect to any rights or remedies or controls with respect to the Premises; it being the intent of this, together with the other provisions of this Agreement, that (to the fullest extent permitted by law and equity and excepting only in the manner and to the extent specifically provided otherwise in this Agreement) no transfer of the Premises or any part thereof, or any interest therein, however consummated or occurring, and whether voluntary or involuntary, shall operate legally or practically, to deprive or limit the City, of any rights or remedies or controls regarding the Premises that the City would have had, had there been no such transfer. The requirement of this Section terminates two years after the Effective Date.

8.2 **Status of Assignee.** Any successor, assignee, or transferee of the Premises from the Developer under the provisions hereof shall be considered the “**Developer**” for all purposes of this Agreement.

8.3 **No Release of Developer.** Any total or partial transfer of the Premises, with or without the City’s consent, shall not be deemed a release of the Developer from any of Developer’s obligations hereunder, or from any conditions or restrictions to which the Developer is subject, unless the Developer is expressly released in writing by the City.

ARTICLE 9 DEFAULT AND REMEDIES

9.1 **Event of Default.** The following shall be an event of default (“**Event of Default**”) with respect to this Agreement:

9.1.1 If any representation made by the Developer or City in this Agreement, or in any certificate, notice, demand, or request made by the Developer or City, in writing and delivered to the other party pursuant to or in connection with any of said documents shall prove to be untrue or incorrect in any respect as of the date made;

9.1.2 Breach by the Developer or City of any covenant, warranty or obligation set forth in this Agreement; or

9.1.3 Any other specific breach identified herein.

9.2 **Remedies of Default or Bankruptcy.**

9.2.1 **General Remedies.** In the case of an Event of Default or bankruptcy by either party hereto or any successors to such party, such party or successor shall, upon written notice from the other party, take immediate action to cure or remedy such Event of Default or bankruptcy within sixty (60) days after receipt of such notice. If, in such case action is not taken, or not diligently pursued, or the Event of Default or bankruptcy shall not be cured or remedied within a reasonable time, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure or remedy such default or bankruptcy, including but not limited to, proceedings to compel specific performance by the party in default of its obligations. In case the City or Developer shall have proceeded to enforce its rights under this Agreement and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the party initiating such proceedings, then and in every such case the Developer and the City shall be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the Developer and the City shall continue as though no such proceedings had been taken.

9.2.2 **Remedies due to Developer Default.** In the case of an Event of Default by the Developer, Developer agrees for itself, its successors and assigns, that it will immediately pay to the City any and all sums previously expended by the City in connection with or arising out of

the City's obligations hereunder to reimburse certain costs hereunder, together with all costs of collection of same, including but not limited to the City's reasonable attorney's fees (as defined in Section 11.8 herein), court costs and costs of collection.

9.2.3 Remedies due to City Default. In the case of an Event of Default by the City, the City agrees for itself, its successors and assigns, that it will immediately pay to Developer all amounts due to Developer hereunder and for which the City has an obligation hereunder to pay, as of the date of default, together with all Developer's reasonable attorneys' fees (as defined in Section 11.8 herein), court costs and costs of collection. The City's payment obligation as set forth in this Section is limited to eligible Redevelopment Project Costs, as defined within the Act.

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

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

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

9.3.3 Delay in Performance/Force Majeure. For the purposes of any of the provisions of this Agreement except with regard to payment of taxes as provided herein, neither the City, nor the Developer (or any tenant of the Premises, if any), as the case may be, nor any successor, assigns, or transferee in interest, shall be considered in breach of, or in default of, its obligations with respect to the preparation of the Premises for redevelopment, or the beginning and completion of the Project, or progress in respect thereto, in the event of enforced delay in the performance of such obligation due to unforeseeable causes beyond its control and without its fault or negligence, including, but not restricted to acts of God, acts of the public enemy, acts of federal,

state or local government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, embargoes, acts of nature, unusually severe weather or delays of contractors/subcontractors due to such causes; it being the purpose and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times for performance of the obligations of the City or Developer with respect to the Project shall be extended for the period of the enforced delay. Provided, that the party seeking the benefit of the provisions of this Section, shall within thirty (30) days after the beginning of any such enforced delay, have first notified the other party thereof in writing, of the cause or causes thereof, and request an extension of the period of enforced delay. Such extensions of schedules shall be agreed to in writing by the parties hereto.

