



# Office of the City Clerk



O2012-7239

Office of the City Clerk

## City Council Document Tracking Sheet

<b>Meeting Date:</b>	10/31/2012
<b>Sponsor(s):</b>	Emanuel, Rahm (Mayor)
<b>Type:</b>	Ordinance
<b>Title:</b>	Designation of redevelopment agreement for DeVry, Inc. for constructing tenants improvements to build-out space for on-line operations facility
<b>Committee(s) Assignment:</b>	Committee on Finance



OFFICE OF THE MAYOR  
CITY OF CHICAGO

RAHM EMANUEL  
MAYOR

October 31, 2012

TO THE HONORABLE, THE CITY COUNCIL  
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Housing and Economic Development, I transmit herewith an ordinance authorizing the execution of a redevelopment agreement for DeVry, Inc..

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

Mayor



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**AN ORDINANCE OF THE CITY OF CHICAGO, ILLINOIS  
DESIGNATING  
DEVRY INC., AS DEVELOPER  
AND  
AUTHORIZING  
A REDEVELOPMENT AGREEMENT**

**ORDINANCE**

**WHEREAS**, under an ordinance adopted by the City Council ("**City Council**") of the City of Chicago (the "**City**") on November 15, 2006 and published at pages 92019 through 92099 of the Journal of the Proceedings of the City Council (the "**Journal**") of such date, a certain redevelopment plan and project (the "**Redevelopment Plan**") for the LaSalle Central TIF Redevelopment Project Area (the "**Redevelopment Area**") was approved under the Illinois Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq. (2000 State Bar Edition), as amended (the "**Act**"); and

**WHEREAS**, under an ordinance adopted by the City Council on November 15, 2006 and published at pages 92100 through 92107 of the Journal of such date, the Redevelopment Area was designated as a redevelopment project area under the Act; and

**WHEREAS**, under an ordinance (the "**TIF Ordinance**") adopted by the City Council on November 15, 2006 and published at pages 92108 through 92114 of the Journal of such date, tax increment allocation financing was adopted under the Act as a means of financing certain Redevelopment Area redevelopment project costs (as defined in the Act) incurred under the Redevelopment Plan; and

**WHEREAS**, the ordinances approving the Redevelopment Plan, designating the Redevelopment Area, and adopting the TIF Ordinance were amended and corrected in ordinances dated February 7, 2007, published at pages 97850 to 97855 of the Journal for February 7, 2007 and May 9, 2007, published at pages 104253 to 104259 of the Journal for May 9, 2007; and

**WHEREAS**, DeVry Inc., a Delaware corporation ("**Developer**") has relocated its on-line operations facility to 300 S. Riverside Plaza (the "**Property**") and has leased 77,000 square feet at the Property, with 53,000 square feet on the 7<sup>th</sup> floor and 24,000 square feet on the 8<sup>th</sup> floor. Developer contemplates constructing substantial tenant improvements to build-out the space for use as its on-line operations facility. All construction will be LEED Certified for Commercial Interiors. Construction and build-out of the on-line operations facility is defined as the "**Project**"; and

**WHEREAS**, Developer has proposed to undertake the Project in accordance with the Redevelopment Plan and under the terms and conditions of a proposed redevelopment agreement to be executed by Developer and the City; and

**WHEREAS**, under Resolution 12-CDC-15 adopted by the Community Development Commission of the City of Chicago (the "**Commission**") on May 8, 2012 the Commission recommended that Developer be designated as the developer for the Project and authorized the City's Department of Housing and Economic Development ("**HED**") to negotiate, execute and deliver a redevelopment agreement with Developer for the Project; NOW THEREFORE

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:**

**SECTION 1.** The above recitals are incorporated herein and made a part hereof.

**SECTION 2.** Developer is hereby designated as the developer for the Project under Section 5/11-74.4-4 of the Act.

**SECTION 3.** The Commissioner (or Acting Commissioner) of HED (the "**Commissioner**") or a designee of the Commissioner are each hereby authorized, with the approval of the City's Corporation Counsel as to form and legality, to negotiate, execute and deliver a redevelopment agreement between Developer and the City in substantially the form attached hereto as Exhibit A and made a part hereof (the "**DeVry Inc. Redevelopment Agreement**"), and such other supporting documents as may be necessary or appropriate to carry out and comply with the provisions of the DeVry Inc. Redevelopment Agreement, with such changes, deletions and insertions as shall be approved by the persons executing the DeVry Inc., Redevelopment Agreement and supporting documents.

**SECTION 4.** The Mayor, the Comptroller, the City Clerk, the Commissioner (or his or her designee) and the other officers and employees of the City are authorized to execute and deliver on behalf of the City such other documents, agreements and certificates and to do such other things consistent with the terms of this Ordinance as such officers and employees shall deem necessary or appropriate in order to effectuate the intent and purposes of this Ordinance.

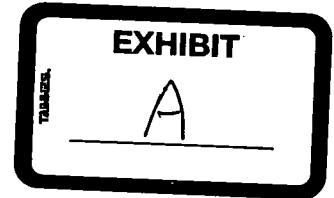
**SECTION 5.** If any provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such provision shall not affect any of the other provisions of this Ordinance:

**SECTION 6.** All ordinances, resolutions, motions or orders in conflict with this Ordinance are hereby repealed to the extent of such conflict.

**SECTION 7.** This Ordinance shall be in full force and effect immediately upon its passage.

Attachments:

Exhibit A: DeVry Inc. Redevelopment Agreement



(This space reserved for Recorder's use only)

**DRAFT**  
**23 October 2012**

**DEVRY INC.**  
**ON-LINE OPERATIONS FACILITY PROJECT**  
**TAX INCREMENT ALLOCATION REDEVELOPMENT ACT**

**LASALLE CENTRAL**  
**REDEVELOPMENT PROJECT AREA**

**DEVRY INC.**  
**REDEVELOPMENT AGREEMENT**

DATED AS OF \_\_\_\_\_, 2012

BY AND BETWEEN

THE CITY OF CHICAGO

AND

DEVRY INC.,  
a Delaware corporation

This agreement was prepared by  
and after recording return to:  
William A. Nyberg, Esq.  
City of Chicago Law Department  
121 North LaSalle Street, Room 600  
Chicago, IL 60602

**LASALLE CENTRAL  
REDEVELOPMENT PROJECT AREA**

**DEVRY INC.  
ON-LINE OPERATIONS FACILITY PROJECT  
REDEVELOPMENT AGREEMENT**

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**LASALLE CENTRAL  
REDEVELOPMENT PROJECT AREA**

**DEVRY INC.  
ON-LINE OPERATIONS FACILITY PROJECT  
REDEVELOPMENT AGREEMENT**

**LIST OF SCHEDULES AND EXHIBITS**

Schedules

Schedule A	Definitions
Schedule B	Insurance Requirements

Exhibits

Exhibit A	*Redevelopment Area Legal Description
Exhibit B-1	*Legal Description of the Building/Property
Exhibit B-2	Site Plan for the Project / On-line Operations Facility
Exhibit C	Redevelopment Plan
Exhibit D-1	*Project Budget
Exhibit D-2	*Construction (MBE/WBE) Budget
Exhibit E	Schedule of TIF-Funded Improvements
Exhibit F	Reserved
Exhibit G	Construction Contract
Exhibit H	Approved Prior Expenditures
Exhibit I	Permitted Liens
Exhibit J	Opinion of Developer's Counsel
Exhibit K	Reserved
Exhibit L	Form of Payment and Performance Bond
Exhibit M	Reserved
Exhibit N	City Funds Requisition Form

(An asterisk(\*) indicates which exhibits are to be recorded.)

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This agreement was prepared by and after recording return to:  
William A. Nyberg, Esq.  
City of Chicago Law Department  
121 North LaSalle Street, Room 600  
Chicago, IL 60602

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**DEVRY INC.  
ON-LINE OPERATIONS FACILITY PROJECT**

**LASALLE CENTRAL  
REDEVELOPMENT PROJECT AREA**

**DEVRY INC.  
REDEVELOPMENT AGREEMENT**

This DeVry Inc. Redevelopment Agreement (the "**Agreement**") is made as of this \_\_\_\_ day of \_\_\_\_\_, 2012, by and between the City of Chicago, an Illinois municipal corporation (the "**City**"), through its Department of Housing and Economic Development ("**HED**"), and DeVry Inc., a Delaware corporation ("**Developer**").

**RECITALS:**

**A. Constitutional Authority:** As a home rule unit of government under Section 6(a), Article VII of the 1970 Constitution of the State of Illinois (the "**State**"), the City has the power to regulate for the protection of the public health, safety, morals, and welfare of its inhabitants and, pursuant thereto, has the power to encourage private development in order to enhance the local tax base and create employment opportunities, and to enter into contractual agreements with private parties in order to achieve these goals.

**B. Statutory Authority:** The City is authorized under the provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq., as amended from time-to-time (the "**Act**"), to finance projects that eradicate blighted conditions through the use of tax increment allocation financing for redevelopment projects.

**C. City Council Authority:** To induce redevelopment under the provisions of the Act, the City Council of the City (the "**City Council**") adopted the following ordinances on November 15, 2006, and amended and corrected the ordinances on February 7, 2007 and May 9, 2007: (1) "An Ordinance of the City of Chicago, Illinois Approving a Tax Increment Redevelopment Plan for the LaSalle Central Redevelopment Project Area" (the "**Plan Adoption Ordinance**"); (2) "An Ordinance of the City of Chicago, Illinois Designating the LaSalle Central Redevelopment Project Area as a Redevelopment Project Area Pursuant to the Tax Increment Allocation Redevelopment Act"; and (3) "An Ordinance of the City of Chicago, Illinois Adopting Tax Increment Allocation Financing for the LaSalle Central Redevelopment Project Area" (the "**TIF Adoption Ordinance**"). Collectively the three ordinances are defined as the "**TIF Ordinances**". The redevelopment project area (the "**Redevelopment Area**") is legally described in Exhibit A.

**D. The Project:** Developer, the parent organization, through DeVry University and other Affiliated schools is a global provider of education services. They offer a wide array of programs in business, health care and technology. Developer's institutions serve students in secondary through post-secondary education and professionals in accounting and finance. Developer currently has approximately 400 employees at three different locations in Chicago.

Developer plans to relocate its on-line operations from its existing facility at 3300 N. Campbell Street to 300 S. Riverside Plaza, (the "**Building**" or the "**Property**") and has requested TIF assistance from HED in support of the relocation. Developer will covenant to keep its on-line operations at the Building for a minimum of 10 years. A legal description of the Building/Property is Exhibit B-1.

Developer has entered into an 11-year lease (the "**Lease**") for a total of 77,000 square feet, with 53,000 square feet on the 7<sup>th</sup> floor and 24,000 square feet on the 8<sup>th</sup> floor of the Building. The leased space will be built-out for use as Developer's on-line operations facility. A site plan for the on-line operations facility is at Exhibit B-2. Developer contemplates constructing substantial tenant improvements to build-out the on-line operations facility. All construction will be LEED certified for Commercial Interiors (as defined below). Construction and build-out of 53,000 square feet on the 7<sup>th</sup> Floor for use as Developer's on-line operations facility at the Building is defined as the "**Project**". The definition of "**Project**" will include construction and build-out of the 24,000 square feet on the 8<sup>th</sup> Floor of the Building when it occurs.

Developer plans to relocate 150 Full-Time Equivalent Employees ("**FTE**") from other facilities to the Building. Developer will covenant to increase the total number of FTEs in the Building to 600 by the end of 2021.

**E. Redevelopment Plan:** The Project will be carried out in accordance with this Agreement and the City of Chicago LaSalle Central Redevelopment Project Area Tax Increment Finance Program Redevelopment Plan and Project (the "**Redevelopment Plan**") attached as Exhibit C, as amended from time-to-time, included in the Plan Adoption Ordinance and published at pages 92019 to 92114 of the Journal of the Proceedings of the City Council for November 15, 2006.

**F. City Financing and Assistance:** Subject to Developer fulfilling its obligations under this Agreement required to obligate the City to do so, the City will make cash payments to Developer, in the amounts stated in Section 4.03, to reimburse Developer out of Available Incremental Taxes (as defined below) as provided in this Agreement for the costs of the TIF-Funded Improvements (as defined below) under the terms and conditions of this Agreement. In addition, the City may, in its discretion, issue tax increment allocation bonds ("**TIF Bonds**") secured by Incremental Taxes (as defined below) as provided in a TIF bond ordinance (the "**TIF Bond Ordinance**"), at a later date as described and conditioned in Section 4.07. The proceeds of the TIF Bonds (the "**TIF Bond Proceeds**") may be used to pay for the costs of the TIF-Funded Improvements not previously paid for from Incremental Taxes, or in order to reimburse the City for the costs of TIF-Funded Improvements.

**NOW, THEREFORE,** in consideration of the premises and of the mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

## **AGREEMENT:**

### **ARTICLE ONE: INCORPORATION OF RECITALS**

The recitals stated above are an integral part of this Agreement and are hereby incorporated into this Agreement by reference and made a part of this Agreement.

### **ARTICLE TWO: DEFINITIONS**

The definitions stated in Schedule A and those definitions stated in the recitals and preamble are hereby incorporated into this Agreement by reference and made a part of this Agreement.



## ARTICLE THREE: THE PROJECT

3.01 **The Project.** Developer will: (i) begin redevelopment construction on or about June 1, 2012, and (ii) complete redevelopment construction no later than March 1, 2013 (for the 7<sup>th</sup> Floor – 53,000 square feet), subject to: (a) the provisions of Section 18.17 (Force Majeure); and (b) the receipt of all applicable permits and Project approvals.

3.02 **Scope Drawings and Plans and Specifications.** Developer has delivered the Scope Drawings and Plans and Specifications to HED and HED has approved them or HED has agreed to approve them as a post-closing item promptly upon receipt. After such initial approval, subsequent proposed changes to the Scope Drawings or Plans and Specifications within the scope of Section 3.04 will be submitted to HED as a Change Order under Section 3.04. The Scope Drawings and Plans and Specifications will at all times conform to the Redevelopment Plan as in effect on the date of this Agreement, and to all applicable Federal, State and local laws, ordinances and regulations. Developer will submit all necessary documents to the City's Department of Buildings, Department of Transportation, and to such other City departments or governmental authorities as may be necessary to acquire building permits and other required approvals for the Project.

3.03 **Project Budget.** Developer has furnished to HED, and HED has approved, a Project Budget which is at Exhibit D-1, showing total costs for the Project (7<sup>th</sup> Floor) in an amount not less than \$6,550,883. Developer hereby certifies to the City that: (a) it has Lender Financing and/or Equity in an aggregate amount sufficient to pay for all Project (7<sup>th</sup> Floor) costs; and (b) the Project Budget is true, correct and complete in all material respects. Developer will promptly deliver to HED copies of any Change Orders with respect to the Project Budget as provided in Section 3.04.

### 3.04 **Change Orders.**

(a) Except as provided in subparagraph (b) below, all Change Orders (and documentation substantiating the need and identifying the source of funding therefor) relating to changes to the Project must be submitted by Developer to HED concurrently with the progress reports described in Section 3.07; provided, however, that any Change Orders relating to any of the following must be submitted by Developer to HED for HED's prior written approval: (i) a reduction by more than five percent (5%) in the square footage of the Project (7<sup>th</sup> Floor) from the square footage approved by HED under Section 3.02, or (ii) a change in the primary use of the Project (7<sup>th</sup> Floor), or (iii) a delay in the Project (7<sup>th</sup> Floor) completion date, or (iv) change orders resulting in an aggregate increase to the Project Budget of 10% or more. Developer will not authorize or permit the performance of any work relating to any Change Order requiring HED's prior written approval or the furnishing of materials in connection therewith prior to the receipt by Developer of HED's written approval. The Construction Contract, and each contract between the General Contractor and any subcontractor, will contain a provision to this effect or for

compliance with this Agreement generally. An approved Change Order will not be deemed to imply any obligation on the part of the City to increase the amount of City Funds or to provide any other additional assistance to Developer.

(b) Notwithstanding anything to the contrary in this Section 3.04, Change Orders other than those stated in Subsection (a) above do not require HED's prior written approval as stated in this Section 3.04, but HED must be notified in writing of all such Change Orders within 10 Business Days after the execution of such change order, and Developer, in connection with such notice, must identify to HED the source of funding therefor in the progress reports described in Section 3.07.

3.05 **HED Approval.** Any approval granted by HED under this Agreement of the Scope Drawings, Plans and Specifications and the Change Orders is for the purposes of this Agreement only, and any such approval does not affect or constitute any approval required by any other City department or under any City ordinance, code, regulation, or any other governmental approval, nor does any such approval by HED under this Agreement constitute approval of the utility, quality, structural soundness, safety, habitability, or investment quality of the Project. Developer will not make any verbal or written representation to anyone to the contrary. Unless waived by HED, Developer shall not commence construction of the Project until Developer has obtained all necessary permits and approvals (including but not limited to HED's approval of the Scope Drawings and Plans and Specifications) and proof of the General Contractor's and each subcontractor's bonding as required under this Agreement.

3.06 **Other Approvals.** Any HED approval under this Agreement will have no effect upon, nor will it operate as a waiver of, Developer's obligations to comply with the provisions of Section 5.03 (Other Governmental Approvals).

3.07 **Progress Reports.** After the Closing Date, on or before the 15th day of each reporting month, Developer will provide HED with written quarterly construction progress reports detailing the status of the Project, including a revised completion date, if necessary (with any delay in completion date being considered a Change Order, requiring HED's written approval under Section 3.04). Developer must also deliver to the City written monthly progress reports detailing compliance with the requirements of Section 8.08 (Prevailing Wage), Section 10.02 (City Resident Construction Worker Employment Requirement) and Section 10.03 (Developer's MBE/WBE Commitment) (collectively, the "**City Requirements**"). If the reports reflect a shortfall in compliance with the requirements of Sections 8.08, 10.02 and 10.03, then there must also be included a written plan from Developer acceptable to HED to address and cure such shortfall.

3.08 **Inspecting Agent or Architect.** An independent agent or architect, if any, (other than Developer's architect) selected by the lender providing Lender Financing, will also act as the inspecting agent or architect for HED for the Project, and any fees and expenses connected

with its work or incurred by such independent agent or architect will be solely for Developer's account and will be promptly paid by Developer. The inspecting agent or architect shall perform periodic inspections with respect to the Project, providing certifications with respect thereto to HED, prior to requests for disbursement for costs related to the Project.

3.09 **Barricades.** Prior to commencing any construction requiring barricades, Developer will install a construction barricade of a type and appearance satisfactory to the City and constructed in compliance with all applicable Federal, State or City laws, ordinances, rules and regulations. HED retains the right to approve the maintenance, appearance, color scheme, painting, nature, type, content, and design of all barricades (other than the name and logo of the Developer or the Project).

3.10 **Signs and Public Relations.** If requested by HED and subject to approval by the Landlord under the Lease, Developer will erect in a conspicuous location on the Property during the Project a sign of size and style approved by the City, indicating that financing has been provided by the City. The City reserves the right to include the name, photograph, artistic rendering of the Project and any other pertinent information regarding Developer and the Project in the City's promotional literature and communications.

3.11 **Utility Connections.** Developer may connect all on-site water, sanitary, storm and sewer lines constructed as a part of the Project to City utility lines existing on or near the perimeter of the Property, provided Developer first complies with all City requirements governing such connections, including the payment of customary fees and costs related thereto.

3.12 **Permit Fees.** In connection with the Project, Developer is obligated to pay only those building, permit, engineering, tap on, and inspection fees that are assessed on a uniform basis throughout the City of Chicago and are of general applicability to other property within the City of Chicago.

3.13 **Accessibility for Disabled Persons.** Developer acknowledges that it is in the public interest to design, construct and maintain the Project in a manner which promotes, enables, and maximizes universal access throughout the Project. Plans for all buildings on the Property and improvements on the Property will be reviewed and approved by the Mayor's Office for People with Disabilities ("MOPD") to ensure compliance with all applicable laws and regulations related to access for persons with disabilities and to promote the highest standard of accessibility.

3.14 **Additional Project Features**

(a) **LEED Construction.** All construction of the Project, including but not limited to building construction, green space and surface parking, if any, shall be built to a minimum Leadership in Energy and Environmental Design ("**LEED**"), Civ2 Standard (Commercial Interiors, Version 2) ("**LEED-Civ2**"). The Project was registered with the US Green Building

Council (“USGBC”) for the required certification on November 14, 2011. The Project shall be constructed in compliance with all guidelines and requirements as delineated by the USGBC mandated for the LEED-Civ2 standard. Upon completion of construction, Developer, at Developer’s cost, shall have all features of construction pertinent to LEED certification tested and certified as being compliant with the LEED-Civ2 standard. Developer will submit written evidence from the USGBC demonstrating compliance with the required LEED certification.

**ARTICLE FOUR: FINANCING**

4.01 **Total Project Cost and Sources of Funds.** The cost of the Project is estimated to be \$6,550,883 to be applied in the manner stated in the Project Budget. Such costs will be funded from the following sources:

Equity (subject to <u>Section 4.06</u> ) and Lender Financing, if any	\$6,550,883
<b>ESTIMATED TOTAL</b>	<b>\$6,550,883</b>

4.02 **Developer Funds.** Equity and Lender Financing, if any, will be used to pay all Project costs, including but not limited to costs of TIF-Funded Improvements. All Project costs will be front-funded by Developer.

4.03 **City Funds.**

(a) **Uses of City Funds.**

(i) Any funds expended by the City under this Agreement or otherwise related to the Project or to the TIF-Funded Improvements are defined as “**City Funds**”.

(ii) City Funds may be used to reimburse Developer only for costs of TIF-Funded Improvements that constitute Redevelopment Project Costs. Exhibit E states, by line item, the TIF-Funded Improvements for the Project contingent upon receipt by the City of documentation satisfactory in form and substance to HED evidencing such costs and their respective eligibility as a Redevelopment Project Cost.

(b) **Sources of City Funds.**

(i) Subject to the terms, conditions and qualifications in this Agreement, the City, through its Department of Housing and Economic Development, agrees to provide reimbursement to Developer from Available Incremental Taxes for certain TIF-Funded Improvements, in cash in the total amount of the lesser of \$1,000,000 or 15.3% of the total Project Budget of \$6,550,883 in ten (10) level installments;

(ii) The reimbursement program has ten (10) installment payments and is subject to Developer satisfying all of the conditions scheduled below:

(A) Certificate Requirements Developer has attained and the City has issued a certificate of completion (“**Certificate**”) for the Project. The City will issue the Certificate only upon Developer’s full compliance with all of the following benchmarks:

1. Completion of Project Completion of the Project as described in this Agreement.

2. Compliance with Building Permit Developer has obtained a certificate of occupancy for the Project (53,000 square feet), or has provided HED with evidence acceptable to HED in form and substance that Developer has complied with its building permit requirements for the Project.

3. Compliance with City Requirements Developer has obtained a compliance letter from the City’s Monitoring and Compliance Unit determining that Developer and the Project have complied with all City Requirements.

4. Employment Developer has employed not less than 150 FTEs located at the on-line operations facility at the Building. Developer will provide evidence acceptable to HED supporting FTE headcount.

5. Total Project Costs Developer has received written notice from HED reporting that HED has reviewed and accepted Developer’s financial information and other materials supporting total Project costs. Developer will engage a third party to certify total Project costs and such third party will provide HED with an affidavit.

6. TIF - Funded Improvements Developer has received written notice from HED reporting that HED has reviewed and accepted Developer’s financial information and other materials supporting the costs of TIF-Funded Improvements in an amount equal to or greater than the total amount of City Funds.

