

**PREPARED BY AND  
WHEN RECORDED  
RETURN TO:**

EXHIBIT A

Legal Department/City Attorney  
City of Naperville  
400 S. Eagle St.  
Naperville, IL 60540

(Above Space for Recorder's use only)

**WATER STREET PUBLIC IMPROVEMENTS ESCROW AGREEMENT**

**AMONG**

**WATER STREET PROPERTY OWNER, LLC,  
A DELAWARE LIMITED LIABILITY COMPANY**

**FIFTH THIRD BANK,  
AN OHIO BANKING CORPORATION, AS AGENT**

**CITY OF NAPERVILLE, ILLINOIS  
AN ILLINOIS MUNICIPAL HOME RULE CORPORATION**

**AND**

**CHICAGO TITLE INSURANCE COMPANY**

Dated: \_\_\_\_\_, 2015

**WATER STREET**  
**PUBLIC IMPROVEMENTS ESCROW AGREEMENT**

**THIS WATER STREET PUBLIC IMPROVEMENTS ESCROW AGREEMENT** (this “**Agreement**”) is made as of the \_\_\_ day of \_\_\_\_\_, 2015 (the “**Effective Date**”) by and among **WATER STREET PROPERTY OWNER, LLC**, a Delaware limited liability company (“**Developer**”), **FIFTH THIRD BANK**, an Ohio banking corporation, as agent for the lenders identified in the Permitted Mortgage (in such capacity, “**Mortgage Lender**”), **CITY OF NAPERVILLE**, an Illinois municipal corporation and home rule unit (“**City**”) and **CHICAGO TITLE INSURANCE COMPANY**, in its capacity as Escrow Agent hereunder (“**Escrow Agent**”). The Developer, the Mortgage Lender, and the City are together hereinafter referred to as “**Parties**” and sometimes individually as “**Party**”.

**RECITALS:**

A. The Developer and the City have entered into that certain Redevelopment Agreement of the same date herewith (the “**Redevelopment Agreement**”), which Redevelopment Agreement has been recorded against the property on which the Water Street Project is to be constructed which is located at 117-140 Water Street, 336 S. Webster Street, and 141 Aurora Avenue, Naperville, Illinois in DuPage County, and which is legally described on Exhibit 1 hereto and depicted on Exhibit 2 hereto (the “**Water Street Project Property**”). Capitalized terms used herein, but not defined herein, shall have the meaning given to such terms in the Redevelopment Agreement.

B. Concurrently with the execution of the Redevelopment Agreement, the Developer and the City have also executed and delivered the other Water Street Agreements, including that certain Purchase and Sale Agreement of the same date herewith (the “**Purchase and Sale Agreement**”), which Purchase and Sale Agreement has been recorded against the Water Street Project Property.

C. Pursuant to the Redevelopment Agreement and the Purchase and Sale Agreement, the Developer is required to:

- (i) complete the construction of the Parking Deck Improvements on the Parking Deck Land which Parking Deck Land is legally described on Exhibit 3 hereto;
- (ii) convey the Parking Deck Property to the City in accordance with the Purchase and Sale Agreement upon completion of the construction of the Parking Deck Improvements;
- (iii) complete the construction of the Riverwalk Improvements on the Riverwalk Land which Riverwalk Land is legally described on Exhibit 4 hereto; and

- (iv) convey the Riverwalk Property to the City in accordance with the Purchase and Sale Agreement upon completion of the Riverwalk Improvements.

D. In consideration of the City's financial investment in the Parking Deck Property and the Riverwalk Property, the Developer and the Mortgage Lender hereby acknowledge and agree that it is the intent of the Parties for the City to take fee simple title by warranty deed to each of the Parking Deck Property and the Riverwalk Property free and clear of any encumbrances other than the exceptions designated as "Permitted Exceptions" under the Purchase and Sale Agreement.

E. The Mortgage Lender is the holder of the Permitted Mortgage (as that term is defined in the Redevelopment Agreement) against the Developer Components of the Water Street Project, including the Parking Deck Property and the Riverwalk Property, which Permitted Mortgage may, from time to time be amended, modified, or renewed as prescribed in the Redevelopment Agreement.

F. Developer and Lend Lease (US) Construction Inc., a Florida corporation ("**Construction Contractor**") have entered into that certain Standard Form of Agreement Between Owner and Construction Manager (Public Improvements) dated \_\_\_\_\_, 2015 (the "**Construction Contract for Public Improvements**") relating to the construction of the Parking Deck Improvements, the Riverwalk Improvements and the Other Public Improvements.

**NOW, THEREFORE**, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby covenant and agree as follows:

1. Recitals. The foregoing recitals are a material part of this Agreement, and are incorporated in this Section 1 as though fully set forth herein.

2. Agreements of the Mortgage Lender and the Developer.

(a) The Developer represents, warrants and agrees that: (i) there are no other liens or encumbrances on the Parking Deck Property or the Riverwalk Property other than the Permitted Mortgage which will be released pursuant to the Deck Release (as herein after defined) and the Riverwalk Release (as herein after defined) deposited with the Escrow Agent pursuant hereto; (ii) the Developer will not grant or allow any Unpermitted Encumbrances of any kind to attach to or affect the Parking Deck Property or the Riverwalk Property; (iii) at no time shall the Developer grant or allow any Unpermitted Encumbrance to attach to or affect any Other Public Improvements; and (iv) the Developer will not amend, modify, or renew such Permitted Mortgage in a manner that is inconsistent with or contrary to the provisions contained herein.

(b) The Mortgage Lender agrees that it will not: (i) amend, modify, or renew such Permitted Mortgage in a manner that is inconsistent with or contrary to the provisions contained herein or in the Redevelopment Agreement and that it shall not encumber or attempt to encumber the Parking Deck Property or the Riverwalk Property with any other mortgage or lien of any kind; or (ii) require the Developer to grant any other lien or encumbrance upon the

Parking Deck Property or the Riverwalk Property unless such other lien or encumbrance is included in and released by the Deck Release and the Riverwalk Release.

(c) The Permitted Mortgage shall be removed from the Parking Deck Property and the Riverwalk Property by recordation of releases of said encumbrances as provided herein.

(d) The Mortgage Lender agrees that the Permitted Mortgage will not encumber, or attempt to encumber, any public right-of-way in the Water Street Project, or any improvements on or under any such right-of-way, with any lien, mortgage, or other encumbrance of any kind.

(e) If the Mortgage Lender transfers the Mortgage Loan (and its interest in the Permitted Mortgage) pursuant to the terms of Section 11.9 of the Redevelopment Agreement, the successor-in-interest to the Mortgage Lender shall be required (within 5 days of request from the Developer or the City) to: (i) execute an amendment and joinder to this Agreement pursuant to which such successor shall be required to agree to be bound by the terms of this Agreement; and (ii) deliver a replacement Deck Release and a replacement Riverwalk Release to the Escrow Agent in the name of such successor in a recordable form approved by the City Attorney sufficient to fully release the Permitted Mortgage which has been assigned to such successor.

3. Developer Deposits into Escrow.

(a) Concurrently with the execution of this Agreement, the Developer has executed and delivered to the Escrow Agent in escrow the following undated documents (collectively, the “**Deck Conveyance Documents**”):

- (i) Warranty Deed for the Parking Deck Property in the form of Exhibit 5 hereto (the “**Deck Deed**”)
- (ii) Bill of Sale for all of the Parking Deck Improvements in the form of Exhibit 6 hereto;
- (iii) FIRPTA Affidavit;
- (iv) State of Illinois Transfer Tax Declaration;
- (v) No Property Manager Affidavit;
- (vi) 1099 Solicitation
- (vii) ALTA Statement

(b) Concurrently with the execution of this Agreement, the Developer has executed and delivered to the Escrow Agent in escrow the following undated documents (collectively, the “**Riverwalk Conveyance Documents**”):

- (i) Warranty Deed for the Riverwalk Property in the form of Exhibit 7 hereto (the “**Riverwalk Deed**”);

- (ii) Bill of Sale for the Riverwalk Improvements in the form of Exhibit 8 hereto;
- (iii) FIRPTA Affidavit;
- (iv) State of Illinois Transfer Tax Declaration;
- (v) No Property Manager Affidavit;
- (vi) 1099 Solicitation
- (vii) ALTA Statement

(c) Concurrently with the execution of this Agreement, the Developer has executed and delivered to the Escrow Agent in escrow an Assignment of Construction Contract, including the original acknowledgment and consent of the Construction Contractor, pursuant to which the Construction Contract for Public Improvements will be assigned to the City (the “**Default Assignment Documents**”) if the City elects to take delivery of the Default Assignment Documents.

(d) The Parties acknowledge that exhibits to certain of the Deck Conveyance Documents and the Riverwalk Conveyance Documents may initially be deposited with the Escrow Agent with blanks until the recording information for certain referenced documents is known. If jointly directed to do so by the Developer and the City, Escrow Agent is authorized to insert any missing recording information on the exhibits to the Deck Conveyance Documents and the Riverwalk Conveyance Documents. Developer and City agree to so direct the Escrow Agent promptly upon request once such recording information is known.

#### 4. Mortgage Lender Deposits into Escrow.

(a) Concurrently with the execution of this Agreement, the Mortgage Lender has executed and delivered to the Escrow Agent in escrow a recordable release of the Permitted Mortgage against the Water Street Parking Deck Property (the “**Deck Release**”) in the form of Exhibit 9 hereto.

(b) Concurrently with the execution of this Agreement, the Mortgage Lender has executed and delivered to the Escrow Agent in escrow a recordable release of the Permitted Mortgage against the Riverwalk Improvement Property (the “**Riverwalk Release**”) in the form of Exhibit 10 hereto.

(c) The Parties acknowledge that the Deck Release and the Riverwalk Release may initially be deposited with the Escrow Agent with blanks until the recording information for certain referenced documents is known. If jointly directed to do so by the Mortgage Lender and the City, Escrow Agent is authorized to insert any missing recording information into the Deck Release and the Riverwalk Release. Mortgage Lender and City agree to so direct the Escrow Agent promptly upon request once such recording information is known.

5. City Deposit of Balance into Escrow. Subject to the provisions contained herein and in the Purchase and Sale Agreement, concurrently with the execution of this Agreement, the City has deposited with the Escrow Agent the sum of \$1,621,000.00 (the “**Balance**”) which represents the remaining one-half of the purchase price for the Parking Deck Property due under the Purchase and Sale Agreement.

6. Creation of Escrow. Upon deposit of all of the deliveries set forth in Sections 3 through 5 hereof (collectively, the “**Deposits**”) with Escrow Agent, the Deposits shall be held and distributed by the Escrow Agent in accordance with the terms of this Agreement. The Developer, the City and the Mortgage Lender hereby irrevocably appoint the Escrow Agent to act as escrow and disbursement agent with respect to the Deposits, and the Escrow Agent hereby accepts such appointment.

7. Delivery of Deposits.

(a) The Deposits shall be held and disbursed by the Escrow Agent only in strict accordance with the provisions of this Agreement.

(b) Notwithstanding the foregoing, the Escrow Agent is hereby authorized expressly to comply with and obey any and all orders, judgments or decrees entered or issued by any court of competent jurisdiction, and in case the Escrow Agent obeys or complies with any such order, judgment or decree of any such court it shall not be liable to any of the Parties hereto or to any other person, firm or corporation by reason of such compliance, notwithstanding that any such order, judgment or decree be entered without jurisdiction or be subsequently reversed, modified, annulled, set aside or vacated. In case of any suit or proceeding regarding this Agreement to which the Escrow Agent is or may be at any time a party, the non-prevailing party or parties in such suit or proceeding shall reimburse the Escrow Agent for any and all reasonable out-of-pocket costs and attorneys’ fees and other reasonable out-of-pocket expenses which the Escrow Agent may have incurred or become liable for on account thereof.

8. Delivery Upon Receipt of a Deck Closing Notice. Upon receipt of a notice in the form of Exhibit 11 hereto executed by the Developer, the Mortgage Lender and the City (a “**Deck Closing Notice**”), the Escrow Agent is hereby directed to deliver the Deck Conveyance Documents, the Deck Release and the Balance as specified in the Deck Closing Notice.

9. Delivery Upon Receipt of a Riverwalk Closing Notice. Upon receipt of a notice in the form of Exhibit 12 hereto executed by both the Developer, the Mortgage Lender and the City (a “**Riverwalk Closing Notice**”), the Escrow Agent is hereby directed to deliver the Riverwalk Conveyance Documents and the Riverwalk Release as specified in the Riverwalk Closing Notice.

10. Delivery Upon Receipt of a Public Improvements Recording Direction. Upon receipt of a notice in the form of Exhibit 13 hereto executed by the City (a “**Public Improvements Recording Direction**”), the Escrow Agent is hereby directed to immediately record the Deck Deed and the Deck Release and/or the Riverwalk Deed and the Riverwalk Release with the DuPage County Recorder (along with any other Deck Conveyance Documents required to be recorded in connection therewith, including any applicable transfer stamps) in

accordance with the directives expressly set forth in the Public Improvements Recording Direction. Further, in accordance with the Public Improvements Recording Direction, the Escrow Agent shall deliver to the City the remainder of the Deck Conveyance Documents and/or the Riverwalk Conveyance Documents, as applicable. Additionally, if specifically requested by the City in the Public Improvements Recording Direction, the Escrow Agent shall also deliver to the City the Default Assignment Documents.

11. Provisions Applicable Upon Delivery of a Public Improvements Recording Direction. The Parties hereto agree that in the event that the City issues a Public Improvements Recording Direction, the following provisions shall apply:

(a) No action shall be taken by the Developer or the Mortgage Lender, or by any person or entity on their behalf, to prevent or impede the Escrow Agent from taking the actions described in Section 10 hereof. In the event that the Developer and/or the Mortgage Lender dispute the City's right to issue the Public Improvements Recording Direction, neither shall have a right to seek equitable relief, including but not limited to a temporary restraining order, other injunctive relief, or mandamus with respect to said Public Improvements Recording Direction. Rather the rights and remedies of the Developer and the Mortgage Lender shall be limited to an action, if any, in breach of contract. If the Developer or the Mortgage Lender objects to, challenges, or otherwise disputes the City's right to issue the Public Improvements Recording Direction and/or attempts to preclude the Escrow Agent from taking the actions described in Section 10 hereof, and the City prevails in any action with respect thereto, the non-prevailing parties in such action shall be jointly and severally liable to reimburse the City for its reasonable out-of-pocket costs and expenses, including but not limited to reasonable in-house and outside attorneys' fees and costs. If the cost of in-house counsel is to be assessed pursuant to this Section 11(a), then the hourly rates therefor must be reasonable and such in-house counsel shall be required to keep detailed time sheets for expenses incurred for which reimbursement is sought.

(b) Upon receipt of a Public Improvements Recording Direction, the Escrow Agent is hereby authorized and directed by the Parties hereto to act only upon the Public Improvements Recording Direction. In that regard, the Escrow Agent is specifically directed **not** to take action with respect to any objection or conflicting, inconsistent, or contrary escrow direction or communication it may receive from any other person, Party, or entity.

(c) Upon delivery of a Public Improvements Recording Direction to the Escrow Agent, except as otherwise provided in Section 18.6.6 of the Redevelopment Agreement, the City is permanently relieved of its obligation to pay the Balance to the Developer and the Escrow Agent is authorized to immediately return the Balance (and interest thereon) to the City by certified check or by wire to an account specified by the City. The City agrees that it shall not request a return of the Balance in a Public Improvements Recording Direction if such is being delivered in connection with an exercise of its rights under Section 18.6.6 of the Redevelopment Agreement.

12. Effect of a Loan Default Notice. Upon receipt of a notice in the form of Exhibit 14 hereto executed by the Mortgage Lender (a "**Loan Default Notice**"), the following shall apply: (a) all Escrow Notices (defined below) thereafter given by the Developer shall be of no

force and effect; (b) the Escrow Agent shall be entitled to ignore any Escrow Notices given by the Developer after the giving of a Loan Default Notice; (c) any Deck Closing Notice or Riverwalk Closing Notice delivered after the giving of a Loan Default Notice shall not require the signature of the Developer in order to be effective and any such Deck Closing Notice or Riverwalk Closing Notice shall be effective if executed by the Mortgage Lender and the City; and (d) any Deposits which would otherwise have been deliverable to the Developer shall then be delivered to the Mortgage Lender (including the Balance, if and when the Balance would have otherwise been required to be delivered to the Developer, but for the giving of the Loan Default Notice).

13. Agreements Regarding Escrow Notices.

(a) The Developer, the City and the Mortgage Lender hereby agree and direct the Escrow Agent to honor: (i) the Deck Closing Notice executed by the Developer, the Mortgage Lender, and the City (subject to the terms of Section 12 hereof); (ii) the Riverwalk Closing Notice executed by the Developer, the Mortgage Lender, and the City (subject to the terms of Section 12 hereof); (iii) the Public Improvements Recording Direction executed by the City only and (iv) the Loan Default Notice executed by the Mortgage Lender (the items described in clauses (i) through (iv) of this Section 13(a) are collectively referred to as the “**Escrow Notices**”). The Escrow Agent shall honor the Escrow Notices when delivered pursuant to this Agreement without any requirement to: (x) verify any facts or circumstances regarding any Escrow Notice; or (y) obtain the consent of any other party to this Agreement or any other person prior to acting in compliance with any such Escrow Notice. The Escrow Agent may ignore (without any liability) any other notice, letter or demand made upon the Escrow Agent other than an Escrow Notice in the forms attached hereto.

(b) Except for the provisions set forth in Sections 10 and 11 hereof, in the event that the Escrow Agent receives conflicting Escrow Notices from different Parties hereto, then the Escrow Agent shall be entitled to place all Deposits with the Clerk of the DuPage County Circuit Court and file an interpleader action to determine the relative rights of the parties hereunder. If the Escrow Agent receives conflicting Escrow Notices from different Parties hereto as to the provisions of Sections 10 and 11 hereof, the Escrow Agent is directed to follow only such direction as is given by the City.

14. Events of Default.

(a) Any failure by the Developer to perform any obligation under this Agreement shall be subject to the requirements of the Redevelopment Agreement relating to the giving of a Notice of Default and the ability of the Developer or any Curing Lender (as defined in the Redevelopment Agreement) to effectuate a Cure thereof prior to the expiration of all applicable Cure Periods.

(b) If an Uncured Default exists, or if the City elects to exercise its rights under Section 18.6.6 of the Redevelopment Agreement, the City shall have the right to issue a Public Improvements Recording Direction, copies of which shall be delivered pursuant to Section 18 hereof.

15. Investments/Comingling. If requested by the City, the Balance shall be invested by the Escrow Agent in a federally-insured, interest-bearing account. All interest earned on the Balance shall be paid to the City. All interest and other income earned on amounts deposited from time to time into the escrow created by this Agreement shall be reported to applicable tax authorities under the City's taxpayer identification number. Except as to deposits of funds for which the Escrow Agent has received express written direction concerning investment or other handling, the Parties hereto direct the Escrow Agent NOT to invest any funds deposited by the Parties under the terms of this Agreement and waive any rights which they may have under Section 2-8 of the Corporate Fiduciary Act to receive interest on funds deposited hereunder. In the absence of any authorized direction to invest funds, the Parties hereto agree that the Escrow Agent shall be under no duty to invest or reinvest any such funds at any time held by it hereunder. The City shall be entitled to all interest earned on the funds deposited with Escrow Agent pursuant to this Agreement.

16. Nature of Duties of the Escrow Agent. The Escrow Agent's sole duty shall be to act in accordance with the provisions of this Agreement. The Parties hereby agree that in the absence of willful breach hereof by or negligence of the Escrow Agent or any of its employees or agents, neither the Escrow Agent nor any of its employees or agents from time to time shall be liable in damages or otherwise on account of any of the provisions of this Agreement or the Escrow Agent's performance of the terms hereof.

17. Amendment. This Agreement may be amended solely through a writing executed by all Parties to this Agreement.

18. Notices. All notices required pursuant to this Agreement shall be sent by any recognized overnight mail courier service including USPS or personally delivered as follows:

If to the Developer: Water Street Property Owner, LLC  
401 South Main Street, Suite 300  
Naperville, Illinois 60540  
Attn: Nicholas M. Ryan

with a copy to: Levenfeld Pearlstein, LLC  
2 N. LaSalle Street, Suite 1300  
Chicago, Illinois 60602  
Attention: Thomas G. Jaros, Esq.

with a copy to: Dommermuth, Cobine, West, Gensler,  
Philipchuck, Corrigan and Bernhard, Ltd.  
111 East Jefferson Avenue, Suite 200  
Naperville, Illinois 60540  
Attn: Kathleen C. West

with a copy to: Medley Opportunity Fund II, L.P.  
375 Park Avenue, Suite 3304  
New York, NY 10152  
Attn: Daniel Jacobs

with a copy to: Proskauer Rose LLP  
Eleven Times Square  
New York, NY 10036-8299  
Attn: David J. Weinberger, Esq.

If to the Mortgage Lender: Fifth Third Bank  
222 S. Riverside Plaza, 33rd Floor  
Chicago, IL 60606  
Attn: Andrew Roberts

with a copy to: DLA Piper LLP (US)  
203 North LaSalle Street, Suite 1900  
Chicago, Illinois 60601-1293  
Attention: Brian Doyle

If to the City: City of Naperville  
400 S. Eagle Street  
Naperville, Illinois 60540  
Attn: City Manager

with a copy to: City Development Manager  
City of Naperville  
400 S. Eagle St.  
Naperville, IL 60540

with a copy to: City Engineer  
City of Naperville  
400 S. Eagle St.  
Naperville, IL 60540

and

Legal Department/City Attorney  
City of Naperville  
400 S. Eagle St.  
Naperville, IL 60540

To the Escrow Agent: Chicago Title Insurance Company  
1725 S Naperville Road, Suite 100  
Wheaton, IL 60189  
Attention: Gail Lulling

The names or addresses set forth above may be changed if notice of such change is given in writing as provided above. Notice that is issued in conformity with this Section 18 is presumed to have been validly given. Any notice executed by legal counsel to a Party shall have the same

effect as if given by such Party. Any Party hereto may change the address for receiving notices, invoices, requests, demands or other communication by notice sent in accordance with the terms of this Section 18.

19. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original and which counterparts together shall constitute one and the same agreement of the parties. Delivery of an executed counterpart of this Agreement by facsimile or PDF shall be equally as effective as delivery of an original executed counterpart.

20. Section Headings. Headings contained in this Agreement are inserted only as a matter of convenience and in no way define, limit or extend the scope or intent of this Agreement or any provision hereof.

21. Escrow Fee. The Escrow Agent's fee for administering this Agreement shall be \$1,500.00 which shall be prepaid by the Developer on the Effective Date.

22. Choice of Law/Venue. This Agreement shall in all respects be subject to and construed in accordance with and governed by the laws of the State of Illinois. Venue for any action arising out of the terms or conditions of this Agreement shall be proper only in the Circuit Court for the Eighteenth Judicial Circuit, DuPage County, Illinois.

23. No Waiver of Breach. The failure of any Party to require the performance of any of the terms of this Agreement or the waiver by any party of any breach under this Agreement shall neither prevent a subsequent enforcement of such term nor be deemed a waiver of any other breach.

24. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

25. Assignment. The rights and obligations under this Agreement may not be assigned by the Escrow Agent without the prior express written consent of the City, the Developer and the Mortgage Lender. Unless the applicable assignment or other transfer of interests herein is made in accordance with the Redevelopment Agreement, the respective rights and obligations of the Developer and the Mortgage Lender under this Agreement may not be assigned by such Party without the written consent of the other Parties.

26. Term. This Agreement shall be and remain in full force and effect until the date on which all Deposits have been disbursed in accordance with this Agreement, including if disbursed in accordance with one or more Public Improvements Recording Directions. At the closing of the later to occur of the conveyance of the Parking Deck Property or the Riverwalk Property to the City pursuant to the Purchase and Sale Agreement, the City, the Mortgage Lender, the Developer and the Escrow Agent shall all execute and record a termination of this Agreement against the Water Street Project Property which will terminate this Agreement, except for those terms and provisions which expressly survive termination.

27. No Third Party Beneficiary. Except as otherwise expressly set forth herein, this Agreement is not intended to give or confer any benefits, rights, privileges, claims, actions, or

remedies to any person or entity as a thirty-party beneficiary under any statutes, laws codes, ordinances, rules regulations, orders, decrees, or otherwise.

28. Ambiguity. If any term of this Agreement is ambiguous, it shall not be construed for or against any party on the basis that the party did or did not write it.

29. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties and their permitted successors and assigns.

30. Exhibits. Every exhibit referenced herein shall be deemed to be attached hereto and incorporated herein by reference. The following Exhibits are attached to this Agreement as of the Effective Date:

- Exhibit 1 – Legal Description of Water Street Project Property
- Exhibit 2 – Depiction of Water Street Project Property
- Exhibit 3 – Legal Description of Parking Deck Land
- Exhibit 4 – Legal Description of Parking Deck Land
- Exhibit 5 – Warranty Deed for Parking Deck Land
- Exhibit 6 – Bill of Sale for Parking Deck Improvements
- Exhibit 7 – Warranty Deed for Riverwalk Land
- Exhibit 8 – Bill of Sale for Riverwalk Improvements
- Exhibit 9 – Deck Release
- Exhibit 10 – Riverwalk Release
- Exhibit 11 – Deck Closing Notice
- Exhibit 12 – Riverwalk Closing Notice
- Exhibit 13 – Public Improvements Recording Direction
- Exhibit 14 – Loan Default Notice

31. Recordation. This Agreement, when fully executed, shall be recorded with the DuPage County Recorder by the City.

32. Severability. Should any provision of this Agreement be declared or be determined by any court of competent jurisdiction to be illegal, invalid, or unenforceable under present or future laws, such provision shall be fully severable, and this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part of this Agreement, and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement. Furthermore, in place of each such illegal, invalid, or unenforceable provision, there shall be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

33. Authority to Execute. The undersigned warrant and represent that have read and understand this Agreement and that they are authorized to execute this Agreement.

[SIGNATURE PAGES S-1 TO S-4 FOLLOW IMMEDIATELY]



[signature page of the Developer to Public Improvements Escrow Agreement]

**WATER STREET PROPERTY OWNER, LLC,**

a Delaware Illinois limited liability company

By: Water Street Property Mezz, LLC, a Delaware limited liability company, its Member

By: Marquette Water Street Venture, LLC, an Illinois limited liability company, its Member

By: MP Water Street District, LLC, an Illinois limited liability company, its Manager

By: \_\_\_\_\_  
Name: Nicholas M. Ryan  
Title: Manager

STATE OF \_\_\_\_\_ )  
 )SS  
COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, a Notary Public in and for the County and State aforesaid, do hereby certify that Nicholas M. Ryan, Manager of MP Water Street District, LLC, an Illinois limited liability company and the Manager of Marquette Water Street Venture, LLC, an Illinois limited liability company and the Member of Water Street Property Mezz, LLC, a Delaware limited liability company and the Member of Water Street Property Owner, LLC, a Delaware limited liability company, being personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that (s)he signed and delivered this said instrument as his/her own free and voluntary act, and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

Given under my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_





Exhibit 1

Legal Description of Water Street Project Property

NORTH PHASE

Existing Legal Description

LOTS 3 THROUGH 7 INCLUSIVE IN BLOCK ONE IN MARTIN'S ADDITION TO NAPERVILLE, BEING A SUBDIVISION IN THE SOUTHEAST 1/4 OF SECTION 13, TOWNSHIP 38 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 6, 1847 AS DOCUMENT 2584, IN DUPAGE COUNTY, ILLINOIS.

Existing PINS

07-13-440-004; 07-13-440-005

Existing Addresses

117 Water Street  
121 Water Street  
123 Water Street  
125 Water Street

Future Legal Description

LOTS 1 THROUGH 4 INCLUSIVE IN THE WATER STREET DISTRICT NORTH PHASE, BEING A SUBDIVISION IN THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 38 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED ON \_\_\_\_\_ AS DOCUMENT NO. \_\_\_\_\_ IN DUPAGE COUNTY, ILLINOIS.

Future PINS to be determined

Future Addresses to be determined

SOUTH PHASE

Existing Legal Description

LOTS 2 THROUGH 8 INCLUSIVE IN BLOCK FOUR, A NINE (9') STRIP OF TO BE VACATED WATER STREET LYING IMMEDIATELY NORTH OF SAID LOTS 2 THROUGH 8 INCLUSIVE, AND LOT 9 AND THAT PART OF LOT 10, IN BLOCK FOUR DESCRIBED BY BEGINNING AT THE SOUTHWEST CORNER OF LOT 9, AFORESAID, AND RUNNING THENCE EAST 60 FEET ALONG AURORA AVENUE (FORMERLY

KNOWN AS HIGH STREET); THENCE NORTH PARALLEL WITH WEBSTER STREET, TO THE NORTH LINE OF LOT 10, AFORESAID; THENCE WEST ON THE NORTH LINE OF LOTS 9 AND 10, A DISTANCE OF 60 FEET; THENCE SOUTH ON THE EAST LINE OF WEBSTER STREET TO THE POINT OF BEGINNING, IN BLOCK FOUR IN MARTIN'S ADDITION TO NAPERVILLE, BEING A SUBDIVISION IN THE SOUTHEAST 1/4 OF SECTION 13, TOWNSHIP 38 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 6, 1847 AS DOCUMENT 2584, IN DUPAGE COUNTY, ILLINOIS.

Existing PINS

07-13-442-001; 07-13-442-002; 07-13-442-003; 07-13-442-004; 07-13-442-005; 07-13-442-006; 07-13-442-010; 07-13-442-020

Existing Addresses

112 Water Street  
124 Water Street  
126 Water Street  
130 Water Street  
134 Water Street  
140 Water Street  
336 South Webster Street  
141 Aurora Avenue

Future Legal Description

LOTS 1 THROUGH 3 INCLUSIVE IN THE WATER STREET DISTRICT SOUTH PHASE, BEING A SUBDIVISION IN PART OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 38 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED ON \_\_\_\_\_ AS DOCUMENT NO. \_\_\_\_\_ IN DUPAGE COUNTY, ILLINOIS.

Future PINS to be determined

Future Addresses to be determined

Exhibit 2

Depiction of Water Street Project Property

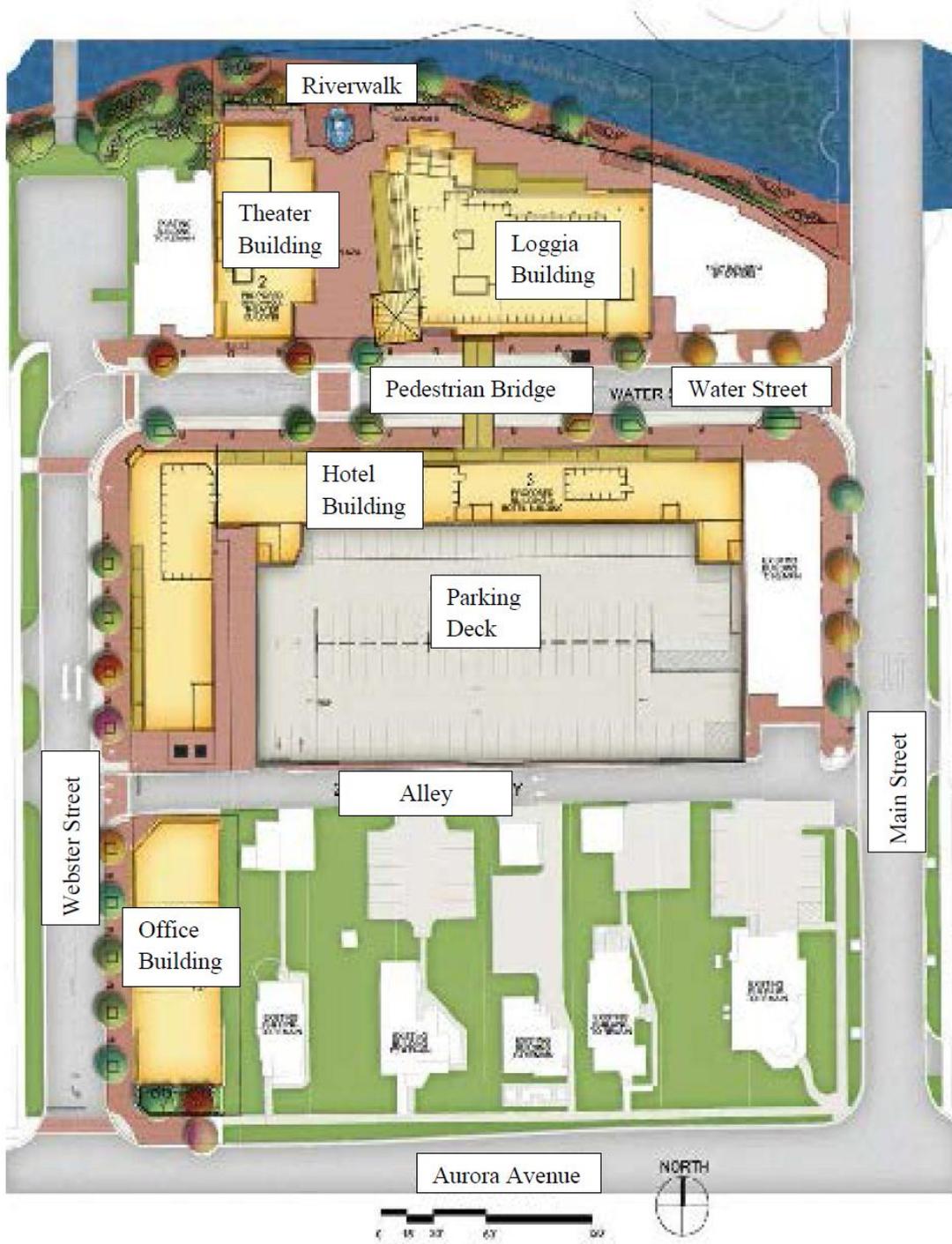


Exhibit 3

Legal Description of Parking Deck Land

Existing Legal Description

PARTS OF LOTS 2 THROUGH 7 INCLUSIVE IN BLOCK FOUR IN MARTIN'S ADDITION TO NAPERVILLE, BEING A SUBDIVISION IN THE SOUTHEAST 1/4 OF SECTION 13, TOWNSHIP 38 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 6, 1847 AS DOCUMENT 2584, IN DUPAGE COUNTY, ILLINOIS.

Existing PINS

07-13-442-003; 07-13-442-004; 07-13-442-005; 07-13-442-006; 07-13-442-020

Existing Addresses

112 Water Street  
124 Water Street  
126 Water Street  
130 Water Street  
134 Water Street

Future Legal Description

LOT 2 IN THE WATER STREET DISTRICT SOUTH PHASE BEING A SUBDIVISION IN PART OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 38 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED \_\_\_\_\_ AS DOCUMENT NO. \_\_\_\_\_ IN DUPAGE COUNTY, ILLINOIS.

Future PIN to be determined

Future Address to be determined

Exhibit 4

Legal Description of Riverwalk Land

Existing Legal Description

PARTS OF LOTS 3 THROUGH 7 INCLUSIVE IN BLOCK ONE IN MARTIN'S ADDITION TO NAPERVILLE, BEING A SUBDIVISION IN THE SOUTHEAST 1/4 OF SECTION 13, TOWNSHIP 38 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 6, 1847 AS DOCUMENT 2584, IN DUPAGE COUNTY, ILLINOIS.

Existing PINS

07-13-440-004; 07-13-440-005

Existing Addresses

117 Water Street  
121 Water Street  
123 Water Street  
125 Water Street

Future Legal Description

LOT 4 IN THE WATER STREET DISTRICT NORTH PHASE BEING A SUBDIVISION IN PART OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 38 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED \_\_\_\_\_ AS DOCUMENT NO. \_\_\_\_\_ IN DUPAGE COUNTY, ILLINOIS.

Future PIN to be determined

Future Address to be determined

Exhibit 5

Warranty Deed for Parking Deck Land

**PREPARED BY:**

Thomas G. Jaros, Esq.  
Levenfeld Pearlstein, LLC  
2 North LaSalle Street  
Suite 1300  
Chicago, Illinois 60602

**WHEN RECORDED  
RETURN TO:**

Legal Department/City Attorney  
City of Naperville  
400 S. Eagle St.  
Naperville, IL 60540  
Attn: \_\_\_\_\_

(Above Space for Recorder's use only)

**WARRANTY DEED**  
(Parking Deck Property)

THE GRANTOR, **WATER STREET PROPERTY OWNER, LLC**, a Delaware limited liability company, whose address is 401 S. Main Street, Suite 300, Naperville, Illinois 60540, for and in consideration of TEN AND 00/100 DOLLARS, and other good and valuable consideration in hand paid, CONVEYS, TRANSFERS and WARRANTS to **CITY OF NAPERVILLE**, an Illinois Municipal Corporation and home rule unit of local government, whose address is 400 S. Eagle Street, Naperville, IL 60540, all interest in the Real Estate legally described on **Exhibit A** attached hereto and all improvements attached thereto or made part thereof, subject however to all covenants, conditions, restrictions and easements of record, hereby releasing and waiving all rights under and by virtue of the Homestead Exemption Laws of the State of Illinois.

PINs and Common Address(es): See Exhibit A

*[remainder of page intentionally left blank]*

*[signature on next page S-1]*



Exhibit 6

Bill of Sale for Parking Deck Improvements

**BILL OF SALE**

(Parking Deck Improvements)

KNOW ALL MEN BY THESE PRESENTS, that **WATER STREET PROPERTY OWNER, LLC**, a Delaware limited liability company (“Seller”), in consideration of Ten and No/100ths Dollars (\$10.00), the receipt and sufficiency of which are hereby acknowledged, does hereby grant, transfer, convey and deliver to **CITY OF NAPERVILLE**, an Illinois Municipal Corporation and home rule unit of local government (“Purchaser”), any and all improvements, machinery, equipment, appurtenances, seating, signing, and lighting of any kind included on the real property legally described on Exhibit A attached hereto, or any part thereof (the “Parking Deck Improvements”).

TO HAVE AND TO HOLD the Parking Deck Improvements unto Purchaser and Purchaser’s legal representatives, successors and assigns forever.

Seller hereby represents and warrants to Purchaser that: (i) Seller is the absolute owner of said Parking Deck Improvements, (ii) that the Parking Deck Improvements are free and clear of all mortgages, liens, charges, and encumbrances (other than Permitted Exceptions); (iii) the Seller has the full right, power, and authority to convey the Parking Deck Improvements to the Purchaser; and (iv) the Parking Deck Improvements have been constructed or installed in accordance with the Plans and Specifications for Public Improvements (as defined in the Redevelopment Agreement) and the other Water Street Agreements (as defined in the Redevelopment Agreement), and are in good condition. Seller further represents that all warranties with respect to the Parking Deck Improvements required to be delivered under Section 2.1(b)(i)(D) of the Purchase Agreement (defined below) have been provided to the City.

This Bill of Sale is made by Seller to Purchaser pursuant to and in accordance with the terms of that certain Purchase and Sale Agreement dated \_\_\_\_\_, 2015 by and between Seller and Purchaser with respect to the real property legally described on Exhibit A attached hereto (the “Purchase Agreement”). Any capitalized term used herein, but not defined in this Bill of Sale, shall have the meaning ascribed to such term in the Purchase Agreement.

*[remainder of page intentionally left blank]*

*[signature on next page S-1]*

IN WITNESS WHEREOF, Seller has executed this Bill of Sale (Parking Deck Improvements) as of the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

SELLER:

**WATER STREET PROPERTY OWNER, LLC,**  
a Delaware limited liability company

By: Water Street Property Mezz, LLC, a Delaware limited liability company, its Member

By: Marquette Water Street Venture, LLC, an Illinois limited liability company, its Member

By: MP Water Street District, LLC, an Illinois limited liability company, its Manager

By: \_\_\_\_\_  
Name: Nicholas M. Ryan  
Title: Manager

Exhibit 7

Warranty Deed for Riverwalk Land

**PREPARED BY:**

Thomas G. Jaros, Esq.  
Levenfeld Pearlstein, LLC  
2 North LaSalle Street  
Suite 1300  
Chicago, Illinois 60602

**WHEN RECORDED  
RETURN TO:**

Legal Department/City Attorney  
City of Naperville  
400 S. Eagle St.  
Naperville, IL 60540  
Attn: \_\_\_\_\_

(Above Space for Recorder's use only)

**WARRANTY DEED**  
(Riverwalk Property)

THE GRANTOR, **WATER STREET PROPERTY OWNER, LLC**, a Delaware limited liability company, whose address is 401 S. Main Street, Suite 300, Naperville, Illinois 60540, for and in consideration of TEN AND 00/100 DOLLARS, and other good and valuable consideration in hand paid, CONVEYS, TRANSFERS and WARRANTS to **CITY OF NAPERVILLE**, an Illinois Municipal Corporation and home rule unit of local government, whose address is 400 S. Eagle Street, Naperville, IL 60540, all interest in the Real Estate legally described on **Exhibit A** attached hereto and all improvements attached thereto or made part thereof, subject however to all covenants, conditions, restrictions and easements of record, hereby releasing and waiving all rights under and by virtue of the Homestead Exemption Laws of the State of Illinois.

PINs and Common Address(es): See Exhibit A

*[remainder of page intentionally left blank]*

*[signature on next page S-1]*

IN WITNESS WHEREOF, Grantor has executed this Warranty Deed (Riverwalk Property) as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

GRANTOR:

**WATER STREET PROPERTY OWNER, LLC,**  
a Delaware limited liability company

By: Water Street Property Mezz, LLC, a Delaware  
limited liability company, its Member

By: Marquette Water Street Venture, LLC, an  
Illinois limited liability company, its Member

By: MP Water Street District, LLC, an Illinois  
limited liability company, its Manager

By: \_\_\_\_\_  
Name: Nicholas M. Ryan  
Title: Manager

STATE OF \_\_\_\_\_ )  
 )SS  
COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, a Notary Public in and for the County and State aforesaid, do hereby certify that Nicholas M. Ryan, Manager of MP Water Street District, LLC, an Illinois limited liability company and the Manager of Marquette Water Street Venture, LLC, an Illinois limited liability company and the Member of Water Street Property Mezz, LLC, a Delaware limited liability company and the Member of Water Street Property Owner, LLC, a Delaware limited liability company, being personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that (s)he signed and delivered this said instrument as his/her own free and voluntary act, and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

Given under my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

Exhibit 8

Bill of Sale for Riverwalk Improvements

**BILL OF SALE**  
(Riverwalk Improvements)

KNOW ALL MEN BY THESE PRESENTS, that **WATER STREET PROPERTY OWNER, LLC**, a Delaware limited liability company (“Seller”), in consideration of Ten and No/100ths Dollars (\$10.00), the receipt and sufficiency of which are hereby acknowledged, does hereby grant, transfer, convey and deliver to **CITY OF NAPERVILLE**, an Illinois Municipal Corporation and home rule unit of local government (“Purchaser”), any and all improvements, machinery, equipment, appurtenances, seating, signing, and lighting of any kind included on the real property legally described on Exhibit A attached hereto, or any part thereof (the “Riverwalk Improvements”).

TO HAVE AND TO HOLD the Riverwalk Improvements unto Purchaser and Purchaser’s legal representatives, successors and assigns forever.

Seller hereby represents and warrants to Purchaser that: (i) Seller is the absolute owner of said Riverwalk Improvements, (ii) that the Riverwalk Improvements are free and clear of all mortgages, liens, charges, and encumbrances (other than Permitted Exceptions); (iii) the Seller has the full right, power, and authority to convey the Riverwalk Improvements to the Purchaser; and (iv) the Riverwalk Improvements have been constructed or installed in accordance with the Plans and Specifications for Public Improvements (as defined in the Redevelopment Agreement) and the other Water Street Agreements (as defined in the Redevelopment Agreement), and are in good condition. Seller further represents that all warranties with respect to the Riverwalk Improvements required to be delivered under Section 2.1(b)(ii)(D) of the Purchase Agreement (defined below) have been provided to the City.

This Bill of Sale is made by Seller to Purchaser pursuant to and in accordance with the terms of that certain Purchase and Sale Agreement dated \_\_\_\_\_, 2015 by and between Seller and Purchaser with respect to the real property legally described on Exhibit A attached hereto (the “Purchase Agreement”). Any capitalized term used herein, but not defined in this Bill of Sale, shall have the meaning ascribed to such term in the Purchase Agreement.

*[remainder of page intentionally left blank]*

*[signature on next page S-1]*

IN WITNESS WHEREOF, Seller has executed this Bill of Sale (Riverwalk Improvements) as of the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

SELLER:

**WATER STREET PROPERTY OWNER, LLC,**  
a Delaware limited liability company

By: Water Street Property Mezz, LLC, a Delaware limited liability company, its Member

By: Marquette Water Street Venture, LLC, an Illinois limited liability company, its Member

By: MP Water Street District, LLC, an Illinois limited liability company, its Manager

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

Name: Nicholas M. Ryan

Title: Manager

Exhibit 9

Deck Release

Prepared by and after  
recording return to:

Fifth Third Bank  
Commercial Real Estate  
222 S. Riverside Plaza  
33rd Floor  
Chicago, IL 60606  
Attn: Andrew Roberts

Property:

SEE EXHIBIT A

**PARTIAL RELEASE OF MORTGAGE AND OTHER LIENS**

(Parking Deck Property)

THIS PARTIAL RELEASE OF MORTGAGE AND OTHER LIENS (this "Release") made as of date set forth below is by **FIFTH THIRD BANK** whose address is 222 S. Riverside Plaza, 33rd Floor, Chicago, IL 60606 ("Mortgagee").

In consideration of Ten and no/100ths Dollars (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged by Mortgagee, Mortgagee hereby releases the specific real estate identified on **Exhibit A** hereto and the improvements, personal property, and other appurtenant rights associated with the specific real estate identified on **Exhibit A** (the "Released Property") from the following:

- (1) that certain Construction Mortgage, Security Agreement, Fixture Filing and Assignment of Leases and Rents dated \_\_\_\_\_, 2015 made by Water Street Property Owner, LLC, a Delaware limited liability company ("Mortgagor") to Mortgagee which was recorded with the DuPage County Recorder on \_\_\_\_\_, 20 \_\_\_\_ as document number \_\_\_\_\_;
- (2) that certain Assignment of Leases and Rents dated \_\_\_\_\_, 2015 made by Mortgagor to Mortgagee which was recorded with the DuPage County Recorder on \_\_\_\_\_, 20 \_\_\_\_ as document number \_\_\_\_\_; and
- (3) that certain Uniform Commercial Code Financing Statement naming Mortgagor as debtor and Mortgagee as secured party which was recorded with the DuPage County Recorder on \_\_\_\_\_, 20 \_\_\_\_ as document number \_\_\_\_\_.

This Release shall not, however, release the foregoing documents from any other property or real estate which is encumbered by such documents other than the Released Property.

IN WITNESS WHEREOF, this Partial Release of Mortgage and Other Liens (Parking Deck Property) as of \_\_\_\_\_, 20 \_\_\_\_.

MORTGAGEE:

**FIFTH THIRD BANK**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF \_\_\_\_\_ )

I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY that \_\_\_\_\_, a \_\_\_\_\_ of **FIFTH THIRD BANK**, personally known to me to be the same person whose name is subscribed to this Release, appeared before me this day in person, and acknowledged before me that he signed and delivered this Release as a free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal, this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Notary Public

**NOTE: YOU MAY WISH TO RECORD THIS RELEASE IN THE RECORDS OF THE COUNTY WHERE THE ABOVE REFERENCED LIEN(S) WERE RECORDED. YOU MAY WISH TO CONSULT AN ATTORNEY TO DETERMINE WHETHER THIS RELEASE MUST BE RECORDED IN ANY CASE.**

**EXHIBIT A**

NOTE: THIS RELEASE APPLIES ONLY TO THE PROPERTY DESCRIBED BELOW. ALL OTHER PROPERTY OR LOTS COVERED BY THE INSTRUMENTS REFERRED TO IN THIS RELEASE SHALL REMAIN SUBJECT TO THE LIEN OF SUCH INSTRUMENTS UNLESS AND UNTIL RELEASED BY SEPARATE RECORDED RELEASE AGREEMENT.

**LEGAL DESCRIPTION**

Exhibit 10

Riverwalk Release

Prepared by and after  
recording return to:

Fifth Third Bank  
Commercial Real Estate  
222 S. Riverside Plaza  
33rd Floor  
Chicago, IL 60606  
Attn: Andrew Roberts

Property:

SEE EXHIBIT A

**PARTIAL RELEASE OF MORTGAGE AND OTHER LIENS**

(Riverwalk Property)

THIS PARTIAL RELEASE OF MORTGAGE AND OTHER LIENS (this "Release") made as of date set forth below is by **FIFTH THIRD BANK** whose address is 222 S. Riverside Plaza, 33rd Floor, Chicago, IL 60606 ("Mortgagee").

In consideration of Ten and no/100ths Dollars (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged by Mortgagee, Mortgagee hereby releases the specific real estate identified on **Exhibit A** hereto and the improvements, personal property, and other appurtenant rights associated with the specific real estate identified on **Exhibit A** (the "Released Property") from the following:

- (1) that certain Construction Mortgage, Security Agreement, Fixture Filing and Assignment of Leases and Rents dated \_\_\_\_\_, 2015 made by Water Street Property Owner, LLC, a Delaware limited liability company ("Mortgagor") to Mortgagee which was recorded with the DuPage County Recorder on \_\_\_\_\_, 20 \_\_\_\_ as document number \_\_\_\_\_;
- (2) that certain Assignment of Leases and Rents dated \_\_\_\_\_, 2015 made by Mortgagor to Mortgagee which was recorded with the DuPage County Recorder on \_\_\_\_\_, 20 \_\_\_\_ as document number \_\_\_\_\_; and
- (3) that certain Uniform Commercial Code Financing Statement naming Mortgagor as debtor and Mortgagee as secured party which was recorded with the DuPage County Recorder on \_\_\_\_\_, 20 \_\_\_\_ as document number \_\_\_\_\_.

This Release shall not, however, release the foregoing documents from any other property or real estate which is encumbered by such documents other than the Released Property.

IN WITNESS WHEREOF, this Partial Release of Mortgage and Other Liens (Riverwalk Property) as of \_\_\_\_\_, 20 \_\_\_\_.

MORTGAGEE:

**FIFTH THIRD BANK**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF ILLINOIS                    )  
  )        SS  
COUNTY OF \_\_\_\_\_            )

I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY that \_\_\_\_\_, a \_\_\_\_\_ of **FIFTH THIRD BANK**, personally known to me to be the same person whose name is subscribed to this Release, appeared before me this day in person, and acknowledged before me that he signed and delivered this Release as a free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal, this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Notary Public

**NOTE: YOU MAY WISH TO RECORD THIS RELEASE IN THE RECORDS OF THE COUNTY WHERE THE ABOVE REFERENCED LIEN(S) WERE RECORDED. YOU MAY WISH TO CONSULT AN ATTORNEY TO DETERMINE WHETHER THIS RELEASE MUST BE RECORDED IN ANY CASE.**

**EXHIBIT A**

NOTE: THIS RELEASE APPLIES ONLY TO THE PROPERTY DESCRIBED BELOW. ALL OTHER PROPERTY OR LOTS COVERED BY THE INSTRUMENTS REFERRED TO IN THIS RELEASE SHALL REMAIN SUBJECT TO THE LIEN OF SUCH INSTRUMENTS UNLESS AND UNTIL RELEASED BY SEPARATE RECORDED RELEASE AGREEMENT.

**LEGAL DESCRIPTION**

Exhibit 11

Deck Closing Notice

**DECK CLOSING NOTICE**

**VIA** [personal delivery or by overnight FedEx mail]

Chicago Title Insurance Company  
1725 S. Naperville Road, Suite 100  
Wheaton, IL 60189  
Attention: \_\_\_\_\_

**Re: Deck Closing Notice pursuant to that certain Public Improvements Escrow Agreement dated \_\_\_\_\_, 2015 (the “Escrow Agreement”) by and among Water Street Property Owner, LLC, a Delaware limited liability company (“Developer”), Fifth Third Bank (“Mortgage Lender”), City of Naperville, an Illinois municipal corporation and home rule unit of local government (“City”), and Chicago Title Insurance Company (“Escrow Agent”). All capitalized terms used herein, but not defined herein, shall have the meanings given to such terms in the Escrow Agreement.**

Ladies and Gentlemen:

This notice shall serve as the Deck Closing Notice delivered pursuant to the terms of Section 8 of the Escrow Agreement. The Developer, the Mortgage Lender and the City hereby direct and instruct the Escrow Agent to deliver the Deck Conveyance Documents, the Deck Release and the Balance to:

Chicago Title Insurance Company  
Escrow # \_\_\_\_\_  
1725 S Naperville Road  
Suite 100  
Wheaton, IL 60189  
Attn: \_\_\_\_\_

This Deck Closing Notice may be executed in multiple counterparts and by facsimile or other electronic means and such counterparts and facsimile/electronic signatures shall form one original instrument for all purposes.

[signatures follow on next page]  
[attach necessary signature pages]

Exhibit 12

Riverwalk Closing Notice

**RIVERWALK CLOSING NOTICE**

**VIA** [personal delivery or by overnight FedEx mail]

Chicago Title Insurance Company  
1725 S. Naperville Road, Suite 100  
Wheaton, IL 60189  
Attention: \_\_\_\_\_

**Re: Riverwalk Closing Notice pursuant to that certain Public Improvements Escrow Agreement dated \_\_\_\_\_, 2015 (the “Escrow Agreement”) by and among Water Street Property Owner, LLC, a Delaware limited liability company (“Developer”), Fifth Third Bank (“Mortgage Lender”), City of Naperville, an Illinois municipal corporation and home rule unit of local government (“City”), and Chicago Title Insurance Company (“Escrow Agent”). All capitalized terms used herein, but not defined herein, shall have the meanings given to such terms in the Escrow Agreement.**

Ladies and Gentlemen:

This notice shall serve as the Riverwalk Closing Notice delivered pursuant to the terms of Section 9 of the Escrow Agreement. The Developer, the Mortgage Lender and the City hereby direct and instruct the Escrow Agent to deliver the Riverwalk Conveyance Documents and the Riverwalk Release to:

Chicago Title Insurance Company  
Escrow # \_\_\_\_\_  
1725 S Naperville Road  
Suite 100  
Wheaton, IL 60189  
Attn: \_\_\_\_\_

This Riverwalk Closing Notice may be executed in multiple counterparts and by facsimile or other electronic means and such counterparts and facsimile/electronic signatures shall form one original instrument for all purposes.

[signatures follow on next page]  
[attach necessary signature pages]

Exhibit 13

Public Improvements Recording Direction

**PUBLIC IMPROVEMENTS RECORDING DIRECTION**

VIA [personal delivery or by overnight FedEx mail]

Chicago Title Insurance Company  
1725 S Naperville Road, Suite 100  
Wheaton, IL 60189  
Attention: \_\_\_\_\_

**Re: Public Improvements Recording Direction pursuant to that certain Public Improvements Escrow Agreement dated \_\_\_\_\_, 2015 (the “Escrow Agreement”) by and among Water Street Property Owner, LLC, a Delaware limited liability company (“Developer”), Fifth Third Bank (“Mortgage Lender”), City of Naperville, an Illinois municipal corporation and home rule unit of local government (“City”), and Chicago Title Insurance Company (“Escrow Agent”). All capitalized terms used herein, but not defined herein, shall have the meanings given to such terms in the Escrow Agreement.**

Ladies and Gentlemen:

This notice shall serve as the Public Improvements Recording Direction delivered pursuant to the terms of Sections 10, 11, and 13 of the Escrow Agreement. The City hereby certifies it is entitled to issue this Public Improvements Recording Direction.

The City hereby directs and instructs the Escrow Agent to take the following actions within seven (7) days of receipt of this notice: [CITY TO INCLUDE AS APPLICABLE]

- (1) Record the Deck Deed (Exhibit 3 to the Escrow Agreement) and the Deck Release (Exhibit 7 to the Escrow Agreement) with the DuPage County Recorder and provide a copy of such recorded Warranty Deed to the City.
- (2) Deliver all other Parking Deck Conveyance Documents to the City.
- (3) Deliver the Default Assignment Documents to the City.
- (4) Record the Riverwalk Deed (Exhibit 5 to the Escrow Agreement) and the Riverwalk Release (Exhibit 8 to the Escrow Agreement) with the DuPage County Recorder and provide a copy of such recorded Warranty Deed to the City.
- (5) Deliver all other Riverwalk Conveyance Documents to the City.

All of the above deliveries shall be made to the City of Naperville Legal Department, Attention City Attorney, 400 South Eagle Street, Naperville, IL 60540.

[CITY TO INSERT **ONE** OF THE FOLLOWING OPTIONS AS APPLICABLE:]

[OPTION 1: Additionally, the City represents and warrants that this Public Improvements Recording Direction is not being delivered in accordance with the exercise of the City's its rights under Section 18.6.6 of the Redevelopment Agreement. By virtue of such, the Balance of the Purchase Price (\$1,621,000.00) and any interest thereon, which Escrow Agent is holding shall be delivered to the City by certified check or by wire to an account specified by the City.]

[OPTION 2: Additionally, the City represents and warrants that this Public Improvements Recording Direction is being delivered in accordance with the exercise of its rights under Section 18.6.6 of the Redevelopment Agreement. By virtue of such, the Balance of the Purchase Price (\$1,621,000.00) and any interest thereon, shall remain in escrow with Escrow Agent until further written direction as to the disbursement of the Balance is given to Escrow Agent in accordance with the terms of the Escrow Agreement.]

Enclosed herewith is an exempt stamp issued by the City of Naperville which shall be affixed to each deed that you have been directed to record pursuant to this that Public Improvements Recording Direction. Additionally, prior to recording each such deed, you are additionally instructed to place on the deed a certification that such deed is exempt from transfer tax under the Section 31-45(b) of Illinois Real Estate Transfer Tax Law (35 ILCS 200/31-10).

The Escrow Agent is directed to ignore any instruction given by any other Party to the Escrow Agreement which is contrary to or inconsistent with the provisions contained herein as provided in Sections 11 and 13 of the Escrow Agreement.

Copies of this Public Improvements Recording Direction have been provided by the City of Naperville in compliance with the provisions of Section 18 of the Escrow Agreement.

**CITY:**

**CITY OF NAPERVILLE**, an Illinois municipal corporation and home rule unit of local government

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Exhibit 14

Loan Default Notice

**LOAN DEFAULT NOTICE**

**VIA [SPECIFY MANNER OF SERVICE]**

Chicago Title Insurance Company  
1725 S Naperville Road, Suite 100  
Wheaton, IL 60189  
Attention: \_\_\_\_\_

**Re: Loan Default Notice pursuant to that certain Public Improvements Escrow Agreement dated \_\_\_\_\_, 2015 (the “Escrow Agreement”) by and among Water Street Property Owner, LLC, a Delaware limited liability company (“Developer”), Fifth Third Bank (“Mortgage Lender”), City of Naperville, an Illinois municipal corporation and home rule unit of local government (“City”), and Chicago Title Insurance Company (“Escrow Agent”). All capitalized terms used herein, but not defined herein, shall have the meanings given to such terms in the Escrow Agreement.**

Ladies and Gentlemen:

This notice shall serve as the Loan Default Notice delivered pursuant to the terms of Section 12 of the Escrow Agreement. The Mortgage Lender hereby certifies that an event of default has occurred pursuant to the various loan documents between the Mortgage Lender and the Developer which remains uncured after expiration of all cure periods afforded to the Developer. Reference is hereby made to Section 12 of the Escrow Agreement for the effect of this Loan Default Notice.

This Loan Default Notice may be executed by facsimile or other electronic means and such facsimile or other electronic signature shall be deemed an original instrument for all purposes.

Copies of this Loan Default Notice have been provided by the Mortgage Lender in compliance with the provisions of Section 18 of the Escrow Agreement.

[signatures follow on next page]

[signature page to Loan Default Notice  
dated \_\_\_\_\_, 20\_\_\_\_]

MORTGAGE LENDER:

**FIFTH THIRD BANK**, as Agent for the Lenders

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

Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

: