

14.



City of West Allis Matter Summary

7525 W. Greenfield Ave.
West Allis, WI 53214

File Number	Title	Status
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R-2007-0175 Resolution In Committee

Resolution approving an Assignment Agreement by and between the City of West Allis and Dorothy G., Inc., d/b/a Redi Quick Dry Cleaners, for the property located at 9508-10 W. Greenfield Ave.

Introduced: 7/3/2007

Controlling Body: *Adm + Fin* Safety & Development Committee
 Sponsor(s): *Adm + Finance* Safety & Development Committee

COMMITTEE RECOMMENDATION

Adopt

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>JUL - 3 2007</u>			Barczak	✓			
			Czaplewski	✓			
			Dobrowski				
			Kopplin				
		✓	Lajsic	✓			
			Narlock				
			Reinke	✓			
			Sengstock				
	✓		Vitale				
			Weigel	✓			
			TOTAL	<u>5</u>			<u>0</u>

SIGNATURE OF COMMITTEE MEMBER

[Signature]
 Chair

Vice-Chair

Member

COMMON COUNCIL ACTION

ADOPT

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>JUL - 3 2007</u>	✓		Barczak	✓			
			Czaplewski	✓			
		✓	Dobrowski	✓			
			Kopplin	✓			
			Lajsic	✓			
			Narlock	✓			
			Reinke	✓			
			Sengstock	✓			
			Vitale <i>exc</i>				✓
			Weigel	✓			
			TOTAL	<u>9</u>	<u>-</u>	<u>-</u>	<u>1</u>

Dev.

**STANDING COMMITTEES OF THE
CITY OF WEST ALLIS COMMON COUNCIL
2004**

ADMINISTRATION & FINANCE

Chair: Michael J. Czaplewski
Vice-Chair: Martin J. Weigel
Gary T. Barczak
Thomas G. Lajsic
Rosalie L. Reinke

PUBLIC WORKS

Chair: Richard F. Narlock
Vice-Chair: Linda A. Dobrowski
Kurt E. Kopplin
Vincent Vitale
James W. Sengstock

SAFETY & DEVELOPMENT

Chair: Thomas G. Lajsic
Vice-Chair: Vincent Vitale
Gary T. Barczak
Martin J. Weigel
Rosalie L. Reinke

LICENSE & HEALTH

Chair: Kurt E. Kopplin
Vice-Chair: James W. Sengstock
Linda A. Dobrowski
Richard F. Narlock
Michael J. Czaplewski

ADVISORY

Chair: Rosalie L. Reinke
Vice-Chair: Gary T. Barczak
Linda A. Dobrowski
Vincent Vitale
Martin J. Weigel



City of West Allis

7525 W. Greenfield Ave.
West Allis, WI 53214

Resolution

File Number: R-2007-0175

Final Action:

Sponsor(s): Safety & Development Committee

JUL - 3 2007

Resolution approving an Assignment Agreement by and between the City of West Allis and Dorothy G., Inc., d/b/a Redi Quick Dry Cleaners, for the property located at 9508-10 W. Greenfield Ave.

WHEREAS, Dorothy G., Inc., a corporation created under the laws of Wisconsin, has applied for a loan from the Wisconsin Ready for Reuse Brownfield Program ("Program") in the amount of \$150,000 for the purpose of conducting site investigation and environmental remediation; and,

WHEREAS, the Authority of the City of West Allis on April 11, 2006 under Resolution No. 607 and the Common Council of the City of West Allis on September 19, 2006 under Resolution No. R-2006-0258 approved the endorsement of Dorothy G., Inc.'s application and approved participation in the Program; and,

WHEREAS, the Wisconsin Department of Natural Resources has approved Dorothy G., Inc., for a loan under the Wisconsin Ready for Reuse Brownfield Program (RFR); and,

WHEREAS, pursuant to the RFR Program, the City will enter into a Loan Agreement hereby attached as Exhibit A between the City of West Allis and the Wisconsin Department of Natural Resources in which loan funds are transferred through the City for remediation activities to be contracted by Dorothy G., Inc., for the property; and,

WHEREAS, under this Agreement the Dorothy G. hereby assigns to the City any and all rights Dorothy G. may have to reimbursement under the Wisconsin Drycleaner Environmental Response Program pursuant to Wisconsin Statutes section 292.65 and Wisconsin Administrative Code Chapter 169., and this assignment is made by Dorothy G. and shall be binding upon its heirs, personal representatives, successors and assigns; and,

WHEREAS, the City, on _____, 2007 entered into a Recapture Agreement by and between the City and Dorothy G., attached and incorporated herein as Exhibit B by reference, as security in the event Dorothy G. defaults on its agreement to reimburse the City of all Loan funds paid by the City to clean up the Property, the City has the right to recapture such funds via an assignment from Dorothy G.'s right to reimbursement under the Wisconsin Drycleaner Environmental Response Program pursuant to Wisconsin Statutes section 292.65 and Wisconsin Administrative Code Chapter 169; and,

WHEREAS, the loan funds are borrowed at zero (0) percent from the RFR Program, transferred through the City, and loaned by the City to the borrower, Dorothy G., Inc., in which the City is repaid by Dorothy G., Inc., through the assignment of payments from the Drycleaner Environmental Response Fund (DERF) in accordance with this Assignment Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the Assignment Agreement is hereby approved by and between the City of West Allis and Dorothy G., Inc., d/b/a Redi Quick Dry Cleaners, for the property located at 9508-10 W. Greenfield Ave.

BE IT FURTHER RESOLVED that the Director of Development, or his designee, be and is hereby authorized to execute and deliver the aforesaid Agreement on behalf of the City.

BE IT FURTHER RESOLVED that the City Attorney be and is hereby authorized to make such substantive changes, modifications, additions and deletions to and from the various provisions of the contract, including any and all attachments, exhibits, addendums and amendments, as may be necessary and proper to correct inconsistencies, eliminate ambiguity and otherwise clarify and supplement said provisions to preserve and maintain the general intent thereof, and to prepare and deliver such other and further documents as may be reasonably necessary to complete the transactions contemplated therein.

cc: Department of Development

Dev-R-474-7-3-07\bjb

ADOPTED

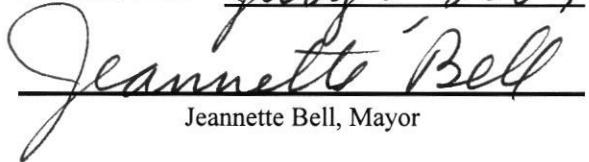
JUL - 3 2007



Paul M. Ziehler, City Admin. Officer, Clerk/Treas.

APPROVED

July 5 2007



Jeannette Bell, Mayor

ASSIGNMENT AGREEMENT

This Assignment Agreement ("Agreement") is made and entered into this _____ day of _____, 2007 ("Effective Date") by and between Dorothy G., Inc., ("Dorothy G.") and the City of West Allis (the "City").

RECITALS

A. Dorothy G. is the tenant of a contaminated dry cleaning site located at 9508-10 West Greenfield Avenue, West Allis, Wisconsin (the "Property").

B. Under the Ready for Reuse Program Loan Agreement dated _____, 2007 between the City and the Wisconsin Department of Natural Resources, the City will obtain a loan pursuant to the U.S. EPA Brownfields Revolving Loan Fund Cooperative Agreement (the "Loan") to clean up the Property.

C. Under the Recapture Agreement dated _____, 2007 between the City and Dorothy G. (the "Recapture Agreement"), in the event Dorothy G. defaults on its agreement to reimburse the City all Loan funds paid by the City to clean up the Property, the City has the right to recapture such funds via an assignment from Dorothy G.'s right to reimbursement under the Wisconsin Drycleaner Environmental Response Program pursuant to Wisconsin Statutes section 292.65 and Wisconsin Administrative Code Chapter 169. A copy of the Recapture Agreement is attached and incorporated herein by reference.

AGREEMENT

In consideration of the Recitals and the mutual agreements that follow, Dorothy G. and the City agree as follows:

1. Incorporation of Recitals. The foregoing Recitals to this Agreement are true, correct, and incorporated in their entirety herein by this reference.
2. Responsible Party Status. Dorothy G. acknowledges that it is a party responsible for the investigation and remediation of the Property pursuant to Wisconsin Statutes section 292.11.
3. Assignment. In consideration for the above covenants and promises, Dorothy G. hereby assigns to the City any and all rights Dorothy G. may have to reimbursement under the Wisconsin Drycleaner Environmental Response Program pursuant to Wisconsin Statutes section 292.65 and Wisconsin Administrative Code Chapter 169. This assignment is made by Dorothy G. and shall be binding upon its heirs, personal representatives, successors and assigns.
4. Notice. Any request, demand or other notice required of or permitted to be given under this Agreement shall be in writing and addressed as necessary to the following parties.

If to Dorothy G.:

Sam Gruichich, President
Dorothy G., Inc.
9508 West Greenfield Ave.
West Allis, WI 53215
Telephone: 414-771-1280

With a copy to:

Carl A. Sinderbrand, Esq.
Axley Brynelson, LLP
2 East Mifflin St., Suite 200
Madison, WI 53703
Telephone: (608) 257-5661
Fax: (608) 257-5444

If to the City :

John Stibal, Director
Department of Development
City of West Allis
7525 West Greenfield Ave.
West Allis, WI 53014
Telephone: 414-302-8462
Fax: 414-302-8401

With a copy to:

Scott Post, Esq.
City Attorney
City of West Allis
7525 W. Greenfield Ave.
West Allis, WI 53214
Telephone: 414-302-8452
Fax: 414-302-8444

5. Entire Agreement. This Agreement, together with any referenced parts and attachments, sets forth the entire understanding by the parties with respect to the subject matter hereof and supersedes all oral, written or other communication between the parties regarding the subject matter of this Agreement.

6. Governing Laws. This Agreement shall be governed by the laws of the state of Wisconsin and any dispute under this Agreement shall be venued in Wisconsin.

7. Authority to Enter Into Agreement. The individuals executing this Agreement on behalf of the parties herein represent that they have the authority to execute this Agreement; said representation and warranty shall survive the execution of this Agreement. The undersigned further state that they have carefully read the foregoing Agreement and know the contents thereof and sign their names of their own free will.

8. Successors and Assigns. This Agreement shall bind the parties and their heirs, personal representatives, successors, and assigns and is not assignable by any party hereto without the written consent of the other party.

9. Amendments. This Agreement may not be amended, changed, altered or modified except in writing signed by all of the parties hereto.

10. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute the one instrument.

11. Titles and Headings. Titles and headings of sections of this Agreement are for convenience of reference only and shall not affect the construction of any provision of this Agreement.

12. No Drafting Presumption. This Agreement has been drafted as a joint effort between the parties after negotiations, consultations and approval as to form. Accordingly, neither party may hereafter be entitled to a presumption that any portion of this Agreement should be construed either for or against a party as being drafted by a particular party.

13. No Admission of Liability. By entering into this Agreement, neither Dorothy G. nor the Authority make any admission of any liability relating to the contamination at the Property.

Dorothy G., Inc.

By: _____

City of West Allis

By: _____

Exhibit A

State of Wisconsin
 Department of Natural Resources
 Box 7921
 Madison, WI 53707

Ready for Reuse Program
 Loan Agreement
 Form 4400-241
 05-06

Notice: Completion of this Agreement is required to obtain a Ready for Reuse Brownfields Cleanup Loan under s. 292.72, Wis. Stats. Personally identifiable information included on this form will be used to process your application and may be made available to requests under Wisconsin's Open Records law [ss. 19.31 - 19.69, Wis. Stats.].

Borrower City of West Allis		Loan Number RRL - 002
Site Name or Title and Address Dorothy G, Inc. 9508-9510 W. Greenfield St. West Allis, WI 53215		
Period Covered by This Agreement The date of the DNR Signature on page 10 of this Agreement until November 1, 2016.	Borrower's Authorized Representative John F. Stibal, Director of Development	
Scope and Description of cleanup activities funded by this loan Soil Excavation Soil Transportation, Treatment & Disposal In-Situ Soil Treatment Soils Confirmation Testing Groundwater remediation operation and maintenance Finalization of RAP Health and Safety Site Monitoring Environmental Consulting Fees DNR Fees		
LOAN COSTS:	The following documents are hereby incorporated into and made part of this Agreement:	
Loan Amount: \$150,000 <hr/> Borrower Match Amount: \$33,000 <hr/> Borrower Match %: 22% <hr/> Total Project Cost: \$183,000	<ol style="list-style-type: none"> 1. 2004 US EPA Revolving Loan Fund Terms and Conditions 2. Section 292.72, Wisconsin Statutes 3. DNR-approved Interim Remedial Action Plan (RAP) 4. Signed application and all attachments and exhibits 	

DRAFT

I. Definitions

Hereafter, the following terms used throughout this document will meet the following definitions:

- A. LENDER or DEPARTMENT: The State of Wisconsin Department of Natural Resources
- B. BORROWER: The party receiving the loan –City of West Allis
- C. PROJECT: The project receiving the loan – remediation at Dorothy G, Inc., 9508-9510 W. Greenfield, West Allis, WI 53215

II. General Provisions

- A. The DEPARTMENT acts as the financial agent for the Wisconsin Brownfields Coalition, a recipient of U.S. EPA Brownfields Revolving Loan Fund Cooperative Agreement, and is authorized to make certain loans from these funds.
- B. The term of this loan shall be the Loan Approval Date, which is the date of the DNR's signature on page 10 of this Agreement, until no later than **November 1, 2016** with interest to be charged on the loan at a rate of **zero (0) percent** per annum.
- C. These funds are to be used to pay for the cleanup of **Dorothy G, Inc.**, a brownfields site with a release of a hazardous substance defined by the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), at **9508-9510 W. Greenfield, West Allis, WI 53215**. In general, the hazardous substances at the site include **perchloroethylene**.
- D. The Property is not listed, or proposed for listing on the National Priorities List of the U.S. Environmental Protection Agency (EPA).
- E. The brownfield site is owned by **Dorothy G, Inc.**, and BORROWER has full access to site.
- F. The BORROWER is not a generator or transporter of the contamination at the site.
- G. The BORROWER has enrolled the Property in Wisconsin Department of Natural Resources (WDNR) Remediation and Redevelopment Program (Exhibit A: BRRTS Printout for the Property).
- H. This Agreement and the General Obligation Resolution have been duly authorized, executed and delivered, and are valid and binding agreements of BORROWER.
- I. The BORROWER is not and has never been subject to any penalties resulting from environmental non-compliance at or on the property nor is the BORROWER, or its Project contractors or subcontractors currently suspended, debarred, or otherwise declared ineligible for participation in this federal program or from the receipt of these funds.
- J. The making and performance by BORROWER of this Agreement does not violate any provision of law, or result in a breach of or constitute a default under any agreement, indenture or other instrument to which BORROWER is a party or by which BORROWER may be bound.
- K. This Agreement has been duly authorized, executed and delivered, and is a valid and binding Agreement. This Agreement and all covenants, agreements, representations and warranties made herein shall survive the execution of this Agreement and shall continue in full force and effect so long as the loan is outstanding and unpaid.
- L. If any provision or item of this Agreement is held invalid, such invalidity shall not affect other provisions or items of this Agreement which can be given effect without the invalid provisions or items, and to this end, the provisions of this Agreement are hereby declared severable.

- M. Except for any exhibits, attachments, plats or other documents as may be affixed hereto, made a part hereof, and properly identified herewith, this Agreement constitutes the entire contract between the parties, and shall not be otherwise affected by any other purported undertaking, whether written or oral.
- N. The BORROWER does not own the property, and did not own the property during or after the time of disposal or placement of hazardous substances and has not caused, contributed to, permitted, or exacerbated the release of a hazardous substance on, or emanating from that property.
- O. The BORROWER is not the current owner of the site, and is not a potentially responsible party under Section 107 of CERCLA, 42 U.S.C. Section 9607. The BORROWER had full access to the site to complete the PROJECT. (Exhibit G)
- P. The BORROWER erected a sign on the Project site stating that the PROJECT was being financed in part by DEPARTMENT and the Ready for Reuse Program, and provided the appropriate contacts for obtaining information on activities being conducted at the site and for reporting suspected criminal activities. The sign erected on the Project site complied with the requirements of 40 C.F.R. Part 35, Subpart O (35.6105(a)(2)(ii)) and all requirements of the state and local laws applicable to on-premise outdoor advertising, and was posted on the Property during the interim action. The sign was posted in a publicly visible location.
- Q. The BORROWER, through the Contractor, has performed or obtained copies of all Phase I and Phase II Environmental Assessments of the Property performed according to the American Society for Testing and Materials (ASTM) standards, or equivalent assessment procedures in conformance with the Wisconsin Department of Natural Resources which verifies the presence of **hazardous substances** present in the soil, sediments and/or groundwater of the property. The BORROWER shall be responsible for the payment of all costs and expenses related to the Assessment. The BORROWER agrees that grant funds shall not be used for the payment of any cost or expense related to the Assessment. The Assessment did include, but was not limited to site background, the threat posed by the contaminant to public health, welfare and the environment and all past enforcement activities conducted by any governmental agency, and the site testing results.
- R. The DEPARTMENT and the BORROWER mutually agree to perform this Agreement in accordance with the Wisconsin Ready for Reuse Brownfields Loan & Grant Program and with the project description, application, terms, conditions, plans, specifications, estimates, procedures, maps and assurances attached hereto and made a part hereof. In general, the work to be done at the site includes **soil excavation and soil transportation and disposal**.
- S. The BORROWER is an independent contractor for all purposes, not an employee or agent of the DEPARTMENT.
- T. This Agreement, together with any referenced parts and attachments, shall constitute the entire agreement and previous communications or agreements pertaining to the subject matter of this Agreement are hereby superseded. Any revisions, including cost adjustments, must be made by an amendment to this Agreement or other written documentation, prior to the end date of the Agreement.
- U. Any cost adjustments must be made by a written amendment to this Agreement, signed by both parties, prior to the expenditure of funds or the termination date of the Agreement. Adjustments for time of performance or scope of work may be granted to the BORROWER by the DEPARTMENT in writing without the requirements of the BORROWER'S signature.
- V. The BORROWER may decline this offer of financial assistance in writing at any time prior to expending any funds. After the funds have been expended, this Agreement may be terminated, modified, or amended only by mutual agreement of both parties in writing.
- W. Failure by the BORROWER to comply with the terms of this Agreement shall not cause the suspension of all obligations of the DEPARTMENT hereunder if, in the judgment of the Secretary of the DEPARTMENT, such failure was due to no fault of the BORROWER. In such cases, any amount required to settle at minimum costs any

irrevocable obligations properly incurred shall be eligible for assistance under this Agreement, at the DEPARTMENT'S discretion.

III. The BORROWER agrees:

1. To notify the DEPARTMENT, in writing, of acceptance of this offer by delivering to the DEPARTMENT'S Ready for Reuse program manager two original loan Agreements duly signed by Fond du Lac City Manager and City Clerk. This action must take place within 30 days of receipt of this Agreement. Once signed by all parties, the Agreement is binding.
2. And understands that all loan funds provided by LENDER shall be used solely to pay for PROJECT costs.
3. That any and all work performed on the PROPERTY for which loan funds are used and the receipt of any loan funds under this Agreement is conditioned upon the BORROWER'S full compliance with this Agreement, all project documents and attachments, and the attached 2004 US EPA Revolving Loan Fund Terms and Conditions (Exhibit E).
4. To provide a match funds, in cash or in-kind services, of at least 22% of the loan amount.
5. To ensure environmental cleanups have been protective of human health and the environment.
6. To comply with all applicable Wisconsin Statutes and Wisconsin Administrative Codes in fulfilling the terms of this Agreement. In particular, the BORROWER has conducted environmental response actions in accordance with the NR 700 series, Wis. Adm. Code.
7. To have carried out the PROJECT activities in accordance with all applicable state, local and federal laws, regulations, orders, writs, judgments, injunctions, decrees or awards, including, but not limited to, the following: the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. § 9601, et. seq.) (CERCLA); Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments 40 CFR Part 31; the National Oil and Hazardous Substances Contingency Plan (NCP), 40 C.F.R. Part 300; all applicable 'cross-cutting requirements', including those federal requirements agreed between the USEPA and the DEPARTMENT defined by their Cooperative Agreement No. BF-96560601 ; MBE/WBE requirements found at 40 C.F.R. 31.36(e) or 40 C.F.R. 30.44(b); OSHA Worker Health & Safety Standard 29 C.F.R. 1910.120; the Uniform Relocation Act; Historic Preservation Act; Endangered Species Act; and Permits required by Section 404 of the Clean Water Act; Contract Work Hours and Safety Standards Act, as amended (40 U.S.C. 327-333), the Anti Kickback Act (40 U.S.C. 276c) and Section 504 of the Rehabilitation Act of 1973 as implemented by Executive Orders 11914 and 11250. Failure to comply with this provision shall not be a breach of this covenant if such failure does not have, or is not reasonably expected to have a materially adverse effect on the properties, business prospects or condition (financial or otherwise) of BORROWER and BORROWER is acting in good faith and with reasonable dispatch to cure such noncompliance.
8. To have carried out the PROJECT in accordance with the Davis-Bacon Act of 1931 (40 U.S.C. 276a-276a-5 and 42 U.S.C. 3222). CERCLA compliance with Davis-Bacon requires payment of Federal prevailing wage rates for construction, repair or alteration work funded in whole or in part with project funds. The BORROWER must obtain recent and applicable wage rates from the U.S. Department of Labor and incorporate them into the construction contract.
9. To have complied with Executive Order 11246, Equal Employment Opportunity, and implementing regulations at 41 CFR 60-4 relating to Federally-assisted construction contracts.
10. To have complied with the statutes prohibiting discrimination on the grounds of race, color, national origin, sex and disability. In addition, the BORROWER has undertaken good faith efforts to give opportunities for qualified Small Business Enterprises (SBE), Minority Business Enterprises (MBE) and Women-Owned Business Enterprises (WBE) to submit proposals, bids, and provide services on contracts and subcontracts for services and supplies. The BORROWER shall submit a report of such efforts.

11. To save, keep harmless, defend and indemnify the DEPARTMENT and all its officers, employees and agents, against any and all liability claims, costs of whatever kind and nature, for injury to or death of any person or persons, and for loss or damage to any property (state or other) occurring in connection with or in any way incident to or arising out of the occupancy, use, service, operation or performance of work in connection with this Agreement or omissions of the BORROWER'S employees, agents or representatives.
12. To have complied with all applicable local and state contract and bidding requirements.
13. To have submitted, or submit reports and copies of other studies, reports, contracts, or documents relating to the project in accordance with the 2004 US EPA Revolving Loan Fund Terms and Conditions (Exhibit E), including, but not limited to:
 - (a) The prepared community relations plan which received DEPARTMENT review and approval on August 23, 2006. The BORROWER implemented the approved community relations plan that included providing a copy of all public mail notices and agendas of all meetings or public information hearings to the DEPARTMENT.
 - (b) The prepared 'analysis of cleanup alternatives' document that contains information about the site and contamination issues (i.e., exposure pathways, identification of contaminant sources, etc.); cleanup standards; applicable laws; alternatives considered; and the proposed cleanup. The evaluation of alternatives included effectiveness, ability to be implemented, and the cost of the interim action proposed. The BORROWER made the analysis of brownfields cleanup alternatives document available for review and public comment on August 25, 2006 for a period of not less than fifteen (15) days from the date of publication of a public notice which announced the availability of the document for public review. BORROWER also submitted copies of the draft analysis of brownfields cleanup alternatives to the DEPARTMENT for review and approval and to US EPA and the DEPARTMENT'S designated environmental project manager. After the public comment period, the DEPARTMENT incorporated all appropriate comments into a decision document and prepared a written response to the public comments on September 8, 2006. The decision document was issued by the DEPARTMENT on September 13, 2006 and was the BORROWER'S authorization to undertake the work.
 - (c) To prepare remedial design and engineering documents and submit them to the DEPARTMENT for review and approval and to the DEPARTMENT'S designated environmental project manager, if applicable, for review and comment.
 - (d) Any confirmatory samples collected by the BORROWER, through the Contractor, during cleanup activities to document the completeness of the cleanup were collected pursuant to a Quality Assurance Project Plan, or its equivalent, which sets forth the manner and method of collecting and analyzing samples and was submitted to the DEPARTMENT for review and approval, and which was approved on August 23, 2006.
 - (e) To complete EPA Property Profile Forms for DEPARTMENT review and approval, as necessary.
 - (f) The DEPARTMENT is responsible for the completion of the community relations plan, the analysis of cleanup alternatives, and EPA Property Profile Forms referenced in (a), (b) and (e) above. However, pursuant to this Agreement, these activities are delegated to the BORROWER.
14. To submit a written affirmative action plan to the DEPARTMENT within 15 business days after the Agreement commences if an acceptable plan is not already on file with the State of Wisconsin. (BORROWERS with an annual work force of fewer than twenty-five (25) employees are exempted from this requirement.) Failure to comply with the conditions of this clause may result in the termination of this Agreement by the DEPARTMENT or withholding of payment.
15. To reimburse the DEPARTMENT for any and all funds the DEPARTMENT deems appropriate in the event the BORROWER fails to comply with the conditions of this Agreement or project proposal as described, or fails to provide public benefits as indicated in the project application, proposal description, or this Agreement. In addition,

should the BORROWER fail to comply with the conditions of this Agreement, fail to progress due to nonappropriation of funds, or fail to progress with or complete the project to the satisfaction of the DEPARTMENT, all obligations of the DEPARTMENT under this Agreement may be terminated, including further project cost payment.

