

EAST LIBRARY  
PURCHASE, SALE & DEVELOPMENT  
AGREEMENT

Document Number

Name and Return Address:  
City of Milwaukee  
Real Estate Section  
Attn: Miller  
809 North Broadway, 2<sup>nd</sup> Floor  
Milwaukee, WI 53202-3617

Tax Key No.: 319-0772-100-3

Recording Area

THIS AGREEMENT is by and between the **CITY OF MILWAUKEE**, a municipal corporation duly existing under Wisconsin law, ("City") and **HSI EAST LIBRARY RESIDENTIAL, LLC**, a Wisconsin limited liability company, ("HSI") with its principal office at 20975 Swenson Drive, Suite 395, Waukesha, WI, and is dated as of \_\_\_\_\_, 2012.

**WITNESSETH:**

WHEREAS, The City and the Milwaukee Public Library Board of Trustees ("MPL") desire to redevelop the City's East Library at 1910 East North Avenue and legally described in Exhibit A ("Property") and issued a Request for Proposal;

WHEREAS, HSI submitted a proposal within the established time and MPL selected HSI as the developer to acquire and redevelop the Property to provide the City with a new library shell and secondary uses to be utilized by HSI as defined herein;

WHEREAS, HSI's proposal includes plans to demolish the existing East Library building; construct a 5 story building to include approximately 16,000 square feet of gray box library space plus additional space of sufficient area to house HVAC and other mechanical equipment for the Library Unit, approximately 99 residential apartments, approximately 2,400 square feet of retail commercial space, approximately 113 resident parking spaces and a minimum of 40 ground level parking spaces for library use and temporary relocation of the East Library during demolition and construction as described in greater detail herein and in HSI's Final Submittal dated October 26, 2011;

WHEREAS, MPL approved the Project, as defined herein, on April 24, 2012; and

WHEREAS, The City Common Council approved the Project, including conveyance of the Property to HSI and acquisition of a new library condominium unit by the City, on \_\_\_\_\_, 2012, by passage of Resolution No. 111405.

NOW, THEREFORE, In consideration of the premises and the mutual obligations of the parties hereto, each party does hereby covenant and agree with the other as follows:

**1. DEFINITIONS**

In addition to the words and terms elsewhere defined in this Agreement, the following words and terms when used in this Agreement shall have the following meanings:

- Architect: Engberg Anderson, Inc.  
Approved Final Plans: Final construction plans for the Project that are consistent with HSI's Final Submittal dated October 26, 2011, and approved by DCD's Design Review Team, MPL and the City's 3<sup>rd</sup> District Architectural Review Board.  
Closing 1: Conveyance of the Property from the City to HSI.  
Closing 2: Conveyance of the Library Unit in a gray box condition from HSI to the City.  
DCD: The City's Department of City Development, represented by the Commissioner of DCD or designee or as specified in this Agreement. Any obligation of DCD hereunder shall be an obligation of the City.  
East Library: Current City owned library building and associated parking spaces located at the Property.

HSI Unit:	A condominium unit to be created by HSI within the Property to include commercial retail space, apartment units, parking and a rooftop terrace.
Library Shell:	The standards required for HSI's construction of the Library Unit as described in Exhibit B. The Library Shell may also be referred to as "gray box" within this Agreement.
Library Unit:	A condominium unit to be created by HSI within the Property to be constructed by HSI to the minimum standards described in Exhibit B, including to be agreed upon outdoor and green space around the exterior, and a minimum of 40 ground level parking stalls for exclusive MPL use, which will eventually be conveyed to the City.
MPL:	Milwaukee Public Library, represented by its Board and the MPL Director or as specified in this Agreement. For purposes of this Agreement, MPL shall be considered a sub-entity of the City such that any obligation of MPL hereunder shall be an obligation of the City.
Permitted Successors:	The holder of any security instrument authorized by this Agreement including any 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.
Purchase Price:	The price to be paid by HSI for the Property shall be Twenty Thousand and No/100ths Dollars (\$20,000.00).
Substantial Completion:	A written acknowledgment from Architect and MPL that the Library Unit construction is substantially completed by HSI to a point where the gray box requirements of Exhibit B have been met; the condominium documents required by Section 3.G. of this Agreement have been completed and recorded; and the Library Unit can legally be conveyed to the City. Substantial Completion does not require, among other things, the substantial completion of all landscaping and other minor improvements for the Library Unit.
Temporary Library:	A facility that shall serve as a temporary location for the East Library collection and staff during demolition of the East Library, construction of the Library Unit and interior build-out of the Library Unit. The Temporary Library shall have the following minimum characteristics, unless otherwise agreed to by MPL: (1) a highly visible and accessible location on the street, or ground, level; (2) located within ½ mile of the Property; (3) off and on street parking available; (4) an accessible entrance and restrooms in compliance with the Americans with Disabilities Act; (5) natural lighting provided by windows; (6) access to water and utility services; (7) a minimum of 5,000 square feet of finished area or temporary trailers; and (8) the Temporary Library must be available for occupancy and use prior to or at Closing 1 (collectively, the "Temporary Library Standards").

## 2. PROJECT DESCRIPTION

Subject to the conditions on the City's obligation to convey the Property to HSI and subject to the conditions on HSI's obligation to purchase the Property from the City, City and HSI agree that the Property will be redeveloped by HSI as set forth in items "A" through "G" immediately below and that those general activities constitute the "Project."

- A. The Temporary Library space shall be obtained at a location secured by HSI at HSI's sole expense in accordance with Section 3.K. of this Agreement
- B. Title to the Property shall be transferred from the City to HSI at Closing 1.
- C. HSI shall demolish the East Library, but HSI shall use reasonable efforts to salvage the stained glass currently in the East Library and thereafter store the stained glass for reuse in the Library Unit. Any remaining stained glass not used in the Library Unit shall be returned to MPL upon Substantial Completion. HSI has consulted with a demolition expert who informed HSI that there is a commercially reasonable method that can be used for removal and salvage of the stained glass and HSI shall include in any contract for demolition of the East Library a requirement that such method will be used for removal and storage of the stained glass.
- D. Building and site improvements on the Property shall be constructed by HSI in substantial compliance with the Approved Final Plans.
- E. Construction of the Library Shell to Substantial Completion, in accordance with standards attached and incorporated herein as Exhibit B, shall be completed on or before nine months following Closing 1, unless such date is extended by HSI, DCD and MPL.
- F. The Property shall be submitted to the condominium form of ownership, which includes, but is not limited to, recording a declaration of condominium ("Declaration") and a condominium plat (the "Plat") against the Property. Such condominium (the "Condominium") shall be divided into two condominium units (each a "Unit") consisting of the Library Unit and the HSI Unit and shall also have certain common elements that each owner of a Unit will own an undivided percentage interest in as defined in the Declaration.

G. Title to the Library Unit shall be transferred from HSI to the City at Closing 2 at no cost to the City.

### 3. HSI'S OBLIGATIONS

HSI shall have the following obligations with regard to completion of the Project:

- A. If HSI becomes the fee simple owner of the Property, HSI shall be responsible for completing all aspects of the Project, including all of its obligations under this Section of the Agreement, at its sole cost except as otherwise specifically provided in this Agreement.
- B. HSI shall pursue financing for the Project consistent with the following plan (the "Financing Plan")
  - i. On or before June 29, 2012, HSI shall submit a preliminary application package to the U.S. Department of Housing and Urban Development ("HUD") for a Federal Housing Administration ("FHA") Section 221(d)(4) insured mortgage loan facilitated by Grandbridge Real Estate Capital, LLC (the "Preliminary Application Package"). HSI shall provide the City with written notification confirming that the Preliminary Application Package has been submitted.
  - ii. Within 90 days after June 29, 2012, HSI shall report to the City as to whether it has received a response from HUD. If no response has been received within 90 days after submitting the Preliminary Application Package, HSI shall notify the City of that and HSI shall continue to report to the City every 30 days thereafter until a response from HUD is received by HSI.
  - iii. If HUD's response to the Preliminary Application Package is a statement that it is incomplete, HSI shall report that to the City and immediately begin preparation of whatever additional documentation is requested by HUD (the "Additional Application Material"). HSI shall report to the City every 30 days thereafter until the Additional Application Material is filed with HUD and HUD responds to the filing of the Additional Application Material. HSI shall submit the Additional Application Material to HUD within 90 days after receiving HUD's request for the Additional Application Material. If HSI is unable to comply with this 90 day deadline, it may seek a reasonable extension of that deadline from the City, which extension shall not be unreasonably withheld, conditioned or delayed by the City.
  - iv. If HUD's response to HSI's Preliminary Application Package or the Additional Application Material submittal is an invitation for HSI to submit a final application to HUD, HSI shall notify the City of that response and immediately begin preparation of the documentation required by HUD for the final application (the "Final Application Package"). HSI shall report to the City every 30 days thereafter until the Final Application Package is filed with HUD. HSI shall submit the Final Application Package to HUD within 120 days after HSI receives the invitation to submit the Final Application Package. If HSI is unable to comply with this 120 day deadline, it may seek a reasonable extension of that deadline from the City, which extension shall not be unreasonably withheld, conditioned, or delayed by the City. Within 90 days after submitting the Final Application Package to HUD, HSI shall report to the City as to whether it has received a response from HUD. If no response has been received within 90 days after submitting the Final Application Package, HSI shall notify the City of that and HSI shall continue to report to the City every 30 days thereafter until a response from HUD is received by HSI.
  - v. If HUD's response to the Final Application Package is a statement that it is incomplete, HSI shall report that to the City and immediately begin preparation of whatever additional documentation is requested by HUD (the "Additional Final Application Material"). HSI shall report to the City every 30 days thereafter until the Additional Final Application Material is filed with HUD and HUD responds to the filing of the Additional Final Application Material. HSI shall submit the Additional Final Application Material to HUD within 60 days after receiving HUD's request for the Additional Final Application Material. If HSI is unable to comply with this 60 day deadline, it may seek a reasonable extension of that deadline from the City, which extension shall not be unreasonably withheld, conditioned, or delayed by the City.
  - vi. If HUD's response to the Final Application Package or the Additional Final Application Material is approval of HSI's application for HUD financing (the "Firm HUD Commitment"), HSI shall notify the City that it has obtained a Firm HUD Commitment and the parties shall prepare for Closing 1 pursuant to Section 5.C.
  - vii. If HUD's response to the Preliminary Application Package, the Additional Application Material, the Final Application Package or the Additional Final Application Material is a denial of HSI's application for HUD financing, HSI shall notify the City of that response and discuss with the City whether HSI intends to seek other financing and potential options for alternate financing. If HSI and City both reasonably believe that alternate financing is available and HSI desires seeking such alternate financing, HSI shall have 6 months thereafter (the "Alternate Financing Period") to seek alternate financing from another source or sources. HSI may request from the City an extension of the Alternate Financing Period for 6 more months (the "Alternate Financing Extension"), which extension shall not be unreasonably withheld, conditioned or delayed provided HSI is making reasonable efforts to obtain alternate financing and it pays the City \$500.00 (the "Extension Fee"). During the Alternate Financing Period and the Alternate Financing Extension, HSI shall report to the City every 60 days on its efforts to obtain Alternate Firm Financing, as

defined below. If HSI has not obtained Alternate Firm Financing upon termination of the Alternate Financing Extension (as the same may be extended as set forth in the following clause “(a)”), the City may either: (a) allow HSI additional 6 month periods during which to obtain Alternate Firm Financing for which HSI shall pay \$1000.00 to the City (the “Additional Extension Fee”) for each additional 6 month period allowed by the City; or (b) terminate this Agreement if the City believes, in its sole discretion, that HSI has not made reasonable efforts to obtain Alternate Firm Financing or is not likely to obtain Alternate Firm Financing. If HSI obtains a written financing commitment for the Project from a source or sources other than HUD upon terms acceptable to HSI in its sole discretion (the “Alternate Firm Financing”), then the parties shall prepare for Closing 1 pursuant to Section 5.C.

- viii. If, at any time during the Alternate Financing Period, the Alternate Financing Extension or any additional extensions granted by the City under subsection (7), HSI believes that it will not be able to obtain financing for the Project upon terms acceptable to HSI in its sole discretion, then HSI may terminate this Agreement.
- ix. Upon termination of this Agreement, the City shall retain the Extension Fee and any Additional Extension Fee paid by HSI.
- C. Prior to Closing 1, HSI shall prepare and submit to DCD for approval by DCD’s Design Review Team, MPL and the City’s 3<sup>rd</sup> District Architectural Review Board final plans for the Project, which, when approved by these entities, shall become the Approved Final Plans.
- D. HSI shall submit Project construction specifications and a budget to DCD and MPL for review prior to submitting the Preliminary Application Package to HUD. In the event that HSI is unable to obtain HUD financing, HSI shall use reasonable efforts to resubmit Project construction specifications and a budget to DCD and MPL for review within the first 75 days of the Alternate Financing Period.
- E. If HSI becomes the fee simple owner of the Property, HSI shall pay prevailing wages as defined in Section 66.0903 of the Wisconsin Statutes (“Prevailing Wages”) and hire Milwaukee residents as outlined in Chapter 355, Milwaukee Code of Ordinances ([http://cctv25.milwaukee.gov/netit-code81/volume3\\_/ch355/CH355.pdf](http://cctv25.milwaukee.gov/netit-code81/volume3_/ch355/CH355.pdf)) for demolition of the East Library and construction of the Library Unit component of the Project. HSI shall not be obligated to pay Prevailing Wages or hire Milwaukee residents as outlined in Chapter 355, Milwaukee Code of Ordinances for any aspect of the Project other than demolition of the East Library and construction of the Library Unit.
- F. If HSI becomes the fee simple owner of the Property, HSI shall comply with the City’s Small Business Enterprise (SBE) Program for the Project.
- G. If HSI becomes the fee simple owner of the Property, HSI shall create the Plat, which shall consist of the Library Unit, the HSI Unit and certain common elements, and HSI shall also prepare the Declaration to be reviewed and approved by DCD and MPL prior to recording on the Property. The Declaration shall state that maintenance of the Library Unit roof is a common expense given that the roof also serves as an outdoor terrace to be used by residents of the HSI Unit.
- H. If HSI becomes the fee simple owner of the Property, then after Substantial Completion HSI shall convey the Library Unit to the City at no cost to the City at Closing 2.
- I. If HSI becomes the fee simple owner of the Property, HSI shall limit the use of the commercial space within the HSI Unit as described in Section 10 of this Agreement.
- J. HSI shall obtain and maintain liability insurance during the course of the Project in accordance with the City's minimum guidelines as defined in Section 2.9.7. of the City of Milwaukee Department of Public Works General Specifications, available on the internet at <http://mpw.milwaukee.gov/Pages/bidData/GenSpecs.doc> (the “General Specifications”), except that the umbrella liability coverage required for personal injury / property damage shall be \$5,000,000 per occurrence / aggregate for the Project. HSI shall also bear the risk or require its general contractor to bear the risk of loss or damage to the Project by fire or other casualty prior to issuance of the Certificate, as defined in Section 7 below, except that as of Closing 2, HSI and its general contractor shall not bear the risk of loss or damage to the Library Unit and the City shall bear such risk at the time of Closing 2, except for the landscaping and other minor improvements not yet completed at the time of Closing 2 and where such loss or damage to the Library Unit is caused by the negligence or recklessness of HSI, its general contractor or any of its sub-contractors. HSI shall purchase and maintain or cause its general contractor to purchase and maintain builder’s risk insurance on the Project to the full insurable value thereof, but the amount of such insurance shall be at least equal to the costs to construct improvements for the Project. This insurance shall be written on the standard complete value form. This insurance shall include the interests of HSI in the work and shall insure against fire, extended coverage and all risk perils. This policy of insurance shall bear a deductible no greater than \$10,000 for each occurrence. HSI shall maintain all required insurance until issuance of the Certificate and during any subsequent period in which HSI does work under this Agreement pursuant to the warranty or otherwise. Certificates of insurance on all required policies shall be filed with DCD which shall include requirement for written notice, as required by the General Specifications, of material change or cancellation to DCD.
- K. Prior to submitting the Final Application Package to HUD, HSI shall begin to work with MPL to locate and secure the Temporary Library location. Potential location(s) substantially meeting the Temporary Library Standards shall be presented to MPL by HSI, or its agent, by the time HSI submits its Final Application Package to HUD or obtains a preliminary financing commitment from an alternate financing source, but no later than one (1) month prior to Closing 1. MPL shall have 10 business days to review and approve the potential location(s) and upon MPL’s approval of a Temporary Library

location, which approval shall not be unreasonably withheld, HSI shall gain contractual control of such space such that MPL may occupy and use such space not later than Closing 1. If HSI is unable to find a commercially available location that meets the Temporary Library Standards or gain contractual control of such space, it shall provide temporary trailers meeting the Temporary Library Standards, including securing the use of the land where the temporary trailers will be located and any utility connections required for the temporary trailers, to be used as the Temporary Library and upon doing so, the parties hereby agree that HSI shall be deemed to have satisfied its obligations with respect to gaining control of a location for the Temporary Library that meets the Temporary Library Standards. Within three (3) months after Closing 1, MPL shall complete interior build-out of and move to the Temporary Library. HSI hereby grants to the City a right of entry over the Property for three (3) months following Closing 1 to allow the City to continue to use the Property as a public library until the collection and staff of the East Library are relocated to the Temporary Library.

- L. Within five (5) business days of the execution of this Agreement, HSI shall pay the City One Hundred Dollars (\$100.00) for the conditions on HSI's obligation to close on the Purchase of the Property.
- M. From the time of Closing 1 through the issuance of the Certificate, at any time during normal business hours, HSI shall make available to the City for examination all of HSI's records with respect to all matters covered by this Agreement related to the Library Unit and HSI will permit the City or representatives of the City Comptroller to audit, examine and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions or employment and other data relating to all matters covered by this Agreement related to the Library Unit; provided, however, this Section 3.M. does not require HSI to make available or provide to the City or representatives of the City Comptroller the personal financial information of HSI's investors.
- N. Prior to hiring a general contractor or demolition company for the Project, HSI shall submit to the City a list of any general contractors or demolition companies that HSI is considering hiring for the Project. If the City or any of its related entities have had any previous negative experiences with the general contractors or demolition companies being considered by HSI, City may report that previous negative experience to HSI and HSI shall take into account when hiring a general contractor or demolition company for the Project the negative experiences of the City and its related entities.
- O. HSI shall complete the Project and request the Certificate, as defined in Section 7, within 20 months after Closing 1, unless such deadline is extended by mutual written agreement of the City and HSI.
- P. HSI shall reimburse the City for all reasonable costs of preparing and recording the certified survey map required by Section 4.H., below.
- Q. HSI shall commence demolition of the East Library within 120 days after Closing 1, but no substantial demolition of the building or parking lot or any asbestos removal may commence prior to the relocation of the East Library staff and collection to the Temporary Library.

