

**CITY OF EVANSTON**

**TAX INCREMENT FINANCING DISTRICT NO. 6  
WEST EVANSTON DISTRICT**

**ANNUAL REPORT FOR THE FISCAL YEAR  
BEGINNING JANUARY 1, 2012 AND ENDING DECEMBER 31, 2012**

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***CITY OF EVANSTON WEST EVANSTON TIF DISTRICT ANNUAL REPORT FOR FISCAL YEAR  
BEGINNING JANUARY 1, 2012 AND ENDING DECEMBER 31, 2012***

**City of Evanston**

**Tax Increment Financing District No. 5  
West Evanston TIF District  
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**Section 1.** Name of Redevelopment Project Area and Contact Information

Refer to chart attached.



SECTION 2 [Sections 2 through 5 must be completed for each redevelopment project area listed in Section 1.]

Name of Redevelopment Project Area:	West Evanston
Primary Use of Redevelopment Project Area*:	Combination/Mixed
If "Combination/Mixed" List Component Types:	Res. Comm'l. Industrial
Under which section of the Illinois Municipal Code was Redevelopment Project Area designated? (check one):	
Tax Increment Allocation Redevelopment Act <u>  x  </u>	Industrial Jobs Recovery Law _____

	No	Yes
Were there any amendments to the redevelopment plan, the redevelopment project area, or the State Sales Tax Boundary? [65 ILCS 5/11-74.4-5 (d) (1) and 5/11-74.6-22 (d) (1)] If yes, please enclose the amendment labeled Attachment A	X	
Certification of the Chief Executive Officer of the municipality that the municipality has complied with all of the requirements of the Act during the preceding fiscal year. [65 ILCS 5/11-74.4-5 (d) (3) and 5/11-74.6-22 (d) (3)] Please enclose the CEO Certification labeled Attachment B		X
Opinion of legal counsel that municipality is in compliance with the Act. [65 ILCS 5/11-74.4-5 (d) (4) and 5/11-74.6-22 (d) (4)] Please enclose the Legal Counsel Opinion labeled Attachment C		X
Were there any activities undertaken in furtherance of the objectives of the redevelopment plan, including any project implemented in the preceding fiscal year and a description of the activities undertaken? [65 ILCS 5/11-74.4-5 (d) (7) (A and B) and 5/11-74.6-22 (d) (7) (A and B)] If yes, please enclose the Activities Statement labeled Attachment D		X
Were any agreements entered into by the municipality with regard to the disposition or redevelopment of any property within the redevelopment project area or the area within the State Sales Tax Boundary? [65 ILCS 5/11-74.4-5 (d) (7) (C) and 5/11-74.6-22 (d) (7) (C)] If yes, please enclose the Agreement(s) labeled Attachment E		X
Is there additional information on the use of all funds received under this Division and steps taken by the municipality to achieve the objectives of the redevelopment plan? [65 ILCS 5/11-74.4-5 (d) (7) (D) and 5/11-74.6-22 (d) (7) (D)] If yes, please enclose the Additional Information labeled Attachment F		X
Did the municipality's TIF advisors or consultants enter into contracts with entities or persons that have received or are receiving payments financed by tax increment revenues produced by the same TIF? [65 ILCS 5/11-74.4-5 (d) (7) (E) and 5/11-74.6-22 (d) (7) (E)] If yes, please enclose the contract(s) or description of the contract(s) labeled Attachment G	X	
Were there any reports or meeting minutes submitted to the municipality by the joint review board? [65 ILCS 5/11-74.4-5 (d) (7) (F) and 5/11-74.6-22 (d) (7) (F)] If yes, please enclose the Joint Review Board Report labeled Attachment H		X
Were any obligations issued by municipality? [65 ILCS 5/11-74.4-5 (d) (8) (A) and 5/11-74.6-22 (d) (8) (A)] If yes, please enclose the Official Statement labeled Attachment I	X	
Was analysis prepared by a financial advisor or underwriter setting forth the nature and term of obligation and projected debt service including required reserves and debt coverage? [65 ILCS 5/11-74.4-5 (d) (8) (B) and 5/11-74.6-22 (d) (8) (B)] If yes, please enclose the Analysis labeled Attachment J	X	
Cumulatively, have deposits equal or greater than \$100,000 been made into the special tax allocation fund? 65 ILCS 5/11-74.4-5 (d) (2) and 5/11-74.6-22 (d) (2) If yes, please enclose Audited financial statements of the special tax allocation fund labeled Attachment K		X
Cumulatively, have deposits of incremental revenue equal to or greater than \$100,000 been made into the special tax allocation fund? [65 ILCS 5/11-74.4-5 (d) (9) and 5/11-74.6-22 (d) (9)] If yes, please enclose a certified letter statement reviewing compliance with the Act labeled Attachment L		X
A list of all intergovernmental agreements in effect in FY 2010, to which the municipality is a part, and an accounting of any money transferred or received by the municipality during that fiscal year pursuant to those intergovernmental agreements. [65 ILCS 5/11-74.4-5 (d) (10)] If yes, please enclose list only of the intergovernmental agreements labeled Attachment M	X	

\* Types include: Central Business District, Retail, Other Commercial, Industrial, Residential, and Combination/Mixed.

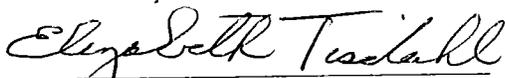
**Attachment A**      Amendments to the Redevelopment Plan, the Redevelopment Project  
and/or the Area Boundary

There were no amendments to the Redevelopment Plan or to the Redevelopment Project Area within the reporting Period.

**Attachment B** Certification of the Mayor of the municipality that the municipality has complied with all of the requirements of the Act during the reporting Period.

Re: West Evanston TIF District

I, Elizabeth Tisdahl, the duly elected Mayor of the City of Evanston, County of Cook, State of Illinois, do hereby certify that to the best of my knowledge, the City of Evanston complied with the requirements pertaining to the Illinois Tax Increment Redevelopment Allocation Act during the Fiscal Year beginning January 1, 2012 and ending December 31, 2012.

  
MAYOR

10-17-13  
DATE

**Attachment C** Opinion of legal counsel that the municipality has complied with the Act.

**RE: Attorney Review City of Evanston West Evanston TIF District**

To Whom It May Concern:

This will confirm that I am the City Attorney for the City of Evanston, Illinois. I have reviewed all information provided to me by the City staff and consultants, and I find that the City of Evanston has conformed to all applicable requirements of the Illinois Tax Increment Redevelopment Allocation Act set forth thereunder for the Fiscal Year beginning January 1, 2012 and ending December 31, 2012, to the best of my knowledge and belief.

Sincerely,

  
Corporation Counsel

**Attachment D** Statement setting forth all activities undertaken in furtherance of the objectives of the Redevelopment Plan, including:

- A. Any project implemented during the reporting Period; and
- B. A description of the redevelopment activities undertaken.

The City utilized TIF funds to undertake environmental remediation as part of a Neighborhood Stabilization Program 2 (NSP) initiative to provide affordable housing within the TIF District – the Emerson Square housing development. The project included 32 units of mixed income housing – townhomes and apartments. The project also included a public street and park as well as a community garden for residents. The TIF funding was part of multiple funding sources: including an NSP grant, City HOME Investment Partnership grant, Affordable Housing Fund dollars and over \$14,000,000 from Low Income Housing Tax Credits, Federal Home Loan Bank, the Housing Authority of Cook County project based Section 8 and other federal and state sources.

The City entered into an agreement for façade improvements for properties located at 1817 Church Street and 2117 Greenleaf.

**Attachment E Description of Agreements Regarding Property Disposition or Redevelopment**

The City entered into agreements for façade improvements for properties located at 1817 Church and 2117 Greenleaf and are attached as Exhibit C.

**Attachment F** Additional Information on Uses of Funds Related to Achieving Objectives of the Redevelopment Plan

The City undertook additional area reviews regarding capital improvements and redevelopment activities, and allocated TIF revenues to such costs, including façade improvements and a housing related redevelopment project.

**Attachment G** Information Regarding Contracts with TIF Consultants.

The City utilized Kane, McKenna and Associates, Inc. in order to prepare the annual report. Fees were based upon hourly rates for services rendered and did not include contingent payments. Kane McKenna did not enter into contracts with any entities that were party to City redevelopment agreements.

**Attachment H**      Reports Submitted by Joint Review Board.

The Joint Review Board met on February 21, 2013. Minutes of the meeting are attached as Exhibit A.

**Attachment I** Summary of any obligations issued by the municipality and official statements

No new debt obligations were issued by the City in the reporting Period.

**Attachment J**      Financial Analysis: TIF Obligations

The City continued to review projected tax increment attributable to the area based upon updated equalized assessed valuations certified by Cook County.

**Attachment K and L**

For special tax allocation funds that have experienced cumulative deposits of incremental tax revenues of \$100,000 or more, a certified audit report reviewing compliance with the Act performed by an independent public accountant certified and licensed by the authority of the State of Illinois. The audit report shall contain a letter from the independent certified public accountant indicating compliance or noncompliance with the requirements of subsection (q) of Section 11-74.4-3.

Refer to selected portions of the City audit included in Exhibit B.

**Attachment M** Intergovernmental Agreements

Not applicable

**Section 3.1** Analysis of Special Tax Allocation Fund

Refer to table attached.

**SECTION 3.1 - (65 ILCS 5/11-74.4-5 (d) (5) and 65 ILCS 5/11-74.6-22 (d) (5))**

**Provide an analysis of the special tax allocation fund.**

Fund Balance at Beginning of Reporting Period

\$ 1,495,593

<b>Revenue/Cash Receipts Deposited in Fund During Reporting FY:</b>	<b>Reporting Year</b>	<b>Cumulative*</b>	<b>% of Total</b>
Property Tax Increment	\$ 26,572	\$ 1,700,999	100%
State Sales Tax Increment			0%
Local Sales Tax Increment			0%
State Utility Tax Increment			0%
Local Utility Tax Increment			0%
Interest	\$ 713	\$ 2,952	0%
Land/Building Sale Proceeds			0%
Bond Proceeds			0%
Transfers from Municipal Sources			0%
Private Sources			0%
Other (identify source _____; if multiple other sources, attach schedule)	\$ 600,000		0%

\*must be completed where 'Reporting Year' is populated

**Total Amount Deposited in Special Tax Allocation Fund During Reporting Period**

\$ 627,285

**Cumulative Total Revenues/Cash Receipts**

\$ 1,703,951 100%

**Total Expenditures/Cash Disbursements** (Carried forward from Section 3.2)

\$ 1,250,031

**Distribution of Surplus**

**Total Expenditures/Disbursements**

\$ 1,250,031

**NET INCOME/CASH RECEIPTS OVER/(UNDER) CASH DISBURSEMENTS**

\$ (622,746)

**FUND BALANCE, END OF REPORTING PERIOD\***

\$ 872,847

\* if there is a positive fund balance at the end of the reporting period, you must complete Section 3.3

**Section 3.2** Itemized List of Expenditures from Special Tax Allocation Fund

Refer to tables attached.





**SECTION 3.2 A**

**PAGE 3**

14. Costs of reimbursing private developers for interest expenses incurred on approved redevelopment projects. Subsection (q)(11)(A-E) and (o)(13)(A-E)		
		\$ -
15. Costs of construction of new housing units for low income and very low-income households. Subsection (q)(11)(F) - Tax Increment Allocation Redevelopment TIFs ONLY		
		\$ -
16. Cost of day care services and operational costs of day care centers. Subsection (q) (11.5) - Tax Increment Allocation Redevelopment TIFs ONLY		
		\$ -
<b>TOTAL ITEMIZED EXPENDITURES</b>		<b>\$ 1,250,031</b>



**Section 3.3** Special Tax Allocation Fund Balance (end of reporting period).

Refer to table attached.

**SECTION 3.3 - (65 ILCS 5/11-74.4-5 (d) (5) 65 ILCS 11-74.6-22 (d) (5))**  
**Breakdown of the Balance in the Special Tax Allocation Fund At the End of the Reporting Period**

FUND BALANCE, END OF REPORTING PERIOD \$ 872,847

	Amount of Original Issuance	Amount Designated
<b>1. Description of Debt Obligations</b>		

Total Amount Designated for Obligations \$ - \$ -

<b>2. Description of Project Costs to be Paid</b>		
Redevelopment and Capital Project Costs		\$ 1,500,000
Implementation of Master Plan Activities		\$ 1,000,000

Total Amount Designated for Project Costs \$ 2,500,000

TOTAL AMOUNT DESIGNATED \$ 2,500,000

SURPLUS\*/(DEFICIT) \$ (1,627,153)

\* NOTE: If a surplus is calculated, the municipality may be required to repay the amount to overlapping taxing

**Section 4.0** A description of all property purchased by the municipality within the Redevelopment Project Area including:

- A. Street Address
- B. Approximate size or description of property
- C. Purchase Price
- D. Seller of property

Refer to table attached.

**SECTION 4 [65 ILCS 5/11-74.4-5 (d) (6) and 65 ILCS 5/11-74.6-22 (d) (6)]**

Provide a description of all property purchased by the municipality during the reporting fiscal year within the redevelopment project area.

