



Office of the City Clerk



O2013-1625

Office of the City Clerk

City Council Document Tracking Sheet

Meeting Date: 3/13/2013

Sponsor(s): Emanuel, Rahm (Mayor)

Type: Ordinance

Title: Redevelopment agreement with Park Boulevard IIB, LLC and associated intergovernmental agreement with Chicago Housing Authority for redevelopment of properties at 3633-3647 South State Street, 3720 South Dearborn Street, 16-22 West 37th Street and 4-10 West 37th Street

Committee(s) Assignment: Committee on Finance



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OFFICE OF THE MAYOR
CITY OF CHICAGO

RAHM EMANUEL
MAYOR

March 13, 2013

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 Park Boulevard IIB, LLC and associated intergovernmental agreement with the Chicago Housing Authority.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

Mayor

CHICAGO April 10, 2013

To the President and Members of the City Council:

Your Committee on Finance having had under consideration

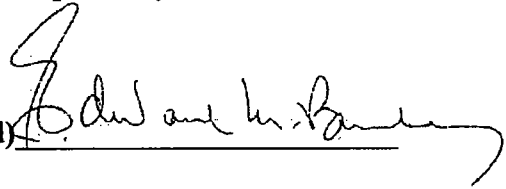
An ordinance authorizing the Commissioner of the Department of Housing and Economic Development to enter into and execute a Redevelopment Agreement and Loan Agreement with Park Boulevard IIB, LLC and to approve an Intergovernmental Agreement with the Chicago Housing Authority.

O2013-1625

Having had the same under advisement, begs leave to report and recommend that your Honorable Body pass the proposed Ordinance Transmitted Herewith

**This recommendation was concurred in by _____ (a viva voce vote of members of the committee with _____ dissenting vote(s).
Alderman Burke abstains from voting pursuant to Rule 14.**

Respectfully submitted

(signed) 

Chairman

ORDINANCE

WHEREAS, the City of Chicago (the "City") is a home rule unit of government by virtue of the provisions of the Constitution of the State of Illinois of 1970, and as such, may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, Stateway Community Partners, an Illinois not for profit corporation, or another affiliate ("Sponsor") of Park Boulevard IIB, LLC, an Illinois limited liability company ("Owner") and the Chicago Housing Authority, an Illinois municipal corporation under the Housing Authorities Act, 310 ILCS 10/1 et seq. (the "CHA") are entering into a 99 year lease for three parcels of property: 3720 South Dearborn Street ("Building T Parcel"), 16-22 West 37th Street ("Building M Parcel"), and 4-10 West 37th Street ("Building N Parcel"), Chicago, Illinois (collectively, Building T Parcel, Building M Parcel and Building N Parcel are referred to as the "CHA Property", and legally described in Exhibit A attached hereto); and

WHEREAS, Sponsor will assign the lease for the CHA Property to Owner (or an affiliate of Owner, which will then assign the lease to Owner); and

WHEREAS, Owner and the CHA are entering into a separate 99 year lease for one parcel of property: 3633-3647 South State Street, Chicago, Illinois ("Building J Parcel", legally described on Exhibit A-1 attached hereto, and collectively with the CHA Property, the "Property"); and

WHEREAS, Owner and its manager, Park Boulevard IIB Manager LLC, an Illinois limited liability company ("Manager") shall construct on the Property a 108-unit mixed income, multi-family residential rental development with ground floor retail on the Building J Parcel (as described more fully in the Park Boulevard IIB Rental Project Redevelopment Agreement attached hereto as Exhibit B, the "Project"); and

WHEREAS, the CHA is currently in title to the CHA Property; and

WHEREAS, the City is currently in title to Building J Parcel; and

WHEREAS, pursuant to a Declaration of Trust, dated May 27, 2010, and recorded with the Office of the Recorder of Deeds of Cook County, Illinois, on July 27, 2010, as document number 1020841061 (the "Declaration"), the City holds in trust for the benefit of the U.S. Department of Housing and Urban Development ("HUD"), Building J Parcel and all buildings and fixtures erected or to be erected thereon or appurtenant thereto; and

WHEREAS, of the 108 residential units, 62 units shall be subject to rent restrictions and rented only by households earning sixty percent (60%) or less of the median income for the City of Chicago (34 of which shall constitute replacement public housing units subject to rent restrictions), 6 units shall be subject to rent restrictions and rented only by households earning fifty percent (50%) or less of the median income for the City of Chicago, and 3 units shall constitute replacement public housing units subject to rent restrictions and rented only by households earning eighty percent (80%) or less of the median income for the City of Chicago; and

WHEREAS, pursuant to an ordinance adopted by the City Council ("City Council") of the City on January 14, 2004 and published at pages 17005-17119 of the Journal of the Proceedings of the City Council (the "Journal") of such date, a certain redevelopment plan and project (the "35th/State Redevelopment Plan") for 35th/State Tax Increment Financing Redevelopment Project Area (the "35th/State Redevelopment Area") was approved pursuant to the Illinois Tax Increment Allocation Redevelopment Act, as amended (65 ILCS 5/11-74.4-1 et seq.) (the "Act"); and

WHEREAS, pursuant to an ordinance adopted by the City Council on January 14, 2004 and published at pages 17121-17126 of the Journal of such date, the 35th/State Redevelopment Area was designated as a redevelopment project area pursuant to the Act; and

WHEREAS, pursuant to an ordinance (the "TIF Ordinance") adopted by the City Council on January 14, 2004 and published at pages 17128-17132 of the Journal of such date, tax increment allocation financing was adopted pursuant to the Act as a means of financing certain 35th/State Redevelopment Area redevelopment project costs (as defined in the Act) incurred pursuant to the Plan; and

WHEREAS, pursuant to Section 5/11-74.4-8(b) of the Act and the TIF Ordinance, incremental taxes ("Incremental Taxes") are deposited from time to time in the special tax allocation fund for the 35th/State Redevelopment Area established pursuant to the TIF Ordinance (the "Fund"); and

WHEREAS, pursuant to Section 5/11-74.4-4(q) of the Act, the City may use Increment from one redevelopment project area for eligible redevelopment project costs in another redevelopment project area that is either contiguous to, or is separated only by a public right of way from, the redevelopment project area from which the incremental taxes are received so long as the applicable redevelopment plans permit such use (the "Transfer Rights"); and

WHEREAS, to induce certain redevelopment pursuant to the Act, in accordance with the provisions of the Act, pursuant to ordinances adopted on November 4, 1998 and published in the Journal for said date at pages 80642 through 80777, the City Council: (1) approved and adopted a redevelopment plan (the "Bronzeville Redevelopment Plan") for the Bronzeville Redevelopment Project Area (the "Bronzeville Redevelopment Area") of the City; (2) designated the Bronzeville Redevelopment Area as a "redevelopment project area" pursuant to the Act; and (3) adopted tax increment allocation financing for the Bronzeville Redevelopment Area; and

WHEREAS, the 35th/State Redevelopment Area is either contiguous to, or is separated only by a public right of way from, the Bronzeville Redevelopment Area; and

WHEREAS, the Bronzeville Redevelopment Plan permits the exercise of Transfer Rights with respect to incremental taxes from the Bronzeville Redevelopment Area ("Bronzeville Increment") and the 35th/State Redevelopment Plan permits the receipt of incremental taxes pursuant to Transfer Rights; and

WHEREAS, it is anticipated that the City may, in its discretion, exercise its Transfer Rights pursuant to the Act and the Bronzeville and 35th/State Redevelopment Plans to use

Bronzeville Increment in an amount up to \$3,500,000 as part of (and not in addition to) the incremental taxes in the Fund (the "35th/State Increment"); and

WHEREAS, Owner and Manager (collectively referred to as the "Developer") will be obligated to undertake the Project in accordance with the terms and conditions of a proposed redevelopment agreement to be executed by the Developer and the City, with such Project to be financed in part by the 35th/State Increment; and

WHEREAS, pursuant to its Resolution 12-CDC-16 adopted by the Community Development Commission of the City of Chicago (the "Commission") on May 8, 2012, the Commission published notice pursuant to Section 5/11-74.4-4(c) of the Act of the City's intention, acting through the Department of Housing and Economic Development ("HED"), to negotiate a redevelopment agreement with the Developer for the Project and to request alternative proposals for redevelopment of the Property; and

WHEREAS, HED published the notice, requested alternative proposals for the redevelopment of the Property and provided reasonable opportunity for other persons to submit alternative bids or proposals; and

WHEREAS, since no other responsive proposals were received by HED for the redevelopment of the Property within 30 days after such publication, the Commission has recommended that the Developer be designated as developer for the Project and that HED be authorized to negotiate, execute and deliver on behalf of the City a redevelopment agreement with the Developer for the Project; and

WHEREAS, on February 21, 2013, the Chicago Plan Commission recommended the proposed disposition of Building J Parcel as being consistent with the City's policy for intergovernmental land transfers for a public purpose; and

WHEREAS, the City's conveyance of the Building J Parcel to the CHA in connection with the Project is consistent with the goals and objectives of the Bronzeville Redevelopment Plan; and

WHEREAS, the Project is necessary for the redevelopment of the 35th/State Redevelopment Area; 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. The Developer is hereby designated as the developer for the Project pursuant to Section 5/11-74.4-4 of the Act.

SECTION 3. The Mayor or his proxy is authorized to execute, and the City Clerk or Deputy City Clerk is authorized to attest, a quitclaim deed conveying Building J Parcel to the CHA, subject to those covenants, conditions and restrictions set forth in this Ordinance.

SECTION 4. The following provisions shall govern the City's conveyance of Building J Parcel to the CHA:

(i) Form of Quitclaim Deed. The City shall, subject to approval by HUD, convey to the CHA title to the Building J Parcel by quitclaim deed for the sum of One and 00/100 Dollar (\$1.00), which shall be paid by the CHA to the City on the date the City conveys the Building J Parcel. The CHA acknowledges and agrees that the Building J Parcel has a fair market value price of approximately Nine Hundred Sixty Two Thousand Two Hundred Seventy Eight Dollars (\$962,278). The land write-down of Building J Parcel has been made by the City, subject to the restrictions set forth in the City's deed to Building J Parcel and this Ordinance. Without limiting the quitclaim nature of the deed, the conveyance of and title to Building J Parcel shall, in addition to the provisions of this Ordinance, be subject to:

- (a) general real estate taxes and any special assessments or other taxes;
- (b) all easements, encroachments, covenants and restrictions of record and not shown of record;
- (c) such other title defects as may exist;
- (d) any and all exceptions caused by the acts of the CHA or its agents; and
- (e) the Bronzeville Redevelopment Plan.

(ii) Closing. The closing for the conveyance of Building J Parcel from the City to the CHA shall take place on such date and at such place as the parties may mutually agree to in writing, but in no event later than June 30, 2013 (the "Outside Closing Date"), unless HED in its sole discretion extends the Outside Closing Date, for good cause shown by issuing a written extension letter.

(iii) Recordation of Quitclaim Deed. The CHA shall promptly record the quitclaim deed for Building J Parcel in the Office of the Recorder of Deeds of Cook County, Illinois. The CHA shall pay all costs for so recording the quitclaim deed.

(iv) Escrow. In the event that the CHA requires conveyance through an escrow, the CHA shall pay all escrow fees.

(v) Environmental Condition of Building J Parcel. The City makes no covenant, representation or warranty as to the soil or environmental condition of Building J Parcel or the suitability of Building J Parcel for any purpose whatsoever, and the CHA agrees to accept Building J Parcel "as is". If after the closing of the City's conveyance of Building J Parcel to the CHA, the soil or environmental condition of Building J Parcel is not in all respects entirely suitable for the use to which Building J Parcel is to be utilized, it shall be the sole responsibility and obligation of the CHA to take such action as is necessary to put Building J Parcel in a condition suitable for such intended use. The CHA agrees to release and indemnify the City from any claims and liabilities relating to or arising from the environmental condition of Building J Parcel (including, without limitation, claims under CERCLA) and to undertake and discharge

all liabilities of the City arising from any environmental condition which existed on Building J Parcel prior to the closing.

SECTION 5. The Commissioner of HED (the "Commissioner") or a designee of the Commissioner is 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 among the Developer and the City, substantially in the form attached hereto as Exhibit B and made a part hereof (the "Redevelopment Agreement"), and such other supporting documents as may be necessary to carry out and comply with the provisions of the Redevelopment Agreement, with such changes, deletions and insertions as shall be approved by the persons executing the Redevelopment Agreement.

SECTION 6. The City Council hereby finds that the City is authorized to pay to Developer up to \$5,000,000 from 35th/State Increment deposited in the General Account of the Fund for the purpose of paying a portion of the eligible redevelopment project costs included within the Project.

SECTION 7. The Mayor, the Comptroller, the City Clerk, the Commissioner (or his or her designee) and the other officers of the City ("Authorized Officer") 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 8. 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 9. All ordinances, resolutions, motions or orders in conflict with this ordinance are hereby repealed to the extent of such conflict. No provision of the Municipal Code or violation of any provision of the Municipal Code shall be deemed to impair the validity of this ordinance or the instruments authorized by this ordinance or to impair the security for or payment of the instruments authorized by this ordinance; provided further, however, that the foregoing shall not be deemed to affect the availability of any other remedy or penalty for violation of any provision of the Municipal Code.

SECTION 10. This ordinance shall be in full force and effect immediately upon its passage.

Attachments:

Exhibit A: Legal Description of CHA Property

Exhibit A-1: Legal Description of Building J Parcel

Exhibit B: Redevelopment Agreement

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EXHIBIT A
LEGAL DESCRIPTION OF CHA PROPERTY

BUILDING T

Parcel 1: LOT 4 IN STATEWAY GARDENS PHASE II-B, BEING A SUBDIVISION OF PART OF VACATED WEST 37TH STREET, VACATED WEST 38TH STREET, VACATED SOUTH DEARBORN STREET, VACATED SOUTH FEDERAL STREET, BLOCK 2 AND THE 16 FOOT VACATED ALLEY IN SAID BLOCK 2, IN THE SUBDIVISION OF BLOCK 32 AND THE EAST 68 FEET OF BLOCK 31 OF CANAL TRUSTEE'S SUBDIVISION OF SECTION 33, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 3, 2012, AS DOCUMENT 1233829122, IN COOK COUNTY, ILLINOIS.

Parcel 2: LOT 3 IN STATEWAY GARDENS PHASE II-B, BEING A SUBDIVISION OF PART OF VACATED WEST 37TH STREET, VACATED WEST 38TH STREET, VACATED SOUTH DEARBORN STREET, VACATED SOUTH FEDERAL STREET, BLOCK 2 AND THE 16 FOOT VACATED ALLEY IN SAID BLOCK 2, IN THE SUBDIVISION OF BLOCK 32 AND THE EAST 68 FEET OF BLOCK 31 OF CANAL TRUSTEE'S SUBDIVISION OF SECTION 33, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 3, 2012, AS DOCUMENT 1233829122, IN COOK COUNTY, ILLINOIS.

Parcel 3: LOT 2 IN STATEWAY GARDENS PHASE II-B, BEING A SUBDIVISION OF PART OF VACATED WEST 37TH STREET, VACATED WEST 38TH STREET, VACATED SOUTH DEARBORN STREET, VACATED SOUTH FEDERAL STREET, BLOCK 2 AND THE 16 FOOT VACATED ALLEY IN SAID BLOCK 2, IN THE SUBDIVISION OF BLOCK 32 AND THE EAST 68 FEET OF BLOCK 31 OF CANAL TRUSTEE'S SUBDIVISION OF SECTION 33, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 3, 2012, AS DOCUMENT 1233829122, IN COOK COUNTY, ILLINOIS.

Commonly known as: 3720 South Dearborn Street, Chicago, Illinois

P.I.N.: 17-33-416-048-0000

BUILDING M:

LOT 16 IN STATEWAY GARDENS PHASE II-A, BEING A SUBDIVISION OF PART OF VACATED WEST 37TH STREET IN CANAL TRUSTEE'S SUBDIVISION, AND PART OF VACATED SOUTH DEARBORN STREET, PART OF BLOCK 4 AND PART OF THE VACATED ALLEY IN SAID BLOCK 4, IN THE SUBDIVISION OF BLOCK 17 IN CANAL TRUSTEE'S SUBDIVISION AFORESAID, ALL IN SECTION 33, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 21, 2011, AS DOCUMENT 1117245033, IN COOK COUNTY, ILLINOIS.

Commonly known as: 16-22 West 37th Street, Chicago, Illinois

P.I.N.s: 17-33-408-068-0000 (part of)
 17-33-408-069-0000 (part of)
 17-33-408-070-0000 (part of)

BUILDING N:

LOTS 17 AND 18 IN STATEWAY GARDENS PHASE II-A, BEING A SUBDIVISION OF PART OF VACATED WEST 37TH STREET IN CANAL TRUSTEE'S SUBDIVISION, AND PART OF VACATED SOUTH DEARBORN STREET, PART OF BLOCK 4 AND PART OF THE VACATED ALLEY IN SAID BLOCK 4, IN THE SUBDIVISION OF BLOCK 17 IN CANAL TRUSTEE'S SUBDIVISION AFORESAID, ALL IN SECTION 33, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 21, 2011, AS DOCUMENT 1117245033, IN COOK COUNTY, ILLINOIS.

Commonly known as: 4-10 West 37th Street, Chicago, Illinois

P.I.N.s: 17-33-408-068-0000 (part of)
 17-33-408-069-0000 (part of)
 17-33-408-070-0000 (part of)

EXHIBIT A-1
LEGAL DESCRIPTION OF BUILDING J PARCEL

BUILDING J:

LOTS 46 THROUGH 51, BOTH INCLUDED, AND THE VACATED ALLEY LYING BETWEEN SAID LOTS, IN FREEMAN'S ADDITION TO CHICAGO, BEING THE 10 ACRES NEXT TO AND ADJOINING THE NORTH 20 ACRES OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, AND ALSO LOT 24, EXCEPT THE EAST 25 FEET, IN E. SMITH'S SUBDIVISION OF THE SOUTH 10 ACRES OF THE NORTH HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 34, ALL IN COOK COUNTY, ILLINOIS.

Commonly known as: 3633-3647 South State Street, Chicago, Illinois

P.I.N.s: 17-34-306-004-0000
 17-34-306-015-0000
 17-34-306-049-0000
 17-34-306-050-0000
 17-34-306-051-0000
 17-34-306-052-0000

EXHIBIT B
Redevelopment Agreement

See attached

This agreement was prepared by and after recording return to:
Ann R. Kaplan-Perkins, Esq.
City of Chicago Law Department
121 North LaSalle Street, Room 600
Chicago, IL 60602

PARK BOULEVARD IIB RENTAL PROJECT REDEVELOPMENT AGREEMENT

This Park Boulevard IIB Rental Project Redevelopment Agreement (the "**Agreement**") is made as of this ___ day of _____, 2013, by and among the City of Chicago, an Illinois municipal corporation (the "**City**"), through its Department of Housing and Economic Development ("**HED**"), Park Boulevard IIB, LLC, an Illinois limited liability company ("**Owner**"), and Park Boulevard IIB Manager LLC, an Illinois limited liability company ("**Manager**" and together with Owner, "**Developer**").

RECITALS:

A. Constitutional Authority: As a home rule unit of government under Section 6(a), Section 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. (2002 State Bar Edition), 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 January 14, 2004: (1) "An Ordinance of the City of Chicago, Illinois Approving a Redevelopment Plan for the 35th/State Redevelopment Project Area"; (2) "An Ordinance of the City of Chicago, Illinois Designating the 35th/State Redevelopment Project Area as a Redevelopment Project Area Pursuant to Tax Increment Allocation Redevelopment Act"; and (3) "An Ordinance of the City of Chicago, Illinois Adopting Tax Increment Allocation Financing for the 35th/State Redevelopment Project Area" (the "**TIF Adoption Ordinance**"). Collectively the three ordinances are defined as the "**TIF Ordinances**". The Redevelopment Area (as defined

below) is legally described on Exhibit A.

D. The Project: An affiliate of the Developer previously entered into a Contract for Redevelopment of Stateway Gardens dated May 3, 2003 (the "**CHA Redevelopment Agreement**") with the Chicago Housing Authority ("**CHA**") and The Habitat Company LLC for the construction by Owner of 1,316 housing units, including replacement public housing, on sites located within the Bronzeville Tax Increment Financing Redevelopment Project Area ("**Bronzeville Redevelopment Area**") and the 35th/State Tax Increment Financing Redevelopment Project Area (the "**35th/State Redevelopment Area**"). The project contemplated by this Agreement is for the construction of approximately 108 of those units in four buildings located at 3633-47 South State Street, 4-10 West 37th Street, 16-22 West 37th Street and 3720 South Dearborn Street, all in Chicago, Illinois (collectively, the "**Property**"). CHA has leased the Property to Owner pursuant to two separate 99-year ground leases. The Property is approximately 1.788 acres, and is located wholly within the Redevelopment Area. A legal description of the Property is stated in Exhibit B-1. The Property is currently undeveloped and subject to the zoning requirements stated in Residential-Business Planned District No. 897 (including any approved amendment thereof, the "**PD**"). Developer plans to construct four new buildings, consisting of three 12-flats and one mid-rise. The buildings will collectively comprise: approximately 108 residential units, 71 of which will be affordable for low-income families; 109 parking spaces; and approximately 5,762 square feet of retail space. The new construction work is collectively defined as the "**Project**". A site plan for the Project (the "**Site Plan**") is Exhibit B-2. The completion of the Project would not reasonably be anticipated to occur without the financing contemplated in this Agreement.

E. Redevelopment Plan: The Project will be carried out in accordance with this Agreement, the PD and the City of Chicago 35th/State Redevelopment Project Area Tax Increment Finance Program Redevelopment Plan and Project dated May 29, 2003, as revised on October 7, 2003 and attached as Exhibit B-3 hereto (the "**Redevelopment Plan**"), and as amended from time-to-time.

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:

SECTION 1: 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.

SECTION TWO: DEFINITIONS

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

"35th/State Redevelopment Area" has the meaning defined in the recitals.

"35th/State 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 below) will be deposited.

"Act" has the meaning defined in the recitals.

“Actual Residents of the City” has the meaning defined for such phrase in Section 11.02(c).

“Affiliate” means any individual, corporation, partner, partnership, trust or entity which owns or controls a controlling interest, or is owned or controlled by, or is under common ownership or control with, in whole or in part, Developer or any successor to Developer or its subsidiary(ies) or parent(s).

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

“AMI” shall mean Chicago-area median income, adjusted for family (as defined in 24 C.F.R. Part 5.403) size, as determined from time to time by HUD.

“Annual Compliance Report” shall mean a signed report from the Developer to the City (a) itemizing each of the Developer’s obligations under the RDA during the preceding calendar year, (b) certifying the 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 the Developer is not in default with respect to any provision of the RDA, 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) delivery of Financial Statements and unaudited financial statements (**Section 9.12**); (2) delivery of updated insurance certificates, if applicable (**Section 9.13**); (3) delivery of evidence of payment of Non-Governmental Charges, if applicable (**Section 9.14**); and (4) compliance with all other executory provisions of the RDA.

“Available Incremental Taxes” means an amount equal to \$5,000,000 of the Incremental Taxes (as defined below), including the Bronzeville Ported Funds, deposited after the Closing Date in the 35th/State Redevelopment Project Area Special Tax Allocation Fund, to the extent available and subject to Prior TIF Obligations (as set forth on **Exhibit L** hereto).

“Available Project Funds” has the meaning defined for such phrase in Section 5.07.

“Bonds” has the meaning defined in Section 9.05.

“Bronzeville Ported Funds” shall mean up to \$3,500,000 of funds ported from the Bronzeville Special Tax Allocation Fund to the 35th/State Redevelopment Project Area Special Tax Allocation Fund for the sole purpose of funding the TIF Payments.

“Bronzeville Redevelopment Area” has the meaning defined in the recitals.

“Bronzeville Special Tax Allocation Fund” shall mean the special tax allocation fund created by the City in connection with the Bronzeville Redevelopment Area into which incremental taxes from the Bronzeville Redevelopment Area are deposited.

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

“Business Relationship” shall have the meaning set forth for such term in Section 2-156-080 of the Municipal Code of Chicago.

“Certificate” means the Certificate of Completion of Construction described in Section 8.01.

"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 4.04.

"City" has the meaning defined in the Agreement preamble.

"City Contract" has the meaning defined in Section 9.01(m).

"City Council" means the City Council of the City of Chicago as defined in the recitals.

"City Funds" means the funds described in Section 5.03(a).

"City Group Member" has the meaning defined in Section 9.10.

"City Regulatory Agreements" means, collectively: that certain Regulatory Agreement entered into on the date hereof by Developer and the City; and that certain Donations Tax Credit Regulatory Agreement entered into on the date hereof by Developer, Sponsor and the City.

"Closing Date" means the date of execution and delivery of this Agreement by all parties hereto.

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

"Construction Program" has the meaning defined in Section 11.03.

"Corporation Counsel" means the City's Office of Corporation Counsel.

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

"Employer(s)" has the meaning defined in Section 11.01.

"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).

"Equity" means funds of Developer (other than funds derived from Lender Financing (as defined below)) available for the Project, in the amount stated in Exhibit J attached hereto, which amount may be increased under Section 5.06 (Cost Overruns).

"Escrow" shall mean the construction escrow established pursuant to the Escrow Agreement.

"Escrow Agreement" shall mean the Escrow Agreement establishing a construction escrow, to be entered into as of the date hereof by the City, the Title Company (or an affiliate of the Title Company), the Developer and the Developer's lender(s), in such form as may be approved by the City.

"Event of Default" has the meaning defined in Section 16.01.

"Existing Materials" shall mean the Hazardous Materials and other environmental conditions described in any SRP reports existing on the Property prior to or as of the Closing Date.

"Existing Mortgages" has the meaning defined in Section 17.01.

"Financial Statements" means the financial statements of Developer regularly prepared by Developer, 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, and which are delivered to the lender(s) providing Lender Financing pursuant to Developer's loan agreement(s), if any.

"General Contractor" means the general contractor(s) hired by Developer under Section 7.01.

"Governmental Charge" has the meaning defined in Section 9.18(a).

"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.

"HUD" shall mean the U.S. Department of Housing and Urban Development.

"Human Rights Ordinance" has the meaning defined in Section 11.01(a).

"In Balance" has the meaning defined in Section 5.07.

"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 35th/State Redevelopment Project Area Special Tax Allocation Fund.

"Indemnitee" and **"Indemnitees"** have the respective meanings defined in Section 14.01.

"Labor Department" has the meaning defined in Section 9.08.

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

"MBE(s)" means 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.

"MBE/WBE Program" has the meaning defined in Section 11.03.

"Municipal Code" 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 17.01.

"NFRL" shall mean a No Further Remediation Letter issued pursuant to the SRP.

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

"PD" has the meaning defined in the recitals.

"Permitted Liens" means those liens and encumbrances against the buildings in the Project and/or the Project stated in Exhibit G.

"Permitted Mortgage" has the meaning defined in Section 17.01.

"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.

"Prior Expenditure(s)" has the meaning defined in Section 5.05.

"Procurement Program" has the meaning defined in Section 11.03.

"Project" has the meaning defined in the recitals.

"Project Budget" means the budget stated in Exhibit C, showing the total cost of the Project by line item, as furnished by Developer to HED, in accordance with Section 4.03.

"Property" has the meaning defined in the recitals.

"Recorded Affordability Documents" means, collectively: the City Regulatory Agreements; that certain Declaration of Restrictive Covenants by and among the CHA and Owner dated as of the date hereof; that certain Regulatory and Operating Agreement by and among the CHA and Owner dated as of the date hereof.

"Redevelopment Area" means the redevelopment project area as legally described in Exhibit A.

"Redevelopment Plan" has the meaning defined in the recitals.

"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" shall mean the document, in the form attached hereto as Exhibit K,

to be delivered by the Developer to HED pursuant to Section 5.04 of this Agreement.

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

"Site Plan" has the meaning defined in the recitals.

"SRP" means the State of Illinois Site Remediation Program, as codified at 415 ILCS 5/58, et seq., as amended from time to time.

"State" means the State of Illinois as defined in the recitals.

"Survey" means a Class A plat of survey in the most recently revised form of ALTA/ACSM urban survey of the Property dated within 45 days prior to the Closing Date, reasonably acceptable in form and content to the City and the Title Company, prepared by a surveyor registered in the State, certified to the City and the Title Company, and indicating whether the Property is in a flood hazard area as identified by the United States Federal Emergency Management Agency (and any updates thereof to reflect improvements to the Property in connection with the construction of the Project as required by the City or the lender(s) providing Lender Financing, if any).

"Term of the Agreement" means the period of time commencing on the Closing Date and ending on December 31, 2028, such date being the last day of the calendar year in which taxes levied in the year that is 23 years after the creation of the Redevelopment Area are paid.

"TIF Adoption Ordinance" has the meaning stated in the recitals.

"TIF Ordinances" has the meaning stated in the recitals.

"TIF Payments" has the meaning stated in Section 5.03.

"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 reimburse and/or pay for out of the City Funds, subject to the terms of this Agreement, and (iv) are stated in Exhibit E.

"Title Company" means Near North National Title LLC.

"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 Project related to Lender Financing, if any, issued by the Title Company.

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

"WBE(s)" means 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.

SECTION THREE: [INTENTIONALLY OMITTED]

SECTION FOUR: THE PROJECT

4.01 **The Project.** Developer will: (i) begin redevelopment construction no later than ninety days after the Closing Date, and (ii) complete redevelopment construction no later than the third anniversary of the Closing Date, subject to the provisions of Section 19.16 (Force Majeure).

4.02 **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. After such initial approval, subsequent proposed changes to the Scope Drawings or Plans and Specifications within the scope of Section 4.04 will be submitted to HED as a Change Order under Section 4.04. 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, the draft NFRL for the Property to be obtained by the Developer from the IEPA, and 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.

4.03 **Project Budget.** Developer has furnished to HED, and HED has approved, a Project Budget which is Exhibit C, showing total costs for the Project in an amount not less than [\$42,271,275]. Developer hereby certifies to the City that: (a) in addition to City Funds, the Lender Financing and/or Equity described in Exhibit J shall be sufficient to pay for all Project 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 4.04.

4.04 **Change Orders.** Except as provided below, all Change Orders (and documentation substantiating the need and identifying the source of funding therefor) relating to material changes to the Project must be submitted by the Developer to HED for HED's prior written approval. The Developer shall not authorize or permit the performance of any work relating to any Change Order or the furnishing of materials in connection therewith prior to the receipt by the Developer of HED's written approval. The Construction Contract, and each contract between the General Contractor and any subcontractor, shall contain a provision to this effect. An approved Change Order shall not be deemed to imply any obligation on the part of the City to increase the amount of City Funds which the City has pledged pursuant to this Agreement or provide any other additional assistance to the Developer.

4.05 **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.

4.06 **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 6.03 (Other Governmental Approvals).

4.07 **Progress Reports and Survey Updates.** 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 4.04). Developer must also deliver to the City written progress reports by draw, but not less than quarterly, detailing compliance with the requirements of Section 9.08 (Prevailing Wage), Section 11.02 (City Resident Construction Worker Employment Requirement) and Section 11.03 (Developer's MBE/WBE Commitment). If the reports reflect a shortfall in compliance with the requirements of Sections 9.08, 11.02 and 11.03, then there must also be included a written plan from Developer acceptable to HED to address and cure such shortfall. At Project completion, upon the request of HED, Developer will provide 3 copies of an updated Survey to HED reflecting improvements made to the Property.

4.08 **Inspecting Agent or Architect.** An independent agent or architect (other than Developer's architect) approved by HED shall be selected to 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 will perform periodic inspections with respect to the Project, providing written certifications with respect thereto to HED, prior to requests for disbursements for costs related to the Project. At the Developer's option, the inspecting architect may be the inspecting architect engaged by any lender providing Lender Financing for the Project, provided that said architect is an independent architect licensed by the State of Illinois, or an inspecting agent of HED.

4.09 **Barricades.** Developer will install a construction barricade of a type and appearance satisfactory to the City and which barricade was 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 Project) installed after the date of this Agreement.

4.10 **Signs and Public Relations.** Developer will erect in a conspicuous location on the Property during the Project a sign of commercially reasonable size and style, 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, non-confidential information regarding Developer and the Project in the City's promotional literature and communications.

4.11 **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.

4.12 **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.

4.13 **Accessibility for Disabled Persons.** Developer acknowledges that it is in the public interest to design, construct and maintain the Project in a manner that promotes, enables, and maximizes universal access throughout the Project. Plans for all buildings on the Property and related improvements have been 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.

4.14 **Relocation of Utilities, Curb Cuts and Driveways.** The Developer shall be solely responsible for and shall pay all costs associated with: (a) the relocation, installation or construction of public or private utilities, curb cuts and driveways; (b) the repair or reconstruction of any curbs, vaults, sidewalks or parkways required in connection with or damaged as a result of the Developer's construction of the Project; (c) the removal of existing pipes, utility equipment or building foundations; and (d) the termination of existing water or other services. The City shall have the right to approve any streetscaping provided by the Developer as part of the Project, including, without limitation, any paving of sidewalks, landscaping and lighting.

4.15 **City's Right to Inspect Property.** For the period commencing on the Closing Date and continuing through the date the City issues the Certificate, any duly authorized representative of the City shall have access to the Property at all reasonable times for the purpose of determining whether the Developer is constructing the Project in accordance with the terms of this Agreement and all applicable federal, state and local statutes, laws, ordinances, codes, rules, regulations, orders and judgments, including, without limitation, Sections 7-28 and 11-4 of the Municipal Code of Chicago relating to waste disposal (collectively, "Laws").

SECTION FIVE: FINANCING

5.01 **Total Project Cost and Sources of Funds.** The cost of the Project is estimated to be [\$42,271,275] to be applied in the manner stated in the Project Budget and funded from the sources identified in Exhibit J.

5.02 **Developer Funds.** Equity and Lender Financing will be used to pay all Project costs, including but not limited to costs of TIF-Funded Improvements.

5.03 **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". City Funds may be used to pay directly or reimburse Developer only for costs incurred by Developer of TIF-Funded Improvements that constitute Redevelopment Project Costs. Exhibit D 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.** Subject to the terms and conditions of this Agreement, including but not limited to this Section 5.03 and Section 6 hereof, the City hereby agrees to provide City funds from the sources and in the amounts described directly below (the "City Funds") to pay for or reimburse the Developer for the costs of the TIF-Funded Improvements:

(i) **TIF Payments.** The City will make three payments, from Available Incremental Taxes (the "TIF Payments"), to Developer as follows: (i) \$2,500,000 at approximately 50% completion of the Project (Draw #9); (ii) \$1,500,000 at approximately 83% completion of the Project (Draw #12); and (iii) \$1,000,000 at the later of Draw #15 and issuance of the Certificate, each as further depicted in the Developer's Draw Schedule attached as Exhibit C and identified in each Requisition Form submitted to the City.

5.04 **Construction Escrow; Requisition Form.** The City and the Developer hereby agree to enter into the Escrow Agreement. All disbursements of Project funds shall be made through the funding of draw requests with respect thereto pursuant to the Escrow Agreement

and this Agreement. The City must receive copies of any draw requests and related documents submitted to the Title Company for disbursements under the Escrow Agreement. Notwithstanding any other provision in this Agreement, in the event of a conflict between the provisions in this Agreement governing the disbursement of the City Funds and the provisions in the Escrow Agreement relating to the disbursement of the City Funds and the order of disbursement and conditions to disbursement of the City Funds and all other Lender Financing sources, the terms of the Escrow Agreement shall control.

At Closing, the Developer shall provide HED with a Requisition Form, along with the documentation described therein. HED shall retain the right to approve or reject any cost in the Project or in any Requisition Form as (i) a TIF-Funded Improvement or (ii) a part of the actual total Redevelopment Project Costs.

5.05 Treatment of 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 F) as a Prior Expenditure as of the date hereof. Exhibit F states 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 5.01.

5.06 Cost Overruns. If the aggregate cost of the TIF-Funded Improvements exceeds City Funds available under Section 5.03, 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.

5.07 Preconditions of Disbursement. Prior to each disbursement of City Funds pursuant to the terms of Section 5.03(b) above, the Developer shall submit documentation regarding the applicable expenditures to HED (per the Requisition Form), which shall be satisfactory to HED in its sole discretion. Delivery by the Developer to HED of any request for TIF Payments 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 total amount of the disbursement request represents the actual amount payable to (or paid to) the General Contractor and/or subcontractors who have performed work on the Project, and/or their payees;

(b) all amounts shown as previous payments on the current disbursement request have been paid to the parties entitled to such payment;

(c) the Developer has approved all work and materials for the current disbursement request, and such work and materials conform to the Plans and Specifications;

(d) the representations and warranties contained in this Redevelopment Agreement are true and correct and the Developer is in compliance with all covenants contained herein;

(e) the Developer has received no notice and has no knowledge of any liens or claim of lien either filed or threatened against the Property except for the Permitted Liens;

(f) 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; and

(g) the Project is In Balance. The Project shall be deemed to be in balance ("In Balance") only if the total of the available Project funds equals or exceeds the aggregate of the amount necessary to pay all unpaid Project costs incurred or to be incurred in the completion of the Project. "Available Project Funds" as used herein shall mean: (i) the undisbursed City Funds; (ii) the undisbursed Lender Financing, if any; (iii) the undisbursed Equity and (iv) any other amounts deposited by the Developer pursuant to this Agreement. The Developer hereby agrees that, if the Project is not In Balance, the Developer shall, within 10 days after a written request by the City, deposit with the escrow agent or will make available (in a manner acceptable to the City), cash in an amount that will place the Project In Balance, which deposit shall first be exhausted before any further disbursement of the City Funds shall be made.

The City shall have the right, in its discretion, to require the 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 the Developer. In addition, the Developer shall have satisfied all other preconditions of disbursement of City Funds for each disbursement, including but not limited to requirements set forth in the Bond Ordinance, if any, TIF Bond Ordinance, if any, the Bonds, if any, the TIF Bonds, if any, the TIF Ordinances, this Agreement and/or the Escrow Agreement.

SECTION SIX: CONDITIONS PRECEDENT

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:

6.01 **Project Budget.** Developer will have submitted to HED, and HED will have approved, a Project Budget in accordance with the provisions of Section 4.03.

6.02 **Scope Drawings and Plans and Specifications.** Developer will have submitted to HED, and HED will have approved, the Scope Drawings and Plans and Specifications as provided in Section 4.02.

6.03 **Other Governmental Approvals.** Developer will have secured or applied 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.

6.04 **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 5.01 to complete the Project and satisfy their 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 5.01 and Exhibit J) to complete the Project.

(b) Prior to the Closing Date, Developer will deliver to HED a copy of the

Construction Escrow Agreement entered into by Developer regarding Developer's Lender Financing, if any. The Construction Escrow Agreement must provide that HED will receive copies of all construction draw request materials submitted by Developer after the date of this Agreement.

(c) Any financing liens against the Property and Project in existence at the Closing Date will be subordinated to certain encumbrances of the City stated in this Agreement under a subordination agreement, in a form acceptable to the City, executed on or prior to the Closing Date, which is to be recorded, at the expense of Developer, in the Office of the Recorder of Deeds of Cook County.

(d) The City agrees that the Developer may collaterally assign its interest in this Agreement to any of its lenders if any such lenders require such collateral assignment.

6.05 **Acquisition and Title.** On the Closing Date, Developer will furnish the City with a copy of the Title Policy for the Property, 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 G and will evidence the recording of this Agreement under the provisions of Section 9.17. The Title Policy will also contain the following endorsements as required by Corporation Counsel: an owner's comprehensive endorsement and satisfactory endorsements regarding zoning (3.1 with parking), contiguity, location, access, and survey.

6.06 **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 the names of each of the entities comprising Developer 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.

6.07 **Surveys.** Developer will have furnished the City with 3 copies of the Survey.

6.08 **Insurance.** Developer, at its own expense, will have insured the Property and the Project as required under Section 13. Prior to the Closing Date, certificates required under Section 13 evidencing the required coverages will have been delivered to HED.

6.09 **Opinions of Developer's Counsel.** On the Closing Date, Developer will furnish the City with an opinion of counsel, substantially in the form of Exhibit H, 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 H, such opinions shall be obtained by Developer from its general corporate counsel.

6.10 **Evidence of Prior Expenditures.** Developer will have provided evidence

satisfactory to HED of the Prior Expenditures as provided in Section 5.05.

6.11 **Financial Statements.** Developer will have provided Financial Statements to HED for its fiscal year 2011, and its most recently available unaudited interim Financial Statements.

6.12 **Additional Documentation.** Developer will have provided documentation to HED, satisfactory in form and substance to HED concerning Developer's employment profile and copies of any ground leases or operating leases and other tenant leases executed by Developer for leaseholds in the Project, if any.

6.13 **Environmental Audit.** Developer will have provided HED with copies of all phase I environmental audits completed with respect to the Property, if any, and a letter from the environmental engineer(s) who completed such audit(s), authorizing the City to rely on such audits. If environmental issues exist on the Property, the City will require written verification from the Illinois Environmental Protection Agency that all identified environmental issues have been or will be resolved to its satisfaction.

6.14 **Entity Documents.** Developer will provide a copy of the current Articles of Organization for Developer, 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 or organization and all other states in which Developer is qualified to do business; the current Operating Agreement for Developer; a secretary's certificate in such form and substance as the Corporation Counsel may require; and such organizational documentation as the City may request.

6.15 **Litigation.** Developer will provide to Corporation Counsel and HED a description of all pending or threatened litigation or administrative proceedings involving Developer or any Affiliate of Developer specifying, in each case, 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.

6.16 **Environmental.** Developer shall deliver to the City a copy of HUD's NEPA clearance with respect to the Property.

SECTION SEVEN: AGREEMENTS WITH CONTRACTORS

7.01 Bid Requirement for General Contractor and Subcontractors.

(a) HED acknowledges that Developer has selected Walsh Construction or an Affiliate as the General Contractor for the Project. Developer will cause the General Contractor to solicit bids for work on the Project solely from qualified subcontractors eligible to do business with the City of Chicago.

(b) Developer must submit copies of the Construction Contract to HED as required under Section 7.02 below. Upon the written request of the City, Developer will provide photocopies of all subcontracts entered or to be entered into in connection with the Project within five (5) Business Days of the execution thereof. The 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 the City and all requisite permits have been obtained.

7.02 **Construction Contract.** 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 Project, for HED's prior written approval. Following 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.

7.03 **Performance and Payment Bonds.** Prior to commencement of construction of any work in the public way, 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 bond form attached as Exhibit I. The City will be named as obligee or co-obligee on such bond.

7.04 **Employment Opportunity.** Developer will contractually obligate and cause the General Contractor to agree and contractually obligate each subcontractor to agree to the provisions of Section 11; provided, however, that the contracting, hiring and testing requirements associated with the MBE/WBE and the City resident obligations in Section 11 shall be applied on an aggregate basis and the failure of the General Contractor to require each subcontractor to satisfy or the failure of any one subcontractor to satisfy, such obligation shall not result in a default or a termination of this Agreement or require payment of the City resident hiring shortfall amounts so long as such Section 11 obligations are satisfied on an aggregate basis.

7.05 **Other Provisions.** In addition to the requirements of this Section 7, the Construction Contract and each contract with any subcontractor must contain provisions required under Section 4.04 (Change Orders), Section 9.08 (Prevailing Wage), Section 11.01(e) (Employment Opportunity), Section 11.02 (City Resident Construction Worker Employment Requirement), Section 11.03 (Developer's MBE/WBE Commitment), Section 13 (Insurance) and Section 15.01 (Books and Records).

SECTION EIGHT: COMPLETION OF CONSTRUCTION

8.01 **Certificate of Completion of Construction.**

(a) Upon substantial 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.

(b) Developer acknowledges and understands that the City will not issue a Certificate until the City's Monitoring and Compliance unit has determined in writing that Developer is in complete compliance with all City requirements (M/WBE, City residency and prevailing wage) as required in this Agreement.

8.02 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 the 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 9.02 (Covenant to Redevelop), Section 9.18 (Real Estate Provisions), and Section 9.19 (Affordability Requirements) as covenants that run with the land are the only covenants in this Agreement intended to be binding upon any transferee of the Property (including an assignee as described in the following sentence) throughout the Term of the Agreement. The other executory terms of this Agreement that remain after the issuance of the Certificate will be binding only upon Developer or a permitted assignee of Developer who, as provided in Section 19.14 (Assignment) of this Agreement, has contracted to take an assignment of Developer's rights under this Agreement and assume Developer's liabilities hereunder.

8.03 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;

(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 5.01, 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; and

(c) the right to seek reimbursement of the City Funds from Developer.

8.04 Notice of Expiration of Term of Agreement. Upon the expiration of the Term of the 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.

SECTION NINE: REPRESENTATIONS, WARRANTIES AND COVENANTS OF DEVELOPER.

9.01 General. Each of Owner and Manager represents, warrants, and covenants, as of the date of this Agreement as follows.

(a) Owner is an Illinois limited liability company, duly organized, validly existing and in good standing, and consists of 3 members: its managing member, Manager (0.005%); Interfaith Housing Development Corporation of Chicago (or a wholly-owned affiliate) (0.005%); and Wincopin Circle LLLP (99.99%).

(b) Manager is an Illinois limited liability company, duly organized, validly existing

and in good standing, and consists of one member, Stateway Associates IIB LLC (100%).

(c) Each of Owner and Manager has the right, power and authority to enter into, execute, deliver and perform this Agreement or has otherwise applied for permits and approvals required to complete the Project;

(d) The execution, delivery and performance of this Agreement has been duly authorized by all necessary limited liability company action, and does not and will not violate Owner's or Manager's Articles of Organization as amended and supplemented, its respective Operating Agreements, any applicable provision of law, or constitute a breach of, default under or require any consent under any agreement, instrument or document to which Owner or Manager is now a party or by which Owner or Manager or any of its respective assets is now or may become bound;

(e) Owner has acquired and will maintain good and merchantable leasehold title, or fee simple title, as the case may be, to the Property (and improvements) free and clear of all liens except for the Permitted Liens or Lender Financing, if any, as disclosed in the Project Budget;

(f) Each of Owner and Manager is now, and until the earlier to occur of the expiration of the Term of the Agreement and the date, if any, on which Owner or Manager has no further economic interest in the Project, will remain solvent and able to pay its respective debts as they mature;

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

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

(i) Neither Owner nor Manager is 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 either is a party or by which Owner or Manager or any of its respective assets is bound which would materially adversely effect its ability to comply with its respective obligations under this Agreement;

(j) the Financial Statements are, and when hereafter required to be submitted will be, complete, correct in all material respects and accurately present the respective assets, liabilities, results of operations and financial condition of Owner and Manager; and there has been no material adverse change in the assets, liabilities, results of operations or financial condition of Owner or Manager since the date of its most recent respective Financial Statements;

(k) prior to the issuance of the Certificate, if it would materially adversely affect Developer's ability to perform its obligations under this Agreement, each of Owner and Manager 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 respective assets or any portion of the Property or 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

outside the ordinary course of its respective business; (4) assume, guarantee, endorse, or otherwise become liable in connection with the obligations of any other person or entity; or (5) enter into any transaction that would cause a material and detrimental change to Owner's or Manager's financial condition; provided, however, this section shall not apply to any commercial leases entered into in the ordinary course of business, it being acknowledged that Developer shall have the right to enter into commercial leases in the ordinary course of business for all or any portion of the Property on such terms as are determined by Developer;

(l) Developer has not incurred and, prior to the issuance of the 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;

(m) 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

(n) None of Owner, Manager or 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. For purposes of this subsection only, "affiliate" 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 persons or entities with whom that other person or entity is acting jointly or in concert), whether directly or indirectly and whether through shared ownership, a trust, a contract or otherwise.

9.02 Covenant to Redevelop. Upon HED's approval of the Scope Drawings and Plans and Specifications, and the Project Budget as provided in Sections 4.02 and 4.03, and Developer's receipt of all required building permits and governmental approvals, Developer will redevelop the Property in compliance with this Agreement, the TIF Ordinances, the PD, the CHA Redevelopment Agreement, the Scope Drawings, the Plans and Specifications, the Project Budget, any draft NFRLs, 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. Specifically, Developer shall:

- (a) construct the improvements constituting the rental units, the parking spaces and the retail space in accordance with the recitals and Section 9.19;
- (b) fund the construction of the Project in accordance with Section 5.01;
- (c) devote the Property solely to the Project, and to a use consistent with the Redevelopment Plan;
- (d) not discriminate on the basis of race, color, sex, gender identity, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, or source of income in the use or occupancy of

the Property or any part thereof or the Project or any part thereof; and

- (e) cause its General Contractor (or, if such work is subcontracted or handled by a third party, such subcontractor or third party) to complete such work and provide such cooperation with the City and CHA as may be necessary to cover one or more NFRLs as may be necessary or appropriate to cover the entire Property.

The covenants set forth in this Section 9.02 will run with the land and will be binding upon any transferee of the Property, or a portion thereof, unless terminated in whole or in part by the City, acting through HED, pursuant to a written instrument executed pursuant to Section 8.02 and recorded against the Property, or any portion thereof.

9.03 **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.

9.04 **Use of City Funds.** City Funds disbursed to Developer will be used by Developer to either reimburse Developer for its payment for the TIF-Funded Improvements as provided in this Agreement or to pay third parties directly, on behalf of Developer, for the TIF-Funded Improvements as provided in this Agreement.

9.05 [Intentionally omitted]

9.06 **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 9.08 and Section 11; provided, however, that the contracting, hiring and testing requirements associated with the MBE/WBE and City resident obligations in Section 11 shall be applied on an aggregate basis and the failure of the General Contractor to require each subcontractor to satisfy, or the failure of any one subcontractor to satisfy, such obligations shall not result in a default or a termination of the Agreement or require payment of the City resident hiring shortfall amount so long as such Section 11 obligations are satisfied on an aggregate basis. Developer will submit to HED a plan describing its compliance program prior to the Closing Date.

(b) Developer will deliver to the City written progress reports by draw, but not less than quarterly, detailing compliance with the requirements of Sections 9.08, 11.02 and 11.03 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.

9.07 **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.

9.08 **Prevailing Wage.** Unless required to pay federal Davis Bacon wages pursuant to the terms of any Lender Financing received by the Owner for the Project, 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 pursuant to such contract. 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 9.08.

9.09 **Arms-Length Transactions.** Unless HED has 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.

9.10 **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 or Developer with respect thereto, (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 Developer's actual knowledge, any other property in the Redevelopment Area.

9.11 **Disclosure of Interest.** Developer's counsel does not have direct or indirect financial ownership interest in Developer, the Property, or any other feature of the Project.

9.12 **Financial Statements.** Developer will obtain and provide to HED Financial Statements for Developer's fiscal year ended 2011, and each yearly thereafter for the Term of the Agreement. In addition, if requested by HED, Developer will submit unaudited financial statements as soon as reasonably practical following the close of each fiscal year and for such other periods as HED may request.

9.13 **Insurance.** Solely at its own expense, Developer will comply with all provisions of Section 13 hereof.

9.14 **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 create, may create, or appear 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 Property (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 9.14); 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 Property 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.

9.15 **Developer's Liabilities.** Developer will not enter into any transaction that would materially and adversely affect its ability to perform its obligations under this Agreement. Developer will immediately notify HED of any and all events or actions which may materially affect its ability to carry on its business operations or perform its obligations under this Agreement or any other documents and agreements related to this Agreement or the Project.

9.16 **Compliance with Laws.** To the best of Developer's knowledge, after diligent inquiry, the Property and the Project are in compliance with all applicable Federal, State and local laws, statutes, ordinances, rules, regulations, executive orders and codes pertaining to or affecting the Property and the Project. Upon the City's request, Developer will provide evidence satisfactory to the City of such current compliance.

9.17 **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 Property. 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.

9.18 **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, the Property or the Project, or become due and payable, and which create, may create, or appear to create a lien upon Developer or all or any portion of the Property 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 (except for those assessed by foreign nations, states other than the State of Illinois, counties of the State other than Cook County, and municipalities other than the City) relating to Developer, the Property, 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 Property. 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 Property 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 Property 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.

9.19 Affordability Requirements.

(a) Of the 108 units comprising the Project, 6 units (or 5% of the Project's units) shall be rental units affordable to households averaging less than 50% AMI; 62 units (or 57% of the Project's units) shall be rental units affordable to households averaging less than 60% AMI; 3 units (or 2% of the Project's units) shall be rental units affordable to households averaging less than 80% AMI; and 37 units shall be market rate rental units.

(b) The affordability requirements applicable to the rental units, as set forth in the Recorded Affordability Documents, shall be covenants running with the land and shall survive any foreclosure of any portion of the Property or any leasehold interest therein for the applicable affordability periods set forth in such agreement.

9.20 Job Readiness Program. If requested by the City, Developer will use its best efforts to encourage its tenants at the Project to participate in job readiness programs established by the City to help prepare individuals to work for businesses located within the Redevelopment Area.

9.21 **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.

9.22 **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.

9.23 **Compliance with the Multi-Project Labor Agreement.** Developer shall cause the General Contractor to comply with that certain Settlement Agreement dated November 3, 2011, by and among the City, Chicago Regional Council of Carpenters, the Metropolitan Pier and Exposition Authority, the Public Building Commission of the City of Chicago, and the State of Illinois, because the Project budget is in excess of \$25,000,000, and, therefore, is subject to the provisions of that certain City of Chicago Multi-Project Labor Agreement (the "MPLA") dated February 9, 2011, by and among the City and the labor organizations comprising the Chicago & Cook County Building & Construction Trades Council. Developer shall cause the General Contractor to comply with the MPLA to the fullest extent legally permissible without violating other requirements applicable to the construction of the Project, including, without limitation, the requirements of the MBE/WBE Program, the City resident employment provisions contained herein, Housing Act Section 3, Davis-Bacon Act, the Contract Work Hours and Safety Standards Act and the Labor Standards Deposit Agreement. At the direction of HED, affidavits and other supporting documentation shall be required of Developer, the General Contractor and the Subcontractors to verify or clarify compliance with the MPLA.

9.24 **Survival of Covenants.** All warranties, representations, covenants and agreements of Developer contained in this Section 9 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 Section 8 upon the issuance of the Certificate) will be in effect throughout the Term of the Agreement.

9.25 **Annual Compliance Report.** Beginning with the issuance of the Certificate 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.

SECTION TEN: REPRESENTATIONS, WARRANTIES AND COVENANTS OF CITY

10.01 **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.

10.02 **Survival of Covenants.** All warranties, representations, and covenants of the City contained in this Section 10 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.

SECTION ELEVEN: DEVELOPER'S EMPLOYMENT OBLIGATIONS

11.01 **Employment Opportunity.** Developer, on behalf of itself and its successors and assigns, hereby agrees, and shall contractually obligate its or their various contractors, subcontractors or any Affiliate of Developer operating 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 or occupation of the Property:

(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 must 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 setting forth the provisions of this nondiscrimination clause. In addition, the Employers, in all solicitations or advertisements for employees, must 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. (2002 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 (other than for remediation and demolition entered into prior to the date of this Agreement), and will require inclusion of these provisions in every subcontract entered into by any subcontractors and every agreement with any Affiliate operating on the Property, 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 11.01 will be a basis for the City to pursue remedies under the provisions of Section 16.02 hereof, subject to the cure rights under Section 16.03.

11.02 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 Section 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 Section. 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 undertaken by Developer (and specifically excluding any tenant improvements which are not undertaken by Developer) (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 11.02 to be included in all construction contracts and subcontracts related to the Project (other than contracts for remediation and demolition entered into prior to the date of this Agreement).

11.03 Developer's MBE/WBE Commitment. The Developer agrees for itself and its successors and assigns, and, if necessary to meet the requirements set forth herein, shall contractually obligate the General Contractor to agree that during 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 11.03, during the course of the Project, at least the following percentages shall be expended for contract participation by MBEs and by WBEs:

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

(b) For purposes of this Section 11.03 only:

(i) The Developer (and any party to whom a contract is let by Developer in connection with the Project) shall be deemed a "contractor" and this Agreement (and any contract let by Developer in connection with the Project) shall be 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.

(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 Developer's MBE/WBE commitment as described in this Section 11.03. In accordance with Section 2-92-730, Municipal Code of Chicago, Developer shall not substitute any MBE or WBE General Contractor or subcontractor without the prior written approval of HED.

(d) The Developer shall 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 shall 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 Developer's compliance with this MBE/WBE commitment. The Developer shall maintain records of all relevant data with respect to the utilization of MBEs and WBEs in connection with the Project for at least five years after completion of the Project, and the City's monitoring staff shall have access to all such records maintained by Developer, on five 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 shall be 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 11.03 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 11.03. The General Contractor and all major subcontractors shall be required to attend this pre-construction meeting. During said meeting, Developer shall demonstrate to the City's monitoring staff its plan to achieve its obligations under this Section 11.03, the sufficiency of which shall be approved by the City's monitoring staff. During the Project, Developer shall submit the documentation required by this Section 11.03 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 11.03, shall, 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.

SECTION TWELVE: ENVIRONMENTAL MATTERS

12.01 Environmental Matters. Developer hereby represents and warrants to the City that all necessary environmental studies have been performed sufficient to conclude that the Project may be constructed, completed and operated in accordance with all Environmental Laws (taking into account the anticipated issuance and applicability of any NFRLs issued with respect to the Property), this Agreement and all Exhibits, the Scope Drawings, the Plans and Specifications and all amendments thereto, the TIF Bond Ordinance, if any, and the Redevelopment Plan.

Without limiting any other provisions hereof, Developer agrees to indemnify, defend and hold the City (except with respect to Existing Materials and any gross negligence or wanton or willful misconduct by 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 all or any portion of the Property, 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.

This Section shall not be construed to require Developer to assume any of the obligations of the CHA with respect to remediation work required to be performed by the CHA, and Developer may exercise such rights and remedies it may have to enforce the CHA's performance of the work, provided, however, that this sentence shall not be construed to limit Developer's indemnification obligations hereunder.

SECTION THIRTEEN: INSURANCE

13.01 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 and Throughout the Period of Developer's Ownership

(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 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.

(iii) All Risk Property Insurance

All Risk Property Insurance in the amount of the full replacement value of the buildings in the Project. The City is to be named as an additional insured.

(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 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.

(c) After Completion of Construction

- (i) All Risk Property Insurance, including improvements and betterments in the amount of full replacement value of the Property. Coverage extensions shall include business interruption/loss of rents, flood and boiler and machinery, if applicable. The City of Chicago shall be named as an additional insured and loss payee.
- (ii) Commercial General Liability insurance as described above in subparagraph (b)(ii). The City of Chicago shall be named an additional insured on a primary, non-contributory basis.

(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.

SECTION FOURTEEN: INDEMNIFICATION

14.01 **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) Developer's failure to comply with any of the terms, covenants and conditions contained within this Agreement; or
- (ii) 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 feature or improvement; or
- (iii) the existence of any material misrepresentation or omission in this Agreement, any offering memorandum or the Redevelopment Plan or any other document related to this Agreement that is the result of information supplied or omitted by Developer or any Affiliate or any of their respective agents, employees, contractors or persons acting under the control or at the request of Developer or any Affiliate; or
- (iv) Developer's failure to cure any misrepresentation in this Agreement or any other document or agreement relating hereto; or

- (v) any act or omission by Developer or any Affiliate.

provided, however, that Developer shall not have any 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 14.01 will survive the termination of this Agreement.

SECTION FIFTEEN: MAINTAINING RECORDS/RIGHT TO INSPECT

15.01 **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.

15.02 **Inspection Rights.** Upon 3 Business Days notice, any authorized representative of the City will have access to all portions of the Project and the Property during normal business hours for the Term of the Agreement.

SECTION SIXTEEN: DEFAULT AND REMEDIES

16.01 **Events of Default.** The occurrence of any one or more of the following events, subject to the provisions of Section 16.03, 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 such party 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 such party under any other agreement with any person or entity if such failure may have a material adverse effect on the Developer's business, property (including the Property or the Project), assets (including the Property or the Project), operations or condition, financial or otherwise;

(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 Property or the Project, including any fixtures now or hereafter attached thereto, other than the Permitted Liens (and/or liens bonded over by the Developer or insured by the Title Company), 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 for the liquidation or reorganization of Developer, or alleging that Developer is insolvent or unable to pay its debts as they mature, or for the readjustment or arrangement of Developer's 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; 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 90 days after the commencement of such proceedings;

(f) the appointment of a receiver or trustee for Developer, for any substantial part of Developer's assets, or the institution of any proceedings for the dissolution, or the full or partial liquidation, or the merger or consolidation, of Developer; 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 90 days after the commencement thereof;

(g) the entry of any judgment or order against Developer 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;

(i) the dissolution of Developer; 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).

For purposes of Section 16.01(j) hereof, a natural person with a material interest in Developer is one owning in excess of thirty-three percent (33%) of Developer's or Developer's ultimate parent entity's issued and outstanding ownership shares or interest.

16.02 Remedies. (a) Subject to the notice and cure provisions set forth in Section 16.03, upon the occurrence of an Event of Default, the City may terminate this agreement, suspend payment of City Funds and seek reimbursement of City Funds from Developer. 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, the City may also lien the Property.

(b) If the City sells the City Property as provided for in Section 16.02(a), the net proceeds from the sale, after payment of all amounts owed under any mortgage liens authorized by this Agreement in order of lien priority, shall be utilized to reimburse the City for:

(i) costs and expenses incurred by the City (including, without limitation, salaries of personnel) in connection with the recapture, management and resale of the City Property (less any income derived by the City from the City Property in connection with such management); and

(ii) all unpaid taxes, assessments, and water and sewer charges assessed against the City Property; and

(iii) any payments made (including, without limitation, reasonable attorneys' fees and court costs) to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults or acts of the Developer; and

(iv) any expenditures made or obligations incurred with respect to construction or maintenance of the Project; and

(v) any other amounts owed to the City by the Developer.

The Developer shall be entitled to receive any remaining proceeds up to the amount of the Developer's equity investment in the City Property.

16.03 **Curative Period.**

(a) In the event Developer fails to perform a monetary covenant which it 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 the Applicable Party (as hereinafter defined) 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. The term "Applicable Party" shall mean the Developer, any partner or member of the Developer, the holder of any mortgage approved under this Agreement, and the investor member of Owner.

(b) In the event Developer fails to perform a non-monetary covenant which it is required to perform under this Agreement, then notwithstanding any other provision of this Agreement to the contrary, an Event of Default will not be deemed to have occurred unless the Applicable Party 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, the Applicable Party 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.

(c) The City hereby agrees that any cure of a default made by or tendered by the Owner's investor member or by any lender providing Lender Financing shall be deemed to be a cure by the Developer and shall be accepted or rejected on the same basis as if made or tendered by Developer.

SECTION SEVENTEEN: MORTGAGING OF THE PROJECT

17.01 **Mortgaging of the Project.** All mortgages or deeds of trust in place as of the date hereof with respect to the Property or any portion thereof are listed on Exhibit G (including but not limited to mortgages made prior to or on the date hereof in connection with Lender Financing) and are referred to herein as the "**Existing Mortgages.**" Any mortgage or deed of trust that Developer may hereafter elect to record or permit to be recorded against the Property 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 record or permit to be recorded against the Property 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 Property 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 19.14 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 specified in Section 8.02.

(b) If any mortgagee or any other party shall succeed to Developer's interest in the Property 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 19.14 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 specified in Section 8.02.

(c) Prior to the issuance by the City to Developer of a Certificate under Section 8 hereof, no New Mortgage will be executed with respect to the Property or 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 that run with the land. After the issuance of a Certificate, consent of the Commissioner of HED is not required for any such New Mortgage.

SECTION EIGHTEEN: NOTICES

18.01 **Notices.** All notices and any other communications under this Agreement will: (A) be in writing; (B) be sent by: (i) telecopier/fax machine, (ii) delivered by hand, (iii) delivered by an overnight courier service which maintains records confirming the receipt of documents by the receiving party, or (iv) registered or certified U.S. Mail, return receipt requested; (C) be given at the following respective addresses:

If to the City: City of Chicago
Department of Housing and Economic Development
Attn: Commissioner
121 North LaSalle Street, Room 1000
Chicago, IL 60602
312/744-2271 (Fax)

With Copies To: City of Chicago
Corporation Counsel
Attn: Finance and Economic Development Division
121 North LaSalle Street, Room 600
Chicago, IL 60602
312/744-8538 (Fax)

If to Developer: Park Boulevard IIB Manager LLC
10 West 35th Street, Suite 9C9
Chicago, Illinois 60616
Attn: James Miller
Fax: 312/654-9349

With Copies To: Applegate & Thorne-Thomsen, P.C.
626 West Jackson Blvd. Suite 400
Chicago, Illinois 60661

And With Copies To: Chicago Housing Authority
60 E. Van Buren Street, 12th floor
Chicago, Illinois 60605
Attn: Chief Executive Officer

Chicago Housing Authority
Office of General Counsel
60 E. Van Buren Street, 12th floor.
Chicago, Illinois 60605
Attn: Chief Legal Officer

or at such other address or telecopier/fax 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.

18.02 **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 18.01 (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.

SECTION NINETEEN: ADDITIONAL PROVISIONS

19.01 **Amendments.** Except as provided in this Section 19.01, and except for changes or amendments that are otherwise expressly identified as being in the discretion of the Commissioner, 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. In addition to consents and discretion expressly identified herein, the Commissioner, in his sole discretion, may amend or otherwise revise: (a) any exhibits containing legal descriptions in order to correct a surveyor's, scrivener's or clerical error in such a legal description, provided that such correction does not have a material effect on any portion of the Project; and (b) Exhibit G to correct inadvertent omissions or permit other minor title encumbrances not in the nature of a lien. The City in its sole discretion, may amend, modify or supplement the Redevelopment Plan. For purposes of this Agreement, Developer is only obligated to comply with the Redevelopment Plan as in effect on the date of this Agreement.

19.02 **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.

19.03 **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.

19.04 **Further Assurances.** Developer and City each agree 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.

19.05 **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.

19.06 **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.

19.07 **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.

19.08 **Titles and Headings.** The Section, 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.

19.09 **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.

19.10 **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.

19.11 **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.

19.12 **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.

19.13 **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.

19.14 **Assignment.** Prior to the issuance by the City to Developer of the 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 the Developer may collaterally assign its interests in this Agreement to any of its lenders identified to the City as of the Closing Date if any such lenders require such collateral assignment. 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 9.24 (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.

19.15 **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).

19.16 **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, terrorism, strike, shortage of material, unusually 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. Such force majeure events shall also include the City's failure to complete the public improvements within the Property which, at the Closing Date, the City has agreed to undertake within a construction schedule mutually acceptable to the City, and the CHA's failure to complete any environmental remediation work that is the CHA's responsibility under applicable agreements between the CHA and the Developer, if applicable. 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.

19.17 **Exhibits and Schedules.** All of the exhibits and schedules attached hereto 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.

19.18 **Business Economic Support Act.** Under the Business Economic Support Act (30 ILCS 760/1 et seq. 2002 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.

19.19 **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.

19.20 **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 Section, 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."

19.21 **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.

19.22 **Survival of Agreements.** Except as otherwise contemplated by this Agreement, all covenants and agreements of the parties contained in this Agreement will survive the consummation of the transactions contemplated hereby.

19.23 **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.

19.24 **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.

19.25 **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 reasonable 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.

19.26 **Compliance with "Waste" Provisions.** Any duly authorized representative of the City shall have access to the City Property and to the real property on which the work related to the Project is performed at all reasonable times for the purpose of determining whether the Developer is constructing the Project in accordance with the terms of this Agreement and all applicable federal, state and local statutes, laws, ordinances, codes, rules, regulations, orders and judgments, including, without limitation, Sections 7-28 and 11-4 of the Municipal Code of Chicago relating to waste disposal (collectively, the "Waste Sections"). Developer's violation of the Waste Sections (including, but not limited to, Sections 7-28-390 Dumping on public way; 7-28-440 Dumping on real estate without permit; 11-4-1410 Disposal in waters prohibited; 11-4-1420 Ballast tank, bilge tank or other discharge; 11-4-1450 Gas manufacturing residue; 11-4-1500 Treatment and disposal of solid or liquid waste; 11-4-1530 Compliance with rules and regulations required; 11-4-1550 Operational requirements; and 11-4-1560 Screening requirements), whether or not relating to the performance of this Agreement, constitutes a breach of and an event of default under this Agreement and entitles the City to all remedies under the Agreement, at law or in equity. This section does not limit Developer, general contractor's and its subcontractors' duty to comply with all applicable federal, state, county and municipal laws, statutes, ordinances and executive orders, in effect now or later, and whether or not they appear in this Agreement.

19.27 **No Merger.** The terms of this Agreement shall not be merged with the Deed, and the delivery of the Deed shall not be deemed to affect or impair the terms of this Agreement.

19.28 **Business Relationships.** The Developer acknowledges (A) receipt of a copy of Section 2-156-030 (b) of the Municipal Code of Chicago, (B) that Developer has read such provision and understands that pursuant to such Section 2-156-030 (b), 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 City official or employee has a "Business Relationship" (as defined in Section 2-156-080 of the Municipal Code of Chicago), or to participate in any discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving any person with whom the elected City official or employee has a "Business Relationship" (as defined in Section 2-156-080 of the Municipal Code of Chicago), or to participate in any discussion in 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, and (C) that a violation of Section 2-156-030 (b) by an elected official, or any person acting at the direction of such official, with respect to any transaction contemplated by this Agreement shall be grounds for termination of this Agreement and the transactions contemplated hereby. The 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 hereby.

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

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

PARK BOULEVARD IIB, LLC, an Illinois limited liability company

By: Park Boulevard IIB Manager LLC, an Illinois limited liability company, its manager

By: JLM Investment IIB LLC, an Illinois limited liability company, its manager

By: _____
James L. Miller, its member

PARK BOULEVARD IIB MANAGER LLC, an Illinois limited liability company

By: JLM Investment IIB LLC, an Illinois limited liability company, its manager

By: _____
James L. Miller, its member

CITY OF CHICAGO

By: _____
Andrew J. Mooney, Commissioner
Department of Housing and Economic
Development

STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

I, _____, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that James L. Miller, personally known to me to be a member of JLM Investment IIB LLC, an Illinois limited liability company and the manager of Park Boulevard IIB Manager LLC, an Illinois limited liability company (the "Manager") and the manager of Park Boulevard IIB, LLC (the "Owner"), 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 s/he signed, sealed, and delivered said instrument, pursuant to the authority given to her/him by the Owner and the Manager, as her/his free and voluntary act and as the free and voluntary act of Owner and Manager, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this ____ day of _____, 2013.

Notary Public

My Commission Expires _____

(SEAL)

STATE OF ILLINOIS)

COUNTY OF COOK) ss
)

I, _____, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Andrew J. Mooney, 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 his/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 _____, 2013.

Notary Public

My Commission Expires _____

**PARK BOULEVARD IIB PROJECT
REDEVELOPMENT AGREEMENT**

LIST OF EXHIBITS

Exhibit A	Legal Description of the Redevelopment Area
Exhibit B-1	*Legal Description of the Property
Exhibit B-2	Site Plan for the Project
Exhibit B-3	Redevelopment Plan
Exhibit C	*Project Budget
Exhibit D	*TIF-Funded Improvements
Exhibit E	Construction Contract
Exhibit F	Approved Prior Expenditures
Exhibit G	Permitted Liens
Exhibit H	Opinion of Counsel for Developer
Exhibit I	Form of Payment and Performance Bond
Exhibit J	Lender Financing
Exhibit K	Requisition Form
Exhibit L	* Prior TIF Obligations

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

**PARK BOULEVARD IIB RENTAL PROJECT
REDEVELOPMENT AGREEMENT**

EXHIBIT A

REDEVELOPMENT AREA LEGAL DESCRIPTION

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

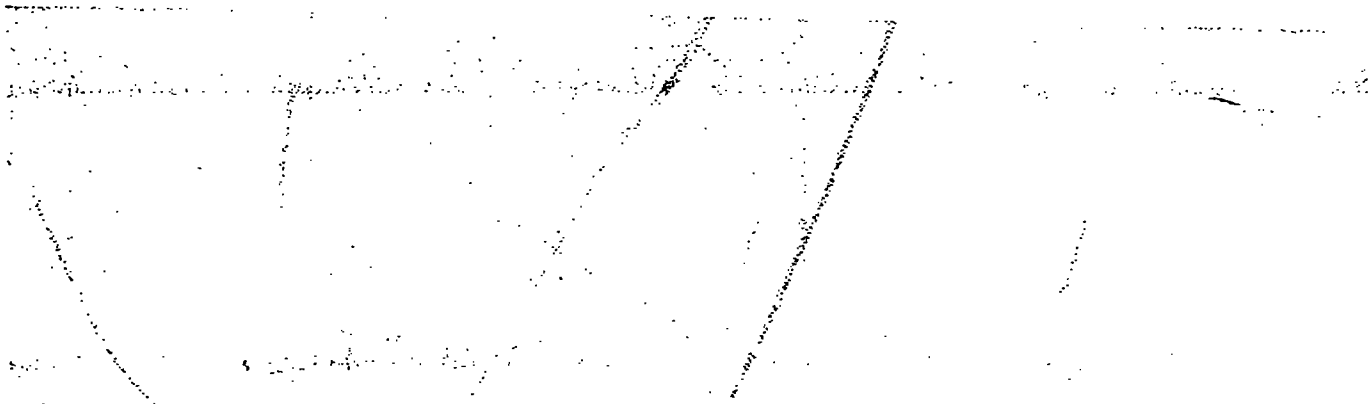
Exhibit A

*35th/State Redevelopment And Project
Area Legal Description.*

All that part of the east half of Section 33, Township 39 North, Range 14 East of the Third Principal Meridian, bounded and described as follows:

beginning at the point of intersection of the north line of West Pershing Road with the west line of South State Street; thence north along said west line of South State Street to the north line of heretofore vacated West 34th Street; thence west along said north line of heretofore vacated West 34th Street to the northerly extension of the east line of Lot 26 in Hanna Busby's Subdivision of part of the southwest quarter of Block 16 in the Canal Trustee's Subdivision of Section 33, Township 39 North, Range 14 East of the Third Principal Meridian, said northerly extension being also the east line of that part of heretofore vacated West 34th Street bearing Permanent Index Number 17-33-221-003; thence south along said east line of that part of heretofore vacated West 34th Street bearing Permanent Index Number 17-33-221-003 to the centerline of said vacated West 34th Street, said centerline of vacated West 34th Street being also the south line of the parcel of property bearing Permanent Index Number 17-33-221-003; thence west along said south line of the parcel of property bearing Permanent Index Number 17-33-221-003 to the west line of the east 22.50 feet of vacated South Federal Street (formerly South Butterfield Street), said west line of the east 22.50 feet of vacated South Federal Street (formerly South Butterfield Street) being also the west line of the parcel of property bearing Permanent Index Number 17-33-221-003; thence north along said west line of the parcel of property bearing Permanent Index Number 17-33-221-003 and along the northerly extension thereof to the north line of West 33rd Street; thence west along said north line of West 33rd Street to the west line of the vacated alley lying west of and adjoining Lot 182 in Boone, Jones and Kiefer's Subdivision of the north three-quarters of Block 1 and the east 75 feet of Block 2 and Lot 49 in Beecher's Subdivision of the south half of the south half of Block 1 of the Canal Trustee's Subdivision of Section 33, Township 39 North, Range 14 East of the Third Principal Meridian, said west line of the vacated alley being also the east line of the joint railroad right-of-way of the New York Central System and the Chicago, Rock Island and Pacific Railway; thence north along said east line of the joint railroad right-of-way to the north line of aforesaid Section 33, Township 39 North, Range 14 East of the Third Principal Meridian, said north line being also the centerline of West 31st Street; thence west along said centerline of West 31st Street to the west line of the aforesaid joint railroad right-of-way; thence south along said joint railroad right-of-way to the north line of West 33rd Street; thence

west along said north line of West 33rd Street and along the westerly extension thereof to the west line of the east half of the northeast quarter of aforesaid Section 33, Township 39 North, Range 14 East of the Third Principal Meridian, said west line being also the centerline of South Wentworth Avenue; thence south along said west line of the east half of the northeast quarter of Section 33 and along the west line of the east half of the southeast quarter of said Section 33 to the westerly extension of the north line of Lots 57 through 61, both inclusive, in Enos Ayres' Subdivision of Lot 2 in the subdivision of Lot 18 of the Canal Trustee's Subdivision of Section 33, Township 39 North, Range 14 East of the Third Principal Meridian, said north line of Lots 57 through 61, both inclusive, being also the south line of West 35th Street; thence east along said westerly extension and the south line of West 35th Street to the east line of the alley lying east of and adjoining Lot 1 in said Enos Ayres' Subdivision, said east line being also the west line of the joint railroad right-of-way of the New York Central System and the Chicago, Rock Island and Pacific Railway; thence south along said west line of the joint railroad right-of-way of the New York Central System and the Chicago, Rock Island and Pacific Railway to the north line of West 38th Street; thence west along said north line of West 38th Street and along the westerly extension thereof to the west line of the east half of the southeast quarter of Section 33, Township 39 North, Range 14 East of the Third Principal Meridian, said west line being also the centerline of South Wentworth Avenue; thence south along said west line of the east half of the southeast quarter of aforesaid Section 33 to the westerly extension of the south line of Lot 72 in Young and Rowley's Subdivision of the south half of Block 31 of the Canal Trustee's Subdivision of Section 33, Township 39 North, Range 14 East of the Third Principal Meridian, lying west of the Chicago, Rock Island and Pacific Railroad land, said south line of Lot 72 in Young and Rowley's Subdivision being also the north line of West Pershing Road; thence east along said north line of West Pershing Road to the point of beginning at the west line of South State Street, all in the City of Chicago, Cook County, Illinois.



**PARK BOULEVARD IIB RENTAL PROJECT
REDEVELOPMENT AGREEMENT**

EXHIBIT B-1

LEGAL DESCRIPTION OF THE PROPERTY

BUILDING T

Parcel 1: LOT 4 IN STATEWAY GARDENS PHASE II-B, BEING A SUBDIVISION OF PART OF VACATED WEST 37TH STREET, VACATED WEST 38TH STREET, VACATED SOUTH DEARBORN STREET, VACATED SOUTH FEDERAL STREET, BLOCK 2 AND THE 16 FOOT VACATED ALLEY IN SAID BLOCK 2, IN THE SUBDIVISION OF BLOCK 32 AND THE EAST 68 FEET OF BLOCK 31 OF CANAL TRUSTEE'S SUBDIVISION OF SECTION 33, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 3, 2012, AS DOCUMENT 1233829122, IN COOK COUNTY, ILLINOIS.

Parcel 2: LOT 3 IN STATEWAY GARDENS PHASE II-B, BEING A SUBDIVISION OF PART OF VACATED WEST 37TH STREET, VACATED WEST 38TH STREET, VACATED SOUTH DEARBORN STREET, VACATED SOUTH FEDERAL STREET, BLOCK 2 AND THE 16 FOOT VACATED ALLEY IN SAID BLOCK 2, IN THE SUBDIVISION OF BLOCK 32 AND THE EAST 68 FEET OF BLOCK 31 OF CANAL TRUSTEE'S SUBDIVISION OF SECTION 33, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 3, 2012, AS DOCUMENT 1233829122, IN COOK COUNTY, ILLINOIS.

Parcel 3: LOT 2 IN STATEWAY GARDENS PHASE II-B, BEING A SUBDIVISION OF PART OF VACATED WEST 37TH STREET, VACATED WEST 38TH STREET, VACATED SOUTH DEARBORN STREET, VACATED SOUTH FEDERAL STREET, BLOCK 2 AND THE 16 FOOT VACATED ALLEY IN SAID BLOCK 2, IN THE SUBDIVISION OF BLOCK 32 AND THE EAST 68 FEET OF BLOCK 31 OF CANAL TRUSTEE'S SUBDIVISION OF SECTION 33, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 3, 2012, AS DOCUMENT 1233829122, IN COOK COUNTY, ILLINOIS.

Commonly known as: 3720 South Dearborn Street, Chicago, Illinois

P.I.N.: 17-33-416-048-0000

BUILDING M:

LOT 16 IN STATEWAY GARDENS PHASE II-A, BEING A SUBDIVISION OF PART OF VACATED WEST 37TH STREET IN CANAL TRUSTEE'S SUBDIVISION, AND PART OF VACATED SOUTH DEARBORN STREET, PART OF BLOCK 4 AND PART OF THE VACATED ALLEY IN SAID BLOCK 4, IN THE SUBDIVISION OF BLOCK 17 IN CANAL TRUSTEE'S SUBDIVISION AFORESAID, ALL IN SECTION 33, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 21, 2011, AS DOCUMENT 1117245033, IN COOK COUNTY, ILLINOIS.

Commonly known as: 16-22 West 37th Street, Chicago, Illinois

P.I.N.s: 17-33-408-068-0000 (part of)
 17-33-408-069-0000 (part of)
 17-33-408-070-0000 (part of)

BUILDING N:

LOTS 17 AND 18 IN STATEWAY GARDENS PHASE II-A, BEING A SUBDIVISION OF PART OF VACATED WEST 37TH STREET IN CANAL TRUSTEE'S SUBDIVISION, AND PART OF VACATED SOUTH DEARBORN STREET, PART OF BLOCK 4 AND PART OF THE VACATED ALLEY IN SAID BLOCK 4, IN THE SUBDIVISION OF BLOCK 17 IN CANAL TRUSTEE'S SUBDIVISION AFORESAID, ALL IN SECTION 33, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 21, 2011, AS DOCUMENT 1117245033, IN COOK COUNTY, ILLINOIS.

Commonly known as: 4-10 West 37th Street, Chicago, Illinois

P.I.N.s: 17-33-408-068-0000 (part of)
 17-33-408-069-0000 (part of)
 17-33-408-070-0000 (part of)

BUILDING J:

LOTS 46 THROUGH 51, BOTH INCLUDED, AND THE VACATED ALLEY LYING BETWEEN SAID LOTS, IN FREEMAN'S ADDITION TO CHICAGO, BEING THE 10 ACRES NEXT TO AND ADJOINING THE NORTH 20 ACRES OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, AND ALSO LOT 24, EXCEPT THE EAST 25 FEET, IN E. SMITH'S SUBDIVISION OF THE SOUTH 10 ACRES OF THE NORTH HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 34, ALL IN COOK COUNTY, ILLINOIS.

Commonly known as: 3633-3647 South State Street, Chicago, Illinois

P.I.N.s: 17-34-306-004-0000
 17-34-306-015-0000
 17-34-306-049-0000
 17-34-306-050-0000
 17-34-306-051-0000
 17-34-306-052-0000

**PARK BOULEVARD IIB RENTAL PROJECT
REDEVELOPMENT AGREEMENT**

EXHIBIT B-2

SITE PLAN FOR THE PROJECT

A site plan for the Project is attached to this exhibit cover sheet.

PHASE IB
159 UNITS
COMPLETED

5 STORY BUILDING	
BUILDING 1 - 77 UNITS 3 STORIES	
ONE BEDROOM	10
TWO BEDROOM	10
THREE BEDROOM	10
UNIT TOTAL	30

PHASE III
AREA

CTA GREEN LINE

OVERTON HYGIENIC
COMPANY BUILDING

RENTAL PHASE IIB

12 - FLAT FOR RENT	
BUILDING 1 - 12 UNITS 3 STORIES	
ONE BEDROOM	8
TWO BEDROOM	11
THREE BEDROOM	11
UNIT TOTAL	30

CHICAGO BEE LIBRARY

12 - FLAT FOR RENT	
BUILDING 2 - 12 UNITS 3 STORIES	
ONE BEDROOM	8
TWO BEDROOM	11
THREE BEDROOM	11
UNIT TOTAL	30

12 - FLAT FOR RENT	
BUILDING 3 - 12 UNITS 3 STORIES	
ONE BEDROOM	8
TWO BEDROOM	11
THREE BEDROOM	11
UNIT TOTAL	30

STATEWAY
PARK

PERSHING
COURTS

PHASE IA
COMPLETED

MASTER PLAN

1,266 TOTAL UNITS
PARK BOULEVARD PHASE IIB
CHICAGO ILLINOIS
PARK BOULEVARD LLC

- PHASE I
- PHASE IIA
- PHASE IIB
- PHASE IIB
- PHASE III
- EXISTING BUILDING



VQA ASSOCIATES INC
DECEMBER 2011

**PARK BOULEVARD IIB RENTAL PROJECT
REDEVELOPMENT AGREEMENT**

EXHIBIT B-3

REDEVELOPMENT PLAN

Not attached for ordinance

**PARK BOULEVARD IIB RENTAL PROJECT
REDEVELOPMENT AGREEMENT**

EXHIBIT C

PROJECT BUDGET and DRAW SCHEDULE

A project budget and draw schedule is attached to this exhibit cover sheet.

Exhibit C
PROJECT BUDGET

Line Item	Amount
Land Cost	962,278
Other Acquisition	15,000
Acquisition Costs Subtotal	977,278
Net Construction Costs	26,831,175
General Conditions	1,609,871
Overhead and Profit	2,146,495
Construction Costs Subtotal	30,587,541
Furniture, Fixtures, & Equip't	20,000
Building Permits	160,635
Contingency	1,341,559
Other Construction Subtotal	1,522,194
Soil Testing and other Environmental	210,000
Construction	460,959
Contingency	23,048
Commercial Subtotal	484,007
Architect - Design and Supervision	2,231,459
Engineering Fees	275,000
Blueprints & Reproductions	7,000
As-Is Plats & Surveys	10,000
Accountant Fees	24,000
Legal	245,000
Consultant -- Historic and TIF	40,000
Appraisal and Market Study	17,500
Phase I Environ and PNA Report	37,600
Title , Recording, and Other Professional Fees	306,014
Professional Fees Subtotal	3,193,573
Tax Credit Issuer Fees	118,927
Construction Points	159,492
Construction Inspection	25,000
Architect Fee	50,000
Lender Legal Fees	225,000
Construction Interest	657,682
Other Lender Fees	20,000
Lender Fees Subtotal	1,256,101
Construction Period Insurance and Taxes	225,000
Marketing & Leasing	30,000
Developer Fee	1,603,203
Deferred Developer Fee	585,905
Other Developer Fee	300,000
Developer Fee Subtotal	2,489,108
Total Reserves	1,271,473
Tenant Services	25,000
Grand Total Dev Costs	42,271,275

**PARK BOULEVARD IIB RENTAL PROJECT
REDEVELOPMENT AGREEMENT**

EXHIBIT D

TIF-FUNDED IMPROVEMENTS

Acquisition	\$ 962,278
Construction of Low-Income Units	<u>\$ 8,819,507</u>
Total	\$ 9,781,785*

*Notwithstanding the total above, the maximum amount of TIF-moneys paid to the Developer will not exceed \$5,000,000.

**PARK BOULEVARD IIB RENTAL PROJECT
REDEVELOPMENT AGREEMENT**

EXHIBIT E

CONSTRUCTION CONTRACT

A true and correct copy of the Construction Contract by and between Developer and its General Contractor, together with all amendments, supplements and exhibits all as of the Closing Date is to be attached at closing.

**PARK BOULEVARD IIB RENTAL PROJECT
REDEVELOPMENT AGREEMENT**

EXHIBIT F

APPROVED PRIOR EXPENDITURES

Not attached for ordinance.

**PARK BOULEVARD IIB RENTAL PROJECT
REDEVELOPMENT AGREEMENT**

EXHIBIT G

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: list mortgages securing construction financing.

NONE, except as noted in the attachment to this exhibit cover sheet.

**PARK BOULEVARD IIB RENTAL PROJECT
REDEVELOPMENT AGREEMENT**

EXHIBIT H

OPINION OF COUNSEL FOR DEVELOPER

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

_____, 20__
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 _____, an Illinois limited liability company (the "Developer"), in connection with the construction of certain improvements on _____ located in the 35th/State 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) Park Boulevard IIB Rental Project 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 Developer's (i) Certificate of Formation, as amended to date, (ii) Amended and Restated Agreement of Limited Liability Company, (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 limited liability 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 Formation or Amended and Restated Agreement of Limited Liability Company 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 members and managers of Developer and the percentage interest held by each member. 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 interest of Developer is duly authorized, validly issued, fully paid and nonassessable.

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: _____

**PARK BOULEVARD IIB RENTAL PROJECT
REDEVELOPMENT AGREEMENT**

EXHIBIT I

FORM OF PAYMENT AND PERFORMANCE BOND

Not included for ordinance

**PARK BOULEVARD IIB RENTAL PROJECT
REDEVELOPMENT AGREEMENT**

EXHIBIT J

DESCRIPTION OF PROJECT FINANCING

1. Construction/Permanent 1st Mortgage Loan: U.S. Bank National Association will make a construction/permanent loan to Owner in the approximate amount of \$15,500,000 (includes \$1,000,000 permanent loan described below). This construction loan will have a 24-month term, with 1 – 6-month extension, and an interest rate of LIBOR + 275 bps. At maturity, the permanent loan portion of the loan will continue in an amount of approximately \$1,000,000, with a 15-year term, after the construction period (17 year term total), a 30-year amortization schedule, and an interest rate equal to the "Cost of Funds" plus 250 bps (the interest rate to be locked at closing).
2. CHA Construction/Permanent 2nd Mortgage Loan: Chicago Housing Authority (CHA) will make an \$11,450,000 Loan (comprised of \$9,472,813 of Capital Funds and \$1,977,187 of HOPE VI Funds). The interest rate shall be 3% and repayment will be deferred until maturity, 40 years after the construction period (42 year term). The Loan will be secured by a 2nd Mortgage from Owner.
3. CHA Donation Credit Construction/Permanent 3rd Mortgage Loan: CHA will make a \$540,270 loan to Owner from proceeds from the sale of Illinois Donation Credits, arising from the donation of the leasehold interest described above. The interest rate shall be 3% and repayment will be deferred until maturity, 40 years after the construction period (42 year term). The Loan will be secured by a 3rd Mortgage from Owner.
4. TIF Loan: The Manager will lend the \$5,000,000 of TIF Funds to the Owner. The interest rate shall be 0% and repayment will be deferred until maturity, 40 years after the construction period (42 year term). The Loan will be secured by a 4th Mortgage from Owner.
5. Equity: Enterprise will provide tax credit equity in the total amount of approximately \$23,685,000, paid as follows:
 - 1st Installment (initial closing): \$4,737,000
 - 2nd Installment (at completion/cost certification): \$7,105,500
 - 3rd Installment (Stabilization/Permanent Loan conversion/8609s):\$11,842,500

**PARK BOULEVARD IIB RENTAL PROJECT
REDEVELOPMENT AGREEMENT**

EXHIBIT K

REQUISITION FORM

State of Illinois)
) SS
COUNTY OF COOK)

The affiant, _____ of _____, a
_____ (the "Developer"), hereby certifies that with respect to that
certain _____ Redevelopment Agreement between the Developer and the City
of Chicago dated _____, _____ (the "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 paid for or 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 have the meanings given such terms
in the Agreement.

**PARK BOULEVARD IIB RENTAL PROJECT
REDEVELOPMENT AGREEMENT**

EXHIBIT L

PRIOR TIF OBLIGATIONS

1. Park Boulevard Project Redevelopment Agreement dated as of November 1, 2005 and recorded November 30, 2005 as Document #0533418114, and First Amendment to Park Boulevard Project Redevelopment Agreement dated as of September 1, 2009 and recorded November 2, 2009 as Document #0930611085 pledging maximum of \$8,390,000 in incremental taxes from 35th/State TIF Redevelopment Area.
2. Townsend Chicago, LLC Redevelopment Agreement dated as of January 31, 2006 and recorded February 2, 2006 as Document #0603343326 pledging maximum of \$13,400,000 in incremental taxes from 35th/State TIF Redevelopment Area.
3. 5% City Fee.

APPROVED
Michael R. Miller
CORPORATION COUNSEL

APPROVED
Robert E. Emanuel
4/23/13
Mayor