#### **4. CITY'S OBLIGATIONS**

City shall have the following obligations with regard to completion of the Project:

- A. The parties acknowledge that prior to execution of this Agreement, DCD provided HSI, at City expense, with an ALTA survey of the Property, a preliminary title commitment, a Phase I Environmental Site Assessment and a report on asbestos containing materials in the East Library (collectively, "Disclosure Materials").
- B. City shall convey the Property to HSI at Closing 1 as required herein.
- C. Other than site location and rental costs for the Temporary Library, MPL shall be responsible for all other aspects of the Temporary Library, including, without limitation, interior build out, furnishings, moving to and from the Temporary Library and any costs, charges and expenses in any way related thereto. Rental costs shall include any costs related to real property taxes due on the Temporary Library.
- D. MPL shall commence interior build out of the Library Unit ("Library Build Out") at its sole expense upon Closing 2 and shall diligently and continuously pursue completion of the Library Build Out and then relocate from the Temporary Library to the Library Unit at its expense.
- E. MPL shall relocate to the Library Unit within 10 months after Closing 2.
- F. The City shall require the contractor it hires to complete the Library Build Out to maintain liability insurance during the course of the Library Build Out in accordance with the General Specifications.
- G. While this Agreement is in full force and effect, the City shall not negotiate or enter into any secondary agreements related to the acquisition or development of the Property. This provision shall not apply during any time that a Default or Reverter Default, as defined in Section 17, by HSI exists.
- H. A certified survey map shall be prepared and recorded by the City prior to Closing 1 to assemble the Property into a single parcel for building permit purposes.

## 5. CONVEYANCE OF PROPERTY – CITY TO HSI (CLOSING 1)

A. Conditions on HSI's Obligation to Purchase the Property. In addition to any and all other conditions and contingencies in this Agreement on HSI's obligation to close on the purchase of the Property, HSI's obligation to close on the purchase of the Property is conditioned upon the consummation of all of the following within the applicable time period:

- (1) Within 120 days of the execution of this Agreement by HSI and the City, HSI reviewing and approving all of the Disclosure Materials. The City's provision of any or all of the Disclosure Materials prior to the execution of this Agreement shall not limit any of the conditions on HSI's obligation to close on the purchase of the Property.
- (2) Within 6 months of the execution of this Agreement, HSI and the City agreeing upon the form and substance of the Plat, the Declaration and any other material documentation related to the Condominium.
- (3) Within 120 days of the execution of this Agreement by HSI and the City, HSI may, at its sole cost, obtain surveys, inspection reports and assessments (acceptable to HSI in its sole discretion) describing the overall physical condition of the Property, including, but not limited to, obtaining a survey of the Property, soil tests and any other inspections and tests required by HSI to determine whether the condition of the Property is suitable for the Project as determined by HSI in its sole discretion. Any environmental tests or inspections performed under this subsection are subject to the requirements of Section 6.B. of this Agreement.
- (4) Following the Financing Plan, obtaining a Firm HUD Commitment or Alternate Firm Financing for the Project.
- (5) Within 120 days of the execution of this Agreement, the City, the City's Office of Small Business Development, and HSI agreeing to the form and substance of the SBE Agreement.
- (6) Prior to Closing 1, the City preparing and recording a certified survey map as required in Section 4.H.
- (7) Prior to Closing 1, HSI obtaining all municipal and other approvals and permits necessary for HSI to: (a) demolish the existing building and complete the construction and development of the Project as contemplated by the Approved Final Plans; and (b) use the Property and Project as contemplated by this Agreement, including, without limitation, use of the HSI Unit for residential apartments and commercial uses.

HSI and the City agree to cooperate in attempting to satisfy all of HSI's conditions and contingencies on HSI's obligation to close described in this Agreement, including, without limitation, this Section 5.A. The parties agree that any waiver or satisfaction by HSI of the conditions or contingencies listed above, are subject to and conditioned upon HUD and Grandbridge Real Estate Capital, LLC being satisfied with and approving the matters addressed in each condition or contingency in Section 5.A.(1) through (5). If HSI does not waive in writing or satisfy all of its conditions or contingencies set forth in this Agreement within the applicable time period, this Agreement shall automatically terminate. Upon such termination HSI shall notify the City thereof, and this Agreement shall be null and void. If, prior to Closing 1, either HUD or Grandbridge Real Estate Capital, LLC do not approve of the matters addressed in Section 5.A.(1) through (5), then HSI may terminate this Agreement by providing the City written notice thereof.

B. Title. As part of the Disclosure Materials, the City has furnished and delivered to HSI a preliminary title commitment (the "Preliminary Commitment") from Chicago Title Insurance Company (the "Title Company") showing the status of title to the Property, and showing all exceptions, including easements, restrictions, rights-of-way, covenants, reservations and other conditions, if any, affecting the Property. Prior to Closing 1, HSI may, at its sole expense, obtain updates and/or revisions to the title insurance commitment (collectively, "Revised Commitments"). If the Preliminary Commitment or any of the Revised Commitments show exceptions or requirements to title that are unacceptable to HSI (collectively "Title Defects"), HSI shall, on or before Closing 1, notify the City of such Title Defects, and the City shall have a reasonable period of time thereafter (but not to exceed thirty (30) days, unless otherwise consented to in writing by HSI) to cure such Title Defects and to present a title insurance commitment on the basis of which Closing 1 may occur, and the date for Closing 1 shall be extended as necessary to accommodate the City's right to cure in accordance with the foregoing. If the City cannot, after using its best efforts and due diligence, cure such Title Defects within such thirty (30) day period (or extended period consented to by HSI in writing), and thereafter convey title to the Property as required hereunder (including, without limitation, title to the Property reflecting the cure of the Title Defects), then HSI shall have the right (at HSI's option in HSI's sole discretion) to either: (1) terminate this Agreement whereupon all payments made by HSI to the City shall be refunded and returned to HSI; or (2) accept whatever title to the Property the City can convey. The City shall satisfy, at or prior to Closing 1, all liens and encumbrances against the Property that secure monetary obligations. Any exceptions or requirements to title disclosed on the Preliminary Commitment or

Revised Commitments that HSI does not timely object to in writing, or that HSI does timely object to, but thereafter waives its objection to in writing and accepts by Closing 1 shall be deemed the "Permitted Exceptions."

- C. Closing 1. Subject to the conditions and contingencies on HSI's and the City's obligation to close on the purchase and sale of the Property contemplated by this Agreement, Closing 1 of the Property shall occur within fifteen days of written notice from HSI to the City that HSI is prepared to close on the purchase of the Property, but in any case, not later than three business days prior to HSI's closing on the Loan. Notwithstanding the foregoing, but subject to the conditions and contingencies on HSI's obligations to close on the purchase of the Property, HSI shall use good faith efforts to close on the purchase of the Property within 90 days of its receipt of the Firm HUD Commitment or Firm Alternate Financing. Closing 1 shall occur no later than May 31, 2013, unless MPL and HSI agree in writing to an extension of that deadline. Closing 1 shall occur at the City Real Estate Office. HSI shall pay the Purchase Price to City at Closing 1 in the form of a check subject to the usual and customary pro-rations ("Net Purchase Price"). HSI may be asked to allocate the Net Purchase Price to City expenses, fees and reimbursements. The City does not and shall not require any earnest money.
- D. City Closing Contingencies. Notwithstanding anything to the contrary contained herein, the City's duty to close and convey the Property at Closing 1 is contingent upon all of the following:
- (1) HSI entering into an SBE Agreement with the City at or before Closing 1 that is acceptable to the City's Office of Small Business Development;
  - (2) HSI meeting all of its obligations in Sections 3 and 5.A.(7), above, that are required to be completed prior to Closing 1;
  - (3) HSI meeting the City's Buyer Policies, outlined below;
  - (4) HSI obtaining Firm HUD Commitment, Firm Alternate Financing or the sufficient funds to complete the Project and providing proof to the City of such financing or funds; and
  - (5) HSI substantially complying with Section 3.K and a Temporary Library being secured.
- E. Form of Deed. City shall, at Closing 1 and upon HSI's payment of the Purchase Price, convey the Property to HSI by special warranty deed ("Deed"). The conveyance and title shall be subject to the following:
- (1) The Permitted Exceptions;
  - (2) The provisions of Section 17 of this Agreement;
  - (3) A restriction that the Property must be entirely taxable for property-tax purposes beginning on January 1 of the year following Closing 1 (the "Taxable Year") except that the Library Unit may become tax exempt on January 1 of the year following Closing 2. The restriction shall require that no owner or occupant of the Property shall apply for, seek or accept property-tax exemption (whether under Wis. Stat. §70.11 or otherwise) for the Property, or any part thereof, except the Library Unit. This restriction shall be a permanent covenant that runs with the land, and may only be released by resolution passed by the City's Common Council;
  - (4) Any recorded or unrecorded rights or interests of any person, entity or utility in any vacated alley, street, or public right-of-way at the Property including rights and interest of persons under Wis. Stat. §66.1005(2); and
  - (5) All other conditions, covenants and restrictions set forth or referred to elsewhere in this Agreement.
- F. Proration of Taxes. The City hereby represents that the Property is tax exempt. There shall be no proration of real estate taxes as the Property is tax exempt.
- G. Recordation of Deed. City shall promptly file the Deed for recording at the Milwaukee County Register of Deeds or as permitted by the Municipal Code of Ordinances. HSI shall pay all costs for so recording the Deed. The City represents that no real estate transfer fee is due and no real estate transfer return is required pursuant to Wis. Stat. Sections 77.25(2) and 77.255, respectively, unless City is a lender in the transaction.
- H. Other Closing Documents. HSI shall be responsible for recording the Property as required by the City Department of Neighborhood Services Property Recording Program and shall execute the required application. HSI shall be solely responsible for all fees for such document. The City shall execute the Title Company's customary form of GAP Affidavit, Construction Work and Tenant's affidavit (a/k/a Owner's Affidavit), and Broker's Lien Affidavit.
- I. Special Assessments. HSI shall be responsible for all special assessments and charges levied after the date of Closing 1 and the City shall be responsible for all other special assessments and charges affecting the Property. City shall provide details of any levied, known or contemplated special assessments and charges at Closing 1. If special assessments or charges for which the City is responsible exist at Closing 1, City shall grant a credit in the full amount of such assessments and charges, as applicable, against the Purchase Price. HSI shall pay the applicable assessment or charge when billed. If the estimated assessment or charge or any combination thereof are greater than the Purchase Price, DCD shall notify the Department of Public Works to bill DCD for the same and the City and DCD hereby indemnify, defend and hold HSI and its title insurance

company harmless from such assessment, charge, or both, as applicable, and hereby agree to execute any customary title insurance company documentation necessary to allow the title insurance company to remove such assessment, charge or both from HSI's title insurance policy, including, without limitation affidavits, indemnity agreements and other similar title insurance company documents. If the special assessment, charge or both for which the City is responsible is billed to HSI or inadvertently certified to the tax roll, HSI shall provide the bill to DCD and DCD shall be responsible for and shall arrange for payment and DCD hereby indemnifies, defends and holds HSI harmless from any such payment.

J. City Buyer Policies. Pursuant to City policy, City shall not sell property to any party, as an individual or by a partnership, limited liability company or corporation in which HSI has an ownership interest that is in violation of the City Policies contained herein. HSI certifies that it, as an individual or member of a corporation or partnership, is not now and will not be at Closing 1 in violation of the following City Policies:

- (1) Is tax delinquent in the payment of any property tax (real or personal property), special assessment, special charge or special tax owed to the City;
- (2) Has an outstanding judgment owed to the City;
- (3) Has outstanding building or health code violations or orders from the City's Health Department or Department of Neighborhood Services that are not actively being abated;
- (4) Has been convicted of violating an order of the Health Department or Department of Neighborhood Services within 12 months preceding Closing 1;
- (5) Has been convicted of a felony that causes neighborhood or community concerns with respect to neighborhood stability, health, safety or welfare; or
- (6) Has been subject to a property tax foreclosure by the City within five years preceding Closing 1.

If HSI is found to be in violation of any of these City Buyer Policies, City shall give HSI notice to correct this condition before Closing 1, or other such period as reasonably determined by the Commissioner of DCD. If the violation is not corrected within the specified period, this Agreement may be canceled at the option of the City and the Extension Fee and any Additional Extension Fee paid by HSI, if any, shall be retained by the City as liquidated damages.

K. Agreement to be Recorded Against Title. At Closing 1 and before recording the Deed, City shall record this Agreement against the Property in the Register of Deeds Office at HSI's expense and the Property's title will be encumbered by it until issuance of the Certificate, defined in Section 7 below.

## **6. PROPERTY CONDITION AND SITE PREPARATION**

A. Property Condition. City discloses that the Property contains a building and retaining wall and may contain old building foundations, rubble and debris from prior buildings that may have been demolished. City shall not conduct any geotechnical investigation or building evaluations at the Property. HSI agrees to accept the Property "as is, where is" and is solely responsible for conducting its own geotechnical investigation to determine the soil bearing capacity. City shall not conduct any investigations associated with building and/or retaining wall improvements. City shall convey the Property in an "as is, where is" physical condition with all faults and defects, known or unknown, and without representation or warranty as to the physical condition of the Property, express or implied. Such provisions shall bar all tort, warranty, and misrepresentation claims related to the physical condition, including any action based on non-disclosure, excluding, however, any action based on fraud. HSI shall rely on HSI's own due diligence and independent investigation and inspection, and HSI shall not rely upon any oral or written statement or representation of City or any employee or agent or contractor of City, MPL or DCD regarding the existing building and/or retaining wall improvements.

B. Environmental Condition.

- (1) City has provided to HSI and HSI acknowledges receipt of a Phase I Environmental Site Assessment ("Phase I") prepared by GZA GeoEnvironmental, Inc. dated July 12, 2011. Provision of this report does not affect or impact the "as is, no representation or warranty" nature of this transaction, and the City does not warrant the contents, conclusion or accuracy of the report.
- (2) HSI Reports. Should HSI desire its own Phase I or Phase II environmental testing or remediation not recommended by the City's Phase I report, all such investigation, testing and reports shall be at HSI's sole expense and responsibility. HSI must use an environmental consultant under a master contract with the City for a Phase I or Phase II report if the City is to rely on such information. Phase II testing by HSI can occur only after City approval of a scope of work, granting of a right of entry to HSI and to HSI's environmental consultant and provision of certificate of insurance including environmental insurance to the City, naming the City as an additional insured. HSI shall provide City with all reports prepared by HSI's environmental consultant.



- (3) Remediation: If the Phase II reveals impacted soils subject to regulation by federal, state or local regulatory agencies and HSI becomes the fee simple owner of the Property, then, and only then, HSI agrees to: (i) remediate such impacted soils on the Property, if any, and to obtain regulatory closure; and (ii) register the Property if the approved remediation plan requires registration on the Wisconsin Department of Natural Resources' GIS Registry. Remediation performed pursuant to this 6.B.3. shall be at HSI's sole expense unless City is able to obtain any federal or state grants for required remediation, which the City agrees to use reasonable efforts to obtain.
  - (4) Termination for Feasibility. If the cost for Phase II testing or any required remediation renders the Project economically infeasible, this Agreement may be terminated at the option of either party.
- C. Access to Property. Prior to Closing 1, and while this Agreement is in full force and effect, MPL, the City and DCD shall permit representatives of HSI to have access to any part of the Property, at all reasonable times for the purpose of obtaining data and making various inspections, surveys, assessments and tests that are necessary to carry out the Agreement. Such access shall be scheduled with the MPL Director or her designee at times that are least likely to disrupt patrons of the East Library. Prior to any such access, HSI shall provide the City with proof of HSI's or HSI's consultant's, as applicable, insurance coverage according to the City's minimum guidelines. Such evidence of insurance must be reasonably satisfactory to the City in form and substance prior to HSI or its representatives accessing the Property. After Closing 1 and prior to the issuance of the Certificate (defined below), HSI shall permit representatives of the City including, but not limited to, an owner's representative hired by MPL to represent MPL's interests during the construction of the Library Unit, access to the Property at all reasonable times upon reasonable prior notice for the purpose of inspecting the work being performed in connection with the Project, provided that representatives of HSI, its general contractor or the Architect may accompany City representatives during such access of the Property. 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. Nothing in this Section shall be interpreted or construed in such a way as to limit the ability of the City to conduct normal and customary inspections of the construction site as required or permitted under local or state laws or regulations or as a condition of any permit issued for the Project.

## **7. CERTIFICATE OF COMPLETION**

Promptly after completion of the Project, including, but not limited to, all closings, construction, condominium documents and landscaping, in accordance with this Agreement and the Approved Final Plans, HSI shall request that the Commissioner of DCD issue a Certificate of Completion certifying to HSI and its successors and assigns and HSI's successors in title to the Property, which certification shall be a conclusive determination, that the Project has been built in compliance with, and is in fact in compliance with, the covenants, conditions, requirements, and restrictions in this Agreement and the Approved Final Plans (the "Certificate"). The Certificate is not a conclusive determination that the Project is free from any and all defects as to construction, materials and design or other defects which cannot be easily ascertained through a visual inspection of the completed construction. Representatives of the City shall inspect the Property and documentation related to prevailing wage, hiring of Milwaukee residents as outlined in Chapter 355 of the Milwaukee Code of Ordinances and SBE requirements, (the "Inspections") within thirty (30) days following HSI's request for the Certificate and HSI providing to the City the documentation related thereto. In the event HSI has failed to complete redevelopment of the Property and construction of the Project in conformity with Approved Final Plans and covenants set forth in this Agreement and the Commissioner of DCD declines to issue the Certificate for the Project, the City shall provide HSI with a written statement indicating in detail how HSI has failed to complete redevelopment of the Property and construction of the Project in conformity with Approved Final Plans and covenants set forth in this Agreement. In the event HSI has completed the redevelopment of the Property and construction of the Project in conformity with Approved Final Plans and covenants set forth in this Agreement, then the Commissioner of DCD shall execute the Certificate and the City shall present the same to HSI immediately after completion of the Inspections. Prior to issuance of the Certificate, HSI shall, in accordance with Section 23 of this Agreement, either provide the City with a timeline for turning over copies of all public records to the City or declare its intention to retain those records for seven years.

## **8. CONVEYANCE OF LIBRARY UNIT – HSI TO CITY (CLOSING 2)**

- A. Timing of Closing 2. Closing 2 of the Library Unit to the City shall be at the City Real Estate Office within 30 days after Substantial Completion at a time mutually agreed to by the parties, unless some other timeframe is agreed to by HSI, the Commissioner of DCD and MPL.
- B. Form of Deed. HSI shall, at Closing 2, convey the Library Unit by special warranty deed to the City at no cost to the City, except as provided herein.
- C. Proration of Taxes. There shall be no proration of property taxes. HSI will pay all property taxes for the year during which Closing 2 occurs.

- D. Recordation of Deed. City shall promptly file the special warranty deed for recording at the Milwaukee County Register of Deeds and shall pay all costs for recording the special warranty deed including the real estate transfer return fee. The value of the Library Unit listed on the real estate transfer return shall be reasonably determined by the City in compliance with law. Title to the Library Unit shall be conveyed to the City subject to the Declaration, the Plat, this Agreement, any liens, encumbrances or other matters that encumbered the Property prior to or as of Closing 1 or that the City has otherwise consented to or caused prior to Closing 2 (collectively “City Encumbrances”).
- E. Title Insurance. City, at its discretion, may pay for and obtain a title commitment and/or title insurance for the Library Unit in an amount determined by the City to be acceptable. If the title commitment shows exceptions or requirements to title that are unacceptable to the City and are not City Encumbrances, City shall, at least 30 days before Closing 2, notify HSI of such defects, and HSI shall cure such title defects and present a title insurance commitment on the basis of which Closing 2 may occur, and the date for Closing 2 shall be extended as necessary to accommodate HSI’s requirement to cure in accordance with the foregoing. HSI shall satisfy, at or prior to Closing 2, all liens and encumbrances against the Library Unit that secure monetary obligations provided such liens and encumbrances are not City Encumbrances.
- F. Warranty. HSI warrants to the City that the Library Shell (the “Library Shell Warranty”) shall conform with Exhibit B and those portions of the Approved Final Plans applicable to the Library Shell, provided such Library Shell Warranty shall exclude remedy for damage or defect caused by abuse, alterations to the Library Shell not executed by HSI or its contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. The Library Shell Warranty shall commence upon the completion of Closing 2 and shall terminate one year thereafter. HSI warrants to the City that the landscaping that will be part of the Library Unit (the “Library Landscaping”) and that is constructed by HSI (“Landscaping Warranty”) shall conform with applicable portions of the Approved Final Plans, provided such Landscaping Warranty shall exclude remedy for damage or defect caused by abuse, alterations to the Library Landscaping not executed by HSI or its contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. The Landscaping Warranty shall commence upon issuance of the Certificate and terminate one year thereafter (the “Landscape Warranty Period”). At the expiration of the Landscape Warranty Period and the Library Shell Warranty, and not before, HSI shall assign to MPL any and all unexpired warranties HSI obtained in connection with the construction of the Library Landscaping and the Library Unit, respectively, but only if such warranties are assignable.
- G. Letter of Credit. At Closing 2, HSI shall provide to the City an irrevocable letter of credit issued pursuant to Chapter 405 of the Wisconsin Statutes or place funds in an escrow account which shall assure the faithful performance by HSI of its obligations to complete after Closing 2 the landscaping and other improvements included in the Library Unit. The letter of credit or escrow account shall be in an amount to be mutually determined by DCD and HSI that reasonably represents the estimated cost to complete the landscaping and any other improvements included in the Library Unit that were not completed at the time of Substantial Completion. The letter of credit or escrow account may be released after HSI notifies DCD and MPL that all improvements covered by the letter of credit or escrow account have been completed and DCD and MPL acknowledge such completion in writing.
- H. Construction Continuation. The parties acknowledge that after Closing 2 both HSI and MPL will be performing construction work on the Property and will need staging areas and on-site trailers. The parties and their contractors shall work together to develop mutually agreeable locations for their trailers and staging areas. After Closing 2 and upon the City’s commencement of the Library Build Out, HSI and the City agree to use reasonable efforts to not interfere with each other’s construction activities. As necessary for HSI to complete work on the Library Landscaping and the HSI Unit following Closing 2, City hereby grants HSI a right of entry over portions of the Library Unit (the “Right of Entry”) necessary for the purpose of completing the Library Landscaping and HSI Unit. Prior to Closing 2, HSI shall provide proof to the City that the outdoor portions of the Library Unit are covered under HSI’s liability insurance and that the City is named as an additional insured. HSI shall maintain such liability insurance coverage at all times that it uses the Right of Entry.

## 9. RESTRICTIONS ON USE

HSI agrees for itself and its successors and assigns, and every successor in interest to the Property, or any part thereof, to:

- A. Not discriminate upon the basis of sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation, gender identity or expression, past or present membership in the military service, familial status, or based upon affiliation with, or perceived affiliation with any of these protected categories in the sale, lease or rental, or in the use or occupancy of the Property or any improvements located or to be erected thereon, or any part thereof. Notwithstanding anything to the contrary set forth in this Agreement, including without limitation the provision set forth above

prohibiting HSI from discriminating on the basis of a lawful source of income, HSI and its successors in interest to the Property may, with respect to only the commercial space located in the HSI Unit, discriminate against a potential commercial tenant based upon its source of income regardless of whether its lawful.

B. Comply with all requirements of the Americans with Disabilities Act of 1990, U.S.C. #12101, et. seq.

## 10. LIMITATIONS ON USE / OPTION TO PURCHASE

A. Limitation on Retail Space. A portion of the HSI Unit may include commercial space to be leased by HSI or its successor-in-interest in the HSI Unit. For only so long as the City owns the Library Unit, HSI and its successors-in-interest shall not allow the commercial space in the HSI Unit to be used for the following activities or types of use: tavern, adult retail or entertainment establishment, animal services or any use requiring a liquor license.

B. Option to Purchase Library Unit. In the event that the City's Common Council formally declares that the Library Unit is surplus to municipal needs and/or decides to sell or lease the Library Unit, the City shall so notify HSI of its intent to sell or lease the Library Unit and give HSI the option to purchase the Library Unit before the City markets the Library Unit for sale or lease. This Section 10.B. shall be in effect only for as long as HSI or an entity that is controlled by HSI Development Partners, LLC owns the HSI Unit. The following procedure shall be used with regard to the Library Unit option to purchase:

- (1) The City shall notify HSI in writing of the Common Council's declaration and the City's intent to sell or lease the Library Unit ("Notice of Conveyance") and HSI shall have 60 days to notify the City in writing of its intent to exercise the option to purchase the Library Unit ("Notice of Intent"). If HSI fails to so notify the City within 60 days or notifies the City that it has decided not to exercise the option to purchase the Library Unit, the City may proceed with selling or leasing the Library Unit to a third party and this Section 10.B. shall terminate.
- (2) If HSI provides the Notice of Intent to the City, City and HSI shall each have 30 days to hire an appraiser and notify the other party in writing of the name of the appraiser hired. The City and HSI shall each require their appraiser to provide a written appraisal of the fair market value of the Library Unit within 90 days after the date on which the second appraiser was identified to the other party. Each party shall provide a copy of its appraiser's report to the other party. From and after the City's delivery of the Notice of Conveyance until HSI's delivery of the Notice of Intent to the City, HSI shall have access to the Library Unit upon forty-eight (48) hours prior written notice, for the purpose of performing an inspection of the Library Unit. From and after HSI's delivery of the Notice of Intent to the City: (i) the City shall not enter into any leases of the Library Unit or any other contracts affecting the Library Unit, except for terminable contracts entered into in the ordinary course of operating the Library Unit; and (ii) the City shall not encumber the Library Unit including, without limitation, the City shall not grant any easements, mortgages, security interests, or liens in, to, or upon the Library Unit.
- (3) If the difference between the two appraisals is less than or equal to 10% of the higher of the two appraisals, the average of the two appraisals shall be the fair market value of the Library Unit. If the difference between the two appraisals is more than 10% of the higher of the two opinions, the City and HSI shall meet and confer and attempt to negotiate a fair market value for the Library Unit. If the parties are unable to agree on a fair market value within 30 days of receipt of both appraisal reports, they shall, within 60 days of receipt of both appraisal reports, jointly hire and equally share the cost of a third appraiser chosen by their respective appraisers to complete a third appraisal report within 90 days of the selection of said third appraiser.
- (4) Upon receipt of the third appraisal report, the fair market value of the Library Unit shall be the value as stated in that appraisal.
- (5) After determining the fair market value of the Library Unit, HSI shall have 30 days to notify the City in writing whether it intends to purchase the Library Unit for the fair market value as determined using the process described in this Section 10.B. ("Notice of Purchase"). Upon delivery of the Notice of Purchase, the parties shall have 90 days during which to close on the sale of the Library Unit. This deadline may be extended by the parties if additional time is necessary for HSI to obtain financing to purchase the Library Unit which extension shall not be unreasonably withheld so long as HSI has made a good faith effort towards obtaining such financing. The standard and customary payment of closing costs and proration of other amounts owed at closing shall apply.
- (6) All appraisers used under this section shall be licensed as Certified General Appraisers by the State of Wisconsin.

- (7) If, prior to City's receipt of the Notice of Purchase from HSI, the City decides that it wants to keep the Library Unit, the City shall so notify HSI in writing and the City may retain ownership of the Library Unit and the City shall reimburse HSI for its reasonable out of pocket expenses for appraisal costs incurred in connection with determining the fair market value of the Library Unit under this Section 10.B. However, anytime in the future that the City's Common Council formally declares that the Library Unit is surplus property no longer needed by the City, the City must first offer HSI the option to purchase the Library Unit as described herein so long as HSI or an entity controlled by HSI Development Partners, LLC still owns the HSI Unit.
- (8) HSI may assign the option to acquire the Library Unit granted under this Section 10.B. to an entity that is controlled by either: (i) HSI Development Partners, LLC or (ii) HSI Investments, LLC. Pursuant to City policy, City shall not sell the Library Unit to any party, as an individual or by a partnership, limited liability company or corporation that is in violation of the following City Buyer Policies at the time of closing:
  - (a) Is tax delinquent in the payment of any property tax (real or personal property), special assessment, special charge or special tax owed to the City;
  - (b) Has an outstanding judgment owed to the City;
  - (c) Has outstanding building or health code violations or orders from the City's Health Department or Department of Neighborhood Services that are not actively being abated;
  - (d) Has been convicted of violating an order of the Health Department or Department of Neighborhood Services within preceding 12 months;
  - (e) Has been convicted of a felony that causes neighborhood or community concerns with respect to neighborhood stability, health, safety or welfare; or
  - (f) Has been subject to a property tax foreclosure by the City within the preceding five years.
- (9) HSI may obtain a title insurance commitment reflecting the state of title for the Library Unit (the "Library Commitment"). If the Library Commitment shows any matter that affects the Library Unit that is unacceptable to HSI that the City cannot or will not cure, then HSI, may elect, in its sole discretion, not to acquire the Library Unit. Notwithstanding anything to the contrary in this Agreement, prior to the conveyance of the Library Unit to HSI, the City shall fully satisfy any monetary lien encumbering the Library Unit not caused by HSI. If HSI elects to not acquire the Library Unit in accordance with this Section 10.B.9, HSI shall not be responsible for any costs incurred by the City, MPL or any other subdivision of the City in connection with this Section 10.B.

## **11. COVENANTS BINDING UPON SUCCESSORS IN INTEREST: PERIOD OF DURATION**

It is intended and agreed that the covenants provided in Sections 9, 10.A. and 21 shall be covenants running with the land binding to the fullest extent permitted by law and equity for the benefit and in favor of, and enforceable by, the City, its successors and assigns, the City, and any successor in interest to the Property, or any part thereof, and the United States (in the case of the covenant provided in Section 9.B), against HSI, its successors and assigns, and every successor in interest to the Property or any part thereof or any interest therein, and any party in possession or occupancy of the Property or any part thereof. It is further intended and agreed that the covenant provided in Section 9.A shall remain in effect without limitation as to time.

## **12. TRANSFER OF PROPERTY**

HSI has not made or created, and will not, prior to issuance of the Certificate, make or suffer to be made any other sale, assignment, conveyance, lease or transfer in any other form with respect to this Agreement or the Property, or any part thereof or any interest therein, or contract or agree to do any of the same, without the prior written approval of the Commissioner; provided, however, that HSI may, without the prior written approval of the Commissioner: (a) assign or transfer this Agreement to an entity which has substantially similar ownership as HSI; (b) grant a mortgage or any other security interest in the Property to HSI's lenders financing the Project; (c) enter into leases for the commercial space and residential apartments located in the HSI Unit; and (d) convey the Library Unit to the City pursuant to Section 8. In the event of (a) above, HSI must provide to City, within 3 days of any such assignment or transfer, written notice of the assignment or transfer, identifying the entity and the ownership interests in the assignee or transferee entity, and the similarity or overlap to HSI. Any such assignee or transferee (and any principal of any such entity) must meet and satisfy all of the City Buyer Policies set forth in Section 5.J, above.

## **13. LIMITATION UPON ENCUMBRANCE OF PROPERTY**

Prior to issuance of the Certificate, neither HSI nor any successor in interest to the Property shall engage in any financing creating any security interest in the Property, whether by express agreement or operation of law, except for the purposes of obtaining (a) funds

necessary for completion of the Project, and (b) such additional funds, if any, in an amount not to exceed the Purchase Price paid by HSI to the City. Until issuance of the Certificate, HSI (or its 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 and of any encumbrance or lien that has been created on or attached to the Property whether by voluntary act of HSI or otherwise.

#### **14. MORTGAGEES NOT OBLIGATED TO CONSTRUCT**

Notwithstanding any of the provisions of this Agreement, including but not limited to those which are intended to be covenants running with the land, Permitted Successors shall not be obligated by the provisions of this Agreement to complete the Project or to guarantee such Project; nor shall any covenant or any other provision in the Deed be construed to so obligate such Permitted Successor.

#### **15. ENFORCED DELAY IN PERFORMANCE**

Neither the City nor HSI, nor any successor in interest, shall be considered in breach or default of its obligations with respect to the preparation of the Property for development or commencement and completion of the Project, in the event of enforced delay in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence. The time for the performance of the obligations shall be extended for the period of the enforced delay, as reasonably determined by the City, if the party seeking the extension shall request it in writing of the other party within ten (10) days after the beginning of the enforced delay.

#### **16. NO DAMAGES FOR DELAY**

HSI shall not be entitled to recover any damages from the City arising from or attributable to any delays in construction upon or development of the Property or the interior build-out of the Library Unit, unless the City, DCD, MPL or the agent of any of them caused the delay in question.

#### **17. REMEDIES**

- A. Prior to Conveyance. If, prior to City's conveyance of the Property, HSI assigns or attempts to assign this Agreement or any rights hereunder without the consent of the City (not to be unreasonably withheld, delayed or conditioned), or, after having satisfied all of the conditions on HSI's obligation to purchase the Property, HSI fails to pay the Purchase Price and take title to the Property, the City may, at its option, terminate this Agreement and retain any fees submitted by HSI as liquidated damages.
- C. Notice of Breach and Right to Cure. Except as otherwise provided herein, in the event of default or breach ("Default") by either party hereto, the defaulting party shall, upon written notice from the other, cure or remedy such Default within 30 days after receipt of notice and demand to cure providing, however, that if the Default is one that cannot reasonably be cured within said 30 days, the defaulting party must diligently and faithfully pursue cure, and if the Default is not then remedied or cured with a reasonable time, or if the defaulting party fails to faithfully and diligently pursue cure, then (in any of the events described above) the aggrieved party may institute such proceedings and/or take such action to secure any rights as the aggrieved party may have available to it hereunder or at law or in equity, including, but not limited to, an action to compel specific performance and/or seek damages.
- D. Waiver. No delay, waiver, omission or forbearance on the part of any party to exercise any right or power arising out of any other party's Default shall be deemed a waiver by that party of such right or power against the other party for any subsequent Default.
- E. City's Retained Reversionary Interest.
  - (1) Notwithstanding anything to the contrary contained herein or in the Deed, if, subsequent to Closing 1 and prior to issuance of the Certificate:
    - (a) HSI, or any successor, defaults on or violates its obligations with respect to constructing the Project in substantial compliance with the Approved Final Plans or abandons construction, and any such default, violation, or abandonment is not cured, ended or remedied within 90 days after City's written demand to HSI (and its lender) to do so; or
    - (b) HSI, or any successor, fails to pay real estate taxes, special assessments or special charges (other than special assessments or special charges that are the responsibility of the City pursuant to Section 5.I. of this Agreement) on the Property or any part thereof when due and such taxes or assessment shall remain unpaid or no provision satisfactory to the City has been made for such payment within 90 days after City's written demand to do so; or
    - (c) There is any transfer of the Property or any part thereof in violation of this Agreement, and such violation shall not be cured within 90 days after the City's written demand to do so;

(collectively “Reverter Default”) then, and only then, shall the City have the right to reenter and take possession of the Property and to record against the Property in the Milwaukee County Register of Deeds Office a “Notice of Reverter.” HSI agrees that the recording of such Notice of Reverter in strict compliance with this Section E shall have the effect of delivering and recording a deed from HSI to City, and shall automatically terminate all of HSI’s rights, title and interest in and to the Property (and any interest of any successor that has taken title from or through HSI, except Permitted Successors) and revert in the City, subject to rights of Permitted Successors, the full estate conveyed by the Deed. The intent of this provision, together with other provisions of this Agreement, is that the conveyance of the Property to HSI pursuant and subject to this Agreement shall be made upon a condition subsequent to the conveyance that in the event of a Reverter Default, and the failure on the part of HSI to remedy, end, abrogate or otherwise cure such default, failure, violation, breach or other action or inaction, within the period and in the manner stated in such subdivisions, City at its option may effect a termination of the estate conveyed to HSI in favor of City in which case all rights and interests of HSI (and of any successor or assign to HSI or the Property, except Permitted Successors), shall revert to, and thereafter be solely and fully vested in, the City. And such reversioning of title in the City shall be subject to, limited by, and shall not defeat, render invalidate or limit (a) the lien of any mortgage authorized by this Agreement, (b) any right or interest provided in the Agreement for the protection of the holder of such mortgage and (c) any right of any Permitted Successor, including any lessee authorized by this Agreement.

- (2) City’s reversionary right is a material provision of this Agreement, without which, the City would not have entered into this transaction.
- (3) City agrees that before exercising its reversionary interest, it will exercise its best efforts to work with HSI and/or any Permitted Successors to resolve the Reverter Default or to reach some settlement in an effort to avoid exercising the City’s reversionary interest.
- (4) Upon the issuance of the Certificate, this Section 17.E. shall automatically terminate along with the City’s reversionary interest in the Property.

#### **18. RESALE OF REACQUIRED PROPERTY: DISPOSITION OF PROCEEDS**

- A. Upon the reversioning in the City of title to the Property or any part thereof as provided in Section 17, City shall use best efforts to resell the Property or part thereof (subject to rights of Permitted Successors) as soon and in such manner as the City shall find feasible and consistent with the objectives of applicable law to a qualified and responsible party or parties (as determined by the City) who will either (a) assume the obligation of making or completing the Project as shall be satisfactory to the City or (b) agree to undertake such other project at the Property as shall meet City’s approval or, alternatively, the Project with such modifications to which City agrees.
- B. Upon City resale of the Property (or part thereof) the proceeds thereof shall be applied:
  - (1) First, to reimburse the City for all costs and expenses incurred by the City, MPL or DCD, including, but not limited to, salaries of personnel in connection with the reversion in title, management and resale of the Property or part thereof (but less any income derived by the City from the Property or part thereof in connection with such management); all taxes, assessments, and water and sewer charges with respect to the Property or part thereof (or, in the event the Property is exempt from taxation or assessment or such charges during the period of ownership thereof by the City, an amount equal to such taxes, assessments or charges (as determined by the City’s assessing official) that would have been payable if the Property were not so exempt); any payments made or necessary to be made to discharge any encumbrances or liens existing on the Property or part thereof at the time of reversioning of title thereto in the City or to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults or acts of HSI, its successors or transferees; any expenditures made or obligations incurred with respect to the making or completion of the Project (or such modified or alternate project as City may establish or to maintain the Property), and any amounts otherwise owing the City by the successors or transferee; and
  - (2) Second, to reimburse HSI, its successor or transferee, up to the amount equal to the sum of the Net Purchase Price paid by it for the Property (or allocable to the part thereof) and the cash, labor and material actually invested by it in performing any aspect of the Project on the Property or part thereof, less any gains or income withdrawn or made by it from this Agreement or the Property.
  - (3) Any balance remaining after such reimbursements shall be retained by the City as its property.

#### **19. CONFLICT OF INTEREST: CITY’S REPRESENTATIVES NOT INDIVIDUALLY LIABLE**

No City member, official or employee shall have any personal interest, direct or indirect, in this Agreement, nor shall any such person participate in any decision relating to this Agreement which affects his personal interests or the interests of any corporation, partnership or association in which he is, directly or indirectly, interested. No City member, official or employee shall be personally liable to HSI, or

any successor, in the event of any City default or breach or for any amount which may become due to his, or its successor, or on any obligations under the terms of this Agreement.

## **20. INDEMNIFICATION**

HSI agrees to defend, indemnify and hold harmless City and MPL, the City's and MPL's officers, agents and employees, from and against all claims, demands, damages, liability, suits, judgments and decrees, attorney's fees, losses, costs and expenses of any kind or nature whatsoever that may come or be asserted against City or MPL on account of HSI's (or anyone acting for or at the direction of, or anyone claiming by, through, or under HSI) pre-Closing 1 entry onto or investigations at the Property. The provisions in this Section shall survive the consummation of Closing 1 for a period of six months.

## **21. PROVISIONS NOT MERGED WITH DEED**

No provision of this Agreement is intended to or shall be merged by reason of any deed transferring title to the Property from the City to HSI or any successor in interest, and any such deed shall not be deemed to affect or impair the provisions and covenants of this Agreement.

## **22. GOVERNING LAW**

This Agreement shall be construed according to Wisconsin law.

## **23. PUBLIC RECORDS**

Records shall be maintained in accordance with the requirements prescribed by the City with respect to all matters related to the Library Unit covered by this Agreement. Both parties understand that the City is bound by the Wisconsin Public Records Law, Wis. Stat. §§ 19.31-39, and as such, all terms of this Agreement are subject to and conditioned on that law. HSI acknowledges and agrees that it is obligated to assist the City in retaining and producing all records related to the Library Unit in HSI's custody and control that have been created or maintained as a result of this Agreement to comply with the Wisconsin Public Records Law. HSI agrees that it shall assist City and the Milwaukee City Attorney's Office in complying with the public records law and in defending actions under that law, provided such assistance does not require HSI to financially contribute to the City's defending actions under that law, including, without limitation, the City's legal defense of a public records request, mandamus actions, or lawsuits. Except as otherwise authorized, those records shall be maintained for a period of seven years after Closing 2.

## **24. SUCCESSORS AND ASSIGNS.**

This Agreement is binding upon the parties hereto and their successors and assigns, including successors in interest to the Property. Notwithstanding the foregoing, until issuance of the Certificate, HSI may not assign this Agreement or its rights hereunder without City's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

## **25. APPROVALS**

In any instance in which City's approval or consent and/or the approval or consent of the Commissioner of DCD or MPL is required under this Agreement, such approval or consent shall not be unreasonably withheld, conditioned or delayed.

## **26. NOTICES**

Notices required to be sent under this Agreement shall be in writing and given either by personal delivery, by certified mail postage prepaid, or by facsimile to the following individuals. Notices personally delivered shall be deemed delivered upon actual receipt or upon refusal to accept delivery. Notices sent by certified mail shall be deemed delivered two business days after mailing. Notices sent by facsimile shall be deemed delivered on the date of sending – providing, however, (i) any such notice is (and must be) sent between the hours of 9:00 A.M. and 4:00 P.M. on business days that the City's City Hall is open for business; and (ii) no error or similar message indicating inability to send is prompted by the sending of such notice by facsimile. Notice recipient and sending information may be changed from time to time by sending written notice of the same to all parties in accordance with this paragraph.

### **If to the CITY:**

City Real Estate Officer, Department of City Development  
809 North Broadway, Milwaukee, Wisconsin 53202-3617  
Phone: 414-286-5730

Facsimile: 414-286-0395

With a copy to:

Attorney Mary L. Schanning  
Milwaukee City Attorney's Office  
200 E. Wells Street, Room 800  
Milwaukee, WI 53202-3551

and a copy to:

Paula Kiely, Milwaukee Public Library Director  
and Milwaukee Public Library Board of Trustees  
814 W. Wisconsin Avenue  
Milwaukee, WI 53233

**If to HSI:**

HSI East Library Residential, LLC  
c/o HSI Development Partners, LLC  
Attn: Brett Haney or Ryan Schultz  
20975 Swenson Drive, Suite 395  
Waukesha, WI 53186

Phone: (414) 439-8701  
Facsimile: (262) 439-8705

and a copy to:

Attorney Daniel A. Kaminsky  
Davis & Kuelthau, s.c.  
111 East Kilbourn, Suite 1400  
Milwaukee, Wisconsin 53202  
Phone: (414) 225-1431  
Facsimile: (414) 278-3631

**27. SPECIAL PROVISIONS**

- A. HSI will not discriminate against any employee or applicant for employment because of sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation, gender identity or expression, past or present membership in the military service, familial status, or based upon affiliation with, or perceived affiliation with any of these protected categories. HSI will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation, gender identity or expression, past or present membership in the military service, familial status, or based upon affiliation with, or perceived affiliation with any of these protected categories. Such action shall include, but not be limited to, the following: employment, upgrading, promotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. HSI agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City or the State of Wisconsin setting forth the provisions of this nondiscrimination clause.
- B. HSI will include the provisions of Section 27.A in every construction contract affecting the Property that HSI is a direct party to and shall ensure that each such contract include a provision that requires the contractor to include the provisions of Section 27.A in any subcontract the contractor enters into with respect to the Project.

**28. COUNTERPARTS**

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



IN WITNESS WHEREOF, HSI, \_\_\_\_\_ has hereunto set its hand this \_\_\_\_ day of \_\_\_\_\_, 2012.

**HSI EAST LIBRARY RESIDENTIAL, LLC**

**By: HSI Development Partners, LLC**

By \_\_\_\_\_  
Ryan Schultz, a manager

By \_\_\_\_\_  
Brett Haney, a manager

STATE OF WISCONSIN            )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2012, Ryan Schultz, to me known to me known to be a manager of the Manager of HSI East Library Residential, LLC and being authorized so to do, executed the foregoing Agreement for the purposes therein contained for and on behalf of HSI East Library Residential, LLC.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

SEAL

\_\_\_\_\_

Notary Public,

\_\_\_\_\_ County

My commission \_\_\_\_\_

STATE OF WISCONSIN            )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2012, Brett Haney, to me known to me known to be a manager of the Manager of HSI East Library Residential, LLC and being authorized so to do, executed the foregoing Agreement for the purposes therein contained for and on behalf of HSI East Library Residential, LLC.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

SEAL

\_\_\_\_\_

Notary Public,

\_\_\_\_\_ County

My commission \_\_\_\_\_



**EXHIBIT A**  
Description of Property

All that certain parcel or parcels of land located in the City of Milwaukee, County of Milwaukee, State of Wisconsin, more particularly described as follows:

Lots 10, 11, 12, 13, 14, 15, 16, 17 and 18, in Block 210, in Murray's Addition, in the Southwest  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of Section 15, Town 7 North, Range 22 East, in the City of Milwaukee, County of Milwaukee, State of Wisconsin except the South 10 feet of Lot 10 for street purposes and plus the vacated street adjoining Lot 18 on the North.

Address: 1910 East North Avenue  
Tax Key Number: 319-0772-100-3

## **Exhibit B**

### **Library Shell Construction**

#### **Library Component – Building Requirements**

- Approximately 16,000 square feet plus additional space for HVAC / mechanical components (not to exceed 17,000 square feet, but with additional space on the roof for the installation of the HVAC / mechanical components. The location and size of mechanical space shall be determined prior to HSI's submission of its Preliminary Application Package to HUD.).
- Ground floor location only at corner of North and Cramer.
- “Gray Box” condition (City to build-out the interior under separate bid and contract).  
The attached checklist clarifies responsibilities between MPL and HSI for the gray box.
- Highly visible from the street with tempered laminate glass curtain wall/storefront.
- Single public entrance visible from North Avenue and the Library parking.
- Ceiling height of 17’4” minimum with a 20’ height preferred.
- 30-foot on-center column spacing.
- 150 pound/SF floor bearing capacity with capability to use heating coils and raised duct work.
- Loading area for daily truck delivery and staff entrance.
- Maximize daylight.
- Waterproofing barrier between the floor of the residential units / outdoor terrace and the ceiling of the Library.
- No loading dock shall be provided (see exterior enclosure)

#### **Utilities / Mechanicals**

- Separate HVAC and electrical service.
- Separate location for the Library’s mechanical equipment.
- Use “Best Practices” for sustainable construction.
- Cast iron plumbing pipes in the ceiling.

#### **Parking**

- 40 spaces minimum at ground level for Library use only.
- Parking spaces shall be marked with striping.
- Easily accessible & visible to patrons.
- Free during library hours for library patrons and staff with after-hours use of these spaces controlled by the Library Board.
- Included in the Library condominium unit.

**EXHIBIT B (CON'T)**

East Branch Library

Delineation of Library Shell and Library interior build-out costs

March 23, 2012

<i>Description of work</i>	<i>Library Shell &amp; Core (Developer)</i>	<i>Library Interior Improvement (Library)</i>
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<b>Site Work</b>		
Site Grading	X	
Site Utilities – Electric and gas service to Library. Specific location and pipe size to coordinated with Library design.	X	
Parking for Library (40 marked, ground level parking spots)	X	
Curb and gutter	X	
Landscaping (Site landscaping shall exclude specialty stamped concrete, ornamental planters and other Library specific landscaping)	X	
Bike racks		X

<b>Superstructure</b>		
Concrete floors finished to an overall ff25 or better		X
Provision of concrete topping at library space		X
Structure of first floor deck to achieve min. live load of 150 psf	X	
Coring of floor penetrations for below-floor electrical and plumbing (including maintenance of required ratings)		X
Additional structural support for any special purpose equipment not supplied by Developer		X
Fireproofing of building structure only where required by code (perimeter and interior columns and beams/connections)	X	
Repair of any fireproofing damaged by Library interior construction (to be repaired using base building contractor)		X
Overall floor to finished ceiling height provided to be no less than 17'-4", allowing a minimum 16'-0" final ceiling height, with 20' preferred. A maximum depth for plumbing associated with second floor occupants will be agreed upon by all parties.	X	

<b>Exterior Enclosure</b>		
Exterior enclosure systems (complete) Exterior enclosure does not include surfaces on the interior wall surface.	X	
Perimeter fire stop between slab edge and exterior enclosure	X	
Stud framing and insulation at perimeter enclosure (spray foam insulation in stud cavity)	X	
Stud framing and finish at perimeter columns. Perimeter framing / glazing may be supported on the slab and not foundation and there may not be a topping slab if the structure is post tension concrete.		X
Window sills		X
Window treatments		X
Interior sealant at perimeter walls		X
Supply of exterior fresh-air intake louver		X
Installation of exterior fresh-air intake louver	X	

<i>Description of work</i>	<i>Library Shell &amp; Core (Developer)</i>	<i>Library Interior Improvement (Library)</i>
<b>Exterior Enclosure (cont.)</b>		
Exterior storefront glazing system with U-value of 0.29, solar heat gain coefficient of 0.33 and condensation resistance factor exceeding 65; clear, low-e glazing. Perimeter framing/glazing to be supported on perimeter foundation, independent of interior topping slab. Coordinate design and size of Library fenestration with Library Architect. All of the exterior glazing on the library to be tempered/laminated glass.	X	
Rough-in opening for book return in location determined by Library.		X
Supply and installation of exterior book return.		X
Shading structures at south or west-facing windows as determined cooperatively by Developer and Library. Coordinate penetrations and attachments with Library.	X	
Exterior doors and all associated hardware that accommodates the Library's keycard access system.	X	
Library main entry doors and inside vestibule doors with access to electricity to allow for power assist doors.	X	
Fire protection of any exterior soffit conditions created by construction of upper building floors	X	
Roof access including control, roof pavers and access to Library equipment located at roof	X	

<b>Base Building</b>		
Mechanical room space no less than 450 square feet located outside Library space with controlled access for Library staff	X	
Water service, electrical service and mechanical equip space (1 total) with controlled Library staff access	X	
Locations for mechanical shafts for HVAC distribution for library	X	
Openings in precast or post tension structure to accommodate above (coordinate with Library)	X	
Mechanical shafts through first floor to accommodate piping/mechanical service to non-library tenants. Locations and sizes to be coordinated with Library design with no piping / mechanical service for non-library tenants going through the Library Unit.	X	
Electrical closet(s) for Library service		X

<b>Interior Improvements (Library space)</b>		
Men's and women's toilet rooms and associated plumbing		X
Entrance vestibule (exterior and interior standard glass metal framed doors and associated hardware).	X	
Entrance vestibule lighting and interior finishes		X

<i>Description of work</i>	<i>Library Shell &amp; Core (Developer)</i>	<i>Library Interior Improvement (Library)</i>
<b>Interior Improvements (Library space) (con't)</b>		
Janitor's closet and associated plumbing		X
Interior partition walls and column enclosures		X
Interior finish at perimeter walls		X
Interior doors and hardware		X
Ceilings (GWB, ACT, other)		X
Access panels required for access to piping associated with second floor tenants (to be located outside of Library space)	X	
Casework		X
Millwork		X
Wall finishes		X
Floor finishes, including wall base		X
Furnishings, fixtures and appliances		X
Special finishes		X
Cable trays or other cable management		X
White noise masking (if required)		X
Computer equipment including all servers, racking, UPS's, PDU's, etc		X

<b>Fire Protection</b>		
Water service into water room with tee connection	X	
Provision of Siamese connection as required by FD	X	
Fire pump (if required for building) to be provided underneath Library space.	X	
Wet sprinkler system throughout the building including all vertical and horizontal main and branch piping, distribution and dry pipe, anti-freeze or other extension of sprinkler system to accommodate exterior canopy.	X	
Installation of sprinkler system flexible heads in Library space.		X
Fire extinguishers and related cabinets and signage as required (library space only)		X
Pre-action or chemical or other special fire suppression systems		X

<b>Plumbing</b>		
Domestic cold water stub into library space at water room with meter to be provided underneath Library space.	X	
Roof drains and associated piping (coordinate locations with library layout) Drains to be routed outside of the library area. Location of drains and downspouts to be coordinated and determined by Developer and MPL.	X	
Routing of all tenant water system to be routed vertically outside of the library area.	X	
All domestic water system distribution for residential units to take	X	

<i>Description of work</i>	<i>Library Shell &amp; Core (Developer)</i>	<i>Library Interior Improvement (Library)</i>
place outside of the library area volume; above the second floor slab.		
<b>Plumbing (cont.)</b>		
Second floor slab to be waterproofed; all penetrations of second floor slab to be booted and waterproofed.	X	
Sanitary sewer stub into library space to be provided underneath Library space.	X	
Provision of cold water to library with associated meters	X	
Hot and cold water distribution throughout Library		X
Sanitary piping distribution throughout Library and connection at lower level		X
Vent piping distribution throughout Library and connection at second floor		X
Toilet room and kitchenette plumbing systems (including fixtures)		X
Janitor's closet mop basins and service fixtures		X
Condensate piping from cooling equipment serving Library to point of connection		X
Cast iron (over 3" o.d.) and metal piping for all piping directly above Library space serving other building tenants (no PVC)	X	
Insulation of piping in Library ceiling serving other building tenants	X	
Fire-stopping of all penetrations related to piping or other services penetrating slab above Library space and serving other building tenants. Refer to waterproofing notes above	X	

<b>Heating, Ventilating and Air Conditioning</b>		
Interior air handling unit and remote chiller/condenser serving Library space		X
Provision of location for library condensing unit, internal pathways and required lighting, service platform and safety railings as required by OSHA	X	
Gas fired boiler and associated pumps, vents and exhaust		X
Required high-pressure ductwork including vertical runs serving library space		X
Ventilation systems at elevator and electrical rooms (if required)	X	
Ventilation of all tenant trash enclosure rooms, if required by code.	X	
Stair pressurization system head end equipment, ductwork, piping and controls (if required)	X	
Supplemental exhaust systems (if required for library space)		X
All required hot water piping serving library space		X
Facilities Management System (FMS) with controls for mechanical equipment serving library space		X
Fan powered and non-fan powered VAV boxes with hot water coils including all associated high and low pressure ductwork		X
Underfloor terminal units, grilles, diffusers and ductwork as required		X



for library space		
Underfloor piping/tubing and associated pumps for in-floor radiant heating		X
<b>Description of work</b>	<b>Library Shell &amp; Core (Developer)</b>	<b>Library Interior Improvement (Library)</b>
<b>Heating, Ventilating and Air Conditioning (cont.)</b>		
Supplemental cooling/heat rejection for computer equipment room		X
Hot water perimeter heat		X
Humidification system		X

<b>Electrical</b>		
High-voltage secondary distribution system with substations at main electrical room and connections to utility	X	
Building transformer (if required)	X	
Lighting at stairwells, lower level mechanical/electrical room(s), trash room and other shell and core spaces	X	
Lighting at electrical closets, data/telecom room within library space		X
Emergency power for building fire and life-safety system	X	
Emergency lighting within library space		X
Emergency power generation or power backup to support non-life safety library system		X
Exit signage and lighting, including emergency lighting at stairwells and exterior doors	X	
Building fire alarm system (head end equipment and implementation in non-library building space, including location of annunciator panel per FD requirements	X	
Installation of fire alarm devices in library space and connection to building system.		X
Power and lighting distribution (all connections to main electrical room location) including all required sub-panels, step-down transformers, etc. Pathways to be made available by developer.	X	X
Library interior power receptacles		X
Library interior lighting fixtures		X
Exit signage within interior library space		X
Rough-in of all library computer equipment		X
Electrical and conduit for exterior building security lighting including parking lot (coordinate with Library)	X	
Fixtures for exterior building security lighting for the Library Unit including the surface parking		X

<b>Communications</b>		
Fiber optic or cable service to building for residential tenants and retail tenant	X	
Fiber optic or cable service to building for Library		X
Communications distribution and cabling (voice and data) including		X

all outlets, conduits, cable trays, etc.		
Main point of presence (demarc) room and raceways to property line for internet and city phone lines	X	
Communications head end equipment incl. all UPS and PDU systems		X

<i>Description of work</i>	<i>Library Shell &amp; Core (Developer)</i>	<i>Library Interior Improvement (Library)</i>
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<b>Security Systems</b>		
Library security panel		X
Electronic pass control at residential and retail tenant spaces	X	
Electronic pass control at Library spaces		X
Security cameras and motion detection within library space		X
Security cameras at building exterior sidewalks for library security		X
Security cameras for library parking		X
Security cameras for non-library uses	X	

<b>Miscellaneous</b>		
Exterior Library signage, including all illumination and controls		X
Conduit and envelope openings for exterior library signage, where needed	X	
Interior signage		X
Elevator serving residential floors allowing Library staff-only access to mechanical room and roof	X	
Construction signage	X	
Construction signage for Library build-out		X