

**AUTHORIZING AN ARCHITECTURAL IMPROVEMENT PROGRAM
INCENTIVE FOR THE PROPERTY LOCATED AT 110-124 E.
HILLCREST DRIVE, DEKALB, ILLINOIS.**

WHEREAS, the City of DeKalb is a home-rule municipal corporation with all power and authority derived under the law; and

WHEREAS, the building located at 110-124 East Hillcrest Drive (“the Premises”) is currently owned by RLDR, LLC. (“Developers”); and

WHEREAS, the City and Developers seek to enter into a development agreement for improvements to the Premises, and

WHEREAS, the Developers have proposed to commit funds to the completion of renovations of the building on the Premises, subject to the City’s commitment to provide economic development funding for this project; and

WHEREAS, the City Council of the City of DeKalb has determined that it is necessary and advantageous and supports the public health, welfare and safety to provide an economic incentive to ensure the revitalization of an otherwise obsolete property;

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL of the City of DeKalb, Illinois:

Section 1. The City Council of the City of DeKalb hereby approves of the Development Incentive Agreement in the format attached hereto as Exhibit A (“the Agreement”), subject to such revisions as shall be acceptable to the Mayor with the recommendation of City staff. The City Council also expressly approves of the provision of a City-funded incentive in an amount not to exceed the lesser of: 1) \$25,000; 2) the total of all TIF-eligible costs incurred; or, 3) that sum which is 25% of the total project costs for the Improvements as defined in the Agreement. Said incentive shall be provided to the Developer as a forgivable loan through the Central Area Tax Increment Financing District (“TIF”) for eligible project costs, to be provided after submission of appropriate project cost documentation in form and content acceptable to the Community Development Director. Said incentive shall be processed by the City as a TIF-funded grant, repaid as a forgivable loan over a period of five years as described in the Agreement.

Section 2. That the City Clerk of the City of DeKalb is authorized and directed to attest the Mayor’s signature.

Section 3. Thereafter, City staff are directed to fully comply with the terms of the Agreement, and to undertake the obligations contained therein. The City Council expressly approves of the provision of the funding contemplated therein without requirement of further Council approval. Provided that the work performed under the

Agreement is performed in accordance with the Agreement, the City Council waives any otherwise applicable requirement for City Council approval of bids or vendors utilized by Owner and waives any applicable competitive bidding requirement (except to the extent required under the Agreement).

This item removed from the agenda and tabled at the request of Alderman Jacobson. Council approved by an 8-0 roll call vote. Aye: Jacobson, Finucane, Marquardt, Fagan, Noreiko, Verbic, Faivre, Smith. Nay: none.

CITY OF DEKALB
ARCHITECTURAL IMPROVEMENT PROGRAM (AIP) FUNDING AGREEMENT

THIS AGREEMENT entered this ____ day of _____, 2018 between the City of DeKalb, Illinois, a home rule municipality, (hereinafter referred to as “the CITY”), and the following designated owner (“OWNER”), TO WIT:

Name of Owner: **RLDR, LLC.**

Address of Property to be improved: **110-124 East Hillcrest Drive, DeKalb, IL 60115.**
 (“SUBJECT PROPERTY”)

WITNESSETH:

WHEREAS, the City has established an Architectural Improvement Program (“PROGRAM”) for application within the CITY; and

WHEREAS, said Program is administered by the CITY, with funding decisions intended to be made by the City Council; and

WHEREAS, on **October 8, 2018**, the City Council approved **Resolution 2018-____**, authorizing an architectural improvement program (AIP) Economic Incentive with the Owner; and

WHEREAS, said Program is funded from Tax Increment Finance (TIF) funds for the purpose of controlling and preventing blight and deterioration within the City, and to encourage the further redevelopment of properties in the City in accordance with the general guidelines set forth in the Program; and

WHEREAS, the SUBJECT PROPERTY of the OWNER is located within the defined PROGRAM area; and

WHEREAS, pursuant to the PROGRAM, the City has agreed to financially participate, at its sole discretion, and the terms and conditions set forth in this Agreement; and

WHEREAS, the OWNER desires to participate in the Program, subject to the terms and conditions set forth or modified in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and agreement obtained herein, the City and the Owner do hereby agree as follows:

- A. The CITY shall share in the proposed improvement costs to the SUBJECT PROPERTY of the OWNER, in an amount not to exceed the lesser of **\$25,000** or **25%** of the total project cost and the CITY shall reimburse the OWNER for said amount upon submittal of proof of an equivalent or greater amount paid for approved work on the SUBJECT PROPERTY. Funding provided by the City shall be utilized towards the cost of capital improvements described below (as a component of the APPROVED IMPROVEMENTS). The funding

paid, provided, waived and/or forgiven by the CITY to the OWNER shall be considered a Forgivable Loan subject to the following terms:

1. The OWNER agrees to install, or cause to be installed the following approved improvements to interior and exterior of the existing principal structure on the SUBJECT PROPERTY (“APPROVED IMPROVEMENTS”), and agrees to expend not less than **\$158,060** (the “MINIMUM EXPENDITURE”) on said APPROVED IMPROVEMENTS.

Exterior Improvements (Comprising not less than **\$158,060** of the MINIMUM EXPENDITURE):

- a. **Replacement and upgrade of storefront windows and doors**
 - b. **Parking lot sealant**
 - c. **Installation of a storm drain in the parking lot**
 - d. **Repairs to the roof and replacement of rubber membrane**
 - e. **Replacement and upgrade of HVAC equipment**
 - f. **Installation of aesthetically matching signage**
2. The APPROVED IMPROVEMENTS shall be in substantial compliance with the plans submitted as part of the PROGRAM application (“APPROVED PLANS”), consisting of the following sheets and attached hereto as Exhibit 1:
 - a. Architectural Improvement Program Application
 3. Prior to installation of APPROVED IMPROVEMENTS, OWNER must submit plans to the CITY for review, and must receive written approval of APPROVED IMPROVEMENTS by the Chief Building Official, confirming compliance with applicable building code requirements and confirming compliance with Unified Development Ordinance.
 4. Prior to the installation of any new signage, a design schematic must be submitted by the OWNER to the CITY for review and approved by the Community Development Director, who has sole authority to approve or deny design of “aesthetically matching signage” as defined in paragraph A1 above.
 5. Improvements shall be completed within one (1) calendar year from the date of execution of this Agreement by the City, and in such a manner as to comply with all conditions of approval of this Agreement, and all pertinent regulations, ordinances, or codes of the CITY or other authority having jurisdiction of SUBJECT PROPERTY. In the event that OWNER fails to complete the APPROVED IMPROVEMENTS within one calendar year of the date of execution of this Agreement by the City, this Agreement shall be terminated without payment of any incentive. The APPROVED IMPROVEMENTS shall not be deemed complete until all such improvements are fully constructed and have received a final certificate of occupancy, approved final inspection and all other required approvals, as determined by the Community Development Director.

6. Owner shall be responsible for complying with all applicable laws related to public bidding and include Exhibit 2 as an appendix to any contracts for the performance of work pursuant to the agreement.
7. OWNER shall provide documentation of project costs in a form required under Exhibit 3 to the City within sixty (60) days of the date of completion of the APPROVED IMPROVEMENTS. That upon submittal of appropriate receipts paid, any necessary final lien waivers, certified payroll records of contractors, and verification that the improvements have been completed as approved by the Community Development Director, the City shall reimburse the actual costs of the improvements in amounts not exceeding the value stated in Paragraph A above within a reasonable time thereafter. All such documentation shall be in form acceptable to the Community Development Director, in compliance with the APPROVED PLANS. For any work that OWNER or a company owned by OWNER performs, OWNER shall provide both completed lien waivers and a sworn affidavit in form acceptable to the Community Development, swearing and affirming that: a) OWNER did in fact perform all such work in accordance with all applicable building codes and requirements; and, b) OWNER imposed a charge for such work that was the lowest bid out of not less than three separate bids for such work. In the event that OWNER fails to incur the MINIMUM EXPENDITURE, the incentive offered by the City herein shall be reduced pro-rata based upon that portion of the MINIMUM EXPENDITURE actually paid by OWNER. In the event that the City requires additional information from the OWNER, the OWNER shall comply with all such information requests in a timely fashion. In the event that OWNER is not able to properly document any portion of the costs of constructing the APPROVED IMPROVEMENTS, any not properly documented cost shall not be considered towards OWNER's MINIMUM EXPENDITURE. The City's maximum liability under this Agreement shall be the lesser of **\$25,000** or the amount which is **25%** percent of the properly documented, TIF-eligible cost of the Exterior Improvements described above. All contractors work shall be done in accordance with the attached Exhibit C, which shall be appended to each contract for any portion of the APPROVED IMPROVEMENTS.
8. That all payments or disbursements made by the CITY to the OWNER shall be considered reimbursements for work completed and paid by Owner, subject to the other terms and conditions set forth herein, and within the Program Guidelines and standard City policies.
9. That any outstanding code violations of the property to which the improvements were made must be repaired prior to the CITY releasing funds for reimbursement. Notwithstanding any other provision of this Agreement, the CITY shall make no payments to any person, firm, or corporations who is a debtor to the City of DeKalb or against whom any present circuit court or administrative hearing judgment in favor of City has been entered and remains unpaid. For purposes of this Section 7, for any corporation or corporate entity, any person who is an owner, manager, shareholder,

director or officer shall be considered as a component of the corporate entity in order to determine if any judgments or debts are owed to the City.

10. OWNER agrees to maintain all improvements for a period of five (5) years from the date of reimbursement by the CITY, except for minor changes such as repainting or other maintenance items, or the changing of sign panels and such due to changes in tenants, or the continuation of further improvements to the building, provided said improvements do not conflict with or interfere with the improvements funded by this Program.
11. OWNER agrees that any minor changes or further improvements, as outlined above shall only be made after approval by the Community Development Director or designee thereof, who may refer the proposed changes to the City Council of the City for final approval. Such approval shall not be unreasonably withheld if the proposed changes do not substantially alter the original design concept of the appearance of the SUBJECT PROPERTY as specified in the plans approved by the Community Development Director.
12. In the case of conflicting codes, ordinances, rules regulations or guidelines, the Community Development Director of the City shall make a ruling and that ruling shall be final.
13. Nothing herein is intended to limit, restrict or prohibit the OWNER from undertaking any other work in or about the SUBJECT PROPERTY, which is unrelated to the architectural improvements provided for in this Agreement.
14. The OWNER agrees that it shall maintain its business operations and/or ownership rights of the SUBJECT for a period of five (5) years from the date of reimbursement for work completed as provided herein, as an operational business in the current industry, generating employment and sales tax revenue for the CITY. This Agreement shall be binding upon an inure to the benefit of the CITY and the OWNER, and their heirs, for a period of five (5) years from the date of reimbursement for work completed as provided for herein.
15. If the OWNER fails to complete or cause the completion of the APPROVED IMPROVEMENTS subject to the terms of this Agreement or fails to comply with any other term of this Agreement, then upon written notice being given by the City Manager to the OWNER, served in person or by certified mail to the address on this Agreement above, this Agreement shall be terminated and the financial obligation on the part of the CITY shall cease and become null and void.
16. If the OWNER removes or fails to maintain all improvements for which reimbursement by CITY is provided under the terms of this Agreement, then upon written notice being given by the City Manager to the OWNER, served in person or by certified mail to the address on this Agreement above, the OWNER agrees to reimburse the CITY for the full amount of funding provided by the CITY under the terms of this Agreement within

- thirty (30) days of receipt of aforementioned written notice, with the amount of reimbursement owed to the CITY reduced by one-fifth (1/5) of the full amount funded by the City under this Agreement for every one calendar year the improvements resulting from this Agreement and the aforementioned Program are maintained in accordance with the terms of this Agreement after the date of reimbursement by the City.
17. Upon default of this Agreement by either party, other than default upon the installation of improvements as described, the OWNER and/or the CITY shall have any and all remedies available at law.
 18. This Agreement shall have a term commencing upon the date of execution by both parties, and terminating upon the first to occur of: a) the City's notice of termination based upon a material breach of this Agreement or the occurrence of one of the conditions justifying termination as outlined herein; or, b) the passage of ten years from the date of execution by the City.
 19. OWNER shall provide the City with an executed Corporate Undertaking, Mortgage and Note in form and content acceptable to the City at the time of payment of the City's reimbursement. Said documents shall be recorded against the PROPERTY.
 20. This Agreement shall constitute the entirety of the agreement between the parties and no previous draft, note or discussion shall contravene any provision hereof. Any modification to this Agreement shall be effective only if in writing, signed by both parties. Any dispute arising out of the performance of this Agreement shall have its jurisdiction and venue exclusively fixed in the Twenty-Third Judicial Circuit Court of DeKalb County, Illinois.
 21. OWNER acknowledges that the CITY is not responsible for the means, performance or construction of any improvements and its sole involvement is the provision of an incentive following construction of the improvements. OWNER shall maintain in full force and effect liability insurance with limits of not less than \$1,000,000 per occurrence during the term of construction of its improvements. OWNER shall be responsible for any and all damages to property or persons arising out of an error, omission, or negligent act in the prosecution of the work or failure to prosecute the work and shall indemnify and hold harmless the City, its officers, agents, and employees from all suits, claims, actions or damages of any nature whatsoever resulting therefrom. OWNER shall assume all restitution and repair costs arising out of an error, omission and/or negligence. OWNER agrees to indemnify and save harmless the City, including its elected or appointed officials, employees, attorneys and agents (collectively, the "City Indemnitees") against any and all claims, loss damage, injury, liability, and court costs and attorney's fees incident thereto, including any claims made by employees of the OWNER or any of their subcontractors, as well as all other persons, resulting directly or indirectly from the work covered by this contract or the equipment used in connection therewith. It is understood that this agreement shall apply to any and all such claims whether resulting from the negligence or the

intentional acts of the OWNER, the OWNER's employees, contractors or subcontractors, the City or City Indemnites or otherwise, with the single exception of any claim, damage, loss, or expense arising solely out of the intentional misconduct of the City or City Indemnites. The OWNER is solely responsible for determining the accuracy and validity of any information provided to the OWNER by the City or its representatives. This indemnification shall apply to the fullest extent of the law, and in the event that any provision hereof is determined to be unenforceable, the indemnification obligations shall be severable and the fullest extent of indemnification that may lawfully apply shall remain in full force and effect. This indemnification shall include any claims arising out of the erection, construction, placement or operation of any scaffold, hoist, crane, stay, ladders, support or other mechanical contrivance in connection with such work including but not limited to losses, claims, damages and expenses arising pursuant to claims asserted against the City pursuant to theories premised upon Section 414 or Section 343 of the Restatement (Second) of Torts. This indemnification shall not be limited in any way by limitations on the amount or type of damages, compensation, or benefits payable by or for the OWNER under Workers' Compensation Acts, disability benefit acts, or other employee benefit acts, and serves as an express agreement to waive the protection of *Kotecki v. Cyclops Welding Corp*, 146 Ill.2d 155 (1991) in Illinois.

IN WITNESS THEROF, the parties hereto have executed this Agreement on the date first appearing above.

CITY OF DEKALB, ILLINOIS
A Municipal Corporation

RLDR, LLC.

Jerry Smith, Mayor

Rasim Spaijoski

ATTEST:

Lynn Fazekas, City Clerk

Exhibit 1
AIP APPLICATION

(Insert into final PDF)

Exhibit 2:
Bidder Certifications

Sexual Harassment: The Bidder certifies that it is in compliance with the Illinois Human Rights Act 775 ILCS 5/1.101, et seq. including establishment and maintenance of sexual harassment policies and program.

Tax Delinquency: The Bidder certifies that it is not delinquent in payment of any taxes to the Illinois Department of Revenue in accordance with 65 ILCS 5/11-42.1, and is not delinquent in the payment of any tax, charge or obligation to the City of DeKalb.

Employment Status: The Bidder certifies that if any of its personnel are an employee of the State of Illinois, they have permission from their employer to perform the service.

Anti-Bribery: The Bidder certifies it is not barred under 30 Illinois Compiled Statutes 500/50-5(a) - (d) from contracting as a result of a conviction for or admission of bribery or attempted bribery of an officer or employee of the State of Illinois or any other state.