  X   No property was acquired by the Municipality Within the Redevelopment Project Area

**Property Acquired by the Municipality Within the Redevelopment Project Area**

Property (1):	
Street address:	
Approximate size or description of property:	
Purchase price:	
Seller of property:	

Property (2):	
Street address:	
Approximate size or description of property:	
Purchase price:	
Seller of property:	

Property (3):	
Street address:	
Approximate size or description of property:	
Purchase price:	
Seller of property:	

Property (4):	
Street address:	
Approximate size or description of property:	
Purchase price:	
Seller of property:	

**Section 5.0** Review of Public and Private Investment.

Refer to table attached.

**SECTION 5 - 65 ILCS 5/11-74.4-5 (d) (7) (G) and 65 ILCS 5/11-74.6-22 (d) (7) (G)**  
**PAGE 1**

If <b>NO</b> projects were undertaken by the Municipality Within the Redevelopment Project Area, indicate so in the space provided:
If Projects <b>WERE</b> undertaken by the Municipality Within the Redevelopment Project Area enter the <b>TOTAL</b> number of projects and list them in detail below. <span style="float: right;">6</span>

**SECTION 5 PROVIDES PAGES 1-3 TO ACCOMMODATE UP TO 25 PROJECTS. PAGE 1 MUST BE INCLUDED WITH TIF REPORT. PAGES 2-3 SHOULD BE INCLUDED IF PROJECTS ARE LISTED ON THESE PAGES**

	11/1/99 to Date	Estimated Investment for Subsequent Fiscal Year	Total Estimated to Complete Project
<b>TOTAL:</b>			
Private Investment Undertaken (See Instructions)	\$ 13,100,000	\$ -	\$ 27,313,943
Public Investment Undertaken	\$ -	\$ -	\$ 1,213,943
Ratio of Private/Public Investment	0		22 1/2

<b>Project 1:</b>			
LSL Industries			
Private Investment Undertaken (See Instructions)	\$ 1,100,000		\$ 1,100,000
Public Investment Undertaken			
Ratio of Private/Public Investment	0		0

<b>Project 2:</b>			
Church Street Townhomes			
Private Investment Undertaken (See Instructions)	\$ 7,000,000		\$ 7,000,000
Public Investment Undertaken			
Ratio of Private/Public Investment	0		0

<b>Project 3:</b>			
Greenwood Loft			
Private Investment Undertaken (See Instructions)	\$ 5,000,000		\$ 5,000,000
Public Investment Undertaken			
Ratio of Private/Public Investment	0		0

<b>Project 4:</b>			
IRMCO			
Private Investment Undertaken (See Instructions)			\$ 13,943
Public Investment Undertaken			\$ 13,943
Ratio of Private/Public Investment	0		1

<b>Project 5:</b>			
Northshore General Contractors Cooperative			
Private Investment Undertaken (See Instructions)			\$ 200,000
Public Investment Undertaken			\$ 200,000
Ratio of Private/Public Investment	0		1

<b>Project 6:</b>			
Emerson Square			
Private Investment Undertaken (See Instructions)			\$ 14,000,000
Public Investment Undertaken			\$ 1,000,000
Ratio of Private/Public Investment	0		14



**EXHIBIT A**

# DRAFT – NOT APPROVED

## TIF Joint Review Board Meeting Minutes February 21, 2013

### Attendees:

**Board Members:** Mary Brown- School District 65, Ald. Judy Fiske – City of Evanston, Darryl Holmes- Cook County, Bill Stafford- District 65

**Board Members Absent:** Arnold Randall- Forest Preserve of Cook County, Carolyn Dellutri- Downtown Evanston, Dr. Hardy Murphy- District 65, Bob Novak- Oakton Community College, Brian Rosinski- Ridgeville Park District, Larry Kaufman- Member at Large, Valerie Kretchmer- Member at Large, Richard Kwasneski- PACE, Patricia Vance – Evanston Township, Margaret Lee – Oakton Community College, Kathleen Therese Meany- Metropolitan Water Reclamation District, Robert Berry- North Shore Mosquito Abatement, Mayor Tisdahl – City of Evanston

**City Staff:** Steve Griffin, Johanna Nyden, Paul Zalmezak, Martin Lyons, Meagan Jones

**Others in Attendance:** Bob Rychlicki – Kane McKenna, Ald. Ann Rainey – City of Evanston, Ald. Delores Holmes – City of Evanston, Ginny Holbert- Howard to Isabella, Toni Gilpin- Howard to Isabella.

### **I. Call to Order by Ald. Judy Fiske, Chair**

Chair Judy Fiske called the meeting to order at 3:11 p.m.

### **II. Approval of Joint Review Board Meeting Minutes of December 16, 2011**

Darryl Holmes of Cook County Bureau of Economic Development motioned to approve the minutes from December 16, 2011; seconded by Mary Brown of District 65.

**The minutes from December 16, 2011 were approved unanimously, 4-0.**

### **III. Review of Annual Reports for Fiscal Year March 1, 2011- December 31, 2011**

Mr. Bob Rychlicki of Kane McKenna Associates gave a brief overview regarding how the reporting for each TIF is conducted. He clarified that these reports cover a period of ten months reflecting the transition to calendar year accounting.

#### **A. Southwest TIF District #2**

Marty Lyons provided an executive summary to the Joint Review Board detailing the revenue and assessed value for each of the TIF Districts. He brought the Board's attention to pages 4, 19 and 26 of the report. He stated that the Southwest TIF District is scheduled to terminate in October 2014 then highlighted major projects that are still scheduled to be completed before that time.

Alderman Ann Rainey asked if the advantage of funding the Ward Manufacturing project could be clarified. Mr. Lyons gave a brief history of the project and the business. Mr. Griffin added that the company is Evanston based and has grown successfully over the last 20 years. He continued, stating that there were a large number of jobs that were kept in Evanston in addition to six new jobs created by assisting Ward in obtaining new equipment and expanding. Mr. Lyons explained that Ward Manufacturing is one of the business projects that is keeping the Southwest TIF stable and active.

Ms. Brown asked for clarification on when the increment from the TIF would be collected by the taxing bodies once the TIF expires. Mr. Lyons responded that since the TIF expires in 2014, taxing bodies would receive the levy in 2015. Mr. Rychlicki added that each taxing body would receive a certified notice in the November prior to the expiration of the TIF.

Mr. Lyons added that the TIF's Equalized Assessed Value has increased from \$1 million to \$8 million.

#### **B. Howard Hartrey TIF District #3**

Mr. Lyons presented a brief overview of the initial reasons for establishing the TIF, emphasizing that it was previously a large manufacturing business that is now a thriving commercial development. He then called attention to the surplus distributions due to the change in the fiscal year and directed the Board's attention to pages 19, 26 and 31 of the report, outlining projects within the TIF. He stated that \$1,500,000 has been set aside for projects or land acquisition in the TIF this year.

Mr. Griffin briefly described the possible uses of funds for outlot development and stated that \$1.2 million has been set aside for Capital Improvement Projects will take on several projects before the TIF expires in 2016.

Mr. Lyons explained that there are still bonds payable within the TIF District which will need to be taken into consideration before discussions of any payouts or closures of the TIF. He went on to explain that the starting Equalized Assessed Value of the TIF District was \$7 million and has grown to nearly \$25 million.

Ald. Rainey gave a background on the development that has occurred within the TIF, stating that each of the stores at that location has been successful.

### **C. Washington National TIF #4**

Mr. Lyons introduced the TIF and explained that it was formed in 1994, amended in 1999 and is scheduled to expire in 2018. He stated that the TIF encompasses the Southwest portion of downtown Evanston. The TIF shows an \$8 million fund balance but there is \$25 million in bond payments that are still outstanding.

Mr. Griffin provided a brief overview of some of the Capital Improvement projects that are scheduled to be completed in the coming year, including waterline replacement on Davis Street and street-scape work. He stated that there has been a great amount of interest from downtown businesses in the façade program and other funding opportunities.

Mr. Lyons brought the Board's attention to pages 26 and 31 of the report and indicated that he believes that the TIF will remain stable and grow, enabling the future increment to cover the planned expenditures. Mr. Lyons explained that the initial EAV of the TIF District was \$25.7 million and has grown to the current level of \$100 million with six years left in the TIF District. Mr. Rychlicki indicated that the amendment to the TIF may have affected the EAV.

Ald. Rainey asked if Sherman Plaza was in the original TIF. Mr. Rychlicki responded that it was in the original Washington-National TIF boundaries. Mr. Lyons stated that the garage in Sherman Plaza is approximately 90% full. Mr. Holmes asked if the garage was City-owned, to which Mr. Lyons responded yes. He added that the increment accrued within the TIF District is paying for the debt service on the bond.

Mr. Stafford mentioned that if the increment had not covered this amount then the garage would have been paid for through the City's parking fund. He then described how much the Downtown area has grown since the establishment of the TIF District and emphasized that the increment has increased such that payment through the parking fund has not been necessary.

### **D. Howard Ridge TIF District #5**

Mr. Lyons gave a brief introduction of the TIF, explaining that it is set to expire in 2028.

Ald. Rainey briefly described the most recent project underway, a lease for a restaurant on 623-627 Howard Street. She detailed how the City went about acquiring three buildings on Howard Street, with the vision of revitalizing the Street. Ms. Nyden then provided a brief overview of the 629 Howard Street project, the history of the 623-627 Howard Street project and the theater group project at 727 Howard Street.

Mr. Lyons then explained that the area met all of the requirements for establishing the TIF. He then detailed that the first project to use TIF funds was the 415 apartment building and is being used as a catalyst for the revitalization of Howard Street through various project funding strategies. Mr. Lyons then referred to pages 19, 26 and 31 of the report, describing the available funds which will be used to

assist in the development of the previously mentioned Howard Street projects.

Ald. Rainey explained how the building at 629 Howard Street was previously not generating any sales tax and now Ward Eight Cocktail Lounge & Shop is generating multiple sources of revenue and has been very successful.

#### **E. West Evanston TIF District #6**

Mr. Lyons gave a brief overview of the area encompassed by the TIF, explaining that it largely follows the old Mayfair railroad right-of-way. He stated that the TIF is set to expire in October of 2029 and that the purpose of the TIF was to update infrastructure and to attract industrial businesses

Mr. Lyons stated that the railroad is not active and that has actual caused some blight in the area. He stated that one goal for that area is to create more green space along that right-of-way. Mr. Griffin described several projects underway within the TIF including \$600,000 for the Emerson Square residential development, lighting around Evanston Township High School and some land acquisitions. Mr. Stafford expressed his support of the TIF and appreciation of the City's cooperation in terms of various public works and economic development projects.

Mr. Griffin summarized the Evanston North Shore Contractors Cooperative renovation underway at 1817 Church Alderman Rainey added that the group has built an addition to the building and that there is a good partnership between the City and the Contractor's Cooperative.

Mr. Lyons explained that this is a much more diverse TIF with a greater list of challenges and goals associated with it than with the other TIF Districts. He indicated that a goal is to attract development that creates a bond deficit that will eventually create increment. He brought the Board's attention to pages 29, 31 and 34 of the report and stated that the beginning EAV for the TIF area was \$37 million and is now \$45 million.

#### **IV. Board Discussion**

Ms. Tony Gilpin, journalist with website Howard to Isabella, asked for clarification on the six jobs that Ward Manufacturing created after receiving City funds. Mr. Lyons responded that Ward Manufacturing pursued a building addition, new equipment and increased production. He then stated that the new jobs were likely in another location and moved to Evanston.

Ms. Gilpin then asked if LSL Industries would have to return the \$50,000 it received from TIF funds since they are no longer in Evanston. Mr. Griffin responded that they are not required to repay those funds. Ms. Gilpin then inquired as to whether or not jobs are tracked by TIF. Mr. Griffin responded that the City does not track jobs by TIF but there is quarterly reporting on new jobs created by new or expanding businesses City-wide.

Mr. Holmes expressed appreciation for Ald. Rainey being present and sharing more detail stories regarding how the TIFs have benefitted the community. He

continued, stating that other communities would be envious of the growth seen in Evanston's TIF Districts.

**V. Adjournment**

Mr. Holmes made a motion to adjourn; seconded by Ms. Brown. Meeting adjourned at 4:25 p.m.

**EXHIBIT B**

## Special Revenue Funds - Continued

### Township Funds

Town - to account for general administrative services.

General Assistance - to account for the assistance given to persons and/or families to meet their basic living expenses.

### Debt Service Funds

Debt Service funds are used to account for the servicing of general long-term debt.

Special Service District No. 5 - accumulated monies for the principal and interest payments on unlimited ad valorem tax bonds issued for this special taxing district.

Southwest Tax Increment District - accumulated monies for the principal and interest payments on debt issued for this special taxing district.

Howard Hartrey Tax Increment District - accumulated monies for the principal and interest payments on debt issued for this special taxing district.

Washington National Tax Increment District - accumulated monies for the principal and interest payments on debt issued for this special taxing district.

Howard Ridge Tax Increment District - accumulated monies for the payments on redevelopment project for this special taxing district.

West Evanston Tax Increment District - accumulated monies for the payments on redevelopment project for this special taxing district.