16. Not to have discriminated against any employee or applicant for employment because of age, race, religion, color, disability, sex, physical condition, developmental disability as defined in s. 51.01(5), Wis. Stats., sexual orientation, arrest or conviction record or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the BORROWER has taken affirmative action to ensure equal employment opportunities. The BORROWER posted in a conspicuous place available for employees and applicants for employment, notices setting forth the provisions of the nondiscrimination clause.
17. To cooperate fully with an audit of the Loan and the Work, if so required.
18. To have documented all the uses of the loan proceeds, and maintain adequate books and accounts in accordance with generally accepted accounting principles consistently applied. BORROWER shall permit any representative of LENDER, at any reasonable time, to inspect, audit and examine such books and inspect the properties of BORROWER. BORROWER shall maintain documentation on the use of the loan proceeds for a minimum of three (3) years after the completion of remediation activities supported by the loan, or for the length of the loan, whichever is greater, except that records that are subject to audit findings shall be retained three (3) years after such findings have been resolved and all such records and supporting documents shall be made available, upon request, for inspection or audit by the LENDER or its representatives.
19. To maintain documentation until the completion of any litigation, claim, negotiation, audit or other action involving those documents or for the record retention period set above, whichever is longer. BORROWER shall seek the written approval of the LENDER prior to disposing of records.
20. To have notified the DEPARTMENT when the PROJECT was complete. The notice contained certification or documentation that the eligible activities were completed and have been performed in accordance with the terms of this Agreement. This loan closeout documentation shall summarize the actions taken, the resources committed, the problems encountered in completion of the project, if any, identify any institutional controls required, and document that the cleanup is complete and is protective of human health and the environment. This documentation shall be submitted to the DEPARTMENT designated environmental project manager for review and comment.
21. To obtain a close out letter under ch. NR 726, Wisc. Adm. Code, or a Certificate of Completion under s. 292.15, Wis. Stats., for the Property or other approved liability assurance letter acceptable to the LENDER.
22. That it is expressly understood that a failure or delay on the part of the BORROWER in the performance, in whole or in part, or any of the terms of this Agreement, if such failure is attributable to an Act of God, fire, flood, riot, insurrection, embargo, emergency or governmental orders, regulations, priority, or other limitations or restrictions, or other similar unforeseen causes beyond the reasonable control of such party, the failure or delay shall not constitute a breach or default under this Agreement, however, the BORROWER shall use its best effort to insure that the PROJECT is completed in a reasonable time without unnecessary delay.
23. And understands that any use of the Property or any activity thereon which is inconsistent with the foregoing provisions is expressly prohibited.

IV. The LENDER agrees:

1. To loan to BORROWER a **sum not to exceed \$150,000 at 0% interest** to be used for cleanup of the PROPERTY. The BORROWER shall evidence its obligation to repay the Loan Funds by execution of a GENERAL OBLIGATION NOTE (Exhibit F), attached hereto and made a part hereof.

2. To supply the BORROWER with all necessary state and federal reporting forms.
3. That the BORROWER shall have sole control of the method, hours worked, and time and manner of any performance under this Agreement other than as specifically provided herein. The DEPARTMENT reserves the right to inspect the job site or premises for insuring that the performance is progressing or has been completed in compliance with the Agreement. The DEPARTMENT takes no responsibility of supervision or direction of the performance of the Agreement to be performed by the BORROWER or the BORROWER'S employees or agents. The DEPARTMENT further agrees that it will exercise no control over the selection and dismissal of the BORROWER'S employees or agents.
4. That **Binyoti Amungwafor, DNR Milwaukee office**, has been designated by DEPARTMENT as the Environmental Project Manager, who reviewed and approved the proposed interim action, approved Sep. 11, 2006, and coordinate the work to be performed using Ready for Reuse funds.

V. Loan and General Obligation Conditions

1. The BORROWER agrees that there are no pending or threatened actions or proceedings before any court or administrative agency which may adversely affect the financial condition or operation of BORROWER other than those heretofore disclosed by BORROWER to LENDER in writing.
2. The obligations of BORROWER under this Agreement and the GENERAL OBLIGATION will not be further subordinated in right of payment to any obligation of BORROWER, other than that which may be provided under this Agreement, unless otherwise acknowledged or agreed to by LENDER in writing.
3. The obligation of LENDER to make this loan contemplated hereunder is subject to the fulfillment of the following conditions:
 - A. All legal matters incidental to LENDER's commitment to issue the loan hereunder shall be satisfactory to counsel of LENDER, including the form, validity and enforceability of this Agreement and Exhibits hereof.
 - B. The representations and warranties contained herein shall be true on and as of the date of the signing of this Agreement with the same effect as though such representations and warranties had been made on and as of such date, and on such date no event of default as defined in Article V of the EPA RLF Cooperative Agreement "Terms and Conditions," herein EVENTS OF DEFAULT, and no condition, event or act which, with the giving of notice or the lapse of time or both, would constitute an EVENT OF DEFAULT, shall have occurred and be continuing or shall exist.
 - (1) The following shall constitute EVENTS OF DEFAULT:
 1. Default by BORROWER in any payment when due of principal or interest under the PROMISSORY NOTE.
 2. Any representation or warranty made by BORROWER hereunder or in the Loan Documents proven at any time false or misleading in any material respect.
 3. Use of the proceeds of the LOAN for a purpose other than that stated in this Loan Agreement.
 - (2) **ACCELERATIONS.** If an Event of Default shall occur, the LENDER shall give notice to the BORROWER within 60 days of the date of the Event of Default that the outstanding balance of the GENERAL OBLIGATION issued by the BORROWER will become due and payable in full within 120 days of such notice. The obligations, if any, of the LENDER to permit further borrowings under this Agreement shall immediately cease and terminate.
4. The General Obligation shall contain specific terms for the repayment of the Loan Funds
5. Any forbearance by the LENDER with respect to any of the terms and conditions of this Agreement or the GENERAL OBLIGATION shall in no way constitute a waiver of any of LENDER's rights or privileges granted hereunder.