ARTICLE 10 GUARANTORS

Intentionally Omitted.

ARTICLE 11 GENERAL PROVISIONS

11.1 Authorized Representatives.

11.1.1 **Developer.** Jewel Ward is the only individual authorized to communicate to the City related to this Agreement. She shall have the power and authority to make or grant or do all things, requests, demands, approvals, consents, agreements and other actions required or described in this Agreement for and on behalf of the Developer, unless applicable law requires action by the Developer's Board of Directors or otherwise. The Developer's Board of Directors may designate a successor to Jewel Ward by providing written notice to the City as provided herein.

11.1.2 **City.** The City designates the City Administrator (if no City Administrator is then serving, then the Mayor) as the authorized representative, who shall communicate with the Developer on behalf of the City. Such representative shall not have the authority to make agreements on behalf of the City. Such authority shall be reserved exclusively to the City Council of the City.

11.2 **Governing Law.** This Agreement shall be construed under and pursuant to the laws of the State of Illinois. The exclusive venue for the resolution of any disputes or the enforcement of any rights arising out of or in connection with this Agreement shall be in Tazewell County, Illinois.

11.3 **Execution of Counterparts.** This Agreement may be executed by original signature or by facsimile, digital, or other electronic signature and in one or more counterparts, each of which will be deemed an original and together will constitute one and the same instrument. This Agreement may be executed as an original in ink, by facsimile signature (e.g., a signature reproduction by physical or electronic stamp) or any electronic signature complying with the U.S. Federal ESIGN Act of 2000. Any counterpart containing a qualifying signature transmitted

electronically (e.g., via e-mail or telecopier machine) shall be accepted as an original and shall have the same force and effect as an original.

11.4 Reference to Headings. Unless otherwise specified, references to sections and other subdivisions of this Agreement are to the designated sections and other subdivisions of this Agreement as originally executed.

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

11.6 Entirety of Agreement. This Agreement is the entire agreement between the parties hereto, and any other agreements, whether written or oral, entered into by the parties prior to the date hereof shall be deemed to be null and void and have merged into this Agreement by virtue of the execution hereof.

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

11.8 Attorneys' Fees. In the event any action or legal proceeding is commenced to enforce any provision in connection with this Agreement, the prevailing party shall be entitled to recover as part of such action or proceedings, or in a separate action brought for that purpose, reasonable attorneys' fees and court costs as may be fixed by the court. For purposes of this Agreement, the term "**attorneys' fees**" shall mean and include, but not necessarily be limited to, attorney and paralegal fees whether incurred for purposes of research, preparation, negotiation, trial, appellate, collection or otherwise.

11.9 Construction of Agreement. Each party was or had the opportunity to be represented by legal counsel during the negotiation resulting in this Agreement and have their legal counsel review this Agreement. The parties agree that the rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

11.10 No Other Legal Relationship Created. Nothing contained in this Agreement shall be deemed or construed as creating a relationship of principal and agent, or of partnership or of joint venture between the parties hereto.

11.11 Severability. If any provision of this Agreement shall be held to be void or unenforceable for any reason, the remaining terms and provisions of this Agreement shall not be affected thereby.

11.12 Memorandum of Agreement. Intentionally Omitted.

11.13 Further Assistance and Corrective Instruments. The City and the Developer, agree that they will, from time to time, execute, acknowledge, and deliver, or cause to be executed,

acknowledged, and delivered, such supplements hereto and such further instruments as may reasonably be required by the parties hereto, for carrying out the intention of or facilitating the performance of this Agreement by any party hereto.

11.14 **Notices.** Any written notice, demand, or Requisition for Reimbursement hereunder from any party to another party shall be in writing and shall be served by (a) personal delivery; (b) certified mail, return receipt requested; or (c) regular mail at the following addresses:

To the City at: City of Washington
Attn: City Administrator
301 Walnut St.
Washington, IL 61571

With a copy to:
Derek A. Schryer
Davis & Campbell L.L.C
401 Main St., Suite 1600
Peoria, Illinois 61602

