THE PLANNING COMMITTEE
OF THE COMMON COUNCIL

125 East Avenue
P.O. Box 5125
Norwalk, CT 06856

TO: MEMBERS, PLANNING COMMITTEE OF THE COMMON COUNCIL

FROM: DOUGLAS E. HEMPSTEAD, CHAIRMAN

DATE: DECEMBER 23, 2013

RE: **MEETING NOTICE**

The next scheduled meeting of the Planning Committee of the Common Council will be held on **Tuesday, January 2nd, 2014 at 7:00 pm** in Room 231 in Norwalk City Hall. Please Note The Time And Location.

PLANNING COMMITTEE OF THE COMMON COUNCIL
January 2, 2014
7:00 PM

A G E N D A

PUBLIC PARTICIPATION

CALL TO ORDER

ROLL CALL

I. APPROVAL OF MINUTES – December 11, 2013

II. BUSINESS **(Actions)**

A. TRANSIT ORIENTED DEVELOPMENT

1. Authorize the advancement of the Request for Qualifications to develop the Transit Oriented Development Redevelopment Plan to the Common Council for approval

B. COMMUNITY DEVELOPMENT BLOCK GRANT

1. Authorize the advancement of the Continuum of Care's Certificate of Consistency request to the Common Council and to authorize the Mayor to sign the certificate

III. COMMITTEE REVIEWS

A. HEAD OF THE HARBOR

1. Review Terms of the Smith Street Option Agreement

B. CAPITAL BUDGET

1. Review the Capital Budget Process and the Committee's involvement

C. NORWALK HOUSING AUTHORITY'S PUBLIC HOUSING AGENCY (PHA) PLAN FOR 2014- 2015

1. Review the Committee requested additional information

IV. ORIENTATION

A. REVIEW COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM

1. Review schedule and intended changes to PY40 Notice of Funding Availability (NOFA) Review Process and CDBG Timeline for 2013-2014

III. OLD BUSINESS

IV. NEW BUSINESS

ADJOURNMENT

CITY OF NORWALK
PLANNING COMMITTEE OF THE COMMON COUNCIL
SPECIAL MEETING
DECEMBER 11, 2013

ATTENDANCE: Douglas Hempstead, Chair; Richard Bonenfant, John Kydes, Sharon Stewart, Travis Simms, Shannon O'Toole-Giandurco, Bruce Kimmel

STAFF: Timothy Sheehan, Redevelopment Agency Executive Director, Tami Strauss, Community Planning and Development, Susan Sweitzer, Redevelopment Agency

OTHERS: Mayor Harry Rilling, Felix Serrano, Redevelopment Agency Chair, Council Member Jerry Petrini, Council Member Glenn Iannaccone, David Westmoreland

CALL TO ORDER.

Mr. Hempstead called the meeting to order at 7:01 p.m. A quorum was present.

PUBLIC COMMENT.

Mr. Sheehan introduced Mr. Serrano, the Chairman of the Redevelopment Agency.

Mr. Westmoreland wished to know the status of the Theater project. Mr. Sheehan said that he would be providing an update on that project later in the meeting.

APPROVAL OF MINUTES.

September 5, 2013 Regular Meeting
October 3, 2013 Public Hearing
October 3, 2013 Regular Meeting.

**** MS. O'TOOLE-GIANDURCO MOVED THE MINUTES FOR THE FOLLOWING MEETINGS:**

SEPTEMBER 5, 2013 REGULAR MEETING
OCTOBER 3, 2013 PUBLIC HEARING
OCTOBER 3, 2013 REGULAR MEETING.

**** THE MOTION TO APPROVE THE MINUTES PASSED.**

COMMUNITY DEVELOPMENT BLOCK GRANT.

Approve Advancing the Norwalk Housing Authority's Certificate of Consistency Request to the Common Council.

Ms. Strauss came forward and greeted the Committee members. She explained that there is a 5-year Consolidated Plan (ConPlan). The Housing Authority requested the Redevelopment Agency to advance a Certificate of Consistency certifying that their public housing action plan for the upcoming fiscal year is consistent with the affordable housing policy outlined in the Consolidated Plan to the Common Council for the Mayor's signature. This draft plan has been reviewed and a public hearing was underway. The Housing Authority needs to meet the January 13th deadline to HUD.

Ms. Strauss then gave an overview of the Consolidated Plan that outlines the five year plan for advancing the City of Norwalk in a number of areas, such as affordable housing and public services. This Plan is updated every five years with public input and comes before the Planning Committee before being adopted by the Council. It acts as the guide for spending CDBG funds. HUD will use this plan to evaluate the City's use of funds. Currently, the City is in the fourth year of the five year cycle. The Housing Authority must submit a plan annually.

Mr. Kimmel had a question about the difference between Section 8 tenant based vouchers and project based vouchers. Mr. Sheehan explained that the tenant based voucher would move with the individual, while project based vouchers would only apply to units in a defined housing project. Mr. Kimmel said that there was an extensive body of literature about school segregation and pointed out that much of the literature goes against the premise of project based vouchers because school populations are based on housing locations. He said that it would be important to look at Section 8 housing differently. In many communities, the individuals who receive Section 8 housing are steered towards poorer neighborhoods. This results in creating enclaves of Section 8 housing.

Mr. Sheehan said that the author of the Housing Authority document was present and could explain the issue better than he could. He said that he understood that the Housing Authority was studying the issue rather than enacting the process.

The author of the plan came forward and greeted the Committee. He said that he had also helped create the Consolidated Plan. He explained that there was not an attempt to convert the tenant based voucher to project based vouchers as a general policy. In order to convert any of them there must be a set of rules.

The speaker pointed out that the there was a graph in the information packet tracking the movement of population in and out of certain census tracts. Mr. Kimmel had many questions about the graphs. It was explained that the recession had an impact on the

movement of residents. The speaker said that if the resident chose to move into a lower poverty census tract had less of an impact than hoped. However, this movement gradually impacts the location of all Section 8 vouchers by disbursing them throughout the community more evenly.

The discussion then moved to why project based vouchers are used. HUD would not approve the construction of a project in an area of racial concentration, or economic concentration. By doing project based vouchers, a municipality can put six units in one location and eight units in another location in the municipality rather than concentrating them all in one area. Discussion followed about the tracking and monitoring of the vouchers.

The staff member said that his company monitors various housing authorities for HUD compliance and that Norwalk has one of the best housing authorities he has seen. Discussion followed.

Mr. Hempstead said that there had been a number of times when the Housing Authority submitted changes because something new came up in the plan or a new regulation is introduced.

Mr. Sheehan said that the Council does approve the plan and if there are concerns about the conversion of the tenant based vouchers to project based certificates, the approval can be conditioned with a Housing Authority presenting these conversions to the Council during the year. This would give the Council members an understanding of how this is happening. Mr. Hempstead said that he would like a history of these conversions that were done during the life of the current plan. Discussion followed.

It was noted that the Housing Authority manages a total of 680 vouchers and these vouchers can move between project based or tenant based. It is believed that there is a cap on 25 units that can be converted from tenant based to project based. One concern is that the Federal Government has changed how many vouchers they will issue.

**** MR. BONENFANT MOVED TO APPROVE THE DRAFT PLAN.**

The representative said that he had been at the public hearing prior to coming to this meeting and there were no modifications to the plan.

**** THE MOTION TO APPROVE THE REQUEST TO ADVANCE THE NORWALK HOUSING AUTHORITY'S CERTIFICATE OF CONSISTENCY REQUEST TO THE COMMON COUNCIL PASSED WITH THREE ABSTENTIONS.**

Mr. Hempstead said there were still some questions about the conversion of tenant based vouchers to project planning process. Mr. Kimmel asked if the language in the proposal could be more specific, clarifications on the limits, and monitoring procedures. These requests will be brought to the Board promptly. A red line copy will be brought to the Committee.

COMMITTEE ORIENTATION.

Reviews.

Ms. Strauss came forward to give the Committee an update on the Globe Theater. The Planning Committee approved the Redevelopment Agency to apply for a Section 108 loan guarantee to HUD for this project to help finance the Globe Theater on Wall Street. The Redevelopment Agency is responsible to submit these types of applications to HUD. This loan guarantee puts a reserve against the amount against the City's annual allocation of HUD funds. Mr. Farricker said that there would be a guarantee in place before there were any funds withdrawn from the guarantee. Mr. Sheehan then gave an overview of the situation and said that there was no obligation on the part of the City to issue the debt unless the council is comfortable with the documentation that it has and that the project will go forward as proposed.

Mr. Kimmel asked if the market study was contingent on the financing and he also wished to know if there was a timeline for the project. Mr. Sheehan said that the market study has not been done, but it was a condition of the City's approval of the 108 loan. Mr. Kimmel had several other questions about the market study. Mr. Sheehan said that Mr. Farricker stated that the market- study would cost him between 70 to 80 thousand dollars, so he wanted some assurance that the City would grant him approval of the project before investing that much money into the project. Mr. Farricker is to secure private financing.

Discussion then followed about the details of the submission of the application to the Hartford HUD office. At this point, the application has been forwarded to the Washington D.C. office while the Wall Street Theater Company is working on any remaining issues.

Mr. Hempstead said that this project has been in various stages since Mayor Knopp's administration and that the goal was to preserve downtown Norwalk using this as a lynch pin.

Mr. Westmoreland asked about the fact that the Wall Street Theater Company had secured a loan for 1.5 million dollars. Mr. Sheehan said that he believed it was a grant. There is no other debt associated with the project aside from the Section 108 loan. Mr. Westmoreland had a question about the purchase price of the theater. Discussion about the details followed.

Mr. Kimmel asked if there was a deadline. Mr. Sheehan said that he thought there was, but he would have to check the documentation. Mr. Hempstead said that he would send along copies of the agreement to the Committee members. Mr. Sheehan said that it was his understanding that the City's timeline had to do with Mr. Farricker's ability to draw down on the loan.

Review Functions and Purpose of the Planning Committee.

Mr. Sheehan explained that ultimately the Committee deals with the planning and economic development issues at the City and moves items to the Council. If a project is not approved by the Committee, it would not have a vote on the Council floor. The authority of the Committee is limited to whether to advance an item to the full Council or not. The Committee does not approve or have any additional jurisdiction or power on the items.

Review Functions and Purpose of the Redevelopment Agency.

The Redevelopment Agency has a host of powers associated with it. The most important is the Connecticut General Statute 8-124 thru 139, which authorizes the City to designate areas for redevelopment and urban renewal. The areas that the City has identified for urban renewal and redevelopment are six: Wall Street, Reed Putnam, South Main Corridor, West Avenue, Washington/South Main, and South Norwalk. The Agency, under state statute consists of five members that are appointed by the Mayor and are presented to the Council and are subject to legislative approval.

Mr. Sheehan then said that the Redevelopment Agency deals with changes within the plan areas that the City has already identified as desirable. The proposals that are presented to the Committee are changes to these areas, such as blight elimination, crime reduction or other conditions. It is important to consider the historical context that resulted in the area being in the condition it currently is.

Norwalk is fortunate in terms of its location, with the Norwalk River, the New York/New Haven railroad, the Danbury branch and other factors. The Agency looks at the areas that are most concentrated in relation to the river and to the railroad.

He gave an overview of the economic history of Norwalk. Due to the location of the river and the railroad, manufacturing was a key component of the local economy. By the 1950's, most heavy manufacturing had left Norwalk. By the 1990's there were many financial concerns. Often the areas that the Redevelopment Agency focuses on are areas that the private developers have passed by. Mayor Collins was instrumental in the redevelopment of Washington Street.

The physical changes in Norwalk had strong impact on the redevelopment of the city. Post World War II, the Baby Boom and the prevalence of the automobile allowed a migration of people out of the urban core.

Review Redevelopment & Urban Renewal Plan Areas and Related Projects.

In the last ten years, there has been a return of investment to the urban core. Infrastructure, employment, buildings, architecture, culture all stimulate an interest in returning to the city. The City needs to be more hospitable to the new residents and the investors who provide those types of amenities. He then listed a number of projects that were underway in Norwalk including 20 North Water Street, Head of the Harbor, POKO, and West Avenue Corridor.

Mr. Sheehan said the City's poorer neighborhoods run right through the urban corridor from South Norwalk to Wall Street. When properties are neglected, it leads to blight, code violations and the issues associated with lack of maintenance on the property.

The Agency does not have the authority on its own to implement these plan areas, the authority rests with the Council. The findings rest with the Council. The Agency serves as the staff for the Planning Committee. The Agency implements the City's policy in regards to redevelopment.

Norwalk's assets include the harbor, the river, Interstate 95, Route 7, Metro North, which gives Norwalk's urban core some strengths. The residents and business community are very engaged, which is a benefit to the City. Many of the proposed projects have been enhanced by public dialog. He added that the City government is very progressive in terms of its approach to viewing urban issues and improving the situations economically. There are issues that can be done better and possibly quicker, but knowing that the issues are there and moving forward with development shows the City is functioning well.

Mr. Sheehan then listed the areas of concern, such as the deterioration of downtown. There are segregated land uses that exist. Housing development has occurred away from the urban core and transportation resources. The office aspect is concentrated at the Merritt 7 complex, retail is located at the perimeter rather than in it. However, entertainment is spread throughout the City.

During the last 10 years, the housing vacancy rate has not exceeded 5% even at the height of the recession. This is good in that there is not a large amount of vacancy, but it also impacts affordability.

Another positive issue is that Norwalk is now embracing multi-family housing, which it did not in the past. This is now coming back into the urban core. A market study done two years ago found that independent of background growth, the City should be

expecting 1,500 units of new housing coming online during the next five years. There is a balance between multi-family housing and the vacancy rate. If the market hits a saturation point, the housing costs would start to drop. That has not happened in Norwalk. Discussion followed about this.

The City has a lengthy process when considering redevelopment. First, there is a Master Plan process with a multitude of opportunities for public input. After the Master Plan is approved by the Council, the basis of the master plan is converted into a Redevelopment Plan. That plan then goes through the same process for Council approval. Once the redevelopment plan is approved, Requests for Qualifications (RFQs) are sought.

Mr. Kimmel asked about the relationship between the Master Plan and Planning and Zoning. There is a Master Plan for Conservation and Development, and also Master Plans for individual areas, such as Wall Street, the TOD plan area, etc. One major flaw is that the City allows the Redevelopment Plan to go to the private market without the requisite zoning associated with it.

Mr. Kimmel asked how to resolve this issue. Mr. Sheehan said that it would be important to bring Zoning in and engage them on the Redevelopment Plan, so the requisite Zoning can be done to enable the plan. He went on to speak about using overlays on various zones. The Zoning Commission would be the only ones that would have the power to implement this change.

Mr. Kimmel asked about the use of Special Permits and their effect on the Master Plan. Mr. Sheehan said that Zoning has been very cooperative on a project by project basis and trying to advance the projects through the regulatory process as the projects become viable projects. There has been a problem with requests to change zoning that do not have specific projects. Mr. Sheehan said that his solution to this would be to create a zoning overlay for the plan area. This would deal with density, setback and parking.

The train station is the center for Transit Orientated District (TOD). Currently, there are thirteen different zoning districts located within a quarter mile from the train station. That makes no sense in a city this size. The Council needs to determine what they want to see in the area and the density levels that they are looking for. When a developer looks at this, it becomes very confusing and has an economic impact to any proposed project. When the city starts to give up open space for parking lots, it makes no sense. Discussion followed.

Mr. Sheehan said that the Redevelopment Agency alone can not be responsible for the implementation of the plans that are approved. There needs to be some level of departmental accountability to insure that the Council's decisions are being implemented. The agency can't just say, "It's approved, now do it."

The discussion then moved back to the process of how an project would work through the approval process. He pointed out that during the approval process, the underlying assumption is that the project will reach the construction stage.

Mr. Hempstead commented that a number of years ago the Committee held a workshop for the developers. He said that one of the discussion topics was streamlining the approach because the lengthy process often is detrimental to the projects. Mr. Hempstead said that he would like to have this issue discussed in the future. Mr. Sheehan said that he also felt the process could be streamlined in that often there was repetition of the same comments throughout the process. He added that there were benefits in public review process with modifications, but at some point the project needs to be finalized.

Reed Putnam – Mr. Sheehan then said that the Reed Putnam Urban Renewal Plan is more than the 95/7 site. The Reed Putnam Renewal Plan expands from West Avenue and reached south as far as the Maritime Aquarium. It includes areas that have been redeveloped on the east side of the Danbury line. This is one of the City's largest redevelopment plans and all that remains left to it is the 12 acre 95/7 site. There is no question that there has been issues with the length of time the 95/7 development has taken, but it is important to remember there was a major recession happening when the project was ready to advance in 2007. There is also some level of responsibility that the City needs to take for the delay because moving from an all office use to a mixed use took two and a half years, rather than six months. He then gave a brief overview of the history of the parcel and the concerns that the Council Members had at the time. The sections that have been built are now generating tax revenue for the City.

A new developer has taken over the 95/7 site and any change of the project in terms of the current site plan and its uses will need the approval of the Redevelopment Agency, the Planning Committee and the Common Council it reaches Zoning. Mr. Sheehan then reviewed the uses that were currently approved. The discussion then moved to the number of required parking spaces.

The West Avenue Corridor – Ms. Sweitzer then came forward to speak about the planning process that started in the 1970's and 80's. The State provided a great deal of infrastructure planning in 1998. The site was re-zoned in 2006 as a development district/design district, which again provided the infrastructure that would assist the project to move forward in the future. A Master Development Plan was negotiated with Seligson Properties in 2007, which was a casualty of the collapsed economy. A new set of investors has been drawn into the project. The investors dictate a significant amount of the land use and strategy. This is evident in the West Avenue development plan where there is excessive parking driven by the private sector. Mixed use is not a normal development pattern because the private investors are risk averse. They don't like mixing land uses and the City needs to be aware of this. There is less retail in the plan than in the past. The investment group is beginning to understand the market capacity of this site

better. The next phases will recognize this. As a community, as a regulatory agency, it is important to recognize the influence of the investors is a major aspect.

The first set of units should start construction after the first of the year. The first phase of the project should develop over the next twelve month period. The leasing office will be opening within the next few weeks. Ms. Sweitzer then reviewed the various locations of project phasing. Phase I of the project should be completed by the end of 2014. Construction on the Bigelow Tea property has started already with foundation work and should also be completed by the end of 2014.

Mr. Sheehan said the developer has been very encouraged by the response of the community to the project. He said that the developer recently commented that he was pleased with the City's performance on the project as a whole. The State has funded five million dollars of public improvements, which includes electrical, utilities and streetscape improvements. There are five different contractors working on the site. There has been great collaboration by the various City departments for this project.

Mr. Hempstead asked if there would be the possibility of holding a meeting at the site. Discussion followed. Ms. Sweitzer said that she had toured the project and that the developer would be open to giving the Council Members a tour.

Wall Street Redevelopment Plan – Wall Street Place - Mr. Sheehan then reviewed the details of the POKO project. He said that the Zoning Commission was expected to grant an extension to the developer. The current timeline expires in the fall of 2014. At this time, there is no way that the developer would be able to construct the Phase One units within the timeline. The reasons for the delay are with the funding sources. The project is a 30% affordable project. The requirement for public subsidy associated with it is greater than a normal project. The developer doesn't control the timelines when the State and Federal government decide to issue funding availability notices. Mr. Sheehan said that it would be important to understand what is in place now relative to bank commitments, and the State for the project.

Mr. Kimmel asked if the parking was a done deal. Mr. Sheehan said that he felt that the project should have come in for re-design more than a year ago. The amount of required parking appears to be beyond the scale of what needs to be. Discussion followed about the details.

Mr. Sheehan reminded everyone that the developer has already invested millions of dollars in the project plans before they are presented to the Planning Committee.

Mr. Sheehan said that there had been chatter about the fact that the City and the Redevelopment Agency had given extensions to the developer. Since the developer commenced construction, neither the City nor the Redevelopment Agency have offered

any extension. There's a timeframe in which the developer has to perform and there is nothing in the LDA that requires a review relative to the City and the Agency as to the performance levels. They don't have to meet a measurement of construction. The timeline is running out and will end in September 2014. He reiterated that neither the City nor the Redevelopment Agency have offered any extension.

The Zoning Commission has extended what it approved in terms of Zoning entitlement of the project. The project is better for the City if it is entitled rather than if it is not entitled. He then reviewed the details of why this was.

Mr. Sheehan said that the City, the Agency and the developer would have to meet to discuss the situation before July of 2014. The discussion moved back to the parking issues involved.

Wall Street – Head of the Harbor - Mr. Sheehan said that there has been a review of the option agreement. This has been advanced to the Council and sent back to the Committee. The Council tabled the item due to concerns raised by the Historic Commission. At the end of the last Council session, the item was advanced to the Council knowing that the option agreement had been on the table for a lengthy period of time without any formalized action on it.

Mr. Hempstead said that this was done in order to move the process along. It was acknowledged that there were numerous details that needed to be worked out. He said that Mayor Rilling had set up a meeting with Mr. Westmoreland and others to discuss the concerns.

Mr. Petrini asked about the Landmark Square changes. Mr. Sheehan said that this was part of the Master Plan and there were some changes to the project. The Master Plan provides the concept. There was some discussion about whether or not the project has been sent out for bid. Mr. Sheehan confirmed it had. One of the issues associated with the project is that it would be a six month construction period and render a portion of Wall Street as one way for the duration of the construction. This will have a serious affect on the businesses in the area and required more conversation with the businesses and property owners that would be impacted. Mr. Sheehan said that the bid might expire and need to go out for a re-bid.

Review Community Development Block Grant (CDBG) Program.

Mr. Hempstead thanked everyone for their patience and said that the Committee would continue the unfinished at the next meeting. There will be some action items on the agenda.

Mr. Hempstead said that there would be a review on the City Capital Budget in March. A public hearing is not required. The Council has the ability to move money within the Capital budget.

Mr. Bonenfant said that he still had questions and concerns about the various projects, but due to the time had not asked. Mr. Sheehan said that the Committee members could forward questions to him via email in advance of the meetings. Background information can be provided. Mr. Sheehan said that he would be happy to provide hard copies of the LDA for POKO. It is over 300 pages so it can not be emailed.

Mr. Watts said that the Committee members should notify the various Council Members who live in the districts where development is taking place so the Council Members can get additional information. Mr. Sheehan said that this was a good point.

Mr. Watts said that Mr. Sheehan and Ms. Strauss were in his district today to meet with constituents. He thanked Mr. Sheehan and Ms. Strauss for that.

Mr. Hempstead said that he appreciated the Mayor for his attendance.

ADJOURNMENT.

**** MR. PETRINI MOVED TO ADJOURN.**
**** THE MOTION PASSED UNANIMOUSLY.**

The meeting adjourned at _____ p.m.

Respectfully submitted

Sharon L. Soltes
Telesco Secretarial Services

THE PLANNING COMMITTEE
OF THE COMMON COUNCIL

125 East Avenue
P.O. Box 5125
Norwalk, CT 06856

TO: MEMBERS, PLANNING COMMITTEE OF THE COMMON COUNCIL

FROM: TIMOTHY T. SHEEHAN, EXECUTIVE DIRECTOR
SUSAN SWEITZER, SENIOR PROJECT MANAGER

RE: SOUTH NORWALK RAILROAD STATION AREA TRANSIT ORIENTED DISTRICT REDEVELOPMENT PLAN DEVELOPMENT

DATE: DECEMBER 26, 2013

In October 2011, the Common Council approved the South Norwalk Railroad Station Area Transit Oriented Development Strategy Master Plan (South Norwalk TOD Master Plan). The Plan identified a TOD District boundary that extends approximately ½ mile from the South Norwalk Station (see attached map) and established that this area would benefit from strategic redevelopment and infrastructure improvements that will reposition the neighborhood using TOD as a catalyst. In order to unlock investment in these improvements within the District, the Plan identified specific recommendations:

Zoning changes to support TOD neighborhoods
Design Guidelines to inform future development
Circulation and transportation recommendations to improve pedestrian corridors, streetscaping, bicycle use and vehicular traffic

The implementation of these goals is currently challenged by the fact that the TOD District encompasses three existing Urban Renewal Areas: South Norwalk Urban Renewal Plan Area I (1962), Washington-South Main St Improvement Area II (1981) and the South Main Corridor Urban Renewal Plan (1990). In addition, within the TOD District and those existing three Urban Renewal Areas, there are eight different active zoning designations (see attached map) most of which have overlapping permitted land uses, densities and parking requirements.

Adoption of the South Norwalk TOD Master Plan signaled the City's commitment to the community goals and objectives identified therein. On April 9, 3013 the Norwalk Common Council approved the consolidation of urban renewal areas and current Zoning distinctions to support those goals. As referenced previously, there are substantive commonalities within the existing urban renewal area controls and design guidelines (although several plans are very dated). In addition, most of the existing Zoning categories include common permitted uses, densities and parking requirements. The District consolidation is intended to establish a single District-wide Redevelopment Plan with uniform Zoning criteria through-out which support the South Norwalk TOD Master

Plan objectives of encouraging moderate scale, mixed-use and mixed-income neighborhoods with adequate circulation amenities, public safety and open space. Attached is a proposed Request for Qualifications to engage the services of a professional consulting team to develop that Plan.

ACTION REQUESTED: **AUTHORIZATION TO ISSUE A REQUEST FOR QUALIFICATIONS FOR CONSULTANT SERVICES FOR THE DEVELOPMENT OF THE SOUTH NORWALK TRANSIT-ORIENTED DISTRICT REDEVELOPMENT PLAN TO THE COMMON COUNCIL FOR APPROVAL.**

REQUEST FOR QUALIFICATIONS
FOR THE DEVELOPMENT OF A SOUTH NORWALK TRANSIT ORIENTED DISTRICT REDEVELOPMENT PLAN

DUE BY _____

NORWALK REDEVELOPMENT AGENCY
REQUEST FOR QUALIFICATIONS
FOR THE DEVELOPMENT OF A SOUTH NORWALK TRANSIT-ORIENTED DISTRICT REDEVELOPMENT PLAN
January 2, 2014

VISION

In October 2011, the Norwalk Common Council approved the South Norwalk Railroad Station Area Transit-Oriented Development Strategy Master Plan (TOD Master Plan) . The Plan was undertaken to unlock the next steps in the economic revitalization and redevelopment of the South Norwalk neighborhood within easy walking distance of the South Norwalk Railroad Station. Excellent regional access by commuter rail to and from jobs and homes in Norwalk was identified as a fundamental competitive advantage. The Plan identifies specific pragmatic strategies that the City can apply to encourage and enhance private sector investment that will incrementally result in positive transformation. Norwalk will directly benefit from a complete, compact neighborhood that draws new residents and businesses within a socially and economically diverse District. Attracting coordinated private investment will bring jobs, enhance real estate values and improve the quality of life for existing residents and businesses as well.

GENERAL STATEMENT OF PURPOSE

The TOD Master Plan identified a TOD District boundary that extends approximately ½ mile from the South Norwalk Railroad Station (see attached Exhibit I) along the blocks that lie between Martin Luther King Drive to the west, the Norwalk River to the east, the Webster Street block to the north and Concord Street to the south. The TOD Master Plan also identified specific recommendations to unlock investment in improvements within this District that include:

Zoning changes to support TOD neighborhoods
Design Guidelines to inform future development

Circulation and transportation recommendations to improve pedestrian corridors, streetscaping, bicycle use and vehicular traffic

The implementation of these goals is currently challenged by the fact that the TOD District overlaps three existing Urban Renewal Areas : South Norwalk Urban Renewal Plan Area I (1962). Washington-South Main Street Improvement Area II (1981) and the South Main Corridor Urban Renewal Plan (1990). In addition, with the TOD District and those existing three Urban Renewal Areas, there are eight different active zoning designations (see attached Exhibit II) most of which have overlapping permitted land uses, densities and parking requirements.

Adoption of the TOD Master Plan signaled the City's commitment to the community goals, objectives and opportunities identified therein. On April 9, 2013, the Norwalk Common Council authorized advancing the Plan recommendations through the consolidation of urban renewal areas and current Zoning distinctions to support and concentrate public resources behind implementation. Aside from a common geography, the existing urban renewal areas share common controls and design guidelines separated most significantly by the aged nature of the planning. Most of the Zoning categories include common permitted uses, densities and parking requirements although none acknowledge the benefits of active public transit through increased densities and/or reduced parking requirements. The goal of District consolidation is to establish a single TOD District Redevelopment Plan area with uniform Zoning criteria that supports the Master Plan objectives of encouraging moderate scale, mixed-use, mixed-income neighborhoods with adequate circulation amenities, public safety and open space.

The Norwalk Redevelopment Agency is seeking *Statements of Qualifications* from qualified planning consulting teams to develop a TOD District Redevelopment Plan pursuant to the provisions of Section 8-127 of the Connecticut State Statutes to provide the framework for implementation of the strategic recommendations in the TOD Master Plan. The TOD District Redevelopment Area geography is roughly defined by the Master Plan District boundary but adjustments to the specific limits of a TOD District Redevelopment Plan Area will be considered.

The team should include a broad range of urban planning and development expertise including specifically zoning, transportation, parking, economic development, housing markets, streetscape design and design guidelines disciplines. The TOD District Redevelopment Plan will include District-wide project goals and standards relating to land use, design guidelines, streetscapes, traffic improvements, utilities, public parking, private parking minimums and maximums, historic preservation, an adopted comprehensive and uniform Zoning regulation and recommended financial tools and resources.

COMMUNITY PARTICIPATION

Community involvement is a critical component to building an implementation tool that is realistic and relevant for the existing South Norwalk community as well as the future

neighborhood residents and businesses. In addition, the Norwalk Redevelopment Agency, Planning Commission, Zoning Commission, Department of Public Works and the Norwalk Common Council will also be integral to the Plan development, review and approvals. The consultant team must use whatever presentation tools are appropriate to engage the community and/or municipal workshop reviews. In addition, the consulting team will also provide presentation materials electronically suitable for posting on public websites.

SUBMISSION REQUIREMENTS

Statements of Qualifications shall include the following:

Introduction letter: The letter shall identify the lead consultant, area of expertise and understanding for the project. The letter shall include the lead consultant individuals who will be the project management as well as the sub-consultants and their specific project assignments.

Qualifications: A sample of relevant comparable projects shall represent the lead consultant's experience with Redevelopment Plan development, with TOD and related Plan specific component features, with community participation and with municipal adoption of Redevelopment Plans. A list of comparable projects shall represent the qualifications of proposed sub-consultants for the particular skill sets they represent in the development of TOD District Redevelopment Plan components. Note should be taken of comparable projects on which the lead consultant performed as a team with any or all of the proposed sub-consultants

Method and Approach: The lead consultant will appropriately detail the method it will employ to assure that the development and approval of the TOD District Redevelopment Plan will be completed with high quality, broad community support, in a timely fashion and within budget by including an outline of scope of work tasks including community participation schedule.

Special Services: The lead consultant shall provide detailed information about special services, if any, that the consultant team provides that enhances its ability to provide the services requested in particular means to engage community outreach.

Staffing: The lead consultant shall provide a list of individuals, including sub-consultants and their qualifications who will be committed to completing the TOD District Redevelopment Plan through approval by the Common Council.

References: The lead consultant shall provide a list of five references in which similar services were provided by the lead consultant, noting the specific individuals representing the lead consultant for these comparable projects, within the past three years.

Schedule: Provide a work schedule for the TOD District Redevelopment Plan project laying out completion of all the Tasks within the proposed scope of work. The City expects to consider approval of the completed TOD District Redevelopment Plan no later than _____ 2014

SELECTION PROCESS

All *Statements of Qualifications* will be evaluated by a Selection Committee established by the Norwalk Redevelopment Agency representing professional staff and community stakeholders. The Selection Committee will make a recommendation to the Norwalk Redevelopment Agency. However, the final selection will be made by the Norwalk Redevelopment Agency. After evaluation of the submittals, several firms may be selected for oral interview if necessary. Submittals will be evaluated and scored on the following minimum criteria rated by following percentages:

30% Responsiveness to scope of the TOD District Redevelopment Plan development, community involvement plan and Plan approval strategy
30% Composition and professional experience of consultant team
25% Prior experience with TOD Redevelopment Plan development and adoption
15% Project schedule

PROCEDURES AND SCHEDULE

The Norwalk Redevelopment Agency (Agency) reserves the right to accept or reject any and all proposals and to change the scope of this RFQ. The decision of the Agency shall be final. Any *Statement* submitted during this RFQ process becomes the property of the Agency. The Agency will not be liable for, nor pay any costs incurred by the proposer in preparation of a response to this RFQ or any other costs involved including travel or reproduction costs. The RFQ mailing list is available upon request.

Five copies of the **Statements of Qualifications**, together with an electronic submission, should be submitted
to the Norwalk Redevelopment Agency by _____ to the attention of:

Timothy T. Sheehan, Executive Director
Norwalk Redevelopment Agency
125 East Avenue Room 202
Norwalk, CT 06856-5125
tsheehan@norwalkct.org

REFERENCE DOCUMENTS
(available through the following link: www.norwalkredevelopmentagency.com)

South Main Corridor Urban Renewal Plan
South Norwalk Urban Renewal Plan Area I
Washington-South Main Improvement Area II
Norwalk Zoning regulation and map
South Norwalk Railroad Station Area Transit Oriented Development Strategy Final Report (Master Plan)
Norwalk Connectivity Master Plan
CDM Smith Contract for DOT TOD Pilot Program Grant

THE PLANNING COMMITTEE
OF THE COMMON COUNCIL

125 East Avenue
P.O. Box 5125
Norwalk, CT 06856

TO: MEMBERS OF THE PLANNING COMMITTEE OF THE NORWALK COMMON COUNCIL

FROM: TAMI STRAUSS, DIRECTOR OF COMMUNITY DEVELOPMENT PLANNING

DATE: DECEMBER 24, 2013

RE: REQUEST FOR CONSOLIDATED PLAN CERTIFICATE OF CONSISTENCY - GREATER NORWALK CONTINUUM OF CARE

BACKGROUND

The Norwalk/Fairfield County Continuum of Care ("Norwalk CoC") is preparing an application to the Department of Housing and Urban Development ("HUD") seeking a renewal of funding under the McKinney-Vento Homeless Assistance Act. HUD's Homeless Assistance Continuum of Care competition enables homeless assistance consortia (called Continuums of Care) to compete nationally for allocations of homeless assistance funding. In prior years, the competition could result in additional funding for Continuums that demonstrated past success in achieving goals to prevent and end homelessness. The current competition is for funding from the Federal 2013 Fiscal Year and the available funding is reduced as a result of the recent sequestration.

In the Continuum of Care competition, the Norwalk CoC submits an overall application describing community efforts to prevent and end homelessness and reports on actual achievements. HUD reviews this application and assigns it a score. Included with the CoC Application are individual project applications for homeless assistance funding. These project applications are submitted by government agencies and nonprofit organizations. HUD requires that the Continuum of Care provide a Certification of Consistency with the City's current 5-year Consolidated Plan (ConPlan) for each of the individual project applications.

Due to the sequestration, no new projects will be funded this year. All project applications are seeking a renewal of funding that was previously awarded. There are ten separate projects totaling nearly $1.4 million (with a possibility of eleven as one existing project may be divided into two components in order to maximize potential funding). Of the ten renewing projects, seven are providing permanent housing for homeless families and individuals, one provides supportive services to homeless people, one covers the operations of the Homeless Management Information System (HMIS), and one provides planning assistance to the Continuum of Care. All seven permanent housing projects and the supportive services project are currently operational and the failure to renew these grants could result in the loss of housing and return to homelessness of families and individuals currently receiving assistance.

SUMMARY OF PROJECTS

Below please find a listing of those projects that serve as the basis of the CoC's response to the HUD SuperNOFA.

Agency	Project Name	Amount	Type	Number/ Type of Units	Targeted Clients
Norwalk Emergency Shelter, Inc.	129 South Main Street	$47,830	Renewal	2 efficiency, one five bedroom	7 Chronic homeless having disability
United Way of Coastal Fairfield County	HMIS	$74,521	Renewal	N/A	All individuals served by the Norwalk Continuum of Care
Family & Children's Agency (FCA)	Homeless Support Services	$120,176	Renewal	60 individuals served	Homeless adults
Hall-Brooke Behavioral Health Services	Homestead Residential Services	$309,029	Renewal	8 multi-family scattered site units – 23 total beds	Homeless/ Chronic Homeless – Disabled by Mental Illness
Mid-Fairfield AIDS Project (MFAP)	Independent Living Program Open 2012	$47,200	Renewal	1-One bedroom 1- Two bedroom	Chronically homeless adults (2-3 people)
Mid-Fairfield AIDS Project (MFAP)	Independent Living Program 1	$123,200	Renewal	11 x 1 Bed. 3 x 2 Bed.	20 with HIV/AIDS
Norwalk Housing Authority	Greater Norwalk PILOTS Initiative	$166,640	Renewal	10 scattered one bedroom	5 homeless w/ disability, 5 chronic homeless w/disability
State of CT Dept. of Mental Health and Substance Abuse Services	Norwalk Shelter Plus Care	$421,629	Renewal	25 scattered apts; 7 efficiency, 13 x 1 bed 4 x 2 bed 1 x 3 bed	Homeless/chronically homeless with disabilities
Human Services Council	Norwalk COC Planning	$17,945	Renewal	NA	Planning grant
State of CT Dept. of Mental Health and Substance Abuse Services	Norwalk Shelter Plus Care- Reallocation Budget Units	$46,560	Renewal	1-One bedroom 1- Four bedroom	Chronically homeless with disabilities

CONSISTENCY WITH CONSOLIDATED PLAN

The projects associated with the CoC's application response to the HUD SuperNOFA are consistent with the City's current ConPlan. All such projects are designed to provide housing and support services to homeless individuals or individuals at risk of homelessness. In so doing these projects address multiple elements of the City's ConPlan. Specifically, such projects respond to *Goal One*, or the *Housing Pathway*, found on page 18 of the ConPlan, which identifies the need to support efforts to stabilize or reduce housing costs. These projects are also responsive to *Goal Three*, or the *Household Stability Pathway*, found on page 19 of the ConPlan, by supporting efforts to ameliorate the impacts of the current economic downturn on Norwalk's families. As stated in the ConPlan's *Homeless Needs* narrative on page 89, homeless families and individuals require access to supportive services '...in order to make the transition to independent living and to address other problems, including substance abuse or mental illness'. The Continuum projects play a vital role in providing continued and increased access to mental health services and basic needs for Norwalk's homeless families and individuals.

ACTION REQUESTED

Advance to the Common Council authorization for the Mayor to execute the required Certificate of Consistency on behalf of the Greater Norwalk Continuum of Care's response to the U. S. Department of Housing and Urban Development SuperNOFA.

NORWALK COMMON COUNCIL
REQUEST FOR ITEM TO BE PLACED ON AGENDA

DATE OF REQUEST: October 4, 2013
(Note – Agenda closes 12:00 Noon on the Thursday before the Council meeting).

Person/Department/Committee Making Request: Timothy T. Sheehan, Redevelopment Agency

Section on Agenda Where Items Is To Appear: PLANNING COMMITTEE

Has Items Been To A Council Committee? Yes___ No__X__

Which One? PLANNING COMMITTEE

Has The Item Been Reviewed By the Planning and Zoning Commission Under Section 8-24 Of The State Statutes? Yes _____ No _____ N/A __x__

List Item/s And Action To Be Taken: (Attach document to be approved or backup material. If a contract is to be awarded, please include name of contractor, amount of contract to be awarded and account from which payment will be made).

Approve the recommended terms regarding the intended Smith Street Option Agreement by and between the City of Norwalk and M. F. DiScala and Company and condition such approval upon the Common Council's approval of the final Option Agreement containing the referenced terms to be advanced by Corporation Counsel.

STATUTORY AUTHORITY UNDER WHICH ACTION IS BEING TAKEN: _____

EFFECTIVE DATE OF ACTION (if applicable): Immediately upon approval

Signature of Person Making Request
Timothy T. Sheehan, Executive Director

Norwalk Redevelopment Agency
125 East Avenue
Norwalk, CT 06856-5125

THE PLANNING COMMITTEE

OF THE COMMON COUNCIL

125 East Avenue
P.O. Box 5125
Norwalk, CT 06856

MEMORANDUM

TO: MEMBERS OF THE COMMON COUNCIL

FROM: TIM SHEEHAN, REDEVELOPMENT

DATE: OCTOBER 4, 2013

RE: SMITH STREET OPTION AGREEMENT

The Planning Committee has spent significant time reviewing the site plan for the Head of the Harbor development as proposed by M. F. DiScala & Company (attached) and the memo prepared by Agency Counsel outlining the general business terms that might be acceptable to the City with regard to the conveyance of certain portions of Smith Street necessary to allow this phase of the development to advance to site plan review and commence the related street abandonment process (attached). At the conclusion of this review, the Planning Committee publicly endorsed (nonbinding) both the site plan and the drafted terms as being generally acceptable and authorized staff to construct a formal contract for the Committee's further consideration.

In July the Redevelopment Agency, serving as staff to the Planning Committee, presented a draft Option Agreement (attached) to the Planning Committee for its consideration that incorporated the referenced terms and the Committee's stated intent that conveyance of the property not occur until such time as the City is confident that construction of the proposed development is both evidenced and imminent into a draft contract form.

The draft Option Agreement and its related terms were accepted by the Planning Committee in July of 2013 and as such were advanced by the Committee to Corporation Counsel for it review and comment and further legal formatting. The Committee expressed at that time its desire to Corporation Counsel to be provided the final legal contract that could then be approved by the Committee and advanced to the Common Council for its final approval.

In that such a document was not provided to the Committee by Corporation Counsel within the sixty day window provided, the Committee has chosen to advance the terms of the intended Option Agreement (attached) to the Common Council for its approval. Approval of such terms shall provide additional guidance to Corporation Counsel to formulate the referenced Option Agreement in its final form and return it to Planning Committee staff in advance of the Committee's November meeting in hopes that the completed Option Agreement might be considered and approved by the currently seated Common Council.

ACTION:

The Common Council approves the recommended terms regarding the intended Smith Street Option Agreement by and between the City of Norwalk and M. F. DiScala and Company, Inc. and so conditions such approval upon the Common Council's approval of the final Option Agreement containing the referenced terms to be advanced by Corporation Counsel.

M.F. DiScala
& Company, Inc.

Real Estate Investment Bankers & Consultants

June 28, 2011

Mr. Tim Sheehan
Executive Director
Redevelopment Agency
125 East Avenue
PO Box 5125
Norwalk, CT 06856-5125

RE: North and South Parcel
Head of the Harbor Redevelopment Project

Dear Tim:

As you well know, we have all been working for many years trying to figure out a plan for both the North and South Parcels of the Head of the Harbor Redevelopment Project that will work for both the City of Norwalk and us. We believe we have finally put together a plan that is financially feasible for us as developers that also helps, along with Poko and Avalon, bring new life to the Downtown Norwalk Area.

To summarize the enclosed drawings, our project would be as follows:

South Parcel

- # of Units – 60 units, Building A – 45 units, Building B 15 units
- Commercial Space – 5,000 square feet on the 1st floor of Building B
- # of Floors – Building A is 3 floors, Building B is 4 floors
- Land Square Footage – 78,310 SF including 8,000 SF along Mill Hill and about 15,000 SF of Smith Street that needs to be purchased from the City
- Density – 1 unit per 1,300 SF of land as per code
- FAR – 1.0 SF of building per SF of land as per code
- Parking – 105 spaces are required and we are providing 109 spaces. 64 spaces are on grade on either side of Smith Street and 55 spaces are located under Building A only.
- Plaza – Large public plaza located between the two buildings with view of the harbor from East Wall Street.
- Boardwalk – A beautifully landscaped 400 foot public boardwalk will run the entire length of the property along the harbor with access from the plaza area as well as from the north side of Building B at the intersection of Wall Street & Smith Street. The estimated cost of the boardwalk and plaza area is about $1,500,000, or $25,000/unit before we even start.
- Mill Hill Access – We would provide a walkway from the south end of our property to access Mill Hill as well as work with the Historical Society to improve the old barn and jail located on Smith Street. Cost to be determined

Ten Wall Street
Norwalk, Connecticut 06850
Tel: (203) 854-5046
Fax: (203) 853-9246
Email: MFDiScala@DiScala.com
Web: www.DiScala.com

Individual Membership Society of Industrial and Office Realtors SIOR
BOMA
FIABCI-USA International Real Estate Federation
IOREBA

North Parcel

- # of Units – 8 townhouse units on Main Street similar to our West Pine Place development project
- Commercial Space – Each unit will have an office area (exact SF TBD) facing Main Avenue so that each unit could be live/work space
- # of Floors – 4 floors including the garage and office area on grade.
- Land Square Footage – To be determined based on need to comply with zoning and a final agreement with the City.
- Density – The maximum density as per code is 1 unit per 850 SF of land so we would need a minimum of 6,800 SF to comply
- FAR – The maximum FAR is 2.0 SF of building per SF of land and with at least 6,800 SF of land to comply with the density restrictions, the FAR would be less than 2.0.
- Parking – Each unit will have 1 parking space in a private garage on grade on the first floor and then 13 spaces would be located along the retaining wall for both tenant and public use.
- Parking Lot Improvements – The parking lot behind the existing retail will be improved with new lighting and landscaping in the lot and along High Street
- Freese Park – The park will be improved with a performance stage, walkways, lighting, and landscaping.
- Main/Wall Retail – We would encourage the owners of the existing retail space improve the facades of their buildings to conform to the updated style of the neighborhood.

Both the South and the North Parcels provide unique challenges that have ultimately lead the projects to where we are proposing them to be. We have had a few joint venture partners who are very experienced residential developers (Beacon Communities and Mill Creek Residential amongst others) look at these projects over the years. None of them have been able to make sense of the projects as they were initially proposed where the North Parcel was a large project and the South Parcel was a smaller project.

The need for 60 units on Smith Street is due to the infrastructure that must to be provided in order to have any type of development on that site. Piles are needed to support the foundation regardless of whether the building is 1, 2, 3, or 4 floors. Similarly, the plaza and the boardwalk are the same regardless of the number of floor or units and therefore we need this higher density of units in order to be able to provide for these features. The cost of the piles and public improvements that are par to of the developer costs are estimated to be about $2,500,000 or $40,000 per unit before the unit construction even begins.

In order to get the required density and have the units be an appropriate market size, we need to acquire additional land on the bottom of the hill from Mill Hill and Smith Street due to the very restrictive zoning regulations that provides for an FAR of only 1.0 and a maximum density of 1 unit per 1,300 SF. We would of course give an easement back to the City for Smith Street to be used as a public road and the parking shown on the Mill Hill land could potentially be used for public parking during off-peak residential times. Also contributing to the viability of the South Parcel plan is being able to provide the necessary parking for the project using only the on grade

street parking shown and parking under Building A. Having the parking under the plaza area and Building B was causing a substantial increase in the costs and it also deteriorated the attractiveness of the plaza and the boardwalk.

On the North Parcel, we really tried to make a large project of 60-120 units work on that site but the combination of several factors have made that impossible to do:

- The irregular shape of the site makes it very hard to layout an efficient building with the appropriate parking
- The public and private parking that is required for the project is not reasonable attainable. Assuming the City gave us the land and we had to provide the 90 public parking spaces with structured parking, the cost of that is likely at least $3,600,000 or $40,000 per space not including the parking that has to be provided for the units themselves.
- The site topography with a large amount of rock that would need to be blasted to level the site and the need to rebuild the retaining wall on the north side of the site which could total $1,500,000
- The unwillingness of the Main/Wall retail owners to cooperate to sell. Even if they would consent to sell, the cost would likely be at least $4,000,000 or $120,000 per unit for 75 units.

Based on these factors, we just don't feel it is possible to develop that site into a large residential project with commercial space on the first floor. Before we even start building the actual units, the cost could likely be $9,100,000 or over $120,000 per unit as detailed above.

With the great response we have received from both the public and the City on our project at the corner of West Avenue and Pine Street, we feel that a smaller project of 8 townhouse units facing Main Street would be very beneficial to the Downtown Norwalk to help upgrade the area in some way. There are some challenges in even just doing that project. The soil conditions are not suitable to build on because after the flood of 1955, the remnants of the buildings that were razed was deposited into the basement areas. We need to excavate the entire site and bring in fill and likely use piles to secure the buildings. The cost of doing this is not known yet but likely very expensive. Can the number of public parking spaces currently in the lot be reduced to accommodate the development? There is no place to add additional spaces. Will the City sell us the land needed for the project and at what price?

In summary, we believe that this proposed project is the best and most viable development option for the Head of the Harbor that will both benefit the City and is financially feasible for us to build. We believe the following are the benefits to the City of the entire project that we propose:

- Revitalizing a very blighted area of Norwalk that has been neglected since the flood of 1955
- Stabilize the upper portion of Wall Street and therefore reintroducing people to the area via foot traffic from the apartments which will have positive effects on the restaurants and retail shops.

- Enhance and promote the area as a historic district and support the historic society via the connection to Mill Hill.
- Increase the real estate tax based which currently is virtually $0 except for the land taxes on Smith Street.
- Change the Norwalk harbor from working, non-access harbor to an open access walking harbor via the public plaza and boardwalk through various entry points that we will be providing.

The potential hurdles standing in our way that we need the City's assistance on are:

South Parcel

- We need to acquire Smith Street and 8,000 SF of the Mill Hill land to allow us to meet our density, FAR and parking requirements? What price?
- Is the amount of commercial space, the plaza, and the boardwalk satisfactory to the City?
- Will the proposed parking on Smith Street and the Mill Hill land be allowed?

North Parcel

- Will the City allow us to build the 8 units realizing the City would prefer a larger project that we feel is unfortunately not feasible?
- Will the City sell us the land to build the project on and if so, what price?
- Can the number of public parking spaces currently in the lot be reduced to accommodate the development?

As we discussed with you, we would commit to building either the South Parcel first and then the North Parcel or to build them at the simultaneously. We do however want to get both projects approved at the same time. This is important because we believe both projects will be mutually beneficial to each other.

Thank you for all of the time and effort you and your staff has put into this project and we look forward to working with you to bring it to fruition and doing our part to improve Norwalk.

Sincerely,

Michael F. DiScala
President

Alan Webber
Chief Financial Officer

PROPOSED TOWNHOUSE ELEVATION

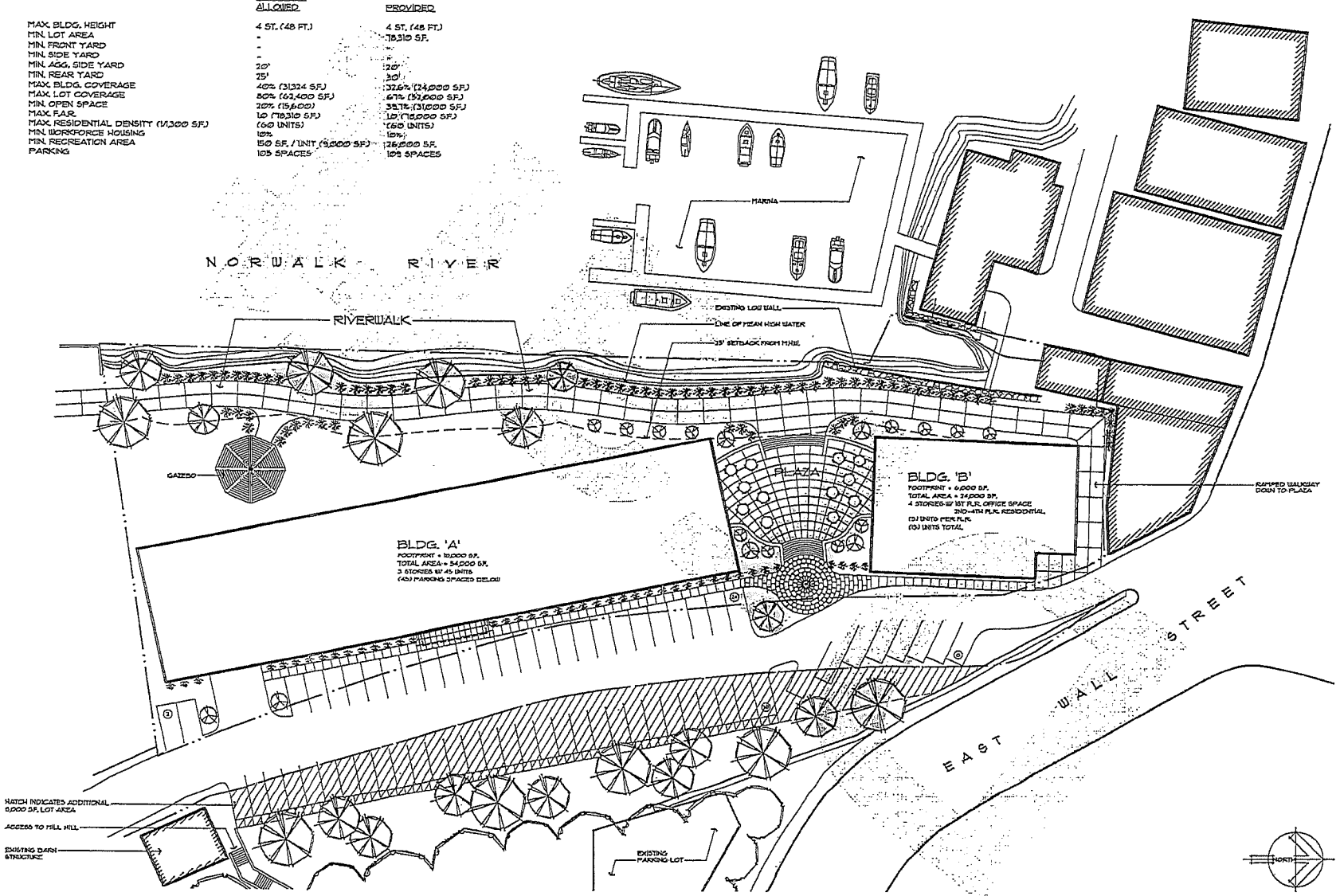
HEAD OF THE HARBOR - *NORTH*
Norwalk, Connecticut

The
SULLIVAN
Architectural Grou
27 Ann Street Norwalk, Connecticut 06854
ph: (203) 838-5036 fx: (203) 857-4454

ZONING DATA:

ZONE = CBDG
LOT AREA = 78,310 S.F.

	REQUIRED/ ALLOWED	PROVIDED
MAX. BLDG. HEIGHT	4 ST. (48 FT.)	4 ST. (48 FT.)
MIN. LOT AREA	-	78,310 S.F.
MIN. FRONT YARD	-	-
MIN. SIDE YARD	-	-
MIN. AGG. SIDE YARD	20'	20'
MIN. REAR YARD	25'	30'
MAX. BLDG. COVERAGE	40% (31,324 S.F.)	32.6% (24,000 S.F.)
MAX. LOT COVERAGE	80% (62,400 S.F.)	67% (53,000 S.F.)
MIN. OPEN SPACE	20% (15,600)	38.7% (31,000 S.F.)
MAX. F.A.R.	1.0 (78,310 S.F.)	1.0 (78,000 S.F.)
MAX. RESIDENTIAL DENSITY (1/1,300 S.F.)	(60 UNITS)	(60 UNITS)
MIN. WORKFORCE HOUSING	10%	10%
MIN. RECREATION AREA	150 S.F. / UNIT (9,000 S.F.)	26,000 S.F.
PARKING	105 SPACES	105 SPACES



Architect: The Architectural Group
1226 Post Road Fairfield, Connecticut 06824
ph: (203) 254-6630 fax: (203) 319-4683

Consultant

Project: HEAD OF THE HARBOR-SOUTH
Smith Street
Norwalk, Connecticut

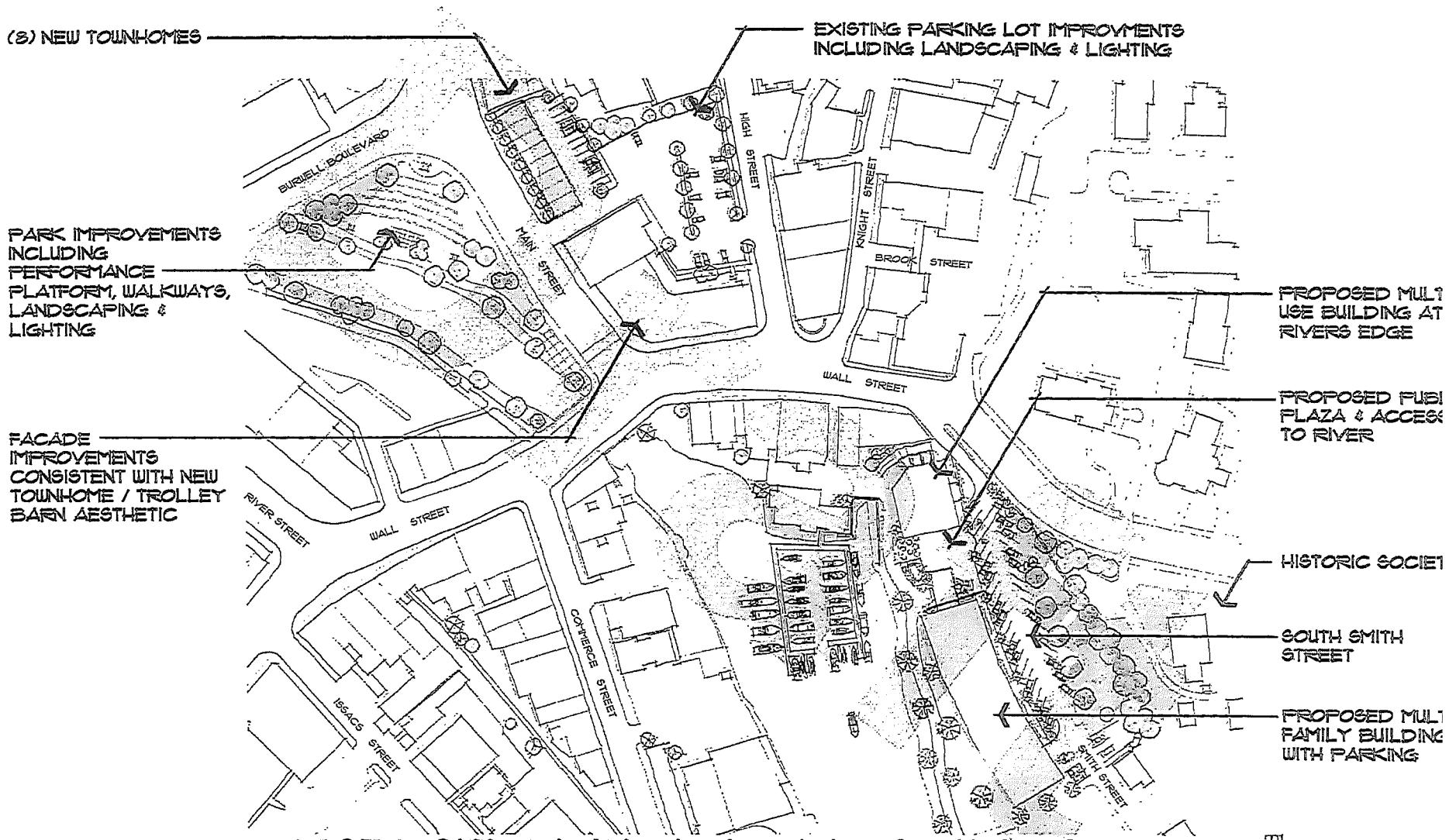
Drawing Title: CONCEPT SITE PLAN

Revisions

Seal:

Date: 04/28/11
Project No. 0814
Drawn by: SPT
Scale: 1"=20'

SC-01

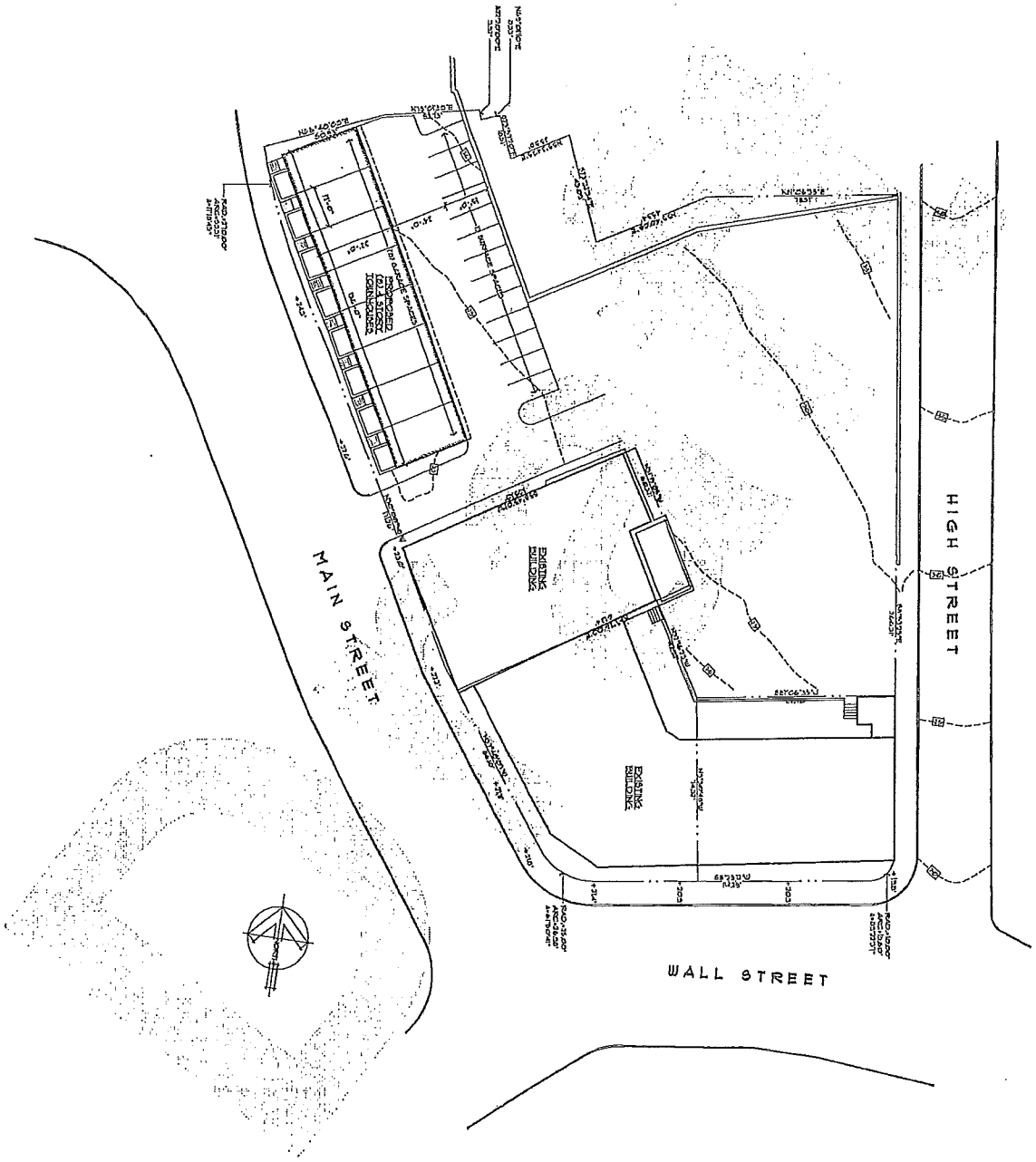


PROPOSED SITE PLAN OF NORTH & SOUTH PARCELS

HEAD OF THE HARBOR

Norwalk, Connecticut

The SULLIVAN Architectural Grou
27 Ann Street Norwalk, Connecticut 0685
ph: (203) 838-5036 fx: (203) 857-445



SP-01	Scale: 1"=20'	Drawn by:	Project No.: 0613	Date: 03/08/11		Sheet:

Architect
The Architectural Group
27 Ann Street Norwalk, Connecticut 06854
ph: (203) 838-5036 fx: (203) 857-1151

Consultant

Project
North Parcel
Wall Street
Norwalk, CT

Drawing Title
PROPOSED ARCHITECTURAL SITE PLAN

Revisions

MEMORANDUM

TO: Planning Committee of the Norwalk Common Council

FROM: DePanfilis and Vallerie, LLC, Norwalk Redevelopment Agency Counsel, David W. Stergas and Marc J. Grenier

RE: Land Disposition Agreement ("LDA") for the South portion of Wall Street Redevelopment Parcel 3

DATED: August 23, 2012

The Redevelopment Agency has served the City as the lead planning agency regarding the City's approved Wall Street Redevelopment Plan since July of 2004. In March of 2005, the Common Counsel approved M. F. DiScala & Company, Inc. as the developer with whom the City would enter into exclusive negotiations with for the redevelopment of Parcel 3 of the Wall Street Redevelopment Plan Area. Since that time, the developer has presented several development proposals to the City and has worked through a previous draft LDA. The developers proposals have not been approved by the City as the same were not compliant with the as of right zoning regulations associated with Parcel 3. As an aside, there are no approved zoning regulations appended to the Redevelopment Plan to effectuate the plan's implementation. Over the 18 months, the developer has been advancing a revised development plan for the Smith Street portion of Parcel 3 for the City's review and approval. The revised development plan appears to comply with the zoning regulations as indicated by the Director of Planning and Zoning; provided, that the City is willing to convey certain public property to the development site and enter into related public easement agreements with the developer. The developer and the

Agency have been seeking the level of support for the City to consider conveying the public land for the past 12 months and have recently concluded that there is substantial interest on the part of a number of Common Council members to advance broad terms of such a conveyance to the Planning Committee for its review and consideration. Those terms are set forth herein have been developed by Tim Sheehan, the Executive Director of the NRA and our office.

The following are our recommendations to the Planning Committee regarding the significant deal points which should be included in the above referenced LDA for Parcel 3 / Smith Street.

- The parties to the LDA will be the City of Norwalk (the "City"), and Head of the Harbor South, LLC (the "Developer").
- The Developer proposes to construct two buildings on Parcel 3 as shown on Schedule B attached hereto, to contain 60 residential units and 5,000 square feet of commercial space.
- The City will abandon the portion of Smith Street shown on Schedule A attached hereto and will transfer the portion of Smith Street that the City becomes the fee owner of by virtue of the abandonment and also the parcel referred to as City Owned Property on Schedule A (the "Property"). The Developer will pay all City costs associated with the abandonment process if said abandonment is approved.
- As consideration for the abandonment and transfer of the Property to the Developer, the Developer shall be required to do the following public improvements:
    - Reconstruct, pave and maintain the portion of Smith Street that is abandoned and grant the City a perpetual non-exclusive easement, in common with others, to the

general public to pass and repass (in a manner approved by the Norwalk Traffic Commission), substantially along the abandoned portion of Smith Street.

- Construct and maintain a public plaza, construction of a gazebo amenity on the boardwalk , both of which shall be open and accessible to the general public.
- Construct a public stairway and walkway from the project site to Mill Hill.
- Provide public access to the boardwalk from behind the buildings on Wall Street.

- The locations of said public improvements are shown on Schedule B.
- The cost of and complete listing of the required public improvements are shown on the Tighe & Bond Opinion of Cost attached hereto as Schedule C. The cost is currently estimated to be $711,000.00. In the event the costs do not total at least $660,000.00, which is the appraised value of the property the City will be transferring to the Developer, then the Developer will contribute the difference to furthering the implementation of the of the Mill Hill Master Plan, in such a manner determined acceptable to the City.
- The Developer will have an opportunity before signing the LDA to inspect the Property and the LDA will require the Developer to accept the property in an "as is" condition. The following is the anticipated order of events to complete the project, including the above public improvements:
  - Developer to inspect the Property at its own expense. A draft license agreement for inspections has been drafted for review and is attached hereto as Schedule D.

- LDA negotiated, approved and executed by all parties, which approvals will include approval of the Developers Conceptual Master Site for the South portion of Parcel 3.
- Zoning Commission approval of the Site Plan and required zoning modifications at Developer's expense (to be filed within 30 days of LDA execution).
- Commencement of the Smith Street abandonment process by the City within 30 days after Zoning Commission approval of Site Plan.
- City to amend and approve the required Amendments to the Redevelopment Plan to permit improvements contemplated by the approved Site Plan.
- Construction Plans reviewed and approved by Common Council and/or its designee.
- Working Drawings reviewed and approved by Common Council and/or its designee.
- Developer to obtain all necessary governmental approvals to construct the improvements.
- Corporation Counsel serving as the City's legal counsel to designate a qualified third party to review Developers Evidence of Equity Capital and Financing for the project.
- Upon completion of the foregoing, the City abandonment process for Smith Street will be completed and the Property transferred by the City to the Developer subject to all public easements being reserved in the deed of conveyance, and at that time, the Developer shall post a performance bond in the amount of 150% of the Tighe and Bond Opinion of Cost as set forth on Exhibit C, so as to insure that

the public improvements are completed by the Developer. In addition, any required public easements shall be recorded on the Norwalk Land Records as well.

- Developer to complete construction and public improvements within 30 months.

- LDA will not permit the Developer to transfer the project site or nor will it permit any members of the Developer to transfer any membership interest in the Developer prior to completion of the project, with limited exceptions as approved by the Common Council, provided Michael F. DiScala retains operational control of the management of the business affairs of the Developer and its affiliates.
- LDA will provide strict timeline for the Developer and City to complete the above process and failure to do so will result in a default under the LDA. In addition, if certain timelines are not met, then the City or the Developer may terminate the LDA.
- LDA will provide that the Developer may terminate the LDA prior to conveyance of the Property, if it is unable to obtain all necessary approvals to construct the contemplated improvements provided it has diligently pursued such approvals within 12 months after any applicable appeal period has expired from the Zoning Commissions approval of the Site Plan,.

LDA will require the Developer to grant public access easements with respect to any portion of the project site as reasonably requested by the City including waterway access and other public access over areas designated for public access in the Redevelopment Plan or as may be required by the Zoning Regulations.

OPTION TO PURCHASE AGREEMENT

By and Between

THE CITY OF NORWALK, CONNECTICUT

AND

HEAD OF THE HARBOR SOUTH, LLC, Redeveloper

WALL STREET AREA – DEVELOPMENT PARCEL 3

NORWALK, CONNECTICUT

DATED: _____, 2013

Approved by Norwalk Common Council on _____, 2013

LIST OF EXHIBITS

Exhibit A – Conceptual Master Site Plan

Exhibit B – Infrastructure Improvements

Exhibit C – Survey

Exhibit D – Form of Easement

Exhibit E – Maintenance Agreement

Exhibit F – Shared Parking Agreement

AGREEMENT, made on or as part of the _____ day of _____, 2013, by and among the **CITY OF NORWALK, CONNECTICUT,** a municipal corporation having an office at 125 East Avenue, P.O. Box 5125, Norwalk, Connecticut 06856-5125 (hereinafter referred to as the **"City"**), and **HEAD OF THE HARBOR SOUTH, LLC,** a Connecticut limited liability company organized and existing under the laws of the State of Connecticut and having a place of business in care of M.F. DiScala & Company, Inc., 10 Wall Street, Norwalk, Connecticut 06850, (hereinafter referred to as the **"Redeveloper").**

WITNESSETH:

WHEREAS, the Redevelopment Agency of the City of Norwalk (the **"Agency"**) caused to be prepared a certain redevelopment plan entitled, "Wall Street Redevelopment Plan" in accordance with the provisions of Chapter 130 of the General Statutes of the State of Connecticut (the **"Statutes"**), which Redevelopment Plan was approved as hereinafter described, as modified on March 13, 2007 and as same hereafter may be modified in accordance with the Statutes, is herein sometimes referred to as the **"Redevelopment Plan"** or **"Plan",** and

WHEREAS, the Redevelopment Plan affects a land area of approximately 67 acres located in Norwalk and denominated in the Redevelopment Plan as the Wall Street Redevelopment Plan Project Area (the **"Project Area"** or the **"Wall Street Project Area"),** which is divided into five Redevelopment Parcels, (referred to sometimes, collectively, as the **"Development Parcels"** or **"Parcels"**), including two **"Tier I Redevelopment Parcels"** (Parcel 2a and Parcel 3) and three **"Tier II Redevelopment Parcels"** (Parcel 1, Parcel 2b and Parcel 4, and

WHEREAS, within the Tier I Development Parcels, the Redevelopment Plan provides for the acquisition of real property, the relocation of businesses and persons, the demolition of buildings, the closing and laying out of streets and the disposition of land for commercial and residential uses all as more specifically set forth in the Redevelopment Plan, a copy of which is recorded in the Norwalk Land Records in Volume 5490, at Page 170 and is incorporated herein by reference; and

WHEREAS, on June 2, 2004, the Norwalk Planning Commission, at the request of the Agency, reviewed the Redevelopment Plan and found the Redevelopment Plan to be in accordance with the *Norwalk Plan of Conservation and Development for the City of Norwalk* (as amended to incorporate the "Norwalk Wall Street Area Planning Update"), and

WHEREAS, on May 19, 2004, the Housing Authority of the City of Norwalk reviewed the Redevelopment Plan and approved it in accordance with Section 8-127 of the Statutes, and

WHEREAS, the Agency conducted three Public Hearings on the Wall Street Redevelopment Plan on February 18, 2004, March 15, 2004, and March 29, 2004, and

WHEREAS, having held public hearings thereon, the Agency approved the Wall Street Redevelopment Plan on June 24, 2004, as a redevelopment plan pursuant to Chapter 130 of the Statutes, and

WHEREAS, the Planning Committee of the Common Council conducted a Public Hearing on the Wall Street Redevelopment Plan on July 1, 2004, and

WHEREAS, on July 13, 2004, the Common Council approved the Redevelopment Plan, and set forth the required time period within which parcels of land within the Tier I Development Parcels in the Wall Street Redevelopment Project area are to be acquired, and

WHEREAS, pursuant to authorization of the Common Council, a Request for Proposals was issued for the redevelopment of Development Parcel 3 in accordance with the provisions of the Redevelopment Plan for said parcel, and

WHEREAS, after review of responses to the Request for Proposals, M.F. DiScala & Company, Inc. was approved by the Common Council on March 8, 2005, as the developer with which the City and Agency would enter into exclusive negotiations for the redevelopment of Parcel 3 (**"Development Parcel 3"**), and

WHEREAS, the Redeveloper is an Affiliate of M.F. DiScala & Company, Inc., and

WHEREAS, the Redeveloper has proposed to the City a plan for redevelopment of a portion of the Wall Street Project Area comprised of that portion of Development Parcel 3 located south of Wall Street (**"Project Site"**) together with related infrastructure and off-site improvements, which plan includes residential, mixed use, commercial office space and parking and other improvements, within the Project Site in accordance with the Redevelopment Plan, and

WHEREAS, the Agency and the Common Council of the City have determined that the redevelopment of the Project Site pursuant to the Redevelopment Plan and this Agreement is in keeping with the purposes for which the Redevelopment Plan was adopted; will materially improve substandard, deteriorated and/or blighted conditions within the Project Site; will substantially increase the tax revenue generated by the Project Site ; and thus is in the vital and best interests of the Public and in accord with the public purposes and provisions of applicable laws; and

WHEREAS, this Option Agreement sets forth the conditions and responsibilities of each of the parties hereto with respect to the developer being conveyed certain publicly owned land and the implementation of the Redevelopment Plan and the construction and development contemplated within the Project Site.

NOW THEREFORE, the Parties hereto do hereby covenant and agree as follows:

ARTICLE I
SOUTH PARCEL

Section 2.1. Improvements. The Redeveloper shall construct on the South Parcel the following Improvements, which shall be developed and constructed in accordance with the Conceptual Master Site Plan (which may not be modified without the prior written consent of the Common Council), the Redevelopment Plan and the Plan Requirements: not more than sixty (60) residential units available for purchase and/or lease and not more than five thousand (5,000) square feet of commercial office space, together with all required parking for the Improvements on the South Parcel and appropriate landscaping and pedestrian and vehicular circulation areas, including without limitation, a waterfront walkway on the South Parcel and the Infrastructure Improvements set forth on **Exhibit B** attached hereto which satisfies the Zoning Regulations. The Redeveloper agrees to allocate a minimum of _____ parking spaces for shared public parking to be available to the public between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday. Further, upon the request of the Norwalk Historical Commission, Redeveloper shall make reasonable accommodations for event parking for Mill Hill events, such reasonable accommodation will be determined by the City if not previously established by the parties. The Redeveloper acknowledges that the Zoning Regulations will require the Redeveloper to provide affordable housing units as part of the Project and the Redeveloper agrees that all such affordable housing units shall be located on the Project Site and hereby waives any rights it may have to request that the affordable housing units be located outside of the Project Site.

Within ninety (90) days after the Execution Date of this Agreement, the Redeveloper shall file with the Zoning Commission an application to have the Conceptual Master Site Plan and any required zoning modifications approved by the Zoning Commission, at Redevelopers sole cost and expense. If the Redeveloper does not secure such land use approvals as it reasonably deems necessary to enable the Redeveloper to construct sixty (60) residential units and five thousand (5,000) square feet of commercial office space on the South Parcel on or before _____, 2014, then the Redeveloper shall notify the City in writing to that effect on or before said date, and the Redeveloper shall elect in such notice (i) to terminate this Agreement, or (ii) to submit a revised Conceptual Master Site Plan showing the Redeveloper's proposed Improvements for the South Parcel. In the event the Redeveloper does not make an election on or before _____, 2014, then the Redeveloper shall be deemed to have elected to terminate this Agreement. In the event that the abandonment by the City of Smith Street to the Redeveloper and any applicable appeal period has not been completed by _____, 2014, then the _____, 2014 date hereinabove set forth in this paragraph shall automatically be extended to the earlier of the date upon which the Smith Street abandonment has been completed and all appeal periods have expired or _____, 2014. Further, the parties may agree to a

maximum of two extensions of the aforementioned dates upon such terms and conditions as are acceptable to the parties, each acting in their sole and absolute discretion.

Smith Street Abandonment. Subject to and in accordance with the provisions of this Section 2.3 and subject to the City retaining such easements on Smith Street as it deems necessary, the City agrees to abandon the portion of Smith Street as designated on **Exhibit C** attached. It is understood and agreed by the parties that the City shall not be required to convey Smith Street to the Redeveloper until such time as the following has been completed: (i) Redeveloper has received all necessary land use approvals to enable the Redeveloper to construct the Improvements on the South Parcel; (ii) Redeveloper has deposited cash security in the amount set forth in Section 4.1 hereof to insure the construction of the Infrastructure Improvements set forth on **Exhibit B** attached hereto; (iii) Redeveloper has obtained approval by the City of the Redeveloper's Evidence of Equity Capital and Mortgage Financing for the Improvements on the South Parcel as required by Section 303 of Part II hereof; and (iv) Redeveloper has closed on its construction financing. The City shall convey Smith Street to the Redeveloper in the same manner and subject to the same limitations as are set forth in Subsections 2, 3, 4, 5, 6 and 7 of Section 2.4 hereof. The City agrees to commence the process of abandonment within thirty (30) days of the Zoning Commissions approval of the Conceptual Master Site Plan.

The City via its Department of Public Works shall undertake and pursue to conclusion, pursuant to Sections 95-33 through and including 95-36 of the City Code and/or relevant sections of the Statutes, the processes necessary to discontinue or abandon and demap those portions of the rights of way of such public streets as are provided for in this Agreement to be discontinued or abandoned. The abandonment of Smith Street shall be subject to the provisions set forth in this Section 2.3 hereof. The effectuation of any such street abandonment, however, and the terms of any devolution or conveyance of title shall be subject to the requisite approvals of any and all Governmental Authorities having jurisdiction over such processes. The City via its Department of Public Works will prepare, submit and pursue applications for such approvals. The City shall pay for all costs associated with the abandonment process using such funding made available by the City and administered by the Norwalk Redevelopment Agency. Upon the granting of such approvals, the City will quitclaim or release, as appropriate, its interest in said street to Redeveloper. The City, at the request of the Redeveloper, shall exercise its authority and power under Section 8-133a of the Statutes to effectuate the temporary and/or permanent readjustment, relocation or removal of "public service facilities" from the rights of way of such discontinued public street.

The costs and expenses of (i) removing, demolishing and disposing of the debris related to the pavement, curbing and other portions of discontinued public streets, and (ii) that portion of the costs and expenses of readjustment, relocation or removal of any "public service facility" necessitated by the discontinuance of such streets as would, pursuant to said Section 8-133a of the Statutes, constitute the "equitable share" of such costs be borne by the City in the manner so stated above.

Conveyance of City Owned Property to Redeveloper.

1. In consideration of the Redeveloper agreeing to construct the Infrastructure Improvements and subject to the terms and conditions of this Agreement, the City shall convey to the Redeveloper the City Owned Property for the purpose of constructing the Improvements on the South Parcel in accordance with Section 2.1, upon the terms and conditions set forth below.

2. Time and Place for the Delivery of Deed. The closing shall take place at City Hall, 125 East Avenue, Norwalk, CT simultaneously with the transfer of title of Smith Street to the Redeveloper in accordance with Section 2.3 hereof.

3. Form of Deed. The City shall convey title to the City Owned Property to the Redeveloper by quit claim deed ("**Deed**"). Such conveyance and title shall, in addition to all other conditions, covenants, easements and restrictions set forth or referred to elsewhere in this Agreement, be subject to no other liens or encumbrances except the following: the Redevelopment Plan, all of the terms of this Agreement; regulatory requirements imposed by the federal, state, county, municipal and/or other local agencies, commissions, departments, boards, bureaus, officials and other governmental or quasi-governmental authorities having jurisdiction over the Redevelopment Plan, the Project Site, this Agreement and/or any of the parties hereto; installments of real property taxes of the City due and payable after the date of conveyance; such state of facts as an accurate survey or personal inspection would reveal, provided same do not render title unmarketable; zoning and planning rules and regulations of the City; an easement enabling the general public to have perpetual access to and use of the public improvements on the South Parcel. Subject to the foregoing, title shall be marketable and insurable.

4. Recordation of Deed. The Redeveloper shall promptly file the Deed for recordation upon the Land Records of the City of Norwalk and the Redeveloper shall pay all costs of recording the Deed.

5. Apportionment of Current Taxes. With respect to any tax period during which the City, on the one hand, and the Redeveloper on the other hand, both had title to and possession of the City Owned Property or any portion thereof, taxes allocable to the City Owned Property or such portion thereof, as the case may be, for such period shall be prorated between the City on the one hand and the Redeveloper on the other hand in proportion to the respective periods of ownership of title and possession. In the event that the City Owned Property or any portion thereof, is exempt from taxation on the assessment date next preceding the sale and conveyance of title and possession by virtue of title being vested in the City or any other tax exempt entity, the Redeveloper shall make a payment in lieu of taxes based upon the assessed value of City Owned

Property or portion thereof at the tax rate then prevailing in the City for that portion of the tax year during which the Redeveloper has title and possession. Any payment owed by the Redeveloper under this section shall be due and payable at the time of closing. The assessment in either situation above described upon which adjustment shall be made, shall be the assessment which the Tax Assessor of the City shall make of the City Owned Property immediately prior to the transfer of title from the City to the Redeveloper, which assessment shall be based on the physical condition of the City Owned Property immediately prior to such conveyance.

Additionally, the City agrees that the tax formula used in establishing the property assessment will accommodate the income valuation approach based on the mixed use nature of the property and account for any and all recorded deed restrictions and public easements contained on the property.

6. Condition of Property. The Redeveloper agrees that it has fully inspected the City Owned Property and is fully satisfied with the condition thereof. The Redeveloper acknowledges that it is accepting the City Owned Property "as is", and that this Agreement contains all of the understandings and agreements between the parties hereto relating to said property. There are no representations or warranties, expressed or implied, whatsoever upon which the Redeveloper relies with respect to the condition, quality, use, value, quantity or related characteristics of the City Owned Property, other than those herein expressly set forth. The provisions of this section shall survive the closing and the delivery of the Deed to the Redeveloper.

7. Transfers of "Establishments." To the extent that the transfer of any of the parcels of the City Owned Property or Smith Street from the City to the Redeveloper constitutes the transfer of an "Establishment" within the meaning of Section 22a-134 of the Statutes, the City agrees to execute and deliver as transferor only, and only to the extent required by the Transfer Act to effectuate the conveyance, such forms as are required pursuant to the Transfer Act. In no event shall the City be required to execute any Transfer Act forms to the extent that same would provide that the City is obligated to perform any remedial work with respect to such parcel(s). Redeveloper will execute and deliver any and all required Transfer Act forms as transferee, as certifying party and as party assuming responsibility for performance of any remedial work. All costs associated with such filing shall be paid by the Redeveloper.

Public Access Easements. The Redeveloper hereby acknowledges its obligation to provide public access easements in accordance with Article VI hereof.

Utility Relocation.

A. In accordance with Section 8-133a (and, if at any time applicable, Sections 8-194 and 32-224(i)) of the Statutes, the City will arrange in accordance with a plan prepared by the Redeveloper and approved by the City (and subject to the approval of all Governmental Authorities having jurisdiction, including without limitation the Norwalk Department of Public Works) for the relocation in a timely manner of all utility

services to be removed from or terminated within the Project Site as provided in the Redevelopment Plan, as same may be amended, or as provided for in this Agreement including telephone, cable, water, gas, electricity and sewers. In addition, the City, subject to review and approval by all Governmental Authorities having jurisdiction, including without limitation the Norwalk Department of Public Works, will approve such modifications to the layout set forth in the Redevelopment Plan for both existing utilities remaining in the Project Site and/or the Wall Street Project Area, and those proposed to be newly installed therein so as to coordinate same with the layout of the Improvements as may be depicted on Redeveloper's Conceptual Master Site Plan, and/or Pre-Construction Plans, as approved by the City. The City will make reasonable efforts to obtain from such sources as are in possession thereof and/or are available to them, and will deliver to the Redeveloper as and when obtained, as-built plans of all utility service lines within the Project Site to facilitate the identification of the location of same and the determination of which of same require relocation to facilitate Redevelopers development in accordance with the approved Conceptual Master Site Plan. All costs and expenses relating to the foregoing shall be paid by the Redeveloper.

B. With respect to the provision of utility services to the Project Site and the Project, the City and the Redeveloper agree as follows:

1. Redeveloper Obligation

The Redeveloper, at its sole cost and expense, will be obligated to make provision for any and all utility services required for the Project and to perform any and all work required to provide hook-ups between the Improvements constructed as part of the Project and the public utility facilities located in public streets at the perimeter of and/or within the Project Site, including without limitation, the installation of such conduits, lines and other facilities within the boundaries of Development Parcel 3, as may be required to effectuate such hookups. Nothing in this Agreement shall be deemed to relieve the Redeveloper of any obligation it may have to pay for the cost of its direct hook-ups to any public utilities.

2. Section 8-133a of the Statutes

The City will proceed pursuant to §8-133a of the Statutes to issue appropriate orders for temporary and/or permanent readjustment, relocation or removal of any "public service facility" (as defined in said §8-133a) required by reason of the closing of any public streets and/or construction of the Improvements and carrying out of the Plan. The costs of such readjustment, relocation or removal of such public service facilities which is required by said §8-133a to be borne by the City. The Redeveloper will grant such rights of way as reasonably may be required for the relocation of such facilities removed from public streets or public rights of way, subject to Redeveloper's reasonable approval of the location of such rights of way so as not to interfere unreasonably with Redeveloper's intended construction of the Improvements, as depicted on the Conceptual Master Site Plan, or Pre-Construction Plans, as approved by the City.

C. The City agrees to coordinate the design and construction of utility infrastructure with the relevant utility service providers.

INFRASTRUCTURE IMPROVEMENTS

Infrastructure Improvements and Funding

The parties agree that for the Project Site to be developed as envisioned in the Wall Street Redevelopment Plan and this Agreement there are substantial public infrastructure improvements that the Redeveloper has agreed to construct. These Infrastructure Improvements are identified on **Exhibit B** attached hereto and made a part hereof, which include but are not limited to: reconstruct, pave and maintain the portion of Smith Street that is to be abandoned and grant the City a perpetual non-exclusive easement, in common with others, to the general public to pass and repass (in a manner approved by the Norwalk Traffic Commission), substantially along the abandoned portion of Smith Street; construct and maintain a public plaza and construct a gazebo amenity on the boardwalk , both of which shall be open and accessible to the general public; construct a public stairway and walkway from the project site to Mill Hill; and provide public access to the boardwalk from behind the buildings on Wall Street. The Redeveloper agrees that it will fund and undertake any and all Infrastructure Improvements at its sole cost and expense. It is recognized that such items may require certain off-site improvements to accommodate the increased demands on traffic, and utility systems.

ARTICLE IV
DEPOSIT

Section 4.1. Amount of Deposit; Time of Payment.

The Redeveloper shall deliver to the City a bank or certified check in the sum of SIX HUNDRED SIXTY THOUSAND AND 00/100 ($660,000.00) DOLLARS, simultaneously with the closing of title on Smith Street and the City Owned Property.

Security Account.

Within three (3) Business Days after the Execution Date occurs, the check shall be deposited by the City into an interest-bearing escrow account established and maintained by the City. The funds (the "Security Deposit") shall be deposited into an account entitled "City of Norwalk - Security Account f/b/o Head of the Harbor South, LLC" (the "Security Account"). The City shall determine at which financial institution(s) and in what investment vehicle(s) to maintain said Security Account, and all interest earned on the Security Deposit shall be used for the anticipated improvements. The Security Account shall be maintained by the City, and disbursements therefrom shall be made only, in accordance with the provisions of this Agreement. The Security Deposit shall be released to the Redeveloper in four (4) installments, as follows: up to a

maximum of twenty-five (25%) percent of the initial Security Deposit upon completion of twenty-five (25%) percent of the Project; up to a maximum of an additional twenty-five (25%) percent of the initial Security Deposit upon completion of fifty (50%) percent of the Project; up to a maximum of an additional twenty-five (25%) percent of the initial Security Deposit upon completion of seventy-five (75%) percent of the Project; and the balance upon the issuance of a Certificate of Completion for the entire Project. The amount of each installment shall be the lesser of (i) the estimated cost of each Infrastructure Improvement as set forth on **Exhibit B** attached hereto or (ii) the actual cost incurred by the Redeveloper for each Infrastructure Improvement, for which a Certificate of Completion has been issued and for which a prior distribution has not been made to the Redeveloper, not to exceed the maximum allowable distribution set forth above. The Redeveloper shall request each such distribution and such request shall be accompanied by satisfactory proof of the Redeveloper's cost of each Infrastructure Improvement for which a distribution is requested. Notwithstanding the forgoing provisions of this Section, in the event the total cost to the Redeveloper to complete all of the Infrastructure Improvements set forth on Exhibit B hereof do not equal or exceed SIX HUNDRED SIXTY THOUSAND AND 00/100 ($660,000.00) DOLLARS, then the Redeveloper shall contribute the difference to furthering the implementation of the Mill Hill Master Plan, in such a manner determined acceptable by the City. The Redeveloper assumes responsibility for the installation of all of the agreed upon public improvements to the City's reasonable satisfaction and assumes all related costs that might exceed $660,000.

ARTICLE V
LICENSE AGREEMENTS FOR ACCESS TO ALL CITY OWNED PROPERTY

Upon execution of this Agreement, the City and the Redeveloper shall enter into a License Agreement according to the City's customary form, affording the Redeveloper reasonable access to all City owned property for all reasonable purposes relevant to this Agreement.

ARTICLE VI
EASEMENTS

In the deed or deeds conveying City owned property to the Redeveloper, the City may reserve easements, in favor of the City, and/or in favor of any public utility company or other utility service provider to install, construct, maintain, repair and replace underground "**Utility Lines**", including thereby pipes, valves, wires, conduits and other components of such underground Utility Lines, together with such transformers, pedestals, manholes and other appurtenances of such Utility Lines that must reasonably be located above ground according to the City's customary form, as well as public access easements over areas designated on the Redevelopment Plan, this Agreement or as may be required by the Zoning Regulations for use by the general public.

The Redeveloper shall grant easements similar to those set forth in Section 6.1 above, with respect to any portion of the Project Area owned by the Redeveloper, as reasonably requested by the City from time to time to such persons, including the general public, as the City may direct.

The Redeveloper shall grant public access easements with respect to any portion of the Project Area owned by the Redeveloper and related to the referenced public improvements as reasonably requested by the City from time to time, including waterway access and other public access over areas designated for public access in the Redevelopment Plan or as may be required by the Zoning Regulations or this Agreement.

Any easement to the City shall be in form consistent with the City's practices in this regard.

ARTICLE VII
ADULT USES PROHIBITED

The Redeveloper, its successors and assigns, shall not use the Property or any portion thereof for "Adult Uses" as that term is defined in the Adult-Use Ordinance of the City of Norwalk, as the same may be amended from time to time, nor shall the Redeveloper, its successors and assigns, permit any tenant or any other person or entity occupying the Property to use the Property for any such "Adult Uses."

The provisions of this Article VII shall be a covenant running with the land and shall be binding upon the Redeveloper, and Affiliates of the Redeveloper, tenants, and anyone holding any interest in or rights to any part of the Property and their successors and assigns. This prohibition shall be included in any lease, deed or other instrument transferring any interest in the Property or any portion thereof. This prohibition shall also be included in the Deed.

ARTICLE VIII
ASSIGNMENT AND TRANSFER

Notwithstanding the provisions of Article V of Part II hereof, it is specifically agreed by the City and the Redeveloper that the following specified transfers shall be deemed not to be "transfers of real property by Redeveloper" requiring consent of the City (as set forth in Section 8-137 of the Statutes) and will be permitted without requiring the prior written consent of the City (but the City shall receive notice of same) provided that such transfer(s) do not result in M. F. DiScala & Company ceasing to have operational control of the management of the business affairs of the Redeveloper and its Affiliates:

Transfers to any Person who or which is a partner, member, shareholder or other beneficial owner of an interest in the Redeveloper; or

Transfers with respect to the Redeveloper's rights in this Agreement or all or any portion of the Project Site to any Affiliate of Redeveloper.

ARTICLE IX
PERIOD OF DURATION OF COVENANT ON USE

The covenant pertaining to the uses of the Property, set forth in Section 301 of Part II hereof, shall remain in effect from the Execution Date until July 13, 2024, unless extended by the Common Council. This covenant shall be a covenant running with the land and shall be binding upon the Redeveloper and Affiliates of the Redeveloper, and their successors and assigns. This covenant shall be included in any deed, lease or other instrument transferring any interests in the Project Property.

ARTICLE X
NOTICES AND DEMANDS

A notice, demand, or other communications under this Agreement by any party shall be sent to all the other parties. Such notice shall be deemed sufficiently given or delivered if sent by registered or certified mail, postage prepaid, return receipt requested, as follows:

A. In the case of the Redeveloper, c/o M. F. DiScala & Company, Inc., 10 Wall Street, Norwalk, Connecticut 06850, with a copy to _____; or at such other address or to such other attorney with respect to such party as that party may, from time to time, designate in writing and forward to the other parties as provided in this Section.

B. In the case of the City, addressed to the Mayor at 125 East Avenue, P.O. Box 5125, Norwalk, Connecticut, 06856-5125, Attention: Mayor Richard A. Moccia, with a copy to Corporation Counsel at 125 East Avenue, P.O. Box 798, Norwalk, Connecticut 06856-0798, or at such other address with respect to such party as that party may, from time to time, designate in writing and forward to the other parties as provided in this Section.

D. In the case of any successor, assignee, transferee, or mortgagee of the Redeveloper and to any other party designated by the Redeveloper, addressed to such party at the last known address furnished in writing to the City.

ARTICLE XI
AMENDMENT OF REDEVELOPMENT PLAN

Upon execution of this Agreement, the Agency and City will prepare and submit, and pursue approval and adoption of the following amendment to the Redevelopment Plan:

A. Add "Office Use" as a permitted use on the South Parcel.
B. Modify Map 3 of the Redevelopment Plan entitled *Proposed Development* to be made consistent with the actual approved development plans

ARTICLE XII
REDEVELOPER'S AGREEMENT

The Redeveloper hereby consents to the implementation of, will not oppose, and will not be deemed to be "affected" by (within the meaning of Connecticut General Statutes Section 8-136), and will not unreasonably withhold, delay or condition its consent to, any amendments and/or modifications to the Redevelopment Plan and/or the Norwalk Zoning Regulations and/or any and all present or future Federal, State, City or other local laws, statutes, rules, regulations, codes or ordinances, and any judicial or administrative orders, judgments or decrees thereunder as may be proposed by the "Redevelopers" of other Development Parcels within the Project Area pursuant to any Land Disposition and/or Development Agreements by and among the City of Norwalk, Connecticut, the Norwalk Redevelopment Agency and such other Redevelopers, with the support of the Agency, to facilitate the development of such other Development Parcels in accordance with the aforementioned Land Disposition and/or Development Agreements.

The City agrees that a similar provision will be added to all other Land Disposition Agreements and Development Agreements in the Project Area.

ARTICLE XIII
MISCELLANEOUS

This Agreement shall supersede any and all prior understandings between the parties with respect to the subject matter of this Agreement.

The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

This Agreement shall be construed under and governed by the laws of the State of Connecticut. The parties to this Agreement agree that the execution of this Agreement and related documents and the performance of their obligations hereunder and thereunder, shall be deemed to have a Connecticut situs and that they shall be subject to the personal jurisdiction of the courts of the State of Connecticut with respect to any action that any other party or its successors or assigns may commence hereunder or thereunder. Accordingly, the parties hereby specifically and irrevocably consent to the jurisdiction of the courts of the State of Connecticut judicial district Stamford/Norwalk with respect to all matters concerning this Agreement or such related documents or the enforcement thereof in any action initiated by any other party or which any other party voluntarily joins as a party.

Section 15.4. If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the requirements of applicable laws, regulations, statutes, municipal charters, codes and of the Redevelopment Plan.

Section 15.5. Any right or remedy which any party to this Agreement may have under this Agreement, or any of its provisions, may be waived in writing by such party without execution of a new or supplementary Agreement, but any such waiver shall not affect any other rights not specifically waived. If any party to this Agreement does not exercise, or delays in exercising, or exercises only in part any of its respective rights and/or remedies set forth in this Agreement for the curing or remedying of any default or breach of covenant or condition, or any other right or remedy, in no event shall such non-exercise, delay or partial exercise be construed as a waiver of full action by such party or a waiver of any subsequent default or breach of covenant or condition.

Section 15.6. This Agreement may be amended only by a written document, duly executed by the parties hereto, evidencing the mutual agreement of the parties hereto to such amendment.

Section 15.7. The Redeveloper agrees to provide facilities for the physically disabled individuals for ingress and egress to and from the Improvements to be constructed by it in the Project Site as required by applicable law.

ARTICLE XIV
COUNTERPARTS

The Agreement is executed in six (6) counterparts, each of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the City and the Redeveloper, have caused this Agreement to be duly executed each in its own behalf by the Mayor of the City and the Redeveloper, respectively, and its respective seals to be hereunto duly affixed on or as of

the date first above written and constitutes a valid and binding obligation enforceable in accordance with its terms, conditions, and provisions.

WITNESSES:

_____

_____

_____

_____

CITY OF NORWALK

By:_____
Richard A. Moccia
Its Mayor

HEAD OF THE HARBOR SOUTH, LLC

By: _____

Its

STATE OF CONNECTICUT)
) ss: Norwalk
COUNTY OF FAIRFIELD)

On this the ___ day of _____, 2013, before me, the undersigned officer, personally appeared RICHARD A. MOCCIA, who acknowledged himself to be the Mayor of the City of Norwalk, and that he as such Mayor, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the City by himself as Mayor.

In Witness Whereof, I hereunto set my hand and official seal.

_____

Notary Public
Commissioner of the Superior Court

STATE OF CONNECTICUT)
) ss: Norwalk
COUNTY OF FAIRFIELD)

The foregoing instrument was acknowledged before me this ___ day of _____, 2013, by _____, _____, on behalf of HEAD OF THE HARBOR SOUTH, LLC, a _____ managed Connecticut limited liability company, on behalf of the company.

_____

Notary Public
Commissioner of the Superior Court

LIST OF EXHIBITS

Exhibit A – Conceptual Master Site Plan

Exhibit B – Infrastructure Improvements

Exhibit C – Survey

Exhibit D – Form of Easement

Exhibit E – Maintenance Agreement

Exhibit F – Shared Parking Agreement

TERMS AND CONDITIONS

of

OPTION TO PURCHASE AGREEMENT

By and Between

THE CITY OF NORWALK, CONNECTICUT,

AND

HEAD OF THE HARBOR SOUTH, LLC, Redeveloper

ARTICLE I.

RIGHTS OF ACCESS TO THE PROPERTY

SECTION 101

Right of Entry for Utility Service. The City reserves for itself and any public utility company, as may be appropriate, the unqualified right to enter upon the Property at all reasonable times for the purpose of reconstructing, maintaining, repairing, or servicing the public utilities located within the Property boundary lines and provided for in the easements described or referred to in **Sections 2.3, 2.4 (3) and Article VI of Part I** hereof.

SECTION102

Redeveloper Not to Construct Over Utility Easements. The Redeveloper shall not construct any building or other structure or improvement on, over, or within the boundary lines of any easement for public utilities described or referred in **Sections 2.3, 2.4 (3) and Article VI of Part I** hereof, unless such construction is provided for in such easement or has been approved by the City. If approval for such construction is requested by the Redeveloper, the City shall use its best efforts to assure that such approval shall not be withheld unreasonably.

SECTION 103

Access to Property. Prior to the conveyance of **Smith Street and the City Owned Property** by the City to the Redeveloper, the City shall permit representatives of the Redeveloper to have access to any part of the Property as to which the City holds title, at all reasonable times for the purpose of obtaining data and making various tests concerning the Property necessary to carry out the Agreement, subject to the Redeveloper entering into a License Agreement as required by **Section 5.1 of Part I.** After the conveyance of the Property by the City to the Redeveloper, the Redeveloper shall permit the representatives of the City, the City, and State access to the Property at all reasonable times which any of them deems necessary for the purposes of the Agreement, including but not limited to, inspection of all work being performed in connection with the construction of the Improvements. No compensation shall be payable nor shall any charge be made in any form by any party for the access provided for in this Section.

ARTICLE II.

PRE-CONSTRUCTION PLANS; CONSTRUCTION OF IMPROVEMENTS; CERTIFICATE OF COMPLETION

SECTION 201

Changes To Approved Site Plan If the Redeveloper desires to make any changes to the approved site plan required by the final construction plans such modification must be approved by the City. If the Site Plan , as modified is approved by the City it will so notify the developer

in writing, it should be noted that the City's is not linked in anyway to any further approval or review that would be so required by the Zoning Commission.

SECTION 202

Approvals of Pre-Construction Plans and Evidence of Financing As Conditions Precedent to Conveyance. The submission of a Zoning Commission approved Site Plan and so reviewed and accepted as in accordance pre-constriction plans and the submission of evidence of equity capital and executed commitments for mortgage financing , are conditions precedent to the obligation of the City to convey **Smith Street and the City Owned Property** to the Redeveloper. Such conveyance conditions must be met within the three year term of this Option Agreement.

SECTION 203

Commencement and Completion of Construction of Improvements. The Redeveloper agrees for itself, its successors and assigns, and every successor in interest to the Property, or any part thereof, and the **Deed** shall contain covenants on the part of the Redeveloper for itself and such successors and assigns, that the Redeveloper, and such successors and assigns, shall promptly begin and diligently prosecute to completion the redevelopment of the Property through the construction of the Improvements thereon, and that such construction shall in any event be begun within five years of the date of this agreement or the City shall have the right to exercise its right of re-entry for the value the Redeveloper has paid to the City for consideration of the intended public improvements. All developer related financing documents will recognize the City's right of re-entry and the related language will be so approved by the City.

SECTION 204

Certificate of Completion.

(a) Promptly after completion of the Improvements in accordance with those provisions of the Agreement relating solely to the obligations of the Redeveloper to construct the Improvements (including the dates for beginning and completion thereof), the City will furnish the Redeveloper with an appropriate instrument so certifying. Such certification by the City shall be (and it shall be so provided in the **Deed** and in the certification itself) a conclusive determination of satisfaction and termination of the agreements and covenants in the Agreement and in the **Deed** with respect to the obligations of the Redeveloper, and its successors and assigns, to construct the Improvements and completion thereof: Provided, That if there is upon the Property a mortgage insured, or held or owned, by the Federal Housing Administration and the Federal Housing Administration shall have determined that all buildings constituting a part of the Improvements and covered by such mortgage are, in fact, substantially completed in accordance with the Pre-Construction Plans and are ready for occupancy, then, in such event, the City and the Redeveloper shall accept the determination of the Federal Housing Administration as to such completion of the construction of the Improvements: in accordance with the Pre-Construction Plans, and, if the other agreements and covenants in the Agreement obligating the

Redeveloper in respect of the Construction and completion of the Improvements have been fully satisfied, the City shall forthwith issue its certification provided for in this Section. Such certification and such determination shall not constitute evidence of compliance with or satisfaction of any obligation of the Redeveloper to any holder of a mortgage, or any insurer of a mortgage, securing money loaned to finance the Improvements, or any part thereof.

(b) With respect to such individual parts or parcels of the Property which, if so provided in Part I hereof, the Redeveloper may convey or lease as the Improvements to be constructed thereon are completed, the City will also, upon proper completion of the Improvements relating to any such part or parcel, certify to the Redeveloper, that such Improvements have been made in accordance with the provisions of the Agreement. Such certification shall mean and provide, and the **Deed** shall so state, (1) that any party purchasing or leasing such individual part or parcel pursuant to the authorization herein contained shall not (because of such purchase or lease) incur any obligation with respect to the construction of the Improvements relating to such part or parcel or to any other part or parcel of the Property; and (2) that neither the City nor any other party shall thereafter have or be entitled to exercise with respect to any such individual part or parcel so sold (or, in the case of lease, with respect to the leasehold interest) any rights or remedies or controls that it may otherwise have or be entitled to exercise with respect to the Property as a result of a default in or breach of any provisions of the Agreement or the **Deed** by the Redeveloper or any successor in interest or assign unless (i) such default or breach be by the purchaser or the lessee, or any successor in interest to or assign of such individual part or parcel with respect to the covenants contained and referred to in Section 401 hereof, and (ii) the right, remedy, or control relates to such default or breach.

(c) Each certification provided for shall be in such form as will enable it to be recorded in the proper office for the recordation of deeds and other instruments pertaining to the Property, including the **Deed.** If the City shall refuse or fail to provide certification in accordance with the provisions of this Section, the City shall, within thirty (30) days after written request by the Redeveloper, provide the Redeveloper with a written statement, indicating in adequate detail in what respects the Redeveloper has failed to complete the Improvements in accordance with the provisions of the Agreement, or is otherwise in default, and what measures or acts will be necessary, in the opinion of the City, for the Redeveloper to take or perform in order to obtain such certification.

ARTICLE III.

RESTRICTION UPON USE OF PROPERTY

SECTION 301

Restrictions on Use. The Redeveloper agrees for itself, and its successors and assigns, and every successor in interest to the Property, or any part thereof, and the **Deed** shall contain covenants on the part of the Redeveloper for itself, and such successors and assigns, that the Redeveloper, and such successors and assigns shall:

(a) Devote the property to, and only to and in accordance with, the uses specified in the Redevelopment Plan; and

(b) Not use the property for, nor allow the Property to be used for Adult Use Establishments, as defined in Section 118-100 of the Building Zone Regulations of the City of Norwalk; and

(c) Will affirmatively further fair housing laws of the United States and the State of Connecticut.

SECTION 302

Covenants; Binding Upon Successors in Interest; Period of Duration. It is intended and agreed, and the **Deed** shall so expressly provide, that the agreements and covenants provided hereof, shall be covenants running with the land.

ARTICLE IV.

PROHIBITIONS AGAINST ASSIGNMENT AND TRANSFER

SECTION 401

Representations as to Redevelopment. The Redeveloper represents and agrees that its purchase of the Property, and its other undertakings pursuant to the Agreement, are, and will be used, for the purpose of redevelopment of the Property and not for speculation in land holding. The Redeveloper further recognizes that, in view of:

(a) The importance of the redevelopment of the Property to the general welfare of the community;

(b) The fact that a transfer of any membership interest in the Redeveloper or of a substantial part thereof, or any other act or transaction involving or resulting in a significant change in the ownership or distribution of such membership interest or with respect to the identity of the parties in control of the Redeveloper or the degree thereof, is for practical purposes a transfer or disposition of the Property then owned by the Redeveloper;

the qualifications and identity of the Redeveloper, and its members, are of particular concern to the community and the City. The Redeveloper further recognizes that it is because of such qualifications and identity that the City is entering into the Agreement with the Redeveloper, and, in so doing, is further willing to accept and rely on the obligations of the Redeveloper for the faithful performance of all undertakings and covenants hereby by it to be performed without requiring in addition a surety bond or similar undertaking for such performance of all undertakings and covenants in the Agreement.

SECTION 402

Prohibition Against Transfer of Property and Assignment of Agreement. Also, for the foregoing reasons the Redeveloper represents and agrees for itself, and its successors and assigns, that:

(a) Except only:

(i) By way of security for, and only for, (i) the purpose of obtaining financing necessary to enable the Redeveloper or any successor in interest to the Property, or any part thereof, to perform its obligations with respect to making the Improvements under the Agreement, and (ii) any other purpose authorized by the Agreement, and

(ii) As to any individual parts or parcels of the Property in which the Improvements to be constructed thereon have been completed, and which, by the terms of the Agreement, the Redeveloper is authorized to convey or lease as such Improvements are completed,

the Redeveloper (except as so authorized) has not made or created, and that it will not, prior to the proper completion of the Improvements as certified by the City, make or create, or suffer to be made or created, any total or partial sale, assignment, conveyance, or lease, or any trust or power, or transfer in any other mode or form of or with respect to the Agreement or the Property, or any part thereof or any interest therein, or any contract or agreement to do any of the same, without the prior written approval of the City: Provided, that, prior to the issuance by the City of the certificate as to completion of construction of the Improvements, the Redeveloper may enter into any agreement to sell, lease, or otherwise transfer, after the issuance of such certificate, the Property or any part thereof or interest therein, which agreement shall not provide for payment of or on account of the purchase price or rent for the Property, or the part thereof or the interest therein to be so transferred, prior to the issuance of such certificate.

(b) The City shall be entitled to require, except as otherwise provided in the Agreement, as conditions to any such approval that:

(i) Any proposed transferee shall have the qualifications and financial responsibility, as determined by the City, necessary and adequate to fulfill the obligations undertaken in the Agreement by the Redeveloper (or, in the event the transfer is of or relates to part of the Property, such obligations to the extent that they relate to such part);

(ii) Any proposed transferee, by instrument in writing satisfactory to the City and in form recordable among the land records, shall, for itself and its successors and assigns, and expressly for the benefit of the City, have expressly assumed all of the obligations of the Redeveloper under the Agreement and agreed to be subject to all the conditions and restrictions to which the Redeveloper is subject (or, in the event the transfer is of or relates to part of the Property, such obligations, conditions, and restrictions to the extent that they relate to such part): Provided, that the fact that any transferee of, or any other successor in interest whatsoever to, the Property, or any part thereof, shall, whatever the reason, not have assumed such obligations or so agreed, shall not (unless and only to the extent otherwise specifically

provided in the Agreement or agreed to in writing by the City) relieve or except such transferee or successor of or from such obligations, conditions, or restrictions, or deprive or limit the City of or with respect to any rights or remedies or controls with respect to the Property or the construction of the Improvements; it being the intent of this, together with other provisions of the Agreement, that (to the fullest extent permitted by law and equity and excepting only in the manner and to the extent specifically provided otherwise in the Agreement) no transfer of, or change with respect to, ownership in the Property or any part thereof, or any interest therein, however consummated or occurring, and whether voluntary or involuntary, shall operate, legally or practically, to deprive or limit the City of or with respect to any rights or remedies or controls provided in or resulting from the Agreement with respect to the Property and the construction of the Improvements that the City would have had, had there been no such transfer or change;

(iii) There shall be submitted to the City for review all instruments and other legal documents involved in effecting the transfer; and if approved by the City, its approval shall be indicated to the Redeveloper in writing;

(iv) The consideration payable for the transfer by the transferee or on its behalf shall not exceed an amount representing the actual cost (including carrying charges) to the Redeveloper of the Property (or allocable to the part thereof or interest therein transferred) and the Improvements, if any, theretofore made thereon by it; it being the intent of this provision to preclude assignment of the Agreement or transfer of the Property or any parts thereof other than those referred to in subdivision (2), Paragraph (a) for profit prior to the completion of the Improvements and to provide that in the event any such assignment or transfer is made (and is not cancelled), the City shall be entitled to increase the Purchase Price to the Redeveloper by the amount that the consideration payable for the assignment or transfer is in excess of the amount that may be authorized pursuant to this subdivision (iv), and such consideration shall, to the extent it is in excess of the amount so authorized, belong to and forthwith be paid to the City;

(v) The Redeveloper and its transferee shall comply with such other conditions as the City may find desirable in order to achieve and safeguard the purposes of the Redevelopment Act and the Redevelopment Plan;

Provided, that in the absence of specific written agreement by the City to the contrary, no such transfer or approval by the City thereof shall be deemed to relieve the Redeveloper, or any other party bound in any way by the Agreement or otherwise with respect to the construction of the Improvements, from any of its obligations with respect thereto.

SECTION 403

Information as to Members. In order to assist in the effectuation of the purposes of this Article IV and the statutory objectives generally, the Redeveloper agrees that during the period between execution of the Agreement and completion of the Improvements as certified by the City, (a) the Redeveloper will promptly notify the City of any and all changes whatsoever in the ownership of membership interests, legal or beneficial, or of any other act or transaction involving or resulting in any change in the ownership of such an interest or in the relative distribution thereof, or with respect to the identity of the parties in control of the Redeveloper or the degree thereof, of which

it or any of its members and/or managers have been notified or otherwise have knowledge or information; and (b) the Redeveloper shall at such time or times as the City may request, furnish the City with a complete statement, subscribed and sworn to by a member or manager of the Redeveloper, setting forth all the members and managers of the Redeveloper and the extent of their respective holdings, and in the event any other parties have a beneficial interest in such ownership interest, their names and the extent of such interest, all as determined or indicated by the records of the Redeveloper, by specific inquiry made by any such members or managers, of all parties who on the basis of such records own ten (10%) percent or more of the membership interest in the Redeveloper, and by such other knowledge or information as such member or manager shall have. Such lists, data, and information shall in any event be furnished the City immediately prior to the delivery of **Deed,** as the case may be, to the Redeveloper and as a condition precedent thereto, and annually thereafter on the anniversary of the date of the **Deed** until the issuance of a certificate of completion for all the Property.

ARICLE V.

MORTGAGE FINANCING; RIGHTS OF MORTGAGEES

SECTION 501

Limitation Upon Encumbrance of Property. Prior to the completion of the Improvements, as certified by the City, neither the Redeveloper nor any successor in interest to the Property or any part thereof shall engage in any financing or any other transaction creating any mortgage or other encumbrance or lien upon the Property or any part thereof, whether by express agreement or operation of law, or suffer any encumbrance or lien to be made on or attach to the Property or any part thereof, except for the purposes of obtaining (a) funds only to the extent necessary for making the Improvements and (b) such additional funds, if any, in an amount not to exceed the Security Deposit paid by the Redeveloper to the City. The Redeveloper (or successor in interest) shall notify the City in advance of any financing, secured by mortgage or other similar lien instrument, it proposes to enter into with respect to the Property, or any part thereof, and in any event it shall promptly notify the City of any encumbrance or lien that has been created on or attached to the Property or any part thereof, whether by voluntary act of the Redeveloper or otherwise. For the purposes of such mortgage financing as may be made pursuant to the Agreement, the Property may, at the option of the Redeveloper (or successor in interest), be divided into several parts or parcels, provided that such subdivision, in the opinion of the City, is not inconsistent with the purposes of the Redevelopment Plan and the Agreement and is approved in writing by the City.

SECTION 502

Mortgagee Not Obligated To Construct. Notwithstanding any of the provisions of the Agreement, including but not limited to those which are or are intended to be covenants running with the land, the holder of any mortgage authorized by the Agreement (including any such holder who obtains title to the Property or any part thereof as a result of foreclosure proceedings, or action in lieu thereof, but not including (a) any other party who thereafter obtains title to the Property or such part from or through such holder or (b) any other purchaser at foreclosure sale

other than the holder of the mortgage itself), shall in no wise be obligated by the provisions of the Agreement to construct or complete the Improvements or to guarantee such construction or completion; nor shall any covenant or any other provision in the **Deed** be construed to so obligate such holder: Provided, That nothing in this Section or any other Section or provision of the Agreement shall be deemed or construed to permit or authorize any such holder to devote the Property or any part thereof to any uses, or to construct any improvements thereon, other than those uses or improvements provided or permitted in the Redevelopment Plan and in the Agreement.

SECTION 503

Copy of Notice of Default to Mortgagee. Whenever the City shall deliver any notice or demand to the Redeveloper with respect to any breach or default by the Redeveloper in its obligations or covenants under the Agreement, the City shall at the same time forward a copy of such notice or demand to each holder of any mortgage authorized by the Agreement who has given written notice to the City and the City of its status as such mortgagee, at the last address of such holder shown in the records of the City.

SECTION 504

Mortgagee's Option To Cure Defaults. After any breach or default referred to in Section 603 hereof, each such holder shall (insofar as the rights of the City are concerned) have the right, at its option, to cure or remedy such breach or default (or such breach or default to the extent that it relates to the part of the Property covered by its mortgage) and to add the cost thereof to the mortgage debt and the lien of its mortgage; Provided, That if the breach or default is with respect to construction of the Improvements, nothing contained in this Section or any other Section of the Agreement shall be deemed to permit or authorize such holder, either before or after foreclosure or action in lieu thereof, to undertake or continue the construction or completion of the Improvements (beyond the extent necessary to conserve or protect Improvements or construction already made) without first having expressly assumed the obligation to the City, by written agreement satisfactory to the City, to complete, in the manner provided in the Agreement, the Improvements on the Property or the part thereof to which the lien or title of such holder relates. Any such holder who shall properly complete the Improvements relating to the Property or applicable part thereof shall be entitled, upon written request made to the City, to a certification or certifications by the City to such effect in the manner as so provided. herein .

SECTION 505

City's Option To Cure Mortgage Default. In the event of a default or breach prior to the completion of the Improvements by the Redeveloper, or any successor in interest, in or of any of its obligations under, and to the holder of, any mortgage or other instrument creating an encumbrance or lien upon the Property or part thereof, the City may at its option cure such default or breach, in which case the City shall be entitled, in addition to and without limitation upon any other rights or remedies to which it shall be entitled by the Agreement, operation of law, or otherwise, to reimbursement from the Redeveloper or successor in interest of all costs

and expenses incurred by the City in curing such default or breach and to a lien upon the Property (or the part thereof to which the mortgage, encumbrance, or lien relates) for such reimbursement: Provided, that any such lien shall be subject always to the lien of (including any lien contemplated, because of advances yet to be made, by) any then existing mortgages on the Property authorized by the Agreement.

SECTION 506

Mortgage and Holder. For the purposes of the Agreement:
The term "**mortgage**" shall include a deed of trust or other instrument creating an encumbrance or lien upon the Property, or any part thereof, as security for a loan. The term "**holder**" in reference to a mortgage shall include any insurer or guarantor of any obligation or condition secured by such mortgage or deed of trust.

ARTICLE VI.

REMEDIES

SECTION 601

In General. Except as otherwise provided in the Agreement, in the event of any default in or breach of the Agreement, or any of its terms or conditions, by either party hereto, or any successor to such party, such party (or successor) shall, upon written notice from the other, proceed immediately to cure or remedy such default or breach, and, in any event, within sixty (60) days after receipt of such notice. In case such action is not taken or not diligently pursued, or the default or breach shall not be cured or remedied within a reasonable time, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including, but not limited to, proceedings to compel specific performance by the party in default or breach of its obligations.

SECTION 602

Termination by Redeveloper Prior to Conveyance. In the event that:

(a) The City does not tender conveyance of **Smith Street and the City Owned Property**, or possession thereof, in the manner and condition and by the date, provided in the Agreement, and any such failure shall not be cured within thirty (30) days after the date of written demand by the Redeveloper; or

(b) The Redeveloper shall, after preparation of Working Drawings for the South Parcel satisfactory to the City, furnish evidence satisfactory to the City that it has been unable, after and despite diligent effort for a period of sixty (60) days after approval by the City of said Working Drawings, to obtain mortgage financing for the construction of the Improvements on a basis and on terms that would generally be considered satisfactory by builders or contractors for improvements of the nature and type provided in such Working Drawings, and the Redeveloper

shall, after having submitted such evidence and if so requested by the City, continue to make diligent efforts to obtain such financing for a period of sixty (60) days after such request, but without success;

then the Agreement may, at the option of the Redeveloper or the City, be terminated by written notice thereof to the other parties. Upon such termination, the Security Account shall be released to the Redeveloper and neither the City nor the Redeveloper shall have any further rights against or liability to the other parties under the Agreement.

SECTION 603

Termination by City Prior to Conveyance. In the event that:

(a) prior to conveyance of any part of **Smith Street and the City Owned Property** to the Redeveloper and in violation of the Agreement:

(i) The Redeveloper (or any successor in interest) assigns or attempts to assign the Agreement or any rights therein, or in the Property, or

(ii) There is any change in the ownership or distribution of any membership interest of the Redeveloper or with respect to the identity of the parties in control of the Redeveloper or the degree thereof, except as may be specifically permitted in this Agreement; or

(iii) The Redeveloper is delinquent in paying any related real estate taxes to the City.

(b) The Redeveloper does not submit Pre-Construction Plans and Working Drawings for the South Parcel, as required by the Agreement, or (except as excused under subdivision (b) of Section 702 hereof) evidence that it has the necessary equity capital and mortgage financing, in satisfactory form and in the manner and by the dates respectively provided in the Agreement therefore; or

(c) The Redeveloper shall default in or violate its obligations with respect to the construction of the Improvements (including the nature and the dates for the beginning and completion thereof), or shall abandon or substantially suspend construction work, and any such default, violation, abandonment, or suspension shall not be cured, ended, or remedied within thirty (30) days after written demand by the City so to do, subject, however, to the provisions herein ; or

(d) The Redeveloper does not take title to **Smith Street and the City Owned Property** upon tender of conveyance by the City pursuant to the Agreement, and if any default or failure referred to in subdivisions (b) and (d) of this Section shall not be cured within thirty (30) days after the date of written demand by the City;

then the Agreement, and any rights of the Redeveloper, or any assignee or transferee, in the Agreement, or arising therefrom with respect to the City or the Property, shall, at the option of

the City, be terminated by the City, in which event the Security Account shall be released to the Redeveloper and neither the Redeveloper (or assignee or transferee) nor the City shall have any further rights against or liability to the other under the Agreement.

SECTION 604

Other Rights and Remedies of City; No Waiver by Delay. The City shall have the right to institute such actions or proceedings as it may deem desirable for effectuating the purposes of this section , including also the right to execute and record or file among the public land records of the City a written declaration of the termination of all the right, title, and interest of the Redeveloper, and (except for such individual parts or parcels upon which construction of that part of the Improvements required to be constructed thereon has been completed, in accordance with the Agreement, and for which a certificate of completion is to be delivered) its successors in interest and assigns, in the Property: Provided, That any delay by the City in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this section shall not operate as a waiver of such rights or to deprive it of or limit such rights in any way [it being the intent of this provision that the City should not be constrained (so as to avoid the risk of being deprived of or limited in the exercise of the remedy provided in this Section because of concepts of waiver, laches, or otherwise) to exercise such remedy at a time when it may still hope otherwise to resolve the problems created by the default involved]; nor shall any waiver in fact made by the City with respect to any specific default by the Redeveloper under this Section be considered or treated as a waiver of the rights of the City with respect to any other defaults by the Redeveloper under this Section or with respect to the particular default except to the extent specifically waived in writing.

SECTION 605

Enforced Delay in Performance for Causes Beyond Control of Party. For purposes of any of the provisions of this Agreement, neither the City, the City nor the Redeveloper or any successor in interest, transferee, or assignee of the Redeveloper shall be considered in breach of, or in default of any of its obligations under this Agreement in the event and to the extent of (i) unforeseeable delay in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence and due to the consequential effects of such causes, including but not limited to, acts of God; acts of the public enemy; acts (including failures to act and delays) of any governmental employee, City, or body (other than, as to the City or City, the City or the City); acts (including failure to act and delays) of the other party; fires; floods; epidemics; riot or civil disorder; quarantine restrictions, strikes, or other labor disputes; embargoes; reasonable delays in the performance of construction by contractors, and/or unusually severe weather which affects the required performance hereunder; or (ii) any unanticipated environmental conditions at the Project Site. It is the purpose and intent of this provision that in the event of the occurrence of any such delay, the time or times for performance of the obligations in this Agreement affected or impacted thereby shall be extended for the period of such delay provided that the party seeking the benefit of the provisions of this paragraph shall, within ten (10) days after the beginning of such delay (or within ten (10) days after it becomes aware of such delay), notify the other parties thereof in writing. Any party who

wishes to object to a party seeking the benefit of the provisions of this paragraph shall, within ten (10) days after receipt of written notice that a party is seeking the benefit of the provisions of this paragraph, notify the other parties of such objection in writing. With respect to any delay in completion or progress of construction of the Improvements, the Architect shall certify in said writing as to the (a) anticipated duration of the delay, (b) the reasons for the delay, and (c) the effect of the delay on the completion of the Improvements. In the event the City directs that the Improvements in any phase be modified or reconstructed for failure by the Redeveloper to conform in all material respects to the approved Pre-Construction Plans for such phase or approved modifications thereof, such directive shall not be a ground for the extension of time limits of construction of the Improvements nor for delay in the performance of any of Redeveloper's obligations hereunder.

SECTION 606

Rights and Remedies Cumulative. The rights and remedies of the parties to the Agreement, whether provided by law or by the Agreement, shall be cumulative, and the exercise by either party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other such remedies for the same default or breach or of any of its remedies for any other default or breach by the other party. No waiver made by either such party with respect to the performance, or manner or time thereof, or any obligation of the other party or any condition to its own obligation under the Agreement shall be considered a waiver of any rights of the party making the waiver with respect to the particular obligation of the other party or condition to its own obligation beyond those expressly waived in writing and to the extent thereof, or a waiver in any respect in regard to any other rights of the party making the waiver or any other obligations of the other party.

SECTION 607

Party in Position of Surety With Respect to Obligations. The Redeveloper, for itself and its successors and assigns, and for all other persons who are or who shall become, whether by express or implied assumption or otherwise, liable upon or subject to any obligation or burden under the Agreement, hereby waives, to the fullest extent permitted by law and equity, any and all claims or defenses otherwise available on the ground of its (or their) being or having become a person in the position of a surety, whether real, personal, or otherwise or whether by agreement or operation of law, including, without limitation on the generality of the foregoing, any and all claims and defenses based upon extension of time, indulgence, or modification of terms of contract.

ARTICLE VII.

MISCELLANEOUS

SECTION 701.

Conflict of Interests: City Representatives Not Individually Liable. No member, official, or employee of the City shall have any personal interest, direct or indirect, in the 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 is, directly or indirectly, interested. No member, official, or employee of the City shall be personally liable to the Redeveloper, 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 the Redeveloper or successor or on any obligations under the terms of the Agreement.

SECTION 702.

Equal Employment Opportunity. The Redeveloper, for itself and its success and assigns, agrees that during the construction of the Improvements provided for in the Agreement:

(a) The Redeveloper will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Redeveloper will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Redeveloper agrees to post in conspicuous places, available to employees and applicants for employment the provisions of this nondiscrimination clause.

(b) The Redeveloper will, in all solicitations or advertisements for employees placed by or on behalf of the Redeveloper, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(c) The Redeveloper will send to each labor union or representative of workers a notice, to be provided, advising the labor union or workers' representative of the Redeveloper's commitments under Section 202 of Executive Order 11246 of September 24, 1965, as amended, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Redeveloper will comply with all provisions of Executive order 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The Redeveloper will furnish all information and reports required by Executive Order 11246 of September 24, 1965, as amended, and by the rules, regulations, and orders of the Secretary of Labor or the Secretary of Housing and Urban Development pursuant thereto, and will permit access to the Redeveloper's books, records, and accounts by the City, the Secretary of Housing and Urban Development, and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Redeveloper's noncompliance with the nondiscrimination clauses of this Section, or with any of the said rules, regulations, or orders, the Agreement may be canceled, terminated, or suspended in whole or in part and the Redeveloper may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, as amended, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Redeveloper will include the provisions of Paragraphs (a) through (g) of this Section in every contract or purchase order, and will require the inclusion of these provisions in every subcontract entered into by any of its contractors, unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each such contractor, subcontractor, or vendor, as the case may be.

SECTION 703.

Provisions Not Merged With Deeds, as the context may require. None of the provisions of the Agreement are intended to or shall be merged by reason of any deed transferring title to the Property or any part thereof from the City to the Redeveloper or any successor in interest, and any such deed shall not be deemed to affect or impair the provisions and covenants of the Agreement.

SECTION 704.

Titles of Articles and Sections. Any titles of the several parts, Articles, and Sections of the Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

Summary of Terms
Draft Smith Street Option Agreement

1. Improvements

Not more than sixty (60) residential units available for purchase and/or lease and not more than five thousand (5,000) square feet of commercial office space, together with all required parking for the Improvements on the South Parcel and appropriate landscaping, pedestrian and vehicular circulation areas, including without limitation, a waterfront walkway on the South Parcel and the Infrastructure Improvements set forth on **Exhibit B** attached hereto which satisfies the Zoning Regulations. The Redeveloper agrees to provide use of project related parking spaces available between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday upon the request of the Norwalk Historical Commission. The Redeveloper acknowledges that the Zoning Regulations will require the Redeveloper to provide affordable housing units as part of the Project and the Redeveloper agrees that all such affordable housing units shall be located on the Project Site and hereby waives any rights it may have to request that the affordable housing units be located outside of the Project Site.

Ninety (90) days after the Execution Date of this Agreement, the Redeveloper will file with the Zoning Commission an application to have the Conceptual Master Site Plan and any required zoning modifications approved by the Zoning Commission. If the Redeveloper does not secure such land use approvals as it reasonably deems necessary to enable the Redeveloper to construct sixty (60) residential units and five thousand (5,000) square feet of commercial office space on the South Parcel on or before January, 2015, then the Redeveloper shall notify the City in writing to that effect on or before said date, and the Redeveloper shall elect in such notice (i) to terminate this Agreement, or (ii) to submit a revised Conceptual Master Site Plan showing the Redeveloper's proposed Improvements for the South Parcel. In the event the Redeveloper does not make an election on or before June, 2015, then the Redeveloper shall be deemed to have elected to terminate the Agreement.

In the event that the abandonment by the City of Smith Street to the Redeveloper and any applicable appeal period has not been completed by January, 2015, then the June, 2015 date hereinabove set forth in this paragraph shall automatically be extended to the earlier of the date upon which the Smith Street abandonment has been completed and all appeal periods have expired or June, 2015. Further, the parties may agree to a maximum of two extensions of the aforementioned dates upon such terms and conditions as are acceptable to the parties, each acting in their sole and absolute discretion.

2. Smith Street Abandonment

Subject to and in accordance with the provisions of this Section 2.3 and subject to the City retaining such easements on Smith Street as it deems necessary, the City agrees to abandon the portion of Smith Street as designated on **Exhibit C** attached. It is understood and agreed by the parties that the City shall not be required to convey Smith Street to the Redeveloper until such time as the following has been completed: (i) Redeveloper has received all necessary land use approvals to enable the Redeveloper to construct the Improvements on the South Parcel; (ii) Redeveloper has deposited cash security in the amount set forth in Section 4.1 hereof to insure the construction of the Infrastructure Improvements set forth on **Exhibit B** attached hereto; (iii) Redeveloper has obtained approval by the City of the Redeveloper's Evidence of Equity Capital and Mortgage Financing for the Improvements on the South Parcel as required by Section 303 of Part II hereof; and (iv) Redeveloper has closed on its construction financing. The City shall convey Smith Street to the Redeveloper in the same manner and subject to the same limitations as are set forth in Subsections 2, 3, 4, 5, 6 and 7 of Section 2.4 hereof. The City agrees to commence the process of abandonment within thirty (30) days of the Zoning Commissions approval of the Conceptual Master Site Plan.

The City via its Department of Public Works shall undertake and pursue to conclusion, pursuant to Sections 95-33 through and including 95-36 of the City Code and/or relevant sections of the Statutes, the processes necessary to discontinue or abandon and demap those portions of the rights of way of such public streets as are provided for in this Agreement to be discontinued or abandoned. The abandonment of Smith Street shall be subject to the provisions set forth in this Section 2.3 hereof. The effectuation of any such street abandonment, however and the terms of any devolution or conveyance of title shall be subject to the requisite approvals of any and all Governmental Authorities having jurisdiction over such processes.

The City via its Department of Public Works will prepare, submit and pursue applications for such approvals. The City shall pay for all costs associated with the abandonment process using such funding made available by the City and administered by the Norwalk Redevelopment Agency. Upon the granting of such approvals, the City will quitclaim or release, as appropriate, its interest in said street to Redeveloper. The City, at the request of the Redeveloper, shall exercise its authority and power under Section 8-133a of the Statutes to effectuate the temporary and/or permanent readjustment, relocation or removal of "public service facilities" from the rights of way of such discontinued public street.

The costs and expenses of (i) removing, demolishing and disposing of the debris related to the pavement, curbing and other portions of discontinued

public streets, and (ii) that portion of the costs and expenses of readjustment, relocation or removal of any "public service facility" necessitated by the discontinuance of such streets as would, pursuant to said Section 8-133a of the Statutes, constitute the "equitable share" of such costs be borne by the City in the manner so stated above.

3. Utility Services to the Project Site

Redeveloper Obligation

The Redeveloper, at its sole cost and expense, is obligated to provide for any and all utility services required for the Project and to perform any and all work required to provide hook-ups between the Improvements constructed as part of the Project and the public utility facilities located in public streets at the perimeter of and/or within the Project Site. Nothing in this Agreement shall be deemed to relieve the Redeveloper of any obligation it may have to pay for the cost of its direct hook-ups to any public utilities.

Section 8-133a of the Statutes

The City will proceed pursuant to §8-133a of the Statutes to issue appropriate orders for temporary and/or permanent readjustment, relocation or removal of any "public service facility" (as defined in said §8-133a) required by reason of the closing of any public streets and/or construction of the Improvements and carrying out of the Plan. The costs of such readjustment, relocation or removal of such public service facilities which is required by said §8-133a to be borne by the City. The Redeveloper will grant such rights of way as reasonably may be required for the relocation of such facilities removed from public streets or public rights of way, subject to Redeveloper's reasonable approval of the location of such rights of way so as not to interfere unreasonably with Redeveloper's intended construction of the Improvements, as depicted on the Conceptual Master Site Plan, or Pre-Construction Plans, as approved by the City.

The City agrees to coordinate the design and construction of utility infrastructure with the relevant utility service providers.

Infrastructure Improvements and Funding

The parties agree that for the Project Site to be developed as envisioned in the Wall Street Redevelopment Plan and this Agreement there are substantial public infrastructure improvements that the Redeveloper has agreed to construct. These Infrastructure Improvements are identified on **Exhibit B** attached hereto and made a part hereof, which include but are not limited to:

reconstruct, pave and maintain the portion of Smith Street that is to be abandoned and grant the City a perpetual non-exclusive easement, in common with others, to the general public to pass and repass (in a manner approved by the Norwalk Traffic Commission), substantially along the abandoned portion of Smith Street; construct and maintain a public plaza and construct a gazebo amenity on the boardwalk , both of which shall be open and accessible to the general public; construct a public stairway and walkway from the project site to Mill Hill; and provide public access to the boardwalk from behind the buildings on Wall Street. The Redeveloper agrees that it will fund and undertake any and all Infrastructure Improvements at its sole cost and expense. It is further recognized that such items may require certain off-site improvements to accommodate the increased demands on traffic, and utility systems the identification of which and related need for will be so identified going through the development entitlement process. Once the project is so entitled by the City all required off-site improvements will have been so identified by the City.

4. Deposit

Amount of Deposit; Time of Payment.

The Redeveloper shall deliver to the City a bank or certified check in the sum of SIX HUNDRED SIXTY THOUSAND AND 00/100 ($660,000.00) DOLLARS, simultaneously with the closing of title on Smith Street and the City Owned Property.

Security Account.

Within three (3) Business Days after the Developer executes the Option Agreement, drawing down the property a check shall be deposited by the City into an interest-bearing escrow account established and maintained by the City. The funds (the "Security Deposit") shall be deposited into an account entitled "City of Norwalk - Security Account f/b/o Head of the Harbor South, LLC" (the "Security Account"). The City shall determine at which financial institution(s) and in what investment vehicle(s) to maintain said Security Account, and all interest earned on the Security Deposit shall be used for the anticipated improvements. The Security Account shall be maintained by the City, and disbursements there from shall be made only, in accordance with the provisions of this Agreement. The Security Deposit shall be released to the Redeveloper in four (4) installments, as follows: up to a maximum of twenty-five (25%) percent of the initial Security Deposit upon completion of twenty-five (25%) percent of the Project; up to a maximum of an additional twenty-five (25%) percent of the initial Security Deposit upon completion of fifty (50%) percent of the Project; up to a maximum of an additional twenty-five (25%) percent of the initial Security Deposit upon completion of seventy-five

(75%) percent of the Project; and the balance upon the issuance of a Certificate of Completion for the entire Project. The amount of each installment shall be the lesser of (i) the estimated cost of each Infrastructure Improvement as set forth on **Exhibit B** attached hereto or (ii) the actual cost incurred by the Redeveloper for each Infrastructure Improvement, for which a Certificate of Completion has been issued and for which a prior distribution has not been made to the Redeveloper, not to exceed the maximum allowable distribution set forth above. The Redeveloper shall request each such distribution and such request shall be accompanied by satisfactory proof of the Redeveloper's cost of each Infrastructure Improvement for which a distribution is requested. Notwithstanding the forgoing provisions of this Section, in the event the total cost to the Redeveloper to complete all of the Infrastructure Improvements set forth on Exhibit B hereof do not equal or exceed SIX HUNDRED SIXTY THOUSAND AND 00/100 ($660,000.00) DOLLARS, then the Redeveloper shall contribute the difference to furthering the implementation of the Mill Hill Master Plan, in such a manner determined acceptable by the City. The Redeveloper assumes responsibility for the installation of all of the agreed upon public improvements to the City's reasonable satisfaction and assumes all related costs that might exceed $660,000.

5. Pre-Construction Plans; Construction of Improvements; Certificate of Completion

Changes To Approved Site Plan

If the Redeveloper desires to make any changes to the approved site plan required by the final construction plans such modification must be approved by the City. If the Site Plan, as modified is approved by the Redevelopment Agency it will so notify the developer in writing, it should be noted that the Redevelopment Agency's approval is not linked in anyway to any further approval or review that would be so required by the Zoning Commission.

Evidence of Equity Capital and Mortgage Financing

As promptly as possible after approval by the City of the Site Plan in any event, within the three year window of this Option Agreement the Redeveloper shall submit to the City evidence satisfactory to the City that the Redeveloper has equity capital and commitments for mortgage financing necessary for the construction of the Improvements. This section shall not be interpreted to require the Redeveloper to provide evidence of permanent financing after construction of the Improvements have been completed.

Approvals of Pre-Construction Plans and Evidence of Financing as Conditions Precedent to Conveyance

The submission of a Zoning Commission approved Site Plan and so reviewed and accepted as in accordance pre-construction plans and the submission of evidence of equity capital and commitments for construction and permanent financing, are conditions precedent to the obligation of the City to convey Smith Street and the City Owned Property to the Redeveloper.

Commencement and Completion of Construction of Improvements

The Redeveloper agrees for itself, its successors and assigns, and every successor in interest to the Property, or any part thereof, and the **Deed** shall contain covenants on the part of the Redeveloper for itself and such successors and assigns, that the Redeveloper, and such successors and assigns, shall promptly begin and diligently prosecute to completion the redevelopment of the Property through the construction of the Improvements thereon, and that such construction shall in any event be begun within five years of the date of this agreement or the City shall have the right to exercise its right of re-entry for the value the Redeveloper has paid to the City for consideration of the intended public improvements. All developer related financing documents will recognize the City's right of re-entry and the related language will be so approved by the City.

Certificate of Completion

Promptly after completion of the Improvements in accordance with those provisions of the Agreement relating solely to the obligations of the Redeveloper to construct the Improvements (including the dates for beginning and completion thereof), the City will furnish the Redeveloper with an appropriate instrument so certifying. Such certification by the City shall be (and it shall be so provided in the **Deed** and in the certification itself) a conclusive determination of satisfaction and termination of the agreements and covenants in the Agreement and in the **Deed** with respect to the obligations of the Redeveloper, and its successors and assigns, to construct the Improvements and the dates for the beginning and completion thereof: Provided, that if there is upon the Property a mortgage insured, or held or owned, by the Federal Housing Administration and the Federal Housing Administration shall have determined that all buildings constituting a part of the Improvements and covered by such mortgage are, in fact, substantially completed in accordance with the Pre-Construction Plans and are ready for occupancy, then, in such event, the City and the Redeveloper shall accept the determination of the Federal Housing Administration as to such completion of the construction of the Improvements in accordance with the Pre-Construction Plans, and, if the other agreements and covenants in the Agreement obligating the Redeveloper in respect of the Construction and completion of the Improvements have been fully satisfied, the City shall forthwith issue its certification provided for in this Section. Such certification and such determination shall not constitute evidence of compliance with or satisfaction

of any obligation of the Redeveloper to any holder of a mortgage, or any insurer of a mortgage, securing money loaned to finance the Improvements, or any part thereof.

With respect to such individual parts or parcels of the Property which, if so provided in Part I hereof, the Redeveloper may convey or lease as the Improvements to be constructed thereon are completed, the City will also, upon proper completion of the Improvements relating to any such part or parcel, certify to the Redeveloper, that such Improvements have been made in accordance with the provisions of the Agreement. Such certification shall mean and provide, and the **Deed** shall so state, (1) that any party purchasing or leasing such individual part or parcel pursuant to the authorization herein contained shall not (because of such purchase or lease) incur any obligation with respect to the construction of the Improvements relating to such part or parcel or to any other part or parcel of the Property; and (2) that neither the City nor any other party shall thereafter have or be entitled to exercise with respect to any such individual part or parcel so sold (or, in the case of lease, with respect to the leasehold interest) any rights or remedies or controls that it may otherwise have or be entitled to exercise with respect to the Property as a result of a default in or breach of any provisions of the Agreement or the **Deed** by the Redeveloper or any successor in interest or assign unless (i) such default or breach be by the purchaser or the lessee, or any successor in interest to or assign of such individual part or parcel with respect to the covenants contained and referred to in Section 401 hereof, and (ii) the right, remedy, or control relates to such default or breach.

Each certification provided for shall be in such form as will enable it to be recorded in the proper office for the recordation of deeds and other instruments pertaining to the Property, including the **Deed.** If the City shall refuse or fail to provide certification in accordance with the provisions of this Section, the City shall, within thirty (30) days after written request by the Redeveloper, provide the Redeveloper with a written statement, indicating in adequate detail in what respects the Redeveloper has failed to complete the Improvements in accordance with the provisions of the Agreement, or is otherwise in default, and what measures or acts will be necessary, in the opinion of the City, for the Redeveloper to take or perform in order to obtain such certification.

6. Property Use Restrictions

The Redeveloper agrees for itself, and its successors and assigns, and every successor in interest to the Property, or any part thereof, and the **Deed** shall contain covenants on the part of the Redeveloper for itself, and such successors and assigns, that the Redeveloper, and such successors and assigns shall:

Devote the property to, and only to and in accordance with, the uses specified in the Redevelopment Plan; and

Not use the property for, nor allow the Property to be used for Adult Use Establishments, as defined in Section 118-100 of the Building Zone Regulations of the City of Norwalk; and

Will affirmatively further fair housing laws, will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin or sex in the sale, lease or rental or in the use or occupancy of the Property or any improvements erected or to be erected thereon, or any part thereof.

Covenants; Binding upon Successors in Interest; Period of Duration. It is intended and agreed, and the **Deed** will expressly provide, that the agreements and covenants provided for shall be covenants running with the land.

Prohibition against Assignment and Transfer

The Redeveloper represents and agrees that its purchase of the Property, and its other undertakings pursuant to the Agreement, are, and will be used, for the purpose of redevelopment of the Property and not for speculation in land holding. The Redeveloper further recognizes that, in view of:

The importance of the redevelopment of the Property to the general welfare of the community;

The fact that a transfer of any membership interest in the Redeveloper or of a substantial part thereof, or any other act or transaction involving or resulting in a significant change in the ownership or distribution of such membership interest or with respect to the identity of the parties in control of the Redeveloper or the degree thereof, is for practical purposes a transfer or disposition of the Property then owned by the Redeveloper; the qualifications and identity of the Redeveloper, and its members, are of particular concern to the community and the City. The Redeveloper further recognizes that it is because of such qualifications and identity that the City is entering into the Agreement with the Redeveloper, and, in so doing, is further willing to accept and rely on the obligations of the Redeveloper for the faithful performance of all undertakings and covenants hereby by it to be performed without requiring in addition a surety bond or similar undertaking for such performance of all undertakings and covenants in the Agreement.

The Redeveloper represents and agrees for itself and its successors and assigns, that:

(a) Except only:

(i) By way of security for, and only for, (i) the purpose of obtaining financing necessary to enable the Redeveloper or any successor in interest to the Property, or any part thereof, to perform its obligations with respect to making the Improvements under the Agreement, and (ii) any other purpose authorized by the Agreement, and

(ii) As to any individual parts or parcels of the Property in which the Improvements to be constructed thereon have been completed, and which, by the terms of the Agreement, the Redeveloper is authorized to convey or lease as such Improvements are completed,

the Redeveloper (except as so authorized) has not made or created, and that it will not, prior to the proper completion of the Improvements as certified by the City, make or create, or suffer to be made or created, any total or partial sale, assignment, conveyance, or lease, or any trust or power, or transfer in any other mode or form of or with respect to the Agreement or the Property, or any part thereof or any interest therein, or any contract or agreement to do any of the same, without the prior written approval of the City: Provided, that, prior to the issuance by the City of the certificate as to completion of construction of the Improvements, the Redeveloper may enter into any agreement to sell, lease, or otherwise transfer, after the issuance of such certificate, the Property or any part thereof or interest therein, which agreement shall not provide for payment of or on account of the purchase price or rent for the Property, or the part thereof or the interest therein to be so transferred, prior to the issuance of such certificate.

The City shall be entitled to require, except as otherwise provided in the Agreement, as conditions to any such approval that:

Any proposed transferee shall have the qualifications and financial responsibility, as determined by the City, necessary and adequate to fulfill the obligations undertaken in the Agreement by the Redeveloper (or, in the event the transfer is of or relates to part of the Property, such obligations to the extent that they relate to such part);

Any proposed transferee, by instrument in writing satisfactory to the City and in form recordable among the land records, shall, for itself and its successors and assigns,

and expressly for the benefit of the City, have expressly assumed all of the obligations of the Redeveloper under the Agreement and agreed to be subject to all the conditions and restrictions to which the Redeveloper is subject (or, in the event the transfer is of or relates to part of the Property, such obligations, conditions, and restrictions to the extent that they relate to such part): Provided, that the fact that any transferee of, or any other successor in interest whatsoever to, the Property, or any part thereof, shall, whatever the reason, not have assumed such obligations or so agreed, shall not (unless and only to the extent otherwise specifically provided in the Agreement or agreed to in writing by the City) relieve or except such transferee or successor of or from such obligations, conditions, or restrictions, or deprive or limit the City of or with respect to any rights or remedies or controls with respect to the Property or the construction of the Improvements; it being the intent of this, together with other provisions of the Agreement, that (to the fullest extent permitted by law and equity and excepting only in the manner and to the extent specifically provided otherwise in the Agreement) no transfer of, or change with respect to, ownership in the Property or any part thereof, or any interest therein, however consummated or occurring, and whether voluntary or involuntary, shall operate, legally or practically, to deprive or limit the City of or with respect to any rights or remedies or controls provided in or resulting from the Agreement with respect to the Property and the construction of the Improvements that the City would have had, had there been no such transfer or change;

There shall be submitted to the City for review all instruments and other legal documents involved in effecting the transfer; and if approved by the City, its approval shall be indicated to the Redeveloper in writing;

The consideration payable for the transfer by the transferee or on its behalf prior to the issuance of all the project related certificates of completion and authorization so made by the Norwalk Redevelopment Commission that the project has been fully completed in compliance with the terms here stated shall not exceed an amount representing the actual cost (including carrying charges) to the Redeveloper of the Property (or allocable to the part thereof or interest therein transferred) and the Improvements, if any, theretofore made thereon by it; it being the intent of

this provision to preclude assignment of the Agreement or transfer of the Property or any parts thereof other than those referred to in subdivision (2), Paragraph (a) for profit prior to the completion of the Improvements and to provide that in the event any such assignment or transfer is made (and is not cancelled), the City shall be entitled to increase the Purchase Price to the Redeveloper by the amount that the consideration payable for the assignment or transfer is in excess of the amount that may be authorized pursuant to this subdivision (iv), and such consideration shall, to the extent it is in excess of the amount so authorized, belong to and forthwith be paid to the City;

The Redeveloper and its transferee shall comply with such other conditions as the City may find desirable in order to achieve and safeguard the purposes of the Redevelopment Act and the Redevelopment Plan;

Provided, that in the absence of specific written agreement by the City to the contrary, no such transfer or approval by the City thereof shall be deemed to relieve the Redeveloper, or any other party bound in any way by the Agreement or otherwise with respect to the construction of the Improvements, from any of its obligations with respect thereto.

Information as to Members

In order to assist in the effectuation of the purposes of this Article V and the statutory objectives generally, the Redeveloper agrees that during the period between execution of the Agreement and completion of the Improvements as certified by the City, (a) the Redeveloper will promptly notify the City of any and all changes whatsoever in the ownership of membership interests, legal or beneficial, or of any other act or transaction involving or resulting in any change in the ownership of such an interest or in the relative distribution thereof, or with respect to the identity of the parties in control of the Redeveloper or the degree thereof, of which it or any of its members and/or managers have been notified or otherwise have knowledge or information; and (b) the Redeveloper shall at such time or times as the City may request, furnish the City with a complete statement, subscribed and sworn to by a member or manager of the Redeveloper, setting forth all the members and managers of the Redeveloper and the extent of their respective holdings, and in the event any other parties have a beneficial interest in such ownership interest, their names and the extent of such interest, all as determined or indicated by the records of the Redeveloper, by specific inquiry made by any such members or managers, of all parties who on the basis of such records

own ten (10%) percent or more of the membership interest in the Redeveloper, and by such other knowledge or information as such member or manager shall have. Such lists, data, and information shall in any event be furnished the City immediately prior to the delivery of **Deed,** as the case may be, to the Redeveloper and as a condition precedent thereto, and annually thereafter on the anniversary of the date of the **Deed** until the issuance of a certificate of completion for all the Property.

7. Mortgage Financing; Rights of Mortgagees

Limitation Upon Encumbrance of Property

Prior to the completion of the Improvements, as certified by the City, neither the Redeveloper nor any successor in interest to the Property or any part thereof shall engage in any financing or any other transaction creating any mortgage or other encumbrance or lien upon the Property or any part thereof, whether by express agreement or operation of law, or suffer any encumbrance or lien to be made on or attach to the Property or any part thereof, except for the purposes of obtaining (a) funds only to the extent necessary for making the Improvements and (b) such additional funds, if any, in an amount not to exceed the Security Deposit paid by the Redeveloper to the City. The Redeveloper (or successor in interest) shall notify the City in advance of any financing, secured by mortgage or other similar lien instrument, it proposes to enter into with respect to the Property, or any part thereof, and in any event it shall promptly notify the City of any encumbrance or lien that has been created on or attached to the Property or any part thereof, whether by voluntary act of the Redeveloper or otherwise. For the purposes of such mortgage financing as may be made pursuant to the Agreement, the Property may, at the option of the Redeveloper (or successor in interest), be divided into several parts or parcels, provided that such subdivision, in the opinion of the City, is not inconsistent with the purposes of the Redevelopment Plan and the Agreement and is approved in writing by the City.

Mortgagee Not Obligated To Construct

Notwithstanding any of the provisions of the Agreement, including but not limited to those which are or are intended to be covenants running with the land, the holder of any mortgage authorized by the Agreement (including any such holder who obtains title to the Property or any part thereof as a result of foreclosure proceedings, or action in lieu thereof, but not including (a) any other party who thereafter obtains title to the Property or such part from or through such holder or (b) any other purchaser at foreclosure sale other than the holder of the mortgage itself), shall in no wise be obligated by the provisions of the Agreement to construct or complete the Improvements or to guarantee such construction or completion; nor shall any covenant or any

other provision in the **Deed** be construed to so obligate such holder: Provided, That nothing in this Section or any other Section or provision of the Agreement shall be deemed or construed to permit or authorize any such holder to devote the Property or any part thereof to any uses, or to construct any improvements thereon, other than those uses or improvements provided or permitted in the Redevelopment Plan and in the Agreement.

Mortgagee's Option To Cure Defaults

After any breach or default each such holder shall (insofar as the rights of the City are concerned) have the right, at its option, to cure or remedy such breach or default (or such breach or default to the extent that it relates to the part of the Property covered by its mortgage) and to add the cost thereof to the mortgage debt and the lien of its mortgage; Provided, that if the breach or default is with respect to construction of the Improvements, nothing contained in this Section or any other Section of the Agreement shall be deemed to permit or authorize such holder, either before or after foreclosure or action in lieu thereof, to undertake or continue the construction or completion of the Improvements (beyond the extent necessary to conserve or protect Improvements or construction already made) without first having expressly assumed the obligation to the City, by written agreement satisfactory to the City, to complete, in the manner provided in the Agreement, the Improvements on the Property or the part thereof to which the lien or title of such holder relates. Any such holder who shall properly complete the Improvements relating to the Property or applicable part thereof shall be entitled, upon written request made to the City, to a certification or certifications by the City to such effect in the manner as so provided herein.

City's Option to Pay Mortgage Debt or Purchase Property

In any case, where, subsequent to default or breach by the Redeveloper (or successor in interest) under the Agreement, the holder of any mortgage on the Property or part thereof:

Has, but does not exercise, the option to construct or complete the Improvements relating to the Property or part thereof covered by its mortgage or to which it has obtained title, and such failure continues for a period of sixty (60) days after the holder has been notified or informed of the default or breach; or

Undertakes construction or completion of the Improvements but does not complete such construction within the period as agreed upon by the City and such holder (which period shall in any event be at least as long as the period prescribed for such construction or completion in the Agreement), and such default shall not have been cured within sixty (60) days after written demand by the City so to do;

the City shall (and every mortgage instrument made prior to completion of the Improvements with respect to the Property by the Redeveloper or successor in interest shall so provide) have the option of paying to the holder the amount of the mortgage debt and securing an assignment of the mortgage and the debt secured thereby, or, in the event ownership of the Property (or part thereof) has vested in such holder by way of foreclosure or action in lieu thereof, the City shall be entitled, at its option, to a conveyance to it of the Property or part thereof (as the case may be) upon payment to such holder of an amount equal to the sum of: (i) the mortgage debt at the time of foreclosure or action in lieu thereof (less all appropriate credits, including those resulting from collection and application of rentals and other income received during foreclosure proceedings); (ii) all expenses with respect to the foreclosure; (iii) the net expense, if any (exclusive of general overhead), incurred by such holder in and as a direct result of the subsequent management of the Property; (iv) the costs of any Improvements made by such holder; and (v) an amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the mortgage debt and such debt had continued in existence.

City's Option to Cure Mortgage Default

In the event of a default or breach prior to the completion of the Improvements by the Redeveloper, or any successor in interest, in or of any of its obligations under, and to the holder of, any mortgage or other instrument creating an encumbrance or lien upon the Property or part thereof, the City may at its option cure such default or breach, in which case the City shall be entitled, in addition to and without limitation upon any other rights or remedies to which it shall be entitled by the Agreement, operation of law, or otherwise, to reimbursement from the Redeveloper or successor in interest of all costs and expenses incurred by the City in curing such default or breach and to a lien upon the Property (or the part thereof to which the mortgage, encumbrance, or lien relates) for such reimbursement: Provided, that any such lien shall be subject always to the lien of (including any lien contemplated, because of advances yet to be made, by) any then existing mortgages on the Property authorized by the Agreement.

8. Remedies

General

Except as otherwise provided in the Agreement, in the event of any default in or breach of the Agreement, or any of its terms or conditions, by either party hereto, or any successor to such party, such party (or successor) shall, upon written notice from the other, proceed immediately to cure or remedy such default or breach, and, in any event, within sixty (60) days after receipt of

such notice. In case such action is not taken or not diligently pursued, or the default or breach shall not be cured or remedied within a reasonable time, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including, but not limited to, proceedings to compel specific performance by the party in default or breach of its obligations.

Termination by Redeveloper Prior to Conveyance

In the event that:

(a) The City does not tender conveyance of **Smith Street and the City Owned Property**, or possession thereof, in the manner and condition and by the date, provided in the Agreement, and any such failure shall not be cured within thirty (30) days after the date of written demand by the Redeveloper; or

(b) The Redeveloper shall, after preparation of Working Drawings for the South Parcel satisfactory to the City, furnish evidence satisfactory to the City that it has been unable, after and despite diligent effort for a period of one hundred and eighty (180) days after approval by the City of said Working Drawings, to obtain mortgage financing for the construction of the Improvements on a basis and on terms that would generally be considered satisfactory by builders or contractors for improvements of the nature and type provided in such Working Drawings, and the Redeveloper shall, after having submitted such evidence and if so requested by the City, continue to make diligent efforts to obtain such financing for a period of one hundred and eighty (180) days after such request, but without success;

then the Agreement may, at the option of the Redeveloper or the City, be terminated by written notice thereof to the other parties. Upon such termination, the Security Account shall be released to the Redeveloper and neither the City nor the Redeveloper shall have any further rights against or liability to the other parties under the Agreement.

Termination by City Prior to Conveyance

In the event that:
(a) prior to conveyance of any part of **Smith Street and the City Owned Property** to the Redeveloper and in violation of the Agreement:

(i) The Redeveloper (or any successor in interest) assigns or attempts to assign the Agreement or any rights therein, or in the Property, or

(ii) There is any change in the ownership or distribution of any

membership interest of the Redeveloper or with respect to the identity of the parties in control of the Redeveloper or the degree thereof, except as may be specifically permitted in this Agreement; or

(iii) The Redeveloper is delinquent in paying any real estate taxes to the City.

(b) The Redeveloper does not submit Pre-Construction Plans and Working Drawings for the South Parcel, as required by the Agreement, or evidence that it has the necessary equity capital and mortgage financing, in satisfactory form and in the manner and by the dates respectively provided in the Agreement therefore; or

(c) The Redeveloper shall default in or violate its obligations with respect to the construction of the Improvements (including the nature and the dates for the beginning and completion thereof), or shall abandon or substantially suspend construction work, and any such default, violation, abandonment, or suspension shall not be cured, ended, or remedied within thirty (30) days after written demand by the City so to do, subject, however, to the provisions herein ; or

(d) The Redeveloper does not take title to **Smith Street and the City Owned Property** upon tender of conveyance by the City pursuant to the Agreement, and if any default or failure referred to that is not be cured within thirty (30) days after the date of written demand by the City;

then the Agreement, and any rights of the Redeveloper, or any assignee or transferee, in the Agreement, or arising therefrom with respect to the City or the Property, shall, at the option of the City, be terminated by the City, in which event the Security Account shall be released to the Redeveloper and neither the Redeveloper (or assignee or transferee) nor the City shall have any further rights against or liability to the other under the Agreement.

Other Rights and Remedies of City; No Waiver by Delay

The City shall have the right to institute such actions or proceedings as it may deem desirable for effectuating the purposes of this section , including also the right to execute and record or file among the public land records of the City a written declaration of the termination of all the right, title, and interest of the Redeveloper, and (except for such individual parts or parcels upon which construction of that part of the Improvements required to be constructed thereon has been completed, in accordance with the Agreement, and for which a certificate of completion is to be delivered) its successors in interest and assigns, in the Property: Provided, That any delay by the City in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this section shall not operate as a waiver of such rights or to deprive it

of or limit such rights in any way [it being the intent of this provision that the City should not be constrained (so as to avoid the risk of being deprived of or limited in the exercise of the remedy provided in this Section because of concepts of waiver, laches, or otherwise) to exercise such remedy at a time when it may still hope otherwise to resolve the problems created by the default involved]; nor shall any waiver in fact made by the City with respect to any specific default by the Redeveloper under this Section be considered or treated as a waiver of the rights of the City with respect to any other defaults by the Redeveloper under this Section or with respect to the particular default except to the extent specifically waived in writing.

Enforced Delay in Performance for Causes Beyond Control of Party

For purposes of any of the provisions of this Agreement, neither the City, nor the Redeveloper or any successor in interest, transferee, or assignee of the Redeveloper shall be considered in breach of, or in default of any of its obligations under this Agreement in the event and to the extent of (i) unforeseeable delay in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence and due to the consequential effects of such causes, including but not limited to, acts of God; acts of the public enemy; acts (including failures to act and delays) of any governmental employee, City, or body (other than, as to the City or City, the City or the City); acts (including failure to act and delays) of the other party; fires; floods; epidemics; riot or civil disorder; quarantine restrictions, strikes, or other labor disputes; embargoes; reasonable delays in the performance of construction by contractors, and/or unusually severe weather which affects the required performance hereunder; or (ii) any unanticipated environmental conditions at the Project Site. It is the purpose and intent of this provision that in the event of the occurrence of any such delay, the time or times for performance of the obligations in this Agreement affected or impacted thereby shall be extended for the period of such delay provided that the party seeking the benefit of the provisions of this paragraph shall, within ten (10) days after the beginning of such delay (or within ten (10) days after it becomes aware of such delay), notify the other parties thereof in writing. Any party who wishes to object to a party seeking the benefit of the provisions of this paragraph shall, within ten (10) days after receipt of written notice that a party is seeking the benefit of the provisions of this paragraph, notify the other parties of such objection in writing. With respect to any delay in completion or progress of construction of the Improvements, the Architect shall certify in said writing as to the (a) anticipated duration of the delay, (b) the reasons for the delay, and (c) the effect of the delay on the completion of the Improvements. In the event the City directs that the Improvements in any phase be modified or reconstructed for failure by the Redeveloper to conform in all material respects to the approved Pre-Construction Plans for such phase or approved modifications thereof, such directive shall not be a ground for the

extension of time limits of construction of the Improvements nor for delay in the performance of any of Redeveloper's obligations hereunder.

Rights and Remedies Cumulative

The rights and remedies of the parties to the Agreement, whether provided by law or by the Agreement, shall be cumulative, and the exercise by either party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other such remedies for the same default or breach or of any of its remedies for any other default or breach by the other party. No waiver made by either such party with respect to the performance, or manner or time thereof, or any obligation of the other party or any condition to its own obligation under the Agreement shall be considered a waiver of any rights of the party making the waiver with respect to the particular obligation of the other party or condition to its own obligation beyond those expressly waived in writing and to the extent thereof, or a waiver in any respect in regard to any other rights of the party making the waiver or any other obligations of the other party.

Party in Position of Surety With Respect to Obligations

The Redeveloper, for itself and its successors and assigns, and for all other persons who are or who shall become, whether by express or implied assumption or otherwise, liable upon or subject to any obligation or burden under the Agreement, hereby waives, to the fullest extent permitted by law and equity, any and all claims or defenses otherwise available on the ground of its (or their) being or having become a person in the position of a surety, whether real, personal, or otherwise or whether by agreement or operation of law, including, without limitation on the generality of the foregoing, any and all claims and defenses based upon extension of time, indulgence, or modification of terms of contract.

COMMON COUNCIL
NORWALK, CONNECTICUT

OCTOBER 8, 2013
REGULAR MEETING MINUTES

ALL COMMON COUNCIL ACTIONS TAKEN AT THIS MEETING TO APPROVE EXPENDITURES AND CONTRACTS OR TO ACCEPT BIDS AND OTHER PROPOSALS REQUIRING THE EXPENDITURE OF CITY FUNDS ARE SUBJECT TO THE AVAILABILITY OF FUNDS.

CALL TO ORDER

Mayor Moccia called the meeting to order at 8:00 p.m. and led the assembly in the Pledge of Allegiance.

I. ROLL CALL

City Clerk Herring called the roll. The following Council Members were present:

Council at Large:	Mr. Douglas Hempstead	Mr. Fred Bondi Ms. Sarah Mann
	Ms. Anna Duleep	Mr. Warren Peña
District A:	Mr. Matthew Miklave	Mr. David Watts
District B:	Mr. Carvin Hilliard	Mr. Michael Geake
District C:	Mr. Nicholas Kydes	Ms. Michelle Maggio
District D:	Mr. Jerry Petrini	Mr. Bruce Kimmel
District E:	Mr. David McCarthy	Mr. John Igneri

Mayor Richard A. Moccia; Attorney Robert Maslan, Corporation Counsel; Ms. Erin Herring, City Clerk. Fifteen members present. Absent: none

II. ACCEPTANCE OF MINUTES - Regular meeting – September 24, 2013

Ms. Duleep requested a correction to page 2, paragraph 3, change National Anti-Bullying week to World-Wide Suicide Prevention Day.

** **MR. MCCARTHY MOVED TO APPROVE THE MINUTES FROM THE MEETING OF SEPTEMBER 24, 2013 SUBMITTED.**
** **THE MOTION PASSED UNANIMOUSLY.**

PUBLIC PARTICIPATION

Mayor Moccia stated the rules for pubic comment and asked those that had signed up to speak to state their name, affiliation and to keep comments civil in nature with no personal attacks and to be related to the agenda to a limit of three minutes.

Public Comments represent summarizations of comments made, unless otherwise noted.

1. Irene Dixon, 25 Park Hill, spoke on behalf of the Visitor's Beareau in support of the The Maritime Aquarium and stated that it is the second largest attraction in the state that draws up to 500,000 visitors annually. She urged the Council to help keep visitors alive in Norwalk and to renew the lease as proposed.

Public Comments – continued

2. Emil Albanese, 35 Bettswood Place, Norwalk stated that he was Norwalk Symphony Orchestra president and Board member of the Maritime Association. He stated that he was the father of a six-year old and he was speaking as a parent and a local person that believes this institution is good for us. He added that the Aquarium not only is an economic anchor in that area of South Norwalk, but beyond that it's a place that's great for families, and he shared that he purchased a parrot in response to the number of visits with his son. He stated that the Maritime Aquarium is an education engine and resource for the city tourism efforts and it deserves the support of the council to approve the lease as proposed.

3. Bob Wagman,36 Morehouse Lane, stated that he is a 20 year volunteer at the Aquarium, has a Masters in Marine Science and he spoke about the excitement when students touch a horseshoe crab. He added that he taught Biology in public schools and he is able to draw on his background to add elements of biology into the aquarium programs and shared how this has been able to impact the daily visitors. He added that many lives have been touched and the aquarium is a great educational resource. He highlighted that through training courses there is a tremendous impact on economic and commercial emphasis on the City and it is to the best interests of the Council to improve the agreement for the Aquarium.

4. Jennifer E. Herring, 16 Ann Street, Maritime Aquarium President and CEO, passed around an article in the Hour and letter to the editor about the programs and the positive aspects that keep Norwalk alive. She told council members that the Aquarium is happy to partner with Norwalk schools and programs serve to help close the achievement gap. She described the Aquarium as an anchor of the community, stewards of Long Island Sound that all started 20 years ago with the support of the Council. She pointed out that nearly two-dozen people gave up their evening to come and show their support for the lease extension and to let the public know what an important institution this is to Norwalk. She asked those in attendance to stand and they were acknowledged with applause.

5. Kip Ford, 4 Brown Place, stated he was born and raised in Norwalk and he remembers the fear of SONO and the undesirable neighborhood. He urged the Council to support the lease renewal and that it is owed to them to keep the foundation of the community and how this institution has lifted up the image of the City and really put it on the map for Fairfield County. He added that they owe it to them to keep the Aquarium alive and well and even to subsidize it if needed.

6. Donna King, 71 Aiken Street, Norwalk stated that she is currently Chair of the Maritime Authority, she read the mission and spoke about the precious resource this is of the Long Island Sound. She spoke about how Norwalk has been enriched for its existence and she strongly recommends approval of the lease extension.

7. David Westmoreland, 50 Elmwood Avenue, stated that he strongly supports the reappointment of Diane Beltz-Jacobsen as Assistant Corporation Counsel.

Public Comments – continued

Mr. Westmoreland spoke in support of the Maritime Aquarium lease extension, and he explained how Norwalk was lucky in having the Aquarium, normally an institution of that size you'd find in a city of at least 200,000. He then spoke about Norwalk's Mill Hill, as seen from Smith Street and stated that he is very disturbed at both the contents of the proposed agreement to give away the publicly owned land that is contained in this agreement as well as the way with which it is being handled to bring through the council without full disclosure to the Planning Committee members, the Historical Commission, the DPW and the tax assessor's office in terms of the commitments and potential cost to city taxpayers. He further explained that the city would be giving away Mill Hill historic parkland while the agreement does not take into consideration that the parkland is used on weekends, and the city's charter mandate that the Historical Commission be consulted had been ignored. He described that we've given away the southern end of Crescent Street, Liberty Street and Putnam Avenue with no strings attached and what do we have but a big empty hole in the ground with no plans for development. He asked the Council to send the items back to committee.

8. Ganga Duleep, 3 Briarwood Place, spoke about 20 Day Street and asked that asked stated before, what was told to be co-applicant and there are concerns over flooding that have not been addressed. She asked them to not give up that land and create another 95-7 with lawyers moving forward with what we agreed to and what is given up is way more.
9. Jim DelGreco, Elmwood Avenue asked to please support and preserve Smith Street, and he wanted to echo many of the comments made by the Historical Commission. Keep Norwalk Beautiful coordinator Jim DelGreco also spoke against the option, and argued that while development and progress are important, but not to the detriment of our environmental treasures. Just as the Maritime Center anchors South Norwalk, Mill Hill anchors the head of the harbor. We should not weaken historic Mill Hill treasure by giving away our resources and explained that the city would be giving away Mill Hill historic and the city's charter mandate that the Historical Commission be consulted had been ignored. He added that we need to support the Maritime Aquarium and asked the Council to do the right thing.
10. Mr. Todd Bryant, 23 Morgan Avenue spoke on supporting the Oak Hills resolution to protect section of park land and thanked them for all they do for the City. He spoke on the Mill Hill issue and that the CT environmental policy act section 106 is part of an act of 1966 that any property that affects the national registry affects the integrity of the Historical community. He added that as President of the Norwalk Preservation Trust the Mill Hill property is in the National Historic Register, and any alteration of it would have to be reviewed by the state. He spoke in support of Oysterman's Rowayton Historical District and that it is a simple way to do a lot for the history for the City.
11. Gail Wall, 119 Partrick Avenue thanked all the Common Council for what they do and stated that with regards to Mill Hill, 100 years ago described the 2002 historic home and shred the story of the Mill Hill legacy that held the group together and enlivened the Little Red Schoolhouse and other groups that included a small group of Octa-generarions to grown and revive the membership for the community and how the third grades of the City are served with the preservation trust agreement. She described what was done through the back door and this is without coming to the commission and is appalling and she asked to follow the right process.

12. Mike Mushak, 50 Elmwood Avenue, Norwalk stated that he wanted to echo many of the comments made earlier and spoke on the economic impact of tourism that the Maritime Aquarium has and that the Council needs to support the lease extension without questions. He added that he also wanted to echo many of the comments made about the Mill Hill and the Historic Commission and he quoted tourism statistics as well as jobs in CT base on the Cultural and Heritage Tourism fact that this is the fastest growing segment. He added that the Mill Hill is a centerpiece and this treasure should be preserved and promoted not given away part of Smith Street as it is part of the Master Plan and this should be followed. He concurred that this should be sent back to Committee.
13. Patsy Breshnia, 40 Woodbine Street spoke about the heritage night at Lockwood Mathews Mansion and the Land Use Item 4B to fix the leaks in the roof. She said there is confusion on the intent and the second phase of the mechanical upgrades are needed that this has been made possible through fundraising efforts. She added that the hundreds of thousands for restoration are much needs and have been raised through grants and gifts and she asked the Council to endorse these efforts through their approval of the items on the agenda.
14. Paxton Kinole, stated that he was from Waypoint and Bellpointe Capital, funder of the Waypointe project, and told the council that his company would be willing to help fund the extension. He added that they want to be a catalyst and are willing to put up $ and funds. He added that in his business he comes across many business associates that say how the Maritime Aquarium has put Norwalk on the map and it is a critical property to Fairfield County.

15. Diane Lauricella, Blue Mountain Road said she wanted to speak about items D3 Day Street, D4, Smith Street and D5 Academy Street and asked all of these to be sent back to committee. She spoke about the support of DiScala and to build an asset for harmony for the area, but it needs to be reviewed and discussed and send back for further review. She spoke about the presentation in process and cannot see the conservation efforts that lead the way in an effort to protect and preserve open space for future generations. She stated that this plan for conservation and development list of private and open spaces and that the process has not been followed She gave a shout out for the Maritime Aquarium and read line by line of the Lease agreement and this unique asset should be supported.

16. Mr. Al Raymond 79 Truman Street spoke about Academy Street and this time he is against what will happen if this is open where all traffic will go through a neighborhood. He added that it is a good project but more traffic on Wall Street and West Avenue hurts the neighborhood. He added that also there was no public hearing and people should have a voice.

17. Ron Dickens, 9 Town Street stated he was all for the Aquarium as it is an anchor for the City and he wanted to echo the comments made earlier. He stated that pollution education is work the price of admission and he shared how the public is not aware of the damage done to the sound by allowing a plastic garbage bag to go into the trash.

Mayor Moccia asked if there were others who wished to make comments, and hearing none closed the Public Participation portion of the meting at 8:30 p.m.

MAYOR COMMENTS:

Mayor Moccia offered his condolences to Thomas Hamilton in the Finance Department for the passing of his partner.

Mayor Moccia offered his congratulations to former Mayor William Collins for his induction on the Norwalk High School's Wall of Honor.

He stated that he understands the concerns of the citizens addressed there tonight and that it can be hard to accept changes and he said he could understand the concerns about Mill Hill and we've made tremendous improvement to Mill Hill and the historic society working with the Historical Commission has certainly advanced the culture and the history of this city. He added that Development and progress can be difficult to achieve, he said, making it important to talk to the developers and with some reassessment of the situation, continued dialogue, we know that eventually Mr. DiScala wants to develop Head of the Harbor, but I think we need more discussion on it.

Mayor Moccia mentioned the St. Ann's Club celebration being held on Columbus Day.

REAPPOINTMENTS:

Diane Beltz-Jacobson, Assistant Corporation Counsel

** **MR. HEMPSTEAD MOVED TO APPROVE THE REAPPOINTMENT OF DIANE BELTZ JACOBSEN AS ASSISTANT CORPORATION COUNSEL WITH A TERM TO EXPIRE 10/31/15.**
** **THE MOTION PASSED UNANIMOUSLY**

V. COUNCIL PRESIDENT

A. GENERAL COUNCIL BUSINESS

Mr. Hempstead offered his deepest sympathy to Thomas Hamilton and his prayers of healing.

Mr. Hempstead stated that he did not think there was every any doubt about the Maritime's lease, and was anticipating the approval. He stated that tonight is a great moment for us to extend this lease out, change it to make it whole over there, because it is truly a wonderful asset to the city of Norwalk.

He thanked the Historical Society for hosting the Council for their celebration, and stated that 100 years ago on October 8, 1913, the meeting of the Common Council and Norwalk became one community with East and South Norwalk. He added that the minutes speak words of wisdom and he referred to the Maritime Aquarium acquisition back in 1984 as an example of Counsel wisdom and foresight.

CONSENT CALENDAR

** MR. HEMPSTEAD MOVED THE CONSENT CALENDAR AS FOLLOWS: VII.A.1, VII.A.2, VII.A.3, VII.A.4, VII.B1.a, VII.B1.b, VII.B.2, VII.C.1, VII.C.2, VII.C3a, VII.C3b, VII.C4a, VII.C4b, VII.C.6a, VII.C.6b, VII.D.2,
** MOTION PASSED UNANIMOUSLY.

VII. COMMON COUNCIL COMMITTEES

A. HEALTH, WELFARE & PUBLIC SAFETY COMMITTEE

1. Authorize the Mayor, Richard A. Moccia, to execute an agreement with Badge Quest, to conduct the Police promotional testing for rank of Detective, for a sum not to exceed $10,000 from Account #013040-5258

2. Authorize the Purchasing Agent to execute a purchase order, on behalf of the Norwalk Police Department, to MHQ, the low bidder, for the purchase of three 2014 Ford Utility Police Interceptors, for the amount not to exceed $80,000. Account # 013053-5371

3. Authorize the Mayor, Richard A. Moccia, to execute any and all documents necessary to apply for and accept grant funds from the State of Connecticut, Department of Transportation, under the Highway Safety Project, FY 2014 Comprehensive DUI Enforcement Program. The program will be funded with 75% grant funds of $72,975.00, account to be determined, and 25% City funds of $24,325.00 to be taken out of Police overtime or asset forfeiture funds.

4. Authorize the Police Chief, Thomas E. Kulhawik, to execute any and all agreements, documents, instruments and amendments thereto as may be necessary to implement the FY 2014 Comprehensive DUI Enforcement Program, pursuant to such grant funding.

B. PUBLIC WORKS COMMITTEE

1.a. Authorize the Mayor, Richard A. Moccia, to execute an Agreement with Structural Contracting Services, Inc. for Project DPW 2013-1 Norwalk Transfer Station Wall and Concrete Repairs for a sum not to exceed $72,000.00.

1.b. Authorize the Director of Public Works to issue Orders on Contract to Structural Contracting Services, Inc. for Project DPW 2013-1 Norwalk Transfer Station Wall and Concrete Repairs for a sum not to exceed $7,200.00.Account No.0914 4031 5777 C0515

2. Authorize the Director of Public Works to install historic "Oysterman's Row" signs on the street sign poles at nine intersections as requested by the Rowayton Historical Society.

CONSENT CALENDAR--continued

C. LAND USE & BUILDING MANAGEMENT COMMITTEE

1. Authorize the Mayor, Richard A. Moccia, acting together with the Maritime Aquarium at Norwalk Authority, collectively as landlord, to execute an Amended and Restated Lease Agreement with the Maritime Aquarium at Norwalk, Inc., for the North Water Street Property comprising the Maritime Aquarium. The terms and conditions of the Agreement shall be subject to approval by the Norwalk Corporation Counsel.

2. Authorize the Mayor, Richard A. Moccia, to execute an Agreement with ePlus Technology, Inc. for the supply and installation of Wireless Local Area Network (WLAN) for 19 school buildings as follows: Phase I – K-8 for a total not to exceed $869,357.15
Acct. #09135010 5777 C0112 - $479,752.00
Acct. #09145010 5777 C0112 - $389,605.15
Phase II – High Schools for a total not to exceed $587,555.55
Acct. #09145010 5777 C0112 - $110,394.85
Acct. # 09145010 5777 C0538 (Common Core) - $300,000.00
WiFi Project Carry Over (Acct. #To be Determined) - $177,160.70

3a. Authorize the Mayor, Richard A. Moccia, to execute an Agreement with Better Homes Bureau LLC for the Bell Tower Restoration Project at Mill Hill for a total not to exceed $17,786.13. Acct. #09146310 5777 C0374.
3b. Authorize the Historical Commission to issue Change Order on Contract for a total not to exceed $5,000

4a. Authorize the Mayor, Richard A. Moccia, to execute an Agreement with Domus Contractors LLC for the Roof Leak Repair project at Lockwood Mathews Mansion for a total not to exceed $99,000.00. Account #09136310 5777 C186.
4b. Authorize the Historical Commission to issue Change Orders on Contract for a total not to exceed $10,000.00.

6a. Authorize the Mayor, Richard A. Moccia, to execute an Amendment to A.P. Construction Company's agreement for the implementation of the Naramake School Improvement Project, to incorporate a Guaranteed Maximum Price (GMP) in the amount of $3,851,979.00. Account #'s 09045010 5777 C0321 & Special Appropriation for State share – acct. # to be determined.
6b. Authorize the NFCC to issue change orders on contract for a total not to exceed $203,598.00.

CONSENT CALENDAR--continued

D. PLANNING COMMITTEE

Approve Minutes of the Regular Meeting of the Planning Committee of September 5, 2013.
On consent to remove from the agenda.

2. Authorize advancement of CAPER for 30-day public comment.

3. Approve the Norwalk Housing Authority requested modification of the Option to Purchase Agreement for 13 and 20 Day Street.
On consent to send back to Committee.

4. Approve the recommended terms regarding the intended Smith Street Option Agreement by and between the City of Norwalk and M. F. DiScala and Company and condition such approval upon the Common Council's approval of the final Option Agreement containing the referenced terms to be advanced by Corporation Counsel.
On consent to send back to Committee.

LAND USE AND BUILDING MANAGEMENT

5. Authorize the Mayor, Richard A. Moccia, to execute an Agreement with Peterson Engineering Group, LLC to prepare an integrated HVAC and energy assessment of City Hall, for a total amount not to exceed $49,250.00. Acct. #09107100 5777 C0119

Mr. Bondi moved the item for discussion

Mr. Hempstead recused himself due to a conflict and left the Chambers at 9:10 p.m.

** **MR. BONDI MOVED AUTHORIZE THE MAYOR, RICHARD A. MOCCIA, TO EXECUTE AN AGREEMENT WITH PETERSON ENGINEERING GROUP, LLC TO PREPARE AN INTEGRATED HVAC AND ENERGY ASSESSMENT OF CITY HALL, FOR A TOTAL AMOUNT NOT TO EXCEED $49,250.00. ACCT. #09107100 5777 C0119**
** **MOTION WAS APPROVED UNANIMOUSLY.**

Mr. Hempstead returned to the meeting at 9:11 p.m.

PLANNING COMMITTEE:

5. Adoption of Academy Street Extension Resolution.

Mr. Miklave asked for a point of order and stated that there was a procedural mistake, as the agenda had not been followed. He asked for the resolution and Mr. Hempstead read it fro the supporting documents.

Mr. Kydes moved the item for discussion then spoke about the problems with items being vetted through Committee. Mayor Moccia asked Mr. Kydes to hold his comments to the end of the agenda and to speak only to the item for discussion.

Mr. Miklave voiced his concerns about the city's budget, and stated that we're not talking about the emails we get from residents that live in one of the 21 neighborhoods that live in our community that face constant flooding, with some of these neighborhoods flood with raw sewage in heavy rains. He explained that we can't afford to spend $3 million to subsidize a developer, and we never have a discussion about priorities before this council. He added that we just spend money like it's going out of style and we don't make hard choices because when you get a room full of people saying we want this, and the politically popular thing to do is to say yes.

Mr. Kimmel stated that the item at hand is spending $200,000 on a study of the proposed Academy Street extension and not $3 million. He said council members did not know yet how much the project would cost or what the developer would kick in, and that the amount of $3 million is not what we are voting on. He said initiating the process would make the city more attractive to developers in the future and would allow for negotiating better deals. He added that with financial investments, we should remember we do not have communities flooded on a weekly basis, we have one street, one house, where there's a problem that's being addressed. He stated that we've spent this year $2.5 million for flood mitigation and well planned and budgeted amounts of money the city has spent for road paving.

Mr. Hempstead said every year there are more requests for capital expenditures than the council has money to spend, and flooding issues had been worked on. He added that twenty-five years ago people said don't spend money on the Maritime Aquarium, but look what that has done. He added that \it's important to send a message that we're trying to look a little bit forward, down the road when development comes. He added that it's important that we're supporting a vision of what can be versus what can't be.

Mr. Geake said the expenditure was laying ground work and if we don't need it, we don't need it, but to not be prepared in case, with all of this development going on, we find that we just plain need more capacity on our streets.

Mr. Kydes spoke of the transparency of his Planning Committee and that we have been very very frugal with the city's funds, and adoption of the Academy Street extension is not giving any developer a free ride, as has been implied.

Ms. Duleep said she was not comfortable with subsidizing of private developers, it depends on the project, sometimes it's worth it, and sometimes it's not. She added that the proposed Academy Street extension would allow pedestrians and cyclists to get from the Lockwood Mathews Mansion area to Wall Street without using a West Avenue that is just going to get busier.

** **MR KYDES MOVED TO APPROVE AND AUTHORIZE THE ADOPTION OF THE ACADEMY STREET RESOLUTION.**

** **MOTION PASSED WITH THIRTEEN VOTES IN FAVOR, TWO OPPOSED (DULEEP, MIKLAVE) AND NO ABSTENTIONS.**

VIII. RESOLUTIONS FROM COMMON COUNCIL

Ms. Maggio requested a five minute recess prior to the item on the Oak Hills Resolution. The meeting was recessed at 9:30 and returned back into public session at 9:40 p.m.

Mayor Moccia stated that the remaining item was a resolution and asked for efforts to not go back and forth and to say focused on the item.

Resolution in Support of Designating the Woodlands of Oak Hills Park as Open Space to be Preserved, Conserved, and Protected from Development in Perpetuity

Ms. Duleep read the resolution as follows:
WHEREAS, Oak Hills Park Authority was created by the Common Council in 1997 for the purpose of acquiring, constructing, operating, maintaining, and managing Norwalk's Oak Hills Park, in accordance with Sections 7-130a-w of the Connecticut General Statutes; and

Resolution – continued

WHEREAS, the City of Norwalk accepted money from the Land and Water Conservation Fund and other sources for the purpose of acquiring land now known as Oak Hills Park; and

WHEREAS, Section 6(f)(3) of the Federal Land and Water Conservation Act includes an "anti-conversion" requirement to protect grant-assisted lands from development; and

WHEREAS, during his tenure as Oak Hills Park Authority Chairman, Robert J. Virgulak wrote a letter to the editor, entitled, "Oak Hills does not receive dollar one from the city," which was published by The Hour on December 19, 2012; and

WHEREAS, Mr. Virgulak, in his capacity as Oak Hills Park Authority Chairman, wrote, "Oak Hills was never intended to actually be a park…As I was told, the park designation was needed to secure federal and state funds for the construction"; and

WHEREAS, in accordance with Section 7-130r of the Connecticut General Statutes (Financial aid by municipality), the Oak Hills Park Authority has, from time to time, sought loans and other financial assistance from the City of Norwalk; and

WHEREAS, on February 26, 2013 the Norwalk Common Council voted to approve the following item: "RESOLVED, that a sum not to exceed $150,000 be and the same is hereby transferred from Contingency to the Oak Hills Park Authority to cover operating expenses"; and

WHEREAS, at its July 15, 2013 meeting, the Norwalk League of Women Voters Steering Committee voted "to oppose the destruction of the 7 to 10 acres of city-owned pristine woodlands inside Oak Hills Park east of the Oak Hills restaurant parking lot"; and

WHEREAS, at its August 15, 2013 meeting, Oak Hills Park Authority voted unanimously to pursue further negotiations with Total Driving Range Solutions to build a driving range on a part of Oak Hills Park other than those 7 to 10 acres of pristine woodlands near the restaurant; and

WHEREAS, at least 230 people so far have signed a petition, entitled, "Protect Oak Hills Woodlands as Permanent Open Space," which states, "While we applaud Oak Hills Park Authority's decision not to destroy the woodlands at this time, we don't want to have to fight this fight again. Therefore we call upon Norwalk's Mayor, Common Council, Oak Hills Park Authority, and other governing bodies to designate the woodlands in Oak Hills Park as permanent open space, to be preserved, conserved, and protected from development in perpetuity."

NOW, THEREFORE, BE IT RESOLVED BY THE NORWALK COMMON COUNCIL THAT we take very seriously any obligations incurred by the City and Oak Hills Park Authority as a condition of accepting money from the Land and Water Conservation Fund and other sources for the purpose of acquiring land to form Oak Hills Park; and

Resolution – continued

NOW, THEREFORE, BE IT RESOLVED BY THE NORWALK COMMON COUNCIL THAT we affirm that Oak Hills Park was created to be a public park, whose amenities include, but are not limited to, its golf course; and

NOW, THEREFORE, BE IT RESOLVED BY THE NORWALK COMMON COUNCIL THAT we encourage Oak Hills Park Authority, the Conservation Commission, and future members of the Norwalk Common Council to take appropriate steps to ensure the 7 to 10 acres of pristine woodlands located near the restaurant parking lot inside Oak Hills Park be declared protected open space in perpetuity.

Ms. Duleep stated that the Oak Hills Park Authority had been considering allowing a private vendor to build a driving range in those woodlands, behind the restaurant. The authority chose instead on Aug. 15 to pursue a proposal from Total Driving Range Solutions to construct a range behind the cart barn. She further explained that The Friends of the Park have about 230 signatures on a petition advocating making the woods open space, according to Duleep's resolution.

The petition states, while we applaud Oak Hills Park Authority's decision not to destroy the woodlands at this time, we don't want to have to fight this fight again. Therefore we call upon Norwalk's Mayor, Common Council, Oak Hills Park Authority, and other governing bodies to designate the woodlands in Oak Hills Park as permanent open space, to be preserved, conserved, and protected from development in perpetuity.

Mr. Bondi stated that this is a golf course, and anybody who goes there and walks is at the danger of being hit by a golf ball.

Mr. Hempstead stated that while this has merit, he feels that it should follow the process of being vetted through Committee with due process and procedure.

Ms. Duleep further explained that the resolution encouraged OHPA, the city's Conservation Commission and future members of the Common Council to take appropriate steps to ensure the 7 to 10 acres of pristine woodlands located near the restaurant parking lot inside Oak Hills Park be declared protected open space in perpetuity.

Ms. Duleep rejected calls by some council members that the resolution first should have gone through council committee, rather than being presented directly, as avoiding taking a position. We had a petition signed by over 230 people, calling upon the mayor, calling upon the Norwalk Common Council and calling upon others in the city to take some action. She added that is all that I am asking you for tonight: It's to have the courage of your convictions if you oppose it.

Mr. Watts spoke in support of the resolution but asked that paragraphs 4-5 be removed and explained this rationale. He stated that there should be a compromise that those that want to visit can walk through and West Norwalk residents being asked to travel to Cranbury park to walk is ridiculous and it sends the wrong message to West Norwalk.

Mr. Kimmel stated that he agrees with Mr. Hempstead that the process should be followed the same as the prisoner release resolution and it needs to be vetted through committee. He added that if the resolution passes will more people use the park and we should be careful not to box in another committee or authority's jurisdiction.

Mr. Kydes stated that he agrees with Mr. Bondi that the City is liable for hazardous conditions that the public is placed in and if they are put in harms way.

Ms. Duleep stated that the Council has the right to initiate a resolution and the purpose is to state a position. She added that the elephant in the room is the driving range which is too expensive and too massive of a project to clear the wood lands and she appreciates the Council's right to have the courage of their conviction.

Mr. Hilliard stated that while there are merits of the resolution it is better served to be directed to the committee and to follow the process.

** **MR. WATTS MOVED FOR AN AMENDMENT TO THE RESOLUTION TO REMOVE PARAGRAPHS 4-5.**
** **THE AMENDMENT WAS APPROVED UNANIMOUSLY.**

** **MS. DULEEP MOVED TO ADOPT THE RESOLUTION AS AMENDED.**
** **THE MOTION FAILED WITH FIVE VOTES IN FAVOR, (DULEEP, WATTS, IGNERI, MIKLAVE, PENA) TEN OPPOSED (GEAKE, HILLIARD, KIMMEL, BONDI, HEMPSTEAD, MAGGIO, MANN, KYDES, PETRINI, MCCARTHY) AND NO ABSTENTIONS.**

IX. MOTIONS POSTPONED TO A SPECIFIC DATE - none

X. SUSPENSION OF RULES - none

XI. ADJOURNMENT

** **MR. MCCARTHY MOVED TO ADJOURN.**
** **MOTION PASSED UNANIMOUSLY.**

The meeting was adjourned at 10:05 p.m.

Respectfully submitted,
Marilyn Knox,
Telesco Secretarial Services

CAPITAL BUDGET CALENDAR
FISCAL YEAR 2014-15

December 16, 2013	Submit requests to Director of Finance
January 6-10, 2014	Finance and Planning and Zoning staff meet with departments to review requests.
(On or before) February 1, 2014	Finance Director compiles and transmits requests together with recommendations to the Common Council, Board of Estimate and Taxation, and the Planning Commission. Recommendations will include a report of the effects such requests will have upon the Operating Budget bonded indebtedness.
(Tentative) Late January/Early February 2014	Planning Commission meets with Departments to review requests.
(On or before) February 15, 2014	Planning Commission conducts public hearings on the requests.
(On or before) March 5, 2014	Planning Commission transmits its recommended Capital Budget to the Mayor.
(On or before) March 15, 2014	Mayor completes his review and transmits his recommended budget to the Board of Estimate and Taxation.
(On or before) April 7, 2014	Board of Estimate and Taxation completes its review and transmits its recommended budget to the Common Council.
By April 15, 2014	Common Council after approving, rejecting, reducing and/or reinstating any items gives its final approval.

THE PLANNING COMMITTEE
OF THE COMMON COUNCIL

125 East Avenue
P.O. Box 5125
Norwalk, CT 06856

TO: MEMBERS OF THE PLANNING COMMITTEE OF THE NORWALK COMMON COUNCIL

FROM: TAMI STRAUSS, DIRECTOR OF COMMUNITY DEVELOPMENT PLANNING

DATE: DECEMBER 24, 2013

RE: REQUEST FOR FOLLOW UP INFORMATION FROM THE NORWALK HOUSING AUTHORITY

At the meeting of the Planning Committee on December 11, 2013, members approved advancing the Agency's request for Common Council approval for the Mayor to execute a Certificate of Consistency for the Norwalk Housing Authority's Public Housing Assistance Plan for fiscal year 2014.

Members also requested follow up information from the Norwalk Housing Authority. Attached to this memo, please find:

- A description of Project-Based Section 8 Vouchers including Norwalk Housing Authority's distribution of tenant, homeownership, project-based and moderate-rehab vouchers.
- A red-lined version of Section 1 and Attachment H (public comments) of the PHA plan.

ACTION REQUESTED

None at this time

Organization **Norwalk Emergency Shelter**
Name of Activity **Permanent Supportive Housing Program/129 South Main Street**
Amount of Request **$ 47,830.00**

The Norwalk Emergency Shelter, Inc. is applying to HUD to continue its Permanent Supportive Housing Program (PSHP) for those individuals residing at 129 South Main Street. This building has two studio apartments; each apartment has a private bathroom and kitchen, and houses two residents. Additionally, there is a five-bedroom apartment that accommodates five individuals This NES program assists chronically homeless individuals who have a history of mental illness or alcohol and substance abuse or are infected with HIV/AIDS. These individuals are provided the opportunity to move out of the emergency shelter or transitional housing and into a permanent supportive housing environment. Residents receive case management and referral services that help them to maintain housing and increase their self-sufficiency.

Organization **United Way of Coastal Fairfield County**
Name of Activity **Homeless Management Information System**
Amount of Request **$74,521**

The United Way of Coastal Fairfield County will serve as the fiduciary for this application on behalf of the CoC. Funds will allow the partners to access HUD's Homeless Management Information System (HMIS). HUD has mandated that agencies which receive HUD funds must enter client data into a client management system. Use of HMIS will allow service providers to plan and implement client services, expedite linkages to housing, benefits and services, identify gaps in the current services delivery system and provide an accurate count of the homeless individuals in the Norwalk and surrounding area. The funds are for annual user license fees, technical support, training of new users and the purchasing of new computer equipment to upgrade old systems to have the capacity to operate the Service Point program.

Organization **Family & Children's Agency**
Name of Activity **40 South Main Street/Community Connections Support Services for the Homeless**
Amount of Request **$120,176**

The Family & Children's Agency will utilize HUD funds to continue offering supportive services programming for homeless and formerly homeless individuals. These services include case management, vocational rehabilitation and employment opportunities for formerly homeless residents at 40 South Main Street and vocational services to homeless individuals participating in FCA's Community Connections program on Water Street.

Organization **Hall-Brooke Behavioral Health Services**
Name of Activity **Homestead Residential Services**
Amount of Request **$309,029**

Hall-Brooke Behavioral Health Services is submitting a renewal application so it may continue to provide safe, affordable permanent housing with supportive services for twenty-three (23) homeless individuals with psychiatric disabilities and those with co-occurring substance abuse problems. This project provides a continuum of supportive services designed to meet the physical, economic, and social needs of tenants. The associated housing consists of 4 two-family homes, scattered sites located in neighborhoods with access to local community amenities.

Organization **Mid-Fairfield AIDS Project**
Name of Activity **Independent Living Programs 1- 3**
Amount of Request **$ 123,200 (#1)**
$ 47,200 (#2)

The Mid Fairfield AIDS Project, Inc. (MFAP) utilizes HUD funding to administer its Independent Living Program that offers both rental subsidy and support services to MFAP clients that have contracted HIV/AIDS. In order to continue this program MFAP is seeking to renew three grants of Supportive Housing Program funds. MFAP's Independent Living Program provides 17 units housing approximately 25 persons. It is MFAP's goal to provide support services to clients and move them into independent living. These support services include: medical care, medication, transportation, financial assistance, food, nursing care, mental health care and housing assistance.

Organization **Norwalk Housing Authority**
Name of Activity **Greater Norwalk PILOTS Initiative**
Amount of Request **$166,640**

The Greater Norwalk PILOTS Initiative is a collaborative effort of the City of Norwalk Housing Authority, Keystone House, Inc, Family & Children's Agency, Inc. and Interfaith Housing Association. The PILOTS (Planning and Implementing Housing Options for Long Term Success) program is designed to provide permanent supportive housing to homeless individuals who have been diagnosed with a mental health or a co-occurring mental health and addiction disorder. HUD funding for PILOTS Initiative provides both rental subsidy assistance and supportive services.

Organization **Human Services Council**
Name of Activity **Planning Grant**
Amount of Request **$17,945**

The planning process calls for improving communication, competitiveness, monitoring and evaluation. The grant helps pay for: part of a salary for a full-time person to be shared with other "Opening Door" organizations; consulting services; and standards and evaluation work.

Organization **State of CT Dept. of Mental Health and Substance Abuse Services**
Name of Activity **Norwalk Shelter Plus Care**
Amount of Request **$421,629**

The Norwalk Shelter Plus Care renewal application is being sponsored by the State of Connecticut Department of Mental Health and Addiction Services to continue to provide rental assistance to 25 units of housing in the Norwalk area to individuals and families who are homeless and disabled (15 individuals, 10 families) an arrays of support services are also available to any participant in need.

Norwalk Emergency Shelter – 129 South Main Street

The Norwalk Emergency Shelter, Inc.'s (NES) Permanent Supportive Housing Program is located at 129 South Main Street in South Norwalk, Connecticut. This building has two studio apartments, which includes a private bathroom and kitchen, and houses two residents. Additionally, there is a five-bedroom apartment that accommodates five individuals each of whom have a private bedroom and share a common area, kitchen and bathroom.

NES' Permanent Supportive Housing Program assists seven (7) chronically homeless individuals who come from the streets, safe havens, or transitional housing situations. Said individuals have a history of mental illness or alcohol and substance abuse, or are infected with HIV/AIDS. These individuals are provided the opportunity to move out of emergency shelter or transitional housing and into a permanent supportive housing environment. Residents receive case management and referral services that help them to maintain housing and increase their self-sufficiency.

NES' Transitional Coaches and residents develop close, positive working relationships in a quiet setting that resembles a home, rather than an institution. Living in this supportive housing surrounding allows participants to experience independent living; enhance their basic life skills; access job placement services; manage mental illness, HIV/AIDS or other medical conditions; and/or maintain sobriety.

To ensure that the participants in our Permanent Supportive Housing Program receive the best treatment available, NES staff integrates services with other social service providers, including but not limited to Mid-Fairfield AIDS Project (services persons with HIV/AIDS); Family and Children's Agency Drop-in Center; Keystone House (vocational and rehabilitation services); The Norwalk Redevelopment Agency (technical assistance and program development); Norwalk Public Schools (adult education); Norwalk Department of Recreation and Parks (recreation programs) and Hope Works (job training).

In January 2001, the U.S. Department of Housing and Urban Development (HUD) awarded NES a three-year grant to appropriately rehabilitate its building at 129 South Main Street, and to operate a permanent supportive housing program. Over the past three years, NES has enrolled fourteen homeless individuals with special needs into this program. All of these participants have learned financial management, responsibly paid their rents, gained leadership skills, maintained positive relationships with other tenants in the household, received information on basic education and vocational training programs, obtained employment, and enhanced their self-esteem.

United Way of Coastal Fairfield County - HMIS

The Homeless Management Information System (HMIS) renewal application is being submitted by the members of the Norwalk Continuum of Care: Family and Children's Agency, Inter-Faith Housing, Norwalk Emergency Shelter, Department of Mental health and Addiction Services, Homestead and Mid-Fairfield AIDS Project. HUD has mandated that agencies which receive HUD funds must enter client data into a client management system.

HMIS information provides the quality and sophistication of client services; expedites linkages to housing, benefits and services; identifies gaps in the current services delivery system; and provides an accurate count of the homeless individuals in the Norwalk and surrounding area.

At this time, area shelters as well as transitional and supportive housing services programs have entered the relevant data into HMIS. Moving ahead, the United Way of Coastal Fairfield County will continue work with area homeless assistance providers to continually update information, and will request information sharing from other agencies that work with the homeless (e.g. churches and hospitals) for inclusion in the HMIS system.

The members of the Norwalk Continuum of Care are seeking a one year renewal for $114,000. The requested funds will be used for annual user license fees for Service Point (the web based HMIS software provider) technical support, training of new users and the purchasing of new computer equipment to upgrade old systems so users have the capacity to operate the Service Point program.

Family and Children's Agency – Supportive Housing Program

Family & Children's Agency offers Support Services for homeless and formerly homeless individuals. These services include case management, vocational rehabilitation and employment opportunities for formerly homeless residents at 40 South Main Street and vocational services to homeless individuals at FCA's Community Connections.

The goal of these services is to enhance the ability of homeless individuals to live independently and to maintain their housing. FCA has been providing these services for the past 12 years. Front desk monitoring is provided on a 24-hour basis by building residents who are employed and supervised by another non-profit agency, Demarco Management. The Human Service Council of Mid-Fairfield is the sponsor of the project and works with 40 South Main Limited Partnership, the current owner of the building. This collaborative arrangement has brought the strengths of these non-profits together to build a living environment in which residents have "bought in " to their rights and responsibilities as tenants and neighbors.

A full-time case manager is on-site at 40 South Main Street to the Section 8 residents to refer them to community resources, to help coordinate activities such as workshops, help with daily living skills, and to facilitate communication between residents. The primary goal of the supportive services at 40 South Main Street is to maintain the housing stability of residents and prevent future homelessness.

The availability of vocational services through a full-time vocational counselor has been successful for both the residents at 40 South Main Street and individuals at Community Connections in providing an important link to the world of work for both those with housing and those seeking housing.

The renewal funding for the Supportive Housing Program will be used to continue providing case management, vocational counseling, and employment opportunities to an estimated 60 homeless individuals over the next year.

NOFA Outcomes

(1) The percentage of formerly homeless individuals who remain housed in HUD permanent housing projects for at least 6 months will be at least 77 percent. One client died this past year.
(2) The employment rate of persons exiting HUD homeless assistance projects will be at least 20 percent. 33% of clients served obtained employment

Hall-Brooke Behavioral Health Services – Homestead Residential Services

Hall-Brooke Behavioral Health Services, a private, not-for-profit, community psychiatric and substance abuse facility, is seeking $309,029 in renewal funding for a Supportive Housing Project that has been sponsored and operated by since 1992. Hall-Brooke currently operates 16 scattered-site multifamily community based residences as well as 42 individual apartments in Fairfield County serving over 125 tenants with special needs. Twelve of these houses were purchased and rehabilitated for the homeless using HUD McKinney and other funding.

The purpose of this renewal project is to provide safe, affordable permanent housing with supportive services for twenty-three (23) homeless individuals with psychiatric disabilities and those with co-occurring substance abuse history. The Housing program consists of 4 two-family homes, scattered sites, located in safe, middle class neighborhoods with access to local community amenities including shopping, religious facilities, recreational activities, community facilities, libraries, and transportation services.

Persons who are homeless and disabled need housing, but they also need clinical treatment, training in developing independent living skills, social skills and work habits. This project provides a continuum of supportive services designed to meet the physical, economic, and social needs of tenants. Hall-Brooke utilizes a Housing First model with wrap-around services achieved provided through case management, which is the primary mechanism for helping tenants access and obtain the services they need to live and function productively in the community. Residential support services range from as needed, to daily, or even more intensive hands-on service during crisis periods. Staff provides skills training including activities of daily living, meal preparation, household skills, money management, interpersonal and social skills development and helping tenants access community groups for self-help and developing natural supports in peer relationships in the community. Staff are available to be on-site in the mornings and evenings and are on-call at all other hours. The flexibility and availability of services provided both through Hall-Brooke's Residential Services Program and through this continuum of care assures that tenants have their clinical, physical, social and emotional needs met in the least restrictive environment. 20 of 23 or 87% of formerly homeless individuals have remained housed for at least 6 months. 1 out of 5 or 20% of those who exited during the last operating year were employed. 17 of 23 or 74% of the residents who continue to reside in the program are either employed, volunteering or in school. 22 of 23 or 96% are involved in structured activity and/or appropriate psychiatric/substance abuse treatment.

Mid Fairfield AIDS Project – Independent Living Program 1 and 2

The Mid Fairfield AIDS Project, Inc. (MFAP) is applying for the renewal of three grants to continue its Independent Living Program. This program provides 21 units housing to approximately 30 persons with HIV/AIDS who have an income, yet not enough income to afford safe and affordable housing in this area. MFAP has a case manager who works with all clients in the program. The organization's goal is to wrap support services around the person with HIV/AIDS and move them into independent living. These support services include: medical care, medication, transportation, financial assistance, food, nursing care, mental health care and housing assistance.

The subsidy awarded to each individual or family with HIV is based on a percentage of their income versus the cost of rent and number of family members.

In the past five years MFAP has maintained an occupancy rate of 100% with an average of 34 beds maintained each year. This program keeps families together and gives people living with a chronic and deadly illness a chance at survival. The key to thriving with HIV/AIDS is to minimize stress and ensure the

proper administration of medication and medical care. Without stable housing these issues will defeat the persons living with this disease.

The Independent Living Programs will subsidize the cost of 21 apartments and defray the cost of 30% of a case manager's salary. MFAP has seen many people use this program as a leg up to move out and on to self reliance over the past ten years. The support part of this program has kept people living with HIV/AIDS in medically stable condition as well as providing support groups, mental health care and all the pieces needed to have a secure and healthy lifestyle.

MFAP receives funding from other sources that help people living with HIV pay for other bare necessities. Clients that are in the subsidy program may also access this funding in the form of: transportation, medical care, medication, food, dental care, counseling and financial assistance. This complete package of services wrapped around the housing subsidies has made this a very successful and popular program. MFAP always has a waiting list for people who need this assistance and it has been as high as ten individuals or families waiting for this crucial help.

It is important to understand that MFAP is not just providing housing for these folks but is also stabilizing their medical conditions, enabling them to be productive members of society. These apartments also give these people living with AIDS access to the continuum of care and medical service delivery system that already exists. This is done at no additional cost to the community or persons with HIV/AIDS.

Norwalk Housing Authority – Greater Norwalk PILOTS Initiative

The Greater Norwalk PILOTS Initiative is a collaborative effort of the City of Norwalk Housing Authority, Keystone House, Inc, Family & Children's Agency, Inc. and Interfaith Housing Association. PILOTS (Planning and Implementing Housing Options for Long Term Success) provides permanent supportive housing to adults with an identified mental illness or co-occurring disorder who are experiencing homelessness. The PILOTS Initiative has been housing individuals since 2001. All 10 individuals served through this grant are formerly homeless individuals, coming from emergency shelters, the streets or transitional housing (having previously come from Emergency shelters or the streets). Five of the 10 consumers were Chronically Homeless at the time of entry into the program.

The rental subsidy provided to consumers allowing them to pay only 30% of their gross income in rent along with the support services provided by PILOTS' case managers affords consumers the best probability of attaining self- sufficiency and permanently leaving homelessness. PILOTS consumers utilize the tenant based rental subsidy to lease safe, decent, and affordable housing of their choice in the Westport, Wilton, or Norwalk areas. Case Managers ensure that housing is readily accessible to transportation and other community amenities. PILOTS has either met or surpassed the goals outlined in the *HUD APR* each year as they relate to housing stability, increased access to income and entitlements, and increased self-sufficiency.

PILOTS Case Managers visit with consumers in their homes. The Case Manager and consumer work together on identified needs and goals with the overarching goal being assisting individuals in maintaining housing and achieving the greatest possible level of independence and self- sufficiency. Case Managers work closely with collateral agencies to facilitate access to all mainstream resources. The support services provided are designed to be flexible and to meet the individual needs of consumers with services being more intensive when consumers are in most need and are less intensive as stabilization is achieved. Access to educational and employment opportunities for PILOTS consumers is

facilitated by Keystone House's connection with Ability Beyond Disability, an employment program for individuals with disabilities.

NOFA Indicators:

1. 100% of formerly homeless individuals in the PILOTS program remained housed for at least 6 months.
2. Any new housing subsidies acquired will be designated for Chronically Homeless

State of Connecticut Department of Economic and Community Development – Norwalk Shelter Plus Care

The HUD-funded Shelter Plus Care Program provides rental assistance for homeless and chronically homeless individuals/families with disabilities in connection with supportive services currently provided by community based agencies.

Program grants are used for the provision of rental assistance payments through three (3) components:

1. Tenant-based Rental Assistance (TRA)
2. Project-based Rental Assistance with (PRAR) or without rehabilitation (PRA); and
3. Section 8 Moderate Rehabilitation Program for Single Room Occupancy (SRO) Dwellings

The Norwalk Shelter Plus Care Program is a TRA (Tenant based Rental Assistance) and is administered by DMHAS: SWCMHS – Office of Community Resources and Special Projects. It provides housing with supportive services on a long-term basis to homeless persons with disabilities (primarily those with serious mental illness, chronic problems with alcohol and/or drugs, and acquired immunodeficiency syndrome (AIDS) or related diseases) and their families who are living in places not for human habitation (e.g. Streets) or in emergency shelters. The supportive services are offered by the following agencies: GBCMHC, St. Vincent's Behavioral Health, Family and Children's Agency, Inc., St. Luke's Life Works and CT Renaissance.

The Point-in Time count conducted in 2011 found a total of 46 individuals served by the Norwalk TRA. There were 23 adults that included 3 households without children under 18. There were 4 households with total of 8 children under age 18 along with 5 adults. The Shelter Plus Care Program has 25 certificates – 7 OBR units, 13-1BR units 4-2BR units and 1 -3BR unit.

Project Based Vouchers - Description

The Congress and HUD provide Housing Choice Vouchers (HCV) formerly and commonly known as Section 8 (which is the section of the 1937 Housing Act inserted by Congress in 1974 to create the voucher program).

The Section 8 program initially had three subprograms — New Construction, Substantial Rehabilitation, and Existing Housing Certificate programs. The Moderate Rehabilitation Program was added in 1978, the Voucher Program in 1983, and the Project-based Certificate program in 1991. The 1998 Public Housing Reform Act created a new name for the Section 8 program, namely The Housing Choice Voucher program [HCV]. In 2001 HUD introduced a new Project-based program for vouchers, replacing the Certificate program.

The 2008 Consolidated Appropriations Act (Public Law 110-161) enacted December 26, 2007, allocated $75 million funding for the HUD-Veterans Affairs Supportive Housing (HUD-VASH) voucher program, authorized under section 8(o)(19) of the United States Housing Act of 1937. This new program combines HUD Housing Choice Voucher rental assistance for homeless veterans with case management and clinical service support which is provided by the Veterans Affairs administration at its own medical centers and also in the community.

The main thrust of the program is to provide what are known as tenant based vouchers [TBV], which enable a household to rent an apartment on the open market with the NHA paying some of the rent to the landlord and the household paying some of the rent to the landlord. Eligibility of the tenant is the same as for public housing and the total rent paid to the landlord cannot exceed rent limits established by both HUD and the NHA. Moreover the unit and building must pass basic building, housing and health codes.

In the Tenant Based program, the NHA has contracts with HUD which grant it an annual amount of money normally sufficient to issue up to 680 vouchers to eligible households who may use them anywhere in the US.

One of the changes Congress and HUD made to the program in the last 13 years was to authorize housing authorities to allow households to use vouchers to purchase rather than rent a home or condominium unit. So far 15 families in the NHA have taken advantage of that HCV feature in cooperation with downpayment assistance from the City of Norwalk and with the cooperation of local lenders. Another 23 families have also become homeowners using other programs.

As noted above, Congress and HUD authorized owners of property to rehabilitate and convert existing housing to affordable housing using vouchers from HUD which were then attached to the property. Colonial Village is a 200 unit project rehabilitated and converted using vouchers. These 200 vouchers did not come from the NHA out of its allotment of

tenant based vouchers but were issued by HUD through the State of Connecticut. It is now owned and managed by the NHA.

Over the last 13 years many housing authorities have used some of their tenant vouchers to support housing for the elderly, for the disabled and for households which need supportive services. They have also used them to stimulate housing in areas which are undergoing revitalization.

Under the rules governing the program, only 20% of the housing authority tenant based voucher grant can be used for projects. In the case of the NHA, that would mean approximately a maximum of 136 out of the 680 vouchers, could be attached to properties. In addition, except for buildings with 4 or less units, buildings for the elderly, the disabled or populations receiving a set of contracted supportive services, only 25% of the units in a building can be allocated vouchers. Moreover, properties receiving vouchers must pass certain tests to determine if the units will unduly increase racial or poverty concentration.

The intent of Congress was to reverse the concentration of the poor and of racial minorities.

Finally, from time to time HUD issues additional vouchers to a housing authority for special purposes. The NHA has received such vouchers which it can use for Family Unification purposes. The Family Unification Program (FUP) is a program under which Housing Choice Vouchers (HCVs) are provided to two different populations:

1. Families for whom the lack of adequate housing is a primary factor in: a. The imminent placement of the family's child or children in out-of-home care, or b. The delay in the discharge of the child or children to the family from out-of-home care. There is no time limitation on FUP family vouchers.

2. Youth at least 18 years old and not more than 21 years old who left foster care at age 16 or older and who lack adequate housing. FUP vouchers used by youth are limited, by statute to 18 months of housing assistance.

The Public Child Welfare Agency must certify to the family's or youth's eligibility. The PHA may use these vouchers for regular families on the waiting list until eligible participants require them. Then the FUP certified participant receives the PHA's next available voucher. Each month the NHA has a number of vouchers returned because the family no longer needs it, or has become ineligible or for other reasons.

In summary the table below illustrates the NHA's portfolio and the current and prospective use for FY2014.

Program Element	Authorized by HUD	Authorized by the NHA	Currently under Lease	Proposed through March 31st 2015 [FY2014]
Tenant Vouchers	680	680	642	680
Homeownership Vouchers	680	No limit	38	No limit
Project Based Vouchers	136	0	0	50
Moderate Rehab Vouchers	200	N/A	200	200

PHA 5-Year and Annual Plan	U.S. Department of Housing and Urban Development Office of Public and Indian Housing	OMB No. 2577-0226 Expires 4/30/2011

Fifth Annual PHA Plan for Fiscal Year: 2014

NORWALK HOUSING AUTHORITY

Final: 12/11/2013

PHA 5-Year and Annual Plan	U.S. Department of Housing and Urban Development Office of Public and Indian Housing	OMB No. 2577-0226 Expires 4/30/2011

1.0 PHA Information

PHA Name: Norwalk Housing Authority PHA Code: CT002

PHA Type: ☐ Small ☐ High Performing ☒ Standard ☐ HCV (Section 8)

PHA Fiscal Year Beginning: (MM/YYYY): 4/1/2013

2.0 Inventory (based on ACC units at time of FY beginning in 1.0 above)

Number of PH units: 853 Number of HCV units: 680

Number of State of Ct Units: 78 Number of Moderate Rehab HCV Units: 162 Number of Substantial Rehab HCV Units: 200

3.0 Submission Type

☐ 5-Year and Annual Plan ☒ Annual Plan Only ☐ 5-Year Plan Only

4.0 PHA Consortia ☐ PHA Consortia: (Check box if submitting a joint Plan and complete table below.)

Participating PHAs	PHA Code	Program(s) Included in the Consortia	Programs Not in the Consortia	No. of Units in Each Program	
				PH	HCV
PHA 1:					
PHA 2:					
PHA 3:					

5.0 5-Year Plan. Complete items 5.1 and 5.2 only at 5-Year Plan update.

5.1 Mission. State the PHA's Mission for serving the needs of low-income, very low-income, and extremely low income families in the PHA's jurisdiction for the next five years:

See Five Year Plan 2012-2016

5.2 Goals and Objectives. Identify the PHA's quantifiable goals and objectives that will enable the PHA to serve the needs of low-income and very low-income, and extremely low-income families for the next five years. Include a report on the progress the PHA has made in meeting the goals and objectives described in the previous 5-Year Plan.

See Five Year Plan 2012-2016

6.0

PHA Plan Update

(a) Identify all PHA Plan elements that have been revised by the PHA since its last Annual Plan submission:

PHA Plan Element	Changed	Attached to this Plan	Only on File at the NHA
PHA Plan 2010-2014 5 Year Goals and Prior Progress	**Yes**	Attachment A	
Eligibility, Selection and Admissions Policies, including Deconcentration and	**Yes**	Attachment B	√
Eligibility	No		√
Wait List Procedures.	No		√
Selection	No		√
Admissions Policies and Leasing	**Yes**		
Deconcentration	No		√
Financial Resources	**Yes**	Attachment C	
Rent Determination			√
Income Based Rents	No		√
Flat Rents	**Yes**	Attachment D	
Payment Standards (HCV)	**Yes**	Attachment E	
Minimum Rent	No		√
Operation and Management Utility Schedule	**Yes**	Attachment F	
Operation and Management NHA Charges	**Yes**	Attachment G	
Designated Housing for Elderly and Disabled Families	No		√
Community Service and Self-Sufficiency	**Yes**	Attachment B	√
Safety and Crime Prevention	No		√
RAB Members	**Yes**	Attachment H	
CFP Annual Statement and Open CFP	**Yes**	Attachment I	
CFP 5 Year Plan	**Yes**	Attachment J	
Housing Needs Analysis	No		√
Strategy for Addressing Needs	No		√
Substantial Deviation	No	Attachment K	
Civil Rights Certification	**Yes**	Attachment L	
Fiscal Year Audit	No		√
Asset Management	No		√
Other Information required by HUD			
Violence Against Women Act (VAWA)	**Yes**	Attachment M	
Grievance Procedure	No		√
Pets	No		√
FSS Program Design	No		√

(b) Identify the specific location(s) where the public may obtain copies of the 5-Year and Annual PHA Plan. For a complete list of PHA Plan elements, see Section 6.0 of the instructions.

Copies of the PHA Plan may be obtained from the NHA Office at 24 ½ Monroe St, Norwalk CT 06854 and on line at http://www.norwalkha.org

7.0	**Hope VI, Mixed Finance Modernization or Development, Demolition and/or Disposition, Conversion of Public Housing, Homeownership Programs, and Project-based Vouchers.** *Include statements related to these programs as applicable.* a. After completing a Transformation Plan for Washington Village with a HUD Choice Neighborhood Planning Grant in June 2013, the NHA made an application for Choice Neighborhoods Implementation funding for Washington Village, September 2013. It also intends to explore voluntary conversion, demolition and disposition and mixed financing and/or Choice Neighborhoods and other funding opportunities for Roodner Court and Meadow Gardens. NHA will explore RAD for non-Washington Village public housing properties. b. The NHA will submit an application for demolition of Washington Village. c. The NHA will continue and expand its self-sufficiency efforts through the FSS program and through its homeownership programs for public housing residents and for HCV participants through its current approved HCV homeownership program. It will make another request of the City of Norwalk to use CDBG funds to replenish the funds for the Norwalk Redevelopment Agency Down Payment Assistance program, which is critical for low income homeownership. d. The NHA will continue to examine the use of project based Section 8 both for rehabilitation, redevelopment or new construction of existing public housing developments including Washington Village, Roodner Court, Meadow Garden and Colonial Village. HUD regulations permit a PHA to convert up to 20% of its tenant based vouchers to project based vouchers as long as such conversions follow HUD rules. The NHA Board has further limited the number of conversions which might be proposed for FY2014 to a total of 50 vouchers. e. The NHA will continue to improve the living environment for any properties it owns or manages by promoting smoke free buildings as approved by the Board through a no-smoking policy in and around NHA properties.
8.0	**Capital Improvements.** Please complete Parts 8.1 through 8.3, as applicable.
8.1	**Capital Fund Program Annual Statement/Performance and Evaluation Report.** As part of the PHA 5-Year and Annual Plan, annually complete and submit the *Capital Fund Program Annual Statement/Performance and Evaluation Report,* form HUD-50075.1, for each current and open CFP grant and CFFP financing. ***See Attachment I – Separate Files***
8.2	**Capital Fund Program Five-Year Action Plan.** As part of the submission of the Annual Plan, PHAs must complete and submit the *Capital Fund Program Five-Year Action Plan,* form HUD-50075.2, and subsequent annual updates (on a rolling basis, e.g., drop current year, and add latest year for a five year period). Large capital items must be included in the Five-Year Action Plan. ***See Attachment J – Separate Files***
8.3	**Capital Fund Financing Program (CFFP).** ☐ Check if the PHA proposes to use any portion of its Capital Fund Program (CFP)/Replacement Housing Factor (RHF) to repay debt incurred to finance capital improvements.

9.0	
9.1	**Housing Needs.** Based on information provided by the applicable Consolidated Plan, information provided by HUD, and other generally available data, make a reasonable effort to identify the housing needs of the low-income, very low-income, and extremely low-income families who reside in the jurisdiction served by the PHA, including elderly families, families with disabilities, and households of various races and ethnic groups, and other families who are on the public housing and Section 8 tenant-based assistance waiting lists. The identification of housing needs must address issues of affordability, supply, quality, accessibility, size of units, and location.
10.0	***No new data has become available at this time, which would cause the NHA to change its analysis of need prepared in 2010.***

11.0	**Required Submission for HUD Field Office Review.** In addition to the PHA Plan template (HUD-50075), PHAs must submit the following documents. Items (a) through (g) may be submitted with signature by mail or electronically with scanned signatures, but electronic submission is encouraged. Items (h) through (i) must be attached electronically with the PHA Plan. **Note:** Faxed copies of these documents will not be accepted by the Field Office. (a) Form HUD-50077, *PHA Certifications of Compliance with the PHA Plans and Related Regulations* (which includes all certifications relating to Civil Rights) (b) Form HUD-50070, *Certification for a Drug-Free Workplace* (PHAs receiving CFP grants only) (c) Form HUD-50071, *Certification of Payments to Influence Federal Transactions* (PHAs receiving CFP grants only) (d) Form SF-LLL, *Disclosure of Lobbying Activities* (PHAs receiving CFP grants only) (e) Form SF-LLL-A, *Disclosure of Lobbying Activities Continuation Sheet* (PHAs receiving CFP grants only) (f) Resident Advisory Board (RAB) comments. Comments received from the RAB must be submitted by the PHA as an attachment to the PHA Plan. PHAs must also include a narrative describing their analysis of the recommendations and the decisions made on these recommendations. (g) Challenged Elements (h) Form HUD-50075.1, *Capital Fund Program Annual Statement/Performance and Evaluation Report* (PHAs receiving CFP grants only) (i) Form HUD-50075.2, *Capital Fund Program Five-Year Action Plan* (PHAs receiving CFP grants only) ***See Attachment L***

ATTACHMENTS:

#	Attachment/Document
A	2010-2014 Five Year Plan Goals & Progress for Fourth Year 2013-2014
B	B1 Amendments to the ACOP
	B2 Amendments to the HCV Administrative Plan
	B3 Revised Homeownership Plan
	B4 Revised Project Based Voucher Program
C	C1 Financial Resources
	C2 AMPs Budgets
D	Flat Rents Schedule

Attachment H: List of RAB Members and RAB and Public Comments

Yolanda Dancy, President Meadow Gardens Complex 49 Meadow Street, Apt. 13 S. Norwalk, CT 06854	Deidra Davis, Vice President Samuel Roodner Court 261 Ely Avenue, Bldg. 22-2B S. Norwalk, CT 06854	Daisy Franklin 82 So. Main Street, #2S. S. Norwalk, CT 06854
Clara Welfare Washington Village Complex 1009 Washington Village S. Norwalk, CT 06854	Annette Wiley John Shostak Apartments 65 Ward Street, Apt. A7 Norwalk, CT 06851	Mr. Raymond Dunlap, President Washington Village Complex 911A Washington Village S. Norwalk, CT 06854
Jane Williams 20 West Ave Complex 20 West Ave., Apt. 2G S. Norwalk, CT 06854	Briggettie Grant, Vice President Chapel Street Complex 25 Chapel Street, Apt. D-5 Norwalk, CT 06850	Richard Glica Leroy Downs Apts. Complex 26 Monroe Street, 2-H S. Norwalk, CT 06854
Ora Scott Samuel Roodner Court 261 Ely Avenue, Bldg. 19-1C S. Norwalk, CT 06854	Vivian Rice Leroy Downs Apartments 26 Monroe Street, Apt 4-A S. Norwalk, CT 06854	Moravia Langley 6 West Couch Street South Norwalk, CT 06854
Thomasina McClendon, President Samuel Roodner Court 261 Ely Avenue, Bldg. 15-3F S. Norwalk, CT 06854	Tenoi Davis Samuel Roodner Court 261 Ely Ave, Bldg. 22-2F S. Norwalk, CT 06854	Marva Reaves King Kennedy Complex 11Fort Point Street, Apt. B-9 S. Norwalk, CT 06855
Janice G. Frye 50 Fairview Avenue, Apt. 1B Norwalk, CT 06850	Ernesto Morales, President Chapel Street Complex 25 Chapel Street, Apt. C-1 Norwalk, CT 06850	Ms. Pamela Moultrie 166 Woodward Avenue Norwalk, CT 06854
Janice Carter John Shostak Apartments 65 Ward Street, Apt. A-2 Norwalk, CT 06851	Kimberly Duarte 21 Leuvine St., #B Norwalk, CT 06850	Gail Alston 9 ½ Fitch St., Apt. 3 Norwalk, CT 06855
Ms. Rose Marie Masi 20 West Avenue Complex 20 West Ave., Apt. 1G Norwalk, CT 06854	Mr. Sebastian Liccione 14 Post Road East, Apt. D Westport, CT 06880	Ms. Maria J. Flores 39 Fairfield Ave., Unit C Norwalk, CT 06854

Mr. Jose Espinosa Gomez Washington Village Complex 207 Washington Village Norwalk, CT 06854	Mr. Kevin Haynes 133 Monterey Place, Apt. 102 Norwalk, CT 06854	Ms. Roselene Raymond King Kennedy Homes 43E Chestnut Street Norwalk, CT 06854

Planning Process and Public Hearing Comments

In order to ensure comprehensive and detailed input of stakeholders, the NHA held separate meetings with staff, RAB members and members of the Norwalk community interested in and involved with NHA programs and affordable housing.

These meetings were held as follows:

September 10, 2013	Afternoon: Citizens Evening: RAB
October 9, 2013	Afternoon: Citizens Evening: RAB
November 19, 2013	Afternoon: Citizens Evening: RAB
December 11, 2013	City Council Committee Hearing
	NHA Public Hearing
	NHA Board Meeting

Prior to and after each of these meetings revisions were made to the PHA Plan and comments received by fax, email and in person were also reviewed and responded to. The draft of the Plan presented at the public hearing incorporated responses made during the public comment period.

Questions asked by residents and citizens and responses of the NHA

1) How does RAD work and will I be able to stay in my development?
   NHA Response: RAD essentially replaces the operational and modernization financing with Section 8. Normally nothing changes in the development except for doing all the needed modernization work in 2 or 3 years. In some cases the development might be torn down and rebuilt. In either case, the residents are usually entitled to stay and any other model would need a vote of the Board of Commissioners and approval by HUD.
2) **Chapel Street** needs the bath cabinets rebuilt or replaced.
   NHA Response: When the Kitchen Cabinets are done, the bath cabinet/s will be done also. The kitchens are due to start being replaced and renovated in 2015 and completed by 2019.
3) **Leroy Downs** needs a flat screen TV in the community room.
   NHA Response: It will be referred to the CFP staff for an answer.
4) **Leroy Downs** has intermittent hot water.
   NHA Response: This was referred to maintenance.
5) **20 West Avenue** needs to have the deteriorated apartment carpet replaced.

NHA Response: CFP will consider in discussions with maintenance.

6) **20 West Avenue** has people moving out and leaving all their "stuff" in the unit. How is that handled?
   NHA Response: NHA charges against security deposit if apartment is not left broom clean as lease requires.
7) **Roodner Court** seems to missing insulation in the exterior walls which explains why the unit walls are cold and also sweat and why the basement below the first floor units exudes dampness into the floors of the unit.
   a. CFP to examine the walls and basement. In addition, windows are scheduled for replacement in 2014.
8) **Seaview** has almost no linen closet storage space.
   NHA Response: This has been investigated and unfortunately there is no way to expand the closets.
9) **Seaview** needs apartment number signage on the first floor unit sliding doors and Ward Street sign change to indicate building number and unit addresses.
   NHA Response: This was referred to maintenance.
10) **Shostak** has window problems and needs more recycle bins.
   NHA Response: There was a Capital Needs Assessment prepared on the development and windows are adequate but the CFP staff will re-investigate and determine if it needs to be revised. The kitchens are due to be renovated/replaced in 2014. The recycle bin issue was referred to maintenance.
11) **Elmwood**. No questions
   NHA Response: Baths are due for renovation/replacement in 2014.
12) How can the truancy problem be addressed better?
   NHA Response: Each September resident parents can be reminded about the NHA policy.
13) How are residents informed who is on the Bar Out list?
   i) How do people dispute being on the list?
   ii) How do you get someone removed from the list?
   NHA Response: NHA publishes the Bar Out list in the NHA newsletter. In the notification letter that an individual will be placed on the Bar Out list, there is an opportunity to make an appeal. If the appeal is granted, the individual is removed from the list.
14) How do people's status changes on wait lists get managed?
   NHA Response: Wait lists are revised monthly based on information supplied to the NHA by applicants or when a household on the waitlist responds or fails to respond to the annual waiting list update letter they are sent.
15) Reasonable Accommodations wording in Attachment B1 is wrong.
   NHA Response: It will be reviewed and changed where it is wrong.
16) How does the NHA handle lost documentation of the homeless?
   NHA Response: The NHA tries to be reasonable about such lost documentation, for example in a fire or a disaster. It is willing to accept other proofs of such things as citizenship etc but must always comport with HUD requirements
17) There are a number of typos and other problems in Attachment B2.
   NHA Response: The NHA will review and correct as necessary.

18) The City's Consolidated Plan gives a high priority for the homeless but not for the actual expenditure of CDBG funds.
NHA Response: This should be taken up with the City rather than the NHA.

19) If someone on the waiting list becomes homeless are the preferences changed accordingly?
NHA Response: Again the responsibility rests with the applicant to notify the NHA of a change in preference status. Homeless advocacy organizations will be told how this works.

20) How does the reasonable accommodations policy work for transfers?
NHA Response: Transfers for medical reasons have priority and within that group, people returning from hospital or rehab who cannot leave take precedence.

21) There are a number of legal and medical problems associated with drug testing as practiced by the NHA.

i. Is Drug Testing Illegal?

NHA Response: There is no state, federal law or HUD regulation that prohibits drug testing of applicants for housing admission. The ALCU has submitted a letter requesting that the Housing Authority cease the drug testing of applicants for the Section 8 Housing Choice Voucher Program. The ACLU claims that such testing violates the United States and Connecticut Constitutions in that it results in an unreasonable search and seizure as it is not based upon any suspicion of drug use. HUD staff recently communicated to NHA that it believes drug testing is permitted. NHA believes that the drug testing is permitted as it is applied to all housing programs (public housing and Section 8) and all developments (including elderly and affordable housing), not just the public housing program.

ii. Is Drug Testing Using Hair Follicles Unreliable?

NHA Response: We do not believe that hair testing is inherently unreliable as it has become the accepted method of drug testing for the Connecticut Courts. The hair testing can detect drug use within a period of months prior to testing. Longer hair does not provide a great period of detection. NHA considers a positive hair follicle drug test to reveal current drug use by applicants.

iii. Is Marijuana an Illegal Drug?

NHA Response: Marijuana has not been de-criminalized by the federal government and, as a federal housing provider, NHA is obligated to abide by all state and federal laws including the federal Controlled Substances Act, 21 USC §802, which lists marijuana as an illegal drug. Therefore, a positive drug test result indicating the use of marijuana would result in denial of admission.

21) The Truancy Policy should be removed from the NHA
NHA Response: The Board has adopted it and the general opinion of residents and others is that it works.

22) As a "reasonable accommodation" for the disabled the additional costs incurred by the disabled as a result of their disability should be considered in determining rents.

NHA Response: That is a HUD/Congressional issue.

23) Is the NHA Required to Change its Lease to Award Legal Fees to Tenants?

NHA Response: There is no need to change the language of NHA's lease. A recent appellate court case found that a statute requiring "attorney's fees" clauses in rental agreements to be reciprocal; meaning that if the lease states the landlord can recover legal fees if the landlord prevails in the case, the tenant would also be entitled to recover legal fees if the tenant prevailed in the case. There is the potential that the appellate court case will be heard by the Connecticut Supreme Court or that subsequent legislation may address this issue. We believe it is prudent to leave the language as is, and if the case law holds, the tenant would be entitled to collect attorney's fees in any action in which the tenant is the prevailing party.

24) Are Pregnant Women Disabled?.

NHA Response: Pregnancy may result in a disability. In that event, NHA would be required to follow all disability and/or fair housing laws relating to the disability. The current language of NHA's Plan provides for the accommodation of all disabilities.

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25) How long is prior or past drug use extended back for the purposes of admission to housing, especially for the chronically homeless?

NHA Response: The hair testing can detect drug use within a period of months prior to testing. Longer hair does not provide a great period of detection. NHA considers a positive drug test to reveal current drug use by applicants.

Following the public hearing the Board of Commissioners approved the Plan for submission to HUD.