### Capital Projects Funds

Capital projects are used to account for the acquisition and construction of major capital facilities other than those financed by proprietary funds and trust funds.

Special Assessment - to account for capital improvements financed by special assessments on property holder and public benefit contributions from the City.

Concluded

CITY OF EVANSTON, ILLINOIS

Nonmajor Governmental Funds

Combining Balance Sheet - Continued

As of December 31, 2012 and March 31, 2012 for City and Township respectively

	Special Revenue			
	Town	General Assistance	Total Township Funds	Total Special Revenue
<b>Assets</b>				
Cash and equivalents	\$ 352,718	\$ 1,507,749	\$ 1,860,467	\$ 7,661,448
Investments	-	-	-	3,355,646
Receivables				
Property taxes (net of allowance)				
Current year levy	130,205	486,928	617,133	5,278,347
Notes	-	-	-	7,057,452
Allowance	-	-	-	(90,000)
Special assessments	-	-	-	-
Accrued interest	-	-	-	7,452
Other	966	3,795	4,761	938,498
Prepaid items	-	2,242	2,242	2,242
Due from other governments	-	-	-	1,187,781
Due from other funds	-	10,860	10,860	264,809
<b>Total Assets</b>	<b>\$ 483,889</b>	<b>\$ 2,011,574</b>	<b>\$ 2,495,463</b>	<b>\$ 25,663,675</b>
<b>Liabilities and Fund Balances</b>				
<b>Liabilities</b>				
Vouchers payable	\$ 2,997	\$ 29,195	\$ 32,192	\$ 1,514,273
Other	-	-	-	665
Due to other governments	-	-	-	196,883
Due to other funds	10,860	-	10,860	356,695
Deferred revenues	110,190	463,126	573,316	5,009,354
<b>Total Liabilities</b>	<b>124,047</b>	<b>492,321</b>	<b>616,368</b>	<b>7,077,870</b>
<b>Fund Balances</b>				
Nonspendable	-	2,242	2,242	2,242
Restricted				
Highway maintenance	-	-	-	999,368
Emergency telephone system	-	-	-	1,264,807
Library projects	-	-	-	4,579,106
HUD approved projects	-	-	-	5,463,987
Neighborhood improvements	-	-	-	2,366,041
Debt service	-	-	-	-
Township	359,842	1,517,011	1,876,853	1,876,853
Committed - Economic Development	-	-	-	2,150,404
Assigned	-	-	-	-
Unassigned (deficit)	-	-	-	(117,003)
<b>Total Fund Balances (Deficit)</b>	<b>359,842</b>	<b>1,519,253</b>	<b>1,879,095</b>	<b>18,585,805</b>
<b>Total Liabilities and Fund Balances</b>	<b>\$ 483,889</b>	<b>\$ 2,011,574</b>	<b>\$ 2,495,463</b>	<b>\$ 25,663,675</b>

Special Service District No.5	Southwest Tax Increment District	Debt Service				West Evanston Tax Increment District	Total Debt Service
		Howard Hartrey Tax Increment District	Washington National Tax Increment District	Howard Ridge Tax Increment District			
\$ 4,595	\$ 24,939	\$ 4,027,140	\$ 7,511,308	\$ 295,933	\$ 1,158,477	\$ 13,022,392	
-	-	-	-	-	-	-	
448,875	456,403	1,113,811	4,538,560	470,682	255,315	7,283,646	
-	-	-	-	-	-	-	
-	-	-	-	-	-	-	
-	-	-	-	-	-	-	
-	-	-	-	-	-	-	
400,000	280,000	220,000	-	490,000	-	1,390,000	
\$ 853,470	\$ 761,342	\$ 5,360,951	\$ 12,049,868	\$ 1,256,615	\$ 1,413,792	\$ 21,696,038	
\$ -	\$ -	\$ -	\$ -	\$ 21,233	\$ -	\$ 21,233	
-	-	1,501	11,155	-	-	12,656	
-	-	-	-	-	-	-	
-	-	-	640,000	179	290,522	930,701	
420,416	456,403	1,113,811	4,107,409	179,693	250,423	6,528,155	
420,416	456,403	1,115,312	4,758,564	201,105	540,945	7,492,745	
-	-	-	-	-	-	-	
-	-	-	-	-	-	-	
-	-	-	-	-	-	-	
-	-	-	-	-	-	-	
433,054	304,939	4,245,639	7,291,304	1,055,510	872,847	14,203,293	
-	-	-	-	-	-	-	
-	-	-	-	-	-	-	
-	-	-	-	-	-	-	
433,054	304,939	4,245,639	7,291,304	1,055,510	872,847	14,203,293	
\$ 853,470	\$ 761,342	\$ 5,360,951	\$ 12,049,868	\$ 1,256,615	\$ 1,413,792	\$ 21,696,038	

Continued

CITY OF EVANSTON, ILLINOIS

Nonmajor Governmental Funds

Combining Statements of Revenues, Expenditures, and Changes in Fund Balances - Continued  
 For the Fiscal Year ended December 31, 2012 and March 31, 2012 for City and Township respectively

	Special Revenue			
	Town	General Assistance	Total Township Funds	Total Special Revenue
<b>Revenues</b>				
Taxes	\$ 327,838	\$ 1,057,007	\$ 1,384,845	\$ 8,730,889
Special assessments	-	-	-	-
Intergovernmental	56,751	-	56,751	12,720,513
Charges for services	-	-	-	434,989
Investment income	138	613	751	329,559
Miscellaneous	-	5,443	5,443	217,759
<b>Total Revenues</b>	<b>384,727</b>	<b>1,063,063</b>	<b>1,447,790</b>	<b>22,433,709</b>
<b>Expenditures</b>				
Current				
General management and support	327,714	1,076,829	1,404,543	6,032,905
Public safety	-	-	-	915,384
Public works	-	-	-	1,181,452
Health and human resource development	-	-	-	-
Recreation and cultural opportunities	-	-	-	-
Housing and economic development	-	-	-	12,359,050
Debt service				
Principal	-	-	-	-
Interest	-	-	-	-
Fiscal agent fees	-	-	-	-
Capital outlay				
Total Expenditures	327,714	1,076,829	1,404,543	20,488,791
Excess (Deficiency) of Revenues				
Over (Under) Expenditures	57,013	(13,766)	43,247	1,944,918
Other Financing Sources (Uses)				
Bonds issued	-	-	-	-
Transfers in (out)				
General	-	-	-	(339,953)
Emergency Telephone System	-	-	-	-
General Obligation Debt Service	-	-	-	(98,469)
Howard Ridge Tax Increment District	-	-	-	48,500
Motor Vehicle Parking System	-	-	-	-
Total Other Financing Sources (Uses)	-	-	-	(389,922)
Net Change in Fund Balances	57,013	(13,766)	43,247	1,554,996
Fund Balances (Deficit) - Beginning	302,829	1,533,019	1,835,848	17,030,809
Fund Balances (Deficit) - Ending	<b>\$ 359,842</b>	<b>\$ 1,519,253</b>	<b>\$ 1,879,095</b>	<b>\$ 18,585,805</b>

Continued

Special Service District No.5	Debt Service					Total Debt Service
	Southwest Tax Increment District	Howard Hartrey Tax Increment District	Washington National Tax Increment District	Howard Ridge Tax Increment District	West Evanston Tax Increment District	
\$ 408,107	\$ 448,605	\$ 1,113,811	\$ 4,594,537	\$ 752,477	\$ 26,572	\$ 7,344,109
-	-	-	-	-	-	-
-	-	-	-	-	-	-
9	7	13,251	17,754	164	713	31,898
-	-	-	-	14,837	-	14,837
408,116	448,612	1,127,062	4,612,291	767,478	27,285	7,390,844
-	-	-	-	-	-	-
-	-	-	82,593	-	-	82,593
-	-	-	-	-	-	-
-	670	1,023,923	725,366	692,633	1,190,031	3,632,623
325,000	-	605,000	405,000	-	-	1,335,000
98,231	-	109,603	100,650	-	-	308,484
-	-	2,170	-	-	-	2,170
-	-	-	-	-	-	-
423,231	670	1,740,696	1,313,609	692,633	1,190,031	5,360,870
(15,115)	447,942	(613,634)	3,298,682	74,845	(1,162,746)	2,029,974
-	-	-	-	48,812	600,000	648,812
-	(28,920)	(141,600)	(325,000)	(120,400)	(60,000)	(675,920)
-	-	-	-	(48,500)	-	(48,500)
-	-	-	-	-	-	-
-	-	-	(3,876,726)	-	-	(3,876,726)
-	(28,920)	(141,600)	(4,201,726)	(120,088)	540,000	(3,952,334)
(15,115)	419,022	(755,234)	(903,044)	(45,243)	(622,746)	(1,922,360)
448,169	(114,083)	5,000,873	8,194,348	1,100,753	1,495,593	16,125,653
\$ 433,054	\$ 304,939	\$ 4,245,639	\$ 7,291,304	\$ 1,055,510	\$ 872,847	\$ 14,203,293

Continued



**BAKER TILLY**

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Oak Brook, IL 60523-3389  
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fax 630 990 0039  
bakertilly.com

INDEPENDENT ACCOUNTANTS' REPORT ON COMPLIANCE

To the Honorable Elizabeth B. Tisdahl, Mayor and  
Members of the City Council  
Evanston, Illinois

We have audited the basic financial statements of the City of Evanston, Illinois, as of and for the year ended December 31, 2012, and have issued our report thereon dated June 28, 2013. We conducted our audit in accordance with auditing standards generally accepted in the United States of America.

Compliance with laws, regulations, contracts and grants applicable to the City of Evanston is the responsibility of the City of Evanston's management. As part of obtaining reasonable assurance about whether the financial statements are free of material misstatements, we performed tests of the City of Evanston's compliance with provisions in Subsection (q) of Section 11-74.4-3 of Public Act 85-1142, "An Act in Relation to Tax Increment Financing", noncompliance with which could have a direct and material effect on the determination of the financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion.

The results of our tests disclosed no instances of noncompliance.

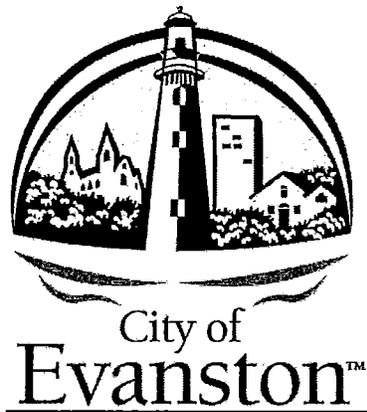
This report is intended solely for the information and use of the City Council, management, the State of Illinois, and others within the City and is not intended to be, and should not be, used by anyone other than the specified parties.

*Baker Tilly Virchow Krause, LLP*

Oak Brook, Illinois  
June 28, 2013

**EXHIBIT C**

# City of Evanston Façade Improvement Program



Program Guidelines  
Updated: February 17, 2012

DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT  
ECONOMIC DEVELOPMENT DIVISION  
2100 RIDGE AVENUE, EVANSTON, ILLINOIS 60201  
☎ 847-448-8100 ✉ [economicdevelopment@cityofevanston.org](mailto:economicdevelopment@cityofevanston.org) 🌐 [www.cityofevanston.org](http://www.cityofevanston.org)

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## **Program Purpose and Overview**

The purpose of the Façade Improvement Program (“the Program”) is to improve the appearance of the façades of commercial buildings located throughout the City of Evanston. The Program works to address especially deteriorating property conditions and encourage enhancements to the property as viewed from the public right of way as a means to generate additional business for Evanston’s commercial areas.

Program participants are eligible to receive a rebate upon the completion of their approved façade improvement project. The rebate is in the form of a loan, forgivable over five (5) year period.

The Program is managed and administered by Staff in the City of Evanston’s Community & Economic Development Department.

## **Eligibility Criteria**

Eligible participants of the program include property owners of commercial buildings within Evanston and tenants of ground floor commercial buildings. A business owner who is leasing space must have:

- A current lease with a minimum of five (5) years remaining from the date of Application or provide evidence that the business has operated in Evanston for over five (5) years; and
- Written approval from the property owner to participate in the Program and consent to recordation against the subject property of a Declaration of Covenants Affecting the Property (for projects receiving a forgivable loan of \$5,000 or more).

Facades are defined as the portion of a building that faces the public right-of-way and is fronted by a sidewalk or similar pedestrian-oriented pathway. Eligible improvements include signage, painting, lighting, windows, doors, fascia, tile, canopies, awnings, trim, metal work and other decorative elements, restoration of historic properties and other improvements contributing to the visual enhancement of a property as it relates to the public right-of-way.

Ineligible Improvements include roofs that are not “part of the façade” (i.e. do not face the public way; the portion of mansard roofs, for example, facing street frontage are eligible), non-permanent fixtures, security systems, personal property, interior window coverings, equipment, any improvements not visible from the public right-of-way, and any improvements deemed to be inconsistent with redevelopment purposes and objectives.

Any significant alterations or additions to the façade and/or requests for approval of new or altered signage should be reviewed with the Community and Economic Development Department’s Project Management Supervisor and/or Planning and Zoning staff to assure compliance with State and Local Building codes and/or zoning ordinances. Further, any alteration or construction on properties which have been designated as a local landmark or are located in historic districts must be approved by the Historic Preservation Commission prior to consideration for funding in the Program.