Developer at: The Washington Historical Society
Attn: President
128 Washington Square
Washington, IL 61571

or to the last known address of any party or to the address provided by a successor, assignee, or transferee, if such address is given in writing. Any party may change its address by providing notice in accordance with this provision. In the event said notice is sent by regular mail, the date of service shall be deemed to be two (2) business days after the date of delivery of said notice to the United States Post Office. Only a notice sent to the City or Developer hereunder shall constitute notice in accordance with this Section.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

CITY OF WASHINGTON,
An Illinois home-rule municipal corporation

DEVELOPER:

THE WASHINGTON HISTORICAL SOCIETY, an Illinois not-for-profit corporation

By: _____
Gary Manier, Its Mayor

By: _____
Jewel Ward, Its President

Attest: _____
Valeri Brod, Its City Clerk

SEAL:

[Signature Page to Redevelopment Agreement Between The City of Washington, Tazewell County, Illinois, and The Washington Historical Society, an Illinois not-for-profit corporation]

SCHEDULE 1
LEGAL DESCRIPTION

ORIG TOWN NW ¼ SEC 24 59 FT W END LOT 27 & SW PT LOT 28 2FT X 59FT

SCHEDULE 2
PROJECT COST

The Project Cost for the Project by the Developer is \$27,721.99. A breakdown of the Project Cost is set forth below:

<u>Description</u>	<u>Amount</u>
<i>Completed Work</i>	
• Relocate utilities to the Building	\$2,021.61
• Address masonry openings on the Building	\$11,800.00
• Relocate air ductwork located outside of the Building	\$4,973.75
• Relocate Gutters and a downspout for the Building	\$2,831.69
• Remove windows on the Building and install wood framing related to same	\$4,796.09
 <i>Management Fee</i>	 \$1,298.85
<hr/>	
TOTAL PROJECT COSTS	\$27,721.99

SCHEDULE 3

**REQUISITION FOR REIMBURSEMENT OF REDEVELOPMENT PROJECT COSTS
PURSUANT TO THE ACT**

The Washington Historical Society, an Illinois not-for-profit corporation (the “**Developer**”) does hereby certify to the City of Washington, an Illinois home-rule municipal corporation (the “**City**”) as follows:

1. That it has paid the following parties the following amounts for the items listed below, each of which constitutes “**Redevelopment Project Costs**” as defined in the **Redevelopment Agreement Between The City of Washington, Tazewell County, Illinois, and The Washington Historical Society, an Illinois not-for-profit corporation, dated _____, 20__** (the “**Agreement**”).

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

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

3. The undersigned hereby certifies and swears under oath that the following statements are true and correct:

- a. The costs referenced above were made or incurred or financed and were necessary for the Project and were made or incurred in accordance with the City Municipal Code; and
- b. The costs paid or to be paid, as set forth in this Requisition for Reimbursement, represent the funds due and payable for Developer’s Redevelopment Project Costs; and
- c. The expenditures for which amounts are requested represent proper Redevelopment Project Costs as defined in the Agreement and the Tax Increment Allocation Redevelopment Act (65 ILCS 5/11-74.4-1, *et seq.*); and

- d. The expenditures for which amounts are requested have not been included in any previous Requisition for Reimbursement, have been properly recorded on the Developer's books, are set forth with invoices attached for all sums for which reimbursement is requested; and proof of payment of the invoices; and
- e. The amounts requested are not greater than those necessary to meet obligations due and payable or to reimburse the Developer for its funds actually advanced for Redevelopment Project Costs; and
- f. The Developer is not in default under the Agreement, and nothing has occurred to the knowledge of the Developer that would prevent the performance of its obligations under the Agreement; and
- g. Any violation of this oath shall constitute a material breach of the Agreement and shall be cause for the City to unilaterally and immediately terminate the Agreement.

4. Attached hereto are copies of invoices and proof of payment of such invoices, including cancelled checks and/or any lien waivers (to the extent applicable) relating to all items for which reimbursement is being requested.

Dated: _____

By: _____

Print Name: _____

Title: _____

STATE OF ILLINOIS)
) ss.
 COUNTY OF _____)

On this ____ day of _____, 20__, before me personally appeared _____, known to be the person described in and who executed the foregoing instrument and acknowledged that he/she is the _____ [Position] of _____ [Company] and that he/she executed the foregoing on behalf of _____ [Company] for the purposes stated therein, and that said act was his/her free act and deed and the free act and deed of said Company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

 Notary Public

My Commission Expires: