



# Office of Chicago City Clerk



O2011-2595

Office of the City Clerk

## Tracking Sheet

**Meeting Date:**

4/13/2011

**Sponsor(s):**

Mayor Daley

**Type:**

Ordinance

**Title:**

Ordinance authorizing the execution of a redevelopment agreement with Accretive Health, Inc.

**Committee(s) Assignment:**

Committee on Finance

## ORDINANCE

**WHEREAS**, pursuant to an ordinance adopted by the City Council ("City Council") of the City of Chicago (the "City") on November 15, 2006 and published at pages 92019-92099 of the Journal of the Proceedings of the City Council (the "Journal") of such date, a certain redevelopment plan and project for the LaSalle Central Redevelopment Project Area (the "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 amended pursuant to an ordinance adopted on February 7, 2007 and published at pages 97850-97855 of the Journal of such date, and amended pursuant to an ordinance adopted on May 9, 2007 and published at pages 104254-104259 of the Journal of such date (such amended plan and project are referred to herein as the "Plan"); and

**WHEREAS**, pursuant to an ordinance adopted by the City Council on November 15, 2006 and published at pages 92100-92107 of the Journal of such date, and amended pursuant to an ordinance adopted on February 7, 2007 and published at pages 97850-97855 of the Journal of such date, and amended pursuant to an ordinance adopted on May 9, 2007 and published at pages 104254-104259 of the Journal of such date, the 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 November 15, 2006 and published at pages 92108-92114 of the Journal of such date, and amended pursuant to an ordinance adopted on February 7, 2007 and published at pages 97850-97855 of the Journal of such date, and amended pursuant to an ordinance adopted on May 9, 2007 and published at pages 104254-104259 of the Journal of such date, tax increment allocation financing was adopted pursuant to the Act as a means of financing certain Area redevelopment project costs (as defined in the Act) incurred pursuant to the Plan; and

**WHEREAS**, Accretive Health, Inc., a Delaware corporation (the "Developer"), has leased a portion of an office building constructed on real property located within the Area and commonly known as 231 South LaSalle Street, Chicago, Illinois (the "Building"), and the Developer intends to locate its training and processing center in the Building. The Developer will hire and train a total of 650 new full-time equivalent employees, all of whom will be employed at the Building or at other locations within the Area. In connection with its occupancy of the Building, the Developer has constructed substantial tenant improvements. The Developer will maintain its corporate headquarters (the "Headquarters") at 401 North Michigan Avenue, Chicago, Illinois (the "Headquarters Space"), or at another location within the City. The rehabilitation of space in the Building, the Developer's use of a portion of the Building as the Developer's training and processing center, the training and employment of 650 full-time equivalent employees, and the Developer's maintenance of its Headquarters at the Headquarters Space collectively are referred to as the "Project" ; and

**WHEREAS**, the Developer proposes to undertake the Project in accordance with the LaSalle Central Redevelopment Plan and pursuant to the terms and conditions of a proposed redevelopment agreement to be executed by the Developer and the City, including but not limited to the completion of the Project, to be financed in part by

Incremental Taxes, if any, deposited in the LaSalle Central Redevelopment Project Area Special Tax Allocation Fund (as defined in the TIF Ordinance); and

**WHEREAS**, pursuant to Resolution 10 CDC 72 adopted by the Community Development Commission of the City (the "Commission") on November 9, 2010, the Commission recommended that the Developer be designated as the developer for the Project and that the City's Department of Housing and Economic Development ("HED") be authorized to negotiate, execute and deliver on behalf of the City a redevelopment agreement with the Developer for the Project; now therefore,

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

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

**SECTION 2.** 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 Commissioner of HED (the "Commissioner") or a designee of the Commissioner are each hereby authorized, with the approval of the City's Corporation Counsel as to form and legality, to negotiate, execute and deliver: (a) a redevelopment agreement between the Developer and the City in substantially the form attached hereto as Exhibit A and made a part hereof (the "Redevelopment Agreement"); and (b) 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 4.** 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 5.** All ordinances, resolutions, motions or orders in conflict with this ordinance are hereby repealed to the extent of such conflict.

**SECTION 6.** This ordinance shall be in full force and effect immediately upon its passage.

**EXHIBIT A**  
**REDEVELOPMENT AGREEMENT**  
**(attached)**

**LASALLE CENTRAL REDEVELOPMENT PROJECT AREA**

**ACCRETIVE HEALTH, INC., REDEVELOPMENT AGREEMENT**

**BY AND BETWEEN**

**THE CITY OF CHICAGO**

**AND**

**ACCRETIVE HEALTH, INC.**

This agreement was prepared by  
and after recording return to:  
Bryce A. Bares, Esq.  
City of Chicago Law Department  
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**PINS:**

17-16-222-006-0000  
17-16-222-010-0000

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## LIST OF EXHIBITS

Exhibit A	*Redevelopment Area
Exhibit B-1	*Property – Headquarters
Exhibit B-2	*Property – Training Center
Exhibit C-1	*TIF-Funded Improvements
Exhibit C-2	*Eligible Job Training Costs
Exhibit D	Redevelopment Plan
Exhibit E	Construction Contract
Exhibit F	*Jobs and Occupancy Certificate
Exhibit G	*Permitted Liens
Exhibit H-1	*Project Budget
Exhibit H-2	*MBE/WBE Budget
Exhibit I	Approved Prior Expenditures
Exhibit J	Opinion of Developer's Counsel
Exhibit K	Requisition Form
Exhibit L	Form of Payment Bond

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

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

#### **ACCRETIVE HEALTH, INC., REDEVELOPMENT AGREEMENT**

This Accretive Health, Inc., Redevelopment Agreement (this "Agreement") is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by and between the City of Chicago, an Illinois municipal corporation (the "City"), through its Department of Housing and Economic Development ("HED"), and Accretive Health, Inc., a Delaware corporation (the "Developer").

#### **RECITALS**

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

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

C. **City Council Authority:** To induce redevelopment pursuant to the Act, the City Council of the City (the "City Council") adopted the following ordinances on November 15, 2006, and amended and corrected the ordinances on February 7, 2007, and May 9, 2007: (1) "An

Ordinance of the City of Chicago, Illinois Approving a Redevelopment Plan for the LaSalle Central Redevelopment Project Area"; (2) "An Ordinance of the City of Chicago, Illinois Designating the LaSalle Central Redevelopment Project Area as a Redevelopment Project Area Pursuant to the Tax Increment Allocation Redevelopment Act"; and (3) "An Ordinance of the City of Chicago, Illinois Adopting Tax Increment Allocation Financing for the LaSalle Central Redevelopment Project Area" (the "TIF Adoption Ordinance") (items(1)-(3) collectively referred to herein as the "TIF Ordinances"). The redevelopment project area referred to above (the "Redevelopment Area") is legally described in Exhibit A hereto.

D. The Project: The Developer currently maintains its corporate and operational headquarters (the "Headquarters") at real property commonly known as 401 North Michigan Avenue, Chicago, Illinois, as legally described on Exhibit B-1 hereto (the "Headquarters Space"). During the Term of the Agreement (as hereinafter defined), Developer will maintain its Headquarters at the Headquarters Space or at another location within the City (the "Relocation Space"), maintain at least 175 PTEs at the Headquarters, and the Headquarters will continue to be the site the Officers (as hereinafter defined) designate and use as their principal offices.

The Developer intends to locate a new training and processing center (the "Training Center") to the real property located within the Redevelopment Area and commonly known as 231 South LaSalle Street, Chicago, Illinois, and legally described on Exhibit B-2 hereto (the "Property"), as may be supplemented by any Expansion Space (as hereinafter defined). In connection with the development of the Training Center, the Developer has executed that certain Lease dated as of July 29, 2010, by and between Developer, as tenant, and First States Investors 5000A, LLC, a Delaware limited liability company, as landlord (as amended from time to time, the "Lease"), pursuant to which the Developer shall, among other matters, lease, build out, and occupy at least 44,385 square feet of office space (the "Minimum Square Footage") of the building located on the Property (collectively, the "Training Center Space"). The Training Center Space will receive LEED Certification for Commercial Interiors. The build out and occupation of the Training Center Space and related improvements (including but not limited to those TIF-Funded Improvements as defined below and set forth on Exhibit C-1) shall be referred to herein as the "Rehabilitation Project." In addition, Developer commits to locating any expansion of the Training Center within the Redevelopment Area and anticipates occupying an additional 90,000 square feet of office space at the Property or at an alternate location within the Redevelopment Area (the "Expansion Space"). The Headquarters Space, Training Center Space, Relocation Space, if applicable, and Expansion Space, if applicable, shall be referred to herein collectively as the "Developer Spaces."

After the issuance of the Rehabilitation Certificate (as hereinafter defined), Developer will train and locate 650 new PTEs (as hereinafter defined) at the Training Center in accordance with the Jobs Schedule (as defined hereafter)(the "Jobs Training Project"). The Rehabilitation Project and the Jobs Training Project shall be referred to herein collectively as the "Project." The completion of the Project would not reasonably be anticipated without the financing contemplated in this Agreement.

E. Redevelopment Plan: The Project will be carried out in accordance with this Agreement and the City of Chicago LaSalle Central Redevelopment Project Area Tax Increment Financing Program Redevelopment Plan (the "Redevelopment Plan") attached hereto as Exhibit D.

F. City Financing: The City agrees to use, in the amounts set forth in Section 4.03 hereof, Incremental Taxes (as hereinafter defined), to pay for or reimburse the Developer for the costs of TIF-Funded Improvements (as hereinafter defined) and Eligible Job Training Costs (as hereinafter defined) pursuant to the terms and conditions of this Agreement.

Now, therefore, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

## SECTION 1. RECITALS

The foregoing recitals are hereby incorporated into this agreement by reference.

## SECTION 2. DEFINITIONS

For purposes of this Agreement, in addition to the terms defined in the foregoing recitals, the following terms shall have the meanings set forth below:

"Act" shall have the meaning set forth in the Recitals hereof.

"Actual residents of the City" shall mean persons domiciled within the City.

"Affiliate" shall mean any person or entity directly or indirectly controlling, controlled by or under common control with the Developer.

"Annual Compliance Report" shall mean a signed report from the Developer to the City (a) itemizing each of the Developer's obligations under the Agreement 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 Agreement, the agreements evidencing the Lender Financing, if any, or any related agreements; provided, that the obligations to be covered by the Annual Compliance Report shall include the following: (1) compliance with the Operating Covenant (Section 8.06); (2) compliance with the Jobs Covenant (Section 8.06); (3) delivery of Financial Statements and unaudited financial statements (Section 8.13); (4) delivery of updated insurance certificates, if applicable (Section 8.14); (5) delivery of evidence of payment of Non-Governmental Charges, if applicable (Section 8.15); (6) delivery of a substitute Letter of Credit, if applicable (Section 8.21); and (7) compliance with all other executory provisions of the Agreement.

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

"Bond(s)" shall have the meaning set forth for such term in Section 8.05 hereof.

"Bond Ordinance" shall mean the City ordinance authorizing the issuance of Bonds.

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

**"Change Order"** shall mean any amendment or modification to the Scope Drawings, Plans and Specifications or the Project Budget as described in **Section 3.02**, **Section 3.03**, **Section 3.04** and **Section 3.05**, respectively.

**"City"** shall have the meaning set forth in the Recitals hereof.

**"City Contract"** shall have the meaning set forth in **Section 8.01** hereof.

**"City Council"** shall have the meaning set forth in the Recitals hereof.

**"City Funds"** shall mean the funds described in **Section 4.03(b)** hereof.

**"City Resident"** shall mean a Training Center FTE whose principal residence is located within the City.

**"City Residency Threshold"** shall have the meaning set forth in **Section 4.03(d)** hereof.

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

**"Compliance Period"** shall mean the longer of (1) if the Developer does not deliver a permitted Extension Notice, a period beginning on the date the Rehabilitation Certificate is issued and ending on the 10th anniversary of the date the Rehabilitation Certificate is issued, (2) if the Developer delivers an Extension Notice and satisfies the Extension Period Conditions, a period beginning on the date the Rehabilitation Certificate is issued and ending on the 11<sup>th</sup> anniversary of the date the Certificate is issued, and (3) if the Developer delivers two Extension Notices and satisfies the Extension Period Conditions for each respective Extension Notice, a period beginning on the date the Rehabilitation Certificate is issued and ending on the 12<sup>th</sup> anniversary of the date the Certificate is issued.

**"Construction Contract"** shall mean that certain contract, substantially in the form attached hereto as **Exhibit E**, to be entered into between the Developer and the General Contractor providing for construction of the Rehabilitation Project.

**"Corporation Counsel"** shall mean the City's Office of Corporation Counsel.

**"Developer Spaces"** shall have the meaning set forth in the Recitals hereof.

**"Eligible Job Training Costs"** shall mean costs incurred for Training Center PTEs, whether or not the training occurs at the Training Center or elsewhere in the Redevelopment Area, so long as such costs are eligible reimbursable expenses under the Act. **Exhibit C-2** lists the Project's Eligible Job Training Costs.

**"Employer(s)"** shall have the meaning set forth in **Section 10** hereof.

**"Environmental Laws"** shall mean 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 "Superien" 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.

"**Equity**" shall mean funds of the Developer (other than funds derived from Lender Financing) irrevocably available for the Project, in the amount set forth in Section 4.01 hereof, which amount may be increased pursuant to Section 4.06 (Cost Overruns) and Section 4.03(b).

"**Expansion Space**" shall have the meaning set forth in the Recitals hereof.

"**Extension Period Conditions**" shall mean: (1) with respect to an Extension Notice delivered in relation to the Jobs Covenant, that the applicable Event of Default has been cured within the applicable one-year period; (2) with respect to an Extension Notice delivered in relation to the City Residency Threshold, that the City Residency Threshold has been met or exceeded within the applicable one-year period; and (3) with respect to an Extension Notice delivered in relation to both the Jobs Covenant and the City Residency Threshold, that both the applicable Event of Default has been cured and the City Residency Threshold has been met or exceeded within the applicable one-year period.

"**Extension Notice**" shall mean an irrevocable written notice accompanying the annual submission of the Jobs and Occupancy Certificate and delivered to HED stating that the Developer requests an extension of the Compliance Period by one year, subject to the conditions described in Section 8.06, including the Extension Notice Conditions.

"**Extension Notice Chart**" shall have the meaning set forth in Section 4.03(f) hereof.

"**Extension Notice Conditions**" shall have the meaning set forth in Section 8.06 hereof.

"**Event of Default**" shall have the meaning set forth in Section 15 hereof.

"**Final Rehabilitation Project Cost**" shall have the meaning set forth in Section 7.01 hereof.

"**Financial Statements**" shall mean complete audited financial statements of the Developer prepared by a certified public accountant in accordance with generally accepted accounting principles and practices consistently applied throughout the appropriate periods.

"**Full-Time Equivalent Employee**" or "**FTE**" shall mean an employee of the Developer or an Affiliate (or, with respect to job shares or similar work arrangements, two such employees counted collectively as a single FTE) who is employed in a permanent position at least 35 hours per week at either the Training Center or the Headquarters (but not both), excluding (a) persons engaged as or employed by independent contractors, third party service providers or consultants and (b) persons employed or engaged by the Developer, an Affiliate, or by third parties in positions ancillary to the Developer's operations including, without limitation, food service workers, security guards, cleaning personnel, or similar positions at the Training Center or Headquarters.

"**General Contractor**" shall mean the general contractor(s) hired by the Developer pursuant to Section 6.01.

"**Hazardous Materials**" shall mean 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.

"**Headquarters**" shall have the meaning set forth in the Recitals hereof.

"**Headquarters Space**" shall have the meaning set forth in the Recitals hereof.

"**HIPAA**" shall mean the Health Insurance Portability and Accountability Act of 1996.

"**Human Rights Ordinance**" shall have the meaning set forth in **Section 10** hereof.

"**Incremental Taxes**" shall mean 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 of Chicago for deposit by the Treasurer into the LaSalle Central TIF Fund established to pay Redevelopment Project Costs and obligations incurred in the payment thereof.

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

"**Indemnitee**" and "**Indemnitees**" shall have the meanings set forth in **Section 13.01** hereof.

"**Jobs and Occupancy Certificate**" shall mean the Jobs and Occupancy Certificate attached hereto as **Exhibit F**.

"**Jobs Covenant**" shall have the meaning set forth in **Section 8.06** hereof.

"**Jobs Training Project**" shall have the meaning set forth in the Recitals hereof.

"**Landlord**" shall have the meaning set forth in the Recitals hereof.

"**LaSalle Central TIF Fund**" shall mean the special tax allocation fund created by the City in connection with the Redevelopment Area into which the Incremental Taxes will be deposited.

"**Lease**" shall have the meaning set forth in the Recitals hereof

"**LEED Certification**" shall mean a basic Certification of the Rehabilitation Project under the Leadership in Energy and Environmental Design (LEED) Green Building Rating System maintained by the U.S. Green Building Council and applicable to commercial interiors.

"**Lender Financing**" shall mean funds, if any, borrowed by the Developer from lenders and irrevocably available to pay for Costs of the Project, in the amount set forth in **Section 4.01** hereof.

"**Letter of Credit**" shall mean the initial irrevocable, direct pay transferable Letter of Credit naming the City as the sole beneficiary for the Letter of Credit Amount delivered to the City pursuant to **Section 4.03(b)** hereof, and, unless the context or use indicates another or different meaning or

intent, any substitute Letter of Credit delivered to the City, in form and substance satisfactory to the City in its sole and absolute discretion, and any extensions thereof.

**"Letter of Credit Amount"** shall have the meaning set forth in Section 4.03(h) hereof.

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

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

**"MBE/WBE Budget"** shall mean the budget attached hereto as Exhibit H-2, as described in Section 10.03.

**"MBE/WBE Program"** shall have the meaning set forth in Section 10.03 hereof.

**"Minimum Square Footage"** shall have the meaning set forth in the Recitals hereof.

**"Municipal Code"** shall mean the Municipal Code of the City of Chicago.

**"New Mortgage"** shall have the meaning set forth in Section 16 hereof.

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

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

**"Officers"** shall mean the Developer's chief executive officer, chief financial officer, and senior officer-level employees performing the primary executive and financial functions for the Developer's corporate headquarters, including any officer-level employee in charge of a principal business unit, division or function (such as sales, administration or finance), and any other officer-level employee who performs a policy making function or any other person who performs similar policy making functions for the Developer. Employees of subsidiaries may be deemed Officers of the Developer if they perform such policy making functions for the Developer.

**"Operating Covenant"** shall have the meaning set forth in Section 8.06 hereof.

**"Permitted Liens"** shall mean those liens and encumbrances against the Property and/or the Project set forth on Exhibit G hereto.



**"Permitted Mortgage"** shall have the meaning set forth in Section 16 hereof.

**"Plans and Specifications"** shall mean construction documents containing a site plan and working drawings and specifications for the Rehabilitation Project, as submitted to the City as the basis for obtaining building permits for the Rehabilitation Project.

**"Prior Expenditure(s)"** shall have the meaning set forth in Section 4.05(a) hereof.

**"Project"** shall have the meaning set forth in the Recitals hereof.

**"Project Budget"** shall mean the budget attached hereto as Exhibit H-1, showing the total cost of the Project by line item, furnished by the Developer to HED, in accordance with Section 3.03 hereof.

**"Property"** shall have the meaning set forth in the Recitals hereof.

**"Redevelopment Area"** shall have the meaning set forth in the Recitals hereof.

**"Redevelopment Plan"** shall have the meaning set forth in the Recitals hereof.

**"Redevelopment Project Costs"** shall mean redevelopment project costs as defined in Section 5/11-74.4-3(q) of the Act that are included in the budget set forth in the Redevelopment Plan or otherwise referenced in the Redevelopment Plan.

**"Rehabilitation Amount"** shall have the meaning set forth in Section 4.03(b) hereof.

**"Rehabilitation Certificate"** shall have the meaning set forth in Section 7.01 hereof.

**"Rehabilitation Project"** shall have the meaning set forth in the Recitals hereof.

**"Rehabilitation Project Costs"** shall mean Redevelopment Project Costs incurred in connection with the Rehabilitation Project, excluding Eligible Job Training Costs.

**"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 4.04 of this Agreement.

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

**"Survey"** shall mean a Class A plat of survey in the most recently revised form of ALTA/ACSM urban survey of the Property acceptable in form and content to the City and the Title Company, prepared by a surveyor registered in the State of Illinois, 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 updates thereof to reflect improvements to the Property in connection with the construction of the Facility and related improvements as required by the City or lender(s) providing Lender Financing).

**"Term of the Agreement"** shall mean the period of time commencing on the Closing Date and concluding at the end of the Compliance Period.

**"TIF Adoption Ordinance"** shall have the meaning set forth in the Recitals hereof.

**"TIF District Administration Fee"** shall mean the fee described in Section 4.05(c) hereof.

**"TIF-Funded Improvements"** shall mean those improvements of the Rehabilitation Project which (i) qualify as Redevelopment Project Costs, (ii) are eligible costs under the Redevelopment Plan and (iii) the City has agreed to pay for out of the City Funds, subject to the terms of this Agreement, but excluding Eligible Job Training Costs. Exhibit C-1 lists the TIF-Funded Improvements for the Rehabilitation Project.

**"TIF Ordinances"** shall have the meaning set forth in the Recitals hereof.

**"Title Company"** shall mean [\_\_\_\_\_].

**"Titte Policy"** shall mean a leasehold title insurance policy in the most recently revised ALTA or equivalent form, showing the Developer as the insured, in the full amount of the City Funds noting the recording of this Agreement as an encumbrance against the Property and, a subordination agreement in favor of the City with respect to previously recorded liens against the Property, if any, related to Lender Financing, if any, issued by the Title Company, and containing only those title exceptions listed as Permitted Liens on Exhibit G hereto.

**"Training Center"** shall have the meaning set forth in the Recitals hereof.

**"Training Center FTE"** shall mean an FTE trained by the Developer and located exclusively at the Training Center.

**"Training Center Space"** shall have the meaning set forth in the Recitals hereof.

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

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

### SECTION 3. THE PROJECT

**3.01 The Project.** At all times during the Term of the Agreement, (i) Developer shall maintain at least 175 PTEs at the Headquarters; and (ii) the Officers must designate, use, and occupy the Headquarters as their principal offices. With respect to the Rehabilitation Project, the Developer shall, pursuant to the Plans and Specifications and subject to the provisions of Section 18.17, have built out the Training Center Space and begun conducting business operations prior to the Closing Date. With respect to the Jobs Training Project, the Developer shall train and locate a minimum of 650 PTEs at the Training Center in accordance with the schedule set forth in Section 8.06(b). Developer shall be bound by the Operating Covenant, Jobs Covenants, and other obligations and deadlines described in Section 8.06 and elsewhere in this Agreement.

**3.02 Scope Drawings and Plans and Specifications.** The Developer has delivered the Scope Drawings and Plans and Specifications to HED and HED has approved same. After such initial approval, subsequent proposed changes to the Scope Drawings or Plans and Specifications shall be submitted to HED as a Change Order pursuant to Section 3.04 hereof. The Scope Drawings and Plans and Specifications shall at all times conform to the Redevelopment Plan and all applicable federal, state and local laws, ordinances and regulations. The Developer shall submit all

necessary documents to the City's Building Department, Department of Transportation and such other City departments or governmental authorities as may be necessary to acquire building permits and other required approvals for the Rehabilitation Project.

**3.03 Project Budget.** The Developer has furnished to HED, and HED has approved, a Project Budget showing total costs for the Project in the amounts shown below:

Rehabilitation Project	\$4,750,000
Jobs Training Project	<u>\$4,730,987</u>
Project	\$9,480,987

The Developer hereby certifies to the City that (a) the City Funds, together with Lender Financing, if any, and Equity shall be sufficient to pay for all Project costs; (b) it has Lender Financing, if any, and Equity in an amount sufficient to pay for all Rehabilitation Project costs, and (c) the Project Budget is true, correct and complete in all material respects. The Developer shall promptly deliver to HED certified copies of any Change Orders with respect to the Project Budget for approval pursuant to Section 3.04 hereof.

**3.04 Change Orders.** Except as provided below in this Section 3.04, all Change Orders (and documentation substantiating the need and identifying the source of funding therefor) relating to changes to the Rehabilitation Project must be submitted by the Developer to HED concurrently with the progress reports described in Section 3.07 hereof; provided, that any Change Order relating to any of the following must be submitted by the Developer to HED for HED's prior written approval: (a) a reduction in the gross or net square footage of the Training Space by five percent (5%) or more (either individually or cumulatively); (b) a change in the use of the Developer Spaces to a use other than as described in Recital D to this Agreement; (c) a delay in the completion of the Rehabilitation Project by six (6) months or more; or (d) Change Orders resulting in an aggregate increase to the Project Budget for the Rehabilitation Project of ten percent (10%) or more. 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 (to the extent said City approval is required pursuant to the terms of this Agreement). The Construction Contract, and each contract between the General Contractor and any subcontractor, shall contain a provision to this effect or for compliance with this Agreement generally. 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. Notwithstanding anything to the contrary in this Section 3.04, Change Orders other than those set forth above do not require HED's prior written approval as set forth in this Section 3.04, but HED shall be notified in writing of all such Change Orders prior to the implementation thereof and the Developer, in connection with such notice, shall identify to DHED the source of funding therefor.

**3.05 HED Approval.** Any approval granted by HED of the Scope Drawings, Plans and Specifications and the Change Orders is for the purposes of this Agreement only and does not affect or constitute any approval required by any other City department or pursuant to any City ordinance, code, regulation or any other governmental approval, nor does any approval by HED pursuant to this Agreement constitute approval of the quality, structural soundness or safety of the Property or the Rehabilitation Project.

**3.06 Other Approvals.** Any HED approval under this Agreement shall have no effect upon, nor shall it operate as a waiver of, the Developer's obligations to comply with the provisions of Section 5.03 (Other Governmental Approvals) hereof. The Developer shall not commence construction of the Rehabilitation Project until the Developer has obtained all necessary permits and

approvals (including but not limited to HED's approval of the Scope Drawings and Plans and Specifications) and proof of the General Contractor's and each subcontractor's bonding as required hereunder.

**3.07 Progress Reports and Survey Updates.** The Developer shall provide HED with written quarterly progress reports detailing the status of the Rehabilitation Project, including a revised completion date, if necessary (with any change in completion date being considered a Change Order, requiring HED's written approval pursuant to Section 3.04). The Developer shall provide three (3) copies of an updated Survey to HED upon the request of HED or any lender providing Lender Financing, reflecting improvements made to the Property.

**3.08 Inspecting Agent or Architect.** An independent agent or architect (other than the Developer's architect) approved by HED shall be selected to act as the inspecting agent or architect, at the Developer's expense, for the Rehabilitation Project. The inspecting agent or architect shall perform periodic inspections with respect to the Rehabilitation Project, providing certifications with respect thereto to HED, prior to requests for disbursement for costs related to the Rehabilitation Project.

**3.09 Barricades.** Prior to commencing any construction requiring barricades, the Developer shall install a construction barricade of a type and appearance satisfactory to the City and constructed in compliance with all applicable federal, state or City laws, ordinances and regulations. HED retains the right to approve the maintenance, appearance, color scheme, painting, nature, type, content and design of all barricades.

**3.10 Signs and Public Relations.** Upon the request of HED and if approved by the respective Landlord (if such approval is required under the Lease), the Developer shall erect a sign of size and style approved by the City in a conspicuous location on the Property during the Rehabilitation Project, 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 other pertinent information regarding the Developer, the Property and the Project in the City's promotional literature and communications.

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

**3.12 Permit Fees.** In connection with the Project, the Developer shall be 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.

## **SECTION 4. FINANCING**

**4.01 Total Project Cost and Sources of Funds.** The total cost of the Project is estimated to be \$9,480,987, which includes Rehabilitation Project costs totaling \$4,750,000 and Jobs Training Project Costs totaling \$4,730,987. All Project costs shall be applied in the manner set forth in the Project Budget and shall be funded from the following sources:

Rehabilitation Project Costs

Equity/Lender Financing (subject to Sections 4.03(b) and 4.06)     \$3,388,750

Estimated City Funds (subject to <u>Section 4.03</u> )	<u>\$1,361,250</u>
Estimated total	<u>\$4,750,000</u>

#### Jobs Training Project Costs

Equity/Lender Financing (subject to <u>Sections 4.03(b) and 4.06</u> )	\$ 92,237
Estimated City Funds (subject to <u>Section 4.03</u> )	<u>\$4,638,750</u>
Estimated total	<u>\$4,730,987</u>

Estimated total Project Costs	<u>\$9,480,987</u>
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The Developer anticipates (a) leasing an additional estimated 90,000 square feet of office space located within the Redevelopment Area to accommodate newly trained PTEs, and (b) incurring additional expenses of approximately \$7,720,000 to build out such space. However, the Developer has no obligation to lease such additional space or incur such additional build out costs. The build out of such additional space would not be part of the Rehabilitation Project and would not be subject to any requirements imposed pursuant to this Agreement. The potential additional costs of the build out would not be included in the Project Budget or the MBE/WBE Budget and would not be subject to any requirements imposed pursuant to this Agreement.

**4.02 Developer Funds.** Equity and/or Lender Financing shall be used to pay all Project costs, including but not limited to Redevelopment Project Costs and costs of TIF-Funded Improvements.

#### **4.03 City Funds.**

(a) **Uses of City Funds.** City Funds may only be used to reimburse the Developer for costs of TIF-Funded Improvements that constitute Redevelopment Project Costs and to reimburse Eligible Job Training Costs. Exhibit C-1 sets forth, by line item, the TIF-Funded Improvements for the Rehabilitation Project. Exhibit C-2 sets forth, by line item, Eligible Job Training Costs. Exhibits C-1 and C-2 list the maximum amount of costs that may be paid by or reimbursed from City Funds for each line item therein (subject to Sections 4.03(b) and 4.05(d)), contingent upon receipt by the City of documentation satisfactory in form and substance to HED evidencing such cost and its eligibility as a Redevelopment Project Cost or an Eligible Job Training Cost. Such payment of City Funds shall be contingent upon HED having first received, along with the Requisition Form, the Letter of Credit in the applicable Letter of Credit Amount (as adjusted to reflect the anticipated payment of City Funds) and documentation satisfactory in form and substance to HED (including Developer's filing of a Jobs and Occupancy Certificate) evidencing Developer's compliance with the Operating Covenant and the applicable Jobs Covenant then due, as set forth in Section 8.06 hereof.

(b) **Sources of City Funds.** Subject to the terms and conditions of this Agreement, including but not limited to this Section 4.03 and Section 5 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 and Eligible Job Training Costs:

<u>Source of City Funds</u>	<u>Maximum Amount</u>
Available Incremental Taxes	\$6,000,000

provided, however, that (i) the amount of City Funds in the First Rehabilitation Installment shall be reduced by \$250,000 if the Rehabilitation Project has not achieved a LEED Certification; (2) the total

amount of City Funds expended for TIF-Funded Improvements shall be an amount not to exceed the lesser of One Million Three Hundred Sixty-One Thousand Two Hundred Fifty Dollars (\$1,361,250) or Twenty-Nine Percent (29%) of the total amount of the final Rehabilitation Project Costs (the "Rehabilitation Amount"); (3) the total amount of City Funds expended for Eligible Job Training Costs shall be an amount not to exceed the lesser of Four Million Seven Hundred Fifty Thousand \$4,638,750 or 98% of the actual total Jobs Training Project costs; and (4) the total amount of City Funds to be derived from Incremental Taxes shall be available to pay costs related to TIF-Funded Improvements, or Eligible Job Training Costs, and allocated by the City for that purpose only so long as:

(i) The amount of the Available Incremental Taxes deposited into the LaSalle Central TIF Fund shall be sufficient to pay for such costs; and

(ii) The Developer shall deliver to the City the Letter of Credit in the applicable Letter of Credit Amount.

The Developer acknowledges and agrees that the City's obligation to pay for TIF-Funded Improvements and Eligible Job Training Costs up to a total of \$6,000,000 is contingent upon the fulfillment of the conditions set forth in parts (i) and (ii) above. In the event that such conditions are not fulfilled, the amount of Equity to be contributed by the Developer pursuant to Section 4.01 hereof shall increase proportionately.

(c) Rehabilitation Payment. After the issuance of the Rehabilitation Certificate to the Developer by HED, subject to the conditions described in this Section 4.03, the City shall make the Rehabilitation Payment in three annual installments as follows:

(i) On the first anniversary of the issuance of the Rehabilitation Certificate, an amount equal to one third of the Rehabilitation Amount (the "First Rehabilitation Installment"); provided, however, that if the City determines prior to issuing the Rehabilitation Certificate that the Training Center Space is unlikely to achieve LEED Certification, then the total amount of the First Rehabilitation Installment shall be reduced by \$250,000.

(ii) On the second anniversary of the issuance of the Rehabilitation Certificate, an amount equal to one third of the Rehabilitation Amount (the "Second Rehabilitation Installment").

(iii) On the third anniversary of the issuance of the Rehabilitation Certificate, an amount equal to one third of the Rehabilitation Amount (the "Third Rehabilitation Installment").

The total Rehabilitation Payment shall in no event exceed a total of \$1,361,250. The payment of each installment of the Rehabilitation Payment shall be contingent upon HED having first received, along with the Requisition Form, the Letter of Credit in the applicable Letter of Credit Amount (as adjusted to reflect the anticipated payment of City Funds) and documentation satisfactory in form and substance to HED (including Developer's filing of a Jobs and Occupancy Certificate) evidencing Developer's compliance with the Operating Covenant and the applicable Jobs Covenant then due, as set forth in Section 8.06.

(d) Job Training Payment. The City shall reimburse the Developer annually for Eligible Job Training Costs incurred for the training of Training Center PTEs. The annual Job Training Payment (each, an "Annual Installment") will be made in the calendar year following the year in

which the job training and hiring of each new Training Center FTE took place. The total annual reimbursement for Eligible Job Training Costs shall not exceed the amounts listed on the Schedule of Payment of Job Training Funds set forth in Section 4.03(f). The total aggregate reimbursement for Eligible Job Training Costs shall not exceed \$4,638,750. The City shall reimburse for Eligible Job Training Costs in accordance with this Section 4.03, provided that such expenses (i) qualify as Redevelopment Project Costs, (ii) are eligible costs under the Redevelopment Plan, and (iii) are consistent with the TIF Works program guidelines as administered by the Department's Division of Workforce Solutions, including development of the Employment Plan (as hereinafter defined), establishing and measuring outcomes and requesting and processing reimbursement for eligible expenses. After the issuance of the Rehabilitation Certificate to the Developer by HED, subject to the conditions described in this Section 4.03, the City shall make annual payments for Eligible Job Training Costs in accordance with the schedule set forth in Section 4.03(f); provided, however, that the City shall not pay or owe an Annual Installment unless at least 51% of the Training Center PTEs are City Residents (the "City Residency Threshold") as evidenced by the respective Jobs and Occupancy Certificate. Notwithstanding the foregoing, if (a) less than 51% of the Training Center PTEs are City Residents, as evidenced by the respective Jobs and Occupancy Certificate and (b) the Extension Notice Conditions have been satisfied, then the number of City Residents required to meet the City Residency Threshold shall not increase during the applicable one-year period if the Developer elects to extend the Compliance Period for one year by delivering an Extension Notice, as exemplified in the Extension Notice Chart set forth in Section 4.03(f).

(e) Calculation of City Funds for Annual Installments. The amount of City Funds available for Annual Installments is set forth Section 4.03(f), as may be adjusted under Section 4.03. The Jobs Schedule is set forth in the chart in Section 8.06(b). If the total PTEs measured as of the applicable anniversary of the issuance of the Certificate is less than the applicable FTE Requirement, then the Annual Installment with respect to such anniversary shall equal zero. All payments of City Funds are subject to the reductions described in Section 4.03(b) above and extension as provided in Section 8.06(c).

(f) Schedule of Payment of Job Training Funds.

Annual Installments will be provided based on the following schedule; provided, however, that each Annual Installment shall be contingent upon HED having first received, along with the Requisition Form, the Letter of Credit in the applicable Letter of Credit Amount (as adjusted to reflect the anticipated payment of City Funds) and documentation satisfactory in form and substance to HED (including Developer's filing of a Jobs and Occupancy Certificate) evidencing Developer's compliance with the Operating Covenant and the applicable Jobs Covenant then due, as set forth in Section 8.06 hereof.

Payment	Calculation Date	Required Number of Training Center PTEs*	City Residents Required	Annual Installment**
1st Annual Installment:	First Anniversary of Rehabilitation Certificate issuance	100	51	\$713,600 of Available Incremental Taxes
2nd Annual Installment:	Second Anniversary of Rehabilitation Certificate issuance	200	102	\$713,600 of Available Incremental Taxes
3rd Annual Installment:	Third Anniversary of Rehabilitation Certificate issuance	275	141	\$535,200 of Available Incremental Taxes
4th Annual	Fourth Anniversary of	350	179	\$535,200 of

Installment:	Rehabilitation Certificate issuance			Available Incremental Taxes
5th Annual Installment:	Fifth Anniversary of Rehabilitation Certificate issuance	400	204	\$356,800 of Available Incremental Taxes
6th Annual Installment:	Sixth Anniversary of Rehabilitation Certificate issuance	450	230	\$356,800 of Available Incremental Taxes
7th Annual Installment:	Seventh Anniversary of Rehabilitation Certificate issuance	500	255	\$356,800 of Available Incremental Taxes
8th Annual Installment:	Eighth Anniversary of Rehabilitation Certificate issuance	575	294	\$535,200 of Available Incremental Taxes
9th Annual Installment:	Ninth Anniversary of Rehabilitation Certificate issuance	625	319	\$356,800 of Available Incremental Taxes
10th Annual Installment:	Tenth Anniversary of Rehabilitation Certificate issuance	650	332	\$178,400 of Available Incremental Taxes

\* In addition, the Developer must meet the Jobs and Operating Covenants described in Section 8.06 as a precondition of payment for each Annual Installment, including the requirement that the Developer maintain at least 175 PTEs at the Headquarters.

\*\*The maximum total amount of all Annual Installments shall be limited to \$4,638,750.

Notwithstanding the foregoing, if at any time before the tenth anniversary of the date the Rehabilitation Certificate is issued the Developer delivers a permitted Extension Notice and satisfies the Extension Period Conditions, then the schedule of payments of Annual Installments shall be extended by one year and shall end on (i) if one Extension Notice is delivered, the eleventh (11<sup>th</sup>) anniversary of the date the Rehabilitation Certificate is issued or (ii) if two Extension Notices are delivered, the twelfth (12<sup>th</sup>) anniversary of the date the Rehabilitation Certificate is issued.

The following chart ("Extension Notice Chart") assumes that a permitted Extension Notice has been delivered between the Third and Fourth Anniversary of Rehabilitation Certificate issuance and the Extension Period Conditions have been satisfied:

Payment	Calculation Date	Required Number of Training Center FTEs*	City Residents Required	Annual Installment**
1st Annual Installment:	First Anniversary of Rehabilitation Certificate issuance	100	51	\$713,600 of Available Incremental Taxes
2nd Annual Installment:	Second Anniversary of Rehabilitation Certificate issuance	200	102	\$713,600 of Available Incremental Taxes
3rd Annual Installment:	Third Anniversary of Rehabilitation Certificate issuance	275	141	\$535,200 of Available Incremental Taxes
No Payment	Fourth Anniversary of Rehabilitation	275	141	None



	Certificate issuance			
4th Annual Installment:	Fifth Anniversary of Rehabilitation Certificate issuance	350	179	\$535,200 of Available Incremental Taxes
5th Annual Installment:	Sixth Anniversary of Rehabilitation Certificate issuance	400	204	\$356,800 of Available Incremental Taxes
6th Annual Installment:	Seventh Anniversary of Rehabilitation Certificate issuance	450	230	\$356,800 of Available Incremental Taxes
7th Annual Installment:	Eighth Anniversary of Rehabilitation Certificate issuance	500	255	\$356,800 of Available Incremental Taxes
8th Annual Installment:	Ninth Anniversary of Rehabilitation Certificate issuance	575	294	\$535,200 of Available Incremental Taxes
9th Annual Installment:	Tenth Anniversary of Rehabilitation Certificate issuance	625	319	\$356,800 of Available Incremental Taxes
10th Annual Installment:	Eleventh Anniversary of Rehabilitation Certificate issuance	650	332	\$178,400 of Available Incremental Taxes

If a second permitted Extension Notice is delivered and the Extension Period Conditions are satisfied, then the schedule above, including corresponding Dollar Amounts, would be extended by one additional year.

(g) Letter of Credit. Prior to the payment of the First Rehabilitation Installment, the Developer shall purchase and deliver to the City the Letter of Credit, in a form and from a financial institution acceptable to the City, naming the City as the sole beneficiary for the full amount of the First Rehabilitation Installment, as set forth in Section 4.03(c)(i). The Developer shall increase the Letter of Credit Amount by the amounts set forth in Sections 4.03(c)(ii) & (iii), respectively, as a precondition of the City's disbursement of the Second Rehabilitation Installment and Third Rehabilitation Installment. The Letter of Credit Amount will increase and decrease in accordance with the schedule set forth in Section 4.03(h).

(h) Letter of Credit Amount. The "Letter of Credit Amount" shall mean, during each period specified in Chart 1 below, the lesser of (i) the Dollar Amount equal to the percentage of the Rehabilitation Amount for the period specified in Chart 1, and (ii) the aggregate amount of the Rehabilitation Payment actually paid to Developer. Notwithstanding the foregoing, as shown in Chart 2, the schedule shall be extended by one year with respect to each permitted Extension Notice delivered by the Developer, provided that the Developer satisfies the Extension Period Conditions.

In the charts used in this Section 4.03(h), "Certificate of Completion" means the period from the date the Rehabilitation Certificate is issued through the first Anniversary, "Year 1" means the period from the date of the first Anniversary through the second Anniversary, "Year 2" means the period from the second Anniversary through the third Anniversary, and so on.

Chart 1: This chart assumes that no permitted Extension Notice has been delivered, or a permitted Extension Notice has been delivered but the Extension Period Conditions have not been

satisfied. The Letter of Credit Amount for each period shall be the Dollar Amount indicated for that period:

Period	Dollar Amount
Certificate of Completion	N/A
Year 1	33.34% of the Rehabilitation Amount
Year 2	66.34% of the Rehabilitation Amount
Year 3	100% of the Rehabilitation Amount
Year 4	100% of the Rehabilitation Amount
Year 5	100% of the Rehabilitation Amount
Year 6	100% of the Rehabilitation Amount
Year 7	80 % of the Rehabilitation Amount
Year 8	60% of the Rehabilitation Amount
Year 9	40% of the Rehabilitation Amount
Year 10	20% of the Rehabilitation Amount

Chart 2: This chart assumes that a permitted Extension Notice has been delivered in Year 3 and the Extension Period Conditions have been satisfied. Therefore, the schedule, including the corresponding Dollar Amount, is extended by one year. The Letter of Credit Amount for each period shall be the Dollar Amount indicated for that period:

Period	Dollar Amount
Certificate of Completion	N/A
Year 1	33.34% of the Rehabilitation Amount
Year 2	66.34% of the Rehabilitation Amount
Year 3	100% of the Rehabilitation Amount
Year 4	100% of the Rehabilitation Amount
Year 8	100% of the Rehabilitation Amount
Year 6	100% of the Rehabilitation Amount
Year 7	100 % of the Rehabilitation Amount
Year 8	80% of the Rehabilitation Amount
Year 9	60% of the Rehabilitation

	Amount
Year 10	40% of the Rehabilitation Amount
Year 11	20% of the Rehabilitation Amount

If a second permitted Extension Notice is delivered and the Extension Period Conditions are satisfied, then the schedule above, including corresponding Dollar Amounts, would be extended by one additional year.

**4.04 Requisition Form.** When the Developer submits documentation to the City in connection with a request for the payment of the Rehabilitation Payment as described in Section 4.03(c) or of the Annual Installment as described in Section 4.03(f), beginning on the first request for payment and continuing through the earlier of (i) the Term of the Agreement or (ii) the date that the Developer has been reimbursed in full under this Agreement, the Developer shall provide HED with a Requisition Form, along with the documentation described therein. The Developer shall meet with HED at the request of HED to discuss the Requisition Form(s) previously delivered.

**4.05 Treatment of Prior Expenditures and Subsequent Disbursements.**

(a) **Prior Expenditures.** Only those expenditures made by the 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, shall be considered previously contributed Equity or Lender Financing hereunder (the "Prior Expenditures"). HED shall have the right, in its sole discretion, to disallow any such expenditure as a Prior Expenditure. Exhibit I hereto sets forth the prior expenditures approved by HED as of the date hereof as Prior Expenditures. Prior Expenditures made for items other than TIF-Funded Improvements shall not be reimbursed to the Developer, but shall reduce the amount of Equity and/or Lender Financing required to be contributed by the Developer pursuant to Section 4.01 hereof.

(b) **Attocation Among Line Items.** Disbursements for expenditures related to TIF-Funded Improvements may be allocated to and charged against the appropriate line only, with transfers of costs and expenses from one line item to another, without the prior written consent of HED, being prohibited; provided, however, that such transfers among line items, in an amount not to exceed \$25,000 or \$100,000 in the aggregate, may be made without the prior written consent of HED.

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

(d) **Attocation of Costs With Respect To Sources of Funds.**

(i) **Disbursement of Equity.** Each amount paid pursuant to this Agreement, whether for TIF-Funded Improvements or otherwise, shall be charged first to Equity.

(ii) **Disbursement of Lender Financing.** After there is no Equity remaining, each amount paid pursuant to this Agreement, whether for TIF-Funded Improvements or otherwise, shall be charged to Lender Financing.

(iii) Disbursement of City Funds. After there is no Equity or Lender Financing remaining, each amount paid pursuant to this Agreement shall be charged to City Funds, to be used to directly pay for, or reimburse the Developer for its previous payment for (out of Equity or Lender Financing) TIF-Funded Improvements or Eligible Job Training Costs; provided that costs of TIF-Funded Improvements and/or Eligible Job Training Costs that are to be paid from City Funds derived from (1) Available Incremental Taxes on deposit from time to time in the LaSalle Central TIF Fund, and/or (2) proceeds of TIF Bonds, if any, shall be payable by the City only to the extent that such funds are available.

**4.06 Cost Overruns.** If the aggregate cost of the TIF-Funded Improvements and Eligible Job Training Costs exceeds City Funds available pursuant to Section 4.03 hereof, or if the cost of completing the Project exceeds the Project Budget, the Developer shall be solely responsible for such excess cost, and shall hold the City harmless from any and all costs and expenses of completing the TIF-Funded Improvements and job training in excess of City Funds and of completing the Project.

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

(a) the total amount of the disbursement request represents the actual cost of either (a), with respect to any Rehabilitation Payment, the actual amount paid to the General Contractor and/or subcontractors who have performed work on the Project, and/or their payees; or (b), with respect to any reimbursement for Eligible Job Training Costs, the actual amount payable or incurred for job training expenses.

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

(c) with respect to any Rehabilitation Payment, 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 tiled or threatened against the Developer Spaces 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

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 the deposit with

the City of the Letter of Credit as set forth in Section 4.03(b) of this Agreement and the requirements set forth in the Bond Ordinance, if any, the Bonds, if any, the TIF Ordinances and this Agreement.

**4.08 Conditionat Grant.** The City Funds being provided hereunder are being granted on a conditional basis, subject to the Developer's compliance with the provisions of this Agreement. The City Funds are subject to being reimbursed by the Developer to the City subject to the limitations and as otherwise provided in Section 15.02 hereof.

## **SECTION 5. CONDITIONS PRECEDENT**

The following conditions have been complied with to the City's satisfaction on or prior to the Closing Date:

**5.01 Project Budget.** The Developer has submitted to HED, and HED has approved, a Project Budget in accordance with the provisions of Section 3.03 hereof.

**5.02 Scope Drawings and Plans and Specifications.** The Developer has submitted to HED, and HED has approved, the Scope Drawings and Plans and Specitications accordance with the provisions of Section 3.02 hereof.

**5.03 Other Governmental Approvals.** The Developer has secured all other necessary approvals and permits required by any state, federal, or local statute, ordinance or regulation and has submitted evidence thereof to HED.

**5.04 Financing.** The Developer has furnished proof reasonably acceptable to the City that the Developer has Equity and Lender Financing in the amounts set forth in Section 4.01 hereof to complete the Project and satisfy its obligations under this Agreement. If a portion of such funds consists of Lender Financing, the Developer has furnished proof as of the Closing Date that the proceeds thereof are available to be drawn upon by the Developer as needed and are sufficient (along with the Equity set forth in Section 4.01) to complete the Project. Any liens against the Developer Spaces in existence at the Closing Date have been subordinated to certain encumbrances of the City set forth herein pursuant to 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 the Developer, with the Office of the Recorder of Deeds of Cook County.

**5.05 Lease and Title.** On the Closing Date, the Developer has furnished the City with a copy of the Title Policy for the Developer Spaces, certified by the Title Company, showing the Developer as the named insured. The Title Policy is dated as of the Closing Date and contains only those title exceptions listed as Permitted Liens on Exhibit G hereto and evidences the recording of this Agreement pursuant to the provisions of Section 8.18 hereof. The Title Policy also contains such endorsements as shall be required by Corporation Counsel, including, as applicable (as determined by the Corporation Counsel), but not limited to an owner's comprehensive endorsement and satisfactory endorsements regarding zoning (3.1 with parking), contiguity, location, access and survey. The Developer has provided to HED, on or prior to the Closing Date, documentation related to the Developer Spaces and copies of all easements and encumbrances of record with respect to the Property not addressed, to HED's satisfaction, by the Title Policy and any endorsements thereto.

**5.06 Evidence of Clean Title.** The Developer, at its own expense, has provided the City with searches for Developer's name and the following trade names of Developer: \_\_\_\_\_, as follows:

Secretary of State  
Secretary of State  
Cook County Recorder  
Cook County Recorder  
Cook County Recorder  
Cook County Recorder  
Cook County Recorder  
U.S. District Court (N.D. IL.)  
Clerk of Circuit Court,  
Cook County

UCC search  
Federal tax search  
UCC search  
Fixtures search  
Federal tax search  
State tax search  
Memoranda of judgments search  
Pending suits and judgments  
Pending suits and judgments

showing no liens against the Developer relating to the Project, the Property or any fixtures now or hereafter affixed to the Developer Spaces, except for the Permitted Liens.

**5.07 Surveys.** The Developer has furnished the City with three (3) copies of the Survey.

**5.08 Insurance.** The Developer, at its own expense, has insured the Developer Spaces in accordance with Section 12 hereof, and has delivered certificates required pursuant to Section 12 hereof evidencing the required coverages to HED.

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

**5.10 Evidence of Prior Expenditures.** The Developer has provided evidence satisfactory to HED in its sole discretion of the Prior Expenditures in accordance with the provisions of Section 4.05(a) hereof.

**5.11 Financial Statements.** The Developer has provided Financial Statements to HED for its most recent fiscal year, and audited or unaudited interim financial statements.

**5.12 Documentation.** The Developer has provided documentation to HED, satisfactory in form and substance to HED, with respect to current employment matters, including the reports described in Section 8.07.

**5.13 Environmental.** The Developer has provided HED with copies of all environmental reports or audits, if any, obtained by the Developer or Landlord with respect to the Developer Spaces, together with notices addressed to the Developer or provided by Landlord to the Developer from any agency regarding environmental issues at the Developer Spaces. The Developer has provided the City with a letter from the environmental engineer(s) who completed audit(s) for the Developer, authorizing the City to rely on such audits.

**5.14 Corporate Documents; Economic Disclosure Statement.** The Developer has provided a copy of its Articles or Certificate of Incorporation containing the original certification of the Secretary of State of its state of incorporation; certificates of good standing from the Secretary of State of its state of incorporation and from the Secretary of State of Illinois; a secretary's certificate in such form and substance as the Corporation Counsel may require; by-laws of the corporation; and such other corporate documentation as the City has requested. The Developer has provided to

the City an Economic Disclosure Statement, in the City's then current form, dated as of the Closing Date.

**5.15 Litigation.** The Developer has provided to Corporation Counsel and HED in writing, a description of all pending or threatened litigation or administrative proceedings (a) involving the Developer's property located in the City, (b) that Developer is otherwise required to publicly disclose or that may affect the ability of Developer to perform its duties and obligations pursuant to this Agreement, or (c) involving the City or involving the payment of franchise, income, sales or other taxes by such party to the State of Illinois or the City. In each case, the description shall specify the amount of each claim, an estimate of probable liability, the amount of any reserves taken in connection therewith and whether (and to what extent) such potential liability is covered by insurance.

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

## **SECTION 6. AGREEMENTS WITH CONTRACTORS**

**6.01 Bid Requirement for General Contractor and Subcontractors.** (a) Except as set forth in Section 6.01(b) below, prior to entering into an agreement with a General Contractor or any subcontractor for construction of the Rehabilitation Project, the Developer shall solicit, or shall cause the General Contractor to solicit, bids from qualified contractors eligible to do business, licensed, and in good standing with the City of Chicago, and shall submit all bids received to HED for its inspection and written approval. For the TIF-Funded Improvements, the Developer shall select the General Contractor (or shall cause the General Contractor to select the subcontractor) submitting the lowest responsible bid who can complete the Rehabilitation Project in a timely manner. If the Developer selects a General Contractor (or the General Contractor selects any subcontractor) submitting other than the lowest responsible bid for the TIF-Funded Improvements, the difference between the lowest responsible bid and the bid selected may not be paid out of City Funds. For Project work other than the TIF-Funded Improvements, if the Developer selects a General Contractor (or the General Contractor selects any subcontractor) who has not submitted the lowest responsible bid, the difference between the lowest responsible bid and the higher bid selected shall be subtracted from the actual total Project costs for purposes of the calculation of the amount of City Funds to be contributed to the Project pursuant to Section 4.03(b) hereof. The Developer shall submit copies of the Construction Contract to HED in accordance with Section 6.02 below. Photocopies of all subcontracts entered or to be entered into in connection with the TIF-Funded Improvements shall be provided to HED within five (5) business days of the execution thereof. The Developer shall ensure that the General Contractor shall not (and shall cause the General Contractor to ensure that the subcontractors shall not) begin work on the Rehabilitation Project until the Plans and Specifications have been approved by HED and all requisite permits have been obtained.

(b) If, prior to entering into an agreement with a General Contractor for construction of the Rehabilitation Project, the Developer does not solicit bids pursuant to Section 6.01(a) hereof, then the fee of the General Contractor proposed to be paid out of City Funds shall not exceed 10% of the total amount of the Construction Contract. Except as explicitly stated in this paragraph, all other provisions of Section 6.01(a) shall apply, including but not limited to the requirement that the General Contractor shall solicit competitive bids from all subcontractors.

**6.02 Construction Contract.** Prior to the execution thereof, the Developer shall deliver to HED a copy of the proposed Construction Contract with the General Contractor selected to handle the Project in accordance with Section 6.01 above, for HED's prior written approval, which shall be granted or denied within ten (10) business days after delivery thereof. Within ten (10) business days after execution of such contract by the Developer, the General Contractor and any other parties thereto, the Developer shall deliver to HED and Corporation Counsel a certified copy of such contract together with any modifications, amendments or supplements thereto.

**6.03 Performance and Payment Bonds.** Prior to the commencement of any portion of the Rehabilitation Project which includes work on the public way, the Developer shall require that the General Contractor be bonded for its payment by sureties having an AA rating or better using a bond in the form attached as Exhibit L hereto. The City shall be named as obligee or co-obligee on any such bonds.

**6.04 Employment Opportunity.** The Developer shall contractually obligate and cause the General Contractor and each subcontractor to agree to the provisions of Section 10 hereof.

**6.05 Other Provisions.** In addition to the requirements of this Section 6, the Construction Contract and each contract with any subcontractor shall contain provisions required pursuant to Section 3.04 (Change Orders), Section 8.09 (Prevailing Wage), Section 10.01(e) (Employment Opportunity), Section 10.02 (City Resident Employment Requirement), Section 10.03 (MBE/WBE Requirements, as applicable), Section 12 (Insurance) and Section 14.01 (Books and Records) hereof. Photocopies of all contracts or subcontracts entered or to be entered into in connection with the TIF-Funded Improvements shall be provided to HED within five (5) business days of the execution thereof.

## **SECTION 7. COMPLETION OF CONSTRUCTION OR REHABILITATION**

**7.01 Certificate of Completion of Construction or Rehabilitation.** Upon completion of the Rehabilitation Project in accordance with the terms of this Agreement, and upon the Developer's written request, which shall include a final Rehabilitation Project budget detailing the total actual cost of the construction of the Rehabilitation Project (the "Final Rehabilitation Project Cost"), HED shall issue to the Developer the Rehabilitation Certificate in recordable form certifying that the Developer has fulfilled its obligation to complete the Rehabilitation Project in accordance with the terms of this Agreement (the "Rehabilitation Certificate"). The Certificate will not be issued until the following requirements have been met, as supported by such evidence as the City may require in its sole discretion:

- (a) The Developer has completed construction of the Rehabilitation Project according to the Plans and Specifications and all Developer Spaces subject to the Occupancy Requirement are occupied;
- (b) 175 FTEs are located at the Headquarters, as evidenced by the Jobs and Occupancy Certificate;
- (c) Receipt of a Certificate of Occupancy or other evidence acceptable to HED that the Developer has complied with building permit requirements for the Rehabilitation Project;
- (d) The City's Monitoring and Compliance Unit has verified that the Developer is in full compliance with City requirements set forth in Section 10 (including, without limitation, Sections 10.02 and 10.03), Section 8.06 and Section 8.09 (M/WBE,



City Residency and Prevailing Wage) with respect to construction of the Rehabilitation Project, and that 100% of the Developer's MBE/WBE Commitment in Section 10.03 has been fulfilled;

- (e) The Developer has incurred costs for TIF-Funded Improvements in an amount equal to or higher than \$4,750,000;
- (f) The Developer has registered the Training Center Space for LEED Certification; provided, however, that if the City determines prior to issuing the Rehabilitation Certificate that the Training Space is unlikely to achieve LEED Certification, then the total amount of City Funds shall be reduced by \$250,000 as described in Section 4.03(b);
- (g) There exists neither an Event of Default (after any applicable cure period) which is continuing nor a condition or event which, with the giving of notice or passage of time or both, would constitute an Event of Default; and
- (h) The Officers have designated, use, and occupy the Headquarters as their principal offices.

HED shall respond to the Developer's written request for a Certificate within forty-five (45) days by issuing either a Certificate or a written statement detailing the ways in which the Rehabilitation Project does not conform to this Agreement or has not been satisfactorily completed, and the measures which must be taken by the Developer in order to obtain the Certificate. The Developer may resubmit a written request for a Certificate upon completion of such measures.

**7.02 Effect of Issuance of the Rehabilitation Certificate; Continuing Obligations.** The Rehabilitation Certificate relates only to the completion of the Rehabilitation Project, and upon its issuance, the City will certify that the terms of the Agreement specifically related to the Developer's obligation to complete such activities have been satisfied. After the issuance of the Rehabilitation 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 Rehabilitation Certificate shall not be construed as a waiver by the City of any of its rights and remedies pursuant to such executory terms.

Those covenants specifically described at Sections 8.02, 8.06, 8.19 as covenants that run with the land and the leasehold interest in the Developer Spaces, as applicable, are the only covenants in this Agreement intended to be binding upon any transferee of the Developer Spaces (including an assignee as described in the following sentence) throughout the Term of the Agreement notwithstanding the issuance of the Rehabilitation Certificate; provided, that upon the issuance of the Rehabilitation Certificate, the covenants set forth in Section 8.02 shall be deemed to have been fulfilled. The other executory terms of this Agreement that remain after the issuance of the Rehabilitation Certificate shall be binding only upon the Developer or a permitted assignee of the Developer who, pursuant to Section 18.15 of this Agreement, has contracted to take an assignment of the Developer's rights under this Agreement and assume the Developer's liabilities hereunder.

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

(a) the right to terminate this Agreement and any other related agreements to which the City and the Developer are or shall be parties, cease all disbursement of City Funds not yet disbursed pursuant hereto, and draw down the Letter of Credit; provided, however, that if the City is unable to draw down the Letter of Credit for any reason, in addition to other remedies provided by law, the City may seek reimbursement of the City Funds from the Developer up to the applicable Letter of Credit Amount.

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

## **SECTION 8. COVENANTS/REPRESENTATIONS/WARRANTIES OF THE DEVELOPER**

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

(a) the Developer is a Delaware corporation duly incorporated, validly existing, qualified to do business in Delaware and in Illinois, and licensed to do business in any other state where, due to the nature of its activities or properties, such qualification or license is required;

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

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

(d) unless otherwise permitted or not prohibited pursuant to or under the terms of this Agreement, the Developer shall maintain good, indefeasible and merchantable leasehold title to the Developer Spaces (and all improvements thereon) free and clear of all liens (except for the Permitted Liens, Lender Financing as disclosed in the Project Budget and non-governmental charges that the Developer is contesting in good faith pursuant to Section 8.15 hereof);

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

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

(g) the Developer has and shall 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;

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

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

(j) during the Term of the Agreement, the Developer shall 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 of all or substantially all of its assets or any portion of the Developer Spaces in which it has an interest (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 the Developer's business that would have an adverse effect on Developer's ability to perform its obligations under this Agreement; (4) assume, guarantee, endorse, or otherwise become liable in connection with the obligations of any other person or entity to the extent that such action would have an adverse effect on Developer's ability to perform its obligations under this Agreement; or (5) enter into any transaction that would cause a material and detrimental change to the Developer's financial condition;

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

(l) 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 pursuant to 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 the Developer in violation of Chapter 2-156-120 of the Municipal Code of the City; and

(m) neither the Developer nor any affiliate of the Developer 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 subparagraph (m) only, the term "affiliate," when used to indicate a relationship with a specified person or entity, means a person or entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such specified person or entity, and a person or entity shall be deemed to be controlled by another person or entity, if controlled in any manner whatsoever that results in control in fact by that other person or entity (or that other person or entity and any persons or entities with whom that other person or entity is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise.

**8.02 Covenant to Redevelop.** Upon HED's approval of the Project Budget, the Scope Drawings and Plans and Specifications as provided in Sections 3.02 and 3.03 hereof, and the Developer's receipt of all required building permits and governmental approvals, the Developer shall redevelop the Training Center Space in accordance with this Agreement and all Exhibits attached hereto, the TIF Ordinances, the Bond Ordinance, the Scope Drawings, Plans and Specifications, Project Budget and all amendments thereto, and all federal, state and local laws, ordinances, rules, regulations, executive orders and codes applicable to the Project, the Training Center Space and/or

the Developer. The covenants set forth in this Section 8.02 shall run with the land and the leasehold interest in the Training Center Space and be binding upon any transferee of the Training Center Space, but shall be deemed satisfied upon issuance by the City of the Rehabilitation Certificate with respect thereto.

**8.03 Redevelopment Plan.** The Developer represents that the Project is and shall be in compliance with all of the terms of the Redevelopment Plan.

**8.04 Use of City Funds.** City Funds disbursed to the Developer shall be used by the Developer solely to pay for (or to reimburse the Developer for its payment for) the TIF-Funded Improvements and Eligible Job Training Costs as provided in this Agreement.

**8.05 Other Bonds.** The Developer shall, at the request of the City, agree to any reasonable amendments to this Agreement that are necessary or desirable in order for the City to issue (in its sole discretion) any bonds in connection with the Redevelopment Area, the proceeds of which may be used to reimburse the City for expenditures made in connection with, or provide a source of funds for the payment for, the TIF-Funded Improvements (the "Bonds"); provided, however, that any such amendments shall not have a material adverse effect on the Developer or the Project. The Developer shall, at the Developer's expense, cooperate and provide reasonable assistance in connection with the marketing of any such Bonds, including but not limited to providing written descriptions of the Project, making representations, providing information regarding its financial condition and assisting the City in preparing an offering statement with respect thereto.

**8.06 Job Creation and Retention; Covenant to Remain in the City.**

(a) **Operating Covenant.** The Developer hereby covenants and agrees (i) to maintain its Headquarters at the Headquarters Space or the Relocation Space throughout the Term of the Agreement; (ii) to maintain the Headquarters as the principal offices of the Officers throughout the Term of the Agreement; (iii) to lease and occupy at least the Minimum Square Footage within the Building throughout the Term of the Agreement; and (iv) to locate any expansion of the Training Center during the Term of the Agreement within the Building or elsewhere within the Redevelopment Area (collectively, the "Operating Covenant"). A default under the Operating Covenant shall constitute an Event of Default without notice or opportunity to cure.

(b) **Jobs Covenant.** The Developer directly, or through one or more Affiliates, shall adhere to the following job relocation, creation and retention standards (collectively the "Jobs Covenant"):

- (i) At no time during the Term of the Agreement shall fewer than 175 PTEs be located at the Headquarters.
- (ii) After issuance of the Rehabilitation Certificate, Developer shall locate PTEs to and maintain PTEs at the Training Center in accordance with the table below (the "Jobs Schedule"). Notwithstanding the foregoing, if at any time before the tenth anniversary of the date the Rehabilitation Certificate is issued the Developer delivers a permitted Extension Notice and satisfies the Extension Period Conditions, then the schedule below shall be extended by one year and shall end on (i) if one Extension Notice is delivered, the eleventh (11th) anniversary of the date the Certificate is issued or (ii) if two Extension Notices are delivered, the twelfth (12th) anniversary of the date the Certificate is issued:

Anniversary of Rehabilitation Certificate	Training Center FTE Requirement	Headquarters FTE Requirement	Total Jobs requirement
0 (at Closing)	0	175	175
1	100	175	275
2	200	175	375
3	275	175	450
4	350	175	525
5	400	175	575
6	450	175	625
7	500	175	675
8	575	175	750
9	625	175	800
10	650	175	825

Throughout the Compliance Period, the Developer shall submit to HED annual certified Jobs and Occupancy Certificates disclosing compliance with the then-applicable Jobs Covenant and the Operating Covenant to HED. These Jobs and Occupancy Certificates shall be submitted to HED by February 1<sup>st</sup> for the prior calendar year. The Developer agrees that it shall act in good faith and, among other things, shall not hire temporary workers or relocate workers for short periods of time for the primary purpose of avoiding a breach of the Jobs Covenant. The Jobs and Occupancy Certificate shall include the names, addresses and zip codes of principal residence, and job titles of PTEs employed at the Headquarters or the Training Center, as applicable, as of the end of the prior calendar year.

(c) **Jobs Covenant Default and Cure Period.** If the Developer defaults under the Jobs Covenant described in Section 8.06(b)(ii) and the Extension Notice Conditions have been satisfied, an Event of Default shall not be declared with respect to such default if the Developer elects to extend the Compliance Period by one year by delivering an Extension Notice. The Developer shall be entitled to two such one-year cure periods, provided such extensions must be non-consecutive. The first Extension Notice shall extend the Compliance Period to the eleventh (11<sup>th</sup>) anniversary of the date the Rehabilitation Certificate is issued. The second Extension Notice shall extend the Compliance Period to the twelfth (12<sup>th</sup>) anniversary of the date the Rehabilitation Certificate is issued. No other notice or cure periods shall apply and if such default is not cured within such one-year cure period then the Compliance Period shall not be extended and an Event of Default shall exist without notice or opportunity to cure. If the Developer has not delivered a permitted Extension Notice then any default by the Developer under the Jobs Covenant shall constitute an Event of Default without notice or opportunity to cure. An Extension Notice is "permitted" if the Extension Notice Conditions have been satisfied.

The Developer shall be entitled to deliver up to two Extension Notices provided that each of the following conditions ("Extension Notice Conditions") has been satisfied at the previous anniversary of Certificate issuance:

(1) the number of PTEs located at the Headquarters is at least 175; no Extension Notice may be delivered and no cure period shall be available if the number of PTEs located in the Headquarters was less than 175 at the applicable anniversary of the issuance of the Rehabilitation Certificate; and

(2) the total number of PTEs located at the Training Center is at least the amount set forth on the Jobs Schedule for the year prior to the year for which the Extension Notice is submitted; no Extension Notice may be delivered and no cure period shall be available if the number of PTEs

located in the Training Center was less than the amount set forth in the Jobs Schedule for the year prior to the year for which the Extension Notice is submitted; and

(3) if the Developer has delivered a permitted Extension Notice and satisfied the Extension Period Conditions, then Developer must be in compliance with the Jobs Covenant and meet or exceed the City Residency Threshold for two full years (as measured between anniversaries of the Rehabilitation Certificate issuance) following the year during which the Extension Notice was delivered before Developer would be eligible to deliver a second Extension Notice.

If the Developer has delivered an Extension Notice and satisfied the Extension Period Conditions but does not subsequently satisfy the Extension Notice Conditions, then any subsequent default by the Developer of the Jobs Covenant as described in this paragraph shall constitute an Event of Default without notice or opportunity to cure

If the Developer has delivered two Extension Notices and satisfied the Extension Period Conditions, then any subsequent default by the Developer of the Jobs Covenant as described in this paragraph shall constitute an Event of Default without notice or opportunity to cure.

(d) Covenants Run with the Land and Leasehold Interest; Remedy. The covenants set forth in this Section 8.06 shall run with the land and the leasehold interest in the Training Center Space and be binding upon any transferee of the Training Center Space. In the event of a default for any of the covenants in this Section 8.06, the City shall have the right to recapture the City Funds previously paid or disbursed to the Developer for the Project by drawing down up to the entire Letter of Credit Amount if such default(s) is/are not cured during the applicable cure period, if any, and to exercise any other remedies described or referred to in this Agreement; provided, however, that if the City is unable to draw down the Letter of Credit for any reason, the City may seek reimbursement of City Funds from the Developer up to the applicable Letter of Credit Amount.

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

**8.07 Employment Opportunity; Progress Reports.** The Developer covenants and agrees to abide by, and contractually obligate and use reasonable efforts to cause the General Contractor and each subcontractor to abide by the terms set forth in Section 10 hereof. The Developer shall deliver to the City written progress reports detailing compliance with the requirements of Sections 8.09, 10.02 and 10.03 of this Agreement. Such reports shall be delivered to the City on a monthly basis until the issuance of the Rehabilitation Certificate. If any such reports indicate a shortfall in compliance, the Developer shall also deliver a plan to HED which shall outline, to HED's satisfaction, the manner in which the Developer shall correct any shortfall.

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

**8.09 Prevailing Wage.** The Developer covenants and agrees to pay, and to contractually obligate and cause the General Contractor and each subcontractor to pay, the prevailing wage rate as ascertained by the Illinois Department of Labor (the "Department"), to all Rehabilitation Project employees. All such contracts shall 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 Department revises such prevailing wage rates, the revised rates shall apply to all such contracts.

Upon the City's request, the Developer shall provide the City with copies of all such contracts entered into by the Developer or the General Contractor to evidence compliance with this Section 8.09.

**8.10 Arms-Length Transactions.** Unless HED has given its prior written consent with respect thereto, no Affiliate of the 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. The Developer shall provide information with respect to any entity to receive City Funds directly or indirectly (whether through payment to the Affiliate by the Developer and reimbursement to the Developer for such costs using City Funds, or otherwise), upon HED's request, prior to any such disbursement.

**8.11 Conflict of Interest.** Pursuant to Section 5/11-74.4-4(n) of the Act, the Developer represents, warrants and covenants that 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 the Developer with respect thereto, owns or controls, has owned or controlled or will own or control any interest, and no such person shall 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 the Developer's business, the Training Center Space, or any other property in the Redevelopment Area.

**8.12 Disclosure of Interest.** The Developer's counsel has no direct or indirect financial ownership interest in the Developer, the Property or any other aspect of the Project.

**8.13 Financial Statements.** The Developer shall obtain and provide to HED Financial Statements for the Developer's fiscal year ended 2010 and each year thereafter for the Term of the Agreement. In addition, the Developer shall submit audited or unaudited interim financial statements as soon as reasonably practical for such other periods as HED may request.

**8.14 Insurance.** The Developer, at its own expense, shall comply with all provisions of Section 12 hereof.

**8.15 Non-Governmental Charges.** (a) Payment of Non-Governmental Charges. Except for the Permitted Liens, the Developer agrees to pay or cause to be paid when due any Non-Governmental Charge assessed or imposed upon the Project, the Training Center Space, or any fixtures that are or may become attached thereto, which creates, may create, or appears to create a lien upon all or any portion of the Training Center Space or Project; provided however, that if such Non-Governmental Charge may be paid in installments, the 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. The Developer shall furnish to HED, within thirty (30) days of HED's request, official receipts from the appropriate entity, or other proof satisfactory to HED, evidencing payment of the Non-Governmental Charge in question.

(b) Right to Contest. The Developer has the right, before any delinquency occurs:

(i) to contest or object in good faith to the amount or validity of any Non-Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted, in such manner as shall stay the collection of the contested Non-Governmental Charge, prevent the imposition of a lien or remove such lien, or prevent the sale or forfeiture of the Training Center Space (so long as no such contest or objection shall be deemed or construed to relieve, modify or extend the Developer's covenants to pay any such Non-Governmental Charge at the time and in the manner provided in this Section 8.15); 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 shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale 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 Charge and all interest and penalties upon the adverse determination of such contest.

**8.16 Developer's Liabilities.** The Developer shall not enter into any transaction that would materially and adversely affect its ability to perform its obligations hereunder or to repay any material liabilities or perform any material obligations of the Developer to any other person or entity. The Developer shall immediately notify HED of any and all events or actions which may materially affect the Developer's ability to carry on its business operations or perform its obligations under this Agreement or any other documents and agreements.

**8.17 Compliance with Laws.** To the best of the Developer's knowledge, after diligent inquiry, the Training Center Space and the Project are and shall be in compliance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, executive orders and codes pertaining to or affecting the Project and the Training Center Space. Upon the City's request, the Developer shall provide evidence satisfactory to the City of such compliance.

**8.18 Recording and Filing.** The Developer shall cause this Agreement, certain exhibits (as specified by Corporation Counsel), all amendments and supplements hereto to be recorded and filed against the Training Center Space on the date hereof in the conveyance and real property records of the county in which the Project is located. This Agreement shall be recorded prior to any mortgage made in connection with Lender Financing. The Developer shall pay all fees and charges incurred in connection with any such recording. Upon recording, the Developer shall immediately transmit to the City an executed original of this Agreement showing the date and recording number of record.

**8.19 Real Estate Provisions.**

**(a) Governmental Charges.**

(i) **Payment of Governmental Charges.** The Developer agrees to pay or cause to be paid when due all Governmental Charges (as defined below) which are assessed or imposed upon the Developer, the Training Center Space or the Project, or become due and payable, and which create, may create, or appear to create, a lien upon the Developer or all or any portion of the Training Center Space or the Project. "Governmental Charge" shall mean 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 the Developer, the Training Center Space or the Project including but not limited to real estate taxes.

(ii) **Right to Contest.** The 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 forfeiture of the Training Center Space. The Developer's



right to challenge real estate taxes applicable to the Training Center Space is limited as provided for in Section 8.19(c) below; provided, that such real estate taxes must be paid in full when due and may be disputed only after such payment is made. No such contest or objection shall be deemed or construed in any way as relieving, modifying or extending the Developer's covenants to pay any such Governmental Charge at the time and in the manner provided in this Agreement unless the Developer has given prior written notice to HED of the Developer's intent to contest or object to a Governmental Charge and, unless, at HED's sole option,

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

(ii) the Developer shall furnish a good and sufficient bond or other security satisfactory to HED in such form and amounts as HED shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Training Center Space 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 the Developer fails to pay any Governmental Charge or to obtain discharge of the same, the Developer shall advise HED thereof in writing, at which time HED may, but shall not be obligated to, and without waiving or releasing any obligation or liability of the 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, shall be promptly disbursed to HED by the Developer. Notwithstanding anything contained herein to the contrary, this paragraph shall not be construed to obligate the City to pay any such Governmental Charge. Additionally, if the Developer fails to pay any Governmental Charge, the City, in its sole discretion, may require the Developer to submit to the City audited Financial Statements at the Developer's own expense.

(c) Real Estate Taxes.

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

(ii) No Reduction in Real Estate Taxes. Neither the Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to the Developer shall, during the Term of the Agreement, directly or indirectly, initiate, seek or apply for proceedings in order to lower the assessed value of all or any portion of the Developer Spaces or the Project.

(iii) No Objections. During the Term of the Agreement, neither the Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to the Developer, shall object to or in any way seek to interfere with, on procedural or any other grounds, the filing of any underassessment complaint or subsequent proceedings related thereto with the Cook County Assessor or with the Cook County Board of Appeals, by either the City or any taxpayer.

(iv) Covenants Running with the Land. The parties agree that the restrictions contained in this Section 8.19(c) are covenants running with the land and this Agreement shall be recorded by the Developer as a memorandum thereof, at the Developer's expense, with the Cook County Recorder of Deeds on the Closing Date. These restrictions shall be binding upon the Developer and its agents, representatives, lessees, successors, assigns and transferees from and after the date hereof, provided however, that the covenants shall be released when the Redevelopment Area is no longer in effect. The Developer agrees that any sale, lease, conveyance, or transfer of title to all or any portion of the Property, Developer Spaces or Redevelopment Area from and after the date hereof shall be made explicitly subject to such covenants and restrictions. Notwithstanding anything contained in this Section 8.19(c) to the contrary, the City, in its sole discretion and by its sole action, without the joinder or concurrence of the Developer, its successors or assigns, may waive and terminate the Developer's covenants and agreements set forth in this Section 8.19(c).

**8.20 Title Policy**. On the Closing Date, the Developer shall furnish the City with a copy of the Leasehold Title Policy for the Training Center Space, or a binding, signed, marked up commitment to issue such Title Policy, certified by the Title Company, showing fee simple title to the Property in the Landlord under the Lease, subject to the leasehold interest of the Developer under the Lease, with the Developer as the insured with respect to the leasehold interest in the Training Center Space. The Leasehold Title Policy shall be dated as of the date of this Agreement and shall contain only those title exceptions listed as Permitted Liens on Exhibit G hereto and shall evidence the recording of this Agreement pursuant to the provisions of Section 8.18 hereof. The Leasehold Title Policy also shall contain such endorsements as may be required by Corporation Counsel, including but not limited to an owner's comprehensive endorsement and satisfactory endorsements regarding zoning (3.1 with parking), contiguity, location, access and survey. The Developer shall provide to HED, on or prior to the date the Closing Date, a copy of the executed Lease and certified copies of all easements and encumbrances of record with respect to the Training Center Space not addressed, to HED's satisfaction, by the Leasehold Title Policy and any endorsements thereto.

**8.21 Letter of Credit**. Prior to the issuance of the Rehabilitation Certificate, the Developer shall deposit with the City the Letter of Credit in the applicable Letter of Credit Amount. The Developer shall maintain a valid Letter of Credit in the applicable Letter of Credit Amount as set forth in Section 4.03(h).

**8.22 Employment Plan**. Developer shall develop an Employment Plan in partnership with the Department of Housing and Economic Development's Workforce Solutions Division and (the "Employment Plan"). All Eligible Job Training Costs shall be incurred for the training activities as structured in the Employment Plan. Prior to the disbursement of Job Training Funds, the City shall request that the Developer submit evidence in a form acceptable to the City that the Developer has incurred eligible expenditures under the Employment Plan.

**8.23 Survival of Covenants**. All warranties, representations, covenants and agreements of the Developer contained in this Section 8 and elsewhere in this Agreement shall be true, accurate and complete at the time of the Developer's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and (except as provided in Section 7 hereof upon the issuance of the Rehabilitation Certificate) shall be in effect throughout the Term of the Agreement.

**8.24 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.

**8.25 Leases.** Throughout the Compliance Period the Developer shall not (a) execute or consent to a Material Amendment or (b) sell, sublease, release, assign or otherwise transfer its interest in any Lease without the prior written consent of HED, which consent shall be in HED's sole discretion.

**8.26 Survival of Covenants.** All warranties, representations, covenants and agreements of the Developer contained in this Section 8 and elsewhere in this Agreement shall be true, accurate and complete at the time of the Developer's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and (except as provided in Section 7 hereof upon the issuance of a Certificate) shall be in effect throughout the Term of the Agreement.

## **SECTION 9. COVENANTS/REPRESENTATIONS/WARRANTIES OF CITY**

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

**9.02 Survival of Covenants.** All warranties, representations, and covenants of the City contained in this Section 9 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 10. DEVELOPER'S EMPLOYMENT OBLIGATIONS**

**10.01 Employment Opportunity.** The 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 the Developer operating on the Developer Spaces (collectively, with the Developer, the "Employers" and individually 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 Rehabilitation Project or occupation of the Developer Spaces:

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

national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income.

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

(c) Each Employer shall comply with all 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 Illinois Human Rights Act, 775 ILCS 5/1-101 et seq. (1993), and any subsequent amendments and regulations promulgated thereto.

(d) Each Employer, in order to demonstrate compliance with the terms of this Section, shall 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 shall include the foregoing provisions of subparagraphs (a) through (d) in every contract entered into in connection with the Rehabilitation Project, and shall require inclusion of these provisions in every subcontract entered into by any subcontractors, and every agreement with any Affiliate operating on the Training Center Space, so that each such provision shall be binding upon each contractor, subcontractor or Affiliate, as the case may be.

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

**10.02 City Resident Construction Worker Employment Requirement.** The Developer agrees for itself and its successors and assigns, and shall contractually obligate its General Contractor and shall cause the General Contractor to contractually obligate its subcontractors, as applicable, to agree, that during the construction of the Rehabilitation Project they shall 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 Rehabilitation Project shall be performed by actual residents of the City); provided, however, that in addition to complying with this percentage, the Developer, its General Contractor and each subcontractor shall be required to make good faith efforts to utilize qualified residents of the City in both unskilled and skilled labor positions.

The 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.

"Actual residents of the City" shall mean persons domiciled within the City. The domicile is an individual's one and only true, fixed and permanent home and principal establishment.

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

Weekly certified payroll reports (U.S. Department of Labor Form WH-347 or equivalent) shall be submitted to the Commissioner of HED in triplicate, which shall 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.

The Developer, the General Contractor and each subcontractor shall provide full access to their employment records 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. The Developer, the General Contractor and each subcontractor shall maintain all relevant personnel data and records for a period of at least three (3) years after final acceptance of the work constituting the Rehabilitation Project.

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

Good faith efforts on the part of the 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) shall not suffice to replace the actual, verified achievement of the requirements of this Section concerning the worker hours performed by actual Chicago residents.

When work at the Rehabilitation Project is completed, in the event that the City has determined that the Developer has failed to ensure the fulfillment of the requirement of this Section concerning the worker hours performed by actual Chicago residents 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 (the product of .0005 x such aggregate hard construction costs) (as the same shall be evidenced by approved contract value for the actual contracts) shall be surrendered by the 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 shall 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 the Developer, the General Contractor and/or the subcontractors to prosecution. The City may obtain payment of the liquidated damages hereunder, in the amount the appropriate City official determines are due, by drawing the amount of said liquidated damages from the Letter of Credit. Any retainage to cover contract performance that may become due to the 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 the Developer must surrender damages as provided in this paragraph.

Nothing herein provided shall 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.

The Developer shall cause or require the provisions of this Section 10.02 to be included in all construction contracts and subcontracts related to the Rehabilitation Project.

**10.03 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 Rehabilitation Project:

(a) Consistent with the findings which support, as applicable, (i) the Minority-Owned and Women-Owned Business Enterprise Procurement Program, Section 2-92-420 et seq., Municipal Code of Chicago (the "Procurement Program"), and (ii) the Minority- and Women-Owned Business Enterprise Construction Program, Section 2-92-650 et seq., Municipal Code of Chicago (the "Construction Program," and collectively with the Procurement Program, the "MBE/WBE Program"), and in reliance upon the provisions of the MBE/WBE Program to the extent contained in, and as qualified by, the provisions of this Section 10.03, during the course of the Project, at least the following percentages of the MBE/WBE Budget (as set forth in Exhibit H-2 hereto) 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 10.03 only, the Developer (and any party to whom a contract is let by the Developer in connection with the Rehabilitation Project) shall be deemed a "contractor" and this Agreement (and any contract let by the Developer in connection with the Rehabilitation 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, the Developer's MBE/WBE commitment may be achieved in part by the Developer's status as an MBE or WBE (but only to the extent of any actual work performed on the Rehabilitation Project by the 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 Rehabilitation Project by the MBE or WBE), by the 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 Rehabilitation Project to one or more MBEs or WBEs, or by the purchase of materials or services used in the Rehabilitation Project from one or more MBEs or WBEs, or by any combination of the foregoing. Those entities which constitute both a MBE and a WBE shall not be credited more than once with regard to the Developer's MBE/WBE commitment as described in this Section 10.03. In accordance with Section 2-92-730, Municipal Code of Chicago, the 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 Rehabilitation 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 the Developer or the General Contractor to work on the Rehabilitation Project, and the responses received from such solicitation, the name and business address of each MBE or WBE actually involved in the Rehabilitation Project, a description of the work performed or products or services supplied, the date and amount of such work, product or service, and such other information as may assist the City's monitoring staff in determining the Developer's compliance with this MBE/WBE commitment. The Developer shall maintain records of all relevant data with respect to the utilization of MBEs and WBEs in connection with the Rehabilitation Project for at least five years after completion of the Rehabilitation Project, and the City's monitoring staff shall have access to all such records maintained by the Developer, on five Business Days' notice, to allow the City to review

the Developer's compliance with its commitment to MBE/WBE participation and the status of any MBE or WBE performing any portion of the Rehabilitation Project.

(e) Upon the disqualification of any MBE or WBE General Contractor or subcontractor, if such status was misrepresented by the disqualified party, the 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 the Developer's MBE/WBE commitment as described in this Section 10.03 shall be undertaken in accordance with Sections 2-92-450 and 2-92-730, Municipal Code of Chicago, as applicable.

(g) The Developer shall be required to meet with the City's monitoring staff with regard to the Developer's compliance with its obligations under this Section 10.03. The General Contractor and all major subcontractors shall be required to attend this pre-construction meeting. During said meeting, the Developer shall demonstrate to the City's monitoring staff its plan to achieve its obligations under this Section 10.03, the sufficiency of which shall be approved by the City's monitoring staff. The Developer shall submit the documentation required by this Section 10.03 to the City's monitoring staff, including the following: (i) subcontractor's activity report; (ii) contractor's certification concerning labor standards and prevailing wage requirements; (iii) contractor letter of understanding; (iv) monthly utilization report; (v) authorization for payroll agent; (vi) certified payroll; (vii) evidence that MBE/WBE contractor associations have been informed of the Rehabilitation 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 the Developer is not complying with its obligations under this Section 10.03, shall, upon the delivery of written notice to the 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 the Developer to halt the Rehabilitation Project, (2) withhold any further payment of any City Funds to the Developer or the General Contractor, (3) seek any other remedies against the Developer available at law or in equity, and/or (4) draw down the Letter of Credit; provided, however, that if the City is unable to draw down the Letter of Credit for any reason, the City may seek reimbursement of City Funds from the Developer up to the applicable Letter of Credit Amount.

## SECTION 11. ENVIRONMENTAL MATTERS

The Developer hereby represents and warrants to the City that the Developer has conducted environmental studies sufficient to conclude that the Rehabilitation Project may be constructed, completed and operated in accordance with all Environmental Laws and this Agreement and all Exhibits attached hereto, the Scope Drawings, Plans and Specifications and all amendments thereto, the Bond Ordinance and the Redevelopment Plan.

Without limiting any other provisions hereof, the Developer agrees to indemnify, defend and hold the City harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses or claims of any kind whatsoever including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under any Environmental Laws incurred, suffered by or asserted against the City as a direct or indirect result of any of the following, regardless of whether or not caused by, or within the control of the Developer: (i) the presence of any Hazardous Material on or under, or the escape, seepage, leakage, spillage, emission, discharge or release of any Hazardous Material from (A) all or any portion of the Property or (B) any other real

property in which the Developer, or any person directly or indirectly controlling, controlled by or under common control with the Developer, holds any estate or interest whatsoever (including, without limitation, any property owned by a land trust in which the beneficial interest is owned, in whole or in part, by the Developer), or (ii) any liens against the Property permitted or imposed by any Environmental Laws, or any actual or asserted liability or obligation of the City or the Developer or any of its Affiliates under any Environmental Laws relating to the Property.

## SECTION 12. INSURANCE

The Developer must provide and maintain, at Developer's own expense, or cause to be provided and maintained during the term of this Agreement, the insurance coverage and requirements specified below, insuring all operations related to the Agreement.

(a) Prior to execution and delivery of this Agreement.

(i) Workers Compensation and Employers Liability

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

(ii) Commercial General Liability (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 of Chicago 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

All Risk Property Insurance at replacement value of the property to protect against loss of, damage to, or destruction of the building/facility. The City is to be named as an additional insured and loss payee/mortgagee if applicable.

(b) Construction. Prior to the construction of any portion of the Project, Developer will cause its architects, contractors, subcontractors, 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

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

(ii) Commercial General Liability (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 two (2) years following project completion), explosion, collapse, underground, separation of insureds, defense, and contractual liability (with no limitation



endorsement). The City of Chicago 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 (Primary and Umbrella)

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

(iv) Railroad Protective Liability

When any work is to be done adjacent to or on railroad or transit property, Developer must provide cause to be provided with respect to the operations that Contractors perform, 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

When Developer undertakes any construction, including improvements, betterments, and/or repairs, the Developer must provide or cause to be provided All Risk Builders Risk Insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be part of the project. The City of Chicago is to be named as an additional insured and loss payee/mortgagee if applicable.

(vi) Professional Liability

When any architects, engineers, construction managers or other professional consultants perform work in connection with this Agreement, Professional Liability Insurance covering acts, errors, or omissions must 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 on the Contract. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years.

(vii) Valuable Papers

When any plans, designs, drawings, specifications and documents are produced or used under this Agreement, Valuable Papers Insurance must be maintained in an amount to insure against any loss whatsoever, and must have limits sufficient to pay for the re-creation and reconstruction of such records.

(viii) Contractors Pollution Liability

When any remediation work is performed which may cause a pollution exposure, the Developer must cause remediation contractor to provide Contractor Pollution Liability covering bodily injury, property damage and other losses caused by pollution conditions that arise from the contract scope of work with limits of not less than \$1,000,000 per occurrence.

Coverage must include completed operations, contractual liability, defense, excavation, environmental cleanup, remediation and disposal. When policies are renewed or replaced, 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 two (2) years. The City of Chicago is to be named as an additional insured.

(c) Post Construction. All Risk Property Insurance at replacement value of the property to protect against loss of, damage to, or destruction of the building/facility. The City is to be named as an additional insured and loss payee/mortgagee if applicable.

(d) Other Requirements. The Developer must furnish the City of Chicago, Department of Housing and Economic Development, City Hall, Room 1000, 121 North LaSalle Street 60602, original Certificates of Insurance, or such similar evidence, 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. The Developer must submit evidence of insurance on the City of Chicago Insurance Certificate Form (copy attached) or 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 is not a waiver by the City of any requirements for the Developer to obtain and maintain the specified coverages. The Developer shall advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance does 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 stop work and/or terminate agreement until proper evidence of insurance is provided.

The insurance must provide for 60 days prior written notice to be given to the City in the event coverage is substantially changed, canceled, or non-renewed.

Any deductibles or self insured retentions on referenced insurance coverages must be borne by Developer and Contractors.

The Developer hereby waives and agrees to require their insurers to waive their rights of subrogation against the City of Chicago, its employees, elected officials, agents, or representatives.

The coverages and limits furnished by Developer in no way limit the Developer's liabilities and responsibilities specified within the Agreement or by law.

Any insurance or self insurance programs maintained by the City of Chicago do not contribute with insurance provided by the Developer under the Agreement.

The required insurance to be carried is not limited by any limitations expressed in the indemnification language in this Agreement or any limitation placed on the indemnity in this Agreement given as a matter of law.

If Developer is a joint venture or limited liability company, the insurance policies must name the joint venture or limited liability company as a named insured.

The Developer must require Contractor and subcontractors to provide the insurance required herein, or Developer may provide the coverages for Contractor and subcontractors. All Contractors and subcontractors are subject to the same insurance requirements of Developer unless otherwise specified in this Agreement.

If Developer, any Contractor or subcontractor desires additional coverages, the party desiring the additional coverages is responsible for the acquisition and cost.

The City of Chicago Risk Management Department maintains the right to modify, delete, alter or change these requirements.

## **SECTION 13. INDEMNIFICATION**

**13.01 General Indemnity.** Developer agrees to indemnify, pay, defend and hold the City, and its elected and appointed officials, employees, agents and affiliates (individually an "Indemnitee," and collectively the "Indemnities") harmless from and against, any and all liabilities, obligations, losses, damages, 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 Indemnities in connection with any investigative, administrative or judicial proceeding commenced or threatened, whether or not such Indemnities shall be designated a party thereto), that may be imposed on, suffered, incurred by or asserted against the Indemnities in any manner relating or arising out of:

(i) the Developer's failure to comply with any of the terms, covenants and conditions contained within this Agreement; or

(ii) the Developer's or any contractor's failure to pay General Contractors, subcontractors or materialmen in connection with the TIF-Funded Improvements or any other Rehabilitation Project improvement; or

(iii) the existence of any material misrepresentation or omission in this Agreement, any offering memorandum or information statement or the Redevelopment Plan or any other document related to this Agreement that is the result of information supplied or omitted by the Developer or any Affiliate Developer or any agents, employees, contractors or persons acting under the control or at the request of the Developer or any Affiliate of Developer; or

(iv) the Developer's failure to cure any misrepresentation in this Agreement or any other agreement relating hereto;

provided, however, that Developer shall have no obligation to an Indemnitee arising from the wanton or willful misconduct of that Indemnitee. To the extent that the preceding sentence may be unenforceable because it is violative of any law or public policy, Developer shall contribute the maximum portion that it is permitted to pay and satisfy under the applicable law, to the payment and satisfaction of all indemnified liabilities incurred by the Indemnities or any of them. The provisions of the undertakings and indemnification set out in this **Section 13.01** shall survive the termination of this Agreement.

## **SECTION 14. MAINTAINING RECORDS/RIGHT TO INSPECT**

**14.01 Books and Records.** The Developer shall keep and maintain separate, complete, accurate and detailed books and records necessary to reflect and fully disclose the total actual cost of the Project and the disposition of all funds from whatever source allocated thereto, and to monitor the Project. For the Term of the Agreement, all such books, records and other documents, including but not limited to the Developer's loan statements, if any, General Contractors' and contractors' sworn statements, general contracts, subcontracts, purchase orders, waivers of lien, paid receipts and invoices, shall be available at the Developer's offices for inspection, copying, audit and examination by an authorized representative of the City, at the Developer's expense. The Developer shall incorporate this right to inspect, copy, audit and examine all books and records into all contracts entered into by the Developer with respect to the Project. The City shall provide three (3)

business days' prior written notice to the Developer in accordance with Section 17. The notice shall indicate the date and time of the inspection. All inspections shall be conducted between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday.

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

## **SECTION 15. DEFAULT AND REMEDIES**

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

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

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

(c) the making or furnishing by the 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 to create, any lien or other encumbrance upon the Developer Spaces, including any fixtures now or hereafter attached thereto, other than the Permitted Liens, 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 the Developer or for the liquidation or reorganization of the Developer, or alleging that the Developer is insolvent or unable to pay its debts as they mature, or for the readjustment or arrangement of the 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 the Developer; provided, however, that if such commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such proceedings are not dismissed within sixty (60) days after the commencement of such proceedings;

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

(g) the entry of any judgment or order against the Developer which remains unsatisfied or undischarged and in effect for sixty (60) days after such entry without a stay of enforcement or execution;

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

(i) the dissolution of the Developer;

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

(k) the sale or transfer of the ownership interests of the Developer without the prior written consent of the City;

(l) the assignment or other direct or indirect transfer by the Developer of the Lease without the prior written approval of the City (which shall be in the City's sole discretion);

(m) during the period that the Developer is required to maintain the Letter of Credit, the Letter of Credit will expire within thirty (30) calendar days and the Developer has not delivered a substitute Letter of Credit, in form and substance satisfactory to the City in its sole and absolute discretion, within twenty (20) calendar days before the expiration date of the Letter of Credit; or

(n) a Default (as defined in the Lease) by the Developer under the Lease that is not cured within the cure period, if any, granted under the Lease, or the Developer's execution of a Material Amendment without the prior written approval of the City under Section 8.23.

For purposes of Section 15.01(j) hereof, a person with a material interest in the Developer shall be one owning in excess of 7.5% of the Developer's issued and outstanding shares of stock.

**15.02 Remedies.** Upon the occurrence of an Event of Default, the City may terminate this Agreement and any other agreements to which the City and the Developer are or shall be parties, suspend disbursement of City Funds, place a lien on the Project in the amount of City Funds paid, seek reimbursement of any City Funds paid, and/or draw down up to the entire balance of the Letter of Credit as set forth in this Section 15.02 below. 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 damages, injunctive relief or the specific performance of the agreements contained herein. Upon the occurrence of an Event of Default under Section 8.06, the Developer shall be obligated to repay to the City all previously disbursed City Funds up to the applicable Letter of Credit Amount. In addition to other instances set forth in this Agreement, the City may draw on the Letter of Credit if Developer defaults under the Jobs Covenant and/or Operating Covenant as set forth in Section 8.06 subject, in the case of the Jobs Covenant, to the cure periods, if applicable, described in Section 8.06(c).

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

covenant. In the event the Developer shall fail to perform a non-monetary covenant which the Developer is required to perform under this Agreement, except as described in the following paragraph, an Event of Default shall not be deemed to have occurred unless the Developer has failed to cure such default within thirty (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 thirty (30) day period, the Developer shall not be deemed to have committed an Event of Default under this Agreement if it has commenced to cure the alleged default within such thirty (30) day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured.

Notwithstanding any other provision of this Agreement to the contrary:

(a) the only cure periods, if any, applicable to the Developer's failure to comply with the Jobs Covenant are those set forth in Section 8.06;

(b) there shall be no notice requirement or cure period with respect to Events of Default described in Section 15.01(m) (with respect to the Letter of Credit), and Section 15.01(n) (with respect to a Lease); and

(c) there shall be no notice requirement or cure period with respect to an Event of Default arising from the Developer's failure to comply with the Operating Covenant.

## SECTION 16. MORTGAGING OF THE PROJECT

All mortgages or deeds of trust in place as of the date hereof with respect to the Developer Spaces or any portion thereof are listed on Exhibit G hereto (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 the Developer may hereafter elect to execute and record or permit to be recorded against the Developer Spaces or any portion thereof is referred to herein as a "New Mortgage." Any New Mortgage that the Developer may hereafter elect to execute and record or permit to be recorded against the Developer Spaces 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 the Developer as follows:

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

(b) In the event that any mortgagee shall succeed to the Developer's interest in the Developer Spaces or any portion thereof pursuant to 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 the Developer's interest hereunder in accordance with Section 18.15 hereof, the City hereby agrees to attorn to and recognize such party as the successor in interest to the Developer for all purposes under this Agreement so long as such party accepts all of the obligations and liabilities of "the Developer" hereunder; provided, however, that, notwithstanding any other provision of this Agreement to the contrary, it is understood and agreed

that if such party accepts an assignment of the Developer's interest under this Agreement, such party has no liability under this Agreement for any Event of Default of the Developer which accrued prior to the time such party succeeded to the interest of the Developer under this Agreement, in which case the Developer shall be solely responsible. However, if such mortgagee under a Permitted Mortgage or an Existing Mortgage does not expressly accept an assignment of the Developer's interest hereunder, such party shall be entitled to no rights and benefits under this Agreement, and such party shall be bound only by those provisions of this Agreement, if any, which are covenants expressly running with the land.

(c) Prior to the issuance by the City to the Developer of a Rehabilitation Certificate pursuant to Section 7 hereof, no New Mortgage shall be executed with respect to the Developer Spaces or any portion thereof without the prior written consent of the Commissioner of HED.

#### SECTION 17. NOTICE

Unless otherwise specified, any notice, demand or request required hereunder shall be given in writing at the addresses set forth below, by any of the following means: (a) personal service; (b) telecopy or facsimile; (c) overnight courier, or (d) registered or certified mail, return receipt requested.

If to the City:	City of Chicago Department of Housing and Economic Development 121 North LaSalle Street, Room 1000 Chicago, Illinois 60602 Attention: Commissioner
With Copies To:	City of Chicago Department of Law 121 North LaSalle Street, Room 600 Chicago, Illinois 60602 Attention: Finance and Economic Development Division
If to the Developer:	Accretive Health, Inc. 401 North Michigan Avenue, Suite 2700 Chicago, Illinois 60611 Attention: General Counsel
With Copies To:	Pedersen & Houpt 161 North Clark Street, Suite 3100 Chicago, Illinois 60601 Attention: Frederick E. Agustin

Such addresses may be changed by notice to the other parties given in the same manner provided above. Any notice, demand, or request sent pursuant to either clause (a) or (b) hereof shall be deemed received upon such personal service or upon dispatch. Any notice, demand or request sent pursuant to clause (c) shall be deemed received on the day immediately following deposit with the overnight courier and any notices, demands or requests sent pursuant to subsection (d) shall be deemed received two (2) business days following deposit in the mail.

## SECTION 18. MISCELLANEOUS

**18.01 Amendment.** This Agreement and the Exhibits attached hereto may not be amended or modified without the prior written consent of the parties hereto; provided, however, that the City, in its sole discretion, may amend, modify or supplement Exhibit D hereto without the consent of any party hereto. It is agreed that no material amendment or change to this Agreement shall be made or be effective unless ratified or authorized by an ordinance duly adopted by the City Council. The term "material" for the purpose of this Section 18.01 shall be defined as any deviation from the terms of the Agreement which operates to cancel or otherwise reduce any developmental, construction or job-creating obligations of Developer (including those set forth in Sections 10.02 and 10.03 hereof) by more than five percent (5%) or materially changes the Project site or character of the Project or any activities undertaken by Developer affecting the Project site, the Project, or both, or increases any time agreed for performance by the Developer by more than ninety (90) days.

**18.02 Entire Agreement.** This Agreement (including each Exhibit attached hereto, which is hereby incorporated herein by reference) constitutes the entire Agreement between the parties hereto and it supersedes all prior agreements, negotiations and discussions between the parties relative to the subject matter hereof.

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

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

**18.05 Waiver.** Waiver by the City or the Developer with respect to any breach of this Agreement shall not be considered or treated as a waiver of the rights of the respective party with respect to any other default or with respect to any particular default, except to the extent specifically waived by the City or the Developer in writing. No delay or omission on the part of a party in exercising any right shall 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 shall 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, shall constitute a waiver of any such parties' rights or of any obligations of any other party hereto as to any future transactions.

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

**18.07 Disclaimer.** Nothing contained in this Agreement nor any act of the City shall be deemed or construed by any of the parties, or by any third person, to create or imply any relationship of third-party beneficiary, principal or agent, limited or general partnership or joint venture, or to create or imply any association or relationship involving the City.

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



**18.09 Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement.

**18.10 Severability.** If any provision in this Agreement, or any paragraph, sentence, clause, phrase, word or the application thereof, in any circumstance, is held invalid, this Agreement shall be construed as if such invalid part were never included herein and the remainder of this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

**18.11 Conflict.** In the event of a conflict between any provisions of this Agreement and the provisions of the TIF Ordinances and/or the Bond Ordinance, if any, such ordinance(s) shall prevail and control.

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

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

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

**18.15 Assignment.** The Developer's interest in this Agreement shall not be sold, assigned, or otherwise transferred in whole or in part unless authorized by an ordinance duly adopted by the City. Any successor to Developer's rights, duties, and obligations under this Agreement shall certify in writing to the City its agreement to abide by all remaining executory terms of this Agreement, including but not limited to **Sections 8.19** (Real Estate Provisions) and **8.23** (Survival of Covenants) hereof, for the Term of the Agreement by executing and delivering to the City the Assumption Agreement and the deliveries required thereunder. The Developer consents to the City's sale, transfer, assignment or other disposal of this Agreement at any time in whole or in part.

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

**18.17 Force Majeure.** Neither the City nor the Developer nor any successor in interest to either of them shall 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, 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. The individual or entity relying on this section with respect to any such delay shall, upon the occurrence of the event causing such delay, immediately give written notice to the other parties to

this Agreement. The individual or entity relying on this section with respect to any such delay may rely on this section only to the extent of the actual number of days of delay effected by any such events described above.

**18.18 Exhibits.** All of the exhibits attached hereto are incorporated herein by reference.

**18.19 Business Economic Support Act.** Pursuant to the Business Economic Support Act (30 ILCS 760/1 et seq.), if the Developer is required to provide notice under the WARN Act, the Developer shall, 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 the Developer has locations in the State. Failure by the Developer to provide such notice as described above may result in the termination of all or a part of the payment or reimbursement obligations of the City set forth herein.

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

**18.21 Costs and Expenses.** In addition to and not in limitation of the other provisions of this Agreement, Developer agrees to pay upon demand the City's out-of-pocket expenses, including attorney's fees, incurred in connection with the enforcement of the provisions of this Agreement. This includes, subject to any limits under applicable law, attorney's fees and legal expenses, whether or not there is a lawsuit, including attorney's 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.

**18.22 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.]

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

**ACCRETIVE HEALTH, INC., a Delaware corporation**

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

Its: \_\_\_\_\_

**CITY OF CHICAGO**

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

**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 \_\_\_\_\_, personally known to me to be the  
\_\_\_\_\_ of Accretive Health, Inc., a Delaware corporation (the  
"Developer"), 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 Board of  
Directors of the Developer, as his/her free and voluntary act and as the free and voluntary act of the  
Developer, for the uses and purposes therein set forth.

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

**Notary Public**

### My Commission Expires

(SEAL)

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 \_\_\_\_\_, 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 and as the free and voluntary act of the City, for the uses and purposes therein set forth.

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

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

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

**EXHIBIT A**

**REDEVELOPMENT AREA**

**[Not Attached for Introduction]**

**EXHIBIT B-1**

**PROPERTY**

[Subject to Revision Based on Review of Survey and Title Insurance]

**HEADQUARTERS**

**PARCEL 1:**

That part of Water Lot 24 in Kinzie's Addition to Chicago, lying North of present Channel of the Chicago River, in Section 10, Township 39 North, Range 14 East of the Third Principal Meridian, (excepting from said Lot 24 that part thereof described as follows:

Beginning at the Northwestern corner of said Water Lot 24; thence Easterly along Southerly line of East North Water Street to a point 23.32 feet Easterly of the Northwest corner of said Water Lot 24; thence Southerly parallel to Easterly line of said Water Lot 24 to the Northerly line of Chicago River Channel; thence Westerly along said Northerly line of Chicago River Channel to the Westerly line of said Water Lot 24; thence Northerly along the Westerly line of said Water Lot 24 to the place of beginning);

**ALSO**

**PARCEL 2:**

Those parts of Water Lots 25, 26 and 27 lying North of the present Channel of the Chicago River, all in Kinzie's Addition to Chicago being in Section 10, Township 39 North, Range 14 East of the Third Principal Meridian:

**ALSO**

**PARCEL 3:**

Those parts of Water Lots 28, 29 and the Westerly 8 1/2 feet of Water Lot 30 all lying North of present Channel of Chicago River all in Kinzie's Addition to Chicago being in Section 10, Township 39 North, Range 14 East of the Third Principal Meridian;

**EXCEPTING AND EXCLUDING** from the above 3 parcels that part of said Water Lots 24, 25, 26, 27, 28, 29 and of the westerly 8 1/2 feet of Water Lot 30 dedicated for street said dedicated part being described as follows:

All those parts of Water Lots 24, 25, 26, 27, 28, 29 and 30 of Kinzie's Addition to Chicago aforementioned beginning at the point of intersection of the Northerly line of Water Lot 24 with the Easterly line of North Michigan Avenue as widened, said point being 36.81 feet more or less Southwest of the Northeast corner of said Water Lot 24; thence Southeasterly along a line (said line being Easterly line of North Michigan Avenue as widened) which forms an angle of 90 degrees 11 minutes and 42 seconds Easterly to Southerly with Northerly line of said Lots (same being identical with Southerly line of East North Water Street) a distance of 2 feet; thence Northeasterly along a straight line a distance of 345.69 feet to the point of intersection of the Northerly line of said Water Lot 30 and Easterly line of the Westerly 8.5 feet of said Water Lot 30; thence Westerly along Northerly line of said Water Lots 24 to 30 both inclusive (the same

being identical with the Southerly line of East North Water Street) a distance of 345.64 feet to the place of beginning), in Cook County, Illinois;

**AND FURTHER EXCEPTING AND EXCLUDING** from Parcel 3 the following described property:

The property and space is that part of Water Lot 29, and the Westerly 8.50 feet of Water Lot 30, in Kinzie's Addition to Chicago, in Section 10, Township 39 North, Range 14 East of the Third Principal Meridian, said property and space lying above a horizontal plane having an elevation of 34.92 feet above Chicago City Datum and lying within the boundaries projected vertically upward of said property and space described as follows:

Commencing on the Northerly line of Water Lot 30, aforesaid, (said Northerly line being also the Southerly line of E. North Water Street) at the intersection of said line with the Easterly line of the Westerly 8.50 feet of said Water Lot 30, and running

Thence South 12 degrees 09 minutes 22 seconds East along said Easterly line of the Westerly 8.50 feet, (said Easterly line being also the Westerly line of Lot 2 in Cityfront Center, (being a resubdivision in the North Fraction of Section 10, aforesaid) a distance of 34.638 feet to the point of beginning for that part of said property and space hereinafter described;

Thence continuing South 12 degrees 09 minutes 22 seconds East along said last described line, a distance of 247.002 feet, to an intersection with a straight line which is perpendicular to the Southward extension of the East line of said Lot 2, (said East line being also the West line of Lot 3 in said Cityfront Resubdivision) at a point 304.767 feet South of the most Northerly corner of said Lot 2;

Thence West along said perpendicular line, a distance of 20.459 feet to an intersection with a line which is 20.00 feet Westerly from and parallel with the aforementioned Easterly line of the Westerly 8.50 feet of said Water Lot 30;

Thence North 12 degrees 09 minutes 22 seconds West along last described parallel line, a distance of 247.002 feet and

Thence East along a straight line, a distance of 20.459 feet to the point of beginning, in Cook County, Illinois.

Street Address:

401 North Michigan Avenue, Chicago, Illinois

P.L.N.:

17-10-216-039-0000



EXHIBIT B-2

PROPERTY

[Subject to Revision Based on Review of Survey and Title Insurance]

TRAINING CENTER

PARCEL 1:

LOTS 15 THROUGH 22 AND 25 THROUGH 32 (EXCEPT THAT PART OF LOTS 22 AND 25 TAKEN FOR THE EXTENSION OF SOUTH LASALLE STREET) AND THE WEST 1/2 OF THE VACATED ALLEY LYING EAST AND ADJOINING LOTS 15 AND 32 IN PECK AND OTHERS SUBDIVISION OF BLOCK 116 IN SCHOOL SECTION ADDITION TO CHICAGO IN SECTION 16, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

THAT PART OF THE SOUTH 1/2 OF WEST QUINCY STREET LYING NORTH OF AND ADJOINING THE NORTH LINE OF PARCEL 1 AFORESAID, AND LYING WEST OF THE EAST LINE OF THE SAID WEST 1/2 OF VACATED ALLEY EXTENDED NORTH AND EAST OF THE EAST LINE OF SOUTH LASALLE STREET EXTENDED NORTH.

PARCEL 3:

THAT PART OF THE NORTH 1/2 OF WEST JACKSON STREET LYING SOUTH OF AND ADJOINING THE SOUTH LINE OF PARCEL 1 AFORESAID, AND LYING WEST OF THE EAST LINE OF SAID WEST 1/2 OF VACATED ALLEY EXTENDED SOUTH AND EAST OF THE EAST LINE OF SOUTH LASALLE STREET EXTENDED SOUTH.

PARCEL 4:

THE EAST 1/2 OF SOUTH LASALLE STREET LYING WEST OF AND ADJOINING THE WEST LINES OF PARCELS 1, 2 AND 3.

PARCEL 5:

LOTS 8 THROUGH 14 AND THE EAST 1/2 OF THE VACATED ALLEY LYING WEST OF AND ADJOINING SAID LOTS 8 THROUGH 14 IN PECK AND OTHERS SUBDIVISION OF BLOCK 116 IN SCHOOL ADDITION TO CHICAGO IN SECTION 16, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 6:

THAT PART OF THE SOUTH 1/2 OF WEST QUINCY STREET LYING NORTH OF AND ADJOINING THE NORTH LINE OF PARCEL 5 AFORESAID, AND LYING WEST OF THE WEST LINE OF SOUTH CLARK STREET EXTENDED NORTH AND EAST OF THE WEST LINE OF SAID EAST 1/2 OF VACATED ALLEY EXTENDED NORTH.

**PARCEL 7:**

THAT PART OF THE NORTH 1/2 OF WEST JACKSON STREET LYING SOUTH OF AND ADJOINING THE SOUTH LINE OF PARCEL 5 AFORESAID, AND LYING WEST OF THE WEST LINE OF SOUTH CLARK STREET EXTENDED SOUTH AND EAST OF THE WEST LINE OF SAID EAST 1/2 OF VACATED ALLEY EXTENDED SOUTH.

**PARCEL 8:**

THE WEST 1/2 OF SOUTH CLARK STREET LYING EAST OF AND ADJOINING THE EAST LINES OF PARCELS 5, 6, AND 7.

**PINS:**

17-16-222-006-0000  
17-16-222-010-0000

**STREET ADDRESS:**

231 South LaSalle St., Chicago, IL 60604

## EXHIBIT C-1

### TIF-FUNDED IMPROVEMENTS – REHABILITATION PROJECT

<u>Line Item</u>	<u>Cost</u>
Tenant Construction	\$1,712,121
IT Infrastructure	\$1,800,000
Demolition	\$166,924
General Contractor Fee	\$38,842
Hard Cost Contingency	\$105,730
Total Hard Costs	\$3,823,617
Architect/Engineering	\$115,000
Consultant Fees	\$30,000
Legal/Accounting	\$30,000
Insurance	\$17,323
Permits	\$28,000
Project Management	\$80,000
Misc. Soft Costs	\$100,000
Soft Cost Contingency	\$110,000
Total Soft Costs	\$510,323
Equipment	\$16,060
Furniture and Fixtures	\$400,000
Total Rehabilitation Project	\$4,750,000

Notwithstanding the total dollar amount of TIF-Funded Improvements listed above, the financial assistance to be provided by the City under this Agreement for TIF-Funded Improvements shall not exceed the lesser of \$1,361,250 or 29% of actual cost of the TIF-Funded Improvements, subject to adjustment as provided in Section 4.03.

## EXHIBIT C-2

### Eligible Job Training Costs – JOBS TRAINING PROJECT

<u>Line Item</u>	<u>Cost</u>
<i>Training Design and Start-Up</i>	
Internal Resources to Create Curriculum (Time and expense allocated Project-to-Date)	\$150,000
<i>Curriculum Redesigns and Updates</i>	
Internal Resources to Update Curriculum (Allocated time associated with update sessions)	\$500,000
Travel (Bringing resources to update sessions)	\$100,000
<i>Costs of Training Delivery Materials</i>	
Administrative Payroll (0.25 FTE (weighted) over 10 years)	\$400,000
Supplies	\$300,000
Professional Trainers Conducting Training	\$2,292,776*
Operational Staff Conducting Training	\$988,211
<b>Total Eligible Jobs Training Costs</b>	<b>\$4,730,987</b>

\*\$100k salary + benefits, increasing 3% annually, beginning with 1 trainer, ending with 3 - average 2 over project lifetime

All Job Training Costs must be incurred in connection with the training of Training Center PTEs. Notwithstanding the total dollar amount of Eligible Job Training Costs listed above, the financial assistance to be provided by the City under this Agreement for Eligible Job Training Costs shall not exceed the lesser of \$4,638,750 or 98.1% of the actual job training costs incurred, subject to adjustment as provided in Section 4.03.

In addition to the restrictions contained elsewhere in this Agreement, personnel costs may be included in Eligible Job Training Costs only to the extent of (a) gross salary paid to employees of Developer directly involved in the training of Training Center PTEs, and (b) the Developer's portion of fringe benefits actually paid on behalf of such direct services employees, including without limitation PICA (social security), life/health insurance, workers compensation insurance, unemployment insurance and pension/retirement benefits.

**EXHIBIT D**

**REDEVELOPMENT PLAN**

**[NOT ATTACHED FOR INTRODUCTION]**

**EXHIBIT E**

**CONSTRUCTION CONTRACT**

**[NOT ATTACHED FOR INTRODUCTION]**

EXHIBIT F

[to be retyped on letterhead of Developer]

\_\_\_\_\_, 20\_\_\_\_  
City of Chicago  
Department of Housing and Economic Development  
121 North LaSalle Street, Room 1000  
Chicago, IL 60602  
Attention: Commissioner

Re: Jobs and Occupancy Certificate  
Accretive Health, Inc. Redevelopment Agreement

Dear Commissioner:

This Certificate is delivered pursuant to the Accretive Health, Inc. Redevelopment Agreement dated as of \_\_\_\_\_, 20\_\_ (the "Agreement") and constitutes the Jobs and Occupancy Certificate of the Developer for the period ended \_\_\_\_\_, \_\_\_\_\_ [add month, day and year] (the "Period"). The undersigned certifies that (a) the Developer continues to maintain its Headquarters at 401 North Michigan Avenue in the City of Chicago, Illinois, or at \_\_\_\_\_, which is within the City of Chicago, Illinois; (b) the Developer continues to maintain at least 175 FTEs at the Headquarters; (c) the Developer's chief executive officer, chief financial officer, and senior officer-level employees performing the primary executive and financial functions for the Developer have their principal offices at the Headquarters; (d) the developer continues to maintain the Training Center at 231 South LaSalle Street in the City of Chicago, Illinois, or elsewhere within the Redevelopment Area (as defined in the Agreement) and has located \_\_\_\_\_ new FTEs at the Training Center during the Period; (e) a total of \_\_\_\_\_ FTEs have been located at the Training Center since the execution of the Agreement; and (f) each of the individuals listed in the chart below is a Full Time Equivalent Employee of the Developer at either the Headquarters or Training Center, as indicated. Capitalized terms used without definition in this Certificate have the meanings given them in the Agreement.

Sincerely yours,

ACCRETIVE HEALTH, INC.

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

Its: \_\_\_\_\_

Full Time Equivalent Employees located at the Headquarters as of \_\_\_\_\_, 20\_\_

Employee Name (Last, First)	Address of Principal Residence	Zip Code of Principal Residence	Number of months employed at the Headquarters during the year	On the payroll for work done at the Headquarters? (Y or N)	Work hours total at least 35 per week? (Y or N)	Work hours total at least 1750 during the year (Y or N)	Independent contractor, third-party service provider, consultant, or ancillary services employee? (Y or N)	Job title

Full Time Equivalent Employees located at the Training Center as of \_\_\_\_\_, 20\_\_

Employee Name* (Last, First)	Address of Principal Residence	Zip Code of Principal Residence	Number of months employed at the Training Center during the year	On the payroll for work done at the Training Center? (Y or N)	Work hours total at least 35 per week? (Y or N)	Work hours total at least 1750 during the year (Y or N)	Independent contractor, third-party service provider, consultant, or ancillary services employee? (Y or N)	Job title

\*Indicate New PTEs with an asterisk (\*) next to employee's name

**Note:**

- Up to five percent (5%) of the PTEs may consist of job shares or similar work arrangements
- If the applicable FTE Goal was not met for the relevant period, then the Developer should indicate what efforts were made to meet the FTE Goal.



## **EXHIBIT G**

### **PERMITTED LIENS**

1. Liens or encumbrances against the Property:

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 the Developer or the Project, other than liens against the Property, if any:

[To be completed by Developer's counsel, subject to City approval.]

## EXHIBIT H-1

### PROJECT BUDGET

#### A. REHABILITATION PROJECT

##### Hard Costs

Tenant Construction	\$1,712,121
IT Infrastructure	\$1,800,000
Demolition	\$166,924
General Contractor Fee	\$38,842
General Conditions	\$0
Hard Cost Contingency	\$105,730
Total Hard Costs	\$3,823,617

##### Soft Costs/Fees

Architect/Engineering	\$115,000
Consultant Fees	\$30,000
Legal/Accounting	\$30,000
Insurance	\$17,323
Permits	\$28,000
Project Management	\$80,000
Construction Period Interest	\$0
Misc. Soft Costs	\$100,000
Soft Cost Contingency	\$110,000
Total Soft Costs	\$510,323

Equipment	\$16,060
Furniture and Fixtures	\$400,000

Total Uses Rehabilitation Project \$4,750,000

#### B. JOBS TRAINING PROJECT

<u>Line Item</u>	<u>Cost</u>
Training Design and Start-Up	
Internal Resources to Create Curriculum (Time and expense allocated Project-to-Date)	\$150,000
Curriculum Redesigns and Updates	
Internal Resources to Update Curriculum (Allocated time associated with update sessions)	\$500,000
Travel (Bringing resources to update sessions)	\$100,000
Costs of Training Delivery Materials	
Administrative Payroll (0.25 FTE (weighted) over 10 years)	\$400,000
Supplies	\$300,000

Professional Trainers Conducting Training	\$2,292,776*
Operational Staff Conducting Training	\$988,211

Total Eligible Jobs Training Costs	\$4,730,987
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\*\$100k salary + benefits, increasing 3% annually, beginning with 1 trainer, ending with 3 - average 2 over project lifetime

<b>TOTAL PROJECT BUDGET</b>	<b>\$9,480,987</b>
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The Developer anticipates (a) leasing an additional estimated 90,000 square feet of office space located within the Redevelopment Area to accommodate newly trained PTEs, and (b) incurring additional expenses of approximately \$7,720,000 to build out such space. However, the Developer has no obligation to lease such additional space or incur such additional build out costs. The build out of such additional space would not be part of the Rehabilitation Project and would not be subject to any requirements imposed pursuant to this Agreement. The potential additional costs of the build out would not be included in the Project Budget or the MBE/WBE Budget and would not be subject to any requirements imposed pursuant to this Agreement.

**EXHIBIT H-2**  
**MBE/WBE BUDGET**

<u>Line Item</u>	<u>Cost</u>
Tenant Construction	\$1,712,121
IT Infrastructure	\$1,800,000
Demolition	\$166,924
General Contractor Fee	\$38,842
<b>Total Hard Costs</b>	<b>\$3,717,887</b>
Architect/Engineering	\$115,000
Project Management	\$80,000
<b>Total Soft Costs</b>	<b>\$195,000</b>
<b>Total Costs</b>	<b>\$3,912,887</b>

**EXHIBIT I**

**APPROVED PRIOR EXPENDITURES**

**[NOT ATTACHED FOR INTRODUCTION]**

## EXHIBIT J

### OPINION OF DEVELOPER'S COUNSEL

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

City of Chicago  
121 North LaSalle Street  
Chicago, IL 60602

ATTENTION: Corporation Counsel

Ladies and Gentlemen:

We have acted as counsel to Accretive Health, Inc., a Delaware corporation (the "Developer"), in connection with the lease and build out of certain facilities thereon located in the LaSalle/Central Redevelopment Project Area (the "Project"). In that capacity, we have examined, among other things, the following agreements, instruments and documents of even date herewith, hereinafter referred to as the "Documents":

- (a) The Accretive Health, Inc. Redevelopment Agreement (the "Agreement") of even date herewith, executed by the Developer and the City of Chicago (the "City");
- (b) [insert other documents including but not limited to documents related to purchase and financing of the Property and all lender financing related to the Project]; and
- (c) 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 the Developer's (i) Articles of Incorporation, as amended to date, (ii) qualifications to do business and certificates of good standing in the State of Delaware and the State of Illinois, (iii) By-Laws, as amended to date, 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 the 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.

In addition, we have relied as to factual matters upon such certificates or statements of public officials and officers and duly appointed agents of the Developer as we have deemed relevant or necessary, as well as statements of fact contained in the Developer's representations and warranties contained in the Agreement. Except as otherwise stated herein, we have undertaken no independent investigation or verification of such matters. However, we know of no facts which lead us to believe such factual matters are untrue or inaccurate. The words "to our knowledge" and "known to us" and similar language used herein are intended to be limited to the knowledge of

lawyers within our firm who have represented Developer in connection with the Agreement and any other attorneys presently in our firm who we have determined are likely, in the course of representing the Developer, to have knowledge of the matters covered by this opinion.

Based on the foregoing, it is our opinion that:

1. The Developer is a corporation duly organized, validly existing and in good standing under the laws of its state of incorporation, 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 corporation under the laws of the State of Illinois.

2. The 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, the Developer's Articles of Incorporation or By-Laws or result in a breach or other violation of any of the terms, conditions or provisions of any law or regulation, order, writ, injunction or decree of any court, government or regulatory authority, or, to the best of our knowledge after diligent inquiry, any of the terms, conditions or provisions of any agreement, instrument or document to which the Developer is a party or by which the 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 the 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 liens or security interests in favor of the lender providing Lender Financing (as defined in the Agreement).

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 the Developer.

4. Each of the Documents to which the Developer is a party has been duly executed and delivered by a duly authorized officer of the Developer, and each such Document constitutes the legal, valid and binding obligation of the 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 each class of capital stock of the Developer and (b) sets forth the number of issued and authorized shares of each such class. The Developer is a public company and its shares are traded on the New York Stock Exchange. 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 capital stock of the Developer. Each outstanding share of the capital stock of the 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 the Developer, nor is there now pending or threatened, any litigation, contested claim or administrative proceeding (a) involving the Developer's property or operations located in the City, (b) that Developer is otherwise required to publicly disclose or that may affect the ability of the Developer to perform its duties and obligations pursuant to this Agreement, or (c) involving the City or the payment of franchise, income, sales or other taxes by such party to the State of Illinois or the City. To the best of our knowledge after diligent inquiry, the 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 the Developer or its business.

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

The foregoing opinions are limited by the following qualification that our opinions relating to the good standing of the Developer in paragraph 1 are based solely upon the Certificates of Good Standing issued by the office of the Secretary of State of the State of Delaware and the office of the Secretary of State of the State of Illinois ("Good Standing Certificates") and we have made no additional investigation with respect to the good standing of the Developer after the dates of the Good Standing Certificates.

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, the laws of the State of Illinois, and the laws of the State of Delaware.

This opinion is issued at the 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: \_\_\_\_\_



## EXHIBIT K

# REQUISITION FORM

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

The affiant, \_\_\_\_\_, \_\_\_\_\_ of Accretive, 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 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 Agreement are true and correct and the Developer is in compliance with all applicable covenants contained herein.

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

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

[Developer]

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

Name

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

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

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

Agreed and accepted:

\_\_\_\_\_

Name

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

City of Chicago

Department of Housing and Economic Development

**EXHIBIT L**

**FORM OF PAYMENT BOND**

**[NOT ATTACHED FOR INTRODUCTION]**