Loan Default: If the Bidder is an individual, the Bidder certifies that he/she is not in default for a period of six months or more in an amount of \$600 or more on the repayment of any educational loan guaranteed by the Illinois State Scholarship Commission made by an Illinois institution of higher education or any other loan made from public funds for the purpose of financing higher education (5 ILCS 385/3).

Felony Certification: The Bidder certifies that it is not barred pursuant to 30 Illinois Compiled Statutes 500/50-10 from conducting business with the State of Illinois or any agency as a result of being convicted of a felony.

Barred from Contracting: The Bidder certifies that it has not been barred from contracting as a result of a conviction for bid-rigging or bid rotating under 720 ILCS 5/33E-3 (Bid Rigging) or 720 ILCS 5/33-4 (Bid Rotating) or a similar law of another state or of the federal government.

Prevailing Wage: The Bidder certifies that it shall comply with all applicable provisions of the Prevailing Wage Act, and further certifies that it is not in violation of said Act and has not been barred from bidding on this proposal by virtue of a past violation of the Act. A copy of the most recent available list of prevailing wages is attached hereto or has been provided to the Bidder. The Bidder is responsible for regularly updating said list as new prevailing wage rates are made

available by the City or by the Illinois Department of Labor. The Illinois Department of Labor posts regular updates to prevailing wage rates on its official website, which is currently www.illinois.gov/idol. This notice is given pursuant to 820 ILCS 130/4 and the balance of the Illinois Prevailing Wage Act, which is incorporated herein by reference as if fully restated.

Drug Free Workplace: The Bidder certifies that it is in compliance with the Drug Free Workplace Act (30 Illinois Compiled Statutes 580) as of the effective date of this contract. The Drug Free Workplace Act requires, in part, that Bidders, with 25 or more employees certify and agree to take steps to ensure a drug free workplace by informing employees of the dangers of drug abuse, of the availability of any treatment or assistance program, of prohibited activities and of sanctions that will be imposed for violations; and that individuals with contracts certify that they will not engage in the manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of the contract. The Bidder further certifies that it maintains a substance-abuse program and provide drug testing in accordance with 820 ILCS 130/11G, Public Act 095-0635

Responsible Bidder Requirements: The Bidder certifies that it complies with the Illinois Procurement Code and the provisions of Section 30-22 thereof relating to apprenticeship and training, if applicable.

Non-Discrimination, Certification, and Equal Employment Opportunity: The Bidder agrees to comply with applicable provisions of the Illinois Human Rights Act (775 Illinois Compiled Statutes 5), the U.S. Civil Rights Act, the Americans with Disabilities Act, Section 504 of the U.S. Rehabilitation Act and the rules applicable to each. The equal opportunity clause of Section 750.10 of the Illinois Department of Human Rights Rules is specifically incorporated herein. The Bidder shall comply with Executive Order 11246, entitled Equal Employment Opportunity, as amended by Executive Order 11375, and as supplemented by U.S. Department of Labor regulations (41 C.F.R. Chapter 60). The Bidder agrees to incorporate this clause into all subcontracts under this Contract.

International Boycott: The Bidder certifies that neither it nor any substantially owned affiliated company is participating or shall participate in an international boycott in violation of the provisions of the U.S. Export Administration Act of 1979 or the regulations of the U.S. Department of Commerce promulgated under that Act (30 ILCS 582).

Record Retention and Audits: If 30 Illinois Compiled Statutes 500/20-65 requires the Bidder (and any sub Bidders) to maintain, for a period of 3 years after the later of the date of completion of this Contract or the date of final payment under the Contract, all books and records relating to the performance of the Contract and necessary to support amounts charged to the City under the Contract. The Contract and all books and records related to the Contract shall be available for review and audit by the City and the Illinois Auditor General. If this Contract is funded from contract/grant funds provided by the U.S. Government, the Contract, books, and records shall be available for review and audit by the Comptroller General of the U.S. and/or the Inspector General of the federal sponsoring agency. The Bidder agrees to cooperate fully with any audit and to provide full access to all relevant materials.

United States Resident Certification: (This certification must be included in all contracts involving personal services by non-resident aliens and foreign entities in accordance with requirements imposed by the Internal Revenue Services for withholding and reporting federal income taxes.) The Bidder certifies that he/she/it is a: ___ United States Citizen or Corporation ___ Resident Alien ___ Non-Resident Alien. The Internal Revenue Service requires that taxes be withheld on payments made to non-resident aliens for the performance of personal services at the rate of 30%.

Tax Payer Certification: Under penalties of perjury, the Bidder certifies that its Federal Tax Payer Identification Number or Social Security Number is _____ and is doing business as a (check one): ___ Individual ___ Real Estate Agent ___ Sole Proprietorship ___ Government Entity ___ Partnership ___ Tax Exempt Organization (IRC 501(a) only) ___ Corporation ___ Not for Profit Corporation ___ Trust or Estate ___ Medical and Health Care Services Provider Corp.

Authorized in Illinois: The Bidder that it is authorized to lawfully transact business in the State of Illinois, under all applicable Illinois laws and regulations. The Bidder certifies that it shall comply with the Corporate Accountability for Tax Administration Act, 20 ILCS 715/1, *et. seq.* Where applicable, the Bidder certifies that it is not barred from bidding by virtue of having been adjudicated to have committed a willing or knowing violation of Section 42 of the Environmental Protection Act within the five years preceding this bid, pursuant to 415 ILCS 5/1, *et. seq.* The Bidder further certifies that it is in compliance with all applicable requirements of the Business Enterprise for Minorities, Females and Persons with Disabilities Act, 30 ILCS 575/1, *et. seq.*

Export Administration, Supplies, Labor: The Bidder certifies that neither it nor any substantially owned affiliate is participating, nor shall participate, in an international boycott which is in violation of the provisions of the US Export Administration Act of 1979 or the regulations of the US Department of Commerce promulgated under the Act, including but not limited to the requirements of 30 ILCS 582/5. The Bidder further certifies that no foreign made equipment, materials or supplies furnished under the proposal or agreement have been or will be produced in whole or in part by forced labor, convict labor, or indentured labor, nor made in whole or in part by the labor of any child under the age of 12, under penal sanction pursuant to 30 ILCS 583/1 and 30 ILCS 584/1. The Bidder certifies that steel products used or supplied in the performance of a contract for public works shall be manufactured or produced in the United States, unless the City Manager grants an exception to said requirement, pursuant to 30 ILCS 565/1, *et. seq.*

General Compliance and Certification: The Bidder certifies that it has and will comply with all other applicable laws, regulations, ordinances or restrictions applicable to any component of the bidding process, agreement, or any services or materials provided in connection therewith. The Bidder acknowledges that it is responsible for identifying and complying with all applicable laws, ordinances, rules and regulations, and that it shall indemnify and hold harmless the City of DeKalb from any claim, liability or damages arising out of the failure to identify or comply with any such applicable legal restriction.

Exhibit 3:
Format Requirements for Eligible Expenses

- *Applicants/Recipients are responsible for identifying and complying with all applicable laws, ordinances and regulations.*
- The Illinois Prevailing Wage Act is applicable to all work performed on-site (where required under Illinois law). Prevailing Wage compliant certified wage records are required for all such work, where the Act applies. If Prevailing Wage is required and a single contractor does not pay Prevailing Wage, the entire process can be rendered ineligible for City assistance.
 - If a Contractor performs some work off-site and some work on-site, all on-site work that is subject to the Act must be Prevailing Wage work. For example, if a contractor manufactures a sign off-site and then brings it to the site and installs it, the installation work must all be done in compliance with Prevailing Wage and certified payroll records must be provided. The Project Owner is responsible for determining and verifying compliance with the Prevailing Wage Act.
 - Final waivers of lien must also be provided for all contractors, suppliers and materialmen.
 - Applicants will be required to indemnify and hold harmless the City from any claim arising under the Prevailing Wage Act, or arising out of Applicant's violation of any other applicable law or regulation.
- Final Project Costs must be documented in a tabbed binder in accordance with these regulations.
 - The first section must include a notarized affidavit from the Applicant affirming that all information provided is complete and accurate, and affirming that all work was done in accordance with these Guidelines and all applicable laws.
 - The second section must include a spreadsheet generated by the Applicant, including all project costs that are a component of the project, broken down by vendor. All amounts listed in this spreadsheet must match the corresponding contractor invoices described below.
 - If property acquisition is included in the project costs, the third section must include a copy of the closing statement and deed for the property.
 - Subsequent sections should be separately tabbed by contractor. Each contractor tab should start with a spreadsheet generated by the Applicant that includes the totals from each invoice, and should be followed by a complete set of prevailing wage records, final waivers of lien, and invoices.
 - Applicants may include a Miscellaneous Expenses tab in the binder for small project expenses.
 - Credit Card Statements are not adequate to evidence expenditures. All small expenditures require actual receipts showing the expenditures. The City reserves the right to require Applicants to provide written documentation explaining any expenditure.
 - Building permits are eligible expenditures. Ineligible expenditures include: food, fuel, beverages, utility bills, web design, merchandise for stock or supply,

membership dues, life insurance, or other personal expenses. The City reserves the right to disqualify any expense.

- Once an invoice is submitted, the invoice *cannot be withdrawn or retracted, and the scope of work described on the invoices cannot be altered*. For this reason, it is critical to ensure that these guidelines are complied with.
- The City shall also be provided with an electronic copy of all submittals, in PDF format, separated into sections as outlined above.
- Owner shall also provide a copy of all bids received for work on the project, to document that is selected the lowest responsible bidder out of not fewer than three bids.

COMPANY UNDERTAKING

for

RLDR, LLC.

WHEREAS, the company known as RLDR, LLC., is a duly recognized and active limited liability company organized and doing business in the State of Illinois; and

WHEREAS, the Company is governed by a written Operating Agreement, which provides that the Member identified below of said Company may act on behalf of the Company in the capacity herein contemplated;

NOW, THEREFORE:

BE IT RESOLVED this ____ day of _____, 2018, that the undersigned, being a duly appointed and acting Member of the Company, authorizes the Company to execute any and all documents pursuant to that certain Architectural Improvement Program Incentive Agreement with the City of DeKalb regarding the Property described in the attached legal description (the “Property”), all in DeKalb, Illinois, including, but not limited to, promissory note(s), security agreement(s), line(s) of credit, mortgage(s) and all other loan or financing documents to enable the Company to fulfill its obligations pursuant to said Incentive Agreement and to permit and enable the City of DeKalb to perfect any and all liens on the assets of the Company and/or Property.

1. Company Further Agrees as follows:

(a) “Company’s Liabilities” shall mean all obligations and liabilities of Company to the City (including, without limitation all debts, claims, and indebtedness), whether primary, secondary, direct, contingent, fixed, or otherwise, heretofore, now, and/or from time to time hereafter owing, due, or payable, however evidenced, created, incurred, acquired, or owing and however arising, whether under the “Loan Agreements” or “Development Agreement” (hereinafter defined), or by oral agreement or operation of law, or otherwise, and all terms, conditions, agreements, representations, warranties, undertakings, covenants, guaranties, and provisions to be performed, observed, or discharged by Company under the Loan Agreements.

(b) “Incentive Agreement” shall mean that certain Architectural Improvement Program Incentive Agreement entered into by the Company and City relating to the redevelopment of the Property.

(c) “Loan Agreements” shall mean all agreements, instruments, and documents, including, without limitation, promissory notes, loan and security agreements, guaranties, letters of credit, mortgages, deeds of trust, environmental indemnity agreements, pledges, powers of attorney, consents, assignments, contracts, notices, leases, financing statements, and all other written matter heretofore, now, and/or from time to time hereafter executed by and/or on behalf of Company and delivered to City, including, without limitation, that certain Loan and Security

Agreement dated as of the date hereof, made by Company in favor of City (Loan Agreement), and any and all substitutions, replacements, renewals, and/or amendments to and of the aforementioned agreements, instruments, and documents.

2. Company unconditionally, absolutely, and continuingly guarantees and undertakes to City the prompt performance and payment (in full) of all of Company's Liabilities, when such performance or payment is due or declared due by City, subject to the terms and provisions of the Incentive Agreement. In addition to the payment and performance of Company's Liabilities specified in the preceding sentence, Company shall additionally be liable for all of the costs and expenses incurred by City as identified in Section 9 of this Undertaking.

Prior to enforcing its rights under this Undertaking, the City is not required to seek to enforce or resort to any remedies with respect to any security interests, liens, or encumbrances granted to City by Company or any other party to secure the repayment of Company's Liabilities.

Company's Liabilities shall in no way be impaired, affected, reduced, or released by reason of (a) the City's failure or delay to do or take any of the actions or things described in this Undertaking; (b) the invalidity or unenforceability of Company's Liabilities or the Loan Agreements; or, (c) any loss of or change in priority or reduction in or loss of value of any security interest, lien, or encumbrances securing the repayment of Company's Liabilities.

3. Company represents and warrants to City that:

- (a) The statements in the preamble to this Undertaking are true and correct.
- (b) Company has reviewed and voluntarily entered into this Undertaking and the associated Note and Mortgage.
- (c) Company has the right, power, and capacity to enter into, execute, deliver, and perform this Undertaking.
- (d) This Undertaking, when duly executed and delivered, will constitute a legal, valid, and binding obligation of Company, enforceable against Company in accordance with its terms, subject to applicable bankruptcy laws or other laws affecting creditors' rights generally or the equity powers of the courts.
- (e) The execution, delivery, and/or performance by Company of this Undertaking shall not, by the lapse of time, the giving of notice, or otherwise, constitute a violation or breach of (1) any applicable law; or (2) any provision contained in any agreement or document to which Company is now or hereafter a party or by which it is or may become bound.
- (f) Company is now, and at all times hereafter shall be, solvent and generally able to pay its debts as such debts become due, and Company now owns or will upon its acquisition of the Property which is the subject of the Incentive Agreement, and shall at all times hereafter own, property that, at a fair valuation, exceeds the sum of Company's debts.
- (g) Company now has, and shall have at all times hereafter, capital sufficient to carry on all business transactions and all businesses and transactions in which Company is about to engage. Company does not intend to incur or believe that Company will incur debts beyond Company's ability to pay as such debts mature.

- (h) There are no actions or proceedings that are pending or threatened against Company that might result in any material and adverse change in Company's financial condition or materially affect Company's ability to perform Company's Liabilities.
- (i) Company has reviewed independently the Loan Agreements, and Company has made an independent determination as to the validity and enforceability thereof on the advice of Company's own counsel, and in executing and delivering the Undertaking to City, Company is not in any manner relying on City as to the validity and/or enforceability of any security interests of any kind or nature to City.
- (j) Upon written request from City, Company agrees to furnish to City all pertinent facts relating to the ability of Company to pay and perform Company's Liabilities, and all pertinent facts relating to Company's ability to pay and perform Company's Liabilities. Company agrees to keep informed with respect to all such facts. Company acknowledges and agrees that (1) City has relied and will continue to rely on the facts and information to be furnished to it by Company; (2) in executing this Undertaking and at all times hereafter, Company has relied and will continue to rely on Company's own investigation, and Company has not and will not hereafter rely on City for any such information or facts.

4. Waivers

- (a) To the extent permitted by law, Company waives all other defenses, counterclaims, and offsets of any kind or nature in connection with the validity and/or enforceability of this Undertaking, including, without limitation, (1) those arising directly or indirectly from the perfection, sufficiency, validity, and/or enforceability of any security interest granted by Company to City or acquired by City from Company; and, (2) those based on the failure or adequacy of consideration.
- (b) Company hereby waives notice of the following events or occurrences and agrees that City may do any or all of the following in such manner, on such terms, and at such times as City, in its sole and absolute discretion, deems advisable without in any way impairing, affecting, reducing, or releasing Company from Company's Liabilities:
 - (1) City's acceptance of this Undertaking;
 - (2) Presentment, demand, notices of default, nonpayment, partial payment, and protest, and all other notices or formalities to which Company may be entitled;

5. Covenants and Agreements

Company covenants and agrees with City that:

- (a) All security interests, liens, and encumbrances heretofore, now, and at any time or times hereafter granted by Company to City shall secure Company's Liabilities.
- (b) All indebtedness, liability, or liabilities now and at any time or times hereafter owing to Company by any party liable to City by reason of any security interests, liens, or encumbrances granted by Company to City are hereby subordinated to all indebtedness, liability, or liabilities owed by such party to City.

6. Security

To secure the prompt payment to City of, and the prompt, full, and faithful performance of, Company's Liabilities, Company grants to City a security interest in and lien on the Property ("Collateral").

Company shall execute and/or deliver to City, at any time and from time to time hereafter at the request of City, all agreements, instruments, documents, and other written matter that City reasonably may request, in a form and substance acceptable to City, to perfect and maintain perfected City's security interest in the Collateral. City shall have no obligation to protect, secure, or insure any of the foregoing security interests, liens, or encumbrances or the properties or interests in properties subject thereto.

Company warrants and represents to and covenants with City that (a) Company has good, indefeasible, and merchantable title to the Collateral, or will upon its acquisition of same as contemplated by the Incentive Agreement; (b) City's security interest in and lien on the Collateral is now, and at all times hereafter shall be, valid and perfected, and shall have a first priority; (c) Company shall not grant a security interest in or permit a lien, claim, or encumbrance on any of the Collateral in favor of any third party, except as contemplated by the Incentive Agreement; (d) the addresses specified at the end of this Undertaking include and designate Company's principal residence and is Company's sole residence. Company, by written notice delivered to City at least thirty (30) days prior thereto, shall advise City of Company's acquiring any new residence or selling any existing residence, and any new residence shall be within the continental United States of America.

7. Default

The occurrence of any of the following events shall, at the election of City, be deemed a default by Company (Event of Default) under this Undertaking:

- (a) if Company fails to pay any of Company's Liabilities when due and payable or properly declared due and payable;
- (b) if Company fails or neglects to perform, keep, or observe any term, provision, condition, covenant, warranty, or representation contained in this Undertaking, which is required to be performed, kept, or observed by Company, and Company shall fail to remedy such within ten (10) days of being served with written notice from City;
- (c) if the Collateral is attached, seized, subjected to a writ of distress warrant, or levied upon, or becomes subject to any lien, or comes within the possession of any receiver, conservator, trustee, custodian, or assignee for the benefit of creditors;
- (d) if Company becomes insolvent or generally fails to pay, or admits its inability to pay, debts as they become due;
- (e) if a petition under Title 11, United States Code, or any similar law or regulation shall be filed by Company, or if Company shall make an assignment for the benefit of its creditors, or if any case or proceeding is filed by Company for its dissolution or liquidation;
- (f) if a petition under Title 11, United States Code, or any similar law or regulation shall be filed against Company, or if a case or proceeding is filed against Company for its dissolution or liquidation and such proceeding shall not be dismissed within forty-

five (45) days of its filing, during which time Company shall be diligently contesting such action or proceeding;

- (g) if Company is enjoined, restrained, or in any way prevented by court order from conducting all or any material part of its business affairs, and such injunction or restraint shall not be voided, removed, or dismissed within thirty (30) days of the court's order, during which time Company shall be diligently contesting such action or proceeding;
- (h) if a notice of lien, levy, or assessment is filed of record or given to Company with respect to the Collateral;
- (i) if Company is in default in the payment or performance of any material obligation, indebtedness, or other liability to any third party, and such default is not cured within any cure period specified in any agreement or instrument governing the same;
- (j) if any material statement, report, or certificate made or delivered to City by Company is not true and correct;
- (k) any material adverse change in the financial condition, operations, business, or assets of Company, and Company shall fail to remedy such within ten (10) days of being served with written notice from City;
- (l) the occurrence of a default or Event of Default under any other agreement, instrument, and/or document executed and delivered by Company to City, which is not cured by Company within any applicable cure period set forth in any such agreement, instrument, and/or document;
- (m) the occurrence of a default or event of default under the Loan Agreements;
- (n) the dissolution of Company or if Company attempts to cancel, revoke, or disclaim this Undertaking; or

8. Remedies

Upon the occurrence of an Event of Default, and with prior notice thereof to Company, Company's Liabilities shall be due and payable and enforceable against Company, forthwith, at City's principal place of business, and City may, in its sole and absolute discretion, exercise any one or more of the following remedies that are cumulative and nonexclusive:

- (a) proceed to suit against Company if Company's Liabilities are not immediately paid by Company to City at City's principal place of business; at City's election, one or more successive or concurrent suits may be brought hereunder by City against Company; and/or
- (b) reduce to cash or the like any of Company's assets of any kind or nature in the possession, control, or custody of City, and, without notice to Company, apply the same in reduction or payment of Company's Liabilities; and/or

- (c) exercise any one or more of the rights and remedies accruing to City under the Loan Agreements, the Uniform Commercial Code of the relevant jurisdiction, and any other applicable law upon default by a debtor.

Company recognizes that in the event it fails to perform, observe, or discharge any of its obligations or liabilities under this Undertaking, no remedy at law will provide adequate relief to City, and agrees that City shall be entitled to temporary and permanent injunctive relief in any such case without the necessity of proving actual damage.

9. Costs, Fees, and Expenses

If at any time or times hereafter, either the Owner or the City employs counsel for advice or other representation with respect to this Undertaking or to represent the Owner or City in any litigation, contest, dispute, suit, or proceeding relating to this Undertaking or Owner's or City's rights thereunder, the reasonable costs, fees, and expenses incurred by either the Owner or City in any manner or way with respect to the foregoing shall be payable by Company to City, or by the City to the Owner, as the case may be, on demand. Without limiting the generality of the foregoing, such costs, fees, and expenses include reasonable (a) attorneys' fees, costs, and expenses; (b) court costs and expenses; (c) court reporter fees, costs, and expenses; (d) long-distance telephone and facsimile charges; (e) expenses for travel, lodging, and food. The City's and Company's liability for all reasonable expenses and fees under this Section 9 shall also extend to the collection of any judgment that shall result from City's or Company's enforcement of its rights and remedies hereunder. The obligation of Company and City set forth in this agreement shall be continuing and shall not be merged into any judgment entered based on this Undertaking.

10. Miscellaneous

All payments received by City from any source on account of Company's Liabilities shall be applied by City in its reasonable discretion, and this Undertaking shall apply to and secure any ultimate balance that may be owed to City on account of Company's Liabilities after City's application.

If any provision of this Undertaking or the application thereof to any party or circumstance is held invalid or unenforceable, the remainder of this Undertaking and the application of such provision to other parties or circumstances will not be affected thereby, the provisions of this Undertaking being severable in any such instance. This Undertaking shall be binding on Company and the City and inure to the benefit of Company and City and their respective heirs, personal representatives, successors, and assigns.

Whenever a notice is required or permitted to be given under this Undertaking, it shall be in writing and either delivered personally, or sent via certified mail, return receipt requested. Notice sent via certified mail shall be deemed given three (3) business days after such notice is sent. Notice served by hand delivery shall be deemed served on the day delivered. Any written notice to Company shall be to the address or addresses specified below.

This Undertaking shall continue in full force and effect until Company's Liabilities are fully paid, performed, and discharged as provided in the Incentive Agreement and City gives Company written notice thereof, such notice to be promptly sent by City after full performance of Company's Liabilities. This Undertaking shall continue to be effective or be reinstated, as the case may be, if at any time payment of any of Company's Liabilities is rescinded or must otherwise be returned by City upon the insolvency, bankruptcy, or reorganization of Company or otherwise, all as though such payment had not been made.

This Undertaking is submitted to City at City's principal place of business and shall be deemed to have been made thereat. This Undertaking shall be governed and controlled as to interpretation, enforcement, validity, construction, effect, and in all other respects by the laws, statutes, and decisions of the State of Illinois. No modification, waiver, estoppel, amendment, discharge, or change of this Undertaking or any related instrument shall be valid unless the same is in writing and signed by the party against which the enforcement of such modification, waiver, estoppel, amendment, discharge, or change is sought.

To the extent that City receives any payment on account of Company's Liabilities, or any proceeds of Collateral are applied on account of Company's Liabilities, and any such payment(s) and/or proceeds or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside, subordinated, and/or required to be repaid to a trustee, receiver, or any other party under any bankruptcy act, state or federal law, common law, or equitable cause, then, to the extent of such payment(s) or proceeds received, Company's Liabilities or part thereof intended to be satisfied shall be revived and continue in full force and effect, as if such payment(s) and/or proceeds had not been received by City and applied on account of Company's Liabilities. Company agrees that Company's Liabilities hereunder shall be revived to the extent of such revival of Company's Liabilities.

Until expressly released in writing by City, this Undertaking shall be in addition to any other guaranties that Company has previously given to City or that Company may, from time to time, hereafter give to City relating to Company's Liabilities.

Company warrants and represents to City that Company has read this Undertaking and understands the contents hereof and that this Undertaking is enforceable against Company in accordance with its terms.

COMPANY AND CITY AGREE THAT ALL ACTIONS OR PROCEEDINGS ARISING DIRECTLY, INDIRECTLY, OR OTHERWISE IN CONNECTION WITH, OUT OF, RELATED TO, OR FROM THIS UNDERTAKING SHALL BE LITIGATED ONLY IN THE TWENTY-THIRD JUDICIAL CIRCUIT COURT OF DEKALB COUNTY, STATE OF ILLINOIS. COMPANY AND CITY CONSENT AND SUBMIT TO THE EXCLUSIVE JURISDICTION OF SAID COURT. COMPANY AND THE CITY HEREBY WAIVE ANY RIGHT THEY MAY HAVE TO TRANSFER OR CHANGE THE VENUE OF ANY LITIGATION BROUGHT IN ACCORDANCE WITH THIS PARAGRAPH.

City of DeKalb:

RLDR, LLC.:

Jerry Smith, Mayor

Rasim Spaijoski

Exhibit A: Legal Description

LOT 31 IN RIVERVIEW SUBDIVISION, A SUBDIVISION OF PART OF SECTION 14, TOWNSHIP 40 ORTH, RANGE 4, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED IN BOOK "N" OF PLATS, PAGE 8, IN DEKALB COUNTY, ILLINOIS.

PARCEL NUMBER: 08-14-329-002

PROMISSORY NOTE

DeKalb, Illinois

(Date)

On (date), for value received, _____, hereby promises to pay in lawful money of the Unites States, to the order of the **CITY OF DEKALB** at 200 South Fourth Street, DeKalb, Illinois, the principal sum of **Twenty-Five Thousand (\$25,000.00)** (the "Face Value"). Repayment hereof shall be subject to the terms and conditions of that certain Architectural Improvement Program Incentive Agreement by and between RLDR, LLC. and the City of DeKalb, executed on _____, relating to the development of the property described in the attached legal description (the "Property") in DeKalb, Illinois. The repayment terms of this Note shall be governed by the provisions of the Incentive Agreement, and shall include a reduction of the balance due equal to the reduction consistent with said Incentive Agreement. The City shall provide the Owner with a memorandum of the outstanding balance of said Note and/or a partial release of any Mortgage recorded pursuant to this Note or the Incentive Agreement, at any time upon the request of Owner.

This Note shall be secured by a Mortgage providing the payee with a lien on the Property. The Parties acknowledge that this Note is provided to secure the repayment of monies to be advanced to Owner over a period of time pursuant to the Development Agreement, up to an amount not to exceed the Face Value of this Note as indicated above. The then-present value secured by this Note shall be in an amount equal to the full amount of funds advanced by the City as of the date of inquiry (not to exceed the Face Value), inclusive both of funds directly advanced to Owner, funds paid on behalf of Owner, or funds held to secure the Owner Escrow as defined in the Incentive Agreement.

By: _____

Rasim Spaijoski, Member

Exhibit A: Legal Description

LOT 31 IN RIVERVIEW SUBDIVISION, A SUBDIVISION OF PART OF SECTION 14, TOWNSHIP 40 ORTH, RANGE 4, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED IN BOOK "N" OF PLATS, PAGE 8, IN DEKALB COUNTY, ILLINOIS.

MORTGAGE

RETURN TO:

City Clerk
City of DeKalb
200 S. Fourth Street
DeKalb IL 60115

Future Advances Mortgage

Maximum Value: \$25,000.00

THIS MORTGAGE, dated this ___ day of _____, 2018, by _____
("Mortgagor"), **WITNESSETH:**

WHEREAS, Mortgagor has executed a Promissory Note in the principal sum of Twenty Five Thousand Dollars (\$25,000.00) payable to the City of DeKalb ("Mortgagee"), dated the same date as this Mortgage, whereby Mortgagee is entitled to recover from Mortgagor certain expenses, costs, and advances in connection with Mortgagor's development work on the Premises as defined below and Property as defined within that certain Architectural Improvement Program Incentive Agreement executed on _____ and recorded against the Premises (as defined below) and certain other parcels of real property;

THAT to secure the payment of the indebtedness evidenced by said Promissory Note, Mortgagor does by these presents GRANT and MORTGAGE unto Mortgagee, the real estate situated in the County of DeKalb, and State of Illinois, legally described as follows:

ADDRESS: 110-124 East Hillcrest Drive

PROPERTY INDEX NO.: 08-14-329-002

LEGAL DESCRIPTION: LOT 31 IN RIVERVIEW SUBDIVISION, A SUBDIVISION OF PART OF SECTION 14, TOWNSHIP 40 ORTH, RANGE 4, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED IN BOOK "N" OF PLATS, PAGE 8, IN DEKALB COUNTY, ILLINOIS.

which is referred to herein as the "Premises";

Together with all improvements, tenements, hereditaments, easements and all types and kinds of furniture, fixtures and equipment whether now on the premises or hereafter erected, installed or placed thereon or therein, or whether physically attached thereto or not, are and shall be deemed a part of said real estate as between the parties hereto and all persons claiming by, through or under them, and a

portion of the security for said indebtedness; and also all the estate, right, title and interest of Mortgagor in and to the premises; and

Further, Mortgagor does hereby pledge and assign to Mortgagee, from and after the date hereof, primarily and on a parity with said real estate and not secondarily, all the rents, issues and profits of the premises and all rents, profits, revenues, royalties, bonuses, rights and benefits due, payable or accruing, and all deposits or money as advance rent or for security, under any and all present and future leases of the premises, and does hereby transfer and assign all such leases to Mortgagee together with the right, but not the obligation, to collect, receive and receipt for all avails thereof, to apply then to said indebtedness and to demand, sue for and recover the same when due or payable. Mortgagee by acceptance of the Mortgage agrees, as a personal covenant applicable to Mortgagor only, and not as a limitation or condition hereof and not available to any Owner or tenant, that until a default shall be made or an event shall occur, when under the terms hereof shall give to Mortgagee the right to foreclose this Mortgage, Mortgagor may collect, receive and enjoy such avails.

TO HAVE AND TO HOLD the premises unto Mortgagee, their successors, and assigns, forever, for the purposes and uses herein set forth.

NOTICE: THIS MORTGAGE SECURES TOTAL CREDIT IN THE AMOUNT OF \$25,000.00, AND IS CONSTRUED IN CONNECTION WITH THE OBLIGATIONS OF MORTGAGOR AS OWNER UNDER THAT CERTAIN DEVELOPMENT AGREEMENT (“DEVELOPMENT AGREEMENT”) RECORDED AGAINST THE PREMISES PRIOR TO THE DATE OF THIS MORTGAGE. LOANS, PAYMENTS, CREDITS AND ADVANCES UP TO THIS AMOUNT, TOGETHER WITH ANY OTHER AMOUNTS OR OTHER OBLIGATIONS OF MORTGAGOR/OWNER UNDER THIS MORTGAGE OR THE INCENTIVE AGREEMENT ARE SENIOR TO INDEBTEDNESS TO OTHER CREDITORS UNDER SUBSEQUENTLY RECORDED OR FILED MORTGAGES AND LIENS, UNLESS AND UPON THE CITY’S SUBORDINATION OF THIS MORTGAE LIEN AS PROVIDED IN THE INCENTIVE AGREEMENT. THIS MORTGAGE HAS BEEN PROVIDED TO SECURE THE REPAYMENT OF OBLIGATIONS OF THE DEVELOPMENT AGREEMENT, INCLUDING BUT NOT LIMITED TO REPAYMENT OF A DEVELOPMENT INCENTIVE AND THE OBLIGATION TO SECURE THE OWNER ESCROW (AS BOTH TERMS ARE DEFINED IN THE DEVELOPMENT AGREEMENT).