6. This Agreement and all covenants, agreements, representations and warranties made herein shall survive the execution of this Agreement and shall continue in full force and effect so long as the Loan Obligation is outstanding and unpaid.

VI. Special Conditions

1. Loan Reimbursement

The BORROWER may request a maximum of one reimbursement payment per month, on forms provided by the DEPARTMENT and shall include documentation of work completed and eligible costs and match incurred by the BORROWER.

The BORROWER or another Local Governmental Unit must provide the match percentage indicated on the first page of this contract at each payment request. Loan payments are contingent upon review by the DEPARTMENT and may be adjusted if costs are determined to be ineligible.

The DEPARTMENT may withhold ten percent of the total loan amount stated in this contract for final payment. The final payment request shall be made on forms provided by the Department no later than three months after the end date of the loan period stated in this loan Agreement.

The Loan Funds shall be payable to the BORROWER as reimbursement for allowable expenses incurred based upon the progress of the work and in accordance with the approved Project Budget (Exhibit B) attached hereto and made a part hereof. No reimbursement shall be made to the BORROWER without the written approval of the LENDER through the LENDER'S designated Environmental Project Manager; however, the LENDER shall not advance nor be obligated to advance any Loan Funds to the BORROWER prior to the receipt of properly executed Lien Waivers.

Final Report

The BORROWER shall complete a Final Report on forms available from the DEPARTMENT documenting the activities completed with the funds awarded under this Agreement. The BORROWER shall submit a copy of any Site Investigation (SI) reports or Remedial Action Plans (RAPs) funded by this loan as a component of the final report on loan activities required by the DEPARTMENT. The report shall be submitted to the DEPARTMENT along with the final request for reimbursement under this loan Agreement.

Retention of Records

Supporting documentation of loan expenditures shall be maintained in sufficient detail to show that loan funds were used for the purpose for which the loan was awarded. All financial records, including invoices and canceled checks or bank statements that support all loan costs claimed by the BORROWER shall be kept and made available for inspection for three years after final payment is made.

2. Quarterly Progress Reports

The BORROWER shall furnish brief written progress reports on forms furnished by the DEPARTMENT to the Project Manager on a quarterly basis during the cleanup. The reports are due on April 15, July 15, October 15 and January 15 of each year.

3. Changes to Project Scope or Budget

The BORROWER shall conduct all the activities listed in the "Scope and Description of Loan Activities" section of this Agreement. If the BORROWER requests a modification to the scope and description of the loan activities to be conducted, the BORROWER shall submit a request for an amendment to this Agreement in writing to the Department before the end date of this Agreement. Such a request must be submitted before any activities are conducted that are different than those listed in this Agreement. Amendments are subject to department approval and availability of funds. No additional work or expense may be undertaken until approval is received, in writing, for the scope or budget change.

If the BORROWER determines that they will not need to use the full amount of their loan award, the BORROWER shall notify the DEPARTMENT in writing as soon as possible such that excess funds may be allocated to another project.

4. BORROWER In-Kind Cost Documentation

This loan may be used to pay the actual costs of loan eligible activities if the work was conducted directly by the local government who received the loan. In order for in-kind costs to be reimbursed or count as matching funds, the BORROWER shall provide adequate documentation of staff time, equipment use, and other costs. Any staff overtime charges were approved by the DEPARTMENT prior to the work being conducted. The BORROWER made any request in writing that included a justification as to why overtime was necessary and a private company estimate for the work. Any equipment rental rates did not exceed the county machinery rates established annually by the Department of Transportation.

5. Site Access

The BORROWER had legal and physical access to the site or facility to conduct all the activities described in the "Scope and Description of Loan Activities" section of this Agreement before this Agreement is executed. immediately in writing.

6. Site Investigation and Remedial Action Plan

A ch. NR 716, Wis. Adm. Code, site investigation and an interim action were approved by the DEPARTMENT before the BORROWER obtained reimbursement for this loan. Costs incurred to conduct site investigation activities shall not be reimbursed by this loan. Costs to prepare the remedial action plan can be reimbursed by this loan if included in the "Scope and Definitions of Loan Activities" section of this Agreement.

7. Assessment and Investigation Activities

Lead surveys are not reimbursable under this loan as part of a Phase II ESA.

All investigative wastes, as defined in s. NR 716.03(4), Wis. Adm. Code, will be properly stored and disposed of in accordance with applicable regulations in chs. NR 500 to 590 and chs. NR 600 to NR 690, Wis. Adm. Code. Disposition of investigative wastes by the BORROWER must occur within six (6) months of generation of wastes.

Abandonment of any wells or drillholes must be completed in accordance with s. NR 812.26 or s. NR 141.25, Wis. Adm. Code. Abandonment forms (Form 3300-005 and/or 3300-5B) must be submitted within sixty (60) days after the wells or drillholes have been abandoned. The date and recipient of the forms shall be noted in the final report.

8. Remedial Actions

All investigation and remedial actions conducted as part of this loan shall follow the procedures and requirements included in s. 292.11, Wis. Stats., and ch. NR 140, Wis. Adm. Code and the NR 700 rule series. Remedial actions eligible for funding are those consistent with the definition in s. NR 700.03(48), Wis. Adm. Code, and those described in the "Scope and Definitions of Loan Activities" section of this Agreement. Nothing in this Agreement shall entitle the BORROWER or any other party involved with the project to any special rights, privileges, liability exemptions, or obligations regarding their responsibility to undertake remedial actions under s. 292.11, Wis. Stats., or any other state or federal environmental laws.

9. Fees

If the BORROWER requests the DEPARTMENT to conduct any technical reviews of reports, including the Site Investigation Report, Remedial Action Plan, and other reports, letters or approvals, the review is subject to the fee schedule described in chs. NR 749 or NR 750, Wis. Adm. Code. These fees are eligible for reimbursement if incurred during the loan agreement period.

10. Hazardous Substances

Hazardous substances shall be analyzed and disposed of in accordance with all applicable requirements in ch. NR 700 series, Wis. Adm. Code.

11. Petroleum or Hazardous Substance Storage Tank Removal

All petroleum or hazardous substance storage tank removal(s) shall be conducted in accordance with ch. COMM 10, Wis. Adm. Code.

Any wastes generated during the removal and cleaning of the tanks shall be analyzed and managed in accordance with all applicable requirements in the ch. NR 500 and ch. NR 600 series, Wis. Adm. Code. The Borrower shall submit a copy of any report that summarizes work done with regards to petroleum or hazardous substance storage tank removal(s) as a result of loan activities to the Department as a component of the final report.

VII. Signatures

The person signing for the BORROWER represents that he or she is authorized to execute this Agreement and bind the BORROWER, either by a duly adopted resolution or otherwise. The foregoing offer is hereby accepted on behalf of the BORROWER. The BORROWER promises to execute the purchases and activities funded in part by this loan in strict accordance with the terms and conditions of this Agreement.

CITY OF WEST ALLIS (BORROWER)

**STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES
FOR THE SECRETARY**

By _____

By _____

*John Stibal
Director of Development*

*Mark F. Giesfeldt, P.E., Director
Bureau for Remediation and Redevelopment*

(Date)

(Date)

LIST OF EXHIBITS

- A. **BRRTS Printout for the Property**
- B. **Project Budget Sheet Summary**
- C. **Projected Loan Repayment Schedule**
- D. **Project Manager Summary Page**
- E. **US EPA Revolving Loan Fund (RLF) Terms and Conditions for 2004**
- F. **General Obligation Documentation**
- G. **Access Agreement**

DRAFT

EXHIBIT A
BRRTS PRINTOUT FOR THE PROPERTY

DRAFT

EXHIBIT B

PROJECT BUDGET SHEET SUMMARY

City of West Allis
Dorothy G., Inc.
RRL-002

Approved Activity Name	Eligible Costs	Matching Costs	Total Cost
TOTAL	\$150,000	\$33,000	\$183,000

DRAFT

EXHIBIT C

PROJECTED LOAN REPAYMENT SCHEDULE

City of West Allis
Dorothy G., Inc.
RRL-002

INTEREST RATE: 0%

Anticipated dates of direct payment to Ready for Reuse by Dry Cleaning Environmental Response Fund (in lieu of payments from DERF to City and subsequent loan repayments to Ready for Reuse by City):

PAYMENT DATE	PRINCIPAL PAYMENT
July 15, 2008	\$50,000
July 15, 2009	\$50,000
July 15, 2010	\$50,000
TOTAL	\$150,000

DRAFT

EXHIBIT D

PROJECT MANAGER SUMMARY PAGE

City of West Allis
Dorothy G., Inc.
RRL-002
WDNR Project Manager – Binyoti Amungwafor in SER (Milwaukee)

1. PROJECT DESCRIPTION
2. ELIGIBLE ACTIVITIES
3. INELIGIBLE ACTIVITIES
4. ADDITIONAL NOTES

DRAFT

EXHIBIT E

US EPA Revolving Loan Fund (RLF) Terms and Conditions for 2004

DRAFT

Exhibit F

General Obligation Documentation

DRAFT

Exhibit G
Access Agreement

DRAFT

RECAPTURE AGREEMENT

THIS RECAPTURE AGREEMENT is dated this _____ day of _____, 2007 (the "Effective Date") between Dorothy G., Inc., ("Dorothy G.") and the City of West Allis (the "City").

RECITALS

Dorothy G. and the City acknowledge the following:

A. Dorothy G. is the tenant and dry cleaning operator of a contaminated drycleaner site located at the 9508-10 West Greenfield, Ave., West Allis, , Wisconsin (the "Property").

B. Pursuant to the U.S. EPA Brownfields Revolving Loan Fund Cooperative Agreement, the Wisconsin Department of Natural Resources (the "Department" or the "Lender") acts as the financial agent for the Wisconsin Brownfields Coalition and is authorized to make certain loans from these funds.

C. Pursuant to a Ready for Reuse Program Loan Agreement dated _____, 2007 (the "Loan Agreement") between the City and the Department (a copy of which is attached hereto and incorporated herein as **Exhibit A**), the Department agreed to loan funds to the City to clean up the Property, and the City agreed to fulfill various obligations (the "City's Obligations"), including the issuance by the City of a General Obligation up to \$150,000 (the "General Obligation").

D. Dorothy G. and the City would like to enter into this Recapture Agreement (the "Agreement") under which Dorothy G. would assume certain of the City's Obligations as defined herein and the City would be able to recapture certain loan funds provided to Dorothy G. by the City to clean up the Property if Dorothy G. does not repay such funds.

AGREEMENT

In consideration of the Recitals and the mutual agreements that follow, Dorothy G. and the City agree as follows:

1. Incorporation of Recitals. The foregoing Recitals to this Agreement are true, correct and incorporated in their entirety herein by this reference.

2. Dorothy G.'s Obligations. Dorothy G. agrees as follows:

a. Dorothy G. will comply with all applicable Wisconsin Statutes and Wisconsin Administrative Codes in fulfilling the terms of this agreement. In particular, Dorothy G. agrees to conduct environmental response actions in accordance with the NR 700 series, Wis. Adm. Code.

b. Dorothy G. agrees that work done will comply with the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) 42 USC § 104(k), or the Wisconsin Statutory or regulatory equivalent, including publishing notice of the remedial action, maintaining a public repository of documents and adopting and following a community relations plan.

c. Dorothy G. will comply with all applicable local and state contract and bidding requirements.

d. Dorothy G. will submit reports and copies of other studies, reports, contracts, or documents relating to the project in accordance with the 2004 US EPA Revolving Loan Fund Terms and Conditions or the Wisconsin Statutory or regulatory equivalent, including, but not limited to:

(i) To comply with the community relations plan and provide a copy of all public mail notices and agendas of all meetings or public information hearings to the Department.

(ii) To draft an 'analysis of cleanup alternatives' document or remedial action options analysis report that contains information about the site and contamination issues (i.e., exposure pathways, identification of contaminant sources, etc.); cleanup standards; applicable laws; alternatives considered; and the proposed cleanup. The evaluation of alternatives must include effectiveness, ability to be implemented, and the cost of the cleanup proposed. Dorothy G. will make the draft analysis of brownfields cleanup alternatives document available for review and public comment for a period of not less than thirty (30) days from the date of publication of a public notice which announces the availability of the document for public review. Dorothy G. will also submit copies of the draft analysis of brownfields cleanup alternatives to the Department for review and approval and to US EPA and the Department's designated environmental project manager, if applicable, for review and comment. After the public comment period, Dorothy G. will incorporate all appropriate comments into a final analysis of brownfields cleanup alternatives document and prepare a written response to the public comments if appropriate.

(iii) Dorothy G. will prepare remedial design and engineering documents and submit them to the Department for review and approval and to the Department's designated environmental project manager, if applicable, for review and comment. This may occur simultaneously with the submittal of the analysis of cleanup alternatives document.

(iv) If confirmatory samples will be collected during cleanup activities to document the completeness of the cleanup, Dorothy G., through the Contractor, will prepare a Quality Assurance Project Plan which sets forth the manner and method of collecting samples and submit it to the Department for review and approval.

(v) Dorothy G. will complete EPA Property Profile Forms.

e. Dorothy G. will obtain a close out letter under ch. NR 726, Wis. Adm. Code, or a Certificate of Completion under s. 292.15, Wis. Stats., for the Property or other approved liability assurance letter acceptable to the Lender.

3. Dorothy G.'s Assumption of the City's Obligations. Dorothy G. agrees to assume all of the City's obligations and duties under the Loan Agreement; agrees to pay amounts to or on behalf of the City sufficient to pay when due, whether by stated maturity date, redemption, acceleration or otherwise, all principal or any and all other amounts under the General Obligation or under the Loan Agreement; and agrees to apply upon receipt each and all payments constituting reimbursements under the Wisconsin Dry Cleaner Environmental Response Program described herein to the prepayment or payment of the General Obligation. Without limiting the generality of the foregoing, Dorothy G. agrees as follows:

a. All City obligations to the Department set forth in section III of the Loan Agreement.

b. All federal terms and conditions set forth in Section 9 of the Application Part II: Project Scoring & Financial Details Wisconsin Ready for Reuse Program dated (a copy of which is attached hereto and incorporated herein as **Exhibit B**).

4. Reimbursement and Indemnification. Dorothy G. agrees to reimburse the City all funds paid by the City to clean up the Property. Dorothy G. also understands, acknowledges and agrees that the City is relying on Dorothy G. to fulfill all obligations of the City assumed by Dorothy G. hereunder and/or all other obligations of the City in the clean up and/or remediation of the Property. If the City or any one or more of its officials, employees or agents become liable in connection with such clean up and/or remediation, or because of Dorothy G.'s actions or inactions with respect thereto, Dorothy G. agrees to indemnify and hold the City, and its officials, agents and employees, harmless for any and all liability in connection therewith.

5. Recapture. In the event Dorothy G. defaults on its agreement to reimburse the City all funds paid by the City toward clean up or remediation of the Property, the City shall have the right to recapture such funds using the following mechanisms:

Pursuant to the Assignment Agreement between Dorothy G. and the City (a copy of which is attached hereto and incorporated herein as **Exhibit C**), the City shall be entitled to an assignment from Dorothy G. of Dorothy G.'s right to reimbursement under the Wisconsin Dry Cleaner Environmental Response Program pursuant to Wisconsin Statutes section 292.65 and Wisconsin Administrative Code Chapter 169;

6. Additional Payments. Dorothy G agrees to pay any loan administration fees and costs incurred by the City in obtaining the loan referenced in the Loan Agreement, including, but not limited to, the City's costs of outside legal counsel; but not including City staff time not to exceed a total of \$1,000.00.

7. Notice. Any request, demand or other notice required or permitted to be given under this Agreement shall be in writing and may be, and shall be deemed, given and sent, if mailed, two days after the date when deposited in the United States mail, certified mail, return receipt requested, postage prepaid, or by overnight courier service, telecopy, telegraph or telex when delivered to the appropriate office for transmission, charges prepaid, or by telecopy when received, addressed:

If to Dorothy G.:
Sam Gruichich, President
Dorothy G., Inc.
9508 West Greenfield Ave.
West Allis, WI 53215
Telephone: 414-771-1280

With a copy to:
Carl A. Sinderbrand, Esq.
Axley Brynelson, LLP
2 East Mifflin St., Suite 200
Madison, WI 53703
Telephone: (608) 257-5661
Fax: (608) 257-5444

If to the City :

John Stibal, Director
Department of Development
City of West Allis
7525 West Greenfield Ave.
West Allis, WI 53014
Telephone: 414-302-8462
Fax: 414-302-8401

With a copy to:

Scott Post, Esq.
City Attorney
City of West Allis
7525 W. Greenfield Ave.
West Allis, WI 53214
Telephone: 414-302-8452
Fax: 414-302-8444

All parties shall acknowledge in writing the receipt of any notice delivered in person.

8. Governing Law. This Agreement shall be governed by the laws of the State of Wisconsin and any dispute under this Agreement shall be venued in Wisconsin.

9. Authority to Enter into Agreement. The individuals executing this Agreement on behalf of the parties herein represent and warrant that they have the authority to execute this Agreement. The undersigned further state that they have carefully read the foregoing Agreement and know the contents thereof and sign their names of their own free will.

10. Successor and Assigns. This Agreement shall bind the parties and their heirs, personal representatives, successors, and assigns and is not assignable by any party hereto without the written consent of the other parties.

11. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken shall constitute but one and the same instrument.

12. No Drafting Presumption. This Agreement has been drafted as a joint effort between the parties, after negotiations, consultations and approval as to form. Accordingly, neither party may hereafter be entitled to a presumption that any portion of this Agreement should be construed either for or against a particular party or contend that this Agreement was drafted by a particular party.

13. Entire Agreement. This Agreement, together with any referenced parts and attachment, shall constitute the entire agreement and previous communications or agreements pertaining to the subject matter of this Agreement are hereby superceded. This Agreement may not be amended, changed, altered or modified except in writing signed by all of the parties hereto.

14. Severability. If any provision or item of this Agreement is held invalid, such invalidity shall not affect other provisions or items of this Agreement which can be given effect without the invalid provisions or items, and to this end, the provisions of this Agreement are hereby declared severable.

15. Titles and Headings. Titles and headings of sections of this Agreement are for convenience of reference only and shall not affect the construction of any provision of this Agreement.

16. Survival. This Agreement has been duly authorized, executed and delivered, and is a valid and binding agreement. This Agreement and all covenants, agreements, representations and warranties made herein shall survive the execution of this Agreement and shall continue in full force and effect so long as the grant under the Loan Agreement is outstanding and unpaid.

Dorothy G., Inc.

By: _____

City of West Allis

By: _____