7. LEED Evidence Developer has provided HED with evidence that Developer has registered the Project with the USGBC and is in the process of obtaining a LEED-Civ2 Certification.

(iii) The City will pay the following amounts to Developer under the following schedule:

<b>Payment</b>	<b>Term</b>	<b>Amount*</b>
First Payment	At Certificate	\$100,000
Second Annual Payment	1 Year after Certificate	\$100,000
Third Annual Payment	2 Years after Certificate	\$100,000
Fourth Annual Payment	3 Years after Certificate	\$100,000
Fifth Annual Payment	4 Years after Certificate	\$100,000
Sixth Annual Payment	5 Years after Certificate	\$100,000
Seventh Annual Payment	6 Years after Certificate	\$100,000
Eighth Annual Payment	7 Years after Certificate	\$100,000
Ninth Annual Payment	8 Years after Certificate	\$100,000
Tenth / Final Annual Payment	9 Years after Certificate	\$100,000

\*The actual amount of assistance may vary depending on the final certified total Project costs and the cost of TIF Funded Improvements incurred.

If, at the time the City issues the Certificate, the City in good faith believes that Developer will not achieve LEED C1v2 Certification, then the First Payment referred to above will be reduced by \$100,000, and if necessary, from successive annual payments.

If actual Project costs are below \$6,550,883, then the amount of City Funds to be paid to Developer will be recalculated and paid over ten (10) level annual payments.

(iv) Annual Payment Requirements The pre-conditions for annual payments to Developer are:

- (A) Prior issuance of the Certificate.
- (B) Developer has provided evidence in form and substance satisfactory to IED that Developer has met or exceeded the following FTE job requirements:

<b>Year(s)</b>	<b>Number of Employees Riverside Plaza</b>	<b>Total Staff – Riverside Plaza</b>	<b>Total Staff Citywide</b>
2012	150 Retained 60 Created	210	460
2013	65 Created	275	525
2014	75 Created	350	600
2015	75 Created	425	675
2016	75 Created	500	750
2017	20 Created	520	770
2018	20 Created	540	790
2019	20 Created	560	810
2020	20 Created	580	830
2021	20 Created	600	850

(C) Developer has received its LEED-C1v2 certification.

(D) Developer has submitted a City Funds Requisition Form in the form of Exhibit N (the “**Requisition Form**”).

(E) Developer has submitted its Annual Compliance Report.

**4.04 Sale or Transfer of the Project by Developer.**

(a) At Any Time. Developer may sell or transfer title to the Project to an Affiliate at any time, so long as Developer retains all executory obligations under this Agreement, and such Affiliate/transferee becomes a co-obligor under this Agreement with a joint and several liability joinder to this Agreement.

(b) From the Closing Date to the Date of the Certificate. Developer may not sell or transfer any part of the Property or Project to any non-Affiliated party, without the City’s consent, which will not be unreasonably withheld, provided, however, that any such non-Affiliated party must: (i) agree to assume all executory obligations under the Agreement, (ii) complete the City’s then current economic disclosure forms to the City’s satisfaction, (iii) be otherwise qualified to do business with the City and (iv) demonstrate to the City’s satisfaction

that such party has financial capability to meet its obligations under this Agreement.

(c) After the Date of the Certificate. After the date of the Certificate, Developer may sell or transfer any part of the Project to non-Affiliated third parties, provided, however, that any such non-Affiliated party must: (i) agree to assume all executory obligations under the Agreement, (ii) complete the City's then current economic disclosure forms to the City's satisfaction, (iii) be otherwise qualified to do business with the City, and (iv) demonstrate to the City's satisfaction that such party has financial capability to meet its obligations under this Agreement.

(d) Sales of Assets or Equity. For purposes of this subsection, the phrase: "sale or transfer of any part of the Project" includes any sales or transfers which are a part of the sale or transfer of all or substantially all of Developer's assets or equity.

#### 4.05 Treatment of Prior Expenditures/Administration Fee.

(a) Prior Expenditures. Only those expenditures made by Developer with respect to the Project prior to the Closing Date, evidenced by documentation satisfactory to HED and approved by HED as satisfying costs covered in the Project Budget, will be considered previously contributed Equity or Lender Financing, if any, hereunder (the "**Prior Expenditure(s)**"). HED has the right, in its sole discretion, to disallow any such expenditure (not listed on Exhibit H) as a Prior Expenditure as of the date of this Agreement. Exhibit H identifies the prior expenditures approved by HED as Prior Expenditures. Prior Expenditures made for items other than TIF-Funded Improvements will not be reimbursed to Developer, but will reduce the amount of Equity and/or Lender Financing, if any, required to be contributed by Developer under Section 4.01.

(b) TIF District Administration Fee. Annually, the City may allocate an amount not to exceed ten percent (10%) of the Incremental Taxes for payment of costs incurred by the City for the administration and monitoring of the Redevelopment Area, including the Project. Such fee shall be in addition to and shall not be deducted from or considered a part of the City Funds, and the City shall have the right to receive such funds prior to any payment of City Funds hereunder.

4.06 Cost Overruns. If the aggregate cost of the TIF-Funded Improvements exceeds City Funds available under Section 4.03, Developer will be solely responsible for such excess costs, and will hold the City harmless from any and all costs and expenses of completing the TIF-Funded Improvements in excess of City Funds and from any and all costs and expenses of completing the Project in excess of the Project Budget.

4.07 TIF Bonds. The Commissioner of HED may, in his or her sole discretion, recommend that the City Council approve an ordinance or ordinances authorizing the issuance of TIF Bonds in an amount which, in the opinion of the City Comptroller, is marketable under the



then current market conditions. The proceeds of TIF Bonds may be used to pay City Funds due under this Agreement, and for other purposes as the City may determine. The costs of issuance of the TIF Bonds would be borne by the City. Developer will cooperate with the City in the issuance of the TIF Bonds, as provided and conditioned in Section 8.05.

4.08 **Preconditions of Disbursement.** Unless otherwise waived by the City, prior to each disbursement of City Funds hereunder, the Developer shall submit documentation regarding the applicable expenditures to HED, which shall be satisfactory to HED in its sole discretion. Delivery by Developer to HED of any request for disbursement of City Funds hereunder shall, in addition to the items therein expressly set forth, constitute a certification to the City, as of the date of such request for disbursement, that:

- (a) the representations and warranties contained in this Agreement are true and correct and Developer is in compliance with all covenants contained herein;
- (b) Developer has received no notice and has no knowledge of any lien or claim of lien either filed or threatened against the Project except for the Permitted Liens;
- (c) no Event of Default or condition or event which, with the giving of notice or passage time or both, would constitute an Event of Default exists or has occurred.

The City shall have the right, in its discretion, to require Developer to submit further documentation as the City may require in order to verify that the matters certified to above are true and correct, and any disbursement by the City shall be subject to the City's review and approval of such documentation and its satisfaction that such certifications are true and correct; provided, however, that nothing in this sentence shall be deemed to prevent the City from relying on such certifications by Developer. In addition, Developer shall have satisfied all other preconditions of disbursement of City Funds for each disbursement, including but not limited to the requirements set forth in the Bond Ordinance, if any; the TIF Bond Ordinance, if any; the Bonds, if any; the TIF Bonds, if any; the TIF Ordinances and this Agreement.

#### **ARTICLE FIVE: CONDITIONS PRECEDENT TO CLOSING**

The following conditions precedent to closing must be complied with to the City's satisfaction within the time periods set forth below or, if no time period is specified, prior to the Closing Date:

5.01 **Project Budget.** Developer will have submitted to HED, and HED will have approved, the Project Budget stated in Exhibit D-1, in accordance with the provisions of Section 3.03.

5.02 **Scope Drawings and Plans and Specifications.** Developer will have submitted to HED, and HED will have approved, the Scope Drawings and Plans and Specifications in accordance with the provisions of Section 3.02 or HED will have agreed to approve them as a post-closing item, promptly upon receipt.

5.03 **Other Governmental Approvals.** Not less than 5 Business Days prior to the Closing Date, Developer will have secured or applied for or provided HED with an application time schedule for all other necessary approvals and permits required by any Federal, State, or local statute, ordinance, rule or regulation to begin or continue construction of the Project, and will submit evidence thereof to HED.

5.04 **Financing.**

(a) Developer will have furnished evidence acceptable to the City that Developer has Equity and Lender Financing, if any, at least in the amounts stated in Section 4.01 to complete the Project and satisfy its obligations under this Agreement. If a portion of such financing consists of Lender Financing, Developer will have furnished evidence as of the Closing Date that the proceeds thereof are available to be drawn upon by Developer as needed and are sufficient (along with the Equity and other financing sources, if any, stated in Section 4.01) to complete the Project.

(b) Prior to the Closing Date, Developer will deliver to HED a copy of the construction escrow agreement, if any, entered into by Developer regarding Developer's Lender Financing, if any. Such construction escrow agreement must provide that the City will receive copies of all construction draw request materials submitted by Developer after the date of this Agreement.

5.05 **Lease and Title.** On the Closing Date, Developer will furnish the City with a copy of the Title Policy for the Project, showing Developer as the named insured. The Title Policy will be dated as of the Closing Date and will contain only those title exceptions listed as Permitted Liens on Exhibit I and will evidence the recording of this Agreement under the provisions of Section 8.15. The Title Policy will also contain the following endorsements as required by Corporation Counsel: an owner's comprehensive endorsement and satisfactory endorsements regarding zoning (3.0) and location. On or prior to the Closing Date, Developer will provide to HED documentation related to the Project and copies of all easements and encumbrances of record with respect to the leasehold interest in the Property not addressed, to HED's satisfaction, by the Title Policy and any endorsements thereto.

5.06 **Evidence of Clear Title.** Not less than 5 Business Days prior to the Closing Date, Developer, at its own expense, will have provided the City with current searches under Developer's name as follows:

Secretary of State (IL)

UCC search

Secretary of State (IL)	Federal tax lien search
Cook County Recorder	UCC search
Cook County Recorder	Fixtures search
Cook County Recorder	Federal tax lien search
Cook County Recorder	State tax lien search
Cook County Recorder	Memoranda of judgments search
U.S. District Court (N.D. IL)	Pending suits and judgments
Clerk of Circuit Court, Cook County	Pending suits and judgments

showing no liens against Developer, the Property or any fixtures now or hereafter affixed thereto, except for the Permitted Liens.

5.07 **Surveys.** [Intentionally omitted]

5.08 **Insurance.** Developer, at its own expense, will have insured the Project as required under Article Twelve. At least 5 Business Days prior to the Closing Date, certificates required under Article Twelve evidencing the required coverages will have been delivered to HED.

5.09 **Opinion of Developer's Counsel.** On the Closing Date, Developer will furnish the City with an opinion of counsel, substantially in the form of Exhibit J, with such changes as may be required by or acceptable to Corporation Counsel. If Developer has engaged special counsel in connection with the Project, and such special counsel is unwilling or unable to give some of the opinions stated in Exhibit J, such opinions shall be obtained by Developer from its general corporate counsel.

5.10 **Evidence of Prior Expenditures.** Not less than 20 Business Days prior to the Closing Date, Developer will have provided evidence satisfactory to HED of the Prior Expenditures as provided in Section 4.05. Such evidence of Prior Expenditures may be updated to the Closing Date by Developer.

5.11 **Financial Statements.** Not less than 30 days prior to the Closing Date, Developer will have provided Financial Statements for its 2010 and 2011 fiscal years, if available, and its most recently publicly available unaudited interim Financial Statements, in each case together with any opinions and management letters prepared by Developer's auditors for HED's inspection and review.

5.12 **Additional Documentation.** Developer has provided documentation to HED, satisfactory in form and substance to HED, with respect to current employment matters in connection with the construction or rehabilitation work on the Project, including the reports described in Section 8.07. At least thirty (30) days prior to the Closing Date, Developer has met with Workforce Solutions division of HED to review employment opportunities with Developer

after construction or rehabilitation work on the Project is completed. On or before the Closing Date, Developer has provided to HED, and HED has approved, the Employment Plan for the Project (the “**Employment Plan**”). The Employment Plan includes, without limitation will Developer’s estimated of future job openings, titles, position descriptions, qualifications, recruiting, training, placement and such other information as HED has requested relating to the Project.

5.13 **Environmental Reports.** Not less than 30 days prior to the Closing Date, Developer will provide HED with copies of all environmental reports or audits, if any, obtained by Developer with respect to the Project, together with any notices addressed to Developer or provided by the landlord to Developer from any agency regarding environmental issues at the Project. Prior to the Closing Date, Developer will provide the City with a letter from the environmental engineer(s) who completed such report(s) or audit(s), authorizing the City to rely on such report(s) or audit(s).

5.14 **Entity Documents; Economic Disclosure Statement.**

(a) **Entity Documents.** Developer will provide a copy of its current Certificate of Incorporation, with all amendments, containing the original certification of the Secretary of State of its state of organization; certificates of good standing from the Secretary of State of its state of organization and from the Secretary of State of Illinois; current by-laws with all amendments; a secretary's certificate in such form and substance as the Corporation Counsel may require; and such other organizational documentation as the City may request.

(b) **Economic Disclosure Statement.** Developer will provide the City an EDS, in the City’s then current form, dated as of the Closing Date, which is incorporated by reference and Developer further will provide any other affidavits or certifications as may be required by Federal, State or local law in the award of public contracts, all of which affidavits or certifications are incorporated by reference. Notwithstanding acceptance by the City of the EDS, failure of the EDS to include all information required under the Municipal Code renders this Agreement voidable at the option of the City. Developer and any other parties required by this **Section 5.14** to complete an EDS must promptly update their EDS(s) on file with the City whenever any information or response provided in the EDS(s) is no longer complete and accurate, including changes in ownership and changes in disclosures and information pertaining to ineligibility to do business with the City under Chapter 1-23 of the Municipal Code, as such is required under Sec. 2-154-020, and failure to promptly provide the undated EDS(s) to the City will constitute an event of default under this Agreement

5.15 **Litigation.** Developer has provided to Corporation Counsel and HED in writing, a description of all pending or threatened litigation or administrative proceedings: (a) involving the Developer’s property located in the City, (b) that Developer is otherwise required to publicly disclose or that may affect the ability of Developer to perform its duties and obligations under this Agreement, or (c) involving the City or involving the payment of franchise, income, sales or

other taxes by such party to the State of Illinois or the City. In each case, the description shall specify the amount of each claim, an estimate of probable liability, the amount of any reserves taken in connection therewith, and whether (and to what extent) such potential liability is covered by insurance.

5.16 **Lease.** Complete copies of the Lease, and all other written agreements setting forth the parties' understandings related to the Developer's relocation to or occupancy of the Project and any financial agreements between the parties in any way relating to the Property, the Project or the Lease, certified by the Developer, shall have been delivered to the City.

## **ARTICLE SIX: AGREEMENTS WITH CONTRACTORS**

### **6.01 Bid Requirement for General Contractor and Subcontractors.**

(a) Prior to entering into an agreement with a General Contractor or any subcontractor for construction of the Project, (or any phase thereof) after the Closing Date, Developer must solicit, or must cause the General Contractor to solicit, bids from qualified contractors eligible to do business with the City of Chicago. For the TIF-Funded Improvements, Developer must cause the General Contractor to select the subcontractor submitting the lowest responsible bid who can complete the Project (or phase thereof) in a timely and good and workmanlike manner; provided, however, that Developer may consider a bidder's ability to meet the unique challenges of the Project in evaluating the "lowest responsible bid" rather than the lowest bid. If the General Contractor selects any subcontractor submitting other than the lowest responsible bid for the TIF-Funded Improvements, the difference between the lowest responsible bid and the bid selected may not be paid out of City Funds. Because Developer may have entered into the Construction Contract and other related contracts prior to the date of this Agreement, HED may elect to ratify Developer's actions under this sub-section.

(b) Developer must submit copies of the Construction Contract to HED as required under Section 6.02 below. Photocopies of all subcontracts entered or to be entered into in connection with the TIF-Funded Improvements must be provided to HED within 20 Business Days of the execution thereof, or such other period of time as HED shall request. Developer must ensure that the General Contractor will not (and must cause the General Contractor to ensure that the subcontractors will not) begin work on the Project (or any phase thereof) until the applicable Plans and Specifications for that phase have been approved by HED and all requisite permits have been obtained.

6.02 **Construction Contract.** Unless otherwise waived by HED, prior to the execution thereof, Developer must deliver to HED a copy of the proposed Construction Contract with the General Contractor selected to work on the TIF-Funded Improvements under Section 6.01 above, for HED's prior written approval. Within 10 Business Days after execution of such contract by Developer, the General Contractor and any other parties thereto, Developer must

deliver to HED and Corporation Counsel a certified copy of such contract together with any modifications, amendments or supplements thereto.

6.03 **Performance and Payment Bonds.** Prior to commencement of construction of any work in the public way, if any, Developer will require that the General Contractor and any applicable subcontractor(s) be bonded (as to such work in the public way) for their respective payment and performance by sureties having an AA rating or better using the payment and performance bond form attached as Exhibit L. The City will be named as obligee or co-obligee on such bond.

6.04 **Employment Opportunity.** Developer will contractually obligate and cause the General Contractor to agree and contractually obligate each subcontractor to agree to the provisions of Article Ten.

6.05 **Other Provisions.** In addition to the requirements of this Article Six, the Construction Contract and each contract with any subcontractor must contain provisions required under Section 3.04 (Change Orders), Section 8.08 (Prevailing Wage), Section 10.01(e) (Employment Opportunity), Section 10.02 (City Resident Construction Worker Employment Requirement), Section 10.03 (Developer's MBE/WBE Commitment), Article Twelve (Insurance) and Section 14.01 (Books and Records).

## ARTICLE SEVEN: COMPLETION OF CONSTRUCTION

7.01 **Certificate of Completion of Construction.** Upon completion of the construction of the Project in compliance with the terms and conditions of this Agreement, and upon Developer's written request, HED will issue to Developer a certificate of completion of construction in recordable form (the "**Certificate**") certifying that Developer has fulfilled its obligation to complete the Project in compliance with the terms and conditions of this Agreement. HED will respond to Developer's written request for a Certificate within 30 days by issuing either a Certificate or a written statement detailing the ways in which the Project does not conform to this Agreement or has not been satisfactorily completed and the measures which must be taken by Developer in order to obtain the Certificate. Developer may resubmit a written request for a Certificate upon completion of such measures, and the City will respond within 30 days in the same way as the procedure for the initial request. Such process may repeat until the City issues a Certificate.

### 7.02 **Effect of Issuance of Certificate; Continuing Obligations.**

(a) The Certificate relates only to the construction of the Project, and upon its issuance, the City will certify that the terms of the Agreement specifically related to Developer's obligation to complete such activities have been satisfied. After the issuance of a Certificate, however, all executory terms and conditions of this Agreement and all representations and covenants contained herein will continue to remain in full force and effect throughout the Term

of the Agreement as to the parties described in the following paragraph, and the issuance of the Certificate must not be construed as a waiver by the City of any of its rights and remedies under such executory terms.

(b) Those covenants specifically described at Section 8.02 (Covenant to Redevelop), Section 8.16 (Real Estate Provisions), and Section 8.18 (Occupancy, Operations and Land Use Covenants) as covenants that run with the land and the leasehold interest in the Project are the only covenants in this Agreement intended to be binding upon any transferee of the Project (including an assignee as described in the following sentence) throughout the Term of the Agreement notwithstanding the issuance of a Certificate (except with respect to Section 8.02). The other executory terms of this Agreement that remain after the issuance of a Certificate will be binding only upon Developer or a permitted assignee of Developer who, as provided in Section 18.15 (Assignment) of this Agreement, has contracted to take an assignment of Developer's rights under this Agreement and assume Developer's liabilities hereunder.

**7.03 Failure to Complete.** If Developer fails to timely complete the Project in compliance with the terms of this Agreement, then the City will have, but will not be limited to, any of the following rights and remedies:

(a) the right to terminate this Agreement and cease all disbursement of City Funds not yet disbursed under this Agreement; and

(b) the right (but not the obligation) to complete those TIF-Funded Improvements that are public improvements and to pay for the costs of such TIF-Funded Improvements (including interest costs) out of City Funds or other City monies. If the aggregate cost of completing the TIF-Funded Improvements exceeds the amount of City Funds available under Section 4.03, Developer will reimburse the City for all reasonable costs and expenses incurred by the City in completing such TIF-Funded Improvements in excess of the available City Funds.

**7.04 Notice of Expiration or Termination.** Upon the expiration of the Term of the Agreement or earlier termination of this Agreement, HED will provide Developer, at Developer's written request, with a written notice in recordable form stating that the Term of the Agreement has expired or the Agreement has been terminated.

## **ARTICLE EIGHT: REPRESENTATIONS, WARRANTIES AND COVENANTS OF DEVELOPER.**

**8.01 General.** Developer represents, warrants, and covenants, as of the date of this Agreement and as of the date of each disbursement of City Funds hereunder, that:

(a) Developer is a Delaware corporation, duly incorporated, validly existing, qualified to do business in Delaware and Illinois, and licensed to do business in any other state

where, due to the nature of its activities or properties, such qualification or license is required;

(b) Developer has the right, power and authority to enter into, execute, deliver and perform this Agreement;

(c) the execution, delivery and performance by Developer of this Agreement has been duly authorized by all necessary corporate action, and does not and will not violate its Certificate of Incorporation or by-laws as amended and supplemented, any applicable provision of law, or constitute a breach of, default under or require any consent under any agreement, instrument or document to which Developer is now a party or by which Developer or any of its assets is now or may become bound;

(d) unless otherwise permitted or not prohibited under the terms of this Agreement, Developer will maintain good, indefeasible and merchantable leasehold title to the Project, (and all improvements and thereon) free and clear of all liens except for the Permitted Liens scheduled in the Title Report and incorporated in Exhibit I, or Lender Financing, if any, as disclosed in the Project Budget;

(e) Developer is now, and for the Term of the Agreement, will remain solvent and able to pay its debts as they mature;

(f) there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending or, to Developer's actual knowledge threatened or affecting Developer which would impair its ability to perform under this Agreement;

(g) Developer has and will maintain all government permits, certificates and consents (including, without limitation, appropriate environmental approvals) necessary to construct and complete and operate the Project and to conduct its business in the Project;

(h) Developer is not in default with respect to any indenture, loan agreement, mortgage, deed, note or any other agreement or instrument related to the borrowing of money to which Developer is a party or by which Developer or any of its assets is bound;

(i) the Financial Statements are, and when hereafter required to be inspected will be, complete, correct in all respects and accurately present the assets, liabilities, results of operations and financial condition of Developer; and there has been no material adverse change in the assets, liabilities, results of operations or financial condition of Developer since the date of Developer's most recent Financial Statements;

(j) during the Term of this Agreement, if it would adversely affect Developer's ability to perform its obligations under this Agreement, Developer will not do any of the following without the prior written consent of HED: (1) be a party to any merger, liquidation or



consolidation; (2) sell, transfer, convey, lease or otherwise dispose (directly or indirectly) of all or substantially all of its assets or any portion of the Project (including but not limited to any fixtures or equipment now or hereafter attached thereto) except in the ordinary course of business; (3) enter into any transaction with respect to the Project outside the ordinary course of Developer's business; (4) assume, guarantee, endorse, or otherwise become liable in connection with the obligations of any other person or entity to the extent that such action would have an adverse effect on Developer's ability to perform its obligations under this Agreement; or (5) enter into any transaction that would cause a material and detrimental change to Developer's financial condition;

(k) Developer has not incurred and, prior to the issuance of a Certificate, will not, without the prior written consent of the Commissioner of HED, allow the existence of any liens against the Project other than the Permitted Liens; or incur any indebtedness secured or to be secured by the Project or any fixtures now or hereafter attached thereto, except Lender Financing disclosed in the Project Budget;

(l) Developer has not made or caused to be made, directly or indirectly, any payment, gratuity or offer of employment in connection with the Agreement or any contract paid from the City treasury or under City ordinance, for services to any City agency ("**City Contract**") as an inducement for the City to enter into the Agreement or any City Contract with Developer in violation of Chapter 2-156-120 of the Municipal Code of the City, as amended; and

(m) neither the Developer nor any Affiliate thereof is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the Bureau of Industry and Security of the U.S. Department of Commerce or their successors, or on any other list of persons or entities with which the City may not do business under any applicable law, rule, regulation, order or judgment: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

**8.02 Covenant to Redevelop.** Upon HED's approval of the Scope Drawings and Plans and Specifications, and the Project Budget as provided in Sections 3.02 and 3.03, and Developer's receipt of all required building permits and governmental approvals, Developer will redevelop the Project in compliance with this Agreement and all exhibits attached hereto, the TIF Ordinances, the Scope Drawings, the Plans and Specifications, the Project Budget and all amendments thereto, and all Federal, State and local laws, ordinances, rules, regulations, executive orders and codes applicable to the Project and/or Developer. The covenants set forth in this Section 8.02 will run with the land and will be binding upon any transferee of the Project, until fulfilled as evidenced by the issuance of a Certificate.

**8.03 Redevelopment Plan.** Developer represents that the Project is and will be in compliance with all applicable terms of the Redevelopment Plan, as in effect on the date of this Agreement.

8.04 **Use of City Funds.** City Funds disbursed to Developer will be used by Developer solely to reimburse Developer for its payment for the TIF-Funded Improvements as provided in this Agreement.

8.05 **Other Bonds.** At the request of the City, Developer will agree to any reasonable amendments to this Agreement that are necessary or desirable in order for the City to issue (in its sole and absolute discretion) any Bonds in connection with the Redevelopment Area, the proceeds of which may be used to reimburse the City for expenditures made in connection with or provided a source of funds for the payment for the TIF-Funded Improvements (the “**Bonds**”); provided, however, that any such amendments will not have a material adverse effect on Developer or the Project. Developer will, at Developer's expense, cooperate and provide reasonable assistance in connection with the marketing of any such Bonds, including but not limited to providing written descriptions of the Project, making representations, providing information regarding its financial condition (but not including proprietary sales and operating information), and assisting the City in its preparation of an offering statement with respect thereto. Developer will not have any liability with respect to any disclosures made in connection with any such issuance that are actionable under applicable securities laws unless such disclosures are based on factual information provided by Developer that is determined to be false and misleading.

8.06 **Employment Opportunity.**

(a) Developer covenants and agrees to abide by, and contractually obligate and use reasonable efforts to cause the General Contractor and, as applicable, to cause the General Contractor to contractually obligate each subcontractor to abide by the terms set forth in Section 8.08 (Prevailing Wage) and Article Ten (Developer’s Employment Obligations). Developer will submit a plan to HED describing its compliance program prior to the Closing Date.

(b) Developer will deliver to the City written monthly progress reports detailing compliance with the requirements of Sections 8.08 (Prevailing Wage), 10.02 (City Resident Construction Worker Employment Requirement) and 10.03 (Developer’s MBE/WBE Commitment) of this Agreement. If any such reports indicate a shortfall in compliance, Developer will also deliver a plan to HED which will outline, to HED’s satisfaction, the manner in which Developer will correct any shortfall.

8.07 **Employment Profile.** Developer will submit, and contractually obligate and cause the General Contractor to submit and contractually obligate any subcontractor to submit, to HED, from time to time, statements of its employment profile upon HED's request.

8.08 **Prevailing Wage.** Developer covenants and agrees to pay, and to contractually obligate and cause the General Contractor to pay and to contractually cause each subcontractor to pay, the prevailing wage rate as ascertained by the State Department of Labor (the “**Labor Department**”), to all of their respective employees working on constructing the Project or otherwise completing the TIF-Funded Improvements. All such contracts will list the specified

rates to be paid to all laborers, workers and mechanics for each craft or type of worker or mechanic employed under such contract, or alternatively Developer will provide applicable schedules evidencing wage rates paid. If the Labor Department revises such prevailing wage rates, the revised rates will apply to all such contracts. Upon the City's request, Developer will provide the City with copies of all such contracts entered into by Developer or the General Contractor to evidence compliance with this Section 8.08.

8.09 **Arms-Length Transactions.** Unless HED shall have given its prior written consent with respect thereto, no Affiliate of Developer may receive any portion of City Funds, directly or indirectly, in payment for work done, services provided or materials supplied in connection with any TIF-Funded Improvement. Developer will provide information with respect to any entity to receive City Funds directly or indirectly (whether through payment to an Affiliate by Developer and reimbursement to Developer for such costs using City Funds, or otherwise), upon HED's request, prior to any such disbursement.

8.10 **Financial Statements and Review.** After the Closing Date, on an annual basis during the Term of the Agreement, Developer will permit HED to inspect and review Developer's Financial Statements at the Project at a mutually convenient time. At the time of such inspection and review, Developer will provide a solvency letter addressed to HED and signed by Developer's Chief Financial Officer.

8.11 **Insurance.** Solely at its own expense, Developer will comply with all applicable provisions of Article Twelve (Insurance) hereof.

8.12 **Non-Governmental Charges.**

(a) **Payment of Non-Governmental Charges.** Except for the Permitted Liens, and subject to subsection (b) below, Developer agrees to pay or cause to be paid when due any Non-Governmental Charges assessed or imposed upon the Project or any fixtures that are or may become attached thereto and which are owned by Developer, which creates, may create, or appears to create a lien upon all or any portion of the Project; provided however, that if such Non-Governmental Charges may be paid in installments, Developer may pay the same together with any accrued interest thereon in installments as they become due and before any fine, penalty, interest, or cost may be added thereto for nonpayment. Developer will furnish to HED, within thirty (30) days of HED's request, official receipts from the appropriate entity, or other evidence satisfactory to HED, evidencing payment of the Non-Governmental Charges in question.

(b) **Right to Contest.** Developer will have the right, before any delinquency occurs:

(i) to contest or object in good faith to the amount or validity of any Non-Governmental Charges by appropriate legal proceedings properly and diligently instituted and prosecuted, in such manner as shall stay the collection of the contested Non-

Governmental Charges, prevent the imposition of a lien or remove such lien, or prevent the transfer or forfeiture of the Project (so long as no such contest or objection shall be deemed or construed to relieve, modify or extend Developer's covenants to pay any such Non-Governmental Charges at the time and in the manner provided in this Section 8.12); or

(ii) at HED's sole option, to furnish a good and sufficient bond or other security satisfactory to HED in such form and amounts as HED will require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such transfer or forfeiture of the Project or any portion thereof or any fixtures that are or may be attached thereto, during the pendency of such contest, adequate to pay fully any such contested Non-Governmental Charges and all interest and penalties upon the adverse determination of such contest.

8.13 **Developer's Liabilities.** Developer will not enter into any transaction that would materially and adversely affect its ability to: (i) perform its obligations under this Agreement or (ii) repay any material liabilities or perform any material obligations of Developer to any other person or entity. Developer will immediately notify HED of any and all events or actions which may materially affect Developer's ability to carry on its business operations or perform its obligations under this Agreement or under any other documents and agreements.

8.14 **Compliance with Laws.**

(a) **Representation.** To Developer's knowledge, after diligent inquiry, the Project is in compliance with all applicable Federal, State and local laws, statutes, ordinances, rules, regulations, executive orders and codes pertaining to or affecting the Project. Upon the City's request, Developer will provide evidence reasonably satisfactory to the City of such current compliance.

(b) **Covenant.** Developer covenants that the Project will be operated and managed in compliance with all applicable Federal, State and local laws, statutes, ordinances, rules, regulations, executive orders and codes pertaining to or affecting the Project, including the following Municipal Code Sections: 7-28-390, 7-28-440, 11-4-1410, 11-4-1420, 11-4-1450, 11-4-1500, 11-4-1530, 11-4-1550 or 11-4-1560, whether or not in performance of this Agreement. Upon the City's request, Developer will provide evidence to the City of its compliance with this covenant.

8.15 **Recording and Filing.** Developer will cause this Agreement, certain exhibits (as specified by Corporation Counsel) and all amendments and supplements hereto to be recorded and filed on the date hereof in the conveyance and real property records of Cook County, Illinois against the Project. Such recordings shall be recorded prior to any mortgage made in connection with Lender Financing, if any. Developer will pay all fees and charges incurred in connection with any such recording. Upon recording, Developer

will immediately transmit to the City an executed original of this Agreement showing the date and recording number of record.

8.16 **Real Estate Provisions.**

(a) **Governmental Charges.**

(i) **Payment of Governmental Charges.** Subject to subsection (ii) below, Developer agrees to pay or cause to be paid when due all Governmental Charges (as defined below) which are assessed or imposed upon Developer, or the Project, or become due and payable, and which create, may create, or appear to create a lien upon Developer or the Project. "**Governmental Charge**" means all Federal, State, county, the City, or other governmental (or any instrumentality, division, agency, body, or department thereof) taxes, levies, assessments, charges, liens, claims or encumbrances relating to Developer or the Project, including but not limited to real estate taxes.

(ii) **Right to Contest.** Developer has the right before any delinquency occurs to contest or object in good faith to the amount or validity of any Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted in such manner as shall stay the collection of the contested Governmental Charge and prevent the imposition of a lien or the sale or transfer or forfeiture of the Project. Developer's right to challenge real estate taxes applicable to the Project is limited as provided for in **Section 8.16(c)** below; **provided, that** such real estate taxes must be paid in full when due. No such contest or objection will be deemed or construed in any way as relieving, modifying or extending Developer's covenants to pay any such Governmental Charge at the time and in the manner provided in this Agreement unless Developer has given prior written notice to HED of Developer's intent to contest or object to a Governmental Charge and, unless, at HED's sole option:

(x) Developer will demonstrate to HED's satisfaction that legal proceedings instituted by Developer contesting or objecting to a Governmental Charge will conclusively operate to prevent or remove a lien against, or the sale or transfer or forfeiture of, all or any part of the Project to satisfy such Governmental Charge prior to final determination of such proceedings, and/or;

(y) Developer will furnish a good and sufficient bond or other security satisfactory to HED in such form and amounts as HED may require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or transfer or forfeiture of the Project during the pendency of such contest, adequate to pay fully any such contested Governmental Charge and all interest and penalties upon the adverse determination of such contest.

(b) **Developer's Failure To Pay Or Discharge Lien.** If Developer fails to pay or

contest any Governmental Charge or to obtain discharge of the same, Developer will advise HED thereof in writing, at which time HED may, but will not be obligated to, and without waiving or releasing any obligation or liability of Developer under this Agreement, in HED's sole discretion, make such payment, or any part thereof, or obtain such discharge and take any other action with respect thereto which HED deems advisable. All sums so paid by HED, if any, and any expenses, if any, including reasonable attorneys' fees, court costs, expenses and other charges relating thereto, will be promptly disbursed to HED by Developer. Notwithstanding anything contained herein to the contrary, this paragraph must not be construed to obligate the City to pay any such Governmental Charge. Additionally, if Developer fails to pay any Governmental Charge, the City, in its sole discretion, may require Developer to submit to the City audited Financial Statements at Developer's own expense.

(c) Real Estate Taxes.

(i) Real Estate Tax Exemption. With respect to the Project, neither Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to Developer will, during the Term of this Agreement, seek or authorize any exemption (as such term is used and defined in the Illinois Constitution, Article IX, Section 6 (1970)) for any year that the Redevelopment Plan is in effect.

(ii) No Reduction in Real Estate Taxes.

(A) Neither Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to Developer will, during the Term of this Agreement, directly or indirectly, initiate, seek or apply for proceedings in order to lower the assessed value of all or any portion of the Project below the minimum Assessor's market value applicable as of the Closing Date.

(B) After diligent inquiry, Developer knows of no pending application, appeal or request for reduction of the assessed value of all or any portion of the Project, filed by Developer or the Developer's predecessor in interest for any tax year prior to or including the tax year in which this Agreement is executed.

(iii) No Objections. Neither Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to Developer, will object to or in any way seek to interfere with, on procedural or any other grounds, the filing of any Under Assessment Complaint (as defined below) or subsequent proceedings related thereto with the Cook County Assessor or with the Cook County Board of Appeals, by either the City or any taxpayer. The term "**Under Assessment Complaint**" as used in this Agreement means any complaint seeking to increase the assessed value of the Project (and related improvements).

(iv) Covenants Running with the Land. The parties agree that the restrictions

contained in this Section 8.16(c) are covenants running with the land. This Agreement will be recorded by Developer as a memorandum thereof, at Developer's expense, with the Cook County Recorder of Deeds on the Closing Date. These restrictions will be binding upon Developer and its agents, representatives, lessees, successors, assigns and transferees from and after the date hereof, provided however, that the covenants will be released when the Redevelopment Area is no longer in effect, or upon expiration of the Term of Agreement. Developer agrees that any sale, transfer, lease, conveyance, or transfer of title to all or any portion of the Project from and after the date hereof shall be made explicitly subject to such covenants and restrictions. Notwithstanding anything contained in this Section 8.16 (c) to the contrary, the City, in its sole discretion and by its sole action, without the joinder or concurrence of Developer, its successors or assigns, may waive and terminate Developer's covenants and agreements set forth in this Section 8.16(c).

**8.17 Job Recruitment, Training and Hiring Plan.** Developer agrees to work with the Workforce Solutions Unit of HED to create and implement a mutually acceptable plan for the recruitment, training and hiring of City of Chicago residents. Such plan will have as one of its goals, an objective to maximize the number of local residents from the LaSalle Central and adjacent communities participating in the plan. Developer will develop job criteria and qualifications for plan use and will consult with the Workforce Solutions Unit as necessary in this process. The Workforce Solutions Unit will refer qualified candidates to Developer consistent with Developer's operations timing objectives contained in the plan, and Developer will interview such qualified candidates. Developer will not be required to hire any specified number of candidates.

**8.18 Occupancy, Operations and Land Use Covenants.**

(a) Occupancy and Operations Covenant. Developer covenants that it will occupy the Project and operate its on-line facility on the Property for the Term of the Agreement, subject to the provisions of Section 18.17 (Force Majeure); provided, however, that temporary closures for reconstructions, expansion, alterations or remodeling are permitted exceptions to this covenant.

(b) Land Use Compliance. Developer covenants that its use of the Property and the Project will be in compliance with the Redevelopment Plan, and applicable zoning laws.

(c) Run With The Land. The covenants stated in this Section 8.18 run with the land and the leasehold interest in the Project, and are intended to be binding on any transferee of the Project.

8.19 **Job Requirements**

(a) **At Locations.** Developer covenants to meet or exceed the following FTE job requirements at the following locations during the Term of the Agreement:

<b>Year(s)</b>	<b>Number of Employees Riverside Plaza</b>	<b>Total Staff – Riverside Plaza</b>	<b>Total Staff Citywide</b>
2012	150 Retained 60 Created	210	460
2013	65 Created	275	525
2014	75 Created	350	600
2015	75 Created	425	675
2016	75 Created	500	750
2017	20 Created	520	770
2018	20 Created	540	790
2019	20 Created	560	810
2020	20 Created	580	830
2021	20 Created	600	850

(b) **Position Descriptions** The bulk of the positions created at the Project will be admissions advisors that help with new student recruitment and provide information to prospective students through addressing inquiries, customer service and help with decision making. There will also be positions that support the admissions staff, oversee the admissions staff and train the admissions staff. Such positions include enrollment coordinators, systems training specialists, and enrollment coordinator team leads. Other positions include business analysts and market analysts. Managerial positions include business process administrators, senior human resources business partners, director of admissions management services, senior director of marketing systems and assistant director of admissions.

(c) **Non-Compliance**

(i) In any year of the 10 year term, if Developer’s job count falls below the requirement stated in subsection (a) above, then:



(x) the City may withhold payments to Developer for any year. Upon compliance, regular payments will resume and withheld payments will be promptly paid to Developer;

(y) the year that Developer was out of compliance will not count toward the 10 year stated term, but will be added to the stated term and thereby automatically extending the Term of the Agreement.

(ii) During the 10-year Term of the Agreement, Developer is entitled to two (2) non-consecutive years of non-compliance. If Developer has: (x) two (2) consecutive years of non-compliance; or (y) three (3) non-consecutive years of non-compliance, then such event shall be considered an Event of Default, and the City will be under no further obligation to pay City Funds to Developer.

(d) Default by Landlord under the Lease. A default by the Landlord under the Lease shall not: (a) relieve Developer from its obligations under this Agreement or (b) constitute any defense, excuse of performance, release, discharge or similar form of equitable or other relief that would prevent or limit the City's enforcement of its remedies under this Agreement.

8.20 Annual Compliance Report. Beginning with the issuance of the COC and continuing throughout the Term of the Agreement, the Developer shall submit to HED the Annual Compliance Report within 30 days after the end of the calendar year to which the Annual Compliance Report relates.

8.21 Reserved.

8.22 Broker's Fees. Developer has no liability or obligation to pay any fees or commissions to any broker, finder, or agent with respect to any of the transactions contemplated by this Agreement for which the City could become liable or obligated.

8.23 No Conflict of Interest. Under Section 5/11-74.4-4(n) of the Act, Developer represents, warrants and covenants that to the best of its knowledge, no member, official, or employee of the City, or of any commission or committee exercising authority over the Project, the Redevelopment Area or the Redevelopment Plan, or any consultant hired by the City, (a "**City Group Member**") owns or controls, has owned or controlled or will own or control any interest, and no such City Group Member will represent any person, as agent or otherwise, who owns or controls, has owned or controlled, or will own or control any interest, direct or indirect, in Developer, the Property, the Project, or to the Developer's actual knowledge, any other property in the Redevelopment Area.

8.24 Disclosure of Interest. Developer's counsel has no direct or indirect financial ownership interest in Developer, the Property or any other feature of the Project.

**8.25 No Business Relationship with City Elected Officials.** Developer acknowledges receipt of a copy of Section 2-156-030(b) of the Municipal Code and that Developer has read and understands such provision. Under Section 2-156-030(b) of the Municipal Code of Chicago, it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other City official or employee with respect to any matter involving any person with whom the elected official has a "Business Relationship" (as defined in Section 2-156-080(b)(2) of the Municipal Code), or to participate in any discussion of any City Council committee hearing or in any City Council meeting or to vote on any matter involving the person with whom an elected official has a Business Relationship. Violation of Section 2-156-030(b) by any elected official, or any person acting at the direction of such official, with respect to this Agreement, or in connection with the transactions contemplated thereby, will be grounds for termination of this Agreement and the transactions contemplated thereby. Developer hereby represents and warrants that, to the best of its knowledge after due inquiry, no violation of Section 2-156-030(b) has occurred with respect to this Agreement or the transactions contemplated thereby.

**8.26 Inspector General.** It is the duty of Developer and the duty of any bidder, proposer, contractor, subcontractor, and every applicant for certification of eligibility for a City contract or program, and all of Developer's officers, directors, agents, partners, and employees and any such bidder, proposer, contractor, subcontractor or such applicant: (a) to cooperate with the Inspector General in any investigation or hearing undertaken pursuant to Chapter 2-56 of the Municipal Code and (b) to cooperate with the Legislative Inspector General in any investigation undertaken pursuant to Chapter 2-55 of the Municipal Code. Developer represents that it understands and will abide by all provisions of Chapter 2-56 and 2-55 of the Municipal Code and that it will inform subcontractors of this provision and require their compliance.

**8.27 Prohibition on Certain Contributions – Mayoral Executive Order No. 2011-4.** Neither Developer or any person or entity who directly or indirectly has an ownership or beneficial interest in Developer of more than 7.5% ("**Owners**"), spouses and domestic partners of such Owners, Developer's Subcontractors, any person or entity who directly or indirectly has an ownership or beneficial interest in any Subcontractor of more than 7.5% ("**Sub-owners**") and spouses and domestic partners of such Sub-owners (Developer and all the other preceding classes of persons and entities are together, the "**Identified Parties**"), shall make a contribution of any amount to the Mayor of the City of Chicago (the "**Mayor**") or to his political fundraising committee during: (i) the bid or other solicitation process for this Agreement or Other Agreement, including while this Agreement or Other Agreement is executory, (ii) the term of this Agreement or any Other Agreement between City and Developer, and/or (iii) any period in which an extension of this Agreement or Other Agreement with the City is being sought or negotiated.

Developer represents and warrants that since the date of public advertisement of the specification, request for qualifications, request for proposals or request for information (or any combination of those requests) or, if not competitively procured, from the date the City approached the Developer or the date the Developer approached the City, as applicable,

regarding the formulation of this Agreement, no Identified Parties have made a contribution of any amount to the Mayor or to his political fundraising committee.

Developer shall not: (a) coerce, compel or intimidate its employees to make a contribution of any amount to the Mayor or to the Mayor's political fundraising committee; (b) reimburse its employees for a contribution of any amount made to the Mayor or to the Mayor's political fundraising committee; or (c) bundle or solicit others to bundle contributions to the Mayor or to his political fundraising committee.

The Identified Parties must not engage in any conduct whatsoever designed to intentionally violate this provision or Mayoral Executive Order No. 2011-4 or to entice, direct or solicit others to intentionally violate this provision or Mayoral Executive Order No. 2011-4.

Violation of, non-compliance with, misrepresentation with respect to, or breach of any covenant or warranty under this provision or violation of Mayoral Executive Order No. 2011-4 constitutes a breach and default under this Agreement, and under any Other Agreement for which no opportunity to cure will be granted. Such breach and default entitles the City to all remedies (including without limitation termination for default) under this Agreement, under any Other Agreement, at law and in equity. This provision amends any Other Agreement and supersedes any inconsistent provision contained therein.

If applicable, if Developer violates this provision or Mayoral Executive Order No. 2011-4 prior to award of the Agreement resulting from this specification, then HED may reject Developer's bid.

For purposes of this provision:

**"Other Agreement"** means any agreement entered into between the Developer and the City that is (i) formed under the authority of MCC Ch. 2-92; (ii) for the purchase, sale or lease of real or personal property; or (iii) for materials, supplies, equipment or services which are approved and/or authorized by the City Council.

**"Contribution"** means a **"political contribution"** as defined in MCC Ch. 2-156, as amended.

**"Political fundraising committee"** means a **"political fundraising committee"** as defined in MCC Ch. 2-156, as amended.

#### 8.28 Shakman Accord

(a) The City is subject to the May 31, 2007 Order entitled "Agreed Settlement Order and Accord" (the "**Shakman Accord**") and the June 24, 2011 "City of Chicago Hiring Plan" (the

"City Hiring Plan") entered in Shakman v. Democratic Organization of Cook County, Case No 69 C 2145 (United States District Court for the Northern District of Illinois). Among other things, the Shakman Accord and the City Hiring Plan prohibit the City from hiring persons as governmental employees in non-exempt positions on the basis of political reasons or factors.

(b) Developer is aware that City policy prohibits City employees from directing any individual to apply for a position with Developer, either as an employee or as a subcontractor, and from directing Developer to hire an individual as an employee or as a subcontractor. Accordingly, Developer must follow its own hiring and contracting procedures, without being influenced by City employees. Any and all personnel provided by Developer under this Agreement are employees or subcontractors of Developer, not employees of the City of Chicago. This Agreement is not intended to and does not constitute, create, give rise to, or otherwise recognize an employer-employee relationship of any kind between the City and any personnel provided by Developer.

(c) Developer will not condition, base, or knowingly prejudice or affect any term or aspect of the employment of any personnel provided under this Agreement, or offer employment to any individual to provide services under this Agreement, based upon or because of any political reason or factor, including, without limitation, any individual's political affiliation, membership in a political organization or party, political support or activity, political financial contributions, promises of such political support, activity or financial contributions, or such individual's political sponsorship or recommendation. For purposes of this Agreement, a political organization or party is an identifiable group or entity that has as its primary purpose the support of or opposition to candidates for elected public office. Individual political activities are the activities of individual persons in support of or in opposition to political organizations or parties or candidates for elected public office.

(d) In the event of any communication to Developer by a City employee or City official in violation of paragraph (b) above, or advocating a violation of paragraph (c) above, Developer will, as soon as is reasonably practicable, report such communication to the Hiring Oversight Section of the City's Office of the Inspector General ("**IGO Hiring Oversight**"), and also to the Commissioner of HED. Developer will also cooperate with any inquiries by IGO Hiring Oversight or the Shakman Monitor's Office related to this Agreement.

#### **8.29 FOIA and Local Records Act Compliance.**

(a) FOIA. Developer acknowledges that the City is subject to the Illinois Freedom of Information Act, 5 ILCS 140/1 et. seq., as amended ("**FOIA**"). The FOIA requires the City to produce records (very broadly defined in the FOIA) in response to a FOIA request in a very short period of time, unless the records requested are exempt under the FOIA. If Developer receives a request from the City to produce records within the scope of FOIA, that would be otherwise required under this Agreement then Developer covenants to comply with such request within two (2) Business Days of the date of such request. Failure by Developer to timely comply with such request will be a breach of this Agreement.

(b) Exempt Information. Documents that Developer submits to the City under Section 8.20, (Annual Compliance Report) or otherwise during the Term of the Agreement that contain trade secrets and commercial or financial information may be exempt if disclosure would result in competitive harm. However, for documents submitted by Developer to be treated as a trade secret or information that would cause competitive harm, FOIA requires that Developer mark any such documents as “proprietary, privileged or confidential.” If Developer marks a document as “proprietary, privileged and confidential”, then HED will evaluate whether such document may be withheld under the FOIA. HED, in its discretion, will determine whether a document will be exempted from disclosure, and that determination is subject to review by the Illinois Attorney General’s Office and/or the courts.

(c) Local Records Act. Developer acknowledges that the City is subject to the Local Records Act, 50 ILCS 205/1 et. seq, as amended (the “**Local Records Act**”). The Local Records Act provides that public records may only be disposed of as provided in the Local Records Act. If requested by the City, Developer covenants to use its best efforts consistently applied to assist the City in its compliance with the Local Records Act concerning records arising under or in connection with this Agreement and the transactions contemplated in the Agreement.

8.30 **Material Amendment To Lease/Lease Transfer**. During the Term of the Agreement, Developer shall not: (a) execute or consent to a Material Amendment or (b) sell, sublease, re-lease, assign or otherwise transfer its interest in the Lease without the prior written consent of HED, which consent shall be in HED’s sole discretion.

8.31 **Survival of Covenants**. All warranties, representations, covenants and agreements of Developer contained in this Article Eight and elsewhere in this Agreement are true, accurate and complete at the time of Developer's execution of this Agreement, and will survive the execution, delivery and acceptance by the parties and (except as provided in Article Seven upon the issuance of a Certificate) will be in effect throughout the Term of the Agreement.

## **ARTICLE NINE: REPRESENTATIONS, WARRANTIES AND COVENANTS OF CITY**

9.01 **General Covenants**. The City represents that it has the authority as a home rule unit of local government to execute and deliver this Agreement and to perform its obligations hereunder.

9.02 **Survival of Covenants**. All warranties, representations, and covenants of the City contained in this Article Nine or elsewhere in this Agreement shall be true, accurate, and complete at the time of the City's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and be in effect throughout the Term of the Agreement.

## ARTICLE TEN: DEVELOPER'S EMPLOYMENT OBLIGATIONS

10.01 **Employment Opportunity.** Developer, on behalf of itself and its successors and assigns, hereby agrees, and will contractually obligate its or their various contractors, subcontractors or any Affiliate of Developer on the Project (collectively, with Developer, such parties are defined herein as the "**Employers**", and individually defined herein as an "**Employer**") to agree, that for the Term of this Agreement with respect to Developer and during the period of any other party's provision of services in connection with the construction of the Project:

(a) No Employer shall discriminate against any employee or applicant for employment based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income as defined in the City of Chicago Human Rights Ordinance, Chapter 2-160, Section 2-160-010 et seq., Municipal Code, except as otherwise provided by said ordinance and as amended from time-to-time (the "**Human Rights Ordinance**"). Each Employer shall take affirmative action to ensure that applicants are hired and employed without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income and are treated in a non-discriminatory manner with regard to all job-related matters, including without limitation: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Each Employer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination clause. In addition, the Employers, in all solicitations or advertisements for employees, shall state that all qualified applicants shall receive consideration for employment without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income.

(b) To the greatest extent feasible, each Employer is required to present opportunities for training and employment of low- and moderate-income residents of the City and preferably of the Redevelopment Area; and to provide that contracts for work in connection with the construction of the Project be awarded to business concerns that are located in, or owned in substantial part by persons residing in, the City and preferably in the Redevelopment Area.

(c) Each Employer will comply with all applicable Federal, State and local equal employment and affirmative action statutes, rules and regulations, including but not limited to the City's Human Rights Ordinance and the State Human Rights Act, 775 ILCS 5/1-101 et. seq. (2006 State Bar Edition), as amended, and any subsequent amendments and regulations promulgated thereto.

(d) Each Employer, in order to demonstrate compliance with the terms of this Section,

will cooperate with and promptly and accurately respond to inquiries by the City, which has the responsibility to observe and report compliance with equal employment opportunity regulations of Federal, State and municipal agencies.

(e) Each Employer will include the foregoing provisions of subparagraphs (a) through (d) in every construction contract entered into in connection with the Project, after the Closing Date, and will require inclusion of these provisions in every subcontract entered into by any subcontractors, after the Closing Date, and every agreement with any Affiliate operating on the Property or at the Project, after the Closing Date, so that each such provision will be binding upon each contractor, subcontractor or Affiliate, as the case may be.

(f) Failure to comply with the employment obligations described in this Section 10.01 will be a basis for the City to pursue remedies under the provisions of Section 15.02 hereof, subject to the cure rights under Section 15.03.

#### 10.02 City Resident Construction Worker Employment Requirement.

(a) Developer agrees for itself and its successors and assigns, and will contractually obligate its General Contractor and will cause the General Contractor to contractually obligate its subcontractors, as applicable, to agree, that during the construction of the Project they will comply with the minimum percentage of total worker hours performed by actual residents of the City as specified in Section 2-92-330 of the Municipal Code of Chicago (at least 50 percent of the total worker hours worked by persons on the site of the Project will be performed by actual residents of the City); provided, however, that in addition to complying with this percentage, Developer, its General Contractor and each subcontractor will be required to make good faith efforts to utilize qualified residents of the City in both unskilled and skilled labor positions. Developer, the General Contractor and each subcontractor will use their respective best efforts to exceed the minimum percentage of hours stated above, and to employ neighborhood residents in connection with the Project.

(b) Developer may request a reduction or waiver of this minimum percentage level of Chicagoans as provided for in Section 2-92-330 of the Municipal Code of Chicago in accordance with standards and procedures developed by the Chief Procurement Officer of the City.

(c) **"Actual residents of the City"** means persons domiciled within the City. The domicile is an individual's one and only true, fixed and permanent home and principal establishment.

(d) Developer, the General Contractor and each subcontractor will provide for the maintenance of adequate employee residency records to show that actual Chicago residents are employed on the Project. Each Employer will maintain copies of personal documents supportive of every Chicago employee's actual record of residence.

(e) Weekly certified payroll reports (U.S. Department of Labor Form WH-347 or equivalent) will be submitted to the Commissioner of HED in triplicate, which will identify clearly the actual residence of every employee on each submitted certified payroll. The first time that an employee's name appears on a payroll, the date that the Employer hired the employee should be written in after the employee's name.

(f) Upon 2 Business Days prior written notice, Developer, the General Contractor and each subcontractor will provide full access to their employment records related to the construction of the Project to the Chief Procurement Officer, the Commissioner of HED, the Superintendent of the Chicago Police Department, the Inspector General or any duly authorized representative of any of them. Developer, the General Contractor and each subcontractor will maintain all relevant personnel data and records related to the construction of the Project for a period of at least 3 years after final acceptance of the work constituting the Project.

(g) At the direction of HED, affidavits and other supporting documentation will be required of Developer, the General Contractor and each subcontractor to verify or clarify an employee's actual address when doubt or lack of clarity has arisen.

(h) Good faith efforts on the part of Developer, the General Contractor and each subcontractor to provide utilization of actual Chicago residents (but not sufficient for the granting of a waiver request as provided for in the standards and procedures developed by the Chief Procurement Officer) will not suffice to replace the actual, verified achievement of the requirements of this Section concerning the worker hours performed by actual Chicago residents.

(i) When work at the Project is completed, in the event that the City has determined that Developer has failed to ensure the fulfillment of the requirement of this Article concerning the worker hours performed by actual residents of the City or failed to report in the manner as indicated above, the City will thereby be damaged in the failure to provide the benefit of demonstrable employment to Chicagoans to the degree stipulated in this Article. Therefore, in such a case of non-compliance, it is agreed that 1/20 of 1 percent (0.0005) of the aggregate hard construction costs set forth in the Project Budget (the product of .0005 x such aggregate hard construction costs) (as the same will be evidenced by approved contract value for the actual contracts) will be surrendered by Developer to the City in payment for each percentage of shortfall toward the stipulated residency requirement. Failure to report the residency of employees entirely and correctly will result in the surrender of the entire liquidated damages as if no Chicago residents were employed in either of the categories. The willful falsification of statements and the certification of payroll data may subject Developer, the General Contractor and/or the subcontractors to prosecution. Any retainage to cover contract performance that may become due to Developer pursuant to Section 2-92-250 of the Municipal Code of Chicago may be withheld by the City pending the Chief Procurement Officer's determination as to whether Developer must surrender damages as provided in this paragraph.

(j) Nothing herein provided will be construed to be a limitation upon the "Notice of



Requirements for Affirmative Action to Ensure Equal Employment Opportunity, Executive Order 11246" and "Standard Federal Equal Employment Opportunity, Executive Order 11246," or other affirmative action required for equal opportunity under the provisions of this Agreement or related documents.

(k) Developer will cause or require the provisions of this Section 10.02 to be included in all construction contracts and subcontracts related to the Project, entered into after the Closing Date.

**10.03 Developer's MBE/WBE Commitment.** Developer agrees for itself and its successors and assigns, and, if necessary to meet the requirements stated in this section, will contractually obligate the General Contractor to agree that during the construction of the Project:

(a) Consistent with the findings which support, as applicable: (i) the Minority-Owned and Women-Owned Business Enterprise Procurement Program, Section 2-92-420 et seq., Municipal Code of Chicago (the "**Procurement Program**"), and (ii) the Minority- and Women-Owned Business Enterprise Construction Program, Section 2-92-650 et seq., Municipal Code of Chicago (the "**Construction Program**", and collectively with the Procurement Program, the **MBE/WBE Program**"), and in reliance upon the provisions of the MBE/WBE Program to the extent contained in, and as qualified by, the provisions of this Section 10.03, during the course of the Project, at least the following percentages of the MBE/WBE Budget (as stated in Exhibit D-2) must be expended for contract participation by Minority-Owned Businesses ("**MBEs**") and by Women-Owned Businesses ("**WBEs**"):

- (1) At least 24 percent by MBEs.
- (2) At least four percent by WBEs.

(b) For purposes of this Section 10.03 only:

(i) Developer (and any party to whom a contract is let by Developer in connection with the Project) is deemed a "**contractor**" and this Agreement (and any contract let by Developer in connection with the Project) is deemed a "**contract**" or a "**construction contract**" as such terms are defined in Sections 2-92-420 and 2-92-670, Municipal Code of Chicago, as applicable.

(ii) The term "**minority-owned business**" or "**MBE**" shall mean a business identified in the Directory of Certified Minority Business Enterprises published by the City's Department of Procurement Services, or otherwise certified by the City's Department of Procurement Services as a minority-owned business enterprise, related to the Procurement Program or the Construction Program, as applicable.

(iii) The term "**women-owned business**" or "**WBE**" shall mean a business identified in the Directory of Certified Women Business Enterprises published by the

City's Department of Procurement Services, or otherwise certified by the City's Department of Procurement Services as a women-owned business enterprise, related to the Procurement Program or the Construction Program, as applicable.

(c) Consistent with Sections 2-92-440 and 2-92-720, Municipal Code of Chicago, Developer's MBE/WBE commitment may be achieved in part by Developer's status as an MBE or WBE (but only to the extent of any actual work performed on the Project by Developer) or by a joint venture with one or more MBEs or WBEs (but only to the extent of the lesser of: (i) the MBE or WBE participation in such joint venture or (ii) the amount of any actual work performed on the Project by the MBE or WBE), by Developer utilizing a MBE or a WBE as the General Contractor (but only to the extent of any actual work performed on the Project by the General Contractor), by subcontracting or causing the General Contractor to subcontract a portion of the Project to one or more MBEs or WBEs, or by the purchase of materials or services used in the Project from one or more MBEs or WBEs, or by any combination of the foregoing. Those entities which constitute both a MBE and a WBE shall not be credited more than once with regard to the Developer's MBE/WBE commitment as described in this Section 10.03. In compliance with Section 2-92-730, Municipal Code of Chicago, Developer will not substitute any MBE or WBE General Contractor or subcontractor without the prior written approval of HED.

(d) Developer must deliver quarterly reports to the City's monitoring staff during the Project describing its efforts to achieve compliance with this MBE/WBE commitment. Such reports will include, inter alia: the name and business address of each MBE and WBE solicited by Developer or the General Contractor to work on the Project, and the responses received from such solicitation; the name and business address of each MBE or WBE actually involved in the Project; a description of the work performed or products or services supplied; the date and amount of such work, product or service; and such other information as may assist the City's monitoring staff in determining the Developer's compliance with this MBE/WBE commitment. Developer will maintain records of all relevant data with respect to the utilization of MBEs and WBEs in connection with the Project for at least 5 years after completion of the Project, and the City's monitoring staff will have access to all such records maintained by Developer, on 5 Business Days' notice, to allow the City to review Developer's compliance with its commitment to MBE/WBE participation and the status of any MBE or WBE performing any portion of the Project.

(e) Upon the disqualification of any MBE or WBE General Contractor or subcontractor, if such status was misrepresented by the disqualified party, Developer is obligated to discharge or cause to be discharged the disqualified General Contractor or subcontractor, and, if possible, identify and engage a qualified MBE or WBE as a replacement. For purposes of this subsection (e), the disqualification procedures are further described in Sections 2-92-540 and 2-92-730, Municipal Code of Chicago, as applicable.

(f) Any reduction or waiver of Developer's MBE/WBE commitment as described in this

Section 10.03 shall be undertaken in accordance with Sections 2-92-450 and 2-92-730, Municipal Code of Chicago, as applicable.

(g) Prior to the commencement of the Project, Developer shall be required to meet with the City's monitoring staff with regard to Developer's compliance with its obligations under this Section 10.03. The General Contractor and all major subcontractors are required to attend this pre-construction meeting. During said meeting, Developer will demonstrate to the City's monitoring staff its plan to achieve its obligations under this Section 10.03, the sufficiency of which will be approved by the City's monitoring staff. During the Project, Developer shall submit the documentation required by this Section 10.03 to the City's monitoring staff, including the following: (i) subcontractor's activity report; (ii) contractor's certification concerning labor standards and prevailing wage requirements; (iii) contractor letter of understanding; (iv) monthly utilization report; (v) authorization for payroll agent; (vi) certified payroll; (vii) evidence that MBE/WBE contractor associations have been informed of the Project via written notice and hearings; and (viii) evidence of compliance with job creation/job retention requirements. Failure to submit such documentation on a timely basis, or a determination by the City's monitoring staff, upon analysis of the documentation, that Developer is not complying with its obligations under this Section 10.03, will, upon the delivery of written notice to Developer, be deemed an Event of Default. Upon the occurrence of any such Event of Default, in addition to any other remedies provided in this Agreement, the City may: (1) issue a written demand to Developer to halt the Project, (2) withhold any further payment of any City Funds to Developer or the General Contractor, or (3) seek any other remedies against Developer available at law or in equity.

## **ARTICLE ELEVEN: ENVIRONMENTAL MATTERS**

11.01 **Environmental Matters**. Developer hereby represents and warrants to the City that Developer has conducted environmental studies sufficient to conclude that the Project may be constructed, completed and operated in accordance with all Environmental Laws.

Without limiting any other provisions hereof, Developer agrees to indemnify, defend and hold the City harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses or claims of any kind whatsoever including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under any Environmental Laws incurred, suffered by or asserted against the City as a direct or indirect result of any of the following, regardless of whether or not caused by, or within the control of Developer: (i) the presence of any Hazardous Materials on or under, or the escape, seepage, leakage, spillage, emission, discharge or release of any Hazardous Materials from: (A) all or any portion of the Property, or (B) any other real property in which Developer, or any person directly or indirectly controlling, controlled by or under common control with Developer, holds any estate or interest whatsoever (including, without limitation, any property owned by a land trust in which the beneficial interest is owned, in whole or in part, by Developer), or (ii) any liens against the Property permitted or imposed by any Environmental Laws, or any actual or asserted liability or obligation of the City or Developer or any of its Affiliates under any Environmental Laws relating to the Property.

## ARTICLE TWELVE: INSURANCE

12.01 **Insurance Requirements.** Developer's insurance requirements are stated in Schedule B which is hereby incorporated into this Agreement by reference and made a part of this Agreement.

## ARTICLE THIRTEEN: INDEMNIFICATION

13.01 **General Indemnity.** Developer agrees to indemnify, pay and hold the City, and its elected and appointed officials, employees, agents and affiliates (individually an "**Indemnitee**," and collectively the "**Indemnitees**") harmless from and against, any and all liabilities, obligations, losses, damages (arising out of a third party action against the City), penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever, (and including, without limitation, the reasonable fees and disbursements of counsel for such Indemnitees in connection with any investigative, administrative or judicial proceeding commenced or threatened, whether or not such Indemnitees shall be designated a party thereto), that may be imposed on, suffered, incurred by or asserted against the Indemnitees by a third party in any manner relating to or arising out of:

- (i) Any cost overruns as described in Section 4.06; or
- (ii) Developer's failure to comply with any of the terms, covenants and conditions contained within this Agreement; or
- (iii) Developer's or any contractor's failure to pay General Contractors, subcontractors or materialmen in connection with the TIF-Funded Improvements or any other Project improvement; or
- (iv) the existence of any material misrepresentation or omission in this Agreement, any offering memorandum or information statement or the Redevelopment Plan or any other document related to this Agreement that is the result of information supplied or omitted by Developer or its agents, employees, contractors or persons acting under the control or at the request of Developer or any Affiliate of Developer; or
- (v) Developer's failure to cure any misrepresentation in this Agreement or any other document or agreement relating hereto; or
- (vi) any act or omission by Developer or any Affiliate of Developer;

provided, however, that Developer shall have no obligation to an Indemnitee arising from the wanton or willful misconduct of that Indemnitee. To the extent that the preceding sentence may be unenforceable because it is violative of any law or public policy, Developer will contribute the maximum portion that it is permitted to pay and satisfy under applicable law, to the payment and

satisfaction of all indemnified liabilities incurred by the Indemnitees or any of them. The provisions of the undertakings and indemnification set out in this Section 13.01 will survive the termination of this Agreement.

#### **ARTICLE FOURTEEN: MAINTAINING RECORDS/RIGHT TO INSPECT**

14.01 **Books and Records.** Developer will keep and maintain separate, complete, accurate and detailed books and records necessary to reflect and fully disclose the total actual costs of the Project and the disposition of all funds from whatever source allocated thereto, and to monitor the Project. All such books, records and other documents, including but not limited to Developer's loan statements, if any, General Contractors' and contractors' sworn statements, general contracts, subcontracts, purchase orders, waivers of lien, paid receipts and invoices, will be available at Developer's offices for inspection, copying, audit and examination by an authorized representative of the City, at Developer's expense. Developer will not pay for salaries or fringe benefits of auditors or examiners. Developer must incorporate this right to inspect, copy, audit and examine all books and records into all contracts entered into by Developer with respect to the Project. The City shall provide three (3) Business Days' prior written notice to the Developer in accordance with Section 17. The notice shall indicate the date and time of the inspection. All inspections shall be conducted between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday.

14.02 **Inspection Rights.** Upon three (3) Business Days' notice, any authorized representative of the City shall have access to all portions of the Project during normal business hours for the Term of the Agreement. The City shall provide three (3) Business Days' prior written notice to the Developer in accordance with Section 17. The notice shall indicate the date and time of the inspection. All inspections shall be conducted between the hours 9:00 a.m. and 5:00 p.m., Monday through Friday.

#### **ARTICLE FIFTEEN: DEFAULT AND REMEDIES**

15.01 **Events of Default.** The occurrence of any one or more of the following events, subject to the provisions of Section 15.03, will constitute an "**Event of Default**" by Developer hereunder:

(a) the failure of Developer to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of Developer under this Agreement or any related agreement;

(b) the failure of Developer to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of Developer under any other agreement with any person or entity if such failure may have a material adverse effect on Developer's business, property (including the Project), assets (including the Project), operations or condition, financial or otherwise that will materially adversely affect Developer's ability to perform under this Agreement;

(c) the making or furnishing by Developer to the City of any representation, warranty, certificate, schedule, report or other communication within or in connection with this Agreement or any related agreement which is untrue or misleading in any material respect;

(d) except as otherwise permitted hereunder, the creation (whether voluntary or involuntary) of, or any attempt by Developer to create, any lien or other encumbrance upon the Project, including any fixtures now or hereafter attached thereto, other than the Permitted Liens or any Permitted Mortgage, or the making or any attempt to make any levy, seizure or attachment thereof;

(e) the commencement of any proceedings in bankruptcy by or against Developer or Developer's ultimate parent entity, if any, or for the liquidation or reorganization of Developer or Developer's ultimate parent entity, if any, or alleging that Developer or Developer's ultimate parent entity, if any, is insolvent or unable to pay its debts as they mature, or for the readjustment or arrangement of Developer's or Developer's ultimate parent entity's, if any, debts, whether under the United States Bankruptcy Code or under any other state or Federal law, now or hereafter existing for the relief of debtors, or the commencement of any analogous statutory or non-statutory proceedings involving Developer or Developer's ultimate parent entity, if any; provided, however, that if such commencement of proceedings is involuntary, such action will not constitute an Event of Default unless such proceedings are not dismissed within 60 days after the commencement of such proceedings;

(f) the appointment of a receiver or trustee for Developer or Developer's ultimate parent entity, if any, for any substantial part of Developer's or Developer's ultimate parent entity's, if any, assets or the institution of any proceedings for the dissolution, or the full or partial liquidation, or the merger or consolidation, of Developer or Developer's ultimate parent entity, if any; provided, however, that if such appointment or commencement of proceedings is involuntary, such action will not constitute an Event of Default unless such appointment is not revoked or such proceedings are not dismissed within 60 days after the commencement thereof;

(g) the entry of any judgment or order against Developer, not covered by insurance for an amount in excess of \$1.0 million which remains unsatisfied or undischarged and in effect for 60 days after such entry without a stay of enforcement or execution;

(h) the occurrence of an event of default under the Lender Financing, if any, which default is not cured within any applicable cure period; or

(i) the dissolution of Developer or Developer's ultimate parent entity, if any; or

(j) the institution in any court of a criminal proceeding (other than a misdemeanor) against Developer or any natural person who owns a material interest in Developer, which is not dismissed within 30 days, or the indictment of Developer or any natural person who owns a

material interest in Developer, for any crime (other than a misdemeanor); or

(k) prior to the expiration of the Term of the Agreement, the sale or transfer of all of the equity ownership interests of Developer without the prior written consent of the City; or

(l) The failure of Developer, or the failure by any party that is a Controlling Person (defined in Section 1-23-010 of the Municipal Code) with respect to the Developer, to maintain eligibility to do business with the City in violation of Section 1-23-030 of the Municipal Code; such failure shall render this Agreement voidable or subject to termination, at the option of the Chief Procurement Officer.

For purposes of Section 15.01(j), a natural person with a material interest in Developer is one owning in excess of seven and a half percent (7.5%) of Developer's or Developer's ultimate parent entity, if any, issued and outstanding ownership shares or interests.

15.02 **Remedies.** Upon the occurrence of an Event of Default, the City may terminate this Agreement and all related agreements, and may suspend disbursement of City Funds. The City may, in any court of competent jurisdiction by any action or proceeding at law or in equity, pursue and secure any available remedy, including but not limited to injunctive relief or the specific performance of the agreements contained herein. To the extent permitted by law, and under allowed under the Lease, the City may also lien Developer's leasehold interest in the Property.

15.03 **Curative Period.**

(a) In the event Developer fails to perform a monetary covenant which Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default will not be deemed to have occurred unless Developer has failed to perform such monetary covenant within 10 days of its receipt of a written notice from the City specifying that it has failed to perform such monetary covenant.

(b) In the event Developer fails to perform a non-monetary covenant which Developer is required to perform under this Agreement, an Event of Default will not be deemed to have occurred unless Developer has failed to cure such default within 30 days of its receipt of a written notice from the City specifying the nature of the default; provided, however, with respect to those non-monetary defaults which are not capable of being cured within such 30 day period, Developer will not be deemed to have committed an Event of Default under this Agreement if it has commenced to cure the alleged default within such 30 day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured.

**ARTICLE SIXTEEN: MORTGAGING OF THE PROJECT**

**16.01 Mortgaging of the Project.** Any and all mortgages or deeds of trust in place as of the date hereof with respect to the Project or any portion thereof are listed on Exhibit I hereto (including but not limited to mortgages made prior to or on the date hereof in connection with Lender Financing, if any) and are referred to herein as the "**Existing Mortgages.**" Any mortgage or deed of trust that Developer may hereafter elect to execute and record or execute and permit to be recorded against the Project or any portion thereof without obtaining the prior written consent of the City is referred to herein as a "**New Mortgage.**" Any mortgage or deed of trust that Developer may hereafter elect to execute and record or execute and permit to be recorded against the Project or any portion thereof with the prior written consent of the City is referred to herein as a "**Permitted Mortgage.**" It is hereby agreed by and between the City and Developer as follows:

(a) If a mortgagee or any other party shall succeed to Developer's interest in the Project or any portion thereof by the exercise of remedies under a mortgage or deed of trust (other than an Existing Mortgage or a Permitted Mortgage) whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of Developer's interest hereunder in accordance with Section 18.15 hereof, the City may, but will not be obligated to, attorn to and recognize such party as the successor in interest to Developer for all purposes under this Agreement and, unless so recognized by the City as the successor in interest, such party will be entitled to no rights or benefits under this Agreement, but such party will be bound by those provisions of this Agreement that are covenants expressly running with the land.

(b) If any mortgagee or any other party shall succeed to Developer's interest in the Project or any portion thereof by the exercise of remedies under an Existing Mortgage or a Permitted Mortgage, whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of Developer's interest hereunder in accordance with Section 18.15 hereof, then the City hereby agrees to attorn to and recognize such party as the successor in interest to Developer for all purposes under this Agreement so long as such party accepts all of the executory obligations and liabilities of "Developer" hereunder. Notwithstanding any other provision of this Agreement to the contrary, it is understood and agreed that if such party accepts an assignment of Developer's interest under this Agreement, such party will have no liability under this Agreement for any Event of Default of Developer which occurred prior to the time such party succeeded to the interest of Developer under this Agreement, in which case Developer will be solely responsible. However, if such mortgagee under a Permitted Mortgage or an Existing Mortgage does not expressly accept an assignment of Developer's interest hereunder, such party will be entitled to no rights and benefits under this Agreement, and such party will be bound only by those provisions of this Agreement, if any, which are covenants expressly running with the land.

(c) Prior to the issuance by the City to Developer of a Certificate under Article Seven hereof, no New Mortgage will be executed with respect to the Project or any portion thereof without the prior written consent of the Commissioner of HED. A feature of such consent will be that any New Mortgage will subordinate its mortgage lien to the covenants in favor of the City





Johnston Greene, LLC  
Attn: Erika L. Kruse, Esq.  
542 South Dearborn Street, Suite 1100  
Chicago, IL 60605  
312/348-7637  
312/348-7664 (Fax)

or at such other address or telecopier/fax or telephone number or to the attention of such other person as the party to whom such information pertains may hereafter specify for the purpose in a notice to the other specifically captioned "Notice of Change of Address" and, (D) be effective or deemed delivered or furnished: (i) if given by telecopier/fax, when such communication is confirmed to have been transmitted to the appropriate telecopier/fax number specified in this section, and confirmation is deposited into the U.S. Mail, postage prepaid to the recipient's address shown herein; (ii) if given by hand delivery or overnight courier service, when left at the address of the addressee, properly addressed as provided above.

17.02 **Developer Requests for City or HED Approval.** Any request under this Agreement for City or HED approval submitted by Developer will comply with the following requirements:

- (a) be in writing and otherwise comply with the requirements of Section 17.01 (Notices);
- (b) expressly state the particular document and section thereof relied on by Developer to request City or HED approval;
- (c) if applicable, note in bold type that failure to respond to Developer's request for approval by a certain date will result in the requested approval being deemed to have been given by the City or HED;
- (d) if applicable, state the outside date for the City's or HED's response; and
- (e) be supplemented by a delivery receipt or time/date stamped notice or other documentary evidence showing the date of delivery of Developer's request.

## ARTICLE EIGHTEEN: ADDITIONAL PROVISIONS

18.01 **Amendments.** This Agreement and the Schedules and Exhibits attached hereto may not be modified or amended except by an agreement in writing signed by the parties; provided, however, that the City in its sole discretion, may amend, modify or supplement the Redevelopment Plan, which is Exhibit C hereto. For purposes of this Agreement, Developer is only obligated to comply with the Redevelopment Plan as in effect on the date of this Agreement.

It is agreed that no material amendment or change to this Agreement shall be made or be effective unless ratified or authorized by an ordinance duly adopted by the City Council. The term “material” for the purpose of this Section 18.01 shall be defined as any deviation from the terms of the Agreement which operates to cancel or otherwise reduce any developmental, construction or job-creating obligations of Developer (including those set forth in Sections 10.02 and 10.03 hereof) by more than five percent (5%) or materially changes the Project site or character of the Project or any activities undertaken by Developer affecting the Project site, the Project, or both, or increases any time agreed for performance by the Developer by more than 90 days.

18.02 **Complete Agreement, Construction, Modification.** This Agreement, including any exhibits and the other agreements, documents and instruments referred to herein or contemplated hereby, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all previous negotiations, commitments and writings with respect to such subject matter. This Agreement and the Schedules and Exhibits attached hereto may not be contradicted by evidence of prior, contemporaneous, or subsequent verbal agreements of the parties. There are no unwritten verbal agreements between the parties.

18.03 **Limitation of Liability.** No member, elected or appointed official or employee or agent of the City shall be individually, collectively or personally liable to Developer or any successor in interest to Developer in the event of any default or breach by the City or for any amount which may become due to Developer or any successor in interest, from the City or on any obligation under the terms of this Agreement.

18.04 **Further Assurances.** Developer agrees to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications as may become necessary or appropriate to carry out the terms, provisions and intent of this Agreement, and to accomplish the transactions contemplated in this Agreement.

18.05 **Waivers.** No party hereto will be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by such party. No delay or omission on the part of a party in exercising any right will operate as a waiver of such right or any other right unless pursuant to the specific terms hereof. A waiver by a party of a provision of this Agreement will not prejudice or constitute a waiver of such party’s right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by a party, nor any course of dealing between the parties hereto, will constitute a waiver of any of such parties’ rights or of any obligations of any other party hereto as to any future transactions.

18.06 **Remedies Cumulative.** The remedies of a party hereunder are cumulative and the exercise of any one or more of the remedies provided for herein must not be construed as a waiver of any other remedies of such party unless specifically so provided herein.

18.07 **Parties in Interest/No Third Party Beneficiaries.** The terms and provisions of this Agreement are binding upon and inure to the benefit of, and are enforceable by, the respective

successors and permitted assigns of the parties hereto. This Agreement will not run to the benefit of, or be enforceable by, any person or entity other than a party to this Agreement and its successors and permitted assigns. This Agreement should not be deemed to confer upon third parties any remedy, claim, right of reimbursement or other right. Nothing contained in this Agreement, nor any act of the City or the Developer, will be deemed or construed by any of the parties hereto or by third persons, to create any relationship of third party beneficiary, principal, agent, limited or general partnership, joint venture, or any association or relationship involving the City or Developer.

18.08 **Titles and Headings.** The Article, section and paragraph headings contained herein are for convenience of reference only and are not intended to limit, vary, define or expand the content thereof.

18.09 **Counterparts.** This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, with the same effect as if all parties had signed the same document. All such counterparts shall be deemed an original, must be construed together and will constitute one and the same instrument.

18.10 **Counterpart Facsimile Execution.** For purposes of executing this Agreement, a document signed and transmitted by facsimile machine will be treated as an original document. The signature of any party thereon will be considered as an original signature, and the document transmitted will be considered to have the same binding legal effect as an original signature on an original document. At the request of either party, any facsimile document will be re-executed by other parties in original form. No party hereto may raise the use of a facsimile machine as a defense to the enforcement of this Agreement or any amendment executed in compliance with this section. This section does not supersede the requirements of Article Seventeen: Notices.

18.11 **Severability.** If any provision of this Agreement, or the application thereof, to any person, place or circumstance, is held by a court of competent jurisdiction to be invalid, unenforceable or void, the remainder of this Agreement and such provisions as applied to other persons, places and circumstances will remain in full force and effect only if, after excluding the portion deemed to be unenforceable, the remaining terms will provide for the consummation of the transactions contemplated hereby in substantially the same manner as originally set forth herein. In such event, the parties will negotiate, in good faith, a substitute, valid and enforceable provision or agreement which most nearly affects the parties' intent in entering into this Agreement.

18.12 **Conflict.** In the event of a conflict between any provisions of this Agreement and the provisions of the TIF Ordinances in effect as of the date of this Agreement, such ordinance(s) will prevail and control.

18.13 **Governing Law.** This Agreement is governed by and construed in accordance with the internal laws of the State, without regard to its conflicts of law principles.

18.14 **Form of Documents.** All documents required by this Agreement to be submitted, delivered or furnished to the City will be in form and content satisfactory to the City.

18.15 **Assignment.** Prior to the issuance by the City to Developer of a Certificate, Developer may not sell, assign or otherwise transfer its interest in this Agreement in whole or in part without the written consent of the City; provided, however, that Developer may assign, on a collateral basis, the right to receive City Funds to a lender providing Lender Financing, if any, which has been identified to the City as of the Closing Date. Any successor in interest to Developer under this Agreement will certify in writing to the City its agreement to abide by all remaining executory terms of this Agreement, including but not limited to Section 8.16 (Real Estate Provisions) and Section 8.29 (Survival of Covenants) hereof, for the Term of the Agreement. Developer hereby consents to the City's transfer, assignment or other disposal of this Agreement at any time in whole or in part.

18.16 **Binding Effect.** This Agreement is binding upon Developer, the City and their respective successors and permitted assigns (as provided herein) and will inure to the benefit of Developer, the City and their respective successors and permitted assigns (as provided herein).

18.17 **Force Majeure.** Neither the City nor Developer nor any successor in interest to either of them will be considered in breach of or in default of its obligations under this Agreement in the event of any delay caused by damage or destruction by fire or other casualty, war, acts of terrorism, imposition of martial law, plague or other illness, bank holidays or stock or commodity exchange closures or wire transfer interruptions, capital controls, civil disorders, rebellions or revolutions, strike, shortage of material, power interruptions or blackouts, fuel shortages or rationing, adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or for an abnormal duration, tornadoes or cyclones, and other events or conditions beyond the reasonable control of the party affected which in fact interferes with the ability of such party to discharge its obligations hereunder, except to the extent that, the non-performing party is at fault in failing to prevent or causing such default or delay; and provided that such default or delay cannot reasonably be circumvented by the non-performing party through the use of alternative sources, work around plans or other means. The individual or entity relying on this section with respect to any such delay will, upon the occurrence of the event causing such delay, immediately give written notice to the other parties to this Agreement. The individual or entity relying on this section with respect to any such delay may rely on this section only to the extent of the actual number of days of delay effected by any such events described above.

18.18 **Exhibits and Schedules.** All of the exhibits and schedules to this Agreement are incorporated herein by reference. Any exhibits and schedules to this Agreement will be construed to be an integral part of this Agreement to the same extent as if the same has been set forth verbatim herein.

18.19 **Business Economic Support Act.** Under the Business Economic Support Act (30 ILCS 760/1 et seq. (2006 State Bar Edition), as amended), if Developer is required to provide notice under the WARN Act, Developer will, in addition to the notice required under the WARN Act, provide at the same time a copy of the WARN Act notice to the Governor of the State, the Speaker and Minority Leader of the House of Representatives of the State, the President and Minority Leader of the Senate of State, and the Mayor of each municipality where Developer has locations in the State. Failure by Developer to provide such notice as described above may result in the termination of all or a part of the payment or reimbursement obligations of the City set forth herein.

18.20 **Approval.** Wherever this Agreement provides for the approval or consent of the City, HED or the Commissioner, or any matter is to be to the City's, HED's or the Commissioner's satisfaction, unless specifically stated to the contrary, such approval, consent or satisfaction shall be made, given or determined by the City, HED or the Commissioner in writing and in the reasonable discretion thereof. The Commissioner or other person designated by the Mayor of the City shall act for the City or HED in making all approvals, consents and determinations of satisfaction, granting the Certificate or otherwise administering this Agreement for the City.

18.21 **Construction of Words.** The use of the singular form of any word herein includes the plural, and vice versa. Masculine, feminine and neuter pronouns are fully interchangeable, where the context so requires. The words "herein", "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision. The term "include" (in all its forms) means "include, without limitation" unless the context clearly states otherwise. The word "shall" means "has a duty to."

18.22 **Date of Performance.** If any date for performance under this Agreement falls on a Saturday, Sunday or other day which is a holiday under Federal law or under State Law, the date for such performance will be the next succeeding Business Day.

18.23 **Survival of Agreements.** Except as otherwise contemplated by this Agreement, all covenants and agreements of the parties contained in this Agreement will survive the Closing Date.

18.24 **Equitable Relief.** In addition to any other available remedy provided for hereunder, at law or in equity, to the extent that a party fails to comply with the terms of this Agreement, any of the other parties hereto shall be entitled to injunctive relief with respect thereto, without the necessity of posting a bond or other security, the damages for such breach hereby being acknowledged as unascertainable.

18.25 **Venue and Consent to Jurisdiction.** If there is a lawsuit under this Agreement, each party hereto agrees to submit to the jurisdiction of the courts of Cook County, the State of Illinois and the United States District Court for the Northern District of Illinois.

18.26 **Costs and Expenses.** In addition to and not in limitation of the other provisions of this Agreement, Developer agrees to pay upon demand the City's out-of-pocket expenses, including attorneys' fees, incurred in connection with the enforcement of the provisions of this Agreement but only if the City is determined to be the prevailing party in an action for enforcement. This includes, subject to any limits under applicable law, reasonable attorneys' fees and legal expenses, whether or not there is a lawsuit, including reasonable attorneys' fees for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. Developer also will pay any court costs, in addition to all other sums provided by law.

[The remainder of this page is intentionally left  
blank and the signature page follows]

**IN WITNESS WHEREOF**, the parties hereto have caused this Redevelopment Agreement to be signed on or as of the day and year first above written.

**DEVRY INC., a Delaware corporation**

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

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

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

**CITY OF CHICAGO**

By: \_\_\_\_\_  
Commissioner,  
Department of Housing and Economic Development





STATE OF ILLINOIS        )  
  ) SS  
COUNTY OF COOK        )

I, William A. Nyberg, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that \_\_\_\_\_, personally known to me to be the \_\_\_\_\_ Commissioner of the Department of Housing and Economic Development of the City of Chicago (the "City"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed, and delivered said instrument pursuant to the authority given to him/her by the City, as him/her free and voluntary act of the City, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this \_\_\_ day of \_\_\_\_\_, 2012.

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

My Commission Expires \_\_\_\_\_

(Seal)

**LASALLE CENTRAL  
REDEVELOPMENT PROJECT AREA**

**DEVRY INC.  
ON-LINE OPERATIONS FACILITY PROJECT**

Redevelopment Agreement  
dated as of \_\_\_\_\_, 2012

**SCHEDULE A**

**DEFINITIONS**

For purposes of this Agreement the following terms shall have the meanings stated forth below:

**“Act”** has the meaning defined in Recital B.

**“Actual Residents of the City”** has the meaning defined for such phrase in Section 10.02(c).

**“Affiliate(s)”** when used to indicate a relationship with a specified person or entity, means a person or entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such specified person or entity, and a person or entity shall be deemed to be controlled by another person or entity, if controlled in any manner whatsoever that results in control in fact by that other person or entity (or that other person or entity and any person or entities with whom that other person or entity is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise.

**“Agreement”** has the meaning defined in the Agreement preamble.

**“Annual Compliance Report”** shall mean a signed report from Developer to the City:  
(a) itemizing each of Developer’s obligations under the Agreement during the preceding calendar year; (b) certifying Developer’s compliance or noncompliance with such obligations; (c) attaching evidence (whether or not previously submitted to the City) of such compliance or noncompliance; and (d) certifying that Developer is not in default with respect to any provision of the Agreement, the agreements evidencing the Lender Financing, if any, or any related agreements; provided, that the obligations to be covered by the Annual Compliance Report shall include the following: (1) compliance with the Occupancy and Operations Covenant (**Section 8.18**); (2) compliance with the Jobs Covenant (**Section 8.19**); (3) delivery of updated insurance certificates, if applicable

(**Section 8.11**); (4) delivery of evidence of payment of Non-Governmental Charges, if applicable (**Section 8.12**); (5) delivery of evidence of LEED Certification has been obtained (**Section 3.14(b)**) and (6) compliance with all other executory provisions of the RDA.

**“Available Incremental Taxes”** shall mean for each payment, an amount equal to the Incremental Taxes on deposit in the LaSalle Central Redevelopment Project Area TIF-Fund as of December 31<sup>st</sup> of the calendar year prior to the year in which the Requisition Form for such payment is received by the City, and which are available for the payment of TIF-Funded Improvements, after deducting: (i) the TIF District Administration Fee; (ii) all Incremental Taxes from a New Project pledged or allocated to assist the New Project, and (iii) all Incremental Taxes previously allocated or pledged by the City before the date of this Agreement including, without limitation, Incremental Taxes allocated or pledged to: NAVTEQ Corporation, The Ziegler Companies, Inc., MillerCoors LLC, UAL Corporation, United Air Lines, Inc., Lyric Opera of Chicago, Chicago Mercantile Exchange, Inc., Randolph Tower City Apartments, Inc., Accretive Health, Inc., JMC Steel Group, Inc. and/or any of their respective Affiliates, and (iv) debt service payments with respect to the Bonds, if any or the TIF Bonds, if any.

**“Bonds”** has the meaning defined in Section 8.05.

**“Bond Ordinance”** means the City Ordinance authorizing the issuance of Bonds.

**“Building”** has the meaning defined in Recital D.

**“Business Day”** means any day other than Saturday, Sunday or a legal holiday in the State.

**“Certificate”** (and also from time to time referred to as the **“COC”**) has the meaning defined in Section 7.01 and cross-referenced in Section 4.03(b)(ii)(A).

**“Change Order”** means any amendment or modification to the Scope Drawings, the Plans and Specifications, or the Project Budget (all as defined below) within the scope of Section 3.03, 3.04 and 3.05.

**“City”** has the meaning defined in the Agreement preamble.

**“City Contract”** has the meaning defined in Section 8.01(l).

**“City Council”** means the City Council of the City of Chicago as defined in Recital C.

**“City Funds”** means the funds described in Section 4.03(a).

**“City Group Member”** has the meaning defined in Section 8.23.

**"City Hiring Plan"** has the meaning defined in Section 8.28.

**"City Requirements"** has the meaning defined in Section 3.07.

**"Closing Date"** means the date of execution and delivery of this Agreement by all parties hereto, which shall be deemed to be the date appearing in the first paragraph of this Agreement.

**"Commissioner"** or **"Commissioner of HED"** means that individual holding the office and exercising the responsibilities of the Commissioner or Acting Commissioner of the City's Department of Housing and Economic Development and any successor City Department.

**"Construction Contract"** means that certain contract substantially in the form of Exhibit G, to be entered into between the Developer and the General Contractor (as defined below) providing for construction of, among other things, the TIF-Funded Improvements. The parties to this Agreement may agree that the Construction Contract may be provided after Closing Date.

**"Construction Program"** has the meaning defined in Section 10.03(a).

**"Contribution"** has the meaning defined in Section 8.27.

**"Corporation Counsel"** means the City's Department of Law.

**"Developer"** has the meaning defined in the Agreement preamble.

**"EDS"** means the City's Economic Disclosure Statement and Affidavit, on the City's then-current form, whether submitted in paper or via the City's online submission process.

**"Employer(s)"** has the meaning defined in Section 10.01.

**"Employment Plan"** has the meaning defined in Section 5.12.

**"Environmental Laws"** means any and all Federal, State or local statutes, laws, regulations, ordinances, codes, rules, orders, licenses, judgments, decrees or requirements relating to public health and safety and the environment now or hereafter in force, as amended and hereafter amended, including but not limited to: (i) the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.); (ii) any so-called "Superfund" or "Superlien" law; (iii) the Hazardous Materials Transportation Act (49 U.S.C. Section 1802 et seq.); (iv) the Resource Conservation and Recovery Act (42 U.S.C. Section 6902 et seq.); (v) the Clean Air Act (42 U.S.C. Section 7401 et seq.); (vi) the Clean Water Act (33 U.S.C. Section 1251 et seq.); (vii) the Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.); (viii) the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 136 et seq.); (ix) the Illinois

Environmental Protection Act (415 ILCS 5/1 et seq.); and (x) the Municipal Code of Chicago (as defined below), and including the following Municipal Code Sections: 7-28-390, 7-28-440, 11-4-1410, 11-4-1420, 11-4-1450, 11-4-1500, 11-4-1530, 11-4-1550 or 11-4-1560.

**"Equity"** means funds of Developer (other than funds derived from Lender Financing (as defined below)) irrevocably available for the Project, in the amount stated in Section 4.01 hereof, which amount may be increased under Section 4.06 (Cost Overruns).

**"Event of Default"** has the meaning defined in Section 15.01.

**"Existing Mortgages"** has the meaning defined in Section 16.01.

**"Financial Statements"** means the financial statements regularly prepared by Developer, if any, and including, but not limited to, a balance sheet, income statement and cash-flow statement, in accordance with generally accepted accounting principles and practices consistently applied throughout the appropriate periods, for business enterprises operating for profit in the United States of America, and also includes financial statements (both audited and unaudited) prepared by a certified public accountant, together with any audit opinion and management letter issued by Developer's auditor.

**"FOIA"** has the meaning defined in Section 8.29.

**"Full Time Equivalent Employee"** or **"FTE"** shall mean an employee of Developer or an Affiliate (or, with respect to job shares or similar work arrangements, two such employees counted collectively as a single FTE) who is employed in a permanent position at least 35 hours per week at the Project, excluding: (a) persons engaged as or employed by independent contractors, third party service providers or consultants and (b) persons employed or engaged by Developer, an Affiliate, or by third parties in positions ancillary to Developer's operations including, without limitation, food service workers, security guards, cleaning personnel, or similar positions at the Project.

**"General Contractor"** means the general contractor(s) hired by Developer under Section 6.01.

**"Governmental Charge"** has the meaning defined in Section 8.16(a)(i).

**"Hazardous Materials"** means any toxic substance, hazardous substance, hazardous material, hazardous chemical or hazardous, toxic or dangerous waste defined or qualifying as such in (or for the purposes of) any Environmental Law, or any pollutant or contaminant, and shall include, but not be limited to, petroleum (including crude oil), any radioactive material or by-product material, polychlorinated biphenyls and asbestos in any form or condition.

**"HED"** has the meaning defined in the Agreement preamble.

**"Human Rights Ordinance"** has the meaning defined in Section 10.01(a).

**"Identified Parties"** has the meaning defined in Section 8.27.

**"IGO Hiring Oversight"** has the meaning defined in Section 8.28.

**"Incremental Taxes"** means such ad valorem taxes which, pursuant to the TIF Adoption Ordinance and Section 5/11-74.4-8(b) of the Act, are allocated to, and when collected are paid to, the Treasurer of the City for deposit by the Treasurer into a special tax allocation fund established to pay Redevelopment Project Costs (as defined below) and obligations incurred in the payment thereof, such fund for the purposes of this Agreement being the LaSalle Central Redevelopment Project Area Special Tax Allocation Fund.

**"Incremental Taxes from a New Project"** means: (a) individually, Incremental Taxes generated by the equalized assessed value ("EAV") of the parcel(s) comprising a New Project over and above the initial EAV of such affected parcel(s) as certified by the Cook County Clerk in the certified initial EAV of all tax parcels in the Redevelopment Area and (b) collectively, the sum of Incremental Taxes from a New Project for all New Projects, if there are multiple New Projects.

**"Indemnitee"** and **"Indemnitees"** have the respective meanings defined in Section 13.01.

**"Labor Department"** has the meaning defined in Section 8.08.

**"LaSalle Central Redevelopment Project Area Special Tax Allocation Fund"** means the special tax allocation fund created by the City in connection with the Redevelopment Area into which the Incremental Taxes (as defined above) will be deposited.

**"Lease"** has the meaning defined in Recital D. The Lease will be for not less than 77,000 square feet (53,000 square feet on the 7<sup>th</sup> Floor and 24,000 square feet on the 8<sup>th</sup> Floor) of Building, and will be by and between Developer and South Riverside Building, LLC as Landlord.

**"LEED"** has the meaning defined in Section 3.14(a).

**"LEED-Civ2"** has the meaning defined in Section 3.14(a).

**"Lender Financing"** means funds borrowed by Developer from lenders, if any, and available to pay for costs of the Project, in the amount stated in Section 4.01.

**"Local Records Act"** has the meaning defined in Section 8.29.

**"Material Amendment"** shall mean an amendment of any Lease the net effect of which is to directly or indirectly do any of the following with respect to the Lease: (a) materially reduce, increase, abate or rebate base rent, other amounts deemed rent, operating expense payments, tax payments, tenant improvement allowances or credits, or other monetary amounts payable (or monetary credits) under such Lease, or otherwise confer or take away any material economic benefit, in each case taking into account all direct economic effects under such Lease of the amendment; (b) shorten the initial term of such Lease or grant additional early termination rights that, if exercised, would shorten the initial term of such Lease; or (c) [additional provisions may follow based on review of signed Lease].

**"Mayor"** has the meaning defined in Section 8.27.

**"MBE(s)"** has the meaning defined in Section 10.03(b).

**"MBE/WBE Program"** has the meaning defined in Section 10.03(a).

**"Minority-Owned Business"** has the meaning defined in Section 10.03(b).

**"Municipal Code"** and also **"MCC"** means the Municipal Code of the City of Chicago as presently in effect and as hereafter amended from time to time.

**"New Mortgage"** has the meaning defined in Section 16.01.

**"New Project"** means a development project: (a) for which the related redevelopment agreement is recorded on or after the date of this Agreement and (b) which will receive assistance in the form of Incremental Taxes; provided, however, that "New Project" shall not include any development project that is or will be exempt from the payment of ad valorem property taxes.

**"Non-Governmental Charges"** means all non-governmental charges, liens, claims, or encumbrances relating to Developer, the Property or the Project.

**"Other Agreement"** has the meaning defined in Section 8.27.

**"Owners"** has the meaning defined in Section 8.27.

**"Permitted Liens"** means those liens and encumbrances against the Property and/or the Project stated in Exhibit H.

**"Permitted Mortgage"** has the meaning defined in Section 16.01.

**"Plan Adoption Ordinance"** has the meaning defined in Recital C.

**"Plans and Specifications"** means final construction documents containing a site plan



and working drawings and specifications for the Project, as submitted to the City as the basis for obtaining building permits for the Project.

**“Political fundraising committee”** has the meaning defined in Section 8.27.

**“Prior Expenditure(s)”** has the meaning defined in Section 4.05.

**“Procurement Program”** has the meaning defined in Section 10.03(a).

**“Project”** has the meaning defined in Recital D.

**“Project Budget”** means the budget stated in Exhibit D-1, showing the total cost of the Project by line item, as furnished by Developer to HED, in accordance with Section 3.03.

**“Property”** has the meaning defined in Recital D.

**“Redevelopment Area”** means the redevelopment project area as legally described in Exhibit A.

**“Redevelopment Plan”** has the meaning defined in Recital E.

**“Redevelopment Project Costs”** means redevelopment project costs as defined in Section 5/11-74.4-3(q) of the Act that are included in the budget stated in the Redevelopment Plan or otherwise referenced in the Redevelopment Plan.

**“Requisition Form”** has the meaning defined in Section 4.03(b)(iv)(D).

**“Scope Drawings”** means preliminary construction documents containing a site plan and preliminary drawings and specifications for the Project.

**“Shakman Accord”** has the meaning defined in Section 8.28.

**“State”** means the State of Illinois as defined in Recital A.

**“Sub-owners”** has the meaning defined in Section 8.27.

**“Term of the Agreement”** means the period of time commencing on the date of the Certificate and ending 10 years thereafter, unless extended as provided in Section 8.19(b).

**“TIF Adoption Ordinance”** has the meaning stated in Recital C.

**“TIF Bonds”** has the meaning defined for such term in Recital F.

**"TIF Bond Ordinance"** has the meaning stated in Recital F.

**"TIF Bond Proceeds"** has the meaning stated in Recital F.

**"TIF District Administration Fee"** has the meaning described in Section 4.05(b).

**"TIF Ordinances"** has the meaning stated in Recital C.

**"TIF-Funded Improvements"** means those improvements of the Project which: (i) qualify as Redevelopment Project Costs, (ii) are eligible costs under the Redevelopment Plan and (iii) the City has agreed to pay for out of the City Funds, subject to the terms of this Agreement, and (iv) are stated in Exhibit E.

**"Title Company"** means \_\_\_\_\_

**"Title Policy"** means a leasehold title insurance policy in the most recently revised ALTA or equivalent form, showing Developer as the insured, noting the recording of this Agreement as an encumbrance against the Property, and a subordination agreement in favor of the City with respect to previously recorded liens against the Property related to Lender Financing, if any, issued by the Title Company.

**"Under Assessment Complaint"** has the meaning set forth in Section 8.16(c)(iv).

**"USGBC"** has the meaning defined in Section 3.14(a).

**"WARN Act"** means the Worker Adjustment and Retraining Notification Act (29 U.S.C. Section 2101 et seq.).

**"WBE(s)"** has the meaning defined in Section 10.03(b).

**"Women-Owned Business"** has the meaning defined in Section 10.03(b).

**LaSalle Central  
REDEVELOPMENT PROJECT AREA**

**DEVRY INC.  
ON-LINE OPERATIONS FACILITY PROJECT**

Redevelopment Agreement  
dated as of \_\_\_\_\_, 2012

**SCHEDULE B**

**ARTICLE TWELVE: INSURANCE REQUIREMENTS**

12.01 **Insurance.** Developer will provide and maintain, or cause to be provided and maintained, at Developer's own expense, during the Term of this Agreement, the insurance coverages and requirements specified below, insuring all operations related to the Agreement.

(a) Prior to Execution and Delivery of this Agreement

(i) Workers' Compensation and Employers Liability Insurance

Workers Compensation and Employers Liability Insurance, as prescribed by applicable law covering all employees who are to provide a service under this Agreement in statutorily prescribed limits and Employers Liability coverage with limits of not less than \$100,000 each accident or illness.

(ii) Commercial General Liability Insurance (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$1,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages must include the following: All premises and operations, products/completed operations, independent contractors, separation of insureds, defense, and contractual liability (with no limitation endorsement). The City is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

(b) Construction. Prior to the construction of any portion of the Project, Developer will cause its architects, contractors, sub-contractors, project managers and other parties constructing the Project to procure and maintain the following kinds and amounts of insurance:

(i) Workers Compensation and Employers Liability Insurance

Workers Compensation and Employers Liability Insurance, as prescribed by applicable law covering all employees who are to provide a service under this Agreement in statutorily prescribed limits and Employers Liability coverage with limits of not less than \$500,000 each accident or illness.

(ii) Commercial General Liability Insurance (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$2,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages must include the following: All premises and operations, products/completed operations (for a minimum of 2 years following Project completion), explosion, collapse, underground, independent contractors, separation of insureds, defense, and contractual liability (with no limitation endorsement). The City is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

(iii) Automobile Liability Insurance (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, Developer must cause each contractor to provide Automobile Liability Insurance with limits of not less than \$2,000,000 per occurrence for bodily injury and property damage. The City is to be named as an additional insured on a primary, non-contributory basis.

(iv) Railroad Protective Liability Insurance

When any work is to be done adjacent to or on railroad or rail transit property or within 50 feet of railroad or rail transit property, contractor must provide, or cause to be provided with respect to the operations that the contractor performs, Railroad Protective Liability Insurance in the name of railroad or transit entity. The policy must have limits of not less than \$2,000,000 per occurrence and \$6,000,000 in the aggregate for losses arising out of injuries to or death of all persons, and for damage to or destruction of property, including the loss of use thereof.

(v) All Risk Builders Risk Insurance

When the contractor undertakes any construction, including improvements, betterments, and/or repairs, Developer must cause each contractor to provide, or cause to be provided All Risk Blanket Builders Risk Insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be part of the Project. Coverages shall include but are not limited to the following: collapse, boiler and machinery if applicable, flood including surface water backup. The City will be named as an additional insured and loss payee.

(vi) Professional Liability

When any architects, engineers, construction managers or other professional consultants perform work in connection with this Agreement, Developer must cause such parties to maintain Professional Liability Insurance covering acts, errors, or omissions which shall be maintained with limits of not less than \$1,000,000. Coverage must include contractual liability. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work performed in connection with this Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of 2 years.

(vii) Valuable Papers Insurance

When any plans, designs, drawings, specifications and documents are produced or used under this Agreement by Developer's architects, contractors, sub-contractors, project managers and other parties constructing the Project, Developer will cause such parties to maintain Valuable Papers Insurance which must be maintained in an amount to insure against any loss whatsoever, and which must have limits sufficient to pay for the re-creations and reconstruction of such records.

(viii) Contractor's Pollution Liability

When any environmental remediation work is performed which may cause a pollution exposure, Developer will cause the party performing such work to maintain contractor's Pollution Liability insurance with limits of not less than \$1,000,000 insuring bodily injury, property damage and environmental remediation, cleanup costs and disposal. When policies are

renewed, the policy retroactive date must coincide with or precede, start of work on the Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of 1 year. The City is to be named as an additional insured on a primary, non-contributory basis.

(ix) Blanket Crime

Developer must provide Crime Insurance or equivalent covering all persons handling funds under this Agreement, against loss by dishonesty, robbery, destruction or disappearance, computer fraud, credit card forgery, and other related crime risks. The policy limit must be written to cover losses in the amount of the maximum monies collected or received and in the possession of Developer at any given time.

(c) Other Insurance Required.

- (i) Prior to the execution and delivery of this Agreement and during construction of the Project, All Risk Property Insurance in the amount of the full replacement value of the Project. The City is to be named as an additional insured.
- (ii) Post-construction, throughout the Term of the Agreement, All Risk Property Insurance, including improvements and betterments in the amount of full replacement value of the Project. Coverage extensions shall include business interruption/loss of rents, flood and boiler and machinery, if applicable. The City is to be named as an additional insured.

(d) Other Requirements

- (i) Developer will furnish the City of Chicago, Department of Housing and Economic Development, City Hall, Room 1000, 121 North LaSalle Street, Chicago, Illinois 60602, original Certificates of Insurance evidencing the required coverage to be in force on the date of this Agreement, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the Term of this Agreement. Developer will submit evidence of insurance on the City Insurance Certificate Form or commercial equivalent prior to closing. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. The failure of the City to obtain certificates or other insurance evidence from Developer must not be deemed to be a waiver by the City. Developer will advise all insurers of the Agreement

provisions regarding insurance. Non-conforming insurance will not relieve Developer of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Agreement, and the City retains the right to terminate this Agreement until proper evidence of insurance is provided.

- (ii) The insurance will provide for 60 days prior written notice to be given to the City in the event coverage is substantially changed, canceled, or non-renewed.
- (iii) Any and all deductibles or self insured retentions on referenced insurance coverages are borne by Developer.
- (iv) Developer agrees that insurers must waive rights of subrogation against the City, its employees, elected officials, agents, or representatives.
- (v) Developer expressly understands and agrees that any coverages and limits furnished by Developer will in no way limit Developer's liabilities and responsibilities specified within the Agreement documents or by law.
- (vi) Developer expressly understands and agrees that Developer's insurance is primary and any insurance or self insurance programs maintained by the City will not contribute with insurance provided by Developer under the Agreement.
- (vii) The required insurance will not be limited by any limitations expressed in the indemnification language herein or any limitation placed on the indemnity therein given as a matter of law.
- (viii) Developer will require its general contractor and all subcontractors to provide the insurance required herein or Developer may provide the coverages for the contractor or subcontractors. All contractors and subcontractors will be subject to the same requirements of Developer unless otherwise specified herein.
- (ix) If Developer, contractor or subcontractor desires additional coverages, Developer, contractor and each subcontractor will be responsible for the acquisition and cost of such additional protection.
- (x) The City Risk Management Department maintains the right to modify, delete, alter or change these requirements, so long as such action does not, without Developer's written consent, increase such requirements.

**LASALLE CENTRAL  
REDEVELOPMENT PROJECT AREA**

**DEVRY INC.  
ON-LINE OPERATIONS FACILITY PROJECT**

Redevelopment Agreement  
dated as of \_\_\_\_\_, 2012

**EXHIBIT A**

**REDEVELOPMENT AREA LEGAL DESCRIPTION**

A legal description of the Redevelopment Area is attached to this exhibit cover sheet.



SECTION 5. Effective Date. This ordinance shall be in full force and effect immediately upon its passage.

Exhibit 1 referred to in this ordinance reads as follows:

*Exhibit 1.*

*Corrected And Reformed Legal Description.*

That part of the south half of Section 9, together with that part of the north half of Section 16, Township 39 North, Range 14 East of the Third Principal Meridian all taken as a tract of land bounded and described as follows:

beginning at the point of intersection of the east line of Canal Street with the south line of Lake Street in the east half of the southwest quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, and running; thence east along said south line of Lake Street to the northerly extension of the east line of the 18 foot wide alley east of Canal Street; thence south along said northerly extension of the east line of the 18 foot wide alley east of Canal Street and the east line thereof to the north line of Randolph Street; thence west along said north line of Randolph Street to the east line of Canal Street; thence south along said east line of Canal Street to the easterly extension of the north line of the south 275.06 feet of Block 50 in the Original Town of Chicago in Section 9; thence west along said easterly extension of the north line of the south 275.06 feet of Block 50 in the Original Town of Chicago to the west line of Canal Street; thence south along said west line of Canal Street to the south line of Madison Street; thence east along said south line of Madison Street to the east line of Wacker Drive; thence north along said east line of Wacker Drive to the south line of Calhoun Place; thence east along said south line of Calhoun Place to the west line of Franklin Street; thence south along said west line of Franklin Street to the north line of Monroe Street; thence west along said north line of Monroe Street to the northerly extension of the west line of the easterly 18 feet of Lot 2 in Block 82 of School Section Addition to Chicago in Section 16; thence south along said northerly extension of the west line of the easterly 18 feet of Lot 2 in Block 82 and the west line hereof to the south line of said Lot 2; thence west along said south line of Lot 2 in Block 82 and the westerly extension thereof to the east line of Wacker Drive; thence north along said east line of Wacker Drive to the north line of Monroe Street; thence west along said north line of Monroe Street to the west line of the south branch of the Chicago River; thence south along said west line of the south branch of the Chicago River to the north line of Lot 4 in Railroad Companies' Resubdivision of Blocks 62 to 76 inclusive, 78,

parts of 61 and 71, and certain vacated streets and alleys in School Section Addition to Chicago in Section 16; thence west along said north line of Lot 4 to the westerly line thereof; thence southeasterly along said westerly line of Lot 4 to the southwesterly corner thereof; thence southeasterly along a straight line to the northwesterly corner of Lot 5 in said Railroad Companies' Resubdivision in Section 16; thence southeasterly along the westerly line of said Lot 5 to an angle point on said westerly line; thence southeasterly along said westerly line of Lot 5 to a point on said westerly line, said point lying 121.21 feet northwesterly of the southwesterly corner of Lot 5; thence east along a straight line parallel with and 121.21 feet north of the south line of said Lot 5 to the westerly line of the south branch of the Chicago River; thence southeasterly along said westerly line of the south branch of the Chicago River to the north line of Jackson Boulevard; thence south along a straight line to the south line of Jackson Boulevard; thence west along said south line of Jackson Boulevard to the east line of Canal Street; thence south along said east line of Canal Street to the north line of Van Buren Street; thence east along said north line of Van Buren Street to the east line of Wacker Drive; thence north along said east line of Wacker Drive to the south line of Jackson Boulevard; thence east along said south line of Jackson Boulevard to the west line of Franklin Street; thence south along said west line of Franklin Street to the north line of Van Buren Street; thence east along said north line of Van Buren Street to the northerly extension of the east line of the 12 foot wide alley east of Wells Street; thence south along said northerly extension of the east line of the 12 foot wide alley east of Wells Street to the south line of Van Buren Street; thence east along said south line of Van Buren Street to the west line of LaSalle Street; thence north along the northerly extension of the west line of LaSalle Street to the north line of Van Buren Street; thence east along said north line of Van Buren Street to the east line of Clark Street; thence north along said east line of Clark Street to the south line of Adams Street; thence east along said south line of Adams Street to the west line of Dearborn Street; thence north along said west line of Dearborn Street to the easterly extension of the north line of the 18 foot wide alley south of Monroe Street; thence east along said easterly extension of the north line of the 18 foot wide alley south of Monroe Street and the north line thereof to a point on a line 130 feet west of and parallel with the west line of South State Street the east line of the west half of Lot 3 in Block 141 in School Section Addition to Chicago in Section 16; thence north along said parallel east line of the west half of Lot 3 to the south line of Monroe Street; thence west along said south line of Monroe Street to the southerly extension of the west line of the most westerly 15 foot wide alley east of Dearborn Street; thence north along said southerly extension of the west line of the most westerly 15 foot wide alley east of Dearborn Street and the west line thereof to the south line of the 15 foot wide alley north of Monroe Street; thence west along said south line of the 15 foot wide alley north of Monroe Street and the westerly extension thereof to the west line of Dearborn Street; thence south along said west line of Dearborn Street to the north line of Monroe Street; thence west along said north line of Monroe Street to the east line of Lot 21 in Assessor's Division of Block 118 of School

Section Addition in Section 16; thence north along the said east line of said Lot 21 and the northerly extension thereof to the south line of Lot 33 in said Assessor's Division of Block 118 of School Section Addition in Section 16; thence west along said south line of Lot 33 to the west line thereof; thence north along said west line of Lot 33 to the south line of Lot 14 in Assessor's Division of Block 118 of School Section Addition in Section 16; thence west along said south line of Lot 14 to the east line of the 10 foot wide alley west of Clark Street; thence north along said east line of the 10 foot wide alley west of Clark Street and the northerly extension thereof to the north line of Madison Street; thence west along said north line of Madison Street to the east line of the 9 foot wide alley west of Clark Street; thence north along said east line of the 9 foot wide alley west of Clark Street to the south line of the 18 foot wide alley south of Washington Street; thence north along a straight line to the southeast corner of the parcel of land bearing Permanent Index Number 17-9-459-001; thence north along the east line of the parcel of land bearing Permanent Index Number 17-9-459-001 to the south line of Washington Street; thence east along said south line of Washington Street to the east line of Clark Street; thence north along said east line of Clark Street to the south line of Randolph Street; thence west along said south line of Randolph Street to the west line of Clark Street; thence north along said west line of Clark Street to the north line of Randolph Street; thence west along said north line of Randolph Street to the east line of LaSalle Street; thence south along said east line of LaSalle Street to the easterly extension of the south line of Court Place; thence west along said easterly extension of the south line of Court Place and the south line thereof to the west line of Wells Street; thence south along said west line of Wells Street to the north line of Washington Street; thence west along said north line of Washington Street to the east line of Franklin Street; thence north along said east line of Franklin Street to the centerline of vacated court place; thence east along said centerline of vacated Court Place to the southerly extension of the east line of Lot 2 in Block 41 in the Original Town of Chicago in the southeast quarter of Section 9; thence north along said southerly extension of the east line of Lot 2 in Block 41 and the east line thereof to the south line of Randolph Street; thence west along said south line of Randolph Street to the southerly extension of the west line of the easterly 20 feet of Lot 7 in Block 31 in the Original Town of Chicago in Section 9; thence north along said southerly extension of the west line of the easterly 20 feet of Lot 7 and the west line thereof to the south line of Couch Place; thence north along the northerly extension of the west line of the easterly 20 feet of Lot 7 to the north line of Couch Place; thence west along said north line of Couch Place to the east line of Wacker Drive; thence north along said east line of Wacker Drive to the south line of Lake Street; thence northeasterly along a straight line to the intersection of the north line of Lake Street with the easterly line of Wacker Drive; thence west along said north line of lake street to the westerly line of the north branch of the Chicago River; thence northwesterly along said westerly line of the north branch of the Chicago River to an angle point on said westerly line, said point being also the northeast corner of Lot 1 in Block 22 in the Original Town of Chicago in Section 9; thence west along the

north line of said Lot 1 in Block 22 to a point, said point being also a point on the westerly line of the north branch of the Chicago River; thence northwesterly along said westerly line of the north branch of the Chicago River to the north line of that tract of land vacated in Document Number 5507199, recorded October 6, 1914; thence west along said north line of that tract of land vacated in Document Number 5507199, a distance of 21.26 feet to a point on said north line; thence northwesterly along the easterly line of the parcel of land bearing Permanent Index Number 17-9-306-014 to a point of curvature on said easterly line; thence northwesterly along the arc of curve, said curve being concave to the northeast and having a radius of 600 feet, to the east line of Canal Street; thence south along said east line of Canal Street to the south line of Lake Street, being also the point of beginning the heretofore described tract of land, all in Cook County, Illinois.

**LASALLE CENTRAL  
REDEVELOPMENT PROJECT AREA**

**DEVRY INC.  
ON-LINE OPERATIONS FACILITY PROJECT**

Redevelopment Agreement  
dated as of \_\_\_\_\_, 2012

**EXHIBIT B-1**

**LEGAL DESCRIPTION OF THE BUILDING/PROPERTY**

A legal description of the Building / Property is attached to this exhibit cover sheet.

EXHIBIT A

LAND

REAL PROPERTY IN THE CITY OF CHICAGO, COUNTY OF COOK,  
STATE OF ILLINOIS, DESCRIBED AS FOLLOWS:

PARCEL 1:

LOT 7 (EXCEPT THE WEST 122.53 FEET THEREOF) IN RAILROAD COMPANIES' RESUBDIVISION OF BLOCKS 62 TO 76, BOTH INCLUSIVE, BLOCK 78, PARTS OF BLOCKS 61 AND 77 AND CERTAIN VACATED STREETS AND ALLEYS IN SCHOOL SECTION ADDITION TO CHICAGO, A SUBDIVISION OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 29, 1924 IN BOOK 188 ON PAGES 11 TO 28, BOTH INCLUSIVE, AS DOCUMENT NUMBER 8339751 (EXCEPTING THEREFROM THAT PART THEREOF LYING BELOW OR BENEATH THE AIR RIGHTS LIMITING PLANE OR ELEVATION SET FORTH IN APPENDIX "B" TO LEASE RECORDED OCTOBER 2, 1980 AS DOCUMENT 25607453 AND WHICH IS INDICATED IN SAID APPENDIX "B" TO BE 32 FEET 10 INCHES ABOVE CHICAGO CITY DATUM), IN COOK COUNTY, ILLINOIS.

PARCEL 2:

ALL LAND AND SPACES BELOW THE AIR RIGHTS LIMITING PLANE DESCRIBED IN PARCEL 1 ABOVE AS ARE OCCUPIED BY COLUMNS, TRUSSES, HORIZONTAL STRUCTURAL MEMBERS, INCLUDING THE FINISHED MEZZANINE FLOOR, FOUNDATIONS AND OTHER SUPPORTS FOR THE BUILDING CONTEMPLATED BY THE LEASE DESCRIBED IN PARCEL 1 ABOVE AND SMOKE EXHAUST PLENUMS, ELEVATOR PITS, FUEL TANKS, PUMPING STATIONS AND MECHANICAL EQUIPMENT LOCATED BELOW SAID AIR RIGHTS LIMITING PLANE FOR THE PURPOSE OF SAID CONTEMPLATED BUILDING, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

BASEMENT FOR THE BENEFIT OF PARCELS 1 AND 2 ABOVE FOR THE CONSTRUCTION, USE, MAINTENANCE, REPAIR, REPLACEMENT OR RENEWAL FROM TIME TO TIME OF ADEQUATE COLUMNS, TRUSSES, HORIZONTAL STRUCTURAL MEMBERS, INCLUDING THE FINISHED MEZZANINE FLOOR, FOUNDATIONS AND OTHER SUPPORTS FOR THE BUILDING CONTEMPLATED UNDER THE LEASE DESCRIBED IN PARCEL 1 ABOVE AND SMOKE EXHAUST PLENUMS, ELEVATOR PITS, FUEL TANKS, PUMPING STATIONS AND MECHANICAL EQUIPMENT, IN THE LAND AND SPACE BELOW THE AIR RIGHTS LIMITING PLANE DESCRIBED IN PARCEL 1 ABOVE, IN COOK COUNTY, ILLINOIS, AS SET FORTH IN THE EASEMENT AND OPERATING AGREEMENT DATED MAY 29, 2001 AND RECORDED JUNE 1, 2001 AS DOCUMENT NO. 0010466784.

**PARCEL 4:**

**A NON-EXCLUSIVE APPURTENANT EASEMENT IN FAVOR OF PARCELS 1 AND 2 AS CREATED BY DEED OF EASEMENT RECORDED JANUARY 31, 1990 AS DOCUMENT NO. 90047309 AND AS AMENDED BY FIRST AMENDMENT TO DEED OF EASEMENT RECORDED OCTOBER 9, 1990 AS DOCUMENT NO. 90491486, MADE BY LASALLE NATIONAL BANK, AS TRUSTEE UNDER TRUST AGREEMENT DATED NOVEMBER 17, 1983 AND KNOWN AS TRUST NO. 107292 TO GATEWAY IV JOINT VENTURE AND OTHERS, FOR THE USE OF 1,100 PUBLIC PARKING SPACES IN THE GARAGE, AS DEFINED THEREIN, WITH RIGHTS OF INGRESS AND EGRESS AND AN EASEMENT FOR THE PURPOSE OF CONSTRUCTION OF SUCH REPAIRS OR RESTORATION FOR THE PERIOD REQUIRED TO COMPLETE SUCH REPAIRS OR RESTORATION ON, OVER AND ACROSS THE FOLLOWING DESCRIBED LEGAL DESCRIPTION:**

**LOTS 5, 6, 7 AND 8 (EXCEPT FROM SAID LOTS THAT PART FALLING IN ALLEY) IN BLOCK 49 IN SCHOOL SECTION ADDITION TO CHICAGO IN SECTION 16, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.**

**PERMANENT INDEX NUMBERS: 17-16-121-003-6002 AND 17-16-121-003-**

**6001**

**LASALLE CENTRAL  
REDEVELOPMENT PROJECT AREA**

**DEVRY INC.  
ON-LINE OPERATIONS FACILITY PROJECT**

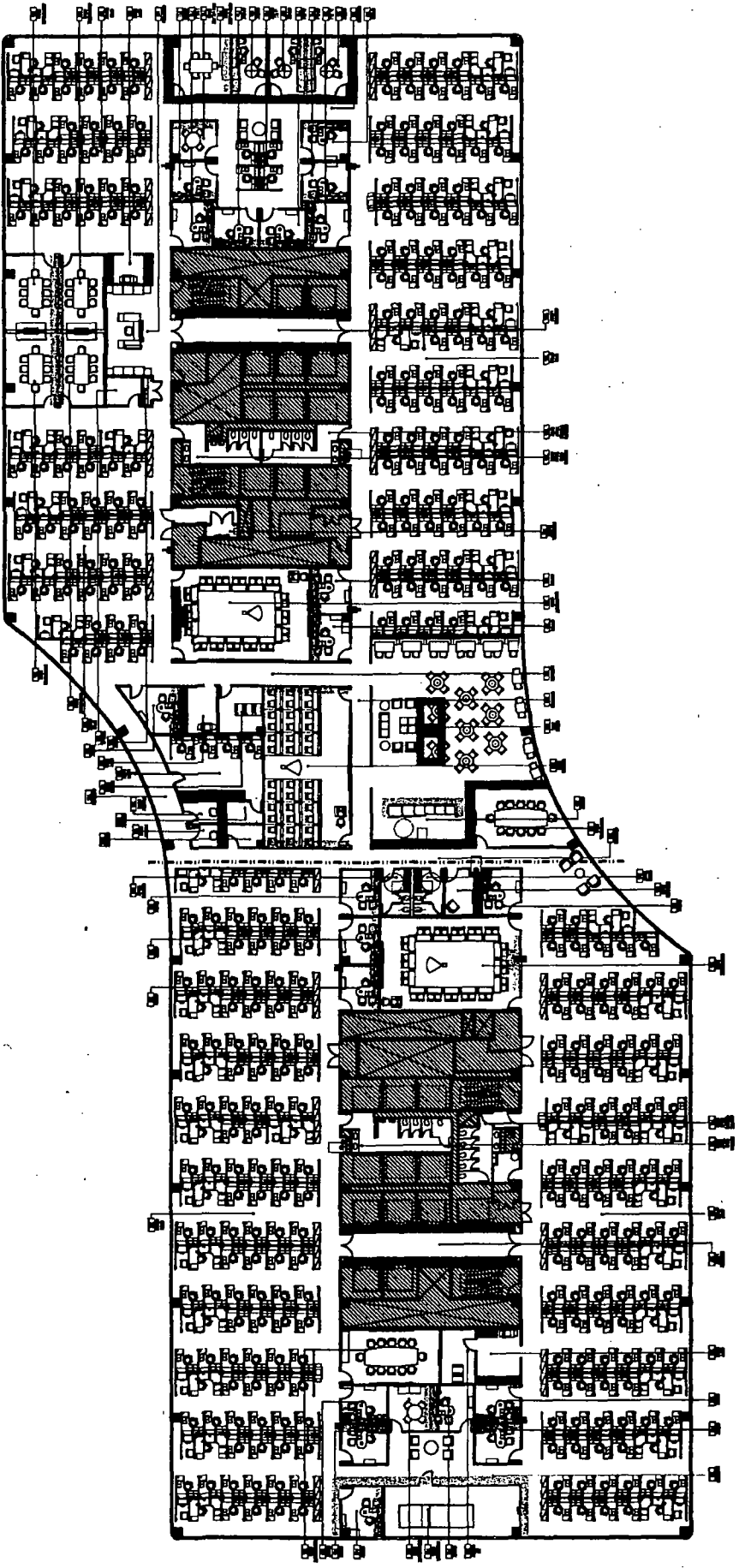
Redevelopment Agreement  
dated as of \_\_\_\_\_, 2012

**EXHIBIT B-2**

**SITE PLAN FOR THE PROJECT / ON-LINE OPERATIONS FACILITY**

A Site Plan for the Project / On-Line Operations Facility is attached to this exhibit cover sheet.





**IA** INTERIOR ARCHITECTS  
 CHICAGO

Project Name: DV ONLINE CHICAGO  
 Job Number: 051428.00

205 WEST WACKER, SUITE 1500  
 CHICAGO, ILLINOIS 60606  
 TEL: 312-537-8200 FAX: 312-537-8208  
 214 PM 3/14/12 PROJECT/DESIGN/428.00 CONCEPT/PHASE 1/428.00-01 PLUMB

3207 ARDEN ABLINGTON, P.L.L.C. NEW YORK PROFESSIONAL SERVICES CORPORATION  
 300 N. MICHIGAN ABLINGTON, WILLOW, ILLINOIS 60091-1000

Refer To Drawing: 07A-5.0

Issue: ---  
 Date: 03.14.2012  
 Scale: N.T.S.

**FIN-01**

**LASALLE CENTRAL  
REDEVELOPMENT PROJECT AREA**

**DEVRY INC.  
ON-LINE OPERATIONS FACILITY PROJECT**

Redevelopment Agreement  
dated as of \_\_\_\_\_, 2012

**EXHIBIT C**

**REDEVELOPMENT PLAN**

The Redevelopment Plan for the LaSalle Central Redevelopment Project Area will be attached to this exhibit cover sheet at Closing.

**LASALLE CENTRAL  
REDEVELOPMENT PROJECT AREA**

**DEVRY INC.  
ON-LINE OPERATIONS FACILITY PROJECT**

Redevelopment Agreement  
dated as of \_\_\_\_\_, 2012

**EXHIBIT D-1**

**PROJECT BUDGET**

Construction	\$3,738,520
Soft Costs	353,478
Project Management	27,080
Furniture	1,333,204
IT Telephony Equipment	318,507
IT Computer Equipment	330,000
Audio Visual	88,132
Signage	54,000
Security	37,555
Telecommunication Cabling	170,407
Moving	<u>100,000</u>
<b>TOTAL</b>	<b>\$6,550,883</b>

**LASALLE CENTRAL  
REDEVELOPMENT PROJECT AREA**

**DEVRY INC.  
ON-LINE OPERATIONS FACILITY PROJECT**

Redevelopment Agreement  
dated as of \_\_\_\_\_, 2012

**EXHIBIT D-2**

**CONSTRUCTION (MBE/WBE) BUDGET**

Construction	\$3,738,520
Project Management	<u>27,080</u>
	\$3,765,600

24% MBE - \$903,744

4% WBE - \$150,624

**LASALLE CENTRAL  
REDEVELOPMENT PROJECT AREA**

**DEVRY INC.  
ON-LINE OPERATIONS FACILITY PROJECT**

Redevelopment Agreement  
dated as of \_\_\_\_\_, 2012

**EXHIBIT E**

**SCHEDULE OF TIF-FUNDED IMPROVEMENTS**

<u>Line Item</u>	<u>Cost</u>
Costs of Rehabilitation	\$6,550,883*
TOTAL	

\*Notwithstanding the total amount referenced above, the City Funds for the TIF-Funded Improvements shall not exceed \$1,000,000, subject to adjustment as provided in Section 4.03(b).

**LASALLE CENTRAL  
REDEVELOPMENT PROJECT AREA**

**DEVRY INC.  
ON-LINE OPERATIONS FACILITY PROJECT**

Redevelopment Agreement  
dated as of \_\_\_\_\_, 2012

**EXHIBIT F**

**RESERVED**

**LASALLE CENTRAL  
REDEVELOPMENT PROJECT AREA**

**DEVRY INC.  
ON-LINE OPERATIONS FACILITY PROJECT**

Redevelopment Agreement  
dated as of \_\_\_\_\_, 2012

**EXHIBIT G**

**CONSTRUCTION CONTRACT**

The construction contract for the Project will be attached to this exhibit cover sheet at Closing.

**LASALLE CENTRAL  
REDEVELOPMENT PROJECT AREA**

**DEVRY INC.  
ON-LINE OPERATIONS FACILITY PROJECT**

Redevelopment Agreement  
dated as of \_\_\_\_\_, 2012

**EXHIBIT H**

**APPROVED PRIOR EXPENDITURES**

A Schedule of Approved Prior Expenditures will be attached to this exhibit cover sheet at Closing.



**LASALLE CENTRAL  
REDEVELOPMENT PROJECT AREA**

**DEVRY INC.  
ON-LINE OPERATIONS FACILITY PROJECT**

Redevelopment Agreement  
dated as of \_\_\_\_\_, 2012

**EXHIBIT I**

**PERMITTED LIENS**

1. Liens or encumbrances against the Property (and related improvements):

Those matters set forth as Schedule B title exceptions in the owner's title insurance policy issued by the Title Company as of the date hereof, but only so long as applicable title endorsements issued in conjunction therewith on the date hereof, if any, continue to remain in full force and effect.

2. Liens or encumbrances against Developer or the Project, other than liens against the Property (and related improvements), if any:

NONE

**LASALLE CENTRAL  
REDEVELOPMENT PROJECT AREA**

**DEVRY INC.  
ON-LINE OPERATIONS FACILITY PROJECT**

Redevelopment Agreement  
dated as of \_\_\_\_\_, 2012

**EXHIBIT J**

**FORM OF OPINION OF DEVELOPER'S COUNSEL**

[To be retyped on Developer's Counsel's letterhead]

\_\_\_\_\_, 2012

City of Chicago  
City Hall, Room 600  
121 North LaSalle Street  
Chicago, IL 60602

ATTENTION: Corporation Counsel

Ladies and Gentlemen:

We have acted as counsel to DeVry Inc., a Delaware corporation (the "Developer"), in connection with the construction of certain improvements on the property located at 227 W. Monroe Street located in the LaSalle Central Redevelopment Project Area (the "Project"). In that capacity, we have examined, among other things, the following agreements, instruments and documents of even date herewith, hereinafter referred to as the "Documents":

- (a) DeVry Inc. Redevelopment Agreement (the "Agreement") of even date herewith, executed by Developer and the City of Chicago (the "City"); and
- (b) all other agreements, instruments and documents executed in connection with the foregoing.

In addition to the foregoing, we have examined

- (a) the original or certified, conformed or photostatic copies of each of Developer's
  - (i) Certificate of Incorporation, as amended to date, (ii) By-Laws, (iii) qualifications to do business and certificates of good standing in all states in which Developer is qualified to do business, and (iv) records of all corporate proceedings relating to the Project; and
  - (b) such other documents, records and legal matters as we have deemed necessary or relevant for purposes of issuing the opinions hereinafter expressed.

In all such examinations, we have assumed the genuineness of all signatures (other than those of Developer), the authenticity of documents submitted to us as originals and conformity to the originals of all documents submitted to us as certified, conformed or photostatic copies.

Based on the foregoing, it is our opinion that:

1. Developer is a corporation company duly organized, validly existing and in good standing under the laws of its state of organization, has full power and authority to own and lease its properties and to carry on its business as presently conducted, and is in good standing and duly qualified to do business as a foreign organization under the laws of every state in which the conduct of its affairs or the ownership of its assets requires such qualification, except for those states in which its failure to qualify to do business would not have a material adverse effect on it or its business.

2. Developer has full right, power and authority to execute and deliver the Documents to which it is a party and to perform its obligations thereunder. Such execution, delivery and performance will not conflict with, or result in a breach of, Developer's Certificate of Incorporation or By-Laws or result in a breach or other violation of any of the terms, conditions or provisions of any law or regulation, order, writ, injunction or decree of any court, government or regulatory authority, or, to the best of our knowledge after diligent inquiry, any of the terms, conditions or provisions of any agreement, instrument or document to which Developer is a party or by which Developer or its properties is bound. To the best of our knowledge after diligent inquiry, such execution, delivery and performance will not constitute grounds for acceleration of the maturity of any agreement, indenture, undertaking or other instrument to which Developer is a party or by which it or any of its property may be bound, or result in the creation or imposition of (or the obligation to create or impose) any lien, charge or encumbrance on, or security interest in, any of its property pursuant to the provisions of any of the foregoing, other than in favor of any lender providing lender financing.

3. The execution and delivery of each Document and the performance of the transactions contemplated thereby have been duly authorized and approved by all requisite action on the part of Developer.

4. Each of the Documents to which Developer is a party has been duly executed and delivered by a duly authorized officer of Developer, and each such Document constitutes the legal, valid and binding obligation of Developer, enforceable in accordance with its terms, except as limited by applicable bankruptcy, reorganization, insolvency or similar laws affecting the enforcement of creditors' rights generally.

5. Exhibit A attached hereto (a) identifies the equity of Developer and the number of equity interests held by each holder. To the best of our knowledge after diligent inquiry, except as set forth on Exhibit A, there are no warrants, options, rights or commitments of purchase, conversion, call or exchange or other rights or restrictions with respect to any of the equity of Developer. Each outstanding equity interest of Developer is duly authorized, validly issued, fully paid and non-assessable.

6. To the best of our knowledge after diligent inquiry, no judgments are outstanding against Developer, nor is there now pending or threatened, any litigation, contested claim or governmental proceeding by or against Developer or affecting Developer or its property, or seeking to restrain or enjoin the performance by Developer of the Agreement or the transactions contemplated by the Agreement, or contesting the validity thereof. To the best of our knowledge after diligent inquiry, Developer is not in default with respect to any order, writ, injunction or decree of any court, government or regulatory authority or in default in any respect under any law, order, regulation or demand of any governmental agency or instrumentality, a default under which would have a material adverse effect on Developer or its business.

7. To the best of our knowledge after diligent inquiry, there is no default by Developer or any other party under any material contract, lease, agreement, instrument or commitment to which Developer is a party or by which the company or its properties is bound.

8. To the best of our knowledge after diligent inquiry, all of the assets of Developer are free and clear of mortgages, liens, pledges, security interests and encumbrances except for those specifically set forth in the Documents.

9. The execution, delivery and performance of the Documents by Developer have not and will not require the consent of any person or the giving of notice to, any exemption by, any registration, declaration or filing with or any taking of any other actions in respect of, any person, including without limitation any court, government or regulatory authority.

10. To the best of our knowledge after diligent inquiry, Developer owns or possesses or is licensed or otherwise has the right to use all licenses, permits and other governmental approvals and authorizations, operating authorities, certificates of public convenience, goods carriers permits, authorizations and other rights that are necessary for the operation of its business.

11. A federal or state court sitting in the State of Illinois and applying the choice of law provisions of the State of Illinois would enforce the choice of law contained in the Documents and apply the law of the State of Illinois to the transactions evidenced thereby.

We are attorneys admitted to practice in the State of Illinois and we express no opinion as to any laws other than federal laws of the United States of America or the laws of the State of Illinois.

This opinion is issued at Developer's request for the benefit of the City and its counsel, and may not be disclosed to or relied upon by any other person.

Very truly yours,

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

**LASALLE CENTRAL  
REDEVELOPMENT PROJECT AREA**

**DEVRY INC.  
ON-LINE OPERATIONS FACILITY PROJECT**

Redevelopment Agreement  
dated as of \_\_\_\_\_, 2012

**EXHIBIT K**

**RESERVED**

**LASALLE CENTRAL  
REDEVELOPMENT PROJECT AREA**

**DEVRY INC.  
ON-LINE OPERATIONS FACILITY PROJECT**

Redevelopment Agreement  
dated as of \_\_\_\_\_, 2012

**EXHIBIT L**

**FORM OF PAYMENT AND PERFORMANCE BOND**

A form of payment and performance bond will be attached to this exhibit cover sheet at Closing.

**LASALLE CENTRAL  
REDEVELOPMENT PROJECT AREA**

**DEVRY INC.  
ON-LINE OPERATIONS FACILITY PROJECT**

Redevelopment Agreement  
dated as of \_\_\_\_\_, 2012

**EXHIBIT M**

**RESERVED**



**LASALLE CENTRAL  
REDEVELOPMENT PROJECT AREA**

**DEVRY INC.  
ON-LINE OPERATIONS FACILITY PROJECT**

Redevelopment Agreement  
dated as of \_\_\_\_\_, 2012

**EXHIBIT N**

**CITY FUNDS REQUISITION FORM**

A form of the City Funds Requisition Form is attached to this exhibit cover sheet.

### REQUISITION FORM

STATE OF ILLINOIS )  
 ) SS  
 COUNTY OF COOK )

The affiant, DeVry Inc., a Delaware corporation, (the "Developer"), hereby certifies that with respect to that certain DeVry Inc. Redevelopment Agreement between the Developer and the City of Chicago dated as of \_\_\_\_\_, 2012 (the "Redevelopment Agreement"):

A. Expenditures for the Project, in the total amount of \$ \_\_\_\_\_, have been made:

B. This paragraph B sets forth and is a true and complete statement of all costs of TIF-Funded Improvements for the Project reimbursed by the City to date:

\$ \_\_\_\_\_

C. The Developer requests reimbursement for the following cost of TIF-Funded Improvements:

\$ \_\_\_\_\_

D. None of the costs referenced in paragraph C above have been previously reimbursed by the City.

E. The Developer hereby certifies to the City that, as of the date hereof:

1. Except as described in the attached certificate, the representations and warranties contained in the Redevelopment Agreement are true and correct and the Developer is in compliance with all applicable covenants contained herein.

2. No event of Default or condition or event which, with the giving of notice or passage of time or both, would constitute an Event of Default, exists or has occurred.

All capitalized terms which are not defined herein has the meanings given such terms in the Redevelopment Agreement.

DEVRY INC. a Delaware  
corporation

DEVRY INC.

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

Printed  
Name:

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

Subscribed and sworn before me this \_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_.

My commission expires: \_\_\_\_\_

(Seal)

**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT  
AND AFFIDAVIT**

**SECTION I – GENERAL INFORMATION**

A. Legal name of the Disclosing Party submitting this EDS. Include d/b/a/ if applicable:

DeVry Inc.  
\_\_\_\_\_

Check ONE of the following three boxes:

Indicate whether the Disclosing Party submitting this EDS is:

1.  the Applicant  
OR

2.  a legal entity holding a direct or indirect interest in the Applicant. State the legal name of the Applicant in which the Disclosing Party holds an interest: \_\_\_\_\_  
OR

3.  a legal entity with a right of control (see Section II.B.1.) State the legal name of the entity in which the Disclosing Party holds a right of control: \_\_\_\_\_

B. Business address of the Disclosing Party:

3005 Highland Parkway  
\_\_\_\_\_

Downers Grove, Illinois 60515  
\_\_\_\_\_

C. Telephone: 630-515-4415 Fax: \_\_\_\_\_ Email: cowens@devry.com

D. Name of contact person: Cary Owens  
\_\_\_\_\_

E. Federal Employer Identification No. (if you have one): \_\_\_\_\_

F. Brief description of contract, transaction or other undertaking (referred to below as the "Matter") to which this EDS pertains. (Include project number and location of property, if applicable):

Application for Tax Increment Financing Assistance for Online Operations Center at 300 South Riverside Plaza  
\_\_\_\_\_

G. Which City agency or department is requesting this EDS? City Council; Dept. of Housing & Economic Development  
\_\_\_\_\_

If the Matter is a contract being handled by the City's Department of Procurement Services, please complete the following:

Specification # \_\_\_\_\_ and Contract # \_\_\_\_\_

**SECTION II -- DISCLOSURE OF OWNERSHIP INTERESTS**

**A. NATURE OF THE DISCLOSING PARTY**

1. Indicate the nature of the Disclosing Party:

- |  |  |
|--|--|
| <input type="checkbox"/> Person  | <input type="checkbox"/> Limited liability company       |
| <input checked="" type="checkbox"/> Publicly registered business corporation | <input type="checkbox"/> Limited liability partnership   |
| <input type="checkbox"/> Privately held business corporation                 | <input type="checkbox"/> Joint venture                   |
| <input type="checkbox"/> Sole proprietorship                                 | <input type="checkbox"/> Not-for-profit corporation      |
| <input type="checkbox"/> General partnership                                 | (Is the not-for-profit corporation also a 501(c)(3))?    |
| <input type="checkbox"/> Limited partnership                                 | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Trust   | <input type="checkbox"/> Other (please specify)          |

2. For legal entities, the state (or foreign country) of incorporation or organization, if applicable:

Delaware

3. For legal entities not organized in the State of Illinois: Has the organization registered to do business in the State of Illinois as a foreign entity?

- Yes                       No                       N/A

**B. IF THE DISCLOSING PARTY IS A LEGAL ENTITY:**

1. List below the full names and titles of all executive officers and all directors of the entity.

**NOTE:** For not-for-profit corporations, also list below all members, if any, which are legal entities. If there are no such members, write "no members." For trusts, estates or other similar entities, list below the legal titleholder(s).

If the entity is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture, list below the name and title of each general partner, managing member, manager or any other person or entity that controls the day-to-day management of the Disclosing Party.

**NOTE:** Each legal entity listed below must submit an EDS on its own behalf.

Name	Title
See attached exhibit	
_____	_____
_____	_____
_____	_____

2. Please provide the following information concerning each person or entity having a direct or indirect beneficial interest (including ownership) in excess of 7.5% of the Disclosing Party. Examples of such an interest include shares in a corporation, partnership interest in a partnership or joint venture,

interest of a member or manager in a limited liability company, or interest of a beneficiary of a trust, estate or other similar entity. If none, state "None." **NOTE:** Pursuant to Section 2-154-030 of the Municipal Code of Chicago ("Municipal Code"), the City may require any such additional information from any applicant which is reasonably intended to achieve full disclosure.

Name	Business Address	Percentage Interest in the Disclosing Party
Dennis J. Keller	3005 Highland Parkway, Downers Grove, IL 60615	8.6%

**SECTION III – BUSINESS RELATIONSHIPS WITH CITY ELECTED OFFICIALS**

Has the Disclosing Party had a "business relationship," as defined in Chapter 2-156 of the Municipal Code, with any City elected official in the 12 months before the date this EDS is signed?

Yes

No

If yes, please identify below the name(s) of such City elected official(s) and describe such relationship(s):

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**SECTION IV – DISCLOSURE OF SUBCONTRACTORS AND OTHER RETAINED PARTIES**

The Disclosing Party must disclose the name and business address of each subcontractor, attorney, lobbyist, accountant, consultant and any other person or entity whom the Disclosing Party has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total amount of the fees paid or estimated to be paid. The Disclosing Party is not required to disclose employees who are paid solely through the Disclosing Party's regular payroll.

"Lobbyist" means any person or entity who undertakes to influence any legislative or administrative action on behalf of any person or entity other than: (1) a not-for-profit entity, on an unpaid basis, or (2) himself. "Lobbyist" also means any person or entity any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

If the Disclosing Party is uncertain whether a disclosure is required under this Section, the Disclosing Party must either ask the City whether disclosure is required or make the disclosure.

Name (indicate whether retained or anticipated to be retained)	Business Address	Relationship to Disclosing Party (subcontractor, attorney, lobbyist, etc.)	Fees (indicate whether paid or estimated.) NOTE: "hourly rate" or "t.b.d." is not an acceptable response.
Erdy Zamenides/Erika L. Kruse, 542 S. Dearborn St., #1100, Chicago, IL 60605		Attorneys	\$20,000 estimated
Meredith O'Connor, 200 E. Randolph St., 47th Floor, Chicago, IL 60601		Consultant for Real Estate Services	\$10,000 estimated

(Add sheets if necessary)

Check here if the Disclosing Party has not retained, nor expects to retain, any such persons or entities.

## SECTION V – CERTIFICATIONS

### A. COURT-ORDERED CHILD SUPPORT COMPLIANCE

Under Municipal Code Section 2-92-415, substantial owners of business entities that contract with the City must remain in compliance with their child support obligations throughout the contract's term.

Has any person who directly or indirectly owns 10% or more of the Disclosing Party been declared in arrearage on any child support obligations by any Illinois court of competent jurisdiction?

Yes     
 No     
 No person directly or indirectly owns 10% or more of the Disclosing Party.

If "Yes," has the person entered into a court-approved agreement for payment of all support owed and is the person in compliance with that agreement?

Yes     
 No

### B. FURTHER CERTIFICATIONS

1. Pursuant to Municipal Code Chapter 1-23, Article I ("Article I")(which the Applicant should consult for defined terms (e.g., "doing business") and legal requirements), if the Disclosing Party submitting this EDS is the Applicant and is doing business with the City, then the Disclosing Party certifies as follows: (i) neither the Applicant nor any controlling person is currently indicted or charged with, or has admitted guilt of, or has ever been convicted of, or placed under supervision for, any criminal offense involving actual, attempted, or conspiracy to commit bribery, theft, fraud, forgery, perjury, dishonesty or deceit against an officer or employee of the City or any sister agency; and (ii) the Applicant understands and acknowledges that compliance with Article I is a continuing requirement for doing business with the City. NOTE: If Article I applies to the Applicant, the permanent compliance timeframe in Article I supersedes some five-year compliance timeframes in certifications 2 and 3 below.

2. The Disclosing Party and, if the Disclosing Party is a legal entity, all of those persons or entities identified in Section II.B.1. of this EDS:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. have not, within a five-year period preceding the date of this EDS, been convicted of a criminal offense, adjudged guilty, or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification or destruction of records; making false statements; or receiving stolen property;
- c. are not presently indicted for, or criminally or civilly charged by, a governmental entity (federal, state or local) with committing any of the offenses set forth in clause B.2.b. of this Section V;
- d. have not, within a five-year period preceding the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and
- e. have not, within a five-year period preceding the date of this EDS, been convicted, adjudged guilty, or found liable in a civil proceeding, or in any criminal or civil action, including actions concerning environmental violations, instituted by the City or by the federal government, any state, or any other unit of local government.

3. The certifications in subparts 3, 4 and 5 concern:

- the Disclosing Party;
- any "Contractor" (meaning any contractor or subcontractor used by the Disclosing Party in connection with the Matter, including but not limited to all persons or legal entities disclosed under Section IV, "Disclosure of Subcontractors and Other Retained Parties");
- any "Affiliated Entity" (meaning a person or entity that, directly or indirectly: controls the Disclosing Party, is controlled by the Disclosing Party, or is, with the Disclosing Party, under common control of another person or entity. Indicia of control include, without limitation: interlocking management or ownership; identity of interests among family members, shared facilities and equipment; common use of employees; or organization of a business entity following the ineligibility of a business entity to do business with federal or state or local government, including the City, using substantially the same management, ownership, or principals as the ineligible entity); with respect to Contractors, the term Affiliated Entity means a person or entity that directly or indirectly controls the Contractor, is controlled by it, or, with the Contractor, is under common control of another person or entity;
- any responsible official of the Disclosing Party, any Contractor or any Affiliated Entity or any other official, agent or employee of the Disclosing Party, any Contractor or any Affiliated Entity, acting pursuant to the direction or authorization of a responsible official of the Disclosing Party, any Contractor or any Affiliated Entity (collectively "Agents").



Neither the Disclosing Party, nor any Contractor, nor any Affiliated Entity of either the Disclosing Party or any Contractor nor any Agents have, during the five years before the date this EDS is signed, or, with respect to a Contractor, an Affiliated Entity, or an Affiliated Entity of a Contractor during the five years before the date of such Contractor's or Affiliated Entity's contract or engagement in connection with the Matter:

- a. bribed or attempted to bribe, or been convicted or adjudged guilty of bribery or attempting to bribe, a public officer or employee of the City, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
- b. agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted or adjudged guilty of agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
- c. made an admission of such conduct described in a. or b. above that is a matter of record, but have not been prosecuted for such conduct; or
- d. violated the provisions of Municipal Code Section 2-92-610 (Living Wage Ordinance).

4. Neither the Disclosing Party, Affiliated Entity or Contractor, or any of their employees, officials, agents or partners, is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3; (2) bid-rotating in violation of 720 ILCS 5/33E-4; or (3) any similar offense of any state or of the United States of America that contains the same elements as the offense of bid-rigging or bid-rotating.

5. Neither the Disclosing Party nor any Affiliated Entity is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the Bureau of Industry and Security of the U.S. Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

6. The Disclosing Party understands and shall comply with the applicable requirements of Chapters 2-55 (Legislative Inspector General), 2-56 (Inspector General) and 2-156 (Governmental Ethics) of the Municipal Code.

7. If the Disclosing Party is unable to certify to any of the above statements in this Part B (Further Certifications), the Disclosing Party must explain below:

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

8. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all current employees of the Disclosing Party who were, at any time during the 12-month period preceding the execution date of this EDS, an employee, or elected or appointed official, of the City of Chicago (if none, indicate with "N/A" or "none").

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9. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all gifts that the Disclosing Party has given or caused to be given, at any time during the 12-month period preceding the execution date of this EDS, to an employee, or elected or appointed official, of the City of Chicago. For purposes of this statement, a "gift" does not include: (i) anything made generally available to City employees or to the general public, or (ii) food or drink provided in the course of official City business and having a retail value of less than \$20 per recipient (if none, indicate with "N/A" or "none"). As to any gift listed below, please also list the name of the City recipient.

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#### C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

1. The Disclosing Party certifies that the Disclosing Party (check one)

is

is not

a "financial institution" as defined in Section 2-32-455(b) of the Municipal Code.

2. If the Disclosing Party IS a financial institution, then the Disclosing Party pledges:

"We are not and will not become a predatory lender as defined in Chapter 2-32 of the Municipal Code. We further pledge that none of our affiliates is, and none of them will become, a predatory lender as defined in Chapter 2-32 of the Municipal Code. We understand that becoming a predatory lender or becoming an affiliate of a predatory lender may result in the loss of the privilege of doing business with the City."

If the Disclosing Party is unable to make this pledge because it or any of its affiliates (as defined in Section 2-32-455(b) of the Municipal Code) is a predatory lender within the meaning of Chapter 2-32 of the Municipal Code, explain here (attach additional pages if necessary):

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

**D. CERTIFICATION REGARDING INTEREST IN CITY BUSINESS**

Any words or terms that are defined in Chapter 2-156 of the Municipal Code have the same meanings when used in this Part D.

1. In accordance with Section 2-156-110 of the Municipal Code: Does any official or employee of the City have a financial interest in his or her own name or in the name of any other person or entity in the Matter?

Yes

No

NOTE: If you checked "Yes" to Item D.1., proceed to Items D.2. and D.3. If you checked "No" to Item D.1., proceed to Part E.

2. Unless sold pursuant to a process of competitive bidding, or otherwise permitted, no City elected official or employee shall have a financial interest in his or her own name or in the name of any other person or entity in the purchase of any property that (i) belongs to the City, or (ii) is sold for taxes or assessments, or (iii) is sold by virtue of legal process at the suit of the City (collectively, "City Property Sale"). Compensation for property taken pursuant to the City's eminent domain power does not constitute a financial interest within the meaning of this Part D.

Does the Matter involve a City Property Sale?

Yes

No

3. If you checked "Yes" to Item D.1., provide the names and business addresses of the City officials or employees having such interest and identify the nature of such interest:

Name	Business Address	Nature of Interest

4. The Disclosing Party further certifies that no prohibited financial interest in the Matter will be acquired by any City official or employee.

**E. CERTIFICATION REGARDING SLAVERY ERA BUSINESS**

Please check either 1. or 2. below. If the Disclosing Party checks 2., the Disclosing Party must disclose below or in an attachment to this EDS all information required by paragraph 2. Failure to

comply with these disclosure requirements may make any contract entered into with the City in connection with the Matter voidable by the City.

✓ 1. The Disclosing Party verifies that the Disclosing Party has searched any and all records of the Disclosing Party and any and all predecessor entities regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era (including insurance policies issued to slaveholders that provided coverage for damage to or injury or death of their slaves), and the Disclosing Party has found no such records.

2. The Disclosing Party verifies that, as a result of conducting the search in step 1 above, the Disclosing Party has found records of investments or profits from slavery or slaveholder insurance policies. The Disclosing Party verifies that the following constitutes full disclosure of all such records, including the names of any and all slaves or slaveholders described in those records:

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## SECTION VI – CERTIFICATIONS FOR FEDERALLY FUNDED MATTERS

**NOTE: If the Matter is federally funded, complete this Section VI. If the Matter is not federally funded, proceed to Section VII. For purposes of this Section VI, tax credits allocated by the City and proceeds of debt obligations of the City are not federal funding.**

### A. CERTIFICATION REGARDING LOBBYING

1. List below the names of all persons or entities registered under the federal Lobbying Disclosure Act of 1995 who have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter: (Add sheets if necessary):

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(If no explanation appears or begins on the lines above, or if the letters "NA" or if the word "None" appear, it will be conclusively presumed that the Disclosing Party means that NO persons or entities registered under the Lobbying Disclosure Act of 1995 have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter.)

2. The Disclosing Party has not spent and will not expend any federally appropriated funds to pay any person or entity listed in Paragraph A.1. above for his or her lobbying activities or to pay any person or entity to influence or attempt to influence an officer or employee of any agency, as defined by applicable federal law, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, in connection with the award of any federally funded contract, making any federally funded grant or loan, entering into any cooperative agreement, or to extend, continue, renew, amend, or modify any federally funded contract, grant, loan, or cooperative agreement.

3. The Disclosing Party will submit an updated certification at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the statements and information set forth in paragraphs A.1. and A.2. above.

4. The Disclosing Party certifies that either: (i) it is not an organization described in section 501(c)(4) of the Internal Revenue Code of 1986; or (ii) it is an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 but has not engaged and will not engage in "Lobbying Activities".

5. If the Disclosing Party is the Applicant, the Disclosing Party must obtain certifications equal in form and substance to paragraphs A.1. through A.4. above from all subcontractors before it awards any subcontract and the Disclosing Party must maintain all such subcontractors' certifications for the duration of the Matter and must make such certifications promptly available to the City upon request.

#### B. CERTIFICATION REGARDING EQUAL EMPLOYMENT OPPORTUNITY

If the Matter is federally funded, federal regulations require the Applicant and all proposed subcontractors to submit the following information with their bids or in writing at the outset of negotiations.

Is the Disclosing Party the Applicant?

Yes

No

If "Yes," answer the three questions below:

1. Have you developed and do you have on file affirmative action programs pursuant to applicable federal regulations? (See 41 CFR Part 60-2.)

Yes

No

2. Have you filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance Programs, or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements?

Yes

No

3. Have you participated in any previous contracts or subcontracts subject to the equal opportunity clause?

Yes

No

If you checked "No" to question 1. or 2. above, please provide an explanation:

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**SECTION VII – ACKNOWLEDGMENTS, CONTRACT INCORPORATION,  
COMPLIANCE, PENALTIES, DISCLOSURE**

The Disclosing Party understands and agrees that:

A. The certifications, disclosures, and acknowledgments contained in this EDS will become part of any contract or other agreement between the Applicant and the City in connection with the Matter, whether procurement, City assistance, or other City action, and are material inducements to the City's execution of any contract or taking other action with respect to the Matter. The Disclosing Party understands that it must comply with all statutes, ordinances, and regulations on which this EDS is based.

B. The City's Governmental Ethics and Campaign Financing Ordinances, Chapters 2-156 and 2-164 of the Municipal Code, impose certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of these ordinances and a training program is available on line at [www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics), and may also be obtained from the City's Board of Ethics, 740 N.

Sedgwick St., Suite 500, Chicago, IL 60610, (312) 744-9660. The Disclosing Party must comply fully with the applicable ordinances.

C. If the City determines that any information provided in this EDS is false, incomplete or inaccurate, any contract or other agreement in connection with which it is submitted may be rescinded or be void or voidable, and the City may pursue any remedies under the contract or agreement (if not rescinded or void), at law, or in equity, including terminating the Disclosing Party's participation in the Matter and/or declining to allow the Disclosing Party to participate in other transactions with the City. Remedies at law for a false statement of material fact may include incarceration and an award to the City of treble damages.

D. It is the City's policy to make this document available to the public on its Internet site and/or upon request. Some or all of the information provided on this EDS and any attachments to this EDS may be made available to the public on the Internet, in response to a Freedom of Information Act request, or otherwise. By completing and signing this EDS, the Disclosing Party waives and releases any possible rights or claims which it may have against the City in connection with the public release of information contained in this EDS and also authorizes the City to verify the accuracy of any information submitted in this EDS.

E. The information provided in this EDS must be kept current. In the event of changes, the Disclosing Party must supplement this EDS up to the time the City takes action on the Matter. If the Matter is a contract being handled by the City's Department of Procurement Services, the Disclosing Party must update this EDS as the contract requires. **NOTE:** With respect to Matters subject to Article I of Chapter 1-23 of the Municipal Code (imposing **PERMANENT INELIGIBILITY** for certain specified offenses), the information provided herein regarding eligibility must be kept current for a longer period, as required by Chapter 1-23 and Section 2-154-020 of the Municipal Code.

The Disclosing Party represents and warrants that:

F.1. The Disclosing Party is not delinquent in the payment of any tax administered by the Illinois Department of Revenue, nor are the Disclosing Party or its Affiliated Entities delinquent in paying any fine, fee, tax or other charge owed to the City. This includes, but is not limited to, all water charges, sewer charges, license fees, parking tickets, property taxes or sales taxes.

F.2 If the Disclosing Party is the Applicant, the Disclosing Party and its Affiliated Entities will not use, nor permit their subcontractors to use, any facility listed by the U.S. E.P.A. on the federal Excluded Parties List System ("EPLS") maintained by the U. S. General Services Administration.

F.3 If the Disclosing Party is the Applicant, the Disclosing Party will obtain from any contractors/subcontractors hired or to be hired in connection with the Matter certifications equal in form and substance to those in F.1. and F.2. above and will not, without the prior written consent of the City, use any such contractor/subcontractor that does not provide such certifications or that the Disclosing Party has reason to believe has not provided or cannot provide truthful certifications.

NOTE: If the Disclosing Party cannot certify as to any of the items in F.1., F.2. or F.3. above, an explanatory statement must be attached to this EDS.

**CERTIFICATION**

Under penalty of perjury, the person signing below: (1) warrants that he/she is authorized to execute this EDS and Appendix A (if applicable) on behalf of the Disclosing Party, and (2) warrants that all certifications and statements contained in this EDS and Appendix A (if applicable) are true, accurate and complete as of the date furnished to the City.

DeVry Inc  
\_\_\_\_\_  
(Print or type name of Disclosing Party)

By: [Signature]  
\_\_\_\_\_  
(Sign here)

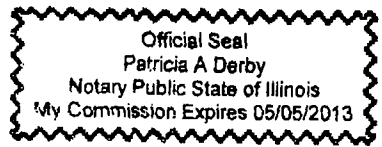
Timothy Wiggins  
\_\_\_\_\_  
(Print or type name of person signing)

CFO and Treasurer  
\_\_\_\_\_  
(Print or type title of person signing)

Signed and sworn to before me on (date) September 6, 2012  
at DeWage County, Illinois (state).

Patricia A Derby Notary Public.

Commission expires: 5/5/2013



**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT  
APPENDIX A**

**FAMILIAL RELATIONSHIPS WITH ELECTED CITY OFFICIALS AND DEPARTMENT HEADS**

**This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent. It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.**

Under Municipal Code Section 2-154-015, the Disclosing Party must disclose whether such Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently has a "familial relationship" with any elected city official or department head. A "familial relationship" exists if, as of the date this EDS is signed, the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof is related to the mayor, any alderman, the city clerk, the city treasurer or any city department head as spouse or domestic partner or as any of the following, whether by blood or adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister or half-brother or half-sister.

"Applicable Party" means (1) all executive officers of the Disclosing Party listed in Section II.B.1.a., if the Disclosing Party is a corporation; all partners of the Disclosing Party, if the Disclosing Party is a general partnership; all general partners and limited partners of the Disclosing Party, if the Disclosing Party is a limited partnership; all managers, managing members and members of the Disclosing Party, if the Disclosing Party is a limited liability company; (2) all principal officers of the Disclosing Party; and (3) any person having more than a 7.5 percent ownership interest in the Disclosing Party. "Principal officers" means the president, chief operating officer, executive director, chief financial officer, treasurer or secretary of a legal entity or any person exercising similar authority.

Does the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently have a "familial relationship" with an elected city official or department head?

Yes

No

If yes, please identify below (1) the name and title of such person, (2) the name of the legal entity to which such person is connected; (3) the name and title of the elected city official or department head to whom such person has a familial relationship, and (4) the precise nature of such familial relationship.

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## **EDS Section II, B.1.a.**

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