Maximum Obligation Limit: The total amount of secured debt secured by this Mortgage at any one time shall not exceed the amount stated above. This limitation does not include loan charges, commitment fees, attorney’s fees and other charges validly made pursuant to this Mortgage and does not apply to advances (or interest accrued on such advances) made under the terms of this Mortgage to protect Mortgagee’s security and to perform any of the covenants contained in this Mortgage or the Incentive Agreement. Future advances are contemplated and, along with other future obligations, are secured by this mortgage even though all or part may not yet be advanced. Nothing contained in this Mortgage shall constitute an irrevocable commitment to make additional or future loans or advances in any amount, and no commitment to future advances, whether contained herein or in the Incentive Agreement, shall create any right of or liability to any third party not identified expressly herein.

The debt secured by this Mortgage includes, but is not limited to:

- A) The promissory note, guaranty, obligations of Mortgagor under the Incentive Agreement and all extensions, renewals, modifications or substitutions thereof to _____, with a note amount of \$25,000.00 (collectively, the "Evidence of Debt").
- B) All future advances from Mortgagee to Mortgagor or other future obligations of Mortgagor to Mortgagee under any promissory note, development agreement, contract, guaranty or other evidence of debt existing now or executed after this Mortgage whether or not this Mortgage is specifically referred to in the Evidence of Debt and whether or not such future advances or obligations are incurred for any purpose that was related or unrelated to the purpose of this Mortgage or the Evidence of Debt.
- C) All obligations Mortgagor owes to Mortgagee, which now exist or may later arise, to the extent not prohibited by law, including but not limited to any obligation under the Incentive Agreement such as obligations to defend and indemnify and obligations relating to the Owner Escrow as defined therein.
- D) Any additional sums advanced and expenses incurred by Mortgagee for insuring, preserving or otherwise protecting the Premises and Property and its value and any other sums advanced or expenses incurred by the Mortgagee under the terms of this Mortgage, plus interest (where applicable), as provided in the Evidence of Debt and Incentive Agreement.
- E) Mortgagor's performance under the terms of any instrument evidencing a debt by Mortgagor to Mortgagee and any Mortgage securing, guarantying or otherwise relating to a debt.

Mortgagor covenants and agrees:

1. To pay or cause to be paid, when due, all sums secured hereby as further defined and governed by the Incentive Agreement.
2. Not to abandon the premises; to keep the premises in good condition and repair and not to commit or suffer waste; to pay for and complete within a reasonable time any building at any time in the process of erection upon the premises; to promptly repair, restore or rebuild any building or improvement now or hereafter on the premises which may become damaged or destroyed; to refrain from impairing or diminishing the value of the security; to make no material alterations of the premises.
3. To comply with all requirements of law or local government ordinances governing the premises and the use thereof; and to permit Mortgagee, or their agents, to inspect the premises at all reasonable times.
4. To keep the premises free from mechanics, or other liens or claims for liens of any kind; to pay or cause to be paid, when due, any indebtedness which may be secured by a lien or charge on the premises; and, upon receipt, to exhibit to Mortgagee satisfactory evidence of the payment and discharge of such liens or claims.
5. To pay, or cause to be paid, before any penalty attaches, all general taxes and to pay, or cause to be paid, when due, all special taxes, special assessments, water charges, drainage charges, sewer service charges and other charges against the premises, of any kind

whatsoever, which may be levied, assessed, charged or imposed on the premises, or any part thereof.

6. To promptly pay all taxes and assessments assessed or levied under and by virtue of any state, federal or local law or regulation hereafter passed, against Mortgagee upon this Mortgage or the debt hereby secured, or upon their interest under this Mortgage.
7. To exhibit to Mortgagee, annually upon request, official receipts showing full payment of all taxes, assessments and charges which Mortgagor is required, or shall elect, to pay or cause to be paid hereunder.
8. To keep the premises continuously insured, until the indebtedness secured hereby is fully paid against loss or damage under such types of hazard and liability insurance and in such forms, amounts and companies as may be reasonably approved or required from time to time by Mortgagee (in the absence of any specified requirements, such insurance shall be under policies providing for payment by the insurance companies of moneys sufficient either to pay the full cost of replacing or repairing the premises or to pay in full the indebtedness secured hereby); all policies whether or not required by the terms of this Mortgage, shall contain loss payable clauses in favor of Mortgagee (or, in case of foreclosure sale, in favor of the owner of the certificate of sale); in the event of loss, Mortgagor shall immediately notify Mortgagee in writing and Mortgagor hereby authorizes and directs each and every insurance company concerned to make payments for such loss directly and solely to Mortgagee (who may, but need not, make proof of loss) and Mortgagee is hereby authorized to adjust, collect and compromise, in their discretion, all claims under all policies, and Mortgagor shall sign, upon demand by Mortgagee, all receipts, vouchers and releases required by the insurance companies and the insurance proceeds, or any part thereof, may be applied by Mortgagee, at their option, either to the reduction of the indebtedness hereby secured or to the restoration or repair of the property damaged, and any application thereof to the indebtedness shall not relieve Mortgagors from making the payments herein required until the indebtedness is paid in full. Mortgagee may, from time to time, at their option, waive and, after any such waiver, reinstate any or all provisions hereof requiring deposit of insurance policies, by notice to Mortgagor in writing.
9. (a) To deliver to Mortgagee, all policies of insurance with evidence of premiums prepaid (renewal policies to be delivered not less than ten (10) days prior to the respective dates of expiration), and all abstracts of title, title guarantee policies, and other evidence of title to the premises, all of which shall be held by Mortgagee without liability, and in the event of foreclosure of this Mortgage or transfer of title to the premises in extinguishment of said indebtedness, shall become the absolute property of Mortgagee.

(b) IF ALL OR ANY PART OF THE PREMISES OR AN INTEREST THEREIN IS SOLD OR TRANSFERRED BY MORTGAGOR WITHOUT MORTGAGEE'S PRIOR WRITTEN CONSENT, MORTGAGEE MAY, AT MORTGAGEE'S OPTION, DECLARE ALL THE SUMS SECURED BY THIS MORTGAGE TO BE IMMEDIATELY DUE AND PAYABLE. MORTGAGEE SHALL HAVE WAIVED SUCH OPTION TO ACCELERATE IF, PRIOR TO

THE SALE OF TRANSFER, MORTGAGEE AND THE PERSON TO WHOM THE PREMISES IS TO BE SOLD OR TRANSFERRED REACH AGREEMENT IN WRITING THAT THE CREDIT OF SUCH PERSON IS SATISFACTORY TO MORTGAGEE AND THAT THE INTEREST PAYABLE ON THE SUMS SECURED BY THIS MORTGAGE SHALL BE AT SUCH RATE AS MORTGAGEE SHALL REQUEST. IF MORTGAGEE HAS WAIVED THE OPTION TO ACCELERATE.

IF MORTGAGEE EXERCISES SUCH OPTION TO ACCELERATE, MORTGAGEE SHALL MAIL MORTGAGOR NOTICE OF ACCELERATION. SUCH NOTICE SHALL PROVIDE A PERIOD OF NOT LESS THAN THIRTY (30) DAYS FROM THE DATE THE NOTICE IS MAILED WITHIN WHICH MORTGAGOR MAY PAY THE SUMS DECLARED DUE. IF MORTGAGOR FAILS TO PAY SUCH SUMS PRIOR TO THE EXPIRATION OF SUCH PERIOD, MORTGAGEE MAY, WITHOUT FURTHER NOTICE OR DEMAND ON MORTGAGOR, INVOKE ANY REMEDIES PERMITTED BY THIS MORTGAGE.

THE REQUIREMENT OF MORTGAGEE'S CONSENT PRIOR TO ANY TRANSFER SHALL INCLUDE ALL LEGAL INTEREST OF MORTGAGOR IN THE PREMISES. SAID REQUIREMENT EXTENDS TO CONTRACTS FOR DEED, TRANSFERS TO LAND TRUSTS OR OTHER TRUSTS (EVEN THOUGH MORTGAGOR OR ANY OF THEM ARE BENEFICIARIES THEREIN), AND ASSIGNMENTS OF BENEFICIAL INTERESTS IN LAND TRUSTS AND OTHER TRUSTS.

10. In the event of default in performance of any Mortgagor's covenants or agreements herein contained, Mortgagee may, but need not, make any payment or perform any act hereinbefore required of Mortgagor, in any form and manner deemed expedient, and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or any other lien, encumbrance, suit title or claim thereof, or redeem from any tax sale or forfeiture affecting the premises or contest any tax or assessment. All monies paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including attorney's fees, and any other monies advanced by Mortgagee to protect the premises and the lien hereof shall be so much additional indebtedness secured hereby and shall be come immediately due and payable without notice. Mortgagee, making any payment hereby authorized relating to taxes or assessments, shall be the sole judge of the legality and validity thereof and of the amount necessary to be paid in satisfaction thereof.
11. If (a) default be made in payment, when due, of any sum secured hereby, or in any of the other covenants or agreements herein contained to be performed by Mortgagor herein or in the Agreement, or (b) if any proceedings be instituted or process issued (i) to enforce any other lien, charge or encumbrance against the premises, or (ii) to condemn the premises or any part thereof for public use, or (iii) against Mortgagor or any beneficiary thereof under any bankruptcy or insolvency laws, or (iv) to place the premises or any part thereof in the custody of any court through their receiver or other officer, and such proceedings are not dismissed or stayed on appeal or such process withdrawn within Ten (10) days after written notice to Mortgagor; or (c) if Mortgagor makes any assignment for

the benefit of creditors, or are declared bankrupt, or if by or with the consent or at the instance of proceedings to extend the time of payment of the Note or to change the terms of this Mortgage be instituted under any bankruptcy or insolvency law; then:

- (a) All sums secured hereby shall, at the option of Mortgagee, become immediately due and payable without notice, with interest thereon, from the date of the first of any such defaults, at the penalty rate; and
 - (b) Mortgagee may immediately foreclose this Mortgage. The Court in which any proceedings is pending for that purpose may, at once or any time thereafter, either before or after sale, without notice to Mortgagor, and without requiring bond, and without regard to the solvency or insolvency of any person liable for payment of the indebtedness secured hereby, and without regard to the then value of the premises, or whether the same shall be occupied as a Homestead, appoint a receiver (the provisions for the appointment of a receiver and assignment of rents being an express condition upon which the loan hereby secured is made), for the benefit of Mortgagee or place Mortgagee in possession under the terms of the applicable statute of the State of Illinois, with power to collect the rents, issues and profits of the premises, due and to become due, during such foreclosure suit and the full statutory period of redemption notwithstanding any redemption. The receiver or Mortgagee in possession, out of such rents, issues and profits when collected, may pay costs incurred in the management and operation of the premises, prior and coordinate liens, if any, and taxes, assessments, water and other utilities and insurance, then due or thereafter accruing, and may make and pay for any necessary repairs to the premises, and may pay all or any part of the indebtedness secured hereby or any deficiency decree; and
 - (c) Mortgagee shall, at its option, have the right, acting through itself, its agents or attorneys, with process of law, to enter upon and take possession of the premises and property, expel and remove any persons, goods or chattels, occupying or upon the same, and to collect or receive all the rents, issues and profits thereof, and to manage and control the same, and to lease the same or any part thereof from time to time, and after deducting all reasonable attorney's fees and all operation of the premises, apply the remaining net income upon the indebtedness secured hereby, or upon any deficiency decree entered by virtue of any sale held pursuant to a decree of foreclosure.
12. In any foreclosure of this Mortgage, there shall be allowed and included in the decree for sale, in the event Mortgagor successfully obtains a judgment of foreclosure, to be paid out of the rents or proceeds of such sale, or by the Mortgagee, as the case may be, and only payable to the prevailing party in any such foreclosure action
- (a) All principal and interest remaining unpaid and secured hereby;

- (b) All other items advanced or paid by Mortgagee pursuant to this Mortgage with interest at the penalty rate from the date of advancement;
 - (c) All court costs and fees, attorneys' fees, appraiser's fees, expenditures for documentary and expert evidence, stenographer's charges, publication costs and coats (which may be estimated as to items to be expended after entry of the decree) of procuring all abstracts of title, title searches and examinations, title guarantee policies, and similar data with respect to title, as Mortgagee may deem necessary. All expenditures and expenses of the type mentioned in this subparagraph (c) shall become so much additional indebtedness secured hereby and immediately due and payable, with interest at the same rate as shall accrue on the principal balance when paid or incurred by Mortgagee, in connection with (i) any proceedings, including probate and bankruptcy proceedings to which Mortgagee shall be a party, either as plaintiff, claimant or defendant, by reason of this Mortgage or any indebtedness hereby secured; or (ii) preparations for the commencement of any suit for the foreclosure hereof after accrual of such right to foreclose whether or not actually commenced; or (iii) preparations for the defense of security hereof, whether or not actually commenced. The proceeds of any foreclosure sale shall be distributed and applied to the items described in subparagraph (a), (b) and (c) in order of priority inversely to the manner in which said subparagraphs are above listed and any surplus of the proceeds of such sale be paid to Mortgagor.
- 13. No remedy or right of mortgagee shall be exclusive of, but shall be in addition to, every other remedy or right now or hereafter existing at law or in equity. No delay in exercising, or omission to exercise, any remedy or right accruing on default shall impair any such remedy or right, or shall be construed to be a waiver of any such default, or acquiescence therein, nor shall it affect any subsequent default of the same or a different nature. Every such remedy or right may be exercised concurrently or independently, and when and as often as may be deemed expedient by Mortgagee.
- 14. Without affecting the liability of Mortgagor or any other person (except any person expressly released in writing) for payment of any indebtedness secured hereby or for performance of any obligation contained herein, and without affecting the rights of Mortgagee with respect to any security not expressly released in writing, Mortgagee may, at any time and from time to time, either before or after the maturity of said note, and without notice or consent:
 - (a) Release any person liable for payment of all or any part of the indebtedness or for performance of any obligation.
 - (b) Make any agreement extending the time or otherwise altering the terms of payment of all or any part of the indebtedness or modifying or waiving any obligation, or subordinating, modifying or otherwise dealing with the lien or charge hereof.

- (c) Exercise or refrain from exercising or waive any right Mortgagee may have.
 - (d) Accept additional security of any kind.
 - (e) Release or otherwise deal with any property, real or personal, securing the indebtedness, including all or any part of the property mortgaged hereby.
15. Upon full payment of all sums secured hereby at the time and in the manner provided, then this conveyance shall be null and void and within thirty (30) days after written demand therefor a re-conveyance or release of the premises shall be made by Mortgagee to Mortgagor.
 16. All provisions hereof shall inure to and bind the respective heirs, executors, administrators, successors, vendees and assigns of the parties hereto, and the word "Mortgagor" shall include all persons claiming under or through Mortgagor and all persons liable for the payment of the indebtedness or any part hereof, whether or not such persons shall have executed the Note or this Mortgage. Whenever used, the singular number shall include the plural, and the plural the singular, and the use of any gender shall be applicable to all genders.
 17. That this Mortgage cannot be changed except by an agreement in writing, signed by the party against whom enforcement of the change is sought.
 18. This lien may be subordinated with the written consent of the City Manager.

IN WITNESS WHEREOF, Mortgagor has executed this Mortgage the day and year first above written.

By: _____
, Member

STATE OF ILLINOIS)

) ss

COUNTY OF DEKALB)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that _____, authorized Member of _____, an Illinois limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Member, appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free and voluntary act and as the free and voluntary act of said company, for the uses and purposes therein set forth; and the same Member then and there acknowledge that he did affix the seal of said company to said instrument as his own free and voluntary act and as the free and voluntary act of said company, for the uses and purposes therein set forth.

Given under my hand and notarial seal this ___ day of _____, 201__.

Notary Public