Ineligible Participants of the program include:

- National franchises/for profit corporations with more than ten locations outside of Evanston, unless the organization is headquartered in Evanston;
- Occupants or owners of buildings that are not current with property taxes, water bills, or properties possessing any sort of non-mortgage liens (i.e. mechanics lien, etc.);
- Persons who have one or more outstanding City of Evanston parking tickets;
- Buildings in excess of an 80,000 square foot footprint;
- Churches or other religious organizations;
- Government offices and agencies (non-governmental tenants are eligible);
- New construction, less than five (5) years old; and
- Property that has received façade improvement funds within the past ten years (unless change of use is significant enough to warrant change in façade).

## Façade Improvement Program Administration

The Program provides participants the opportunity to receive a rebate upon the completion of their approved façade project, up to an approved amount, based the maximum amounts set forth in the sections below.

**Funding Source(s):** Projects will be funded through: tax increment financing (TIF) within applicable TIF Districts, Community Development Block Grants, and/or Economic Development Funds.

**Rebate/Forgivable Loan:** The Program provides participants the opportunity to receive a rebate upon the completion of their approved façade project up to the maximum amounts set forth below. The rebate is in the form of loan, forgivable over a five (5) year (60 month) period as illustrated in the box to the right. Participants can receive a rebate for up to half of the total project cost, based on the “total eligible cost” for their specific building façade.

<b>FIVE (5) YEAR FORGIVEABLE LOAN</b>	
<u>Example Improvement:</u>	
Total Project Cost:	\$ 50,000
Eligible Rebate:	\$ 13,500
Owner/Tenant Funds:	\$ 36,500
<u>Total Forgivable Loan from the City:</u> \$ 13,500	
Month 0-12 Loan (\$2,700):	\$ 10,800
Month 13-24 Loan (\$2,700):	\$ 8,100
Month 25-36 Loan (\$2,700):	\$ 5,400
Month 37-48 Loan (\$2,700):	\$ 2,700
Month 49-60 Loan (\$2,700):	\$ 0

**Note:** if the agreement is terminated prior to the completion of the five-year (60-month) forgivable loan period, the Participant will be responsible for repayment of the balance of rebate (“loan”) on a prorated basis. The prorated amount due will be determined by multiplying the original rebate amount times the percentage obtained by dividing the number of months remaining in the five (5) year period by 60 (the total number of months in the loan period). The commencement date of the 60 month forgivable period starts on the month that the project agreement is recorded at the Cook County Recorder of Deeds and ends on the 5<sup>th</sup> anniversary date.

**Total Eligible Project Cost:** To determine “total eligible cost,” rebates are based on a formula whereby the first thirty-five (35) linear feet of public right-of-way facing frontage (or less) is eligible for up to \$10,000 on a 50/50 cost-sharing basis. Each linear foot of frontage greater than thirty-five (35) is eligible for an additional \$100 per foot toward the “total eligible cost”. In order to

calculate the “total eligible cost,” measurements of the façade should be taken from one end of a structure to another end of the structure that includes only the portion(s) of the storefront for which funds are being requested for assistance.

For example, if the public right-of-way facing portion of a storefront is seventy (70) linear feet, the first thirty-five (35) linear feet of the façade would be eligible for up to \$10,000 in funding, based on the 50/50 cost sharing provision. The remaining thirty-five linear feet qualify the applicant for an additional \$3,500 in assistance. In total, this façade would qualify for up to \$13,500 in assistance.

For approved projects for which a rebate of \$10,000 or more is awarded (i.e. projects with eligible total improvement costs of \$20,000 or more), an applicant may request up to two payments for the project. In such cases, a schedule for the partial payment and a timeline with benchmarks for completion for each project phase must be submitted and approved by Economic Development Staff. In each case, the reimbursement shall only be made after the defined work has been completed and payment has been made by the business/property owner.

**Estimates for the Project:** As these façade improvement rebates are public funds, Participants will be expected to get three estimates for each aspect of their project, of which one should be from an Evanston-based business. This allows for some assurance that the project pricing is competitive and that there is an opportunity to utilize of local businesses.

## Design Guidelines

The use of the City of Evanston Design Guidelines is encouraged. Obtain a copy of the Design Guidelines from the Economic Development Division office or by visiting the web at <http://www.cityofevanston.org/business/economic-development/facade-improvement-program/index.php>

## Program Steps

**Step 1: Arrange to Meet with an Economic Development Specialist.** Applicants should schedule a meeting with an Economic Development Specialist to discuss the program, ask questions, and obtain application materials.

Jim Furey  
Economic Development Specialist  
(847) 448-8078  
[jfurey@cityofevanston.org](mailto:jfurey@cityofevanston.org)

Meagan Jones  
Economic Development Specialist  
(847) 448-8170  
[mmjones@cityofevanston.org](mailto:mmjones@cityofevanston.org)

**Step 2: Application Submission.** Applications for the City of Evanston Façade Improvement Program may be submitted during one of two time frames. The first submission time frame spans from January 1<sup>st</sup> to June 30<sup>th</sup>. These projects would need to be completed during the 2012 calendar year. The second submission time frame spans from July 1<sup>st</sup> to December 31<sup>st</sup>. These projects would need to be completed during the 2013 calendar year, and would be included in the 2013 budget. Submissions must include the following:

- Completed Application (<http://www.cityofevanston.org/business/economic-development/facade-improvement-program/index.php>);

- Copies of 3 estimates for each aspect of proposed work. At least 1 of the 3 estimates must come from an Evanston based business.
- Two (2) Color photographs of the property
- If tenant is the applicant, letter of support from property owner indicating he/she is supportive of the project and has reviewed the terms and conditions of the Program.

**Note:** All applications, project photos, and supporting documents shall be submitted digitally as well as in the paper format.

**Step 3: Staff Application Review Process.** After Applications are submitted, Staff will:

- Evaluate each project submitted to determine if Application is complete.
- Confirm eligibility of proposed project tasks and determine total eligible project cost;
- Identify appropriate funding sources for each proposed project;
- Prepare recommendations of approval of funds to the appropriate Committee.

Staff will evaluate Applications on the following criteria:

- Total project budget;
- Location within an established business district, along a major street or near a transit station;
- Use of energy efficiency measures (installation of energy saving windows, doors, etc.);
- Returning unproductive uses to productive uses and/or creation of new rentable space in a building; and
- Total linear feet of storefront to be improved.

**Step 4: Public Review and Approval Process.** Staff will submit recommendations to either the Economic Development Committee or the Housing & Community Development Act Committee for review and recommendation to City Council. All projects are then forwarded to City Council for final action.

Participants are required to be present at all public meetings at which proposed façade projects will be discussed. Participants will be notified of time, date, and place of the public meeting at which the Application will be considered. Staff will outline meeting schedules for applicants at their consultation meetings.

**Step 5: Execution of Program Agreement.** Following approval by City Council, Participants will be required to enter into and execute a written agreement with the City of Evanston which will establish the terms, conditions, and requirements for participation in the Program. Once the Program Agreement has been executed to the satisfaction of the Director of Community & Economic Development, a **Notice to Proceed** will be issued to the Participant. A sample copy of the terms and agreements of the agreement are provided in **Attachment A** of this document.

**Step 6 (if applicable): Project Phasing Plan.** Applicants that have been approved for projects with a rebate of \$10,000 or more may submit to Economic Development Staff a written request to divide projects into two phases for the purposes of partial reimbursement of project costs. For example, if a project includes multiple components such as tuck-pointing, window and door replacement and signage, applicant may propose to staff to divide work into two phases in order to seek repayment after certain aspects of the project have been completed. Applicants shall submit to Economic Development staff a project phasing plan, which clearly defines the work to be completed in each phase along with expected completion dates. Such phasing plan must be approved by Staff in order to establish partial payment plan.

**Note:** Commencement of work without an executed Program Agreement will automatically disqualify a Participant from being eligible to participate in the Program, and negates the City's obligation to rebate any portion of the work.

## Terms & Conditions

In accordance with the Program Guidelines, the City of Evanston will provide financial assistance up to the approved amount of a project at no more than half of the total project cost. The rebate will come in the form of a loan forgivable over a five (5) year (or 60 month) period, upon completion of the façade improvement project.

Any rebates paid by the City of Evanston pursuant to this program shall not be made until all work has been completed; all improvement work has been inspected and approved by the City of Evanston. If a partial rebate payment schedule with project completion benchmarks has been established with and approved by Economic Development Staff (for projects eligible for \$10,000 or more), work must still be inspected and approved by the City prior to partial payment being issued. Additionally, all payments for said work must be made to contractors, material suppliers, and vendors. Participants of the Program must submit to the City of Evanston itemized invoices detailing work completed and materials purchased. Such invoices shall include proof of payment to all contractors, suppliers, and vendors. Documentation must be submitted within 45 days of project completion. The participant shall also submit unconditional lien releases and other documentation as required by this Program. **The participant is responsible for all payments to all contractors, material suppliers, and vendors.**

Any rebates paid by the City of Evanston pursuant to this Program constitute loans made to the Participants. Said loans will be forgiven, as described in the Program Agreement, however, if the property owner or successor-in-interest assumes the Participant's obligations of the Program Agreement pursuant to a City-approved assignment and assumption agreement, and continues to own and/or occupy the rehabilitated property and maintain the façade improvements for a period ending five (5) years from the date of receipt of the rebate without removing or significantly altering the façade improvements, as determined by the City of Evanston in its sole discretion.

If the property owner sells the property or the business owner fails to occupy the property prior to the end of the fifth (5<sup>th</sup>) year, the remaining share of the loan (prorated on a monthly basis) shall become due, plus three percent (3%) interest per annum payable to the City of Evanston is due within thirty (30) calendar days, unless the succeeding property owner or business owner (i) assumes the obligations of the Program Agreement pursuant to a City of Evanston approved assignment and assumption agreement, and (ii) does not make any changes to the property resulting in the removal of significant alteration to the façade improvements, and maintains the façade improvements for a period of five (5) years from the date of receipt of the rebate. The prorated amount due will be obtained by multiplying the original rebate amount times the percentage obtained by dividing the number of months remaining in the five (5) year period that commences on the month that the project was recorded by the Cook County Recorder of Deeds (for projects receiving \$5,000 or more in forgivable loans) and ends on the 5<sup>th</sup> anniversary date by 60, which is the total number of months in the loan period.

**Prevailing Wages:** Projects utilizing CDBG must comply with Davis-Bacon Prevailing Wages. Participants will be informed if they will have to comply with Davis-Bacon Prevailing Wages.

**Project Completion:** Projects must be completed within ninety (90) days of approval date as specified in Section VI of the Program Agreement (extensions will be considered on a case-by-case basis);

**Property Taxes and Liens:** Property taxes must be current, and participants may have no debts in arrears to the City when the Commitment Letter is issued. The property must also be clear of all other non-debt related liens and.

**Voluntary Conditions:** All completed projects will be asked and encouraged to display a sign (provided by the City) for 24 months indicating that funds from the City of Evanston was involved in the improvement.

## ATTACHMENT A: Program Agreement

THIS PROGRAM AGREEMENT [Agreement] is entered into on this 23rd day of February, 2012 [Effective Date], by and between the City of Evanston [City], and IRMCO/Jennifer Kalas [Participant], owner (or tenant) of property located at 2117 Greenleaf Street [Property], with regard to Participant's participation in the "City of Evanston – Façade Improvement Program" [Program].

### RECITALS

WHEREAS, the City desires to enhance the visual appearance of buildings and structures, stimulate private investment, and complement other community revitalization efforts throughout Evanston as identified in the Program Guidelines; and

WHEREAS, investment on commercial façade improvements visible to persons from public rights-of-way will beautify the subject properties and surrounding area, create a positive visual impact, increase the volume of business by making the subject properties and businesses more attractive, stimulate private investment, and complement other community revitalization efforts within the City; and

WHEREAS, the City has authorized Economic Development Division Staff to manage and administer the Program on behalf of the City including, without limitation, authorizing the Director of Community & Economic Development to execute this Agreement with the Participant thereby establishing the terms, conditions, and requirements for participation in the Program in accordance with the Guidelines for the Program approved by the City Council [Program Guidelines]; and

WHEREAS, the City Council has approved the Participant and the proposed project for participation in the Program, subject to the terms and conditions of the Program Guidelines and this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by this reference, and the mutual obligations of the parties as herein expressed, the City and Participant agree as follows:

### AGREEMENT

#### I. DEFINITIONS

The following terms shall have the following meanings whenever used in this Agreement, except where the context clearly indicates otherwise. Any ambiguity as to the intended meaning or scope of the terms set forth below will be resolved solely by the City through its designated representative.

- a. **"Director of Community & Economic Development"** means the City's designated representative responsible for managing and administering the Program on behalf of the City.

- b. **“Completion Date”** means the date that the contractor has finished the Project pursuant to the design and architectural plans approved by City Council, the Director of Community & Economic Development, or his/her designee, and to the satisfaction of the Participant, as evidenced by final payment to the contractor from the Participant.
- c. **“Declaration”** means the Declaration of Covenants Affecting Real Property Participant is required to execute and record against the Property in order to obtain the Rebate in the form attached hereto and incorporated herein as Exhibit “B”. Projects approved for \$5,000 or less are not subject to recorded an executed Declaration of Covenants document
- d. **“Owner Consent”** means a Certification of Ownership and Consent to be executed by the owner of the Property, if the Participant is not the owner, in the form attached hereto and incorporated herein as Exhibit “C”.
- e. **“Participant”** means the person applying for a rebate for facade improvements on the Property and determined eligible by the City Council or Director of Community & Economic Development or his/her designee to participate in the Program. Participant may be the owner of the Property or a business owner who has obtained written consent of the Property owner to participate in the Program and to proceed with the improvements identified within this Agreement.
- f. **“Program Guidelines”** means the “City of Evanston -- Façade Improvement Program Guidelines” approved by the City Council that govern the Program and this Agreement. The Program Guidelines are attached hereto and incorporated herein as Exhibit “D”. All terms not defined herein shall have the meanings ascribed thereto in the Program Guidelines.
- g. **“Project”** means the façade improvements on the subject property as proposed by the Participant and approved by the City Council.
- h. **“Project Completion Date”** means the date agreed upon by the Participant and the City of Evanston when the approved Façade Improvement Program project will be completed by.
- i. **“Property”** means the subject property owned or occupied by the Participant on which the improvements shall be completed. The Property is located within the City of Evanston and is legally described in Exhibit “A”, which is attached hereto and incorporated herein by this reference.
- j. **“Rebate”** means the total amount of the City’s loan provided to the Participant, which is equal to no more than half the final total project cost up to the amount approved by City Council (whichever is less).
- k. **“Total Allowable Expenses”** means the actual costs incurred, paid for, and documented by the Participant and approved by the Director of Community &

Economic Development or his/her designee for the proper performance of the improvement work required by the plans and specifications and/or architectural/design renderings for the Project.

- I. **Total Project Expenditure** means the total actual Project costs incurred by and paid for by the Participant including, without limitation, the costs of construction, materials, and supplies.

## II. CERTIFICATION OF OWNERSHIP

If Participant is not the fee owner of the Property, Participant shall, prior to the City's execution hereof, obtain and provide to the City from the fee owner of the Property his/her/its approval in writing for Participant to participate in the Program and proceed with the Project, and for the recordation against the Property of a Declaration in the Official Records of the County Recorder of Cook County, by and through the Owner's execution of a Certification of Ownership and Consent substantially in the form attached hereto as Exhibit "C" and incorporated herein by this reference (the "Owner Consent").

## III. TERMS OF REBATE - FORGIVABLE LOAN OVER FIVE (5) YEARS

- a. The Participant hereby agrees to comply with all terms and conditions of the Program as set forth in the Program Guidelines. (See Exhibit "D".)
- b. The Rebate paid by the City pursuant to this Program shall not be made until all of the improvement work comprising the Project has been completed, all of the improvement work comprising the Project has been inspected and approved by the Director of Community & Economic Development or his/her designee, and all payments for said work have been made to contractors, materials suppliers, and vendors. Thus, the Participant shall finance the Project, with tenant/owner funds (cash) and/or private funding (bank loan), during construction the Participant shall submit to the Director of Community & Economic Development or his/her designee itemized invoices detailing the work completed and materials purchased. Such invoices shall include proof of payment to all contractors, suppliers, and vendors. The Participant is responsible for all payments to the contractors, materials suppliers, and vendors, and for providing true and correct copies of unconditional lien releases to the City.
- c. The Rebate paid by the City pursuant to the Program constitutes a loan to Participant. Said loan will be forgiven, provided that the Participant or successor-in-interest that has assumed the obligations of Participant hereunder pursuant to an City-approved assignment and assumption agreement, either continues to own or occupy, as the case may be, the rehabilitated Property for a period of five (5) years from the date of receipt of the Rebate without removing or significantly altering the façade improvements, as determined by the City in its sole discretion, and agrees to maintain the improvements for said five (5) year period. The total amount of the loan will be forgiven in twenty percent (20%) increments, on an annual basis, such that at the end of five (5) years, the entire loan amount will be deemed forgiven and the loan balance will be zero. If the Participant sells the Property or fails to occupy the

Property, as the case may be, prior to the end of the fifth (5th) year, the remaining prorata share of the loan, with interest at the rate of three percent (3%) per annum, is due and payable to the City within thirty (30) calendar days, unless the succeeding property owner or business owner, as the case may be, (i) assumes the obligations of Participant pursuant to an City-approved assignment and assumption agreement, and (ii) does not make any changes to the Property resulting in the removal or a significant alteration to the façade improvements, and maintains the facade improvements, for a period of five (5) years from the date of receipt of the Rebate.

#### IV. PARTICIPANT'S RESPONSIBILITIES

- a. In preparation for submission of an Application, the Participant shall obtain a minimum of three (3) written bids from qualified, licensed contractors to perform the Project. Once the Participant awards a bid to a qualified, licensed contractor, the Participant shall provide to the Director of Community & Economic Development or his/her designee information on the awarded bid and rejected bid. At least one (1) bid must be from an Evanston-based contractor. If an Evanston-based contractor is not sought, written evidence must be provided that documents why an Evanston-based contractor was not considered and provided in the original submission.
- b. The Participant shall obtain and submit all required certificates of insurance, as set forth in the Program Guidelines, to the Director of Community & Economic Development or his/her designee upon execution of this Agreement and prior to City's execution.
- c. The Participant shall be responsible for hiring a licensed contractor to complete the Project. The Director of Community & Economic Development or his/her designee may require submission of proof of the State License issued to the selected contractor.
- d. The Participant shall be responsible for contacting the Director of Community & Economic Development or his/her designee to arrange for obtaining all City and other approvals and/or permits required for construction and completion of the Project.
- e. The Participant must issue a notice to proceed to the contractor within thirty (30) calendar days of receipt of the Notice to Proceed issued by the City to Participant.
- f. The Participant shall be fully responsible for managing, monitoring, and scheduling the construction of the Project, for ensuring compliance with the payment of prevailing wages (if applicable), and for ensuring that all improvements are completed properly and in conformance with the approved project.
- g. The Participant shall be fully responsible for making all payments to contractors, suppliers, vendors and/or other third parties and for ensuring that all contractors, subcontractors, suppliers, vendors and/or other third parties are paid in full.

- h. The Participant acknowledges and agrees that the improvements to be constructed in anticipation of a Rebate, in the form of a forgivable loan provided by the City, constitutes the construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds. The Participant shall comply with all requirements of Federal, Illinois and City of Evanston law.
- i. The Participant shall be responsible for ensuring approved project is completed by project completion date agreed upon by the Participant and the City detailed in Section VI of this agreement.
- j. Upon completion of the Project, the Participant shall notify the Director of Community & Economic Development or his/her designee and call for an inspection of the Project. Director of Community & Economic Development or his/her designee will arrange for the Property to be inspected.
- k. The Participant shall submit to the Director of Community & Economic Development or his/her designee a written request for a Rebate within forty-five (45) calendar days of the Completion Date, and shall include the following:
  - i. Cover letter indicating the Project is completed and the Total Cost Expenditures for the Project and requesting the Rebate;
  - ii. All contractor invoices detailing the specific tasks completed in accordance with approved Project;
  - iii. Proof of payment of all invoices for all expenditures associated with the Project;
  - iv. Unconditional lien releases;
  - v. Any additional back up material requested by the Director of Community & Economic Development or his/her designee;
  - vi. Two color 8" x 10" photos taken of the Project after completion;
  - vii. An executed (with signatures acknowledged) Declaration (for projects approved for a forgivable loan of \$5,000 or more only); and
  - viii. For the five (5) year term of the Declaration, the Participant shall maintain the façade improvements in good condition and shall not make any changes to the Property resulting in an alteration to the façade improvements.

## V. THE CITY'S RESPONSIBILITIES

- a. Director of Community & Economic Development or his/her designee shall review the bids for construction submitted by Participant and prepare a submission to the appropriate City Committee that approves the Project based on the particular funding source for the project.
- b. Director of Community & Economic Development or his/her designee shall issue the Notice to Proceed to the Participant upon his/her receipt of this Agreement and any other required or requested documentation.
- c. Within a reasonable time after Participant notifies City of the completion of the Project, the Director of Community & Economic Development or his/her designee

shall inspect the improvements to ensure they were completed in accordance with approved project scope.

- d. Director of Community & Economic Development or his/her designee shall review Participant's request and accompanying documents for a Rebate. If all the terms, conditions, and obligations of Participant under this Agreement and the Program Guidelines have been met, the Director of Community & Economic Development or his/her designee shall issue the Rebate in an amount not to exceed one-half (1/2) of the Total Allowable Expenses, within the maximum allowable limits set forth in the Program Guidelines.

#### VI. TIME OF PERFORMANCE

The Participant shall complete the Project by the agreed upon project completion date between the Participant and the City in order to remain eligible for receipt of the Rebate. Failure to complete the Project by the agreed upon project completion date below will result in termination of this Agreement. Requests for additional time and extensions in project completion time will be granted, but only if submitted in writing prior to the expiration of the agreement.

**Project Completion Date: May 23, 2012**

**Applicant Signature:** \_\_\_\_\_ **City Signature:** \_\_\_\_\_

#### VII. AMOUNT OF REBATE – FORGIVABLE LOAN

The total amount of the Rebate to be made by the City pursuant to the terms and conditions of this Agreement, shall not exceed the amount equal to one-half (1/2) of the Total Allowable Expenses approved by City Council for the Project up to the maximum allowable rebate amount stated above. The Total Allowable Expenses will be determined at completion of the Project at which time the total amount of the Rebate to be made by the City shall be calculated based on actual expenditures, and not to exceed program maximums, and such amount will be stated in the Declaration.

**Approved Rebate Amount: \$13,943.69**

**Applicant Signature:** \_\_\_\_\_ **City Signature:** \_\_\_\_\_

#### VIII. INSURANCE

- a. During the entire period in which work on the Project is performed until termination of the Declaration, the Participant shall obtain and maintain in full force and effect during said period the following insurance policies: (i) Comprehensive General Liability Insurance in a general aggregate amount of not less than one million dollars (\$1,000,000), \$1,000,000 Products and Completed Operations Aggregate, and \$1,000,000 each occurrence and including; (ii) Automobile Insurance, maintained in full force and effect in an amount of not less than one million dollars (\$1,000,000) per accident;

- b. The Comprehensive General Liability Insurance and Automobile Insurance policies shall name the City of Evanston, and their respective elected officials, officers, employees, agents, and representatives as additional insureds.
- c. All deductibles on any policy shall be the responsibility of the primary holder of such policy and shall not be the responsibility of the City of Evanston.
- d. Participant shall provide evidence of required insurance to the Director of Community & Economic Development before execution of this Agreement.

#### IX. OBLIGATION TO REFRAIN FROM DISCRIMINATION

- a. Participant covenants and agrees for itself, its successors and its assigns to the Property, or any part thereof, that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, or age or physical or mental disabilities that do not impair ability to work, and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization.
- b. That, if it hires additional employees in order to perform this contract, or any portion hereof, it will determine the availability of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized.
- c. That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all Participants will be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, or disability.

#### X. NO AGENCY CREATED

The Participant and any contractor, supplier, vendor or any third party hired by Participant to complete the Project are not agents of the City. Any provisions of this Agreement that may appear to give the City any right to direct the Participant concerning the details of the obligations under this Agreement, or to exercise any control over such obligations, shall mean only that the Participant shall follow the direction of the City concerning the end results of the obligations.

#### XI. OWNERSHIP OF DOCUMENTS

All documents, including, without limitation, designs, plans, bids, bills and receipts, prepared and submitted to the City pursuant to this Agreement (including any duplicate copies) shall be the property of the City. The City's ownership of these documents includes use of, reproduction or reuse of and all incidental rights thereto.

#### XII. INDEMNIFICATION AND HOLD HARMLESS

To the maximum extent permitted by law, the Participant agrees to and shall defend, indemnify and hold harmless the City, and their respective officers, officials, employees, contractors and agents from and against all claims, liability, loss, damage, costs or expenses (including expert witness fees, reasonable attorneys' fees, and court costs) arising from or as a result of the death of any person or any accident, injury, loss or damage whatsoever caused to any person or the property of any person resulting or arising from or in any way connected with the following, provided Participant shall not be responsible for (and such indemnity shall not apply to) any negligence or willful misconduct of the City, or their respective officers, officials, active employees, contractors or agents:

- a. The development, construction, marketing, use or operation of the Property by the Participant, its officers, contractors, subcontractors, agents, employees or other persons acting on Participant's behalf [Indemnifying Parties];
- b. The displacement or relocation of any person from the Property as the result of the development of the Project on the Property by the Indemnifying Parties;
- c. Any plans or designs for the Project prepared by or on behalf of Participant including, without limitation, any errors or omissions with respect to such plans or designs;
- d. Any loss or damage to the City resulting from any inaccuracy in or breach of any representation or warranty of Participant, or resulting from any breach or default by Participant, under this Agreement; and
- e. Any and all actions, claims, damages, injuries, challenges and/or costs or liabilities arising from the approval of any and all entitlements or permits for the improvements by the City, and their respective officers, officials, employees, contractors or agents.

The foregoing indemnity shall continue to remain in effect after the Completion Date or after the earlier termination of this Agreement, as the case may be.

### XIII. DUTY TO DEFEND

The Participant further agrees that the hold harmless agreement in Article XII, and the duty to defend the City, and their respective officers, officials, employees, contractors and agents, require the Participant to pay any costs that the City may incur which are associated with enforcing the hold harmless provisions, and defending any claims arising from obligations or services under this Agreement. If the City chooses at its own election to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to obligations or services under this Agreement, the Participant agrees to pay the City's attorney's fees, expert witness fees, and all costs.

### XIV. COMPLIANCE WITH LAW

The Participant agrees to comply with all the requirements now in force, or which may hereafter be in force, of all municipal, county, state and federal authorities, pertaining to the

development and use of the Property and construction of the Project, as well as operations conducted on the Property. The Director of Community & Economic Development or his/her designee will not issue any Rebate to the Participant if there is in violation of any law, ordinance, code, regulation, permit or Program Guideline.

#### XV. TERMINATION

If Participant shall fail to cure any Event of Default upon notice and within the time for cure provided for in XVII below, the City may, by written notice to the Participant, terminate this Agreement. Such termination shall trigger the "Repayment of Pro Rata Share of Rebate defined in XVII.

Participant may not terminate this Agreement without the express written consent of City.

#### XVI. NOTICES

All notices permitted or required hereunder must be in writing and shall be effected by (i) personal delivery, (ii) first class mail, registered or certified, postage fully prepaid, or (iii) reputable same-day or overnight delivery service that provides a receipt showing date and time of delivery, addressed to the following parties, or to such other address as any party may, from time to time, designate in writing in the manner as provided herein:

To City: City of Evanston  
Economic Development Division  
2100 Ridge Avenue  
Evanston, IL 60201  
Telephone: 847.448.8100  
Email: economicdevelopment@cityofevanston.org

To Participant: IRMCO  
2117 Greenleaf Street  
Evanston, IL 60202-1088  
Phone No.: (224) 420-4210  
Email: jkalas@irmco.com  
Attention: Jennifer Kalas

Any written notice, demand or communication shall be deemed received immediately if personally delivered or delivered by delivery service to the addresses above, and shall be deemed received on the third day from the date it is postmarked if delivered by registered or certified mail.

#### XVII. DEFAULT; REMEDIES; DISPUTE RESOLUTION

##### a. Notice of Default.

In the event of failure by either party hereto substantially to perform any material term or provision of this Agreement, the non-defaulting party shall have those rights and remedies provided herein, provided that such non-defaulting party has first

provided to the defaulting party a written notice of default in the manner required by Article XVI hereof identifying with specificity the nature of the alleged default and the manner in which said default may be satisfactorily be cured.

b. Cure of Default

Upon the receipt of the notice of default, the alleged defaulting party shall promptly commence to cure, correct, or remedy such default within such thirty (30) day period, and shall continuously and diligently prosecute such cure, correction or remedy to completion. For purposes of this Agreement, "business days" shall refer to Monday through Friday, inclusive, other than State, Federal, or other locally declared holidays.

c. City Remedies; Repayment of Pro Rata Share of Rebate.

In the event of a default by Participant of the terms of this Agreement that has not been cured within the timeframe set forth in Paragraph B above, the City, at its option, may terminate this Agreement or may institute legal action in law or in equity to cure, correct, or remedy such default, enjoin any threatened or attempted violation, or enforce the terms of this Agreement. In the event of a default by Participant that occurs after the City has disbursed the Rebate, the "Pro Rata Repayment Amount" and interest, at the rate of three percent (3%) per annum, commencing on the date City disbursed the Rebate to Participant, shall become immediately due and payable. The rate of interest applicable to periods of default for the defaults set forth in this paragraph shall be calculated at the lesser of three percent (%) per annum or the maximum legal rate, and shall accrue as of the date such payment was originally due.

The "Pro Rata Repayment Amount" shall be the amount obtained by multiplying the original Rebate amount times the percentage obtained by dividing the number of months remaining in the five (5) year covenant period that commences on the month the Declaration is recorded, and ends on the 5th anniversary (the "Covenant Period") by 60, which is the total number of months in the Covenant Period (12 months x 5 years). For example, if the amount of the Rebate is \$15,000, and the breach occurs after 3 years and two months (38 months), Participant shall repay \$5,500 plus any interest that has accrued during this time.

All payments shall be first credited to accrued interest, next to costs, charges, and fees which may be owing from time to time, and then to principal. All payment shall be made in lawful money of the United States. Payments shall be made to City at the address set forth in Article XVI herein or at such other address as City may direct pursuant to notice delivered to Participant in accordance with Article XVI.

d. Participant's Exclusive Remedies.

The parties acknowledge that the City would not have entered into this Agreement if it were to be liable in damages under, or with respect to, this Agreement or any of the matters referred to herein, including the Project, except as provided in this

Article. Accordingly, Participant shall not be entitled to damages or monetary relief for any breach of this Agreement by the City or arising out of or connected with any dispute, controversy, or issue between Participant and the City regarding this Agreement or any of the matters referred to herein, the parties agreeing that declaratory and injunctive relief, mandate, and specific performance shall be Participant's sole and exclusive judicial remedies.

#### XVIII. APPLICABLE LAW

The internal laws of the State of Illinois without regard to principles of conflicts of law shall govern the interpretation and enforcement of this Agreement.

#### XIX. CONFLICT OF INTEREST

- a. No member, official, or employee of the City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, or employee participate in any decision relating to the Agreement which affects his/her personal interests or the interests of any corporation, partnership, or association in which he/she is, directly or indirectly, interested.
- b. The Participant warrants that it has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement.

#### XX. NON-LIABILITY OF CITY OFFICIALS AND EMPLOYEES

No member, official, agent, legal counsel or employee of the City shall be personally liable to the Participant, or any successor in interest in the event of any default or breach by the City or for any amount which may become due to Participant or successor or on any obligation under the terms of this Agreement.

#### XXI. BINDING EFFECT

This Agreement, and the terms, provisions, promises, covenants and conditions hereof, shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

#### XXII. AUTHORITY TO SIGN

The Participant hereby represents that the persons executing this Agreement on behalf of Participant have full authority to do so and to bind Participant to perform pursuant to the terms and conditions of this Agreement.

#### XXIII. COUNTERPARTS

This Agreement may be executed by each party on a separate signature page, and when the executed signature pages are combined, shall constitute one single instrument.

#### XXIV. ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS

- a. This Agreement and the Exhibits and references incorporated into this Agreement express all understandings of the parties concerning the matters covered in this Agreement. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof.
- b. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the City or the Participant, and all amendments hereto must be in writing and signed by the appropriate authorities of the City and the Participant.

#### XXV. NON-ASSIGNMENT

The Participant shall not assign the obligations under this Agreement, nor any monies due or to become due, without the Director of Community and Economic Development's prior written approval, and Participant and Participant's proposed assignee's execution of an assignment and assumption agreement in a form approved by the City. Any assignment in violation of this paragraph is grounds for immediate termination of this Agreement, at the sole discretion of the Director of Community & Economic Development. In no event shall any putative assignment create a contractual relationship between the City, and any putative assignee.

XXVI. NO WAIVER

No failure of either the City or the Participant to insist upon the strict performance by the other of any covenant, term or condition of this Agreement, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Agreement, shall constitute a waiver of any such breach or of such covenant, term or condition. No waiver of any breach shall affect or alter this Agreement, and each and every covenant, condition, and term hereof shall continue in full force and effect.

IN WITNESS WHEREOF, the City, and the Participant have signed this Agreement as of the dates set opposite their signatures.

"CITY"

Dated: \_\_\_\_\_

By: \_\_\_\_\_ (signature)

Name: Steve Griffin

Title: Director of Community and Economic Development

"PARTICIPANT"

Dated: \_\_\_\_\_

By: \_\_\_\_\_ (signature)

Name: Jennifer Kalas

Title: Owner - IRMCO

ATTACHMENTS:

1. Exhibit A – Legal Description of Property
2. Exhibit B – Declaration of Covenants Affecting Real Property (for projects approved for \$5,000 or more in forgivable loans only)
3. Exhibit C – Certification of Ownership and Consent
4. Exhibit D – Program Guidelines

Return this form to:  
City of Evanston  
Director Community & Economic Development  
2100 Ridge Avenue  
Evanston, IL 60201

For Official Use Only
-----------------------

Date Received:
----------------

Received By:
--------------

**Exhibit A: LEGAL DESCRIPTION OF PROPERTY**

(Attach behind this page)

## Exhibit B: DECLARATION OF COVENANTS AFFECTING REAL PROPERTY

[Space for Recorder]

THIS DECLARATION OF COVENANTS AFFECTING REAL PROPERTY ("Declaration") is entered into this 23rd day of February, 2012 ("Effective Date"), by and between the CITY OF EVANSTON, a public body corporate and politic ("City"), and IRMCO/Jennifer Kalas ("Participant").

### **RECITALS:**

- A. Participant owns fee title to, or holds a valid leasehold interest in, that certain improved real property located at 2117 Greenleaf Street. in the City of Evanston, County of Cook, State of Illinois (hereinafter referred to as the "Property"). The property is improved with a commercial building currently used as IRMCO. A legal description of the Property is attached hereto and incorporated herein as Exhibit "1".
- B. The Site is within the City of Evanston ("City").
- C. Participant has entered into a Facade Improvement Program Agreement (the "Program Agreement") with the City, dated as of February 23, 2012, concerning the "Project" (as defined in the Program Agreement), City's provision to provide the Participant a rebate in the amount of half of the total project cost not to exceed thirteen thousand, nine-hundred forty-three dollars and sixty-nine cents (\$13,943.69), in the form of a loan, to assist Participant in developing the Project (the "Rebate"), and related matters, which Program Agreement is on file with the City as a public record and is incorporated herein by reference. All defined terms used herein shall have the same meaning as in the Program Agreement unless otherwise stated.

NOW, THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein by this reference, and for other valuable consideration, the sufficiency of which is hereby acknowledged, City and Participant hereby agree as follows:

- 1. Participant hereby covenants as follows, which covenants shall run with land and shall be binding upon itself and its assigns, and each successor-in-interest to the Property or any portion thereof:

- a) To not transfer or encumber the Site or any portion thereof or assign any of its rights or obligations hereunder, under the Program Agreement, or under this Declaration without obtaining the prior written consent of the City.
- b) To maintain the insurance required pursuant to the provisions of Article VIII of the Program Agreement.
- c) To indemnify, defend, and hold the City, and their respective officers, officials, members, employees, agents, and representatives (collectively, the "City and City Personnel"), harmless from and against all liabilities, losses, damages, costs and expenses, including reasonable attorney's fees, expert witness fees, and court costs (hereinafter, collectively, "Claims"), arising from or as a result of the death or injury to any person or any accident, injury, loss, or damage whatsoever caused to any person or to the property of any person and which is caused by any acts or any errors or omissions of Participant or any of its employees, agents, servants, invitees, contractors, or subcontractors; provided, however, Participant shall not be required to indemnify, defend, and hold harmless the City if the Claim arises from or is caused in whole by active negligence or willful misconduct of the City, or any of their employees, agents, servants, invitees, contractors, or subcontractors
- d) To not devote the Property to uses inconsistent with applicable laws, rules, and regulations of any governmental agencies having jurisdiction.
- e) To maintain the Property and all improvements including the facade improvements constructed as the Project, in first class condition and repair and in accordance with all applicable laws, rules, ordinances, orders, and regulations of all federal, state, county, municipal, and other governmental agencies and bodies having jurisdiction and all their respective departments, bureaus, and officials. Participant shall not permit any accumulation of weeds, rubbish, or debris on the Property, and shall promptly remove any graffiti or other defacement of the Property. Participant shall not permit any unlawful use or public or private nuisance to be maintained on the Site.
- f) To repay the Rebate pursuant to the terms of Article XVII Paragraph C of the Program Agreement, when such repayment is required under the terms thereof.
- g) That there shall be no discrimination against, or segregation of, any persons, or group of persons, on any basis of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, or age or physical or mental disabilities that do not impair ability to work, and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization.

- h) That, if the Participant hires additional employees in order to perform this contract, or any portion hereof, it will determine the availability of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized.
  - i) That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all Participants will be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, or disability.
- 2. All of the covenants, easements, agreements, conditions and restrictions contained herein, whether affirmative or negative: (a) are made for the direct benefit of the Benefited Property; (b) are covenants running with the land; (c) are appurtenant to and shall not be conveyed or otherwise transferred separately from the Benefited Property, or the Site; and (d) bind and inure to the burden or benefit, as the case may be, of the respective heirs, personal representatives, successors and assigns of the parties hereto, including, without limitation, successive owners of all or any portion of, respectively, the Benefited Public Property and the Site.
- 3. The covenants and agreements established in this Declaration shall, without regard to technical classification and designation, be binding on Participant for the benefit of and in favor of the City, regardless of whether the City own or hold any interest in real property butting or adjacent to the Site or within the Project Area. Notwithstanding the foregoing or anything to the contrary herein, neither Participant nor any assign or successor-in-interest to the Site shall have any liability or responsibility for the breach of any covenant or agreement contained herein by any other assign or successor-in-interest to the Property that would constitute a breach or violation of the provisions hereof. At the termination of the Program Agreement, Participant may request that the City release the covenants set forth herein. The decision whether to release said covenants shall remain in the sole discretion of the City, which shall not be unreasonably withheld.

[end - signature page follows]

IN WITNESS WHEREOF, City and Participant have entered into this Declaration as of the Effective Date.

("City")  
CITY OF EVANSTON, an Illinois Municipal Corporation

\_\_\_\_\_ (signature)

By: Steve Griffin

Its: Director of Community & Economic Development

Dated: \_\_\_\_\_

("Participant")

\_\_\_\_\_ (signature)

By: Jennifer Kalas

Its: Owner of IRMCO

Dated: \_\_\_\_\_

State of Illinois )  
County of Cook )

On \_\_\_\_\_, before me,  
\_\_\_\_\_(insert name and title of the officer) Notary Public,  
personally appeared \_\_\_\_\_, who proved to me on the basis of  
satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within  
instrument and acknowledged to me that he/she/they executed the same in his/her/their  
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Illinois that the  
forgoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

State of Illinois )  
County of Cook )

On \_\_\_\_\_, before  
me, \_\_\_\_\_(insert name and title of the officer) Notary  
Public, personally appeared \_\_\_\_\_, who proved to me on the  
basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the  
within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument  
the person(s), or the entity upon behalf of which the person(s) acted, executed the  
instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Illinois that the  
forgoing paragraph is true and correct. WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

**Owner Consent to Declaration**

**CONSENT TO RECORDATION**

\_\_\_\_\_ (owner of the fee interest in the real property legally described in Exhibit "A" hereto, consents to the recordation of the foregoing Declaration of Covenants Affecting Real Property against said real property and agrees to be bound by the terms thereof applicable to the participant.

Dated: \_\_\_\_\_

\_\_\_\_\_ (signature)

By: \_\_\_\_\_

State of Illinois )  
County of Cook )

On \_\_\_\_\_, before me, \_\_\_\_\_ (insert name and title of the officer), Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument of the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Illinois that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

shall inspect the improvements to ensure they were completed in accordance with approved project scope.

- d. Director of Community & Economic Development or his/her designee shall review Participant's request and accompanying documents for a Rebate. If all the terms, conditions, and obligations of Participant under this Agreement and the Program Guidelines have been met, the Director of Community & Economic Development or his/her designee shall issue the Rebate in an amount not to exceed one-half (1/2) of the Total Allowable Expenses, within the maximum allowable limits set forth in the Program Guidelines.

#### VI. TIME OF PERFORMANCE

The Participant shall complete the Project by the agreed upon project completion date between the Participant and the City in order to remain eligible for receipt of the Rebate. Failure to complete the Project by the agreed upon project completion date below will result in termination of this Agreement. Requests for additional time and extensions in project completion time will be granted, but only if submitted in writing prior to the expiration of the agreement.

Project Completion Date: May 23, 2012

Applicant Signature: \_\_\_\_\_

City Signature: \_\_\_\_\_

#### VII. AMOUNT OF REBATE - FORGIVABLE LOAN

The total amount of the Rebate to be made by the City pursuant to the terms and conditions of this Agreement, shall not exceed the amount equal to one-half (1/2) of the Total Allowable Expenses approved by City Council for the Project up to the maximum allowable rebate amount stated above. The Total Allowable Expenses will be determined at completion of the Project at which time the total amount of the Rebate to be made by the City shall be calculated based on actual expenditures, and not to exceed program maximums, and such amount will be stated in the Declaration.

Approved Rebate Amount: \$13,943.69

Applicant Signature: \_\_\_\_\_

City Signature: \_\_\_\_\_

#### VIII. INSURANCE

- a. During the entire period in which work on the Project is performed until termination of the Declaration, the Participant shall obtain and maintain in full force and effect during said period the following insurance policies: (i) Comprehensive General Liability Insurance in a general aggregate amount of not less than one million dollars (\$1,000,000), \$1,000,000 Products and Completed Operations Aggregate, and \$1,000,000 each occurrence and including; (ii) Automobile Insurance, maintained in full force and effect in an amount of not less than one million dollars (\$1,000,000) per accident;

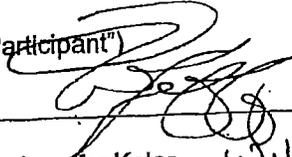
IN WITNESS WHEREOF, City and Participant have entered into this Declaration as of the Effective Date.

("City")  
CITY OF EVANSTON, an Illinois Municipal Corporation

  
\_\_\_\_\_ (signature)  
By: Steve Griffin

Its: Director of Community & Economic Development

Dated: 2/24/12

("Participant")  
  
\_\_\_\_\_ (signature)  
By: Jennifer Kalas William C. Jeffery

Its: Owner of IRMCO

Dated: 2/23/12

State of Illinois )  
County of Cook

On 2-23-12 before me,  
Jennifer Kalas (insert name and title of the officer) Notary Public,  
personally appeared William C. Jeffery, who proved to me on the basis of  
satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within  
instrument and acknowledged to me that he/she/they executed the same in his/her/their  
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Illinois that the  
forgoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Jennifer Kalas



State of Illinois )  
County of Cook

On \_\_\_\_\_ before  
me, \_\_\_\_\_ (insert name and title of the officer) Notary  
Public, personally appeared \_\_\_\_\_, who proved to me on the  
basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the  
within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument  
the person(s), or the entity upon behalf of which the person(s) acted, executed the  
instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Illinois that the  
forgoing paragraph is true and correct. WITNESS my hand and official seal.

Signature \_\_\_\_\_

(Seal)

**Owner Consent to Declaration**

**CONSENT TO RECORDATION**

William C. Jeffery (owner of the fee interest in the real property legally described in Exhibit "A" hereto, consents to the recordation of the foregoing Declaration of Covenants Affecting Real Property against said real property and agrees to be bound by the terms thereof applicable to the participant.

Dated: 2-23-12  
[Signature] (signature)

By: William C. Jeffery

State of Illinois )  
County of Cook )

On 2-23-12 before me,  
Jennifer Kalas (insert name and title of the officer), Notary Public, personally appeared William C. Jeffery, who proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument of the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Illinois that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Jennifer Kalas



## TIF CONSTRUCTION LOAN AGREEMENT

THIS TIF CONSTRUCTION LOAN AGREEMENT [Agreement] is entered into on this \_\_\_ day of \_\_\_\_\_, 201\_\_\_ ["Effective Date"], by and between the City of Evanston [City], and Evanston North Shore Contractors Cooperative, LLC ["Borrower"], regarding the rehabilitation and occupation of property located at 1817 Church Street, Evanston, Illinois, legally described in Exhibit "A", which is attached hereto and incorporated herein by reference ["Property"].

### RECITALS

WHEREAS, the City desires to foster local businesses and jobs as part of its economic revitalization efforts throughout Evanston and in accord with the TIF Guidelines, as defined herein; and

WHEREAS, the City has authorized Economic Development Division Staff to manage and administer this Agreement on behalf of the City including, without limitation, authorizing the City Manager to execute this Agreement with Borrower, thereby establishing the terms, conditions, and requirements for participation in this Agreement in accordance with the TIF Guidelines; and

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by this reference, and the mutual obligations of the parties as herein expressed, the City and Borrower agree as follows:

### AGREEMENT

#### I. DEFINITIONS

The following terms shall have the following meanings whenever used in this Agreement, except where the context clearly indicates otherwise. Any ambiguity as to the intended meaning or scope of the terms set forth below will be resolved solely by the City through its designated representative.

- a. "**Completion Date**" means the date that the contractor has finished the Project pursuant to the plans approved by City Council, the City Manager or his/her designee, and to the satisfaction of Borrower, as evidenced by final payment to the contractor from Borrower.
- b. "**Director**" means the City's Director of Community & Economic Development, who is responsible for managing and administering this Agreement on behalf of the City.

- c. **"Loan"** means the total amount of the City's loan of TIF monies to Borrower for purposes of funding TIF eligible activities of the Project, which shall not exceed \$200,000, the amount approved by City Council.
- d. **"Project"** means the improvements on the Property as proposed by Borrower and approved by the City Council. Specifically, Borrower desires to rehabilitate the Property to make it suitable for use as a home services/building trades collective.
- e. **"TIF Eligible Activities"** means activities determined to be eligible for reimbursement from TIF funds by the Illinois Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4 *et seq.*, as amended.
- f. **"TIF Guidelines"** means the regulations found in the Illinois Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4 *et seq.*, as amended. All terms not defined herein shall have the meanings set forth in the TIF Guidelines.
- g. **"Total Allowable Expenses"** means the actual costs incurred, paid for, and documented by Borrower and approved by the Director or his/her designee for the proper performance of the improvement work required by the plans and specifications and/or architectural/design renderings for the Project. Such allowable expenses must be TIF Eligible Activities.
- h. **"Total Project Expenditure"** means the total actual Project costs incurred by and paid for by Borrower including costs of construction, materials, & supplies.

## II. TERMS OF LOAN - REPAYABLE OVER 5 YEARS

- a. City shall lend Proprietor moneys not to exceed \$200,000.00 (the **"Loan Amount"**) from the City's West Evanston TIF Fund. City shall, in the ordinary course of business, disburse Loan funds to Borrower based upon submission of sworn statements.
- b. The Loan paid by the City pursuant to this Agreement constitutes a 5-year loan to Borrower, with 0% interest until the first monthly payment is due, as described herein. Proprietor shall repay the City in equal monthly payments, the first of which shall be due no later than thirty (30) months after Borrower commences work on the Project or eighteen (18) months after issuance of the final certificates of occupancy for the Property, whichever comes first. In the event Borrower cannot secure other financing in order to repay the Loan in full before the first monthly payment is due, Borrower shall begin making monthly payments, amortized over twenty-five (25) years with a fixed interest rate equal to prime at the time the first monthly payment is due, plus 0.5%. The City shall accept payments for no longer than five (5) years, or sixty (60) such payments, at which time Borrower shall re-pay the balance of the loan in full.

### III. BORROWER'S RESPONSIBILITIES

- a. Borrower shall comply with all terms and conditions of this Agreement and all applicable all requirements of Federal, Illinois and City of Evanston law.
- b. Borrower shall ensure that all work done on the Project and paid for with Loan funds are TIF Eligible Activities.
- c. Borrower shall obtain and submit all required certificates of insurance, as set forth herein, to the City Manager or his/her designee upon execution of this Agreement and prior to City's execution.
- d. Borrower shall be responsible for hiring licensed contractors to complete the Project. The Director or his/her designee may require submission of proof of the State License issued to the selected contractors.
- e. Borrower shall be responsible for contacting the Director or his/her designee to arrange for obtaining all City and other approvals and/or permits required for construction and completion of the Project.
- f. Borrower shall be fully responsible for managing, monitoring, and scheduling the construction of the Project, for ensuring compliance with the payment of prevailing wages, if applicable, and for ensuring that all improvements are completed properly and in conformance with the approved project.
- g. Borrower shall make a good faith effort to use Evanston-based businesses as frequently as is financially feasible when purchasing supplies and/or hiring subcontractors and administrative services providers for the Project.
- h. Upon completion of the Project, Borrower shall notify the Director and request inspection of the Project by the Director or his/her designee(s).
- i. Borrower shall complete the Project no later than eighteen (18) months after receiving any building permit related to the Project.
- j. After completion of the Project, Borrower shall submit to the Director or his/her designee a report that includes the following:
  - i. Cover letter indicating the Project is completed and the Total Cost Expenditures for the Project;
  - ii. All contractor invoices detailing the specific tasks completed in accordance with approved Project;
  - iii. Proof of payment of all invoices for all expenditures for the Project;

- iv. Unconditional lien releases; and
- v. Any additional material requested by the Director or his/her designee.
- k. No later than two (2) years after the Effective Date of this Agreement, Borrower shall lease at least one (1) cubicle space on the Property to a home repair and improvement apprentice or other entry-level trades person who is not a corporate member of Purchaser, and show proof of best commercial efforts to lease the other three (3) such spaces.
- l. No later than two (2) years after the Effective Date of this Agreement, Borrower shall lease at least one (1) ground floor office space on the Property to a residential service professional (e.g., real estate broker, accountant, insurance/legal office) who is not a corporate member of Purchaser, and show proof of best commercial efforts to lease the other two (2) ground floor offices.
- m. No later than three (3) years after the Effective Date of this Agreement, Borrower shall create, within the home repair and improvement services/building trades collective it intends to operate on the Property, no fewer than four (4) part-time employment positions for residents of the City of Evanston.
- n. Borrower shall maintain the Property in compliance with all applicable provisions of the Evanston City Code of 1979, as amended.
- o. Borrower shall not be more than one hundred twenty (120) days in arrears with regards to any City utility and/or service bills.

#### IV. THE CITY'S RESPONSIBILITIES

- a. City shall lend Proprietor moneys not to exceed \$200,000.00 (the "**Loan Amount**") from the City's West Evanston TIF Fund. City shall, in the ordinary course of business, disburse Loan funds to Borrower based upon submission of sworn statements.
- b. The Director or his/her designee shall review Borrower's contractors' sworn statements and accompanying documents, and, if said documents meet all terms, conditions, and obligations under this Agreement and the TIF Guidelines, the Director or his/her designee shall, in the ordinary course of business, disburse Loan funds to Borrower.
- c. Within a reasonable time after Borrower notifies City of the completion of the Project, the Director or his/her designee shall inspect the improvements to ensure they were completed in accordance with approved project scope.

## V. TIME OF PERFORMANCE

The Borrower shall complete the project no later than eighteen (18) months after receiving any building permit related to the Project. Failure to complete the Project within eighteen (18) months will result in Borrower's breach of this Agreement. Requests for additional time and extensions in project completion time will be granted, but only if submitted in writing prior to the expiration of the agreement.

## VI. AMOUNT OF LOAN

The total amount of the Loan to be made by the City, pursuant to the terms and conditions of this Agreement, shall not exceed \$200,000 as approved by City Council as stated above.

## VII. INSURANCE

- a. During the entire period in which work on the Project is performed, the Borrower shall obtain and maintain in full force and effect during said period the following insurance policies: (i) Comprehensive General Liability Insurance in a general aggregate amount of not less than \$1,000,000, \$1,000,000 Products and Completed Operations Aggregate, and \$1,000,000 each occurrence and including; (ii) Automobile Insurance or Hired, Non-Owned Automobile Insurance, maintained in full force and effect in an amount of not less than \$1,000,000 per accident.
- b. All insurance policies shall name the City of Evanston, and their respective elected officials, officers, employees, agents, and representatives as additional insureds.
- c. All deductibles on any policy shall be the responsibility of the primary holder of such policy and shall not be the responsibility of the City of Evanston.
- d. Borrower shall provide evidence of required insurance to the Director before execution of this Agreement.

## VIII. OBLIGATION TO REFRAIN FROM DISCRIMINATION

- a. Borrower covenants and agrees for itself, its successors and its assigns to the Property, or any part thereof, that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, or age or physical or mental disabilities that do not impair ability to work, and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization.

- b. That, if it hires additional employees in order to perform this contract, or any portion hereof, it will determine the availability of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized.
- c. That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, or disability.

#### IX. NO AGENCY CREATED

The Borrower and any contractor, supplier, vendor or any third party hired by Borrower to complete the Project are not agents of the City. Any provisions of this Agreement that may appear to give the City any right to direct the Borrower concerning the details of the obligations under this Agreement, or to exercise any control over such obligations, shall mean only that the Borrower shall follow the direction of the City concerning the end results of the obligations.

#### X. OWNERSHIP OF DOCUMENTS

All documents prepared and submitted to the City pursuant to this Agreement (including any duplicate copies) shall be the property of the City. The City's ownership of these documents includes use of, reproduction or reuse of and all incidental rights thereto.

#### XI. INDEMNIFICATION AND HOLD HARMLESS

To the maximum extent permitted by law, the Borrower agrees to and shall defend, indemnify and hold harmless the City, and its respective officers, officials, employees, contractors and agents from and against all claims, liability, loss, damage, costs or expenses (including expert witness fees, reasonable attorneys' fees, and court costs) arising from or as a result of the death of any person or any accident, injury, loss or damage whatsoever caused to any person or property resulting or arising from or in any way connected with the following, provided Borrower shall not be responsible for (and such indemnity shall not apply to) any negligence or willful misconduct of the City, or their respective officers, officials, active employees, contractors or agents:

- a. The development, construction, marketing, use or operation of the Property by the Borrower, its officers, contractors, subcontractors, agents, employees or other persons acting on Borrower's behalf ["Indemnifying Parties"];
- b. The displacement or relocation of any person from the Property as the result of the development of the Project on the Property by the Indemnifying Parties;

- c. Any plans or designs for the Project prepared by or on behalf of Borrower including, without limitation, any errors or omissions with respect to said documents;
- d. Any loss or damage to the City resulting from any inaccuracy in or breach of any representation or warranty of Borrower, or resulting from any breach or default by Borrower, under this Agreement; and
- e. Any and all actions, claims, damages, injuries, challenges and/or costs or liabilities arising from the approval of any and all entitlements or permits for the improvements by the City, and their respective officers, officials, employees, contractors or agents.

The foregoing indemnity shall continue to remain in effect after the Completion Date or after the earlier termination of this Agreement, as the case may be.

## XII. DUTY TO DEFEND

Borrower further agrees that the hold harmless agreement in Article XI, and the duty to defend the City, and their respective officers, officials, employees, contractors and agents, require the Borrower to pay any costs that the City may incur which are associated with enforcing the hold harmless provisions, and defending any claims arising from obligations or services under this Agreement.

## XIII. COMPLIANCE WITH LAW

Borrower agrees to comply with all the requirements now or hereafter in force, of all municipal, county, state and federal authorities, pertaining to the development and use of the Property and construction of the Project, as well as operations conducted on the Property. The Director or his/her designee will not issue any Loan to the Borrower if there is in violation of any law, ordinance, code, regulation, or permit.

## XIV. TERMINATION

If Borrower shall fail to cure any Event of Default upon notice and within the time for cure provided for herein, the City may, by written notice to the Borrower, terminate this Agreement. Such termination shall trigger the "Repayment of Loan" defined herein.

Borrower may not terminate this Agreement without the express written consent of City.

## XV. NOTICES

All notices permitted or required hereunder must be in writing and shall be effected by (i) personal delivery, (ii) first class mail, registered or certified, postage fully prepaid, or (iii) reputable same-day or overnight delivery service that provides a receipt showing date and time of delivery, addressed to the following parties, or to such other address

as any party may, from time to time, designate in writing in the manner as provided herein:

To City: City of Evanston  
Director of Community & Economic Development  
2100 Ridge Avenue  
Evanston, IL 60201  
Telephone: 847.448.8100  
Email: economicdevelopment@cityofevanston.org

To Borrower: Evanston North Shore Contractors Cooperative, LLC  
c/o Renew Management Services  
P.O. Box 6094  
Evanston, Illinois 60201-6094  
Phone No.: 847.475.5120  
Facsimile No.: 847.475.5102  
Attention: John Leineweber

Any written notice, demand or communication shall be deemed received immediately if personally delivered or delivered by delivery service to the addresses above, and shall be deemed received on the third day from the date it is postmarked if delivered by registered or certified mail.

#### XVI. DEFAULT; REMEDIES; DISPUTE RESOLUTION

##### a. Notice of Default.

In the event of failure by either party hereto substantially to perform any material term or provision of this Agreement, the non-defaulting party shall have those rights and remedies provided herein, provided that such non-defaulting party has first provided to the defaulting party a written notice of default in the manner required herein identifying with specificity the nature of the alleged default and the manner in which said default may be satisfactorily be cured.

##### b. Cure of Default

Upon the receipt of the notice of default, the alleged defaulting party shall promptly commence to cure, correct, or remedy such default within 90 days and shall continuously and diligently prosecute such cure, correction or remedy to completion.

##### c. City Remedies; Repayment of Loan.

In the event of a default by Borrower of the terms of this Agreement that has not been cured within the timeframe set forth in Paragraph b above, the City, at its option, may terminate this Agreement or may institute legal action in law or in

equity to cure, correct, or remedy such default, enjoin any threatened or attempted violation, or enforce the terms of this Agreement. In the event of a default by Borrower that occurs after the City has disbursed any Loan funds, the total of such disbursement(s), plus any accrued interest, shall become immediately due and payable.

All payments shall be first credited to accrued interest, next to costs, charges, and fees which may be owing from time to time, and then to principal. All payment shall be made in lawful money of the United States; Payments shall be made to City at the address set forth in Article XI herein or at such other address as City may direct pursuant to notice delivered to Borrower in accordance with Article XV.

d. Borrower's Exclusive Remedies.

The parties acknowledge that the City would not have entered into this Agreement if it were to be liable in damages under, or with respect to, this Agreement or any of the matters referred to herein, including the Project, except as provided in this Article. Accordingly, Borrower shall not be entitled to damages or monetary relief for any breach of this Agreement by the City or arising out of or connected with any dispute, controversy, or issue between Borrower and the City regarding this Agreement or any of the matters referred to herein, the parties agreeing that declaratory and injunctive relief, mandate, and specific performance shall be Borrower's sole and exclusive judicial remedies.

#### XVII. APPLICABLE LAW

The internal laws of the State of Illinois without regard to principles of conflicts of law shall govern the interpretation and enforcement of this Agreement.

#### XVIII. CONFLICT OF INTEREST

- a. No member, official, or employee of the City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, or employee participate in any decision relating to the Agreement which affects his personal interests or the interests of any corporation, partnership, or association in which he/she is, directly or indirectly, interested.
- b. The Borrower warrants that it has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement.

#### XIX. NON-LIABILITY OF CITY OFFICIALS AND EMPLOYEES

No member, official, agent, legal counsel or employee of the City shall be personally liable to the Borrower, or any successor in interest in the event of any default or breach

by the City or for any amount which may become due to Borrower or successor or on any obligation under the terms of this Agreement.

#### XX. BINDING EFFECT

This Agreement, and the terms, provisions, promises, covenants and conditions hereof, shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

#### XXI. AUTHORITY TO SIGN

The Borrower hereby represents that the persons executing this Agreement on behalf of Borrower have full authority to do so and to bind Borrower to perform pursuant to the terms and conditions of this Agreement.

#### XXII. COUNTERPARTS

This Agreement may be executed by each party on a separate signature page, and when the executed signature pages are combined, shall constitute one single instrument.

#### XXIII. ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS

- a. This Agreement and the Exhibits and references incorporated into this Agreement express all understandings of the parties concerning the matters covered in this Agreement. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof.
- b. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the City or the Borrower, and all amendments hereto must be in writing and signed by the appropriate authorities of the City and the Borrower.

#### XXIV. NON-ASSIGNMENT

The Borrower shall not assign the obligations under this Agreement, nor any monies due or to become due, without the City's prior written approval, and Borrower and Borrower's proposed assignee's execution of an assignment and assumption agreement in a form approved by the City. Any assignment in violation of this paragraph is grounds for breach of this Agreement, at the sole discretion of the City Manager. In no event shall any putative assignment create a contractual relationship between the City and any putative assignee.

XXV. NO WAIVER

No failure of either the City or the Borrower to insist upon the strict performance by the other of any covenant, term or condition of this Agreement, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Agreement, shall constitute a waiver of any such breach or of such covenant, term or condition. No waiver of any breach shall affect or alter this Agreement, and each and every covenant, condition, and term hereof shall continue in full force and effect.

[Signature page to follow]

IN WITNESS WHEREOF, the City, and the Borrower have signed this Agreement as of the dates set opposite their signatures.

"CITY"

Dated: \_\_\_\_\_

By: Wally Bobkiewicz  
Name: WALLY BOBKIEWICZ  
Title: CITY MANAGER

"BORROWER"

Dated: 2/23/2012

By: [Signature]  
Name: JOHN J. LEINWEBER  
Title: MEMBER MANAGER

Dated: 2/23/2012

By: [Signature]  
Name: BART J. MARINO  
Title: MEMBER MANAGER

Dated: 2/23/2012

By: [Signature]  
Name: Todd Smith  
Title: member manager

ATTACHMENT:

- 1. Exhibit A – Legal Description of Property

Return this form to:  
City of Evanston  
Director of Community & Economic Development  
2100 Ridge Avenue  
Evanston, IL 60201

Approved as to form:  
[Signature]  
W. Grant Farrar  
Corporation Counsel

IN WITNESS WHEREOF, the City, and the Borrower have signed this Agreement as of the dates set opposite their signatures.

"CITY"

Dated: \_\_\_\_\_

By: Wally Bobkiewicz

Name: WALLY BOBKIEWICZ

Title: CITY MANAGER

"BORROWER"

Dated: 2/23/2012

By: [Signature]

Name: JOHN J. LEINOWEBER

Title: MEMBER MANAGER

Dated: 2/23/2012

By: [Signature]

Name: BART J. MARINO

Title: MEMBER MANAGER

Dated: 2-23-12

By: [Signature]

Name: Todd Smith

Title: member manager

ATTACHMENT:

- 1. Exhibit A – Legal Description of Property

Return this form to:  
 City of Evanston  
 Director of Community & Economic Development  
 2100 Ridge Avenue  
 Evanston, IL 60201

Approved as to form:  
[Signature]  
 W. Grant Farrar  
 Corporation Counsel

**Exhibit A:**

**LEGAL DESCRIPTION OF PROPERTY**

THE WEST 1/2 OF LOT 12 AND THE EAST 10 FEET OF LOT 13 IN BLOCK 3 IN MERRILL LADD'S SECOND ADDITION TO EVANSTON, BEING A SUBDIVISION OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 13, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, COMMONLY KNOWN AS 1817 CHURCH STREET, EVANSTON, ILLINOIS.

**Commonly Known As:** 1817 Church Street, Evanston, Illinois.